# Harresaw site-specific topic: Conflict resolution

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## FGD community elders

The common conflicts that occur in the kebele are land related conflicts, mostly about the boundaries of the land, oral harassments, conflicts among family members and among neighbourhoods. The main cause of conflict in marriage occurs when a husband has a sexual partner other than his legal wife. The participants of the FGD said that the community elders report cases to the community police, justice and security. Criminal cases reported to the police and civil cases are seen by the social court and land related disputes are seen by the land judgment. The community elders are elected when the kebele cabinet nominates and the community votes. The nominees should have no other appointed positions in the community. Reconciliation by relatives and neighbours is also common practice. These elders ask permission from the police to reconcile cases of murder, rape, and physical harassment, after the case is reported to the law. The occurrence of crime has decreased and the cases taken to the elders rather to other bodies of justice have increased.

It is three birr to open a file at the social court and it is 10 birr at the land judgment. Reconciliation has now good results. The regular judges see very few cases. The benefit of having cases seen by elders is that it has no financial cost and it avoids feelings of revenge. The court decision is followed by punishment and it might affect the next generation too.

At the court disputants are asked to choose elders. The elders put basic points on which the disputants should agree. If it is divorce, both promise that they will never ask for property and if one of them violates their promise he/she pays 500-1000 birr.

## Leader of formal dispute resolution institution

The main cause of conflict among the neighbours and the community is land. There is also conflict that happens between the gots about the land re-allocation process. Some gots want the land reallocation to be done at kushet level and some gots want it to be at got level. But the guideline says that the land reallocation should follow the process of 1983 EC’s land distribution (which was at kushet level). On the other hand, it says that in those gots which have public buildings (kebele office, FTC, health post, etc.), the land should be reallocated at kebele level. So, this case was taken to the wereda and it was decided that the land reallocation should take place at kushet level. The Ekunta sub-kebele appealed to the zone as well as to the region that they didn’t want the reallocation to take place at kushet level. But the final decision was that they had to give some land to Ma’ekel got in which the public buildings were found. This is because they wanted to continue the land reallocation process as it was in 1983 EC.

There are also conflicts created between siblings concerning property inheritance rights. When they are siblings who have land, they fight about the amount of property/ land to pass as inheritance to their children. The law says that if there are children, they all have to share the property equally, but when there are grandchildren, those whose age is 18 and above only have to share the land. This is now creating disputes. This has not yet been put into practice and the community has not accepted the idea.

The land administration of the kebele measures the land with the help of the people who were in charge of the land distribution and clears out the appeals after the decision is given by the land judgment. If there are people who appeal that their land is pushed in, they have to bring witnesses from the people who were there during the demarcation. If there is refusal to hand over the land after the decision is given, the person is taken to prison at the wereda for three days and the land is demarcated. But if he violates the decision after he is released from prison, he will be accused under the criminal law at the wereda court. However, his right to appeal is respected. The land judges are five; three (one is a woman) are permanent and two are reserved. They are elected because they have better knowledge and experience. Two of the judges were fighters. The land judgment was started in 1999 EC. Before that it was with the social court and the land administration was with the kebele administration. Community elders also resolve land related disputes. The problem is that if the decisions are violated, there will be no legality of the decision. If they present their case to the land judgment and if they are reconciled by the elders, the land judgment approves the decision.

There has been no conflict between the formal and informal dispute resolution institutions, because the appealing right is respected. As elders can’t punish a person who disrupts the trial or refuses to adhere to the decisions made, they report it to the social court which punishes them by making them pay money. If the offender refuses to obey the militia, he is arrested by the community police.

Process: The person who wants to sue at the land judgment first pays 10 birr for the application. Then a message is sent to the suspected person by a militia man. If he refuses, a commander and then a policeman is sent. The militia is paid 35/birr and 58 birr is paid to the policeman when they have to go and find the suspect. When the case is ended, the applicant applies to the social court to refund his expenses if he is found in his/ her right. But if the case is closed by elders, the application fee, the fee for secretary and witnesses is paid by the offender. If the case from the very beginning is seen by the elders, there is no application or secretary’s fee; and it takes a short time.

The main problem that occurs in the judgment process is the that the suspect and some witnesses do not come to the trial. There is no rule to punish them; but the social court could punish them.

Most of the land related cases are seen by the judgment; but there are also cases come to an end by reconciliation. Previously, there was a man who refused to be present for the trial. The case was seen by the wereda court which gave final decision in his absence. Women sue their cases by consulting with different women’s organizations. The dispute that is resolved by elders has sustainable solution. Although final decision is also given by the court, that may cause feelings of hatred and revenge because the decision is followed by punishment that may not cool down soon. The dispute continues especially if the punishment is financial and includes detention. The justice given by the court is fair and equal.

Most of the family related conflicts are resolved by reconciliation and this is supported by the law. Land related conflicts have also similar recognition by the law. Divorce of married partners divorce through community elders has acceptance by the social court if it is supported by 3 witnesses. Although the law authorizes reconciliation of criminal cases by elders, it also does final legal decisions. But the case may not be seen by the court if the reconciliation is done before the case is presented to the law prosecutor.

## Kebele officials and community policing

The source of conflict that arises among family members is mainly property inheritance (which mainly occurs among siblings). The conflict that arises between parents and children is also when the children marry out and claim to share land from their parents’ holding. There is also conflict that arises between neighbours due to land boundaries. Most of the conflict that arises among married couples is when the man has another sexual partner and the wife claims.

The formal dispute resolving institutions are the social court and land judgment, in which the judges are nominated by kebele cabinet and their appointment is approved by the kebele council. The social court hears simple offences and the land judgment hears land related cases. The land judgment was started in 2000 EC, but before that all cases were taken to the social court.

The informal dispute resolution institutions are the community elders (which have 9 members), the committees that act at the Meskel feast celebration, development groups and the reconciliations by relatives, neighbours and close family members. The people who participate in these activities are those who have better social acceptance. This kind of customary dispute resolution has been there for long time.

There is co-operation among the formal and informal dispute resolution institutions. The informal depute resolution institutions hear cases before they are sent to the court. They make efforts to resolve disputes by elders. The elders request cases that have already been taken to the court to be drawn back and resolved by the customary way.

As the role of the community police is to keep peace and security, he works together with the formal and informal conflict resolution institutions.

The process of the informal conflict resolution institutions is that the elders go to the place/house where they heard conflict was created. Then, they discuss the matter with the disputing groups. Or people who think they are being harassed go to these elders and discuss the problem. If a person goes directly to the court, the judges ask both disputants to select elders who may have to see the case first before the court hears it.

The trial process at the formal conflict resolution institutions is that first the victim writes an application letter and opens a file at the court (he has to pay for this). Then, the court writes a letter and orders a militia to give to the suspect to come for the trial. Then, the court gives a decision based on the evidence that both disputants present. It gives a letter with the final decision given by the court.

The difference among the processes at the formal and informal institutions is that at the formal institutions, the victim has to apply formally and open a file, he/she has to pay for opening the file and both disputants have to bring evidence. All this is not necessary at the informal institutions. Once the conflict is known by the elders, no sue or evidence or payment to open file is required. The aim of the informal institutions is to reconcile and not to punish either of the two people. Most of the conflicts are resolved through informal ways; if not they are reported to the formal courts. The community prefers the informal way of conflict resolution. This doesn’t have gender, wealth status or other bias.

Thus, the cases that are resolved by informal institutions have effective resolution because it is reconciling the people by forgiving each other and not by punishing one and rewarding the other one. But if there is a case where it becomes necessary to compensate the victim, compensation is applied.

There are no particular groups that are given unfair justice either by the formal or informal institutions. The formal law encourages cases to be resolved informally as much as possible. But such cases as rape, murder, abduction, robbery and serious injuries should be referred to the wereda court.

## Man who has experienced conflict

(Who was accused and ended in the court)

He is a 61 year old man and has middle economic status. He is married and has two children. The kebele chairman is his sister’s son. He was accused due to land boundary by his neighbour. First the case was seen by elders but later on she went to accuse him at land judgment. One of the witnesses said that he has crossed 3 metres into the land of the woman. But as the other witness said that he didn’t cross her boundary, he could win the case. The process was started in June and finished in December. This was because the witness was not willing to witness. But they came after they were forced by law. Besides, the case was delayed as the judges said that not all judges came to the trial (one of the judges went to seek medical treatment for his son who came from Saudi) while the reserved judges went to Saudi. He believes that disputes should be finished by elders but the woman refused.

## Woman who has experienced conflict

(A case ended by reconciliation)

The respondent is a 30 year old woman and has middle economic status. She is married and has four children. She has no close relative at the kebele office. She accused her young brother and her stepmother. The case was about land inheritance rights as her father died. She applied to the land judgment. The judges suggested the case to be seen by the elders first. Three of them selected four community elders. The elders decided that the holding was to be shared equally among the woman (with her siblings) and her stepmother (with her children). She is happy with the judgment process and the final decision. Previously, she had a similar case when she reported her case to the elders when her stepmother refused to share her father’s livestock. But as the stepmother refused the judgment by the elders, she took the case to the social court where she accepted final decision to share the livestock. Thus, she trusted the formal dispute resolution institution more than the informal ones. So she decided the case to be seen by legal bodies. Now, if the final decision is violated, there is 1000 birr as punishment.

## Observation of customary resolution process

The disputants were the community policeman and DA because the DA hid the weapons of the policeman after they had drunk together at the eve of St. Mary’s celebration. When the DA was asked why he did that, he said that he thought the policeman had got drunk and he might fight with people using the weapons. But when he gave the weapons back, the police started to frighten the DA using the weapon. Then the community around took them to their homes. The next day, the DA sued the policeman at the wereda court and he took witnesses. The social court judge, one DA and a neighbour started to reconcile both disputants. I (research officer) attended this trial done by these three people. But before this, I interviewed each one of the elders. The elders did this voluntarily because they were among the people who did see the conflict and helped to cool them down. And there were two people among these who were called by the DA as witnesses in the case. The elders underlined that the conflict was created while both were drinking. So, the conflict was created because both got drunk and not because they had further intentions. They said that the first action of the DA to hide the weapon of the policeman and the action of the police to terrify the DA after he received his gun were mistakes done by both disputants. Thus, they closed the case after both disputants accepted their mistakes and forgive each other and reconciled.

## Observations of Harresaw community report author

People have three options

1. Going only through the informal institution (elders) which is less costly, faster, and based on reconciliation, not punishment as such. But if the reconciliation fails or one party breaches the agreement reached there is no possible enforcement.
2. Going to the formal means, and agreeing that the case can be seen first by elders. This has costs that will eventually be borne by the party found to be ‘wrong’. The advantage is that elders’ decisions will be communicated to the formal institution and will be binding once it is recognized, so enforcement is possible, and the process is still based on reconciliation.
3. Going to the formal institution and refusing that the case should be seen by elders. Costs of the plaintiff are refunded by the other party if the other party is found to be wrong. Enforcement is of course possible. But this may not ‘cool down’ the situation.

The formal institution is often perceived to be unfair and biased towards powerful people. The person interviewed defends against this type of allegations when he says that “the justice given by the court is fair and equal”. He doesn’t mean to compare with the justice by elders which would be less fair.