Dynamics of Identity Formation and Legal Pluralism: the Case of Customary, State and Religious Dispute Resolutions among the Siltie People, Southern Ethiopia

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Dedicated to my mother Weizero Lero Lemma, my lovely kids Sumeya, Firdewes, and Ne'ema

and my wife Halima Seid

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COR	Council of Constitutional Inquiry
CPA	Council of Representatives
CSA	Central Statstical Authority
ERA	Ethiopian Roads Authority
EPRDF	Ethiopian People's Revolutionary Democratic Front
EU	European Union
GPRDM	Gurage People's Revolutionary Democratic Movement
HOF	House of Federation
HPR	House of People's Representatives
ISEN	Institute for the Study of Ethiopian Nationalities
MoWIE	Ministry of Water, Irrigation and Energy
MASL	meter above sea level
NGOS	Non Government Organizations
WTO	World Trade Organization,
UN	United Nations
S.Z.F.E.D	Siltie Zone Finance and Economic Development
SNNPR	Southern Nations, Nationalities, and People's Region
SPDUP	Siltie Peoples Democratic Unity Party
TGE	Transitional Government of Ethiopia
WHO	World Health Organization

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IV.   Remarks on Usage of Local Terms and Transliteration

The terms listed in this book are in Siltie and Amharic unless otherwise specified. No attempt has been made to adhere to a systematic orthography of transliteration in the English presentation of terms originating in Ethiopic script. Amharic and other Ethiopian language terms and names are rendered in commonly used and recognized English forms. This includes the less than desirable practice of adding English plural suffixes to Amharic words (*Weredas* rather than *Weredawoch, Qebeles than Qebelewoch*). Ethiopian (Julian) calendar dates have been kept to a minimum except in the state court scripts. Where given they are marked EC, the Ethiopian calendar differs from the Gregorian calendar as follows: the year begins on 11 September, and is eight years (January 1-September 10) or seven years (September 11 – December 31) behind the Gregorian year. Ethiopian names are not based on family or surnames.

For Ethiopian authors, therefore, bibliographical listings in the text do not invert first and second names, but provide both author's name followed by author's father's name. Even though the Encyclopedia Aethiopica general rule of transliteration applies to vocabulary that comes from the Ethio-Semitic language family, it does not sufficiently cover the Siltie language. As a result, I have simply transcribed the local terminologies and concepts just the way they are pronounced by the native speaker and provide their equivalent ethnological/anthropological concepts in English language. In addition to the glossary part, I also give explanations to the local terms and concepts in the footnotes to avoid possible barriers to understanding the true nature of a "culture's legal system" (Bohannan 1965: 41-42).

Preface

This book is about dynamics of identity formation and legal pluralism among the Siltie People in an ethnic federal state of Ethiopia. The existence of multiple ethnic groups in Ethiopia has not only made the country home to diverse cultures but also, an abode of competing and conflicting orders and juridical systems. Since 1991, the country has embarked upon a unique political experiment known as „ethnic federalism." The 1995 Constitution of the Federal Democratic Republic of Ethiopia grants specific rights to ethnic groups, which ultimately involves the recognition of ethnic-juridical orders. The ethno-federal system presents a rich field of exploration in the area of legal pluralism. The Ethiopian experience can be expressed as constitutionally sanctioned legal pluralism and its non-colonial history coupled with the introduction of developmental democratic state in the last decade has made the country's legal pluralism a unique phenomenon begging for exploration.

By examining the versatile relationship between the Ethiopian state and the Siltie people (an ethnic group who reside in Southern Nations, Nationalities and People's Regional State in the country's current federal structure and are the subjects of the study) from the late 19th century to the present, this book provides an anthropological understanding of the legal dynamics of state-society relations, focusing on Siltie people in southern Ethiopia. Previous Socio-Legal and Anthropological studies mostly focus on the binary nature of legal systems. The literature categorizes legal systems into simple, primitive, formal or informal, labeling the informal legal regimes as (not) norm imposing and having little legal natures (less legal status) than what they consider to be modern and more institutionalized legal systems (Malinowski, 1926; Radcliff-Brown, 1942). Research done so far on legal pluralism in Ethiopia has focused on comparing the state system with the customary courts, and usually tend to be descriptive (e.g. Gebre et al. 2013, Alula and Getachew, 2008). Prior studies have also excluded the dynamics witnessing in the area of legal pluralism in the country. In addition, they failed to address the complexity of plural legal setting in the Siltie context. In an attempt to fill these gaps, the following four inter-related research questions are addressed: what are the legal systems the Siltie employ? How do legal systems interact in the area? Why and how do disputants prefer one form of conflict resolution to the other in the pluralistic legal setting?

Building on the above questions, the study focuses specifically on how actors in the religious, customary and state legal systems settle dispute cases, paying attention to causes of conflict, and the strategies mediators employ to resolve conflicts. It analyses how dispute settlers use dispute settlement forums not only to end conflicts but also, as an avenue to protect the custom and the language of the people, to attempt to preserve and promote the identity of the Siltie. The study also theorizes the link between dispute settlement, identity formation, and power generation of local dispute settlers. In this regard, the study shows that there exists some form of relationship between dispute resolution and identity formation. The book sheds light on the prospect of legal pluralism in Ethiopia as a distinct socio-cultural context.

Using an actor-oriented analytical approach, the study examines the perceptions of dispute settlers and disputants toward plural legal setting, a phenomenon researchers in the field of socio-legal and anthropology have not yet given the attention it deserves. It also looks into the local communities' perceptions of plural legal settings and the dispute settlers' interactions among themselves and with disputants. Importantly, the study pays attention to the different circumstances that lead to the crisis of legitimacy of the state legal system, which in turn paves the ways for the re-emergence of neo-traditional power (Santos de Sousa, 2006; Klute/Embaló, 2006; Cheeseman, 2016).

The research data that inform this book were collected mainly through the employment of a legal anthropological approach, with the extended case method (Burawoy, 1998, 2009) and ethnography as the main research techniques employed. The book uses social constructivism perspective to grasp the emic point of view of Siltie about the legal realities in the area. Apart from the analysis of the socio-legal and cultural settings including the various legal systems operating in the area, 14 dispute cases were analyzed in what Geertz (1973) calls a „thick description" way. The first three cases show not only the role of religious courts in dispute settlement, but they also reveal the involvement of state and customary legal systems into faith-based dispute resolution processes. The cases indicate the contentious natures of intra-faith legal actors in the conflict resolution process. The remaining eleven cases provide an account of how the various legal systems interact, complement as well as compete against each other over cases. The cases collected from dispute settlers depict the perceptions of local legal actors about themselves and the various legal systems in an attempt to appeal to clients.

The cases indicate the oscillating tendency of power relation between legal actors on one hand and the state on the other. The cases demonstrate how the various local values, and norms have become important instruments to potentially avoid and end conflicts.

Since I have researched the area I belong to, the issue of subjectivity will come into mind. Thus, in order to minimize the methodological challenges, the book explores the legal systems operating in Siltie area within a wider socio-cultural context on the one hand, and has contextualized the legal plural constellations in the frameworks of the Federalist Ethiopia and global developments on the other. In this regard, by tracing the genesis of legal pluralism in Ethiopia, the study analyzes the trajectories of legal systems historically under different Ethiopian regimes. This helps us to understand the changes and continuities witnessed in the area of legal pluralism in the country. Additionally, aiming at contributing to the existing debate on legal pluralism, works of socio-legal and anthropological scholars have also been consulted. The study discusses the genesis of legal pluralism scholarship, demonstrating how and why the contemporary legal landscape has diversified which has ultimately given rise to legal hybridism.

In this regard, the book explores the socio-legal and legal anthropological literature critically (e.g. Griffiths 1986, 2002; Moore 1978; Merry 1988; Gunderson 1992; Benda-Beckmann et al. 1997; Allot and Woodman 1985; Roberts 1998; Tamanaha 1993, 2001, 2008; K. von Benda-Beckmann 1981, 1985a; Santos de Sousa, 2006; Franz von Benda-Beckmann and Keebet von Benda-Beckmann, 2006). It examines diachronically how the existing literature debates about legal pluralism. The study finds out that legal pluralism as a topic of study continues to be a center of contention and an agenda for academic discussion among socio-legal and anthropology scholars. However, taking empirical and theoretical dimensions of analysis, the study represents a departure from the existing literature that gives attention either to the theory or to empirical data as the base of analysis of the notion of legal pluralism. It thus provides a new perspective on legal pluralism based on a combination of theoretical and empirical understandings of the practices of legal systems among the Siltie and neighboring ethnic groups.

The study finds out that there are plural legal and institutional settings in the study area. The legal systems found in area are discussed under two categories here: (i) state modes of dispute settlement, and (ii) non-state means of dispute settlements.

The state imposed modes of dispute resolution comprise some public institutions and associated rules, while the religious and customary modes of settlement of disputes comprise the respective norms, and belief systems of the local communities.

One of the main findings of this study is that the relation between the various legal systems is characterized by dualism of cooperation and competition. The interactions of legal systems also display contradictory perspectives and cross into territories claimed by the other. This ambivalent relationship hints at the porosity of boundaries between the various systems. For instance, although the Ethiopian constitution is proclaimed as the supreme law of the land, and that serious crimes such as homicide are reserved for the formal criminal justice system alone, various forms of law, notably customary courts, deal with all forms of conflicts (including those reserved for formal law) at the grassroots level in the study area. The state legal actors rely on the non-state ones on dispute cases the state legal system cannot adjudicate. The empirical data presented in the book indicate further that some dispute cases do not end in one court, as the disputants often travel from one court to another. Some cases, especially marital disputes that the state court deliberates on, can also be taken by disputants to the customary courts and vice versa. The parties also travel from one customary court to another to resolve dispute cases. This indicates the existence of forum shopping not only between various legal systems but also, with in the same legal system.

The state legal system contests for institutional legitimacy with customary legal systems since the non-state actors are widely chosen by the community due to the fact that the social norms that govern the activities of customary courts are more important for face-to-face interactions than the formal law (See Griffiths, 1986, 2002; Merry 1988; Benda-Beckmann et al. 1997). Thus, the study argues that the legal systems do not only coexist in a specific socio-cultural setting but also, they compete with each other because of a number of factors including legitimacy. The various cases examined and the findings presented in the book also demonstrate this reality.

My data indicate also that traditional ways of conflict resolution are at a dead giving way to the emergence of legal hybridism. The book indicates that legal pluralism, the coexistence and contending interaction of legal systems is not a myth, as stated in some literature (See Teubner, 1992; Tamanaha, 1993), but an empirical reality. Indeed, Siltie is characterized by a complex and hybridized legal reality that regulates the day-to-day life of Siltie people today. At the same time,

neo-traditional powers emerge by using conflict settlement processes in order to consolidate power. Local power holders among the Siltie embrace diverse legal perceptions which in turn boosts their legal agencies and empower their relations with state actors.

The findings of this study also reveal that the customary and religious legal systems have got resurgence following the restructuring of the Ethiopian state into ethnic federalism since the 1990s. The book further argues that the declining legitimacy of the state judiciary, which is precipitated partly due to political interferences and inefficient delivery of justice to the community, has contributed to non-state modes of dispute settlement to become popular among the local community. The various roles customary courts actors play in delivering justice at the grassroots and the agency of local actors who tended to manoeuvre the constitutional concessions vis a vis a strong state controls have also contributed a lot in making the customary courts to have more legitimacy than other state tribunals. The book thus argues that in states like the Federal Democratic Republic of Ethiopia (henceforth, FDRE), it is the lived realities of actors in the customary institutions that influence the decisions of state actors to cooperate with the customary court actors than the state policies. This development makes us to question the hypothesis put forward by Santos de Sousa, (2006) and Klute and Embalo (2006) that underlines neo-traditional institutions can only resurrect in a weak state, for the state's machinery will become ineffective to deliver services including justice to the people they are part of.

The study argues that laws have become a weapon for the powerful, as the state officials tend to use law to serve their vested interests (e.g. some state official make use of law to attack those whom they perceive as anti-state policies). It also finds out that even if the 1995 Constitution sanctioned legal pluralism and has introduced a radical departure in the recognition of the customary and religious laws, it is the ways the religious and customary courts serve the society that earn them more legitimacy rather than the constitutional spaces.

It further argues that the Ethiopian state seems to be more powerful in the political spheres than social and judicial areas. This state of affairs helps non-state actors to manoeuvre and appeal to the community that in turn helps them boost their local legal agencies and power relations with other actors. By examining the contested nature of law and how it exists in every semi-autonomous social field (Moore, 1978), the findings of this study contribute new ideas to the existing literature on the sociological conception of the law. It also contributes to emerging legal spheres as perceived by scholars who are conversant with hybridized legal systems (Gluckman,

1956; Santos de Sousa, 2000; Lewellen; 2003; Klute and Bellagamba, 2006, Berman, 2012; Cheeseman, 2016). The study also contributes ideas on the choices parties make to settle their cases in a plural legal setting, 'Strategic Choices' (Tamanaha, 2008), "Forum Shopping" Benda-Beckmann, 1971; 1986). The study demonstrates how the weak employ state law as a weapon for everyday resistances (e.g. the community frequently uses the constitution to ask the rights transgressed by local officials) and hence to coerce state officials and judges to „abide by the law" and bring democracy from below (Franz von Benda-Beckmann and Keebet von Benda-Beckmann, 2006). Thus, results of the present research do not only contribute to the Siltie ethnography but also, to the current debates on legal pluralism and theories of power. To this end, it explains the diversified and hybridized nature of legal pluralism, and the emergence of new forms of neo-traditional power respectively in contemporary Ethiopia, and possibly beyond.

In sum, the book argues that while adopting hybridized legal perceptions both the state and non-state legal actors have developed multiple allegiances to the plural legal systems operating in the area. It finally argues that the recent recovery of local modes of dispute settlement has a link with the revitalization of ethnic sentiments and identity formation processes the Siltie people have been undergoing since the 1990s.

This book is divided into ten chapters. The first chapter introduces the research problem, the objectives of the study and research questions, as well as the rationale for the researcher studying his society. The chapter also explains the field experiences and the methodological approaches used. This part deals with also the social scientific and legal pluralist approaches that have been employed to understand the state-society relations. It argues that anthropology has no longer become limited to foreign culture and the study of others. Although it has some assets, examining one's own society has its challenges. Aiming at avoiding any form of subjectivity and not to take things for granted, the researcher has adopted a delicate balance between being a stranger, and a native to look at the world based on the views of the local community.

The second chapter deals with the study area, the various socio-economic activities and the local means of subsistence the people are engaging in. It also looks into the dynamics of state-society relations, and the religious activities as well as the kinship and social organizations of the Siltie. The third chapter deals with the theoretical approach and review of related literature, the genesis of legal pluralism study and the historical trajectories it has undergone. This chapter lays the

foundation for subsequent chapters by indicating how plural legal systems have become means for settling disputes not only in colonized world but also, in every part of the world.

It goes further in detail to indicate how the contemporary legal systems have been characterized by hybridism. The fifth chapter also lays the milestone for next chapters by analyzing the legal, cultural and religious milieus as well as legally pluralistic socio-cultural structures and dynamics of plural legal settings operating in the study area. The section states how local legal actors play a significant role not only to maintain the social orders but also have become important social actors as custodian of Siltie culture as well. The sixth chapter explores the state and non-state modes of dispute settlement, and the various norms and values local dispute settlers and state actors employ to end conflicts. It also examines the interactions between state and non-state actors, the agency of local actors and the competitions between intra-faith, and inter-faith actors in the local socio-political settings. Building from the sixth chapter, chapter seven deals with the various types of customary modes of dispute settlement, and the interaction between local systems of dispute settlements. This section also discusses the initiatives from local dispute settlers to revive the customary system and its final failed project. Chapter seven explores the self-perceptions of actors and the rise of neo-traditional leadership in the study area. This chapter is put in conversation with the previous chapters in an attempt to show how the self-representation and expressions of dispute settlers have become a reflection of power contestations between legal actors, on the one hand, and the rise of neo-traditional leadership that works parallel with the modern state on the other. The chapter looks intensively into dispute cases that have incorporated the various values and norms, which have been discussed in the preceding sections. Chapter eight deals with the inter-ethnic conflict between the Siltie and the Gurage, and processes of identity formation. Drawing ideas from the previous chapters, this part analyzes the relation between the revival of dispute settlement and the identity formation processes the Siltie have been undergoing since the 1990s. Linking with the preceding chapters, the ninth chapter sheds light on the prospect of plural legal systems in a developmental and federal state of Ethiopia. It also overviews the genesis of the legal transplantation processes and the local responses that finally led to the inception of legal pluralism in the Siltie area. The chapter hints the ways forward to the future socio-legal and anthropological studies. The tenth chapter recapitulates the book by stressing the main findings and arguments, the empirical and theoretical contributions of the book and prospects for further investigation. The chapter also

links together the research questions, the methodology, and the findings of the study. It likewise discusses and interprets the findings in relation to the theories employed.
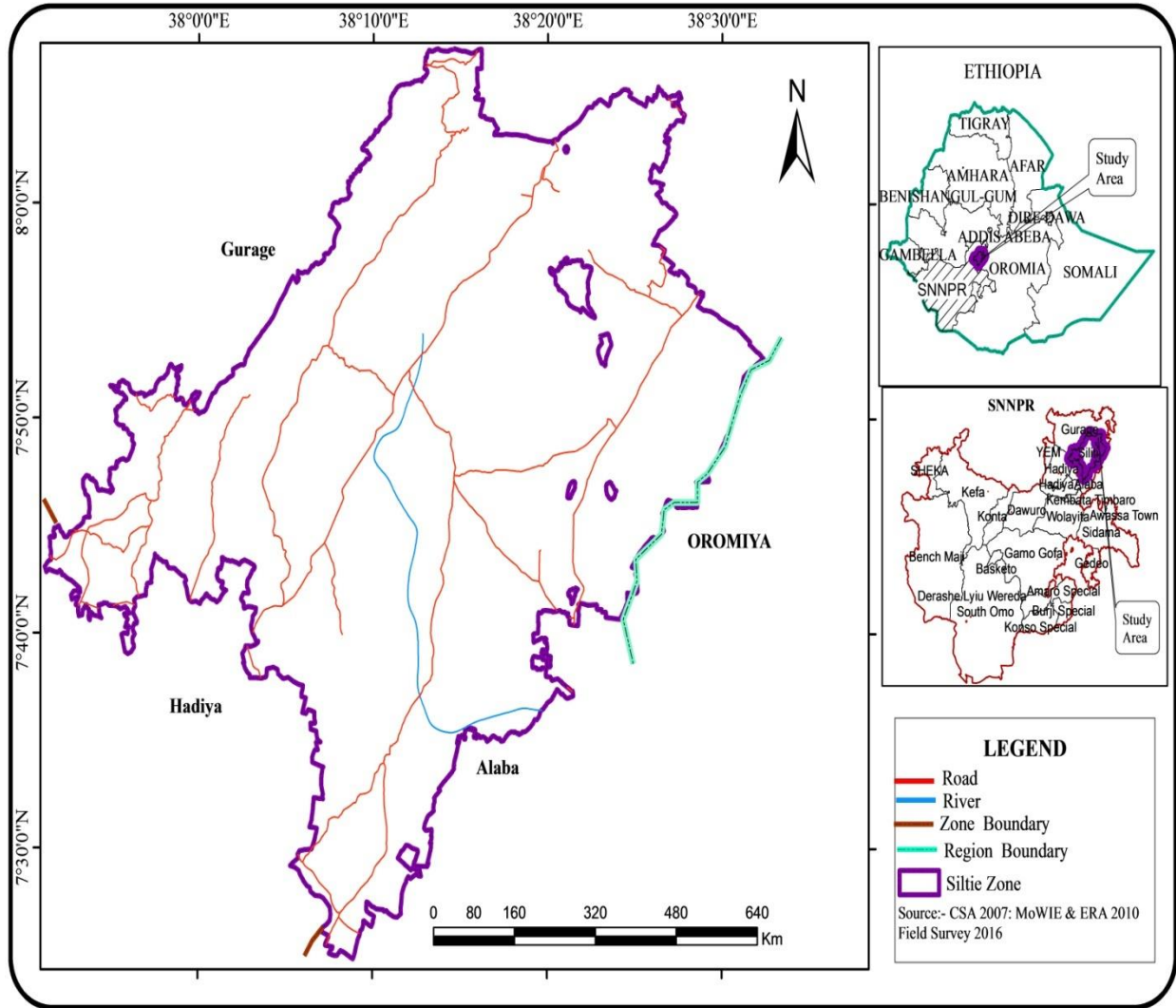
Figure 1 Map of the Study Area (Source: CSA 2007; Mo WIE and ERA, 2010; Filed Survey, 2016)

Figure 2 State and Non-State actors attended a customary court to investigate a suspect for an arson case Mamulae village, Werabe (January, 2017)[1]

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[1] The pictures used in this dissertation have been taken by the researcher while in the field between August 2014-Feburary, 2017.

CHAPTER ONE

INTRODUCTION

STATING THE PROBLEMS OF THE RESEARCH AND METHODOLOGICAL APPROACHES

1.1. Introduction

This chapter discusses the various ideas presented in socio-legal and anthropological literature on legal pluralism, the areas not explored so far on the notion and empirical justifications for exploring legal pluralism in the ethnic federal state of Ethiopia. It argues that the constitutionally installed legal pluralism with its non-colonized history and the introduction of developmental democratic state in the last two decades has made the Ethiopian legal reality an important area of exploration for a comparative understanding of legal pluralism. The chapter has employed the diachronic and synchronic approaches to understand the genesis, operations as well as dynamics of plural legal settings in Ethiopia in general and among the Siltie in particular. It also investigates the rationale for studying one's own society. It is stated in the chapter that anthropology has no longer become limited to exotic society and the study of others. The chapter also discusses the various methodological approaches, notably extended case method and ethnography as crucial tools to understand the legal reality of the Siltie. An actor oriented approach has been mainly employed to understand the interactions of dispute settlers and disputants in the study area. In this regard, social constructivism perspective has been used to grasp the emic point of view of the Siltie and their neighbors. Finally, in the chapter I argue that legal hybridism becomes an emerging legal reality in the multi-ethnic states such as Ethiopia.

1.2. Stating the Research Problem

The intellectual genesis of the concept of legal pluralism harks back to the discovery of indigenous forms of law in African villages and among New Guinean tribes' men, to debates concerning the pluralistic law under advanced capitalism (Merry 1988: 869).

Authors like Tamanaha (2008) push the origin of legal pluralism's scholarship back to the 1930s. Benda-Beckmann (2002) indicates that scholars so far could not bring a unique definition of

legal pluralism despite the fact that socio-legal and anthropological studies debate on legal pluralism for over four decades. Hence, it continues to be hotly debated among researchers. These discussions turn around the question „whether or not one is prepared to admit the theoretical possibility of more than one legal system within a given socio-political space based on different sources of ultimate validity and maintained by forms of organization other than the state" (Benda-Beckmann 2002: 37).

A good number of works have looked into legal pluralism since its inception as an academic pursuit in the 20th century. Scholars like John Griffiths (1986), Anne Griffiths (2002), Moore (1978), Merry (1988), Gunderson (1992), Benda-Beckmann et al. (1997), Allot and Woodman (1985), Roberts (1998), Tamanaha (1993, 2001, 2008), Keebet von Benda-Beckmann (1981, 1985), Santos de Sousa (2006), and Franz von Benda-Beckmann and Benda-Beckmann (2006) are engaged in the debates, discussing issues of how to map out what type of complexity legal pluralism should address. They ask whether legal pluralism requires the existence of more than one legal system, or whether various „legal modes" are sufficient to speak of legal pluralism within one legal system (Benda-Beckmann, 2002). As Ethiopia is one of the two African countries that have not been colonized, the Ethiopian case promises to be a fruitful field for this debate and hence for theory-building in the field.

Recently, some scholars came up with new dimensions of legal pluralism. Santos de Sousa (2006), for instance, indicates that the classical differentiations of legal pluralism have been reshaped by the emergence of the most complex forms of legal pluralism that encompass customary, religious, national and also global norms that have no clear boundaries between them. He calls this „legal hybridization" (Santos de Sousa 2006: 39). It is important, therefore, to ask, if the concept of legal pluralism does suffice to encompass these changes or if we have to modify the concept and employ instead legal hybridization in the ongoing discussion. If yes, what are the manifestations of legal hybridization? Can it be found in any multinational or multiethnic state such as Ethiopia? Is it part of a new development within developing countries? These are the central questions this book explores empirically. As a consequence, the study examines legal developments, paying attention to the contemporary development of hybrid forms of legal systems. The study also gives attention to the dynamics, changes and continuities of legal pluralism in general and in Ethiopia in particular by carefully inspecting the Siltie experience.

Santos de Sousa indicates that legal hybridization characterizes the contemporary legal reality of Africa (Santos de Sousa, 2006).

Due to the country's multi-ethnic features, Ethiopia's legal landscape shows aspects of pluralism. Very few works, however, explored legal pluralism in Ethiopia focusing on customary, religious and state legal systems. Works on customary, religious and public institutions of various ethnic groups in Ethiopia (e.g., Alula and Getachew 2008; Gebre et al. 2013) explain how legal systems play significant roles in resolving conflicts in the societies they are part of. These works, however, do not look comparatively at the interplay and interactions between the customary, the religious and state institutions. They do not address also the systems of dispute settlement among the Siltie. Research works by Mamo Hebo (2006) also explored the roles of local dispute settlement for land disputes and showed how plural legal systems played an important role in settling land related disputes among the Arsi Oromo. Meron's (2010) work also looked at the roles of religious figures for dispute settlement in the context of plural legal setting in Wello area, Northern Ethiopia. Both, works, however, are limited to particular context with specific cases. The southern Ethiopia in general and the Siltie in particular are not covered by the studies.

Also scholars like Dinberu et al. (1995) and Bahru (2002) did examine the different legal systems operating in the Siltie area. Dinberu, for instance, described customary modes of dispute resolution among the Siltie, namely *Ye Silti Serra, Yemelga Serra* and *Dambus[2]*. While investigating the local governance and dispute settlement modes of the *Kistane-* and the *Sebbat Bet-Gurage*, Bahru also looked into local modes of dispute settlements employed by the Siltie. In his analysis of the respective legal institutions, Bahru tries to show the various aspects of customary legal systems (Bahru 2002:17). The author identified *Ye Siltie Serra*, *Dambus*, and *Yemelga Serra* as the customary modes of conflict resolution of the Siltie (Bahru 2002: 19). Both works neither explain the natures and procedures of customary and religious institutions of dispute settlement, nor do they deal with the nature of these institutions, their internal plurality or their relations with one another and with the state legal system.

Since some decades, legal anthropology highlights the internal legal pluralism of any social field ((e.g. Moore, 1978); ("pluralism of legal pluralism", Tamanaha, 2010); ("state legal pluralism" Woodman, 1998)) in order to grasp the legal reality practiced in a given society.

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[2] All emic terms are explained in the glossary.

Researches done so far, however, did not explore these areas deeply enough. Prior works also left out the idea of identifying the various sources of customary law and the roles that the value and belief system of the Siltie play for settling disputes.

Alemayehu (2004) has examined legal pluralism in Ethiopia. Although he paid much attention to structural legal pluralism, he did neither look empirically into legal actors' and disputants' perception of the existence of plural legal systems in a sociological perspective (Griffiths 2002), nor did he deal with interactions among the state, religious and customary dispute settlements.

Despite the fact that dispute settlers' power relations and self-impressions have important implications to understand the legal realities in a given socio-legal setting, previous research works gave little attention to these areas. Furthermore, even if the state legal system has been expanded to the lowest administrative structures, the significances of customary dispute settlement institutions are significantly increasing (Alula and Getachew, 2008). This is also the case with the Siltie. It has now been observed that the customary dispute settlement modes of the Siltie are resuscitating since the 1990s. Studies so far did not explore the reasons and the theoretical assumptions behind the revival of the customary systems in the study area.

Even though the state law is considered the dominant legal system, the state, in fact, makes concessions to customary as well as to religious dispute settlement institutions. Even homicide cases or conflicts over land, for instance, are resolved by the customary legal system, a procedure that is in principle not allowed by state law. The customary legal system actually addresses land as well as murder cases adopting thereby win-win rather than win-loss approaches like the state system does. This indicates that there is a contrast between political discourses on the one hand and local practices on the other. Recent studies also show that the customary legal systems have resolved many disputes at the local level (Alula and Getachew 2008: v). The works mentioned above, however, do hardly address the empirical reality as far legal practices are concerned.

Even if the majority of the Siltie adheres to Islam, there are followers of Christianity who resided in Siltie land at least since the mid-nineteenth century. There are interfaith disputes which are due to several factors unique to the area.

In this regard, it is the customary and the religious institutions that resolve such kinds of inter-religious conflicts. The state, religious, customary, and the currently injected global laws (Tamanaha 2008: 410) are the different legal systems co-existing among the Siltie.

The growing religiosity among Siltie youths brings new norms based on a strict interpretation of Islamic jurisdiction in the area. This (*Salafi*) interpretation of Islamic law by the youth presents itself as a new domain of legal norms opposed to state-sponsored Shari'a courts that are formed from the smallest administrative *Qebele*[3] to the highest levels. Whereas the (*Salafi*) interpretation of Islamic law does not dispose of recognized structures in the area, it nevertheless attracts the attention of the younger generation. These are also areas that are not explored by scholars so far. There are no studies which tried to compare the institutions' processes of change within this particular socio-cultural setting diachronically (see also Moore 2000). Most studies fail to comparatively explore the natures of the various institutions of dispute resolution.

Little attention has been given to the local communities' perspectives on choice making between the existing institutions of dispute settlement (forum shopping). This holds also true with regard to the significance and interplay of state, religious, and customary law in the area.

While there is a rich, largely unempirical literature about Shari'a as an idea, there are only relatively few empirical studies of Muslim institutionalized legal practices (Twinning 2010: 9). Moreover, few works deal empirically with the interface between the Western judiciary model, the Shari'a and the customary legal systems. By exploring the empirical legal reality, this book endeavors to narrow the gap between the theoretical explanations about legal pluralism and the empirical legal reality. To this end, the book adopts a comparative perspective. It also explores the features of the relationships between the various legal systems and finally, by focusing on a case in the constitutionally installed legal heterogeneity in contemporary Ethiopia, it will contribute to the growing theoretical debate on legal pluralism.

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[3]*Qebele* is the lowest form of state administrative structure in Ethiopia.

1.3. Objectives of the Study

This book has assessed the interplay between different institutions of dispute settlement among the Siltie and aspects of change and continuity in the pluralistic legal setting of the community. Specifically, the study has attempted to:

- Examine the dynamic relationship that has been existing and still exists between the customary, state and religious institutions of dispute settlement (to understand whether the three legal systems cooperate and exchange cases or contend each other or both).
- Explore the local communities' perspectives on a preference among the various institutions or the choice making process of the community's views in opting for one institution versus the other in the plural legal setting in the study area.
- Examine the existing concept of legal pluralism against the development of legal hybridization in the study area.
- Narrow the ethnographic gap in the literature about the Siltie people.

1.4. Research Questions

The book has addressed the following research questions: These are:-

- How do the Siltie settle disputes among themselves and with others?
- How do modes of dispute settlements interact in the Siltie socio-cultural setting?
- What are the local communities' perspectives on the choice making (forum shopping) or disputants' processes of choosing a legal system in the pluralistic legal constellation in the area?
- How do actors (mediators, disputants) in the dispute settlement process express their mediation services?

1.5. Significances of the Study

This book can indicate the reasons alternative dispute settlements, such as customary and religious, become more efficacious than the state laws. By exploring the interaction and coexistence of the state, Shari'a and customary courts through expressions of actors, the study has shown the centrality of legal pluralism in the study area. Furthermore, the study is believed to contribute to the development of theories of legal pluralism by showing how different legal systems cooperate on some cases while contending on the others in a socio-cultural setting.

It will also contribute to the development of alternative dispute settlement institutions as a tool to resolve disputes which will also be relevant for policy makers. It will also help to have a comparative understanding of how different legal systems operate among the various ethnic groups in Africa and possibly beyond.

1.6. Field Work Location and Field Experiences

The research in this book draws on data collected through intensive field work in Siltie Zone and its adjacent areas. My fourteen months of fieldwork amongst the Siltie was composed of two interrelated phases. The first, starting in late August 2014, consisted of intensive ethnographic research by living in the rural Siltie, while during the second, from November 2015 until March 2016, I undertook dispute case analysis in addition to ethnographic studies. During each phase, I combined ethnographic research techniques with methods used by legal anthropologists. Various forms of data collection, including in-depth interview and observation, were adapted and reshaped according to the requirements of both the research objectives and the research participants.

Since the objective of the research is exploring the legal practices in the context of legal pluralism among the Siltie, much of the data had been collected in Siltie zone areas. Nevertheless, for a comparative understanding of legal realities, neighboring areas such as *Hadiyya* and Gurage have occasionally been visited. My stay in the Siltie countryside was supplemented by several occasional visits to dispute resolution centers to gather observational data. Even if I am a native researcher, I had to contact Siltie zone administration to obtain permission to undertake field study in Siltie Zone. Since I worked as an ethnographic expert in the Zone for five years (2006-2010), Zonal and Wereda officials helped me in identifying key informants easily than a newcomer. The officials were also very collaborative to share information about the general status of the Siltie local system of governance, and customary and Shari'a courts and the role the courts played for social order in the area.

I also made brief contacts with *Qebele* officials and other state agents like agriculture office workers at lower levels who were also collaborate with me to collect data on the customary system and its relation to the state and religious institutions. My previous experiences in Siltie Zone and my knowledge of the language of the society facilitated my easy entrance into the community and helped me establish a good rapport with the informants.

My fourteen months' research experience has multiple stories, including reshaping my understanding of the Siltie. First, it helped me familiarize myself with the Siltie's day to day activities and local culture. Second, the new experience further played an important role in my understanding of the local variations in the practices of local modes of dispute settlement.

I used field diaries that were collected before August 2014 for my former works which are relevant to this study. The natures of customary dispute settlement processes became one of the factors that compelled me not to focus on specific target Weredas. This is because some cases that were initiated in one district would end in another. Thus, almost all Siltie areas had been visited for collecting empirical data. The gathering of key informants from all Siltie areas in *Werabe* Town for Zonal meetings created good opportunity for me to collect comprehensive data from all areas.

Notwithstanding, lowland areas had mainly become sources of the data for this study due to accessibility on one hand, and most of the dispute cases I have perused are reported from these areas to the state and customary courts on the other. Various Siltie Zone Towns (e.g., *Dalocha*, *Werabe*, *Tora, Mitto, Udasa, Kutere, Kibet,* and *Kerate)* were also important data collection areas. The towns host various ethnic groups (e.g., the *Amhara, the Oromo, the Gurage and the Hadiyya)* apart from the Siltie. Thus, these areas used as crucial field sites for a cross-cultural understanding of how legal systems work, and how disputants and dispute settlers interact. I understand that dispute cases that are initiated from the urban centers have complex character since they have inter-ethnic and inter-religious natures. The ways legal actors settled inter-faith and inter-ethnic disputes also helped me understand cross-cultural modes of dispute settlement.

Nevertheless, even if I had a good experience with the field sites, my study area was not without challenges. The very hot weather condition of the *Weredas,* such *as Lanfuro,* and the absence of key informants on appointed time due to various government meetings and environmental conservation programs were some of the challenges I faced during the field work.

The rural community also suspected me as an agent of the state partly due to my previous occupation as ethnographic and public relation expert in the zone. My new status as a student from abroad, Germany, has made some informants expect money in the form of per dim.

I also had to attend various *Khat*[4] chewing ceremonies with notable elders. The Siltie elders love chewing *Khat* during their leisure time. They use *Khat* not only as a stimulant but also as a ritual. Before starting chewing, the elders make *Du'aa* (prayer). My participation with elders in this ritual opened the floor for discussion, and I made candid conversation with elders regarding topics that could otherwise not be accessed easily. These close interactions have unlocked or unpacked „the hidden transcripts" (Scott, 1990) of the informants about the evolution of the Siltie and the state interactions.

The Siltie elders act as interpreters of their custom. They are the custodians of the Siltie culture. Thus, they are the most knowledgeable persons about the nature and functions of Siltie dispute settlement. My points of contact were further made easy at meetings such as *YeAabotweld Shengo*, *YeMula Siltie Melcho*, and the *Raga* process (See More in Chapters Four and Five).

Annual gatherings in *Werabe* town also brought key informants at the capital of Siltie Zone where I easily contacted the informants. In this regard, especially the annual symposium[5] on history, culture, and language of the Siltie that was conducted on April 1st every year was an important time to get majority of Siltie elders in Werabe Town. At this gathering, I contacted respondents both from the state and non-state legal systems and conducted mixed Focus Group Discussion (hereafter FGD) to understand the power relations between actors of various legal regimes. However, since 2015 Siltie zone council has changed the date of the symposium to be held in the month of November every year. This gathering played a significant role to get several informants at the center.

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[4] Khat or Chat (Catha edulis) is an evergreen shrub native to tropical East Africa. *Khat's* dark green leaves are chewed fresh for their stimulating effects (Aadland 2002:31). *Khat* is highly produced in the study area, particularly in *Silti, Hulbareg, Alicho and Lanfuro weredas* and around Werabe. *Khat* has now become the major cash crop in the study area.

[5] Siltie zone had conducted annual symposiums on April 1 in reminiscence of the historic referendum that was held on April 1, 2001, which separated the Siltie from neighboring areas. The symposium had been announced as an avenue to gather all Siltie elders and remember the struggle waged for identity. The first symposium had been convened in April 2008. For the Siltie patriots, the day has a historical message as it reminded them of the ten years identity struggle and victory on the ruling party peacefully. However, for few zonal and federal Siltie politicians who took part in pro-Gurage parties before, yet powerful till now, the day has a bad connotation. I also understand that the abandoning of the day of symposium indicates the existence of conspiracy of silence, for the ex-pro Gurage elites do not like the day to be remembered and have a place in the minds of the new generation. However, I believe that the measure can potentially divide the people and weaken their strength, for there is a large section of the community who did not like the measure. It will potentially also influence the mobilization of the society for local development and will become a source of intra-ethnic conflict in the future if the decision is not reversed in any way.

Contacts with my key informants were also made at their homesteads in the countryside. This helped me understand the livelihoods of the community, and how the values and norms of the people influence the day to day activities of the people.

1.7. Research Design

Research design refers to research procedures that inform the decision-making process from general assumptions to specific data collection and analysis techniques (Creswell, 2009). The collection of data and analysis were guided by research design. Maxwell (2005) states that before starting a given study, a researcher should outline his/her design within which the study has to be determined. This will help not only in determining the appropriate research method but will also contribute to establishing the ontological and epistemological position of the researcher.

The key research questions in this study require that informants recount their experiences about the phenomena under study as socially constructed. This calls for a research design appropriate for collecting data from participants who have experiences relating to the practices of legal systems in the study area. Qualitative research design has been employed to carry out the research. Qualitative research has several advantages. To begin with, qualitative research design helped me to search for the holistic picture of the social setting of the study site and population and to grasp the emic point of view of the studied group (Miles and Huberman 1994:6). It is in light of this advantage that a qualitative approach has been used in this book as an appropriate strategy „for exploring and understanding the meaning individuals or groups ascribe to the social or human actions" (Creswell 2009:4).

My selection of qualitative approach has further been informed by philosophical considerations. Philosophical assumptions refer to my position on epistemology, ontology, axiology, rhetoric, and methodology. Creswell points out that the process of conducting a qualitative research should start with conceptualizing philosophical assumptions and paradigms. The major paradigms of a qualitative research include post-positivism, social constructivism, advocacy/participatory and pragmatic paradigms (Creswell, 2009). My research philosophy incorporates both paradigms such as social constructivism and philosophical assumptions such as epistemology and ontology. Creswell also notes that a researcher's view of reality indicates his/her ontological stance whereas his/her view of how he/she acquires knowledge indicates his /her epistemological position.

Bryman (2004) further notes that epistemology refers to all types of knowledge and knowing on quantitative-qualitative methods. He considers positivism as an epistemology of natural sciences, while interpretive becomes an alternative epistemology. Some of the major assumptions of

positivism are employing natural science methods to study the social world and conducting research to test theory and develop the law. Interpretive, however, assumes that the subject matters of social and natural sciences are quite different. So, we need to have a different logic of research procedure to study the social world. In this vein, Bryman underlines that social researchers should focus on grasping the subjective meanings of social actions (Bryman 2004:13).

However, recently, ontological questions are also given attention in the social science research. In social sciences, ontological issues are mainly concerned with two positions: objectivism and constructivism. Objectivism claims that social phenomena and their meanings exist independent of social actors; while constructivism claims the social phenomena including their meanings are socially constructed. Ontological assumptions influence the process of coining research questions and conducting research (Bryman 2004:16). Researchers who embrace the notion of multiple realities choose a qualitative inquiry to explore multiple realities (Creswell, 2009). In relation to epistemological and ontological questions, the study has embraced interpretive and constructivist approaches respectively. The choosing of the philosophical stand has also been informed by the researcher's anthropological training and experiences in qualitative research.

From a methodological point of view, the multiple realities have been produced from participants through interaction between and among informants and me. This constructive approach has considered knowledge to be contextual and time dependent (Krauss, 2005). In the context of this study, the Siltie's viewpoints of the various institutions of dispute settlement, actors' views and actions, their beliefs and lived experiences, the interactions among themselves and their counterparts in the plural legal systems have been taken as the prevailing perspective. This does not mean that my understanding of the social reality by observation and literature review have not been used to explore the topic of this book. In fact, to understand whether the local people are acting what they are talking, and to triangulate the ethnographic data with other data collection instruments, understand legal realities comparatively, cross-cultural observation and reviewing related literature have been used.

However, the major rationale for choosing the qualitative approach for this study is the fact that it seeks to understand practices of legal systems from the perspectives of the studied group.

This legal anthropological study explores the perspectives of actors involved in the dispute settlement process (mediators and disputants) and the meanings they give to their social experiences regarding legal pluralism among the Siltie. Therefore, for this legal anthropological study where obtaining culturally specific information about the values, behaviors and social contexts of a particular group are crucial, a qualitative approach has become an appropriate strategy.

1.8. Methodological Approaches

The research in this study employs legal-anthropological approaches as a framework to understand the legal realities of the Siltie. In this regard, two methodologies have been used, namely Extended Case Method and Ethnography. Before explaining these two methodologies, however, let me explain about my position in this study as a home researcher.

1.8.1. Research at Home as an Aspect of Post-Exotic Anthropology

"Ethnography no longer implies traveling to remote villages, and there is increased recognition that cultural and social phenomena are ripe for ethnographic study everywhere we find humans" (Murchison 2010: 9).

Anthropological inquiry has passed through various historical episodes since its inception in the second half of the 19th century. The discipline has been criticized by some due to its role for colonialism (Lewis, 1978; Assad 1978b:15). It has initially been perceived as a subject intended to „study others"(Bernard 2004:4). As part of this tradition, European and American researchers conducted fieldwork in the so-called „remote" and „exotic" cultures during the late 19th and 20th centuries (Hayano, 1979). Nevertheless, some classical anthropologists acknowledged the importance of studying one's own society even during the early periods of the discipline. Classical anthropologists (e.g., Malinowski and Radcliff-Brown) accepted researching one's own society even if it is a very hard endeavor. Malinowski, for instance, noted that „if self-knowledge is the most difficult to gain, then 'anthropology of one's people is the most arduous, but also the most valuable achievement of a fieldworker" (Malinowski 1939: xix).

Some scholars also consider the classical anthropological inquiry of focusing on „otherness" as political rather than emanating from the very interest of the subject matter of the field. According to Talal Assad, for instance, British functional anthropology had been based on a power

relationship between the West and the Third World (Assad 1978:15). Assad goes further to say that anthropology came into being during the colonial era as a distinctive discipline which was dominated by Europeans who studied other parts of the world for European audiences. If there were European anthropologists like Indian or African during this time, they were trained in European soils and „behaved and acted like Europeans"(Diamond 1980b:11-12). Thus, professional anthropology was characterized by „diffusion by domination" (Peirano 1998:109). Taking the ethno-centric trends into consideration, some scholars like Assad (1971) and Crick (1976) began to encourage anthropologists to look into other cultures to develop „their traditions in studying their cultures rather than become a pale reflection of our interest in them"(Assad 1978:167).

Some refer anthropology at home as an „indigenous anthropology" (Fahim, 1982) as a working concept to apply to the practice of anthropology in one's native country, society, and/or ethnic group. Nevertheless, others prefer to call anthropology at home as an "Insider Anthropology "rather than native or indigenous one since the former carried less negative connotations than, for instance, the name "indigenous" or "native" (Madan 1982b; Peirano 1998:110).

Since globalization accelerates the flow of ideas or technologies between peoples, and this can either negatively or positively affect the lives of the community, no society can be excluded from the other parts of the world. Moore also states that "local places cannot be studied in isolation, nor can the global be understood except as constituted by various locals clustered together at some local spot" (Moore 1996:10). It seems that the global and local actors can interact with each other by sharing ideas and values that can influence their respective activities. Thus, research at home seems the normal conditions of the contemporary world. Moreover, Jackson (1987a) aptly puts that research at home is „...one of the inevitable conditions of the modern world." Some of the factors that can necessitate the emergence of insider anthropologists could become the existence of a political component on classical anthropological inquiry in the study of „radical otherness"(Fahim, 1982). This scenario has provoked the genesis of "home-grown anthropologists" to join the scene since the 1970s (Peirano 1998:176).

On top of all this, we have witnessed a shift in anthropological studies in the post-Second World War period. Anthropology at home has thus gained popularity from the 1970s onwards.

Some studies (e.g. Peirano 1998) indicate that the 1970s is considered as a turning period in the history of anthropological inquiry as the field was divorced from the political relation and turned its focus to sociological analysis, and to the study of „home" (Peirano 1998:105). Some factors are responsible for this change in orientations in the subject matter of the field including the flux of migrants to the west. However, let me shed some lights on the very idea of studying one's own home in anthropological studies first.

1.8.1.1.   Researching One's Own Home in Anthropology

Studying one's own home in anthropology at home is a contentious issue in the field of anthropology (cf. Greenhouse 2013). The definition covers a wider range of items from a territorial classification, such as a country or a region, to legal and political categories, such as citizenship and identity of anthropologists and the communities they work in (Mughal 2015:122). There are many meanings to the expression „anthropology at home," the most prominent of which refers to the kind of inquiry developed to study one's own society, where „others" are both ourselves and those relatively different from us, whom we see as part of the same collectivity. In this respect, after banning exoticism, anthropology at home was a historical shift for some. For others it has always been the dominant trend within a long-standing tradition; others still have chosen to develop their anthropological inquiries both at home and abroad (ibid.). Some call it „Insider Ethnography," a situation where in an ethnographer studies a cultural or social unit of which he is already a part (Murchison, 2010). Nevertheless, whenever observers and the observed meet, new hybrid of representations arise, which are intensified in comparison to the notions from which they proceed (Dumont 1994).

In this regard, studies so far on Ethiopian societies seem to have their characteristics since they focus mainly on the „center rather than the periphery" (Markakis, 2011) societies who were politically and socially dominant for long in the country. Even if the periphery groups have got a little attention by scholars, anthropologists resorted more to these areas. This may arise due to the classical anthropological orientations of „otherness" as most of the anthropological works have focused on the southern parts of the country where more than half of the ethnic groups in Ethiopia live. A good instance in this regard can be the establishment of Southern Omo Research Center by the Institute of Ethiopian Studies (IES) and with the involvement of German

anthropologist Ivo Strecker in April 1992, in *Jinka[6] Town*, Southern Ethiopia. Most of the studies had given little attention to more than half of the population whom they consider as „not exotic." It is partly due to the flow of anthropologists to the southern region that once the late Prime Minister Meles Zenawi said that „South Omo region must be developed. It should not be an avenue for anthropological studies".

Thus, from the one of the state actor's speeches one can understand that the classical anthropological thoughts have influenced not only the Ethiopian anthropological studies, but also the government rhetoric as well. The following excerpt from Clapham, who is one of the scholars who focused on Ethiopian studies confirms this narration. He says that "Amharas and Tigrayans have their history, whereas other people have their anthropology" (2002:40). Nevertheless, the need for an anthropological inquiry has got more currency in the post-1990s Ethiopia. The introduction of ethnic federalism that demands the knowledge of the locals about political organization as well as the active participation of the local community in development endeavors plays its share for the change in the orientation of studying one's own home. Added to this, Ethiopia's aggressive involvement in building big projects whose implementations among the local community requires the knowledge of the local people contribute also to this change.

The ethnic federal structure has valued culture and studying own identity unprecedented before. Ethno writers have sprouted since then. Two factors that can contribute for increasing trends of studying one's own may be at work. The first one is the policy shift that favors studying own society as a basic issue to develop one's identity manifestation and get a fair representation and resources in the Federalist Ethiopia. This time has seen some movements that have aimed at „the right to have a right"(Smith, 2013). Second, the availability of funding for research and local paintings and artistic works like Music from local governments who are keen to know and let know others their people has also played a significant role in the expansion of research at home. Despite the fact that there are inherent assets one can exploit when studying his/her own society, there are also some challenges he/she can face in exploring his group. Malinowski (1939), for instance, stated that studying own society is a challenging enterprise.

Further, studies also indicate that subjective feelings can be at work at any given moment in the ethnographic dialogue.

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[6] Words in italic refer to terms, names or expressions in Siltie and Amharic languages. However, if used differently, it will be explained in due places.

It is a natural outcome of the collaborative building of relationships between the researcher and the researched, especially when the two are part of the same cognitive world. It is important to recognize such subjective experiences and the feelings of counter conversion that accompany them as part of the practice of ethnography in one's own society. This is in line with the current emphasis on critical ethnography, stressing ethical considerations in fieldwork while recognizing and contemplating contingencies of truth claims, value-laden inquiry and local knowledge as substantive analytical frameworks (Denzin 2003; cf. Madison 2005:35). In addition, the various roles one is expected to play in his/her community could be taken as one of the challenges a home researcher can face. For instance, one may be expected to contribute to the development of his community, for he/she is part of an elite group which is supposed to do his best for the progress of the group. Thus, when one enters the community he/she is a part for a fieldwork, the researcher will be viewed in various ways (e.g. as development agent, state agent, or as a social worker representing one or another NGO).

1.8.1.1.1. Researching One's Own Home: Experience from Ethiopia

The historical episodes Ethiopia has undergone necessitate the development of anthropology at home. The North-Christian hegemony or the north-south dichotomy that the Ethiopian academic pursued for long has given little attention to the south-eastern Ethiopians like the Siltie for an extended period (Braukämper, 2001). It was anthropologists like Braukämper who preserved the historical and cultural niches of these people. Most of the southern as well as eastern Ethiopian societies that can be mentioned as the periphery (Markakis, 2011) are devoid of attention by Ethiopian scholars. Following the installation of the federal structure in 1991, these historically left peoples have got access to education. Since then, studying one's own culture seems to be an order of the day since there is a little attempt on the part of scholars to study others. Thus, the period saw the sprout of elites who have begun studying their people.

Some historians such as Lapiso[7] (1999, 2000) encourage local elites to study their communities so that the „real image" of the Ethiopian people can be represented in Ethiopian writings. This can be explained as "Nativist anthropology" (Peirano 1998:115).

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[7] Ethiopian historian Prof.Lapiso emphasized that the North-Christian dichotomy and its dominance can only be changed only if elites from each community breaks from the tradition and writes the ethnography of their people. He also stresses that the local elites should employ social science methodologies to escape from subjective writings as

The founding of social anthropology at Addis Ababa University in the early 1990s has also played a significant role for local anthropologists to study their societies. The department has given scholarship for students who studied their communities and produced ethnographies of the hitherto unexplored communities.

We have another form of anthropology at home that Peirano calls „Nativist anthropology" (ibid.: 115). Nativist ethnography assumes that only natives understand natives and that the native must be the proper judge, and even the sensor of ethnography. Nevertheless, authors such as Kuper (1994) criticize this argument assuming that this way of approaching an anthropological understanding of the field may be prey to subjectivity (Peirano 1998:114). Various literature indicate that the Post-Exotic Anthropology seems to disregard the dichotomy between the traditional focus of anthropology's otherness (Peirano1998:112; Lewellen 2003).

The classical analysis of political systems in anthropology has met ardent criticism by political anthropologists like Lewellen (2003). In this vein, the post-exotic anthropology narrowed the gap between the core and the periphery. Clifford (1997) noted that fieldwork had been based on a distinction between a home base and an exterior place of discovery. However, notions of „homes and abroad, community insides and outsides, fields and metropolis are increasingly challenged by post-exotic, decolonizing trends" (1997:53). Fields must be negotiated, and because there is no narrative form or way of writing inherently suited to a politics of location, anthropological distance sometimes may be „challenged, blurred, relationally reconstructed" (ibid.).

Now let us look at how a native anthropologist like me enters the field as a researcher. The available published literature strongly suggests that being a native anthropologist implies a greater potential for value conflict (Altorki and El-Solh, 1988), a greater pressure to conform to local social norms, and a certain tendency towards preconceived notions (Hastrup1995:157-158). However, my experience in the field indicates that some of my a priori knowledge about the Siltie seems deconstructed and a new form of knowledge has been reconstructed. It took me a long time to deconstruct my preconception or „take for granted ideas" (Murchison 2010:14) about the Siltie as a homogeneous entity, yet my previous works on the people also helped me overcome some of the challenges I could have faced as an insider anthropologist which could potentially have made me prone to subjectivity.

well as criticism from nationalist writers (Phone conversation with Professor Lapiso in August 2014 and September 2016.)

I had tried several times to suppress my interest not to write what is not „right" about the people, especially the heterogeneity features of the Siltie in the area of modes of dispute settlement about which I did not have enough knowledge before. As England (1994) aptly puts, the biography of the researcher, which passes through our perceptions and interpretations of the fieldwork experience, plays a central role in the research process. Notwithstanding, this initial effort of establishing inter-subjectivity is complicated by the fact that anthropologists cannot always deliberately place themselves in a non-involved actual position without being affected by the taken-for-granted rules and expectations of their culture (ibid.: 31).This seems to be especially problematic for native anthropologists because they are filled with the culture of their informants, which in turn, brings into question their ability to be 'objective' to the individuals they are seeking to understand better (ibid.:31). My point is that conducting fieldwork in one's own society is more often affected by self-examination of one's thoughts and feelings, reflecting the apparent tension between the role of a supposedly neutral researcher and that of the 'native.' In this sense, the researcher's reflection, intuition, and thinking can serve as 'a springboard for interpretations and bring more comprehensive insight' (Finlay and Gough 2003: 9). Here, one may ask whether this subjectivity is a comment on the researcher's integrity or not. However, at this point, my position is clear -I have taken the roles of a stranger and a native. I have also taken the position of a student to learn from my informants[8]. Researchers indicate that placing oneself in a position of a student to investigate and question things that one has learned to take for granted will allow the researcher to confront own assumptions by "listening to and learning from the experts who are his /her informants" (Murchison 2010:14,16). Thus, I have learned from my informants since the researcher is first and foremost a human being and his/her reactions are an integral part of the interview process. It is also important to explore how this subjectivity comes into play in the dialogical relationship between the researcher and the people being studied (Finlay and Gough 2003:31). Hence, I have my agency in the research work. As an Ethiopian in general and a Siltie researcher in particular, I can and do claim some commonality with my informants as far as the practices of legal realities among the local community are concerned. In addition to the positive effect of cultural proximity, I found myself being emotionally affected by my interviewee's points of commonality in relation to me.

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[8] An Informant refers to the people anthropologists learn from and study (Murchison 2010:14).

My informants would share the same basic understanding of the world with me. By asking me questions about legal practices, and then proceeding further without knowing what my position is, informants presume that I would have a similar opinion on this particular point especially considering me as an emerging Siltie elite. It also seems that in searching for a way of fitting elders' interest for the emergence of local power and Siltie culture as part of an identity formation, Siltie informants considered me and other elites as their sounding board. Putting it differently, elders are looking for someone who could mirror their emotions, mixed feelings and a quest for a new identity. It seems that local government officials are not ready to compromise the ruling party's interest for a revival of the Siltie culture. This does not mean that state officials are reluctant to revive the culture. They support allocate for protecting and developing Siltie cultural practices. However, they are less interested in seeing a robust elders' power in the area. Sometimes, state officials tried to direct my research with the belief that the research output could negatively affect their „firm image in EPRDF's political group as a loyal constituency and land of model area" by exposing the inefficiency of state's judiciary at the grassroots level. Some elites, on the other hand, urged me to write objectively and contribute to the progress of the Siltie's life and become an influential scholar nationally and possibly even beyond. As a person being educated in the west, others, especially young Muslims suspect me of working for the interest of Westerners whom they suspect as „anti-Muslims".

However, what can become impressive to me is that the majority of Silties associate my study in Germany with a harbinger of the onset of the age of prosperity which the Siltie are waiting for long. This is because one of the influential Siltie cleric, *Sheik Alkesiye* prophesied that Germans are vehicles for change and development. The Siltie said that *Sheik Alkesiye* predicted „there will be a time the Germans will come to our country and Siltie and hence they can bring wealth, and prosperity to Ethiopia and the Siltie". The *Sheik* also said that „the Germans will also protect my grand mosque in *Alkeso* town".

Religious men, the youth like elite including young, educated Muslims as they call themselves as "*Yetewhid Jemma*" or Salafists told me also that *Sheik Alkesiye* associated Germany and people who are linked with Germany as a harbinger of development to the country in general and of the Siltie in particular. Still, others tried to link this research with the government. This situation clearly indicates the existences of multiple interests and the challenges as well as role conflicts one will face if he/she studies own society.

Nevertheless, we cannot deny that there are some advantages, like entry into the field and build rapport with the community more easily than an outsider researcher. Additionally, the possibility to be influenced by thin data is also very low for the insider ethnographer. Rather, all doors will be opened for the home researcher to collect the data including „the hidden transcripts" (Scott, 1990) which further allows me to know and understand the people including the legal realities better than the outsider. Thus, one must understand that doing anthropology at home requires a similar set of protocols as does researching a country other than one's own (Mughal 2015:121). In contrast to this view, this study observes the classical division between mainstream anthropology and anthropology 'at home,' as an inheritance from the binary segregationalism of colonialism is a dead-end paradigm. I argue further that the division between anthropology 'at home' and 'abroad' is coming to an end due to the nature of globalization that accelerated the interaction of ideas and technologies as well as breaking the boundaries of various systems including the nation state.

Reasons for Selecting the Research Site

Let me now cast a glance on some points why I selected my field site. First, though I am native to the area, I am an outsider to the legal practices of the Siltie. Islam's growth in the last twenty-five years (Zerihun, 2013) and the relatively newly established ethnic based zone and the existence of a vibrant form of legal pluralism against the Siltie's urban nature are also factors behind my selection of the site. My justifications for selecting the Siltie area emanated from different factors. To begin with, I lived and worked among the Siltie community for six years (2006-2011) as a researcher and culture area expert that have given me an opportunity to know their socio-cultural aspects and the inspiration to do further research among the community. What is more, I conducted Bachelor and Master's degree studies including annual research works among the people about their history, culture and local governance systems. These attachments also created the opportunity to understand the gaps in the literature on areas of legal pluralism in Siltie context in an ethnic federal state of Ethiopia. Thirdly, I published two books on the history, culture, language and local governance institutions of the Siltie (2012, 2013) which further created an opportunity to understand the intellectual void in the area of legal pluralism among the Siltie. I also understand that my further study will become a contribution to cross-cultural analysis in the area of legal pluralism in the country too.

The last, but not the least factor for me to choose the Siltie for this study is my knowledge of the Siltie language which has helped me enter the field and develop rapport better than the outsider. It has made communication with the local community much easier than a foreigner. I also wanted to work in the area of legal pluralism that is a relatively less explored topic in the country. Moreover, as a student of anthropology, I want to explore the Siltie's culture as an „outsider" and would not overlook some of the usual things that a regular visitor or native might otherwise ignore. From methodological perspective, my selection of Siltie area (no particular area is bound/limited among the Siltie as a field site, yet), most of my data is generated from the lowland areas of Siltie. Nevertheless, I can say that almost all areas are covered due to the natures of customary dispute settlement system which demands some dispute cases that were initiated in the Highland area be culminated in the lowland parts.

In addition, I moved my family from Addis Ababa to Siltie's capital (Werabe) to take part and live with the studied people as this is believed to be a better way "… to look at the emic perspectives of the studied group" (Malinowski, 1922). The location of *Werabe* town, i.e. the fact that it is found on the main road, allowed me to interact with people from other districts easily. Having a first-hand account of conflicts in some parts of the Siltie which involved me as attendant in the customary courts helped me understand the „emic view of the natives." The head of Siltie elders' court, though not officially recognized by the zone, also lives in lowland rural areas, and he could easily talk to me on the phone whenever a *Melcho* (Siltie meeting) summoned or cases are considered. I never disclosed the comments and remarks of one party to another or even to anyone within or outside the Siltie. I typically avoided inviting two opponent parties to a single group discussion, which could invoke serious tensions, to the detriment of my reputation in the community.

Nevertheless, I sometimes invited both elders and *Qadis*, another time elders and state judges as well as *Qadis* and state judges in a single group discussion to see the power relations and understand how actors view each other. This kind of gathering helped me understand how the weak manipulate events or employ daily forms of resistance by changing the tone of discussion in the presence of the "powerful" (Scott, 1985). The Siltie elders need freedom to take part in various affairs of the local community.

They want, for instance, to form elders' council, yet the zonal officials do not want to see "a state within a state" and avoid possible nature of political subversive activity by elders in the future. The existence of robust legal pluralism seems also to be considered as politically subversive by politicians. Thus, I had to be cautious when contacting elders so as not to be "suspected on the rise of this demand." I also had to keep it confidential whenever elders gave me an interview on various issues including the status of elders in the area. There seems to be a big "hope" from the local community, especially elders who perceived local elites like me, as appropriate persons to play a role in the revival of the customary system.

Elders seem to be perplexing why some Siltie officials pay less attention to the customary law unlike their counter parts in the neighboring Gurage, Hadiyya, and the Sidama people. Siltie elders stated that the customary systems of the neighboring ethnic groups are working well as the state system is supporting the revival of the customary systems in various capacities. As I stated earlier as a native who is studying abroad, elders thought that my role in "protecting and developing" the customary system is great. Nevertheless, this cannot be easily achieved since developing local culture, including customary systems, involves the joint activity of stakeholders including the zone administration. Additionally, the presence of Islam, the state and keen interest to protect the local culture with local variations among the Siltie make the site interesting to explore the legal realities in the context of legal pluralism. Moreover, the government makes the Siltie not only a practical model of "success story" to show how Ethiopian ethnic federalism functions but also, it considers the area as suspect number one behind the contemporary Islamic protest in the country.[9] Thus, my presence in the field had not been without a challenge.

Lastly, developing a rapport with transforming society like the Siltie seems the first challenge for an anthropologist. The Siltie are undergoing social changes and transforming very rapidly. Some factors are contributing to social changes and societal transformations of the Siltie. First, the integration of the people into the Ethiopian state since the late 19th century played a significant role in this regard (see more in Chapter eight). Second, the Siltie are involved in Ethiopia's economy from micro to macroeconomic activities in the country.

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[9]. Ethiopia's former Prime Minister (PM), Ato Hailemariam Desalegn once, while comparing the number of Muslim population in Ethiopia vis a vis its role in recently state-religion conflict, said that "it is the relatively small Muslim Siltie who are more challenging and disturbing the government rather than Muslim majority Oromo population in orchestrating the Islamic protest that has started since 2011 in the country." (Taken from the PM's discussion with representatives of the Siltie people during Werabe hospital inauguration in December 2015 in Werabe town.)

They are also very open and have a receptive cultural tradition that welcomes changes and characterized by a high urban flux of people or "migration culture" (Bustorf, 2009).

Third, the expansion of education and the emergence of Siltie intelligentsia or Siltie elite, mainly since the overthrow of Hailesillasie I in 1974 are also behind these changes. Fourth, the various global factors (e.g. Islamic revivalism), and the coming into being of new ideas and norms due to migration are also remaking broad areas of social life among the Siltie. The last but not the least, the establishment of Siltie zone in 2001 and the subsequent integration of the Siltie into the federal Ethiopia by forming a self-administered area is also one of the reasons why the Siltie people have undergone social change and transformation. With these changes the area experiences, it requires patience and being respectful of local norms and values to look at how the community lives and interacts with its members and others. I used my native language skills and prior knowledge of the local culture of Siltie to easily integrate myself with local people. Thus, with these complex social realities that unfold in the area, my position is clear-I was simultaneously an outsider as well as an insider in the field. I was an insider because I am a Siltie speaker and purposefully select the Siltie identity as part of the new form of citizenship (Smith, 2013) in contemporary Ethiopia. I am an outsider because I have entered in the field as a trained anthropologist to study the hitherto unexplored legal aspects of the Siltie. With this let me reflect on my position in this research.

Who Am I? Self-Reflection

A far as my position is concerned, it is important to mention my socio-cultural background at this point. My father is from Sodo Gurage, while my mother is from Siltie ethnic-group. Thus, I have got a hybrid identity. This hybrid identity helped me reduce the possibility of biases in my writings about the legal realities of the Siltie zone. Despite this, it is also equally important to explain here how I managed to control prejudices and partiality on my understandings of the legal systems practiced in the study area.

I accentuate that the Siltie's notions of legal systems is not the only perspective to grasp the practices of plural legal constellation empirically. This is due to the fact that local notions cannot be the only basis of knowledge since this may lead one to partially understand social events in specific contexts. Local notions, however, are equally important especially for anthropological analysis since social activities cannot be understood without the social contexts they are a part

(Moore, 1978). I understood that as a home anthropologist `I was expected to play multiple roles in the field. To begin with, as part of the community, I share the values, expectations, rituals and belief systems of the Siltie community that enrich me to understand the activities of the people based on the world views of the local community. However, I resorted to the neighboring communities like *Hadiyya*, *Gurage, Hallaba* and the Sidama for comparative purposes so that my familiarity with the activities of the Siltie might not influence my anthropological understandings of the legal practices of the Siltie. These aspects of comparative analysis have helped me not only to reduce the inter-subjectivity of the analysis but also to understand how legal pluralism functions in the country as well. However, even if anthropology at home is a historical shift in the post-exotic anthropology (Peirano 1998: 123), I was strongly governed by the anthropological research ethics in collecting the data and making its findings reliable and valid. In addition, in order to minimize these methodological challenges, I have analyzed the legal systems operating in Siltie proper within a wider socio-cultural context on the one hand, and contextualized the legal plural constellations in the Federalist Ethiopia with regional connections in Africa and globally implications on the other. In this regard, by tracing the genesis of legal pluralism in Ethiopia, I have analyzed the trajectories of legal systems historically in different Ethiopian regimes. This helps me understand the change and continuities that have been witnessing in the area of legal pluralism in Ethiopia. Additionally, aiming at contributing to the existing debate on legal pluralism, I have also discussed the scholarly genesis of legal pluralism and tried to demonstrate how the local arena that comprises the diversified and hybridized legal systems has become legally plural.

The Siltie love discussing politics, especially the identity struggle period (1991-2001). They have a divided mentality on the current politics. They revere the federal system as they have regained the independent ethnic status and self-determination after a century (see more in Chapters Three and Seven). On the other hand, the Siltie have developed a suspicious outlook towards the state, for the Ethiopian government is allegedly involved in religious affairs, especially Islam since 2011. I maintained neutrality in every aspect the local community involved, and I explicitly told my informants that I am a researcher looking into legal realities and want to understand the socio-cultural dimensions of the Siltie rather than anything else. Thus, I also made clear from the beginning that I did not have an affiliation with any political party or religious group in the area. Therefore, I remained neutral during the discussions on both politics and religious issues.

This strategy helped me get good friends without any controversial stances on the issues that might be sensitive for some of them. It also helped me address the hidden transcripts of my informants (Scott, 1990), for my informants unlocked some data that are related to the newly emerging youths' modes of dispute settlement and shared their experiences on how the state officials and state court judges worked in the area, which was not in line with institutionalized ways. Moreover, informants demonstrated that state actors used their agency in using the local norms and values relevant to everyday life rather than the psychologically far away state-imposed rules. Being fluent in native languages and aware of the social values that regulate one on how to behave in different situations helped me find a quicker and efficient way of 'settling in' after entering the field (Bernard 2011:156). It also helped me collect valid, reliable, and „inside" information about the state-society relationship. Studying abroad especially in Europe grants one a prestigious status among the Siltie. Germany has also got a special place among the Siltie, for one of the well-known Siltie *Sheiks, Alkesiye*, described Germany „as a land of prosperity and Germany or people associated with Germans are considered as sources of prosperity and progress for the Siltie." Thus, I was well received by Zonal officials or businesspersons in Siltie, mainly by the lowland Siltie. They gave me a warm welcome. Thus, with all the challenges I faced as a home researcher (e.g. role conflict), my impartiality due to hybridity, and easy access to the field as well as linguistic capital were assets to the better understanding of the legal realities in the Siltie zone.

1.8.2. Extended Case Method

I employed extended case method to explore the interactions of the various legal systems in the diachronic and synchronic approaches among the local community. The rationale for choosing the extended case is mainly due to its essentiality to explore the lived experiences of actors and to help build theory from below. It is also a research method that focuses on a detailed study of concrete empirical cases with a view to „extract" general principles from specific observations.

Through extended case method, a researcher would participate in and observe a number of related events and actions of individuals and groups over an extended period of time. The researcher would then construct his or her (ethnographic) story and theorize about a social phenomenon, rather than starting with a theory to explain an empirical reality.

Scholars (e.g., Bryant, A. and K. Charmaz 2007) recommend that analyzing first a social reality to grasp the different dimensions of the lives of local communities from the empirical data and go later to theories to create a nexus or modify the existing theories is also a strategy relevant to understand better the social world. Bryant, A. and K. Charmaz presented their alternative ways of grasping the social world in what they call „Grounded Theory in Ethnography" (2007). They criticize researchers who go to the fieldwork packed with theories. Bryant, A. and K. Charmaz also underline that using theory to start field work impedes "understanding the experiences or the social world as the studied live it" (Bryant, A. and K. Charmaz 2007: 161).

The extended case method also emphasizes on extensions of the local realities to forces outside a given area. The method also applies reflexive science to ethnography „to extract the general from the unique, to move from the micro to macro, to connect the present to the past in anticipation of the future all by building on the pre-existing theory" (Burawoy 1998: 5, 2009: 21).

Taking from his experiences in postcolonial Zambia as a factory worker and researcher, Burawoy's new version of the extended case method unbounded ethnographic method that limited its domain of investigation to a specified cultural group or socio-cultural setting (Burawoy 2009: 20). Ethnography focuses on the description of unrelated and bulky data rather than analyzing and extending data for theory building (Bryant, A. and K. Charmaz 2007: 160). In this regard, historical episodes and events that have links to a given socio-cultural phenomena may not be given due attention.

Moreover, based on the tenets of ethnography, a researcher may not go beyond a specific socio-cultural setting despite the fact that there are events that have close links with his/her area of investigation. The extended case method also disagrees with positivism ways of looking at the social world that gives little place for a researcher to get into the lives of the community „not to disturb the world the ethnographer studies" (2009: xii-xiii). Rather positivism insists that social phenomena can be explained by observing cause and effect. This is something which has been borrowed directly from the natural sciences (Henn M. e t al. 2006: 12). Other scholars also stress that a researcher should go to the field, interact with the studied group and generate empirical data to develop a theory. This group of scholars (e.g. Burawoy 1998; Bryant, A. and K. Charmaz 2007) criticized both the ethnographic and positivist ways of exploring socio-cultural settings that focus on studying the world as it is and grasping reality without the context a researcher

studies (Burawoy; 1998, 2009: xii; Charmaz. and Mitchell., 2007). For them, the researcher is inherently part of the world he/she studies. Moreover, the researcher should extend his domain of exploration over time and space. Thus, these explanations have introduced the revolutionary idea in the methods of social sciences by breaking the barriers hitherto bounded ethnographers not to look beyond a given socio-cultural boundary both spatially and temporally. Extended case method, however, introduces the ideas of extending local realities to forces outside their borders and creating links between micro and macro forces. Burawoy also introduced four tenets of extended case method that can create ties between the past and the present, the micro and the macro, the researcher and researched, as well as between the pre-existing and new theories. These principal guiding principles comprise such four extensions as the extensions of the observer into the lives of participants under study, the extension of observations over time and space, the extension from micro processes to macro processes, and the extension of theory (Burawoy, 2009 xviii). Bryant, A. and K. Charmaz (2007) also recommend the interaction between the researcher and the researched, going to the field, and gathering empirical data that will move the research and the researcher towards theory development. These scholars recommend a bottom-up approach for a qualitative study to explore socio-cultural setting such as legal pluralism among the contemporary societies.

Thus, against the backdrop of the above brief explanations, I believe that the extended case method has so many advantages to exploring such notions as legal pluralism that involves various forces or legal systems that operate even beyond a specific socio-cultural setting including the global norms. First, it provides me with an opportunity to extend spatially and temporally over time and space to explore legal pluralism in an ethnic federal state of Ethiopia and to reconstruct the genesis of legal pluralism, its aspects, and intra as well as inter-ethnic relations that the components of the notions have in the area. It also helps me explore the micro-macro links and the theoretical debates that are unfolding in the field of legal anthropology and other socio-legal studies.

I employed three of the perspectives that Burawoy put forward, namely the extension of observations over time and space, the extension from micro processes to macro forces, and the extension of theories.

First, the method helped me investigate the historical developments of legal pluralism, its changes and continuities over time among the Siltie based on my key informants' interviews. It also facilitated my data collection on inter-ethnic structures and functions of the various legal systems. The method was also helpful to understand the intra and interactions among the local community and with the neighboring ethnic groups. Second, the method helped me to construct a link between micro and macro processes. In this regard, I employed the method to extend the local legal realities beyond the study area. The local cannot be understood without the surrounding events like the national or the global forces taking the impacts of globalization into consideration. In this vein, the emergence of modern Ethiopian state in general and the genesis of legal pluralism, in particular, have gone through various stages. Historical sources (Lapiso 1984, 1999, 2000; Bahru, 1991) explain that the creation of modern Ethiopian state had been conceived since the nineteenth century. Unlike most of the African countries that were colonized by Western powers, the introduction of legal pluralism into Ethiopia has a different story. This period marks not only the coming into being of modern Ethiopian state but also the transplantation of new state legal system and hence constellation of legal pluralism in the country. The Siltie were incorporated into the new Ethiopian state in the late nineteenth century (Bustorf 2011; Kairedin 2012). Thus, the method had been employed to explore the status of the customary justice system before the end of the nineteenth century, the process of legal implantation and the interactions among legal systems. The method had also become crucial to look at the competitions and complementary natures of the various legal systems and the power relations among legal actors in diachronic approach (Moore, 2000). The extended case method was also important to investigate how the contemporary ethnic federal system enriches legal systems in the country, solves the age-old tensions between the centripetal and the centrifugal forces in the country taking the Siltie experiences as a case. Third, the method had also effectively helped me to link national developments to the Siltie`s local experiences. Therefore, the method had become a necessary methodological perspective to connect the post-1991 Ethiopia's ethnic federal experience to the global changes that has unfolded following the end of cold war in the 1990s. The post-cold war global changes have given rise to a new world order dominated by the capitalist block that unequivocally makes democracy and respect for diversity its priority.

The changes have also brought one or another form of international corporations that do not respect national boundaries and hence contribute to the coming into being of failed states (Santos de Sousa, 2006; Bellagamba/Klute, 2008; Berman, 2012). Therefore, the extended case method had helped me extend the local reality into the global ethnography that is also instrumental to understand common patterns around the world and the forces that create them (Burawoy, 2009).Taking the existences of global legal scales that sometimes compete, and at times complement the customary, religious and state judicial systems into consideration and the existence of porosity among each other, one can say that the local reality can contribute to theoretical debates on legal pluralism.

1.8.3. Ethnographic Methods: An Emic Perspective

Ethnography is a qualitative study of cultures driven by observation and participation. Some written sources (e.g. C. R. Ember, M. Ember 2009; Murchison 2010) state that ethnography can be understood both as a process and as a product. The literature compares ethnography with processes in a laboratory that are important to scientists, and so is ethnography to sociologists or anthropologists. The sources state further that ethnography has to meet three essential prerequisites: „ residing for a long time among the members of the studied culture, (ii) proficiency in the language of the community, and (iii) the employment of participant observation" (C.R.Ember, M.Ember 2009: 1, 2). The same source attests that as a product, ethnographic monograph must be holistic and it has to adopt the emic perspective, as opposed to the etic one (ibid.: 1, 2). The underlying assumption in ethnography's commitment to being there is an assumption that certain types of information are only obtainable through firsthand research (Murchison 2010:12). Ethnography also seeks to discover and record different types of information that are not readily obtainable through relatively detached approaches like surveys and observations. For Geertz, ethnography is, a "thick description" (Geertz 1973: 10) intended to describe the field accounts that provide concrete examples of the way people settle disputes in real life situations. Therefore, in order to understand the legal realities and strong legal pluralism (Griffiths A., 2002) in its holistic picture among the Siltie, ethnography is relevant since it helped me grasp the people's everyday life „in its extra local and historical context" (Burawoy 1998: 4). To this end, I paid much attention to the economic activities, kinship systems, marriage rules, customary court sessions, local assemblies, religious gatherings as well as state court sessions.

The social and kinship organizations mentioned above are semi-autonomous social fields (Moore, 1978), which the community employ in an interactive and dynamic way to regulate the day-to-day activities.

On the other hand, current literature further indicates that „ethnography no longer implies traveling to remote villages, and there is an increased recognition that cultural and social phenomena are ripe for ethnographic study everywhere we find humans" (Murchison 2010: 9). Ethnography also allows the researcher to discover and analyze the categories and questions that are most relevant for the people being studied. One of the strengths of ethnography as a research strategy is its ability to illuminate locally important understandings and ways of operating. In ethnography, local modes of thought and behavior are the primary focus (ibid.: 12). Ethnography is particularly well suited for researching the connections and interactions between different elements of society and culture, such as interactions among various legal systems, culture, religion, and politics as they exist among the Siltie. Ethnographic accounts provide concrete examples of the way the Siltie organize their daily life to cope with disputes when disputes occur, the choices they face among plural legal systems as well as the interaction they develop among various legal regimes.

In addition, studies indicate that ethnography currently „begins from a foundation that recognizes and foregrounds dynamic processes, variation and variability, and the need to consider the different perspectives and biases that may influence the research" (Murchison 2010:11). On top of all this, one of the benefits of long-term ethnographic fieldwork is that informants tend to become more willing to share information including „the hidden transcripts" (Scott, 1990) with the researcher as a result of having familiarized themselves with the researcher and his/her work. Thus, I employed ethnographic data collection methods which include direct observation of state court sessions, local dispute settlements forums, archival data, guided interviews with community leaders, the disputants', and dispute settlers' views.

1.8.4. Methods of Data Collection

1.8.4.1. Key Informant Interview

By methods, I mean the specific techniques used to collect data on legal practices in the studied area. A research method employed for a certain study is dependent on the nature of the research problem and the research questions (Kothari, 2004).

Within qualitative research design, I chose key informant interview as a research strategy to collect data from the local community. This method of data collection has been used based on guideline points and unstructured questions.

Interviewees were selected through non-random purposive sampling technique, a deliberately chosen group of persons, settings or events that contain certain characteristics or information that cannot be gained from other sources (Maxwell 1998:69). In this regard, I conducted interviews with 40 individuals with diverse backgrounds, including religious, state, and locals as well as elites to generate data for this study. The informal conversations I made with these figures complemented the information obtained from other sources. These conversations were often unstructured and informal, and they helped me to clarify and reconstruct some of the major events to be reported in the narrative. Smartphone S-note applications have also been used to write down notes from informants. The data collected during day time through field diaries and observation were transcribed and written during the night. This strategy helped me capture information in the fresh memory. Accordingly, gaps that were identified the nights before were filled in the days that followed.

1.8.4.2. Focus Group Discussion

Focus group discussion (FGD) is a method in which some people are asked to come together to discuss various issues for the purpose of research. I arranged nine FGDs with *Gerad, Ragas, Moros, Qadis*[10], state officials and other respondents in the study area with the help of field assistants. Focus group discussion as a way of data collection instrument is important to get the collective views or group perspectives on dispute settlement institutions, their interactions, and power relations among different actors.

1.8.4.3. Case Study

According to Thomas (2011), case studies are analyses of persons, events, decisions, periods, policies, institutions, or other systems that are studied holistically by one or more methods. It is also a research strategy, an empirical inquiry that investigates a phenomenon within its real-life context. I used case study technique to explore individual's perceptions of dispute settlement institutions, to understand personal experiences on various dispute settlement institutions and

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[10] These individuals are the Siltie local actors who are involved in dispute settlement and local administration.

personal views on forum shopping that cannot otherwise be investigated by other data collection instruments.

Through informal conversation with key informants, I identified individuals who have personal experiences with cases that have been settled through either customary, the state or religious or both or all legal systems. This technique also helped me to collect ethnographic data based on the lived stories of disputants and mediators. It also became paramount for triangulation of data gained from the interviews and focus group discussions. I collected and analyzed fourteen dispute cases to understand the local legal realities and how dispute settlers and disputants as well as the community interact with each other. Some of the cases also showed dispute settlers' self-expressions of their mediation services.

1.8.4.4.   Participant Observation

This technique of data collection helped me get direct information about the day to day lives of the subjects of the research. The method was used for observing the overall situations and the behavior of the local community when involved in the dispute settlement process. It also helped me observe real life situations of the local community, and understand whether the people act what they talk and triangulate the data generated from the interview, FGD and case study. It was also useful to have particular insight into the ceremonies, rituals and other social events taking place in the study area. I observed the customary, religious and state court hearing sessions, and the various activities of the customary authorities, *Qadis*, and judges during their assembly and dispute resolving sessions in the study area.

Conventional anthropological methods such as participant observation that were initially tools for getting „insider" information are equally valid when doing anthropology at home. These methods are required to obtain empirical evidence to make cross-cultural comparisons by using the vocabulary shared across the discipline (Mogul 2015:130). I took part and observed the customary, religious and state dispute settlement sessions which broadened my understanding of how causes of some disputes are identified; the cases were initiated and how disputants choose between plural legal systems to make their cases done. Observation is also essential to get trust from the community as I attended the court hearings several times. My research experiences and my language competence in Siltie language also became an asset that capitalized the ability to establish rapport with the key informants. I also took pictures and videos of elders' gatherings, the customary court sessions, religious sessions and state court judges, justice office and police sector meetings with the consent of elders and government officials to substantiate and triangulate the information that had been collected through other methods.

1.8.5.   Secondary Sources

Secondary sources of data were used to get basic information on the dynamic nature of legal pluralism in Ethiopia, and the geographical, historical and socio- economic background of the Siltie. This way of data gathering was also useful to have various researchers' ideas and debates on the subject. In this regard, different research works, archival materials, figures, maps of the study area and the topic had been consulted in detail to substantiate and triangulate the field data. I did not excessively rely on a single method to collect the data. Rather, I had been governed by

the principle of triangulation wherein more than one data or method or even theory are employed when investigating a research problem so that diverse viewpoints or standpoints can light up on a topic. The mixing of methods, for instance, the use of interviews together with focus group discussions is one form of triangulation (Olsen, 2004).

1.9. Data Analysis and Evaluation Approaches

1.9.1. Social Science Analytical Approaches: An Actor-Oriented Analysis

Social scientists have been in continuous debate over how one can best comprehend the nature of social life and social organizations in society. These scholars are not in agreement whether individuals are in control of their destinies and actions or they are merely subject to particular social circumstances which determine their behaviors. One group of scholars who dominated sociological and anthropological inquiries during the late 19th and early 20th centuries argued that actions and organizations can mostly be shaped by the constraining forces of social structure rather than individuals' actions. These social theorists suggested a vision of the world where powerful structures are dominant and responsible for orchestrating the conduct of human individuals (Durkheim, 1938[1895]; Radcliff-Brown 1952; E. Pritchard, 1940s).

Emile Durkheim 1938[1895]:1 0), for instance, in his sociological theory suggests that individuals are subjected to real and external 'social facts' that constrain and define their behaviors.

He further emphasized that a social event must be recognized by the power of external coercion it exercises over individuals. This theoretical perspective greatly influenced social anthropological studies during the first half of the 20th century, and in particular, the influence has been particularly evident in the ethnographic work pursued by Radcliffe-Brown, Meyer Fortes, and Evans-Pritchard in their analyses of small-scale societies. Thus, these scholars stress that individual action is dependent on a compelling social force and organization beyond human agency.

Others, on the other hand, give much weight to the human agency as a decisive factor that influences the courses of events in the society rather than being merely orchestrated by the external structure. The Durkheimian perspective dominated sociological and anthropological inquiries since the 1960s and later replaced by the Weberian view that gives emphasis to the

individual actions rather than structure as an important factor in influencing actions and organizations in the social world. The 1960s new theoretical orientation with a grand appellation called Weberian view emphasizes on „human action instead of social structure as the main object of research, focusing on „the analysis of intimate, everyday interactions" (Sztompka 1994:30). Since then, the „agency-centric" perspective came about as a reaction to the „structural emphasis" of the previously mentioned position. Placing much emphasis on the role of personal efficacy, the human- agency centric suggests that humans can actively decide on the courses of actions they wish to pursue. It is due to the place it gives to human's agency that social scientists became especially interested in the theoretical views of Max Weber. In his exposition of sociological theory and method in 'Economy and Society' (1922), Weber places the focus of social-scientific inquiry on the acting (and active) individual. In particular, he proposes to speak of 'action' insofar as the acting individual attaches a subjective meaning to his behavior-be it overt or covert, omission or acquiescence. An action is „social" insofar as its subjective meaning takes account of the behavior of others and is thereby oriented in its course (Weber 1978 [1922]:4). In this sense, Weber suggested that sociologists should focus on the „rational, goal-directed activities of individuals" (Gordon 1991:477). In his view, the task of the sociologist is to reveal the rationalizations of the person in any given situation, taking into account the „interpretive understanding" (Verstehen) of social actors positioned in various contexts of action. Additionally, contemporary scholars also criticize structure-centric analysis of social events and organization.

Norman (2001:18,19), for example, disagrees with the structure focused theories as „people-less," and obsessed with the conditions, contexts, and driving of social life rather than with the self-organizing practices of those inhabiting, experiencing and transforming the contours and details of the social landscape. He emphasizes further that human agency has the knowledge and capability to decide on and act accordingly even in extreme preventing external environment. Whereas explaining their behaviour as the result of some external cause does not (von Wright, 1993). Norman (2001) adopts a new perspective called „an actor-oriented perspective that explored how social actors (both 'local' and 'external 'to the particular arena) are locked into a series of intertwined battles over resources, meanings and institutional legitimacy and control" (Norman 2001: 1). An actor-oriented approach focuses on the exploration of internally generated strategies and processes of change b social actors themselves in their day to day lives.

It also elucidates the links between the world of actors at the grassroots level and the larger global actors and the critical roles played by diverse and often conflicting forms of human action and social consciousness (ibid.:16). The notion of agency attributes to the individual actors the capacity to process social experience and to devise ways of coping with life challenges. State institutions such as state courts, and community courts, religious organizations, political parties, non-governmental organizations and capitalist enterprises can be exemplified as social groups that have means of reaching and formulating decisions and of acting at least on some of them (ibid.:16).

Thus, from above brief explanation, we can understand that structural analysis gives little rooms for local actors to articulate their views on the local situations and see variations in their organizations. The approach also overshadows the roles of the lived experiences of actors to have little impact at the grassroots level social interactions. An actor-oriented approach, on the other hand, provides better insights into the dynamics and complexity of power relations and lived experiences of the human beings. But I argue that both structure and actor oriented approaches are invariably important perspectives to better understand the socio-legal reality of a given community. It is due to this vantage point that I employed the agency-structure approach to asses' actors' interests, beliefs, and the subsequent perceptions as well as strategies dispute settlers have been using to settle disputes. The approach also allowed me to understand the contestations among actors that may arise owing to competition over resources, legitimacy or other factors in the study area.

The approach further helped me to closely understand the networks of relations among social groups, the perceptions and actions they develop among themselves and their counterparts, and the interfaces they develop at the grassroots levels. The social phenomena that are made up of a multiplicity of constructed and new realities which actors develop can effectively be understood if one pays attention to both the structure and the human agency. There are growing works that support looking at both the agency and structure aspects of social life o better grasp the socio-legal aspects of life.

There are some scholars, for instance, presents their views on the structure-agency debate. These contemporary scholars try to reconcile the two versions by expounding that both structure and human agencies are very important to understand social action and organization.

Anthony Giddens's (1984) work on „structuration theory" as well as Pierre Bourdieu's ([1972]1977) work „theory of practice", for instance, explain that social science researchers should strive to understand both the structural and human agency aspects of the social life. Giddens, for example, said that a researcher who strives to understand the nature of social life should „analyse" how the concepts of action, meaning, and subjectivity should be specified and how they might relate to notions of structure and constraint (Giddens 1984:2). He further emphasizes that one should construct a coherent framework with which „structure „and „agency" can both be grasped in the account of social life and systematically analysed to have a better understanding of the nature of social life.

Recent studies also underline the significances of paying attention to both the structure and the agency dimensions of the social life to understand the on-going socio-political dynamics of African societies. In this regard, Cheeseman (2016:4) insists that informal and traditional forms of personalized networks of leadership which he figured out as a phenomenon known as "neo-patrimonialism" has become important local leadership system which influences social realities in the contemporary Africa. This is due to, among other factors, the African states' failure "to maintain their sovereignty" (Santos de Sousa 2006:36).

Cheeseman indicates that Africa's international relationship and the engagement of external powers like China has demanded, on the other hand, the growing significance of "formal political institutions" (Cheeseman 2016:4) to understand the social realities apart from the agency of Africa's people per say its local actors. Thus, giving due attention to both the structure and actors' agency has become an important sociological perspective to grasp the complex socio-legal natures of African people.

On this vantage point, let me shed some lights on how agency-structure perspective can play an important role for exploring legal pluralism among the Siltie people. The historical trajectories of legal pluralism in Ethiopia in general and the Siltie in particular indicate that the existence, operations, as well as functions of legal systems are closely linked with the various political systems the country has passed through. Studies indicate that Ethiopia's legal systems have greatly been influenced by the external coercive powers and social pressures as well as the structures that are unfolding in the country (Barnes 2001: 344; Alula and Getachew 2008: 4). There were and are also conflicts between the core and the periphery demanding to maintain

their local system of administrations (Markakis, 2011). Authors like Alula and Getachew (2008) and Markakis (2011) reported that the core had imposed the alien legal system over the local community with fierce resistance from below. In these circumstances, the local actors devise various strategies like abstaining from government meetings, and development campaigns to maintain their local power (Scott, 1985). As an indicative to the resistance to the state interventions, local actors tried to change the course of events and influence the intentions of the structure into their advantages. Actors agency has further been empowered partly due to the declining of the legitimacy of the state systems vis a vis local actors' ability to appeal to the community as an alternative and even dominant local legal agent in delivering justice at the grassroots level (Alula and Getachew, 2008). They employ their lived experiences, abilities, social capitals, and local knowledge to mobilize the local community and generate local power.

To recap, from the above theoretical explanations one can understand that social actions continuously evolve and lead to the creation of values, norms and of course various social institutions through the process of social changes via the interactions of structures and agency. In addition, both structure and human agency have been active in influencing the nature of the social lives of the Siltie. Therefore, the agency-structure approaches have helped me understand the lived experiences of the actors and explore the interactions and competitions among the legal systems through the perspectives of local actors and members of the institutions.

1.9.2. Legal Pluralist Analytical Approaches

Anthropologists used legal anthropological approaches for understanding the various legal systems operating in different parts of the world. As a student of anthropology, my analysis is mainly related to Woodman's ideas of „deep legal pluralism" as an anthropological perspective. Woodman's conception of deep legal pluralism gives me an opportunity to see the world from the actors' perspectives (Woodman, 1996). On the other hand, a ''juristic view of legal pluralism" or „state legal pluralism" (Merry, 1988) has sometimes been said not to be a form of legal pluralism which can be of interest to social science" (Woodman 1996:158). Griffiths Jhon (1986) insists further that the juristic definition of law is not comprehensive enough to show the dynamics of state-society relations. He further underscores that below, outside, and all around the state are other forms, 'systems,' and social worlds over which the state neither exercised complete control nor had the ability to eradicate it.

Thus, legal centralist approach could not pay attention to this socio-cultural domain where the state has little control. Woodman's deep legal pluralism concepts, however, extend the concept of „law" to include non-state modes of social ordering. Since the Siltie's plural legal setting embraces state, the religious and customary dispute settlement institutions that co-operate and contend on various cases, I adopted the legal anthropology approach to analyse the interactions of the legal systems among the Siltie. In addition, the legal anthropology approach also allowed me to understand the daily activities of the local community and their interactions with the co-existing legal systems in the area. Nowadays, legal anthropologists have placed more emphasis on the process by which disputes are settled, rather than on the substance of the law that emerges from legal decisions.

The studies adopt a transactional perspective looking into the strategies actors employ to manage disputes and the choices they make between alternative modes of dispute settlement. This has been referred to as „forum shopping and shopping forums" (Keebet Von Benda-Beckman 1981, Merry 1979). Others further stress that social research should focus on the activities of individuals rather than the law (or how the courts have interpreted the law) to have a good understanding of a given society's internal and external social interaction. Thus, law itself may have little significance in the understanding of how a community resolves its disputes compared to the social norms or the religious values its people attach to it.

This analysis agrees with Georg Simmel's assertion that "…society is made up of the interactions between and among individuals, and the sociologist should study the patterns and forms of these associations, rather than quest after social laws" (Farganis 1993: 13 cited in Borszik, 2016). Nevertheless, the local community also employs state law to champion their rights in the various courts, mainly customary ones. Thus, state law has been used as a "weapon of the weak" (Scott, 1985), yet it remains relatively less influential over the day to day activities of the local community compared with social norms. In this regard, customary and faith-based courts are playing significant roles in dispute settlements. This is because the sheiks and elders' courts, among other factors, are nearer and more conversant to the grassroots rather than the state. On the other hand, I also employ Clifford Geertz's (1973) interpretive approaches to understand the roles plural legal settings play in dispute settlement in the area. As mentioned above, I employed an actor-oriented approach to understanding the interactions and interfaces as well as changes and continuities of legal pluralism among the Siltie.

This can be achieved through the following procedures. First, data analysis is an inductive process whereby the data gathered from the informants will be „analyzed inductively building from particulars to general themes, and the researcher making interpretations of the meaning of the data" (Creswell 2009: 4).Qualitative data analysis is highly intuitive and personal activity.

It is a process where the epistemological assumptions and standpoints of the researcher are revealed (Dawson, 2005; Krauss, 2005). In the whole process of analysis, I edited, classified, coded and tabulated the collected data so as to make sense of them and make them amenable for analysis.

The types of data that have been generated in this study include field notes, recordings, and transcripts. In data analysis, there is a search for patterns of relationship that exist between the data group (Kothari, 2004). To analyze the data, as a qualitative researcher, I did not wait until all of the data have been collected. Analysis of the data is a process which begins as the research progresses and that requires refining and reorganizing the data in light of the emerging results (Lodico et al., 2010). The interviews have been transcribed precisely and then translated into English from Siltie language. Data are analyzed through the reading and reviewing of the collected data to (or „intending to") identify themes and patterns that come out which then are coded. I have then summarized and explained the results by describing the major ideas, patterns or themes that emerged from the analysis (Lodico et al., 2010). Finally, I reflected on the analyzed data and assessed their implications for the questions in the study.

1.10.   Ethical Consideration

An ethnographic study is about human beings by human beings. It is, therefore, important to consider ethical issues before launching a study. Since it involves continuous interactions with the studied group, qualitative study requires respecting the academic ethics more seriously than other studies. I, as a researcher, have a professional obligation to respect the rights, needs, values, and desires of the informants. Thus, I also kept the confidentiality of their information which is aimed only for scholarly purposes. I also articulated the research objectives verbally and in writing so that the informants clearly understood them. I also properly acknowledged and cited any information that was taken from published and unpublished sources.

I count on the ethical guidelines of the American Anthropological Association, and the Association of Social Anthropologists of the UK and Commonwealth[11].

1.11. Concluding Remarks

In this chapter, it is indicated that even if Ethiopia has become a plural legal country and has sanctioned legal pluralism since the 1990s, there are little research works done so far in the area. It has also been discussed that the days marking anthropology as a field which focuses on those who live in distant areas is over. Thus, the chapter argued that post-exotic anthropology has emerged as a new field and that ethnography is ripe in one's society like any field of study. Despite the fact that studying one's society has its assets, it seems, however, that studying own society has had its drawback for some reasons. It is because, among others, the native anthropologists are filled with the culture of their informants, which in turn, brings into question their ability to be 'objective' to the individuals they are seeking to understand better.

The contemporary social sciences analytical perspectives have also maintained a delicate balance between structure and actors' activities to understand the social settings including the legal realities of a given society such as the Siltie people.

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[11] AAA. Code of ethics. American Anthropological Association. http://www.aaanet.org/issues/policy-advocacy/upload/AAA-Ethics-Code-2009,and ASA. 1999. Ethical guidelines for good research practice. The Association of Social Anthropologists of the UK and Commonwealth. Http://www.theasa.org/ethics/guidelines.shtml.Pdf. Accessed on 20 March 2017.

CHAPTER TWO

2. THE RESEARCH SETTINGS, LOCAL LIVELIHOOD STRATEGIES, KINSHIP, AND SOCIAL ORGANIZATIONS

2.1. Introduction

This chapter explores the research setting, the various socio-economic and local governance of the Siltie people as well as the kinship and social structures of the researched people. The chapter also looks into the genesis of the Siltie people as an ethnic group in the context of the Ethiopian polity and its intra and interaction with the neighboring groups. It also explicates the local livelihood strategies and nature-nurture interaction as well as how land has become both an asset and an identity to the local community. The chapter also looks at the conception of territoriality among the Siltie and also sheds some lights on the concepts of family structures which function as semi-autonomous social fields and show how the kin and family groups develop their own their rules in the framework of *Siltie Serra* to regulate the daily activities of members. It also investigates the Siltie's involvement in long-distance trade and business activities both locally and nationally since the late 19th century. The chapter further looks at how this economic transaction fosters not only the economic development of the people and Ethiopia but has also become a channel for the flow of ideas from national to the local which in turn has contributed for the interaction of local and state actors. The chapter argues that the transfer of ideas to the local arena has become one of the factors for the diversification of legal and social norms in the area. It has also discussed local and national as well as the international migration of the Siltie which has become a culture of the local community. It also looks into religion as an important aspect of the everyday activity of the Siltie and how Islam has become quasi-identical to the Siltie identity.

2.2. The Research Setting: Siltie Zone

Siltie zone is located in Southern Nations, Nationalities, and People's Regional State (SNNPRS) of Ethiopia. The majority of the Siltie people live in Siltie Zone[12]. Some Siltie people also live in the surrounding Gurage Zone, Halaba special Wereda as well as in Hadiyya Zone. The people are also found in significant number in various urban centers of Ethiopia.

Siltie zone was formed in April 2001 following a referendum that separated Siltie from the neighbouring Gurage, Hadiyya, and Halaba communities (Zerihun, 2007, Kairedin 2012). It is found 132kms south of Addis Ababa on *Alemgena* to *Jinka* main asphalt road.

The Siltie have settled in the area stretching for up to 60kms to the east and west from the main road. Their territory covers more than $3000km^2$. The zone is bordered to the north and northwest by *Gurage Zone*, to the east by the Oromia Regional State, to the southeast by *Halaba Special Wereda,* and to the south by Hadiyya *Zone*. Administratively, Siltie zone is structured into eight *Weredas*[13] and one city administration, namely: Dalocha, Silti*[14]* , *Mirab Azernet Berbera*, *Misrak Azernet Berbera*, *Alicho Wuriro*, *Sankura*, *Hulbareg*, *Lanfuro*, and *Werabe* Town Administration. An administrator presides each district and each *Wereda* is composed of various offices including the judiciary and Shari'a courts. Each wereda is sub-divided also into numerous lower level administrative units called *Qebele.* A *Qebele* is further sub-divided into a got that comprises a specific neighborhood with a limited number of households.

According to the Central Statistical Agency (CSA) Population and Housing Census Report (PHCR) of 2007, the total population of the Siltie is estimated to be more than a million in 2017 (CSA, 2009; Bustorf 2011:456-458). The same source indicates that 51% of the population is female. As the source further indicates, 91.5% of the people live in rural areas, while 8.5% live in the urban areas. The number of males is small compared with females in Highland Siltie due to migration either to urban areas of Ethiopia or outside. Nevertheless, it is observed nowadays that the lowlands and semi-highland areas are also losing their younger generation, mainly women, to the Gulf States in significant numbers.

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[12] Zone is the second administrative division after „Regional State" in the contemporary federal structure of the Federal Democratic Republic of Ethiopia.
[13] *Wereda* is the fourth administrative tier in the contemporary federal structure.
[14] The generic name Siltie is a common denomination for all communities who speak *Siltigna language*. Nevertheless, the word *Silti* is a name for one of the five communities of the Siltie, Silti community. It is also the name for one of *eight weredas* in the study area, Silti wereda.

The Siltie account for 1.3% of the total population of Ethiopia.[15] The largest ethnic group reported in Siltie zone is the Siltie people (97.35%); other ethnic groups made up 2.65% of the population. Siltie is spoken as a first language by 96.95% of the population, and 1.48% spoke Amharic; the remaining 1.57% spoke all other primary languages. Muslims account for 97.6% of the population, while 2.03% practiced various domains of Christianity (Ethiopian Orthodox Christianity takes the significant share of this) (Kairedin, 2012; Zerihun Abebe 2013:141; Siltie zone finance abstract, 2016/7).

The Siltie lands have two agro-ecological zones, namely highland (*Dega*), and temperate (*Weynadega*), each of which covers 20.5 % and 79.5 % of the total area of the land, respectively (S.Z. F.E.D, 2016/7). Thus, the people have mainly settled in Highland and semi-highland areas of the Zone. Siltie Zone is predominantly plateau and flat plain. It also has a small, rugged mountainous territory. The elevation of Siltie land dwindles from west to east. The highest mountain in Siltie is mount *Mugo* that has an elevation of 3060 m.a.s.l. The average temperature of Siltie Zone ranges from 12^0c-26^0c, and its average annual rainfall is from 780 mm-1818mm (S.Z. F.E.D, 2016/7). The Siltie people are well known as merchant people in Ethiopia, especially in Merkato, one of the largest open markets in Africa (Bustorf 2009, 2011).

The Siltie are also endowed with various cultural practices. Furthermore, a number of traditional hairstyles, the five types of traditional music, the different traditional practices such as women dominated religious association (*Dado*), traditional religious practices like *Ware (*See more in Chapter Six*)* can be mentioned as customary practices of the people depicting the Siltie's enriched religious and cultural assets (Ferejat 2002 40-45).

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[15] Cf.CIA world fact book; accessed on 2 January 2017 at 9:42 pm.
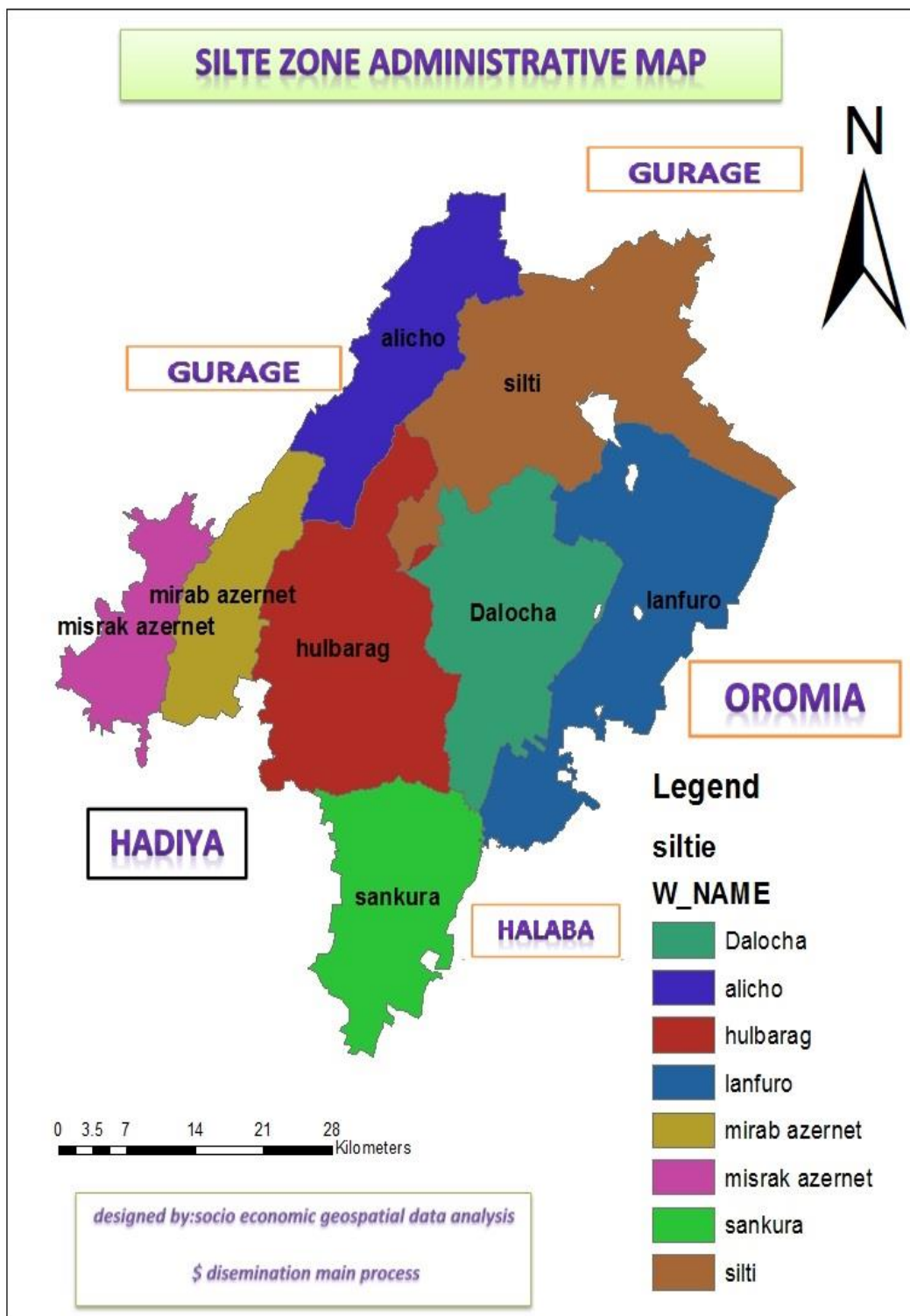
Figure 3 Administrative Map of Siltie Zone (Source: Siltie Zone Finance, July 2017)

They live in south central Ethiopia in what is known today as *Debub Kilil (South region).* The ethnic name Siltie[16] is a common appellation for various subgroups that are related to each other culturally, socially and religiously. The major communities subsumed under the generic name Siltie are *the Silti[17] community, the Melga (Hulbareg), Alicho Wuriro, Azernet Berbera and Wolena Gedebano* (Dinberu et al. 1995: 56). *Abzana* and *Zahra* communities have also been subsumed under the Siltie ethnic group (Kairedin 2012: 35). There is a controversy on the etymology of the name Siltie. One version ascribes the genesis of the name Siltie with the alleged ancestor *Gen-Silti*. According to this version, the modern ethnic name Siltie was chosen in memory of this ancestor, while the other version points that the people have been named after the 13th century old Muslim Hadiyya Sultanate and as a reminiscence of this Islamic kingdom to which the Siltie people claim a historical relation.

The Siltie have a strong sense of self-identity that has not been lost in the process of incorporation into the Ethiopian state in the last part of 19th century, in spite of the Christian-dominated nature of that state vis-à-vis the Islamic identity of the Siltie people on one hand, and the urban orientation of the population on the other. Furthermore, the Siltie people have maintained also their customs, local beliefs, and values including the faith-based and customary dispute settlement systems, although there has been some erosion of traditional cultural norms and practises due to the influence of reformist strains of Islam imported from the Gulf region over the last two decades and globalization that integrated the Siltie into national and global markets.

The Siltie did not have a common ethno-name for an extended period. They had been named differently at various times by scholars, neighboring societies, and even by themselves. They have been referred to as the East Gurage (Leslaw, 1992; Zerihun, 2015), Siltie beta Gurage or Gurage subgroup (Dinberu et al., 1995), Islam (Markakis, 1998), Siltie (Aklilu, 2002; Yalew, 2004), Selte (Bahru, 2002), Hadiyya, *Adare*, *Ulbareg*, (Barukämper, 2003), and Salte (Bustorf,

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[16] The common name for the people under study has been mentioned differently in several kinds of literature. There is no great difference among these names except Siltie Beta Gurage that considers the Siltie as part of the Gurage than an independent ethnic group. The Siltie contested this categorization and struggled for a decade (1991-2001). I have used the name Siltie as a common denomination for the people under study. The primary reasons behind my selection are, first, the people are currently known by this name. Secondly, they are known in history by this name at least from the 14th century onwards (*Atse* Amdesion, in Braukämper, 2003; Dirk, 2011).

[17] Silti is the name for Silti sub group who trace their ancestor from Gun-Silti and is also used for one of the eight Weredas of Siltie Zone, Silti Wereda. Siltie is also the ethnic name of Siltie people.

2009: 2011). According to the respondents[18], various neighboring peoples also call the Siltie in different names. The Arsi Oromo who borders the Siltie in east and northeast, for instance, call the Siltie as *Adare* in memory of people from Hararege in the east. The *Mareqo,* on the other hand, call the people as *Gande* or *Genze* while the Gurage name the Siltie as Hadiyya associating the Siltie's origin from the historic medieval Hadiyya Sultanate. The Siltie, however, address themselves as „Islam," and their language as *YeIslam afe* or „Islamic language" to indicate their strong relation with Islam that shaped most of the identity manifestations of the society. They also call themselves *Urbareg*, the land of old lions.

Additionally, it is not uncommon to hear a Siltie person when he or she describes himself or herself based on subgroup names such as *Azernet*, *Silti,* Alicho *Wuriro, and Melga.* This kind of circumstance is also observed whenever elders summon for dispute settlement. However, despite the fact that there are minor differences among sub-groups, one can easily understand a relatively common identity among the Siltie.

Even if some sources (e.g. Zerihun 2015:4-9) indicate that the ethnonym Siltie and the Siltie ethnic group is outcome of post 1990s political development in Ethiopia, historical records indicate that the people were known as 'Siltihe,' that is to say, Siltie in the 14th century Ethiopian King *Amdesion* chronicle (*Atse Amdetsion* chronicle Bustorf 2011:657). The ethno-name Siltie has also been employed as a weapon of social and political mobilization-to redress the socio-economic imbalances of the Imperial and the *Derg* regimes in the country. During the 1970s, as respondents said[19], the Siltie students at Addis Ababa University established Siltie Students' Association to struggle against the government's strong central policy and the subsequent socio-economic sufferings of the rural community. Thus, the people employed the name Siltie in the pre-1990s period in the country.

However, some Siltie elites indicated that the ethnic name Siltie is coined very recently following the emergence of Siltie movement in the 1990s. For these groups of informants[20], the name has been conceived with the consensus of the Siltie movement leaders in the federalist

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[18] Interview with Hajji Abdurrahman Shewajjo, Hajji Hussein Hassan, and Sheik Yusuf Kemal in Dalocha, Silti, and Werabe. These individuals are well known key informants who are also elders who worked as judges in the customary dispute settlement forums and the local faith courts. They are also a member of cultural revitalization committee that has been formed to resurrect the traditional system of the Siltie.

[19] Interview with Ato Kairedin Azma Hussein, and Ato Jemal Ahmed on February 30, 2015.

[20] Ato Kedir Abdela, who was an active member of Siltie movement (1991-2001) and a local investor (Anonymous name).

Ethiopia partially indicating the existence of ethnic re-engineering in the contemporary Ethiopia (Zerihun, 2015). As mentioned above, both historical records and oral traditions indicate that the people employ the name Siltie at least since the mid-14th century.

2.4. Ethno-Genesis of the Siltie

The ethno-genesis of the Siltie has also exhibited an aspect of pluralism. There are various views regarding the origin of the Siltie people. One of the versions on the origin of the Siltie states that the Siltie came from an eastern part of the country following Imam *Ahmed Gragn's* war of expansion during the first half of the 16th century (Label, 1974, Lapiso, 1990; Shack, 1966; Trimingham, 1965). Based on these sources, the Muslim communities of Siltie, namely *Azernet Berbera, Hulbareg (Melga), Wuriro, Wolena, Gedebano, and Zeway (Zay)* are identified as descendants of people from *Harar* (Trimingham 1965:188; Shack; 1966, Lapiso, 1999).

Despite pinpointing the directions of expansion of the Siltie from the east, the above historical records could not identify the existence and the earliest area of the Siltie in the eastern parts of Ethiopia. Other sources, on the other hand, indicate the presence of the Siltie long before the 16th century in Ethiopia (Abraham and Habtamu 1994: 28, 31; Yalew 2004: 35; Kairedin 2013: 40). According to this view, the Siltie people expanded from the southern part of the Arabian Peninsula, settled around Lake Zeway before the war of Ahmed *Gragn*, and eventually dispersed to other areas including the present Siltie Zone areas in three different exoduses (Abraham and Habtamu 1994: 28, 31). Hetzron's and Sherif's (1985) analysis of a historical account of linguistic patterns even put the time for ethno genesis of the people further back to the 8th century (Hetzron 1976: 28-32; Sharif 1983: 3). Other sources further identified the existence of indigenous Siltie speaking communities such as *Zhara* and *Abzana* long before the wars of *Imam Ahmed* (Dinberu 1995:19 Aklilu 2002:42). The native peoples inhabited the area since the ancient time. In addition, scholars (e.g. Lapiso, 2000; Braukämper 2001; Bustorf 2009, 2011) further strengthen the Siltie's existence long before the 16th century.

According to these sources, the Siltie are one of the ancient people who had established the medieval Ethiopian Hadiyya Sultanate which was incorporated into the Christian highland Kingdom under *Amdesion* (r. 1314-1344) in the 14th century. This view is derived from the chronicle of medieval Ethiopian ruler, *Amdesion* and 16th-century writers such as Almada. The chronicle of *Aste Amdesion* mentions an entity allied to the Emperor by the name 'Saltagie,'

'Saltahi' which can be interpreted as the country of Siltie (Braukämper 2001: 51; Bustorf 2009: 607). Added to this, the German anthropologist, Braukämper also identifies the Siltie as the only people related to the Hadiyya Sultanate who did not adopt a Cushitic language. He further noted that the Siltie lived in areas around the *Charcher* highlands in eastern Ethiopia before the 16th century (Braukämper 2001:55; Bustorf 2009: 607). Other scholars also mentioned the 16th and 17th century's population movements in south-eastern Ethiopia contributed for the inter-mixing of various peoples and the genesis of the Siltie in its current form. According to these sources, due to the wars of Imam Ahmed and the population movement of the Oromo, the ancient Islamic principalities including the Hadiyya Sultanate were weakened and dissolved. Such incidents led the ancient people including the Siltie to move from the east to the south and western parts of Ethiopia to the present land (Lapiso, 2000; Yalew 2004: 35; Bustorf, 2009; Bustorf, 2011). Therefore, the various sources mentioned above clearly indicate the existence of the Siltie long before the 16th century exodus.

Oral traditions in the area relate mainly the people's origin with the 16th century well known ''Grand Fathers'', *Geradecha* and Queens (*Gisticha)* movement. These individuals came from the east to the present Siltie land. However, if we carefully inspect the contents of their narrations, local informants do not limit the genesis of the people to the 16th century. Based on the primary informants[21], Siltie grandfathers such as *Hajji Aliye*, *Sheik NeserAllah, Sheik Alinur, Sheik Berkele,* and „grandmothers" or queens such as *Gistit Tahirat, Gistit Shemsiyate* migrated from the east with a large number of people, and passed via *Sharka Gadab* and Wag countries and finally settled in the present Siltie land. These migrants intermingled with the local populations known among the Siltie as *Zhara* and *Abzana* which the people considered as *Yafarsabe* (indigenous people).

Hajji Aliye especially has been considered among the Siltie as the founding father, for he played a significant role in integrating the new comers with the natives and establishing a new system of traditional administration the people employed until the late 19th century. *Hajji Aliye* and others married with the indigenous people and gave birth to many children who later became genesis

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[21] Interview with key informants Sheik Abdurrahman, Sheik Yusuf, Hajji Hussein, and Hajji Arega Nuriye. It is also based on FGD that was conducted in March 2012 in Werabe town with notable key informants who gathered for cultural reform committee meeting which is not functional this time due to the death of key elders, on one hand, and less interest on the part of government officials to support the initiative on the other hand.

for most of contemporary Siltie clans and sub-groups. According to FGD participants[22], *Hajji Aliye's* sons, namely *Aleqiro, Semerdin*, *Dilapa*, and *Gun-Silti* (Sultan II), and his daughter, *Ouyeta* played a great role in the origin of Siltie people in its current form. Among *Hajji Aliye's* children, his daughter *Ouyeta* was given to the *Kembata King* as a political marriage that later became the base for the emergence of *Ouyeta* ruling dynasty among the *Kembata* around the nineteenth century (Braukämper 2001: 51).

Also, others who came with *Hajji Aliye* such as Ahmed *Berbera, Oucha, and Sheik Nasralla*h were mentioned as one of Siltie ancestors who played a significant role in the ethno genesis of the Siltie. Hence, it is the combination of these factors that have laid a foundation for the genesis of the Siltie ethnic group in its present state. In fact, most of the clans and sub-clans that are found currently among the Siltie people trace their genealogical origin to the supposed 16th century ancestors. Such genealogical connection in the people's patrilineage mythological oral traditions also goes far beyond this period up to *Sharafic* lines among the *Hashemite* in Arab land. In short, the above various written and verbal traditions confirm the existence of the Siltie long before the advent of *Hajji Aliye's* group to the area. Some sources, however, contest the genesis and continuation of the Siltie an autonoumus ethnic group before the 1990s period (Zerihun, 2015). Some sources also categorize the Siltie as part of the wider Gurage groupings under the generic name Eastern Gurage (Shack, 1963; Dinberu et al, 1995; Zerihun, 2015). But a growing number of literature indicate , however, that the Siltie are an autonoumus ethnic groups themselves with a notion of independent and shared origin, language, religion and territory as well as a common psychological makeup (Markakis, 1998; Braukämper 2001;Abdulfeta, 2002; Vaughan ,2003;Bustorf, 2011; Kairedin 2012,2013; Smith, 2013). My empirical data also indicate further that the Siltie are one of the ancient people of the country whose ethno genesis goes at least back to the 9th century.

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[22] The above FGD participants.

2.5. The Siltie and their Neighbours: Inter-ethnic and interfaith relations

The Siltie intra and inter actions with various people have been characterized by peaceful co-existence among its constituents and its neighbors on the one hand, and some forms of conflicts among each other and its neighboring groups, on the other. The Siltie clans, as informants[23] said, had conflicts with each other over the control of resources, expansion of territory and political hegemony to take an upper hand over the other clan. Nevertheless, when a common enemy came, they assembled their forces under a single administration in the form of clan confederation. The people then abided by the Siltie administration under the rule of *Gerad Abo*, the highest leader of the Siltie traditional administration. The intra-ethnic disputes persisted until Menilik's forces controlled the area in 1889.

The Siltie people have developed a mixture of relationships with their neighboring groups characterized by both amicable and conflict interactions with their neighbors. There are also followers of Christianity who peacefully live with the Muslim majority Silties for long. *Tewahedo* Christians, for instance, have lived in Siltie land at least since the late 19th century. Despite the fact that peaceful coexistence characterizes inter-faith interaction in the area, there were some forms of inter-faith conflicts as well. Some studies indicate that there were inter-religious conflicts among the various groups because of religious differences or revivalism during the Islamic expansion of *Hassan Enjamo* of *Qabena* (Aklilu 2002:46-47).

Informants said[24] that even though the Siltie were in conflict with their neighbors, they also established amicable relations and alliances with different religious groups at various times. The Siltie also established strong marriage relations with the *Arsi* Oromo in the east. A good case in point was an inter-marriage between *Wesenute* who was a daughter of Hajji *Aliye*'s son *Gun-Silti* with Arsi Oromo religious leader named *Sheik Adem* whose descendants are believed to be a source for the genesis of one of the Oromo clans called *Dembel*.

The Siltie, on the other hand, formed an informal alliance called *Gogot* (coalition) with the Oromo, *Shashogo*, *Gurage*, the *Halaba*, and the *Qabena* to resist the territorial expansions of *Menilik* in late 19th century (Dinberu et al. 1995:218-219).

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[23] Interview with Ato Kairedin Hussein, and Hajji Abdurrahman.
[24] Interview with Hajji Hamid, Gerad Awel, and Hajji Hussein.

The integration of Siltie into Menilik's empire brought a disaster to the Siltie. First, after the incorporation the *Balabats (*Highlanders*)* settled in the fertile areas of the Siltie and introduced the *Gabbar* system. The central government also punished the Siltie by dividing the Siltie land into different adjacent areas. In fact, the Siltie land was subdued by Menilik's troops for the first time in 1879.The marriage of the daughter of the Summu Silti (Eight Siltie) chief; *Azma Qalbo* with *Negus* Sahelsillasie (r.1831-1834) of *Showa* Kingdom facilitated a comparatively friendly relation between the leading families of the new rulers and the Siltie. In the 19th century, scarcity of land and frequent conflicts with the neighboring Gurage forced the Siltie to leave most of the highland areas except *Mugo, Eneqqore, and Alicho Wuriro* to the Gurage. The Siltie, in turn, expanded their territory to the pastoralist areas in the east and southeast. This incident again brought the Siltie into conflicts with the *Arsi, Libid.o, Lemmo, and Sasoogo Hadiyya* (Bustorf 2011:461-62). Thus, the basic causes for most of conflicts in the area were competitions over resources, particularly land among the ethnic groups as well as rivalries for territorial and political hegemony.

2.6. Local Livelihood Strategies and Resources

The Siltie practice mixed agriculture and cattle breeding. Like in many parts of the country, the Siltie economy largely depends on agriculture based on plow animals. The Siltie's main income source is agriculture. Peasants coming from different areas of the region sell their agrarian products in various Siltie local markets. Siltie peasants widely produce also livestock like goats, sheep, cattle and chicken.

The distribution of vegetation depends on the climatic conditions of the Siltie areas. In the Highland Siltie, the principal crops are *Enset*[25], barley and beans. In the semi-highland and lowland areas where a significant amount of cultivable land is found, cereals such as maize, wheat, vegetables, fruits, and legumes are produced. In these areas, local investors that are generating jobs for local people have practiced large-scale farms with mechanized agriculture. The big farms have now become knowledge and skill transferring centers to the local population. Cash crops such as red pepper and *Khat* are also highly produced in Siltie land. The *Khat* market has now become another huge cash crop market in the last few years in the country (Aadland

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[25] *Enset* (Enset Adulis) is a drought-resistant crop with an edible root and stem. It is a staple food of the Siltie, mainly in the highland areas.

2002; 31). Women are highly involved in *Khat* market especially in Werabe and surrounding areas. In the highland areas, women are actively involved in local subsistence production activities like *Enset* cultivation and other agricultural works. Most of the households in the Highland Siltie are also headed by women as men go to urban centers for work. In lowland and semi lowland areas, women are engaged in the household work, and the local markets, in the construction sectors, in daily labors as well as in the selling of traditional coffee. Each house among the Siltie has a garden to support the household. In the Highland Siltie, the garden is mainly crammed with Enset and various vegetables, while in the lowland Siltie, different cereals including maize and wheat dominate the local production. Following the establishment of Siltie zone, the construction sector has become an important source of employment for the youth.

The Siltie people herd goats, sheep, cattle, and chicken for their subsistence economy. Animals are sources of meat, milk, butter, and egg. Animals, particularly cattle, are regarded as a symbol of wealth and pride among the Siltie. The Siltie usually say, „*Mist Angedo Dinet Allay*?" which means „How many heads of cattle does a person have?" to know how much the person is rich in the community. So, an individual who has a significant number of livestock, irrespective of the amount of milk /meat or income he/she gains, is regarded as the wealthiest person in the society. The Siltie do not separate their animals' abodes from their homes. Rather, they tie their cattle in front of them under the same roofs. It is thus an indication of the Siltie's strong attachment with their cattle. Nevertheless, currently due to health extension programs in the countryside, the people have begun to build separate houses for their animals.

Animals also have ritual significances among the Siltie. End of feuds between disputants is heralded through slaughtering of animals. It is believed that animals can end murder case. They thus serve as a symbol of ritual reconciliation during *Gudda* ceremony[26]. Slaughtering of animals is a customary practice among the Siltie during *Arafa*, *Edul fitr* and *Mawlid* ceremonies. It is believed among the Siltie that slaughtering of animals and touching the foreheads of the bridegroom with the blood of the slaughtered animal can prevent any evil spirit on their way to the new home during the wedding time. This activity is called *Meticha Egedote*.

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[26] *Gudda* is a ritual ceremony in which both disputant parties attend a ritual reconciliation process at the end of dispute settlement, in particular on those disputes that involve murder. It also marks the end of the conflict between the two groups on the one hand and the onset of fictitious kinship between the groups on the other.

Animals also serve as special gifts during wedding time, the *Gerads*' inaugural ceremony and during the return of pilgrims from Islamic pilgrimage from Mecca, Saudi Arabia. Animals such as horses, mules, and donkeys are important pack animals for transportation purposes. Horses and mules are specially used in the highland areas, while donkeys are mainly employed in mid highland and lowland Siltie areas. Local markets serve on various days in a week to allow the society to attend markets in different days. In these local markets, various locally produced materials such as *Enset*, cereals, craft products, *Khat*, red pepper, and animals are traded among the people and the neighboring societies. These markets also serve as a source of communication and exchange of information between the countryside and the urban. Various neighboring groups also attend these markets based on their proximity. Siltie elders, *Ragas* (cultural legal experts) use market days to handle dispute cases. I observed that the majority of the participants of Siltie markets are women. Women who transact locally produced produces like cereals and other cash crops in the markets.

Apart from rural markets, the Siltie have a long history as trans-regional traders. My respondents said that there is a division of labor in the local economic activity. Hence, the market is mainly controlled by women, while men dominate the agricultural activity. In medieval Ethiopia, the Siltie were actively involved in slave trade and caravan trade activities (Cecchi 1818 in Bustorf 2009:607). In the urban centers of the country, the Siltie have been known mainly as business persons.

They have now become the well-known entrepreneurs in Addis Ababa and major cities of Ethiopia. They represent one of the dominant economic groups in Merkato[27] (Abdulfeta 2002:20, 25: Bustorf 2009:207).

In the fast growing Werabe town, the capital of Siltie Zone, apart from various business activities, small-scale industries such as food processing, and food complex factories are mushrooming. According to *Werabe* town annual report (2017), there are fifteen such factories that produce flour. There are also other factories under construction. These factories serve as a source of employment for the *Werabe* residents and its environs. The town has now become the political, economic, and cultural power house of the Siltie people. *Werabe* University has started functioning by receiving around 1300 students in January 2018.

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[27] Merkato is the largest open market in Africa. It is found in Addis Ababa, Addis *Ketema* sub city.

The town has also got one of the modern hospitals in the country. The community has built the hospital worth more than quarter a million Ethiopian Birr (around 80 thousand Euros). The work ethos of the Siltie is appreciated widely since the people are involved in various jobs including micro-economic activities. In this regard, the Siltie's industriousness has been mentioned as an example in the country. It is observed, however, that there is a significant number of unemployed people mainly the youth who migrate from various Siltie areas to *Werabe* town. There is a place in the town where unemployed and displaced villagers (due to urban expansion and other part time peasants) hang out looking for daily work. The place is called *Dide Mascha*. These people are mostly peasants who are displaced due to the expansions of growing towns and shortage of land in the countryside.

2.6.1. Land: An Identity and an Asset

Land is a vital resource for the Siltie. The issue of land is strongly tied also with the identity of the people as well. Literally, the Siltie call land *Deche*. Nevertheless, whenever the people want to associate land with identity, they call it *Shegne. Shegne* means one's land that can become not only a means for living and an asset, but also a final resting place.

Land has thus become an integral part of the identity of families, clans, and villages. Land is owned communally among the Siltie. Thus, the Siltie have a strong attachment to the land. A well-known Siltie proverb which reads, „ስልጤ ደችዋ ኢንዳች ዮዳን,“ which literally means „The Siltie strongly like their land and women," also depict how land has strongly become associated with identity among the Siltie. Even until this day, key informants said[28] that land is a cause of disagreement among the Siltie, and it is the primary source of dispute in the area. Scales of disputes are intensified in those areas which the communities or member of a family consider land as S*hegne.* It seems that there is a conflict of norms in this regard. This may arise owing to the introduction or transplantation of „capitalist economic practices that encourage individualism and considers land as a property to be bought and sold, which is a valuable economic asset, especially for the purpose of serving as collateral for loans" (Tamanaha 2008:408) on one hand, and the local conception of land as a communal property on the other hand. The government declares in 1995 Act that has been enshrined in the 1995 constitution that land belongs to the

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[28] Interview with Ato Kaire Sule and Hajji Hussein Kedir on June 10 and July 26 /2015 *Lanfuro and Misrak Azernet Wereda* respectively. Siltie zone good government office and Zone High Court reports also indicate that land constitutes the primary cause of disputes reported to the state courts.

public, and it is not allowed to sell or buy it. However, it is widely observed that land is freely sold and bought in the Siltie area and possibly beyond. In the transaction of land, we see also a clear involvement of plural legal systems. The parties involve both the state, and elders in the process. The state is, however, absent in the transaction, yet given a place in the contractual agreement between the parties. The parties indicate in the contractual paper that the state can fine one or two of a party who breaks the agreement. They use elders as witnesses and guarantee for the transactions. Informants indicate that the parties are afraid of elders' curse rather than the state's prisons whenever they are involved in the transaction. The state has become „an embedded state" (Franz von Benda-Beckmann and Keebet von Benda-Beckmann 2006: 10) whereby the state institutions and state agents have got little significances in the local settings and hence the state is represented only symbolically. In this regard, the parties rely more on elders and informal transaction rather than a municipality or other state agents.

Despite the commercialized nature of land, one can also observe an aspect of legal pluralism in the application of land right. Both local kinship and an official form of land right claims are used in the local settings. In the countryside, the most used legal way to apply to the land right is through kin lines. A father can inherit the land to his children; especially male children are entitled to inherit the land. This may be due to the patriarchal relations that dominate the Siltie social life. Thus, with a growing population, children vie for land, and hence land has become one of the major sources of dispute among the people. This scenario strengthens the importance of lineage councils, and customary laws in the daily life of the people. Elders also resolve land disputes which are mostly tethered with individuals or elders than state agencies. This indicates the existence of normative clashes between liberal and non-liberal values.

On the other hand, the government has introduced land ownership certificate since 2008. It is also used as a means to own land privately. Due to some factors including increasing population and scarcity of land, new land distribution by the government is rarely observed. The government, however, has set up land administration committee at *Qebele administration*[29]*,* the level which is in charge of registering land and giving ownership certificate for members of the *Qebele* who have already had land holding rights.

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[29] *Kebele* is the smallest administrative unit in the state administrative structure.

It seems that the certificate has granted a person to have an exclusive right to the land. As the issue of gender becomes an important agenda, both husbands and wives are usually registered in the land ownership certificate.

However, the certificate could not resolve property right claims whenever the size of the family increases and children want to access land. It is children who are considered the instigators of property disputes that involve land dispute cases reported in the state court. According to Siltie Zone High Court report (2016/17), 2/3rd of family disputes which are brought to the tribunal are related to land. *Qebele* land administration committee is also involved in a land-related dispute as dispute settler. Here, family *Shengo* and *Abotgare* are most powerful local institutions which take part in the distribution and redistribution of collectively owned lands by a family. *Abotgare* is a male-lineage based council that is composed of a localized patrilineage circle of male-lineages that affect members in various ways, including distribution of land. It is also involved in the distribution of land and oversees dispute cases among members (Kairedin, 2012). It acts like the semi-autonomous social field that dominates the Siltie rural life. This group functions properly even if various state's controlling strategies, such as one to five organization, development groups, *Qebele* administration, land administration committee have been introduced by the government to control rural life. The local forums are important local dispute settlement institutions, for members of the family are strongly controlled by kinship organizations.

Thus, whenever land dispute cases are initiated, these two forums are actively engaged in calming down tensions, and if actors in the institutions are not able to solve it, clan leaders or elders will be involved. However, if the disagreement continues, the state will also be involved.

Women mainly resort to a government installed women's development group and *Qebele*'s land administration for interventions. This happens whenever *Abotgare*, a men dominated institution, could not consider women as having inheritance rights owing to the patriarchal relations prevalent in the area. However, due to some gender-based interventions launched both by the government and NGOs in the past two decades, women's awareness has increased, and they have begun to challenge the status quo. It is due to this fact that elders have now seriously considered gender issue including property rights in various customary court hearings. Thus, the various government and NGOs interventions and teachings on equality of all sorts including gender

following the introduction of global norms (Tamanaha, 2008) are now affecting rural life. It is now observed that elders are employing international laws to adjudicate disputes that involve gender cases or inheritance cases. Thus, elders are also participating in the distribution of land and women inheritance rights have got due attention by elders this time. This arises primarily because of the influence of global gender issues. One can also say that local institutions are becoming part of the transformation and even at times appropriating state's social program and hence accelerated „democracy from below" (Franz von Benda-Beckmann and Keebet von Benda-Beckmann 2006: 9).

2.7. Local Political Life and Concept of Territoriality: An Embodiment of Modernity and Traditionalism

Various attempts have been made to bring social changes in the country since at least the late 19th century, yet they proved to be futile. The *Derg* regime (1974-1991), for instance, introduced *Qebele* structures (youths, and women's as well as farmers' associations), the current government has also introduced one to five administrative structure and various leagues in an attempt to bring social changes. All attempts could nor supplant local systems of administrations. This is due to the responses of the local actors to state's interventions in local affairs. It is observed that the Siltie people have maintained a strong attachment to their local administrations. Informants mentioned[30] that in pre-Menilik II era, the Siltie land, as the natives call *YeSiltie Bade*, was categorized into twelve administrative regions, *Asrehoshete Siltie Mautas*.

During the Italian occupation (1936-1941), the Siltie elders' council also played a significant role in providing local means of administration. It filled the administrative vacuum that occurred due to the weakening of central government following Italian's interlude. During this time, *YeMula Siltie Melcho* some call it *YeSiltie Nubre* incorporated the various ethnic groups, mainly the *Amhara* settlers that came to the land at least since the 19th century, as part of the Siltie local administration under their own district called *Gogot. Gogot* which means unity. Informants sated further that the Amharas were followers of Ethiopian *Tewahedo* church, who by then, were persecuted by Italian occupiers as part of the Italians' "divide and rule" colonial policy.

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[30] Interview with the main Siltie elders, Gerad Awel (died in August 2014), Hajji Hamid Ahmed, Gerad Kedir Teka, Ato Kaire Sule, and Ato Abdulwaris Redi and Ato Kairedin Hussein in Silti, Sankura, Lanfuro *weredas* and Werabe. Ideas are also taken in earlier interview works, and except for the first informant, others were also interviewed in November 29, 2015, in Werabe.

Rejecting the colonial power's policy, the Siltie local leaders declared that the non-Silties should be incorporated into the local administrations and ordered members to defend the other ethnic groups mostly non-Muslims. Following this incident, the Amharas settled areas have become the thirteenth administrative unit of the indigenous land. So, the Siltie land has been since then divided into thirteen administrative units, *Aserasheshete Mauta (*thirteen districts*)*. These are *Weleya*, *Gora*, *Abezana, Tite, Mukere*, *Aratebere, Anshebeso, Danecho*, *Azerenet Berbera*, *Melga*, *Alicho Wuriro*, and *Gogot Mautas*. Each *Mauta* comprises another administrative level called *Azegag (Village assembly)*. Each *Azegag* has also comprised smaller units called *Burda* (See More in Chapter Four). According to Bustorf (2011:461), the „pre-modern" socio-economic system of the Siltie, however, was based on small independent groups which had four levels. These were extended family, local sub-clans or lineages, clans and clan Federations. Currently, based on the Federal structure, the Siltie areas have been divided into eight *weredas*, a city administration, and 196 *Qebeles*. There are also some small administrative levels called *Got, which* is tantamount to the traditional smallest administrative level called *Burda*.

The local governance system called *YeSiltie Serra*, as respondents said[31] was fully functional before Menilik's forces incorporated the Siltie in late 19th century. Menilik's forces defeated the Siltie's last *Gerad*, *Mulla Gerad Tem Lezebo* in the battle field *called Ansenbet Amara* (Saturday's invasion) in 1889.

Bustorf mentioned that important features of the Siltie local system of administration, however, have persisted until today. Nevertheless, the institution lost its authority after the Christian Ethiopian conquest and the 1974 revolution (Bustorf 2011: 461). Informants mentioned[32] that even if the Siltie area was incorporated into the expanding forces of Menilik, the local administration had persisted for an extended period. After Menilik controlled the area in 1889, the Siltie adapted to the institutions imposed on them while retaining their systems. Experiences in the country sides and some of the urban areas indicate that the Siltie's socio-economic and local legal activities have been practiced through the various kin groups like *Aberose* (Family), *Gicho* (Clan), *abotgare* (Male-lineage) and *Ummigare* (woman's lineages) meetings. Failing to

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[31] Ato Kairedin Hussein
[32] Interview with Hajji Hamid Ahmed, Gerad Teka Kedir, Ato Kaire Sule and Ato Abdulwaris Redi and Ato Kairedin Hussein in Silti, Sankura, Lanfuro *weredas* and Werabe from March 2-15/2015.

take part in the meeting will bring one or another form of ostracism and social boycott in the community.

Wars are the principal elements in the formation of the Siltie administrative units, and informants keep on explaining the various 'Siltie heroes' who fought mainly with Siltie clans rather than the neighboring groups. Anyone who is born in the family will be part of a patriclan. Hajji Aliye's clans considered themselves as peacemakers who founded the present Siltie modern group. Unlike other traditions that consider some lineage groups to be people of the land who can get privilege on others in political titles due to their ancestral birth in the place than late comers (Bureau 2011:37), the Siltie late comers have pre-eminence on *yeafer seb*/people of the land.

On the other hand, the Siltie have developed a local notion of territoriality. They divide the land according to its usage for the community (e.g *Yemesjid Deche* (Mosque land), *Yinebrebuyan Deche*/ residential land), *Yekebere Deche* (Burial land) ,*Yegaze Ungga* (Operation road) ,*Yire Ungga* (Animal road), *Yingere Ungga* (Pedestrian road), *Yegebeya Ungga* (Market road) ,*Yireset Deche* (Cultivable Land), *Mulla* (open field for play and grazing). However, it is observed that *Mulla* or public land which is owned communally has recently become one of the first dispute factors in the area. It can thus be said that the Siltie has maintained a delicate balance between modernity and traditionalism.

2.8. Religion in Everyday life: the Nexus between Islam and the Siltie Identity

"Religion constitutes an integral [part of] culture, capable of forming personal and social identity and influencing subsequent experience and behavior in profound ways" (Appleby 2012: 9)

Islam is the dominant religion among the Siltie. Islam and Silties' early contact goes, as some written sources such as (e.g. Abdulfeta, 2002; Braukämper 2001) indicate, back to the 9th century. This was mainly connected to the establishment of ancient Islamic states such as the Makzumite Shoa dynasty, and the medieval Hadiyya sultanate in Ethiopia. The Siltie call themselves as „Islam" and their language „Islamic." It is in this context that Markakis (1998: 230-231) noted that religion [Islam] is the cornerstone of Siltie identity.

Some sources indicate that Islam made deep incursions through religious missionaries and caravan traders since the 9th century in the Southern Kingdoms and Sultanates via central and

southeastern Ethiopian frontiers (Lapiso 1999:211-15). The Siltie are among the various Cushitic and Semitic speaking people who established the ancient Muslim Hadiyya Sultanate in the 13 century in southeastern Ethiopia (Braukämper 2001:54).

Even if Islam's presence among the Siltie has been confirmed since the 9th century (Abdulfeta, 2002), it was further intensified during the 16th century following the expansion of Imam Ahmed Ibrahim Ben al-Gazi popularly known as „*Ahmed Gragn"* or the left handed to various parts of the country (Dinberu 1995:38; Lapiso 1999:191-192). The Siltie's popular 16th-century saints are also regarded as important historical figures who played a significant role in the intensification as well as the spread of Islam and Islamic knowledge not only among the Siltie but also among neighboring societies such as the *Mareqo*, the *Mesqan* Gurage, the Oromo and the *Hallaba. Hajji Aliye Omar, Sheik Nasrallah, Gistit (*queen*) Tahirat, Gistit Makia, Gistit Muluka, Gistit /Etat Zabere* are mentioned as iconic individuals of the 16th century Islamic scholars among the Siltie. The existence of more than five centuries old mosques named after these saints can be taken as a confirmation of Islam's long existence among the Siltie.

The 19th-century Islamic revivalism under the leadership of Hassan Enjamo also played an important role for the expansion and intensification of Islam and Islamic knowledge among the Siltie (Aklilu 2002: 46-47). The Siltie joined *Hassan Enjamo* of *Qabena* in 1881 against Menilik's expanding forces, though in vain (Bustorf 2011:461). Bustorf also stated that the 19th-century Siltie area was characterized by Islamic revivalism fuelled with an intensified contact with Ethiopian Islamic centers like *Wallo, Jimma,* and *Qabena*. In these areas, there was the rise in popularity of Islamic Brotherhood and opposition towards the expanding Christian empire under Menilik force.

2.9. Local means of Communication

The existence of communication among the Siltie can be evaluated from infrastructure building such as road and telecommunication services. According to informants[33], in the past, the Siltie were neglected by central governments as far as road construction is concerned.

Most of the Siltie *Weredas,* however, are now connected to the center of the zone and the main asphalt roads. Still, Weredas such as *Dalocha, Alicho Wuriro, Lanfuro and Misrak Azernet*

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[33] Interview with Hajji Hussein, Ustaz Umar (died in 2014), Ato Kairedin and Sheik Yusuf Kemal in mentioned time and places.

Berbera cannot get access to the main roads. As far as telecommunication services are concerned, almost all 196 Siltie *Qebeles* have mobile services and wireless telephone services (Siltie Zone Administration Annual Report, 2016/17). Therefore, peasants' decisions for selling their produce have been driven by such technological developments in the area. They solicit the market situations in the capital or any urban areas before they sell theirs produces.

2.10. Migration as a Culture

Migration forms an integral part of family life among the Siltie and has done mainly since Addis Ababa's establishment in the late 19th century. Driven by marginalization in the countryside following the introduction of a new system of administration and the subsequent takeover of their land by *Balabats*, the Siltie began to migrate to Addis Ababa and major urban centers of southern Ethiopia since late 19th century(Abdulfeta 2002:35). According to Bustorf, it was since early 20th century that urban migration have become part of the Siltie culture (Bustorf 2011:460-461). However, whatever the time of the start might be, migration to the urban centers and the Gulf States has now become a norm rather than exception among the Siltie. Today, the Siltie are one of the largest migrant groups in southern Ethiopian towns and Addis Ababa where they are known as shopkeepers and merchants (Bustorf 2011:460-461). *Werabe* and some other cities have provided a new focal point for migration. Such centers have proved especially attractive to women. Mainly during annual Islamic Holidays, most of the urban immigrants come back home to celebrate and strengthen social ties between family members. During these times, the urban Siltie enhance their kinsfolk's ties among their parents and their extended family members. It is customary during the holidays that the urban Siltie bring special gifts such as clothes, animals for slaughter, kerosene as a source of energy for their families. These situations and the flow of information from urban to a rural area of Siltie also serve as a further instigating or pushing factors for younger generations to make similar ventures to the urban areas. Despite its economic significances in the form of local and international remittances to the place of origin, migration has been resulting in demographic changes since it accelerates depopulation, dependency, high elder age ratio, and finally negative impact on the economic development of the area as a whole.

2.11.   Crafts

There are various social groups among the Siltie. Black smith (*Yeberet Biletegne*), tanners (*Faqi*), and pot makers (*Fuga*) are categorized locally under crafts. Crafts are hereditary within the matrilineage and patrilineage lines. Pot makings are women's business and transmitted to the daughters through her line. Others like tannery have passed from father to a son.

2.12.   Social Stratification

Siltie society is internally differentiated and consists of several stratified descent-based subgroups. These include the dominant majority of farmers and traders (*woleba*) and the marginalized craftworkers (*awneya*), e.g. blacksmiths, tanners, and potters. People also differentiate between believers in Islam and non-believers, in those of higher (*sharafic*) descent and those of low, e.g. Non-sharafic descent, also called *yeafer seb* (native) and finally between highlanders *(ansewa) and* lowlanders *(qalla).*

The craftworkers have no right to own land or local titles. These group of the society are socially marginalized and not allowed to intermarry with the farmers and traders, never chosen for a dispute settler position and treated differently during dispute settlements in the elders' councils. As informants indicated, members of minority groups prefer the state legal system over the customary courts, since the latter are said to treat members of the dominant majorities favorably.[34]

Recently, one could also observe another form of social stratification emerging. Due to the expansion of development and education in the area, Siltie are categorized into urban, and rural, as well as elite and ordinary people. Related to the recent economic progress in the area, one can also see an emerging middle class, next to lower class and upper class Silties as reflected in the living standards of the community. Furthermore, we also observe a gender segregation in the life of the Siltie. Women are predominantly housewives and control house economy, while men section of the society work on the field as farmers or traders. But in the urban centers of the Siltie, women also joining various fields including business.

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[34] The reason behind it that the craftworkers are said to have 'impure blood' (*deme keleb*). If, a craftworker kills a farmer, the victim's family will not prosecute him/her in the customary court, because at the end of the dispute settlement the families of the perpetrator and the victim have to forge a fictitious relationship. To avoid this social tie, the families of such victims usually deliberately drop the case.

Rural women prefer customary courts to handle marital disputes than urban ones. But due to the patrilineal natures of the customary court, women prefer property cases to be handled by the state courts than the customary one. In the urban areas, more educated women prefer both the Sharia and state courts to handle cases that involve property disputes. Nevertheless, rural women also resort to state courts whenever property disputes emerge since the state courts handle seriously those cases that involve women. This is due to government's commitment to redress the gender imbalances witnessed before.

2.13.   Marriage and Family

2.13.1. Marriage (Biter)

According to anthropologists, "marriage is a social arrangement by which a child is given a legitimate position in the society determined by parenthood in the social sense" (Radcliff-Brown 1952: 5). In marriage, new social relations are created not only between the husband and the wife's/wives' family members, but also between the relatives of the man and those of the wife. Therefore, marriage plays a significant role in cementing social bond among the society. It is in this institutionalized relationship that various social structures could be created. Marriage (*biter*, as the Siltie call it) is considered as a religious act by which a man and a woman come together to form a union for bearing children.

As key informants[35] said, a childless marriage is not valued among the Siltie. The Siltie also practice polygamy, consistent with their Muslim law but contrary to the state law that can also indicate the existence of legal pluralism in the area. Among the Siltie social life, *biter* (marriage) has a central place. The Siltie's social life is governed by the rule of exogamy that forbids marriage between two members of the same clan or sub-clan. As a result of this, the Siltie boy's choice of a wife is firmly controlled by his parents. The boy is prohibited from marrying a girl of his patrilineage and matrilineage. If one breaks this rule of exogamy, he would be liable for public curse and ostracism as dictated by *YeSiltie Serra* norm. Nevertheless, according to key informants[36], such trend has now been softened. Nowadays, a boy and a girl who are in the same clan can be married if they can trace their genealogies more than or equal to seven ancestors.

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[35], The above Informants have been mentioned in 22.
[36] Interview with Gerad Hussein Busier (clan leader), and Hajji Mifta Siraj/Sharia court judge in Dalocha and Werabe towns on February 27 and 30/2015.

Different factors contributed to these changes. According to key informants[37], the family policy that gives the right to spouses to decide their choices, and the spread of globalization that is eroding local norms, leading the new generation to not respecting *YeSiltie Serra* norm, are among other factors contributing to the changes.

The Siltie not only prohibited marriage within the lineage or members of the same clan but also sexual relations between the members of the same lineage groups. The people consider this act as a grave offense to *YeSiltie Serra* norm and Islamic teachings. Therefore, the rule of incest prohibition dictates people to marry outside their kin groups. Due to these factors, various issues can be taken into consideration by the parents during mate selection for their sons. Spouse selection among the Siltie also gives due attention to such matters as' purity' of the genealogical ties of the girl, blood or clan relationship between the future partners, Islamic discipline, and the economic and social status of the families of both partners. For the Siltie,' purity' means the absence of a genealogical link to the despised cast (*Awneya)* such as *Fuga* (potters), *Faqi (tanners*), and *Buda* (evil eye) (see more about social stratification below).

Each family also studies whether the other family is free from genetically transmittable serious diseases such as leprosy, and breast cancer (Abdulfeta 2002:114-123). Omen interpretation (*Unfe Inzote*) is also considered before any decision for selecting a mate is considered. Furthermore, as key informants said[38], the girl's house handling ability, her politeness, attractiveness, her mother's conduct, and hospitability are also crucial for spouse selection among the Siltie.

The Siltie mainly value the behavior of the mother before the selection of the girl is considered. There is a famous saying among the Siltie that can substantiate this idea. As an informant puts it[39], the people say, „*Endetesh Hinzane Geredeshe Bidda*," which means, „It is after looking at the general situation of the mother that one should consider her daughter for marriage." There are six forms of marriage arrangements among the Siltie. These are arranged marriage (*Tukesho*), abduction (*Zimedot),* arrangement by the free choice of the female (*Agga*), sudden marriage arrangement by the male (*Tequalo Gibot*), inheritance marriage (*Yewurshet biter*) and secondary

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[37] Interview with Weizero Rukia, Weizero Rewda in Werabe and Silti Wereda.
[38] Interview with Weizero Rukia, *Gerad* Awel, Weizero Rewda in Werabe and Silti Wereda.
[39] Interview with Ato Abdulwaris Redi in Werabe Town on February 29/2016.

marriage (*Wagiyet*). According to a key informant[40], the most socially accepted and popular type of marriage arrangement among the Siltie is *Tukesho* (arranged marriage).

An arranged marriage follows various procedures that widely give time for the parents and spouses to know each other. The wedding ceremony is called *Bolocho or Digelaye*. *After Bolocho*, the families of the male spouse are expected to provide necessary materials for the bridegroom. This includes a piece of land, residential area, and food stuffs. This process is known among the Siltie as *Biter Atinzot.* Patrilocal norms govern residence and settlement of newly married couples. The newly married couples are expected to settle in nearby (*Burda*) surroundings. Hence, the Siltie are patrilineal, patrilocal, and patriarchal. Briefly, marriage decisions and marriage *Serra* are mainly embedded in the traditional, social, and cultural frameworks of the Siltie. Islamic customs and values also synchronously play a pivotal role in marriage process in the society.

2.13.2. Family

The family is a micro society that expands to form the larger community. It also lays the foundation for the genesis of a society (Makec 1988:54). The Siltie call family *Aberose*, and members of a household *Yegarseb*.

Yegarseb is a nucleolus family that comprises a husband, his wife, and the unmarried children. *Aberose,* on the other hand, implies an extended family that encompasses members of a family and the children of married couples.

As mentioned above the Siltie value marriage if it bears children since children are considered an asset as well as essential elements to make a family. The property, among the Siltie, is transmitted from a father to a son as an aspect of a patriarchal society. Hence, if a man dies, his widow may hold the land and other capital properties under her control. As the guardian of her children, she is expected to marry by the rule of levirate marriage one of the relatives of the deceased person. This is done to manage the asset and not to make the property pass to others. The Siltie call such type of marriage *Yewurshet Biter* (Inheritance Marriage). Nevertheless, if she wants to marry out of the patrilineage of her ex-husband, she would lose the land and other main properties without any compensation.

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[40] Interview with Ato Kaire Sule on 10, July 2015 and data from 2012 field notes in Lanfuro Wereda Tora Town.

The respect and authority pattern within the family are high between the child and his parents. The power and respect pattern among the children flows from junior to senior. Children always show respect to their parents and in return receive their parents' blessings. The Siltie believe that such blessings as they call *Yabot-Endet Du'aa* will play a significant role in the success of the children's future life. Therefore, to secure their parents' *Daot*, children usually support their parents. The supports include herding animals, and cultivating the land and generating income (mainly sons for the father). Daughters also conduct such activities as fetching water, collecting fire wood and dried animal waste (*Kubet)* for fuel, and helping domestic work (*Yegarebille)* for the mother. Failing to have parents' prayers*' Daot* is believed to bring curse and ostracism. Unlike most patrilineal society, the Siltie value both male and female children. Indeed, the male child is considered as an additional asset for the strength of the family and the patrilineage as a whole. Owing to such reasons, male children enjoy some privilege in the household. Nevertheless, females are also considered as the source of wealth in the family. The first-born female child in the family is regarded as good fortune and harbinger of wealth in the family, as a key informant[41] said, "*Geredwold Durashnet Tatketalte"* which means, "A baby girl can bring wealth to the family." In spite of this, women's property right and inheritance are very limited due mainly to patriarchal relationships dominant in the area. This situation has been changing, however, in the last two decades due to the various interventions by government and non-government organizations which intensively have been working on gender equality.

The Siltie call a father *abot* and a mother *ade or dako.* A son is named *lije* and a daughter *gered.* Children call their father *Wajjo* and their mother *Washito or awete*. The juniors call elder brother children *Waje*, and the seniors called their junior brother *Matte*. Siltie woman addresses her husband relatives in politeness using the term *atum* not *ate.* That is a plural form (honorific pronoun) used in the case of respect. Whether her husband's brothers and sisters are less in age than she is, she is expected to call them in that way.

The Siltie value the family and the social bond that can result from it. They also have special annual *Arafa* and *Edul-Fitr* festival days to greet their families, and this further strengthens their family relationships. On these holidays, married children are expected to visit their parents. It is believed among the Siltie that anyone who is married or goes to the urban areas for work should

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[41] Interview with Gerad Awel, and Sheik Yusuf Kemal

come back home for a visit *(Ziyara)*. Those Siltie Diasporas who are back from towns to the countryside are known locally as *Fagno.* If he/she does not come back on these annual holidays for a visit, it is considered as if he/she is dead. To avoid such thinking and avoid cursing and get the blessing (*Daot*), the children visit their parents on these special days with various special offers for their parents.

2.13.3. Kinship and Social Organizations

According to anthropologists, for the understanding of any aspect of the social life of an African people such as political, economic, social or religious, it is essential to have a thorough knowledge of their system of kinship and marriage (Radcliff-Brown1950:1). A system of kinship and marriage can be looked at as an arrangement that enables persons to live together and co-operate with an orderly social life (ibid.: 3).

Plurality characterizes the Siltie's social structure. It is observed that each subgroup has its own semi-autonomous legal structure that operates under the frameworks of *YeSiltie Serra*. Supporting this state of affair, Pospils (1971:125) said that „society be it a tribe or a modern nation" is not an undifferentiated amalgam of people. It is rather a patterned mosaic of subgroups that to some degree are usually well defined (or definable) types with different memberships, composition, and degree of inclusiveness.

Every such group owes its existence to a great extent to a legal system that is its own and regulates the behavior of its members." Thus, the existence of subgroups and the subsequent legal systems, I argue, demonstrate dimensions of local variations among Siltie groups rather than a separate identity. The multiplicity of jurisdictions, whose legal provisions necessarily differ from one to another, sometimes even to the point of contradiction (*Melga and Silti subgroups*), reflects precisely the pattern of the subgroups of the society that is called „societal structure," a structure of the society (Ehrlich 1971: 125).

It also seems that kinship structures are very powerful at the grassroots level rather than the state which is a psychologically far away institution than kin, or other group institution and hence not influencing the local community. It is also observed that Siltie elders have a divided loyalty between the state, their kins, and Islam. However, more importantly, they are loyal to their group, for group institutions are more conversant than the other two in the daily activities. As members of traditional communities, most of African people are tied into a network of social

relations, and a web of mutual obligations and these obligations are much stronger than obligations as a „citizen" (Pimetel 2011: 14).

The Siltie, on the other hand, have kinship terms and various kin organizations. The Siltie kinship systems, for instance, used different words for father's brother or sister and mother's brother. One's brother's children refer Father's brother as *Habot,* while mother's brother as *Umme*. Moreover, memberships to various levels of kin ties give special political and social privileges within the society. The Siltie word for kinship, *Abotweld* defines a relationship in general as well as in particular sense.

The term *Koba* is also a wider inclusive term that surpasses *Abotweld* and includes farthest relatives that trace their kin ties both from man's lineage (*Abotgae*) and woman's lineages (*Ummegae*). The term *YeBadewold* (person from my land) is also a wider term that is extended to non-relatives as a title of affection and gratitude.

The rule of patrilineal descent is a key factor to the Siltie social organization. This is because the patrilineal descent is the basis of a localized organization that is generalized through the social system as a whole by a group of dispersed clans. Indeed, the Siltie trace their descendants from both their father lineage and mother lineage *Abotgae* and *Ummegae* respectively. Nevertheless, *Abotgae)* is much more superior to the *Ummegae* in various aspects. Every person of patrilineal descent (*Abotgae)* is by birth a member of his father's clan (*Yabot-Gicho)* and a citizen of Siltie land (*YeSiltie Bade).* He/she also becomes *YeBadewold*, which is inclusive of relatives and non-relatives under a wider political umbrella (*YeSiltie Bade*).

To the Siltie, a lineage (*Abotweld)* consists of all descendants of both sexes by a known genealogy of a single known ancestor in the unbroken *Abotage* and *Ummegae line*. Every Siltie village (*Azegag)* is categorized into small communities (*Burda),* each of which is occupied by the majority of the members of both the male and the female lineages.

Marriage and lineages mainly determine settlement pattern. In some cases, this lineage would be maximal lineage, tracing common descent from an ancestor seven to nine generations back. Despite the fact that females as part of exogamy come from other clans in marriage, they can be called by their husband's clans. However, they consider themselves part of their clan and they attend their father's clan assembly (*Yegicho Melcho).*

Each clan has a male head (*Yegicho Moro)*. As my interviewees[42] said, the *Moro* is chosen from among all living male members based on his age, experience, acceptance by the will of his clan's general assembly (*Yegicho Melcho)*. In the selection and approval process, women are not allowed to take part. Here, only matured and married men take the post. The decision depends mainly on the elder men.

My key informants said that personal qualities such as the ability to sort out truth, leadership capacity, intelligence and knowledge of the social affairs determine the choice for clan leader. It is thus the duty of the clan head (*Yegicho Moro*) to keep the welfare of the whole group.

He has the power and obligation to settle marital disputes especially between husband and wife in the *Burda* and *Azegag* councils. He also helps *YeBurda* and *Azegag Baliqes* (Hamlet and Village elders respectively) to resolve conflicts between or among the members of his clans. Thus, clan head plays an important role for peace and solidarity to prevail in village councils.

Here, *YeBurda Baliqes* are the chief representatives in its political and legal relations with other villages (*Azegag)* or lineage groups. They mobilize the society for various corporate obligations, such as funeral ceremonies (*Yeqebere Serra)* and dinner programs (*Yurbat Serra)*.

The starting point of the Siltie kinship system is *Yegarseb*, which is the elementary family. *Yegarseb* is a parental family that consists of the parents (*Abot-Endet*), i.e. father and mother, and their young unmarried children. This first family is the basic unit of kinship structure among the Siltie. The group living in the homestead is always impermanent and fluctuating, affected by marriages, births, deaths, migration, and immigration. At the same time, initial behavior is molded in the elementary family (*Gare*) with its local basis (*Burda)* in the homestead. Here, the individual acquires the stereotyped norms reflecting the economic, legal, and religious values of the society essential for the stability and perpetuation of the social structure. In some instances, *Yegarseb* serves as the local political unit of the Siltie.

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[42] Interview with Ato Nasir Muale, Sheik Yusuf, and Ato Dilebo Gebre interviewed in Werabe Town in November 2015.

As the key informants[43] said, the Siltie have employed various kinship structure levels. These are *Yegarseb*, *Mechebaye*, *Medrabaye*, *Mekekebaye*, *Ankekebaye*, *Bedetekakaye*, *Aberose*, *Abotweld*, *Koba, Gicho, Jinese* and finally *YeBadewold or Yebadseb*.

As mentioned earlier *Yegarseb* is a name which includes members of a family such as a father, mother, and the unmarried children. Thus, *Yegarseb* can be understood as limited or nucleolus family. Nevertheless, whenever the family establishes marriages and a child is born, a new family line will be formed. This line of kin forms *Mechebaye* for the parents. *Mechebaye* refers to the children of the head of the family's children. In short, this is synonymous with the grandsons of the chairman of the household. Next, we found *Medrabaye*. It is the children-children-children for the head of the household. In short, *Medrabaye* is the children of *Mechebaye*. *Mekekebaye* is also the children-children-children of children for the chairman of the family.

The next kinship structure for the household is *Ankekebaye*, which also includes the wider members of the family that are the children-children-children-children and children of the head of the household. In tracing the family tree, both the father and mother can trace their descendants equally from their ancestors.

Bedetekakaye is also the next family tree that includes the members of the family that are found at the six level of the family tree. It includes the children-children-children-children-the children and children of the head of the household. Those members of the family who trace their kin only from the father line are called *Abotgare*. *Abotgare* is a semi-autonomous social field that dominates not only the countryside but also urban Silties as well.

Abotgare has „rule-making and inducing capacities" (Moore, 1978) in the framework of *YeSiltie Serra*, and enters negotiations with the same agnatic group in the community and clan chiefs. It is the most politically dominant social structure that oversees day today activities of members. The Siltie, for instance, when dispute occurs, especially among members of a clan, first ask members, „What does the abotgare say?" That is, they resort to the father line forum rather than the state institution to resolve differences between clans or inter-clan clashes, which are indicative of the principal activity the semi-autonomous social field exercises in the society.

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[43]Interview with Ato Abdulwaris Redi, Ato Aman (Aba Fedlu), Weizero Rukia and Ato Hamid in Silti, Dalocha and Werabe on April 3-5/2016 and also taken from earlier works.

This group is responsible for settling disputes by collecting 2/3rd of the blood price whenever a member of the family commits murder. It is also this group's mandate to identify as well as extradite the culprit who commits a crime to elders' forum. *Abotgare* is usually ruled by an elder male member of the family. Whenever women face difficulty or dispute relating either to inheritance or to marriage, they address their cases to the *Abotgare* forum. This also indicates the existence of semi-autonomous social field which develops its rules and is involved in "reglementary activities" (Moore, 1978) among the Siltie.

We found *Aberose* next to *Bedetekakaye*. It can be understood as an extended family that includes the wider members of the family. *Aberose* also includes the grandfather, grandmother, father, and mother in law of the couples. The children of the members of the family are also considered as *Aberose*. Next to *Aberose*, there is *Abotweld*, which literally means relative that includes the wider members of the family who trace their genealogies both from *Abotgae* and from *Ummegae.* The members of one's grandmother's and grandfather's clans may also be regarded as *Abotweld.* According to the key informants[44], *YeAabotweld Shengo* is also an important council that serves as a lineage level forum to settle disputes in the village. *Koba* is also the wider kinship term more comprehensive than *Abotweld.* It includes farthest relatives who trace their kin both from the male and female clans. Sometimes *Koba* is expanded to include more extended kinfolks. *YinAbot* is a circumcision father, a person who takes a male boy for a circumcision purpose is considered a kin folk among the Siltie. According to my key informants[45], *YinAbot* is responsible for supporting financially and morally his eye son until he grows up. Sometimes even if the child grows up, the circumcision father may refer the son as his own and support him for long. According to informants[46], the next kin structure is called Gicho*, which* means clan. *Gicho* (clan) is a unit that includes a group having unilineal descent in which all the members regarded one another in some particular sense. The next one is *Jinese* that can be considered as people. It includes all members who can trace their genealogies from legendary common decent. The last social structure is *YeBadewold* (country person).

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[44] Interview with Ato *Abdulwaris Redi*, Ato Aman (Aba Fedlu), and Ato *Hamid* in Silti, Dalocha, and Werabe on March 21, 25/2016, and updated in April 2015 and July 2016.
[45] Interview with Ato Abdulwaris Redi, Ato Aman (Aba Fedlu), Weizero Rukia and Ato Hamid in Silti, Dalocha, and Werabe on July 20, 23 2016.
[46] Interview with Ato Abdulwaris Redi, Ato Aman (Aba Fedlu), Weizero Rukia and Ato Hamid in Silti, Dalocha and Werabe on April 3-5/2015 and taken from ex-field notes.

It is a wider term that includes relatives and non-relatives that live in Siltie land. Anyone who lives among the Siltie can be considered as *YeBadewold* (a country person) as a title of affection and gratitude.

2.14.   Concluding Remarks

The Siltie people are one of the ancient South Semetic societies in the country. The various social groups are also functioning as a semi-autonoumus social group and are playing an important role in maintaining the social order of the people. Peaceful and contentious interactions also chracterized the Siltie-state relationship. The late 19th century has marked the onset of 'modern state' and society relationship. The Silties' local and national economic participations have contributed not only to economic developments, but they have also served as a pipeline for the flow of various ideas which in turn enrich the legal and social norms of the community.

The Siltie kinship and social organization are also pivotal modes to local production, and they maintain the social order of the community at the grassroots level. The chapter indicates that the Siltie has developed an elaborate form of interaction both among themselves and with the neighboring ethnic groups. Pluralism of versions has also characterized the ethno genesis of the people.

CHAPTER THREE

3. THEORETICAL AND CONCEPTUAL FRAMEWORKS

3.1. Introduction

This chapter deals with the conceptual and theoretical foundations of the research. It investigates the concepts of dispute, and modes of dispute settlement relying much on legal anthropological and sociological literature. Additionally, the chapter dwells on the precursors to legal anthropological thoughts, the genesis to the scholarship of legal pluralism, and the change and continuities the discussion about the notion has undergone through the course of time. In this regard, the chapter argues that even if there has been a debate about legal pluralism over the past four decades, scholars cannot come up with a universally agreed upon definition of legal pluralism, and the concept has continued to be hotly debated issue so far.

The chapter also investigates the development of anthropological inquiry since the late nineteenth century up to the post-modern world, and the various stages the subject has gone through to reach the present level where every walk of human life has become an area of focus for anthropologists. It looks further into Africa's in general and Ethiopia's experiences on legal pluralism in particular. It observes that paying attentions to the dynamism of legal pluralism helps the academics and policy makers to have the actual picture of the development of legal pluralism. It is also essential to bridge the gap between the normative and empirical understandings of the notion. Moreover, the chapter sheds lights on the newly emerging legal reality conceived as legal hybridism and finally it links the new reality of legal dynamism with the socio-legal and legal anthropological discourses the post-colonial literatures focus. The chapter argues that the Ethiopian experience, with its constitutionally installed legal pluralism and the introduction of developmental democratic state, can also become an area of exploration and is necessary for a comparative understanding of legal pluralism literatures. As the concept of law is one of the major issues socio-legal scholars debate whenever legal pluralism is invoked, the chapter sheds some lights on the contested nature of the concept of law and its place in the state-society relation.

Apart from relying on normative analysis, the theoretical-empirical analysis approach I employed in this book will create bridges between the theoretical based literature and empirical legal realities based on the data generated for more than a year among the Siltie. Finally, the chapter has recapitulated the main ideas and has linked the empirical data with the existing literature and theories of legal pluralism and theories of power aimed at contributing for discussions on the legal pluralism.

3.2. Some Concepts from Socio-Legal and Legal Anthropological Perspectives

Since disputes and the ways they have been understood vary from context to context and involve different actors, defining the basic terms and concepts that have a salient bearing on disputes and dispute processing is crucial for understanding the socio-legal framework upon which this book has been based. This section thus contains some terms and concepts I employed in this book.

3.2.1. Legal, and Non-Legal

The word legal may entail more formal, state sponsored and institutional form of dispute settlement. It includes institutionalized state-imposed legal systems, Sharia courts as well as customary courts. It also includes the activities of local communities in various socio-legal settings that have developed their rules to manage the activities of members (Moore, 1978).

Legal scholars employ the legal centralist or Hobbesian approach which considers the state as the sole source of social order (Robert C. Ellickson 1987:67, 81). However, legal centralists do not give due attention to the other institutions that can also perform similar functions in society. Customary and religious courts, for instance, are one of the many forums disputants can address their cases and choose among legal fora even if the state declares its judiciary has the upper hand or monopolizes handling of many cases including homicides. The roles other courts play in regulating the day to day activities of societies indicate how the social order can emerge without state imposed law. Thus, this book argues that „law is sometimes best studied not in isolation but as an element of a complex cultural milieu" (John Conley and William Barr 1993:44; Moore, 1978). Therefore, I use the concept of "legal" in this book to denote all forms of social orderings, including the customary and religious, which a community employs to regulate its day to day activities.

3.2.2. Forum, Session, Mechanism and Institution

Studies indicate that in every society, most of the disputes and dispute processing fall into a relatively limited number of patterns. The repetitive patterns of dispute processing are perceived as institutionalized. In a social event that involves institutions, participants like dispute settlers or disputants occupy roles within the institution that handles the dispute" (Richard Abel 1973: 219, 229). Since the different legal actors and disputants occupy positions in the process of dispute settlement, dispute settlement systems have occasionally been referred to as institutions of dispute resolution.

In addition, for the sake of consistency and clarity, I will also explain the different terms I employed in this book. I used 'forum' or 'session' to denote the legal dispute settlement centers, and 'mechanism' to indicate the various ways and strategies dispute settlers employ during dispute processing. In this regard, different settings allow individuals to use a variety of methods for settling disputes. Let me thus shed some lights on the difference between forum and mechanism. Forum implies the setting where dispute settlers meet to handle a dispute. The notion of forum not only refers to the dispute settlement center (court or arbitration center or a Podocarpus tree in the case of customary court), but more broadly to the place or environment where the dispute settlement occurs.

On the other hand, by a mechanism, we mean the way in which disputes are dealt with, and the actual method or series of steps that the parties utilize to end dispute cases. Therefore, an institutionalized forum would be one with a visible structure, usually an organization with clear boundaries and some level of autonomy (Richard Scott and John Meyer, 1994). I use forum in this book to refer to the state, customary, and religious dispute settlement centers. The state, the religious and the customary courts operating in the study area have visible structures where dispute processing follows certain patterns or rituals, and participants have predefined roles and are expected to abide by specific standards (Gomez 2008:25-26). Therefore, the legal systems this study focuses on would easily fit into this frame as forums, sessions, and institutions.

3.2.3. Legal Orders and Legal Systems

There is a difference between legal order and legal system. Legal order refers to an aggregate or a plurality of general and individual norms that govern human behavior, which prescribes, in other words, how one has to behave.[47]On the other hand, a legal system refers to a procedure or process for interpreting and enforcing the law. It elaborates the rights and responsibilities in a variety of ways.[48]Additionally, Hart (1961:1-14), a legal scholar, states the features of legal systems as follows. He states that legal systems are

> "Institutions that comprise rules forbidding or enjoining certain types of behavior under penalty, and requiring people to compensate those whom they injure in particular ways. Rules can specify what must be done to make wills, contracts, or other arrangements that confer rights and create obligations."

Hart also states that legal systems include courts to determine what the rules are and when they have been broken as well as to fix the punishment or compensation to be paid. He further illustrates that legal systems are composed of a legislature to make new rules and abolish old ones[49]. Since it embraces wider legal connotation and depict the interactions of actors in more meaningful ways, I preferred using legal system rather than a legal order to analyze the legal reality exhibited in the study area.

3.2.4. Plural, Inter-legality, Customary laws, Indigenous or Traditional laws

This section highlights on the concepts of plural, inter-legality, customary/indigenous or traditional law. Plural means more than one element or systems, while inter-legality refers to relations and interactions between legal orders and sets of norms. Inter-legality is best viewed as a dynamic process rather than as static structures (Santos de Sousa, 2002). On the other hand, customary normative systems include „shared social rules and customs, as well social institutions and mechanisms, from reciprocity to dispute resolution tribunals, to councils of traditional leaders" (Tamanaha 2008: 397).

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[47] https:ukessays.com/essays/concept/and-concept of -the legal-order- translation(accessed on April 04, 2017)

[48]Legal System Law of Legal definitions.uslegal.com/l/legal-system *(accessed on November 26, 2016).*

[49] https:ukessays.com/essays/philosophy/the purpose/and role- of- law-philosophy (accessed on April 04, 2017).

Studies indicate that the denominations found in classical literature like 'indigenous law' or 'traditional law' and customary are the creations and reactions to colonization and post-colonization. The denominations have been used to create dichotomous relations with other rules in which „the norms and institutions of indigenous societies were marked (for various purposes) as distinct from the transplanted rules and systems of the colonizers (Tamanaha 2008:397). Tamanaha further asserts that these terms „are *not* sociological notions" (ibid.). In the context of this study, the book uses customary legal systems rather than indigenous or traditional to denote the local modes of dispute settlement systems operating in the Siltie area This is because „the local systems operate by local customary or cultural norms and rules as opposed to those set out from above from state or global forces" (Alula and Getachew 2008: viii).

3.2.5. The Concept of Conflict and Dispute

Anthropological literature has dealt with conflict and dispute settlement since the mid-nineteenth century. The word „conflict" can be defined as „clash, competition, or mutual interference of opposing or incompatible forces or qualities (as ideas, interests, wills). In most cases, conflict and dispute are used interchangeably, and the term „dispute can also be defined as verbal controversy, strife by opposing argument or expression of opposing views or claims, controversial discussion" (Gove, 1976 in Assefa 2005:52).

On the other hand, legal scholars define conflict in the same way as dispute. For example, Black defines conflict as „claims or right, an assertion of a right, claim or demand on the one side met by contrary claims or allegations on the other" (Black 1951 in Assefa, 2005:52). Similarly, Miller (2005:322) defines it as an „engagement in a fight or possible confrontation between two or more parties aspiring towards incompatible or competitive means or ends." Imobighe (2003:32) also defines conflict as „a condition of disharmony in an interaction process and usually occurs as „a result of a clash of interest between the parties involved in some forms of relationship and clash of interest could occur because either pursue to get their incompatible /chosen goals done."

For political scientists, conflict is defined as antagonistic collisions of interests, principles, ideas, policies, or programs that characterize many of the interactions carried on political systems (Plano, 1978 cited in Assefa, 2005: 52). Others like Marxist scholars define conflict as a struggle to bring new social structures (Coser 1967 in Tilahun 2011:10).

Conflict is thus conceptualized as an essential creative element in human relationships. It is the means by which our social values of warfare, security, justice, and opportunities for personal developments can be achieved. Socio-legal scholars indicate that dispute can arise when a given individual violates a norm or a standard that can bring sanction. A type of dispute that involves violation of norms is called a normative dispute (Robert C.Ellickson 1987: 67, 69).

Even if different scholars view conflict as a negative scenario, Bohannan conceptualizes it as an important social event for societal development. He contends that as culture is central to society, so does conflict if it can be controlled and utilized for cultural development and maintenance of social order. For Gluckman (1956), Gulliver (1963) and Nanda (1994), conflict is considered an inseparable part of social life, and without which the very existence of society is impossible. Thus, taking into consideration the various disagreements and collisions ranging from the individual, and family to inter-ethnic and inter-faith disagreements and collisions that can be subsumed under the concepts of dispute and conflict, this study has employed both dispute and conflicts interchangeably in the context of disagreements that arise between two contending parties.

3.2.6. The Relationship between Society and Dispute Settlement

Socio-legal scholars point out that there is one or another form of link between settling disputes and the society in which the dispute settlement process takes place. In this regard, two elements of the relationship between parties to a dispute have a particularly strong influence on the type of dispute settlement mechanism disputants resort to. First, it is important to single out whether the parties have multiplex relationships (the density of the relationship between parties in a conflict). Second, it is also essential to know whether parties have prospective dealings to grasp whether the relationship endures into the future (Richard and Joseph 1986: 235). In light of this framework, if a multiplex relationship dominates the social life of a given society, one can expect that the society's predominant dispute settlement institution will be oriented to produce an outcome of the form specified in the first case and hence the parties resort to informal means of settling disputes than the state (ibid.:236). In this regard, customary courts have been operating „most efficiently and with the least trouble when dealing with parties who share enduring, multi complex relationship" (ibid.: 236).

Nevertheless, if a relationship is periodic and if parties do not expect prospective dealings among each other, disputants may resort to more formal means of dispute settlement. Richard and Joseph (1986) have to say the following in this regard. They said that:

> "...going to the court is likely to be least necessary when parties have enduring multi-complex relations. People in such relations can get their opposites to listen to their complaints (itself is an important reason to invoke the law), and they usually have the capacity, independent of the law, to reward and punish each other. This means the law is the less valuable resource to them than to those in episodic relationships" (p.238).

They indicate further that one of the factors for the existence of dispute settlement institutions in society is their „functional" value (ibid.: 236).

The linkage exists because these dispute resolution institutions "promote the well-being of the society they are embedded" (ibid.). Thus, the study argues that had the customary dispute settlement institutions not benefited the society, they would have disappeared and been replaced by „those that did" (ibid.: 236). The second reason for the very existence of dispute settlement institutions will be the roles they play in maintaining the identity of the society they are a part. The Siltie employ the institutions as custodians of their culture. Using their mediation role, local dispute settlers employ the institutions for accumulating social power.

3.3. Notes on Modes of Dispute Settlement, Conflict Management and Conflict Transformation

Modes of Dispute Settlements (MDS) refers to the strategies employed using both the judicial and customary approaches to contain, prevent and manage disputes. Most dispute processing models are categorized into two major parts depending on the presence or absence of the third party in the conflict. As a result, a dispute process in which a third neutral party is involved is called a Triadic Model, and when contending parties or disputants are the only ones participating in the process, it becomes a Dyadic one. The latter involves direct negotiations between parties or involves forgiveness practices. Even if some dispute settlements can be initiated only to settle disputes, there are possibilities where a dispute can also be used to generate power.

Scholars like Benda-Beckmann (1979) called this scenario as shopping forum since dispute settlers may also employ disputes to negotiate with various actors and hence influence power relations.

In this regard, it is often difficult to know whether a dispute has been processed, or resolved, or even to know what the dispute was about in the first place (William Felistner 1974:62). Austin Sarat further states that „the end of dispute in one forum implies the beginning of it in another, indicating that „the drama of seeking settlement is repeated"(Austin Sarat 1976:339,343).The people who create and use dispute settlement institutions and the disputants may have different objectives about what constitute dispute resolution (Robert and Anderson 1979:3).

Various definitions have been put forward by scholars for conflict transformation, conflict management, and conflict/dispute resolution. First, conflict transformation is defined as the transformation of violent with non-violent means of dispute settlement, while conflict management entails the prevention of conflict from becoming violent or expanding to other areas. Conflict resolution entails removing to the extent possible, the inequalities between the disputants using mediation, negotiation, and advocacy and testimony on behalf of one or more parties to a conflict (Appleby 2012:212). Imobighe (2003:7) also suggests that dispute management is concerned with the ways and means of doing away with a disputable relationship with the aim of creating a fertile ground or space for the long-term resolution of the fundamental causes of the conflict.

Gulliver (1979: 11) states that every society regardless of their location spatially and temporally has modes for handling disputes. Dillon (1991:45) also indicates that the regulation of differences in societies varies widely and depends on the social and cultural variables in the society. In complex industrial societies, coercion rather than conciliation is consistently employed usually indicating the social distance between members of the societies. In societies where the stratification is not as well developed such as the Siltie, other techniques that involve mediation, conciliation or even forgiveness can be used to handle disputes. The modalities disputes can be settled are divided into violent and peaceful. Violent modes include duel or combat, self-help, and warfare, while peaceful modes include avoidance, negotiation, mediation and adjudication (Gulliver, 1979: 11). Dispute avoidance is one of the peaceful modes of dealing with conflicts or disputes.

Gulliver states that not all disputes are resolved, settled, or ended, and hence dispute avoidance is brought into the stage as a mode to cease disputants' disagreements by the disputant parties (Gulliver 1979:2). This mode of dispute settlement can be fruitful if there is a possibility for either disputant to leave their rival area and move to other places permanently or temporarily.

According to Gulliver (1979), negotiation is another peaceful mode of dispute settlement. It is a voluntary act that permits the disputants to take part directly in decisions that affect their interests. This process does not involve a third party as a decision maker and is controlled by the disputing parties' themselves.

Singer (1990) divides negotiation into two categories, namely competitive and collaborative negotiations. In the former case, each party in dispute aims to maximize his/her gain at the expense of the other. Disputants employ such techniques as „exaggerating (even lying), flexing muscles, or threatening to walk away to achieve their goal. This strategy may be appropriate only in one shot, and single-issue negotiation over a limited resource" (Abebe Demewoz, 2016)[50]. On the other hand, collaborative negotiation (also called a „problem solving" negotiation) seeks to help all the parties meet their needs. This is because the negotiators give place for future relationships. This method aims at 'win-win' solutions. The technique is aimed at gaining and distributing the pain of losing between the disputing parties (Singer 1990: 17). If negotiation failed, other techniques such as conciliation, arbitration, and litigation would be used.

According to Shellenberg (1996), mediation is a voluntary dispute settlement process whereby a mediator (a third party) promotes reconciliation between the disputant parties. The mediator manages the process and facilitates the issues in a dispute between the contending parties. Despite the fact that the mediators suggest different remedies for the problem, they have no power on the outcome. Instead, the final decision will be reached based on the mutual consensus of the disputants.

Arbitration is also another mode of dispute settlement. Singer (1990:27-29) explains further that arbitration is different from mediation and litigation. In this case, the disputants would agree to submit dispute cases for adjudication, and they are ready to accept the decision of the third party.

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[50] The Role of Sidama Conflict Resolution.http://article.sapub.org.10.5923.j.sociology.20160601.02.html (accessed April 5, 2017).

There are rules of procedures to be followed here. According to Kestner and Ray, the disputant parties present their perspectives and positions to the arbitrator who is a neutral party. The arbitration decision can be binding or not binding according to the rules of the arbitration program (Kestner and Ray 2002: 229).

Litigation, also called adjudication, is another peaceful mode of dispute settlement. Gulliver (1979) describes the use of court and civil justice systems to resolve legal controversies. Adjudication refers to the process of decision making that involve a neutral third party to whom compulsorily or voluntarily the disputants surrender their ability to decide the outcome. Adjudication is characterized by the fact that a third party that exercises some degree of accepted authority controls decision-making and the results of the issues in dispute. This means the people directly involved in disputes have little control over the process or the outcome. An adjudicator determines the results of a dispute by making a decision for the parties that is final, binding, and enforceable.

Singer (1990:29) also states that „decisions are made by a public employee, in public proceedings and publicly enforced". Comparatively speaking, the state legal approach falls under this category sine it emphasizes on sanctioning legal norms as well as executing retribution and punishment giving little room to reintegrating the culprit into the society. In short, the state judiciary is not a restorative justice. Studies indicate further that the customary modes of conflict settlement are geared towards reconciliation, whereas western justice system aims at imposing legal norms and sanctioning the violation of legal norms (Tamanaha 2008:407-408). The western legal system employs physical and material penalties and use of force, including costly prisons providing the sanctions against offender (Utne 2001:4). Moreover, in the state judiciary, legal approaches are adversarial, and evidence must be direct and specific. The process effectively encourages the accused to deny responsibility, while the customary legal systems have used various local strategies to let the offenders admit their problems. In this regard, the various local values and belief systems are employed as legal sanctioning strategies. Thus, customary institutions make the culprit take responsibility without any external enforcement through using various rituals and beliefs as a way of enforcements (Utne 2001:4). Thus, one can understand that the customary modes of dispute settlement focus on conflicts between groups while the state legal system considers individual crimes, offenses committed by individuals, only individuals are

responsible. Therefore, the customary legal systems will bring sustainable results rather than the western paradigm and are widely applicable in the communal based societies like the Siltie.

This study adopts the definition of conflict resolution as means of dispute settlement the Siltie people employ to diffuse tensions among each other and beyond.

3.4. Intellectual Precursors of Legal Anthropological Thoughts

Despite the fact that the origin of legal anthropological thoughts is tied with the genesis of the field of anthropology (Tamanaha, 2008), some sources indicate that the inception of legal anthropological thoughts goes back to the classical political philosophers such as Plato, Aristotle, Hobbes, and Rousseau. This group of classical scholars considered law as the product of civilization, and hence lower stages were characterized by anarchy (Lewellen 2003:3). Others even push the origin 2000 years ago as it was practiced in what is known as European lands (Tamanaha, 2008). Nevertheless, the late 19th century laid the foundation for the beginning of the modern notion of legal anthropological inquiries. In this regard, with the involvement of biologists, social scientists and other scholars, anthropological thoughts started to sprout since the middle of the 19th century. As a primary architect of evolutionary theory, the British jurist Sir Henry Maine in his seminal work „Ancient Law (1861)" postulated that primitive society was organized along the lines of kinship. It was patriarchal and was ordered by sacred prescriptions (Griffiths 2002:291; Lewellen, 2003). Maine further emphasized that evolution is in the direction of secularization, and organization based not on kinship but territory. He further states that „local contiguity" became the basis for political action (Fortes and Evans Prichard 1940:10; Lewellen 1983:2; 2003:3). Maine's idea indicates that the change of a society based on kinship to one based on territoriality was crucial for the development of political action including legal systems. An American anthropologist, Lewis Henry Morgan, further developed Maine's famous idea that kinship could be a primary socio-political structure. Maine's idea of a blood relationship bases to societies of primitive antiquity was a concept that was adopted by Morgan and his followers.

They embraced Maine's idea of primitive societies of the contemporary world (Colson1968:190). Morgan further developed "an evolutionary sequence based on the mode of subsistence, the stages of which he termed as savagery, barbarism, and civilization" (Lewellen 2003:3).

However, early 20th century also witnessed fundamental changes as far as the developments of anthropological thoughts are concerned.

The reaction to the evolutionary thoughts and methodology appeared since the beginning of the 20th century. These paradigm shifts had got more strongholds in the United States and Europe.

In USA, Franz Boas's historical particularism dominated the study of societies by anthropologists. Boas emphasized detailed descriptive studies of particular cultures. Europe also saw a paradigm shift in anthropological theory. This change was based on the work of Emile Durkheim who used structural analysis in the study of society. Durkheim's ideas led to the emergence of cognitive structuralism in France, which finally laid the foundation for the works of Claude Levi-Strauss. Nevertheless, Durkheim's ideas were also dominant in England, and this finally led to the emergence of scholars who gave more emphasis to social facts and theoretical point of view dominated by function and culture. In this regard, the 1930s England saw the coming into being of two brands of functionalism that competed for dominance: the psychobiological functionalism of Bronislaw Malinowski and the structural functionalism of Radcliffe-Brown. Malinowski was an important man as the founder of modern fieldwork techniques for his extensive research in Trobriand Islands which radically changed anthropological methods of evolutionists that had been labeled as armchair whose analysis was not based on actual natives' lives in the field. Despite this, he had little contribution to political anthropology. Nevertheless, Radcliffe Brown's structural functionalism dominated anthropological studies in the 20th century.

For Radcliffe-Brown, society was an equilibrium system in which each part functioned to the maintenance of the whole (Lewellen 2003:6). This theoretical approach focused on those norms, values, and ideal structures that form the framework within which an activity takes place. Based on this theory, British scholars developed a strong interest to study African societies to understand the social systems of societies for so-called „Divide and Rule" colonial policy (Tamanaha 2008:382). The great lust for colonialism led to the production of a collection of studies that was published in 1940 called „African Political Systems", edited by E.E. Evans–Pritchard and Mayer Fortes. The publication of African political system's ethnographic articles established the theoretical foundation of structural functionalism and its methodology for more

than a decade of research into politics of pre-industrial societies (Lewellen 2003:7-9). This study also marked the beginning of modern anthropology (Lewellen 1983:7).

On the other hand, this type of indirect administration and transplantation of legal regimes in overseas „relied upon pre-existing sources of political authority using indigenous leaders. It involved the creation of so-called 'native courts' that enforced customary or religious laws and hence led to the production of "new forms of legal pluralism" (Tamanaha 2008:182).

Indeed, before 1930 anthropological studies were highly concentrated in a relatively small-scale society of Native Americans, Australian, and Melanesian societies while political and social organizations were not treated as a separate field of inquiry in mainstream anthropology. It was structural functionalists (e.g., Radcliff-Brown) who began to study still functioning large-scale political units in Africa since the 1930 (Colson1968:191). Thus, for about two decades, studies on political anthropology were dominated by the structural functionalist theoretical orientation of Radcliffe-Brown and his students.

The theory looks at society as a closed system in an assumed equilibrium (Radcliff-Brown 1952:3).The static structural-functionalist paradigm maintained through some studies of Evans-Pritchard, Raymond Firth, Daryl Ford, and Meyer Fortes. E.E. Evans Prichard's classical work, „the Nuer (1940a)", for instance, in its chapter on political system tried to show how a society of 200,000 people maintain equilibrium even though there was almost constant feuding with the lack of any centralized government. Nevertheless, structural functionalist theoretical orientation got ardent criticism since the 1960s. Its static nature and its being servant of colonialism became areas of criticism by later scholars (Lewellen 2003:82).

According to Colson (1968:190), the period after 1960 was marked by a paradigm shift in anthropological theories that gave wider rooms for "change, faction, party and political maneuver". Thus, with the decline of the significance of structural functionalist's approach for the understanding of various issues in anthropological studies, including legal systems, a new approach appeared on the stage. These theories considered social change, conflicts, processes and actions as significant factors for social developments rather than the vice versa. Turner's 'Schism and Continuity in an African Society' (1975), and Edmund Leach's 'Political Systems of Highland Burma'(1954) and Max Gluckman's various works, 'The Zulu in African Political

Systems' (1940), as well as 'Custom and Conflict in Africa' (1956), and 'Order and Rebellion in Tribal Africa' (1960) represented the new paradigm in political anthropology.

These seminal works focused on conflicts, processes, and changes as an inevitable part of societal development than as phenomena deterring social progress. Gluckman, for instance, said that „a phrase that came to represent a new orientation to society based not on structure and function, but on process and conflict" (Lewellen, 2003; 9; Barnard, 2004:84).

Following the emergence of nation-states and industrial revolutions that brought about colonization, there emerged a need to directly or indirectly govern the colonies. This inevitably required having a law. Thus the legal system of the West was considered as a weapon to control the local community. Anne Griffiths (2002:291) noted that

> "...while European or Western law was imposed on colonial subjects, it was also recognized that such law was inappropriate in certain cases, for example, in governing the family life of subrogated persons and that regulation of such matters should be left to the local, customary, or indigenous law of that group. It, therefore, became necessary to make a study of these forms of law to provide for its incorporation within the framework of the colonial state. In this way, the local, customary, or indigenous law was viewed as something 'other' than Western law, as a separate and distinct form of law. Under this model of legal pluralism, the state defines the parameters that mark the territories of legal systems within its domain, such as customary and Islamic law, in ways that depict them as separate and autonomous systems."

Tamanaha (2008:382) further outlined the three strategies the colonizing powers employed to expand their system of influence and incorporate customary or religious law. These strategies were: „the codification of customary or religious law; the application by state courts of unwritten customary or religious law in a fashion analogous to the common law; and the creation or recognitions of informal or 'customary' courts run by local leaders." We see from the excerpt, the emergence of legal pluralism in its „weakest"(Griffiths J.1986); (Merry 1988: 869), (Griffiths A.2002)) and "new form" (Tamanaha 2008:384) dates back to the late nineteenth century. This time, however, does not by any means mark the genesis of strong legal pluralism.

Rather, it marks the onset of the decline of the legal status of customary and religious laws vis-a-vis state law since the introduction of a nation state modeled after European context curbed the activities of customary and religious courts hitherto handled multiple of cases in the continent. Therefore, these developments are considered as precursors for the development of legal anthropology in general and new form of legal pluralism that laid a foundation for contemporary legal pluralism, in particular, as an academic pursuit.

Recent research works indicate further that the contemporary emerging legal anthropology focuses on „the complex dynamics of plural legal constellations in current social formations in the context of globalization"(Franz von Benda-Beckmann and Keebet von Benda-Beckmann 2006:1).The general frameworks of this study also lie in the context of developments as mentioned earlier and try to link the empirical analysis with the mainstream literature on legal anthropology in general and legal pluralism in particular.

3.5. The Genesis of the Modern Study of Legal Pluralism

There are various explanations of the genesis to the scholarship of legal pluralism. One version attributes the modern conception of legal pluralism (the weak or the juristic view) as was conceived in 1772 as a fixture of European experience (Griffiths 1986:6). According to Merry, for instance, the intellectual genesis of legal pluralism harks back to the discovery of indigenous forms of law among remote African villages and New Guinean tribesmen to debates concerning the pluralistic law under advanced capitalism (Merry1988:869). Other scholars (e.g. Benda-Beckmann, 2002) indicate that four decades have passed since the scholarship of legal pluralism was born, and it is still under discussion among scholars. He further continues saying that in the roughly forty years in which the concept of legal pluralism has been used in legal and social scientific writings, it has become a subject of emotionally loaded debates.

Griffiths A (2002:290), and Gad Barziali (2008:395-396), for instance, outlined that the idea of legal pluralism originated in the 1970s, while Tamanaha (2008) noted that the concept has emerged as an academic discussion since 1930s. Other scholars, however, push the origin of the concept back into earlier times. Pimentel, for instance, states that „the concept is ancient, having been an issue wherever competing societies have overlapped, including undoubtedly the earliest cases of conquest and occupation" (Pimetel 2011:1).

Twining (2010:12) also noted that the idea of legal pluralism is not a recent phenomenon. Rather, monopoly of a coercive power by a centralized bureaucratic state is a modern exception.

Thus, state legal system has a recent history than legal pluralism does. It has always proved easier to govern a conquered people according to their laws (Pimetel 2011:1). Even if some sources attribute the emergence of legal pluralism to the colonization era, others indicate, however, that legal pluralism is everywhere long before this time (Merry 1988: 869). Tamanaha (2008:375,379) goes on further to trace the origin of legal pluralism 2000 years back as a dominant legal system in Europe pinpointing its existence before the contact of the so called the Western law with the indigenous system in a colonized world. He observes that „Until recently, however, no one thought to describe these ubiquitous situations as a matter of legal pluralism“ (ibid.: 389). Additionally, the existence of the broader EU laws and member states' laws have not until recently been conceived as legal pluralism, albeit the situation is a manifestation of the notion (Tamanaha 2008: 389). June 23, 2016, Brexit event has also become indicative of the conflict of laws between national and laws in EU quarter in Brussels. Thus, despite the fact the genesis of legal pluralism harks back to ancient time, the 1970s has marked a turning point for the notion to have got attention within the academics in legal anthropology through studies of law in colonial and post-colonial situations (Merry1988, Tamanaha 2008:389). Nevertheless, legal pluralism has been part of the humanity until nation state emerged and limited its application. Tamanaha (2008) further states that legal pluralism is a common historical condition. He also said that the positivist view of law obscures the place of legal pluralism in society, and that „the long-dominant view that law is a unified and uniform system administered by the state has erased our consciousness of the extended history of legal pluralism“ (ibid.: 376). Tamanaha argues that the transplantation of legal regimes by Western European powers and the subsequent production of legal systems are „new forms of legal pluralism that laid the foundation for contemporary legal pluralism which combines the legacy of the past with more recent developments connected to the processes of globalization“ (ibid.).

The legal history of Ethiopia is also a reflection of the rich historical episodes Ethiopia has passed through that involves the inner jumbling and intermingling of the country's ethnic groups (Lapiso, 2000).Taking into the complex interactions and intermingling of the Ethiopian people have undergone before the creation of the modern Ethiopian states at the end of the 19 the century consideration, I also believe that the history of legal pluralism hacks well back to beyond the late 19th-century colonization era. In line with this, Tamanaha (2008: 381) makes the following argument.

> "Wherever there were movements of people, wherever there were empires, wherever religions spanned different language[s] and cultural groups, wherever there was trade between different groups, or different groups lived side by side, it was inevitable that various bodies of law would operate or overlap within the same social field. Hence, these were common conditions; the kinds of legal pluralism that existed in medieval Europe no doubt existed elsewhere."

I also argue that the creation of the modern Ethiopian state in the 19th century has limited the application and status of legal pluralism rather than becoming a turning point for the genesis of the plural legal systems in the country.

3.6. Law as a Contested Terrain in A State-Society Relations

"[l]aw and the social context it operates must be inspected together" (Moore 1978: 719).

The place of law in a social structure is a bone of contention among scholars who focus on legal pluralism. Researchers indicate that the concept of law has never been resolved since various disciplines ranging from law, socio-legal studies and legal anthropology have their own versions of the notion (Griffiths A. 2002 309; Tamanaha 2008:391).

Law was classically considered as "a sign of civilization marking a transition for humanity and society from an irrationality to rationality state of being as well as a weapon for bringing development" (Evans Pritchard, 1940; Fortes, 1940; Griffiths A. 2002). In this regard, Europe's law was considered as a reflection of its advanced stages of development, while others with "indigenous law" or "savages"(Malinowski, 1940) were at the lower stages of development.

Kelsen, a jurist, views law as „a hierarchical system composed of norms promoted by a set of centralized institutions whose validity is in turn derived from a supposed fundamental norm (1960). Twinning (2010:4) states that even if it is contested, many consider the conception of law as „confined to state law leaving out too many important phenomena deserving sustained juristic attention, including religious law, customary law, and certain other kinds of transnational and supranational normative orders". As mentioned above, Sally Moore conceives law as having „contextual character" (Griffiths A. 2002: 302), while Fitzpatrick (1984) considers law as the „unsettled resultant of relations with a plurality of social forms and hence law's identity is consistently and inherently subject to challenge and change" (Griffiths A. 2002: 303).

Anthropologists, however, approach law as a form of normative ordering that includes rules and processes. The anthropology of law has evolved significantly from viewing law as a measure of civilization and savagery to understanding it as a new cultural feature and form of power.

Malinowski considered law as 'all the rules concerned and acted upon as binding obligations' (1926:55). Contemporary anthropologists investigate law ethnographically, by looking at disputes in spaces that lack formal legal institutions and codified law, as well as in the institutional sites where a law is produced. With the growth of globalization and transnational law, anthropology has extended its scope to explore the dialectical interaction between multi-forms of law. Plural legal systems, each invested with particular modes of authority, are seen as a feature of all societies (Merry, 2000).

Two major debates have surfaced out among socio-legal, anthropological and lawyers in delimiting the conception of law. To begin with, for legal centralists „law is and should be the law of the state, uniform for all persons, exclusive of all other law, and administered by a single set of public institutions" (Griffiths 1986:3; Griffith A. 2002:289).This version assumes law as a single unified, exclusive and hierarchical normative ordering and considers „the state as the fundamental unit of political organization" (ibid.). Other scholars, however, criticize making the state to have a monopoly of violence as stipulated in the Weberian conception (Klute and Embalo, 2011). Moore further asserts that "...neither effective sanctions nor the capacity to generate binding rules is the monopoly of the state" (Moore 1978:744). Growing literature also indicate that there are various forms of conceptions of law that co-exist in a plural social setting.

Scholars have begun to pay attention to a broader and pluralist conception of law. Contemporary works have explored, for example, the dynamic plural legal systems (Franz von Benda-Beckmann and Keebet von Benda-Beckmann, 2006; Tamanaha, 2008, Twining, 2010). Therefore, legal anthropologists and socio-legal scholars conceptualize law from the nexus between state and society perspective. In this regard, researchers observe that the state enforceable rules (Pospisil 1971:4), socially binding rules (Moore 1978:744), and the ordering of social groups of all kinds (Malinowski, 1926; Griffiths, 1986; Woodman, 1996; Tamanaha 2008:391) should be considered as law.

This is due to the different roles the rules play and function as the law of a particular group they are a part. This group of scholars state also that law is not limited to official state legal institutions, and there is a multiplicity of legal levels and legal systems in a social group. Moreover, Woodman's concepts, for instance, extend the concept of „law" to include non-state modes of social ordering (1996:158).

Tamanaha, however, tries at least implicitly to criticize the second position that „just about every form of norm-governed social interaction is law, and hence, we are swimming, or drowning, in legal pluralism (Tamanaha 2008:393). Nevertheless, he attests that law characteristically claims to rule whatever it addresses, but the fact of legal pluralism challenges this claim (Tamanaha 2008:376).The idea of understanding of the law in pluralistic ways seems to gain ground. Griffiths, for instance, indicates that all activities engaged in regulation activities in a social group, in Moore's semi-social field, are considered as law (Griffiths 1986:35). This assertion seems to be going with the contemporary conception of law by Tamanaha who expounds that law has taken pluralistic form in the modern world (Tamanaha 2008:376).

Understanding the problem of differentiating between the legal from the non-legal, Woodman attests that 'law covers a continuum which runs from the clearest form of state law through to the vaguest forms of informal social control (1998:45). As a leading scholar in the field of legal anthropology, Griffiths John points out that „all social control is more or less legal" (Griffiths 1986:39).

Researchers, however, state that the contemporary legal system is characterized by „hybridity or fluidity"(Tamanaha 2008:403),and "legal hybridism" (Santos de Sousa 2006; Franz von Benda-Beckmann and Keebet von Benda-Beckmann, 2006; Berman, 2012).

Tamanaha goes further to indicate the plural nature of law as a problem to have a clear understanding of law in the state-society cosmology. He said that the difficulty of the term is that legal pluralists are unable to distinguish 'law' from other forms of normative order (Tamanaha 2008:392).

As a result of the continued argument, some scholars seem bored of the debate over the concept of law and recommend dropping the discussion of the notion of law and focus on social life (Merry 1988:878). John Griffiths set forth the concept of law that is adopted by most legal pluralists (at least among anthropologists and sociologists).

 As a way out to a stalemate, Griffiths argued that Sally Falk Moore's concept of the 'semi-autonomous social field', according to which social fields have the capacity to produce and enforce rules (Moore 1978:719), is the best way to identify and delimit law for legal pluralism (Griffiths 1986:38). One of the challenges, argues Griffiths, to studying legal pluralism is the notion of „legal centralism" that is a reflection of the moral and political claims of the modern nation state (Griffiths 1986:1).

He further said that, though not overt, Moore's theory of semi-autonomous social field latently expresses the theory of legal pluralism. Griffiths (2002:309-310), on the other hand, has developed three ways in which an actor-oriented, ethnographic study of law in the strong legal pluralist vein could make a contribution to the debate on the place of law in society. He has outlined these points as a crucial way to understand the law. These are:" law as a system of representation and meaning; mobilization of law at a local, national and international level, as well as state law as shaped by other normative orders." The first category analyses law in terms of a system of representation that creates meaning within a system of state power. It also considers or focuses on the processes by which law comes to be a sign of cultural identity and the implications that this has for claims to citizenship and for the rights of various ethnic or minority groups. Griffiths (2002:310) states that in this process it is not only the law of the state that constructs meaning but religious law, local normative orders and customary law also generate their versions of identity. As far as the second category is concerned, analysis of law is crucial to construct the cultural identity of the community of which it is a part and link it with national and international networks to champion the right of the local community, including asserting self-administration.

Law is employed by the community in everyday life as the „weapon of the weak" (Scott, 1985), and to foster „democracy from below" (Franz von Benda-Beckmann and Keebet Benda-Beckmann, 2006). The third significance of strong legal pluralism is that it serves as an approach to explore the ways in which other normative orders shape state law that would provide for detailed analyses of its plurality and diversity within legal fields. Anne Griffith's development is a big contribution to understanding law in a contemporary world not only due to its proposition of pluralist nature of law but also owing to pinpointing the "interactive natures of legal systems"(Moore, 1978) in dual ways rather than one.

3.7. Pluralists' vs. Monists' Debate on the Concept of Law

Legal pluralism has brought the concept and meaning as well as the range of law into academic debates since its genesis in the past century (Tamanaha 2008:375). Sociologists, anthropologists, and legal theorists have put forward their views of the concept of law. It ranges from recognition of the existence of legal pluralism by the state law on the one hand, and the non-significance of the state recognition of the existence of differing legal systems for their validity, on the other. The last perspective asserts that state law is only one of some elements that lead to the genesis of legal pluralism in a given social field (Griffiths 1986, Griffiths A., 2002). Law, according to social scientists, is conceived as an empirical state of affair „ (Griffiths A.2002: 290). Moreover, legal pluralism looks into law in its social context. Others, however, describe the law as „a social engineering „(Roscoe Pound 1965 cited in Moore 1978:719) which is pivotal to bring social change in society. Scholars also consider that it is a society that can control law, not the vice versa. On the other hand, legal scholars have viewed „official legal institutions and their normative framework as society's most important component, responsible for the achievement of social order, progress, and economic efficiency" (Gómez, Manuel Alejandro 2008:3). Moreover, they give much attention to formal and official institutions, with a particular focus on the importance of state-sponsored modes of enforcement (ibid.). However, according to scholars like Moore (1978:719), taking a middle ground may help understand the place of law in society. For Moore, law and the social context it operates must be scrutinized together, which is indicative of the plural nature of law in a social arena. Tamanaha further argues that law as a monopoly of the state is a testimony to the success of the state-building project and the ideological views which supported it, a project which got underway in the late medieval period (2008:379).

He goes further to say „the longstanding vision of a uniform and monopolistic law that governs a community is plainly obsolete"(Tamanaha 2008:410).

The forces of globalization have facilitated the cross-fertilization of legal systems. Hence, „law and legal institutions trespass local, regional and national boundaries in which the 'local' is embedded in and shaped by regional, national, and international networks of power and information"(Griffiths A.2002:298). This development has also become one of the challenges to the legal centralists' perspectives. This development indicates that law has no more become a centerpiece to analyze legal systems in a society. It also clearly illustrates that there is a multidirectional relationship among various legal systems rather than one source of law as a centralist conception of law. With this development at hand, scholars (Twining 2009; Griffiths A.2002; Santos de Sousa, 2006) emphasize that nation states are no longer treated as a separate legal entity or source of law either internally or externally.

Anne Griffiths's approaches to legal pluralism which he named, „juristic and deep legal pluralism," have introduced new ways of „reconceiving law." According to this perspective, deep legal pluralism allows for an analysis of the law that avoids the kind of critiques leveled against the weak, juristic or classic legal pluralism. It acknowledges 'legal porosity', which is "the conception of different legal spaces superimposed, interpenetrated, and mixed in our minds, as much as in our actions that constitute inter-legality" (2002:302). Actors in semi-social fields use their agency to resist and influence the state law, and the interaction is characterized by „reciprocity", wherein both the global and local influence each other in dialectical ways (Griffiths A.2002:298).

Due to the development of globalization that dissolves the boundary between different forms of rules and processes, a law can only be understood in a combination of conceptions rather than in a hierarchical procedure governed by the nation state (Nader, 1965; Berman, 2012). Legal anthropologists have placed more emphasis on the process by which disputes are settled, rather than on the substance of the law that emerges from legal decisions. These studies adopt a transactional perspective looking into the strategies actors employ to manage disputes and the choices they make between alternative modes of dispute settlement. This has been referred to as „forum shopping and shopping forums" (Keebet Von Benda-Beckman 1981, Merry 1979). Others further stress that social research should focus on the activities of individuals rather than

law (or how the courts have interpreted the law) to have a good understanding of a given society's internal and external social interaction. Thus, the law itself may have little significance in the understanding of how a community resolves its disputes compared to the social norms or the religious values its people attach to it (Faraganis 1993:13 cited in Khristin, 2016).

It is also essential to recognize the priority officially accorded to state law in these situations, which rarely focuses on the power of law in social life (Tamanaha 2008:385). It is due to this fact that local elders' social power is more influential than state appointed judges among the Siltie. Thus, while the transplanted law held the upper hand on „its domain within the context of the legal system, matters were reversed in social life, where the state legal system frequently was unable to dictate its terms"(ibid.). Nevertheless, the local community also employs state law to champion for their rights in the courts, including customary ones. Thus, the law has become a „weapon of the weak" (Scott, 1985), yet law still remains relatively uninfluential in the day to day activities of the local community.

In this regard, courts of religious leaders and elders are playing a significant role for dispute settlements, on the one hand, and have also become a setback for the protection of minorities and socially secluded communities like potters, blacksmiths, and potters, on the other. Moreover, they are also directly a reflection of local values and norms.

Tamanaha clearly illustrates that state law was impotent, capable only of episodic or targeted interventions. In all situations, norms and institutions that rivaled the state in controlling and influencing the behavior of people continued to thrive (Tamanaha 2008:386).

Taking the above analysis into consideration, my stand on the place of law in state-society relation is the legal pluralist perspective, for the legal pluralist view considers non-state orders as part of law against the positivist's explanation. Thus, in the context of an legal anthropological approaches study, this study adopts non-state orders as law (Twinning 2010:4) since the non-state modes of dispute settlement regulate every day activities of the community (see also Moore,1978) even more than what some consider state law.

3.8. Defining Legal Pluralism: A Contentious Notion

Legal pluralism's cross-disciplinary natures have become one of the problems scholars face to come up with a universally agreed upon definition of legal pluralism (Griffiths 1986:9; Tamanaha 2008: 376). Scholars also explicate that it is difficult to bring one definition of legal pluralism, for the mainstream legal pluralism literature has quite different intellectual roots (Twinning 2010:11).

Twinning further outlines that „the main literature has been bedeviled by an obsession with continuing jurisprudential problems surrounding the concept of law and legal positivism. It neglects theoretical issues both about pluralism and general normative theory" (2010:1), and brings different concepts and orientations to the subject which contribute to the "confusion and disagreement on the very notion of legal pluralism"(Tamanaha 2008:376, 390).

Nevertheless, it is also mentioned that the problem is inherent in the term itself as it connotes or as it is applied „indiscriminately to almost any kind of complexity or diversity" (Twining 2010:16). Even if it is hard to figure out the agreed upon definition and conceptual frameworks for the notion, some authors have attempted to define the pluralistic socio-legal structures at least since the 1930s. The very concept of legal pluralism has witnessed gradual development in line with the development of the scopes and orientations of the socio-legal and anthropological disciplines. To begin with, legal pluralism in the late 19th century referred primarily to „ the incorporation or recognition of customary law norms or institutions within the state law, or to the independent coexistence of indigenous rules and institutions alongside state law whether or not officially recognized „ (Tamanaha 2008:390).

Secondly, with the emergence of the interdependency of various institutions due to globalization, the definition and concept of legal pluralism have also undergone changes. Additionally, as a notion that has crossed different disciplines, legal pluralism has also got various explanations by the fields. For a clear understanding of the intellectual heritage and gradual development of the concept of legal pluralism, it is better to see the trajectories the scholarship of legal pluralism has undergone so far.To begin with, Ehrlich (1936) who is known by his idea called "Theory of Living Law," developed a new conception of plural legal systems in the 1930s. His legal pluralist idea was emerged as a refutation to the legal positivist conception of the law of his time.

The idea had been commended by his explanation about the empirical nature of sociological aspects of the law. He has identified such legal settings as „positivist aspect of law" and "practical juristic science, which Griffiths Jhon calls "the normative aspects of law" (1986:23).

Ehrlich differentiates „the scientific conception of law" which stands for „rules for decision" and from „the practical" one that contains „rules for conduct" (Ehrlich, 1936). He even acknowledges the existence of social forces that deal with the problem of violence apart from the state denouncing the very idea of the Weberian concept of the state. He said, „the state is not the only association that exercises coercion; there are the untold number of associations in a society that exercises it much more than the state" (Ehrlich 1936:63-64). He emphasized more on the sociological aspects of law and contributed to sorting out the existence of some social associations that do not require recognition or installment from the state. He postulates that these social institutions sometimes operate more coercive power than the state in society, and hence points out clearly the existence of strong legal pluralism (Griffiths 1986:23).

Ehrlich has even gone further in explicating the position of the state in society. He states that "[t]he state is an association like all others: it has no particular place to others, nor does its law have a special attribute requiring a distinct descriptive treatment" (Griffiths1986:27). Nevertheless, his theory of „Living Law" has been criticized, for it gives little attention to non-state laws so much as they did not have relevance to the practical aspects of judges. This indicates that Ehrlich's analysis suffers from, albeit his criticism of the state, positivism which assumes that the state and its institutions are dominant legal systems in society (Griffiths, 1986).

Pospisil's „Theory of Legal Levels" (1971, 1978), and Smith's (1974) "Theory of Corporations" are also some scholarly works that discussed the notion of legal pluralism at a time when little attention to the notion has been given. Pospisil criticizes, for instance, some literature that regards a state law above other laws, and hence his work is considered as "a reaction against legal centralism" (Griffiths 1986:15). Pospisil further states that „legal systems can be viewed as belonging to different legal levels that are superimposed one upon the other, the system of a more inclusive group being applied to all members of its constituent subgroups"(1971:107,125). On the other hand, Smith has developed an idea which considers a corporation a unit of analysis in a social group.

Griffiths observes that legal pluralism which is conceived by Smith's (1974) „Theory of Corporations „consists in a description of the various corporate groups of their internal regulatory activity, and of their external corporate relationships with each other (Griffiths 1986:20). Law for Smith is „the inner self-regulation by corporate groups of their public affairs." Griffiths criticized earlier works such as that of Pospisil's which was" influenced by the whole society perspective and unable to figure out the law operating in each subgroup rather than pointing "legal levels"(Griffiths 1986:17).

Later on, authors such as Moore, whose seminal work," Law and Social Change: The Semi-Autonomous Social Field as An Appropriate Subject of Study"(1978), still dominates legal plural studies, have refined the various ideas that describe the existence of plural legal systems in a given socio-cultural setting. Moore's "semi-autonomous social field"(1978) has contributed some points to the development of the descriptive theory of legal pluralism.

Moore's contribution has been accredited for citing the existence of "normative heterogeneity instead of emptiness or vagueness of the social space"(Griffiths 1986: 34). She rejected the state as "the only source of legal rules"(ibid.). All activities engaged in regulation or reglementary activities in a social group, in Moore's semi-social field, are considered as law (Griffiths 1986:35). Moore's concept does not limit the number of distinct systems of semi-autonomy in a given social group. Rather it depends on the "purposes and perspectives of the observer"(Griffiths 1986:35).This assertion goes with Pospisil's explanation which considers that "no society has a consistent legal system, but like many such systems as there are functioning subgroups" (1971:98). He called this kind of legal arrangement or simply legal pluralism as „legal levels." Nevertheless, Moore focuses on „interacting systems" rather than the constructional conception of the socio-legal structure like scholars before her, such as Pospisil and Smith (Griffiths 1986:37).

The semi-autonomous social field points the existence of an identifiable social group which engages in reglementary activities (Griffiths 1986:36). Reglementary activity means a social autonomy as a center of regulatory activity whereby a local community resolves its differences in its subgroup. The tendency of a self-regulating social field and partial autonomy, which Moore focuses on, enables a social group „to fight any encroachment on autonomy previously enjoyed" (Moore 1978:80).

This classical literature laid implicitly, with all their shortcomings, the foundation for the empirical or sociological aspects of law which Griffiths names, „strong conception of legal pluralism" (Griffiths,1986: Griffiths A.,2002).

According to Griffiths A. (2002:302), the legal conceptions of Pospisil, Smith, and Moore connote a deep or strong legal pluralism, which considers legal pluralism as a social fact or an empirical aspect of social life rather than something imposed by the state in juristic perspective. The concepts further lay a foundation for the understanding of law as a process, and an interacting aspect that has no discrete boundary with social norms. Moreover, the semi-autonomous nature of social fields, for instance, undermines the "hegemonic claim to universal validity and dominance of state law" (Griffiths A.2002:303).

Moore's concept further deconstructs the classic or juristic perspectives that consider all legal systems are rooted in state law. Scholars have appreciated the model as one of the ways of grasping the descriptive conception of legal pluralism (Griffiths 1986; Griffiths A. 2002:303). It is also crucial to understand the dynamics of change and transformation in society.

With the above explanations of plural legal settings at hand, let us now cast a glance on how scholars delimit legal pluralism. Taking ideas from Vanderlinden's (1971) definition of legal pluralism, Griffiths underlines that legal pluralism is not a theory or an ideology, and it does not require the existence of more than one legal system. The existence of multiple legal modes is enough in this regard (Griffiths 1986:12). According to lawyers, for instance, legal pluralism is defined as "the existence of multiple systems of legal obligation within the confines of the state" (Hooker1975:2).

 Pluralism as a normative concept, also refers to a system that recognizes certainly other norms emanating outside state institutions along with a state ordained system of standards. In an attempt to clarify the concept of legal pluralism, I entirely count on Twinning's (2010) conception not only because he has gone in detail to define pluralism, but also because his studies have taken ideas from Ethiopia's legal experiences (ibid.:376). In this regard, he states that „plural" implies more than one, and it can be applied to persons or objects. It assumes that these units are discrete or individuated. Thus, he stresses that pluralism is used as a normative and descriptive concept. Taking an idea from political science dictionary, Twinning states that pluralism is "[a] theory which opposes monolithic state power and advocates instead increased

devolution and autonomy for the main organizations that represent man's involvement in society" (ibid.: 2).

In an attempt to resolve an intellectual battle over the concept of legal pluralism, Tamanaha (2008:396) introduces what he calls a „simple approach" to understand contemporary legal pluralism without indulging into conceptual problems of law. He observes that „legal pluralism exists whenever social actors identify more than one source of 'law' within a social arena „. He defines legal pluralism as multiple uncoordinated, coexisting or overlapping bodies of law that may make competing claims of authority (ibid. 2008:375).

The existence of multiple active sources of normative ordering is considered as a yardstick for a social arena to be legally pluralistic. In this regard, Tamanaha (2008:398) sorts out six categories of normative orderings that have mostly been discussed in studies of legal pluralism to this day. These are (i) the official legal systems, (ii) customary/cultural normative systems, (iii) religious/cultural normative systems, (iv) economic/capitalist normative systems, (v) functional normative systems, and (vi) community/cultural normative systems.

Even though Tamanaha's identification is helpful to understand the notion of legal pluralism in a given social arena, his analysis is not without pitfall. First, he could not clearly outline the difference between cultural/customary normative and community/cultural systems that derive their legitimacy from a community they are a part. I believe that the seemingly two categories are one and the same. Second, others like functional and capitalist ones derive their legitimacy and are also reflections of a nation-state interest rather than standing as a separate legal system by their own. Rather, they can be subsumed under state or positivist legal system. Thus, I argue that instead of having six categories, a social arena can comprise at least three legal regimes: state, customary and religion.

However, global norms that have been orchestrated by WTO, WHO, and UN can also become fourth nominee legal systems, especially in a contemporary world. Griffiths John (1986), on the other hand, has introduced two approaches to understanding the concept of legal pluralism: weak, juristic, or classic pluralism that is linked with lawyers' perspective, and "strong, deep, or new pluralism" which is the social science's perspective.

He was very much keen to develop "a descriptive conception of legal pluralism" based on the empirical world rather than normative analysis. The strong, deep or new legal pluralism provides a model for doing this. It recognizes that legal pluralism exists in all societies.

He states further that the existence of multiple forms of ordering and their authority in a society is not necessarily dependent upon a state's recognition (Griffiths A.2002:299). Anne Griffiths further delineates that the juristic perspective or classic legal pluralism „that cannot serve as the basis for an analytic and descriptive framework of pluralism because the relationship between the law of the state and other law is predefined."(2002:303). Anne Griffith's criticism on the weak legal pluralism amplifies two issues which the juristic perspective mainly stands for. First, the notion stresses that any conception of law must necessarily be based on Western legal theory.

It is thus a denial that a more adequate, less ethnocentric theory of law can ever be developed for comparative purposes. Second, it leaves the ideology of state law intact, for it continues to define law in parochial terms that continue to exclude all those that are 'other' because they fail to conform to its remit (Griffiths A. 2002:309). On the other hand, Twining has tried to construct eight definitions of what he calls "social fact legal pluralism" that can be accepted by „most anthropological and socio-legal studies up to the mid-1990s" (2010:11).

He briefly outlines the feature of social fact legal pluralism as it "is mainly concerned with a plurality of co-existing institutionalized normative orders" (2010:15). First, he states that if one adopts a broad, positivist, conception of law, legal pluralism is as much a social fact as normative pluralism. Second, he noted that it is important to distinguish between state legal pluralism (Merry, 1988) (sometimes called weak legal pluralism (Griffiths, 1986; Griffiths A., 2002)), legal poly-centricity (the eclectic use of sources within different sectors of one state legal system (Petersen and Zahle, 1995), and legal pluralism conceived as the co-existence of two or more autonomous or semi-autonomous legal systems or sets of norms in the same time-space context. Third, he explained that legal pluralism is pervasive in all multicultural societies. He also observes that acknowledging legal pluralism does not necessarily entail ignorance of state law, abandoning of human rights, democracy and liberal ideology including „the withering away of state institutions (2010:13).

Moreover, the notion of legal pluralism has become a major topic in legal anthropology, legal sociology, comparative law, international law, and socio-legal studies (Tamanaha 2008:376).

Twinning has stated above that scholars in various fields define legal pluralism in one or other ways. Pospisil and Griffiths, for instance, defined it as „ a situation in which two or more legal systems, based on different sources of ultimate validity and get their legitimacy of various sources of law, coexist in the same social field" (Pospisil, 1971; Griffiths 1986:38).

According to Twinning (2010), the concept of legal pluralism refers to legal systems, networks or orders co-existing within the same geographical space or jurisdiction. The term is also descriptive of a situation in which two or more distinct legal regimes exist within the same political community.

Taking ideas from Moore's „semi-autonomous social field theory"(Moore, 1978), Griffiths asserts that since „law is present in every semi-autonomous social field, and since every society contains many such fields, legal pluralism is a universal feature of the social organization" (1986:38).

Socio-legal scholars also stress that legal pluralism is everywhere, as Griffiths (1986:38) calls its existence as „omnipresent," refuting the traditional ideas that emphasized the origin of the concept to be during the colonial time (Moore 1986; Tamanaha 2008:375). It is argued that between the body politic and the individual, there are interposed various smaller social fields to which the individual „belongs." These social fields have their customs and rules and means of coercing or inducing compliance (Moore 1978:721). The Siltie, for instance, employs local values such as *Berche, Tur, Fero (*See also Chapter Seven*)* as sanctioning or enforcing mechanisms in the customary and religious courts. Based on this idea and ideas from Pospisil, we can say that having the monopoly of using coercion or threatening to apply force cannot become a yardstick to differentiate the legal norm from other like social norms, as various social fields have the capacity to induce compliance.

Some literature (e.g., Twinning, 2010) also indicates that there is a reciprocal relationship between state and non-state orders. He, for instance, observes that a state may acknowledge the existence of a non-state order without giving it any legal status. However, the state may also subject certain conditions or limitations to non-state orders (Twining 2010:9-10).Griffiths, on the other hand, states that if a state's recognition of customary law is a prerequisite for existence of legal pluralism, it is a „deviant situation" rather than strong legal pluralism (Griffiths 1986:9).

Twining, however, indicated that classifying normative orders into legal and non-legal has no practical and theoretical importance (Twining 2010:5). Tamanaha states, however, that there is an empirical distinction between state law and other forms of normative ordering. And hence, putting all normative orderings under one category is unscientific (Tamanaha 1993:88).

Griffiths Anne states, however, that Tamanaha's rejection of strong legal pluralism, albeit he has converted his stand on strong legal pluralism later (Tamanaha, 2000), emanated from legal pluralism's anti-state law's ideology which presupposes that non-state or indigenous law is right, a bias that renders the concept inadequate as an analytical tool for legal analysis (Griffiths A. 2002:307, Woodman 1998).

As the conceptual aspect of legal pluralism is rare to define, some social settings that appear legally plural should also be clarified for the better understanding of the notion. The diversity of rules within a single legal system, for instance, vary from the existence of coexisting legal regimes that derive their authority from different sources to the multiplicity of norms that operate under the same legal system. John Griffiths, for instance, mentioned that the existence of the various rules for different classes of the population does not constitute legal pluralism in a strong sense so long as it is recognized by a single legal system (1986:11). For him, the existence of different rules for the various groups in various geographical areas also cannot qualify a country to have legal pluralism in a strong sense. John Griffiths also spells out that the recognition, incorporation or validation of laws by the state should not be a prerequisite for the existence of legal pluralism. In criticizing the state's recognition of non-state orders, Twinning (2010:10) states that „what the state accords or imposes may not be what a given group wants and that such demands or claims may be contested within a given population."

Thus, recognition of non-state orders is a contending issue that is considered by scholars as a „political matter" (Twining 2010:10). Moore notes that this state of affair is emanated from a „juristic view of legal pluralism" or „state legal pluralism" (Moore, 1988)

Despite all these attempts to define the notion, Woodman presents his version of the notion by viewing legal pluralism as an ethnographic field that includes state law (Woodman, 1998). Woodman's perspectives by challenges the dichotomic division of legal systems in a given socio-legal settings. This idea also challenges the hot debates between legal pluralists and legal centralists over the supremacy of state law over others (Greenhouse 1998:61).

For Griffiths (1986: 4), legal pluralism is „an empirical state of affairs in society". Legal pluralism has been defined as „the idea that more than one legal system operates in a single political unit" (Santos de Sousa 2002:89). However, a close inspection of the various definitions of the notion underpins that legal pluralism entails not only coexistence but also conflict or competition among the different systems of law (Masaji, 1998).

Masaji goes on to say that most of the definitions of legal pluralism have focused on the coexistence of legal systems as if each system of law is working in harmony with another system in the social structure. He asserts that „[i]n practice, there are numerous conflicts between coexisting plural systems, albeit irregular they may be" (ibid.). Moreover, it is indicated that the various studies done so far on legal pluralism have not treated the subjective perspectives or the viewpoints of the local communities on the practices of legal systems in a social life.

While broadly indicative of the general understanding of the concept of legal pluralism, Jhon Griffith's definition of legal pluralism is not without pitfalls. He, for instance, places much emphasis on the social aspects of law, paying little attention to what he calls to „weak legal pluralism or juristic legal pluralism." A similar attempt to define legal pluralism was made by Tamanaha (2008) who has gone in detail to trace the genesis of the notion and goes further to provide the contemporary definition of legal pluralism. In his seminal article, „Understanding Legal Pluralism: The Past to Present, Local to Global"(2008) Tamanaha explains in depth how legal pluralism originated and operated historically and developed in due course of time in various parts of the globe including the western world. He further notes that legal pluralism is everywhere. It seems that he emphasized on the lawyers' perspectives in defining the concept, but candidly explained that legal pluralism by its nature challenges the supremacy of state law, and he portrays legal pluralism as a „rival to legal authorities" and politically challenging the nation states.

He also underlines that the existence of multiple legal systems may pose „potential conflict that can generate uncertainty or jeopardy for individuals and groups in society who cannot be sure in advance which legal regime will be applied to their situation" (Tamanaha 2008:376). He further indicates that this state of affair creates opportunities for individuals and groups within society who can opportunistically select from among coexisting legal authorities to advance their aims.

Keebet Benda-Beckmann (1981) calls this aspect of legal pluralism „forum shopping". To wind up, the above definitions also indicate that the very aspect of legal pluralism entails not only coexistence of various legal systems, but it also entails that complementarity, competitions, negotiations, and isolationism are its features (Moore, 1978; Griffiths 1986:39). To recap, legal pluralism challenges the assumed monopolies of the state in making, administering, imposing, and sanctioning the law.

3.9. Legal Centrism's One-Size-Fits-All Approach: A Declining Paradigm

As described above, legal pluralism is viewed in literature from two perspectives: social scientists' and lawyers' perspectives. One of the major areas scholars disagree whenever they discuss legal pluralism is the role of the state in maintaining social order in a given social arena. The idea that considers the sole monopoly of violence is subsumed under the notion of legal-centrism.

As mentioned earlier, most sociologists and anthropologists including some lawyers define legal pluralism as „the presence in a social field of more than one legal system"(Griffiths 1986:1; Griffiths A, 2002; Tamanaha, 2008; Twining, 2010). One of the challenges that have become a hurdle, Griffiths argues, to study legal pluralism is the notion of „legal centralism" which is a reflection of the moral and political claims of the modern nation state. Legal centralism or „legal monism" (Maldonado (undated 1)) underlines that „there must be one and only one centralized, and hierarchical legal system in each state" (Griffiths, 1986; Twinning, 2010; Kelsen (1960)[51].

Kelsen (1881–1978), an Austrian jurist and philosopher who is known by his „a pure theory of law" , also underlines the state as he main actor in administrating justice (1960:1, 7). He goes on to say the „Pure Theory describes the positive law as an objectively valid order and states that this interpretation is possible only under the condition that a basic norm is presupposed" (1960: 217-18). He further notes that there is no difference between state and law.

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[51] The Pure Theory of Law (Stanford Encyclopedia of Philosophy) https://plato.stanford.edu.entries/lawphil-theory/ (accessed on April 5, 2017).

For him, the state is the group of norms created by the sovereign. Law, according to Kelsen, is a hierarchical system composed of norms promoted by a set of centralized institutions whose validity is in turn derived from a supposed fundamental norm. For Kelsen, hence, the law of the state excludes any other system of standards which poses competition. He also stresses that all legal norms of a given legal system ultimately derive their validity from one basic norm giving the state law the ultimate power for a monopoly to use force.

Griffiths states, however, that social fields vary from each other with the relative existence of pluralism, and some are more pluralistic than the others. It is not, however, easy to define legal reality due to the prevalence of the legal centralist idea that overestimates the state law as the principal authority and hence becomes a hindrance to the development of a general theory of law (Griffiths1986.4). Additionally, scholars such as Moore indicate how the state encroaches social fields in an attempt to monopolize violence. She states that one of the most usual ways in which centralized governments invade „social fields in their boundaries is through legislation"(Moore 1978:723). Thus, legal pluralism has challenged the idea which considers the state the only institution which contributes to maintain social order. As controversial as it is, the discussion seems characterized by an ideological debate. In this regard, some literatures have discussed the issues, yet rarely have they come up with consensus on the subject.

Twinning (2010:6), for instance, observes that state-centrism or the concept of state centralism connotes four ideas as part of extended debate. First, he states that at the level of description, the state is the only institution that contributes to social order. Secondly, in his view, the empirical cases indicate that at least in modern societies, state law is in practice the most important form of law: it is dominant, technically superior, and stronger than other forms of institutionalized ordering. Thirdly, Twinning observes that in his normative claim, the state has sole and supreme authority in a given territory or space and it has a monopoly on the legitimate use of force. Last, he asserts that the state's ideological claim that offers the best or only hope for the realization of liberal democratic values, such as democracy, equality, human rights, and the rule of law.

As a leading socio-legal scholar, Denis Galligan points out that there are forms of non-state law that coexist and intersect with state legal systems. He acknowledges that many claims made for the state's social role are extravagant, that it can be ineffective or worse, and that non-state normative orders, whether recognized as legal or not, often have social utility. However,

Galligan concludes that „the modern democratic state provides the best hope for achieving some social goods, including human rights, the rule of law and democracy „(Galligan, 2007).

In respect of the subordination of non-state law, he recognizes that there can be semi-independence or semi-autonomy, but denies claims to complete autonomy (ibid. 176-7 that grounds the propositions of Moore (1978).

Other scholars also stress that the centralist view of legal pluralism may only work in a culturally, and economically homogeneous society (Hooker, 1975). He, however, said that „this kind of society is an exception (ibid.1975:1-2). He further goes on to the extreme position by recommending that the national legal system to abolish the indigenous one by taking the superior political position among other laws. His proposition to put the national legal system in superior strata (1975:4 cited in Griffiths 1986:9) to the extent of validation of the indigenous systems to the standard of the national legal system resembles partly the Ethiopian reality. The Ethiopian 1995 constitution gives concessions to the religious and customary laws to consider private matters without empowering the system's legal status (Art.34/5/;78/5) and making the constitution the supreme law of the land (Art.9(1)). Thus, Hooker's dichotomy of the legal system into „dominant and serving law" (1975:4) is a clear indication of the influence of centralist perspective in his analysis. Anne Griffiths (2002), on the other hand, notes that adopting legal pluralism as strong or deep is crucial to understanding the gender, globalization as well as the lived realities of a social group than the normative, a historical orientation of the weak or juristic perspective of legal pluralism. In pointing the agency of local actors, Norman Long (2001) states that actor-oriented perspective is essential because it refuses an analysis of the local as a system that is simply acted upon through the imposition of external institutions that derive from national, regional or international agencies.

Added to this, Griffiths Anne contends that an actor-oriented perspective provides an opportunity to examine not only how the global shapes the local but also how the local responds to the changes (Griffiths A.2002:305). Thus, the weak legal pluralism gives more power to the state to regulate other laws; activities to ascertain whether they go against the moral of the society or to review their decisions by the state courts or by other authorities.

One of the problems with the notion of weak legal pluralism is also that it privileges unity as a must meet goal and a prerequisite towards progress and development of modern nationhood rather than valuing diversity.

Thus, in multi-ethnic states such as Ethiopia, the state centralist project cannot be harmonized with the values and norms of the people. In addition, the legal centralist jurists push for the state to have a "recognizing" status as a validating source to other forms of normative orders is a clear indication of the ideological battle of the legal centralist project with the pluralist one. On the other extreme, Griffiths has gone further to say that legal pluralism is a fact, and legal centralism is a myth, and illusion (1986). Galanter also stressed that law in the modern world is plural rather than monolithic (Galanter 1981:20), and he further said that an official legal system is a secondary form of social regulation in social life. These kinds of discussions further indicate the inherent battle among scholars over the concept of legal pluralism. Moreover, Twinning underscores that individuation of legal systems is difficult as „not all normative and legal systems have precise boundaries"(ibid.: 3). Twinning's conception also hints the emergence of legal hybridism in the social world. He further indicates that legal pluralism is a social fact, and he has also become puzzled why many lawyers are not convinced of the existence of legal pluralism even if each of the scholars experiences it on a daily basis (2010:4).

Griffith further states that legal pluralism is conceived as „imperfect law" by legal centralists, which leads them to give it less value even if it has got formal recognition in various states (Griffiths 1986:8). Some, however, consider the existence of plural legal setting as a challenge that brings the possibility of forum shopping and hence conflict of laws (Alemayehu 2004:8). Nevertheless, several kinds of literature (Santos Bonaventura de Sousa, 2006; Tamanaha, 2008; Twining 2010; Markakis, 2011) indicate that globalization has indicated the state law has rarely had a monopoly over others. Rather it has weakened the sovereignty of the state itself.

 In an attempt to indicate the bilateral relation between the society and the state, Fitzpatrick (1984) developed the concept of 'integral plurality' that underscores the interaction among normative orders based on the scheme that the state law is constituted in relation to a plurality of social forms. In this case, Anne Griffiths (2002:303) states that Fitzpatrick introduces the idea of how the state law is shaped by its constituents and the vice versa.

Moore further said that the new or deep legal pluralism has reoriented legal analysis from the ideology of legal centralism towards a dialectical analysis of the relationship among normative orders. This new approach provides a framework for an understanding of the dynamics of the imposition of law as well as a resistance to it" (Griffiths A. 2002:304).

On the other hand, the state seems to have only minimal control in the Islamic society where Islamic laws are applied based on the perceptions and understandings of four schools of law which accept each other's differences. In an Islamic court, a *Qadi* can act without any consideration of the existence of the state itself. This is because „...Islamic law historically precedes and transcends the state (Sherman, 20)[52]. Islamic law, thus, intrinsically antagonizes with the idea of a modern state. This means that there is an entire universe of legal rights and obligations that are authoritative and deeply felt in the hearts and minds of people yet entirely independent of the state. The political theory underlying the modern nation state is ill-equipped to deal with this reality. Consequently, modern Muslim states tend either to seek to co-opt the religious law or to suppress it (ibid.). This clearly indicates that Islamic law is not grounded in any commitment to the dictates of legal centralism. Nevertheless, „it emphatically and unequivocally endorsed the principle of the rule of law"(Sherman, 14). Even though he upholds the legal centralist perspective, Sherman attests that „whether we are talking about the Muslim world or America, the homogenizing agenda of legal centralism finds itself in increasingly apparent competition with sub- and non-state reglementary regimes of various forms, origins, and degrees of authority" (Sherman 19-20).

3.10.   Some Points on Criticisms of Legal Pluralism

Even though the expansion of globalization had blurred a nation-state's boundary and reshaped the Weberian state concept which in turn has brought about plural legal settings to operate more effectively than before, the strong legal pluralism which scholars proposed could not escape criticism. Teubner (1992) and Tamanaha (1993), for instance, regard the concept as vague and hard to define, and analyze empirically.

 Tamanaha further states that acknowledging the non-state norms may bring about incorporation into state law as a result of their recognition by designated state officials.

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[52] Sherman, A. Jackson. Legal Pluralism and the Nation State: Romantic Medievalism or Pragmatic Modernity? Accessed on 22/10/2015 at 8:45.

When this occurs, he argues, the non-state norms become transformed in such a way that they can no longer be identified as non-state norms. Thus, weak legal pluralism cannot exist (Griffiths A.2002:305), on the one hand, and the idea of the monolithic vision of state law also seems to hold no water, on the other. Tamanaha stresses further that „the longstanding vision of a uniform and monopolistic law that governs a community is plainly 'obsolete' „(Tamanaha 2008:410). Greenhouse (1998:61-62) also describes the state law's discourse for supremacy as „contested" that it cannot take into account the social movements, ethnic and identity politics as well as globalization that have unfolded in a contemporary world.

Studies indicate that complex and dynamics plural legal systems have become the features of contemporary legal systems in various parts of the world (Franz von Benda-Beckmann and Keebet von Benda-Beckmann (2006: 1). Taking the legal realities of Ethiopia (the Siltie as an ethnographic field as a case), this study further argues that a legal centralist approach, which is the basis of the one-size-fits-all approach, can only be effective with populations that are more or less substantively equal. It is due to this understanding that scholars like Sherman state that employing a homogenous law in a multi ethnic states where peoples who differ historically, socially, religiously, culturally live will often produce a different effect" (Sherman, 20). Thus, more than becoming a hot table debate among scholars, legal pluralism „may offer some very practical alternatives for the culturally, religiously and ethnically diverse 21st-century nation-state" (ibid.). I argue that the state-centrist project is at its dead end. Thus, for the purpose of this book, I adopt the legal anthropological conception of legal systems which is subsumed under the definition of Jon Griffiths (1986) and Woodman (1998).

Jon Griffiths (1986) defines a legal reality of a given socio-cultural setting that includes „the activities of all legal systems operating in the study area based on their authority not necessarily controlled by the state law, and rather the state law itself is equal among all" (Griffiths 1986:4).

Nevertheless, other scholars indicate that a social researcher should also focus on actions of individuals than structures or institutions for a better understanding of the social life of a society like such as the legal system. By drawing on Giddens's analysis of structure and action, according to which action shapes structure and structures constrain and enable actions, Henry (1983) creates a space which allows for human actions to have an impact, even where the persons who carry out them may be powerless (Griffiths 2002: 303-304).

Greenhouse (1998: 66) notes that the ethnographic attention paid to the political and normative connections among social fields is crucial to grasp the legal realities. Thus, a theoretical framework and analytical approach, I adopt the agency-structure to better understand legal pluralism among the Siltie.

3.11. Globalization or Glocalization: The Development of Legal Hybridism as an Emergent Legal System

The introduction of the new world order in the post-WWII in most developing countries brought about profound legal and judicial reforms that were alien to the cultures of the distant people such as Africa. These new paradigms gave little room for multicultural, and local modes of dispute settlement that had existed among these people from time immemorial. This development has also weakened African countries' sovereignty (Gunderson, 1992; Santos de Sousa, 2006). As a result, the newly independent African states could not deliver public services including judiciary to their people (Klute and Embalo, 2011). Following these developments, most of the post-independent African countries have become fragile, and this cleared the ways for the emergence of microstates within a state that challenged even the very existence of the state apparatus. Santos indicates that the inefficiency of multi-ethnic states like Mozambique has led to the emergence of local power as alternative non-state actors and later brought about what he calls a „heterogeneous state"(ibid.:6). By a heterogeneous state, it means a state that lacks a unity of the state and its legal and administrative structure. The development of the fragile nature of the state owing to both external and internal factors has thus paved the way for the resurgence of the traditional authorities that have become alternative legal and political modernity in the developing countries (Santos de Sousa, 2006). Studies indicate that the imposition of external pressure has met strong challenges from the traditional authorities, whose power sprouted afterward (Bellagamba / Klute 2008; Santos de Sousa, 2006; Klute and Embalo, 2011), and even questioned the significances of the centrality of the state. Recent studies further indicate that „ ...despite securing political independence in the 1950 and 1960, many African countries have remained dependent on foreign governments, calling into the value and meaning of their sovereignty" (Cheeseman 2016: 2), Thus, the infiltration of foreign forces into African countries' internal affairs has influenced the "internal and external sovereignty of the state"(Franz von Benda-Beckmann and Keebet von Benda-Beckmann 2006: 9).

In some cases, the state and its agencies have socially been embedded where local actors have resurrected their powers and are actively involved in administrating and maintaining social orders (Franz von Benda-Beckmann and Keebet von Benda-Beckmann 2006: 9).

Studies by Klute and Embaló, among others, note that the re-emergence of non-state political actors can not only be associated with the weakness of state structure has partly been exacerbated by the above factors (Klute, Georg; Birgit Embaló, Idrissa Embaló 2006: 4). Rather it can also be fermented by „a particular vitality of sometimes very innovative, at times revitalized neo-traditional forms of social and political power on a local level" (Bellagamba / Klute, 2008). The global and local changes Africa has experienced in the last decades have brought about a hybridized form of institution. This new kind of institutions has got various names, which include „Entangled State" (Franz von Benda-Beckmann and Keebet von Benda-Beckmann 2006: 9; Klute, Birgit Embaló, Idrissa Embaló, 2006) or „Heterogeneous State" (Santos de Sousa, 2006). In this social setting, no unidirectional relationship has been observed among legal systems. The state law becomes one among the existing laws. It has, however, become sometimes embedded by others notably customary ones. Empirical data indicate that the local community uses both state and non-state versions of law such as *Berche* to bring justice and social orders. They usually use state law as a weapon to protect their rights.

The community has also used the state legislation to force state officials and oppressors, like women used to bring back their husbands in case of domestic violence, to abide by the law. *Warrie, Gogot, Abotgare* and clan institutions (See more in Chapter Five and Six) are important tools to maintain social order in the area. This indicates the existence of complex power relationship between state and non-state actors and how state and its agencies are socially embedded. This development also shows the changing status of state from controlling and protecting violence to becoming one among the many.

Studies also indicate that the hybridization or mutual influences of coexisting legal systems are not a recent phenomenon. It was also observed during colonization period (Tamanaha 2008:384).

Both sides of this dual system influenced one another in various ways, including exchanging or recognizing the other's norms (ibid.). Nevertheless, the increasing economic and social pressures that surpass national boundaries (Santos de Sousa, 2006; Tamanaha 2008:386) due to globalization further accelerate the porosity of legal systems' boundaries to interfere with each

other's prerogatives. This state of affair has led to the coming into being of what Griffiths calls, "cross-fertilization", a process whereby rules in one system are shaped by and are shaping those in another (Griffiths 1998:134).

Moore (1978) has also underscored the existence of, albeit not openly, interlinking social fields or legal systems in a given social setting. Moreover, the expansion of migration and the blending of various norms into national traditions in different parts of the globe has also led to the emergence of the hybridized form of culture, and hybridized form of legal system including the western world (Tamanaha, 2008). Additionally, the post-1990s political changes Africa has experienced have brought quite a large number of projects mainly from the West, which were aimed at developing, reforming and bringing social changes. These processes „fragmented organized state structures and administration or caused their collapse" (Santos de Sousa 2006; Franz von Benda-Beckmann and Keebet von Benda-Beckmann 2006; Klute; Birgit Embaló, Idrissa Embaló 2006:4). These new developments have weakened the African states' capacity to implement state laws. Thus, post-modern enthusiasm for fragmentation, diversification, and indeterminacy further threatens to reduce the value of „pluralism" as an analytical concept (Twinning 2010:17). Such circumstances may provide opportunities for customary and religious dispute settlement institutions to re-emerge and become at times even more robust than state laws in maintaining the social order of the society (De Jong, 2005; Klute and Embalo, 2011). Santos de Sousa (2006), for instance, introduces the notion of 'shared sovereignty' which exists between local and global forces and the nation states in the African continent. Studies such as by Brock-Utne indicate that since indigenous values and norms are embedded in society, the customary system seems to work quite effectively (Brock-Utne, 2001) and also developed a certain power to embedded "state" (Franz von Benda-Beckmann and Keebet von Benda-Beckmann 2006).Thus, the state could not become a powerful institution which imposes its rules and norms on the community. Rather state actors including state court judges have developed alliances with local actors and have become members of various local institutions, customary as well as religious ones. This personal union of membership has further boosted the local actors' legitimacy on the one hand and indicated the weaknesses of the state agency, on the other. Moreover, globalization has brought about clear impacts on "declining roles of the state's traditional legal functions" (Tamanaha 2008:386), for it is observed this day the sprouting of privately owned security firms that maintain social orders in various social settings.

Thus, this state of affair challenges the Weberian perception of the state, on the one hand, and has heralded the emergence of hybridized form of legal systems in the world including Africa, on the other.

3.12.   Legal Hybridism: An African Perspective

As mentioned above, Africa is a legally pluralist continent. Many people of the continent have developed customary dispute settlement and religious institutions. Legal pluralism is a practical reality in a number of countries in the world, most notably in the post-colonial states of Africa. These newly independent states are grappling with how to preserve the cultural heritage reflected in their customary law and institutions, even as they attempt to function as modern constitutional regimes (Pimetel 2011:13). Many of these constitutions specifically preserve a role for customary law and recognize the inevitability of legal pluralism in the state (ibid.: 1). Access to justice has come out as one of the major failures in achieving the rule of law in many post-colonial African countries (Pimetel 2011:13).With the inefficiency of the states to deliver justice, the customary and religious actors provide efficient justice to the community (Tamanaha 2008, Pimettel,2011).This is also true in the case of Ethiopia since much of the justice system is delivered in the country at a local level using customary systems (Alula and Getachew 2008: V). This indicates that the customary laws must be harmonized with any reforms built on such retention.

Public confidence in the customary courts is high, even higher than it would be in any newly-imposed statutory court (Pimetel 2011:14). Moreover, African states are also suffering from political interferences in the judiciary systems that further worsen the operation and reliability of the state justice systems.

Studies indicate that despite the fact that some improvements have been witnessed in the application of the rule of law in the continent, the judiciary still suffers from political interference from the executive organ of governments in Africa (Peter Von Doepp 2013:37).

Cheeseman states further that there is an absence of „an independent judiciary and police in contemporary Africa" (Cheeseman 2016:3) which can influence delivering justice to the community on the one hand and negatively affects the legitimacy of the state judiciary on the other. Other studies, however, indicate that there is cross-complementarity between local, global and national legal systems within African societies.

This phenomenon is conceptualized as legal hybridization (Santos de Sousa, 2006). Some scholars further argue that hybridism is a normal condition in our globalizing world (Boele van Hensbroek 1998:14; Tamanaha 2008: 409). In a globalized world, frontiers are no barriers for the movements of ideas; boundaries are breached all the time, and it is hard to draw boundaries for systems due to the diverse and complex nature of the changing world (Long 2001: xi; Tamanaha 2008:386). In this sense, hybridism seems to characterize the legal pluralism existing on the contemporary African continent.

Heterogeneity can also be categorized into two: individual and group-based heterogeneity (Tamanaha 2008). This socio-political heterogeneity exists in social arenas that contain individuals oriented to Western liberal norms and with persons who are oriented to non-Western customary or religious normative systems, respectively. Taking the heterogeneity of its constituents into consideration, one can say that Africa is bound to hybridism. In the same vein, Ethiopia in general, and the Siltie area in particular, are also characterized by both individual and group heterogeneous social settings. This applies to both rural and urban Siltie.

Despite attempts to delimit features of legal pluralism defined the concept as a co-existence of legal systems in a socio-cultural setting, the empirical data indicate that legal actors cross-reference legal norms from the different legal regimes characterizing the growing of complex legal landscape that can be perceived as legal hybridism.

3.13.   Practice of Legal Pluralism: Experience from Ethiopia

Ethiopia's historical and political milieu is particularly rich, for the country is one of the oldest independent political entities in the world and has existed as an independent polity for more than two thousand years (Bahru 2000; Alula and Getachew 2008:2). The country is also said to be characterized by socio-political heterogeneity because it hosts some discrete groups, often differentiated by language, religion, ethnicity, and culture, or sometimes by clans, factors which can exist in various combinations (Tamanaha 2008:403).

The country is a legally plural state not only because it hosts different ethnic groups that have their normative orders but also has embraced constitutionally sanctioned federal and state laws that co-exist with other normative orders such as customary and religious ones since 1991. This coexistence has got constitutional guarantee after the ratification of the 1995 constitution since the country has introduced a new political experiment known as "Ethnic Federalism".

The current Ethiopia's legal system reflects the country's history and politics including the various doctrines, be they religious or ideological, institutions and other historical episodes the country has passed through at least since the 19th century. In this regard, the legal landscape of Ethiopia has passed via some doctrines and ideologies that enriched the national legal systems, and with its ethnic groups having their cultural practices, we can say that Ethiopia already functions as a legally pluralistic society. Studies indicate, however, that the national legal system does not incorporate the customary and religious aspects tantamount to the diversity of the country (Alula and Getachew, 2008).

3.13.1. Interactions between State and Non-State Actors: A Diachronic Approach

The interaction of legal systems in the country depends on the political as well as the ideological orientations of the various regimes that have ruled Ethiopia. I understand interaction as „the reciprocal influence of individuals upon one another's actions when in one another's immediate physical presence" (Goffman 1959: 15). The modern secular imported Ethiopian state installed modern state structures, including the new legal systems, in the newly incorporated areas like the Siltie since the late 19th century (Bahru, 1991). The Ethiopian state was vigorously involved in reforming the national legal system since the 1940s.

The aims of the state formulated and codified laws were „providing a comprehensive body of law in the criminal (penal code) and Civil matters (civil code)"(Alula and Getachew 2008:5). Their motive was conceived based on the belief that „providing a uniform and modern legal regime would be necessary for the socio-economic development of the country and a precondition for effective nation building"(ibid.). Thus, the national legal system has been influenced not only by traditional or customary laws of the country but also by foreign forces like British scholars who were the core advisers to the 19th and the 20th century Ethiopia's Kings.

Contemporary Ethiopia's legal system also has elements from the socialist-oriented Derg regime and the incumbent Federal state (Alula and Getachew 2008:2). The empirical data and some written works (Alula and Getachew, 2008), however, indicate that these different doctrines, institutions, and practices persist today and co-exist in unhomogenized and unharmonized ways with the state legal system (ibid.). Against the country's feature as a pluralist state, the various Ethiopian regimes tried to supplant the local systems since the 19th century.

The local *Siltie Serra* has, however, persisted to this day. The 1931 and 1987 constitutions did not recognize the customary laws as legally necessary for the country. Studies show that Ethiopia's governments have employed various strategies to regulate the interaction of multiple legal systems in social arena that range from developing neutrality to curbing the free exercise. Studies indicate that in an attempt to control the local systems, official state legal systems can utilize some strategies, ranging from permissive to prohibitive (Tamanaha 2008:403).

Even if it is appreciated by many as a radical departure from the past by legally recognizing pluralism, a scrutiny of Ethiopia's 1995 constitution reveals that it does not allow other normative systems apart from the state to operate freely.

The customary and religious laws cannot be fully implemented as per the values and norms of the society they are a part. Rather, the constitution conditions their activities in some ways. Other studies indicate, however, that „there were times in Ethiopian history when the state legal system officially incorporated elements from the traditional institutions of dispute settlement in the state courts" (Meron, 2010). As the ratification and reform projects were initiated politically, they became futile.

Following these challenges, legal pluralism has formally been recognized by the 1995 constitution. The constitution has legitimized traditional systems and has validated the cultural values that underlie them**.** The constitution limits, however, the mandate of the customary and religious institutions to private and family matters. After 2008, these rights have dwindled and come to be devoid of considering these areas. It has since then that the revised family law that has mandated inheritance cases to the state court alone has been introduced in southern Ethiopia. Nevertheless, the customary institutions are playing a very significant role in other domains such as criminal matters. The customary legal systems also continue to consider inheritance cases as well.

The strong social tie existing in the community makes the customary court, whose principal work is reconciliation, an essential forum for dispute settlement. Studies indicate that the customary systems serve as alternative institutions of dispute resolution in a country where the state legal system is failing to fully provide the judiciary needs of the nation (Meron, 2010). Alula and Getachew (2008:2) have further gone to say that the customary system is the dominant legal system delivering justice to the grassroots level in the country.

In general, the three regimes' approaches to legal pluralism, and their policies and orientations have influenced the national legal system since the early 20th century. In this vein, the contemporary legal system has incorporated ideas from the capitalistic orientations of the Imperial period, the *Derg*'s socialistic as well as the current government's ethnic federalism.

As mentioned before it has, however, been since the last two decades that Ethiopia has chosen to embrace legal pluralism in its new constitution, which was adopted in 1995. In this regard, Article 34 (5), entitled "legal pluralism" and Article 78 (5) specifically contemplates linkages between statutory courts, religious courts, and non-state dispute resolution fora. Article 34 /5/, for example, stipulates that "this Constitution shall not preclude adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the disputes." Therefore, the 1995 constitution has given recognition to legal pluralism. Article 78/5, for instance, underlines that "pursuant to sub-article 5 of Article 34, the House of People's Representatives and state councils can set or give official recognition to religious and customary courts." The constitution further goes to say "Religious and Customary courts that had state recognition and functioned before the adoption of the Constitution shall be organized on the basis of recognition accorded to them by this Constitution." Thus, the national and regional constitutions have given some spaces for religious and customary laws to operate in their communities.

If one looks at the various articles that give recognition to the religious and customary laws, one can understand that the legal pluralism of Ethiopia is a bit weak, and can be categorized as „weak legal pluralism"(Griffiths 1986:6). This is because the 1995 constitution gives a supreme status to the constitution. It reads that," The Constitution is a supreme law of the land. Any law, customary practice or decision of an organ of state or a public official which contravenes this Constitution shall be of no effect" (Art 9(1)), and hence gives little concession to customary and religious laws.

The constitution, however, indirectly empowers the state law that can validate the activities of other laws. The cases mentioned in this book indicate, however, that non-state actors deal with all forms of dispute cases against the constitutional limits. On top of all this, the empirical data show that legal pluralism does not exist in a clear dichotomy in the country.

Rather it exists in a unified ethnographic field (Woodman, 1998) characterized by "legal hybridity"(Santos de Sousa 2006; Berman, 2012).

In light of the above explanations, Ethiopia's legal pluralism can be characterized by two aspects. First, the official judiciary is characterized by the existence of multiple tribunals that get their authority from central laws enacted by the state. Scholars name this kind of legal system "state legal pluralism"(Woodman, 1998). Lawyers call this scenario 'a legal system whereby the state incubates a number of tribunals in every sector apart from the judiciary', and they all get their legitimacy from the state and employ mainly the crime and civil codes of the country. Second, the legal system of the country also embodies what Griffiths (1986) and Griffiths A. (2002) call " Deep or social fact legal pluralism." This legal setting is characterized by the coexistence of conflicting legal systems as it embraces the state, religious and customary courts that derive their legitimacy from different sources. The latter has got constitutional recognition (Art.78). Moreover, some call it faith-based legal pluralism (Woodman, 1988; Alemayehu, 2004).

The empirical data indicate that the local legal actors' legal perceptions are also characterized by cross-referencing than a discrete legal system. It can also be said that legal pluralism as an empirical phenomena and conceptual analysis varies. This is because Siltie civil servants are subject to multiple judicial legal systems, party disciplinary measures, work disciplines, and state legal and civil codes.

A multiplicity of norms also characterizes the customary court. The religious system is also composed of Islamic and local beliefs that serve dispute settlement forums among the Siltie and beyond (Meron, 2010; Kairedin, 2016). This goes with what Tamanaha (2008) describes "pluralism of legal pluralism."

3.13.2. The Siltie's Legal World: Legal Pluralism as an Empirical Phenomena

Customary law is made by the people and not the state and derives its legitimacy 'from the participation and consensus of the community, and its recognition of the same by the government' (Abera 2003: 839). Studies indicate that customary dispute resolution is both general and specific in Ethiopia, and it is widespread and found everywhere in the country and has worked historically in the absence of the justice system now and before. Also, it is localized, and the constituency and jurisdiction of customary dispute resolution institutions are limited to particular localities within ethnic groups (Alula and Getachew 2008:1).

As for the characteristics of the customary dispute settlements, Pankhurst noted that they operate at the community level based on trust among people who know each other personally in face to face contexts where the resolution of a conflict is crucial for day to day coexistence. On the other hand, the Siltie's social structure is pluralistic as it embodies at least three legal systems. I have observed that each subgroup among the Siltie has developed a legal structure though it does not as such vary place to place. The empirical data indicate that contradiction of dispute settlement is observed whenever a dispute occurs between subgroups. Every such group owes its existence, to some extent, to a legal system that is its own and regulates the behavior of its members. These multiplicities of legal systems, whose statutory provisions necessarily differ from one to another, sometimes even to the point of contradiction, is also a characteristic of the Siltie legal world, for the social setting indicates the interactions between the various Siltie groups such as *the Melga and Silti* subgroups. This episode reflects precisely the pattern of the subgroups of the society that I have termed „societal structure," or structure of the society (Pospisil 1971:125).

A variety of institutions can deal with disputes among the Siltie. Some of the institutions such as customary court and *Awchachign*[53] derive their legitimacy from Siltie *Ada* or culture, the Siltie's system of normative rules and usages, while Shari'a courts, other faith-based courts and the state court derive their legitimacy from Islamic jurisprudence and national legal system, respectively. Siltie disputants thus can choose from several institutions. This plural legal setting plays an important role for the existence of Forum Shopping in the area.

Forum shopping is briefly defined as disputants' choice of one or another forum of dispute settlement institutions to resolve their problems (Benda Beckman 1979:117). The forums, community leaders or customary court functionaries themselves use disputes to accumulate power and strengthen their leverage among the local community as well as for their local political ends (Benda Beckman 1979; 117). *Awchachign* is employed by both the state and non-state actors as a local investigative mechanism in the area. One can say that the aspects of legal pluralism characteristic of the Siltie dominion can be explained as „pluralism of legal pluralism"(2010). In this regard, state law may be one element in an instance of legal pluralism, and there are also cases of pluralism within the legislation of a state itself as well (Woodman, 1998).

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[53] It is a local crime investigating institution used by both elders and police officers to sort out hidden crimes for which it is hard to get evidence.

3.14. Concluding Remarks

To recap, anthropology in general and legal anthropological thoughts, in particular, has undergone a number of changes since the late nineteenth century. The notion of legal pluralism has crossed multiple disciplines and has become an important concept in socio-legal and anthropological studies. The place of law has also made changes from positivists' view that considers state law is only the law of the state excluding the roles of non-state forms of social orderings that also have the capacity to maintain social order. Having used the diachronic and synchronic approaches, this book has thus indicated that legal pluralism has become not only a concept under hot debate among scholars but also a practical reality which can be analyzed empirically in multi-ethnic states. The book has examined the current concept of legal pluralism against the development of legal hybridization in the study area, and attempted to portray how legal hybridism has become an emerging legal sphere not only in developing countries but also, in the developed world too. Some African countries and the Siltie's socio-legal settings and the various notions and practices of customary, state and religious courts indicate that legal actors are cross-referencing various social and legal norms to consider dispute cases.

This phenomenon shows the coming into being of hybridized legal system in the contemporary world. Hence, I believe that my research contributes to the concept of law (Griffiths 1986; J. Griffiths 1986; Allot and Woodman 1985) by explicating the contested nature of law and how it exists in every semi-autonomous social field (Merry, 1978). It is also believed to contribute to the fluid and hybridized nature of legal systems (Gluckman, 1956; Santos de Sousa, 2000; Lewellen; 2003; Klute and Bellagamba; 2006, Berman, 2012). The research will also have one or another form of contribution to how the local community uses various legal systems to get the best out of dispute processing what Tamanaha calls, 'Strategic Choices' (2008), which Benda-Beckmann names, „Forum Shopping" (1979; 1986 & 2006). It also shows how the community uses state law as a weapon of the weak (Scott, 1985) to coerce state officials and judges to „abide by the law" and bring democracy from below (Franz von Benda-Beckmann and Keebet von Benda-Beckmann, 2006).

The research's intertwined conceptual and empirical based analysis also indicates how dispute settlers use mediation services to accumulate power or shopping forums as an instrument to boost their agency in the community. I believe that the study will add some notes on the notions

of 'Shopping Forums' (Benda Beckmann 1971; 1986; Franz von Benda-Beckmann and Keebet von Benda-Beckmann, 2006). Moreover, by linking the Siltie's local experiences with Ethiopian ethnic federalism, the study demonstrates how the nexus between the local, the national and partly global norms can create diversified legal perceptions for dispute settlers. The data also indicate the features of cross legal fertilizations that are unfolding in the local arena that in turn help understand the interactions of extending local actors to the theoretical debates of legal pluralism. It is also important to grasp the notion from empirically based insights. The various conceptual and empirical analyses presented in this study are necessary to grasp the changes and dynamics of the concept of legal pluralism in a globalized world (Franz von Benda-Beckmann and Keebet von Benda-Beckmann, 2006).

In sum, the combined conceptual and empirical analysis of religious, state, and customary courts' activities will help to understand the interactions between state and society in Africa and possibly beyond. The analysis also indicates that the post-colonial African countries' active interest to resurrect their norms and values coincide with the coming of new world order that paralyzes the power of the nation state which in turn weakens the capacity of African countries to maintain their sovereignty. This scenario has affected the countries' powers on the one hand and created a power vacuum which helped traditional or neo-traditional actors to resurrect, on the other (Klute, Embalo and Emballo, 2006; Santos de Sousa, 2006). It has become one of the factors for the rebirth of local systems as instruments of maintaining peace in parallel with the state on the one hand and the emergence of diversified the legal system in the local arena, on the other.

CHAPTER FOUR

4. THE LOCAL POLITICO-CULTURAL AND SOCIAL CONTEXTS: AN ALTERNATIVE MODERNITY

4.1. Introduction

The chapter presents empirical data generated from the field on the genesis and operations of Siltie's local administration that embodies kinship and territorial based systems of governance. It also looks into the local cultural and socio-legal contexts of the kinship and territorial systems that indicate the roles of local governance for dispute settlement. The chapter also illustrates that the local socio-cultural structures are regulating the daily life of the people and work concomitantly with the state imposed systems by maintaining their cultural foundations. It also discusses the local community's modes of resistances to the political and cultural systems imposed on them by state. The chapter argues that even though the state establishes its administrative system, the Siltie's local governance system functions parallel with the local administrative structure and becomes an alternative systems at the grass-roots level. It further argues that the local politico-cultural setting is characterized by plurality.The chapter further argues that the state actors at the grass roots level develop a divided loyalty between the state and the local system by involving into both the state social courts and local dispute settlement sessions. It also argues that clan leaders employ the state system as a mechanism to control those whom they consider to be deviant to the local norm, while the state actors use clan leaders as instruments of local development mobilization.

4.2. The Genesis of Siltie's Grand Norm: YeSiltie Serra

The Siltie had been governed through *YeSiltie Serra* local governance since at least 9th century. The Siltie have given two versions to *YeSiltie Serra*. First, they describe the various norms and values that regulate the interactions of members as *YeSiltie Serra*. Second, *YeSiltie Serra* is also associated with a traditional system of governance the Silties employed to govern themselves in the form of territorial and kinship organizations (See section 5.4 for the discussion of *YeSiltie*

Serra). The Silties have been employing elders' assemblies that operate from *Burda* (band) to the *Bade* (supra-tribal or chiefdom) levels since a long time.

According to some written sources (e.g.Abdulfeta, 2002) and some informants[54], the origin of *YeSiltie Serra* as a system of local administration goes back to the 9th century Muslim Hadiyya Sultanate in central and eastern Ethiopia.

Even though they are unable to tell how it came into being, some informants mentioned that the Siltie employed this institution to administer themselves for a long period of time. Nevertheless, other key informants[55] said that the Siltie system of local governance emerged in the 16th century. According to these informants, the Siltie ancestors (e.g., Hajji Aliye) who came from ancient lands in the east settled in the present Siltie land in the first half of 16th century. After the Siltie arrived at the present land, the legendary father of the Siltie, Hajji Aliye distributed the lands for elders of the people, and they began to administer their respective lands based on *YeSiltie Serra*. Hajji Aliye is believed to be the first administrator of the Siltie land.

Furthermore, there are studies that strengthen the genesis of *YeSiltie Serra* in the 16th century. Abraham and Habtamu (1992), for instance, indicated that *YeSiltie Serra* emerged following the arrival of the Siltie ancestors from Eastern Ethiopia in the first half of 16th century. The authors further stated that the system came to be undermined in the mid-19th century with the emergence of strong men who concentrated power in their hands (Abraham and Habtamu 1992:41-43). Abdulfeta (2002), on the other hand, pushed back the origin of the system to the mid-9th century. According to his reconstruction, the Siltie have passed through three systems of governance: clan based segmentary systems of administration, centralized systems of Islamic sultanates' administration and supra-tribal organizations or chiefdoms (Abdulfeta 2002:96-97).

Abdulfeta points out that the clan-based system of administration was employed by the people before Islam came into the Siltie land in the 8th century. He underscores that the Siltie had used the Islamic system in Shoa and Hadiyya sultanates from the 8th to 16th century. Following the

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[54] Interview with Sheik Yusuf Kemal, Ato Kaire Sule, Ato Hamid Azma Hassan, Ato Kairedin Azma Hussein in February and April 2016 in Silti, Lanfuro Wereda, and Werabe Town. These individuals are the most valuable informants who know the history and culture of the Siltie deeply. Most of them have started a movement aimed at reviving the Siltie traditional institutions in the area. But I understand that the activities to revive the Siltie Elders' Council have proved to be futile.
[55] Interview with Hajji Hussein Hassan, Gerad Kedir Teka, Hajji Hussein Busser on April 1/2015 in Worabe Town. These individuals are also a member of the committee. Some of them such as Gerad Kedir Teka and Hajji Hussein are clan leaders in Sankura and Dalocha Weredas, respectively.

collapse of Hadiyya sultanate in the 16th century, the Siltie, however, developed *YeSiltie Serra* as a local governance system that persisted until Menilik II conquered the area in the late 19th century (Abdulfeta 2002: 97). Thus, both written sources and informants emphasize 9th and 16th centuries as the origin of *YeSiltie Serra* local administration since these historical episodes are associated with the collapse of Shoa and Hadiyya Islamic Sultanates to which the Siltie claim to have historical relations.

4.3. YeSiltie Serra: Meaning and Functions

According to some informants[56], *YeSiltie Serra* has a broader meaning that goes beyond being an appellation for system of local governance. It signifies the norms and values that every member of the Siltie society is expected to respect and abide by. It also implies treating someone modestly and developing good relationship with humans and forgiving one's wrongdoing. *YeSiltie Serra* also teaches one to treat his/her guests hospitably. Visiting patients and burying the dead are also subsumed under *YeSiltie norms* and values. Aadland (2002:41) defines *Serra* as an „asset of local cultural norms or codes regulating the communal social structure and interaction.“ From local legal perspective, *YeSiltie Serra* is defined as an amalgamation of social norms and values that regulate the day to day activities of members. Furthermore, informants also stated that[57], *YeSiltie Serra* has been playing a pivotal role in maintaining the unity of the people. By using this institution as a centripetal force, the various segmented clans and sub-clan of the Siltie were united to combat the expanding forces of neighboring groups, and push their lands further into the neighboring areas as well. Moreover, the system was employed to resist the expanding forces of the central government in late 19th and the first half of the 20th centuries. Also, the institution has helped the people foster and sustain the common identity. It has also played important roles in mobilizing the society for local development endeavors.

Thus, *YeSiltie Serra* can be expressed as an important institution and has been deeply integrated into the political, social, and cultural lives of the Siltie society. In the post-Menilik II period, it was reduced to ritual than a strong political institution. *YeSiltie Serra* has begun to resurrect in the post-1990s period when Ethiopia has adopted an Ethnic Federal system. Based on this new

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[56] Interview with Ato Abdulwaris, Hajji Mifta Siraj, Hajji Hussein Bussera, and Ato Kairedin on March 25,27, and June 2016 in Silti, Dalocha, and Werabe Town. I also used the data from an ex-field note and updated for the new dissertation.
[57] The informants mentioned in 38 above.

orientation, the various ethnic groups have started to develop their customary system of governance.

Such a paradigm shift in central government policy paved the way for *YeSiltie Serra* to gain an opportunity to revive due to the recovery of identity assertiveness and sentiments in the country in general, and among the Siltie, in particular.

My key informants noted that the Siltie local social, legal and political leaders, such as *Moro, Murra, Ragas,* and *Gerads* are important political figures who work at local socio-legal assemblies. *Ye Siltie Serra* has two broad wings in the local administration of the community: kinship and settlement based systems. Siltie elders work in the various levels of *YeSiltie Serra* as local leaders, and mediators. For instance, the smallest customary local administration parallel to state's administration level called *Gote*[58] is known among the Siltie as *YeBurda Baliqe Shengo* (Hamlet elders Assembly). Next to this level, we find *YeAzegag Baliqe Shengo* (Village Assembly). Then, there is *YeMewta Baliqe* (Supra-village Assembly), and finally *Yebad Baliqe Shengo/Chale* (Local Chiefs' Assembly).

Local assemblies comprise both the offices of a local leadership and those of the customary courts. According to the FGD participants[59], such local actors as *Mesaki*/head of family/, *Murra, Moro*, and *Gerad*s exercise the local political power, while the *Maga* and *Raga and Ferezagegne* (See more in chapter five) are legal actors who are working in the customary courts. There are also various kinship organizations that function as political and legal forces in different levels of *YeSiltie Serra* assemblies. As one of the clan leader[60] in *Dalocha* Wereda said, the traditional elder assemblies are organized based not on territory but on clan and sub-clan groups to oversee cases in their respective localities. These are *Yechiro Dilapa Serra, Yemelga Serra, YeSumm Silti Serra* and *YeAlicho Serra*. These institutions also come together once or twice a year to discuss their common issues such as how to keep the norms and values of *YeSiltieSerra* and hand over suspects who move from one locality to another to avoid punishment. According to the

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[58] Gote is the smallest state administrative level below Kebele that consists of less than 500 people.
[59] This relies on FGD that was conducted with eight informants, namely; Hajji Hussein Hassan, Hajji Hussein Bussera, Sheik Yusuf, Hajji Mifta, Gerad Kedir, Ato Kaire Sule, and Ato Hamid Azma Hassan on May, 2016 on the annual Siltie History, culture and language Symposium in Werabe town.
[60] Interview with Girazmach Hussein Bussera on April 3/2016 in Dalocha Wereda. The informant serves as Chiro-Dilapa clans in Dalocha and Hulbareg Weredas. He also works, as the traditional judge (*Raga*) in the area.

informants[61], such assembly is known as *Melcho*, and the general assembly where representatives of Siltie clans attend is *YeMula Siltie Chale* or *Melcho* (Supra-clan Assembly). Men dominate the *Melcho* assembly.

My experience and observation among the Siltie reveal that *Melcho* leaders consider every issue including social and dispute cases. *The Gerad*, for instance, can decide or act as a local elder to settle disputes at various levels of administration. Therefore, most of the time, the two offices are held by a single individual. A *Raga* in one locality can become *Maga* in another area. The local power, particularly *Murra* and *Gerad* positions can pass from father to son. Even if it is not clear how the people choose the local legal experts or *Ragas*, informants said that one can become a *Raga* based on his maturity, marital status (should be a married one), knowledge to handle issues and social acceptances in the society. There is also a high possibility of transferring the position from father to son. The value and belief systems of the people serve as powerful enforcing modes for the decisions of elders (See more below). There are also strong sanctions that oblige the members of the society to abide by the decisions of the Siltie *Melcho* at various levels. Therefore, every pronouncement of *Melcho* meetings is binding for the Siltie at all levels. Here also, only male head of the household can attend the council meetings. In addition to becoming areas for ending disputes, such gatherings become stages for elders and household heads to deliberate on various issues pertinent to the communal life in the area.

4.4. The Kinship-Based and Territorial Assemblies: Two Wings, One Grand Serra

The Siltie local socio-legal systems are composed of two forms of governance that are mutually interdependent. The local community uses the territorial and lineage based systems to regulate its daily activities and live peacefully among themselves and with their neighbors. Local actors like *Mesaki*, *Dagna* and *Gerad* have developed a divided loyalty to their customs and the state as they cooperate and compete with the state and religious institutions. There are two systems that are organized in territorial and lineage lines.

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[61] Interview with Ato Kairedin

4.4.1. Territorial Assemblies

4.4.1.1. Hamlet Assembly (YeBurda Melcho)

Burda is the smallest territorial administrative unit of the Siltie local governance. It is comprised of socially and geographically defined contiguous households each of which is built on the separate land of a given family. *Burda* also comprises of neighborhood people (*Yeola Sebbe*) who in everyday life are engaged in more or less regular face-to-face contact, have strong ties and engage in mutual cooperation. *Burda* members share joy and grief more closely than other configuration of *YeSiltie Serra* structures. Every household within *Burda* level has an obligation to take part in the social life of the community. *Burda* consists of 20-30[62] households that are tied in various social gathering (e.g., dinner party-*Yurbat Serra*) and cooperation like house building for elders who cannot repair or build their houses. If the house of a member of the *Burda* is damaged, members of the *Burda* are expected to repair or build new house for the victim. *Yurbat Serra* is a local system of cooperation whereby every member of the *Burda* is expected to contribute food for a dinner in mourning ceremony when a given individual passes away in the village. *YeBurda Baliqes* regulate minor issues such as disputes between the husband and wife, neighbors, quarrels over boundaries, debt cases, and absence in mourning ceremonies. *YeBurda Baliqe*s also oversee such physical works as building mosques, repairing elder's houses, and destruction of property by animals are all brought first to *YeBurda* elders before taking them to either state courts or other customary courts.

The Siltie name the legal actors at this level *YeGenet Baliqes,* which means local elders. Nevertheless, *YeGenet Baliqes* are involved if parties want to invite a mediator or resort to the third party (*Yegute Baliqe*). Although it is changing now for various reasons including dispute over land, my experience at this level indicates that most of the household disagreements are settled through forgiveness (*Afeytu*) between the two sides. However, if a case is once referred to elders, members of the society respect elders' decisions. According to the respondents[63], the oaths and belief systems of the Siltie are the forces behind the implementations of elders' decisions. In this regard, as part of *YeSiltie Serra* elders' decisions are respected and accepted. Any failure to respect elders' decisions provokes curse from elders that is believed to cause

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[62] The households in different territorial level are roughly counted by elders who lead the local social activities. Since the local settlement pattern is a patrilocal one and is mostly dispersed, members the community can easily guess the number of households in a given area.
[63] Interview with Ato Kaire Sule, Weizero Rukia and Gerad Awel

failure in social life, business, harvest and any other bad fortunes in the life of the person (See more on the concepts of *Berche* and *Tur* in the next sections).

In addition, since it is the smallest territorial arrangement, *Burda* level is also an important area for the society's interaction at birth, bereavement, marriage, harvest, house construction, farming and land clearance, and road and bridge construction. The services rendered at *Burda* level are not only confined to social activities, but the *Murra*[64] as a leader of *Burda,* also mobilizes members for local development. One can get the *Murra* position based on seniority, wisdom, spiritual prestige, and material wealth. These criteria also work for other levels of *YeSiltie Serra*. Local politics is decided in formal and semi-formal meetings of male elders. Women's role at this level is advising their husbands on various issues. The socio-jury functions of *Burda* and its proximity to the community make it to be strongly tied to the society as an important grassroots peacemaking force. Some cases, however, may not fully be resolved here. For instance, murder cases, land disputes, and any problems that the *Murra* and *Magas* are unable to resolve at *Burda* level will pass to the next level called, *YeAzegag /YeGenet Serra* (village assembly).

4.4.1.2.   Village Assembly (YeAzegag /YeGenet Serra)

Azegag is the second local territorial level among the Siltie. It is also called *Genet*. *Azegag* is a village-wide assembly of the people. It is headed by village heads or *YeAzegag Baliqes*. It comprises a number of *Burda* in a village. It roughly consists of 30-75 households that are tied together in various socio-economic activities in the village. Those issues that are not resolved at Burda level will be considered here by *YeAzegag/YeGenet Baliqes*. *YeAzegag (Genet)* level comprises also a number of clans and sub clans. Funeral ceremonies (*Yeqebere Serra*) are organized at this level. Participants of *Yeqebere Serra* gather from different villages where the deceased person's extended families lived. In this system, every male member of the village and nearby areas is expected to attend the funeral. It is the role of the head of the village to oversee the participants. Like *Burda* level, *YeAzegag Serra/Genet* level also encompasses *Yurbat Serra*[65] (dinner collection system).

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[64] The man who holds *Murra* position exercises the smallest political power in *Burda (*Hamlet council) level and works also with *YeBurda Baliqes (elders), and* the *Mesaki*.
[65] *Yurbat Serra* is a local form of cooperationthat is also found at the *Azegag* levels (parish council) to help the deceased families in providing food for mourners.

This system is mainly regarded as the occupation of women. Every member of the *Azegag* is expected to contribute its share for the dinner program. Furthermore, *Yurbat Serra* also plays significant roles in social and economic activities of the society. It is pivotal for alleviating the socio-economic problems of the society at *YeAzegag* level as well. Even if herding cattle is arranged at the household level, village heads also organize herding called locally *Yerri-Weddo* and local labor cooperation called *Gezze* and *Usacha* across village boundaries. The heads of *Yurbat* and *Yeqebere* Serra organize members of the village for these purposes, and if any one violates the *Serra*, the head excommunicates them from various social activities in the village. This institution resembles the local self-help organization called Iddir[66]. Together with *YeBurda Serra*, it acts as a social court at *Azegag* level. *Azegag* is similar to *Qebele* administrative structure. One of the key informants[67] expresses the importance of *YeAzegag Serra* for the social life of the local community in the following way: „*YeAzegag/YeGenet Serra* (village assembly) is an important institution that helps us solve our local problems through a communal effort or intervention. If someone passes away in the village, members of the village bury the deceased together. The society at this level also helps each other to alleviate the common problem of the members of the village. Everybody is expected to respect the decisions of the leader of the village. If not, it is believed he/she will have a „bad luck immediately." The state *Qebele* administration uses *YeGenet Serra* to distribute agricultural inputs and collects state's debts from the local community. Informants indicate that the local community mostly follows *Genet* elders rather than state officials as the latter become disloyal to the custom and corrupted individuals. Even if Azegag level is important institution at the village level, it cannot end every dispute cases. Thus, serious dispute cases like murder, which are beyond the level of *Azegag,* will be transferred to the next step: *YeMewta Serra (*Supra village Assembly*).*

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[66] *Iddir* is an institution that serves society as traditional insurance to help somebody, who is a member of it, solve his/her economic problems when she/he dies, or death occurred in the family member. It is a local insurance institution destined to help the community in case of difficulties.
[67] Interview with Ato Abdulwaris Redi on April 10/2016 in Werabe Town. Updated from previous data.

4.4.1.3. Supra-Village Assembly (YeMewta Serra)

Mewta[68] is the third administrative layer within the wider *YeSiltie Serra* territorial structure. It comprises between 200-350 households. The pre-modern socio-economic system of the Siltie was based on *Mewta* territorial system. In this segmentary system, small independent groups administrated their *Mewta*. *Mewtas* were led by local chiefs or *Gerad*s. According to the informants[69], there were fifty *Mewtas* in the late 19th century in Siltie area. These were the 12 Siltie (*Asrehoshet*e Siltie), Five *Melga* (*Amiste Melga*), Alicho Wuriro, fourteen Azernet (*Aserra Arate (14)* Azernet), and seventeen *Berbera* (*Asera Sabet Berbera*). Nevertheless, FGD participants said[70] that the pre „Modern" Siltie socio-economic and political system was composed of 17 *Mewtas* where the major Siltie clans and sub-clans settled.

These were *Summu Silti* (the eight districts of Silti), five *Melga*, *Alicho*, *Wuriro*, and *Azernet* and *Berbera*. Each *Mewta* comprises a number of clans that were governed by their own *Moro* and *Gerad*. The *Moro* controlled the socio-economic activities of the society, while the *Gerad* headed the legal and local politics. According to informants[71], one can get the *Gerad* position based on the services he gave to the community (e.g. mediation), maturity as well as his wealth. It is the *Moro* who can contact local legal actors on dispute cases. The socio-economic system here is also dominated by men. Nevertheless, women's role here is not altogether forgotten. They advise their husbands on various socio-legal issues that concern their husbands in the *Mewta* gatherings. The *Gerads* also gather weekly under a tree called *YeOdda Chale*. The assembly of *Mewta* council is called *YeMewta Melcho* (Supra Village Assembly). Here, the *Gerads* consider issues that have not been resolved at the *Azegag* level. The *Mewta* leaders also act as *Ragas* to settle dispute cases referred from other levels. Abduction cases, disputes between clans and sub-clans, and intra and inter-ethnic boundary skirmishes are the major issues that have been considered at the *Mewta* level. Murder cases are also investigated under the leaders of *Mewta*. The border of each Mewta is hard to draw.

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[68] The idea of Mewta as an administrative structure is widely employed in those areas where the Gun Silti families settle. Lowland Siltie areas use *Mewta* more than Highland ones.

[69] Interview with Ato Abdulwaris, Ato Kairedin, Ato Kaire Sule on March 25, April 2/2015 in Lanfuro and Werabe Town.

[70] This is based on FGD that was conducted with Ato *Dilebo Gebre*, Ato Kairedin Azma Hussein, Hajji *Abdurrahman Shewajo*, Hajji Hussein Barsebo on April 16/2016 in Werabe Town.

[71] Interview with Ato Abdulwaris, Ato Kairedin, Ato Kaire Sule on March 25, April 2/2016 in Lanfuro and Werabe Town.

However, an informant[72] said that *Mewtas*' geographical size is determined by the power of the clans that settled on the territory. Those strong clans with big numbers and influential groups occupied wider areas than the weaker ones. According to informants[73], *Qalbo, Urago, Dilapa, Summu Silti* in general and *Wezir* clans occupy wider areas in the lowland Siltie.

Even though the functionality of *Mewta* system dates back to the pre-19th period, the local community is using the system to this day, especially in identifying one's place of origin. It is usual to hear the saying, *"Mewtahe Aynen?"* which means, "Where is your district?" to know the birth location and residence of an individual. As mentioned above, *Mewta* is a system of administration the Siltie have employed for long.

However, some informants said[74] that it is widely used in lowland areas rather than in highlands. Nevertheless, FGD participants said[75] that *Mewta* is employed in all parts of Siltie land. I, however, observed that lowlanders employ *Mewta more often* than Highlanders who rather use *Joforo* which is more or less similar to *Mewta*. According to informants[76], *Mewta* Gerads assemble weekly, monthly and annually to discuss various issues in their boundaries. They have assistants and advisers on different matters including dispute cases. *Weleb Gerad* and *Yesar Gerad* are nominee local leaders who are expected to replace the *Gerad* in the future after achieving the status to lead. This status can be conceived both as ascribed and achieved. *Weleb Gerad* also served as a spokesperson for the chief of the Siltie.

Informants said[77] that each *Mewta* is led by its own chief *Gerad*, who is answerable to the central ruler of the Siltie land or the highest king called *Gerad Abo*. Each *Mewta* or region is composed of a number of clans which have their clan chief called *Moro/Yegicho Moro* or clan chief. It also has its assembly called *YeMewta Melcho* where various socio- economic, political and religious issues are discussed among members. FGD participants[78] came to a consensus that each *Mewta* governed its territory without perceptible centripetal force that united them. Thus, they do not have a chief that rules the *Mewta*.

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[72] Interview with Ato Kairedin Hussein on 12/2015 in Werabe Town
[73] Interview with Ato Kairedin Azma Hussein.
[74] Interview with Hajji Hussein Hassan and Gerad Teka on April 2/2016 in Werabe.
[75] This is based on FGD that was conducted with Ato Dilebo Gebre, Ato Kairedin Azma Hussein, Hajii Abdurrahman Shewajo, Hajji Hussein Barsebo, Yassin on April 16/2016 in Werabe Town.
[76] Interview with Ato Kairedin Hussein on April 12/2016 in Werabe Town.
[77] Interview with Ato Abdulwaris, Ato Kairedin, Ato Kaire Sule on March 25 /2016 in Lanfuro and Werabe Town.

[78] This is based on FGD mentioned above in 58.

Also, they said that there was no regular communication between each *Mewta* head and *Gerad Abo*, which is indicative of the existence of chiefdoms than state level organization in the area (Lewellen, 2003). Nevertheless, other informants[79] noted that there were times each *Mewta* formed a united front to attack common enemies (e.g. the territorial expansions of adjacent groups, the central government). Good cases in point were the formation of *Gogot* and *YeSiltie Gogot* coalitions in the 18th, 19th and the first half of 20th centuries. During these times, the various Siltie clans and *Mewtas* including sometimes the neighboring people (e.g. *Sodo Gurage*, *Mesqan* and *Hallaba* communities united together to confront the *Libid.o*, the expanding Ethiopian Empire and the Italian forces respectively (Aklilu, 2002; Bustorf, 2011). Therefore, this clan federation came to unite based on the needs of time and segmented later. Therefore, *Mewta*s were mainly operating at their level of organization, yet they were vertically connected to *Azegag* (found below them) and *Bade*, the supra-clan (found above them). *Mewta* leaders also worked as social mobilizing agents for local development programs. They were and still are active in leading the society to plow its land on time, to plant and harvest the land by organizing labor organizations such as *Gezze*[80]. They also encourage the society to plant trees so as to protect its environment from degradation. These are areas of cooperation between local actors and state agents. Furthermore, urban residents also use the *Mewta* system to raise money to help various development programs in their places of origin. They set up such social organization as the Siltie Self-Help Organization using their local *Mewta* names. Azernet Number One and Number Two *Idirs* in Addis Ababa and Saudi Arabia are good instances in this regard. These institutions are established based on their *Mewta*s to help each other in their urban life as well as to extend their helping hands to their compatriots in the country sides. According to an informant[81], there are schools, roads and drinking water projects that are built by these institutions in their respective *Mewta*. The judicial bodies at this level are called *Raga,* a customary lawyer who gets the status through lived experience and in-depth knowledge of dispute settlement strategies.

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[79] Interview with Ato Mohammed Hussein, Ato Kairedin Hussein and Gerad/Hajji Hussein Bussera, and on April 13, 14 in Werabe and Dalocha Towns respectively.

[80] *Gezze* is a corporate activity in which the members of the *Mewta* organize themselves to plow land by paired oxen that comprise 12-14 pairs.

[81] Interview with Ato Mohammed Kedir on June 17/2016 in Addis Ababa.

They resolve dispute cases that came from *Burda* and *YeAzegag Baliqes* (*Magas*). Nevertheless, those cases that are not resolved at *Mewta* level will be transferred to the next level of administration, *YeSiltie Bade Shengo* (General Siltie assembly).

4.4.1.4. An Assembly of Local Chiefs (Ye Bade Serra)

We found *Bade* as the upper tier in the territorial organization of the Siltie. *Bade* is politically self-sufficient level that can control its own institutional machinery for determining its affairs, settling internal disputes under *Yebad Baliqe Melcho* (Siltie Elders' Assembly). Those areas that lie outside *YeSiltie Bade* boundary are referred to as *Dare*. *Dare* is an adjacent country found in neighboring Siltie *Bades*. These areas are mainly populated by other ethnic groups.

Before the late 19th century, the Siltie area (*Bade*) was divided into different districts that had defined boundaries and were settled by local corporate groups. These areas were called *Bade* or *Gae* that has a meaning closer to a 'country'. According to informants[82], there were twelve Siltie *Mewtas/Gae* (*Asrehoshet*e Siltie) in pre-19th century period. It was developed into thirteen *Bades* (countries) during the Italian occupation (1936-1941) after recognizing the Amhara settlers as part of the Siltie administration. *Bade's* boundary was formed following roads (*Ungga*), geographical features such as mountains and the settlement patterns of the residents.

In Siltie oral traditions, the legendary ancestors of the Siltie (*Gerads*) divided the land according to their earlier settlements. Hajji Aliye, who was considered as the founding father of the local system of administration during the 16th century, settled around *Umnan*, his sons settled in Azernet *Mewta/Bade* and formed Azernet, while *Ahmedel Berbera*, who came together with Hajji Aliye, became the foundation for the genesis of *Berbera Gae*. Gerad *Oucha*, the father of *Alicho,* also settled around *Waira* River and later laid the milestone for *Alicho Gae*.

YeBadenet Serra is also a local organization that unified the Siltie society for an extended period. Each *YeSiltie Bade* (similar to country level) was ruled by its own *Gerad, and Azma* for a prolonged period before the incorporation of the Siltie. As mentioned above, the Siltie had no common political or judicial body above the elders' councils or *Serra* of the different subgroups of the society. Nevertheless, there were also supra tribal integrations that had been organized by local Islamic leaders. Bustorf (2011) mentioned that *Haruna Goshete*, Sheik Walle's movement in 19th century and *Sheik Alkesiye's* wider movement in the 20th century were good instances of

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[82] Interview with Ato Abdulwaris and Ato Kaire Sule, May 25,2015, in Lanfuro and Werabe Town

forging supra tribal organizations. This was also achieved by military and political alliances like *Gogot*. *YeSiltie Gogot* was composed of two or more groups including the neighboring *Mesqan* and *Hallaba* groups. In this case, *YeBadenet Serra* also works as an important local institution as a military unit under the leadership of local war leaders called *Abegaz* or *Azmach*. It has also jurisdiction over non-Siltie groups who lived in the area. Whenever war broke out, *YeBadenet Serra* contributed its contingents under these local war leaders to the *Mulla Siltie Harbe* (the whole Siltie army) organized by *YeSiltie Serra* local governance.

As informants said[83], *Azma Ormora Gona* and *Azma Sugato Zeyne's* unified army in the 1930s under the banner of *Gogot* alliance to defend the Siltie land from Italian occupation was a good example in this regard. Leadership was based on merit than hereditary.

The Siltie local army was known as *Gifate*. On the other hand, the different Siltie clans clashed with each other over grazing lands and supremacy for long. In this sense, as informants said[84], they referred to the clash of one Siltie *Bade* with the other. However, each *Mewta* refers to the other as *Dare* to indicate the land lying outside its area. Each *Bade* deals corporately with adjacent *Bade* in amity or animosity incidents, but can also regulate the interactions of its members as a semi-autonomous social field (See also Moore, 1978). The internal affairs of *YeSiltie Bade* and disputes among its members have also been resolved through the institution of *Yebad Baliqe Shengo* (assembly of elders).

Yebad Baliqes are involved in dispute cases that range from marital conflicts between husband and wife to property disputes including land. They also settle murder cases. Men dominate members of *Yebad Baliqe forum/Shengo*. Women, however, play an advisory role for the elders. This suggests that some women participate in this forum. *Yebad Baliqes* also deal with issues of theft, slander, personal injuries, and unintended incidents (*Sekebe*), various murder cases, adultery, and violation of the norms and values of Siltie (*YeSiltieSerra*). *YeBadenet Serra Shengo's* elders are usually summoned when dispute cases are initiated as well as when the elders want to discuss the general conditions of the society. *Yebad Baliqes* also resolve murder cases.

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[83] Interview with Hajji Abdala Mohammed and Ato Mohammed Hussein on March 29, April 7/2012 in Mirab Azernet and Silti Weredas respectively.
[84] Interview with Hajji Kedir Abdela and Ato Mohammed Hussein on March 20, May 26, 2015 in Mirab Azernet and Silti Weredas, respectively.

In this case, there are some procedures disputants should follow to settle homicide cases. Decisions made by *Yebad Baliqes Herrat* (Elders' reconciliation) are binding in that disputants should accept and implement them. It is believed that rejecting elders' decision can bring curse and lose *Tur* (See about *Tur* more below).

If someone violates this decision, he/she may face social ostracism. *YeBadenet Shengo* also works on development issues in the area. The members of *YeSiltie Bade* are unified during cultivation and harvesting time to plow the lands of members of the group and collect the crops under various labor organizations. It is also the duty of elders to organize members of *YeSiltie Bade* for this purpose. Therefore, *YeBadenet Serra* assemblies do not only play important roles for the development of socio-economic lives of the people, but they are also crucial local forces for maintaining order at the grassroots level.

Despite the various state systems' attempts to supplant or at least minimize the role of the Siltie local system, *YeBadenet Shengo* is still active in the countryside. On the other hand, as mentioned above, *YeBadenet Serra* comprises the various *Mewtas* of Siltie land. It considers cases that are not resolved in *Mewtas* and clan-based systems. In *YeBadenet Serra Shengo*, sometimes called *Shenecha* or *Yebad Baliqes* take central place to consider dispute cases. My respondents said[85] that the customary court session comprises three individuals (all male), who have in-depth knowledge about local dispute settlement. The chief judge is the one who takes a seat in the middle. *YeBadenet Serra Shengo* can exercise their executive power if a suspect refuses to comply with its decision. The punishment includes seclusion or boycotting from the day-to-day activities.

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[85] Interview with Hajji/Gerad Hussein Bussera and Kaire Sule, Ato Dilebo Gebre on March 15, April 20, and May 3/2016 in Dalocha, Lanfuro, and Alicho Wuriro Wereda. The former serves as the leader of fourteen Chiro- Dilapa clans in Dalocha and Hulbareg Weredas.

Figure 4 The Fourteen Chiro-Dilapa Inter-Clan Assembly Dalocha Wereda (September, 2014)

Both the claimant and the accused have the right to appeal against the verdict given by *YeBadenet Serra Shengo*. The Siltie's local governance system also comprises clan systems that operate concomitantly with the territorial levels.

Organizational Structure of *YeMula Siltie Melcho (Gogot)*

	YeMula-Siltie Melcho(*Gogot*)	
Territorial Levels		Kinship levels

Territorial Levels	Kinship levels
YeBurda Serra/Baliqe	YeAbotgar Shengo
YeAzegag Shengo	YeAabotweld Shengo
YeMewta Serra	Yegicho Serra
YeBadenet Serra/Shengo	YeSiltinet Shengo/YeMula Siltie Serra
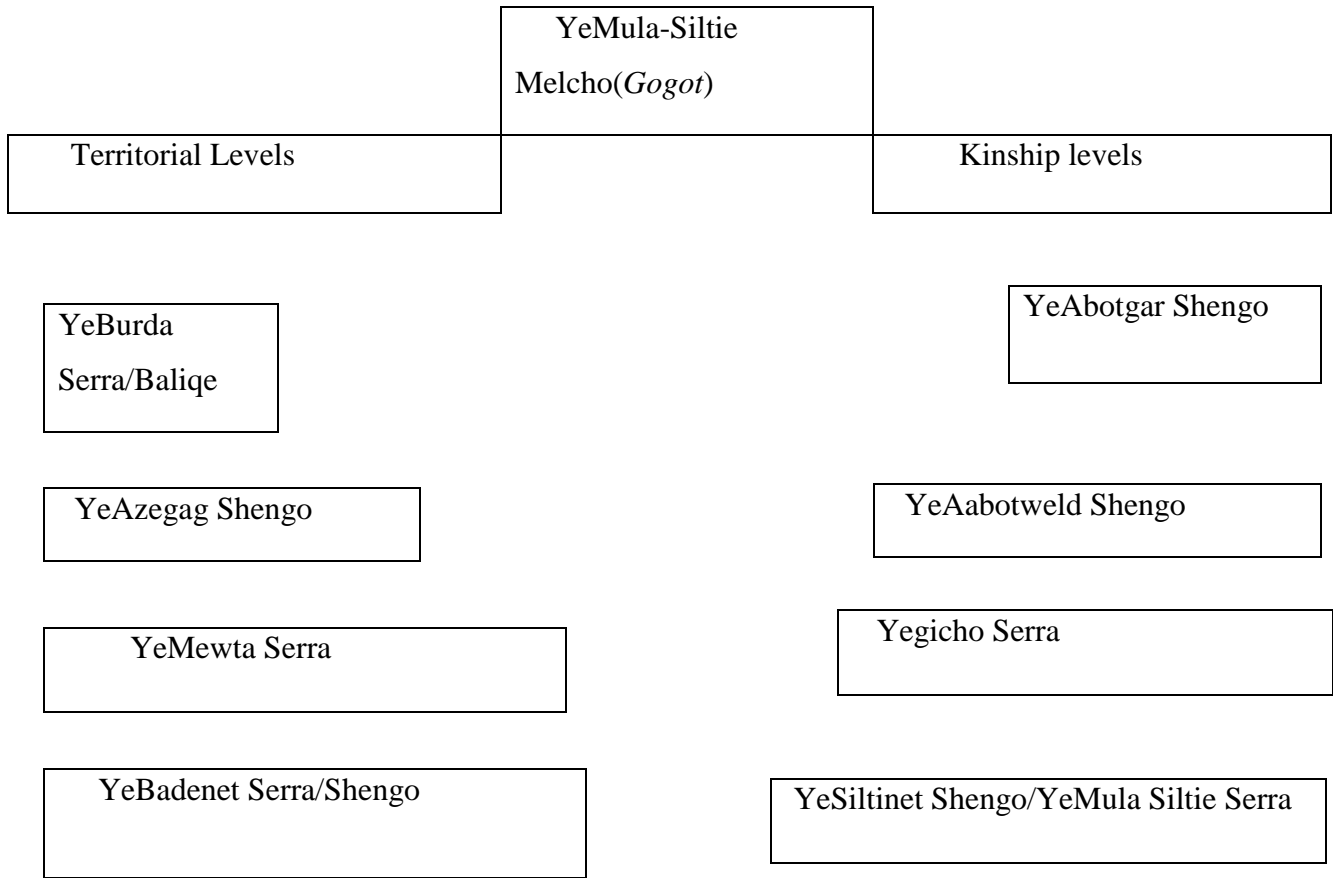
Graph One: The organizational structure of *YeSiltie Melcho*

4.5. Kinship Assemblies (YeSiltinet Shengo)

The second category of the Siltie local governance that is led by a kinship-based system is called *YeSiltinet Shengo*. It has multi-layered institutions. The first institution is called *YeAbotgar Shengo*.

4.5.1. Patrilineal Assembly (YeAbotgar Shengo)

YeAbotgar Shengo is a family forum which comprises those individuals who have common ties through their patrilineage line. *YeAbotgar* members have agnatic lines, and they have common ancestor through male lines. It is the elder male line of the family member that leads the forum. The head of the forum is called *Dagna* or *Mesaki*.

However, he is also known as *Murra. YeAbotgar* council works in parallel with Burda territorial level of administration, which is indicative of the existence of plural political and legal systems at the grassroots level. It observes issues like family disputes, ethical violations and boundary disputes among the members of *YeAbotgar* lines or *Burda. YeAbotgar Shengo* mainly deals with disputes at *Burda* level. However, the higher administrative levels such as *Azegag* and *Mewta* refer their cases also to *YeAbotgar Shengo* if the culprit becomes a member of the *YeAbotgar line*. In this case, the *Murra* is expected to take the issue to *YeAbotgar* council and discuss it with members of the father line of the culprit. The members then discuss the case with the accused person and encourage him to confess the truth, i.e. whether he/she has committed the crime or not. The *Murra* also forces the members of *YeAbotgar* to present the accused to the *YeAbotgar* Shengo on appointed time. Then, the culprit and the victim are expected to submit their defenses to the judge who is known as *Maga* at this level to show their innocence and problems respectively. In this case, *YeAbotgar Shengo* plays a great role making the accused admit the crime he/she has committed. The perpetrator, if found guilty, is expected to pay blood price if the case is murder. *YeAbotgar* is in charge of collecting the blood money or *Gumma* as per *YeSiltie Serra* norm. According to the norm, the party in conflict can collect the compensation for murder, which is locally referred to as blood money as follows. The party collects 2/3 of the blood money from his male's lineage (*Abotgare*), and 1/3rd from his/her female's lineage (*Ummegae*). *YeAbotgar* Shengo plays a great role in identifying the hidden crimes that have been committed by the members of same father line at various socio-political units of *YeSiltieSerra*. It is also paramount in investigating some disputable issues like murder cases that pass from *Azegag* and *Mewta* structures. The *Shengo* also has a role to play in helping the works of clan leaders like *Moro. YeAbotgar* is thus the smallest lineage administrative unit that generates its rules and regulations to regulate the daily activities of its members. Despite the fact that *men* mainly dominate *YeAbotgar Shengo*, women are also crucial in resolving the social problem of the society, especially with their circle. They, for instance, contribute 1/3rd of the blood price (*Gumma*). My women informants indicated that they initiate domestic violence cases to be considered by the Shengo whenever it happens.

Abotgare forum is also the vibrant and possibly more important form of kin-based local governance the community employs to resolve some issues including domestic violence, property disputes like land, murder and other grave crimes in the area.

Nevertheless, those matters that have not been settled by *YeAbotgar Shengo* will pass to the next lineage unit in the tiers of lineage groupings: *YeAabotweld Shengo*.

4.5.2. Patrilineal and Matrilineal Assemblies (YeAabotweld Shengo)

The word *Abotweld* among the Siltie stands for relatives of a given individual that can trace their kin both from his father and mother lines. *YeAabotweld* Shengo thus comprises those kin groups that can trace their relatives from both the *Abotgae* and the *Ummegae*. *YeAabotweld Dagna* or *Murra* lead the Shengo. It considers those cases that can pass from *YeAbotgar Shengo*.

The members of *Abotweld* assume that they have a common ancestor that unites them to resolve their social and economic problems. Accordingly, whenever a member of *Abotweld* is suspected of committing a crime, it is the responsibility of *Abotweld* forum to search and persuade the suspect about the case. If he/she is found guilty of murder, members will pay and contribute their shares of the blood price to resolve the problem. *YeAabotweld* lineage structure is found below clan level. It summons whenever a need arises. Although the members do not meet regularly, they control various social problems in different social settings among members. It works in the *Azegag* or *YeGenet* territorial levels. It helps the local legal expert or the *Raga* especially in providing witnesses and decisions of lower legal expert tantamount to first instant court judge, *Maga*, in his conciliation process. *YeAbotgar Shengo* considers various issues among different families that range from four to six villages.

4.5.3. Clan Assembly (*Yegicho Serra*)

The word *Gicho* stands for clan among the Siltie. Yegicho Serra is clan level forum where elders discuss various local socio-economic and political issues and deliberate on matters relating to the natural environment, conflicts in the family and among the clan members or even other clans in the society. *Yegicho Serra* also organizes *Yurbat* and *Yeqebere Serra* (dinner and funeral ceremonies) respectively. Clan leaders discuss how to regulate the socio-economic activities of the society including settling disputes. The clan leader is called *Moro*. The *Moros are* men who lead their clan members and discuss the clan with other clans in the inter-clan meetings. *Moros* are thus local actors who control the political and legal offices in the society. A clan's *Moro* is in charge of maintaining the social order (*Wegeret*) of the clan members. It is the duty of the *Moro* and local religious leaders to organize the society to come together in an open field or town square to invoke their God, Allah for rain.

In this regard, various rituals play important roles in bringing the society for a common purpose. The *Gicho Dagna* at this level acts as customary court judge[86] who plays a significant role to resolve various disputes within the clan and neighboring clan members. The Siltie call inter-clan meeting *Gogot*, which means unity. *Gicho* meeting takes place monthly to discuss the various socio- economic and local political issues. Thus, *Yegicho Serra* plays a significant role in resolving various conflicts among its members and its environs. The Siltie's concept of dispute as they call it *teshinenot* or *zena* implies disagreement between individuals or groups over ideas, property or other resources that lead to disputes that involve the exchange of hot words to physical combats. Thus, it is the responsibility of local actors including clan leaders to diffuse the tensions between disputants. Thus, if a given individual commits a crime either intentionally or unintentionally, it is the *Moro* or *Yebad Baliqes* (elders) who are to find out whether the culprit's ancestors have committed *Berche* as a way of tracing the root of the crimes she/he has committed. Thus, the person is expected to purify him/herself from such remnants of evil things through compensation or *Afeytu* (forgiveness).

However, if he/she commits murder, his/her clan members are responsible for paying the blood price (*Gumma*) to the family of the dead person. In this regard, even though the offender is capable of paying the *Gumma* him/herself, *YeSiltieSerra* norm does not allow them to do so. This is because it is believed that the crimes of the offender will be transmitted to his/her clan members as part of *Berche*. Thus, the convicted person is expected to go to every part of his/her clan members to collect the compensation. This act also serves as condolences or grief sharing on the part of the offender to show that his/her heart is deeply broken by the loss of the deceased. This act is also considered as ritual purification. *Yegicho Chale* is a significant force to implement the decisions of elders in executing homicide related or other disputes.

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[86] Interview with Azma Jabir who is a Dagna or leader of the Four Abalcho Clans on September 12/ 2014 in Lanfuro Wereda.

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Figure 5 Customary Court Sessions hearing both Civil and Crime cases while inter-clan leader Girazmach Hussien handling dispute case in the right side Dalocha Town (September 2014)

The leaders at this level are also called *Azma, Gerad*, and *Moro*. The Siltie clans mainly administer themselves independently in their areas. They are a semi-autonomous social field, as they develop their rules and regulations to regulate the daily activities of its members. Nevertheless, if any individual commits a crime and flees to any other clans, they exchange and extradite the convict to his members to be judged by his leaders. They then come together under the leadership of *Gerad Abo* who is considered as the spiritual and political head of the society. According to FGD participants[87], although the clan system is an institution on its own, all clans are answerable to the central ruler of the society, *Gerad Abo*.

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[87], This is based on FGD that was conducted with Ato Dilebo Gebre, Ato Kairedin Azma Hussein, Hajji Abdurrahman Shewajo, and Hajji Hussein Barsebo on April 16/2016 in Werabe Town.

My informants' further indicated that clan leaders consider the property disputes, murder cases, domestic violence and disputes over grazing land. Those issues which are beyond *Yegicho Serra* will be passed to the next and final level of administration, *YeMula Siltie Melcho*. My personal observation among the Siltie reveals, however, that clans are very powerful local institutions in the area.

4.6. General Siltie Assembly (*Ye Mulla Siltie Melcho/Gogot*)

The higher body of *YeMula Siltie* assembly can resolve murder cases, arson (*Garemagdot*), conflicts over land among clans, inter-clan disputes like boundary disputes with neighboring societies and other related issues. *Gerad Abo* is also responsible for the highest assembly of the Siltie, *YeMula Siltie Chale* (the whole Siltie assembly). Scholars such as Walelign (2010) and Bustorf (2011) stated that the Siltie did not experience a convenient form of jury-political systems. Key informants[88] , however, said the Siltie had the centralized judiciary and political systems that were functional until Menilik's incorporation of the area in the late 19th century. However, I did not see the whole Siltie meeting where all clans gather for a common cause. Rather there are meetings in which majority of clans summon to discuss the peace of the country, which is locally called Yebad *Wegeret*. It is also stated that *YeMula Siltie Chale* had tiers of political power that was intact until the late 19th century

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[88] This is based on information mentioned above in 72.

The graph below illustrates the local political power configurations practiced in the area.

YeMula Siltie Chale (Assembly)

Gerad Abo	Religious	Legal leaders

(YeSiltie Harbe-Gifat)

Army Chiefs   - Mulla Gerad   - Imam   - *Wegagenge*

Wezir   - *Weleb Gerad (*Spokesman*)   - Sheikh   - Ferezagegne (Shenecha)*

Azma   - *Yesar Gerad*   - *Raga*

Abegaz   - *Maga*

Azmach

Graph Two: Local Political Power Configuration Hierarchy

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Figure 6 YeMula Siltie Melcho, Lanfuro Wereda (December, 2015)

It is also observed that those issues that could not get a final decision at lower levels will be resolved at the highest authority of the Siltie: *YeMula Siltie Melcho* or *Chale* (the whole Siltie assembly). Thus, those issues that were considered at *Maga* and *Raga* levels will finally be adjudicated at the whole Siltie council. Other FGD participants[89], however, said that the Siltie did not experience centralized administration. Nevertheless, they agreed that the whole Siltie clans met in the customary court forums, and commonality has further been strengthened by their common language and religion.

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[89] This is based on FGD that was conducted with eight informants, namely; Hajji Hussein Hassan, Gerad Awel, Hajji Hussein Bussera, Sheik Yusuf, Hajji Mifta, Gerad Kedir, Ato Kaire Sule, and Ato Hamid Azma Hassan on April 1/2013 on the annual Siltie History, culture and language Symposium in Werabe town.

Informants further noted that the whole Siltie community came together under the leadership of *Gerad* to defend their land from invading armies. This was achieved under the guidance of local leaders like *Gerad* during 18th and the late 20th centuries when the Shoan invading armies and the neighboring people tried to conquer their lands. The Siltie defended their lands from invading forces of Libid.o, Gurage, and Shashogo people's right from 17th to 19th centuries under the leadership of *Azma Qalebo, Azma Atero, Umar Bele, Mula Gerad Teme Lezbo, Azma Ormora Gona, Haruna Goshute*, and *Azma Sugato* indicating some form of centralized leadership.

During Menilik's expansion, the Siltie also set up a military alliance with each other and with the neighboring groups, an alliance referred to as *Gogot*. Some informants called this level of administration as *Gogot* or *YeSiltieSerra* while Bustorf (2011) describes it as a system of clan federations (Bustorf, 2011:461). According to Bustorf (2010), the Siltie had no common political or judiciary body above the elder council (*Baliqe*). However, the empirical data indicate that Siltie Islamic leaders such as *Haruna Goshute* and *Sheik Walle* in the 19th century and *Sheik Alkesiye* conducted supra-tribal integration in the 20th century. This was achieved by a military and political alliance of two or more Siltie subgroups including neighboring *Mesqan* and Hallaba.

Even if the existence of a centralized form of leadership seems a contentious issue, *YeMula Siltie Melcho* still exists in the community. Thus, *YeMula Siltie Melcho* (the whole Siltie groups' council) was the final authoritative body where the various lineages and sublineage groups of the Siltie gathered under a large tree to discuss the general situations of the Siltie country. At this level, the members of the Siltie *Bade* (country) discussed the implementations of the decisions of the elders (*Baliqes*) of the Siltie. Elders checked the implementations of sanctions, harvesting conditions of the various Siltie areas, and they also make and unmake leaders such as *Azmas* and *Gerad*s. The assembly would set the future directions of the society. They also discuss how they can cope up with changes and developments in the area. At the *YeMula Siltie Melcho* which was held under a tree called *Chale*, the *Gerad Abo* heard the general situations of the various Siltie groupings. The *Gerad Abo's* spokesperson is known as *Weleb Gerad* who acted as a common channel between the leader and the participants. The various issues that the assembly would discuss include death, marriage, harvest, natural disasters, the preservation of the environment, and the norms and values of the Siltie.

This situation has been called *Yebad Wegeret* (the security of the Siltie country). At this national or higher level, *YeSiltieSerra* works as a centripetal force that unites both the territorial and lineage groups. Some respondents[90] referred to this level as *Gogot*, while FGD participants[91] identified it as *YeMula Siltie Melcho* or *YeSiltieSerra*. Therefore, *YeMula Siltie Melcho* is the Siltie level organization where every local elder's decisions and murder cases will get final approval by *Gerad Abo*, and the Siltie assembly. I also observed that in the meeting, it is not only most of Siltie clans that gathered together, but neighboring people of Hallaba also took part. According to *YeSiltieSerra*, every Siltie clan has the right to govern its land. Although it is hard for one to locate the area of each clan exactly, the Siltie simply tell that such „*Mewta*" belongs to this or that clan. So, each clan is expected to graze its cattle on its land, defend its boundary from aggression either from other clans or from a neighboring community.

The assembly has the right to adjudicate murder cases. The sentence of death by *YeSiltieSerra Shengo* was executed by the members of the accused. Accordingly, relatives of the defendant would be asked to throw him into a deep gorge called *Yelemorefane*. The throwing of the defendant by his family would help the two parties avoid further retaliation or revenge upon each other. According to an informant[92], although it has been improved since Menilik's incorporation of the area, theft case was previously punished by death penalty. This time theft is punished in kind; especially the suspect is expected to pay back the material or cattle with some form of compensation to the victim. The plaintiff and defendant can appeal against the verdict reached by *YeMula Siltie Melcho* (Shengo). *YeSiltieSerra Shengo* is the general assembly of all Siltie male elders. Women provide food for the participants. It is linked with the concomitant territorial unit of *YeBadenet* (*YeSiltie Bade Serra*) at the Siltie level organization. *YeSiltieSerra Shengo* would also come together to set up a united front against external aggression by neighboring ethnic groups such as the *Mareqo*, the *Shashogo*, and the Oromo in the past. Such incidents helped the Silties to strengthen the spirit of oneness and solidarity among the people. *Gogot*, as the Siltie general assembly is called, has now become a forum where not only the Siltie clans but also neighboring *Hallaba* people can attend to discuss inter-ethnic issues, peace, and local development programs.

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[90] Interview with Ato Hamid Azma Hussein,
[91] This is based on FGD that was conducted with Ato Dilebo Gebre, Ato Kairedin Azma Hussein, Hajji Abdurrahman Shewajo, Hajji Hussein Barsebo on September 2015 in Werabe Town
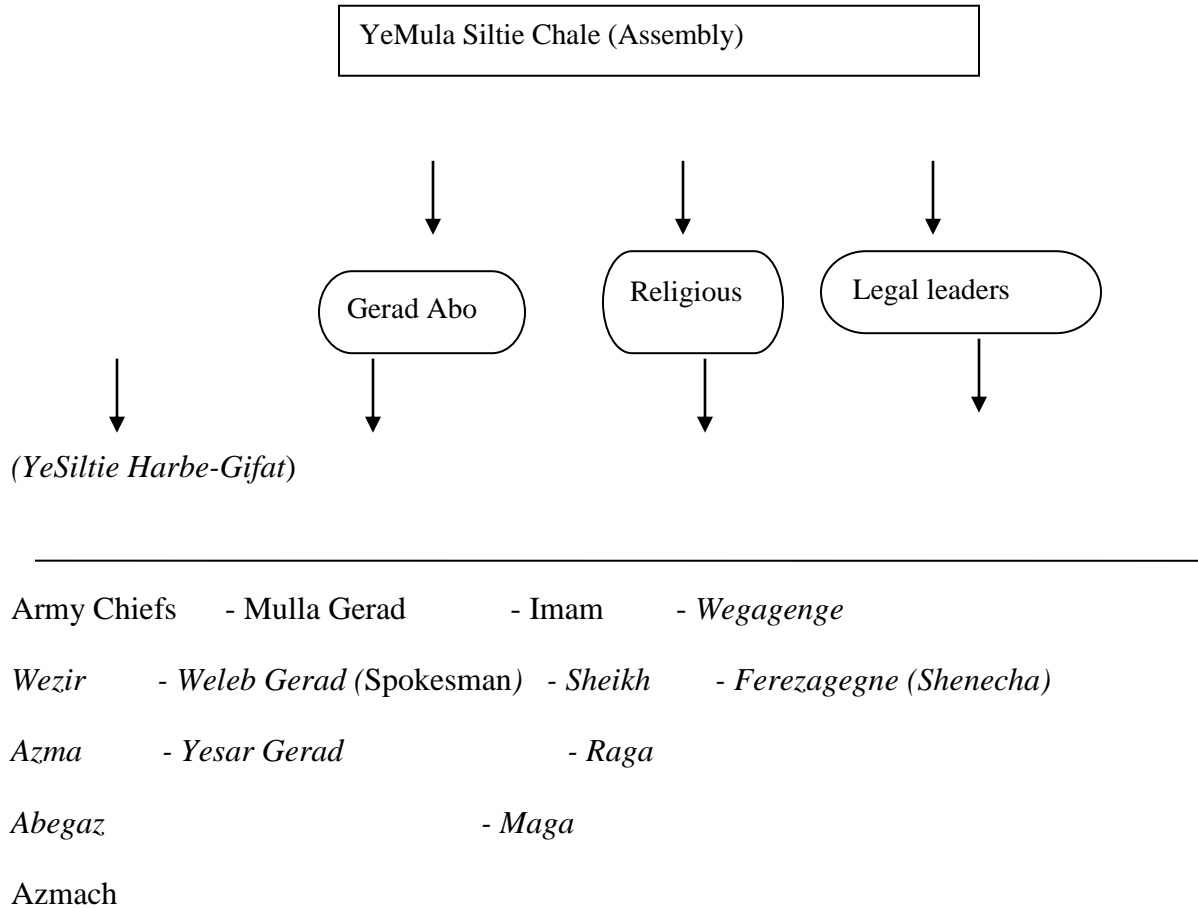[92] Interview with Hajji Hamid, and Hajji Shewmolo on April 25/2016 and October 11 April 2016 in Silti Wereda.

The gathering summons in various parts of the Siltie and in adjacent areas whereby a clan or clans are pre-informed to prepare the venue or Y*eOdda Chale* and coffee for the participants. I understand that the smallest state administrative bodies are more answerable to the clan leaders than the state officials.

4.7. Concluding Remarks

To recapitulate, the territorial and lineage local administrations have played important roles in maintaining the social order of the community and its members. Even if the various regimes tried to supplant the local systems, the people employs the systems so far. Maneuvering the constitutional concessions they have got since the 1990s, non-state actors have been playing paramount roles in delivering justice and regulating the socio-political lives of the community at the grassroots level. *YeSiltie Serra* has become not only an integral part of dispute settlement process but also has been employed by the dispute settlers and the community alike as an instrument to protect the identity of the people. The political and judicial natures of local institutions and the less legitimate state actors among the community have earned local actors more social acceptance and legitimacy on one hand and have made the local modes of governance become alternative modes of institutions in the study area, on the other hand. However, the state actors' endeavors to co-opt local actors for political ends have made the relationship between the state and local institutions unpredictable, i.e. it is characterized by enmity and friendship. The state actors, who are also abide by the local custom and values, have developed a sort of divided loyalty between the custom and the state.

CHAPTER FIVE

5. THE PRAXIS OF DISPUTE SETTLEMENT: STATE, RELIGIOUS MODES OF DISPUTE SETTLEMENT AND THE LOCAL BELIEFS AND VALUES

5.1. Introduction

This chapter discusses the genesis and consolidation of state dispute resolution institutions, the different mechanisms the state used to get involved in the local life and how the state has also used the judiciary as a weapon for state building processes since at least the late 19th century. By exploring various state and non-state actors' perspectives on legal pluralism, the chapter argues that there is not a normative commitment to legal pluralism in the study area. Rather, the various political interferences into the state legal systems, and the religious, as well as the customary systems, partly indicate the existence of temporary accommodation in the process of legal re-centralization in the study area and possibly beyond. It will illustrate how the state encroaches its legal system with various pretexts including achieving development.

The chapter also looks into the legal transplantation processes, the resistances it has met from the local community, and how the local community uses state and non-state laws to make state agents abide by the law. It has also gone through the different incidents the local community has passed in its appropriation of the social transformation process that depicts the existence of grassroots justice or democracy from below. Additionally, the chapter investigates the formation of religious courts, notably *Sharia* courts in Ethiopia, the historical trajectories they have undergone, and the natures of Islamic pluralism. It also looks into the coping mechanisms or strategies the *Qadis* develop to compete with other legal actors in the context of the plural legal setting. It also indicates the intra-faith interactions and the various ways the *Qadi*s employ to attract clients in the plural legal setting. It also portrays the agencies the religious legal actors use to make their courts not only resistance to the interferences of the government but also against the Muslim youths who accuse the *Qadi* of playing „government agenda" rather than standing for Islam. Moreover, the chapter will examine the local politico-legal contexts, the various values, and belief systems, their natures of conquering all aspects of life and the enormous pressures they impose on the local community to abide by not only the social norms but also, by legal norms too. It also casts a glimpse on the intertwined natures of actors in the field and how

local settlers dispute use local values and beliefs to accumulate power and hence negotiate with actors including the state. The chapter contains some dispute cases that indicate the interactions of various legal systems which will also help partly understand the legal realities in the study area.

The chapter argues that law has become a weapon of the strong, an instrument state officials use to hunt those who oppose their interests. The chapter argues also that state legal actors' activities are influenced by local values and norms, indicating the emergence of hybridized legal practices as a new legal reality in the area. The chapter also argues that both state and non-state actors reshape the norms, institutions, and activities of modes of dispute settlement in the process of hybridization indicating the emergence of cross legal referencing which in turn boosts the legal agency of local legal actors.

5.2. The State Legal System: Genesis and Consolidation

It has been described in the previous chapters that the late nineteenth century has become a turning point in the modern history of Ethiopia, for it has marked the creation of the modern Ethiopian polity in its current shape on one hand and the genesis of legal pluralism on the other. It has been since this time that the state introduced its legal system as part of strengthening its grip on power, and state building processes in the Siltie area too. Moreover, authors such as Bustorf (2011:468) said that

> „The process of integration of the Siltie into the Ethiopian state was followed by broad cultural and socio-political changes in the area. The local population lost its independence and had to accept a system of taxation that reduced the majority of the people into tenants" (ibid.).

Despite this, the local politico-legal systems of the people have continued to operate side by side with the new regime. Studies indicate that after the battle of Adwa (1896) under the *Kambata* governor *Abata Bwayalaw,* a large number of the „Amhara" *naftagna (malkagna*) immigrated into Siltie land. They formed a new privileged class and brought their religion, language, and culture. The new settlers tried to establish their way of life as the new norm. Nevertheless, co-operation with the new lords enabled the Siltie to „continue their territorial expansion into neighboring areas.

Menilik's troops subdued the *Siltie* area for the first time in 1879" (Bustorf 2011: 468-469). Thus, the people have witnessed new forms of land tenure system, modern centralized state bureaucracy, a new judiciary system and economic order since then.

The new regime also brought changes in the application of the customary system. This shift has been witnessed on settling homicide cases. Before this time, a person who committed homicide was thrown into a big gully called *Lemore Fan* by his relatives to end the feud and avert revenge. Thus, the customary court's practice of "killing the murderer", which is believed by the local community to have been taken from Shari'a law, was replaced by paying blood money in cash called *Gumma* to the victim's family. Nevertheless, some informants said that the Siltie used to pay the *Gumma* in kind (cattle, etc.) in the form of compensation, especially for intentional murder cases, before the late 19th century and continued practicing it in cash afterward.

On the other hand, following the incorporation of the Siltie into Ethiopian state, the people had to go to neighboring ethnic groups to access state justice for long. The Siltie land could not get state justice offices in the area until 1954 when a state court at district level was set up in Silti Wereda. Since then, the state legal system has been introduced to the area, and the people began to employ the system in *Chebona Gurage*, *Haikochina Butajira* and later in South Shoa *Awrajas*. My respondents said that the capacities of the state judiciary systems to deliver justice to the community was very limited to urban areas of neighboring ethnic groups during both the Imperial (1931- 1974) and the *Derg* regimes (1974-1991). Even if the first constitution that was enacted during the Imperial regime (1931, and revised in 1955) as well as the Derg's 1987 constitutions gave little concessions to the customary and religious laws in the country, empirical data among the Siltie indicate that both the religious and customary courts have continued to operate. The customary court, for instance, has delivered justice to the community on one hand and has also become a hub for maintaining the identity of the people on the other.

The state's inability to provide justice to the community had continued even in the early periods of EPRDF's regime. There were, for instance, three First Instance State courts with a low number of trained judges in *Silti*, *Dalocha* and *Lanfuro Weredas* between 1991 and 2001. Other Siltie areas like *Azerenet Berbera*, *Sankura,* and *Alicho Wuriro* had been included in *Kembata, Hadiyya* and Gurage Zones. The inability to easily access state judiciary had thus become one of the factors for the identity struggle in the post-socialist Ethiopia since the 1990s.

On the other hand, though one can trace the existence of plural legal systems in the area at least since the late 19th century, pluralism has got legal recognition under the Federalist Ethiopian constitution (FDRE 1995 Article 34 (4-5), 78(5)). Nevertheless, the 1995 Constitution itself cannot escape criticisms not only from the local community and local legal actors, but also from state court judges as well. The constitution has given power to customary and religious laws to consider only some family cases without empowering legal status to them (FDRE 1995: Art 9(1)34(5); Alula and Getachew 2008:8). An additional gap can identify in FDRE constitution is that it could not unequivocally define the relationship between the pluralistic institutions though there are some concessions for local dispute settlement institutions, and it recognizes the existence of various legal systems, customary and religious ones.

The Federal State has also set up different institutions that can deal with various forms of disputes both at national, regional and local levels since 1991. At the country level, the Federal Affairs and House of Federations have constitutionally been empowered to resolve conflicts on inter-ethnic boarder (Art 48) and inter or intra-ethnic conflicts (Art .62).[93]The state legal system's capacity, however, has been dwindling, for the various civil service sectors are now empowered by the government to adjudicate those employees who can break the rules and regulations of the respective sectors through staff disciplinary measures as well as political interferences in the judiciary (Baker, 2013). Each sector has its disciplinary committee that can oversee members' activities.

The Federal Constitution also establishes three tiers of courts: Federal Instance Court, Federal High Court and the Supreme Court (FDRE 1995: Art 78). At the Federal level, the First Instance Court is equated with Wereda court, while Zonal Higher courts are equal with the Regional Court. Regional Supreme Court can also exercise the jurisdiction of the Federal High Court; State High Courts can also exercise the jurisdiction of the Federal First Instance Court (Art.80 (1-6)).

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[93] The House of Federation has been involved in the inter-ethnic conflict between the Siltie and the Gurage. It was considered as one of the mechanisms the state used to resolve the Siltie- Gurage inter-ethnic conflict that lasted for a decade (1991-2001). It was the Federation that oversaw Siltie elders' petition to reconsider the resolution of Butajira Conference on which the participants decided the Siltie as part of the Gurage. Following the petition, the House of Federation has referred the case to the Constitutional Inquiry Committee that revisited the Constitution in the spirit of the Siltie-Gurage conflict. The committee recommended that people's identity questions should be looked into by direct participation of the individuals who raise the quest (Aklilu, 2000). The House thus voted for a referendum in which majority of the Siltie took part and voted for an independent identity on April 01/2001(Abdulfeta Huldar,2002; Zerihun, 2007; Kairedin, 2012, 2013).

The government has also set up further state dispute settlement institutions like custom and revenue sections, and Good Governance and Appeal Office that are involved in dispute resolution processes. After the establishment of Siltie Zone, the Siltie has set up nine First Instance Courts since 2001 in eight weredas and a city administration including a High Court in Werabe town. There are also more than 150 social courts in 181 *Qebeles*. The social courts, however, have not been established by the Constitution, but by proclamation[94]. The roles and functions of social courts are also declining from time to time due to legal reforms in the country. They can consider minor civil cases. The Southern Regional Court has an appeal court in *Hossana* town 60 km from Werabe. This court has the responsibility to oversee cases from *Hadiyya, Gurage, Kembata,* Siltie Zones and *Yem Special Wereda*. Thus, the state modes of dispute settlement are also characterized by intra plurality. The various mechanisms the state has developed since the 1990s indicates that the government has tried to expand the state judiciary system in the country, yet its effectiveness has proved to be futile.

5.3. Prospects of the State Legal System: Opportunities and Challenges

The introduction of state legal system since the late 19th century and the legal frameworks the constitutions, especially that of the 1995 one, have provided can be taken as good opportunities for smooth operations of state justice systems in the area. In this regard, the establishment of Siltie Zone and the subsequent opening of nine state justice courts and justice offices including the police departments seem to have contributed their share to the smooth operations of the state legal system among the Siltie. However, according to the President[95] of Siltie Zone High Court, thirty judges are working in ten courts including the High Court in the Zone. This is a clear indication of the fact that the state court could not deliver justice to more than a million Silties with thirty judges alone.

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[94] Interview with Ato, Nesere Issa a former judge on legal pluralism on 25 December 2014, Werabe Town.

[95] Interview with Ato Akmel Ahmedin, Siltie Zone High Court President on 07 April 2015 in Werabe Town. Age 43. Ato Akmel has worked in Siltie and neighboring areas as judge and court President for more than a decade. He also worked in Southern region court. I understand that his ideas and perspectives on the roles of customary, Shari'a and state courts are crucial to grasp the legal realities in Siltie, and possibly beyond. His lived experiences on how disputes are processed and how the various courts and the political systems view each other also have a paramount significance to understand aspects of legal pluralism and the changes and continuities of norms, legal systems have undergone in the area.

Judges are trained lawyers, but appointment to the presidents of the Zone High Court and Wereda First Instance Courts seems based on political loyalty rather than merit.

The dearth of judges qualified to adjudicate in statutory courts in the study area seems one of the factors that contribute to the decline of the demand of the state courts in the area. Moreover, the consolidation of state power and state legal system brings two severe effects on legal pluralism. First, it prevents an equal legal status for religious and customary laws with the state. Secondly, it changes the roles of law to achieving common purposes like political and economic objectives of government rather than enforcing social norms which are the typical characteristics of the religious and customary courts (Tamanaha, 2008).

In addition, recent studies also indicate that African states' judiciary systems are very weak and have met frequent interferences from the executives in Africa despite some recent improvements in the application of „the rule of law"(Peter Von Doepp 2013:37). Studies (e.g. Baker) indicate that the political interferences into the judiciary systems in Ethiopia is done in the context of bringing local development on one hand, and lack of enough qualified human resource in the state legal system, on the other. Baker (2013:202), for instance, states that the judiciary sectors of the country are hit by frequent interventions from the political offices as the ruling party is insecure due to various factors. Nevertheless, he points out that this may not be partly true at lower administrative tiers like regional and zonal levels. Even at this level, the relative independence of the legal realm does not emanate from the state's commitment to the rule of law. Rather, it is mainly because of the absence of qualified human resource to uphold the law (ibid.: 203).

But the 1995 constitution clearly indicates that „courts of any level shall be free from any interference or influence from any government body, government official or any other source" (Art.79 (2)). Maneuvering this vacuum, and crisis of legitimacy, customary and religious modes of dispute settlement have been gaining much ground at the grassroots level. Studies also indicate that much of the justice system delivered in Ethiopia is provided at a local level using customary systems and mechanisms (Alula and Getachew 2008: V). My informants said that the state judges employ local values and religious ideas to reconcile the disputant parties which indicate cross-referencing of legal and social norms among legal systems. This state of affair also shows the existence of "inter-legality" (Santos de Sousa, 2002) in the area.

So, one can say that the state is psychologically far away institution than kin, or other group institutions and hence not influencing the local community's day to day activities than the customary and religious courts. In short, the state's endeavor mentioned above and the subsequent developments illustrate that the Ethiopian government pays much attention to enforcing legal norms than social one which is relevant to the day-to-day activities of the local communities. Thus, the constitutional recognition and the subsequent establishment of state courts up to the lowest level of administration as well as giving delegation to regional tribunals a federal court status to consider cases, among other things, can be taken as good opportunities for the state judiciary to deliver justice to the grassroots level. Moreover, more than any other regimes, it is the current EPRDF led government that manages to conquer and establish its legal system to the grassroots levels. But the elders who are assigned to lead *Qebele* social courts have developed a divided loyalty between the culture and the state as they opt to consider dispute cases as elders rather than social court judges. Added to this, the low number of qualified judges and political interference, as well as a lack of good governance, can also be regarded as one of the factors that contribute to less efficiency as well as declining legitimacy of the state legal system in the area. Ethiopia's government also admits that lack of good governance, inefficiency and poor service delivery in the state justice are the problems the justice sector suffered in the past five years, as it calls the First Growth and Transformation Plan time (2010-2010).[96] This episode has deteriorated the legitimacy of the state legal system on one hand and has boosted the legal agency of the customary and religious legal regimes on the other.

5.4. The Perceptions of State Court Judges on Legal Pluralism: Manifestation of Contestation: Some Views from State Legal Actors

The state court actors have a different perspective on legal pluralism and on how the customary and religious courts operate in the local arena. Generally speaking, state court judges have a positive outlook towards non-state legal actors, i.e. legal pluralism. This seems associated with the identity manifestations the non-state modes of dispute settlements embodied in them.

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[96] Taken from a meeting by „A Joint Forum of the Justice Sectors' Representatives that include Judges' Administration and the Sharia Qadi in *Adama* Town), Ethiopian Broadcasting Corporation (EBC) News on October, 11 2015 at 8:20 pm.

However, as far as the activities of non-state actors are concerned, the state legal actors have criticized the less active roles local modes of dispute settlements have played in reducing tensions in the area. They said that the state court suffers from caseloads that have influenced the courts' activities to deliver justice to the community. This happens, they explained, due mainly to the failure of elders to properly manage civil cases at the grassroots level.

One of my key state court actors, however, ascribed this problem to the state. He said that there is a limited and very controlled legal pluralism in the area for the customary and religious courts are not legally empowered and hence their decisions are not binding, and this frustrates elders and prevents them from working aggressively in maintaining the social order.[97] He further explained that the government is not committed to the existence of legal pluralism. However, other state actors including the Zone High Court President said that the state courts are overloaded with dispute cases initiated by members of same families like brothers, sisters, and relatives over land, inheritance, property disputes cases, etc. For state legal actors, this is an indication of the declining legitimacy of elders due, among other factors, to partiality and bribery in the customary court. According to Siltie Zone High Court Report (Siltie Zone High Court 2016/17), 75% of the cases reported to the state courts are related to domestic violence and disputes among family members which can easily be settled by the customary courts. It seems that state actors appreciate the customary system and its role in dispute settlement in the area (See more how the state demands the intervention of non-state actors for bringing peace in the country in Appendix I).

Ato Akmel, Siltie Zone High Court President, also noted that almost 75% of the civil cases referred to Southern Region Supreme Court, Hossana Regional Court division had been initiated from Siltie Zone compared to *Gurage*, *Hadiyya*, *Kembata* Zones as well as *Yem* Special *Wereda*. These cases are supposed to be considered by customary courts if they are robust enough to consider cases. His exposure to the experiences of elders of neighboring people helped him appreciate the roles of elders for dispute settlement. State actors further indicate that elders in the neighboring Zones and Weredas are actively involved in dispute resolution processes including crime cases.

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[97] Interview with Ato Nesere Issa, an ex-judge on December 25, 2014, Werabe.

I also understood that some state court judges are very much determined to see an active customary mode of dispute settlement in the area. This may arise, among other factors, due to the social and cultural embodiments of the customary dispute resolutions that have been used also as an identity marker. It is due to this factor that the partial revival of the customary system is linked with the revitalization of ethnic sentiments, and identity construction processes the Siltie have been undergoing since the 1990s. I have observed that President of Siltie Zone High Court and Siltie Zone Council[98] has urged representatives of the people in Zonal Council meetings to support elders who take part in the local modes of dispute settlement so as to reduce the burden of state courts, which have become overcrowded by family dispute cases that can easily be resolved by elders in one hand, and to strengthen the identity of the people on the other hand. The Zone High Court also discussed with Wereda First Instance courts to give due support to local modes of dispute settlements in the form of changing family dispute cases and acknowledging the reconciliation elders have effected to end disputes etc. According to Siltie Zone High Court report (2016/17), the number of dispute cases referred to the court includes family disputes, land disputes, denial of someone's trustee, death cases due to car accident and domestic violence cases. Despite the fact that there is a constitutional limit that does not allow religious and customary courts to consider crimes, the customary modes of dispute settlement intervene on murder cases (See more about the involvement of customary court in murder cases in chapter seven). This is partly because homicide cases involve groups than individuals as a result of the group conceptions of crime that prevail among the Siltie. According to key *Raga* informants[99], the state courts cannot end homicide, arson and other main dispute cases in the area. They stress that if the state court passes verdicts and punishes the suspect, the disputants always see each other in revengeful eyes on one hand, and the culprit cannot be reintegrated into the community even after he/she finishes prison terms, on the other.

This is due mainly to the fundamental Siltie values and norms, which might have relevance in the violation or protection of human rights. One of the basic Siltie values that underpin the customary justice system is *Berche*– dignity of human life the breach of which has grave consequences if it is not redressed. It is believed among the Siltie that prisons cannot end the spirit of enmity between disputants.

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[98] Taken from Siltie Zone Council Meeting, July 2015, Werabe.
[99] Interview with Ato *Kaire Sule* on April 10/2016 in Lanfuro Wereda.

Homicide cases, particularly, cannot be settled by the state judiciary alone. It is the mandate of the customary courts that should be involved to end *Berche* (See also Chapter Seven). Siltie Zone High Court Report (2016/17) indicated that disputes over property right between couples following the termination of marriage ranked number one case among others reported in the state courts. Land-related disputes ranked second, while economic exploitation of women by their parents especially denial of women's own generated properties after they work in the Gulf areas as maids takes the third.

In the case of women's exploitation, Siltie women who work in the Gulf States send their money in the form of remittances to a member of the family for deposit, yet most of the time they are denied by the family. Regarding the first case, however, disputes between or among family members such as children and fathers, husbands and wives, brothers and sisters take the first level that is frequently referred to the court. Property right disputes following divorce cases also overload the state court operation. State legal actors ascribe this overcrowding to the failure of local modes of dispute settlement. Therefore, according to some state legal actors' perspectives, the elders do not play an active role in creating a social order in the area, albeit, elders said the other way round. Nevertheless, the overcrowding of Zone and Regional courts by family dispute and Siltie dispute cases respectively does not necessarily indicate the failure of elders, but it may depict the failure of the state judicial system in the area, for people can go to regional courts for appeal that could occur due to legal errors as well.

My key informants[100] further said that dispute cases sometimes travel from one court to another, and there is a possibility of the transfer of some cases that include negligence crimes like a car accident and arson, family dispute cases from state to customary courts and vice versa. This is a clear indication of the existence of complementarity and competitiveness among various courts in the area. This apparently also portrays how each system views each other and the realities of power contestations among the various legal regimes in the area.

Even though the post-1991 political system opens the space for local modes of dispute settlement to flourish by providing constitutional and legal frameworks that sanction legal pluralism, some

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[100] An informant mentioned above in 125 and Ato Kairedin Hussein on 3, April/2015 in Werabe.

state court judge informants [101] explained that the local politicians are not tolerant enough to accept elders' role in ending disputes.

The elders also understand the problem in this way, for the officials want them only to help the state in mobilizing the society for local development rather than for empowering elders. I, however, observed[102] that the Zonal High Court[103] has emphasized the significance of elders for justice, especially to end civil cases. *Azma Jabir[104]* , leader of one of the age long clan councils in Siltie area, said that the *Abalcho* clan considers both crime and civil cases, including matrimonial disputes like divorce cases. He further said that there seem to be negotiations between the state and customary courts on how to deal with family disputes. Elders further mention that the *Wereda* administration ordered the state courts better not to consider family dispute cases before elders' involvement into the cases. According to my key elder informants, this is due to the failure of the state courts to consider dispute cases in honest and just ways. Elders underscore further that the state court fails to adjudicate high rates of disputes without the help of the elders' court. However, my elder informants, especially elders who take part in the conflict settlement process, said they are confused as they always wait for the go on order or mercy from the state officials to consider such reconciliatory cases like car accidents. They also ask as to whom should recognize whom, who should come first, that is, whether it is the Siltie or the state For them, the Ethiopian legal landscape is not favorable for all jurisdictions.

My key state judge informants also explained that justice cannot be achieved without the active involvement of elders in the area, since elders are active agents for delivering justice at the grassroots level. The roles elders played for ending disputes are now declining in the area for reasons not clearly mentioned by them. Nevertheless, one thing most of the informants seem to agree on is the interference of the Siltie Zone officials in the activities of customary courts. The informants state that some agents of the state could sometimes not allow elders to exercise their local roles to settle disputes in case elders will become politically subversive.

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[101] Interview with state court judges from different areas (Anonymous).

[102] I had interviewed state court judges about their perceptions of customary courts. I have understood that they are very much committed to seeing the revitalization of the customary system. Some local chiefs also said that in some Weredas like Lanfuro, state officials instructed state courts to give first chance to elders to oversee family disputes before they are referred to state courts. This is also an indication of the negotiation of the tribunals and cooperation even against the constitution.

[103] Taken from Siltie Zone Council meeting (six months report on judiciary work) that was held on 7 February 2015 and in February 2017 Werabe Town.

[104] Interview with *Azma Jabir* who is a leader of *Abalcho* clan on April 26/4/2015 in Lanfuro Wereda, Mitto Town.

On the other hand, state actors argue that the customary courts' legitimacy is declining by its own failure than external interferences. The weaknesses of elders' council, state actors argue can be understood from the high number of family-related dispute cases that are referred to the state courts. State court indicate that 85% of the cases that referred to, for instance to the Wereda First Instance and Siltie Zone High court is family related cases that could have been settled by elders (Siltie Zone High Court Annual Report, 2016/7). State court judges state further that that previously families settled their differences at home, if not with elders' settlement, without involving the third party. They stress that members of families initiate most of the dispute cases even between children and their parents. As the Siltie practice polygamy, the children of the first wife usually instigate their mother to quest her rights like land or other property and push her to sue their father in the court. In this case, elders are not given right to adjudicate inheritance cases and at times, the disputes ended with divorce. This is against the social theory that explains the multiplex relationships (the density of the relationship between parties in a conflict) and the more the closer the social relationship, the less the disputants to go to formal court (Richard Lempert and Joseph Sanders 1986 237-238). Therefore, according to state court judges, disputes between nonrelated or socially independent groups are very rare in the area. Rather, the courts are overloaded with cases initiated by members of families. The following factors are responsible for the prevalence of marital dispute cases in the area. My key elder and young informants indicate that the introduction of the new family law since 2008 encourages divorce rather than coexistence and intolerance rather than forbearance between partners. They accuse the revised family law which is influenced by Feminist ideology than the prevailing situations like religious and cultural values of the community. The increasing number of the population over the limited resources like land, the decline of cultural values, and norms, the drop of respect to elders as well as the impacts of globalization that fosters individualism than collectivism have also been mentioned as factors for the breakdown of family ties and modesty in the society. Thus, people resort to faith-based and customary forums to end disputes. The state court judges, however, did not accept the Siltie's conception of crime as collective and deal with it accordingly so as to avoid further damage by mitigating earlier hidden crimes. Rather, state court informants believe that the government legal system deals only with the accused.

They further expressed their conviction of state legal systems with the phrase *wanjal aywarasim*, meaning 'crimes are not inherited', which indicates the states' courts individual orientations rather than collectiveness, which in turn shows a value conflict with the customary ones.

5.5. Islamic Reform Movements: Implications for Dispute and Dispute Settlement

Islam has made its way into the land of Siltie ancestors at least since the 9th or 10th century (Kairedin, 2013). The religion of Islam has now become one of the identity markers of the Siltie. The nexus between Islam and the Siltie is very strong that the people for long have addressed themselves as „Islam" and their language „Ye *Islam Afe,*" meaning Islamic language. One can find arts and pictures in government and private buildings, and residential houses, and Islamic artistic designs that depict the strong presence and place of Islam among the Siltie (See the figure 8 below).

Islam is thus quasi-identical with the ethno-name Siltie. According to my Siltie Imams and Islamic scholar informants, *Sheik Dana of Wello*, *Ifat Sheik, Jimma Aba Jifar Sheiks* from Western Ethiopia and the *Qabena* traditional Islamic learning centers are the sources of Islamic education to the Siltie. Imam Shafi'i school of thought is also the dominant Islamic legal school among the Siltie. Hajji Aliye is one of the great Siltie ancestors who were in the forefront in reconstructing the genesis of the Siltie ethnic group. He and his colleagues who led the 16th-century exodus to the present area from the east are also mentioned as iconic figures in the expansion of Islam since the 16th century. *Hajji Aliye* is considered as *Waliye* (Saint) who played a major role in Islamization process in the area and its environs (Bustorf 2009, Kairedin 2012). The historical Siltie five Queens known locally as (*Amisti Gesticha*) were also regarded as female saints who played a significant role in the expansion of Islam in the area. It seems that the Siltie place much emphasis on the post 16th-century developments as their identity marker. A good case in point is the Siltie Cultural Museum that has been built with five traditional houses (*Gojos*) reminiscences of the five Kings and Queens who led the 16th-century exodus.

Figure 7 Siltie Museum that depicts the culture, belief and history of the Siltie, Werabe Town

The second historical episode that has been mentioned as an important period for the resurrection of Islam and Islamic ideas was the 19th century. In this regard, Sufi based movements of the late 19th century spearheaded by known Siltie and neighboring people *Sheik*s and warlords such as Hassan *Enjamo of Qabena*, and Siltie clerics such as *Dangeye Awelu*, *Yeqiqora Sheiks*, *Alkesiye*, *Ye Jaremo Sheik*, *Yemofegne* and *Yemoye Sheiks* were in the forefront in this regard. Above all, *Hassan Enjamo* of *Qabena* is considered as one of the prominent persons that strengthened Islam and Islamic teachings among the Siltie and the nearby people.

He instructed the local community to pray, and defend Islam from expanding forces of Christian Menilik II in the late 19th century. This incident also played a significant role in the intensification of Islam among the Siltie (Bustorf 2011:461). Some written sources (Bahru 2000, Bustorf 2011, Kairedin 2012), and my key informants expound that he had become successful in defending the central government's expansion at least for some time, and played a paramount role in the expansion of Islam.

Key informants said that the Siltie Islamic scholars have been instrumental in teaching not only religious knowledge but also in bringing social changes crucial for the society to peacefully live with each other and with their neighboring people.

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They employ cooperation, integration and reconciliation strategies in their local teaching-learning process. The Siltie faith leaders have developed intertwined and multifaceted roles as peacemakers, religious figures, social actors as well as customary court judges in the community. My informants said that this devotion to the society helped them earn moral legitimacy that has persisted for long.

These Islamic scholars are revered highly by the local community up until now as they were mobilizing the community for local development and teaching children religious knowledge in harmonizing with the Siltie culture. They are also key figures as dispute settlers. Some of them are now celebrated highly and continue to influence the Islamization process. The community also reveres the Sheiks because they developed their strategies to preserve Islam and Islamic teachings both from external challenges posed by the then Christian oriented states and internal decays of the Muslim community. Siltie Zone Islamic Affairs Council president[105] said that the *Meshayiks*[106] were moderate in their teachings, for they taught the 'right and correct' Islamic teachings that reconcile culture with religion for the local community. Some of the Sheiks' Mosques serve as centers of local pilgrimage and dispute settlement. Annual *Mawlids* are celebrated in the Mosques. *Alkesiye's, Hajji Aliye's, Baydi's* and *Dangiye's Mawlids* are good examples in this regard.

These mosques, especially *Alkeso* and Hajji Aliye Mosques, are used as Sufi shrines whereby quite a large number of people go there annually for prayer, dispute settlement, and blessings. It is observed that the significance of the traditional Sufi shrines is declining from time to time due to the influence of Salafis oriented teachings that made their ways to the Siltie at least since the 1980s. The third period of Islamic revitalization was the late 1980s when the *Dawetul Tablig*, a movement that encourages people to leave their residence for three or four months' time and go somewhere far away from the place of living for religious purposes. One is expected to have his expense for food and other requirements during this time. My informants said that this movement played an important role in liberating Muslims from various non-Islamic acts like worshiping idols and asking blessings and prosperity from such deities as sorceries among the Siltie and its neighbors.

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[105] Interview with Sheik Mohammed Kelil, President of Siltie Zone Islamic Council and one of the local dispute settlers who is involved in various dispute settlement sessions on 25/04/2015 Werabe Town.

[106] The Siltie call well known Islamic scholars who contribute to the expansion of Islam and dispute resolution *Meshayiks*.

As it is done with one's own expense, the *Tablig* group is considered as the right way to Islamize one's self. According to my informants who are very much associated with Sufi teachings, the *Tablig* way is very much related to them and the Shaff'i teachings. During the *Derg* and early periods of EPRDF regimes, it played a paramount role for Islamization of the Siltie.

As its supporters said, it does not attack cultural practices due to its principle of „noninterference in local practices, values, and norms of a society it operates ". I also observed[107] that the *Tablig* group is the dominant reformist movement in the country sides of the Siltie area, yet not as such dominant in the urban centers of the Siltie.

The third Islamic movement that is found among the Silties is '*'Yetewhid Jemma''*, known locally as *Tawhid* group or the Salafis. Young educated Muslims actively lead this movement. My informants said that this movement started when some Saudi-educated scholars came back to the area around mid of the 1980s. However, it has become more active in the post-1990s period following the coming into power of EPRDF.

The classical Siltie religious scholars' education centers have got little attention this time due to the deaths of the Sheiks on one hand, and the change in the orientations of the younger generations to the Salafi's teachings on the other. These developments have contributed their share to a rise of the Salafi's teachings in the urban centers and some rural areas of the Siltie. This group mainly focuses on teaching the Quran, and Hadith[108] as the only guiding books for Muslims rather than intermixing with local customs. The group considers mixing culture with religion as innovations or „bidaa". Therefore, the young, educated Muslims see themselves as puritanical movements which come to filter the religious innovation or „*Bida'*a" from the pure Islamic teachings. This movement has been spearheaded by young Salafis and new emerging Siltie elites. However, the movement has got a challenge or resistance from the local community as it does not accept the roles of the much respected Siltie *Sheiks* and their *Mawlids* as Islamic.

Furthermore, my Sufi-oriented scholars said that this group does not adhere to the four well-known Islamic schools of laws: *Shaff'i, Hambali, Hanefi*, and *Maliki*. Rather, it is led by Sheik Mohammed Abdulwahab's teaching which focuses on a puritanical and non-reconciliatory ways

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[107] I attended the group's teachings since 2008 and traveled with the group's members in various parts of Siltie and neighboring areas. The group is blamed for giving little attention to Islamic knowledge than teaching morality. Its acceptance seems dwindling from time to time, in particular by the youths.
[108] Hadith is the teachings and practices of Prophet Mohammed.

to culture. Thus, it was observed that there had been some forms of disputes whenever the Salafis started religious sermons during their early appearance publicly at the beginning of the 1990s.

My Salafi informants[109] said that the true Islamic teachings could not enter Ethiopia before the 1990s owing to the policies of the previous regimes which were depicted as anti-Muslim. Islamic books and teachings were restricted to spread freely. Despite the fact that Ethiopia is the second state to accept Islam next to Mecca, Islam could not deeply penetrate into the lives of the society due to the factors mentioned above. As a result of this, culture dominates Islam and intermixed with Islamic teachings. Thus, the young Salafis consider their acts not new but as bringing the 'true Islam" and endeavor to disseminate Quranic-based Islam and purify it from innovations. This seeming rift, however, seems too narrow when the new forms of government-supported *Ahbash* teaching have come as another option for counter attacking the extremist teachings of the hard Salafis since 2011. It seems that this Islam-Islam tension dwindles due to the reconciliatory teachings of the Salafis, and the changes in the strategies of this group in accepting the roles of Meshayiks for the local communities. But for the Sufi-oriented Scholars, this change comes as a result of the government's involvement in curbing the foreign funds for hardliner Salafis. Whatever the cause, it is clearly observed among the Siltie that the rift between the classical *Sheiks* and the young, educated Muslims seems now decreasing.

The significant difference between the previous scholars and the contemporary ones is that the former give much emphasis to the existing situations of the local community, the problems they face, and focus on cooperation as well as integration rather than on differences. The latter, however, consider the former and elder sheiks as less educated and reluctant to challenge religious innovation or "bidaa". But the Sheiks consider the younger generation as less educated and as if they are reading " *Alif* lam before reciting *Alif*" to indicate that these young Muslims are hastily becoming religious scholars without the proper ways of perusing religious knowledge. They further said that the young generation of religious scholars is not tolerance as the *Meshayiks* were.

This potential dispute over the authority to represent the real Islam is observed in various domains including the Shari'a Courts and the Siltie Zone Islamic Council activities as both of them are not liked by the younger generation and even by the local communities as legitimate

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[109] My Salafi informants do not want to be mentioned in the study. I kept their identities anonymous.

Islamic institutions. This generational tension seems to persist at least for some time in the future. Additionally, the contentious relation between the Muslims with Islamic Institutions like Islamic Council shortly Mejlis in Siltie zone is the extension of the state and Muslims conflict that rocked the country between 2011-2013. This is due to the fact that the youth associate the Mejlis with the state as an instrument to control Muslims than to serve them.

5.5.1.   Salafism: A Contested Notion

It is observed that each Islamic movement has addressed itself as Salaf, pious pioneers of Islam. The elder *Sheiks*, for instance, did not accept the young as the sole representatives of Salafist Movement. This appellation connotes a strong adherence locally to the teachings and ideas of the pious ancestors of Islam after the companions of Prophet Mohammed rather than a sect. Thus, each Muslim wants to live after Salaf. Therefore, elder *Sheiks* consider themselves Salaf. They emphasize that every Muslim wants to follow the footsteps of early Muslims who lived the Ideal Islamic ways. The elder generation group further said that it employs the *Manhaj*/Methods /of Salafis which teaches moderate ways than extremism. And hence, for them, their teaching represents a true Salafi way. According to the younger generation, however, the classical Sheiks' teaching is contaminated by local traditions, and hence needs purifications. Rather, the youths argue that *Tawhid (*Oneness of obedience*)* group's teachings entirely depend on the Quran and the Prophet's teachings, and thus are not contaminated by various cultural practices. Therefore, the Tawhid addresses itself as the true Salaf. The local community calls the youth as *Wahabiya* after the 18th century Islamic Scholar Mohammed Ibn Abdulwahab's movement though I have not found anyone who addresses himself as *Wahabiya*. Nevertheless, I understand that I did not see as such vast doctrinal difference or debate between the groups.

However, one can clearly understand that the generational tensions and contradiction between the two parties will become a source of dispute in the future.

5.6. The Religious Courts: Religious Legal Pluralism and Intra-Faith Contestations

5.6.1. The Genesis of Religious Legal Systems: Interaction of Intra and Inter-Faith Legal Systems

The religious legal system comprises Sharia courts, courts of local *Meshayik*/*Waliyes*[110] , Courts of internationally and nationally renowned Sheiks such as Abdul Qadir *Jailani* and Sheik Hussein of Bale (Zerihun 2013: 146). Actors of customary courts have also employed the religious dimensions of the Siltie culture as a strategy to end disputes. It was also noted that followers of Ethiopian Orthodox belief resort to Siltie customary courts and the faith-based modes of dispute settlement to mend tensions among themselves and with the predominantly Muslim Siltie.

On the other hand, Islam and the Siltie have strong interactions, since the religion has played an important role not only in the identity-construction of the people (Markakis 1998: 130-3) but more importantly also in dispute settlement as well. The Sharia courts which have been in place since the1950s also play a paramount role as faith-based modes of dispute resolution. Nevertheless, some young Muslims accuse the *Qadi* of being acquiescent to the state agenda. My findings indicate that despite the fact that the Federal Democratic Republic of Ethiopia constitution (henceforth, FDRE) has given a legal recognition for customary and religious modes of dispute settlement (FDRE 1995(34/5/, 78/5/), the Sharia courts could not deliver justice due to a number of internal and external factors (Mohammed Abdo 2010). With these problems at hand, another form of dispute settlement forums like the Sufi Shrines and the Social Committee (mainly orchestrated by the young, educated Salafis) have been developed since the 1990s.

The local community resorts to these centers for faith-healing and reconciliation, not only among themselves but also with Allah, since they consider the Sheiks as mediators between them and the Devine (Dinberu et al, 1995; Kairedin, 2012; Zerihun, 2013). This indicates the existence not only of Islamic legal pluralism but also of a number of plural legal systems amongst the Siltie. The book further argues that owing to the institutional inability of the state legal system to

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[110]*Wali or* Meshayik refers to a human religious figure, dead or alive, popularly recognized as important Islamic symbol by the majority of Muslims. It is usually represented by a tomb and in some cases by a Mosque, and is associated with a shrine.

deliver justice, customary and faith-based modes of dispute settlement have maneuvered the opportunity to play a significant role in delivering justice at the grassroots level. Hence, the Sharia courts' significance seems dwindling, and institutions such as the youth's social affairs committee and Sufi shrines seem to have gained more legitimacy.

5.6.2. Local Religious Practices: Faith-Based Modes of Dispute Settlement

The genesis of the faith-based dispute settlement centers goes back to Islam's entrance to the Siltie's ancestors sometime in the 9th century (Kairedin, 2013). Nevertheless, the significances of the centers have strengthened since the late 19th century with the conquest of the Siltie by the expanding forces of Menilik II. According to Zerihun, two factors are identified in the formation and significances of venerating *Waliyes* as an essential element of local religious practices for the Siltie. To begin with, he noted that the importance of the local faith centers had been strengthened mainly following the Siltie's responses to the formation of the modern Ethiopian Empire in the last decade of the nineteenth century. This is primarily because the local Sheiks were leading the resistance to the expansion of Christian dominated forces of Menilik II and playing a role in defending Islam. Secondly, he noted that the Islamization process was spearheaded by the Sheiks themselves, whose shrines then played a crucial role in the expansion and consolidation of Islam in the area (Zerihun 2013:144). I observed in the various parts of Siltie that the Sheiks and their shrines are still enjoying legitimacy among the Siltie and the neighboring communities as important sites of pilgrimage and modes of dispute settlement.

5.6.3. The Genesis and Practices of Shari'a Court

Despite the fact that the Siltie are one of the Ethiopian societies who has had early contact with Islam, the 1950s is considered as the turning point in the history of Shari'a court among the Siltie. According to my key informants[111] , the court was set up in the 1950s while the people were categorized under *Haikochina Butajira*, Chebona Gurage and Kembata and Hadiyya Awraja[112]s during the Imperial period.

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[111] Interview with Ato Kaire Sule, an important informant who has deep knowledge about Siltie culture and history, and Ato Shifa Seid who worked in the Islamic Affair offices including the secretary of Siltie areas' Islamic Affairs and Shari'a courts at different levels between 1970s to early 1990s in Lanfuro and Dalocha Weredas.
[112] Awraja was the third administrative tier below the province/region during the Imperial (1931-1974) and the Socialist Derg regime (1974-1991).

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The *Alkesiye* families, Sadat Alkesiye, and later *Feydi*/Said *Asheraq* were in charge of administrating the *Qadiship*. Sadat was in power from 1955-1962, while Said *Asheraq* worked from 1962 to1991.

With no Wereda level administration, the Awraja *Qadi*s appointed one or two *Qadi*s within a given area of *Balaba*t/landlords/. Informants also mentioned that the *Qadi*s were very much respected by the society as they were fair and committed to serving the community. During the Derg regime, the Siltie were categorized under Southern Shoa administrative structure and had got Dalocha-Lanfuro Awraja Shari'a court which persisted until the demise of the Derg in 1991. Islamic Affair Council and the Shari'a courts had been set up in the area while the majority of the Siltie were in Gurage Zone from 1991 to 2001. It was after the establishment of Siltie Zone that the Siltie has established an independent Islamic Council and Shari'a courts since 2001.

The Siltie High Sharia Court considers cases not only from the six First Instance Sharia courts in the zone, but also from neighboring Hadiyya, and Gurage zones. The proximity of the areas, as well as the cost-effectiveness to deliver the service, has become the main factors for this. The Sharia Court considers such issues as Nikah (marriage contract), inheritance and divorce cases. It also examines civil matters up to 5000Birr, wills (*Wesiya)*, and gifts (*Hadiyya*), endowments (*Waqf*), and family sustenance cases. The court does not practice its de jure/constitutional rights as it is widely disliked by (or does not have acceptance from) the Muslim community. According to my informants, the establishment of the Sharia court was attributed to the political agenda of the state rather than the commitment to Shari'a law. The court did not have the mandate to enforce its rulings since the Sharia courts are not empowered by the constitution apart from overseeing some family cases provided that both parties want to refer the matter to the court (FDRE Constitution Art.34(4),78(5). As a result, the Sharia court seems not chosen by the Muslim community. The local community also mentions the following factors for the decline of the legitimacy of Sharia courts. To begin with, the young Salafis consider the *Qadi*s as „*Jahil*" (ignorant). Second, the court is seen as disloyal to Islamic values. Rather, it is deemed to be more loyal to the political situations of the state. Some of the *Qadis* themselves stress that they are frustrated by their jobs, for they are not practicing the *Sharia* in its true spirit. They also explain that even those rights which have been granted to the court are not fully implemented due to its low level of regard from the government that is manifested by its little-allocated budget, which is too small to allow the purchase of office equipment such as computers, copy machines, etc.

These circumstances influence the roles of religious actors for conflict transformation (Appleby 2012:222). But Siltie Sharia High court president[113] states that the government supports the courts with budgets, by appointing *Qadis* in different Siltie Weredas and providing trainings for the *Qadis* better than previous regimes. For him, it is the Muslims did not resort to the courts to resolve their cases. This seems due to the less awareness of the Muslims about the roles the Sharia courts play in maintaining the social order of the community

The empirical data also show that the Siltie Sharia courts are very much occupied with *Nikah* (Marriage contracts) more than other dispute cases. Nevertheless, I observed from the various courts' files that the courts settled divorce as well as inheritance cases. The Sharia court files also indicate, however, that more than 70% of cases were related to *Nikah* contracts, while 20% of the cases relate to marital disputes in the period from 2010 to 2015. According to Siltie zone Sharia court report (Siltie Zone Sharia High Court report, 2016/17), 10% of the cases are linked to *Waqf* (Endowments) or dispute claims on Mosques and other minor civil cases. Based on my *Qadi* informants[114], the number of cases referred to Sharia courts has decreased since the introduction of the Revised Southern Family law in 2008. This is because the newly revised law does not allow the Sharia courts to consider inheritance cases. Before this time, the Sharia courts were considering divorce and inheritance cases. The newly revised law proscribes the Sharia courts to consider inheritance cases.

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[113] Interview with Hajji Mifta Seid, President of Siltie Zone Sharia High Court on 18 July,/2017.
[114] Interview with Hajji Siraj, Silti Wereda Qadi, and Hajji Shemsu, Dalocha Wereda Qadi in April 2016.

My *Qadi* informants further explained previously it was men who wanted their cases to be reviewed by Shari'a courts as women thought the Sharia courts would not rightly protect their rights. Even though the *Qadis* associate the positive changes Muslim women show to the courts to inefficiency of state courts to handle family cases and increasing awareness of Muslims towards Islam, my Salafi informants ascribe this misperception to the less competent Shari'a court judges in some areas who did not know Shari'a law well. Women informants[115], however, said that state court judges are hasty to decide on divorce based on the family law, which is mainly based on Feminist Ideology rather than giving value to the family.[116] Below I presented some dispute cases that have been settled with the involvement mainly of Shari'a and customary courts to show how cases involve number actors which in a way help us understand the legal realities in the area.

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[115] Interview with Amina Kedir, 45, Jemila Seid, 42, in Silti and Lanfuro Wereda.
[116] Interview with an ex-judge Nesere Isa, on 25/11/2015 Werabe Town.

5.6.3.1. Case 1. Divorce case

Disputants

1. Ato Abdela Bushira, Husband/Accuser

2. Weizero Weliyat Hussein, Wife/Accused

Dispute Settler, Silti Wereda First Instance Sharia Court,

Customary Court

Qadi: Hajji Siraj Sharif

File number, 001808

Sue Date, 02/06/2015

Location: *Qibet* Town, Silti Wereda

Abdela and Weliyat had been married in 2010 through elders' court involvement in accordance with Sharia's ways. They lived together for more than five years, yet they could not beget children. They, however, acquired property. They explained that barrenness had been mentioned as the major factor for the dissolution of the marriage. Thus, the parties took the case to Sharia court to have it approved.

They first presented their dispute case to the court demanding official recognition to termination of the marriage on 02 June 2015. According to the file, the divorce was concluded on 10 June 2015 by the customary court. Weliyat agreed that the marriage could be dissolved with the involvement of Shari'a court. The Sharia court has one major rule that allows the elder to intervene in the dispute between husband and wife before considering the divorce.

The *Qadi* mentioned that this is based on the Quran's article that dictates *Qadi*s to give due time for elders to mediate spouses than rush for dissolution of marriage (The Holly Quran, Chapter 4, Article 35). Based on this rule, the court referred the case to elders to consider the case. Thus, the case was sent back again to the customary court for reconsideration. Both *Weliyat* and *Abdela* could not agree in the customary court. Both disputants finally said to the Shari'a court that they wanted to separate. After considering the decisions of the elders that explained the disputants could not agree to live together, the court passed a verdict that Abdela should pay 5000 ETB as compensation and approved the separation.

5.6.3.2. Case 2: Forced Marriage/Attempted Abduction/

Name of the girl: *Lubaba Shikur*

Age: 12, Grade 5 Student

Residence: *Elose Dere Qebele*, Silti wereda

Suspected perpetrators

1. *Ato Ayele Endesheawe* /the main actor/

2. *Ato Balo Aserate*/Collaborator/

3. *Ato Niguse Tilahun*/Collaborator/

According to informants and the petition paper, the above three men abducted a 12-year-old girl called *Lubaba* on March 20, 2015, at 4:00 local time while she was returning from the wedding party in the village. The same source explains that the suspects abducted and handed her to Ato *Ayele* who tried to rape her. The police arrested the suspects after getting information. Witnesses presented themselves and gave their testimonies to the police. The suspects admitted that they did the crime. With the invitation of suspects' relatives, elders were involved in the incident to calm down the tension, and the girl was returned to her parents. The police, however, released the suspects on 30,000 ETB bail. After this incident, *Lubaba'*s father said that the suspects threatened him if he did not give the girl back to Ato Ayele for marriage. According to the father[117], it is in this way that some economically powerful men try to achieve their demand by intimidating the less privileged ones. The father further mentioned that he received so many life threatening messages from the persons. He informed the police about the incident, yet the police could not react and proceed with the investigation. Instead, the suspects came and paid the bail money, and the case was ceased.

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[117] I talked with Lubaba's father several times on the phone and he explained to me that religious leaders and elders are more helpful than the public prosecutor, Women's Affair Office, the Police and the Wereda State court. It seems that he was desperate in the ways the state handled his case.

Hybridism in the State Court

The Wereda First Instance Court sent a letter[118] dated 08 June 2015 explaining to the father of the girl to end the dispute using the customary court. Having frustrated by the justice system delivered in the Wereda, the father went to the Zonal Good Governance and Appeal Office to present his resentment on the way his case was handled. He mentioned that it is unusual to involve elders with the order of the state court and showed his dissatisfaction and requested the zonal administration to intervene. The Good Governance and Appeal office which is in charge of helping those people who cannot get justice has been involved into the case and started to contact the Wereda court and various offices which were potentially related to the case. The office contacted the Wereda Police, and Women's Affairs Office to reconsider the case. The Good Governance and Appeal office also informally talked with the Zone High Court to see if the cas was mishandled by Wereda First Instance court. The High court requested clarification from the Wereda court to see if the accuser was asked to end the case using the customary court. The head of Good Governance and Appeal office said that rape cases are not allowed to have a bail. The Wereda First Instance court's registrar replied that it was a mistake to release the person on bail. The accuser did not agree with this idea, for the Wereda Women, Children, and Youths' Affair office could not help him. This person could not even get justice at the zonal level and thus returned home desperately. Finally, felt insecure due to threatening messages from the suspects, the father of the victim took his daughter to one of the clan's leader and head of Siltie Zone Islamic Council President to ask him end the dispute. The elder summoned the village elders to condemn the crime, and warn the suspects not to send any intimidating message to the father or attempt to take the girl back. The elders also assured him to stand by him, and send the girl to school. *Lubaba* has started learning under the custody of local elders. The dispute is still not resolved.

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[118] I have got the letter from Siltie Zone Good Governance and Appeal Office after the girl's father submitted a petition paper that required the office to intervene. Against the constitution that banned the customary and religious courts from considering rape cases, the state court asked the victim's father to end the case using the customary court. The Good Governance and Appeal Court said that it is the indication of bad governance, while the Zone High Court President ordered the Wereda court to check how this occurred. Finally, it is said that it was a technical error than other factors. However, for the victim's father, it was bribery that changed the ways cases can be handled.

5.6.3.3. Case 3. Divorce case

Disputants

1. *Ato Anwar Abdela*/the accuser/

2. *Weizero Zebiba Bedru*/the accused/

Dispute Settler, Silti Wereda First Instance Sharia Court,

Elder's court

Qadi: Hajji Siraj Sharif

File number: 0012044

Sue Date: 24/7/07 E.C.

Area of residence, Silti Wereda

According to the petition letter, and my informants, Anwar and Weizero Zebeba were married in 2008 with the involvement of elders as per Sharia rules. After living together for three years, Zebiba went to the Gulf State for work in 2011. As she stayed there for some time, she and Anwar disagreed over how long she could stay in Saudi Arabia. Anwar requested her to come back home, yet she did not agree. The dispute kept on, and Anwar wanted termination of the marriage. To this effect, he filed sued her in Silti Wereda Sharia court on 02 March 2015 demanding a divorce. The court sent a letter to the woman to appear in person and present her ideas to the court the following day. Unfortunately, the court relied on Abdela's idea who said he could not find her in the area to give her the letter. As a result, the court asked the *Qebele* officials to post the letter in the *Qebele's* compound for a day so that everybody could read it openly.

Decisions of the court in Absentia

The court based on Sharia law *Manhajal* Muslim page 379-380 and *Fiqh Sunna* Chapter 2 page 134-138 that allows the court to treat these kinds of cases decided that the application for divorce has been approved on 09 March 2015. One can understand from above cases that most of the Shari'a courts' jobs are related with marital cases. Though Shari'a courts' decline is witnessed since 2008, they are still considering divorce and inheritance cases. Moreover, those individuals who do not produce assets want their cases settled in the Shari'a courts rather than those who

have property right claims. Some dispute settlers are also involved in resolving disputes, and there is a clear complementarity among the legal systems. We can also understand that dispute cases are traveling from one court to another without boundary, and hybridism seems to characterize the legal realities of the Siltie. It can also be understood that state courts are subordinated to the customary and religious courts to end marital disputes.

5.7. Sufi Shrines: Plurality of Intra-Faith Institutions and Modes of Dispute Settlement

Studies show that *Waliye* venerating practice takes a central place in the religious as well as communal lives of the Siltie (Zerihun 2013:139; Kairedin, 2012). Zerihun notes that there are three forms of Waliye veneration practices among the Siltie. These are *Mawlid, Liqa*, and *Warrie*. Mawlid is categorized into two: *-Mawlid-un-Nabi* and *Mawlid al-Meshayik,* which are the Prophet Mohammed's Mawlid and Meshayik's Mawlids respectively. As it is nationally celebrated, I will not go through the first Mawlid.

The Siltie revere the *Meshayik* and their mosques due to the various roles the Waliyes have played in bringing about the social order of the area, on the one hand, and in expanding Islam, on the other. Among the most celebrated Sufi shrines *Alkeso*, Dangeye, and *Hajji Aliye* are the main ones. The local community goes daily, weekly, monthly and annually for prayer, strengthening social solidarity and resolving disputes among themselves and the neighboring ethnic groups. These areas mainly serve to resolve interfaith, inter-ethnic as well as minor disputes which do not involve blood cases. Nevertheless, another group of informants[119] said that local religious practices do not consider dispute cases. Rather, they play a potential role for peace building, since faith leaders advise their followers to give priority to forgiveness and peace rather than to retaliation. Moreover, actors of local religious institutions sort out causes of disputes or disputants and hand over the cases to customary court for dispute settlement.

The local community also resorts to these centers during natural calamities like drought and earthquakes perceiving that these disasters can be averted by the intercession of the *Waliyes*, whose *Du'aa/*prayer/ is believed to be accepted by the Almighty. On the other hand, when disputants feel that their cases have not been resolved by the village or customary court elders, they also resort to the *Meshayiks* for intervention. The local community will also go to the Shrines to ask for blessings, wealth and faith healing.

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[119] Interview with Sheik Mohammed, Ato Bahredin and Ato Usman on 23/2/16 in Werabe Town.

5.7.1. Liqa Institution

The second form of *Waliye* venerating practice is *Liqa. Liqa* is an Arabic word, which means get-together. According to Zerihun, the institution of *Liqa* is associated with a popular Sufi *Sheikh* of the Gurage known as *Qatbarie Sheikh, Sheikh Isa Hamza* (1866–1948) (Zerihun 2013:146). There are three broad categories of Liqa among the Siltie.

These are *Yenebi* (Prophet Mohammed's), *Geweselazem* (*Sheik Abdul Qadir Jailani of Baghdad*), and *Ye Seidina Kedir's Liqa*. Nevertheless, *Liqa* is mainly practiced in Silti Wereda more than other Siltie areas. There are two forms of *Liqa* among the Siltie. The first refers to a social situation at household level where individuals sit together and chew *Khat*, perform prayer, and other social practices as expressions of Islamic piety. This kind of *Liqa* can be taken as a religious practice for Muslims who aim to become a sort of spiritual client of a *waliye* of their choice (ibid.: 147).

The second form of *Liqa*, which the local community calls *Summu Senga Liqa*, is performed at the village level. All the major three *Liqas* are performed twice a month in this context. The participants come mainly from Siltie, Gurage, and Mareqo ethnic groups. Except in *Yenebi Liqa*, Orthodox *Tewahedo* Christians also attend the *Liqas*.[120]It is important to note that even if the participants emphasize the spiritual aspects of *Liqa* institution, they also engage with issues like dispute cases, local and national development affairs.

As the participants gather from various socio-cultural backgrounds, Liqa helps the Siltie develop solidarity with their neighbors. Moreover, *Yebad Baliqe* (the Siltie, *Mareqo*, and *Mesqan Gurage* Elders) are selected during Liqa gatherings. These individuals serve the community to oversee inter-ethnic conflicts. A good case in point was the post-Siltie Zone boundary demarcation in early 2000s period. Following the establishment of Siltie zone, elders who were chosen by *Liqa* members from all neighboring areas played pivotal roles in the smooth Siltie-Gurage boundary demarcation processes. Moreover, the Liqa leaders always pass various messages aimed at peaceful coexistence and forgiveness among members of the community.

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[120] Interview with Imam Yirdawe Juhar/Leader of Yejilale Liqa/, Hajji Sultan Hamza/Yenebi Liqa coordinator/, Ato Mukhtar Seid/coordinator of Yeseidina Kedir Liqa/, and Hajji Mohammed, head of Siltie zone Islamic Council in Silti wereda and Werabe town on 16,17 January 2016 and 23 February 2016.

5.7.2. Warrie Institution

The third local religious practice which is celebrated twice a month in memory of Sheik Hussein of Bale is called *Warrie*. According to informants, Warrie, which is derived from Mareqo word and has the meaning „let us come and sit together", mainly serves as a saint venerating practice. The local community also uses it for dispute settlement. The Siltie, Gurage, and *Mareqo* communities take part in the *Warrie* Ritual. Thus, it helps the people strengthen inter-ethnic solidarity with neighboring peoples. The leaders of the *Warrie*, called *Imams*, give messages to the participants about peaceful coexistence. They also extradite the suspected culprits who flee from neighboring areas, especially after committing murder. The *Warrie* leader disseminates information about the local development and mobilizes the community on behalf of the local government.

5.7.3. Salafi Social Committee

The new dispute settlement forum, which has been developed since the 1990s, is the youth's social committee. The youths formed their forums to consider disputes amongst their own socio-religious groups. The formation of the committee seems to have emanated from partially a response to the rejection of the customary courts and Sufi-oriented social gatherings on the one hand, and the perceived failure of the Sharia courts on the other. Informants said that the pushing factor behind the genesis of this informal institution is that the Sharia court is not working adequately due to its limited constitutional rights, the interferences of the political system, and inefficiency of the *Qadis*. It informally considers *marriage* contract, disputes between husband and wife, and supports the needy. The group does not have its structure, yet gathers whenever a need arises. It is led by youth who are university graduates and civil servants. The group does not have a name, yet it is widely preferred by those youths who are now becoming emerging Siltie elites.

Figure 10 Elders commencing dispute settlement process with blessing in the customary court (Alicho-Wuriro Wereda)

5.8. The Revival of the Sufi Shrines as Centers of Dispute Settlement: A Battle Ground between State and Non-State Actors

The local religious centers where the local people perform local religious practices and dispute resolution have faced various challenges in the past half and two decades. The local community has developed various versions for the contradictory natures of the roles the forums play in the community. It is mentioned that local Sheiks like families of *Alkesiye* controlled Islamic Council and Shari'a courts for more than three decades. These individuals gave attention to Sufi teachings. Nevertheless, the expansion of Salafi teachings and the rise of Muslim youths who criticize Sufi Shrines have been mentioned as one of the factors for the decline of the centers over the last two decades. It is also indicated that the selection of Siltie Zone *Mejlis*[121] leaders and *Qadis* in 2001 was not based on the consent of the society.[122] According to this group of informants, Siltie Zone's first Islamic Council members and Shari'a *Qadi* had been dominated by Salafi-oriented scholars.

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[121] Islamic Councils which have been set up by the government have been called locally as *Mejlis*.
[122] Interview with Ato Shifa Seid and Ato Kaire Sule in Dalocha and Lanfuro Wereda on March 31, and April1, 2015, respectively.

They also said that the *Mejlis* could not tolerate other Islamic teachings and tried to influence every activity of the Muslims for extended periods of time. It was during this time (2001-2011/12) that the Salafi movement had developed a strong ground among the Siltie.

Those who oppose the Salafis, however, accept that the community has learned about Islam during this period more than any time in the past. Nevertheless, the Salafi movement could not give due attention to the nexus between Islam and Siltie culture which had existed for a long time. Thus, the Salafi's forms of teaching have been considered less useful. They have met sometimes fierce resistance from the local community. However, the Salafis have become successful in disseminating their teachings across the Zone, particularly among the youth. Various cultural practices were attacked during this time. But following the new *Mejlis*'[123] election in 2012, it seems that a Sufi-oriented group comes to power and begins to revitalize those religious and cultural practices that had lost significance in the preceding decade. According to the young Salafis, and even parts of the local community, however, the new *Mejlis* is not viewed as an institution representing Muslims. But it is seen as a body created for the political agenda of the ruling party.

The post-2012 period has also witnessed the negotiation of Salafists and Sufi-oriented movements, due to the introduction of the al-Ahbash[124] ideology in the Zone, as mentioned previously. As a result of this, faith-based dispute settlement centers are reviving in various areas of Siltie. Faith actors' „spiritual leadership" (the oversight of the negotiation by the dead Sheikh from his grave) is the characteristic of most of the faith healing centers or dispute settlement centers among the Siltie *Meshayik,* and *Waliye*, who are revered or invoked yet are not alive. I call this kind of leadership Virtual Leadership, i.e. leading a community without physical presence.

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[123], The local community employs the name Mejlis to call both the federal and zonal Islamic Councils.
[124] Al-ahbash is a religious teaching or an Islamic sect whose origin is mainly attributed to Sheik Abdalla al-Harari's teachings. It is based on *Asheriya and Maturdiyya* Sufi creeds and dis-communicates the Salafis as, *Khafirs* /non-Muslim, who do not follow the true doctrine (*Aqeeda*) (Kabha and Erlich, 2006). Nevertheless, the Siltie and the neighboring Gurage Muslims who address themselves as followers of *Qadiriyya and Reshadiy'yya* Tariqa of Sufism disregard the *Ahbash* creeds as not true Islam. They said that the *Aqeeda* of *Ahbash* does not emanate from the Quranic and the prophet's Hadith/traditions/. Rather, it is based on *Aqqel* or philosophy or logic of the mind. Thus, according to my informants, Al-ahbash followers give much emphasis to *Aqeel*/mind or logical inferences rather than the Quran and the Hadith. The Salafis, on the other hand, consider the Al-ahbash as a non-Islamic sect which is secretly supported by the Jewish state of Israel, and its objective is weakening Muslims.

5.9. Siltie Faith Actors' Approaches to Peace Building

Despite the fact that various religious traditions have been used to justify conflict and violence throughout history, it is also observed that the same religious ideas' are employed for peace building processes by religious actors (Appleby, 2012). The Siltie faith actors and customary court judges, for instance, always say, „*Ladege yaadiginiyane*" (for one who forgives, Allah will forgive him) as one of the strategies to settle disputes. They also frequently said that the divine reward would be multiplied for the one who forgives first. Mystic construct, and changing the negative perceptions of the disputants or the „other," and constructing positive relationships by interpreting the dispute positively, rather than exacerbating enmity or revenge are also approaches dispute settlers employ for peace building among the local community.

Berche, defined as an unresolved dispute or hidden wrongdoing, among disputants of the past, is also taken seriously as a factor for one to resort to violence (See below more about *Berche*). Here, religious precepts like forgiveness and divine reward have been well utilized as a powerful tool to end disputes among parties. Studies show that irrespective of how they are used or abused, most religious systems incorporate ideals of peace, and promise peace as the outcome of their application (Seid and Fun 2001:31).

All religious traditions embody a wide variety of cultural and moral resources which have configured the basis of personal and communal values that support nonviolence and prevent conflicts. Therefore, religion can play a constructive role in peace-building and reconciliation. Understanding the social, psychological, and cultural processes that play an important part in the way that religious texts are perceived can also significantly contribute towards that end (ibid.:26). Moreover, religion can bring social, moral, and spiritual resources to the peace-building process. It can also inflict a sense of engagement and commitment both to peace and to transforming a relationship of a missing dimension from the mechanical and instrumental conflict resolution models (ibid.). Religious commitment can become a significant boost for engaging in peace building activities and bringing about social change. Engaging in religious peace building can provide a spiritual basis for transformation and compensate for mechanical and instrumental conflict resolution models. In addition, religious traditions offer rich resources for resolving conflicts by advocating values such as repentance, forgiveness, justice and patience, among others.

These values may be used to promote peace and non-violence by emphasizing common humanity and encouraging co-existence. Religious rituals and values can be powerful tools in transforming hatred and animosity into cooperation. Furthermore, religious values, beliefs, customs, and institutions can assist in healing deep social and personal injuries (ibid.: 32).

Faith-based actors employ some techniques to resolve disputes among the Siltie. To begin with, religious leaders teach the people about peace and forgiveness during religious sermons (such as the *Jumma Khutba*-Friday sermon) emphasizing forgiveness and developing harmonious relationships, both among human beings and humans with the Devine, as a source of blessings and reward in the hereafter. Here, faith leaders emphasize nonviolence over violence and for forgiveness ('*afu*) over retribution, to get the blessings of both worlds. Secondly, local belief dispute settlers also employ local religious institutions like Liqas and Sufi Shrines (monthly Thursdays) as dispute settlement forums for transferring messages of peace and cooperation among the members of the belief and beyond. Third, both religious and customary court dispute settlers employ religious precepts as a strategy for restructuring relationships between disputants. Fourthly, dispute settlers also narrate mythologies that embody the failures and success of individuals who could not stick to the faith's values and decisions of dispute settlers or abide by them respectively. Actors also employ faith-based centers not only as centers of dispute settlements among the members of the community but also as places for political mobilization for the inter-ethnic dispute between the Siltie and the Gurage that lasted for a decade since 1991 (Zerihun 2013:149).

Figure 11 Siltie and neighboring communities gather at Shamsul-Jemal Mosque Alkeso Town for annual Alkeso Mawlid celebrations (July, 2016).

I learned from the various local legal experts and customary court judges' narrations that the customary court actors consider and portray their jobs (mediating work) as having been bestowed upon them by Allah as a Trustee. This can be regarded as a strategy to strengthen dispute settlers' power. Dispute settlers also employ narrating religious myths, and stories as strategies to reinforce their legitimacy. These stories help them justify their job and accumulate power. What makes dispute settlers particularly special in this regard is that they employ both religious and cultural ideas to strengthen and win legitimacy. They also employ legal ideas from state judiciary to give verdicts. Thus, hybridization of the legal sphere seems to be an emerging socio-legal practice among the local community.

The elders also associate the various calamities and accidents including environmental disasters like earthquakes, drought, the delay of rain, or personal ones, such as car accidents, illness or failure in business, to *Berche,* and the inability to implement the decisions of elders or faith

leaders in the dispute settlement process. They firstly look for crimes or any wrongdoing in the family of the accuser, for it is believed among the Siltie that anyone can perpetrate a crime or become a victim of one or another form of accident owing to an unaddressed *Berche* in his family, relatives or lineage up to his ancestors. This is also one of the strategies elders employ to reinforce their legitimacy since only legal experts or *Raga*s can interpret *Berche* or its repercussions. The strategy also helps local dispute settlers calm down the conflict between disputants as dispute settlers will make both parties responsible for the dispute case.

Seid and Fun further expound that faith plays an important factor for conflict and conflict resolution. They underline that faith constitutes a strong set of cultural norms and values and embraces „the most profound existential issues of human life (e.g., freedom and inevitability, fear and faith, security and insecurity, right and wrong, sacred and profane)" (2001: 1). As a result of this, faith is deeply mixed up in individual and social conceptions of peace. It is against the backdrop of all these potential roles that religion has remained a dynamic force in the history of man and society (Ani Casimir et al. 2014).

5.9.1. Islamic Precepts as Strategies to Settle Disputes

It is widely observed among the Siltie also that forgiveness or *Afeytu* is consistently held out as the preferred option for the local community in matters of requiting clear injustice or crime among the faith-based modes of dispute settlements. Informants accentuate that this idea has been taken from Islamic teachings. *The Siltie religious dis*pute settlers also employ different Islamic legal sources like the Quran, the Prophet's Hadith, /Ijmah/ the agreed upon legal interpretations of the four schools of law, analogy or *Qiyas* as well as Ijtihad, one's logical inferences. Thus, the Islamic legal systems have also been characterized by plurality. The local informants further explain that even if the *Qadi* are partly trained in traditional Islamic educational centers and give credit to popular opinion and traditions of the societies, the local community could not mainly go to Shari'a courts to settle disputes. My *Qadi* informants said that this is partly due to lack of enough a*warene*ss about the rights the court gives to the community and the constitutional impediments that stipulate two parties must agree to settle their disputes in the Shari'a court (Art.34(5)). Other factors for this problem will be explicated below. Islamic legal pluralism is witnessed not only by the existence of the various Islamic schools of thoughts but also by the presence of local belief systems such as Sufi shrines and courts of *Meshayiks*.

5.9.2. Islamic Pluralism: The Existence of Various Mechanisms to settle Disputes

According to my informants, most of the *Qadi* who are working in the Shari'a courts are trained in Shafi'i school of law. The *Qadi*s profile, however, indicates that four of the eight have degrees in Islamic law from various Islamic institutions in Saudi Arabia. Thus, having Quranic and Hadith knowledge is given precedence during the selection process. Three of the *Qadi* have reached the highest level of *Fiqh* like *Feq'ul Muqarena* (The four schools of law agreed upon rulings, laws) that is important to consider all cases from the perspectives of the four Islamic laws. Nevertheless, there are some youth and sections of the community who also said that abiding by the four schools is not mandatory since the Quran and Hadith are the primary sources than referring to the *Madhabs*. The *Qadi*s indicate that even if the *Shafi'i Madhhab* is the dominant school of law in the area, they use other interpretations of the three Islamic scholars to consider some issues like women's right during divorce which have not been interpreted by the Shaff'i school of law. The Shaff'i law, for instance, expounds that a female can inherit half of the property with her husband during divorce if only both declare that the property is acquired after marriage. The state courts also consider this case more or less in the same way. However, if both have not acquired the property during marriage and if both do not have children, the woman can only get 1/8 of the property. However, some of the *Qadi*s said that they are employing the *Abu Hanafi Madhhab* that clearly declares a woman must get 50 % of the property whether both claim to have acquired it together or not. According to this school, their living together is enough to divide the property equally. Thus, the *Qadi* stress that they employ the combination of the four scholars' interpretations of Islamic laws whenever relevant in the court proceedings. They also underline that the Shari'a law has multiple options to treat a case of property right, unlike other legal systems. It is clear that using different legislation to settle cases is not only important to attract clients, but is also one of the strategies the *Qadis* employ to compete with the youth and the state courts. Despite this advantage to women in the Shari'a law, there are low number of cases that are initiated by women referred to the courts. This can be seen from the legitimacy crisis the Sharia courts are facing. Nevertheless, some women informants indicate that they are choosing the Shari'a courts than state courts to settle divorce cases. This is due to the possibility of bribery of state court judges by their husbands who can easily bribe some judges in the state courts than manipulating Sharia Qadis.

Qadi informants explain further that they are employing the following five ways or mechanisms to settle disputes whenever they consider dispute cases in their respective courts. For the Siltie *Qadi*, the four Schools of law are not mandatory to the courts indicating the changing orientations and the practical nature of the Shari'a courts. Rather, the following are the main legal sources for the Shari'a courts' activities. These are the Quran, the Prophet's Hadith, Ijmah/ the agreed upon legal interpretations of the four schools of law, /*Qiya*s/ analogy, and *Ijtihad*/one's logical inferences/.

5.10.   Local Community's and Actors' Perceptions on Religious Courts

5.10.1. Why Are Shari'a Courts „more preferred „than others? Views from the Court Actors

According to my *Qadi* informants[125], women prefer the Shari'a court more than men do for the following reasons. The Shari'a court will give 2/3 inheritance rights to the women during termination of marriage if she has got children; otherwise, she will be given 1/4th of the wealth irrespective of her contribution to the asset. However, the *Qadi*s indicate that having equal contribution to the property is a number one prerequisite to get equal inheritance right in state courts during divorce. Thus, informants suggest that even if the property is inherited from parents, or generated privately by the husband, the wife is entitled to get 1/4 of the assets during divorce in the Shari'a court. Moreover, the Shari'a law gives priority for elders' mediation before considering divorce cases as clearly stipulated in the Quran/Verse,33/. If the *Qadi* divorces couples without giving a chance for elders, and if the disputants appeal, the verdict will be reversed. Local religious leaders[126] also teach that the Quran strongly recommends elders' involvement in a marital dispute. They also stress that Allah dislikes divorce. Thus, elders' reconciliation is given priority by the *Qadi*s in the court. Moreover, unlike the state courts or the customary courts, the *Qadi* consider every case in their offices without the presence of the court attendee that gives them the chance to mediate the disputants and hear their cases including their secrets freely. Thus, disputants, mainly women, resort to Shari'a court to pursue their cases.

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[125] Interview with Hajji Abdulhadi Ahmed, Hajji Zakir, Hajji Shemsu, Ato Sadik on August 27, 28 and 29, Werabe Town. These individuals are important religious figures who establish Siltie Islamic Council, and Shari'a courts in the early 2000s.They also worked as President of the Council, and Qadis in different areas.

[126] Taken from Friday sermon from Sheik Nuredin at Umar Mosque 30 December 2016 Werabe Town.

Additionally, the Shari'a court is flexible in its consideration of cases than mere sanctioning of norms. The *Qadi*s also stress that the Shari'a gives due attention to the values and norms of the people. The informants further explain that since the *Qadi* are partly trained in traditional Islamic educational centers, they give credit to popular opinion and traditions of the societies. Despite all these advantages, it is observed that the local community did not prefer taking dispute cases to Shari'a courts. *Qadi* informants said that one of the factors to the decline of the significance of the courts is attributed to the local community's lack of enough a*warene*ss of the rights the court gives to them and the constitutional impediments which prevent the Shari'a courts from operating fully (Art.34(5)).

5.10.2. Local Community's perceptions on Religious Courts: Voices from Various Social Groups

The Shari'a courts have met challenges from some actors like the state, the state court judges, and the community. To begin with, the significance of the Shari'a court seems dwindling in the eyes of the community due to internal and external factors. Some factors can be counted for the decline of the importance of the courts. First, the courts do not have legitimacy by the local community. This is because parts of the community have the perception that the *Qadi* and *Mejlis* leaders are not working for the Muslims. They consider the Shari'a *Qadi*s and Muslim leaders who are appointed by the government as serving the political agenda of the state. The members of the local community also said that even if there are some competent *Qadi*s in the Shari'a courts, they are not working freely due to the constitutional impediments and the budget constraints the government allocates to the courts. Members of the local community further said that they do not also believe that *Qadi*s have sound knowledge of the secular laws to comparatively see the jurisdiction, and follow the procedural laws. Moreover, they do not also believe that the Shari'a courts' decisions are binding, for they have observed most of the time that the police do not accept the *Qadi*s' orders and bring the culprit to the court and not also fully execute the decisions. This can also be partly shared by a *Qadi* informant's experience on Sharia court's relation with the police department. He said that the *Wereda* police released a culprit from jail, who was imprisoned after his case was considered by Dalocha Wereda Shari'a court, by disrespecting its verdict in 2008.[127] Moreover, my local community informants said that they do not want to go to Shari'a courts for marriage contracts, for they consider *Nikah* contracts

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[127] Interview with *Qadi* Ahmed/pseudonym/ on 23 August 2015, Werabe town.

everywhere as Islam gives them the right to do so provided that one fulfills the requirements. Thus, they stress that going to Shari'a courts is not mandatory.

According to other key informants[128], the Shari'a court does not have legitimacy among the local community due to the following reasons. First, it has been organized based on the structures and demands of the government rather than the needs of the community. Thus, it is more answerable to the state and loyal to the state's structure rather than to Islam. Second, the *Qadi* appointment is not based on meritocracy, and hence religious knowledge is not considered as a prerequisite for appointment to the courts of Shari'a. Informants said that those religious leaders who are known for their discipline and religious knowledge remain at home. They consider that the courts do not work based on the Shari'a principle. Rather, just like any other secular court, it suffers from networking, insufficient workforce and financial crisis. The *Qadi* sometimes conclude Nikah contracts in the middle of marriage or after the two parties lived for a while. One of my key informants explained that the Shari'a court is not treated well by the state court as well. Third, the self-perceptions of the *Qadi*s who did not consider themselves as having authority to judge due to lack of both secular and Islamic knowledge have contributed to the case too. I observed[129] that except the Shari'a High Court *Qadi,* other courts did not have computers for writing. As my informants said this is one of the strategies the state uses to weaken the Shari'a courts. Moreover, the *Qadi* could not evaluate their plans, and activities together, and the state supreme court also cannot include their reports in their quarterly, mid-term, and annual reports. Both the state court judges and *Qadi*s said that the state court was working with the Shari'a courts previously, and the tribunals' programs were included in the Zonal court plans. This situation plays a major role in getting respect and support from zonal and wereda officials.

The *Qadi*[130] of Zonal High Shari'a Court admitted that some cases like women's rights are not protected well by the court. He stressed that this is due to the inefficiency and inability of *Qadi* rather than Shari'a. He said further that if the *Qadi*s are well educated in Shari'a law, they can easily understand that Shari'a gives much right and protect the rights of the Muslim community than others.

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[128] Interview with Ato Mustafa, an ex-judge, Sheik Kedir, a Mejlis leader and *Weizero* Amina/Pseudo names/, zonal official and *Qadis* from Silti and Werabe areas in February, March 2015.
[129] I visited three of the six Shari'a courts to observe how the courts consider cases and collect data. I saw that except the Zone High court, others are not well equipped materially.
[130] Interview with Hajji Mifta Seid on 15 December 2015 Werabe Town.

The other factor that has been mentioned for the decline of the significance of Shari'a courts is the roles of legal representatives. Some informants also said that the attorneys advise their customers to go for state courts, for they could not get the translated Shari'a codes to stand as legal representative for their clients. Thus, the absence of translated Shari'a codes is one of the factors affecting the Shari'a courts' operation in the area, and possibly beyond. Last but not least, the state did not allocate enough finance for the courts, and the state court presidents also administer the Shari'a court budgets in their respective areas. This state of affair complicates the activities of the courts[131]. Some sources both from the state and Shari'a courts[132] further indicate that the *Qadi*s were trained on the procedural law in 2002 and 2008 by Regional State Supreme and Zonal High courts. According to the *Qadi* informants, the state procedural law which shows how to process dispute cases is helping them to compile cases well. As it indicates how a case can legally be pursued, from initiating and hearing the cases to final verdict, the procedural law has facilitated their activities smoothly. The major aspect of the procedural law is the fact that it requires a legal expert to prepare documents and follow cases that are not easy for the *Qadi*s who do not have enough knowledge on secular law procedures. According to my *Qadi* and state judge informants, the *Qadi* were helped by co-judges in procedural law from 2008 to 2010. Nowadays, the Zone High Court is not providing any support for the reason not clear to them.

According to the state court sources, the *Qadi* are not getting help other than some kinds of capacity building training like training on procedural law. The same sources believe that the *Qadi* are not supported financially well due to the overall budget shortages as the financial aspects of the state court itself has fallen under the strict control of the executive body in the Zone. They further explain that they are functioning at the mercy of the executive body for their expenses including car and other logistical aspects.[133] Thus, some internal and external factors have affected the legitimacy of Sharia courts in the area and beyond (Mohammed Abdo, 2010). Thus, one can say that the religious legal systems, especially Shari'a courts do not have equal legal footings in the area. However, we can also say that faith-based legal actors have used their agency to appeal to the community and end disputes.

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[131]. Interview with zonal High state court judges and *Qadis* /Anonymous/, and deep narrative talks with members of the various state court judges and Presidents in July and August 2015, Silti, Werabe.

[132] Interview with zonal High state court judge/Anonymous/, and deep narrative talks with members of the various state court judges and presidents in July and August 2015, Silti, Werabe.

[133] Interview with zonal high state court judge/Anonymous/, and deep narrative talks with members of the various state court judges and presidents in July and August 2015, Silti, Werabe.

5.11.   Forum Shopping and Intra-Faith Interactions

The ways contemporary religious figures present themselves, as well as how stories of the *Waliye* are narrated, contributes to the significance of religious centers and the Meshayik amongst the local community. Self-presentation also affects the forum shopping tendency among the local community. Forum shopping is briefly defined as disputants' choice of one or another mode of dispute settlement to end their differences hoping for the best outcome of a dispute (Benda-Beckman 1979:117). Religious figures that the local community considers W*aliyes* are highly respected among the Siltie.

Studies show that the people respect and visit the place of these figures for various reasons including dispute settlement. Respecting as well as venerating the religious figures constitutes one of the central religious and communal practices of the Siltie (Zerihun 2013:139). Local religious centers are also places of festivity, where the local and neighboring communities strengthen their Islamic identity and exchange various ideas about their social and natural environments. Additionally, the local religious scholars have significant roles among the Siltie; not only are they the main figures for the expansion of Islam, but they are also considered as *Waliyes* who interpret Islamic teachings and teach morality as well as intervene for blessings from Allah. I observed that the local community resorts to local religious actors for blessings as well as prayers during bad times like drought and other natural calamities.

Thus, faith-based institutions serve as avenues for dispute settlement horizontally among human beings on the one hand and areas of channeling interactions vertically between humans and the Devine, on the other. Also, the local religious centers, their veneration, and pilgrimage to them serve as a centripetal force for the Siltie and for the neighboring ethnic groups as well. Studies also show that saints and pilgrimage to their shrines can be taken as an „integrative force" and have integrative functions (Shack 1964, Pankhurst 1994, Zerihun, 2013). This circumstance also portrays the pivotal role faith-based dispute settlers' play for peace building on one hand, and help the centers maintain their significance amid growing criticism from Islamic reform movements, on the other. This, however, is now changing as active, young, educated Salafi Imams[134] are becoming more prominent than elders.

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[134] An Imam is a religious leader who leads congregational prayers in at a Mosque.

Studies in the area indicate that although the growing influence of Islamic reformist movements among the Siltie has got momentum since the 1990s, the local Islamic practices such as *Warrie*, *Liqa*, and *Mawlid*s of the local religious figures continue operating using a number of strategies. The local community resisted the interventions of local officials who considered *Warrie* as "anti-development" (Zerihun 2013:50), using strategies such as refusing attending government meetings (Scot, 1985), and at times even resorting to violence (Zerihun 2013:50). For the past five or more years, these practices have revived as a result of the government's change of tack, as it became concerned about the growing influence of the Islamic reformist movements in the country. Due to its nearness to the Middle East, the dynamics of Islamic movements in Ethiopia has been followed closely by Western strategists (Erlich, 2007). Alkeso Shrine has been given attention by academics such as Erlich, who saw the promotion of Sufi movements as a counter strategy to the development of Islamic reform movements (Erlich, 2007; Mohammed Dejen, 2016) which may come to oppose Western interests in the region. The other factor that contributes to the rise of faith-based dispute settlement centers can be related to the decline of the state legal system. The prevalence of bad governance, shortage of trained judges, and interference from the political system have been mentioned as factors for the decline of the legitimacy of the judiciary (Baker2013:202-218).

Moreover, the attempted introduction of the „al-*Ahbash* ideology" in the last seven years has played a role in narrowing the gap between the reformists and the local Sheiks. Following the widespread dissemination of Al-Ahbash sect, the Sufi Sheiks and young, educated Muslims have negotiated on the role of local religious figures, since both consider the „al-Ahbash" as a new sect that can challenge the practices of Islam. In this vein, the reformists accept the historical roles of the *Waliyes* and their *Mawlids* for the expansion of Islam. The Sheiks, on the other hand, begin to consider the youths' criticisms as naive rather than disregard for their roles. However, this negotiation seems temporary as the reformists will not accept the various local Islamic practices which they regard as „*bida'a*"or innovations. However, what makes both groups unified for the moment is they accept the roles faiths can play in dispute settlement in the area. Although the religious significance of the „traditional" *Sheikhs* or *Waliye* and their veneration sites are not totally rejected, the young, educated Muslims have got an influential role in changing the perception of the way Islam was historically practiced and represented among the majority of Muslims (Zerihun 2013:151).

Studies also show that not all Meshayiks' sites fall under criticism by Islamic reformists (ibid.: 153). As mentioned above, the approbation of some Sufi practices by the reformists has characterized Islam among the Siltie

5.12. The Roles of Local Belief and Values for Dispute Settlement: Agents of Hybridization

The beliefs, values, and norms local dispute settlers employ are playing important roles in maintaining peace and harmony in the area. One can say that the various values and norms the people use in day to day activities can be considered as social control mechanisms which help the society maintain not only social order among members of the local community but also its interaction with other creatures and the natural environment. This is because the Siltie's ideas of the right to live, as they call it, *Berche* is a general notion that gives value not only to human life but also to everything, including animals and other material creations alike. The underlying principle of the concept of *Berche* is that „all are created for a purpose". The notion Tur strongly discourages abusing any form of power, be it economic, social, knowledge and authority. It also forbids misuse of one's resources like animals, plants and non-living things including stones. Thus, the Siltie believe that no one should abuse his or her power to oppress others, which indicates the socially embedded collective thinking about establishing harmony between not only humans but also between other animals and the natural world. If someone abuses power or resources, he/she may lose his/her God-given blessings or *Tur*, and bad fortunes called *Boze Berche* will inflict harm on him and on seven generations after him. The unbounded natures of the Siltie local values and norms have been manifested in the activities of not only local dispute settlers but also of state court judges and *Qadi*s as well. Thus, these beliefs and values can be considered as „cultural mechanisms" (Malinowski 1967:15-16) the local dispute settlers employ to maintain social order in the area. Below, I briefly discussed those values, beliefs, and procedures used by the local disputes settlers in the study area.

5.12.1. Fero Or Kunene

Fero is one of the values that the Siltie consider seriously in their relationship among themselves and with others. The concept plays a deterrent role as it curbs a person not to think or commit a crime on others. This is because the widely held belief among the Siltie that if someone does any crime or abuses others (does *Fero*), one day in the near or remote future, he/she or his/her

children or descendants up to seven generations would commit the same or more than even the first crime. The perpetrator himself or his progeny will also be affected by the injustices committed by him or by members of the family including losing a life. It is due to this local belief that the dispute settlers first probe the opposing parties whether disputants' or their ancestors did commit a crime before convening the conflict settlement process. Here, dispute settlers make an accuser and the accused partly responsible for the incident by giving them assignments to clarify if there is an unaddressed *Fero* among family members and hence calming the tension for a while.

My key informants[135] said that *Fero* plays a significant role in potentially preventing disputes for it will mirror in one's mind the consequences of a wrong act that even subsist forever by passing from generation to generation if not addressed well. If one of the parties or both confess that there is *Fero* among the family members, dispute settlers will tell disputants to purify themselves from the hidden crime first. This will be done by paying the blood price for the families if it was a homicide case or ask forgiveness from the victim/ his/her family members if the case is theft, insult, or physical attack. Thus, dispute settlers use *Fero* as a religious dimension of culture to identify any hidden crime or dispute case. They also use the notion as a tool for resolving conflicts.

Fero does not require witnesses; rather, it can manifest itself in due course of time. If someone has met continuous accidents or problems like losing money, bankruptcy, failure of crops, losing a member of a family, the local community believes that he/she has got *Fero* or *Kunene*. They will tell the person that he should visit dispute settlers to cleanse him/herself from the perpetual calamities of the *Fero*. In this regard, there is a possibility that neighbors or relatives who suspect that there may be a *Fero* in a person may also be affected by *Fero*. Thus, it is recommended that these individuals should tell or remind the suspect of purifying himself from the hidden case. Once they tell to the person, they are considered as cleansed, and *Fero* will not approach them. I have observed[136] that the Siltie people are highly scared of *Fero* in their social relationship.

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[135]'Interview with Girazmach Hussein Bussere and Ato Kaire Sule on 3 and 10 April 2015 in Dalocha and Lanfuro Weredas respectively.

[136] I have noted in the various customary court sessions and in the daily activities that *Fero* has a central place in the interactions between dispute settlers and disputants as well as in the social interactions of the community.

5.12.2. Tur

Tur is also one of the values that the Siltie cherished most in their dealings among themselves, with other creatures, neighboring people, and their environment. *Tur* strongly discourages abusing any form of power, be it economic, social, knowledge or authority. It also forbids misuse of one's resources like animals, plants and non-living things including stones. Thus, it is also believed among the Siltie that no one should abuse his or her power to oppress others, which indicates the socially embedded collective thinking about establishing harmony between not only humans but also between other animals and the natural world. *Tur* connotes good chances such as prosperity, health, happiness and many children, and good harvest one wishes to get in his/her life. According to this view, one can get good fortune because of his/her own or ancestors' good deeds. As an informant[137] said, the Siltie consider Tur seriously in their daily activities and doing good deeds (*Tur*) would be the basic factor to gain successes in one's or descendants' life in the future.

It is usual to hear „*Beweldahe Tur Ategubl*," which means, „Do good deeds today, and you will get it back later" in the day to day interactions of the Siltie. Therefore, this implies that one can lose *Tur* (fortune) such as power, prestige, and wealth because of evil deeds including becoming partial in dispute settlement, for the status of local judge *Raga* or *Maga* position can be gained either through accumulated *Tur* by the family or oneself. The Siltie say that „*Tur awtote elatekashe*," meaning it is not good to waste resources lavishly after one gets assets of any kind in his/her life. My key informants further said that „*Manem sebe feye gize berekebe Tur awetote elebiye.Tur awetote bozine. Allah yabeneye ayane bewekitike wa besutike tedegelelote yatekeshane," that is to say, „*Anyone who gets a good chance or resource in his/her life should use it effectively, wisely and efficiently." Any bad thing or misfortune is ascribed to the loss of *Tur* in the area. The people say that „*Tur Beweld Atigublote Feyane',* doing good things and being reasonable and impartial in one's judgment in life will deposit multiplied social and even economic rewards to the children. In short, *Tur* means fortune, but this fortune is not something gained by chance or luck. Rather, it is believed that one can get *Tur* because of a person's and his/her ancestors' sincere, righteous and good deeds. An important aspect of *Tur* is that it is not

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[137] Interview with Ato Abdulwaris Redi on 12, April 2015 in Werabe Town, further ideas collected during fieldwork.

confined to the lifespan of a person. Thus, it surpasses generations and has the potential to manifest itself in the life of the descendants.

The role of this value and belief system for peacemaking can also be inferred from the fact that whenever dispute settlers assemble to look at cases, they employ their power efficiently and impartially not to lose *Tur*. This state of affair plays a pivotal role for dispute settlers to pass a fair verdict for both parties and becomes one of the factors that affect forum shopping in the existence of many legal setting not only among various legal systems but also among local legal actors too. More dispute cases also flow to the local dispute settler who becomes impartial or to those who respect the value *Tur* rather than who abuse it. Thus, elders take every possible caution not to unfairly treat anyone or corrupt decisions for the fear that they and their children may lose *Tur*.

On the other hand, *Tur* also has a central place in the transfer of authority as a local judge, religious as well as clan leadership status from generation to generation or from father to son within the family. Based on this belief, respect and legitimacy of power go to the man where *Tur* resides in. It seems that the patriarchal trends affect *Tur's* directions, for it can only reside in boys than girls. Nevertheless, in case a woman is more successful in maintaining Tur, the fortune will go to her son, and not to her. There is a possibility for the youngest brother to take all prestige and power if he does *Tur* or has got the blessings of the father.

Figure 12 Raga Kedir usually employs faith precepts to end disputes at Raga Odda Tree (Dalocha, Wereda September 2014).

It is also believed that evil deed knocks *Tur* (fortune) out of one's home. Moreover, everyone is afraid of losing Tur to accuse another of a lie. Thus, dispute settlers employ *Tur* as a strategy to settle disagreement including disputes among the local community. In short, whenever dispute settlers summon in dispute settlement forums to consider cases, they take precautions not to be partial i.e. abuse *Haq* (Justice), for the justice they abuse today could bring misfortune and misery to their home. It is based on this general belief that disputants put complete trust on dispute settlers. Nevertheless, if dispute settlers abuse *Haq* (justice), disputants believe that Almighty Allah will punish them for their misdeeds. Hence, local dispute settlers have become vigilant in the customary court sessions not to lose *Tur*, and *Tur* helps them strengthen their legal agency.

5.12.3. Berche: the Local Notion of Justice

Berche is also another local value and concept the Siltie consider in their day-to-day relations with each other and with other groups. This belief also has a deterrent role for *Berche* is observed or considered seriously in the daily activities of the people, and it is widely believed that getting rid of *Berche*, indecent act, is crucial for preventing from committing a crime. My respondents said that[138] „*Berche* involves relationships and interactions ranging from the way one treats his/her domestic animals such as cat, dog, and donkey to the treatment of people of different class, power, and wealth." *Berche* has the inverse meaning of *Tur*. It has two categories, namely *Feye Berche*/Good deed or fortune/ and *Boze Berche* /Bad fortune/. The second category involves the loss of *Tur* (fortune) following one's evil deeds. It is manifested in the suffering of an individual or her/his family from property loss, diseases, panic, anxiety, loss of children and various unpleasant things one would try to avoid in life. My key informants[139] said, „*Hade sebe boze bile bashe Bercheke tayewile tayandire yejejebiyane. Berchewa humare unga elegefere yilene. Yasuye Berche wale teyandire lijejanoko. Betani yeneke Teboze Berche Selam! Yeleneye,"* which literally means „If a given individual wronged somebody, he/she might get the result of it immediately. That is why we say as a proverb donkey and evil deed do not leave the road. Moreover, that is why we stress keeping oneself away from bad things as an important factor for success in life." *Berche* on the other hand implies the right to live as its meaning is comprehensive, and compels one to value everything including non-living things. Thus, suffering from *Berche* is believed to be the result of a misdeed or abuse of *Tur* by one or one's family. According to this idea, if power or wealth is abused, *Berche* awaits at the door to get into. The all-encompassing and powerful nature of *Berche* can be understood from the fact that it can come by the wet tongue when one talks about things such as crimes without evidence, constant talk of blood cases[140], hearing bad things and spreading news of bad acts without at least saying „May Allah keep me from the repercussions of bad *Berche*" can also become channels for *Berche*.

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[138] Interview with Ato Kaire Sule on February 10 /2015, Ato Dilebo Gebre on March 7, 2015, in Werabe Town.

[139]' Interview with Girazmach Hussein Bussere and Ato Kaire Sule on 3 and10 April 2015 in Dalocha and LanfuroWeradas

[140] The Siltie believe that talking about homicide or murder cases overtly can perpetuate homicide incidents. For them, „Silence is part of healing the wound"(Bellagamba, 2011) which is an integral part of local modes of dispute settlement.

It is due to the central place the notion of Berche has among the Siltie that one can always hear the phrase, „*Teboze Berche Selam*," which means, „Let me get rid of all forms of evil *Berche*." Based on this belief, if dispute settlers become partial in judgment or abuse *Haq* (truth), the spirit of *bad Berche* would possess both dispute settlers and their descendants. Moreover, *Berche* is seriously considered by disputants whenever one of them or both accuse the other of a crime. In this vein, if a disputant accuses the other with false evidence, bad *Berche* will overtake him or bring an ill fortune on himself and on members of his/her family, and the ill fortune includes poverty and misfortune in life which persist up to seven generations. The Siltie also say, „*Berche eladigim eledigedigim*", which means, *Berche* will never hurry to backfire, and will not also forsake its perpetrator. Such fears of *Berche* enable dispute settlers to deliver *Haq* (justice) in the dispute settlement forums. It also warns a person not to accuse the other of a lie. I also observed in the field that elders, disputants, witnesses, and legal representatives as well as state court judges frequently employ these belief systems during dispute settlement processes both in the state and local dispute resolution forums. The following excerpt from one of the state judges will help us understand how local beliefs and values are cross-referenced and have power in influencing the state court proceedings. The judge said that:

> „When I sit in the Court Hall presiding over dispute cases, especially divorce case, I do not usually refer to the legal norms and the revised family laws. Rather, I am scared of Berche. Even if I found enough evidence that can become a factor in terminating a marriage, I am afraid of Berche because if I facilitate the divorce and dissolve the family here in the court, I believe that I may find my family dissolved. Thus, I ask court attendants to leave the courtroom and talk with disputants freely. I usually advise them to drop the case and go to the customary courts for reconciliation. I was successful in aborting some serious divorce cases. However, if I thought that *Berche*'s limit ends its negative impact after asking the disputants to reconcile several times, I will let them do what they want.[141]"

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[141] Interview with Nesere Issa, a state court judge, and worked as ad-hoc president of Siltie Zone High Court on December 28/2015 in Werabe town. He is now a legal expert in Siltie Zone Security Administration department.

5.12.3.1.   Case 4. Berche as a Socially Imbedded Value: Explanation from a Woman

While I was traveling for the purpose of collecting data in different part of Siltie and its neighbors, a woman in her 50s had got into a Minibus on 9 May 2015. The car was on its way from Werabe to Butajira Town. A woman called Amina has worked as local *Chat* seller. She was buying *Khat* from Alicho Wuriro Wereda, *Kutere* Town. She was taking it to *Kibet* Town, Silti Wereda for selling. On our way, she began to explain the power of *Berche* and its implications in social life if not taken seriously. Then, some of the passengers began to talk about a homicide case that was the news of the time. She said,

> "It is unusual to hear that a husband, a father of seven can kill the mother
> of his children. We also heard about the hitherto unheard cases in various
> parts of Siltie zone in 2014/15 years. The area experienced an
> earthquake, drought, and violent murder cases and a large number of
> divorce cases unlike other years in 2014/15. There was news from
> Alicho Wuriro Wereda about a man who killed his wife and committed
> suicide after that incident. For the Siltie, this episode has some woeful
> messages. Do not we have elders who can intervene in the case, and end
> *Berche*? The case should be seen seriously as it was unusual. We heard
> from our fathers and ancestors that anything cannot happen without a
> cause. Homicide is a result of unaddressed homicide in one's family.
> Elders have ascribed it to an unaddressed *Berche* in the family, and in the
> *Wereda*. It was said that the man who killed his wife and killed himself
> after that in March 2015 had got *Berche* when he was working in Oromia
> region, Agaro Town. It was said that he had beaten and killed some
> individuals who were working with him. You know *Berche* cannot be
> avoided if not addressed well."

This woman raised an interesting idea to show why one should give due attention to the blood of someone and stressed that violation of rights in the presence or absence of a witness would bring about severe consequences sometime in the future. She then added,

> "If one cuts his finger while cutting an onion with a knife, the hand that held
> the knife should recompense the one which was cut by providing various

things that help recover the finger well. If someone kills a chicken, he should pay a chicken by buying it even for himself, and if not he will kill sheep, and if he kills sheep, he will shoot a cow provided that he cannot pay the lost animal back. Moreover, if someone kills a cow, and could not address it well or pay it back, he will resort to killing a human being. We believe in the strong power of Berche that has a great power to influence our everyday lives."

Thus, both the interview and the case clearly indicate the unbounded natures of local values and norms which influence not only local dispute settlers but also *Qadi*s and state court judges in the courthouses as well. They also illustrate how state and non-state legal actors are cross-referencing various legal and social norms to consider cases which in turn boost their legal agencies. They further indicate how local values are socially embedded and have a strong impact on the daily lives of the local community. The cases also clearly underscore that local legal actors consider dispute cases by putting oneself in the shoes of the disputants. This makes dispute settlers feel the pain of others and helps them provide appropriate decisions. Respondents also said that *Berche* inflicts much harm in those circumstances whereby the majority oppresses the minority and when anyone abuses the needy, the marginalized, as well as those the society considers as vulnerable groups such as orphans. Thus, *Berche* is serving as immunity for socially isolated parts of the society and has also become the weapon of the weak (Scot, 1985) and serves the local communty as instrument of justice.

5.12.4. Swearing Ritual (*Terte*)

Terte (swearing ritual) is also another local value dispute settlers employ during local modes of dispute settlement processes. According to my interviewees[142], the disputants, the witnesses or the „*Mulli*[143]‚‚ as the Siltie call them, and the defendants are expected to make an *oath* (*Terte*) before the commencement of dispute resolution process. These individuals swear in front of dispute settlers to show their sincerity and impartiality.

Terte also implies that disputants and witnesses stand for their rights and do not want to violate others' rights and will not give false witness.

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[142]'Interview with Gerad Hussein Bussiere and Ato Kaire Sule on 3 and10 April 2015 in Dalocha and LanfuroWeradas, respectively.
[143] Mulli is a name given to witnesses in the customary dispute settlement sessions.

The Siltie also believe that if those individuals who give witnesses or the *Mulli* vow falsely to give witness, the Almighty Allah will bring dangerous consequences including death on them and their descendants. It is also believed among the Siltie that any individual who gives false evidence on somebody and commits *Fero* will get the penalty of his/her *evil* deeds afterward.

Since they are afraid of losing *Tur* or the result of *Fero*, the witnesses do not resort to false witness as well as false accusations. Thus, *Terte* (Oath) also helps elders facilitate dispute settlement process more efficiently than even the state court. Therefore, one can say that the various values and belief systems of the Siltie play a pivotal role as effective cultural mechanisms for identifying the hidden crimes that cannot otherwise be identified by the state legal system. It is mainly because of these values and beliefs that the state court judges refer those cases that lack enough evidence to pursue the due process of law to the customary dispute settlement forums. The various values and belief systems of the society are playing significant roles in facilitating the conflict resolution and peace building among the Siltie and neighboring people. We can also understand that the state systems also incorporate elements of customary laws, especially when dealing with family dispute cases. Thus, this is an indication of the existence of a process of „cross-fertilization where rules in one system are shaped by and are shaping those in another „(Griffiths 1998:134).

5.13.   Concluding Remarks

The process of the modern state building that has started since the late 19th century has also marked the onset of legal pluralism on one hand and the local community's resistance of state's intervention into the local affairs, on the other. Pluralism also characterizes the state and the religious legal systems. The state legal system has also suffered from political interferences that affect the legitimacy of the state judiciary which in turn has contributed to the re-emergence of neo-traditional leadership as well as local forms of dispute settlement. The state officials have also encroached upon the judiciary in the guise of development, and this also indicates the practical challenges legal pluralism faces in the area and possibly beyond. The religious legal systems have continued to operate, resisting the various problems including the constitutional impediments and political interferences.

The emergence of young and educated Muslims who begin also replacing the hitherto respected traditional Sheiks can also be mentioned as a setback for the activities of local Sheiks in the area.

The local values and norms have been playing deterrent roles in that they have been potentially preventing the local community from resorting to crimes. They have also become instrumental for local dispute settlers to enforce decisions of customary courts. The state and non-state legal actors have taken various legal and social norms from different legal sources to consider dispute cases. The legal cross referencing have contributed to the relative peaceful natures of the area on the one hand and have also boosted the legal agency of local dispute settlers, on the other.

CHAPTER SIX

6.   THE SOCIO-LEGAL, AND CULTURAL MILIEU OF SILITE: AN EMPIRICAL ANALYSIS

6.1. Introduction

This chapter explores the different non-state dispute settlement institutions operating in the study area. The chapter suggests that Siltie's legal landscape consists of at least three legal systems, namely: the state law; the customary law, and the religious laws. Each of these systems are inherently heterogeneous, contain a plurality of elements. Beside the state law, customary systems are composed of elders' courts, clan courts, and *Raga* courts, while the religious legal landscape comprises Shari'a courts, courts of local *Mashayik/Waliyes*144, and courts of internationally and nationally renowned Sheiks such as *Abdul Qadir Jailani* and *Sheik Hussein* of *Bale*. Actors of customary courts also employed the religious dimensions of Siltie culture as a strategy to resolve disputes characterized by the existence of overlapping legal systems. My empirical data have revealed that followers of Ethiopian Orthodox Tewahedo Church resort to Siltie customary courts and to the faith-based dispute settlement institutions to conciliate tensions between themselves and with the predominantly Muslim Siltie. Also, the local community prefers customary and the religious courts more than the state, as the state courts seem to lack of legitimacy due to some factors including political interference that affect, among other things, the impartiality and the operations of various state courts in the area. In this chapter I intend to demonstrate that the local people are resorting to customary law because of a popular mistrust in the official juridical system on one hand and the flexibility natures and the local values and norms the customary courts base in dealing with dispute cases on the other hand. I also further argue that the customary and religious actors manuvere the constitutional concessions and employ their agencies to resolve disputes including murder cases. In this regard, the faith-based dispute settlers use the customary laws' cultural ground of looking at dispute cases including grave crimes (e.g. murder) on which the religious courts are limited constitutionally as a

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144*Wali or Meshayik* refers to a human religious figure, dead or alive, popularly recognized as important Islamic symbols by the majority of Muslims. *A* tomb usually represents it, and in some cases by a mosque, and is associated with a shrine.

mechanism to take part in the dispute settlement forums. On the other hand, actors in customary courts employ Islamic ideas and precepts while considering dispute cases. This leads one to conclude even if contestation characterizes the power relations of legal actors, dispute settlers also employs their agencies to resolve disputes in a given social setting where the state has a strong hold.

6.2. The Agency of Local Dispute Settlers: A Manifestation of Power Contestation

Disputes in Siltie are on a broad range of issues: land, murder, body injury, domestic violence, debt-related disputes, insult, and arson. Dispute settlers among the Siltie are divided into two broad groups: state and non-state actors. Under the first category, we can find the police, the Public Prosecutor, the Good Governance and Appeal officers, the state court judges, the administration officers, the Revenue Appeal Committee, and the *Qebele* land administration, a state institution at the grassroots level which is responsible for settling land-related disputes. The non-state actors in dispute settlement are the Shari'a court *Qadis,* elders (B*aliqe*), and family forums (*Yeaberos Gubae)* that mostly dealing with minor family issues like a dispute between husband and wife. Clan leaders (*Yegicho Dangas*), the Youths' Social Committee, faith leaders (Sheiks, *Liqa*) leaders and *Warrie leaders (also called Imams)* are also categorized under non-state actors.

Though Islam has a strong hold among the local community, other actors such as Ethiopian *Tewahedo* church, and Protestant followers and religious leaders are also involved in dispute and dispute settlement. Followers of Ethiopian Orthodox *Tewahedo* Church have lived amicably with the predominantly Muslim Siltie for more than a century and both have developed mutual respect and co-existence strategies emanated from faith-based modes of dispute settlement they cherish and from the shared local myths that consider both faiths as brothers. Nevertheless, the Protestant's evangelization process has had little acceptance among the local community. In this regard, the Protestants are considered as newcomers and intolerant to "otherness." The Protestants' evangelization approach is perceived locally as intrusive. The ethnographic data illustrate that followers of the Ethiopian Orthodox Tewahedo Church are integrated well with the Siltie.

My key Christian informants said that the priests are well integrated in the community and have been adopting Siltie language as means of communication for generations. Thus, priests are also dispute settlers who are involved in local modes of dispute settlement.

Religious actors like *Qadis* in the Shari'a courts are involved in various disputes. Though not officially assigned by the Shari'a, *Imams*, as religious-spiritual leaders, for instance, are preferred by some disputing parties as confidants. The *Qadi*s are supposed to address 'small cases' involving religious issues or family matters. The irony, however, is that it is elders or *Magas* who are called whenever a dispute over religion or land or family is reported in the area.

Magas as heads of a village are among the first local legal actors that should be addressed when a conflict arises, sometimes even before approaching the police or the state agencies in the area. My key informants said[145] that elders are not allowed to resolve conflicts on land issues due to the 1995 constitution that does not allow non-state actors to do so. But my daily experiences among the people indicate that elders are involved in settling land related dispute cases at various levels, which indicates that there exists a difference between what the people say and how they really act in the day to day activities.

On the other hand, the Good Governance and Appeal Sector is not a legal institution, but its staff is involved in dispute settlement on land, and some administrative problems at the lower administrative levels, and also Zonal levels too. The office sometimes advises the state judiciary to give swift justice to the community. This can be an indication of the involvement or interference of the political system in the state courts (Baker, 2013; Peter Von Doepp, 2013). The office has set up line structures up to the ministerial level. Police officers are also the most approached state dispute settlers, especially when non-state dispute settlers have not successfully handled conflicts. This is also because some disputing parties' expectations on police officers are particularly high. Based on my empirical data, I argue that the legitimacy of the state justice systems seems to declining due to some factors. First, the local community expects the legal system to prevent or combat violence as well as to prove the innocent right and to penalize the culprits, but the data indicates the state justice becomes inefficient in delivering justice to the community (Baker, 2013).

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[145] Interview with Girazmach Hussein Bussera on April 3/2012 in Dalocha Wereda. The informant serves as Chiro-Dilapa clans in Dalocha and Hulbareg Weredas. Ato Dilebo Gebre in Alicho Wuriro Wereda.

My informants frequently say that „*Haq Ele, Haqe qebeti*,“ which means, „There is no justice, where can we go for justice?“ indicating the less legitimacy state justice has in the area (See appendix I to see how members of a community begins to take justice in their own hands).

The ruling party of the country, EPRDF in its 10th organizational conference admitted that one of the challenges that the government faces this day is „lack of good governance including in the state judiciary in the country,“ which is indicative of the inefficiency of the state apparatus to deliver justice properly to the citizens. The state admits that the biggest problem in the legal sector is the inefficiency of the judiciary to provide justice to the people.[146] Second, with the institutional crisis the state justice system faces, the local dispute settlers like elders and religious leaders who have got more legitimacy than the state actors because the former are more conversant at the grassroots level than the latter. In addition, I argue further that the plurality of dispute settlers among the Siltie points to the various options available to disputing parties or forum shopping, when they are involved in a conflict. However, it also raises questions concerning each dispute settler's particular competence, the degree of legitimacy to handle disputes, and possible forms of cooperation and competition.

6.3. An Overview of Types of Disputes in the Study Area

The types of disputes reported in the study area vary from time to time. According to participants of FGD[147], the Siltie experienced inter-ethnic and intra-ethnic conflicts in the past. It was also not uncommon to see boundary conflicts with the neighboring *Mareqo*, Oromo, *Shashogo,* and Gurage groupings due to territorial expansions in the area. Furthermore, the Siltie clans disputed with each other over grazing land and for supremacy over each other's prerogatives. Thus, conflicts previously could arise between individuals or groups from the same clan (*Gicho*) or sub-clan and between clans, and ethnic groups, too. It is elders at the customary court who have been involved in resolving the disputes over land. This activity has persisted to date albeit there is a constitutional limit to do so.Currently, various types of disputes are reported in the area.

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[146] Ethiopian Broadcasting Corporation News on August 18-21, 2015 *Meqele* Town.
[147], This is based on FGD that was conducted with the main eight informants in April 2012, November 2015 and September 2016 on the annual Siltie History, Culture and Language Symposium in Werabe town.

Indeed, some are extremely rare, such as homicide and arson, while others like land and money related skirmishes are very common. My field data collected from informants[148], the formal court at Zonal and *Wereda* levels, the customary courts, police offices and Good Governance and Appeal office outline the major types and causes of disputes in the study area as follow. These are disputes over inheritance cases, property disputes including land conflicts between family members, physical injury, disputes over grazing land, arson (*Garemagdot*), theft, and betrayal among business partners, homicide, boundary conflicts, and adultery practices. Nevertheless, more than any other causes, land shortage has become an acute problem due to the growing population in the study area. Therefore, property related disputes are frequently reported both in the customary and state courts in the area and have become the primary causes of more serious conflicts such as homicide, arson (*Garemagdot*), and physical injury (e.g. breaking the teeth).

There are also other disputes with social and cultural dimensions. Key informants[149] explain that insulting somebody based on his/her social stratification or place of origin with the intention of defaming their good reputation can be mentioned as good examples in this regard. These insulting words include *Fuga* (potters), *Faqi* (Tanner), *Kurkura* (blacksmith), *Mete*/Outsider/ and *Allega* (non-Siltie). The social seclusion tendencies also indicate the existence of one or another form of sub-ethnic and ethnic level discriminations. However, the Siltie demonstrate that they have zero tolerance for discrimination as one informant said „the Siltie are working everywhere and should also think accordingly." Thus, calling somebody by these words and showing xenophobic trends are strongly condemned and socially regulated. They are also considered as a serious offense, and a person guilty of this act becomes liable to a penalty by *YeSiltie Serra*.

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[148] This is taken from FGD informants who discussed the various issues on April 1&16, 2015 in Silti, Dalocha and Werabe Town.
[149] Interview with Ato Kaire Sule, Ato Dilebo, Ato Hamid and Ato Abdulwaris on 20 and 24 May 2015 in Werabe and Lanfuro Wereda.

6.4. Local Dispute Settlement Procedures and Strategies of Dispute Settlers: Shopping Forums

According to the norms of the society, both parties in a dispute have the right to choose elders for the final arbitration. There are, however, times when the disputants do not want to involve third party.

Instead, they may engage in negotiation leading to reconciliation and forgiveness through the practice locally called *Afeytu*. In this regard, the parties discuss their problem amicably, prevent the dispute from escalating and accept each other's quest for forgiveness. Those disputants who could not settle their issue through negotiation can choose elders or *Yebad Baliqes* for the final arbitration. The Siltie elders' council is usually set up in odd numbers (e.g., three, five, or seven). Each party can nominate two or four elders that can represent him/her at the court hearing, while one elder who is chosen by both always becomes a neutral jury.

This neutral jury is called *Yegute Baliqe*. The elders always take the role of local judges to solve tensions. Their long-termed experience, wisdom, and aloofness are the major factors for the selection of elders. *Yebad Baliqes* employ their rich knowledge to resolve disputes between the disputants. Their wise strategies, skills to sort-out hidden and long standing causes, eloquence, and ways of digging the problems and treating the parties impartially make their dispute settlement endeavors result in a mutually accepted agreement, which is often presented in a win-win format. The various values and belief system of the Siltie are central to the grassroots' peace making process. Elders use witnesses to settle disputes. The *Baliqe*s' decision on a case is mainly dependent on the defense witnesses presented by the accused (defendant).

The defendant is expected to present three witnesses from his father lineage (*Habotgae*) and two from his mother lineage (*Ummegae*). These witnesses are collectively known as *Mulli*. The *Mullis* strongly fear the consequences of giving false witnesses, and hence refrain from doing so. They are afraid of *Berche* and of losing *Tur*, too. Dispute settlers' mystic constructs in the sense of telling stories about the interaction between disputants and dispute settlers depicting the negative repercussions (e.g., losing life or experiencing accidents) encountered by former false witness givers play important role as strategies to adjudicate cases by revealing out truths. In this regard, *Berche* can play a very important role. The notion of *Berche* carries that anyone who wrongly accuses the other, will face negative consequences in his or her life for doing (See more

about *Berche* and Tur below). It is because of this that whenever a dispute occurs among the Siltie, and the case is brought before the elders, the first thing the elders inquire is whether there is a pending *Berche* attributed to the accused or his/her ancestors. It is believed among the Siltie that someone can commit a crime owing to a hidden or unresolved crime that has been hidden for long period of time. Thus, both disputants are expected to purify themselves from *Berche* by confessing their wrong doings.

6.5. Some Notes on How Dispute Cases are settled: Case Flow Management

The Siltie's concept of justice requires not only the victim but also the accused to look for truth and resolve the dispute. If one of them, or both ignore sorting out the problem, and fail to settle it, all of them up to even seven generations suffer from the problem, and the problem remains with the one who conceals it. On the other hand, dispute cases can be initiated or referred to customary courts mainly through three ways. At first, the plaintiff asks elders if he/she is going to take cases to the state court wishing elders' blessings. Second, the accused can also ask elders that the claimant takes the case to the state court bypassing elders and hence invoke elders to intervene. On the other hand, a case can be initiated by elders themselves, who take the initiations and interfere in the cases. It is observed that taking cases to elders or at least asking for advice and blessings from elders seems crucial for getting matters done.

The local community first reports a dispute case to the *Baliqes'* court, and if the elders cannot resolve the issue, the victims or both parties ask blessings from the elders and will take the case either to the religious or state courts. *Yebizihe haqahe yewetenke* „may Allah maintain the truth and may you get an appropriate decision," is the blessings one can get from elders. The data illustrate that some sections of the local communities do not trust the state system. They rely mainly on the social networks, and customary courts, rather than on religious courts. The *Sheiks* themselves intrinsically believe that the local values and norms have much more acceptance than religious ones. A good case in point is the local transaction process that involves house selling process, and marriage and resolving murder cases that are mainly handled by elders. Among the reason why resorting to local justice is so popular is that in customary courts people have the liberty to talk in their language, and the settings themselves are more preferable than court halls. Women, for example, prefer speaking under trees than in formal court hall sessions. As far as the compensation for murder cases and the processuality of justice are concerned, *Abotgare* should

pay 2/3rd of the compensation, while *Ummigare* is expected to pay 1/3rd. Figuratively *Abotgare* is considered as *Qegnit Enjje* (right hand) while the Ummigare as *Gura Enjje* (Left hand). The right hand the one which can incur in many costs, including murder, while the left hand's role in this regard is minimal. The people consider left hand as soft and incapable of retaliating in the case of murder. This is a manifestation of patriarchal or gender-based relation among the local community. Moreover, the Siltie believe that left hand cannot attack someone strongly (*Gure Enji Tishe agnane ealje)*, while the right hand can attack strongly *Qegnit Enjje tishit yagnane yajan)*. Power conflict is witnessed not only between actors in dispute settlement, but also gender-wise. Men perceive women as soft, weak and defenseless.

6.5.1. Local Actors' Strategy of Dispute Settlement: Focus on Murder Cases

In settling disputes pertaining to murder, the *Raga* handles the situation from different perspectives. The local actors' legal perceptions are not static nor written down. They are rather dependent on circumstances, and hence law is considered as a process. According to one of my key informants[150] who passed away while I was in the field and was considered as one of the important local actors who served as clan leader and *Raga* for a long time in Silti *Wereda*, the *Raga* could pass his verdict on dispute cases, especially murder cases, at least from thirteen angles. Ragas settle an unintentional murder case by referring to it as *Sebbebe* (incidental murder), while those cases that may result in the death of a person while targeting another one, are addressed as *Sekebe* or accidental killing. *The Ragas* consider those murder cases wherein the perpetrator commits the crime intentionally as *Telamo* or a pre-meditated murder while killing someone by severe means is known to the customary court *as Telago* or killing in violent behavior. If a perpetrator kills a person intentionally in merciless ways, *the Raga* categorizes the case under *Agarsa (i.e.* deliberately and *badly* killing someone). *Gasa* (killing war captives), on the other hand, is killing the helpless who are in one's custody after winning a war. If someone attacks a group intentionally and kills more than one person, the case will be categorized as *Gasan*, meaning killing more than one person deliberately, while *Ragas* call those cases when a perpetrator kills unintentionally with a spear *or other material as Telmama, meaning* killing unintentionally through throwing a spear or other tool to another thing.

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[150] Taken from my previous work especially from Gerad Awel before he died in early July 2014. He died in July 2014.

The Siltie customary courts refer those cases that involve killing on small materials that are not intended or are not capable of killing a person as *Unshen*. If an individual or a child kills another one while playing a game without them having any problems before, *Ragas* call the case *Aseden, meaning* killing during playing, while killing an infant who is not more than four months old is called *Unbub*. *Zugub* is a name given for those cases that involve abortion or killing an infant who is older than seven months.

The *Ragas'* classification of murder cases aims at identifying the circumstances under which the crime is committed, which in turn helps them to sort out the context and the cause of the dispute, in order to pass a resolution. For this reason, the local legal actor gives priority to investigating deeply the category of blood price or *Yedem Gumma* under which the case falls.

Sebbebe (Incidental murder), for instance, is a homicide that happens inadvertently. The parties, in this case, do not have any progressed conflict or they may not even know each other. Nevertheless, due to some incidents, the parties may suddenly go into conflicts, and one of them or both to lose their lives. The suspected killer may even try to rescue the life of the deceased. Such offenses are considered as *YeSebbebe Dem*, a murder that occurred inadvertently, and the killer is expected to pay half of the full blood price (*Yedem Gumma*).

Moreover, if a *Raga* considers *Telamo* (pre-meditated murder) a case, which is a kind of homicide committed noticeably and deliberately, he follows different procedures. Such offenses can occur when the offender perpetrates murder on somebody. In this case, the perpetrator deliberately kills someone in a way he/she cannot defend him/herself. Most of the time, there is a history of conflict between the victim and the slayer. As participants of FGD[151] said, such kinds of cases are resolved through *YeTelamo deme Gumma,* for it is believed to be a preplanned and organized act of the killer committed under absolute unawareness or less preparedness of the victim to defend herself/himself. Such type of homicide offense is the most serious conflict that can trigger anger amidst the wider community. Thus, the resolution involves critical scrutiny and rigorous procedures. *Yedem Gumma* on such incidents considers the offense as *Telamo*, and the offender is expected to pay the full blood price for his/her intentional murder.

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[151]This is based on FGD that was conducted with Ato Dilebo Gebre, Ato Kairedin Azma Hussein, Hajji Abdurrahman Shewajo, Hajji Hussein Barsebo, Ustaz Umar Yassin on April 16/2012 in Werabe Town.

According to respondents[152], *Yedem Gumma* (blood price) used to be concluded in kind rather than in cash. In this regard, animals such as ox, cow, and sheep were given as compensation. Nevertheless, particularly after Menilik's occupation of the Siltie area in the 19th century, specifically since the imperial regime, *Yedem Gumma* has been paid in kind. Nowadays, the full blood price ranges from 10,000-50,000 ETB (400-2000 Euros), based on the type of the case and the ways it occurs. This change was made after elders' initiative to form local dispute settlers' council aimed at revitalizing the Siltie customary law in 2010. As participants in FGD[153] said, As participants in FGD[154] said, the offender is not allowed to pay the blood price (*Yedem Gumma*) by him/herself even though he/she has the capacity to do so.

It is believed that the offender should collect the blood price from the member of his/her clan to avoid *Fero.* It is believed that if the perpetrator fails to do so, he and his descendants are likely to commit similar crimes of murder. (See more about Fero below). Let us see one more example in *Sekebe* (accidental killing).

Sekebe is the type of homicide that can occur accidentally. That is to say, the murderer and the victim do not have any ground that could lead them to dispute. Nevertheless, some unexpected incidents can cause death. For example, homicide by car accident is a kind of *Yesekebe dem*, and the suspect/the killer is expected to pay one fourth of the full blood price. The customary modes of dispute settlement modes that are discussed above are used by the Siltie to handle conflicts in different structural levels of dispute resolution processes. Local dispute setters like *Ragas* give due emphasis to the above procedures and investigations when they consider murder cases. The next section discusses the customary dispute settlement system that operates in the Siltie Zone and adjacent areas.

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[152] Interview with Gerad Awel and Gerad Teka on April 2/2012 in Werabe.
[153], This is based on FGD that was conducted with such key informants as Ato Kaire Sule, Hajji Abdurrahman, Werkicho Yusuf, and Hajji Hussein Barsebo for my previous works in various weredas in 2012, 2013 and 2014.
[154], This is based on FGD that was conducted with such key informants as Ato Kaire Sule, Hajji Abdurrahman, Werkicho Yusuf, and Hajji Hussein Barsebo for my previous works in various weredas in 2012, 2013 and 2014.

6.6. Local Modes of Dispute Settlement

6.6.1. The Siltie Customary Court

There are three types of customary courts which are widely used by the local community. These are *Yebalique Shengo*-Elders' Court-, *Ye Gicho Dagna or Ye Gicho Baliqenet* -Clan court- and *Ragn*net -local legal expert court-. Despite the fact that the three courts have the mandate to consider conflicts, they are involved in different dispute cases (e.g. elders' court looks at minor disputes like family cases, clan court considers inter-clan and land disputes, while *Raga* court considers murder cases) in the area. Disputants have the right to take cases up the ladder in each court if not satisfied with a decision of a first layer of a customary court. Nevertheless, the parties must present their dispute cases, including domestic violence cases, to elders' courts before resorting to other legal systems. This is because elders' involvement is crucial not only to end disputes in a win-win result but also because their blessings and coursings are highly valued by the community. As they are very near to the local community, the customary courts are providing justice at the grassroots level more than other tribunals. It is also observed that local legal actors collaborate, and at times compete, especially whenever the claimant is not satisfied. He/she can take the case to one or another elder court as part of forum shopping (Benda Beckmann, 1979). Self-presentations and expressions in the court sessions affect the forum shopping tendencies in the area (See more in the next chapter). Below I have presented the three customary courts.

The elders court /*Ye Siltie Baliqes' Shengo*/ that operates as a customary court from *Burda* (village assembly) to the *Bade* levels is an important system that people employ to settles a variety of disputes. Dinberu et al. (1995) state that the Siltie customary law comprises *Ye Silti Serra*, *Yemelga Serra*, and *Yedambus Serra,* indicating the existence of the plurality of customary law in the area. Despite the fact that there is a variation in the practice of customary law, I argue that the difference in the application of customary law is the reflection of local variations rather than differences in the customary law itself, since the community resolves its disagreements using the Siltie *Serra* rather than developing a new customary law. I further argue that the variations observed in the name of the different *Serras* mentioned above emanate from the place where the customary law is applied.

One of the reasons that led me to this conclusion is that each of the system's verdicts will come to a specific center or area, *YeFerezagegn* Shengo as the people call „the Siltie Federal Court" for final approval as the last appellant court than ending cases in their localities.

According to Siltie zone high court 2016/17 annual report, more than 700 civil cases which are referred to the Wereda First Instance Courts have been transferred to elder's court in the 2016/7 budget year. The state courts resolved also 411 minor crime cases (e.g. insult, adultery, boundary disputes between family members) using reconciliation that involve elders in the same budget year[155]. As most of the cases are not referred to the state court, it is clear that the customary courts can see more than 700 cases per year. Additionally, Siltie Zone High Court reports that between 2012 and 2016, 4816 dispute cases were reported to the High Court. Of these, 170 civil cases were transferred to the customary courts for settlement with the consent of the parties and none of the cases were refereed back to the court. Moreover, in the same time, 111 negligence crimes (car accident cases) were also settled both by the state and customary courts. This clearly indicates how much the customary courts are playing significant roles in settling disputes in the area. My key informants[156]said also that the local community prefers the customary court to settle its cases since the courts operate on the base of the culture of the people. This is because the customary court encourages the suspect to confess the crime and cleanse himself/herself from *Berche* or *Fero,* leading to the reintegration of the culprit into the society unlike the state where admitting a crime will result in imprisonment.

6.6.1.1.   Elders' Forum (*Yebaliqe Shengo*)

Yebaliqe Shengo is a territory- based dispute settlement institution that the local community employs to settle mainly civil cases. It starts from lowest village level elders' assembly and goes up to national or *Yebad Baliqe Shengo*. Siltie elders are active local dispute settlers in the lowest *Burda*/ village elders' forum and consider the majority of the civil cases initiated at different levels. The *Shengo* considers such cases as conflicts between the husband and the wife, neighbors, quarrels over boundaries, debt payment, failure to attend mourning ceremonies and failure to participate in physical works like building mosques, repairing elder's houses, and destruction of properties by animals.

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[155] Taken from a report by Siltie Zone Justice Department on the occasion of annual justice day on July 17 2017 in Werabe Town.
[156] Interview with Sheik Muze and Hajji Shewmolo on November 4, 2016, in Werabe town.

Yebaliqe Shengo judges apply informal norms of neighborliness (*Olinnet)* to resolve disputes even when they know that their norms are inconsistent with the law (Robert C. Ellickson 1981: viii). At this level, a dispute between families or domestic violence are settled with the involvement of neighbors. Elders give great emphasis to neighbors. The Siltie relate a neighbor with the Creator, saying *Ollam Allam hadin* -meaning respect a neighbor as you respect your creator Allah.

Since members of *Burda* meet frequently with the Creator during prayer times and ask help from Him when a problem comes, a neighbor is also very near to help and resolve a problem. Elders employ the concept of *Olla* to resolve most minor dispute cases like a dispute between husband and wife, children and father, and disputes between neighbors.

*Baliqe*s' court has four layers. These are *YeBurda Baliqe*/Hamlet Elder's Court, *YeAzegag (YeGenet Baliqe*) Village Court/, *YeMewta Baliqe*/Supra-village Court/, and *Yebad Baliqe*/local Chief's Court/. The last *Yebad Baliqe* court is the final appellant court. Elders' court and other Siltie customary courts sessions commence dispute settlement process with prayer locally known as *Du'aa.* A local judge, most of the time the elder one, makes the Du'aa. He invokes blessing for all the society, justice and truth to prevail, elders to live long, and fertility, and he also curses all evil doers, false witnesses, and enemy of peace of the country and the people. Elders have a strong power among the Siltie.

Yebad or *YeSiltie Serra* norm has empowered them to handle every dispute case among the community. Even an individual who has completed a prison term after the state courts' decisions should appear before elders' courts. Elders' 'green card' is a must to reintegrate into the society as part of restorative justice. It seems that there is double jeopardy where by a suspect will be punished twice. Nevertheless, the Siltie's justice system is constructed and based on collective values and social norms, rather than on sanctioning individuals. Elders' courts are thus crucial for peaceful re-integration of a wrong doer into the society.

 Disputants bring most of the civil dispute cases (that do not involve crime cases) first to the elders (*Baliqes*' court), and if the elders are not able to resolve the issue, the victims or both parties ask blessings from the elders, and take the case either to the religious or to state courts. If elders are exhausted in dealing with the case, they will permit the disputants to resort to other courts by saying, *Yebizihe haqahe yewetenke*, which means, 'go with our blessings and let the

truth be uncovered more easily, and get your rights back'. But this situation seems to be changing now. In my everyday activities and experiences among the people, I understood that the local communities do not trust the elders' court as they do the state system. Rather, disputants rely mainly on the social networks to end disputes like marital disagreements. But the local community still has confidence in the elders' courts than the state or in the religious courts to settle their disputes. The Sheiks themselves intrinsically believe in the customary courts.

Good cases are the house selling process, the marital dispute cases, and murder cases, which are mainly resolved by elders in all customary court levels. I also observed that in the customary tribunals, people have the liberty to talk in their language under a tree, which gives them some sense of freedom to talk and debate. Also women speak their minds better under trees than in formal court sessions.[157]

6.6.1.2. Clan Court (Yegicho Shengo)

Yegicho court is a clan based court. It is a court where all individuals who trace their descent from the same ancestor can settle their differences under the leadership of a clan leader called *YeGicho Dagna*. Clan courts have five layered structures in the area. These are:

1. *YeAberose Shengo (*Family Assembly*) 2. YeAbotgar Shengo* (Patrilineal Lineage Assembly),

3. *YeAbotweld Shengo* (Patrilineal and Matrilineal Lineage Assembly)

4. *YeGicho Serra* (Assembly)

5. *YeSiltie Serra /YeMula Siltie Melcho* (The Whole Siltie Assembly)

The clan court starts from *Gar*, which figuratively represents the house of an individual. However, apart from its dictionary definition, *Gar* has two meanings: *Abotgare*/the male lineage of the family, and *Ummigare*, the female lineage of the family. The Siltie's family is an extended one/*Aberose*/ that includes all children who are born from the father and his wife or wives, their grandsons, and grand-daughters, their children in law, and daughters in law. The family has its forum to resolve disputes among its members. Members of the different households who are

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[157] I observed two women who disputed over a goat which they bought together, and one of them betrayed after the goat multiplied and has become ten. Both presented the case freely to the elders' court, and talked freely turn by turn on 23 July 2014 in Dalocha. They finally settled the case. However, I understood that women are shy in the state court and often passed the case to the legal representatives.

related in blood are led by the eldest person in the family (*Mesaki*) of the household. *Mesaki* literally means tracer, the one who can trace and present the wrongdoer to the courts of the clan judge. Thus, heads of each family are responsible to the *Mesaki*. The *Mesaki* is in charge of any activities, including resolving conflicts among members and representing the family in the clan meetings, mourning, and funeral practices. If the father of a family dies, the eldest son of the family (*Angafa*) becomes the head of the household, and becomes the one who can contact the *Mesaki*.

A woman cannot be the head of the *gar* and will be represented by her eldest son or her father line member (*Abotgare*). Above *Mesaki*, we have *Moro*, leader of all *Mesaki*s within an individual household. Members of a *Mesak*i are determined by the numbers of households /*Gars*/ in a given area. *Moro* supervises and leads households under his line, and is also in charge of settling disputes in his prerogatives. At the end of the clan court, we have a *Yegicho Dagna*[158]/clan judge/ who gives the final verdict at this five-tier level of the court. The *Dagna*'s position is mostly hereditary as it passes from father to son.

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[158] Interview with Azma Jabir, a clan judge, and Shukre Kemal in June 2016 in Lanfuro Wereda and Werabe Town.

Figure 13 Abalcho clan court in Edeneba *Qebele* in early January 2015.

The *Yegicho Dagna* court is the final appellant court, which is always summoned up in every fifteen days in various areas, and where members of the clan meet to oversee the various socio-economic activities of its environment and of the neighboring areas. Like *Yebaliqe* court, this clan-based court also has authority over matters related to civil cases. However, this court also considers murder cases. It also interacts with other clans' judges if a culprit crosses the boundary and goes to the neighboring clans.

This court is highly structured and very powerful in controlling and maintaining peace and order among its members. On the other hand, my observation of the *Abalcho* court revealed that the court is a highly formalized setting. There is a procedure one should follow in the court hearings. In this regard, the clan leader or the *Dagna* hears cases from the parties who stand in the middle of a circled sitting court attendants and audiences (See Figure 13 above).

The open air clan court arrangement has also a spokesperson who is in charge of communicating the speeches between the judges, the disputants, and the court attendants. The person is called locally as *Was-agache*, means a person who is in charge of communication and keeping the security of the court by giving turns to disputants according to the time of the compilation of the cases. The communicator stands in the middle of the court attendee as a speaker of the court and is mandated to hear and talks back the case more easily to the court participants. The parties present the case one by one in turn, and after a while, the floor will be open to all to comment. Anyone who wants to talk or comment should first ask for permission from the court speaker. But if someone interrupts the hearings or talks without permission, he will be fined 50 ETB (2 Euros). Finally, after cases are presented and commented by the participants, the clan *Dagna* gives the final decision. However, successors are trained well by accompanying the senior *clan Dagnas* in various clan court sessions. Women disputants can take part in the process, yet the *Abotgare* members present their cases. But if the issue is serious (e.g. rape, or property claim) or if she is the head of the household, and her rights are violated by her step children in case her husband has died and she does not have children, she can present her case to the court herself. I observed the petition of *Alicho Wuriro* community's court, a woman, *Sajida Hussein* to *Alicho Wuriro Qicha Dagnas* on April 5, 2015, explaining that her step-children were trying to take her land after her husband has died in July 2014. She requested elders to intervene. This state of affair clearly demonstrates how clan and elders court are involved in various dispute cases at the grassroots level.

Clan courts can consider any malpractices that are perpetrated by members. It can also interact with other neighboring clans to consider inter-clan disputes. A clan exercises force on deviant clan members or systematically marginalize perpetrators from social lives. The court sometimes collaborates with the state agents (e.g. *Qebele* officials) to implement its decisions. If someone does not conform to its decisions, the *Dagna* may send *Dambus* (a group of elders who can be delegated by clan elders to implement the decisions of the court*)* to punish him/her up to the extent of slaughtering his/her ox or sheep as a means to bring back him/her to the court.

It is due to this violation of human right principles and encroachments to the state systems that the clan court sometimes conflicts with the state.[159] Nevertheless, there are other instances that can show how clan courts cooperate with the state legal systems.

As the *Dagna* of *Abalcho* clan, *Azma Jabir* said, his clan court (*Ye Abalcho Chale*) collaborates with the state courts whenever an accused or even a plaintiff could not accept the deci*sions* of the *Abalcho* court. Informants further explained that if, for instance, the accused refuses to accept the rulings of the *Abalcho court,* the clan court would provide witnesses and even pay for legal representatives to stand for the victim in the state court. Despite the fact that informants explained that the clan court acts like „public prosecutor" in filing the case to the state court, state court judges did not confirm the communication with clan courts in the ways mentioned by actors in the *Abalcho* court. Rather, the state court judges said that the state court provides training for elders on gender issues and family cases so that elders can play an active role in reducing high number of family related disputes reported to the state courts.

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[159] Interview in September 2015 with the state actor who presided over the case brought by a man from Alicho-Wuriro Wereda. The person said that the clan court slaughtered his ox for not accepting its decision. He sued them in the state administration, they yet did not end the case due to reasons not clear to me.

Figure[160] 14 Inter-clan Assembly in Dalocha Wereda (September, 2014).

Clan courts can settle various civil and crime cases. The courts are the most powerful institutions in the area. However, some informants said that the legitimacy of clan leaders is not necessarily associated with the local values and norms. Rather, the coercion strategies they employ over members and the link they establish with the state structures are mentioned as factors for the clan leaders to have power. However, some state officials accuse clan leaders of working against „the rule of law" and consider them one of the factors for the prevalence of „bad governance" in that they compel citizens, including lower level state officials, to slaughter their animals and bow to their decisions. Thus, the interactions between state actors and clan courts actors seem to be characterized by cooperation and contestations.

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[160] The clan assembly is held every fifteen days in different clan areas. I was invited by the clan leader after I interviewed him sometime before the assembly. Since the inter-clan assembly deals with various dispute cases including evaluating the status of Siltie Serra and any malpractices as well as government programs, I found the gathering very interesting assembly to understand the application of customary courts and its relations with the state system.

6.6.1.3. The Raga Court (*Ragnnet*)

The third type of customary court which is widely employed by the Siltie is the four-layered *Raga* court. Some call it *Shenecha* court. *Raga* means old; the elder indicates an old socially accepted man who presides over the higher level of a customary court. *Ragnnet* court comprises four local level legal institutions: *Maga, Raga, Ferezagegne* and *Wegagenge*. I did not see a functioning *Wegagenge* institution. However, the third one usually is an appellate court, for cases that are not resolved at the lower level. Added to this, the verdicts of the lower *Maga* court will also be referred to the *Raga* for confirmation or with a possibility of reconsideration. The lower levels involve *YeBurda Baliqes* or elders, while the *Raga* office is handled mostly by a well-known and reputed individual. However, sometimes, more than one person can hold the *Raga* office. The *Raga* courts are highly valued by the Siltie since they are led by highly respected socio-cultural legal experts known as the *Raga*s.

This system considers cases that require deep investigation not only between disputants but also in their families back and forth up to seven generations (*Seabit Gedda*). The court considers such serious crimes like murders including hidden cases, unlike elders and clan courts that mostly consider civil cases. It is also an appellant court for cases that cannot be resolved by *Baliq*e courts.

Raga court handles homicide, rape, physical injuries including breaking teeth, and any other parts of human body, car accidents, arson, theft, killing animals, and any crime cases that are especially committed during night time as well as in the absence of witnesses. *Raga*s have strategies to find out and persuade suspects. Local and religious mystic constructs are often used as instruments of dispute settlement. *Yebalique* court and *Raga* court could not interfere in each other's affairs, but they can exchange cases (e.g. murder cases). In this regard, the clan *Dagna* (judge) will refer murder cases, and other complex issues that involve multiple families that may potentially involve *Berche, Fero* to the *Raga*, for the *Raga* has the final say over these matters. Moreover, the local community highly respects *Ragas* in dispute settlement sessions, because their power or legitimacy emanates from their dedication and impartiality to the community, rather than a state-backed clan or co-opted elders who have got government support.

The office of *Raga* is also hereditary as the sons of a *Raga* learn how to settle disputes their fathers. The empirical data indicate that *Ragas* consider between 40-60 cases per week.[161] There are more than four *Ragas* in the various areas of Siltie. An average of 2600 cases mostly of crime cases are considered by *Ragas* annually. This does not include the cases dealt with elders' courts.

Ragas convene on every market day in various areas of Siltie zone and neighboring zones. They assemble under a big Podocarpus tree called *Raga Odda* for reconciliation. The hearing begins by taking one case after the other according to order in which the cases are presented to the office. Before the start of the hearing, the *Raga* gives his blessing /Du'aa/ asking Allah to help them give fair and truthful decisions. *Ragnnet* comprises four courts.

6.6.1.3.1. Local First Instance Court (*Maga*)

The *Maga* court is the lowest customary or first instance *Raga* court among the Siltie. The people use it to resolve disputes at *Burda/village* level. It is sometimes referred to as *YeBurda Baliqe* (local elders' council). *Magas* can also become village level elders who take part in resolving disputes among members of the area. However, when they serve as *Magas*/judges/, they can only see crime cases. *Maga* court is composed of three elders. It serves as first instance court in the area. A word that deserves mentioning here is *Yebaliqe Herrat*. The word *Baliqe* denotes, 'elder', while *Herrat* stands for reconciliation. Therefore, *Yebalique Herrat* means elders of (for) the reconciliation. Nevertheless, the Siltie also generally use *Baliqe* interchangeably with *Maga*. The Siltie's benchmark for being the elderly (*Baliqenet*) does not necessarily rely on age, for those youths who have the capacity, knowledge, and commitment for resolving disputes, and have got the legitimatization from the society can also be counted as *Baliqe* among the Siltie. The *Magas*, on the other hand*,* are always called on to consider cases whenever disputes that surpass the *Afeytu* /forgiveness/ level occur at *Burda* or *Azegag* levels.

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[161] The estimation of the number of cases handled by Ragas is based on my field observation of the Ragas' setting and by looking at the number of cases at that particular point in time.

Figure 15 Magas while considering car accident case in Werabe Town (September 2014).

But disputants can resolve their disagreements without involving third parties (*Behoshete gute tefedote*). Such dispute settlement approach through forgiveness also plays a great role in settling conflicts among members of family, clans, and sub-clans. According to the respondents[162], minor disputes between or among members of families (e.g., husband-wife dispute) can be resolved in this way.

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[162] Interview with Hajji Hamid, Gerad Teka, Hajji Hussein, Sheik Yusuf, Ato Kaire Sule and Hajji Mifta in March 2016 in Silti, Sankura, Dalocha and Werabe Town.

Figure 16 Magas concluding Wurkefena Gudda case at Burda level in Hulbareg Wereda (October, 2014).

The *Maga* court handles both civil cases (e.g., family disputes and land disputes) and any other crime cases like persona case (e.g. insult, adultery) that occur at *Burda* and *Azegag* levels. *Magas* are assisted by the institutions of *Abotweld* and *Abotga*re in settling disputes. *Magas* are also important local actors in calming down tensions relating to murder incidents. In this regard, the *Magas* role is more important than that of the state police, since the local community gives much respect to local elders. In this regard, if a person commits murder, he is firstly expected to leave the village and go far away from the area. It is then the duty of the *Magas* to intervene and initiate dispute settlement between the suspect and the victim's family. This can only be possible after the family's of the suspect invites the *Magas*. Nevertheless, there are possibilities *Magas* can also initiate the case. The suspect then summons his family and clans to interfere and resolve the conflict.

After advising each other and discussing the issue deeply, *YeAabotweld* and *Abotgare* of the offender solicit the *Magas* to formally initiate the dispute settlement process. The *Magas* go to the family of the victim to attend the mourning and pass the message of condolences first in the name of the suspect. They also inform representative of the victim's family that the suspect is formally asking them to intervene in the case.

Magas then give some amount of money for expenses and make an appointment to continue the settlement process. During the next meeting, the *Magas* start hearing the case from both sides, and request the suspect and the victim's family to examine themselves to identify if there is an unaddressed *Berche* in the family. The *Magas* also make an appointment to conduct *Wurkefena* that involves some rituals, including tying the White Tread called *YeKirGudda* [163] *(See more about this in the next sections)*. During the next meeting, the *Magas* take the suspect to the victim's family for the *Gudda* ritual and make the accused meet with the family of the victim. Magas conduct the first step of the settlement that can bring temporary peace between the parties on one hand, and give further money to share costs of the mourn on the other.

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[163] *YeKirGudda* is a process that involves the tying of white tread to calm down the spirit of tension between the disputing parties.

Figure 17 Silti Wereda Magas while hearing a murder case before referring it to the Raga in early January 2015 (Agode *Qebele*)

The *Magas'* role is limited to investigating the root causes of the conflict. They cannot give a decision on murder cases. It is beyond their jurisdiction. After investigating the underlying causes of the conflict, the *Magas* refer the case for the verdict to the second level, *Ragnnet..* Even if the cause is incidental, *Magas* still cannot end murder cases, and thus refer the case to the next level. The *Raga* will hear the decisions of *Magas* when the case appears in his court. The results of the investigation will be approved or rejected, based on the level of the probe to the case as well as the perspectives from which *Magas* look at the case, especially by linking the cause with *Berche*. Thus, *Magas* play significant roles in settling disputes at the grass-roots level. The *Magas* have high legitimacy among the society. Nevertheless, the disputants also have the right not to accept the decision and the investigation of the *Magas.* If a disputant or disputants are not satisfied by the decision of the *Magas*, they can take their cases to the next *Raga* court.

6.6.1.3.2. An Appeal Court *(Ye Raga Shengo)*

YeRaga Shengo is the second level of court in the third type of *Raga's* customary court among the Siltie. It operates at *Azegag* and *Mewta* levels. This court is presided over by one local legal expert called *Raga*. The *Raga* has a high reputation among the community. The *Raga'*s judgment is regarded as fair and impartial.

Figure 18 Raga Lalu's Customary Court Session in Udasa *Qebele* Silti Wereda (December 2015)

According to the FGD participants[164], the *Raga* court considers those crimes that are beyond *Magas*. These complex issues range from *Garemagdot* (arson) to rape, theft, breaking any parts of human bodies, abduction, homicide, conflicts over land among members of the clan or sub-clan, and boundary disputes that involve bloodshed. *Raga* also considers issues that come as an appeal from the *Magas*. Nevertheless, respondents said that except those complex problems such as homicide and arson, others are referred to the *Raga* as an appeal case from the *Magas*.

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[164], This is based on FGD that was conducted with *Ato Dilebo Gebre, Ato Kairedin Azma Hussein, Hajji Abdurrahman Shewajjo, Hajji Hussein Barsebo,* in March in Alicho *Wereda* and Werabe Town.

The *Raga* court operates under the shade of a big tree known among the Siltie as *YeRaga Odda*. *YeRaga Odda* is thus a *Raga* court where various crime cases are resolved.

Figure 19 Raga Kedir's court which was also attended by Priest Awegechew in Dalocha Town (April , 2015)

As an informant[165] said, the yardstick for selection of a *Raga* includes such pertinent issues as impartiality, ability to see things from different angles, reputation from the society, age, and marital status (i.e. being married). Having enough wealth is also crucial to have the office of *Raga*.

As a key informant[166] said, being wealthy will help the *Raga* not to be bribed or liable to bribery when he judges on the matters. Only men household heads who control the legal and political offices. Women are not allowed to attend the hearings except when if it is their own case. In this case, if a given woman has a case, i.e. if she is abused, she can present the matter to any of the

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[165] Interview with Ato Kaire Sule on April in Lanfuro Wereda.
[166] Interview with Ato Kairedin Hussein on April 12/2015 in Werabe Town.

courts for the hearing. As my key informants[167] said, more than any disputes, *the Raga* is highly skilled in settling those crime cases that lead to the loss of life or body. The Siltie refer to the settlement of disputes that involves loss of blood as „*Dem Aknot.*" *Dem* means blood, but the contextual meaning of the term implies any physical injuries that involve loss of blood. *Dem Aknot*, which is also called as *Gumma*, can be employed for the resolution of conflicts which involve loss of life and arson (if it involves loss of life). It also includes physical injuries such as breaking of teeth, damage to the eye and the ear, abortion, amputations of different body parts, and associated conflicts that result in bodily harm. Nevertheless, if the conflict is a homicide, the informants said[168], it is considered as *Summera/Murder/*. The Siltie do not call murder cases openly like that but call them with a different name, in order to avoid *Yeafe Berche*, severe repercussions of talking about blood. Rather, they call it *Summera*, for it is believed that murder cases bring more infliction or deaths if someone talks about it openly. They consider silence as a medicine (Bellagamba, 2011) which they believe help diffuse tensions.

6.6.1.4. Cassation Court (Ye Ferezagegne /Shenecha Shengo)

Ferezagegne is a place that is found in Gurage Zone *Mesqan Wereda* in *Embore Qebele*. *YeFerezagegn Shengo* is considered as the High Appeal court or Cassation Court. *Ferezagegne* has got its appellation from two words: *Ferez*, 'horse' and '*agegne'*, which means „finding a place", which connotes going on a long journey to seek the truth. The Siltie believe that one can get impartial decision and verdict at this tribunal. The community refers to this court as „the Siltie Federal Supreme Court" which indicates the court is viewed as the higher and last local custom interpreting institution operating in the area. My key informants noted that this tribunal is composed of five to six *Ragas* who are highly religious men, have a fear of Allah and are legal experts. However, it is mostly presided over by three customary legal experts also called *Raga*s.

According to FGD participants[169], *YeFerezagegn Shengo* judges also bring their sons to be trained for what would be the *Ferezagegne* judge. *YeFerezagegn* status can be achieved through inheritance. Some informants said[170] , however, that *YeFerezagegn Shengo* is not known among

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[167] Interview with Hajji Hamid, Gerad Kedir Teka, Hajji Hussein, Sheik Yusuf, Ato Kaire Sule and Hajji Mifta n March and April 2015 in Silti, Lanfuro, Sankura weredas and Werabe Town.
[168] Interview with informants mentioned above.
[169], This is based on FGD that was conducted with such key informants as Ato Kaire Sule, Hajji Abdurrahman, Werkicho Yusuf, and Hajji Hussein Barsebo on March 20/2015 in Werabe Town.

[170] Interview with Ato Kaire Sule on 10, April 2015 in Lanfuro Wereda Tora Town.

the Siltie. The informants contend that *YeFerezagegn Shengo* is located in neighboring Gurage zone rather than in Siltie area. Instead, the Siltie informants refer to the highest customary court as *Shenecha*. Nevertheless, most of the Siltie clients still refer their cases to *YeFerezagegn* court. I also observe that most of the disputants believe that this court can give them fair judgment if they cannot get an impartial decision at lower levels. FGD participants and other key informants[171] also said that this higher court has existed among the Siltie for a long time. I observed that *YeFerezagegn Shengo* judges consider other local *Ragas* as *Magas* who are local level judges having little understandings of socio-legal matters. They did not want to refer to lower level judges as *Ragas*. I have also understood that *YeFerezagegn* judges are the higher interpreters of local norms and values after cases are referred to them from lower tiers. This clearly indicates the existence of intra-customary court actors' power contestations on one hand, and an aspect of shopping forum on the other.

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[171] The above FGD is conducted with my key informants in Silti, Dalocha weredas, and Werabe Town.

Figure 20 YeFerezagegn Shengo attended by Christians and Muslims in August 2015 (July, 2015).

Therefore, the third tier of the *Raga* court is known among the people as *YeFerezagegn Shengo*. Most of *YeFerezagegn* hearings are referred to as an appeal from the *Raga* court from below. The *Raga* would transfer the unresolved issues to *YeFerezagegn Shengo* for a final decision. Procedurally, *Magas* are sent by Raga to elaborate the issue for *YeFerezagegn Shengo*. Here, the disputants have the right to defend the *Raga's* decision. Then, after hearing the words of the disputant parties and the verdict of the *Raga*, *YeFerezagegn Shengo* would give its decision on the matter. They may strengthen the verdict or amend it or even object the *Raga's* decision. There are times that *YeFerezagegn Shengo* may increase measures to punish the suspect. Finally, after going through the case, *YeFerezagegn judges* would refer the matter to the *Magas* for implementation.

Some people, however, view *YeFerezagegn* court is at the last customary court level. FGD[172] informants, *YeFerezagegn* court is the third level court in the four-tiered courts of Ragas in the area as they refer to *Yewegagegne Shengo* as the last tribunal Y*eFerezagegn* Shengo works at *YeSiltie Bade* (country) level structure. It also serves at intergroup structure between various ethnic groups such as the Siltie and the *Mesqan Gurages*. The *Kistane* Gurages also employ this court as local dispute settlement forum.

6.6.1.5.   Yewegagegne Shengo

Some informants indicate that *Yewegagegne Shengo* is the last court of *Ragas* the community employs to resolve crime cases in the area. They consider it a court found at the apex of the tribunals of Ragas. *Yewegagegne Shengo* is also a court that observes disputable cases that come as an appeal from *YeFerezagegn Shengo*. Nevertheless, the existence of this court itself is disputable. As some informants[173] said, *Yewegagegne Shengo* is not known among the Siltie. I also could not come across this court during my research. *Yewegagegne Shengo* is not a separate tribunal, yet it is the title given to the veteran *Ragas* who served in *Maga, Raga,* and *YeFerezagegn* levels for an extended period, and who work as renowned legal experts in Ye*Ferezagegn* Cassation court. Y*ewegagegne* elder is a man who plays a great role for resolution of disputes in the area. He plays an important role in transferring his knowledge from generation to generation by training his sons for *Raga* position. I also did not see disputants going to *Yewegagegne* court and could not find a separate court for this purpose. Therefore, based on the above information, one can understand that *Yewegagegne Shengo* does not exist among the Siltie.

6.7. The Siltie Custom and Its Role in Day-To-Day Life: Retrospect and Prospect

The Siltie custom embodies collection of rules that govern the day to day activities of the local community. The customs are not „derived from the enactments of the central government or its agencies"(Hamnett Ian 1975:705), yet are widely respected and have much more legitimacy than the state laws.

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[172] This is based on FGD that was conducted with such key informants as Ato Kaire Sule, Hajji Abdurrahman, Werkicho Yusuf, and Hajji Hussein Barsebo as part of my previous work in the area.
[173] Interview with Hajji Hamid, and Ato Dilebo on February 2015 in Werabe Town.

The Siltie customary court has passed through ups and downs since the late 19th century. Even if Hailesillasie I and *Derg* regimes tried to control the activities of local elders and did not recognize the roles of customary courts for dispute settlement officially, the courts managed to withstand the challenges. This is partly due to the agencies of local actors who manipulated every opportunity that allowed them to exercise their powers at the local level. Moreover, the local community also used „everyday forms of resistance" (Scott, 1985) like the kinship systems to coerce local cadres into abiding by local norms, and ostracize them from social life. The post-socialist EPDRF regimes have introduced a new system that is based on ethnic criteria and reorganized rural life accordingly. This development has given an impetus for local activities like local dispute settlements and religious systems such as Shari'a to resurrect and become part of the identity manifestations of a particular community.

Despite the fact that the customary system has revived since 1991, elders said that the revival of the Siltie customary system has faced setbacks from home. ThInformants state that some state agents in the Zone showed little interest in the revitalization of the system for some reasons not clear to them. My key informants [174]further explained that the various ethnic groups such as the *Hadiyya* and the Sidama have started to administer and develop their local system since 1991, but, the Siltie could not exploit this opportunity. They, however, could not deny the existence of such a paradigm shift in central government policy in Federalist Ethiopia, though it was late to allow the Siltie to self-determination only in 2001 which paved the way for the Siltie local system to gain a partial momentum after more than a century of hibernation. Informants further stressed that the customary system has reborn since 2001 after the people have started to govern themselves. However, the local customs and values could have developed more had the state officials been more committed. However, I observed that there are agents of the state and state court judges who support the revitalization and strengthening of local systems, especially customary courts. Siltie zone high court president[175] said that the tribunal is overloaded by cases, mainly family-related disputes, which can easily be resolved by customary courts. He is

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[174] Interview with my key informants like Sheik Ahmed Kelil, Hajji Kedir Abdela, Imam Hussein Barqeda and Ato Bahredin Adem who were key figures in their communities in various Weredas. The identity of my informants is made confidential. Siltie elders always compare the status of local systems with their neighbors to show how the federal system seems characterized by double standards and hypocrisy, which shows inconsistency in the implementations of local systems. They associate the less implementation and challenges of the customary courts to the low commitment Siltie leaders have had towards local custom.
[175] Interview with Ato Akmel Ahmedin in December 2015 Werabe Town.

determined to support the customary courts not because they can help the state courts in reducing cases, but they are also more efficacious in settling family related disputes than state courts. This is mainly due to the social and cultural values the customary courts rely on.

Respondents also said that some government officials helped elders' attempt to resurrect the system. However, this attempt was short-lived as other Siltie zone administration officials did not want to see robust elder's council so as "not to have two leaders in one area" as a raga said he is regretful. As my informants said the Siltie zone officials did not want a strong elder's activity for dispute settlement for some reasons not clear to them, even if the constitution allows doing so, and other neighboring groups formed it as well. They, however, understand that the officials have made „loyal cadre elders", who appear everywhere to show that the system favors the culture. Despite this, elders and some sections of the youth protest the intervention of the state officials in to elders' activities in the past five and more years. This is due to the fact that there was a collision of state and religion particularly Muslims as the later accused the government of interference into religious affairs. Since the Siltie consider their culture more Islamic, they try to link the government's interferences into religious realms as challenging the practice of Islam.

Although sometimes the prosecutors reject elders' decisions, the data collected empirically in the area demonstrate that public prosecutors show tolerance for the practices of customary court especially if elders handle crime cases like car accidents that involve deaths. Despite this cooperation on some cases, there are times that the public prosecutors arrest the culprits after elders have settled the disputes (See more about car accident cases in the next section).

Disputants who have experience in the customary court often say that they would not bring cases to elders' court since elders do not have a legal status to enforce their decisions (See also case 6 in the next section). Even if the impact of local customs is traceable in every aspect of the lives of the Siltie, and the local customs regulate the operations of the customary courts, I there seems a growing tendency that some disputants show less interest in resorting to the local courts. This seems to arise from disputants perceptions that some actors in the customary courts have deserted local values and customary court judges have also become corrupted. With the challenge they face from the community, customary court judges use various strategies to attract clients by critically presenting the state court's inefficiency to deliver justice while portraying the non-economic and cultural natures of the customary courts (e.g. they criticize the state court for

not relating its juridical work with the local customs) (See more in chapter Seven about Self presentation and critical perspectives of Local Dispute Settlers). Even if some state judges criticize the local courts, some respondents indicate that the customary court could fill the gaps in delivering justice since the customary courts are working in accordance with the Siltie custom. Moreover, some Siltie elites associate the declining roles of Siltie customs in the daily activities of the people to the state interventions over the past two or three decades. They say that local custom including the customary court has faced some challenges including political interventions aimed at weakening the local system .[176] They further traced the genesis of the crisis of customary court since the late nineteenth century and which was further worsened in the course of time following the changes of regimes. However, Siltie local elites figured out and considered the identity struggle period (1991-2001) an apogee of a crisis of elders hegemony, when cooptation had become an order of the time to „produce local loyal elders" who could help the pro-Gurage political leaders develop the political stamina to implement government policies. My informants state further that elderliness was very active during the identity struggle time, as elders who were accepted by the community mobilized the people for the cause and challenged the Gurage party. However, the local state actors began to produce „loyal elders" and let active elders down in the local political and social lives, albeit they could not totally prevent them from involving in the social affairs and providing mediation services[177] they deliver to the community. Thus, the customary court has sustained the challenges. Furthermore, informants stressed that the crisis of elders' council had reached its zenith, especially in the late 1990s, due to two major reasons. First, local elites accused elders of not using their socially empowered power 'properly", and not following the Siltie party cadres' advice effectively. Secondly, some Siltie elites also associated the crisis to the ruling party's co-opting strategies and intimidations of the elders, whose activities could become politically subversive.

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[176]Interview with Ato Mohammed Yusuf, former head of Siltie zone culture, tourism and communication department on 20 June, 2015, Engineer Temam, a Siltie local investor known for his cultural knowledge specially about lowland Siltie, Ato Bahru Jamal, a lecturer/anonymous name) Azernet area and Weizero Aysha Balengo, a leader at local administration in development leagues in Alicho Wuriro in June 2016 and October 2016.

[177] When I say 'mediation service", it is the service local dispute settlers give to the community in various dispute settlement forums. The dispute settlers will get the social respect and legitimacy that may serve them consolidate local power in exchange to their mediation services.

To this end, they argue, the government used a conspiracy theory and instigated systematic popular uprisings that could disturb the peace of the society. Afterwards, the local state administrations associated the unrest within the community with the acts of elders.

Following these incidents, some well-known elders such as *Abegaz Redi Hamdino* of *Alicho*, *Sheik Jamal* of *Lanfuro* and many others were imprisoned, and two women, namely, *Bahrite* and *Beydite,* who took part in the struggle in *Azernet Berbera* weredas were killed. Since then, the politically induced and co-opted elders came to the stage and began to dominate the social and political arena. As these elders have back up from the ruling parties, they have continued to be called everywhere to settle disputes. Then, problems arose as these elders who were not socially empowered began to abuse the offices of elders, turning the situation to their and the ruling party's advantage. Thus, Siltie elders whom informants view „*Ye Haq Baliqe*," the true elders could not get legitimacy until now. Some informants further indicated that these elders have started taking bribes, and money has been introduced into the customary court as a form of exchange (Bohanana, 1955). This has continued to affect the customary courts negatively to this date.

Added to this, local legal experts and other informants[178]stated that Salafi teachings have become another challenge for the existence of Siltie culture. They accuse Islamic reformists of violating the exogamous marriage by permitting marriage between relatives within a clan and providing dispute settlement forum in the form of the social committee. Local dispute settled accuse Salafists of labeling the local cultural values as well as belief systems like *Berche* as an innovation or against the actual creed of Islam. Informants further state that elders have involved aggressively in the society to divorce unlawful marriages and are teaching about harmful traditional practices like Female Genital Mutilation (FGM). They also indicated that local dispute settlers settle various dispute cases including murder cases against the state discourse. I observed in different customary court sessions that elders mentioned the past successes that the local system achieved to indicate the social power and agency of elders to resist every attempt that targets the customary system.

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[178] Interview with Hajji Keresema, leader of *Ye Mulla Siltie Melcho* in Lanfuro Wereda, and Kaire Sule, an important cultural informant in Tora Town, Lanfuro on November 28, 2015, werabe Town.

They further explained that the Siltie customary system was under attack by expanding forces of Menilik II who tried to dissolve the system and change *YeFerezagegn* appeal court in neighboring *Mesqan* communities rather than the ones in Siltie zone.

Elders like *Hajji Keresema* stated that the Siltie's last appeal court is *Shenecha* rather than *Ferezagegne*. This idea seems to have developed since 2001, following the establishment of Siltie Zone as part of reviving and re-engineering Siltie's system, for *YeFerezagegn* court is still chosen by quite a large number of Siltie communities to appeal the decisions of lower first instance courts. It is observed that Siltie elders have a significant interest to revive and strengthen elder's power by setting up what they call, *Yebalique Webaje Gar*, or Elders' Council.

6.7.1. Revitalization of the Siltie Customary Court: A Foiled attempt

Even though they have faced some challenges including intimations and arrest, the Siltie elders have struggled to form zonal elders' council as the highest authority in the customary system since 2010. Some of the well-known and committed elders such as *Gerad Awel* and *Hajji Hussein Hassena[179]*, from Silti and *Mirab Azernet Weredas* respectively died naturally in 2014. Thus, with these challenges the customary court faces, and with the interest to get back to their local political powers at the local and zonal levels, elders pursued the project to revive the customary systems for an extended period, though in vain. Siltie legal experts and relevant local actors such as *Moro, Ragas*, and *Gerads* who act as local rulers and judges in various territorial, lineages, and sublineage levels of administration pushed the agenda of reviving the customary court across the zone. A number of Siltie elders started to revitalize the system, and codify the customary court codes and articles since 2010. However, they have only managed to meet in 2011/12. Elders from eight Weredas and Werabe Town gathered in Werabe Town and deliberated on the following issues.

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[179] These two figures were the symbol of Siltie elder's council and highly respected elders as well as my key informants who died naturally in 2014.This is a big blow to the formation of the council as we could not see a leading figure. However, this time, *Girazmach Hussein* Bussera, a clan leader, has been nominated by eight wereda and Werabe city administration elders. The struggle seems to have persisted despite, fierce resistance from the Zone.

Elders kept on raising the question to state leaders whenever they met for zonal meetings in Werabe Town. My key informants and elites pointed out the following reasons for the need to form Elders' Council. To begin with, my key informants explained that the customary system is not homogeneous in its implementations across the area. They stated that the variations witnessed in the dispute settlement were considered as a threat to a unified Siltie identity.[180] Thus, elders wanted to homogenize the customary system to avoid local variations and set up all encompassing Siltie Serra. Here, as a prerequisite to set up zonal elders' council, elders proposed an area in Werabe Town where a big Podocarpus Tree or *Odda* was found. They thought that this area could become in Werabe as an appellant court replacing *YeFerezagegn* court in Gurage Zone. The elders also intended to determine the amount of blood money paid for various murder cases especially for intentional murder.

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[180] I observed that members of two clans, namely *Date Wezir* and *Melga* disputed over the items that can be given during a cooling period, or *Wurkefena* after a driver from the former clan killed an eighteen years old girl in Hulbareg Wereda in May 2015. I attended the dispute settlement session, and there was a debate between the representatives of the disputants and a neutral jury. Finally, another elder who was invited by the driver's family used local Siltie norms like Berche to narrow the gap, and leaving the clan variation, the parties came to a consensus. However, later I heard that the dispute settlement process did not end peacefully owing to the local variations on how to settle murder cases.

In this regard, elders were doing well, for they have decided that *Agarsa*/deliberate murder/ be compensated with 50,000 ETB blood money (a little more than 2,000 Euros) or *Gumma* against the previous rate from 5000-10,000 (200-300 Euros) ETB. Since then, it is observed that the decisions have been implemented on various premeditated murder cases. Moreover, elders are very worried about the younger generation that does not give much attention to the customary system, due to a growing religiosity among the youths' a result of the revivalism of Islam in the area and possibly beyond. That is to say, the younger generation is not very much concerned about the future of the scheme, and is reluctant to also employ it now. However, I observed that quite a significant number of young people still take dispute cases to elders' courts, provided that they impose some modifications in those areas they consider against Islamic teachings (e.g. like Gudda where they replace slaughtering of a black goat and tying disputant's toes with the intestine of the goat with a mere greeting). The youth, for instance, usually settles murder cases in the customary court by simple greetings or make the parties to embrace each other and hence replacing tying the toes of disputants with white thread and a black female goat intestine that symbolizes the end of enmity. Moreover, Siltie elders want also the customary system to be provided in a written form and be applied across the zone. They put a strong stress on the codification process. However, some other elders fear that the codification process may not allow the customary court to look at cases in a flexible way or according to circumstances.

Furthermore, elders want to forge a working principle with the state actors, following the customary norms and the Islamic precepts. My informants indicated that one of the objectives of the revitalization process was to discuss and develop commonly agreed upon modes to work with the state justice system that can help dispute settlement actors to cooperate on settling disputes according to the Siltie norms and values. These all problems are challenging the very existence of the local system. However, it seems that the heavy-handed approach of the political office that inspects their activities as a politically subversive act is also a significant hurdle to materialize their dreams. As an informant put it," the federal system is hypocritical in that it gives the local community the right for self-administration in the constitution (see the 1995 FDRE Constitution, Art.39), while it does not allow the customary system to operate fully in the area"[181].

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[181] I have taken this idea from one of the dispute settlers who was involved in the process of settling death case due to a car accident in Werabe Town August 2014.He was puzzled by the interference of the zone public prosecutor who sued the driver while elders were dealing with the case. Most of the time elders are allowed freely to settle car accident cases as the cases are not considered as intentional crimes.

Nevertheless, one thing which binds all elders in the Siltie community is that they appreciate the federal system that ushered in a new era that empowers the Siltie with an ethnic status that was not present before.

6.8. State Actors' Perceptions of Non-State Actors: An Ambivalent position

The Siltie non-state actors have been involving in the national and local political affairs at least since the 1970s. They were one of the prominent figures who mobilized the Ethiopian Muslims that staged a nationwide demonstration against the Christian-oriented Imperial regime in 1974. Siltie religious leaders and elders have also actively participated in the identity struggle since 1991. They are also prominent figures at the grassroots level as dispute settlers, and local leaders. Religious figures and elders also played important roles in smoothly demarcating the boundary of the newly established zone after the Siltie separated from neighboring Hadiyya, Kembata, and Gurage zones. Thus, non-state actors are socially, politically, religiously and culturally prominent figures in the area and in the surroundings. The relation between state and non-state actors should also be looked into from the high social leverages non-state actors have in the area. The idea of EPRDF political platform and the introduction of developmental state model seem to be not willing to recognize and incorporate any contending party including the customary ones in local and zonal socio-economic and political affairs.

My state actor informants said that the zone encouraged elders to organize themselves and help the state's endeavor of maintaining social order. One of the informants[182] who was the head of zone security department and who worked in Siltie and Gurage zones for more than 20 years indicated that there is an understanding of the roles of non-state actors for the peace of the area. But he did not deny the lack of a shared commitment to see a strong elders' council in the area. He underscored that the zone justice department initiated an idea to set up zonal elders' council to gather Siltie elders under one customary system in 2012. Its aim was to incorporate elders at the various levels of state councils, yet with no vote as an observer status, and to facilitate elders' involvement in the justice sector yet under the auspices of the officials in case they become politically subversive.

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[182] Interview with Ato *Alewi Nuri* and other state representatives while discussing with various individuals about the significances of elders for the justice sector Werabe town on 30 December 2015.

However, the ex-head of the security department said that the attempt to organize elders became futile due to involvement of some officials who could not understand the significances of elders for the general order of the zone. Elders, however, claimed that the idea was initiated by them, and this indicates contestation of actors in the area.

I also observed that elders frequently requested the zone administration to help their initiatives to form a council that can be used as an umbrella to discuss the peace of Siltie and become a unified body of the customary system. They demanded the council to serve as a forum that can facilitate a preparation of a uniform customary court code and homogenize the customary system that is now characterized by variations in different areas. Elders keep on referring to the various neighboring Hadiyya, Gurage, the Oromo and the Sidama areas' experiences, and how these people use the customary system to maintain the custom and social orders of their respective communities. Nevertheless, the chiefs of the zone have frequently refused this idea since 2010. Rather, the new zonal chief responded to elders, on the 10th annual Siltie language, culture and history symposium[183] by providing another option as a forum for elders that seems politically safe. He said that elders could make use of the *Qebele* and *Wereda* councils and become active participants in various organizations. He further explained that elders could employ the annual symposiums as an avenue for non-state actors' gatherings so that they can discuss and develop common working norms and values to settle disputes.

Nevertheless, one of my key informants[184] who took part in the process said that elders selected their leader and made frequent meetings to decide on how to achieve their objectives. The major reasons for their gathering apart from the ones mentioned above are the decline of the Siltie norms and values, the existence of disputes especially among family members due to the failure of respecting elders, and the death of well-known *Ragas* who know the customary court procedures that require urgent interventions to save the system.

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[183] Taken from the 10th Annual Siltie Language, Culture and History Symposium held from 28-29 November 2015 in Werabe town.

[184] July 25, 2015, Interview with my key informants like She Ahmed Kelil, Hajji Kedir Abdela, Imam Hussien Kedir and Ato Bahredin Adem who were key figures in their communities in various Weredas. The identity of my informants is made confidential. Siltie elders always compare the status of local systems with their neighbors to show how the federal system is characterized by double standards and hypocrisy, and inconsistent applications of local systems. They associate the poor implementation and challenges of the customary courts to the low commitment Siltie officials have had towards local systems.

6.8.1.1. Case 1: Ato Ahmed Mohammed[185] : A Critical Reflection of State Actor on Local Dispute Settlers

State agents' perceptions of local legal actors vary from one actor to another. Some view local dispute settlers as politically subversive, while others understand them from the local identity perspective. Yet the majority of the state actors have developed an ambivalent position, they could neither openly criticize nor encourage the customary legal system. Here, I choose one of the state actors whom I consider may represent this state of affairs, and who has shared his take on the roles and prospect of local dispute settlers with me. Ato Ahmed's reflections on the customary court and local dispute settlers are presented below.

> The customary court must operate in accordance with the local values and norms rather than in strange ways. The Siltie gives value to elders on the basis of elders' contributions to the community, their impartiality in dispute settlement, and loyalty to the community. I think that having representatives from each *Weredas* to form elders' zonal council is not in the interest of the culture. Thus, organizing elders into elders' council and letting them settle disputes including criminal cases contradicts the constitution. The constitution does not allow crime cases to be handled by customary and religious courts. Nevertheless, the customary courts will have more freedom if they operate in the cultural ways that form the foundations of their existence. As you know one cannot nominate elders for the community through elections. It is the community itself that gives an individual the status of an elder. Electing and bringing elders into one organization in the zone will detach the customary court from its cultural foundations. The customary court operates at a village, clan, family, as well as various lineage and sublineage levels. If we bring in elders as representatives of the contemporary *Wereda* rather than letting them operate based on the Siltie indigenous structure, we are creating inconsistencies.

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[185] On December 2016 I interviewed Ato Ahmed, an official in Siltie zone Security Department who has worked with elders on local security and dispute related issues for over a decade. I have discussed with some state actors to share with me their perceptions of the customary court and local dispute settlers. The above ideas have been shared by most of the state officers who met with me.

We may also homogenize the community by creating a unified local custom that is against the existing local variations in the area. It will also affect the social acceptance of our elders. For us, it will be more helpful if elders work according to the culture than conforming to modern organizations. If elders know it well, they will reject any possibility of organizing Siltie elders under one organization. We also know that elders are resolving some dispute cases including homicide. This is conducted on the basis of local values and norms. We cannot interfere in the local custom, for the constitution forbids us to do so. However, if elders try to organize and codify the customary laws and do accordingly, a conflict will emerge between state and non-state actors as their activities will contravene the constitution. Thus, it is better for elders to maintain the custom and local values of the community than trying to form a self-appointed representative of the community.

Ato Ahmed's reflection indicates that he supports elders' involvement in dealing with disputes on one hand, is against elders' interest to form elders' council on the other hand. This stand reflects the ambivalent positions of state actors in the area. Some informants also said that some government officials helped elders' attempt to resurrect the system. Nevertheless, this attempt could not last long as some other agents of the state wrongly perceived elders' initiative as a project intended to form elders' council that could potentially bring „two leaders in one area'' or a „state in a state" as a *Raga* said regrettably. My informants further said that the Siltie zone officials did not want a strong elder's activity for dispute settlement for some reasons not clear to them.

Nevertheless, they understand that the state-officials prepare loyal elders who appear everywhere to show that the system favors the culture. The same sources indicate that Zone and Wereda prosecutors always give little attention to elders' decisions in the customary court. They have always experienced interventions after settling disputes. Elders also blame the Zone for not making *Siltigna* the state court's language as it is hard for the local community to express itself freely[186].

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[186] Siltie Zone High court has introduced Siltie language as court language since July, 2017.

For them, the customary court can fill this gap as it is conducted in free and society friendly environments. Therefore, despite the fact that Ethiopia has endorsed various legal and constitutional frameworks that sanctioned legal pluralism, local dispute settlers and disputing parties on one hand, state actors on the other, have developed a suspicious relationship since the mid-1990s.

I also attended a meeting of elders who came from all Siltie areas for a Symposium in Werabe town in November 2015. I learned that they were determined to set up elders' council at the Zonal level. I also attended *Gogot* meeting in Lanfuro wereda *Shefode Debar Qebele* in mid-November 2015 whereby *Abalcho*, *Chiro, Dilapa* clans including the adjacent *Hallaba* ethnic group. Thus, the meeting was somehow an inter-ethnic meeting. The *Gogot* also stressed the importance of elders' meeting in the zone. They said that it is difficult to start discussing *Yebad Wegeret* or the peace of the country without having a council. What I have learned from elders discussions and meetings that non-state actors have demonstrated two versions to form the council. First, I observed that there are elders who are always invited by officials to give blessings, appear on Televisions and thorough Radios to tell about the success story of the state. This group of elders has had an interest in developing elders' council, yet demanded state's permissions to move forward. Second, I also learned that various elders are working freely, and seem to have been 'ignored by the state', yet socially powerful gather freely in different weredas. These elders do not want the state to give them permission; they would prefer to provide their usual mediation services and hold clan and inter-clan meetings by creating a friendly relation with the *Qebele* leaders.

In some instances, the *Qebele* leaders are more answerable to clan leaders than the state agents up in the Wereda. These elders do not want the state to give them permission, yet work their usual mediation services and clan and inter-clan meetings by creating a friendly relation with the *Qebele* leaders. Nevertheless, the second group of elders uses their local gatherings to praise the Federal system since "it empowers self-rule to the Siltie and gives freedom to the customary court." Furthermore, the second group of elders had started the process establishing of uniform local governance, including customary court under the name of *Gogot*, which means consolidated alliance. Representatives from Silti, Lanfuro, Hulbareg and neighboring Halaba special Wereda further agreed that a unified group is a must to maintain local norms and values from adverse impacts of globalization, and state's encroachment into the social fabrics of the

community.[187]Thus, elders stressed that all members of the Siltie people should speak the language as one of the ways to maintain the custom of the people. They also emphasized that an extreme form of Islamic interpretation also poses a threat to Siltie culture. They underscore the fact that their youths have become more religious oriented and they must teach the significances of the Siltie culture to young people.

6.9. Local Institution and Local Development: Area of Cooperation between State and Non-State Actors

YeSiltie Serra, as mentioned above, plays a pivotal role in maintaining the social, economic, as well as the local political life of the Siltie. *Melcho* or *Shengo* meetings either at territorial or at lineage levels are not only politico-judiciary forums but also function as socio-economic development forums. Studies indicate that the Siltie people have started to migrate to urban centers of Ethiopia at least since the late 19th century. They are engaged in various economic activities in Addis Ababa and in different cities of Ethiopia like Addis Ababa, Adama, and Hawassa. The Siltie in the urban centers have established various organizations to help maintain their identities.

As my key informant[188] said, Azernet Berbera number one and number two Idirs that are found in Addis Ababa and USA, *YeSiltie Iddirs*, *YeSiltie Saffer* (villages) that are located in Addis Ababa and the Gulf states are good instances in this case. These self-help institutions have not only helped the members of the society to strengthen the social cohesion in the urban centers but also have played significant roles in mobilizing urban resources for rural development. The urban Silties and Gurages have also used elders' forums to settle disputes (Alula and Getachew, 2008). Additionally, the urban Silties are obliged by *YeSiltieSerra* norm to contribute their share for their lineage (*YeAabotweld*) and *YeSiltie Bade* (Siltie country) development activities in the countryside in the form of local remittances.

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[187] Interview with Hajji Nasir Mohammed age 72. Judge, Azernet *Berbera* customary court, Hajji Hussein Bussera, *Dilapa* clan leader, Hajji Mohammed Kelil, Silti Wereda elder and President of Siltie Zone Islamic Affair. It is also based on field notes that have been collected from *Chiro Dilapa*, Abalcho, and Gogot Mule Siltie Meetings in various Weredas between August 2014 and March 2016.

[188] Interview with Ato Delta Mohammed on January17/2016 in Addis Ababa and field observation.

The state officials also use local norms and institutions to mobilize the community for local development activities. Furthermore, the various territorial, lineage, and sub-lineage councils also mobilize the rural community to develop their area, to protect its environment and to plow each other's land cooperatively during harvesting and post harvesting seasons. The elders also mobilize the rural community to work hard in business and agriculture.

On top of all this, when the Siltie goes to a household for annual festivals such as Islamic *Arafa* and *edul-Fitr* holidays, *YeSiltieSerra* asks them to support their local kinfolks in various economic activities. Thus, one can understand that *YeSiltieSerra*, if used properly, can significantly contribute role for the economic development of the area. *YeSiltieSerra* also obliges an individual to provide resources first to his parents and then to his patrilineage, *Burda*, *Azegag*, *Mewta* and *YeSiltie Bade* as the most inclusive social organization. Based on *YeSiltie-Serra* norm, those individuals who take part in development activities for local development of their place of origin usually get blessing and prayer (*Du'aa*) by elders (*Yebad Baliqes*). Nevertheless, those who are unenthusiastic to provide resources for development activities are considered as indifferent and will be cursed by elders and are ostracized by the society. It is customary to get rural roads, bridges, and schools that have been built by urban Siltie. However, as my key informants[189] said, government officials are not willing to collaborate with urban merchants. According to them, the politicians fear that these local institutions will get great acceptance and legitimacy and political advantages over the state systems. It seems that urban Siltie did not have trust in local politicians. This may arise from the identity struggle period's continuation of a strained relation the community had with the state, on the one hand, and the disappointment of some Silties with the continuation of some pro-Gurage Silties in the state structure on the other. Due to this local contestation, it seems that *YeSiltieSerra* cannot contribute at their maximum capacity for the local development. *YeSiltieSerra* uses its systems of sanctions and social boycott strategies to demand full participation of the members of the society in rural development.

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[189] Interview with Ato Jemal Adem and Ato Mustafa Kedir on October 17/2015 in Addis Ababa.

6.10.   Concluding Remarks

The chapter indicates that the customary court operates side by side with the state administrative systems. It further states that the local legal system has faced challenges from the state since the late 19th century, yet has survived due to some factors including the agency of actors. The interactions of state and non-state actors have changed based on the ideologies of the successive regimes. The chapter observes that state actors have developed an ambivalent position towards the local system, which is characterized by keeping their status in the community by tacitly lending support to the local custom and serving the political interests of the government. The empirical data presented in the chapter also indicate that the customary legal system is characterized not only by plurality but also, by intra-contestations among local legal actors. Moreover, the system has served as a tool for identity struggle.

The ethnographic data demonstrate further that customary courts handle various cases and have become important tribunals at the grass roots level. The customary court judges make use of various ways to appeal to clients including by portraying their images at the expense of the state system. The empirical data further indicate that the interactions between customary and state court judges are characterized by cooperation and contestation. But the community resorts to customary courts cases due mainly to better legitimacy, closeness to the people, and economic and time factors. Moreover, even though the state tries to control every aspect of the social life and activities of customary court judges, the local state officials are more governed by their daily experiences than the estate principles on the one hand, and the local dispute settlers also use their local agency as instrument to continue the mediation services they are delivering to the community on the other. And hence, as they are very near to the local community, the customary courts are providing justice to the grassroots level more than other tribunals. The chapter also demonstrates that the customary system has faced existential threats not only from the centralized governments but also from Federalist Ethiopia. In addition, we can understand that local legal actors use their agencies to maintain their local positions and provide services. Even if the local systems have enjoyed the freedom to revive and operate at the grassroots level since the 1990s, elders have developed the interest to form elders' council. This is an indication of the revival of traditional power among the Siltie. However, it is also a clear indication of power contestation between the state and non-state actors in the area which will become a potentially destabilizing factor in the future.

CHAPTER SEVEN

7. LOCAL LEGAL ACTORS' SELF-PERCEPTIONS, CRITICAL PERSPECTIVES AND LEGAL REALITIES: INTERACTIONS AND COMPETITION FOR LEGITIMACY

7.1. Introduction

This chapter explores first the self-perceptions and critical perspectives of local dispute settlers on other legal actors, and how the local legal actors depict themselves vi-a-vis the contending state actors in the area. It also looks into the interactions of local legal actors, and the duality of complementary as well as the competing nature of interaction among the various legal systems. Dispute settlers' self-descriptions and critical perspectives become an important legal reality to understand the lived experiences of actors in one hand, and the emerging legal hybridism among the Silties on the other. The chapter also presents various dispute cases ranging from minor marital disputes to homicide, the legal systems involved, legal actors' interpretations of their mediation services which also involve explanations about the concrete strategies they employ to handle disputes and the power relations among various legal systems. It also explores the different incidents the local community has passed through to appropriate the social transformation process that depicts the existence of social transformational processes from the grassroots level. The book argues that self-expressions of dispute settlers become significant indicator of legal regimes' interaction in the plural legal constellations. Local dispute settlers while presenting themselves as peace makers, they also compete for religious authority and social power by depicting religious figures and state actors as inefficient indicating the contending interactions among actors. This chapter argues further that local dispute settlers use disputes to ascertain local power, and negotiate with different actors including the state. It further claims that dispute settlers employ mediation services as one of the ways to maintain their local legal agency. It further argues that neo-traditional leaders portray their mediation services as truth and peace searching than as imposing norms. The chapter also argues that local dispute settlers develop a hybridized legal perception to settle disputes and hence employ more than one modes of dispute settlement. The chapter further argues that cross-referencing legal and social norms by actors have boosted the legal agency of local legal actors. It also pinpoints that legal hybridism has become the norm than the exception in the legal realities among the Silties.

The chapter finally argues that duality of cooperation and contestation characterize the interactions among the various legal actors.

7.2. Self-Descriptions and Critical Perspectives of Dispute Settlers

This sub-topic examines cases from local dispute settlers' perceptions and self-expressions (Ubink 2007, Oomen 2003) that portray themselves and their jobs as instruments for reinstating peace rather than sanctioning norms. It also shows the ways local dispute settlers present and criticize the other of in an attempt to build their legitimacy in the local setting.

7.2.1. Case 1. Raga Hajji Awel's[190] Self Expressions and Critical Perspectives: Competing for Religious Authority

Raga Hajji Awel, 65, lives in *Enseno* Town, Mesqan *Wereda*, in Gurage Zone. Quite large number of Siltie people live also in Enseno town. Hajji Awel settles cases referred from Gurage, Siltie, neighbouring *Halaba* and Oromia areas. He speaks Amharic, *Mareqo*, Siltie and Gurage languages. He presides over various cases like family dispute, homicide, land dispute, and deaths related to car accidents. On average, *Raga Awel* handles 30-40 cases every week. The court session works every Sunday, which is a market day in *Enseno* Town. I have attended several sessions and observed how Hajji Awel handles dispute cases. *Hajji Awel*'s court is an appellate court for some *Maga*s working in Siltie, *Mesqan* as well as *Mareqo* areas. The court setting is arranged in a circular mode with a large crowd surrounding Hajji Awel. I observed that elders, youth, women and religious leaders, and followers of various faiths attend the *Raga* court. *Raga* Awel always seats in the middle encircled by the court attendants.

The language of the court changes as per the clients' language. I have observed that Amharic, Siltie, Mesqan and *Mareqo* languages are used as a medium of communication in the customary court and this further strengthens *Hajji Awel's* mediation power in the court hearings vis-a-vis state or religious courts. The court summons in an open air under the acacia tree in the compound of Hajji Awel. There is a clear form of procedure in the court. Parties have to wait for their turns to talk. The court secretary writes down the clients' names according to their arrival time. Each disputant pays five Birr for the service. However, Hajji Awel did not have a cashier. Rather, one of the court attendees collected the money from the disputants, and another one replaced this person after finishing his case. *Hajji Awel* said that he is not interested in collecting the money.

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[190] Interview with Raga Hajji Awel, age 65, from 1-7 September 2015 in Enseno Town.

He further said that whenever he goes out to the community, he will get much respect from the people.

He stated that he preferred the respect from the people than money. For him, it is the mediation services that bring social respect. He said the following about his job.

> I have inherited the *Raga* position from my father. I did not want to be *Raga.* However, it is Allah who has given me the power to work for truth, and reconcile disputants. My father was a respected elder and *Raga* in the community. If a member of your family does well, the position of elderliness will keep on with one of the members of the household. Thus, I have got it because Allah has chosen me to work for peace and truth. It is not my choice. It is the Almighty's choice**.** I have no power and capacity to resolve conflicts. It is Allah who has given me the authority to do so. As I am doing His work, seeking the truth that gives me the strength in every activity. I do not want any payment for my job. But it is the disputants that has fixed five birr payment for every case. They wanted even to increase the payment, yet i disagreed. That is why I did not assign anyone to collect money. The community prefers our court for the following reasons. 1. We are quicker than the state court. 2. We are nearer to the local community than the state court, considering the local cultivation and harvesting time, and we do not have repeated appointments apart from those complicated cases which involve *Berche*. In fact, these cases require patience and may take time 3.Ours is less costly than the state's judiciary. 4. We are also more truthful than the state. I am also doing my work as per Shari'a requirements respecting other faiths' rights, for *Berche* does not segregate faiths. *Berche* treats all faiths under the way. Islam also preaches peace and so do I. My job entirely focuses on reinstituting harmony among the community. I am working for the community as entrusted to me by Allah. Our court is also working the whole time whenever the clients come to my court. The court, as you see, uses various languages based on the client's ethnic back ground, and ours is more flexible than the state court. My court is also preferable to other *Ragas* who mainly use the Amharic

language. My court receives cases that referred from the *Ragas* as a result of the local community's dissatisfaction with the verdicts or the ways other *Ragas* go to finish *Berche*.

Figure 22 Raga Hajji Awel while considering domestic violence case that involves teeth breaking in Enseno Town Gurage Zone (June, 2015).

Despite the fact that Hajji Awel depicts the state court as a failure, quite large number of dispute cases are settled by the state courts and people still refer their cases to the courts as well. *Raga Awel* also presents his court as more religious than the Sharia courts indicating he is competing for religious authority and wants to use the growing tendency of Islamization as a channel to attract more clients and build up his legitimacy. Additionally, even though Hajji Awel presents his court as the nearer institution to the community, people travel to his court from very far area.

I also observed that *Hajji Awel* has employed religious, cultural as well as state legal norms to settle disputes. *Hajji Awel* considers his services as entrusted by Allah (God), and Allah has given him responsibility to work for the community. This indicates he emphasizes on Allah or Islam vis-a-vis the religiously diversified nature of his clients. Nevertheless, Hajji Awel's special emphasis on religion (Islam) seems to arise due to his local power that crosses ethnic boundary and hence he develops the strategy of employing religious norm to handle dispute cases that are referred from Muslim *Siltie, Gurage*, and *Mareqo* people. Additionally, the Siltie's local norms are at the center when disputants become non-Siltie due to the fact that the Siltie's local norms are shared by neighboring communities. I have also observed that the court gives priority to women and elders. It is also noted that *Hajji Awel* mainly compares his activities or mediation services[191] with those of the state and other customary court actors and the Sharia courts, indicating partly the presence of competition between the customary, the state courts, and the religious actors than others. *Hajji Awel's* linguistic competence during court hearings also boosts his social legitimacy and has influenced the forum shopping trends that have been witnessing not only among the state, the customary and the religious courts but also between the customary courts. The self-expressions and critical perspectives of *Hajji Awel* also depict the intra and inter-legal systems contending relationships prevalent in the area. Moreover, *Hajji Awel* uses the biography of his father as one of the ways to legitimatize his local legal power and form of possessing knowledge too. His critical perspectives on other legal systems also indicates the power relations that characterizes the relations of legal systems in legally plural constellation.

7.2.2. Case 2. Hajji Mohammed Sheik Kelli's[192] Self Portray and Critical Perspectives: A Strategic Alliance

I accompanied Hajji Mohammed in different local dispute settlement sessions. He has experiences in dispute resolution ranging from family disputes to homicide dispute cases. I have observed that many people invite Hajji Mohammed to intervene into their cases believing that he can impartially mediate disputants. He is a President of Siltie Zone Islamic Council. He has developed an amicable relationship with the state officials (I observed that he met with state

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[191] I use mediation service to indicate the services delivered by local dispute settlers to the community in which the dispute settlers gain respect and legitimacy in exchange.

[192] Interview with Hajji Mohammed Sheik Kelil, 64, a Maga and President of Siltie Zone Islamic Council on 16 December 2015 Werabe. I accompanied Hajji Mohammed to different customary court sessions to observe how he settles disputes since August 2014 for more than two years.

officials several times and was invited to bless local holidays' meetings and celebrations by Zone officials). He has a sound knowledge of Siltie cultural norms as well as Islam. I have also observed that he did not accept any form of invitations before ending disputes to show that his decision is impartial as a strategy to develop social legitimacy. He made the following comment about himself.

> I have worked on *Boneya* clan elders' council dispute settlement, local elders' forum, and Siltie Zone Islamic Council. I am also a farmer. I have inherited the knowledge and skill to mediate disputes from my father, Sheik Kelil Weraqe. My father was a well-known elder in our *Boneya* and *Wenejela* clans. He passed away in 1985. I have begun to take part in customary court session since then. Allah has also given me the wisdom and strength to do so. I can handle grave crime cases like homicide, divorce, and disputes over land and car accident cases that involve death. I see cases usually on Sundays, for it is a rest day for most of our community.

> We elder settle many of the cases easily that the state courts find difficult to resolve. We take cases (e.g. marital cases) from the state courts. When we see that disputants' marriage is going to be terminated, we negotiate and take the case out from a court. You know some of our initiatives to mediate disputants. We also meet those judges who refuse our interventions. We become more robust and powerful to narrow the gap as we live in the community and we meet daily unlike the state court that only operates in specified schedules. We tell the disputants that even if the state court settles the case, the spirit of conflict will never end. Allah also loves those who forgive and choose peace than dispute. We, therefore, prevail over other courts even the Shari'a one. We elder are bothered by the alarming increase of conflicts among members of a household, between relatives, and so many family cases are coming to my court. Thus, our involvement as custodian of our culture and peace is a must. We use a contract paper to show the end of disputes, and we will submit it to the courts. I do not rest home until the case is referred to me.

I initiate the reconciliation myself. It is my duty to play a role for the peace of the community. As you know blood cases cannot end without our involvement. I cannot remember a blood case[193] that has been resolved in my absence. Murder or blood cases that involve *Berche* are severe. This is because the dispute settlement requires patience and cautiousness. Prisons cannot end *Berche*. I employ the Siltie cultural ways, and Islamic teachings as well as some ideas from the state system to reconcile disputants. I, for instance, use gender equality teachings which I have got through training to deal with marital cases. I also tell the disputants that if they do not end cases here, they will face the state system.

I also frequently say to the participants that Allah likes peace and forgiveness than retaliations to narrow the spirit of combat between disputants. I also quote various Quranic verses to substantiate my argument. However, I understand from my lived experience that most members of the community are scared of local values like *Berche* and *Fero* than Islamic and state punishments. The youth fear the state and Islamic values than the culture. Nevertheless, I cannot remember a session wherein I did not use local values and norms to settle disputes. I consider the conditions of the disputants and the orientations they have before delving into the cases. If disputants are more oriented to Islam, I will do so accordingly. This time, I have started considering cases in two places to be more accessible to clients. The first place usual court place is *Agode Qebele*, and I have also introduced a new location in Werabe so that my customers can bring cases in more accessible and easy ways. I consider cases in the contexts of Siltie culture to see cases flexibly from different perspectives. You see the state court fixes 40,000 ETB (Around 1800 Euro) as compensation for murder's victim's family. However, our court will make the perpetrator pay between 15,000-20 000 ETB (900 Euros) according to the type of the incident.

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[193] The Siltie name murder cases exchangeable with blood case.

For intentional murder, the maximum compensation is 50,000 ETB[194] (2000 Euro). We as elders do make the victim's family understand that compensation will consume one's asset including life, for everything happens according to Allah's plan. We also try to make them understand that forfeiting the compensation is better than receiving it. This helps one prevent the adverse consequences of *Berche*. We associate compensation with *Berche*, for people who demand much money will be affected by bad *Berche*. I teach the community by use of examples. I lost my son by a car accident while he was herding cattle in 1992. I did not take compensation, for death by a car accident is not intentional. However, I got the results of the good *Berche* back in 1997 when my elder son who was a driver overturned a car. The car was destroyed, yet my son survived. I understand that forgiving drivers after a car accident can become insurance for the one who becomes a victim, and of course will work better for the one who forfeits the compensation. I always narrate various stories about *Berche* and failure to uphold elders' decision while at the court can inflict harm. Our court is appealing to the vulnerable, (e.g. women and people with disabilities). We are also more preferred than social courts in the *Qebele*. People went to social courts to settle minor disputes like marital disputes. However, these days, the acceptance of social courts is decreasing due to bribery, and partiality. I do not like an invitation to the parties before settling disputes. I perceive that this may help me decide impartially on cases. I have been assigned as president of Siltie Zone Islamic Affair since 2011. This position has affected my daily work as an elder. The community respects me mainly for my role as a dispute settler than for being a president. I understand that respect to elders and customary courts seem to have been declining. I believe this is because of two major reasons. To begin with, some elders are appointed by the officials. The true elders who can work for truth are left at home.

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[194] This is based on the exchange rate of 1 euro with 25 ETB dated June 2015.

Those who are politically loyal are controlling the stage, and are supported by the government. I believe that our elders are categorized into two: those who support their custom and loyal to the people and those with the state and reluctant to the culture. I understand that local officials tend to take side with the politics than with the Siltie culture. Even though elders often deal with most of the civil cases freely, political interference into elders' activities has this day become the main challenge to the existence of customary court. The second factor is that some elders are so corrupt they engage in bribes with disputants. We see now the growing number of elders who take money from disputants and decide accordingly. I fear that the Siltie culture and customary court is at the crossroad. I also believe that Shari'a courts are not standing on their feet. Since the government pays them, there is a wrong assumption that the *Qadi*s may not work for the Muslims. Due to this and other perceptions the *Qadis* have lesser legitimacy in the eyes of the community. I see that women, youths, and elders have confidence in the customary court, for the customary courts are truth seekers. There is one thing that is perplexing to me these days: seeing our officials who speak our language and who are products of Siltie culture, but who do not have much concern about the revitalization of customary court and Siltie culture. I believe that Siltie customary court is the custodian of Siltie culture. Unfortunately, it has been forsaken. I recommend that the government officials should support the elders in accordance with the constitution".

Figure 23 Hajji Mohammed Kelil at Hajji Awel's court presenting Maga's decision on car accident case that involved death (October 2014).

Thus, one can understand from *Hajji Mohammed*'s self-expression and critical perspectives that his criticism of the *Qadis* and some elders seem to emanate from less understanding of the agency of actors who can use their abilities to achieve their intentions in the presence of strong structures like the state. The lived experience of Hajji Mohammed presented above indicate also that he still remains impartial and serves the community even if he is a state appointed head of Zone Islamic affair and has relationship with the state actors. Thus, this can lead us to conclude working with the state is not necessarily a problem to get social legitimacy in the area. I also observed that elders settle quite a large number of civil cases freely and with some disagreements with public prosecutors, they also handle crime cases too. We can also understand that Hajji Mohammed considers marital, land, interfaith and homicide cases. He also underscores that he has got the legitimacy to see dispute cases from his family, religious teachings, clan as well as the state.

His involvements are not restricted only to the local dispute settlement areas but have also been witnessed in the Zonal and regional affairs too. These multi-directional activities have broadened the leverages as well as the local power of *Hajji Mohammed* which in turn has contributed to the flow of clients to *Hajji Mohammed's* court and hence for forum shopping.

Having a number of membership in different fields with serve local actors like *Hajji Mohammed* has to boost their local agency that also contributes to the rise of neo-traditional leadership in the area. Unlike other local actors, *Hajji Mohammed* has developed a delicate balance among the state, religious and customary legal systems. His self-expressions also indicate the demand of some Siltie elders to develop elders' council that can help them negotiate further with the state and other actors. *Hajji Mohammed* is not only critical of the state and the religious systems, but also of the customary legal practices in the area. He underlines that there is a growing trend of money based exchanges between the disputants and the local judges whereby disputant pays money for the judge to get his case settled, and this can easily lead to bribery and partiality in the customary court. The self-expression of *Hajji Mohammed* also indicates the complementarity and contentious relationships not only among the customary, the state and the religious legal systems but also in the intra-cultural legal system. We can also understand from the *Hajji Mohammed's* self-portrayal and critical perspectives that he is very cautious of keeping integrity as a means of getting legitimacy both from the state and the community. It also demonstrates the divided mentality he has towards the custom, Islam and the state. He also uses impartiality and working for the community as a strategy to boost his social acceptance which in turn positively affects disputants' choice of his court. Moreover, he maintains his reservations about the state in a very mild way while making the point that the Constitution needs to be respected, acknowledging that the 1995 constitution has empowered elders to take part in dispute settlement processes. This state of affair indicates how non-state actors use state law as a weapon to champion their rights on one hand, the emergence of "democracy from below" trends on the other.

I traveled to *Sesso Qebele*, *Lanfuro Wereda* where a large number of people from the *Abalcho* clan gathered for dispute settlement session and discussion of the socio-economic activities of the area in October 2014. I also attended inter-clan and inter-ethnic gatherings, which are locally referred to as *Gogot* where various Siltie clans and neighboring *Hallaba* ethnic group took part on April 23, 2016, in *Shefode Qebele*, *Lanfuro Wereda*. In both gatherings, *Azma Jabir* served as the key leader and dispute settler, and he is highly respected in the community. Unlike most of the local dispute settlers, *Azma Jabir* has a big farm, a large number of cattle and a mule, a locally relevant transport system and a sign of high social status in the area. He has practiced a mechanized agriculture.

Azma Jabir leads a clan called *Abalcho*, one of the prominent clans among the Siltie. His influence passes the boundary of Siltie zone and covers *Hallaba* and *Mareqo* areas. My respondents said that Abalcho clan led by *Azma Jabir* maintained peace and social order not only in the village, but also in the neighboring areas.

I also observed that disputants invited Azma Jabir for reconciliation in different areas, especially *Dalocha*, *Lanfuro* and *Sankura Weredas*. I also observed that there are a clear structure and procedure that are used to regulate communication among disputants, dispute settlers, and court attendants. Disputants stand in the middle of a big circle formed by participants to present their cases in front of dispute settlers (See figure 23 below). There is also a man in charge of communicating the cases to the dispute settlers and the participants. The person is called locally as *Was agache*, means a person who is in charge of communication and keeping the security of the court by giving turns to disputants according to the time of the compilation of the cases (See more above under section Clan Court /*Yegicho Shengo*).The court communicator is called „Qora" among the Oromo (Mamo, 2006).

After presenting disputants' cases, the communicator interprets the cases and throws the themes of the cases back to the participants in a more understandable and in a customary court context. Interrupting the presentation and talking without the permission of the communicator will be fined 50 birr (about 2 Euros).

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[195] Interview with Azma Jabir Hussein, 64, on 24 April 2015 in Mitto Town, Lanfuro Wereda.

The court is open for all to give their opinion and ideas about the cases. There are also nominee local mediators who are learned men and supposed to replace the chief justice in the future. They are also allowed to give their ideas on cases, and hence contribute to the final decisions. Nevertheless, it will be up to the main dispute settler, *Azma Jabir,* to give a final decision on any case brought to the court. I took much time with *Azma Jabir* to discuss his reflections on dispute settlement and the different self-presentations he accords to himself as well as how he perceives his role in society.

"Our Abalcho clan council has been working since late 19th century. I have worked for a long time as dispute settler in the community. I traveled long distances to settle disputes and maintain peace and security among my community. I have been in mediation business since the 1970s. My involvement in the conflict settlement process covers the areas inhabited by the *Abalcho* clan. Four Abalcho Council covers four *Weredas* in Siltie, namely Sankura, Hulbareg, Lanfuro, Dalocha, *and Mareqo* in Gurage zones and Hallaba Special *Wereda*. The clan has a judge in every *Wereda*, and I am leading all. Our court is involved in cases like homicide, marital and property as well as inter-ethnic and interfaith disputes. We also have excellent communication with the state courts. We adjudicate[196] dispute cases using mainly local ways.

Nevertheless, if a person is not abide by our decision, our clan council will collect money from members and pay for a legal representative to stand for in the state court for the disputant who was disserted by the other party in the customary court. We also exchange such dispute cases as marital, car accident, land disputes with the state courts. This clan council has passed through past regimes which suppressed it in different capacities, yet it has survived. This is mainly due to the justice and impartiality we have brought to the community. On the other hand, *Abalcho* clan council has also played a significant role in local

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[196] I used the word adjudicate here to refer that Abalcho clan sometimes uses force to settle cases and its role surpasses a mere negotiation in some instances. For instance, the clan can coerce a member or both disputants to accept the decision or face repercussions which involve boycotting from social life.

development. We have mobilized the community to take part in national and regional elections in 2005, 2010 and 2015 elections. We support EPRDF led government, for it has maintained our identity in the current federalism. The clan council is working based on the local values and norms. However, ours is better than the state court in maintaining peace and order in the community since we live near the people.

Figure 24 An Abalcho clan court presided over by Azma Jabir while hearing dispute case in Sesso-Edeneba *Qebele* (January 2015).

Abalcho clan council settles both crime and civil cases including grave crimes like homicide, snatching one's wife forcefully, and divorce cases. We work in different *Weredas* every fifteen days to preside over different kind of cases. These days, it seems that local officials have understood the roles of elders in the community.

Local administration often involves customary courts to settle with family disputes. Lanfuro *Wereda* Administration, for instance, has encouraged the Wereda first instance court to settle family dispute cases after they are examined by elders. This may be due to constitutional provision granting local institutions to deal with such civil cases and mostly to reduce the caseloads of the state courts.

Some individuals refused to accept our decisions and took their cases to state courts. But when they failed to get their cases settled, these individuals brought their cases back to our court. I can tell you that this person[197] who is now the secretary of our court took his case to the state system up to the Federal Cassation Court. He, however, failed to settle the case. Later, he brought back his case to our court. Finally, we intervened and settled his case. I am not paid for my services. However, I am happy with my services because of the support I enjoy from the community, as they often follow or accompany me wherever I am out in the surrounding. The community has prayed for my health. When I look at people surrounding me, I become more healthy and satisfied. People prefer to bring their cases to me for settlement, for I mediate impartially. I handle divorce cases and look at women's cases very seriously. I also ask advice from state court judges on some issues like women's rights to get more understanding on current issues."

I observed[198] that the *Abalcho* customary court's communication is formalized, and the court follows defined procedures in dealing with cases. This indicates the existence of political order

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[197] Interview with Ato Detemo, 45, who previously was unable to accept the decisions of Abalcho clan in the past took the land dispute case to the state court. Nevertheless, he informed me that he went to all levels of the state courts up to Federal Cassation Court to end the dispute. He failed to get justice due to „lack of fair decisions." Later, he brought the case back to the *Abalcho court*, and "received fair decisions." He later decided to serve the clan court as a secretary. He further recommends that South Sudan's Conflict can be resolved with elders' involvement which is currently also recommended by the African Union to resolve South Sudan's crisis;-" AU targets traditional leaders' involvement in restoring peace in South Sudan" CC TV News on 30 November 2016 at 8:25.

[198] My observation on the inter-clan meeting at Abalcho court on January 4/2015 in *Sesso Kebele, Lanfuro*.

in the community (For more see under Clan courts' section). *Azama Jabir* describes his job as more peace searching and perceives himself as impartial contending not only the state system, but also other local actors. I also observed that unlike other local actors *Azama Jabir* is rich and his economic status contributes its share for the legitimacy he enjoys in the community. His influence also extends to the neighbouring *Hallaba* and *Mareqo* communities due to the existence of members of his clan in those areas. But Azma Jabir uses his clan power and the state system rather than the local values and norms as instruments for enforcing the clan's decisions. The existence of the clan's court for more than a century among the community foregrounds the hypobook put forwarded by Klute Embalo and Embalo (2011:255) that underlines „under the existence of violence, power alternatives to the state, if they are meant to last, have to figure out regular and enduring modes of conflict resolution, which substitute, parallel or articulate with the ones offered by the state".

Additionally, Azma Jabir's material means of production (his big farm, large number of cattle) and his links with the state system contributes also to get the legitimacy he enjoys in the community. Further, he performs his mediation services freely and can summon members of the clan in at least three Weredas without any notification to the state system. This may be partly due to the relative strength of the clan on one hand, and the dispute settler's strategic alliance to the state system on the other.

The above three cases that have been extracted from dispute settlers' perceptions and self-expressions suggest that traditional authorities often depict themselves as more peace searching and harmonious rather than state legal actors, for they accuse the state agents of imposing legal norms, and not reinstitute peace. It also demonstrates the social, and political power contestations among the three legal actors. In this regard, neo-traditional authorities appear to be looking for peace more than anything else. They also strongly link the activities of customary institutions to Islam by ascribing their local legal power as bestowed by Allah) to serve the community. They frequently said, „I am establishing harmony among the people because I have been given the power from Allah." They claim that the legitimacy of their authority comes from God (Allah).

Since Islam has got a new context and significance among the Siltie people, dispute settlers try to link their mediation services to the ideas of Islam. Moreover, it is observed that Siltie elders are borrowing ideas from another mode of dispute settlement like the Sharia and the state apart from

Siltie culture indicating the emergence of a hybridized form of legal practices in the area. Hajji Awel and other local legal actors said that they had inherited the local legal actor position from their fathers, which indicates that their jobs have social legitimacy and foundations. However, seeing the new impetus Islam has got among the local community, *Raga Awel*, for instance, frequently said that God (Allah) gave him the power of reconciling disputants. He often said, „I have no power and capacity to resolve conflicts. It is Allah who empowered me to do so for I am doing His work, and seeking the truth is now behind me in every activity". This indicates it is difficult to demarcate the religious from the customary as both are intertwined and interconnected each other. This state of affair enhances the local legal agency of actors.

Local dispute settlers describe their mediation services as more restorative unlike state system that focuses on sanctioning and executing of norms. They have also tried to fortify their legitimacy from the state court's context as well. Siltie local dispute settlers said that the state court is less efficient and prone to bribery than the customary. Nevertheless, some informants accuse the customary court actors also of bribery and partiality. Authors like Anna Kristin (2016) dispute settlers' self-portrayal as „self-presentation" which is dispute settlers' „impression management" (Goffman 1959: 238). The cases further imply that modes of market exchange make its ways into the customary court as the relation between the disputants and dispute settlers seem to be monetized. Previously, the relation between disputants and dispute settlers seems to be characterized by generalized reciprocity rather than a balanced reciprocity (e.g redistribution and market exchange). Thus, people used to get things like dispute settlement done through generalized reciprocity than money which was normally excluded. Nevertheless, I observed that clients have started paying some money to dispute settlers for the mediation services. The cases and the various empirical data indicate also that heterogeneity of modes of dispute settlement seems to be a norm than an exception, for dispute settlers borrow and cross-reference ideas and norms from various legal systems to settle disputes in the area (Santos de Sousa, 2006; Cheeseman, 2016). The lived experiences of local dispute setters indicate that the state is not the only agent that monopolizes violence. Rather, it is part of the plural legal installation in the area. It can also be inferred that both contestation and collaboration characterize the power relations among legal actors. Additionally, the self-expressions of actors reveal that the protection of the society from violence, and maintaining the continuity of the mediation services over time have made non state actors secure reliability and legitimacy in the eyes of the society.

Moreover, local dispute settlers have used their legal agency to make themselves more appealing to clients and have developed more legitimacy and acceptance than the state legal actors. We can also understand that the legitimacy of local dispute actors varies from one actor to another on the basis of impartiality, fear of local values and norms which in turn affects the tendency forum shopping not only between different actors, but also among local dispute settlers. I can also argue that local dispute settlers develop a critical perspective as a strategy to compete for legitimacy and vie also for religious authority. Scholars also indicate that actors in different legal system criticize the other of in an attempt to maintain their power and positions. The following Tamanaha's excerpt also illustrates this fact. He states that

> "Existing normative systems-the people who believe in them, the people who hold positions in them, and the interests that benefit from them — will fight to maintain their power and positions. People and groups in social arenas with coexisting, conflicting normative systems will, in the pursuit of their objectives, play these competing systems against one another. Sometimes these clashes can be reconciled. Sometimes they can be ignored. Sometimes they operate in a complementary fashion. But very often they will remain in conflict, with serious social and political ramifications" (2008:409- 410).

To sum, the local dispute settlers' self-descriptions and critical perspectives indicate how the normative systems including actors in the institutions interact and how these social actors employ various strategies to achieve their objectives including maintaining their power and legitimacy in the plural legal setting.

7.3. Legal Realities and Practices of Legal Systems: An Actor-Oriented Analysis

Below, dispute cases that involved some actors from different legal regimes will be explained. The cases portray how cases traveled from one legal system to another and among actors within same legal system. Since the study explores the interactions of various legal systems and legal realities, the cases are not thematically selected. All dispute cases from homicide to marital are involved in the analysis so as to provide the legal world of the Siltie.

7.3.1.   Case I. Hajji Kedir's Murder Case[199]

Murder date: May 4, 2014

Place: Hulbareg *Wereda*, *Agena* village

Victim: Hajji Kedir Seman /Husband/ age 65.

> *Fetiya Abrar*, the second wife who was severely injured but survived the incident.

> *Ete Jemila Abdela* /wife, age 55 / the perpetrator

Siltie Zone Public Prosecutor's file and informants indicated that 55 years old woman *Ete Jemila Abdela* beheaded her 65 years old husband *Hajji Kedir Seman* with an axe on May 4, 2014 while he was sleeping with his second wife named *Fetiya Abrar* in a village called *Agena*, in *Hulbareg Wereda*. [200]It was reported that *Hajji Kedir* was murdered by Jemila /the victim's wife / intentionally since she thought that Jemila thought that her husband relinquished or abandoned her spending much of his time with *Fetiya*. The customary court dispute settlers also confirmed that Hajji Kedir was sleeping with his second wife when he was beheaded by his first wife,

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[199] (Interview with Sheik Muze Seid, Aman (Aba Fedlu), Dilebo Gebre, Hajji Nasir Siraj, 70, on September 12, 2014; October, 18, 2014, December 10, 2015 , January 14, 2017 and my observations on the local community's protest on state justice system and my observations of the customary court sessions on December 2015) as well as widespread gossips in Werabe Town. The case script has also been supported by data collected from documents from the state court's verdict file number 156/06 resolution dated 20 August 2014, videos of both the court and the customary court sessions, observations of dispute settlement on customary court sessions in December 2015 in *Datewezir* Kebele.

[200] Ete Jamila's case has been considered as an expression of resistance to polygamy, on one hand and the tensions between the customary, the religious and state legal systems on the other.

Jemila. Jemila who became angry with her husband's frequent behavior thought that she was ignored by her husband. She said her husband „could not bring her firewood from the village to Werabe town," so she intended to kill both *Fetiya* and *Hajji Kedir*. Fetiya, who was hit by an axe several times, narrowly escaped death with severe injury. Taking this into consideration, the Siltie customary court considered the murder from the inception as an intentional killing/*Agarsa*/.

Local community informants push cause of the incident about 30 years back. They explained that 30 years ago a woman from the nearby village who was suspected of killing her husband hid at Hajji *Kedir*'s house to escape from the police. Both *Jemila* and *Hajji Kedir* refused to expose and hand over the woman to the elders and hence played their role to cover the issue. The Siltie believe that if someone covers his crime like killing somebody including even animals, *Berche* will inflict harms on him/her up to seven generations. The *Berche's* repercussions could also affect those individuals who saw or heard about the incident and failed to report it to the elders. The Siltie believes that the blood of any living thing should be remunerated if someone kills somebody including animals. Moreover, my informants said that *Ete Jemila* is also suspected of murdering a little girl while she was a bride 35 years ago.

 The local community could not get the evidence, and Hajji Kedir could not also expose this crime and made his wife resolve the dispute and end bad *Berche*. These two suspected murder cases strengthened the existence of bad *Berche* or *Tiro* /the climax of *Berche*/ to remain in the house of *Hajji Kedir*. My informants also explained that hiding of these two cases expressed themselves by bringing some dangers on both Jemila and Hajji Kedir twenty years ago. This time, *Ete Jemila* tried to kill *Hajji Kedir* with a sickle when Hajji Kedir wanted to marry a second wife. But elders were involved in the dispute, and they succeeded in reconciling the couple after persuading Hajji Awel to desist from taking a second wife. It is reported, however, that Hajji Kedir's family could not address *Berche* during this time. Thus, according to my informants, *Berche* tried to show Hajji Awel and his wife with various perilous consequences that could affect the life of a member of the family to socially inform them that they should have uncovered the hidden crimes.

Thus, the local community said that the power of *Berche* reached its zenith and had turned into *Tiro*[201] that claimed the life of Hajji Awel and brought Jemila to life imprisonment (See the court's decision in Appendix II). In the incident, as mentioned above, Hajji Kedir lost his life, and his second wife was severely wounded.

Following this incident, *Ete Jemila* was imprisoned, and her father lineages (*Abotgare)* and mother lineages (*Ummigare*) left the village as required by the Siltie Serra norm. According to the Siltie norms, if any person kills someone either intentionally or not, he/she and his/her relatives should leave their residence area for some time. The duration of the time a person should leave the place as the local community calls it *Keterat*[202] meaning a 'Cooling period' is determined by the intention of a perpetrator. If someone kills another person intentionally, the *Keterat* period will last from 2-3 years, and if not intentional (e.g.*Sekebe*, *Sebebe*, like car accident case) one or two months' time is enough until the dispute settlement commences.

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[201] *Tiro* is the climax of *Berche*. When someone cannot end Berche, *Tiro* will be the next step. The power of Berche is active after it reaches *Tiro* level.

[202] Local dispute settlers will also order *Keterat* to impose an injunctive order to thwart the suspect from engaging in the daily activities like production, marketing, cultivating or entirely sanctioning social boycotting for the suspect to feel the pain of the accident.

Since *Jemila's* case is considered an intentional murder /*Agarsa*/, elders strongly condemned it and did not show interest to initiate dispute settlement process for a while. Elders also mentioned that Jamila's case could be imitated by other women if not condemned in a strong term. Thus, they took much time to initiate the dispute settlement process. My key informants have singled out the category of disputants who had been involved in the case as a factor that complicated the dispute for settlement. There were three groups of opponents participating in the case. These are- Hajji Kedir's family (his father and mother lineages), *Fetiya's* families and clans as *Yewede*/victim group/, and *Ete Jemila's* sides who were locally called *Yewedebuye* (perpetrators). It is mentioned in the preceding chapters that the Siltie's concept of dispute or conflict is

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[203] The Siltie state that a person suspected of killing someone and his family members should leave the village including his residence until the dispute is settled. Abandoning the residence is intended to make the suspect and his families feel the pain as well as avoid possible retaliation from the victim's family members. It is also part of social boycott sanctioned by the customary court on the perpetrator.

communal based and conceived as a common scenario. Thus, I observed that elders were busy narrowing the gaps between groups after the police detained Jemila. Thus, the two legal systems were involved in the case since its early stage. The customary legal system was active in cooling down the spirit of tension between the groups by sanctioning *Keterat* time that could not allow anybody to approach the house of the deceased and resort to any form of retaliation. But it has been mentioned by some informants that the state legal system was slow in handling the case.

The local community perceived that there was an attempt to release Jemila from jail due to the false evidence provided by their children who were suspected of manipulating the case. In resistance to the alleged state of impunity, the local community who were scared of *Berche* staged a demonstration to protest the state court's proceedings which they thought skewed to Jemila due to 'bribery'. The due process of law by the state court had appeared unsatisfactory to the local community, and hence the majority of *Datewezir* area residents including local state representatives like *Qebele* chairpersons came to *Werabe* to protest what they call „the derail of justice" that was favoring the perpetrator rather than the victims.

Democracy from Below and the Power of the Weak as Correctional Mechanism: The Rural Community's demonstration for Justice

I observed that a significant number of people came from *Datewezir* and adjacent *Qebele*s to Werabe town to demonstrate against what they call „injustice in the state court" on 25 August 2014. Informants said that they demanded justice for the blood not only of *Hajji Kedir* but also to end *Berche* to the whole *Qebele*.

According to my informants, the state court process was not handling the case properly. They believed that Hajji Kedir's sons who are wealthy businessmen in Addis Ababa bribed the state judges not to prosecute their mother properly and arranged the transfer of Jemila to Addis Ababa where they could facilitate the release of Jemila from jail with money. It was also said that the children of the victim prepared „a fake medical report that indicated Jemila had a psychiatric problem and hence she committed the crime with this ground." The local community's demonstration was a response to this „fraudulent move," and hence determined to get rid of bad *Berche* in the community. This is a clear indication that conflict among the local community is not conceived as merely an individual matter. Rather it is considered as a collective scenario which involves the whole society beyond a few people or families in dispute.

Thus, we can say that the community was scared of *Berche* and were bothered for their safety or wellbeing. I also observed that participants of the demonstration included elders, women, *Qebele* officials, and youth. They demanded truth and criticized what they called „the mismanagement of the state justice system as money bought the justice." The people went to Siltie Zone administration office and Zone Justice to ask interventions into the state court's proceedings. However, an informant from Zonal Justice Department[204] said that it was her legal representative who brought a fake evidence to show „*Ete* Jemila has a medical problem." According to state officials, the Zone was against the legal representatives whose act would have an adverse impact on the rule of law in the area.

Following this episode, Siltie Zone administration interfered in the case and ordered the Justice office to evaluate the ways the case was being handled and looked indirectly into how the case was pursued in the state court. After this incident, the general public also seemed involved into the case that was also waiting for the court's final verdict to see how the due process of law would go. Siltie Zone High Court finally found *Jemila* guilty of intentional murder and sentenced her to life imprisonment on 03 October 2014. Was this the end of the story? No, not at all. This may be the end of State's court involvement into the case, yet the dispute persisted between the families of *Hajji Kedir*, and his second wife, and *Ete Jemila's* clan. But one can say that this can also be considered as a good example to show a tension between the customary and state legal systems and hence the power relations they have in the community.

The Roles of Sharia and Customary legal systems to address disputes in the collective scenarios: Instances of a hybridized Legal Practices

Hajji Kedir's children who were suspected of influencing the state court's rulings to free their mother from prison, however, were forced to come from Addis Ababa to the customary court to initiate the dispute settlement process. It was mentioned that even if Jemila was imprisoned, the tensions between groups of disputants remained high. Moreover, it is believed among the Siltie that prisons cannot end *Berche*. Lawyer informants consider the involvement of customary court's in a conflict after it is settled by the state court as a double jeopardy. Nevertheless, from a Siltie culture perspective, there is no room for a perpetrator to purify him or herself from *Berche* by serving prison terms.

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[204] Interview with Ato Kedir Siraj/pseudo name/ on 14 January 2017 Werabe Town.

Hajji Kedir's children who were saddened by the loss of their father and their mother's imprisonment solicited elders from Werabe and Alicho *Wereda* several times to plead with them that they respected the culture and wanted to get rid of *Berche*. Based on this belief, the children said that they would not try to bribe the judges or look for mechanisms to get Jemila out of prison. The elders warned the children further that *Berche* would sustain and bring harms to them and the family up to seven generations if they tried to meddle with the local justice system to favor their mother.

However, as a manifestation of their local power, the customary court dispute settlers warned that it was difficult to intervene in Jemila's case. Since the crime was intentional and it was a serious offense, elders were not first willing to initiate the process before the cooling period of 2-3 years ends. The other main reason was due to the belief among the Siltie that Berche will visit the house of the elders if they did not respect the Siltie Serra norms which require them to settle *Agarsa*/intentional/ murder cases between 2-3 years' time. However, considering the tension among disputing groups that involved the families of three households and in order to avert possible revenge, elders decided to start processing the dispute after one-year's cooling time. On the other hand, despite the fact that the state court gave a verdict in the case, the case could not end there, for the goals of traditional modes of dispute settlement aim to settle disputes between groups rather than individuals. Thus, *Abotgare* and *Ummigare*, the father and mother lines respectively of the two groups gathered in *Datewezir Qebele*, *Hulbareg Wereda* a residence of the father of Jemila on May 3, 2015.

It was thus her father who hosted the elders for a final settlement. I observed that elders set a boundary where the property of Jemila father existed as a conflict area which was not allowed for Hajji Kedir's lineages and representatives to cross until the final reconciliation started. The Siltie believe that a conflict zone is not permissible to cross before reconciliation commences to avoid possible retaliation from the victim's family. It also prevents the impacts of *Berche* that can occur due to crossing the imaginary boundary that marks the victim's area of residence that covers the places where the victim's extended families live from the perpetrator's clan's residence areas. Thus, until the dispute is settled, no one can approach the perpetrator's family's village due to the *Keterat* period. It was mentioned that the main purpose of the gathering was to be purified from *Berche* between the relatives of the two groups.

All participants from both groups cried in the area on that day because they were quite emotional during the hearings. I observed that elders were very busy reciting Quranic verses that focus on forgiveness and the divine predetermination of any act and the power of *Berche* indicating that failure to cool down the tension will perpetuate even more severe danger among the family up to seven generations, especially if they did not accept the reconciliation process. These strategies help elders to calm down the tensions.

It took more than half an hour to calm down tensions among members of the disputants. Thus, the elders frequently recited Quranic verses as a mechanism to persuade and calm down the conflicting spirit that had settled between the disputants. They said that it was Allah who decreed things to be the way they did. Furthermore, they also tried to link *Berche* with ideas in Islam saying, "No blood will be unpaid; every misdeed has its fruits back". This is a clear indication that the two systems, Islam and customary laws, selectively complement each other to resolve disputes. Finally, two women[205] from both groups came out and sprinkled honey[206] and milk[207] to the participants symbolizing the end of enmity and the inception of an era of peace between disputants. The hitherto disputant groups also sat and had lunch together which is also an indication of the onset of normalcy among member of the disputants. I also observed that the spirit of tension had changed to festivity after the reconciliation process.

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[205] Women are in charge of sprinkling the milk and honey as a figure rarely involve in disputes. They are chosen due to the nature of their personality as soft, and motherliness. They are perceived as queen of the society as they give birth to the king, the local leader and producer. The famous adage „Gered Geradint", means a woman is a queen attests this fact.

[206] Milk symbolizes the end bitterness, and revenge and the restoration of good relationship, milk stand for the cooling of hatred spirit and the restoration of peaceful relation between the disputing parties.

[207]

Figure 26 Elders from the various areas gathered at the house of the brother of Ete Jemila to end the homicide case in Datewezir *Qebele* on May 3, 2015 (Photo by the researcher).

Figure 27 Members of the disputant groups took part in a lunch ceremony after concluding the dispute settlement process, symbolizing an end of enmity (May 3, 2015).

Since the disputant parties were already tied through marriage, there was no *Gudda* tying process. The family was tied via marriage and set up marital kinship. Elders decided that the case has been categorized as intentional murder for Jemila killed her husband with an ax while he was sleeping with his second wife. Thus, it has been singled out as a premeditated murder or *Agarsa*, and hence the families of Jemila paid 50, 000 ETB (2000 Euros) as compensation. The money was distributed between Hajji Kedir's clan, and mother clan. With this, the reconciliation process ended and a new era of peace started between disputant parties. One can understand from the above case that murder cases can be settled with the involvement of a number of legal systems. The customary legal system is mainly important to address collective disputes than individual one as illustrated in the argument script. Thus, the script clearly indicates the existence as well as the importance of legal pluralism for dispute settlement.

The case also illustrates how single inter-personal incident involves multiple category of disputants and the collective nature of inter-personal disputes.

The case also indicates the roles of belief systems, more importantly *Berche* as a value potentially preventing conflict in the community. The case shows that dispute settlers' attribute the cause of disputes to the spiritual/ values (e.g.*Berche*) and employ the value as the customary courts' decision enforcing mechanism. It also indicates the existence of gender-related conflict where by women start to resist the prevailing men's dominated social structure. The case, however, shows the tendency of men to down play the main cause of the conflict (Polygyny), and try to show the case as unusual incident.

 It also illustrates the involvement of politics in the judiciary system that can affect the legitimacy of the state legal system. The case also shows the complex nature of interaction as well as the interdependent natures of legal systems in the area. There is also porosity among the various legal systems as one legal system intervenes in resolving the conflict. It also shows the perceptions among the community that there is corruption in the state justice system that can undermine the fabrics of the society on the one hand and the legitimacy of the state judicial system on the other. The case also underpins the legitimacy of the customary system by the local community as it mainly regulates the day to day activities of the community than other legal regimes.

7.3.2. Case 2. YeQeqenqegne case[208]: Murder Case

Lubaba Abdo: suspect

Indris Mussa: the victim

According to informants, Ato Indris Mussa, 55, and a father of five children lost his life in the late 1980s. His death was controversial as elders could not sort out the perpetrator at that time

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[208] *YeQeqenqegne* implies a murder case that could not be resolved for an extended period due to the complex nature of the case, on one hand, and one or two of the disputants who could not confess about the cause of the incident or could not collaborate with elders to finish the case, on the other. It also implies a dispute case that could not be resolved for an extended period. Interview with customary court judges on 20 December 2015 at *Enseno* Town, Hajji Awel's court, and field observation on 28 December 2015 local elders meeting in *Agode Kebele.*

beyond having his wife *Ete Lubaba Abdo* as a prime suspect. Elders tried to persuade her to confess committing the beating that to Ato Idris to death. But she denied committing the crime saying that he might have been attacked by his enemies in the village. Her relatives also defended her innocence saying that, „Lubaba reported that a number of individuals, whom she could not identify at that time, came home at night and had beaten Ato Indris badly.“ Indris died three days later due to the injuries he sustained. Nevertheless, Ato Indris's relatives blamed the woman as the main suspect behind the death of Ato Idris.

In 1983, elders summoned the disputants and tried to reconcile victim's sides on one hand, and the suspect's (the wife's side) on the other. However, the woman refused to confess that she was responsible for Ato Idris death. The woman side /*Ummegae*/ could also bring a result. Thus, elders resorted to the swearing ritual /*Terte*/ that involves a black she-goat[209] (*Tem Dena). Ete Lubaba* also swore through *Teme Dena* that she did not kill her husband and did not know who did it. Then the elders decided to wait and see the outcome of the ordeal ritual. They said „Let us see the manifestation or a sign on whoever conceals the case. Let us see any sign in the perpetrator's house and how *Berche* can react on the perpetrator“.

On the other hand, Indris's son named Mohammed[210] who was a child in the 1980s when his father died and was working as a police officer in Siltie Zone. He said that he faced various calamities like arrest, accidents in his work, and failure in life. He attributed the challenges and hardships he encountered in his workplace with unpurified *Berche*, and some hidden problems in the family. Mohammed told me that he used local values and norms when he investigated crimes in his capacity as a police officer. Being a member of a community, he also believes that *Berche* can negatively influence one's life if not properly addressed. Thus, influenced by the gossip then circulating in the village, he began to press his mother what to uncover any thing hidden in the family that requires cleansing.

According to the Siltie custom, if someone faces repeated calamities for reasons not directly associated with him or her acts, it can be attributed to some hidden misdoings by a member of

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[209] As mentioned before, Terte is one of the ways elders employ to investigate a suspect and end dispute. *Tem Denna*, which involves the slaughtering of a black goat and asking the suspect to cut the intestine while swearing, is swearing ritual with a black goat is considered as a final swear where a suspect can say „I did not do this crime. If I did and swear falsely, let my life become darkened and die.“ The suspect cuts the intestine that symbolizes cutting the continuity of one's family and generation. Black goat symbolizes dark life if someone swears falsely.

[210] Interview with Mohammed who worked as Investigative police in the past. I met him at Agode when local elders gathered for dispute settlement on 25 December /2015.

the family, alive or dead. Lubaba who was heartbroken by Mohammed's hopeless recurrent pleas and challenges, finally whispered to him in 2015 that she „committed the crime". She informed him that Indris had beaten her several times, and he disturbed her life since he was highly drunk. It was due to this problem that she beaten him and he was died of the injury. She also went to her relatives and informed them that „she was responsible for the death of Indris 32 years ago. She said that further she has hidden the case for long for the fear that *Ato Indris's clan* would retaliate her by killing herself and member of her family „. She further said that „she was seeing the impacts of the case and that she is losing members of her family". She said „she was afraid the calamity would continue and consume her children and members of the family including the whole clan". Thus, she warned her relatives to end the murder case and stop the impacts of the *Berche*.

Disputes in the Conflict: Intra-Lineage Disputes

 Lubaba further requested members of her lineage (*Ummegae*) and her clan to contribute for the compensation. Her lineage who considered themselves forsaken for long by Lubaba, however, became reluctant to collect the payment and less interested in taking part in the dispute settlement. Their reluctance was related to a rumor in the community that before confessing the crime and resolving the murder case, Lubaba violated Siltie custom by marrying *Ato Kedir*, an uncle of *Indris* and gave birth to a child. Moreover, *Ato Hussein*, an elder brother of Indris, also prosecuted Ato *Kedir* in the family forum for marrying Lubaba by breaking the Siltie norm. According to Siltie custom, Ato Hussein is the right inheritor of Lubaba, his deceased brother's wife.

After hearing the case, the family forum decided that Ato Kedir, who broke the local norm, should divorce Lubaba, and that Ato Hussein could marry Lubaba, the wife of his younger brother. Thus, Ato Kedir and Lubaba were forced to divorce, which led to Lubaba marrying Ato Hussein, the elder brother of Ato Indris.

Clash of Group Interest: Lubaba's Desperate Journey to end the Dispute and her Ultimate Failure

Due to the complex social relationship Lubaba that experienced with Indri's family, her relatives asked her that she should summon members of both Indri's and her lineages who could share her grief and raise the compensation money.

Elders stressed also that Indris's relatives could no more become victims, for they had married her before ending the dispute. The elders recommended that Indri's relatives should sat together with Lubaba's relatives to end the case.

Her family members also considered Lubaba's act as a violation of the Siltie norm. Her relatives were not happy with Lubaba's engagement with Indris's family before the case resolved. Frustrated by the circumstances surrounding her, she refused to gather both groups and informed the Indri's families that her relatives could not contribute for compensation to the victim's families.

Lubaba together with her son, Mohammed and with Indris's family started the dispute settlement process so as to end the case. They consulted with *Raga* Hajji *Awel* on how to proceed in this regard. It was also said that Indris's families bought a quarter hectare of land for 45,000 ETB (nearly 1700 Euro) from Lubaba to end the dispute. Informants from her clan stated that this was one of the means of weakening Lubaba and her children economically on the one hand, and un proper way of ending blood case and cleansing oneself from *Berche* on the other. Compensation should be contributed by members of one's clan. According to the Siltie custom, 2/3 of blood money should be collected from *the* perpetrator's father's clan and 1/3 from his/her mother's clan.[211] This is because the father clan is always responsible for settling murder cases and household expenses as observed in patriarchal structure of the area.

As mentioned earlier, Indris's family members who were supposed to sue Lubaba started the reconciliation process without the involvement of Lubaba's clan. After ending the case with Indris's family and her son, Lubaba passed away in early November 2015. Unlike the state court, the customary court never closes the case upon the death of the suspect. Faring the consequences of *Berche*, Lubaba's clan members went to Hajji *Awel's* court on 20 December 2015 to ask whether the dispute settlement process that was initiated by Indris's families has been concluded in line with Siltie custom and end *Berche*.

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[211] The Siltie's concept of justice considers not only the victim to present his case, but also the accused to look for truth and settle the dispute. If one of them, or both ignore examining the problem and get settled at least try to settle, all of them up to even seven generations suffer the consequences, and the problem lives with them for long. Abotgare should pay 2/3 of the blood compensation, while Ummigare 1/3. Power conflict is witnessed not only between actors in dispute settlement but also between opposing genders. Taken from Field diary on 15 September 2014.

According to members of the Ummegae[212], they went to *Raga* Hajji Awel to end *Berche* or *Tiro* in their family and stop the possible calamities that could happen due to the unresolved case. I observed[213] that *Lubaba's* clan members presented the case to the *Raga Awel* stating that they feared the unsettled crime case could annihilate the whole clan if it is not resolved properly. They further asked whether the way Lubaba initiated the case end the dispute could be allowed by the Siltie custom. *Hajji Awel* advised them to go back to the village and inform members of Indris's family members that the ways Lubaba concluded the case*)* was not done properly since it contradicts with the Siltie custom. He ordered them that Lubaba's family that they should do it again by jointly raising the blood payment money with Ato Indris's lineages. The *Raga* further said that if Indris's family could not accept the verdict, the *Ummegae* (Lubaba's lineages) could end the *Berche* and the other side would face the calamity. Lubaba's family members said, „We have come to the court on our own to cleanse ourselves from *Berche* and *Tiro*." The group also said that those signs which the elders predicted 32 years ago were observed in the families of Indris rather than in the perpetrator's family/*Ummegae/*. They have counted the death of nine persons in car accidents attributed to *Berche* in the victim's family. Elders said that they were afraid because the problem would perpetuate itself if they did not addressed it properly. The *Ummegae* believes that they have become peaceful as a result of the neutrality of the group.

Dispute between Lubaba's Members: Processing Disputes Breeds Disputes

After hearing from *Hajji Awel*, the local dispute settlers summoned both groups to discuss how to end the case in *Agode Qebele*, Silti *Wereda* on December 30, 2015 when Lubaba's brother Ato *Ibro Abdela* told elders that she had secretly told him that she had killed Ato Indris. But *Ato Ibro* could not expose the case and chose to keep silent for a long time. Elders told Ibro that he should ask *Raga* to purify himself from *Berche* for hiding the case for a long time. I also observed[214] that Ato Indris' sons had quarreled over the case. They were not clear about whether a thread's *Gudda* should be tied to the disputant families or not. Some of the elders said that for dispute cases that have not been resolved for a long time, a *Gudda* ritual is not considered a serious matter.

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[212] Interviewed on 20 December 2015 at *Raga Awel's* court, in Enseno town.
[213] I also escorted Lubaba's clan members when they went to *Raga* Awel's court to see how the case would go, and hear how the Raga could end old cases.
[214] I have attended the joint meeting of Ato Indris's and Lubaba's families in Agode on 30 December 2015.

Group Reconciliation between Lubaba and Indris's Lineages: Forum Shopping Between Local Dispute Settlers as a Manifestation of Local Social Power Contestation

Others who were involved in initiating the settlement process after going to *Hajji Awel* court said that *Gudda* tying must be concluded to cool down the spirit of tensions between disputants. They also disagreed on whether it is possible to conclude *Wurkefena*[215] ceremony now or not. Moreover, elders decided that Lubaba's clan members should collect money for blood and return the sold land from Indris's brothers. Local elders also stressed that Indris's family members would get calamity due to the land they bought from Lubaba who sold it to end the *Berche*. Thus, they warned that Indris's family members and Lubaba' relatives should purify themselves in returning the land so that Indris's children can have their own property to support themselves.

Local elders (*Magas*) recommended both Indris's and Lubaba's lineages should go to another *Raga* for three reasons. First, the elders wanted to know whether Hajji Awel's verdict was acceptable to end the dispute. In this case, it was Hajji Awel who told Lubaba and Indris's family to end the dispute. As part of this process, elders wanted to know if *Wurkefena* should be concluded this time or not. Second, elders wanted further clarification on how one ends *YeQegneqegn*e dispute. Third, they also wanted to know whether *Magas* should tie *Gudda* or not in the dispute settlement. Therefore, they recommended disputants to take the case to another *Raga* in *Mareqo* area, Gurage Zone or *Raga Lalu* in Silti *Wereda*. Both disputant groups thus selected neutral elders who took the case to *Mareqo Raga* on 04 January 2016. After taking the cases to *Mareqo Raga* and hearing his decisions, the neutral dispute settlers reported to the

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[215] *Wurkefena* is one of the rituals in the dispute settlement procedures that help dispute settlers calm tensions down between contending parties. The process can be initiated when a person who commits murder sends dispute settlers to the victim's family to commence dispute settlement to share grief and give some amount of money for mourning. It is also a process where a suspect shows a confirmation that he/she is behind a crime. Here, a neutral jury will also conduct a ritual process called *YeKire Gudda,* white thread tying process between the suspect and the victim family, symbolizing the onset of the first towards peace and reconciliation step that lays a foundation for lasting peace. It will also dictate that the victim's family will not prosecute a suspect in the state court, leaving the case for elders. I also observed that Ragas order the suspect to buy a middle sized cow for the victim's family, and request the victim's family to return half of the price of the cow to the perpetrator. The Raga said that the cow is only for milking not for sale, and warned the family not to sell it. This is owing to two major reasons. First, he said that taking all money will bring Berche to the victim's family. Second, buying a cow with money collected from both groups can become a symbol of unity, and social solidarity, and also a cow that cannot be sold will symbolize unity with the disputants and unit them socially. The cow will also become a symbol of peace between disputants.

*Maga*s that the *Raga* decided that no *Wurkefena* be conducted during the settlement process of *YeQegneqegne* dispute, for the dispute is not a recent phenomenon, and that the tension would cool off through passage of time.

While rejecting Hajji Awel's earlier decision to conduct *Wurkefena*, the *Mareqo Raga* approved Hajji Awel's decision not to conclude *Gudda*. This is because *Gudda* is recommended to forge fictious kinship between disputants who do not have a family tie. In this case, there are family ties between disputing parties. Hearing the case from (*Yegute Baliqes*) neutral elders, *Magas* could not be convinced with the decisions not to conclude *Gudda*, and needed more clarifications about *Wurkefena*. Thus, they wanted to appeal in a customary Cassation court called *YeFerezagegn* Court. I accompanied local elders to the Cassation Court in *Amber Qebele*, near Butajira Town, Gurage Zone on 28 February 2016. I observed that a number of individuals from Siltie and Gurage, and Muslims and Christians attended the court hearing. Three old *Ragas* have deep knowledge about local dispute settlement presided over the court[216] that served as customary judges for several years. I also observed that the three judges consulted each other before giving a verdict on a case. The cassation court dispute settlers used words like *Maga* to refer to *Ragas* like Hajji Awel considering the lower level customary court dispute settlers as the ones who did not attain the raga position. They referred to them as *Maga*s, indicating the existence of power contestation in the intra-customary legal system. I also observed that court attendants have the right to ask clarifications in every aspect in the court.

After presenting the dispute case in detail and the different procedures they had followed to end the case including the decisions of two *Ragas*, the *Agode* elders presented the following two questions to *YeFerezagegn* court. They asked a question on how *Wurkefena* could be concluded, and whether *Gudda* could be completed for a case unresolved for long?

After hearing the report from the *Magas*, the cassation court *ragas* changed all decisions from the lower level courts and told the *Magas* that *Wurkefena* must be concluded. The *YeFerezagegn* ragas' decision to review the decisions of other *Ragas* is emanated from the normative ground that even if the case is not a recent phenomenon, the spirit of revenge was not removed from both disputant parties. Thus, they believed that *Wurkefena* could cool them down, and must be concluded with the following modifications. First, the *Ragas* said that Lubaba's family members

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[216] The three judges are *Shewmolo* Berta, 60; *Andeyehun Issa*, 80 and Mohammed Hassan, 45.

must give a big bull to Indris's elder son representing the victim. The bull symbolizes the strength of the father who could support the family for plaguing the farm.

Second, they decided that a middle aged cow be given to the elder brother of Indris. Last, the judges said that *mattress* must also be given to a younger son of Indris. The cassation court judges further stated that Lubaba had betrayed Indris by killing him and denying the case for an extended period. This circumstance destroyed the social and marriage ties that had existed between the two, and hence no *Gudda* ritual process was conducted between them that could persist until now. They also said that *Lubaba* had vowed with black goat and had transferred the case to her children. They also stressed that the dispute case had carried a dangerous and revengeful spirit between disputant groups for an extended period. Thus, *Gudda* is a mandatory ritual process between the disputant groups. They also said that Lubaba's family members should facilitate the final dispute settlement process and contribute for compensation as indicated by the Siltie norm. With such a total reversal of decision by the cassation court, the *Maga*s went back to *Agode* to gather members of Lubaba's family to start a reconciliation process. It is reported[217] that Lubaba's family collected 45,000 ETB (around 1,500Euro) and bought back the land from Indris's family and handed it over to Indris's children. They also collected compensation, and the final dispute settlement was conducted at the end of January 2017.

The two cases indicate the complex nature of domestic violence that leads to a tragic end, claiming the life of the husbands. Both Hajji Kedir and Lubaba's cases indicate that violence is committed by women which is unusual in the area. One major factor may account for the emergence of this development. Some women in the study area face serious problem and abuses and mistreatments at home by their husbands.

Due to the patriarchal social structure, however, they could not speak out the case. Additionally, due to the nature of the problem that was happened behind bars, the state system also could not address the issue. This problem leads them to take justice in their own hands. Although there was widespread gossip that pointed Ato Indris's death was linked with Lubaba, there was no formal investigation by police into the case for such long period of time, and the police could not uncover the crime. When there is no evidence beyond suspicion for a crime committed in the

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[217] Interview with Hajji Mohamed, a local elder who was involved with the case for long on 19 January 2017.

community, elders thus resort to powerful rituals and direct the dispute to the super natural power and wait for the „consequence" indefinitely.

In this regard, the case underlines that even those considered weaker in the community (e.g. women) can violate some of the most serious norms /values/ in the community. Lubaba, for instance, committed murder which is a serious crime in the community. She also hid the truth knowing that *Berche* could inflict serious outcome on her, and she also underwent an ordeal like swearing ritual. Thus, the case indicates that individuals' can use their agency can also take all risks for personal wellbeing (physical, emotional, and socio-economic), and revolt against social structure even at the expense of their safety. On the other hand, we can also understand that when such actor's agency is challenged by the emotional power of child-mother relations when Ete Lubaba could not bear her son's plea and finally confess the crime. The case shows that the agency of individuals can influence the social life of the community, and challenge the prevailing social structure. It illustrates the intra-system contestations in the customary legal system as well as the shopping forums and forums shopping trends, for elders employ dispute and dispute settlement forums to strengthen their power.

7.3.3. Case 3: Interfaith Conflict: the Garore Arsema Church Land Dispute: tension between the Cross and the Crescent on Contested Land claim[218]

Despite the fact that Islam is a dominant religion among the Siltie, few cases of interfaith disputes were recorded in the area. The 2012 contested land claim had got not only local, regional, and national attentions, but the case had also been extended to the global arena, since the dispute clip was posted on YouTube under the title" Ethiopian Siltie Zone Christians Cry for Justice," making it visible to outside world. The conflict involved a local investor, Muslims, Christians and local cultural practices.

It appears that some Ethiopian Diasporas posted the clip with the aim of instigating more trouble or conflict in the area. Moreover, the news was spread across the world using social media by

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[218] Interview with members of the local community, Sheik Mohammed Kelil, Hajji Hamid Hassan on August 29/2014; 16 November 2015, 23 January 2017 and Priest Awegechew on 27 January 2017 Werabe, and on 9 February 2017 with Ato *Darunga Desta*, a local dispute settler who was head of Christian disputants in 2012 Inter - faith dispute, YouTube Video uploaded on 30 December 2011 & EBC news and a paper that contains signatures of elders who took part in the reconciliation process on 07-08 March 2012.

Christians. Some media which are owned by Ethiopians abroad echoed that 70 years old church was in danger of being demolished by Muslims in Siltie Zone.[219]

Local newspapers like „*Addis Admas*" also wrote that the 70 years old Church was burnt by Muslims in Siltie Zone, which clearly indicates that unconfirmed news can become one of the factors for exacerbating disputes.

Thus, without confirming the real cause of the case, global actors like Ethiopian Orthodox Christian Diasporas had used the *Garore* Church land dispute to indicate how „Radical Islam could destabilize" the fabrics of society. It was observed that the Diasporas further aggravated the tensions for several times, yet elders' involvement calmed the tension down.

According to local informants[220], the *Qoto Saint George* church was built in the late 19th century following Menilik II expansion by Amhara settlers[221]. Others mentioned that the church was built in the 1930s[222]. Even if there are a small number of Orthodox Christians in the area, the Majority of Muslims lived peacefully with people of other religious denominations in Siltie area in general, and in *Garore* in particular. Local informants said that during the Italian occupation (1935-1941), the Italians attacked Christians for Muslims as a strategy to divide and rule the country. Moreover, the Amhara settlers are integrated with the local community, speak Siltie language, and the priests also use Siltie language not only in their everyday interaction, but also in teaching the gospel to their followers.

Local communities have presented different versions about the disputed land. The root of the cause harks back to 1940s. Respondents from the Garore village mentioned that the *Garore-Qoto* area was the center of *Silti Wereda* during early periods of the Imperial regime (1931-1974). There is an open field down the Saint George Church that covers more than10 hectares of land. The residents of the then *Qoto* Town and neighboring areas used the land for different purposes. The local community mentioned that the people used the place for various purposes including for cattle grazing, for celebrations of Muslim Holidays and for annual Epiphany celebrations by Orthodox Christians. The area also served as a playing ground for local golf called *Genisho*.

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[219] Interview with an informant in Siltie zone who was involved in the dispute settlement process in November 2016 (Anonymous).

[220] Interview with Priest Awegechew, head of Siltie zone Orthodox Church, Ato Demerew and Abegaz Darunga followers of Ethiopian Orthodox faith in the area on 27 January 2017 in Werabe Town.

[221] Interview with Priest Awegechew and Ato Kairedin Hussein on 14.February 2017

[222] Interview with Ato Jemal Kedir and Imam Hussein Adem on 26 January 2017 in Siltie wereda.

Also, it hosts graves of one of the Siltie well-known Sheiks and the last Siltie kingdom leaders who lost their lives during Menilik's expansions in the late 19th century. Parts of the area had also been given to a local investor who used it to manufacture rocks for building in 2011.

Before the place was given to the investor, the local community also used the area as a local market. Thus, a number of actors wanted the space for different purposes, yet they used it peacefully for an extended period. My Christian informants, however, said that the area was used for religious and cultural purposes before the center of the *Wereda* moved to the present *Qibet* Town in 1947. *Garore* is 2 kilometers away from *Qibet* Town, the center of *Silti Wereda.* However, they argue that the Christians used some parts of the land for Epiphany celebration annually. After the downfall of the Imperial regime and the declaration of Land Reform Act under the banner of "Land to the Tiller" in 1975, the Church maintained some parts of the land for the celebration of Epiphany Holiday. Except for graveyards, the remaining land had been confiscated and registered in the *Qebele* land bank. It is also stated that following the downfall of the *Derg* regime in 1991, the land has been recorded by the *Qebele* land administration as public property. Hence, the land has been redistributed based on the needs of the local community. According to local informants who work in the local *Qebele* administration positions, the Church has got 2 hectares of land for religious purposes while 5 hectares of land had been given for *Warrie* and *Liqa* celebrations. It is also mentioned that 1/2 hectare of land has been reserved for a graveyard, and 10 meters of land has been left for local road services.[223] Siltie zone Investment[224] office had also given 2.8 hectares of the land to the investor that in turn led to an emergence of multiple claims in the land.

Muslims resisted the state's intervention by viewing it as an encroachment into their belief and cultural practices. They said that the local community used the place for annual Islamic holidays' celebrations, grazing land for cattle as well as local golf playing. They stated that they adore the place as *Sheik Abdulqasim and Tem Lezbo's* graves are also found in the area. Sheik *Abdulqasim* is one of the well-known Siltie religious figures who resisted the expansion of Christian empire in the late 19th century. Christians also contested the move on the land claiming that they used parts of the land for annual Epiphany celebrations and resisted the local investor's move who was interested in the area for producing rocks.

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[223] Interview with Ato Darunga who worked in Garore Kebele on 9 February 2017.
[224] Interview with Ato Seid Seman, head of Siltie Zone Investment office on 1 February 2017 Werabe.

Christians also admitted that Muslims used the place for praying before 1947.[225] They, however, said that local Christians understand that local Muslims revere the place due to the presence of the grave of Sheik *Abdulqasim*.

They further explained that the area had been used afterwards for grazing. However, they said that Muslims did not use the space for Holidays celebrations since 1947. The Christians also resisted the state's move as violating their place of Epiphany for local development. As a result of these multiple claims, and potential disputes, *Silti Wereda* Administration tried to persuade the community by providing another area for praying without including the graveyard of the Sheik in the investment zone. Local Christians prosecuted the local investor whom they considered „encroaching their sacred space" in the *Wereda* court and finally won the case in October 2011. Hence, the investor left the area for the Church[226].

Amidst this controversy, the Christians competing over the land constructed a small Church in an area that was used for Epiphany holiday. The Muslims protested the move. They stressed that the new church which was going to be built in less than half a kilometer from the old Saint George church was a „provocative action" arguing that the existence of two churches close to one another, with a small number of followers of Orthodox Christians was an illegitimate action[227]. My Christian informant who was involved in the dispute settlement process said that the construction of the Church at a place that was reserved for Epiphany was emotional and illegitimate.[228]While the dispute between faiths started to flare up, *Silti Wereda* Administration requested followers of the faiths to restrain from the dispute, and hence the interfaith dispute was averted for a while.

The *Qebele* administration, on the other hand, prosecuted those individuals who built the church, claiming their action was an illegal act. Following the *Qebele* decision, law enforcement agents demolished some parts of the new Church after four months of its construction in February 2012. The local police removed the corrugated iron of the church and left the wall. Following this action, some *Silti Wereda* Christians spread the news that they were prevented by Siltie Muslims from constructing the Church, and said to the believers also that Muslims illegally demolished

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[225] Interview with the head of local Christians mediators Ato Darunga Desta, and Priest Awegechew in January and February 2017.
[226] Interview with Ato Darunga on 9 February 2017.
[227] ."Interview with Ato Kemal Kedir, Ato Kemal Hussein and Ato Jemal Habib (Pseudo names) in December 2015.
[228] Ato Darunga Desta.

the Church. Moreover, a large crowd went to Southern Regional Government to challenge the action, and informed South Region Justice Office that Christians could not build a church in *Silti Wereda* due to the influence of Muslims. Informants said that after returning from South region, the crowd protested the action of demolishing the church in *Kibet* Town. In response to these acts, elementary and high school students from *Kibet* Town burnt down the remaining parts of the church in February 2012.Following this incident, the dispute was exacerbated, and some Christians, scared of the tension, abandoned the area for some time. Orthodox Christian priests and leader of the Christian mediators who took part in the dispute settlement said that Muslims were not responsible for the burning down of the church.[229] The following is what they said regarding the dispute.

> "I condemned the Christians who built the Church emotionally at a place reserved for Epiphany. They should have understood that we have lived amicably with our Muslim brothers for an extended period. My sisters are married to Muslims. We are intermarried and lived peacefully. On the other hand, Muslim youths should not have burnt the wall of already demolished Church, for we were informed by the local administrators to demolish it. You know the wider Christian community did not understand what happened and simply said Muslims burned the Church. It was not a Christian-Muslim conflict. It was a wind of the time. There are some element of extremists both from Christians and Muslims who do not understand the coexistence of religions and want simply to air confusion and sow discord among believers. We have now settled everything, and are living together. The new church does not have a fence. It is Muslims who protect it. ,Muslims have become a human shilds who save the church .We thank our Muslim co religious groups[230]:

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[229] Ato Darunga, Priest Awegechew and Sheik Mohammed Kelil, a local Christian woman whom I met in Garore area in December 2016.

[230] Interview with Priest Awegechew and Ato Darunga Desta on 25 January 2017 and 9 February 2017 in Werabe and Garore.

Local Christians have, however, developed their conspiracy theory saying that the local investor might have been the factor behind the burning of the Church.[231] The state representatives tried to calm down the dispute by inviting elders to intervene in the matter.

Following this incident, fifty elders from both faiths gathered and sought to resolve the matter. The next day southern region's justice and security office representatives came to the area. The officials discussed the incident with representatives of the two faiths. They requested elders how to end the dispute on the basis of local norm. Muslims demanded the case to be considered by elders, while Christians opted for the state to intervene. Finally, southern region's justice and security office agents persuaded representatives of both faiths to come to terms based on local values and norms and agreed that it would be better to leave the case for elders to allow the local elders to resolve the issue amicably and once and for all. Twenty elders from all parts of Siltie area were selected from both faiths equally to adjudicate the dispute. Below is what the elders and religious figures said.

> "The state officials gave us two days to search the suspects from both faiths, and hand them to the state. However, we urged that it is better to calm the case down rather than punishing the suspects. The officials recommended reducing the number of elders, and hence we selected five from each faith. We took the case and started to settle the dispute.[232]"

The elders sorted out two major points to settle the case. These were: those individuals who have kindled the fire must be punished by elders in the customary court, and those who were responsible for constructing the church unlawfully would also be held accountable as well, and must be punished by the customary court. An elder who took part in the process said, „We avoid the state's punishment as elders want to reinstate peace rather than punishment that involves jail. Based on this agreement, Muslims identified seven individuals who were suspected to be behind the case, while representatives of Christians could not bring the suspects[233], saying that the whole

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[231] Ato Darunga, and Priest Awegechew in January and February 2017.
[232] Interview with Hajji Hamid Hassan, head of Muslim elders, Darunga Desta, head of Christian dispute settlers, and Hajji Mohammed Kelil, head of Siltie Zone Islamic Affair, and Priest Awegechew, head of Siltie Orthodox Christians
[233] Interview with Sheik Mohammed Kelil.

Christians constructed the Church in their land, and hence all of them were responsible for that[234]."

Finally, representatives of Muslims, Christians, state and local elders gathered in Qibet Town to end the dispute peacefully on 07 March 2012[235] . They signed a deal that declared the end of the conflict over the land. Based on the agreement, elders condemned the illegal construction of the Church as well as the burning of the church by some youths. They have further agreed that the contested place should be reserved for Epiphany, and the *Wereda* Administration should give another area for the construction of the church. Finally, the *Wereda* Administration could not provide land for the church near the contested area, for peasants have already occupied all plots of land. Nevertheless, representatives of the local communities came up with the idea that the *Wereda* Administration could provide two hectares of land in another area for two peasants became voluntary to exchange the land for the church. Thus, the church had got two hectares of land near the contested area, and the *Wereda* Administration had exchanged the land with the peasants based on the agreement. Despite the fact that the dispute was concluded peacefully, some media continued to inflame the case as if „the Church was burnt by Muslims[236]". But the Christian community constructed a church near the contested area and inaugurated the Church on May 14-15, 2016 in the presence of known Christian and Muslim leaders.

To conclude, the case clearly indicates how the local case that traced its genesis in the early parts of the 1900s under the Imperial regime, unfolded itself after a century and became globalized. The dispute was also resolved through legal pluralism. It also indicates the failure of the state justice system to resolve the inter-faith dispute, the rejection of state's interventions by the local community as well as how the agency of local actors have played significant roles in maintaining law and order in the area.

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[234] Interview with Darunga Desta on 9 February 2017 in *Garore.*
[235] Taken from the agreement paper that contains the six agreed points and signatures of 20 individuals who participated in the conflict settlement process.
[236] Ethiopian Broadcasting Service,"Seifu Show," an independent Media on April 30, and May 7, 2016, at 9:25 pm, and leaflets distributed by unknown figures.

7.3.4. Case 4: Land Dispute Case- Agera *Qebele*, Silti Wereda

Actor: *Zemzem Ahmed* Age: 65 versus *Qebele* Land Administration

Weizero [237] *Zemzem* who lost her husband in 2009 left her area of residence in *Gera Qebele*, *Silti Wereda* to live with her son in neighboring *Shele Washo Kultene Qebele* in 2012.The Siltie practice a local form of old age center where an elder's son will protect his parents after they become old. Thus, Zemzem who became a widow and felt lonely decided to move to her son's house to stay in the company of her son's family. Following this step, she handed over her half a hectare land to Ato *Hussien Shewmolo* on the condition of sharing the produce without forfeiting the rights she has over the land.

Zemzem inherited some parts of the land from her parents and gained some of it from bride wealth, paid to her by her husband when they were getting married. The Siltie practice three types of agricultural activities or local production system. These are, plowing one's land „*Yegeg Deche Eresot*," in which case the farmer plows his/her land by his oxen or by a combination of neighbors' oxen. Here, the farmer has full possession of the land and the produce. The second type of agricultural practice is called „*Lederet Eresot*" *Plowing for equal share/* whereby the farmer can contract the land out and sometimes the oxen for one season or more. Here, the farmer does not have land right and oxen, yet he will work over the land using the other party's land as well as oxen to share the produce with the person who has given him the resources for one season or for a long term. This can occur due to various factors including aging. It could also be because the man who gives the land may have much land for which he /she could not have enough time to work on. The third type of plowing is called „*Kerab Tukesho*," whereby the farmer has got the land, yet does not have oxen and hence will borrow oxen from others. This is done especially on Fridays as the community mainly takes rest on Friday.

Thus, *Weizero Zemzem's* case falls into the second category for she was aged and saddened by the loss of her husband and could not plow the land by hiring workers. She decided to give it to Ato Hussein who could cultivate the land and share the produce with her. Following this agreement, *Zemzem* moved to the nearby *Shele Washo Kultene Qebele* where her son lives. After discussing with Weizero Zemzem, Ato Hussein planted *Chat* on half of the land, and the

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[237] Weizero is a local title mainly used by Amharic speaking communities to call a married woman.

remaining half was covered with other crops for one harvest season. Based on the agreement, Hussein shared half of his produce for only two seasons in 2013 and 2014 harvest time.

Weizero Zemzem then changed her mind since she was not satisfied with the share she was getting from Hussein, and due to old age and health problems, she could not properly understand how Ato Hussein was managing the land. Thus, she did not want to rely on Ato Hussein anymore. And she wanted to hand the land over to her son mainly because of her age. Realizing that *Zemzem* was planning to take the land from him, Ato Hussein began contacting the *Qebele* land administration committee to arrange for him possibilities of transferring the land ownership certificate to himself by dispossessing *Zemzem*. He bribed the *Qebele* officials to provide him the certificate, and they agreed. According to Siltie Zone Good Governance and Appeal Office[238], Silti *Wereda* is one of the *Weredas* with a high number of good governance problems on land related disputes. The *Wereda* has also owned a large number of public lands and has had the biggest population in the zone. Hussein had received the land ownership certificate by the end of 2014. Following this incident, *Zemzem* requested the *Qebele* office to be involved in the case and bring her back the land but she failed.

Involvement of Elders in the Issue

As she became desperate over the ways the *Qebele* officials were handling the case, *Zemzem* took the case first to the *Family forum, since Ato Hussein is* her relative, and then to elders' court to get her property back. The elders called Ato Hussein and tried to persuade him to accept Zemzem's proposal and give her back the land so she could give it to her son who was taking care of her. He said that he was still abiding by the agreement and did not betray her. No formal contract paper was signed between the two parties that could dictate him to bring back the land. Rather, he would continue sharing the produce as usual. Frustrated by the course of events, *Zemzem* took the case to Silti *Wereda* Administration, *Wereda* Women Affairs, and rural land administration, yet she could not be successful as Hussein had already obtained a certificate of ownership of the land. Her sons were also involved in the case as they mobilized the local elders to intervene again in the case. Yet, as she did not have the land ownership certificate, *Zemzem* could not easily win the case.

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[238] Interview with Ato Mohammed Nur Rameto, ex-head of the Office on 10 January 2015 Werabe.

Involvement of State's Court

Zemzem took the case to *Silti Wereda* First Instance Court in early 2015**.** The court ordered the police to bring the *Qebele* officials and Ato Hussein's evidence over the case. However, before that, the court asked both parties to reconsider it with the involvement of elders and the *Qebele* officials. Ato Hussein said to elders that he lent Zemzem 50,000 ETB (a little more than 2000 Euro) as she wanted the money to send her daughter to Gulf States. *Zemzem*, however, said that she did not take money from Hussein, but agreed with him to cultivate the land on the condition that he shared the harvest with her. Elders tried to persuade both of them using the various swearing strategies, but all attempts failed. Finally, the elders and the *Qebele* officials wrote the customary court mediation result signed over it indicating the inability to reconcile disputants and sent to the *Wereda* court in March 2015. As the various ways of modes of dispute settlement strategies could not resolve the issue, and Ato *Hussein* had got the land ownership certificate, the litigation process could not end easily, and *Zemzem* was losing the land.

Implications of the Case

Some strong men can manipulate the *Qebele* administration as a weapon to take the rights of women. In this regard, what is supposed to protect the vulnerable people like senior women and minorities' rights worked against them. Moreover, women are still suffering a lot as they could not get protection either from the state apparatuses or the cultural mechanisms. The legal realities also indicate that the three courts exchange dispute cases. The case indicates, however, that some cases cannot be resolved easily. Moreover, beyond the involvement of the different actors and how the case has traveled through various legal systems, the case clearly indicates also how the local dispute settlement has been conducted in what Nader (1978) called the processual approach rather than rulemaking trends. The processual approach also underpins that the resolution of a dispute and the entire procedure and the process might change their nature in one single case, and how individuals use the system to their advantage or shop the forum to advance their interests.

7.3.5. Case 5. Jemila's Car Accident Case[239]

Since I started field work in August 2014, car accident cases have dominated the news of Ethiopian Television, local radios, and local talks. Most of the dispute cases I have examined are related to death cases due to car accidents. Car accident cases have become an epidemic which claims lives of Ethiopian citizens, and the case has become a state agenda that has recently got serious attention by the government.

Reports indicate that more than 3500-4000 deaths and 600 million destructions were reported in 2015/2016 in the country (2007)[240], while 28000 car accidents occurred in the first six months of 2014/5 alone. It is also indicated that 4000-5000 lives are lost annually due to car accidents in the country[241], while seven deaths are reported daily in the country[242]. Siltie zone has also seen a high number of car accident cases since August 2014-2016 in the period I stayed for field work in the area.

Siltie Zone Roads Development and Transport Department report (2015/16)[243] indicates that more than 115 car accident cases have been registered in different parts of Siltie with 40 deaths, and the accident rose to 91 with 32 deaths in the first eight months of 2016/17 Ethiopian fiscal year. The report further indicates that more than 3 million ETB (around 125,000 Euros) was lost due to the accident in the 2015/16 fiscal year. Improper drivers' training systems (85% of the accidents are due to poor driving[244]), poor roads, and local community's lack of enough awareness about traffic, among others, have been mentioned as factors contributing to the rise of car accidents both nationally and locally. To cite an example of car accidents in this zone, 18 years old girl named *Jemila* lost her life as a result of a car accident on 26 August 2014 on the asphalt road between *Hulbareg* and *Sankura Weredas*. Following the incident, police arrested the driver, and elders initiated dispute settlement process.

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[239] Interview with Fedlu Mohammed, 39, Sheik Muze, Sheik Mohammed, Hajji Nassir, *Abegaz Aregaw*, head of Melga clan, and my observations during dispute settlement session on 15 September 2014, and 23 September 2015 in Hulbareg Wereda.

[240] Ethiopian Television news Amharic program, a six months report from Ministry of Transport on 26 February, 15 10:21 pm, and July 2015 8:06 PM news

[241] Taken from a report from Prime Minister Hailemariam Desalegn while presenting six months report to the House of People's Representatives on 12 January 2017 EBC News on 12 January 2017 at 8:10 pm.

[242] Addis Admas News Paper page 2 published on 4 February 2017

[243] Siltie Zone Transport and Roads Development Department Report on 3/March, 2017 Werabe.

[244] Addis Admas News Paper page 2 published on 4 February 2017

The driver was from *Werabe* area, and addressed in the customary court as a member of *Datewezir* clan, while the girl was from *Melga* clan in *Hulbareg Wereda*.

The Siltie do not want to show the heterogeneity that is witnessed widely in the daily lives of the people. They apparently demonstrate that they are homogenous both culturally and religiously. Nevertheless, my observation from the daily life of the people indicates that there are local variations in the social life of the people including in the customary modes of dispute settlement. Elders including the owner of the car that killed the girl went to Hulbareg *Wereda* around *Demeqe Qebele* to bury the girl. It is believed that taking part in the burial ceremony is valued by the victim's family as one of the ways to show grief and concern to the bereaved family. This circumstance can also facilitate the initiation of dispute settlement process by elders. The owner of the car also gave 12000 Birr (500 Euro) for burial and mourning processes and attended the burial ceremony. It took three hours on foot from the main asphalt road to reach the village where the father of the dead girl lives.

After the first meeting, an elder said that car accident cases should be adjudicated nearer to roads, so that road's *Berche* will be finished. Since then, elders began considering the case near the main asphalt road. I went with elders to see the onset of conciliation process on 15 September 2014. This day, elders initiated the dispute settlement process and discussed how the perpetrator's family could share money that had been spent for mourning and other costs related to the accident. They also discussed *Wurkefena* including *Gudda*/White Tread/ tying process that temporarily can create a peaceful relationship between the parties involved in the event, and hence paving the way to the release of the driver who was under police custody. They agreed that the driver's family should bring the *Wurkefena* in the next seven days and handed it to the girl's family. I observed that elders requested the girl's family not to cooperate with the police so that the police could not provide evidence. The participants agreed further that the victim's family should communicate with the *l*ocal administration to hide the address of witnesses' *Qebele*. They also requested the girl's family to submit a letter to the police indicating the onset of dispute settlement and facilitate the ways the driver could be released from prison.

Nevertheless, elders representing the victim's family said that the dispute resolution should be concluded based on *Melga Serra* rather than the grand Siltie Sera. The Siltie Serra prescribes that the perpetrator's family should give an average size cow, traditional cloth called locally *Buluko,*

traditional women's belt called *Eto*, and 40,000 ETB (around 1500 euro) during *Wurkefena*. This request created disagreement between elders who came from Werabe and Silti areas on one hand and those from *Hulbareg,* on the other. It took more than 4 hours to come to a consensus. The debate was all about local variations on the ways murder cases can be adjudicated. They were disputing over which items should be given to the victim's family during *Wurkefena* time. Elders from *Melga* clan area said that a middle sized cow should be paid during *Wurkefena* time, for the mother of the girl would drink the milk and get strength from the sorrow incident after losing her daughter. Elders from *Datewezir* clan, however, said that the cow should be given to the *jury Temm Gudda*[245] period when the dispute will be settled in the end. The *Melga* elders also stressed that the driver's family should give 40,000 Birr as a prerequisite to starting the conflict settlement and facilitating the release of the driver, while the *Datewezir* elders contested this proposition too indicating *Berche* as a guarantee. With this disagreement and stalemate, a neutral jury came up with the idea that narrowed the gap. He said that the case should be considered based on the norms of the area where the victims live stressing the right the Siltie Serra can give to the victims. However, he underscored that holding the money until the dispute settlement ends cannot resolve murder case as well as cleanse one from *Berche*. The elder stressed that *Berche* has more power than money to force a person to finish the dispute and the case, and it will track him if he retreats from the agreement. With these compromises, participants agreed to proceed with the conflict settlement process.

I accompanied elders to the victim's family's house in Hulbareg *Wereda* to hand over the *Wurkefena* items on 23 September 2014. The driver who was released from prison on bail also went with us to accomplish *Wurkefena* that included *Yekir-Gudda* tying process. As part of *Wurkefena* rituals, the driver and the father of the girl sat together whereby the neutral jury asked them to bring the white thread from each party's clothes, and the parties brought the thread. The neutral jury/*Yegute Baliqe*/ spun the parts of thread to form one thread, symbolizing the beginning of a peaceful relationship and the unity of the disputants family. Finally, the person tied disputants' toes with the spun white thread and told them that a new era of kinship has started between the parties.

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[245] *Temm Gudda* is a black goat slaughtering ritual process when the representatives of the disputant groups will be tied by the intestine of the goat presided by the neutral jury. This ritual process symbolizes the end of feud and quarrel between or among groups ushered in the inception of a new fictitious relationship between the disputing parties.

The neutral jury further stated, „You are now tied with a common thread to end revenge and avoid looking at one another with revengeful eyes and do not to seek the demise of one another including taking the case to the police. Now I am going to cut the thread, and anyone who breaks the oath will *be* cut like this." After passing this message, the person cut the thread into two and gave each part of the thread to the parties.

Following this ritual, disputants went together to a tree which was selected by the girl's father as a tree that will not be used for wood or will not be cut forever by the family. It is believed that the tree will be a witness to the case. The neutral jury asked the father of the girl to dig a hole under the tree that symbolizes digging a grave for himself if he breaks the oath, and both asked to bury the thread symbolizing burying the foes, and dispute forever. Finally, the driver was asked to bring back the dust to the hole symbolizing burying himself if he breaks the bond and initiate conflict in the future. Elders said that anyone who believes that the other one has betrayed the agreement will come and tell to the tree which would avenge on behalf of the deserted. With this, the *Wurkefena* process ended, and participants enjoyed the feast prepared by the father of the girl. Mediators selected two elders one from each party to accompany the neutral jury to go to the Raga who would pass a verdict on the amount of blood money, and sort out ways on how the case would end with *Temm Gudda*.

I understood, however, that the driver was arrested again by the police. This situation created a dispute between the driver's family and elders who could not stop the state intervention and the subsequent imprisonment of the culprit. The girl's family informed elders that the *Wereda* police transferred the case to the zone, and could not control the case. The Zone High Court kept on looking at the case, while the customary court was handling the case. Despite this, the customary court could not stop looking at the case. Members of the driver's family said that there is a double standard in the state court in handling the car accident cases, indicating the end of a car accident case in Hulbareg *Wereda* near the former place without even arresting the driver who killed a woman with a mini bus fifteen days after the Hulbareg incident. The driver's family members further said that they are not happy with the way and the manner both elders and state courts handled the case, for they paid money and invested energy thinking the customary court would conclude the case. Elders, on the other hand, were always confused as to why they could not resolve dispute cases, albeit constitutional entitlements, and hence could not protect the culprits from imprisonment.

With these complex relations elders have with disputants, *Werabe* High court found the driver guilty of negligence and sentenced him to eight months imprisonment. While the driver was in jail, the customary court kept on hearing the case, and the *Raga* at *Embobo Qebele* decided that the driver's family should pay 9900 ETB (nearly 450 Euro) as compensation to the girl's family. Finally, the disputants ended the case with *Temm Gudda*, and signed an agreement paper indicating the end of the dispute with the customary court, and submitted the paper to Siltie Zone High Court. The driver was released after finishing his eight months' prison terms. However, members of the driver's family said that they ended *Berche*, though they suffered from a double standard in the state court.

The case shows the natures of the interactions among the different legal systems. In this regard, local dispute settlers asked the disputants to withdraw their cases from the state legal system and subscribe to that of the Siltie Serra or the customary legal system. It has also indicated the legitimacy crisis the state and the customary legal regimes have met due to the bribery. The case has also shown that the state legal system has had different means of dealing with dispute cases like car accident, indicating the existence of double standard in the state justice system.

7.3.6. Case 6: Bedria Bamud's Car Accident Case[246]

Data collected from informants and sue paper indicate that *Bedria* was a mother of seven children. She lost her life while she was returning from the local market by a mini bus[247] car accident on 12 September 2014 at 8:30 pm at a place known as *Agode Qebele*, *Silti Wereda*. The minibus was providing local transport service between *Werabe* and *Butajira* towns. After the incident, the driver of the car named Abdurrahman Mussa was sent to prison. Abdurrahman is an Oromo while his wife is Siltie. The owner of the car Hajji Awel Hussein and local elders went to *Agode Qebele* to attend the burial ceremony, and initiate dispute settlement process.

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[246] Interview with Ato Mussema Idris (Husband of the victim), Sheik Mohammed Sheik Kelil, Abdurrahman Mussa (the driver who was responsible for the accident), Ato Akmel Ahmedin, Siltie Zone High Court President and my observation of the customary court since the case happened on 12 October 2014 for five months (See also Appendix III). I attended *Raga* Awel's customary tribunal hearing where the driver represented by elders appealed to Maga's decisions on mourning expenses on 5 February 2015.The case has also been written based on Public Prosecutor's sue paper dated 18 March 2015 and Siltie Zone High Court decision file number 10598/07 dated 28 October 2015.
[247] This is a local transportation car that can carries 12 passengers. It becomes the main local transportation in Siltie and neighboring areas.

They informed the family of *Bedria* that the driver was responsible for the accident and they wanted the case to be resolved according to the Siltie culture. They also gave some money for mourning and other related costs for the husband.

After two weeks, elders went back to the village to continue the dispute settlement process, and facilitate the release of the car and the driver from the prison. Elders both from the victim's family and the driver side agreed that the driver and the car should be released from jail to keep on the dispute settlement process. To this effect, they also agreed that the victim's family should not start the legal process to sue the driver in the state court, and local elders from the victim's side were also informed that they should persuade possible witnesses not to appear before the police fearing *Berche*. After this agreement, elders initiated the dispute settlement between the victim and the driver.

According to elders, the disputants who were involved in the case were the driver, the victim's family and the owner of the car. It is believed among the Siltie that the car has got *Berche* and will continue to kill human beings if the proprietor could not end the *Berche.* The owner of the car also informed me that he believed that the *Berche* would follow and attack him if he could not share the expenses of the driver during the dispute settlement process. And hence, I observed that the owner of the car was paying the transportation costs of elders who went to Silti *Wereda* from Werabe to facilitate the release of the car and the driver as well as the transportation cost of going to elders' village. Finally, the driver was released from prison on bail, and the car was also released.

Elders summoned the disputants again to keep on the dispute settlement process. This time, *Mussema Idris*, the husband of the deceased asked the driver and owner of the car to reimburse all the money he spent in the process. The local dispute settlers told Mussema that he should fear Allah as well as *Berche* and that he should stop calculating the expenses so as to avoid possible negative impacts of *Berche* on his life, which could occur due receiving unnecessarily big amount of money from the parties. Ato Mussema told elders that he spent more than 50,000 ETB (more than 2000 Euro). Elders, however, could not accept the request as it was highly inflated. And the Raga requested Mussema to calculate the money for reconsideration. Yet, Mussema could not change his stand. This situation created disagreement between elders and disputant parties.

Thus, elders wanted to take the case to an appellant court at *Hajji Awel* court. Abdurrahman and the owner of the car went to *Hajji Awel's* court to appeal to the *Maga's* decision and ask how to end the case on 5 February 2015. Elders, disputant parties, and I also went to the court.

Hajji Awel also said that the amount of money requested by *Mussema* seemed more than an average amount requested by other disputants with similar cases and warned him that the money will devour him and his family if he is not reconsidering it. The *Raga* also told Mussema that it would be better even to forfeit money related with murder cases so as not to fall under the dangerous impacts of *Berche*. Hajji Awel also decided that the driver and the owner of the car would pay 8674 ETB (360 Euro) as compensation to victim's family or *Gumma*. However, Hajji Awel warned Mussema that he should agree with elders when he took the money. *Mussema* told me that he could take all the money and ask the perpetrator to pay him the price of the donkey that was hurt by accident. It seemed that the tensions between the disputants could not be calmed down due to the less reconciliatory tone of Mussema who frequently said that he lost his wife, and took the responsibility of taking care of seven children including an infant.

Views from the Judged

While elders were processing the dispute in the customary court for six months, the public prosecutor initiated prosecution of the driver. Abdurrahman, who was a driver and perpetrator of the accident, told me that he did not believe elders have real power to implement their court's decision since they could not guarantee him from state's prosecution. *Abdurrahman*[248] also said that elders also are corrupted just like some judges in the state courts. He further said that the public prosecutor also demanded a bribe to drop the case. As he said, it would have been better to be sued and prosecuted by the state court from the onset than trusting the customary court, for it took six months to wind up the case in the customary court without implementing their decisions. *Abdurrahman* stated that the owner of the car and himself spent more than 45, 000 ETB (around 1700 Euros) in the customary ways, yet he could not end the matter in the customary court. Therefore, he received a prosecution letter from the zonal court on 02 February 2015 to appear at the court over the case. And hence, the customary system could not protect *Abdurrahman* from state's prosecution as well as prevent him from being prosecuted in the state court.

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[248] Interview with Abdurrahman on 5 February 2015, Werabe.

He stressed further that if he were sued instantly, he would have finished the sentence or imprisonment by then. Thus, finally, Siltie Zone High Court passed a resolution dated 28 October 2015, file number 10598/07 that found Abdurrahman guilty of a negligence crime and sentenced him to two years imprisonment. After facing another crisis, *Abdurrahman* said that he faced double jeopardy from the case. He stated that he had been punished two times. First, he said he took the case to customary court, and invested 60,000 ETB (more than 2000 Euros) thinking that the case would be ended there. Second, he faced state court's decision, and fine as well. Abdurrahman, however, indicated that if the state court had handled the case, it would have been accomplished with 10000 Birr and a maximum of 8 months imprisonment.

Abdurrahman's arrest created some instability in the justice department, Zone administration, and Siltie Zone High Court and questioned elders' power of enforcing their decisions in the area. This was because *Abdurrahman'*s wife took her children to Siltie Zone administration to ask why Siltie culture could not end the case. She stated that Abdurrahman spent more than 60,000 ETB in the customary court, and impoverished the family without putting an end to the matter. She said further that the Zone administration should intervene in the case to help the family which could not survive without *Abdurrahman*. I also discussed with the President of Siltie Zone High court about the case and stressed that car accident cases are not intentional and the court recommended that the cases be transferred to customary courts for resolution. Moreover, the court initiated some form of discussion with the zone justice department to look at the roles of elders in resolving car accident cases and treat them accordingly. However, since Abdurrahman's case had already got a decision, it went out of control. But he stated that the court would try to lower the prison sentence by discussing with stakeholders like the jail office and justice department. Finally, the judicial department, Zone administration, and Zone High Court reconsidered the matter, and *Abdurrahman* was released from prison after serving eight months and ten days behind bars following the Ethiopian government's official pardon for convicts on the Ethiopian New Year celebration on 11 September 2016.With this, Abdurrahman's dispute case was ended. The case indicates the existence of competition and complementarity between the different legal systems. It also shows the declining legitimacy of both the state and customary legal regimes, and that elders could not enforce their decisions.

7.3.7. Case 7: Motorbike Accident Case[249]

'' ...We are also Muslims, not Christians; it is Allah who gave us our culture, Islam is here from time immemorial with us, the Quran and the Hadith are with us too. It has co-existed peacefully among the community with our norms and values. We practice both our culture and religion. What is wrong with us these days? We cannot forsake one or the other or both. We have maintained a delicate balance between culture and religion for an extended period. What do the youth practice? Which version of Islam are they imposing on us..?" (An elder who went to customary court to mediate a car accident case with the deceased person's family).

An old woman called Amina, who was in her 60s, was hit by motorbike driven by a government employee named Mohammed in Silti *Wereda* on August 18, 2014. After she had got a medical treatment for a month, Amina passed away due to the injury she sustained. Following her death, the relatives of Mohammed took the case to customary court and asked the victim's family to resolve the case in line with the Siltie norm. Nevertheless, the brother of the deceased woman called Kedir declined the involvement of elders in the case as he thought the cultural way of resolving the conflict would bring non-Islamic ways or *bida'a*. He considered the customary court's procedures as „jahil's" or ignorance way, and it is only the Quran that can become a guide for his way than culture. He has also stressed that he has already forgiven the person.

Kedir said further that the perpetrator did not kill the woman intentionally. He said it was predestined, as he executed the decision of Allah. Elders, however, had different positions on Kedir's stand. Even those elders who came from the culprit's side were divided over the situation, and hence some of them were persuaded and took side with Kedir. However, the majority of the elders stood for handling the case at customary court and hence insisted that Kedir persuade the whole family, especially the paternal lines*/Abotgare/* to resolve the case according to the Islamic law[250] and to confirm elders if *Abotgare* complied with his proposal. Nevertheless, Mohammed's family could not agree to end the case through Islamic law, for they said that *Berche* would not be ended if the whole family agreed to the procedure. Kedir could not also retreat from his stand.

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[249] Interview with Hajji *Shewmolo Admama* and Hajji *Umar Daremulo* on 27 September 2014 in Enseno Town. Interview with Hajji *Shewmolo*, 64, and Hajji *Umar* 47 in Enseno Town on 27 September 2014.
[250] The reason elders wanted Kedir to persuade the *Abotgare* was due to the fact it was the *Abotgare* that had influence and local power in handling the dispute, and hence elders would be convinced that the case would be resolved. Additionally, local elders have also a divided loyalty both to the custom and Islam.

Mohammed's representatives requested again if the victim's family believed that the murder case could be resolved with forgiveness as Islamic law recommends. Since they believed that Mohammed implemented Allah's plan, they were supposed to confirm them by inviting the *Abotgare* who could represent the group's interest. However, the *Abotgare* of the deceased insisted that the case be handled in a customary way contrary to Kedir's stand. Hence, both the victim's family and elders finally agreed to the fact that the case should be adjudicated in customary court. Following this decision, Kedir disassociates himself from the reconciliation process. Despite this, the customary court continued hearing the case, and elders concluded all procedures according to Siltie norm including *Gudda* tying process after more than two months' time. Even if culture prevails over religion, elders will say that religion is challenging the existence of culture as the younger generation inclines towards Islam than culture. Most of the youths consider *Gudda* that involves tying the toes of disputants with white thread and later concluded with the slaughtering of black goats locally called *Temm Gudda* as innovation or „bida'a" and hence non-Islamic. However, *Gudda* has been considered by the community as a central part of homicide cases that involve murder.

7.4. Concluding Remarks

In the chapter, I investigated local dispute settlers' self-perceptions and expressions that indicate how the roles dispute settlers' agency play an important role in maintaining social order and the interactions among various legal systems operating in the study area. Local dispute settlers also use tracing their ancestors' job as a mediator to create a continued legitimacy which helps them contest for more power in the plural legal constellation. It also seems that the three legal systems complement each other in resolving disputes, and at times, contend over cases. Furthermore, the various cases explained in the chapter also expound that the existence of polygamy among the local community as a marriage practice is now facing some challenges. Nevertheless, the chapter shows that marital dispute has become the major dispute in the area. The dissolution of a family following termination of marriages has influenced the condition of women, especially during property disputes. It has also been discussed that local dispute settlers employ plural legal systems to address disputes including interfaith disputes and homicide cases. The existence of plural legal regimes has provided various options for the local community to choose from.

The empirical data discussed in the chapter also indicate that there is competition not only between legal systems but also, among the various customary legal systems operating in the area. Moreover, the data showed that the people show little interest in resorting to state legal system for a number of reasons. In the first place, the Siltie believe that prison or state legal system's sanctioning does not end *Berche*, for *Berche* is a powerful concept of the right to life considered by the community as a cultural police that controls the existence of injustice among members of the community. Secondly, the local community believes that the state legal system is corrupted and could not give an appropriate decision, indicating a declining legitimacy of state legal system. Thirdly, the local community believes that the state system could not resolve group conflict and imply the less relevance the state legal systems have for settling collective disputes since conflict is widely considered communal rather than individual by the people. Fourth, it is believed that the state legal system could not normalize relations between the disputants, unlike the customary system that works to reintegrate the culprit into the society. Finally, the various dispute cases explained in the chapter indicate that the customary legal system's values and norms are more related to Islam rather than the state ones and hence contributed for the relatively greater legitimacy the customary systems enjoy among the people than the state legal system.

The struggle between religious actors for more power to Shari'a courts seems a reflection of the demand of Muslim community for more religious right and an indication of the worsening relation between Muslims and the Ethiopian state in the last five or more years.

It is also argued that local dispute settlers also shop the forums as they use some opportunities that involve customary court to accumulate power by playing off the dispute. That is, if they are not participating in the dispute itself, the dispute could not be resolved, and this can contribute to the theory of power and law. Finally, the chapter argues that demography and the religious census have become one of the grounds for the degree of legitimacy the customary legal system obtains in a pluralistic legal setting.

CHAPTER EIGHT

8. STATE-SOCIETY RELATION AND PROCESSES OF IDENTITY FORMATION: AN OVERVIEW

8.1. Introduction

This chapter briefly explores the various historical episodes the Siltie have passed through in resisting state interference into the local people's life including state strategies to disintegrate the people in the late 19th century. In so doing, the chapter sheds light on the successive state's' failed attempts and strategies to compromise, disintegrate, and silence the Siltie's quest for self-determination and the century-old popular struggle that curbed such attempts beginning from the 19th century. It has also made glimpses on the inter-ethnic conflict between the Gurage and the Siltie, and the various mechanisms employed by the state and non-state actors to resolve the dispute. The Siltie-Gurage identity conflict has once become a major issue in the ethnically federated Ethiopia. During this time, quite a good sections of the society ranging from students, the rural community, urban dwellers and of course the newly emerging Siltie elites and politicians took part in the struggle for Siltie identity. These public interests to assert their ethnic status have been manifested in various aspects of their life, including the traditional dispute settlement mechanisms. Thus, the chapter mainly focuses on the interactions between dispute resolution and identity construction and the various measures Siltie took to develop their identity manifestations since the 1990s.The chapter argues that recovery of local modes of dispute settlement have links with a revitalization of ethnic sentiments and identity formation processes Siltie has undergone since the 1990s, and this has led to the emergence of customary modes of dispute settlements as one of the many identity markers of the Siltie. It also argues that local actors use their agency to resist the Ethiopian state's interferences in local affairs.

8.2. The Evolution of State-Siltie Relations: Interventions and Local Responses

The Siltie interaction with the state had started in the 14th century when King Amdesion invaded ancestor of the Siltie land somewhere in the East (Bustorf, 2009; Braukämper, 2001; Kairedin, 2012). However, a noticeable relationship that has brought significant socio-economic, as well as cultural changes has begun since the late 19th century.

This time, forces of Emperor Menilik II subjugated the Siltie land in 1889. Since then the Siltie area had become part of the Ethiopian state. The new governors introduced a complex system that combined „transplantation of Abyssinians and the cooptation of a subordinate indigenous elite" (Markakis 2011:4). As a result of the incorporation, *the* Siltie's local governance system has been reduced to ritual than political power. Furthermore, the new rulers brought *Gabbar/tenant, and Balabat /Malkagna[251] system* in the area. Under this system, the most fertile and productive lands of the Siltie were appropriated and distributed for soldiers or *Malkagna*s. The majority of the Siltie who were forced to live in their land as servants became tenants. The same situations prevailed in the following Imperial regime (1931-1974). During the Imperial period, homogenization of culture led by the Amharic language was strengthened, and other languages were outlawed officially (Markakis 2011:126).

On the other hand, the ethno genesis of the Siltie indicates that parts of the soldiers of a medieval Muslim expansionist known as Imam Ahmed ibn Ibrahim al-Ghazi (1506-43) also known as Ahmed Gragn/Left Handed/settled among the Siltie during his war with Ethiopia's Christian Highland Kingdom in the 1530s. The Imam's 'expansion to the north marked 'the Abyssinian psyche with an ever-sensitive scar, and an abiding distrust of Islam and Muslims'' (ibid.: 33). This scenario has developed an 'Ahmed Gragn Syndrome' by the then Christian dominated Ethiopian state which has also implanted a seed that has worsened Siltie-state relations until now. The Siltie have become suspect number one whenever Islamic momentum arises, and the religion has been perceived as politically subversive in the country.

Due to this factor, Muslims were marginalized in every aspect of life including the state apparatuses since late nineteenth century. Though the Siltie were near to the center (only less than 200 kilometers away from Addis Ababa), they were marginalized socially, culturally, economically and politically for more than a century. They had been divided into neighboring communities so as not to allow the unified Muslim communities to live in peace (Markakis, 2011; Yalew, 2004; Kairedin, 2013). They even felt ignored during the first decades of post-socialist Ethiopia (Dirk 1997, 2011).

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[251] The local people in the study area refer to those rulers who came after Menilik II's expansion to administrate the area as *Balabat or malkagna.*

According to a key informant[252], the *Malkagnas* and *Balabats* were the most powerful persons in the area during the Imperial regime. The administrative system before 1930 consisted of these structures as a district province, and empire. Hence, those governors who were appointed by the emperor monopolized all powers in their provinces. As scholars such as Bahru (1991) said, the coming into power of Hailesillasie I (r.1930 - 1974) aggravated the weakening of local systems in the country in general and among the Siltie in particular. In 1931, the emperor promulgated the first constitution. The new constitution further set up a statutory framework for the emperor. It gave him the unprecedented power in the state apparatus (Bahru 1991:140).

Thus, with the approval of the first constitution in 1931, the seemingly dual exercise of the provisional governors and *Balabats* who were previously allowed to levy and collect taxes on land and other powers were abolished. The new rulers were fully appointed by the emperor (Abbera 1998:7). Therefore, such newly devised system allowed the emperor to have greater control over the local authority. Hailesillasie I placed this power under the central administration (Aadland 2002:29). As studies show, the process of centralization also continued in the Italian interlude period (1935-41). A new regional administration was devised in 1941 that brought twelve, and later fourteen, provinces (*Teklai-Gezat*) that were ruled by a governor-general. There were around 100 countries (*Awraja*), over 500 districts (*Wereda*), and several sub-districts (*Mikitil Wereda*) (Walelign 2005:91).

Moreover, before the Italian occupation, Emperor Hailesillasie I divided the country into 32 provinces (*Gizat*) that were directly organized under the central government. Each province was numbered, and the name of the governor of each region was designated by corresponding names of the *Gezat*. The provincial governors who governed the fiefs in the name of the emperor were alien appointees to the localities (Aklilu 2002:28).Thus, during that time administrative arrangements were formed at the expense of identity and local realities. The Siltie, following the enactment of Decree No. 1 of 1942 that divided the country into 12 administrative provinces (Awrajas) were placed under the province of Shoa. Shoa *Teklay Ghizat* also became answerable to the Ministry of Interior at the top level of a hierarchy.

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[252] Interview with Gerad Awel and Gerad Teka Werabe and Sankura Towns, taken from earlier field notes and updated afterward.

Based on this, the Siltie were further divided into *Chebo* and *Gurage Awraja* and the *Kambata and* Hadiyya *Awraja* (Aklilu 2008:28-29). Having been disintegrated into various administrative structures, the Siltie could not exercise their local system of governance in the area. The strong centralization policy of the Imperial regime could not allow the local system to function fully in the area. The Siltie were thus denied the right to self-rule and were only communicating with the center via Christian Gurages, and neighboring Kembata and Hadiyya peoples. This situation further worsened the state-Siltie relations.

As Aklilu (2002:29) rightly said, "the local people had no direct influence in the administrative, political, and economic realms in their realities." Thus, the central government, its functionaries, and representatives enjoyed a considerable degree of political and socio-economic privileges in the area. The local people, however, were subjected to exploitative and oppressive structures. Despite that fact that the emperor introduced a revised constitution in 1955, nothing was changed for the local systems to revive in the area. Nevertheless, there was an attempt by provincial governors to install the local chiefs as *Balabats* in the political system.

However, their functions were limited only to serve the central government than the local people. Furthermore, the criminal code of the 1930 and the proclamation of Administration of Justice of 1942 of the Imperial Regime replaced the customary dispute settlement modes by the state court system in the country. It denied the legal recognition for those local institutions of law and authority. The *Balabat* was responsible for maintaining law and order, hearing disputes as well as administering traditional justice among others during the imperial period (1931-74) (Markakis 2011:110).

As respondents[253] said, the customary courts were used by the majority of the rural people for resolving such conflicts as matrimonial cases, land disputes, theft and debt cases during the period. As they said, the state courts were employed to resolve infractions of state law such as failure to pay taxes properly, and to regulate public order. Thus, there had been aspects of legal pluralism even during the Imperial period.

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[253] Interview with Ato Kedir Lalega, Kemal Hussein and Abdi Mohamed on 22, 25, 30 April/2016 and taken from earlier field notes. They are Dalocha, Silti, Lanfuro Wereda officials respectively

Therefore, these facts indicate that the indigenous systems did not cease to function in practice among the society, and the local community resisted the central government's keen interest to silence local modes of governance and customary courts using various strategies including everyday forms of resistances.

One can also understand that the local systems did not completely vanish following the codes and proclamations of the central government. Rather, the customary court had been modifying itself to cope up with the changing socio-economic and political circumstances of the time. As paper money has become the principal currency from that time on, the customary court has adopted cash for compensation payment as blood price. Thus, customary fines have now been replaced by paying in cash rather than in kind. The local community resisted the attempt to implant the customary court using everyday forms of resistance (Scott, 1985) like refusal to take cases to the state court and to cooperate with the *Balabats* on local administration.

FGD participants[254] agreed that it was in the days of the *Derg* (1974-1991) that the pressure of the state was most acutely felt. An Ethiopian historian Bahru Zewdie (2002:25) stated that „the unprecedented control that the state was able to exercise over society through the peasant and neighborhood associations tended to stifle local initiative." Therefore, the Derg regime even more than before had become hostile to the existence and functions of the customary and religious laws (Alula and Getachew 2008:8). The customary court was forced to operate in a hidden way among the society. As a key informant[255] said, the customary court was employed among the people to resolve some minor disputes such as family disputes, matrimonial and theft cases.

As scholars further said, the establishment of a centralized court and police system since Menilik II period also diminished the power and applicability of the customary system of arbitration and maintenance of social order (Bahru 2002:25). The local system could not completely vanish from the area. The society employed it in one or another way to settle disputes among kin groups and to maintain the social order in the area.

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[254]This is based on FGD that was conducted with eight informants on April 1/2012 on the annual Siltie History, culture and language Symposium in Werabe town & FGD that was carried out with such key informants as Ato Kaire Sule, Hajji Abdurrahman, *Werkicho Yusuf*, and *Hajji Hussein Barsebo* on April 22/2013 in earlier contact and updated later in Werabe Town.
[255] Interview with Gerad Awel on November 2/2013 in Werabe Town in earlier work.

Following the installation of Ethnic Federalism in post-1991 period in the country, the customary and religious laws have been undergoing a dynamic process of revitalization. Bahru Zewede, Ethiopian historian, said that the customary systems, far from disappearing completely, have managed to persist up to now in the country. Bahru (2002) further attributed the resurgence of the local system to the failure of the parliamentary democracy in the continent.

> "… the failure of parliamentary democracy in Africa has forced a fresh look at traditional /pre-colonial systems of governance. It is argued that for the continent to emerge out from the vicious cycle of military dictatorship, and corrupt civilian regimes, it has to reexamine its traditional political systems, revitalize them and make them pertinent to the contemporary application" (Bahru 2002:17).

Therefore, after the demise of the Derg, the EPRDF led government of Ethiopia has also drafted a constitution that gives room for the local systems to revive and play their roles for democratization process. Thus, in the post-1991 Ethiopia, the customary and religious systems are encouraged to revitalize and become part of the new order if they could not contradict with the FDRE constitution (Art.34/5/;78/5/).

The constitution recognizes non-state laws to operate side by side with the state apparatus. It limits the full implementation of the system if it contradicts with the tenets of the constitution. For instance, non-state laws are entitled to deal with conflicts related to personal and family disputes. Nevertheless, resolutions of criminal cases are not to be handled by those traditional institutions. Furthermore, as mentioned above, Article 34 (5) of the F.D.R.E constitution (1995) stipulates that non- state institutions can prosecute dispute cases the parties agree to do so. Despite this, one can say that the post-1991 Ethiopia has been witnessing strong revitalization of the local systems that deal with every form of disputes in the area (See more in chapter five and six).

Following the installation of the current ethnic federalism, the Siltie local systems have begun to revive in the area. My key informants[256] present the case in the other way round. They said that although the local systems have been experiencing a process of revitalization in a major part of the country since 1991, the Siltie's oppression had kept on in the federalist Ethiopia for a decade

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[256] Interview with the main informants who preferred anonymity in this case.

until 2001. They were denied self-determination for long since the people were associated by external actors with the Gurage.

As mentioned above, the Siltie were disintegrated into three adjacent administrative structures, namely *the Gurage, the Hadiyya, and the then Hallaba-Temabaro Zones*. This incident prevented the Siltie from reviving and developing *Siltie's* custom*s* in a more organized way, on the one hand and indicated the continuation of the deteriorated state-Siltie relationship, on the other. The Siltie had worsened interaction with the current situation from 1991 to 2001 as they were involved in an inter-ethnic conflict with the Gurage people. As FGD informants mentioned, it was only after 2001 that the Siltie have begun to administer themselves and revive the local institutions including the customary courts in the newly established Siltie zone.

However, this is not also without pitfalls. According to informants[257], the people cannot fully revive and employ the systems currently. This is because the zone officials seem to be not ready to see „a state within state"[258] and cannot allow another system to function in the area. The other reason is due to reluctant nature of the younger generation to employ the customary courts because of the expansion of „modernization" in the area. These developments have lessened the significance of the local systems in the area. Nevertheless, as I observed in various parts of the Siltie, the customary court and the local religious ones had played an important role in resolving various disputes including homicide cases and those hidden crimes for which enough evidence could not be provided for the state justice system to deal with them.

Even though the state-Siltie relationship since 2001 can be characterized as a healthy one, the people's relation with the government seems to have worsened since 2011 when the government tried to impose its version of „moderate Islam", *Al-ahbash*[259] on Ethiopian Muslims. The Siltie have once again been suspected by the government as one of the factors behind Muslims' protests[260]in the country. In sum, the Siltie have undergone a contentious and amicable form of interactions with Ethiopian state at least since the incorporation of the area by the Ethiopian empire in the late 19th century.

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[257] Interview with anonymous informants.
[258] Interview with the ex-justice department head of the Zone who initiated the dialogue between elders and zone and supported elders' council, yet who was later informally discouraged by higher officials (February 2015 in Werabe Town).
[259] Al-Ahbash is a religious sect established by an Ethiopian Cleric Abdela Al-Harari in Lebanon (See More in the next sections).
[260] PM Hailemariam Desalegn's speech in Werabe Town.

8.3. Dispute Settlement and Identity Formation: Duality of Cooperation and Contestation among legal Actors

"We have asserted the right to self-determination, albeit late, in the Federalist Ethiopia. We paid every price to get recognized by the central government. As an independent ethnic group, we have our customary dispute settlement/Ye Siltie Serra/.We have been employing the system for long to resolve disputes including murder cases. We also know that the government has set up its judiciary systems up to the grassroots level. Alhamduli-Allah our Din/Islam/ also acknowledges our role as an elder to employ our culture. It even recognizes Berche. Ironically, the public prosecutor could not allow us to install an elder system to deal with murder cases. In fact, we cooperate with the state jurisdiction in those cases for which the police could not easily find evidence. The state has got prisons, yet we have got *Berche* that can keep on inflicting harms up to seven generations upon the disputing parties as well as upon the dispute settlers if not well addressed. Where is article 39 of the FDRE constitution? Why does the state not allow us to fully involve our elders in resolving disputes like our neighboring ethnic groups?" (Hajji Kemal Barsebo, 62, on 27 August 2014 in Silti Wereda).

The above idea has been taken from an elder's reflections on the relation between the customary court and state institutions. I have learned from the field that most of the Siltie elders also share his idea. His description of the situation shows the inconsistency between the right the customary court enjoys in the Federal Ethiopia and the challenges they face on the ground whenever they resolve disputes including murder cases in the study area. It portrays not only the complimentary aspects of various legal systems but also the existence of power contestations among different legal systems in the area. From the above elder's view and explanation, one can also understand that the Siltie's skepticism about the activities of the state persists until now. The elder's idea clearly indicates the existence of diversified legal systems among the Siltie that embraces the state, the customary and religious legal systems even if with varying arrangement of power. The elder's reflection underscores the existence of both amicable and contentious relationship with the various legal regimes.

As mentioned in the preceding chapters, the state court's report acknowledges its failure to handle the various disputes without the active involvement of elders. The political interferences have further worsened the legitimacy of public institutions like the judiciary (Baker, 2013).The Shari'a courts also suffer a legitimacy crisis due to a number of internal and external factors (Mohammed Abdo, 2010) including political interferences. The introduction of developmental state economic model that further strengthens the power of central state vis-a -vis local power has further challenged the existence of legal pluralism in the area. And hence, the prospect of legal pluralism has become to be at the crossroads.

8.4. Inter-Ethnic Dispute: The Re-making of an Ethnic Group

The Siltie are an oral society and commence most of their conversations with proverbs. This is even true during the formal meetings like Zone councils and state court sessions. They are open to talking, yet often express their ideas idiomatically. They criticize the state whenever it seems necessary to them, but they do it cautiously as they still „fear" the state. Nevertheless, they have their forms of resistance as Scott aptly puts it referring to how the weak resists the powerful in everyday life (Scott, 1985). The Siltie's interaction with the Ethiopian state, on the other hand, harks back to the late 19th century. Both friendship and enmity characterize the Siltie's interactions with the state. Their first encounters with Menilik II's Ethiopia at the end of the 19th century did not start in healthy ways because of the imperial state's disintegration of the Siltie land into neighboring people that had been precipitated by the fierce military resistance the Siltie showed towards the expanding forces of Menilik II. The state was since then perceived as an enemy, and it continues to have negative connotations among the Siltie until today. It is remarkable that the local community calls the state „Mengist," that is an „absolute power" that can give and take everything that it wants from the people.

In any case, it is not conceived as an institution in the (Western) common sense whereby the state is elected by the people and stands for the rights of people. It is likewise remarkable maybe also due to the problematic relationship between the Siltie and the state-which the Siltie managed to set up their administrative Zone only in 2001 that was a decade later than most of the ethnic groups in the ethnic federal Ethiopia.

8.4.1. The Genesis of the Siltie Identity Crisis and the Siltie-Gurage Inter-Ethnic Dispute: Extending Local Scenario to the National Case

Even though the inter-ethnic dispute between the Siltie and the Gurage started in the early 1990s, its emergence could be traced back to the late 19th century. As mentioned in various sections of the book, it was at the end of the nineteenth century that the Siltie area had been incorporated into the Ethiopian state. Menilik II's expansion into the south and southwest of the country had culminated with the birth of a unified Ethiopia in the quarter of the 19th century. In his expansion to the south, Emperor Menilik II used two strategies to conquer and incorporate new territories effectively. These were peaceful submission and armed struggle (Bahru 2001:60-61).The expansion of Shoa to the Siltie that had started in the 1870s had been concluded with the conquest of Siltie in 1889 (Dirk,2011).The Siltie formed an alliance called *Gogot* with neighboring people like *Qabena, Sodo Gurages* to fight Menilik's forces, yet became unsuccessful (Abdulfeta 2002:193).

Following their incorporation, a new form of the legal system has been transplanted, and the Siltie land was disintegrated into neighboring areas. As a result, the quest for self-determination and central administration had started since then. The Menilik administration adopted a politico-administrative system called Balabat or *Malkagna* and appointed *Balabats* to administer the area (Markakis 1974:67-68) indirectly. Denying self-rule of the Siltie had continued under the Imperial regime as well. The Siltie students had joined the Ethiopian Student Movemnts that became one of the factors that unseated Emperor Hailesillasie I in 1974 (Kairedin, 2012). The Siltie area had been included under Gurage, and the people in the urban area were called Gurage. Some sources indicate further that the Siltie identity politics was initiated since 1990s, and „does not have any historical precedence. Rather, it constitutes an emerging social and political processes of constructing a new ethnicity for the majority of Eastern Gurage-speaking population"(Zerihun 2015:7-8). Some written sources, however, indicate that the Siltie has got a different origin (Trimingham, 1965; 188; Shack 1966:16; Kairedin, 2012; Aklilu, 2000), and identity markers (Markakis, 1998).

Additionally, studies that are based on empirical data indicate further that the Siltie-Gurage identity dispute had been a continuation of the past and the post 1990s identity struggle was a revivalism of an already existing ethnic group identity that „was suppressed under the wider

Gurage category"(Markakis, 1998; Aklilu, 2000; Braukämper, 2001; Abdulfeta, 2002; Vanguan, 2003; Smith, 2013; Kairedin 2012; 2013). The empirical data also indicate that the Siltie did not categorize themselves with the Gurage and describe their history significantly different from other Gurage groupings. The Siltie disputed over categorization with Gurage and continued the struggle for identity during the *Derg* regime.

The fall of D*erg* regime in Ethiopia coincided with the end of the cold war era, and the inception of a new world order that ushered in most of African countries a demand to institutional and structural reforms that aim at „the right to have a right"(Smith 2013:3). Smith further noted that groups that were left out of the political reforms aspired for greater access to the „goods" of citizenship with an active interest to bring about an application of citizenship, popular participation, and accountability of leaders (ibid.). Smith further underpins that „citizenship has also become the kind of quality of life and development initiatives one could or should expect"(ibid.).

After the demise of the *Derg* regime in 1991, Ethiopia has introduced a new policy called „Ethnic Federalism." Such policy has mainly based itself on a formal decentralization of local and regional administration along the ethnic, linguistic and historical criteria. This policy led to an ethnicization of public discourses filled with cultural revivalism and resulted in the strengthening of ethnic group identities. The Siltie who were categorized among the administrative Zones of Hadiyya, Gurage and the then *Halaba-Kambata* zones felt neglected both economically and politically under the post-*Mengistu* regime. Thus, the urban Siltie, youths, peasants as well as rural self-help organizations initiated an ethnic identity movement called the Siltie movement that lasted from 1991-2001. Its aim was to define their ethnicity and to develop the socio-economic lives of the society. According to Dirk, their first important political goal was „to assert their ethnic unity and to realize equality with neighboring ethnic groups by acquiring their „administrative Zone" (Vaughan, 2003; Dirk, 2011:457; Smith, 2013, Kairedin, 2013).

The Siltie intensified their struggle, and the state took various measures including arrest and intimidation to silence the quest. The Federal and southern regional states provided different mechanisms including conferences to resolve the dispute. One of the major actions the government took was organizing a conference known historically as Butajira conference in

Butajira town. It was held from 30 July-1st August 1997 in which the representatives of the Siltie and the Gurage, contending parties, federal as well as regional government authorities took part in different capacities. The Siltie contested the mechanisms provided by the government that were against the constitution that stipulates that „the exercise of self-determination, including secession would be determined by a referendum of the concerned group and subsequent approval by federal and regional government bodies" (Article 39(4)).

Studies indicate that „both local and regional authorities do not provide any argument or justification to how and why this procedure was not perused in the course of resolving the Siltie-Gurage identity dispute"(Aklilu 2000:67). Aklilu (2000:67) also notes that representatives of the Siltie communities from different districts gathered in Butajira town to decide the status of the Siltie by referendum. The Siltie party, Siltie Peoples Democratic Unity Party (Henceforth SPDUP) had contested both the outcome and the entire process of the resolution and made a formal request to the House of Federation to resolve the question of Siltie as per Article 62 of the constitution. Representatives of Siltie elders and SPDUP had submitted a petition to the House of Federation to review the entire process and provide another mechanism to resolve the dispute on March 25, 1998, and November 7, 1991. The House referred the case to the Council of Constitutional Inquiry (CCI) committee to interpret the constitution as per Article 84(1), and come up with the resolution. Finally, the CCI indicated that the procedures taken by the southern regional government had violated the constitutional right of the Siltie. It was because of this problem that the results of the Butajira conference faced fierce resistance from the people. The CCI underlined further that the procedures and mechanisms used to resolve the inter-ethnic dispute were not carried out in the spirits of Article 39(5) of the Constitution that empowers the Nations, Nationalities, and Peoples of the country to self-administration including secession.

The Constitutional Inquiry Committee recommended that the identity question be resolved by the active involvement of the people who raised the quest. The House of Federation instructed the Southern regional state to facilitate a referendum to settle the identity dispute between the Siltie and the Gurage.

With the failure of various strategies to end an inter-ethnic dispute between the Siltie and the Gurage, a popular referendum had come out as the only mechanism to resolve a decade-long identity struggle. Thus, the Southern regional state arranged a referendum on April 1, 2001,

when the majority of the Siltie took part and decided that the Siltie be an independent ethnic group. Such episode led to the regaining of ethnic and administrative independence of the Siltie, which they lost following the incorporation of Siltie land into Ethiopia under Menilik II forces in 1889 (Yalew 2004:35; Dirk 2011: 457-458). Finally, in June 2001 Siltie Zone was formed. In the inter-ethnic dispute, both state and non-state actors had active involvement, and with this, the Siltie has got the status of ethnic identity and their administrative center in the Federalist Ethiopia.

Following the establishment of the Siltie zone, the Siltie Zone has launched various projects aimed at developing the region and the identity markers of the people. As part of identity formation, Siltie Zone chose the following symbols and events as identity markers. The people have opted for a pink color as a marker of the Siltie symbolizing bright future to the newly born Zone. They have also invested huge money in the Siltie language studies and have decided that the Siltie language be the official working language of the Zone since 2017. However, more importantly, Islam has become one of the major identity markers of the Siltie. Another identity marker which is emerging among the Siltie is peace as an indication of the high value the Siltie accords to dispute settlement. The Siltie's choice of peace and harmony indicates the importance or centrality of local dispute resolution among the people. Moreover, the categorizing of time itself is an indication that the Siltie determines to forge a new form of identity in the contemporary Ethiopia and give their interpretations of the time. All people categorize time based on past episodes they passed through. In contrast to recent Ethiopian history, when all Ethiopians consider 1991 as an inception of a new era, the Siltie have emphasized the period of the struggle to restore their identity and the date the referendum was reached, as well as the post zonal establishment periods as crucial periods in the categorization of time. As they struggled for their identity for a decade after 1991, 2001 has become an important starting point for the people as it heralded the establishment of Siltie zone.

In short, the importance of local dispute settlement has strengthened since the 1990s due to the identity sentiments which in turn boost the legitimacy of local dispute settlers and the customary court. It is observed in different parts of the Siltie that both state and non-state actors consider the local modes of dispute settlement not only an important institution for dispute resolution but also an important identity marker that embodies the identity manifestation of the Siltie.

8.5. Concluding Remarks

In sum, the chapter elucidates that the relation between the Siltie and the state is characterized by contentious and amicable interaction based on the orientations of the regimes to the local realities. The state-Siltie interaction that had worsened since the 1990s following the genesis of Silti-Gurage identity dispute finally culminated with a referendum that laid the foundation for the formation of Siltie Zone. The Siltie-Gurage identity dispute has marked the apogee of Siltie-state confrontation on the quest for self-rule that had started since the late 19th century. It was also a struggle waged for gaining an appropriate resource from the Federal arrangement. Even though the 1995 constitution ushered in a radical departure by introducing decentralization and constitutionally sanctioned pluralism, religious and customary actors are vying for more power and using their agency to appeal to the community.

In sum, the chapter elucidates that the relation between the Siltie community and the state is characterized by contentious and amicable interaction based on the orientations of the regimes to the local realities. The state-Siltie interaction that had worsened since the 1990s following the genesis of Silti-Gurage identity dispute finally culminated with a referendum that to the formation of Siltie Zone. The Siltie-Gurage identity dispute has marked the apogee of Siltie-state confrontation on the quest for self-rule that had started since the late 19th century. It was also a struggle waged for gaining an appropriate resource from the Federal arrangement. Even though the 1995 constitution ushered in a radical departure by introducing decentralization and constitutionally sanctioned pluralism, religious and customary actors are vying for more power and using their agency to appeal to the community. The political interference in the state judiciary has negatively affected the legitimacy of the state legal system on the one hand and played a role for the non-state actors to boost their agency on the other.

CHAPTER NINE

9. DYNAMICS OF PLURAL LEGAL CONSTELLATIONS: RETROSPECT AND PROSPECTS OF LEGAL PLURALISM IN FEDERALIST ETHIOPIA

9.1. Introduction

By extending the Siltie experiences to the legal history of Ethiopia, this chapter presents an overview of the historical trajectories the various legal systems have undergone in Ethiopia, and the changes and continuities the different legal systems have been witnessing in the Siltie area. The chapter examines the challenges the legal systems face and the various mechanisms dispute settlers employ to overcome both internal and external obstacles. More importantly, the chapter links the micro legal realities of the Siltie to the global situations and looks at the strength and limitations of the existing socio-legal and anthropological literature in conceptualizing the notion of legal pluralism, and hints the ways forward for future the socio-legal and anthropological scholarship. The literature and the empirical data presented in this book indicate that one size fits all approach of the positivists' conception of law has given the place for legal pluralism as a means of ending disputes both in the state and non-state scenarios. The chapter finally argues that socio-legal anthropological scholars need to rethink the concept of legal pluralism and bring legal hybridism into the discussion as an emerging legal sphere in contemporary socio-cultural setting.

9.2. Genesis of Legal Pluralism: Processes of Legal Transplantation and Local Responses

It is indicated in the preceding chapters that the state had introduced different mechanisms aimed at supplanting the customary system since the late 19th century. It took the local political and judicial authority away from the Siltie elders, functionaries and thereby restricting their influence in the social life. The central government, for instance, installed the state courts and *Qebele* institutions as an alternative forum of dispute settlement in the area. However, the state could not break down the traditional authority and customary court in its entirety. This is mainly because the local authority is primarily based on kinship which is governed by economic and political relationships (see also Benda-Beckmann 1981:138). Using their agency, local actors are involved

in various dispute cases including murder cases. The data presented in this book indicate that compared to the secular court, the local community has opted elders to end disputes.

Elders use the customary court as a forum to settle disputes, and dispute settlement session has become a major field to generate power at the local level. The elders are thus at the forefront of the struggle for the resurrection of the customary dispute settlement institution due to three major reasons. First, the local dispute resolution has become the only forum that can provide them with the legal basis to take part in the dispute resolution processes. Second, the customary dispute settlement has also become an integral part of local identity. Third, the local dispute resolution has also served elders to generate local power and foster their local legitimacy vis a vis other contending legal systems. It is also observed that local legal actors resort to various local and Islamic belief systems such as religious precepts and state laws to appeal to clients and use them to compete with the state as well as religious courts. Local mediators also consider cases that are referred from different ethnic and religious groups. They handle interfaith and inter-ethnic disputes according to the belief and ethnic background of disputants.

I observed that local dispute settlers mention the weaknesses of other legal systems to attract more clients. A good case in point was how Hajji Awel presented the state legal system's inefficiency to deliver justice to his clients (See more in chapter Seven Case I). Nevertheless, Hajji Awel borrowed some ideas from the state and religious legal systems to handle cases. This shows the flexibility and diversified ways customary court legal actors use to settle disputes on the one hand, and the contestation of power among different legal actors, on the other (Tamanaha 2008:409-410). The incident shows the relevance of state and religious legal norms to carry out „legal activities of non-state legal actors" (Franz von Benda-Beckmann and Keebet Benda-Beckmann 2006:9) who have employed the norms in the local legal court proceedings. This scenario has also brought the possibility of forum shopping and self-image and presentations as one of the factors for attracting clients.

One can also understand that local actors' perceptions of various legal systems are inconsistent with the prescribed and written ways each system depicts its laws. Rather, it seems that it is influenced by their understandings of what is equality, delivering *Haq* or truth and impartial justice and maintaining peace in the society. Hence, actors interpret the law according to what Franz von Benda-Beckmann and Keebet von Benda-Beckmann call, "popular notion of common

sense law" (2006:9) which the Siltie call *Berche* and *Fero.* Thus, even though the state has used the legal transplantation process as one of the instruments of state building process, and tried to supplant the customary courts, they have persisted to this day due mainly to the social legitimacy actors enjoy from the community.

9.2.1. The Prospects of State and Non-State Modes of Dispute Settlement: Legal Pluralism at the Crossroads

Unlike the case during the Imperial and Derg periods when the religious and customary laws had got little concessions in the constitutions (Alula and Getachew, 2008), the 1995 constitution represents a marked improvement and has given space to non-legal systems to settle private disputes. Legal pluralism has been constitutionally endorsed since 1995. Various religious practices have sprouted in Ethiopia following the introduction of freedom of expression and beliefs too. The post-socialist Ethiopia has also seen the reconfiguration of the Ethiopian state into a Federal structure which has further introduced the right to self-determination including establishing state courts by ethnic groups. Such a new system has thus introduced „the formal recognition of expressions of ethnic and religious identities and practices as the basis for democratic state-building," and ethnic-judicial orders have also got legitimacy by the 1995 constitution (Zerihun 2013:148,149).

The state's ambitions to control every aspect of life and the political interferences witnessed in the state legal systems (Baker, 2013) have overshadowed the various socio-economic and cultural achievements Ethiopia has registered since the 1990s on the one hand, and have negatively affected the legitimacy of the state judiciary, on the other. The limited political commitment and the introduction of the developmental state, as well as the state-religion conflict since 2011 have also become one of the challenges religious institutions including Shari'a courts face in the country. The shortages of qualified *Qadi* and declining legitimacy of the Shari'a courts, power contestations from customary court judges as well as criticism from the youth and the subsequent rise of youths' modes of dispute settlements can also be mentioned as some of the challenges the faith-based institutions face this time.

The Sufi shrines and popular Islamic practices have faced criticisms from Islamic reformists (Østebø, 2008; Zerihun 2013:151) who have begun to consider the practices as innovations and illegitimate practices.

The local belief practices, however, continue to persist due partly to the new government's encouragement of „moderate Islam" and the decline of the state judiciary's delivery of justice owing to a number of internal and external factors. The inefficiency of the Shari'a court itself contributes to the revival of the practice of local Islamic practices.

This is an indication of power contestation with in intra-faith legal systems and among legal actors of the different legal systems. The customary legal system has faced challenges not only from the state but also from Islamic reformist movements.

The findings of this study also indicate that against the dominant presence of Islam as a religion in the area, the Shari'a court could not earn more legitimacy than the state and customary courts in the eyes of the community due to internal and external factors[261]. A number of factors can be counted for the decline of the importance of the religious courts. First, my respondents said that they do not consider the Shari'a courts and Islamic council the real Islamic institutions since the courts perform their works as prescribed by the state that formed the institutions. They underline that the courts are not given rights to handle all disputes according to the teachings of the Shari'a. They are not happy on responsibilities the Shari'a courts are mandated by the constitution (e.g. marriage contract). Some informants said that they could conclude marriage contracts at home without necessarily going to the Shari'a court since Islam gives the parties the right to do so on condition that the parties can fulfil the requirements. Second, informants do not believe that *Qadi*s can understand the secular laws since it is important to see the jurisdiction and follow the procedural laws comparatively. The *Qadi* appointment procedure itself is not based on meritocracy, and hence Islamic knowledge is not considered seriously as a prerequisite for appointment to the Shari'a courts. Informants said that the religious leaders who are known by their disciples and have religious knowledge are at home since the state cannot easily manipulate them. Third, some Qadi informants posited that the tribunal is not operating at its full capacity. This is due, among other factors, to the limited constitutional rights accorded to the courts and the inefficiency and inability of *Qadi* rather than the Shari'a law. They underscore that if the *Qadis* were well educated in Shari'a law, they could easily understand that Shari'a gives much right and protects the rights of the Muslim community.

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[261] Interview with Ato Mustafa, an ex-judge, Sheik Kedir, Islamic council leader and Weizero Amina/Pseudo names/, Zone official and Qadis from Silti and Werabe areas in February and March 2015.

The *Qadis* do not believe that their verdicts are binding as the police mostly do not accept their orders to bring the culprit to the court.[262] Additionally, some *Qadis* informants mentioned that Muslims themselves could not resort to the Shari'a court for dispute resolution due to their limited knowledge of Shari'a law. The second reason the *Qadis* mentioned is the influences of young, educated Salafis who mix religious knowledge with secular education and could not respect their institution.

Fourth, the non-existence of translated Shari'a procedural and crime codes is one of the reasons Qadis mentioned that negatively affect the Shari'a court capacity to deliver justice. The *Qadis* state that the legal representatives of the accused advise their clients to go to the state court since they could not get translated Shari'a codes.

Fifth, some informants said that though there are some competent *Qadis* in the Shari'a courts, most of the courts are not working properly due to the limited budget allocation by the government. The courts are not well equipped both materially and in the human resource and this, in turn, hinders the court's effectiveness to fully implement and deliver justice to the community (Appleby, 2008). I have also observed that except the Zone High Shari'a Court other Shari'a courts did not have computers and office equipment. My informants said that this is one of the strategies the state system employs to weaken the Shari'a courts.

Lastly, the emergence of young and educated Muslims who begin to replace the hitherto respected traditional Sheiks in delivering religious knowledge can also be mentioned one of the reasons that negatively affect religious courts. Exploiting the failure of the Shari'a courts and the state judiciary to deliver justice, Muslim-educated youths have capitalized their agency and appear as a viable dispute settlement option for the younger generation. Second, the existence of inefficient *Qadi* helps them also to generate support from the Muslim community. They consider the appointment procedure and state interferences into the religious affairs as a manifestation of the government's hypocrisy to Islam's revival.[263] Art.34 and 78 of the 1995 constitution is quoted as a case show by Muslim youths to indicate the government's reluctance to practically empowering Islamic institutions.

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[262] Interview with Qadi Ahmed/pseudonym/ on August 23/8/2015, Werabe town.
[263] Islamic revivalism is a broad-based social and political movement directed toward internal renewal. It is a response to a widely felt melancholy that has left Muslim societies weak and unable to meet the modern world on their terms (Seid and Fun 2001:15).

Despite the challenges they face, both faith-based dispute settlers and customary court judges consolidate their legitimacy by manoeuvring the limited space they have got in the constitution and the failure of the state and judiciary. According to a report from the Siltie Zone High Court, thirty judges are working in nine First Instance and the Zonal High Courts.

This number seems to be too small to the state court to be able to render justice for more than a million people in the Zone. Thus, these factors help customary court judges, local faith leaders, and young Muslims to strengthen their agency and concretize their legitimacy among the local community. This scenario boosts the legitimacy of actors of faith-based and customary courts vis a vis the state legal systems.

The *Qadis* and the local community informants state also that the Siltie culture is strongly tied to Islam. Thus, they are happy whenever some crimes such as murder and theft that could have been punished with extremity by Shari'a law get settled in the customary court. One of the *Qadis* explained that he resolved a murder case using the Siltie values in the customary court. The state court judges and public prosecutors said that since elders only have constitutional rights to handle minor disputes than crimes, they are working in cooperation with customary court *Ragas* especially on civil matters. They said that the state courts mostly depend on customary courts for those crimes the police cannot prosecute due to lack of access to evidences.

The attorneys also explained that the elders are always important agents in screening out suspects whenever a crime is committed at night and in the absence of witnesses. The legal reality among the Siltie indicates, however, that elders are involved in every form of dispute including homicides. The police, the state prosecutors, and social court actors mention that they employ *Awchachign,* a local form of investigative mechanism to screen out suspects. State agents said, however, that the court sometimes disagrees with local dispute settlers over crime cases the constitution does not empower customary and religious courts to prosecute. I observed that the public prosecutors sometimes did not suspend perusing a legal action on crime cases like murder and theft even if they know that elders have handled the case.

I also observed that even if the state court resolved a homicide case, the perpetrator could not reintegrate into the community unless he/she summons elders to see the case again to enable him/her be cleared of *Berche* and *Fero*. Siltie Zone High Court President said that the tribunal is now in consultation with the justice department, the Zone officials and the police in an attempt to

reduce contestation over cases and enable the state court to reduce caseloads. The discussion also aims at developing a mechanism that can allow elders process murder case, especially car accidents, without the interference or support of the state system. Thus, the Siltie's experiences on legal pluralism is characterized by competition between intra-faith and inter legal systems.

9.3. Rethinking the Concept of Legal Pluralism: More research in the Area

The literature and the empirical dispute cases reviewed in this book indicate that one size fits all approach to the monolithic conception of law has given the place for legal pluralism as a means of ending disputes both in the state and non-state scenarios. Some literature (e.g., Moore, 1978; Tamanaha, 2010) underscore the fact that developed countries have also experienced one or another form of legal pluralism rather than being strictly regulated by the central legal system as perceived before. Although it is usual to hear the demand to revive national laws against the common laws and the re-emergence of nationalism sentiments right from North America to Europe, including the June 23, 2016 Brexit, multiple legal systems also govern countries in the developed world. This is due to the existence of national laws and common organization laws like EU law on the one hand, and the existence of migrants who are moving with their values and norms that demand recognition partly on the contrary. On top of all this, it is also indicated that contemporary legal systems of multinational states like Ethiopia and Mozambique (Santos de Sousa, 2006) are characterized by porosity that lacks a clear judicial boundary, indicating the little significance the notion of the Weberian nation state has in the African countries. Legal actors also take ideas and legal conceptions from different legal and social norms to prosecute cases indicating the emergence of legal hybridization and cross-fertilization in Africa (e.g.Gluckman, 1956; Santos de Sousa, 2000; Lewellen, 2003; Klute and Bellagamba, 2006; Berman, 2012; Santos de Santos, 2006; Cheesman, 2016) and possibly beyond. This cross-referencing and the subsequent development of hybridized legal norms, in turn, enrich the legal perceptions of local actors which boost the legal agency of local legal actors.

Based on the empirical data, it is observed that different actors have developed multiple allegiances to the plural legal systems operating in the area. In this regard, both mediators and disputants have developed multiple allegiances to the plural legal systems as an indication to the existence of forum shopping in the study area. State actors, for instance, are strongly interested in perpetuating the local custom by informally referring cases to the customary legal system as the

latter embodies the culture of the people on one hand, and plays a significant role in reducing the caseloads in the state courts, on the other. Moreover, the state legal actors have also borrowed local norms and values to consider cases on the basis of the dispute cases (e.g., family cases) referred to the courts. And hence, they informally rely on the customary legal systems.

The customary court judges, on the other hand, have developed a good relation with the state legal systems for different reasons. First, the elders use the state legal system's win-lose way of treating cases as a reason to convince the clients of how the customary court is better than the state since the customary court ends in a win-win result. Second, the local mediators also employ the state legal system as instrument to bring back the clients who defy their decisions to the court by verbally frightening disputants and in some instances playing a „role of prosecutor" by providing cases and witnesses to the state courts. This state of affair helps the customary court legal actors to bring the culprits back to the customary court, and if not successful, use the case as a lesson for other cases. Third, in an attempt to resist the blame they face regarding human rights and gender issues that have little place in the customary court, local mediators borrow state legal norms to settle disputes. It is observed this time that women present their cases without *Abotgare* representative. In addition, Shari'a *Qadis* are strong supporters of the local custom since the customary court considers criminal cases that are not allowed for the Shari'a courts. Added to this, the Qadis can take part in the customary court as mediators. They also use the state legal system's procedural laws to settle cases in the religious courts.

On the other hand, the clients of the courts or disputants have used the existence of plural legal system as an opportunity to resort to the court from which they expect a good result. On top of all this, disputants use state laws as a weapon to resist possible abuses in the customary court since the customary court is accused of abusing the right of minorities and is also influenced by bribery. They also rely on the customary court to bring the suspect on some cases like arson, crimes conducted during night time, theft and homicide cases on which the state legal system fails to get evidence. The people also resort to the Shari'a courts for marriage contract cases for which either the state or customary courts lack the authority to conclude based on the teachings of Islam. Thus, disputant actors have also influenced the interactions of legal systems in the area. In addition, the state agents want the existence of plural legal settings to show the results of Federalism the Ethiopian state introduced since 1995. Therefore, the interaction of legal systems

is characterized by cooperation on one hand, and contestation on the other. Due to the complex nature of the legal-reality of the Siltie, we can say that different actors have various interests in the existence of plural legal systems in the area. Therefore, this study points that future socio-legal and anthropological researches should focus on this complex legal reality in contemporary societies to examine the possible factors behind the emergence of a complex and hybridized legal systems. The findings underpin that „legal systems or orders are not internally homogeneous or monolithic as the discourse suggests" (Twinning 2010:483), and hence legal systems are characterized by internal plurality.

The book also pays much attention to the descriptive aspects of legal systems, and contestations among legal actors in the area. On a descriptive level, it should take into account actors other than courts. Otherwise, it would lose, at least partially, its explanatory force. Given this scenario, the legal pluralist theory might be reconsidered by adding other elements into the framework (e.g.by taking the perceptions of local legal actors and disputant parties on legal pluralism). Added to this, socio-legal and legal anthropological literature should also give due attention to the empirical reality vis a vis ideological combats to better frame and develop the concept of legal pluralism. I also believe that Ethiopia's model of constitutionally sanctioned pluralism will provide some useful insights to grasp how complex the relationship between courts and political institutions in the multiethnic states are, and how legal pluralism and legal hybridism have become an empirical reality than myth. Finally, the ambiguous nature of constitutional provisions that could not provide clear legal recognition to the customary and religious institutions has influenced the Ethiopian legal system to grasp the potential roles non-state actors can pay in criminal and other legal areas. Despite this constitutional limits and barriers, non-state legal actors have involved in every case and the state legal system has informally relied on the customary and partly religious legal system to deal with some dispute cases. Thus, Ethiopia's constitutional provisions and its legal system should be revisited to harmonize the religious and customary legal regimes' roles for dispute settlement.

To recapitulate, taking the perceptions of both state and non-state legal actors and further investigating how they deal with conflict cases, this book argues that not only are legal systems plural, but they are also becoming hybridized. And the findings presented in this book will also have contribution to understand how the local community uses various legal regimes to get best

out of prosecutions, 'Strategic Choices' (Tamanaha, 2008), and „ Forum Shopping" Benda-Beckmann, 1971; 1986 and 2006). Taking the growing nature of hybridized character of systems, this book argues that instead of debating whether there is legal pluralism or not in a given social setting or focusing on mapping out what type of complexity should be conceived as „legal pluralism", or asking whether legal pluralism requires the existence of more than one legal order or whether there are various „legal mechanisms"(Benda-Beckmann, 2002), since legal pluralism is everywhere (Merry, 1989; Tamanaha, 2010), we need to rethink the notion of legal pluralism (G. Teubner,1992) and adopt legal hybridization as prospective agenda for socio-legal and anthropological inquiries. This is mainly because a growing number of research works indicate that the conventional differentiations of legal pluralism have recently been reshaped by the emergence of the most complex forms of legal pluralism. This type of complex legal system encompasses customary, religious, national and also global norms that have no clear boundaries amongst legal systems (Merry, 1989; Griffiths Anne 2002; Tamanaha, 2010; Santos de Sousa, 2006; Klute and Bellagamba, 2006; Cheeseman, 2016).

9.4. Concluding Remarks

The chapter indicates that the political interference in the state judiciary has negatively affected the legitimacy of the state legal system on the one hand and played a role for the non-state actors to boost their agency on the other. The Siltie use plural legal systems as the major tool to settle cases, and as an instrument legal instrument to maintain local identity and power. There is also a power struggle between intra-faith dispute settlement which seems a generational conflict between classical Sufi Sheikhs and Salafi-oriented youths. The struggle between religious actors for more freedom to Shari'a courts seems a reflection of the demand of Muslim community for more religious freedom and an indication of the worsening relation between Muslims and the Ethiopian state in the last five or more years. Finally, the chapter argues that existing socio-legal anthropological studies should pay attention to the pluralism natures of intra-legal systems and legal hybridism as an emerging legal reality in both developing and developed countries.

CHAPTER TEN

10. CONCLUSION

This concluding chapter presents an overview of the book and a commentary on the state of the art. It also considers issues such as what substantive questions need to be addressed that have not yet received attention by socio-legal researchers so far.

Based on the reviewed literature and empirical data presented in this book, I can conclude that different regimes starting from Menilik II to Hailesillasie and later the *Derg* failed to recognize customary and Shari'a laws, and suppressed the institutions at various levels in Ethiopia in general and among Siltie in particular. Despite these challenges from various regimes, the customary laws could not die out and continued to operate in hidden ways and resist the interventions by various regimes till now. The customary and religious legal systems have partially got resurgence following the installation of ethnic federalism in Ethiopia since 1990s.The continued existence of non-state dispute settlement institutions, albeit there are various interventions and policy shifts in the country, enjoying legitimacy and durability of social orders indicate the non-state modes of dispute settlements' capacity to deal with the problem of violence. Close inspection of various laws enacted in the country since the 1950s indicates that the legal reforms aimed at constructing the state legal system with its monopoly over other laws. Hence, the constitutional sanctioning of customary and religious laws seems an unfinished project in the contemporary Ethiopia. Following the introduction of what the government calls „developmental democratic state" since 2011 this state of affair has further worsened, for the model gives more power to the state and privileges a unified legal system than pluralism as an instrument to bring socio-economic development in the country. And hence, customary and religious laws cannot enjoy equal status even as the constitution gives some concessions to them. Nevertheless, one of the aspects of legal pluralism among the Siltie is that the customary and Shari'a courts are not functioning or operating based on constitutional stipulations. For instance, they consider criminal cases that are in principle not within their jurisdiction.

Hence, it is evident from the data that close inspection of legal pluralism among Silties also indicates that the customary laws handle cases more than what the 1995 constitution prescribes for them, and are playing a significant role in maintaining order.

The reviewed cases and perceptions of dispute settlers also indicate that the state is encroaching on the judiciary in a number of ways including political interferences. On top of all that, it is observed that the customary and religious laws have been applied in day-to-day life more than the state laws. Nevertheless, dispute settlers have developed new forms of legal perceptions according to which there is no clear boundary between the legal systems. Legal actors take ideas and values from different jurisdictions to consider dispute cases specially, the state court judges' decisions regarding family cases also incorporate elements of customary laws, indicating the emergence of „a process of cross-fertilization or hybridization of legal norms „(Santos de Sousa2006:36) in the area. The interaction among legal systems is mutually reinforcing in that „rules in one system are shaped by and are shaping those in another" (Griffiths 1998:134).

It is also worth recalling that religious ideas and values are the most important factors the Siltie dispute settlers employ to potentially avoid conflict and to build peace in the local community. Popular Islamic practices including the Sheiks' shrines and *Mawlids* have revived since 1990s as places of social solidarity and centers of dispute settlements. However, it is clearly observed that there is a generational conflict between the traditional *Meshayiks* and the young, active and educated Imams. Sharia courts have also faced challenges from the constitution, the state actors, the state court judges, and the community. The *Raga*s and other traditional authorities have the traditional legitimacy to rule the customary and religious courts. The cases in this book indicate that these non-state actors act as standard setters in the area, and consider the mediation services they deliver as instruments of peace. Taking the roles customary law plays to regulate the interactions of members of the community, one can say that it has elements of law as non-state law (Gillissen, 1971). There are also instances of pluralism within the customary, state and Sharia laws; hence, they are characterized by „pluralism of pluralism" (Tamanaha, 2010). It is explained in this book that western legal traditions are deeply rooted in the interpretation and application of written codes and decisions, while the customary laws such as that of the Siltie are not codified and are thus amenable to interpretations. The customary laws are also adaptable and flexible to changing circumstances since they are deeply rooted in oral traditions.

They also empower legitimate stakeholders of the conflict (the offender, the victim and their families) to control the dispute and come in to terms by avoiding revenges.

Despite these advantages, there are inherent limitations in customary laws as far as they remain unwritten. One prominent example is that they could not guarantee protection of human rights and minorities' rights (Pimetel 2010:19) as the customary law is mainly framed with patriarchal mindset. Decisions are not predictable in the realm of customary courts, and there are no clear-cut preambles for substantive rules. An elder can criticize another one for the fact that the latter is not good in procedural rules and in passing verdicts on the basis of Siltie strict traditions and norms. This is also an effective way to compete for power among contending elders. However, these days, it seems that those elders who have given due attention to Islamic ideas, rules, and traditions are getting prestige and recognition among the younger generation than those sticking to Siltie traditions. Accordingly, codification may be a necessary precursor to meaningful appellate review. Codification, however, has other costs to the system, and to the concept of legal pluralism, and should not be pursued without at least considering the compelling advantages of an oral legal tradition, which is flexible and highly adaptable when compared to written law. It is also noted that a number of elders have begun to collect bribe from one side and decide accordingly, indicating the development of bribery and monetizing the system rather than abiding by local values and norms. Exploiting the legal vacuum brought about by the legitimacy crisis of the state and religious legal systems, non-state legal actors, mainly customary court judges who use hybridized legal concepts to end disputes, maneuver and appeal to the community which in turn helps them boost their legal agencies. The analyzed empirical data also indicate that dispute settlers employ customary law as a restorative justice to bring the culprit back into societal life by normalizing the parties in dispute. However, the customary law violates the suspects' rights of presumption of innocence since the customary court considers the accused as the perpetrator by not considering him or her innocent before the final verdict, unlike the state and Shari'a courts.

The dispute cases and the empirical data reviewed in this book indicate further that elders handle quite a large number of cases vis a vis other legal actors. It is, however, stated that state officials try to politicize their relations with the traditional authorities like local religious leaders mainly during the Siltie's identity struggle period between 1991 and 2001.

At the same time, some chiefs and other local dispute settlers demonstrate the tendency that they can strengthen their agency and authority by offering their allegiance to, and secure the endorsement of the ruling party. Here is a prime example of how legal pluralism has been exploited on all sides for political gains. In this regard, traditional authority is preserved nominally, but it is reinvented to reflect the interests of the modern state as the federal state exploits it for its interest than the local community since the ruling party is shoring up its political base at the grassroots level. In addition, it seems that elders and local religious leaders have their interests in perpetuating legal pluralism because it will help them gain legitimacy via the patriarchal relationships. In this way, the mediation processes will help local dispute settlers accumulate power and social leverages (Klute and Embalo, 2011).

Thus, the recommended approach for Ethiopia should be driven by higher principles and purposes, and by the desire to avoid the exploitation of legal pluralism for purposes of oppression or political or personal gain as we are now witnessing more often. Accordingly, the linkages among legal systems should be established in a way that recognizes and respects the traditional culture and custom. This state of affair can limit the potential for such traditions to violate the fundamental human rights of women, ethnic or political minorities, or other persons or groups. It can also foster the establishment of the rule of law. The cases examined in this study indicate that dispute settlers use disputes as shopping fora for their political ends. Local dispute settlers are proud to be called everywhere to resolve conflicts and use it as an important channel to consolidate power dividends. Thus, power is contested in the local arena, and disputes serve as sources of local power for mediators. The Ragas' decisions are considered as an arena that boosts the bargaining power of the elders.

The executive-judicial relationship is not clearly demarcated at the grassroots level even if outlined candidly in the 1995 constitution. Taking Siltie's case as an example, it seems that Ethiopia's experience on legal pluralism does not emanate from the normative commitment to the existence of legal pluralism. Rather, the legal reality in contemporary Ethiopia can be explained as a temporary accommodation in the process of legal re-centralization. The book argues that the type of pluralism the type of pluralism witnessed in Ethiopia can be explained as "superior state approach to legal pluralism" (Pimetel, 2010).

The approach is characterized by the existence of a „power centric system"(Bohannan 1965:39), whereby the constitution recognizes the validity and existence of the non-state institution, yet the state legal system supersedes the religious and customary laws in various ways. In this regard, the constitutions recognize the validity of the customary law and customary courts non-state institution but, the superiority of the state institutions is often assumed, and hence the state institutions always trump the non-state legal ones. Finally, I argue that Siltie customary law serves as one of the identity markers of the Siltie people. It is thus not only the law of the state that constructs meaning but religious law, local normative orders, and customary law can also generate their version of identity (Griffiths Anne 2002:310). The book finally argues that the recent recovery of local modes of dispute settlement is linked to the revitalization of ethnic sentiments and identity formation processes the Siltie have been undergoing since the 1990s

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Lists of Key Informants

No.	Name	Age	Wereda	Status	Remarks
1	Girazmach Hussein Bussera	68	Dalocha	clan leader	He was nominated as leader of Siltie elders' council
2	Gerad Awel Ahmed	65	Silti	*Mauta* Leader, and known informant in the area who died in August 2014	Died in August 2014
3	Hajji Awel Hassan	69	Enseno Town, Gurage Zone	a *Raga* who presides over dispute cases on Sunday	
4	Ato Kaire Sule	49	Lanfuro Wereda	an important informant on Siltie history and customary system	
5	Hajji Mifta Siraj	62	Werabe	Siltie Zone Sharia High Court Judge	
6	Abdulwaris Redi	49	Werabe	An elder and Siltie Musician	
7	Ato Akmel Ahmedin		Werabe	Siltie Zone High Court President	He is very cooperative to give information on the status of state courts and their interactions with the customary and religious courts
8	Ato Nesre Issa	39	Werabe	Ex-Siltie Zone High Court judge, and now a religious affairs high expert in the Zone.	
9	Hajji Mohammed Sheik Kelil	64	Silti Werda, Werabe	Siltie Zone Islamic Affair President, and customary court judge	
10	Azma Jabir Hussein	73	Lanfuro Wereda	Abalcho clan leader and customary court judge	
11	Gerad KedirTeka	65	Sankura	Dispute settler	
12	Hajji Arga Nurya	67	Hulbareg	Head of *Melga* community and in important customary	

				court judge in Hulbareg area	
13	Ato Dilebo Gebre	62	Alicho Wuriro	An important customary court judge, and has developed good relation with the state	
14	Sheik Abdurrahman Shewajjo	60	Dalocha	local dispute settler and member of Zone council	
15	Sheik Muze Seid	60	Worabe	religious leader and dispute settler	
16	Hajji Temam Imam Surur	68	Alicho-Wuriro	local dispute settler	
17	Ato Detemo Desalegn	51	Lanfuro Wereda	elder and secretary of *Abalcho* clan court	
18	Hajji WerkichoYesuf	82	Hulbareg	local dispute settler	
19	Ato Nuri Teremo	78	Silti	local dispute settler	
20	Abdurezak Said	39	Werabe	ex-judge in the state court and now a legal representative/Attorney	
21	Ato Bahru Jemal	38	Worabe	key informant on religious dynamisms in the area	
22	Rukia Kedir	40	Silti	female key informant	
23	*Hajji Kemal Barsebo*	62	Silti	Elder	
24	Ato Mohammed Hussein	44	Silti	he is also well known informant about the history and local system of the people	
25	Hajji Nuriye Hamdino	63	Alicho Wuriro wereda	he has rich knowledge about the local system of the Siltie	
26	Gerad Kedir Ahmed	70	Silti	clan Leader	
27	Rewda Abdella	38	Dalocha	female key informant	

28	Rukia Kemal	36	Hulbareg	female key informant	
29	Ato Mohammed Ahmed	38	Werabe	zonal police staff	
3o	Ato Hamid Azma Hassan	55	Silti	local dispute settler	
32	Ato Jemal Adem	46	Addis Ababa	businessman	
33	Ato Kedir Lalega,	35	Dalocha	wereda official	
34	Ato Mustafa Kedir	52	Werabe	ex-state court judge, and public prosecutor	
35	Engineer Temam Zeyine	48	Werabe	local investor and has good knowledge on customary law	
36	Hajji Nasir Mohammed	72	Mierab Azernet	local dispute settler	
37	Hajji Keresema	69	Lanfuro	clan leader and dispute settler	
38	Ato Alewi Nuri	50	Werabe	a former head of Zone security department	

39	Weizero Aysha Balengo	45	Alicho-Wuriro	a women group leader at local level administration in development leagues Alicho Wuriro	
40	Ato Mohammed Yesuf	45	Werabe	former zone official	

Appendices

Appendix I. Primary Sources

Recorded and Transcribed Interviews in chronological orders[264]

2 April 2012   Focus Group discussion with Ato Dilebo Gebre, Ato Kairedin Azma Hussein, Hajji Abdurrahman Shewajjo, Hajji Hussein Barsebo in Werabe Town.

23 July, 2014   Interview with Raga Kedir court and the court attendants in Dalocha Town. I observed at the court that women took part while presenting their cases. I also understand that women are shy in the state court and passed the case to legal representatives than talking themselves.

29 August 2014   Interview with members of the local community, Sheik Mohammed Kelil, Hajji Hamid Hassan about the Arsema Church land dispute in Werabe Town.

31 August 2014   Interview and observation at Werabe Maga court that was hearing death case due to a car accident in Werabe Town. He was puzzled by the interference of the zone public prosecutor who applauded the driver while elders were dealing with the case. Most of the time elders are allowed to settle car accident cases as the crime cases are not considered as intentional.

12 September 2014   Interview with Sheik Muze Seid, Ato Dilebo Gebre on Jemila' murder case in Werabe Town.

26 September 2014   Observation and interview at *Magas*' court while considering car accident case in Werabe Town.

18 October 2014   Ato Dilebo Gebre, Hajji Mohammed Sheik Kelil in Werabe Town

4 January 2015.   Interview with Azma Jabir and field observation of inter-clan meeting in Sesso Qebele, Lanfuro Wereda.

Recorded Dispute Settlement Sessions[265]

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[264] This part contains those interviews and observations that have been collected and transcribed for the purpose of the research result in this dissertation. I collected and transcribed the empirical data from Siltie and Amharic languages with the help of my field assistant Jamal Mohammed. The interview also contained field data from my earlier works since 2012, and later modified during my stay in the field.

14 September 2014   Video record of an abandoned and thorny fenced house after the son of

the owner of the house killed his ankle's son Agode Qebele Siltie Wereda

15 September 2014   video and audio record about Wurkefena process for car accident case,

Hulbareg Wereda

21 September 2014   Video s and audio tape recordings of the Wurkefena process aimed to

settle car accident case that claimed the life of 11 years child in Werabe.

5 October 2014   video and audio recordings of Hajji Awel's court where Hajji Mohammed

Kelil presenting Maga's decision on car accident case that involved death.

4 January 2015   my observation on inter clan Abalcho court sessions on January *Seso
Qebele, Lanfuro*.

8 February 2015   Audio and video recordings of the customary court where Sheik
Mohammed while involved in the settlement of homicide case led to the
death of Indris in Agode Qebele, Silti Wereda

5 February 2015   Video and audio recorded scripts at Hajji Awel's court I observed how
disputants like Ato Mussema Idris (Husband of the victim), local elder such
as Sheik Mohammed Sheik Kelil, Abdurrahman Mussa (the driver who was
responsible for the accident) interacted each other and with *Raga* Awel.

10 December 2015 Videos of the customary court sessions, observations of dispute settlement

at *Datewezir* Qebele(Jemila's case).

20 December 2015 My observation on the local community's protest on state justice

system (Jemila's case) and my observations of the customary court sessions

as well as gossips in Werabe Town .

24 April 2015   Video and audio recording Interview with Azma Jabir Hussein, 64, in Mitto
Town, Lanfuro Wereda.
May 3, 2015   Video recordings of the customary court where elders from the various area

gathered in the house of the brother of Ete Jemila to end the

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[265] This part contains video and tape recordings of the customary and religious courts as well as relevant data from Ethiopian and China Televisions from August 2014 to February 2017.

homicide case in Datewezir Qebele , Hulbareg Wereda.

7 June 2015   Video and audio recordings of dispute settlement session at Raga Awel
                  court while settling domestic violence case , Enseno Town.

23 September 2015 Video recordings of customary court session in Hulbareg Wereda

10 January 2015   Interview with Ato Mohammed nur Rameto , ex-head of the Office on the

                  interactions between state and non-state actors, specially about cases

                  referred to Good Governance and Appeal office

5 April 2015   Interview with Hajji Temam Surur and observation of Alicho-Wuriro court.

24 April 2015   Interview with Azma Jabir Hussein, 64, in Mitto Town

26 April 2015   FGD Interview with elders.

16 June 2015   Interview with customary court judges and observation of *Magas* while

                  hearing murder case at Burda level Alicho-Wuriro Wereda.

20 June 2015   Interview with Ato Mohammed Yusuf, a former head of Siltie zone culture,

                  tourism and communication department, Werabe Town .

26 June 2015   Weizero Aysha Balengo, a woman local leader at local level administration in

                  Women's development leagues Alicho Wuriro.

July 25 2015   Interview with *Shiek Ahmed Kelil, Hajji Kedir* Abdela, *Imam Hussein Kedir*
                  and *Ato Bahredin Adem* who were key figures in their communities in various
                  Weredas.

1- 7 September 2015 Interview with *Raga Hajji Awe*l, age 65, in Enseno Town. I attended the

                  court session several times to observe how cases are settled.

                  I also followed dispute cases from *Agode Qebele Maga* to *Hajji*

                  Awel's appellate court several times to observe how cases are settled in a

more concrete ways.

16 November 2015   Interview with Priest Awegechew, head of Orthodox Christians in Siltie Zone

10 December 2015   Interview with Sheik Muze Seid, Aman (Aba Fedlu), Dilebo Gebre, Hajji

Nasir Siraj, 70.

16 December 2015 Interview with Hajji Mohammed Sheik Kelil, 64, a Maga and President of Siltie Zone Islamic Council on 16 December 2015 Werabe. I accompanied Hajji Mohammed to different customary court sessions to observe how he settles disputes since August 2014 for more than two years.

20 December 2015   Interview with customary court judge on in *Enseno* Town, Hajji Awel's

court, and field observation of the court's session.

25 December 2015   *Raga Lalu's* Customary Court Session in Udasa Qebele Silti Wereda

26 December 2015 Engineer Temam a Siltie local investor and known for his cultural

knowledge specially about lowland Siltie Werabe.

28 December 2015 Interview with disputants and Hajji Mohammed Kelil at local elders

meeting in *Agode Qebele.*

30 December 2015 Interviews with Ato *Alewi Nuri* and other state representatives while

discussing with various individuals about the significances of elders for the

justice sector Werabe town .

7 January 2016   Interview with Ato Akmel Ahmedin, Siltie Zone High court President in

Werabe Town.

25 October 2016   Interview with Ato Bahru Jamal, a lecturer/anonymous name) Mirab Azernet

area.

11 December 2016   ,Interview with Ato Ahmed, Zone official and has worked with elders on

local security and dispute issues for a long period of time, Werabe

01 January 2017   Interview with Hajji Mohamed, a local elder who was involved with
            Church land dispute.

27 January 2017   Interview with Priest Awegechew about the Church land dispute case

            (Interview held in Werabe).

1 February 2017   Interview with Ato Seid Seman, head of Siltie Zone Investment office on

            (Interview held in Werabe).

9 February 2017   Interview with Ato *Darunga Desta*, a local dispute settler who was the

            head of Christian disputants in 2012 Inter -faith dispute on.(Interview held

            in at *Garore)* And field observation of the disputed land.

Recorded Tape and Television programs

30 December 2011   YouTube video Uploaded on Dec 30, 2011 „Ethiopian Silte Zone
                Christians cry for Justice", accessed 11 April, 2017.

07-08 March 2012   Ethiopian Television News on the disputed church land case

20 February 2015   Ethiopian Television news Amharic program, a six months' report
                from the Ministry of Transport at 10:21 pm, and 8:06 pm news

30 April 2016   "Seifu Show", EBS TV. Advertizing the Arsema church
                inauguration

7 May 2016   „Seifu Show", EBS TV at 9:25 pm (Church inauguration addressing the
            burnt church in Siltie)

30 November 2016   China Television News (CC TV) on the African Union's recommendation
                of elders to resolve South Sudan's crisis;-" AU targets traditional leaders'
                involvement in restoring peace in South Sudan" at 8:25.

O1 January 2017   EBC News on Peace and Development Center:-Peace and Development
            Center has been set up by the government. It has mentioned that elders
            and religious figures are important figures to tackle conflicts and bring
            lasting peace in the country. Elders and religious leaders gathered at the
            center on 2 January, 2017 at the center to discuss the roles of elders and
            religious leader for local and national peace as well as development. It is
            said that the major reason behind the peaceful existence of Ethiopians is

the roles of elders and religious leaders who have been playing a crucial role to keep social order at the grassroots level (at 8:15)

Appendix II State court and Sharia court Resolutions

Appendix 2.1. Siltie Zone Public Prosecutor's law suit on Hajji Kedir's Murder case

በደ/ብ/ብ/ሀ/ክ/ መንግስት የስልጤ ዞን ፍትህ መምሪያ
S.N.N.P.R State Siltie Zone Justice Department

ቁጥር _____
ቀን _____
የመ/ህግ መ/ቁ _____

ለስልጤ ዞን ከፍተኛ ፍ/ቤት

ወራቤ፤

ከሳሽ . . . . የስልጤ ዞን ክስ አስተዳደር ዐቃቤ ሀግ

ተከሳሽ. . . . ███████████████████████████████
███████████

በወ/መ/ስ/ስ/ህ/ቁ 119 መሰረት ተሻሽሎ የቀረበ ክስ፤

ክስ 1

ወንጀሉ

የኢ.ፌ.ዴ.ሪ የወንጀል ሀግ አንቀጽ 539(1)(ሀ)ን ተላልፎ መገኘት

የወንጀሉ ዝርዝር፤

ተከሳሽ ሰውን ለመግደል አስቦ ሚያዝያ 28 ቀን 2006 ዓ.ም በግምት ከሊሊቱ 8:00 ሰዓት በሚሆንበት ጊዜ በሁልባረግ ወረዳ ዳጤ ወዚር ስድስት ቀ/ገ/ማህበር ውስጥ ልዩ ስሙ አገና ተብሎ በሚጠራውመንደር ሚች ባለቤታ፤ ███████ከሁለተኛ ሚስታቸው ወ/ሮ ፎ███████ጋር አብረው ወደ ሚኖሩበት መኖሪያ ቤት በእንግድነት ከሄደች በኋላ ሚች ሀ███████እኔን ረስቶሻል፤ የት አልሽ ብሎ አይጠይቀኝም፤ እንጪት አስፈልጠሀ ወደምናርበት ወራቢ ከተማ ላክልኝ ብለውም አልላከልኝም እንዲሁም በእንግድነት በሄድኩበት ቀን ጋቢ ስጠይቅ እንዲሰጠን አላደረገም በሚል ምክንያት ቂም በመያዝ ሚችም ሆነ ሁለተኛ ባለቤታቸው መተኛታቸውን ካረጋገጠ በኋላ ቤቱ ውስጥ ተቀምጦ በነበረ ስለት ያለው የብረት መጥረቢያ በማንሳት ጭንቅ በተሞላበት ሁኔታ ሚች ሀጂ ጎ██ ሆስንን የግራ ፊታቸውን የታችኛውን ክፍል አስክ እንጉቶቸው ድረስ ደጋግመው በመምታት፤ የደም ስራቸውን እንዲቆረጥ በማድረግ፤ ከግራ ፊታቸው

እስክ ግራ ጆራቸው ያለው አጥንት እንዲሰበር በማድረግ፤ የቀኝ ክንጻቸውን በመምታት በመስበሩ እንዲሁም የቀኝ ጆርባቸውን በመጥረቢያው በመምታት የህብስ ሰረሰር /አክርካሪ/ አጥንት እንዲሰበር በማድረግ አስቃቂ ነውረኛና ጭካኔ በተሞላበት ሁኔታ ሚችን ቆራርጣ የገደለቻቸው በመሆኑ በፈፀመችው ከባድ የሰው ግድያ ወንጀል ተከሳለች፡፡

ክስ 2

ወንጀሉ

የኢ.ፌ.ዴ.ሪ የወንጀል ህግ አንቀጽ 27(1) እና 539(1) (ሀ) የተደነገገውን ተላልፎ መገኘት

የወንጀሉ ዝርዝር፤

ተከሳሿ ሰውን ለመግደል በማሰብ በክስ 1 በተጠቀሰው ጊዜና ቦታ የሟች ሁለተኛ ሚስት የሆነችውን ወ/ሮ ◼◼◼◼◼ በያዘችው መጥረቢያ ጭካኔ በተሞላበት ሁኔታ ጭንቅላቷን የግራ ትክሻዋን እንዲሁም የቀኝ አንገቷን በመምታት እንዲቆረጥ ያደረገች ሲሆን የግል ተበዳይ ህይወቷን ለማትረፍ የመጥረቢያውን አንድ ጭፋ በመያዝ የድረሱልኝ ጩኸት ስታሰማ የደረሱ ሰዎች ህይወቷ እንዲተርፍ ያደረገ በመሆኑ በፈፀመችው ከባድ የሰው ግድያ ሙከራ ወንጀል ተከሳለች፡፡

የማስረጃ ዝርዝር

ሀ/ የሰው ማስረጃ

1. ፈትያ አስራር ጠቀሎ
2. ድልሰቦ መሀመድ አምዳ
3. ከማል ድልሰቦ መሀመድ
4. ነስሬ ረዲ የሰፋ የሁሉም አድራሻ ሁልባራግ ወረዳ ዳዉ ወዞር 6 ነው፡፡

ለ/ የሰነድ ማስረጃ

1. ተከሳሿ በ29/08/06 በሁልባረግ ወረዳ ፖሊስ ቀርባ በ(መ/መ/ስ/ስ/ህ/ቁ 27 መሰረት የሰጠችው የእምነት ቃል 03 ገጽ ኮፒ፤
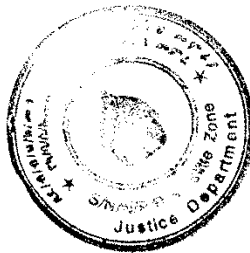2. ተከሳሿ ሚያዝያ 29 ቀን 2006 ዓ.ም በመ/ቁ 03037 ሁልባራግ ወረዳ ፍ/ቤት በ(መ/መ/ስ/ስ/ህ/ቁ 35 መሰረት ቀርባ የሰጠችው የእምነት ቃል 02 ገጽ ኮፒ፤

፪

3. ከዳግማሚ ሚኒልክ ሆስፒታል በቁጥር 8/50/44/2006 በቀን 4/10/2006 የተጻፈ የሟች ህ/አወል የአስክሬን ምርመራው ውጤት በአማርኛና በእንግሊዝኛ የተዘጋጀ 02 ገፅ ኮፒ

4. ከቡታጆራ ሆስፒታል በቁጥር 021537/06 በቀን 02/11/06 የተፃፈ የወ/ሮ ፈቲያ አስራርን ጉዳት የሚያሳይ የህክምና ማስረጃ 01 ገጽ ኮፒ

ሐ/ የኤግዚቢት ማስረጃ

ተከሳሽ ሟች ▮▮▮▮▮▮▮ የገደለችበትና የግል ተብዳይ ወ/ሮ ▮▮▮▮▮▮▮ ላይ ጉዳት ያደረሰችበት መጥረቢያ በኤግዚቢትነት በስልጣኔ ዞን ፖሊስ ኤግዚቢት ክፍል ይገኛል። በተፈለገ ጊዜ በችሎት ይቀርባል።

መግለጫ፦ ተከሳሽ በወራቢ ማረሚያ ትገኛለች።

የውለሰው ይትባረክ ከሀሊ
Yewulsew Yitbarek Kehali

በታቢ ህን

Appendix 2.2. Siltie Zone High court decision on Hajji Kedir's case

በደቡብ ብሔሮች ብሔረሰቦችና ሕዝቦች ክልል መንግሥት
የስልጤ ዞን ከፍተኛ ፍርድ ቤት

ገፅ 21
የመ/ቁ 10598
20/11/ቀን 2006 ዓ.ም

[illegible] [redacted] [redacted] [illegible]

Appendix 2.3.Public Prosecutors lawsuit on Bedria's Car accident Case

አዝርቶ በመምባቱ እና አሁኖች በሬታ ስለነበር ማጌን ማዳን ከአቅሙ በላይ መሆኑን የገለጸ
ቢ,ሃን እውነታት የሉውም ምክንያቱም በወንጀል ህግ አንቀጽ 75 ላይ እንደተመለከተው
እደጋውን በሌላ መንገድ ለማስወገድ ያልሞቻል ላይሆን በወቅቱ በአፍታቺ ፍጥነት በማሽከርከሩ
መኪናውን በተላሉ ሊቆጣጠር በመቻሉ የደረስ አደጋ ነው በመሆኑ ተከሳሽ የሰጠው ቃል
አግባብነት ያለው አይደለም ፡፡

የተረበውን አንድ **መከላከያ ምስክር** በተመለከተ የሰጠው የምስክርነት ቃል ተከሳሽን
ነጻ ለማድረግ ያስብ እንጂ ለጉዳዩ ቅርበት ፍሮት አይደለም ምክንያቱም ተከሳሽ እራሱ ያመነውን
እውነት እንዲ,ን ማቺ በአሁ ተገፋታ እንጂ በመኪናው ያለተገጨች መሆኑ በመመስከሩ
ከተከሳሽ ቃል እርስ በእርስ ይ,ጋጫል ከዚህም በተጨማሪ ከግራ በኩል ኤናኤለር መኪና ረጅም
በማነራት እና አይናቸው የነበር በመሆኑ ወደ መኪናው በኩል ብንዲድ ብዙ ሰው ስለማያለት
አህየውን መግጨቱ ብቻ አማራጭ ነው ቢልም ከእውነት የራቀ ነው ምክንያቱም አንደኛ
መኪናው ሆኖ አሁ ቺ በግራ በኩል ዝር ብሎ ሳለ በሁለቱም አቅጣጫ ምርጫ እንደሰላ
ማድረጉ { መቀጠሩ } አላግባብ ነው ፡፡ ይልቁኑ ከፊት ለፊት ረጅም አብርቶ ለመጣው መኪና
አይ,ታንም ስለማቀተነስ ዋ,ምር ፍጥነቱን በመቀነስ ጥንቃቄ ማድረግ ሲገባው ለአደጋው
እንደማከፃቹ መቀጠሩ አግባብ አይደለም ፡፡ በአጠቃላይ የተጠቃነውን ሰው ለማትረፍ ማቺን
/አሁየዋን መግጨ,ታቸን አስገዳጅ ሁኔታ ነው ለማለት የተሞከረ በወንጀል ህግ አንቀጽ 75 ስር
የማይሸፈን ነው በመሆኑም የተረቡት መከላከያ ምስክሮች የቀረቡትን ሁለት ክሶች እና ማስረጃ
ያላስተባበለ በመሆኑ ይከላከል በተባለበት የህግ ድ,ጋጌው የጥፋተኝነት ውሳኔ እንዲሰጥበት
እንጠይቃን ፡፡

በደቡብ ብሔሮች ብሔረሰቦችና ሕዝቦች ክልል መንግሥት
የስልጤ ዞን ከፍተኛ ፍርድ ቤት

Appendix 2.5. Elders' contract paper submitted to Siltie Zone High court.

1

የእርቅ ስምምነት ውል

ተዋዋይ ወገኖች

1. አብዱረህማን ሙሳ   ከሣ ሰጪዎች
2. አወል ሁሴን
3. ሙስጣ አድሪስ   ከሣ ተቀባይ

አስታራቂ ሽማግሌዎች

1. አቶ መሀመድ እሊ.ሪ
2. አብጋዝ ሁሴን ኢባዶ
3. አቶ ሰይድ ላሉ
4. አህመድ ሁሴን
5. ባህሩ ሹውሞሉ
6. ሰይድ ዲነቶ

የእርቅ ስምምነት ውል ይዘት

1. ንብረትነቱ የ2ተኛ ተዋዋይ የሆነው እንዲሁም ስልጢ ወረዳ አንዴ በሎሙበራ ውስጥ በሚመነባስ መኪና ሚቸ ወ/ሮ በድሪያ ባሙድ አህመድ ተገዥታ ህይወቷ በማለፍ እና በንብረት ላይ ጉዳት በማድረሱ ችግሩ በአጋጣሚ የተፈጠረ በመሆኑ ችግሩ በሽማግሌ በሚገባ ታይቶ ግራ ቀኙን በነፃነት አስማምተን በተነጋ ቤተሰብ ለቀsiv ይችላል ያልነውን እንዲከፍል አስማምተን ካላ ሰጪዎች ይሁንን ገንዘብ ወዲያውኑ ፈቅደው ለተነጋ ቤተሰብ ሽማግሌዎች ባሉበት አስረክበዋል::

2. ወይም የተፈጠረው ድንገተኛ ችግር ለተዋዋይ ወገኖች ሙሉ ፍቃድና በአስታራቂ ሽማግሌዎች ድጋፍ ግምmር ከላይ በተዘረዘረው መልኩ በእርቅ ያለቀ በመሆኑ የሚቸ ቤተሰቦች ወደፊት ከባልንበረቱ ላይ ምንም የሚፈልግት ነገር የሌለ እና ጉዳያቸውንም በሽማግሌ ያለቀ መሆኑን ተስማምተናል::

3. ይህ የእርቅ ውጤት ለግራ ቀኙ ወገን ለሚመለከተው አካል ሁሉ በኮፒ እንዲደርሳቸው ተስማምተናል::

የተዋዋዮች ስምና ፈርማ		የአስታራቂ ሽማግሌዎች ስምና ፈርማ	
1.		1. ――― ፈርማ―――	
2. ――― ፈርማ―――		2. ――― ፈርማ―――	
3. ――― ፈርማ―――		3. ――― ፈርማ―――	
		4. ――― ፈርማ―――	
		5. ――― ፈርማ―――	
		6. ――― ፈርማ―――	

Appendix 2.6. Shari'a court's decision on Divorce Case
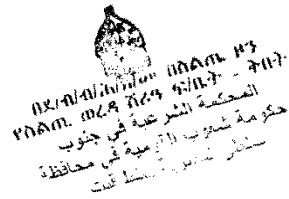
የኢ/ብ/ብ/ሔራዊ ... ... ትቤት
የኢፌ/ብ/ሔራዊ የሸሪዓ ፍ/ቤት
የኢስላ... ወረዳ ሸሪዓ ፍ/ቤ...

መ/ቁ ፀ01808
ቀን 24/9/07

ዳኛ ዘዲ ስሬድ ሸፊፍ

አመልካቾች 1ኛ [redacted]

2ኛ ወ [redacted]

መዝገቡ ተቀጥሮ የነበረው መርምሮ ውሳኔ ለመስጠት ነው።

ውሳኔ

አመልካቾች በቀን 24/9/07 ዓ.ም ጽፈው ባቀረቡት አቤቱታቸው መነሻ በማድረግ ነው አመልካቾች በስሙ ወረዳ በቀዳት በ1 ቀበሌ በእስልምናና ስም'ነት መሠረት በ2002 ዓ.ም ጋብቻ ፈጽመን እስካሁን ድረስ አብረን ቆይተናል በቆይታችን ዝሪ እስካሁን ድረስ በጅም ሆነ ንብረት በማፍራት አስቻይ... ... ... ከልሠሠውበዳቸን ምክንያት ጋብቻችንን ለማፍረስ በቀን 23/9/07 ዓ.ም ተስማምተን ማፍረስ የሚገባው አካል አፍረስታ... እኔም ወሲያት ሁሌን ጋብቻው እንዲፈርስ ተስማምቻ ተቀብያለሁ መብቴንም በሸሪዓ ህግ መሠረት መህሬን እና ውተዕዩን ቁርአን ባስዉ መሠረት የመህሬን 5000/አም... ... ... በመሆኑ ደሀንን ፍቺ ሸሪዓ ፍ/ቤት እንዲያዐድቀብን ወደ ሸሪዓ ፍ/ቤት አቀርበበሉ የየፈው ... በዐለት እንዲሆናቸው አመልካቾች ጠይቀዋል።

ስለዚ ሸሪዓ ፍ/ቤትም የግራ ቀኝን አቤታ ... ... በጋ የአመልካቾቸን ሃሳባቸውን እንዲሰጣጡ በቁርአን ... 4 እንቀ፰ 35 መሠረት ሁስ...ፈ/የስቅ ስምምነት/ለማድረግ ተገቢውን ሁሉ ቢያደርግም ሃሳባቸው ስመቀየየና ታቀ... በ3ዐቻ አብረው ለመ...ቀየት ፍቃጋት የሌላቸው በመሆኑ አመልካቾች ያቀረቡትን ፈጂና የፍቺ ውጤት ስምምነት ሸሪዓ ፍ/ቤተ አጽድቅታል በማለት ውሳኔ ተሰጥቷል።

ትዕዛዝ

የውሳኔው ግልባጭ ሲ... ... ተገብሮ ... ...

መዝገቡ ተዘግቶ ወደ መዝገብ ቤት የመስስ

Miscellaneous

29th August 2014-April, 29, 2016 Field Diaries

Since August 2014 to February 2017 S-Mobile Notes

Glossary of Local Terms

Abotgare/Habotgare	a man's side lineages or Patrilineal Assembly (Siltie)
Agga	type of marriage where a girl chooses her would be husband (Siltie)
Ato	mr (Amharic)
Abotweld	kins (Siltie)
Azma	a title given to local leaders (Siltie)
Baliqenet	elderness (Siltie)
Berche	the local notion of justice (Siltie)
Biter	marriage (Siltie)
Dagna	head of clan court leader/in some instance chief (Siltie)
Debo	traditional collaborative system for economic activity (Siltie, also common across several Ethiopian cultures)
Debub	south (Amharic)
Dem	literally 'blood', meaning murder (Siltie)
Deret	half (Siltie)
Derg	literally 'committee'; from 'Provisional Military Administrative Committee', used of the regime of 1974-1991
Enset	Enset Ventricosum (a staple food in most parts of Southern Ethiopia)
Ete	a title given to Siltie queen
Gerad	local leader and customary judge (Siltie, Somali, Hadiyya, Mareqo)
Gicho	clan (Siltie)
Got	the smallest state administrative level below Qebele (Amharic)

Gragn	'left handed', used of Ahmed ibn Ibrahim-al-Ghazi (1506-43).
*Gumma/*Blood money*)*	compensation paid to families or lineages of victims of crimes, blood wealth, or blood money after murder (Siltie, Oromo).
Gudda Eggedot	a rite disputant parties conclude after the end of dispute settlement, especially on those disputes that involve murder cases (Siltie).
Girazmach	commander of the gate'; imperial politico-military title (Amharic).
Herrat	reconciliation or mediation involving a third party (Siltie).
Iddir	a self-help funeral association (Siltie, Amharic).
Imam	a religious leader (Siltie).
Qebele	originally small geographical unit; widely used after nationalization of land to denote area of a peasant/urban dweller's association during *Derg*; also used of administrative council/committee of area unit currently in Ethiopia.
Kilil	Regional State, federated units since 1995.
Maga	Customary First Instance Court dispute settlers (Siltie).
Malkañña/Naftagna	local governor, owner of land and person to whom a tenant owes tribute (Amharic).
Mulli	a witness/witnesses in the customary court (Siltie).
Murra	a household leader, specially members of households in a village that are related in blood have one *Murra,* usually an elder man who represents them in clan meeting and customary court sessions (Siltie).
Negus	king (Amharic)
Nikah	permanent marriage (Arabic, Siltie).

Olla	a neighbor both individually and communally who meet daily and involved in dispute settlement process in the village (Siltie).
Raga	local legal expert (Siltie).
Serra	traditional law (Siltie, Oromo, Sidama, Halaba, Kembata).
Tembekessa	terror (Siltie).
Teshinenenote	dispute or disagreement (Siltie).
Ummigare	a woman's lineages or matrilineal assembly (Siltie).
Waqf	endowment in the name of Islam (Arabic)
Wegeret	peace (Siltie)
Wereda	district, administrative subdivision (Amharic)
Yebadewold	a person from my country or place of birth, and sometimes used to call a person from same country Ethiopia (Siltie).
Yedem/Summera Merka	homicide case (Siltie).
Yedambus serra	part of local dispute settlement system whereby dispute settlers nominate a body of 8-12 individuals to bring an accused person to customary court session if he/she does not agree with the decisions of elders (widely used in the highland Siltie).
Yemelga serra	local dispute settlement (widely used in *Melga* clan areas).
Yeqebre serra	funeral association involved in minor dispute settlement processes (Siltie).
YeSiltie serra	the customary law of the Siltie people
Zenna	conflict that involves word and physical combat (Siltie)

Statutory declaration

I hereby affirm that I have produced the book at hand without any inadmissible help from a third party or the use of resources other than those cited; ideas incorporated directly or indirectly from other sources are clearly marked as such. In addition, I affirm that I have neither used the services of commercial consultants or intermediaries in the past nor will I use such services in the future. The book in the same or similar form has hitherto not been presented to another examining authority in Germany or abroad, nor has it been published.

Bayreuth, den _____

Signature _____