

Afar Customary Law and Indigenous Conflict Management System

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Abstract : *In recent years, clan/ethnic/ based conflicts have exhibited surge in Ethiopia. To make things worth, Indigenous conflict management and resolution mechanisms have remained problematic, as their customary laws are not properly and adequately utilized. In this respect, Afar pastoral community is no exception. Against this background, the current study attempted to investigate the role of Afar customary laws in conflict management and resolution. The study revealed that Afar customary laws play a profound role in solving clan/ethnic/ based conflicts. Therefore, the increased ethnic/clan/ based conflicts among the people of Afar needs the realization of the customary law in its fullest potential.*

Key words: *conflict management. Customary law, Pastoral, revenge.*

1. INTRODUCTION :

In recent years, ethnic tensions and Ethno-political conflicts are prominent political phenomenon across the world with a slight difference in terms of degree. Of course, several states in Africa have experienced such tensions and conflicts since a long period of time. Ethiopia is no exception for a series of ethnic based conflicts Ethnic based conflict has recently shown surge in the country, especially since 2018. This is in contrary to the dramatic reforms introduced by the new government. In other words, the reform agenda has unfortunately been accompanied by large-scale conflicts, killings and destruction of property. What is more, these incidents are not confined to a specific regional state but are spread tantamount to all over the country.

At this bewildering juncture, the question: why the scale of ethno-political conflict is escalating since 2018 begs answer. While trying to answer this question, Samir (2019: V) noted that “elites have further exacerbated the conflicts for opportunistic reasons. The economic downturn has played a role both as a source of grievance – facilitating ethnic mobilisation – and also as a factor that makes it easier for some to engage in violence.” Accordingly, the key driving force for the proliferation of violent ethnic-based conflicts in the post EPRDF government is related to elite’s excessive self-interest, whereby their goal is mainly geared towards more economic gain than political achievement. This entails that ethnic based conflict poses a looming threat due to “conflict entrepreneurs”.

Now is a high time to respond to conflict entrepreneurs in all appropriate avenues. Conventional and customary laws should be properly utilized where deemed necessary. In Ethiopia, different indigenous conflict resolution mechanisms have been practiced for a long period of time. These mechanisms are deeply rooted in different ethnic groups of Ethiopia. They are associated with the cultural norms and values of the peoples and gain their legitimacy from the community values instead of the State. Owing to the multi-ethnic composition of the country, indigenous conflict resolution mechanisms of Ethiopia are different from one to another ethnic group.

The Afar people of Ethiopia have a strong sense of respect to their customary laws – unwritten legendary traditional rules and guidelines that passed from generation to generation. Among Afar pastorals, when there is a breach of conduct or misbehavior, reference is quickly made to such laws to take necessary corrective measures. This pinpoints the role of traditional conflict resolution among Afar in a time where Ethnic/clan/ based conflict show a surge in Ethiopia.

2. Profile of the Afar People :

The Afar people of Ethiopia mainly live in Afar National Regional State (ANRS) or simply Afar region. The region is located in the Great East African Rift Valley of Northeastern part of Ethiopia (Kinfu Abreha, 2014) between 39⁰34’ and 42⁰28’ East Longitude and 8049’ and 14⁰30’ North Latitude (EPA, 2010). Samara, located at a distance of about 600 KM from the country’s capital city, Addis Ababa, is the capital of the region. Several towns of the region

such as Logia, Decioto, Mille, Adaitou, Gewane and Gadamaitou are emerged along the Ethio - Djibouti main road that led to the development of a typical "Truck Stop Economy" (UNDP, 2001). Like in the case of many pastoral areas, most of the town based jobs and businesses in Afar region are owned by non-Afar (outsiders). Therefore, more than half of the enterprises in Afar towns run by non-Afar people coming from other regions (Little et al., 2010).

The people of Afar are believed to be the descendants of Arabs who were migrated to their present location around 4000 years ago. They are identified by different names such as "Adal", "Dankali", "Oda'ali" and "Teltal". However, they rejected all these names and preferred to be called as Afar. The name Afar has no meaning in their native language – *Afar-af* (Yassin, 2008). Who are the Afar people? There could be different explanations for this question. One simple answer from a geo-political point of view is that Afar are the front defender of the sovereignty of Ethiopia as most of Ethiopian previous enemies including Egypt, Italy and other aggressors sought the Red sea route where the Afar lived for a long period. The rest of Ethiopians consider Afar as "Ethiopia's fence" as they deny external enemies from advancing into deep to conquer the highland of Ethiopia.

Afar people are considered as more of a pure-pastoral, resilient and egalitarian society which is characterized by the absence of class difference within clan and between clans (Helland, 2015). There is no distinctive class system in the Afar society as in the caste system in India, feudal estate systems of medieval Europe or the social class system of modern Britain. It is a naturally classless society because it shares both power and social stratifications together.

Traditionally, Afar had a system of leadership known as *Sultanet* that persists even today (Aynalem, 2014). Before the advent of colonialism and their incorporation into the central Ethiopian government, Afar had four Sultanates: *Tajurah sultanate*, *Rahayto sultanate*, *Aussa sultanate* and *Grifo sultanate*. Historical sources showed that the divide and rule colonial strategy forced the people of Afar to live in three different countries. Hence, today, they live in Ethiopia, Djibouti and Eritrea. However, except for living in different geographical boundaries, they share similar psychological makeup and identity (Yassin, 2008).

Afar pastorals have largely moved with their herds towards the Awash River, which flows through much of the Afar region. Approximately, they move within a radius of 50 km (UNDP, 2001). More frequently, they move within a radius of 20 km. However, during severe droughts and harsh climatic conditions they move up to 150 km. About 90% of the Afar production system is dominated by livestock production. Their production system is labor intensive where the contribution of members of families, relatives, friends and neighbors is important (Behnke and Kerven, 2013). This entails that Afar utilize their social capital in the process of livestock production. Livestock are the primary source of income, food and power among the people of Afar. The latest report by BoFED (2017) indicated that Afar own an estimated number of over 10 million heads of livestock including 2,110,888 cattle, 6,713,546 sheep and goat and 832,016 camels.

Afar practice a patrilineal decent system where every individual belongs to a particular clan (Tesfaye and Tafere, 2004). Each clan owns a piece of land with a watering point at the center (Helland, 2015). According to the estimation of UNDP (2001), Afar pastorals have more than 100 clans. The clan is the lowest level of social organization in Afar even though it is further divided into sub-clan (*dahla*). Each clan has a clan leader (*Kedo Aba*), lineage leader (*Dala Aba* or sometimes, called *Dabala Aba*), youth leaders (*Famma Aba*) and elders' councils. Marriage is polygamous and arranged in accordance with Islamic Sharia law. The most common marriage pattern is cross-cousin marriage (locally known as *Absuma*). The newly married couples live near the groom's family (Patrilocal) in a dome-shaped hut known as Afar-Ari (Tesfaye and Tafere, 2004).

3. Afar Customary Law :

Law is a very important instrument to maintain order and stability within a society. It serves as a means to allocate rights. The allocation of rights has various implications for the society including solving conflicts (Coleman, 1988). Traditionally, all society used customary laws to judge individuals who breach a law or display misconduct (Teacher, 2013). Thus, customary laws serve as an instrument of peace and contribute positively to society. This can be best epitomized by Afar pastoral communities.

In the past, Afar had different tribal confederations and Sultanates. Each confederation or clan community had a respective customary law. The 1995 FDRE constitution recognized that the area of Afar as one of the autonomous region, formally known as Afar National Regional State. This development initiated Afar Cultural Tourism Bureau (ACTB) to compile the customary laws of different tribal groups together. Based on a detail investigation, ACTB classified the customary laws into five main groups of customary law (*Afar Madaa - Afar Madqa*). These include *Burqili Maqda* (Bur'ili), *Buxuto Baxih Maqda* (Buduto), *Afkideq Makdih Maqda* (afki'ak maad), *Debnek-weeqimiimih Madqa* (Denek waimah), *Badoyta Meelah Madqa* (Badoyta milah).

According to interviews held with key informants, the execution of the customary laws is based on the principle of 'Commission and Omission'. In this respect, both the murderer and the one who is indifferent towards the murder incident are punishable by the law. The customary laws state different punishment for different offenses. The

specification of the punishment depends on the nature of the crime committed. For example, while a very high-level offense such as murdering requires compensation of up to 100 camels; crimes like insulting may be punishable by paying a few numbers of goats.

Judgment and decision on the amount of compensation follow the completion of the investigation process. The judges usually hear evidence from both sides: the victim and the offender. Sometimes, when there is no witness from both sides, the victim and the suspect give testimonies in front of the elders to prove their words are genuine. Finally, the elders give their verdict and order to conclude the session with the recitation of the Holy Quran.

4. Common Types of Crime and Punishment

Afar customary law distinguishes two types of compensation for crimes against a person. One is related to murder, locally known as *Diyyat*, and the other is an offense involving bodily harm – *Dikha*. The law also prescribes specific compensation for harms caused by foot, tongue or sexual organs. In principle, the judges often calculate the compensation in terms of camels, but the offender paid by changing the number of the camels into an equivalent amount of local currency (birr).

Table 1: The Nature of Common Types of Crimes and Part of the Body Involved

S. No.	Offense	Hand	Sex Organ	Tongue	Foot
1	Murder	Yes			
2	Beating	Yes			
3	Robbery	Yes			
4	Stealing	Yes			
5	Arson	Yes			
6	Raping		Yes		
7	Pre-marital sex		Yes		
8	Fornication		Yes		
9	Insulting			Yes	
10	Back biting			Yes	
11	Kicking				Yes

Source: Afar Culture and Tourism Bureau

From the above table it is evident that the Afar customary law specifies different crimes with respect to different parts of the body that cause a serious psychological damage or bodily injury to the victim. The fine of a body injury depends on which part of the body was harmed. In a finger injury, for example, participants reported that the customary law considers the damage caused to the little finger, pointing finger, and ring finger as serious. Afar pastorals view the first finger is the most peaceful, the second is important to indicate locations, and the third is essential for the purpose of marriage. The front and back parts of the body also do not have the same compensation. The law treated the damage caused to the forehead more serious than the back, as the front is easily exposed to onlookers whereby the victim may be liable to permanent humiliation throughout his life.

5. Conflict Management and Resolution :

Afar traditions discourage crimes against humanity in strong terms, especially homicide whether it is intra-clan or inter-clan murder. When a person commits a murder crime, the clan leaders immediately try to secure the family of the murderer under the protection of the clan. That means, the clan leaders tried to manage the conflict for the first time. Afar give the name "*Megilo*" to a murderer family to refer those people who scared because of the murder incident. Following the incident, the murderer family members leave their locality in order to eliminate any kind of contact with the victim's family. Otherwise, retaliation may occur instantly, as the victim's family is possibly ready for revenge at any time.

Therefore, preventing revenge is the primary concern of the customary law after the incident of a crime. Under the clan protection system, a special administrative force safeguards the murderer family from any potential act of revenge. This force consists of the strong members of the clan, known as *Famma* group. Until the final stage of reconciliation, the safety of the murderer and his relatives are under the protection of the *Famma*. Depends upon the condition and duration of the negotiation, the protection may continue for about a year. After a year of 'deadlock', the victim's and the offender's family start a reconciliation process. At the initial stage of the reconciliation, highly respected individuals such as religious leaders take the initiation to bring the opposite groups together. This phase of reconciliation

allows opponents to interact face-to-face for the first time after the occurrence of the incident. The face-to-face communication concluded by fixing another date to settle the conflict. On the date of the appointment, representatives of the opposite parties gather at a certain place for further negotiation. This phase of negotiation aims at two important issues: compensation and mending the broken relationship. The judges make sure that the negotiation yields justice for both parties and avoids any potential enmity.

On the closing date of the negotiation, the offender's side slaughters a camel and compensates the victim's family. Slaughtering a camel for fine is crucially important in the negotiation process. It opens the door for the opposite parties to interact to each other and share meal together. In that, it bridges between individuals of different heterogeneous groups (e.g., the conflicting clans) or links individual within a homogeneous group (conflicting individuals within a clan). The sacrifice often takes place along a roadside so that any community members or passers-by take a lesson in forgiveness (*afu*). Usually, males roast the meat on fire lit on a collection of black stones. No one remove these stones from the area as they supposed to stay for years after the ritual.

The customary laws fix all compensation payments of different offences. In practice, payments are open for negotiation and victims may pay a lesser amount. For example, the customary law states the fine of murder is 100 heads of camels; but following a bargaining procedure between the elders less than half may be expected from the murderer's clan. Sometimes, the negotiation process becomes a challenging endeavor particularly when the murder case extends to inter-clan conflict. The victims may look for retaliation for such types of murder despite it breeds a bloody conflict between the clans. For this reason, conflicting parties often choose a resolution in accordance with their customary law that encourages peaceful coexistence and cooperation.

6. CONCLUSION :

Afar customary laws play a crucial role in conflict management and resolution. The laws encourage a negotiation process that helps to build peace in the community. A close examination conflict management and resolution in Afar pastorals provides an insight into how the people are effective in the utilization of their customary law. The group based protection of the offender from the revenge; the negotiation procedure of the elder's council; the commitment of elders to bring peace; the norms of sharing the burden of a clan member; eating meal together following negotiation process; giving forgiveness (*afu*) for offenders and restoring the damaged relationships between the conflicting parties play a tremendous role in the conflict management and resolution. Therefore, it is safe to conclude that the customary laws helped the Afar people to survive various ethnic/clan/ based conflicts, which in turn, uphold the community together.

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