

# Gender Relations in Local-Level Dispute Settlement in Ethiopia's Zeghie Peninsula

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## Abstract

*Access to tenure security in dispute settlement contexts has become a serious concern in Ethiopia's rural areas, where eighty-five percent of the population resides, including Zeghie Peninsula. Intense struggles for land and property resulting from growing landlessness and female-only heads of households have rendered women's property rights a particularly contested terrain. Existing statutory laws and policies assigning rights to property and inheritance have done little to protect women from the theft of their crops, land, or tenure. This has left women with few options except those offered by civic courts and a local system known as the Shimgelina (a customary dispute settlement mechanism); yet both have been largely unfavorable to women. This paper examines these local legal and rule-based systems, and the enduring practices that reinforce inequality through imposed 'community harmony' where cultural and gendered expectations are invoked, and largely realized.*

**Key Words:** *dispute settlement, customary law, legal anthropology, Ethiopia, livelihood security*

## Introduction

Access to tenure security and the fruits of land labored has become a serious concern in Ethiopia's rural areas, where eighty-five percent of the population resides, including Zeghie Peninsula. Intense struggles for land and property, resulting from growing landlessness and a growing number of female-headed households, have rendered women's property rights a particularly contested terrain. While much focus and attention has been devoted by the government to the crafting of laws and policies that promote gender equity (Dehab & Asmelash, 2003), little has been done locally to protect women from loss of land and livelihoods due to border pushing and crop theft by their male neighbors. At the local level,

where the problem is acutely felt, most people are unable to access formal judicial systems either because the costs are too high or because infrastructure and transportation are lacking. Even where widely accepted informal judicial systems exist, such as the *Shimgelina* (a customary dispute settlement mechanism), people often have little knowledge of how to use it to protect their rights and property (World Bank, 2006).

The problem is not unique to Ethiopia. Chirayath et al. (2005) have found that "only about 5 percent of disputes are taken to court in most societies, including those with well-developed legal systems" (p. 2). However, given the limited role of formal courts, there is growing interest in local dispute settlement institutions in general and customary<sup>ii</sup> dispute settlement mechanisms in particular. Customary systems are often lauded by local governments as well as academic and nongovernmental development organizations as a means to ensure that justice (1) is accessible to local people; (2) operates or is delivered with very low transaction costs; (3) is efficient and fair given its proximity to local people; and (4) is consistent with local value systems (Weinstein, 2001). However, how local and traditional institutions affect women is an area as yet insufficiently explored or understood in both academic and development circles, as well as within local governments wherein such approaches have been pioneered (Molyneux, 2002).

This paper draws from anthropological and feminist legal theory to understand women's lived experiences of existing laws (Griffiths, 1998) aiming to promote the advancement of women. Specifically, we explore problems with women's access to inheritance and land tenure manifest in their engagement with the *Shimgelina* and with the local 'Peasant Association' civic court. We examine the functioning of these local legal and rule-based systems, and the ways in which they reinforce inequality through imposition of norms of community harmony at the expense of statutory land tenure held in deed or theory by women. Traditional dispute resolution mechanisms are often built on principles of

mediation, arbitration, and conciliation; but at the same time, they intersect with women's low social and economic status in a manner that secures a disproportionate burden of outcomes detrimental to women. This is particularly evident as women attempt to maintain control of land holdings, efforts that are challenged by village males as well as elders affiliated with the *Shimgelina*. In what follows, we will outline the challenges women face in the local justice systems in Ethiopia's rural areas and conclude with recommendations to improve women's ability to protect their holdings in these legal and quasi-legal fora.

## Methods

Fieldwork and interviews referenced here were conducted in northwestern Ethiopia's Zeghie Peninsula between August 2004 and September 2005. Interviewees (n=50) were drawn from and conducted in Oura and Yiganda, the area's two PAs or 'peasant associations' (the lowest level administrative body). The interview pool included a broad base of community residents, most of whom are coffee farmers, as well as the PA chairpersons, leaders of the PA civic court, members of the traditional dispute settlement body (*Shimgelina*), and other informants including members of government institutions such as the Bureau of Agriculture (BoA) and the Environmental Protection and Land Use Authority (EPLAUA).

The names of community participants were selected at random from the lists of female- and male-headed households recorded in the PA logbooks.<sup>iii</sup> Women headed 44 percent of the sampled households, while men headed 56 percent. Across the 44 percent female-headed households, 72 percent were widowed, while 12 percent were divorced. Interviewees generally attributed the high number of female-headed households to increased permanent male out-migration to urban and semi-urban areas, mortality during seasonal labor in the lowlands (where disease outbreaks are common), accidents while transporting logged fuelwood to Bahir Dar on papyrus boats, and death during military service, especially during the Ethio-Eritrea war (see also Gebremeskel & Dehab, 2003, 7). Cases of men declared dead and later appearing after the 'widow' has remarried are also reported.

Additional interviews (n=12) with eight *Shimgelina* elders and four priests (who are often invited to sit in the *Shimgelina*) were drawn from the first author's prior knowledge about the area as a lifetime resident and citizen of Ethiopia and member of CARE's Zeghie research staff from 1994 to 2003. Supplemental (secondary) data were obtained from the BoA, EPLAUA, the PA civic court, and the Oura Kidanemihret Church and archives<sup>iv</sup> at the Addis Ababa University. As sources of information on Zeghie are compara-

tively unavailable, materials on the northern highlands of Ethiopia often served as a proxy.

## The Zeghean context in brief

Little has been written about Zeghie Peninsula despite its historical and religious significance and its forested landscape. Situated in northwestern Ethiopia, and surrounded by the waters of Lake Tana, it is connected to the regional capital of Bahir Dar by boat or road. The climate is mild; average rainfall is 800 to 1200 mm (EPLAUA, 2004).

For most Ethiopians, "Zeghie" refers to the entire peninsula; for those who live on it, it refers solely to the area surrounding the small town of Afaf. Zegheans distinguish between their home territory and the cereal-growing areas adjacent to the peninsula. The population of Zeghie is estimated at 10,000. The growth rate is about 3 percent per year, reflecting the national average; 42 percent of Zegheans are under fifteen years of age (EPLAUA, 2004, 8). About 1,600 Zegheans live in Afaf; the remainder are dispersed among fifteen villages. All Zegheans speak Amharic. As with other parts of the Ethiopian Highlands, Zeghie's growing population and troubled history of land reform and redistribution has led to increased land-based disputes, particularly among neighbors that share borders, as will be detailed below. In addition, Elder Kassa, a consultant to this project, reported that the number of land-related litigations among kin have increased, especially in those instances where male heads of households are absent due to migration, death or divorce.

Recent failures of coffee crops due to changing rainfall patterns as well as poor market conditions have intensified the competition over scarce resources, including land.<sup>v</sup> While women have not been recognized historically as land owners, legally they do possess rights (as will be discussed below) and practically the need for accompanying recognition of those rights has become acute and concentrated in Zeghie precisely because of this growing number of female-headed households. Zeghie also lacks the kind of infrastructure that might help to alleviate its current pressures in that it is underserved compared to even remote parts of the country, despite its proximity to Bahir Dar, the regional capital. There is a shortage of schools, medical or legal clinics, and agricultural programs for the peninsula's rapidly growing population. Fishing in Lake Tana has not been encouraged due to the low demand for fish locally, and few local people make their living that way (EPLAUA, 2004; Getachew, 1994).

The Orthodox Christian Church is the dominant local institution in Zeghean society. Though its authority has diminished since the land reforms of 1975 and 1996, which granted usufructuary rights to the people, the Church remains a potent force. The peninsula's six churches, which date as far

back as the fourteenth century, continue to serve the local population; they are also an important regional tourist attraction (Getachew, 1994). Although the church itself does not engage in dispute settlement processes, priests are often called to chair the *Shimgelina*. Moreover, most *Shimgelinas* convene at the church compound to underscore the need for being fair to both parties in the conflict, although in practice, this ideal has not expressed itself in outcomes to women, as will become evident below.

### Embedded gender discrimination in Ethiopia

Gender discrimination itself starts in Ethiopia on the day a girl is born, as Dehab and Asmelash (2003) explain. New-born girls are not warmly welcomed as are baby boys, and priority is given to boys in terms of education, medical services and provision of food. The maternal mortality rate is extremely high due to birth complications, and in part, due to food taboos for pregnant women (Dehab & Asmelash, 2003). Early marriage is especially identified by women in Zeghie as the main explanation of unequal power relations within families. Although the civil code of Ethiopia prohibits the marriage of girls under the age of 15, in Zeghie it is not uncommon for girls as young as 12 years to marry. Discussion with local women revealed that early marriage is common in Zeghie; can involve the forcing of young girls to marry ordained and unordained priests at ages as young as seven or eight. Although adequate statistical data on rape, abduction, domestic violence, early marriage and sexual harassment are not available, incidents of sexual and physical harassments and abuse are evidently prevalent there (Dehab & Asmelash, 2003).

Discursively, hardships are justified as ‘natural’, ‘biological,’ and a function of or associated with domestic roles and diminished intelligence. Such gendered ideologies (as with coercion via discourse generally) are mediated, even inscribed, through myriad idiomatic forms whose roots may be in highly stratified structures or institutions such as the Ethiopian Orthodox Church, but expressed via common linguistic sources. Hussein (2009) argues convincingly that proverbs — in Ethiopia, Sudan, and Kenya — are a particularly prominent and widely employed contemporary discursive frame. They are repeatedly and frequently told, argues Hussein, whereby the sheer force of repetition normalizes “worthlessness” or “inferiority” in such a way that the subjugated become convinced of themselves as embodying these qualities (Hussein, 2009, 98-99). In Zeghie, commonly invoked proverbs and the logic of female inferiority they normalize include: “The wisdom of a woman and the lights of stars do not take you far” (asserting the intellectual inferiority of women); “When there are many women, the cabbage

will be spoiled” (women are destructive due to irrational indulgence in unnecessary talk and thus failure to discharge responsibilities); whereas Schipper, cited in Hussein (2009, 103), also notes the Ethiopian proverb asserting the biological basis of female inferiority as “The breasts that contain milk cannot contain intelligence”.

### Ethiopian law and policy

In Ethiopia, in ways described above as well in more material ways, women have been marginalized. They constitute the majority of the nearly 40% of Ethiopians who live in “extreme” poverty (UNDP, 2009). Gender inequality in Ethiopia has been identified as a challenge that must be addressed in terms of social and economic development. The 2005 “Gender-Related Development Index (GDI)” ranked Ethiopia a disturbing 134th out of 140 countries (World Bank, 2005, 302). Literacy among adult women sits at 33 percent of the population over the age of 15, compared to 49.2 percent for men. The gross enrollment in primary and middle school for women versus men is similarly disparate — 29 percent for women and 42 percent for men.

This asymmetry in gender relations in Zeghie has been maintained over many generations despite increasing acquiescence to and/or recognition of international and national efforts to address inequalities. Notably, Ethiopia ratified the Universal Declaration of Human Rights (UDHR), the Convention on the Right of the Child (CRC), and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) to protect the rights of women and girls (FDRE, 2006). As a first step in the implementation of the international conventions and instruments, the Ethiopian government established the Women’s Affairs Office (WAO) under the office of the Prime Minister, with the mandate to coordinate, facilitate and monitor activities of women’s affairs at the national level, and to strive for the enactment of new policies and the improvement of existing ones in accordance with the political and economic growth of the country (FDRE, 2006). The WAO was authorized to encourage the establishment of offices of women’s affairs in all regions, ministries and public organizations at all levels so as to facilitate the implementation of the policy with full participation of women in all development activities (FDRE, 2006). Women in Zeghie, however, indicate that much suspicion about the WAO persists in part because it is associated or viewed as akin to the women’s offices that comprised a key coercive arm of the former Derg or revolutionary government’s power. The leader of the women’s association in Yiganda noted that participation in women’s associations was mandatory under the Derg,<sup>vi</sup> which used forced measures, including imprisonment, to keep women coming to the meet-

ings, providing political support and legitimacy as well as membership fees. This has distorted the potential advantages of women's associations and networks and has discouraged women from forming their own rural organizations or taking part in any form of government-initiated association.

Two important principles in the Ethiopian constitution that promote gender equality are also worth noting: Article 40, which provides for the equal right of ownership of land for women and men (FDRE, 1995); and Article 25, which assures women's right to equality before the law and entitles women and men to equal protection of the law without distinction of any kind such as race, nation, nationality, color, sex, language, religion, political or social origin, property, birth, or other status. Moreover, the family law, promulgated in 2000, calls for equitable distribution of inheritances to women and men. Other policies that reiterate the rights of women to own and administer property include the 1997 Federal Rural Land Administration Proclamation, which affirms women and men's equal rights with respect to use, administration, and control of land as well as transfer and bequeathing of holding rights (FDRE, 1997). Article 35(1) of the Ethiopia's Constitution recognizes that women shall enjoy equal rights and protections as men; and article 37(1) states that "everyone shall have the right to submit justifiable grievances to and obtain a decree or judgment from a court of law or any other tribunal given by law the power of adjudication".

The above laws represent a significant departure from prior civil codes. According, again, to elder Kassa, the premise that the wife is subordinate to the husband permeated these earlier codes, rooted in the *Fetha Negest*, rather than to the European code. Legal scholars have not reached consensus on *Fetha Negest* as to timing and origin though "it is strongly believed to have been written in the 13th century AD by an Egyptian and translated into Ge'ez, the high language of the Ethiopian Orthodox Church, in about the 15th century" (Weldemariam, 2004, 71). The imprint of *Fetha Negest* or 'Law of the Kings' was especially evident in the 1960 (and first) civil code, which regarded the husband as the head of the family to whom the wife owes obedience in matters of law. The husband also administered the common property of the family. The minimum age at marriage was also then 15 years for females and 18 years for males.

The 1987 Constitution was comparatively gender sensitive to the extent that it clearly and for the first time postulated the equal status of women and men in marriage relationships. It fixed the age of marriage for both at legal maturity, 18 years, and provided for affirmative measures to curb the age-old biases and ensure de facto gender equality. "However, the process of aligning the laws of the country, the Civil Code in particular, to the Constitution was not completed when the *Derg* regime was overthrown by the EPRDF"

(Dehab & Asmelash, 2003, 117). As noted above, the 1995 Constitution of the FDRE goes even further in ensuring gender equality and measures up to all international instruments in this area.

Yet, significant gaps exist between these provisions and legal practices via locally available dispute resolution and justice systems. In particular, the implementation of gender equity policies at the local level is affected by the existence of discriminatory gender rules and norms, where "mere formal equality of property rights under the law is unlikely to ensure gender equality" (Rittich, 2005, 103). Laws tell us little; rather the practice, disregard, or ignorance of the law is crucial at the local level and in the lives of women. The discrepancy between law and practice was not unexpected in that we anticipated this at the outset. Our goal was to instead reveal the social processes that explain this gap rather than state its existence. In so doing, we also do not mean to assign first world feminism with its emphasis on the rights of individual women onto the people or women of Zeghie (Moser, 2005). Rather, we hope to indicate the means through which local customary assumptions are realized in the informal and formal legal institutions used by Zeghean women, and so constrain their livelihood sustaining capacities, in particular amongst the growing number of female heads of households.

### Gender, custom and 'legal' harmony

Careful discourses of neutrality and rationality are generally the hallmark of formalized systems of law, which can mask relationships of power and control inherent in such systems (Davies, 2007). Property law is of particular relevance to women in land-based communities. Understood as a bundle of rights (Schlager & Ostrom, 1992) or "a set of relations among people in respect of things tangible and intangible" (Rittich, 2005, 98), it can define relations between the right holder vis-à-vis other groups or individuals. It stipulates rights, duties, powers, privileges and responsibilities viz. land, goods, resources, familial relations and responsibilities and inheritance. Further, property rights are not absolute but a function of (or dependent on) the power of the right holder versus other claimants. As Rao (2007) maintains, property related disputes "reflect and shape relationships between people over a period of time, as much as between people and resources" (299). Therefore, women's experiences in the legal arena reflect relationships between women and other claimants and should be viewed as not only claims and counter claims to, for instance, property, but also as a struggle over power and rights more broadly (Rao, 2007). Of particular importance is the role that traditional or customary legal systems play.

Customary law is a body of rules governing personal sta-

tus, communal resources, and local organization in many parts of Africa. It is recognized by the courts and exists as a second body of law (in addition to statutory law) governing citizens in countries of sub-Saharan Africa (Joireman, 2008, 1235). In this sense, we regard the *Shimgelina* as a customary system of dispute resolution which reflects and governs resources and the local norms in which these are embedded, whereas the Peasant Association (PA) Civic Court is local, but derived from statutory law (more will be said about both systems below).

While scholars such as Chirayath et al. (2005) noted above have underscored the value of such systems, it is equally important to recognize the inter-relationship and/or consistencies between civic and customary practices. As Mackenzie (1995a, 18) cited in Verma (2001, 90) rightly points out, “customary law and statutory law are not two isolated and essential legal orders. Rather, they provide spaces within which people, differentiated by class and gender, contest rights to land.” Ideally, the existence of dual systems or arenas gives women spaces where they might negotiate control over land. However, these opportunities are constrained by the broader social system in which they are embedded and, often, men’s more advantageous uses or control of these practices. Understanding these differing legal spheres is important in order to appreciate the constraints women experience in the legal arena when it comes to security of tenure and women’s land ownership.

We could not find any particular reference in the scholarly literature to the relationship between gender, tenure security, and legal processes adjudicating these for Zeghie, or even the broader forested portion of the coffee-growing Ethiopian highlands, though findings from elsewhere in East Africa are instructive. Mackenzie (1995) found in central Kenya that freehold tenure failed to preempt a customary system of “allocative rights [based on] interlocking and elastic rights [wherein] kinship, gender and generation were primary” (17). The intergenerational allocation of land out of the patri-line and into the matri-line (e.g., assigning land originating with a husband’s line to a daughter in the absence of a son) was particularly contested. More broadly, tenure uncertainty amongst women who were often primary producers was consequential for the land base in that women were less inclined to tend land where their rights to it and its products were insecure. Joireman (2008), while not linking findings to land-based outcomes, similarly found the application to customary law and the status of women to impede both clearer definition and security of property rights.

Thus, while local and customary justice systems have been considered essentially good for local people as they operate within the framework of traditional rules and value systems, and while this understanding is widely shared and pro-

moted by governmental and non-governmental organizations, the implications for women are more poorly understood. It is often equally naively assumed by many development NGOs that such institutions are good because they limit conflict and articulate well with imagined harmony amongst indigenous populations (Nader, 2002). We instead take the position, following Nader and given field observations below, that principles of informal conflict resolution mechanisms such as mediation, arbitration and conciliation, are better understood as ‘harmony ideologies’, to wit, “effective schemes of pacification” (1992, 469). Harmony and peaceful resolution are invoked by powerful traditional leaders to force disputing parties to consent to their decisions by accomplishing silence-cum-acquiescence in the face of disputes in the form of ‘win-win’ outcomes so often praised (Nader, 2002).

Harmonizing norms are often said to be ‘traditional’ and do often trump more formalized legal rules on the basis that foregoing practices are permitted to override newer ones. But it is unreasonable to assume traditionality in the sense of temporal endurance in any romantic sense. This is especially so as many of the peaceful dispute resolution discourses and practices were imported to sub-Saharan and east Africa either as Christian tenets of faith during the 19th century or as principles of good governance in development and peace-inducing programs in the more recent post-1960’s period (Nader, 2002; see also Chanock, 1985). [The Ethiopian Orthodox Church certainly predates this period. Ethiopia itself was not colonized unlike other parts of the Horn of Africa and beyond. But it is nonetheless worth scrutinizing claims to traditional principles of harmony, and equally plausible that the *Shimgelina* and the sanctioning EOC was at least partially affected by these larger movements.]

Regardless, our aim is not to pin down the arrival of harmony ideologies, but rather to use this idea among others to explain what most legal anthropologists assume: that it is erroneous to conclude that equity in law will result in equity in practice, because all legal systems are inscribed with the normative, political, and cultural contexts in which they are situated. It is through this and other field-based research that empirical evidence of the law as it affects women can be understood.

## Land disputes and gendered local institutions

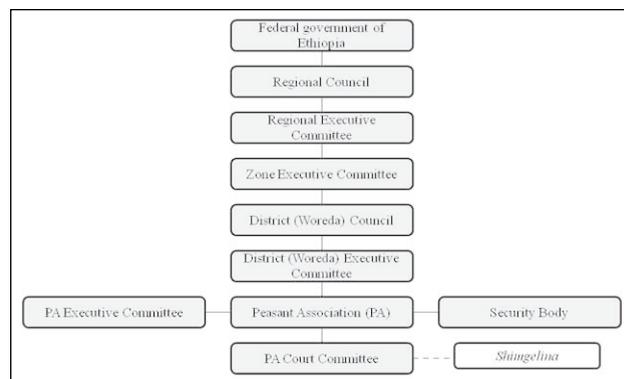
Zegheans are widely viewed by previous researchers as a homogenous community with regard to religion, culture, and language (Getachew, 1994; Alemnew, 2001, EPLAUA, 2004). However, there exist strong attitudes and practices as noted above that portray women as naturally inferior to men — and people’s everyday interactions including many local legal and paralegal decisions reflect this stance. One of the

findings of this research has been that land-based disputes are common in Zeghie and their resolution is critical to the lives of most women, especially female heads of households. The most common class of disputes is that involving land holdings, linked inheritance rights, and use of natural resources therein. Very common crimes among Zegheans, played out on properties not belonging to the perpetrators, include felling trees without permission (i.e. tree theft) and “border pushing,” which involves the acquisition of portions of a neighbor’s land by surreptitiously moving boundary markers. Great inequity in the distribution of land is also evident and partially explains these patterns. A recent EPLAUA survey (2004, 39), for instance, found that 20 percent of Zegheans controlled 80 percent of the land. Discussions with men and women also revealed that many people lost their ancestral lands, and as “compensation” had been assigned land that had never been cultivated, or land that had no access to the lake, rendering irrigation difficult or impossible.<sup>vii</sup>

There are similar stories of injustice regarding the distribution of the *ye-mote keda* land. *Ye-mote keda* refers to the redistribution of land belonging to deceased members of a household where heirs are not ‘apparent’, or the inheritors have permanently left the area. Functionally, however, *ye-mote keda* has emerged as a form of “contingent tenure” where land without evident heirs is reassigned to those without land or with land insufficient to a growing family; they are contingent to the extent that these newly assigned tenures are often challenged and so not permanent (Tarekegn, 2001). The rules and procedures of *ye-mote keda* are both contradictory and ambiguous, and as a result, the various stakeholders end up competing for land access and rights (Tarekegn, 2001). Disputes of this kind — along with all others pertaining to land, or involving divorce, gendered violence (e.g. early and forced marriage), desertion (i.e. of wives and children by husbands), and bigamy (by men)<sup>viii</sup> — are considered points of local or domestic civil law and as such are heard by the government’s Peasant Association (PA) civic court and/or deferred to the *Shimgelina* system.

The Peasant Association (PA) is the lowest level administrative body, and the PA civic court serves as the local level statutory court. *Figure 1* shows the administrative structure of the Ethiopian government adapted to Zeghie Peninsula.

The PA administration consists of the council, an executive committee, a PA civic court, and a security committee that is responsible for the village’s peace and security. As an administrative unit of the government, the PA’s mandate is in part to mobilize urban and rural dwellers for meetings and tax collection. PAs register heads of each household, distribute identification cards and “support letters” for people who need medical services, and serve as the information pipeline between district authorities and local people. The PA’s execu-



**Figure 1.** Ethiopia’s administrative structure

tive is nominated by members of the community. Except for the chairperson, the executive members are not paid. The Ethiopian federal structure accords legislative, executive, and judicial powers to ten administrative regions, while the federal government retains authority over all matters pertinent to national defense, foreign affairs, and citizenship. During the sustained period of political change and upheaval known as the Derg, the PAs were established as neighborhood committees. At that time, their main concern was the peace and stability of their respective villages. Later, they assumed important local administrative and judiciary functions while helping to consolidate the government’s political control. As an arm of the government, the PA is expected to recognize and uphold gender equality, yet women rarely occupy positions within these institutions, and when they do, their participation is nominal. The two women currently nominated to serve in the PA administrative council in Zeghie regard the appointments and actions as an insubstantial or ‘token’ effort to meet the requirements set by the district and other higher-level authorities. Mrs. GT, one of the female council members, articulated this position accordingly, with particular reference to efforts to undermine her elected authority:

*I was elected by the zone council as the main speaker of the zone. The zone council is composed of ten PAs. When the news of my nomination was disclosed to my administrator, he refused to accept my nomination indicating that I do not have the required educational qualifications to assume this responsibility. He suggested that I take the position of assistant speaker. I pointed out to him that I am well aware of the roles of the speaker and the assistant speaker. Taking minutes is the responsibility of the assistant speaker, while the main speaker is responsible for leading meetings, interpreting policies and regulations, and communicating them to the meet-*

ing participants. The zone council nominated me knowing that I cannot take minutes but I could understand the concepts and lead meetings. However, the administrator used his authority to overrule my nomination and told me to either accept the assistant speaker position or forget the nomination. I raised this concern to the Zone Administrator but it did not bring any change. Now, I am working as an assistant speaker. However, my participation is nominal. I am just an observer.

Mrs. GT's experience reveals how power is exercised at the level of the PA to silence women's voices and to perpetuate existing social inequalities (see also Hirsch, 1998). Women's nominations, even at the lowest government office, are expressed in name only in order to bolster the official representation of women in formal office. However, even participation of this kind is not available for women involved in the PA civic court, as the following discussion shows.

### Navigating the Peasant Association Court

The judicial arm of the PA is known as the PA civic court. It is responsible for resolving petty disputes and cases that do not involve more than 500 ETB,<sup>ix</sup> and has five members: a chairman, a secretary, and three committee members. Committee members are nominated by the district authorities. Although they receive a 5-day orientation to familiarize themselves with some of the government rules and procedures, there is no regular review of their performance in Zeghie. Several of those interviewed indicated that some of the committee members have held their positions since the current Federal Democratic Republic of Ethiopia (FDRE) government came to power. The committee members are not expected to complete high school or higher level education.

Discussions with those who had engaged with the PA court revealed that disputes among Zegheans rarely rise to the district level, let alone the zone, regional, or federal levels, owing to the time and money involved. When land disputes do reach the district level, the administration more often than not refers it back to the PA. As a result, most land disputes that reach the formal structures are dealt with at the PA and district levels (see Fig. 2 below for detail).

Such disputes and their outcomes have been particularly consequential for women due to the increasing number of female-headed households in the Peninsula. In particular, court records indicate a number of situations where male neighbors use aggressive behavior to claim land that is falsely or ephemerally owned by female heads of households.

Ms. WK, a female head of household living with her children and an elderly mother, offers a case in point. Her neighbor uprooted her plants, including the *smitha*, a shrub used as a border between the different plots, asserted his pre-

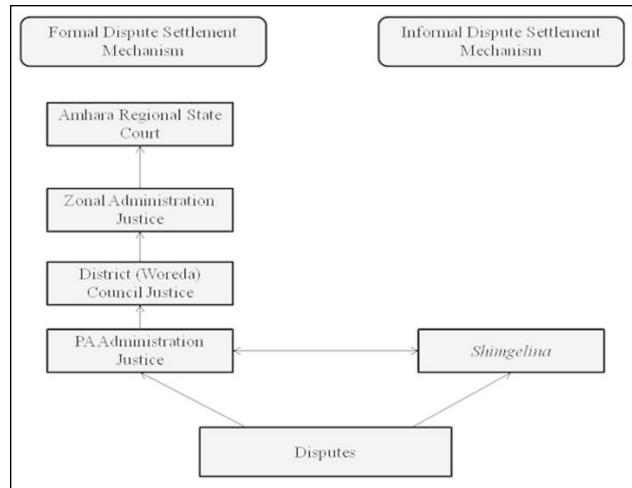


Figure 2. Dispute settlement structure in the Amhara Regional State

ferred border and acquired further land. She first tried to reason with him, resulting in insult and aggression on the part of her opponent which left her no option except to appeal to PA civic court. In her words:

*I could see that there was no point in trying to negotiate with him. I went to the court and appealed my case. The witnesses were called to testify what they had seen. They testified that they saw him uprooting the plants, saying that they were planted on his side of the land. The local administration assigned a group of people to check whether I had pushed his border. They checked the border and informed the local administration that the land I used for planting coffee was my own. While I was waiting for the final decision of the PA civic court, I was notified to call the witnesses for the second time and for the third time. I managed to get the witnesses to testify. Then after, I begged and asked the committee to settle my case. Why do I have to wait endlessly for the decision? I have completed all the procedures and all indications were that my neighbor was guilty. The chairperson mocked me: "If you know anything about the law, you might as well be the judge." I have repeatedly gone to the PA court and have pleaded with the judge to make the decision. On the day the final decision was to be made, I went to the PA court, only to find out that the defendant failed to appear. I insisted that the defendant should be brought in but nothing has been done. This took more than a year. I was so sad because this injustice could be done because I am a woman. I think that all women who have no one to*

*defend their rights suffer like me. That was how I look at it-as injustice against women in general.*

Ms. WK's case is a good example of the inefficacy of the local justice system as it pertains to women, as well as the condescension toward women who pursue this avenue of redress. Women who have the endurance and persistence to engage with the PA civic court are often forced to abandon or withdraw their cases through sheer force of temporal exhaustion, 'benign' neglect, or blatant impunity on behalf of men who fail to appear in court, yet suffer no consequences other than an advantageous (to them) delay. Normally legally significant actors, in this case, witnesses, are exhausted into omission if not submission. Mrs. M's testimony reveals another case in point, again in reference to 'border pushing':

*When my neighbor started pushing the border, I went and talked to him peacefully. The land was a joint holding (another woman shares the land with me). Initially, we tried to negotiate with the man without involving anyone else. However, the man refused to negotiate to resolve the problem peacefully. He claimed to be the rightful owner of the land and discouraged us from making any claim. For a while we let him use the land as we tried to figure out how to approach the problem. Finally, we decided to delegate a man from the neighborhood, who is known for his experience in land related litigations. We gave him power of attorney to fight the battle for us and get a share of the produce as a payment for his service as we could not afford to pay him in cash. Both of us are single mothers and we do not have the time and the power to fight this man. We presented all the evidence and testimonies that support our claims to the PA administration and we were told to wait for their final decision. In the meantime, knowing that he might lose the battle, our opponent harvested all the coffee from our land.*

Small group discussions with local women confirm that the weaknesses of the PA civic court (see Fig. 3 below for a photo) are well-known and include paralyzing delays as well as corruption and nepotism. Female-headed households, who participated in these discussions, asserted that the key to getting a timely hearing is offering bribes to the judges. They further indicated that although legal services at the PA level are supposed to be free, applicants are asked to pay a small fee to account for the paper and folder used to open and document their files; for female-headed households in Zeghie, the fee for the application paper and getting someone to write their application is not affordable, let alone the expense of a bribe. And ultimately, when women find it hard to get their



Figure 3. Women at the PA Court

cases settled in a timely manner, they resort to the *Shimgelina* (below) or leave it in the 'hands of God' and otherwise suspend all formal or informal efforts.

While the PA civic court is the formal legal institution at the local level, an inherent weakness is its failure to take up land-based disputes and to otherwise defer these to customary processes. Discussions with focus groups indicated that the PA civic court largely defers land related disputes and cases of divorce to the peninsula's better-known *Shimgelina* or customary system. As noted above, the Ethiopian constitution entitles women equal right to property ownership (FDRE, 1995). However, customary practices in Zeghie dictate that the husband, as head of the family, has the authority to administer and make all decisions pertaining to household property. Also, while the formal law portends women's equality, its interpretation and implementation at the local level are contingent on the social and economic status of the disputants, the types of networks they draw from, and the context in which the dispute arises. Each of these points is elaborated below.

### Negotiating the *Shimgelina* System

The Ethiopian government has been undergoing decentralization of public services since 1991 as part of the broader neo-liberal agenda promoted heavily in development circles for much of the last decade (Ribot, 2002). In so doing — and similarly to other public services — the formal justice system has become both inaccessible and dysfunctional at the local level. To fill this institutional vacuum, informal systems for mediating local level conflicts have been widely promoted. In Zeghie and much of the Amhara region, the chief informal dispute settlement mechanism is the *Shimgelina*. In essence an elders' council, the *Shimgelina* is an assembly of five *Shimageles* (elders) who are appointed by disputing par-

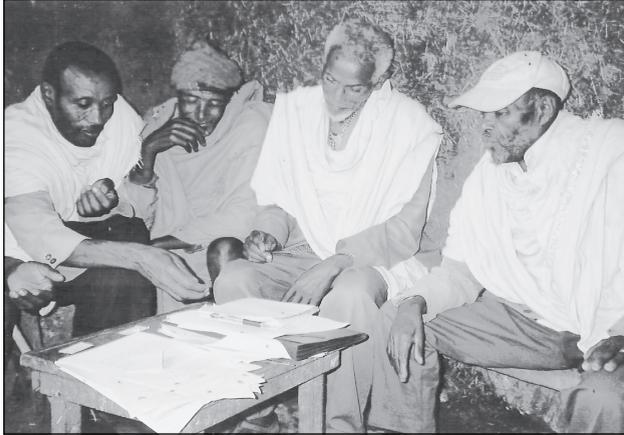


Figure 4. Shimgelina in action

ties on an as-needed basis.

Interviewees in Zeghie held that people from all walks of life have gone through the *Shimgelina* at one time or another and that the *Shimgelina* is reported as preferable due to its accessibility (95 percent), low cost (90 percent), and trust (65 percent). The purpose of having five *Shimageles* is to make vote casting easier. It is best, but not mandatory, for at least one of the five *Shimageles* to be a priest and for the priest to serve as chair. If a priest can't be found, one of the other sitting elders serves as chair. He is responsible for making sure that both disputants receive a fair hearing. Often cases referred to the *Shimgelina* include divorces and property disputes. When the process succeeds (i.e. the dispute is settled amicably), both parties contribute 2 Ethiopian Birr (ETB)<sup>x</sup> as an expression of gratitude and invite the *Shimageles* to celebrate the conclusion. Elders mention that the law applied by the *Shimageles* is part of the *Fetha Negest*, which served (noted above) as the Constitution of the Country prior to the establishment of the civil code (see Maïese, 2005).<sup>xi</sup>

As one of the oldest institutions in Ethiopia, *Shimgelina* is promoted by the government as a viable part of Ethiopia's pluralist system, and from the first civic codes forward, a major role has been extended to the *Shimgelina* in resolving disputes. However informal its setting, article 317(1) of the Civil Code still requires that *Shimgelina* follow the procedures of a court of law (Original, 1997, 11), including the gender equity statutes noted above. The elders are expected to weigh the evidence of the parties and make their decisions on the basis of existing laws and to handle their cases like the court of law (Original, 1997). However, in practice, decisions are invariably contingent on local norms, rules and networks. As is common in small communities, *Shimageles* in Zeghie often rely on their networks and other indirect sources of information to achieve their decisions. Among the networks most commonly mentioned by those interviewed are

those that facilitate the exchange of not only information but also gifts and promises.

Such networks do much to position women and men and strongly affect their access to and control over resources (see also Griffiths, 1998). Networks specific to men include the *senbete*, a religious association that involves the men gathering once a month to commemorate a saint or an angel of importance to the community (e.g., St. Gabriel or St. Michael), and the much less formal though very influential routine gathering of men at local bars (*tella bet*). Women are excluded from these practices and the networks they foster. These small bars are often used by contestants to influence those involved in decisions<sup>xii</sup> through bribes. The case of Mrs. BT reveals the subtle but common problem of bribing *Shimageles*.

*When my daughter who lives in Bahir Dar gave birth, I went to see her and stayed for a while to help her with her children. After six months I came back to Zeghie and found out that my neighbor had been cutting trees from my compound illegally. When I asked him about the trees, he became very angry and said he was not my guard. I asked a couple of Shimageles to help me settle this problem with my neighbor. They agreed to attend to my case and informed my neighbor about my request. My neighbor brought two more people. The four Shimageles brought a priest and took our case. On the day of the appointment, I was called first and asked to explain the problem. I told them what happened. They also called my neighbor separately and asked him if he has been cutting trees from my compound in my absence. He denied the charges. I was then asked to bring eyewitnesses. I brought three eyewitnesses. The Shimageles on his side were not willing to accept the testimony of the eyewitnesses. Though I expected that the two people would take my opponent's side, I was surprised when the chairperson ruled against me. Later on, I learned that my opponent had influenced the chairman's decision through bej azur (indirect influencing mechanisms; more specifically bribe). The night before the case was settled, the chairperson was seen at a local bar with my opponent's cousin.*

Mrs. BT's case is not unique, as contestants attempt to influence the chair's decisions in many ways, though bribes are certainly most common. According to Mr. KE, these are offered in cash or in kind depending on the season. During the pre-harvest seasons, it is often difficult for people to offer cash. People then make promises to the *Shimageles* to pay a certain amount of coffee or cash upon the harvest of coffee.

In some cases, people sell their possessions to offer bribes to the chair or offer to do work for the chair in lieu of giving cash. Although women themselves are not allowed to go to small bars where men exchange bribes and other favors, they can use their kinship ties — including family members, in-laws or others who can negotiate on their behalf — to influence decisions.

This approach is consistent with patterns of ‘every day acts of resistance’ espoused by Scott (1990) that allow women to contest injustice in informal, intimate, or ritual settings. Some of these settings include coffee ceremonies, women’s work parties, women’s monthly religious gatherings to commemorate Saint Mary’s day, and funeral gatherings wherein kinship ties can be invoked to assert influence. Discussion with local women confirmed that, for instance, the coffee ceremony is an essential part of daily life for most people living in rural areas and key to the exchange of information at a limited scale; however, it was indicated that the number of female-headed households who have such influence is very insignificant. Access to networks and influence is heavily dependent on women’s ability to host different social gatherings and feasts as well as their economic and social positions; female-headed households occupy lower social and economic positions by virtue of their marital status and limited non-coffee sources of income. The only exception is the case of female heads of households who have access to remittance from adult children living outside Zeghie.

When this is not the case, or when a woman remarries, heightened susceptibility to loss of land is nonetheless evident. Mrs. AT’s case reveals how such arrangements can also compromise women’s existing, albeit minimal, rights to land.

*His name is [Mr. G]. He was a wodogeba (a man who marries a divorced/widowed woman and lives in her house, often men who does not themselves own land or is a migrant from another area). He had nowhere else to go, so I let him stay with my children and me. I let him work my land with a sharecropping arrangement (Yekul). Later on, we decided to get married. We had a customary/ traditional marriage. In addition to my own land, we agreed to cultivate other people’s land through a sharecropping arrangement. We managed to take land from two neighboring plots. Since he became the head of the household, he was the one who signed the agreement with the landowners. We worked on the land together, clearing the land and planting and nurturing the coffee and hops (Gesho). At the end of the season, we collected 18 madga<sup>xiii</sup> of coffee and stored it in our backyard. One day, the Shimageles came to our house without announcing. He informed the elders that he would like to divorce*

*me as I was contemplating suicide. That was very shocking to me. I asked him “do I have any reason to commit suicide?” He did not say anything. The negotiation took three days, I was convinced by the Shimageles to accept the divorce, and sign an agreement that was already prepared. What I did not know was that he was having an affair with my neighbor who was also a single mother. We had been working her land as sharecroppers. I was cheated out of the arrangement, as I am illiterate. I did not know what was contained in the agreement I signed. Later on, one of the Shimageles told me that I have already released the land from both sharecropping arrangements to the man.*

Women’s limited access to education and so inability to read and write has also entrenched their vulnerability to the *Shimageles* and some male residents regarding contracts and negotiations as most men in Zeghie have at least completed church-based education programs through which they have acquired at least minimal literacy. Women who can read and write remain hampered by lack of knowledge of the laws and policies that would enable them to make informed decisions or defend that which is legally theirs.

Ms. GE’s story reveals how women under these circumstances are exploited. After her husband died, Ms. GE, who is illiterate, was unable to manage the coffee farm and resorted to sharecropping, wherein she consented to sharing 50% of the produce, an agreement ostensibly expressed in a contract prepared by *Shimageles*. As she knew the *Shimageles* involved and trusted them, she did not ask for a second opinion. However, when the coffee was harvested, the sharecropper refused to distribute Ms. GE’s portion to her. When she demanded a share of the harvest, he firmly told her that she had no right to the land as she had already sold it to him. Unfortunately, the actual contract did indicate that she had transferred her rights to the land to the sharecropper. Although she did not receive any cash, she signed a contract that states that she sold the land. Angry and frustrated, she rushed to the *Shimageles* who confirmed that the agreement clearly showed that she had sold the land. A victim of her illiteracy and misplaced trust, she is now totally dependent on her children who send her a small amount of money each month.

All but two of the women we interviewed did not know how to read or write, let alone understand contracts written on their behalf. Ms. GE could not take her case to the formal court since the contract stated clearly that she had sold the land, even though she had been unaware of this prospect and had not received any payment for the land ‘sold’. According to Ms. GE, the sharecropper had conspired with *Shimageles* whom he knew well and who had agreed to help him in exchange for money. She added that her opponent has good re-

lations with most people in the community and that he had convinced them that he was in the right by showing them the contract.

### Social enforcement in dispute resolution

Improved education and literacy among women is a highly desirable and beneficial goal in its own right, and would offset deceit in contracts of the kind recorded above. But, this by no means explains the central problem of legal and para-legal institutions as they under-serve women in Zeghie. Elsewhere in Ethiopia, significant decision making authority and the political empowerment of women has been achieved, despite parallel levels of education and [il]-literacy (e.g., Tesfa, 2002). Rather, the central problem, as identified by women interviewed for this study, is the inability of women to receive fair hearings and contest decisions after the fact, even when they transgress formal civil codes of law. Further still, there is the palpable conservative force of the *Shimgelina* itself as enhanced by Zeghie's status as a cornerstone of Ethiopian [Christian] orthodoxy. Operationally, what this means is that if and when complaints are registered, the poor status of women prevails, particularly as *Shimageles* discourage women from appealing to the PA civic court, suggesting typically that such acts are a waste of time and money. Conformity is also imposed through appeals to church-inspired 'higher order' goals of peace and community cohesion. Although maintaining harmony and peace is desirable for all involved in disputes, outcomes are overwhelmingly less favorable to vulnerable groups and individuals. Women are especially disadvantaged due to discriminatory practices that are part of the unwritten but widely upheld customary law and the absence of a gender-level playing field. Women who decide nonetheless to appeal to the PA civic court are often ostracized for behaving 'contemptuously' toward the work of the *Shimageles*. Other people, including relatives, are aware of these risks and tend to discourage women from taking their cases to higher civil courts.

Mrs. KT's case below describes how she was forced to accept the decisions of the *Shimgelina* even though she was convinced that these decisions were unfair:

*As soon as my husband died, my neighbor rearranged the border and planted trees on my land. My initial reaction was hurt and anger. I was surprised how cruel my own neighbor could be. I went to his house and asked him why he tampered with the border. He didn't even respond to my question. He sent his dogs to attack me whenever I tried to approach him. I went to the PA but they told me to settle the problem with the *Shimgelina*. Finally, the*

*issue was resolved by the *Shimageles* but I had to give up some of the area as a compromise for peaceful resolution. I was advised not to go against the decision of the *Shimageles*.*

In this example, harmony is exerted both as a moral burden placed on women to compromise for the sake of a greater-good peace, and as a more oblique assertion of acquiescence to the authority of the *Shimageles*. Women are forced into silence, rendering the customary system an arena where ideologies of gender asymmetry are realized through the medium of a "peaceful" resolution and obedience (literally, "do not go against"). These ideologies are fueled by the 'cultural politics' of decision making whereby "...discursive articulations originating in existing cultural practices" are used to assert traditional moral authorities at the expense of marginalized groups (Escobar, 1998, 64). Through deference to the *Shimgelina* on the part of both women and men in the community, those who attempt to challenge these impositions will be silently shunned, ignored and excluded from important social networks. This resonates with what Cain (1983, 101), cited in Silverman (2000, 403), noted as the practice of "local courts [being] used as an entry into a hegemonic process." He argued that the "law played a part in the creation of both the political and the ideological elements of hegemony, first by unifying the emergent directive class and its allies, and then by bringing the masses to conformity" (Silverman, 2000, 403).

Subtle but powerful social sanctions used by individuals and institutions to ensure forced conformity are recognized by legal anthropologists as coercive and controlling. For example, Nader (1997) uses two important notions: "coercive harmony" and "controlling processes." The price of resisting local rules, especially for those who rely on social networks and support systems (albeit on a limited scale), can be very high. This leads to not only tacit acceptance but also active participation in local rules by subordinated groups. As Nader and colleagues noted:

*[A]lthough the study of controlling processes looks at how central dogmas are made and how they work in multiple sites (often arrayed vertically), it also focuses our attention on micro-processes; that is, it is the study of how individuals and groups are influenced and persuaded to participate in their own domination .... (Nader et al., 1997, 712)*

These processes are detrimental to rural people's everyday interactions. The conclusions of dispute settlements are expected to be graciously accepted and celebrated by disputing parties through financial contributions. The *Shimgelina* institution is benign (compared to litigation) to the extent that

it resolves conflicts quickly, cheaply, and peacefully. However, as detailed above, it can easily be manipulated and corrupted. Illiterate women are easily exploited, and appeals are possible because appellants are ostracized as working against community peace and harmony.

While legal anthropologists have identified the coercive nature of forced harmony as it has come to be 'admired' in both the developed and developing world, this theory could also benefit from deeper analysis of the power dynamics in the local level justice processes and institutions in the developing world. Overlooking the realities and interests of less powerful people has often led to embracing a "general" vision promoted by dominant voices, with the result that much development has left the hierarchies and biases of poverty firmly in place (or has indeed strengthened the inequities embedded therein) without a clear grasp of how tacit adherence to enduring norms enshrined locally and/or embodied in prior legal codes (e.g. *Fetha Negest*) stand in contradiction to the needs of poor women and likely some men in the rural area. In particular, promoting naively the ostensibly egalitarian-democratic or 'culturally sensitive' belief in systems of "local justice" as a panacea for better governance could hamper rather than promote just development.

In support of the Ethiopian government's effort to mainstream gender issues, donor communities, international and national NGOs, and bilateral agencies have contributed immensely by addressing gender in their respective policies, programs and implementation strategies (Rose & Subrahmanian, 2005). However, these policies and programs have not been translated into action at the local level, especially as concerns the operating of local institutions such as the *Shimgelina* or similar customary systems. A case in point is CARE's experience in Zeghie. Between October 1997 and May 2003, CARE was committed to a project with an overall goal of improving the livelihood security of 800 households (50% of total households) through improved coffee production technologies, training and provision of improved bee hives, water and sanitation programs, as well as general infrastructure and development support (Gebremeskel & Dehab, 2003). The project significantly alleviated women's workloads by reducing the travel time for women to fetch water; through infrastructure development, the project also improved transportation facilities and health services, many of which benefited women directly. To build community capacity, CARE also established Village Development Committees (VDCs) wherein a 50% participation rate by women was reported following expectations of the same by CARE (Gebremeskel & Dehab, 2003).

However, despite achieving a VDC representation rate of 50%, women's actual participation in decision making was minimal. Apart from mere demographic representation, the

project was not able to bring about even rudimentary changes in men and women's attitudes and judgments regarding the roles of women. The project report, in translation, attributed this to "inadequate gender promotion activities tailored to the unique situation in Zeghie" (47). Moreover, discussions with Mr. Ayinalem Yigzaw, who managed the project, revealed that one of the weaknesses of the VDC approach has been the lack of sustainability mechanisms: that is, the VDCs were not taken up by other governmental and community based institutions and groups when CARE left the area. The VDC approach has been looked at as a prerequisite for getting project funds instead of as a way to address women's lack of participation in project related activities and gender inequality more broadly; it has helped to ensure women's participation in need identification, project design, implementation and evaluation, but otherwise exists as discrete. It cannot be expected to contribute more than ephemerally in the absence of broader and local social pressure, movements to lasting change, or sustained exemption from harmful practices, except perhaps in those situations where specific in situ attention is paid to what George (2007) refers to as 'indigenous interpretations of feminism and gender equality'.

And while the rationale for informal or traditional justice systems by state and non-state actors alike in Ethiopia has been the belief that peaceful resolution is better than court litigation or the maxim that "even a poor settlement is better than the best fight" (Gowok, 2008, 278), the burden of consequence rests with women. There is little incentive for men to avoid thieving land when some gain in the name of peace is more likely than not. Moreover, the *Shimgelina* and other similar systems are appealing to communities whose experience is that formal justice is much more cumbersome and bureaucratic. Indeed, the role of traditional conflict resolution mechanisms cannot be overemphasized in societies like Ethiopia, where the formal system has been inefficient, weak and even inaccessible by the majority of the population, especially in rural areas (Chirayath et al., 2005).

## Concluding remarks

This paper set out to examine women's access to formal and informal legal protections in a rural setting in Ethiopia as it affects their ability to maintain a land-based livelihood. The research indicated that decisions or outcomes particular to women and protective of their interests is unavailable to Zeghean women, especially female heads of households. Feminist legal scholars have played a significant role in the integration of gender equality principles in the family codes and other laws pertaining to property, resulting in a number of concrete changes, including the inclusion of gender equality consideration when formulating policies and drafting

laws. In addition, extensive legal reforms, including those attentive to gender equality, have been introduced at the federal and regional levels. Yet this research has identified that the gains from these efforts have not been realized at the local level, especially in rural areas where the majority of Ethiopian people reside.

The absence of any pervasive realization of these goals in rural Zeghie peninsula is explained in part by the work of legal anthropologists such as Nader (2002, 1997). The notion of 'coercive harmony' is especially relevant to elucidate how traditional leaders enforce adherence to peace over and above gender equality at the local level. However, for a more complete understanding of how this system affects the most powerless, especially female-headed households, a deeper analysis of social, cultural and gender issues is of paramount importance. Gender inequality and gendered power relations at the local level interact with other historical (e.g. the much older legal code *Fetha Negest*), political (largely male leadership), and cultural (normative pressures) factors, rendering women especially vulnerable in this period of rapid socio-economic change. Women's efforts to seek recompense or secure land already ostensibly tenured to them once divorced or widowed are often challenged by more powerful litigants who employ various mechanisms to influence decision makers both at the PA civic court and the *Shimgelina* levels. Lack of proper training, inadequate staffing and increasing load of cases result in a tendency to refer most cases to the *Shimgelina*, where decisions are made based on local rules and cultural practices rather than on constitutional and formal laws.

The PA court — and even more so, the *Shimgelina* — are revealed to be part and parcel of the customary logics whereby elders expect women to "compromise" their rights in the spirit of harmony and the peaceful resolution of disputes. Those who resist these practices risk isolation from social networks and like support systems. Attempts to assign cases affecting women to the next judicial level are hampered by those seeking to uphold these discriminatory rules and by courts that systematically use delay, neglect, and intimidation to restrict access to timely and fair hearings.

Legal reformers would do well to examine more carefully the enhanced vulnerability of new gendered demographic groups who have come up against habits of decision making and normative though not literal rights to property in moments of significant male emigration from traditionally patriarchal territories. Addressing the lack of literacy among women is crucial, as is inadequate awareness of new civil codes among women and men in Ethiopia's rural areas. Increasing women's literacy skills and awareness of legal rights would hopefully lead to greater capacity to interpret the law in women's interests or at least avoid outright predation on women dependent on the literacy of others. Legal reform

programs might also work with customary systems to establish ways to create female-friendly legal spaces where women are encouraged to voice their concern and contest unfair decisions. Women's experiences in the legal arena must be understood not only as claims and counter claims to property but also as struggles over power and rights more generally (Moore, 1993).

Another focal point for justice reform programs might be the lack of skilled people at the PA level. The government's decentralization program has not been accompanied by the development of local skills in service provision. Members of PA civic courts receive a mere five days' training in Ethiopia's laws and legal procedures, and at these courts, traditional rules and customs strongly influence decisions, especially when the two litigants are a man and a woman. It matters little how clearly the formal law articulates women's equality when those laws are interpreted and implemented locally in ways that assign paramount importance to the social and economic status of the disputants, including the networks available to them, and, obviously, their gender. We suggest that justice reform programs should build the capacity of PA civic courts to handle complex cases, assign qualified staff even if they are not politically affiliated, and integrate locally meaningful concepts of gender equality irrespective of economic and social status and in juxtaposition to competing norms of harmony so as to at least reveal, if not eliminate, the ability for men to act against women with impunity.

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## Endnotes

- i tihut\_asfaw@yahoo.ca
- ii Traditional justice systems are also known as customary justice and are administered by non-state actors, e.g. community groups, elders, religious institutions etc. These systems operate based on local rules and customs rather than legal codes (Original, 1997).
- iii Log books contain the names of tax paying household heads.
- iv Archival records include published early travellers' accounts.
- v In favorable years, Zeghie has two rainy seasons, belg and meher though virtually all those interviewed noted that rainfall has become unreliable. Locals report that the belg rains often fail completely, while the meher rains can be untimely or short. Civil servants within the regional office of EPLAUA confirm this. [0]

- vi The Derg, a communist military regime, was in power from 1974 through 1987 following the overthrow of Haile Selassie I.
- vii Loss of traditional land generally refers to those who held land under the rist system of tenure, which preceded that instituted in and after 1975. For information on this system of tenure, see especially Hoben (1973); Cohen and Weintraub (1975); and Yigremew (2002). More broadly, it should be noted that those previously barred from owning land before 1975 (e.g., weavers, potters, those who worked on animal hides and skins), were given land in subsequent reforms.
- viii Being married to more than one wife at the same time is prohibited by law; however, some men who migrate to other areas in search of jobs marry a second time in the absence of divorce from their first marriages.
- ix Ethiopian Birr
- x 1 CAD = 10 ETB
- xi Written documents on the history of Shimgelina are difficult to find. However, Ghelawdewos (2004) has noted that Shimgelina has been around for generations. He links its emergence to the Ethiopian/Aksumite tradition, which ensures that every citizen be entitled a 'hearing' in the event of dispute, transgression, or crime.
- xii Decision makers in this case could include the members of the court or Shimgelina or mainly the Chair of the PA civic court.
- xiii Traditional water carrying jug made from clay containing 15-20 liters of water.

## References

- Alemnew, A. (2001). Diversity and Socio-Economic Importance of Woody Plants on the Peninsula of Zeghie, North Western Ethiopia: Implications for their Sustainable Utilization. Uppsala, Sweden: Swedish University of Agricultural Sciences.
- Bryan, E. & Varat, J. (2008). Strategies for Promoting Gender Equity in Developing Countries: Lessons, Challenges, and Opportunities. The Woodrow Wilson International Center for Scholars. Washington, D.C.: Woodrow Wilson Center.
- Chanock, M. (1985). *Law, Custom, and Social Order: The Colonial Experience in Malawi and Sabia*. Cambridge: Cambridge University Press.
- Chirayath, L., Sage, C., & Woolcock, M. (2005). Customary Law and Policy Reform: Engaging with the Plurality of Justice Systems. New York: World Bank.
- Cohen, J. & Weintraub, D. (1975). *Land and Peasant in Imperial Ethiopia: The Social Background to a Revolution*. Netherlands: B.V. Gorcum and Company.
- Davies, M. (2007). Unity and diversity in feminist legal theory. *Philosophy Compass*, 2(4), 650-664.
- Dehab, B. & Asmelash, W. (2003). Old Beyond Imaginings: Ethiopia Harmful Traditional Practices. Addis Ababa, Ethiopia: National Committee on Traditional Practices of Ethiopia.
- Environmental Protection Land Administration and Use Authority (EPLAUA). (2004). Problems of the Natural Forest of Zeghie Peninsula and Recommendations for Action. Bahir Dar, Ethiopia: EPLAUA.
- Escobar, A. (1998). Whose knowledge, whose nature? Biodiversity, conservation, and the political ecology of social movements. *Journal of Political Ecology*, 5, 52-80.
- Federal Democratic Republic of Ethiopia (FDRE). (2006). Report of the Federal Democratic Republic of Ethiopia on the Implementation of the AU Solemn Declaration on Gender Equality in Africa. Addis Ababa, Ethiopia: Federal Democratic Republic of Ethiopia (FDRE).
- Federal Democratic Republic of Ethiopia (FDRE). (2000). Federal Negarit Gazeta. The Revised Family Code Proclamation No. 213/ 2000, Federal Negarit Gazeta Extraordinary Issue No.1/2000. Addis Ababa, Ethiopia: Federal Democratic Republic of Ethiopia (FDRE).
- Federal Democratic Republic of Ethiopia (FDRE). (1997). Federal Negarit Gazeta. Federal Republic of Ethiopia Rural Land Administration and Use Proclamation, Proclamation 1997. Addis Ababa: Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia (FDRE).
- Federal Democratic Republic of Ethiopia (FDRE). (1995). Federal Negarit Gazeta. The Constitution of the Federal Democratic Republic of Ethiopia. Addis Ababa, Ethiopia: Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia (FDRE).
- Gebremeskel, D. & Dehab, B. (2003). Final Evaluation of the CARE Zeghie Community Based Development Project. CARE International in Ethiopia. Addis Ababa, Ethiopia: CARE Ethiopia.
- Getachew, D. (1994). A Socio-Economic Study of Zeghie Peninsula. Addis Ababa, Ethiopia: CARE Ethiopia.
- Ghelawdewos, A. (2004). Designing Continuum to Enrich Ethiopian Educational Discourse and Debate Culture. Institute of Development and Education for Africa (IDEA). <http://www.africanidea.org/designing.html>
- George, G. (2007). Interpreting gender mainstreaming by NGOs in India: A comparative ethnographic approach. *Gender, Place and Culture*, 14(6), 679-701.
- Gowok, S. M. 2008. Alternative dispute resolution in Ethiopia — A legal framework. *African Research Review*, 2(2),265-285.
- Griffiths, A. (1998). Reconfiguring law: An ethnographic perspective from Botswana. *Journal of the American Bar Foundation*, 42,123-139.
- Hirsch, S. (1998). *Pronouncing and Preserving: Gender and the Discourses of Disputing in an African Islamic Court*. Chicago: University of Chicago Press.
- Hoben, A. (1973). *Land Tenure among the Amhara of Ethiopia: The Dynamics of Cognatic Descent*. Chicago: University of Chicago Press.
- Hussein, J. W. (2009). A discursive representation of women in sample proverbs from Ethiopia, Sudan, and Kenya. *Research in African Literatures*, 40(3), 96-108.
- Joireman, S. (2008). The mystery of capital formation in Sub-Saharan Africa: women, property rights and customary law. *World Development*, 36(7), 1233-1246.
- Maiese, M. (2005). Theories of Knowledge. In G. Burgess and H. Burgess (eds.), *Beyond Intractability*. <[http://www.beyondintractability.org/essay/knowledge\\_theories/](http://www.beyondintractability.org/essay/knowledge_theories/)>. Boulder, CO: Conflict Research Consortium, University of Colorado.
- Mackenzie, F. (1995). A farm is like a child who cannot be left unguarded: Gender, land and labour in Central Province, Kenya. *IDS Bulletin*, 26(1), 17-23.
- Molyneux, M. (2002). Gender and the silences of social capital: lessons from Latin America. *Development and Change*, 33(2), 167-188.
- Moore, D.S. (1993). Contesting terrain in Zimbabwe's eastern highlands: Political ecology, ethnography, and peasant resource struggles. *Eco-*

- omic Geography* 87(3), 380-401.
- Moser, C. (2005). Has gender mainstreaming failed? *International Journal of Feminist Politics* 7(4), 576-590.
- Nader, L., Barabas, A., Bartolome, M.A., Bodley, J.H., Debert, G.G., Drucker-Brown, S., Gusterson, H., Hertz, E., Lock, M., Nash, J., & Pinxten, R. (1997). Controlling Processes: Tracing the Dynamic Components of Power [and Comments and Reply]. *Current Anthropology* 38(5), 711-737.
- Nader, L. (1992). From legal processes to mind processing. *Family Court Review*, 30(4), 468-473.
- Original, W. (1997). The Functions of Family Arbitrators Under the Ethiopian Civil Code. Sponsored research. Addis Ababa, Ethiopia: Ethiopian Women Lawyers Association.
- Rao, N. (2007). Custom and the courts: Ensuring women's rights to land, Jharkhand, India. *Development and Change*, 38(2), 299-319.
- Ribot, J. C. (2002). African Decentralization: Local Actors, Powers and Accountability. UNRISD Programme on Democracy, Governance and Human Rights. Paper Number 8. Geneva, Switzerland: United Nations Research Institute for Social Development and International Development Research Center.
- Rittich, K. (2005). The properties of gender equality. In P. Alston and M. Robinson (Eds.), *Human Rights and Development, Towards Mutual Reinforcement* (pp. 87-113). Oxford: Oxford University Press.
- Rose, P. & Subrahmanian, R. (2005). Evaluation of DFID Development Assistance. Phase II Thematic Evaluation: Education. DFID Working Paper 11. pp.44. Glasgow, UK: Department for International Development.
- Schlager, E. & Ostrom, E. (1992). Property-rights regimes and natural resources: A conceptual analysis. *Land Economics*, 68(3), 249-62.
- Scott, J. (1990). *Domination and the Arts of Resistance: Hidden Transcripts*. Ann Arbor, MI: Yale University Press.
- Silverman, M. (2000). Custom, courts, and class formation: Constructing the hegemonic process through the petty sessions of a southern Irish parish, 1828-1884. *American Ethnologist*, 27(2), 400-430.
- Tarekegn, Y. (2001). Struggles over the Land of the Deceased. Thematic Briefings. Addis Ababa, Ethiopia: Forum for Social Studies.
- Tesfa, H. (2002) Women and land rights in Ethiopia: A comparative study of two communities in Tigray and Oromiya Regional States. EASSI: Kampala, Uganda. ISBN: 9970 822 07 9
- United Nations. (2005). Gender Equality: Striving for Justice in an Unequal World. New York: UNRISD/UN Publications.
- UNDP. (2009). Human Development Report 2009: Overcoming Barriers-Human Mobility and Development. New York: Palgrave Macmillan.
- Verma, R. (2001). Gender, Land, and Livelihoods in East Africa Through Farmers' Eyes. Ottawa: International Development Research Center.
- Weinstein, M. (2001). Community mediation: Providing justice and promoting transformation. *Conflict Resolution Quarterly*, 19(2), 251-259.
- Weldemariam, A. F. (2004). Legal Pluralism in Light of the Federal and State Constitutions of Ethiopia: A Critical Appraisal (June 1, 2004). <<http://ssrn.com/abstract=1429303>> (last accessed March 16, 2010)
- World Bank. (2005). World Development Report. Washington, D.C.: World Bank.
- World Bank. (2006). World Development Report. Washington, D.C.: World Bank.