

The Application of Traditional Dispute Resolution in Land Administration in Lay Armachiho Woreda (District), Northern Ethiopia

GETACHEW MEQUANENT*

Independent Researcher, Ottawa, Canada

Summary. — The recent decades have seen a growing interest in the roles that can be played by African traditional institutions in governance capacity building, including peaceful settlements of interpersonal and communal disputes; playing advisory roles for local administrations; and management of natural resources. The functions of traditional institutions also help to address context-specific local issues, thereby avoiding the application of a one-size-fits-all approach that has continued to be a common problem in the development process. The challenge is designing appropriate policies and institutional frameworks that create conducive environments for an effective deployment of traditional institutions to promote desirable development goals. Our study shares experience in the application of traditional dispute resolution in land administration in Lay Armachiho Woreda (district) of the Amhara region in Northern Ethiopia. The Amhara regional government created Shemagle Shengos (popularly elected traditional arbitration committees) at the Kebele (local) level and gave them judicial mandate to address land disputes among farmers through the use of customary practices. The study thus examines the role and functions of the arbitration committees and assesses their effectiveness in dispute resolution including the potential to strengthen land administration capacity. Overall, the Ethiopian experience shows that traditional institutions and interactions work effectively if there are appropriate operational frameworks that harness their natural qualities (e.g., convenience, access, and participation) while aligning their functions with policy norms that direct the development process.
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Key words — land disputes, traditional dispute resolution, land administration, Ethiopia

1. INTRODUCTION¹

There has been a growing interest in the roles played by traditional institutions to help address many of the governance challenges confronted by contemporary Sub-Saharan African societies. For instance, a volume edited by Mutisi and Sansculotte-Greenidge (2012) presents interesting case studies in East Africa that demonstrate the effective use of traditional institutions to resolve conflicts at local levels. In Rwanda, the government deliberately promotes synergies between the abunzi system of traditional mediation and formal court processes to achieve justice and promote social cohesion in communities. In Darfur, Sudan, the judiyya system has been instrumental in promoting peace and reconciliation at grass-roots levels including compensation arrangements for losses and damages incurred during the prolonged civil war. Writing on African traditional leaders (chiefs), Logan (2013) says that, compared to politicians and government officials, they are “more available as problem solvers, and they have the advantage of local knowledge and an understanding of community norms and practices that can make them more effective in resolving local conflicts (p. 39)”. Studies by Chereji and King (2015) in Nigeria, Miller (2013) in Sierra Leone, Azebre, Baka, Nyamekye, Regina, and Ruhaima (2012) in Ghana, and others have documented traditional systems that effectively resolve communal and inter-personal conflicts. All these trends point to the importance of developing inward looking strategies to mobilize the social resources of Sub-Saharan African societies to support the building of governance capacities and other development efforts.

This study shares experience in the application of community-based traditional dispute resolution in land administration in Lay Armachiho Woreda (district) of

Amhara National Region State (ANRS), northern Ethiopia.² Land administration can be understood here as the enforcement of principles and procedures that determine land rights, land allocation methods, land use planning and monitoring, dispute resolution, and managing other land relations. As Byamugisha (2013) points out “land disputes are often better managed and adjudicated in accordance with customary norms and processes than by state institutions alone (101)”. The study aims to demonstrate the application of this approach in northern Ethiopia.

Land in Ethiopia is owned by the state, while land administration falls under the mandate of autonomous regional states. Land administration across the country improved following the announcement of the 2005 [Federal Rural Land Administration and Land Use Proclamation](#) that provided clearer directions for land use planning and monitoring and guaranteed unlimited land use rights for farmers, including the right to lease, rent, and bequeath land. The Proclamation also required farmers to possess a landholding certificate which would be issued by a land administration agency in the name of both husband and wife. Studies indicate that this Proclamation has brought about positive impacts on tenure security, land use management, and reduced land disputes (Deiniger, Ayalew, & Alemu, 2011; Holden, Klaus, & Hosaena, 2009).

However, densely populated areas in Ethiopia have been experiencing land shortages. In the Amhara region, the average landholding per household is 1.27 ha, with 22% of the households owning one hectare of land or less (CSA, 2012). Mequanent's (1998) survey of 50 households in

*Final revision accepted: June 12, 2016.

five communities in Lay Armachiho Woreda found an average seize of household landholding of 1.36 ha. Many of these plots would have been divided and re-divided ever since in order to accommodate the young generation of farmers. The phenomenon of land scarcity gives rise to a situation where farmers engage in conflictual land relations. [Deininger, Selod, and Burns \(2012\)](#) found that one-third to half of all cases going to Ethiopian government courts were related to land disputes. A comprehensive study by [Shibeshi, Fuchs, and Mansberger \(2015\)](#) found that the majority of farmers in the Amhara region have experienced land disputes related to inheritance, boundary demarcation, land rentals, informal market land sales, plant shade, communal land boundaries, and easements. The same situation prevails in Lay Armachiho Woreda (study area), so much so that economic necessities often trump social relations to cause land disputes among immediate family members. One Kebele (local) administration official in Lay Armachiho said that 80% of the disputes in his Kebele area were related to land.

Ethiopian society has many forms of community-based traditional dispute resolution systems that mirror the different socio-cultural histories and traditions of communities across the country ([Addisu, 2012](#); [Ali, 2011](#); [Edossa, Awulachew, Namara, Babel, & Gupta, 2007](#); [Zelege, 2010](#)). Normally land disputes would be mediated through these traditional structures, but settlement agreements were not legally binding, so that they broke down easily and perpetuated tensions among farmers. Moreover, Ethiopian laws allowed the mediation of land disputes only by government courts. These two factors (limited effectiveness of traditional mediations and land dispute adjudication by courts) led to a continued increase in the number of disputes going to Woreda courts, thereby creating a backlog of long-standing litigation cases.

The government of the Amhara region sought to utilize the community-based Shemglena (traditional arbitration) system to help resolve land disputes at the local level simultaneously with reducing the workload for Woreda courts. To this end, the Revised [Amhara National Regional State Rural Land Administration and Use Proclamation \(No. 133/2006\)](#) and [Amhara Rural Land Administration and Use System Implementation \(Regulation No. 51/2007\)](#) legally authorized the application of the Shemglena system in land dispute resolution including the election of a five-member Shemagle Shengo (a committee of traditional arbitrators) in each Kebele administration. Although the government prescribed work procedures that covered issues ranging from frequency of Shemagle Shengo judicial meetings to avoiding conflicts of interest, it did not dictate on how the Shengos should resolve disputes. The Shengos were expected to use locally specific customary practices in mediation processes, thereby allowing for flexibility in dealing with land issues in specific local contexts.

Our study argues that Kebele Shemagle Shengos in the Amhara region would be able to contain land disputes at the local level while reducing the backlog of litigation cases that often overwhelm the judicial capacity of Woreda courts. To support this argument, we examine the role and functions of Shemagle Shengos in the context of the ANRS policies cited above including the ways in which they are designed to create advantages for ordinary farmers in terms of saving time and resources and restoring broken social relations. Using available empirical information from field work in Lay Armachiho Woreda, we also attempt to show how the Shengos effectively resolve land disputes through the use of a combination of formal government procedures and customary practices. Overall, the Ethiopian experience shows that traditional dispute resolution systems are effective in resolving land

disputes provided that there are appropriate operational frameworks that harness their natural qualities (access, participation, convenience, etc.) while aligning their functions with policy norms that direct the development process. This alignment includes the removal of barriers inherent in traditional structures (such as gender inequality) which conflict with the goal of promoting equitable and inclusive development.

Broadly speaking, land disputes have become a “prevailing feature” of many societies in Sub-Saharan Africa ([Byamugisha, 2014](#)). Studies attribute this trend to demographic pressures, land degradation, urbanization, social differentiation, commercial agriculture, and other endogenous and exogenous factors that have led to intensified competition for scarce land resources ([Ansoms, Wagemakers, Walker, & Murison, 2013](#); [Oya, 2013](#); [Peters, 2013, 2009](#); [Van Leeuwen & Van Haar, 2016](#); and others). Land disputes are important in the development policy debate, because they have serious socio-economic and political implications. For instance, [Mwesigye and Matsumoto \(2016\)](#) in Kenya and [Muyanga and Gitau \(2013\)](#) in Uganda found that land disputes reduced agricultural productivity by 13% and 22%, respectively. Land disputes also culminate into large-scale communal violence to create serious political crises at macro levels ([Van Leeuwen & Van Haar, 2016](#)), as in Burundi ([Voors, Nillesen, Verwimp, Bulte, Lensink, & Van Soest, 2012](#)), Sudan ([Adam, Pretzsch, & Darr, 2015](#)) and Liberia and Sierra Leone ([Richard, 2005](#)).

[Ansoms et al. \(2013\)](#) point to the need for a better understanding of “land struggles” at micro levels, as they have direct impact on the welfare of vulnerable groups in society. The land disputes in Lay Armachiho Woreda discussed in this study are not the result of conflicts with dominant land interest groups in local society, yet they represent struggles to negotiate or renegotiate existing land relations that define different forms of access to and use of land. Our study hopefully contributes to an understanding of how land issues are contested and articulated in dynamic socio-economic, legal, and cultural settings, more so in a situation where land relations are defined in institutional contexts, including a recent country-wide registration of land ownership by small farmers. Second, the study shades light on what can be done to improve the relevance and effectiveness of land administration in resolving land disputes by decentralizing land administration functions to local levels using traditional institutions and interactions as interim structures ([Biitir & Nara, 2016](#); [Byamugisha, 2013](#)). While traditional systems have been applied elsewhere to address land disputes (e.g., [Paagal & Dandeebo, 2014](#); [Byamugisha, 2014](#)), the case in the Amhara region can perhaps be unique in the strength of the legal foundation establishing the Kebele Shemagle Shengos (see above) including the clarity with which their role and functions are articulated in both legal and “traditional” contexts.

Lay Armachiho is one of the 108 Woredas in the Amhara region with a total surface area of 4,889 km² and population of 180,000 ([CSA, 2013](#)). The fieldwork in 2012 focused on documenting ongoing land disputes, whereas the role and functions of Kebele Shemagle Shengos was documented in 2014. Data were gathered through semi-structured and unstructured interviews of Woreda and Kebele administration officials and local people including relatives and their friends who had come to meet the author who lives in the Diaspora (he is native of the region). Key informants were selected through a “purposive sampling” method ([Stephen, Charles, Ploeg, & McKibbin, 2015](#); [Robinson, 2014](#)) which allows for the selection of informants who were judged to have the answers to the issues of research inquiry (e.g., land disputes

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