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I often found the research experience very stressful, in terms of finding ways to communicate with the women about my research questions. This was the case until I realized that they were in fact often telling me about the practice very loudly and clearly. The elders, meetings and the customary practice in one way or another, are involved in these women’s and their husbands’ lives since the beginning of the marriage. Therefore, there is a chain of events. The elders do not just appear out of the blue to settle the conflict. Rather, in fact in most cases, it is those elders who mediate the marriage creation in the first place who work with the couple later at the time of conflicts. I needed to redirect my attention from “what happened” after the conflict and the women’s experience when dealing with the *Kitcha* customary system to resolve their marital problem, to what meant to the women when remembering the conflict through their

interpretation of the events prior and/or during the conflict and post conflict with their husbands (Karamelska and Geiselmann, 2010).

### **What about In-Between Positional status?**

According to Mullings, when doing feminist qualitative research, the reader needs to obtain “authentic” information that speaks to the research questions. First the researcher must seek to find her positional space “where the situated knowledges of both parties in the interview encounter, engender a level of trust and co-operation” (1999: 340). Kusow writes: “relationship between researcher and participant cannot be determined a priori such that a researcher can be categorically designated either an insider or an outsider” (2003:597). Kusow continues arguing that the identities of researchers and their constant negotiated multiple positional spaces depends on “the interaction between the researcher and the participants as well as the social and political situation within which the interaction occurs” (2003:597). Hence, “the degree of a scholar’s insiderness, or the degree to which scholars manage to overcome their outsidersness, is believed to determine easy access to informants, reliability of collected data, and the success of the fieldwork” (Ergun and Erdemir 2010: 18).

Feminists have debated and reflected on “insider - outsider” positionality in fieldwork to ascertain what position best serves the researcher’s ability to access information from research subjects. Hill-Collins (1990) argues that “insiders”, researchers who study a group to which they belong, have an advantage because they are able to use their knowledge of the group to gain more intimate insights into their opinions. Ergun and Erdemir also state that “for the insider,

shared citizenship, ethnic, linguistic, religious, gender, and cultural identities or simply affinities facilitate the researcher's access to the field." (2010: 18).

Those who stress the outsider perspective, on the other hand, argue that by not belonging to a group under study, researchers are more likely to be perceived as neutral and therefore will be given information that would not be given to an outsider (Fonow and Cook, 1991). Those who endorse "outsiders" views also argue that they are likely to have a greater degree of objectivity and ability to observe behaviors without distorting their meanings. Kusow argues that, since "outsider ethnographers are not initiated in the cultural values of the people they study" (2003:592), the question remains on "the ability of outsider scholars to competently understand the experiences of minority groups" (Kusow, 2003:592)

Nevertheless, Mulling (1999) and Zavella (1996) argue that, the insider/outsider debate unsuitably assumes the existence of collective understanding of who is an insider and who is not. It considers insiderness and outsiderness as fixed features. As a result, the debate overlooks the fact that the researcher's identity and positional status is, what Ergun and Erdemir call, "context-dependent" (2010: 19), highly situational and determined by social, cultural and political values of the society. In other words, positionality is not static in its nature. It is constantly negotiated in each and every interaction the researcher makes with participants.

Thus, Mullings states that "the "insider/ outsider" binary in reality is a boundary that is not only highly unstable but also one that ignores the dynamism of positionalities in time and through space. No individual can consistently remain an insider and few ever remain complete outsiders"

(1999: 340). She continues by arguing that “positional spaces, however, are often transitory and cannot be reduced to the familiar boundaries of insider/outsider privilege based on visible attributes such as race, gender, ethnicity or class” (1999: 340). Similarly, Kusow writes: “we cannot permanently locate individuals according to a single social status. Rather, they occupy a set of social statuses such that one individual can occupy an insider status in one moment and an outsider in another” (2003: 592)

At another level, Ely, Anzul, Friedman, Garner, and Steinmetz (1991) insist that it is reasonable to think that researchers work better in a setting that is familiar to them than a completely new environment. In line with this argument, they write: “familiarity with the subject at hand - the subculture, the jargon, the unwritten codes of behavior - may enable a researcher to delve deeply into the research without having to do all of the preliminary work, such as learning a new lingo, becoming acquainted with the norms, and developing a level of comfort within the environment being studied” (1991: 124).

The above arguments tend to describe the insider identity as it forms cultural proximity with the informants. In doing so, they potentially ignore researchers who have, to borrow from Ergun and Erdemir, “an ambiguous insider/outsider status” (2010: 24) or researchers who are working, again as Ergun and Erdemir describes it, “in different but not fully unfamiliar field settings” (2010:19), basically researchers like me. The challenge encountered by the researcher in negotiating her identity in the field and strategies she uses to draw attention to communalities and downplay differences with participants is undeniably complicated. In this regard, I relate to Kusow’s discovery that “the insider/outsider distinction is far more complicated than our

professional literature suggests and that these complications bear directly on issues of credible data and knowledge production” (2003:594).

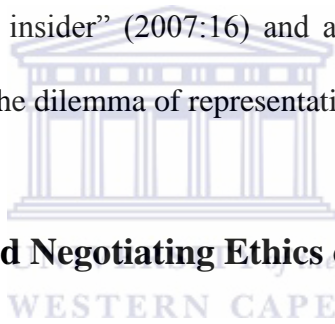
I am an Ethiopian, then a Gurage woman, working on what is “supposedly” considered to be “my culture and tradition”. This immediately assumes the equation of citizenship, ethnic identity, and belonging. Although I am not fluent in speaking the language, *Guragegna*<sup>5</sup>, I am confident in my listening and understanding of the language. This has worked in my favor as the participants are able to use *Guragegna* to respond and discuss in the interviews and focus group discussion with me and amongst themselves. Since *Amharic* is the national working language in Ethiopia, whenever I struggled to speak my mind using *Guragegna*, I switched to *Amharic*, which was not a problem as most people do understand *Amharic* language. These facts make me an “insider” – in fact many people, especially elders were ecstatic to know that I understand *Guragegna* because in many instances, a younger generation, whatever the ethnic identity may be, like me who live in the urban areas use only *Amharic* to communicate as it is our official working language. Furthermore, the presence of my father-in-law helped create an atmosphere of trust and had significant influence on the participants in treating me not only as an “insider” but also as “their daughter” too.

However, I am not familiar with what “real insiders” see as Gurage *Kitcha* Culture. My knowledge of certain practices, symbols, customs and social relationships is through my family (and our extended family) and other Gurage women that I used to be very close to, in my community. I was that child; I grew up with “this culture”; I felt the women’s pain and

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<sup>5</sup> The language that Gurage people speak is called *Guragegna*

disappointments and ironically I am the direct beneficiary of the system. However, as ironic as it sounds, I have never been directly involved in or been a witness of many of the practices, events, institutions related to Gura marriage and marital conflict resolution. The knowledge I had was from the women's oral narratives (told with tears, anger, and many other emotions) and that is mostly from what they are told by male member of their family who represented them. Hence, although I admit that the emotions I witnessed as a child still exist in my mind, I believe that there are many things that I needed to explore so that I could fully understand aspects of Gura culture to be able to question these from perspective of feminist knowledge and human rights issues. Furthermore, my in-between positional status, helps me from what Humphrey suggests as danger of being "too much of an insider" (2007:16) and allowed me to carefully make self-exploration continuously to avoid the dilemma of representation of the research.



### **Performing Methodology and Negotiating Ethics on the Spot**

Wolf (1996) and Mullings (1999) argue that conducting fieldwork is always contextualized in the politics of representation and cultural understandings, which is highly affected by issues of power, positionality and subjectivity. The process of data collection and interpretation brings out the tensions between theory and experience that make knowledge situational to contradictory social locations of researcher and participants (Harding, 1987). Thus, DeVault argues that fieldwork is an "investment" made by the researcher in finding answers to her own concerns; and it is "her ability to show that concern that serves to recruit her respondents as partners in the search: the things said are responses to these words of this particular researcher" (1999: 100).



It is obvious that similarities and differences emerge through the relations that are involved in the research process. However, although not always easy to maintain, the fluidity and openness of the research process helps the researcher to work in collaboration with participants (Zavella, 1996). “Ethical research is produced through negotiated spaces and practices of reflexivity that is critical about issues of positionality and power relations at multiple scales” (Sultana, 2007: 375). Interestingly, these different levels of negotiations are not a onetime thing; rather they are practiced on a continual basis. In this regard, Watts strongly argues that when gathering data in the field “the case for “any and every means” has to be mediated by ethical concerns that underpin all social research whether by quantitative or qualitative methods (or a mixed methods approach)” (2006: 386). This is basically meant to address the deep but often hidden power relationship between the researcher and the participants during interviews in the research. Acknowledging the active presence of participants in the process of knowledge production (Becker and Bryman, 2004) and recognizing that participants are the experts and owners of their own experience is one of the most important principles to bear in mind (Ralph, 1988).

In pursuit of rapport with research participants, Sultana argues that, “power relations can work both ways, especially if one is a young female researcher in an overtly patriarchal field context” (2007:380). Supporting this, Ergun and Erdemir state that “perceptions about the researchers also shape the web of relationships constructed in the field” (2010: 18). To sustain my insidership and to help me gain participants’ trust, I needed to perform and represent a Gurage woman identity<sup>6</sup>. For instance, when I was introduced to the elders by my father –in-law, I performed the traditional Gurage greeting style and that is kneeling down and kissing the elders feet/ knees in

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<sup>6</sup>This interpretation of “gendered performance” initially was introduced by Judith Butler (1988) article, titled “Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory”

order to show respect and humility . I consider this a “performance” not because it was artificial or manipulative; rather I have been exposed to different styles of greetings to show respect, for example – the West teaches us to look each other in the eye and shake hands firmly, but I deliberately chose to perform the Gurage (and many other ethnicities in the country) since gestures of this nature and exchanges of values help secure acceptance.

Predictably, what I read in methodology literatures and what waited for me in the field were completely different. For instance, in many social science empirical studies there are ethical requirements that need to be addressed – right at the beginning (when writing a proposal) and while gathering data. The basic ethical principles are consent, confidentiality and conduct of the research where research participants are fully informed about the objective of the research and sign a consent form (Watts, 2006). All this is verified especially in academic writing: supervisors, the faculty and senate committees which review postgraduate proposals look for these three important ethical commitments from the researcher/student. It is also assumed that what happens during field work is entirely up to the researcher, and that the researcher/student will be totally in control. Reflecting this assumption, the university required me to write an ethical statement (consent form, confidentiality, and information sheet) as part of my proposal.

However, since my field work is located in the rural community, where there is a very limited access to school and education, the majority of people, especially women, are illiterate. In addition to this limitation, many participants, those who can read, were not comfortable at all about signing the consent form; sometimes asking them was a risky thing to do. I realized this from the discussion I had with one of the first participants. I explained the research objectives

and the confidentiality of our conversation – that I would keep her identity anonymous and that whatever she would tell me stays between us. After that I gave her the consent form, and before she even read through the paper, she saw the signature space, and she looked me in the eye and said:

I am doing this interview because I thought you are Gashe's [my father-in-law] daughter and because he said it is very important for your school work. That is why I am telling you my story, I hope you will not betray me or give me up to them ...

I didn't understand where this concern came from as I was simply a student who wanted to do research on Gurage Culture. I did not know whom she was referring to as "them"– was it the elders or the authorities/government? But I do acknowledge the fear or concern of the people, regardless of my "rational" explanations. Unlike myself, many perceive the written word, or forms that require signature, or even seemingly basic documents in the same way that I would regard a very binding legal document. What to me may seem like their unreasonable anxiety is a result of being confronted by a "discourse" (writing, a form, a typed document) that is associated with social power and authority.

After that incident, I understood that they accepted me as a family member. They were participating in this research to "help" me as I am the daughter-in-law. In an interesting way, then, this incident immediately challenged the starting assumptions, namely, that I could be of assistance in helping Gurage women to "find their voice". And of course they also challenged

my (and dominant) assumptions about negotiating and finalizing ethical problems too. Regarding the formal procedures of research, it was very difficult for me to gather the data following the “code of ethics”. I ended up redirecting my ethical negotiation into making sure they voluntarily give their consent to participate in the interviews, to protect participants, women in particular, from facing any negative repercussions as a result of involvement in this research, I assured participants of confidentiality and anonymity. I also made sure participants were comfortable with and agreed to be tape-recorded.

Watts contends that “researchers rarely tell *all* the subjects they are studying *everything* about the research” (2006: 395). In my field work, this was another big concern because of two different but related situations. In *Sebat Bet Gurage*, after **Yaqaqe Wardot** (I will discuss more of her in the next chapter), there is no Gurage woman, at least on record, that came out and openly opposed the cultural practice. This research therefore raised the challenge of how to proceed in the face of very limited or obviously androcentric cultural practices. I struggled with the contradiction between the expectation of Gurage community, especially the elders, and my role as a feminist researcher.

Gurage *Kitcha* Customary law is one of the well-known and respected “customary self-governance system” in Ethiopia because of its “effectiveness” and “peaceful” handling of conflicts in wider range. I often felt that, their expectation is for me to represent this positive image. Although I could not state this directly (or often at all), I do not claim to represent “my culture” (which is, in fact, one that protects certain groups’ gendered rights and authority) because I intended to speak about and listen to “silenced voices”. Ultimately, then, my research

is a different kind of representation from those of the elders, of many women themselves. It does not celebrate or confirm the normalcy or inevitability of the system, but seeks to analyze its gendered structures and forms.

Because of the nature of my research identity, which is open to misunderstandings and misinterpretation unless handled carefully, the extent of my description of the research objectives for the women and elders were different. I didn't want to risk probably the only chance I got to interview the elders together in the focus group discussion. I realized that in order to avoid a conflict of interest between myself as a researcher and the research participants, particularly the elders, and to ensure that I retained a position as "insider" (in the eyes of the elders, the women and the community in general), I had to choose what to tell and what not when explaining my interest in exploring Gurage *Kitcha* customary practice and my motivation to this research subject. In doing so, I knew that I no longer occupied the space of, what Humphrey (2007) called, "innocent insider" or to borrow from Kusow, as "native ethnographer" (2003: 593).

Ergun and Erdemir argue that during fieldwork, gender identity often with other factors such as age, class, ethnicity, and race, may facilitate or hinder the research process and access to information. They write: "two extremes of the treatment of a female researcher are either failing to take her seriously or providing her with extra care and protection" (2010: 30). The common difficulty I had with the elders and the women was being taken as "the young daughter". Sometimes it worked in my favor as the participants opened up to me. But at other times I struggled to get them see me as a professional researcher who is interested in exploring the

culture and the influence it has on Gurage women. This was difficult and had to be handled carefully, as I did not want to “put the words in their mouth” for it has ethical implications.

The following chapter presents analysis and discussion of participant’s response. The themes that emerged from the responses critically engage discourses of gender construction, cultural identity, and the politics of individual “choice” with reference to parameters of inclusion and exclusion from the family and community in general.



## Chapter Three

### Gender and Kitcha Customary Law

Before analysing the data and delving into the issue of “customary law” and its patriarchal foundations, it is important to contextualise the rural *Sebat Bet* Gurage in socio-economic and geographical terms. This contextualisation is intended to convey the distinctive locations both of the subjects of my research and myself as a researcher engaging with women and men whose world is radically different from the urbanised ones that I live and work in. I collected the data from a region called Mamede near Wolkite city, which is the centre of the Gurage Zone. It is located about 150km south of Addis Ababa, the capital city of Ethiopia. After reaching Wolkite I had to travel with the key informant<sup>7</sup> by horse cart for three hours to Mamede as there are no modern transportation systems. As is the case in most rural parts of the country, the area is devoid of basic amenities: there is no electricity or health centre, only part of the area has access to clean water, and only one primary school exists. The court office, as the formal site of “modern” mediation of legal affairs, including domestic ones, is also found in Wolkite. Hence, the inhabitants have to travel to Wolkite to access high school education, health care, legal and other services. The geographical location of many services therefore immediately draws attention to gendered privilege; women’s domestic and reproductive roles in the area affect their mobility and access. Merely entering my research location therefore drew my attention to the fact that the remoteness and limited resources of the Gurage area, compromised women’s access to basic human rights and their dependence on and subordination within the governance of *Kitcha* customary law.

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<sup>7</sup>Three key informants were involved in the data collection.

In his article: “Symbols of Local Governance among the Gurage: The *Yejoka Qicha*<sup>8</sup> and the *Gordana Sera*”, Bahru (2008), describes Gurage as androcentric or male-centered society. The evidence in his argument shows that this society comprises a culture that constructs and sustains male dominance in many social endeavours. Bahru’s discussion of “Gurage culture” touches on traditional and “pre-modern” forms of governance system. Mainly he focuses on the success of Gurage *Kitcha* customary law to make an example of one of the few existing customary system that are working in line with the Constitution. The only exception is, as he tries to mention (although not extensively), the limited recognition of Gurage women’s freedoms and rights. Gebreyesus (1991) states that since the late eighteenth century, Gurage people have been using their own self-governance system called *Yejoka Kitcha*. It has been recorded that the customary law was formed to deal with inter-tribal wars in the region and to bring order in the society. In order to maintain the traditional practice, *Sebat Bet* Gurage People Self-help Development Organisation (GPSDO) institutionalised the practice entitled *Agurage Qicha* or alternatively “KITCHA: the Gurage Customary Law” in 1998, with significant modifications to the traditional practice in an attempt to harmonize it with the Constitution (Bahru, 2008). Similar to many other customary law practices in the country (see Donovan and Getachew, 2003), *Kitcha* customary law is applied to address various forms of disputes in the society, be it civil or criminal. The range of the law is thus quite broad, although my focus will be on matters related to marital conflict.

Gurage people have been socialised to maintain immense respect for elders. The society refers to older men and women with a title name called *Baliqe*, which literally means elderly. The name

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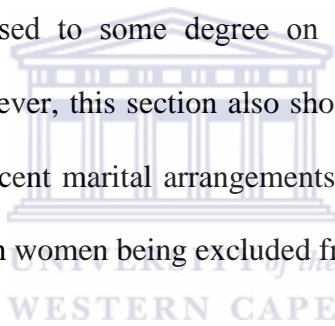
<sup>8</sup>Although I chose to use *Kitcha* to refer to the Gurage customary law, it should be noticed that many use *Qicha* and/or *Kitcha* interchangeably.



serves much more than to identify individuals according to age. It suggests that the individual earns respect from the community and acquires wisdom through age. Usually men *Baliqe* are the ones who become the chiefs of the customary law and mediators of social matters in general. Elder women can have the title but are not allowed to be judges, or even to participate in decision making. Formally, then, the system makes allowances for any *Baliqe* (elder) to be accorded the status of mediator, although in practice it is reserved for men; it is also not necessary for a man to be *Baliqe* to get involved in arbitration. According to the key informants, for a person to become a mediator in the traditional sense, he or she must be considered wise, eloquent, calm, and a role model in the community. Yet the slippage from gender-neutral notions of age and wisdom to masculinised and even militarised assumptions is clear in another title often used, *Abegaz*. The traditional judges are also called *Abegaz* in their communities. This title used to be given to those men who were war heroes at the time of ethnic conflict (Gebreyesus, 1991). Since war among the Gurage has become a thing in the past, people have shifted the elevated status associated with the name to address traditional judges. During my field work, I often noticed people refer to the elders using the two titles interchangeably. In my analysis, however, I avoid the more militaristic and recent notion of *Abegaz* and use *Baliqe* as a more suitable name to refer to the elder male group in the focus group discussion.

My field-work involved in-depth interviews with ten women who had disputes with their spouses, and these disputes had been handled according to customary law. I also conducted two focus group discussions. The first was with elders who are all men and entrusted with the duty of mediating disputing couples, and the second was with women who went through the customary mediation process.

Traditionally in Gurage, it is the family who chooses and decides on a husband for a woman. It has been said that this tradition has changed recently, and a woman is given some measure of freedom to choose whom to marry. However, acceptance and blessing by the girl's family is still mandatory. Since the extended family takes part in the formation of the marriage, they are also seen to have the power in decision - making when it comes to dealing with marital conflicts. Section one of the data analysis reveals how "family" and "community" is defined to become a source of authority - especially by drawing on the marginalization and instrumentalization of Gurage women in institutions of marriage. It focuses on how older marriage arrangements exclude Gurage women and shape their status as objects of exchange. This is in contrast to "newer" systems which seem based to some degree on recognising women's choices and perspectives from the outset. However, this section also shows that there is a thin dividing line between choice and coercion in recent marital arrangements. It is suggested that these reflect a form of covert discrimination with women being excluded from meetings and negotiations.



As explained in the literature review, in the process of emancipation from historically oppressive homogenisations of ethnicity to democratic promotion of ethnic diversity, based on ethnic federalism, the Ethiopian Government tries to give due attention to self-governance among the different nations and nationalities in the country. The major political question of these ethnic groups, particularly among the so-called "minority groups", is the claim for cultural identity authentication. Here, it should be noticed that "minority" does not necessarily refer to the numerically defined minority groups but also those groups that are politically marginalised. Hence, article 39(2) of the Constitution specifically recognises the right of every nation to express, develop, and promote its culture and preserve its history. Moreover, article 34(5) gives

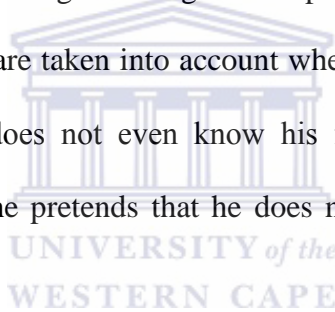
further recognition for the alternative use of customary law in civil matters like marital conflict or other kinds of disputes but with full consent of the parties. These endorsements are deemed to empower ethnic groups to celebrate the value of their distinct identity with dignity and equality in the face of imperialism and ethnocentrism that the country has suffered from.

Unfortunately, though, in the making of federal states, some part of the Constitution granting nationalities the right to exercise customary law are in conflict with other parts of the very same Constitution granting women the right not to be subjugated to cultural domination (Smith, 2009). Interestingly, this is not unique to Ethiopia; and is true of many African countries – including South Africa, where the right to culture is in conflict with the Constitution (McFadden, 2001). Thus, section two of this chapter will focus on the dilemma of choice between “Legal system” and “Customary Law” and the implication in terms of women’s equal rights. The implications have particular relevance to marital conflict mediation strategies, and how “customary law” is connected to practices and myths that offer individuals a sense of continuity and meaning. More importantly, in shedding some light on the incompatibility of the two systems and consequent lack of integration, I will use some of the responses I obtained from the participants on how *Kitcha* customary law deals with marital conflicts, especially on divorce matters.

## **Initiation and Continuation of Matrimony among the Gurage**

The majority of women who participated in the in-depth interview seem to have similar stories about the processes leading to their marriage. Until fairly recently, according to established practices in Gurage culture, women were married to the husbands they were given to. In other words, marriage was arranged. Contrary to what I have been told by the key informants, and generally from elders and women participants during interviews, Gebreyesus (1991: 107) writes:

In the old days, and even at present in remote areas, it was the father of the boy who used to look for a suitable girl through some people. Social, economic, religious, and ethnic factors are taken into account when a father selects wives for his children. The boy does not even know his father's plan about the marriage. Even if he does, he pretends that he does not know anything. The girl's position is the same.



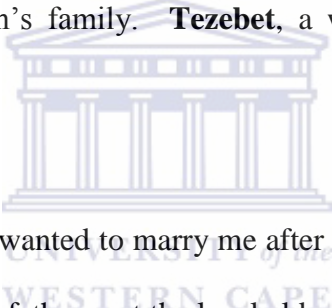
In his book, he extensively explained the traditional or “the old days”, as he calls it, in terms of practices and cultural procedures of marriage initiations. Yet, he writes vaguely about the “new” culture, stating merely that “it is only these days that one chooses his girl or fiancé and gets married on the basis of the joint agreement of the two, the bride and the bridegroom” (1991: 107). Although the statement conveys ideas of “choice” and mutual agreement, the author defines “arranged marriages” in somewhat simplistic ways and goes on to define “new” forms based on choice in equally reductive ways. In particular, he excludes attention to the involvement of the families in “joint agreement”, which according to my key informants and participants, mandatory among the Gurage in the present, regardless of the type of marriage

arrangement. Also significant about Gebreyesus'(1991) discussion is the attention he draws to the fact that it is the man who chooses the woman whom he wants to marry. This points to the women's lack of freedom in choosing, and also confirms my key informants' and participants' testimony that, in most cases until very recently the woman does not have any say in the marriage arrangement unlike the man.

For this research paper, then, I define "arranged marriage" with reference to responses I obtained from women participants', elders' and key informants' on definition of "arranged marriage". In the past, the marriage agreement involved only the men from both families; women were excluded from the negotiation and treated as objects of exchange with no say but to submit to their families' decision. On the other hand, the man, although he is not allowed to attend meetings with the woman's family and is culturally forbidden to make contact with her before he gets the blessing of her family, he has the right to choose the girl he wants to marry and tells his family that he is ready to get married and a certain girl is his preferred choice. Then his family (i.e. the men in his family) go to the girl's family and request for their daughter's hand. Her family (i.e. her father, brother (s) and elderly male relatives) then decide to accept or reject the marriage proposal. The following reflection is from one of the interviewed subjects, **Tarik**, who explains the silencing of women in this arrangement quite clearly:

I was born and grew up in the countryside ...You have to follow your family order in rural area such as ours [Gurage] ... your father gave your hand for a person he liked. You had no option but to accept his choice.

According to the key informants, culturally the woman's family needs to be approached for more than three times by the man's family, if possible, before they accept the marriage proposal. Gebreyesus (1991) also explains the code of honour in such practices between the families. It is considered shameful if the woman's family agrees to the proposal without being begged by the man's family repeatedly. Their reluctance to agree immediately is culturally considered an expression of the authority of the family and its bargaining power, and the high esteem they have of the family and their daughter. At another level, the girl's family takes their time so that they are able to assess the man's family background, his financial strength, and his reputation in the community (Gebreyesus, 1991). Most importantly, the girl's family stalls on their decision in order to get respect from the man's family. **Tezebet**, a woman participant in the in-depth interview, tells her story as follows:



. . . He told his father that he wanted to marry me after he had come to our village and seen me. Afterwards, his father sent the local elders to ask for my hand. After four meetings, my families and the elders gave him their blessing to marry me. We got married by throwing a big traditional wedding party...

**Mulatewa's** also has similar story:

I was very young when I got married. They came to my family after finding out that I am from blue blood<sup>9</sup>. Then, my family had them to come back four times

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<sup>9</sup> According to Oxford Dictionary, "blue blood" means noble birth or a person of noble birth, in this case the participant meant to refer to royalty as her family is well known and rich in the community.

before they gave my hand for him . . . I was given to him as a wife by elders ...  
with their blessing.

Such evidence gives insight into the status of women in social transactions by and for others. Women are valued for their role in exchanges between families. The marriage initiation is motivated by social status of the families and economic situation. The union is not only between the couples but also an affiliation among the extended family (Green, 1992; Nhlapo, 1992). Hence, in a tradition where the group's interest and decision is considered more important, the individual's right, particularly a woman's, seems to be insignificant (Bennett, 1995; Ndashe, 2005).



### **Change in practice?**

It is argued by many of the participants that there have been some changes among the Guraage as has also been the case among other ethnic groups in relation to arranged marriage in the country. One should recognize that the change also depends on the conservative or liberal characteristics of the family, community and ethnic group in general. For instance, based on the information I got from the women participants, although people tend to divide cultural practices into "the old" and "the new", there is no clear evidence of a neat division. This is because in both "old" or traditional marriage settlements and the supposedly "new" marriage settlement, it is taken as a necessity for the man's family to plead for the woman - even if this is just a formality. It is believed that a woman cannot leave her family's house without the elaborate rituals of bargaining and appeal for rights to the woman. In addition, according to the key informants, the family's main concern is whether the man is able to work and fend for his family, whether the

man and his family are worthy of being affiliated with, as members of the extended family relation; whether the man's family status is commensurate with theirs. **Belecha's** story shows that the changes in the community seem mainly to affect men's scope for agency and individual choice, and that even when women are approached directly and not through their families, they are put under considerable social pressure to make decisions:

First of all, I didn't like him. I keep telling to his friends that I didn't want to marry him and that I would rather live alone until I get the right person when they came to tell me his intention for marriage proposal ... they keep pestering me by coming more than three times, I told them to go to my parents ... I told them I wouldn't, however, promise. Then, he took his elders to my parents' house to ask for my hand according to our culture ... I told my family that I didn't like the guy when they asked me if I was willing to marry him. But, I told them I would marry him if they like him ... Finally, they gave my hand to him with blessing ... I had no choice but to marry him.

**Belecha's** narrative seems close to "the new" culture (in terms of women being directly asked for marriage) and changes, which the Gurage people claim to have adopted. Despite the "new" and/or more "liberal" culture deemed to give women more agency, **Belecha's** story shows how women are subtly and sometimes explicitly coerced to prioritise family/community obligations and connections. The distinction between "choice" and "coercion" seems blurred. **Belecha** didn't want to marry the man, yet the pressure from his friends forced her to privilege choices of her family.



This is connected to Gabereyesus's (1991: 107) comment on the sense of honour and duty associated with individual acts: "Often one's actions, omissions and general behaviour reflect upon not just the immediate extended family but the clan as a whole. If a person is of good character and behaviour, then the clan he comes from is held in high regard by the other clans". According to the key informants, such "good character" – "my parents have my best interest at heart and they know better" - is one way of showing respect to the family or elders. However, once the power of choice making is given to the family, women may entirely subordinate their personal needs and feelings, since this is what their sense of self as decent and "well" brought up women requires.

The interesting question is on the continuation of the marriage. How does the couple sustain their marriage? And most importantly, in terms of the focus of this research, how do they handle their marital conflicts? Does the extended family have influence in the marriage once it has been contracted in cases of conflict and intervening in conflict? In the above story, after the emotional and social coercion involving **Belecha's** being pressurised into marrying her husband, she experienced discomfort within the marriage. She told me that the marriage didn't last for long. She decided to leave her husband and requested a divorce from the elders. Her reasons were the following:

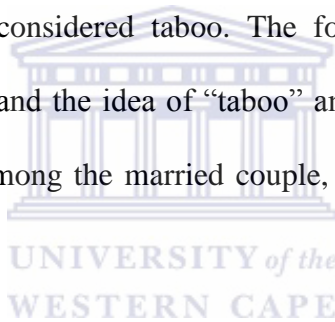
I just hate him ... I didn't really like him in the first place. He doesn't farm and help me. I just left him because I failed to see a bright future living with him as he didn't farm, work and help me. I have bothered my family ... to get me a divorce. But, he said he loves me and wouldn't like to divorce me. His families also said

they love me, thus they wouldn't like to let me go even if he lets me go. My family told me that they couldn't get me a divorce while he says he loves me and doesn't want to divorce me. According to my family, I have to live with him whether I love him or not, they say it is my obligation. The elders also blame me why I entered the marriage in the first place and gave him two children. But, I told them that I hate him so much and I don't want to live with him.

As her narrative indicates, in the Gurage community, the marriage arrangement involves the extended families and elder's decision. Similarly at the time of divorce, next to the husband, the elders and the families have the power to accept or reject the initiation of divorce. As **Belecha's** story also indicates, the blame shifts to women when the marriage fails to succeed. The elders blamed her for entering into the marriage, while all along she had been pressurised to be married to her husband. Moreover, in Gurage society, divorce is never regarded as a solution. The elders place more emphasis on creating harmony between couples. But if ever considered, it must be agreed on by the husband, elders and the extended family. The following comment was made by **Baliqe Belete** in the focus group discussion:

In Gurage *Kitcha*, divorce is not an easy thing to do. Without including the couple's families and without looking into the case deeply, it is impossible to permit divorce easily . . . she can only be divorced by her husband, and only when the elders believe that the situation indeed can lead to divorce. Otherwise, they [elders] would refuse to issue divorce decisions, and would rather insist to make them stay in matrimony.

The response implies that, even though women might seek divorce, it only comes into effect when the elders, her husband and the extended families reach an agreement. Moreover, *Baliqe Belete* also mentioned that “she can only be divorced by her husband” as opposed to having an individual right to divorce. This rule violates the Constitution, specifically article 34(1) which states that men and women have equal rights while entering into, during marriage and at the time of divorce. In addition, the published *Kitcha* customary law document, despite several contradictory rules compared to the Constitution, clearly states equal rights for women at the time of divorce in article 5. Yet, in actual practice, customary norms related directly to marriage insist that men are the ones who have the right to divorce their wives, and equal rights for women in cases of divorce are considered taboo. The following section disentangles such conflicting women’s rights issues and the idea of “taboo” and “custom” in regulating gendered power relationships in marriage among the married couple, their family and the community in general.



### **Gendered Curses: *Berche and Anqit***

Gurage people strongly believe in the materialization or fulfilment of blessing and curse, and its impact on one’s life. It is believed that there is a curse attached to any “supposed” wrong doing by God and/or a divine spiritual power. From the conversation I had with the participants and key informants, in the context of this research especially for women, behaviours that are considered to be “wrong doings” are those that are considered as “taboo” in the community. The social significance of taboos in the society is evident in the way that “wrong-doing” is subject to social censure in the form of curses. The main popularly known curses that are used in day to

day life are *Berche*<sup>10</sup> and *Anqit*<sup>11</sup>. According to the participants, generally doing something unjust to the weak or the powerless will in the end affect the wrongdoer and his/her descendants; this is referred as *Berche*. They strongly believe that this curse would haunt the wrongdoer and his descendants up to the seventh generation. Some consider these curses as strengths in terms of bringing order to the society. **Tsehay**, a woman participant in the in-depth interview, explains it as one of the advantages of the culture:

Garage's culture has advantages . . . Doing unjust things to one is strictly forbidden in our culture as the curse would stick until his seven descendant generations if one commits *Berche*.

In the discussion I had with the elders in the focus group discussion, the concept of *Berche* was taken from respecting elders and their advice, especially those elders who are involved in mediating and resolving conflicts in the community. **Baliqe Yesak**, one of the elder participants, defines what *Berche* in this regard:

When the elders beg a person, and if that person refuses to listen to their advice, then the elders would put the curse on him and it would be on him. *Berche* does exist for those who hurt others ... *Berche* is for any person who hurts others because they are weak or poor, as he would get his *Berche* when the time comes.

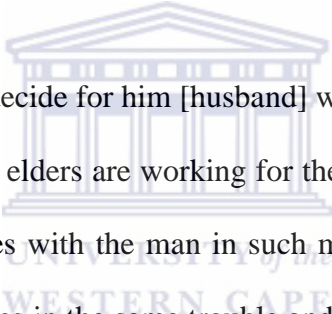
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<sup>10</sup> *Berche* is a type of curse that caught a person for his/her wrong doings.

<sup>11</sup> People pronounce the word very differently. Some say "Anekid", others "Anqit" and in literatures I found that they wrote "Aqit". However, one thing is clear they all refer to the same kind of curse it is just a difference in pronunciation. Therefore, I decided to use 'Anqit' for the reason that most of the participants in this research pronounced it in this way.

If he/she rebels ... despite the elders pleading, she/he is believed to be haunted by *Berche* sooner or later. . .

As the participant explained in the above response, *Berche* does not have gender boundaries. Every Gurage person, who lives in this system, has knowledge of its power, and the majority fears and is governed by it. Ironically, it has been said that the elders, even if they are the ones who are considered to have the power to put a curse on the people, also fear the curse, especially when handling marital conflicts. For instance **Baliqe Melaku**, one of the key informants, explained how the elders themselves are conscious about their verdict for fear of *Berche*:



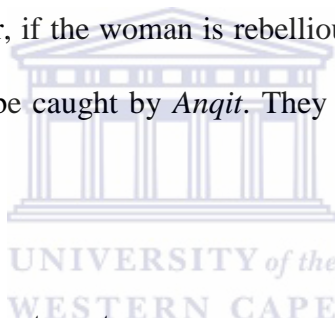
The elders are the ones who decide for him [husband] what to give her [at the time of divorce]. As I told you the elders are working for their conscious and they also fear *Berche*. If they take sides with the man in such matters, they fear that their daughters might get themselves in the same trouble and also for the generations to come because of their unfair treatment of the woman.

Not only does *Berche* apply to everyone, it is also used to create order and enforce morality in the society. So, if the elders are believed to be “conscious” of *Berche* when giving their verdicts, it puts more pressure on the married couple, obviously women, to question their motives or “balanced” ruling.

Interestingly, *Anqit* seems to have unique features compared to *Berche*. First, the curse only works on people who are married. Secondly, it only works on women. Thirdly, it works on

women who left their husbands defying the *Kitcha* customary legal practices and divorced their husbands. From the moment a woman walks out on her marriage against the will of elders, it is believed that she is caught by *Anqit*. It seems that this sanction has effectively undermined women from seeking divorce, no matter how badly their husbands treat them. This limited right is strongly perpetuated by traditional belief. **Baliqe Yesak** explains as follows:

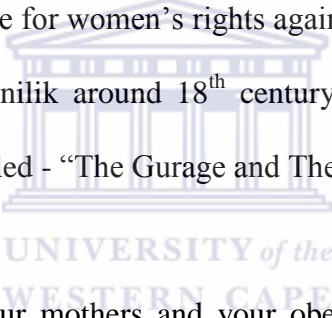
In our *Kitcha* there is a belief called *Anqit*, it is a curse. You see, married couple can deal with their marital problem following the *Kitcha* system . . . .  
If she requests for the husband to divorce her and if he agrees, that is fine she will be free. However, if the woman is rebellious and insists on leaving her husband, she would be caught by *Anqit*. They [the elders] will put the curse on her.



The “spiritual” power of the *Baliqe* to put a curse on women, as is pointed out in the above quote, is a good example of how customary law is intertwined with a belief system which sustains the patriarchal society’s interpretation of how gender should be managed. What is especially significant in this belief system is that it is defined as “sacred”, a spiritual system which is somehow beyond the control of the society, and derives from some divine source. Its quasi-sacred form therefore makes it appear immutable and inevitable, a system which clearly has powerful controlling effects on Gurage women seeking acceptance and belonging in their society. As **Baliqe Yesak’s** argument makes it clear, it is mandatory for a woman to get the blessing of her husband to be free of the marriage. The implication of this curse is that women are not allowed to have the right to remarry another person, if they disobey the custom and

divorce on their own, as they are not “legally” divorced according to the procedures of the customary law (Gebreyesus, 1991). Key informants claimed that defying custom is very likely to subject women to supernatural punishment such as the inability to bear a child, giving birth to a disabled child, or accidental death through being struck by lightning.

The power of cultural values transferred from generation to generation derives from preserving and writing and/or telling history/story, although it is never safe from controversy and bias. In the *Sebat Bet* Gurage ethnic group the life story of the legendary rebel, **Yaqaqe Wardwat** is a popular reference point. She is said to be the most important figure in Gurage society (Bahru, 2008). She is known for her struggle for women’s rights against male dominated Gurage culture during the era of the emperor Minilik around 18<sup>th</sup> century (Gebreyesus, 1991). Gebreyesus recorded her speech in his book called - “The Gurage and Their Culture”:



We women, your sisters, your mothers and your obedient servants for all time, appear before you today to ask for our rights if we, at all, have any! We women are treated as if we are created only for the pleasure of men. You never make us participate in things you are doing or planning. We have no security. If you like us, we are lucky, we live with you, and when you dislike us, we are chased out empty-handed. Therefore, we came here to *Yejoka* today to beg for some rights even if it is not the same rights as for men ... (1991: 158).

She was the first and probably the most prominent woman who stood up against *Anqit*, and challenged the elders to abandon the curse against women. She said:

... When we feel repressed, to leave our husbands and go without being tied up by the rigid procedures of divorce, which remain to be based upon rigid customary laws and traditional beliefs, the *Anqit*. When you divorce us, you just say *go* because you are not tied up by *Anqit*. Let us have the same right, although we cannot tell you to *go* from your establishment. But for us to be able to say, ‘I am going, and goodbye.’ (1991: 158)

After a long battle, she finally claimed her freedom from the curse. And, according to the elders in the focus group discussion, she was free to marry any man she wanted. Her story is therefore in many ways an inspirational lesson for women, drawing attention to their ability to struggle for the freedom to speak out in the public sphere, to make personal choices, and to challenge a system that seems divine and immutable. However, **Yaqaqe Wardwat’s** life story ends with tragic death. It is said that she died after being struck by lightning, although the actual cause of her death is still a debatable issue (Bahru, 2008; Gebreyesus, 1999). Similarly, some of the participants argued that it is the curse (*Anqit*) that killed her with lightning because unlike other Gurage women she was committing marriage over marriage; while others argue that she was freed from *Anqit* by Gurage people, she was free, and so her death was just a coincidence. Today, therefore, her story can be interpreted in two ways: either as a warning to women of the price paid for “disobedience” or as an inspirational reminder of the possibilities of women’s struggle for freedom both in and beyond life.

Nevertheless, the majority refer to her death in relation to punishment, transgression of *Anqit*, and tell her story to their daughters to instil fear and teach them to obey their husbands, to



respect elder's decision and most of all not to leave or divorce their husbands without their blessings and the elders' support. Consequently, women fear leaving their husbands. For instance, **Worqe**, a woman participant in the in-depth interview explains her fear as follows:

Yeah! I believe in it. I am also afraid of it. I mean if I reject elders' decision ... I believe that I will not be blessed with children. It is no use going to another house [another marriage] unless you are blessed with children. There is a belief that it will not be good for a woman if her husband curses her. I believe in this too. So, I live by accepting elders' decision even if I am not happy with it.

For **Worqe** the curse is manifested in not being able to have children. In Gurage, and in many African countries and ethnicities, marriage is understood in a context where women's reproductive potential is considered central (Nhlapo, 1992). Therefore, not being able to have children is taken as a "failure", obviously on the women side, and if a woman leaves her marriage without her husband's and elder's blessing, she is believed to be cursed; thus no man would want to marry her for fear of not having children or, as the key informants puts it, having one but with disability.

However, among those women who accepted the elder's decision, some of them claim that they don't believe in *Anqit* but they fear resisting the elder's decision for it is culturally considered as an act of disrespect, and may result in the first category of curse – *Berche*, although it was not highly pronounced amongst women participants. The double standard that the culture puts on women in terms of accepting the elder's verdict, even if it is against their wish can be seen in the

following two responses. **Tiruseb** a woman participant in the in-depth interview explains her fear of disappointing the elders than *Anqit*:

I don't believe in *Anqit*. When a person lives in this kind of hell, I think God also sees everything. In our culture, I can't walk away from the elder's decision. They get disappointed and because it's your culture you are afraid of what might happen to you. You push yourself and hide your disappointment. Even if you are not happy, you will return to your marriage crying.

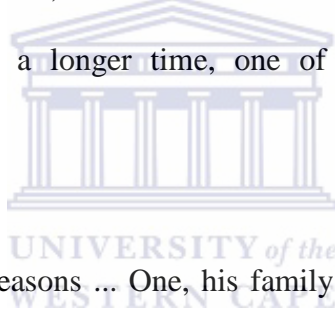
At another level, **Baliqe Melaku** argues how necessary it is for the women to accept the elder's decision, even though it is against their wish:

It doesn't mean that both parties accept the verdict happily no matter what it is. They accept it out of fear of God and due to respect to elders' decision and the values of their culture. Most of the times, in our culture women are forced to accept the verdict whether it is in their favour or not. They must accept it even if it hurts them badly as accepting a final decision of elders is highly regarded as blessed in Gurage's culture. After all, the same elders are the one who try the case if it has to be seen again. There is also a tendency that the couples abide by the elders' decision not to be cursed and lose their [the elders'] future interest in mediating, in case it happens again. So, the woman, in particular, will have to accept their decision even if it hurts her and fails to meet her request and interests.

This basically means that because the elders are the ones who are mainly instrumental in mediating the conflict around married couples, rejecting their decision might not only cause *Berche* but also have implications for the future if the woman needs the elder's help. Her acceptance or rejection of their decision in the present determines her security in the future.

### **“For the sake of the children”: Brunt of Motherhood in Gurage Culture**

In addition to the curses, the majority of women participants mentioned that the elders advised and forced them to be patient and tolerate their husband's behaviour and stay in their marriage “for the sake of their children”. In fact, the elders in the focus group discussion while justifying why the mediation process took a longer time, one of the reasons they mentioned was motherhood, *Baliqe Fikadu*:

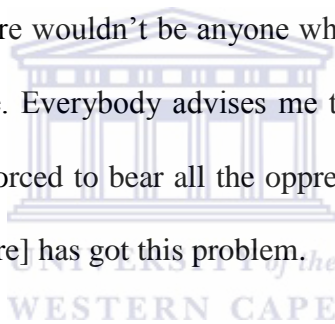


Mostly there are two main reasons ... One, his family and the neighbours in the community might love her and two, she might be a mother and have children, if she leaves the marriage, they [the children] may suffer a lot. With these two reasons, we try to influence her to return home.

In most cases, the two reasons complemented each other. Nalpo (1992), who deals mainly with southern Africa but generalises about many African pre-capitalist societies - indicates that customs in pre-capitalist societies persist under capitalism. In most African countries the basic interest of the extended family in marriage is initially reproduction. Hence, if a woman fails to reproduce, it is “rational” for her to be mistreated not only by her husband but also by the extended family, especially the husband's side (in-laws). However, if she has children, then it is

a reason enough for the extended family to influence the elder's decision, to make the woman stay in the marriage with or against her will. In addition, the social construction of motherhood in Gura society teaches women to sacrifice their rights and needs in general for their children sake. Hence, the women themselves connect motherhood with the same responsibility. Here is what **Tarik** had to say:

I have got children whom I can't leave in the lurch. I have had to endure and live for the sake of my children ... if I tell to my family my pain and mistreatment, they will advise me to go back to my husband and tolerate his bad behaviour for the sake of my children. There wouldn't be anyone who stands up for me against the abuse he inflicted on me. Everybody advises me to return home ... because you have children, you are forced to bear all the oppression and live for the sake of your children. It [the culture] has got this problem.



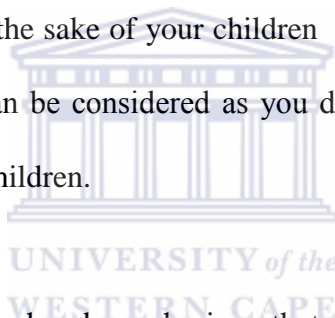
Sometimes the elders make the women guilty of abandoning their children even when they are in a place where they cannot go back to their houses. In **Aselef's** case, she told me that most of the time, her husband beat her and kicked her out of the house and threaten her to never come home, she said:

... so, I got nowhere else to go ... I leave him and go to my family ... No one understands my problem. Mostly they send me back saying that "no, you have to take your children's life into consideration; you will be rewarded by your children." . . . I didn't push the issue till the end because they bring the issue of

my children in and they say . . . “They are very young and what if he marries another woman and they suffer a lot more?”

On a similar note, according to **Tiruseb** in the in-depth interview, sometimes the elders and the families pressurize the women to return to their marriage by covering up the abuse and mistreatment just to keep the family together.

Even if they know that you have been abused, it doesn't mean you are going to leave your children and they don't want that therefore they cover up the problems and push you to be back for the sake of your children . . . It is difficult to refuse their judgment. Besides it can be considered as you don't want your children, a mother never do that to her children.



The social construction of motherhood emphasises that a mother would do and sacrifice anything, including her life, for her children. Unlike fatherhood, the love of a mother is measured by the ability to tolerate extreme forms of marital abuse for the sake of the children. Resisting such a burden might be considered as unmotherly and unkind, which leads to social stigma. As a result, some women participants, enduring extreme depression, express that they have accepted their hopeless situation and continued to live as “good mothers” despite extreme emotional distress. Here is **Tarik’s** testimony:

I have decided to put up with him as I have not got any fair justice from elders . . . until my children grow up to a stage where they can help themselves. I am not

going to elders any more . . . [Besides] you have to be cruel to abandon your children. If you do so, you know that your children will not be raised in proper way. To take them with you is not an option either as you have nothing to give them. So, you live with your husband even if he abuses and oppresses you . . . Mothers never have a nerve to abandon their children, which is really tough.

### **The Ambivalence of “Choice”**

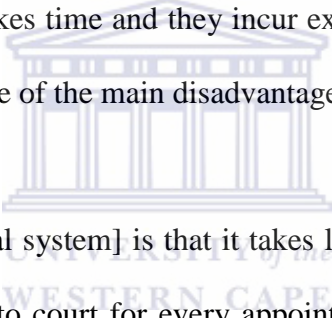
The majority of women participants, in the in-depth interview and focus group discussions, strongly rejected the idea of using the formal legal system as a choice to resolve their marital conflicts. Many of them had different reasons including the common reason which was lack of knowledge about individual rights to choose to which system to be subjected to and pursue their case in the formal legal system, and fear of social repercussion. Here are some of their concerns: **Tiruseb**, in the in-depth interview, explained that she didn't consider the court system for she wants to keep her marriage.

You see if I go to court with my case, I fear that they would break my marriage, which is not my intention. But, the elders wouldn't get us divorced. They advised us to live together in tolerance for the sake of our children . . . Had I gone to the governmental court; the conflict would have become worse and things could get out of control ... I preferred to be mediated by local elders in order to save my marriage.

The response implies that the formal legal system treats the conflict in a way that divides the married couple. The court system seems too disconnected from the norms and standards which both women and men live by and come to respect. Moreover, the formal justice system seems to envisage as a solution only the individualist option of divorce, regarding marital conflicts. In many ways, then, the formal legal system does not really pose a solution to women's lived experiences and culturally-specific constructions of their identities and dilemmas.

For some women, financial expense is another problem. As I explained in the introduction to this chapter, they have to travel to Welkite, which is the central city of Gurage region, to get legal services. Moreover, the process takes time and they incur expenses for the service they require.

**Worqe** emphasized this issue as one of the main disadvantages of the court system:



The disadvantage [of the legal system] is that it takes longer before the verdict is reached. It is difficult to go to court for every appointment leaving my children and land without farming. It is also expensive. You have to give money to those who work in the court to speed up your case. You surely need money to go to governmental court ... it has more disadvantages.

At another level, according to the key informants, if the individual, in this case the woman, is disappointed by the verdict of the elders in the community or clan, she has the right to appeal and take the case to the *Kitcha* Supreme Court called *Yejoka*. According to Gebreyesus (1991), *Yejoka* comprises leaders from each of the *Sebat Bet* Gurage tribes. Every clan has the power and authority to deal with its own social and economical issues. It is only when the case is too

difficult to solve that it comes to the attention of the *Yejoka*. For this reason, women who skip this chain of the customary system and choose to take their case legally through the formal court system will face severe social repercussions. In the focus group discussion I had with women, **Alem** explained the difficulty for women to appeal the verdict of elders to *Yejoka* or to pursue their case using the formal justice system:

It is not possible to turn down the elders' decision. She will be threatened of ostracization by the elders, neighbours; and she would be considered as violating the norms and values of the society if she turned down the decisions of the elders and took the case to the court.

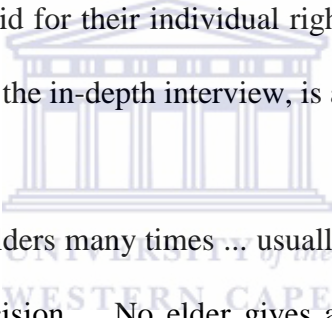
Turning the society against women who demand an end to a relationship that is detrimental to them is surely a patriarchal and oppressive attempt to make women remain loyal to customary law. The elders emphasised the ramifications that a woman would face if she rejected the elders' decision. **Baliqe Fikadu** said:

If a person refuses the *Kitcha*, he/ [she] will be excluded from the community, he/ [she] can't participate in communal ceremonies or meetings, and if he/ [she] die no one will attend his funeral. This happens only if he/ [she] refuse the *Kitcha*. This means, there won't be any governing rules to this person because he/ [she] is rebellious; so he/ [she] will be excluded from everything.



These lists which denounce the individual's right to have social communication, a sense of belonging and a cultural identity are against the constitutional right embodied under article 34(5) that allows the individual's right to choose the system to which they want to be subject. Although at face value the above rules seem to apply equally for men and women, customary law is not gender neutral (Ndashe, 2005). There is therefore an entrenched double standard in the whole customary system and women are clearly disadvantaged.

Consequently, very few women have still taken the risk of facing immense social wrath by courageously seeking the support of the formal court. They have had to bear the stigma and societal rejection, and the price paid for their individual rights has been considerable. The case of **Tsehay**, a woman participant in the in-depth interview, is a good example:

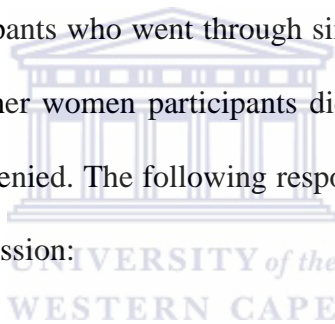


I have tried by going to the elders many times ... usually they take sides and there is no uniformity in their decision ... No elder gives a right and a fair decision except telling us to go home. So, I tried to take my case to the court. But, women are culturally influenced not to take their case to court. It is like climbing a mountain ... I tried to go to the court, but I only get a bad reputation ... I accused my husband and even got him arrested. But, I was the one that everybody blamed and looked down to due to his arrest. Nobody took pity for me and noticed that I am mistreated ... after looking at my allegations thoroughly, the court sent him to jail ... He [her husband] bears a grudge against me and I have also gained a kind of hatred from some local people. They hate me claiming that sending my

husband, the father of my children, to prison is not proper and acceptable [fighting back tears].

From **Tsehay**'s testimony, although the inclusion of customary practices in the Constitution indicates the democratic governance of the formal institution, the Constitution fails to recognise the oppressive patriarchal social context in which the majority of women find themselves, especially in rural parts of the country, which subjects them to a plethora of discrimination, violence and stigma for refusing to adhere to a customary practice that works against them.

There are very few women participants who went through similar experiences as **Tsehay**. It was interesting to find out why the other women participants did not consider going to court when they felt rejected and their rights denied. The following response was given by **Tadelu** a woman participant in the focus group discussion:



How can she just go to court unless the elders give her permission? She is also asked whether she took the case to the traditional court - *Kitcha* even though she goes to court. If she says no, she will be told to take the case to the traditional court first. The court doesn't give her justice or cannot influence the husband to divorce her unless she takes the case to the traditional court first.

The issue of women's consent which seems to give the impression that women are participating in these cultural practices voluntarily, needs to be problematised in patriarchal societies that have

little tolerance for women's agency. Many other women participants also expressed similar concerns. Once they step out of the "norm" and go to the court, not only will they be alienated; if the case is sent back to the elders by the court, it is logical to assume that they won't be getting a "fair" verdict. A matter of conjecture is what law allows for the court to send the matters to the elders. It seems that there is a major gap that exists between the law as a blueprint and the law in practice, particularly in promoting gender equality and women's human rights. Moreover, the elders in the discussion below explained their power and capability of handling cases, even if it means going to the court and demanding the case to be heard by local elders. **Baliqe Yesak** said:

Gurage handles everything through *Kitcha*. If one [of the disputing parties] refuses and went to the Police or Court . . . four elders will be chosen and they will go to the court and request to finalize the matter by our own *Kitcha* system. They will sign to settle by *Kitcha* and will bring the case back; this can be done either at the court or the police office . . . even if it is women's case. For instance, let's say she just goes to the court, in the mean time the husband calls for *Kitcha*, and the two families want to use the *Kitcha*, so they will resolve the matter according to the *Kitcha*. As I told you, it is our main governing culture.

Even if the constitutional recognition of customary law seeks to establish coexistence between the two systems, the above quote shows that when there are conflicting choices between the two disputing parties and, as a result between the two systems, the "full" consent of the parties in article 34(5) is compromised. In the process of balancing interests, the customary law oppresses

women and denies them the right to choose. This by itself violates the basic human right of women that is enshrined in the Constitution under article 35, particularly sections 1, 2 and 4, which emphasise women's rights and protections, women's equal rights with men in marriage, and the prohibition and elimination of harmful custom and practices that oppress (physically or mentally) women from enjoying of their rights.

Finally, this chapter has raised the following main concerns in dealing with the forms and effects of customary law in regulating women within marriage: I have argued that customary law firmly entrenches patriarchal power, both in the way that men, articulated masculinist interest and play a pivotal role in mediating. Within the customary practices, norms and values that work to punish women, especially through curses, powerfully control the choices they make, even when they remain acutely conscious of the injustice and oppressive nature of their marriages. An ethnographic insight into women's perspectives and choices therefore reveals how misleading the assumption is that women tolerate patriarchal oppression in certain societies because of "ignorance", complacency, or lack of awareness of any other options. Far from this being the case, the testimonies of my informants reveal an acute awareness of women's distress, discomfort and desire to resist oppressive marriages. The formal legal system assumes that women have the straightforward power simply to make personal choices to end oppressive marriages. This system, however, entirely ignores the context within which women make choices. In this context, women continue to be emotionally tortured, excluded and silenced – often by those who have been closest to them – fathers, siblings, and friends. The semi-divine forms in which customary law is couched ensure that "rebellious" women, as manifested in the story of **Yaqaqe Wardwat** and its re-telling in the present, operate constantly as "policing

mechanisms” to silence women and limit their opportunities for acting courageously and independently.



# Chapter Four

## Conclusion

### Critical Responses to customary law

In many ways, this mini-thesis furthers other African feminist discourses on women's struggles and rights in African contexts. It has examined the responses of "Kitcha: The Gurage Customary law" to the problems that face women in the context of familial and communal relationships which are gendered. The research also illustrates complex and often contradictory cultural practices by providing insight into the ways in which among the Gurage - the elders and women participants understand "choice" and gender subjectivity. In an attempt to conclude this mini-thesis, I will broadly outline the findings and key themes in my research.

On the outset, I wish to stress that I have avoided what Cobbah refers to as "'Western-style' condemnations of the abuse of human right in Africa" (1987: 310). I argue that this is a simplistic argument. It prevents African feminists from challenging and resisting cultural and patriarchal practices in ways that prioritize African (rather than Western) priorities around, for example, national sovereignty, anti-imperialism and anti-racism.

At the same time, as discussed in the methodological reflections, although myths about cultural authenticity assumes the loyalty of the researcher in representing "her culture" without questioning it, I have not tried to make a case for reclaiming an authentic essentialist sense of African identity. This kind of reclamation of authenticity is problematic because, as Ratele's (2007) argues, it is rigid, based on instrumentalist political constructions, and focuses on issues

of oppressive “loyalty” rather than the sense of cultural freedom that many feminists are trying to address. Secondly, this thinking (even if implicit) all too often confirms the idea that feminist demands and gender equality are western constructs. Thus, it does not leave adequate room for envisioning feminist transformation in African contexts. The argument is that the African feminist researcher’s understanding of “African women’s oppression” came from the North - as if African feminists could not think of injustices and resistances without the assistance of northern feminists.

Consequently, I follow Wyrod’s argument that “I do not understand human rights as foreign to African societies or as an imposition of “Western” values in a “non-Western” setting” (2008: 801). That said, it is undeniable that women’s rights discourses are, as is the case with many other African countries, relatively new in Ethiopia. However, this is not to suggest that notions of justice, rights and freedoms for the individual are foreign; rather the way that “rights” are framed in terms of policy, legislation and the law have a long history of development in Western democratic societies and institutions (Bennett, 1995; Cobbah, 1987).

As such, contemporary African countries, located in the context of globalized “modern” democratic practices and institutions, have taken modern rights discourses as part of their own development since the twentieth century. However, Wyrod emphasizes that provisions and policies of women’s rights, in many African countries, still “reveals the conflicts, tensions, and contradictions regarding which aspects of rights are being emphasized and by whom” (2008: 802). In other words, the ongoing deployment of “culture”, “tradition” and “customary law” is often used by male elites, and serves others’ political purposes than attending to women’s rights.

This creates a gap between the state and women since such reductive views of culture inhibit the possibilities of reform and reconciliation of customary law to allow for women's rights provision and gender equality (Mbatha, 2009).

Nevertheless, like Ratele (2007), Wyrod makes it clear that culture is “not a fixed attributes of a certain group of people but instead something more fluid, multifaceted and continually being reformulated” (2008: 818). Therefore, many human rights critics of the oppressive customary law suggest that it can and should be reformed in order for positive aspects of tradition to be retained, at the same time that oppressive features that disempower and disenfranchise women are modified or adjusted.

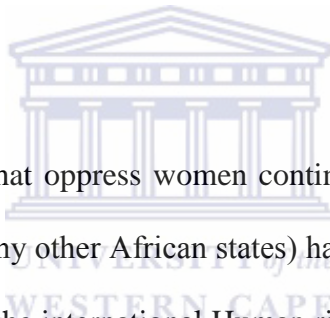
The drawback of the notion of “cultural reformation”, besides the resistance from those who live by the culture, involves its applicability. For instance, Ethiopia has more than 80 ethnic groups with extensively different cultures. Hence it is practically impossible to unify or reform every culture in accordance with the Constitution. On the same note, even though the problem might be how to achieve this reform, many find it impossible to live with two laws which have made many choose to simply live in denial or ignoring the effects of having two laws that are incompatible. Overall, then, reform does not really solve feminists' concerns with locating how cultural trends can enable or impede women's independence.

Regardless of these controversies, it is still important for feminist's to locate cultures that are potentially both barriers to and enablers for women's rights. In this regard, the aim of this research is not to reinforce ideas of choosing one system over another; rather its focus is on



assessing the accessibility and flexibility of systems, especially considering women's freedoms and autonomy.

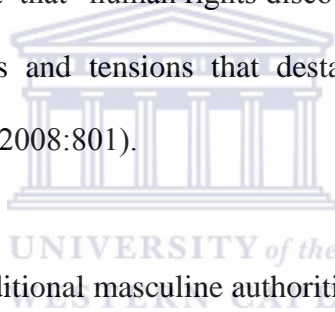
I argue that there has to be a space in which feminists or women's rights activists, without being accused of over dramatization and/or westernization, can critique, analyze and expose the contradictions of having two legal systems that are expected to work together to grant women equality and dignity. I stress this because these dual systems and their associated problems are very widespread and firmly defended in many African countries. As I have demonstrated, in relation to Gurage women, they profoundly affect all aspects of women's lives and powers to live freely and independently.



Both legal and cultural practices that oppress women continue despite the established fact that the Ethiopian government (like many other African states) has adopted women's rights protocols and legislation from the OAU and the international Human rights community (Smith, 2009). The outcome of many African and Ethiopian state's provisions for citizens' rights has been an emphasis on "group rights" based on recognizing ethnic diversity, with this giving legitimacy to cultural practices that discriminate against women (Wyrod, 2008). As far as the institutionalization of women's rights is concerned, therefore, "there is a need to examine how notions of universal human rights are intertwined with existing ideas of freedoms, rights, and duties in specific cultural contexts" (Wyrod, 2008: 802).

## **African Masculinities and Women's Struggles**

Wyrod (2008), in his article “Between Women's Rights and Men's Authority: Masculinity and Shifting Discourses of Gender Difference in Urban Uganda”, argues that there is little research done on the challenges of women's rights advancement in relation to what he calls “African hegemonic masculinities”. In this way he conceptualizes how many African men understand and feel threatened by women's empowerment and what are the implication of their resistance, shifts and changes around human rights and gender equality. He writes: “Women's rights discourses are no doubt affecting conceptions of masculinity in many African settings, but how and to what extent?” (2008: 800). He points out that “human rights discourse is refracting gender relations in new ways ... creating fault lines and tensions that destabilize prevailing notions of male authority and men's proper roles” (2008:801).



The tensions that surface when traditional masculine authorities are under threat in many African contexts can be seen in the data analysis, in the name of culture and the defense of earlier forms of masculine and age-based authority and power, Kitcha customary law reproduces gender hierarchies and inequalities among the Gurage and so guarantees the privileges of those who have historically had power and privilege, namely, men and often older women. This is not to deny the fact that there exists “a different variant of hegemonic masculinity that incorporates new discourses about women's rights while retaining existing ideas of male authority is coalescing” (Wyrod, 2008: 801). For instance, the written “Kitcha: the Gurage Customary law”, published in 1998, “not only evaluated and revised as necessary the customary law but also legislated additional rule. Specific efforts were apparently made to make it as gender-sensitive as possible. This is particularly evident in the section dealing with marriage, which has provisions

for mutual consent of parties, the woman's right to divorce ... " (Bahru ,2008: 25). However, at the grassroots level, as the data analysis extensively shows, many women are compelled to remain in abusive marriages due to the coercive operation of different cultural instruments. As Wyrod insists, therefore, "there remains a need to understand how efforts to advance women's rights in Africa are affected by local notions of masculinity and how African masculinities are being shaped by new discourses of rights and gender equality" (2008: 803).

### **Pluralism and Representation of Women's Right**

As the data analysis evidently shows, conflicting human rights can be translated into conflicts of diverse cultural values. Alvarez argues that, in a multicultural context, "conflicts of fundamental rights most often take place in strongly pluralistic scenarios" (2009: 126). She continues arguing that, although, "Pluralism points to the existence of multiple values and the impossibility of realizing some of them at one and the same time" (2009: 126), when confronted by different and often opposing human right values, especially women's human rights, pluralism suffers from what she calls "incommensurability", as she interpreted it "the absence of a common measuring system, that is to say, the presence of two radically different evaluating criteria" (2009: 127). Hence, when conflict does exist, the "quest for the objective – unique – best answer may not always be the best way to find a suitable solution for the individuals involved" (2009: 125).

The above observations make it clear that it is important to question to what extent legal pluralism helps or affects women's rights within the context of diverse cultural and ethnic identities. Even though different and complex cultural practices may shape one's identity, women's rights should not be defined as being contingent on ethnicities in ways that prescribe their symbolic or practical role in terms of "loyalty" and "belongingness".

Discourses of loyalty, honor and belonging require that women accept their subordinate and compliant role in supporting masculinist constructs and performance of ethnicity or group membership. Thus, cultural diversity should not necessitate legal pluralism; especially given that it is difficult, if not impossible, to distinguish collective rights and individual rights, as in the case of Gurage *Kitcha* customary law. This is not to discard the idea of pluralism, since such a proposal “implies the rejection of relativism and the adoption of some degree of objectivism that could be used in unison with general values, as a yardstick to determine the validity of particular values” (Alvarez, 2009: 129).

However, pluralism cannot be based on a mechanical acceptance of endorsing all systems, however conflicting and inimical each may be to women’s freedoms. A more feasible solution is proposed by Wyrod, who writes:, “understanding human rights, therefore, requires attention to the dynamic interplay between culture and human rights in specific contexts, recognizing that local cultures are diverse, mutable, and fraught with power relations” (2008: 818).

### **Understanding women’s perspectives on “women’s rights”**

I have suggested that the prescriptive approach to women’s rights associated with western feminist or eternal efforts to “save African women” from “African patriarchy” is deeply problematic. Equally limiting are state-driven and other top-down efforts to provide women with ad hoc access to rights through legal institutions such as courts. As indicated in my data analysis of Gurage women, these provisions fail to acknowledge how deeply constrained women are within customary practices. When oppressive patriarchal relationships and institutions constrain

women's physical mobility and rights to make choices, the court system can remain difficult to access and is therefore ineffectual.

My research has therefore, conveyed that “insider-outsider” research which listens to women's self-narratives can be more productive in accessing women's own perspectives on their struggles and visions. The research focused on the importance of detailed examination of women's experiences of oppression through customary law, and on identifying their perceptions of their own struggles and, therefore, also their possible goals.

Probably most importantly, therefore, this research has stressed the need for the reconceptualization of women's oppression from the standpoint of women's experience in the African continent. One must recognize that, even though there are undeniable similarities across diverse cultures in the African continent, the term “African Women” (in most cases “third-world women”) has collective and dangerously homogenizing effects. This “sameness” notion of women's oppression as a group is, as many African and third world feminists state, a repetitive normative term used by the West. Mohanty (1991: 56) argues that this kind of fixation “produces the image of ‘average third world woman.’ This average third world woman leads an essentially truncated life based on her feminine gender”. Therefore, emphasis should be placed on the fundamental ways in which women are divided by race, class, ethnicity, and nationality. Most importantly, emphasis should be placed on women as active agents, agents whose actions are determined not because they are “ignorant of feminism”, or “trapped in tradition”, but because their options are often so limited. As my data analysis shows, most respondents were acutely aware of and, in certain contexts, vocal about the injustices of oppressive patriarchal marriages

and men's powers. Their ability to respond in defiant or rebellious ways, however, was heavily circumscribed by complex methods of communal policing.

This makes it clear that "African women's oppression", should not be understood in the simplistic understandings of increasing domestic, reproductive and poverty issues that the West redundantly publishes (Mohanty, 1999). As the data analysis extensively illustrates, there are a variety of ways in which Gurage women are "trapped" and pressured to remain in marriage. Patriarchy and gender oppression materialize in the form of layered complexities of cultural values, often using symbolic interactions (Gibson, Dinan, and McCall, 2005). These materialized forms of oppression include myths of curses and the spiritual power of the elders in *Kitcha* customary system. As shown, they can also involve urgent calls to women to perform, defend and embody gender identity. Family and community demands on women to perform their prescribed roles of mothering have been especially powerful, since social value deriving from "good motherhood" is taken as a reason to deny women their rights to find their own resolutions to marital problems.

Finally, the stigmatization of those women who choose to take their case to the formal legal system is a powerful case that shows how women's freedom of choice is very limited. As discussed in the data analysis, it is not only being stigmatized but there are marital dispute cases that are taken to court by women and returned back to the elders to be dealt by the *Kitcha* customary practice. These and other related testimonies of the participants make it clear that individual women in this case study, as well as women historically, have always resisted and defied their entrapment in various ways. Most of all, the research shows that African women, particularly Gurage women in this case, are not helpless victims or complicit with their

oppression; rather, within their everyday life struggles, many demonstrate the will and courage to assert their needs and desires even within the limited spaces and opportunities they have.



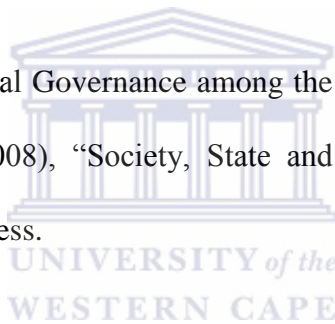
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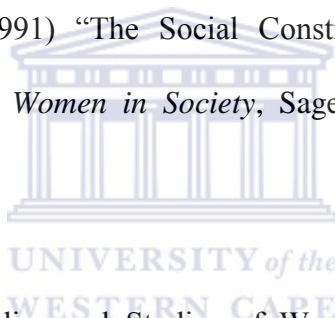
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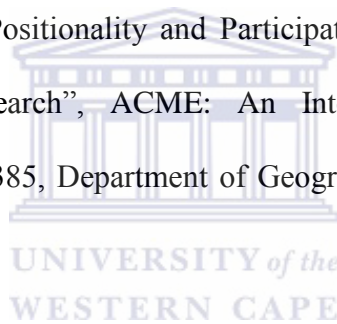
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# Appendix

## Guide for In-depth Interview with Women

### Personal information

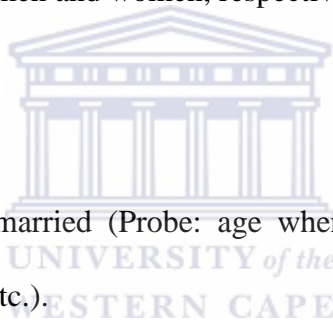
1. Please tell me about yourself (Probe: age, marital status, educational status, occupation?)

### Roles in the community

2. What are boys usually expected to do, and what are girls usually expected to do?
3. What are the duties of married men and women, respectively, in the community?

### Marriage

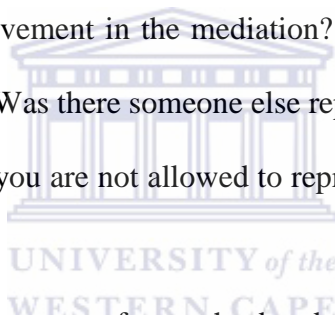
4. Please tell me how you got married (Probe: age when you got married, duration since marriage, number of children, etc.).



### Marital conflict and mediation

5. From your experience, please tell me the most common causes of conflict you have had with your husband?
6. From your experience, how do you often go about resolving the different conflicts you have had with your husband?
7. Why do you choose to mediate your conflict with your husband via the Gurage cultural way (through elders)?

8. Please tell me more about your experience of the mediation (probe: who initiated going to the elders? Who reported the conflict? What procedures are followed for the elders to see the conflict?)
9. Please tell me about what you think of how the elders deal with conflict. Do you feel they listen to you as much as to men; do they support women as much as men or vice versa? (Probe: Do you think, they treat men and women in marital conflict equally? What do you think about the verdict of the elders? Do you agree/Are you happy with their decision? Do you feel the conflict is solved after the mediation? Do you think your life/situation has gotten worse or better after the settlement?)
10. Please describe your role/involvement in the mediation? (Probe: Were you given chance to explain your side of the story? Was there someone else representing you? Please explain your relation with these persons? If you are not allowed to represent yourself what do you think is the reason?)
11. Please describe the role/involvement of your husband in the mediation? (Probe: Was he given chance to explain his side of the story? Was there someone else representing him? Please explain the relation of these persons with him?)
12. Please explain what you think about using the formal justice system (police, court) to solve your conflict? (Probe: Will you ever consider going to the police or court to solve your marital conflict? If no, why not?)
13. Please explain if you think it would create difficulties for you in any way if you refused to accept judgment? (Keep simpler and more open-ended?) Describe if you have share the belief that a woman would incur supernatural wrath such as being hit by thunder if she



refuses to respect elders or their decision, or choose the formal justice system (police, court) to solve the conflict?

14. Please tell me about your perception of solving marital conflict through the formal justice system? What are the advantages or disadvantages of having the conflict seen by traditional judges? What are the advantages or disadvantages of having the conflict resolved through the formal justice system?

15. The Ethiopian government now recognizes this culture as ‘customary law’ and allows people to use their culture, what do you have to say about this?



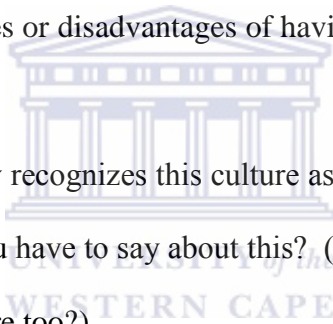


## Guide for a Focus Group Discussion with Judges

1. In your opinion, what are proper behaviors/roles for girls and boys in the community?
2. In your opinion, what are the proper roles/behaviors expected from married women (in relation to their husbands) and married men (in relation to their wives)?
3. From your experience, please describe the most common causes of marital conflict that you mediate?
4. From your experience, how do you often go about mediating the different conflicts that come before you?
5. Please describe the mediation practice? (Probe: How long has this cultural mediation of marital conflict been practiced? Who initiates the mediation (husband, wife or others)? What procedures/principles are followed for the elders to see and judge the conflict? Are there any written rules?)
6. Why do you think couples choose to mediate their conflict through you?
7. Please describe if there is a criterion on who can become a traditional judge? (Probe: If women are not allowed to be judges, what are the reasons?)
8. In the course of mediating the conflict, please describe how you treat men and women? (Probe: What roles do husbands and wives play in the mediation? Do you treat wives the same way as their husbands, or do you treat them differently? Do you believe men and women should be treated equally (during marital conflict)? If you don't allow women to explain their story or if they are represented by someone else, what are the reasons? Is the procedure the same for men as well?)
9. What do you think about the outcome of your verdict for husbands and wives? (Probe: After the settlement, please explain if you think the life/situation of the wives/women often get

worse or better? Do you feel the conflict is solved after the mediation or do conflicts tend to recur?)

10. Please describe if there were women who took their case to court/police?
11. Please describe your reaction, if women insist on going to the formal justice system to resolve conflict with their husbands? (Probe: describe if you believe that a woman would incur supernatural wrath such as being hit by thunder if she refuses to respect elders or their decision?)
12. Please tell me about your perception about solving marital conflict through the formal justice system? What are the advantages or disadvantages of having the conflict seen by traditional judges? What are the advantages or disadvantages of having the conflict resolved through the formal justice system?
13. The Ethiopian government now recognizes this culture as 'customary law' and allows people to use their culture, what do you have to say about this? (I'm curious that you don't have this for women. Maybe use this there too?)



## **Guide for a Focus Group Discussion with Women**

1. What are boys usually expected to do, and what are girls usually expected to do? What are proper behaviors/roles for girls and boys in the community?
2. What are the duties of married men and women, respectively, in the community?
3. What do you think are the most common causes of conflict between husbands and wives in the community?
4. What are the different ways of resolving conflicts between husbands and wives?
5. Why do women choose to mediate conflict they had with their husbands via the Gurage cultural way (through elders)?
6. What is the role/involvement of women and men in the mediation? If women are not allowed to represent themselves, please describe the reason?
7. What do you think of how the elders deal with conflict? Do you feel they listen to women as much as to men; do they support women as much as men or vice versa?
8. What do you think about the verdict of the elders? What do you feel about the life situation of women after the mediation?
9. Please tell me about your perception of solving marital conflict through the formal justice system? What are the advantages or disadvantages of having the conflict seen by traditional judges? What are the advantages or disadvantages of having the conflict resolved through the formal justice system?
10. Please explain if you think it would create difficulties for women in any way if they refuse to accept judgment or go to the formal justice institutions? What will happen if a woman refuses to respect elders or their decision, or choose the formal justice system (police, court) to solve the conflict?

11. The Ethiopian government now recognizes this culture as ‘customary law’ and allows people to use their culture, what do you have to say about this?

