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# The Role of Indigenous Conflict Resolution Mechanism on Land Use Dispute Resolution in *Bahir dar zuria Woreda*

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**Abstract:** This study examined the practices and challenges of customary conflict resolution mechanisms in rural land use and land related dispute resolution in *Bahir Dar Zuria Woreda of Wojer, Feresewoga, and Tentakerkose, Sebatamite, and Lejome kebeles*. To achieve the objectives, the study has employed qualitative research approach with case study research design by using primary and secondary sources of data. Data were collected using focus group discussion, interviews, and non-participatory observation; and relevant literatures and documents are reviewed. Informants were selected based on purposive and snowball sampling methods. The total number of informants participated in this study were 91. The data were analyzed qualitatively through the use of thematic analysis. The findings of this study indicated that *shimglina* customary conflict resolution mechanisms played great role in land dispute resolution. The strengths of *shimglina* in which, people prefer it over the formal legal system were, in terms of time, resource, accessibility, and restoring the broken peaceful interaction. The study found that land use and land related disputes are increased. Also, the study revealed that *shimglina* faced many challenges that hinder its effectiveness in the resolution of land use disputes. Unless the underlying challenges of *shimglina* are not solved, the effectiveness of the mechanism in the resolution of land dispute is difficult. The absence of clear legal and policy framework in the practices of *shimglina* in rural land use disputes, lack of attention to *shimglina* by the government, the absence of strong enforcement mechanism, the influence and intervention of the government and politicization of *shimglina* are the major challenges in the practices of *shimglina* in rural land disputes resolution. The government should give attention to *shimglina* in rural land disputes for peaceful co-existence and community solidarity. The study established that *shimglina* as an indigenous conflict resolution mechanism plays a significant role in rural land use dispute resolution. In dealing with cases arising from rural land use dispute, *Shimaglies* (elders) play vital roles which include arbitration, mediation, decision making, peace-making, peacebuilding, permit traditional oath and link the living with God. This study recommends that; the government should give attention to *shimglina* in rural land use disputes resolution for peaceful co-existence and community solidarity, make detailed legislation and policies.

**Keywords:** Rural Land Dispute, Indigenous Conflict Resolution, Challenges of Customary Conflict Resolution, *Shimglina*, *Bahir Dar zuria Woreda*

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## 1. Introduction

Societies worldwide have long used customary conflict resolution mechanisms to resolve conflicts and disputes that happened between individuals, groups, and among the community. In every community customary conflict resolution practices are often based on community customs, values, familial relationships, or embedded in institutional practices run alongside the formal state sanctioned processes to settle, and reestablish the peaceful relationships of

disputants [16]. In a society where the majority of the people are poor with widespread illiteracy culminating in lack of access to justice and the high cost of modern conflict resolution, and scarcity of lawyers; customary conflict resolution stands out as the best method of conflict resolution [8].

The formal legal system is adversarial to the disputant and often overlooking facts and consensus which are at the heart of customary conflict resolution mechanisms [4]. The aim of devising mechanisms to give effective dispute resolution is to

ensure that the disputants are settled their dispute through effective and efficient means for the benefits of the disputants and the society in general [45] to make their overall relationships and interaction harmonious.

Most world community especially developing world depend their economy on subsistent agricultural productivity. Land is the fundamental resource for the rural area residents to increase their agricultural productivity and to lead their life. The importance of existing adequate farm land to satisfy the food staff supply for the world community is unquestionable. Therefore, without land availability it is impossible to produce agricultural productivities for the rural people. Since interest on land possession and control is increasing from time to time among individual farmers, investors, and it became the main factor of dispute because of the scarcity of land [20].

As the research [19], assessed land disputes are a major hindrance to land use, development, peace and tenure security in Africa. In a number of sub-Saharan African countries land disputes have resulted in violent conflicts that have devastated communities, people's lives, livelihoods and relations of individuals, groups and communities.

Land is increasingly becoming a source of conflicts in Sub-Saharan Africa, where land access had traditionally been characterized as relatively egalitarian. It has been shown that local land dispute can erupt into large-scale civil strife and political movements [42]. Dispute over land is inevitable, regardless of the nature of the ownership system [15]. In addition, land disputes are common in almost all societies. To resolve the problem, in an ideal setting, strong institutions and transparent procedures can resolve such disputes or at least channel them into a process that minimizes their potential to foster violent conflict.

Rural land disputes are a serious social problem in rural Ethiopia and the problem need a settlement mechanism which works based on the social systems of a community [9]. In addition, rural land disputes are often better managed and settled in accordance with customary conflict resolution practices based on the socio-cultural context of the community than the modern conflict resolution mechanisms [2] in the rural community. In developing countries like Ethiopia the majority of the rural population used customary conflict resolution mechanisms to settle down their land dispute based on the specific context of their cultural reality [33]. However, customary conflict resolution mechanisms face challenges like government interference and cultural defect in rural land disputes settlement [31] which affects its effectiveness in resolving various types of rural land disputes.

The majority of farmers in Amhara region have experienced land disputes due to inheritance, boundary, land transfer and divorce [48]. In addition, [47] stated that the current rural land proclamation is failed to resolve land disputes in Ethiopia. In this situation, measures that can help include reinforcing customary dispute resolution mechanisms in the resolution of land disputes [49].

According to the research [10], the informal ways of dispute settlement in its pervasive sense includes customary

dispute resolution ways, and religious based dispute resolution mechanisms. Customary practices are deeply rooted in different ethnic groups of Ethiopia and arise from age-old practices that have regulated the relationships of the community [6]. They are essential to deal with different kind of dispute based on the local context reality and by take in to account the future relationships of the parties [3].

The Amharas have been their own customary conflict resolution mechanisms that are working to resolve land disputes. According to the research [21, 39, 41], the customary law that is applied among the Amhara is not written. The mechanism is used to resolve various types of disputes including rural land dispute in the region. *Shimglina* or elderliness is the most common form of dispute resolution all over the region at a local community level. Besides to this, religious leaders and elders have been playing a key role in dispute resolution in many parts of Amara Region [30].

Accordingly, an in-depth investigation of the practices, challenges, strengths, weakness of customary conflict resolution in resolving rural land disputes and the causes of rural land disputes in Bahir Dar zuria Woreda in focus is found to be indispensable.

## 2. Statement of the Problem

Customary/ indigenous conflict resolution mechanisms are one of the practical tools for rural land dispute, even though there are challenges that reduce its effectiveness and practices [17, 33]. Customary conflict resolution mechanism has been in existence in Amhara regional state, since time of immemorial [21, 39, 41], and serves as the mechanism to settle rural land disputes [26] but the government has methodological weakness in using customary conflict resolution mechanisms. In this regard, Endalew noted that in Ethiopia the customary dispute resolution mechanisms is not properly organized or institutionalized [11]. Despite, the Ethiopian policy of turning a blind eye to the customary dispute resolution mechanisms, they are playing an important role in resolving conflicts of any kind and maintaining peace and stability in the community.

According to Girma, Endalkachew, and Kassa, various issues challenge the practice of indigenous or customary conflict resolution mechanisms in resolving rural land use disputes to resolve the disputes based on the culture of peace found in the community, values, and norms. The challenge weakens the conflict resolvability and recognition of it especially by the young member of the community [14, 10, and 33]. Besides to this, Alemie, and Hone, stated, the challenges of customary conflict resolution practices created difficulties in the appropriate and effective application of customary dispute resolution systems. However, these studies did not assess the challenges of customary conflict resolution mechanisms in land disputes [8].

Land and land related issues are the major source of disputes in the rural community of Ethiopia, and needs effective settling mechanism [24, 47]. In fact, "land disputes are very serious and fierce, nobody takes the matter

flippantly, and hence any silly issues can result in big conflicts costing even the life of the disputants or resulting in injuries or costly court case proceedings [1] p. 139". Furthermore, land disputes often have extensive negative effects on economic, social, spatial and ecological development [29]. The disputes are perhaps more serious in Ethiopia due to the absence of steadfast land administration system to respond the recurrent land disputes [33]. In addition, according to Bamlak, and Mequanent, a case study conducted in Simada and Lay Armacho Woredas respectively, in Amhara region; most of the disputes are land based [26, 17]. Based on the World Bank report, eighty percent of the rural people in Amhara region are using customary conflict resolution mechanisms in rural land disputes [50].

The existing empirical evidence ascribes, "customary conflict resolution mechanisms via local conflict mediator are preferable in rural land disputes [34]". However, using formal mechanisms to settle disputes especially for the rural peoples is very difficult because the rural people expending more time in these justice system and administrative institutions that led them to economic disaster, and deteriorates the social relationship of the rural society [12]. Therefore, addressing land grievances and dispute through customary dispute resolution mechanism is fundamental in creating sustainable peace.

There are studies regarding customary conflict resolution in Amhara people made by Solomon, Yohannes, Yoseph, and Bamlak [21, 39, 41, 26]. However, most of these studies did not assess the practices, and challenges of customary conflict resolution in rural land disputes. They studied the role of *shimglina* in Amhara people. Solomon studied the role of *shimglina* in the Shewa Amhara [26, 39] the contribution of *shimglina* in Gondar Amhara. While Yoseph, examined how *shimglina* customary conflict resolution works in Gojjam Amhara people [41]. In addition, previous works Mequanent assessed in his study "the application of traditional dispute resolution in land administration in lay Armachiho Woreda Northern Ethiopia" Amhara people [17]. Nevertheless, the study does not fully assessed issues of rural land disputes resolution by customary conflict resolution mechanisms and its challenges. In addition, the weakness and strengths of customary conflict resolution in rural land disputes are not examined.

Again, Kassa, studied "Managing land conflicts in plural societies: Intergroup land governance in Ethiopia", she indicated, most people in rural areas used the customary mechanism in rural land [33]. Then again, the study did not examine the challenges of customary conflict resolution in rural land disputes. In addition, Mulugeta and Tefera studied "assessing rural land dispute and dispute settlement mechanisms in *Wore Jarso Woreda*, Oromia region [5]". This study focused on the modern formal mechanisms of rural land dispute settlement. However, the practices and challenges of customary conflict resolution in land disputes did not assess in it.

Thus, it is in this regard that this study were proposed to

assess, and fill these gaps with regard to the practice, and challenge of customary conflict resolution in rural land dispute by taking *Bahir Dar Zuria Woreda* as a case study.

### 3. Literature Review

#### 3.1. Rural Land Disputes in Ethiopia

Historically, the origin of many conflicts in Ethiopia may be traced back to disputes over rural land issues. There has been a little attention given to rural land dispute settlement mechanisms in Ethiopia [47]. In addition, the rural land administration and use proclamation of Ethiopia which is revised in 2005 is failed to address rural land and rural land related disputes (Ibid). Land dispute is a social problem in Ethiopia that arises from different sources in the rural population [9, 20, 47]. In Ethiopia, land has always been the main sources of the livelihood of the people as well as the main sources of individual, and group disputes and regional conflicts next to the political conflict and struggle for power [33].

The existing dispute settlement mechanism can be said to be inappropriate as the land taker is empowered to handle the dispute in its favor. This in turn makes landholders face multifaceted social and economic hardship [15]. According to Yonas, land has an economic, political, cultural and social importance for rural communities of Ethiopia. To achieve the above objectives, and needs peoples compete to seize piece of land and the competition led to dispute [40]. In addition, rural land administration related disputes are most of the time arise between farmers and the government [32]. Moreover, the increase in the pressure resulting from land degradation and fragmented plot are aggravating the situation of competition and disputes or conflict among farmers on land [33]. Furthermore, Ayalneh, et al., stated the presence of scarcity and shortage of land has resulted in dispute among rural households in Ethiopia [7]. Indeed, [37] indicated that in Amhara region the available land holdings are intensively cultivated and often insufficient for household livelihood requirements. Sewnet indicated that the issue of rural land is very sensitive in Bahir Dar Zuria Woreda and needs great attention to establish mechanisms that can settle the problem [38].

#### 3.2. The Practice and Challenges of Indigenous Conflict Resolution Mechanism in Land Use Dispute Resolution

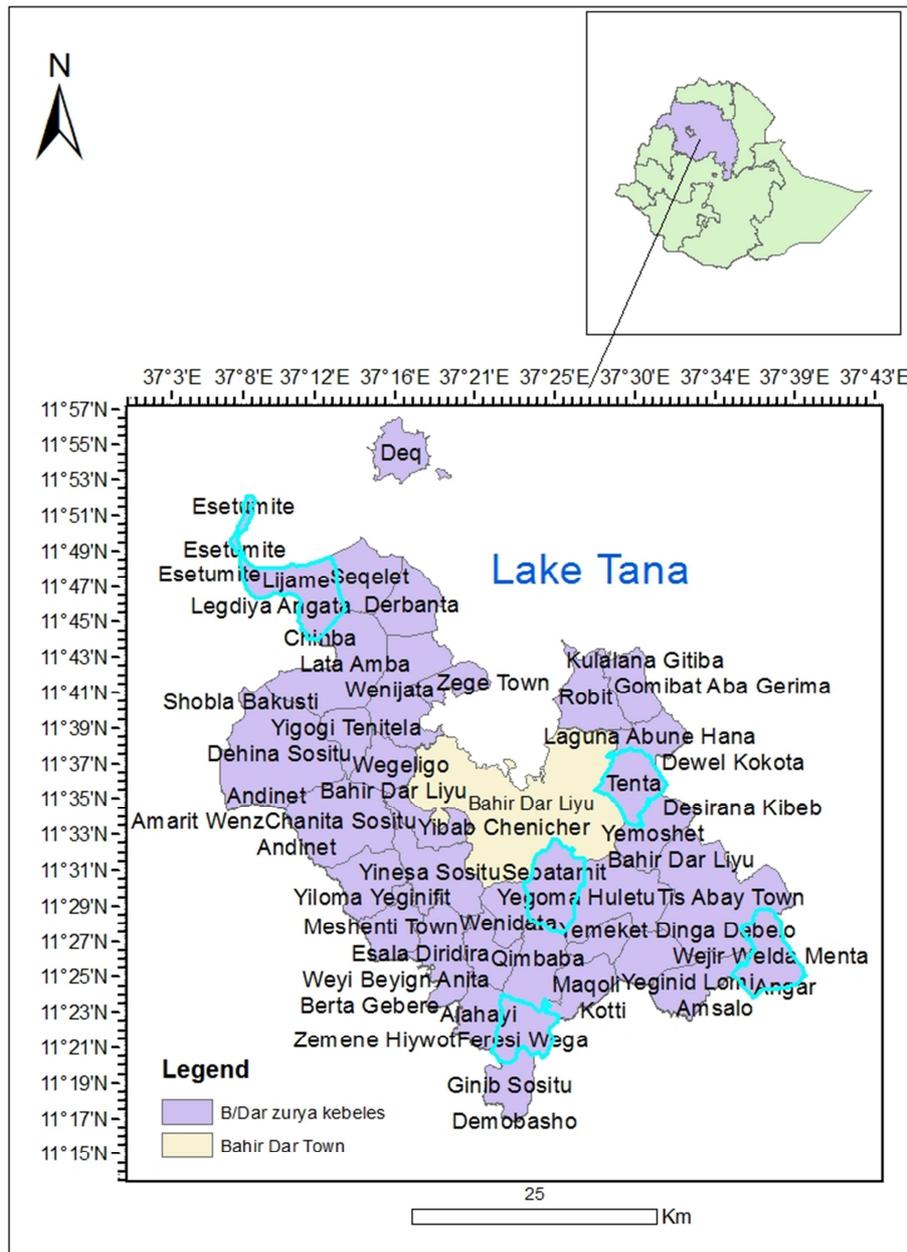
Muigua, conducted a study on effective application of traditional dispute resolution mechanisms in the management of land conflicts in Kenya [18]. He points out; traditional or customary disputes resolution mechanisms are associated with many advantages when appropriately used in the resolution of land disputes and there are challenges in utilizing it. Birhanu, assessed rural land disputes resolution mechanisms in Oromia regional state and his work indicated that village elders played higher role in land dispute resolution than the courts [28] but he did not examined the

challenges of it. In addition to this, Musto stated customary conflict resolution in land dispute is practiced from neighbors' conciliation up to council of elders [35]. Moreover, Hebo, stated, the customary dispute settlement institutions are vastly practiced in the resolution of land and land related disputes [14]. Also, Mequanent finds out that the application of traditional community based dispute resolution mechanisms are contributed a lot to resolve disputes at the local level [26]. Furthermore, the World Bank report, survey report shows that eighty percent of the people in Amhara regions take their land and land related disputes cases to customary conflict resolution [50]. Gashu, and Amsalu, again indicated the institution is known in peace making and peacebuilding at village level [13].

## 4. Research Methodology

### 4.1. Description of the Study Area

Bahir Dar Zuria Woreda is found in west Gojjam Administrative Zone of Amhara National Regional State of Ethiopia. The Woreda, shared boundaries with Lake Tana in north, Achefir Woreda in the east, Dera Woreda in the east, and Yilmana Densa Woreda in the south. It has 36 rural kebeles with its total population 202,960. It is situated at an altitude ranging from 1700-2300 meters above sea level and has area coverage of 151,119 ha. The area receives an average annual rainfall ranging from about 820 to 1250 mm. The minimum and maximum daily temperatures of the area are 10 and 32°C, respectively (DOA, 2000a).



Source: Bahir Dar Zuria Woreda rural land administration and use office (February, 2020)

Figure 1. Map of the case study area (Bahir Dar Zuria Woreda).

#### 4.2. Research Design

The study employed qualitative research design to this study as the nature of the research that target on community beliefs, opinions, experiences, and relationships, cultural and social phenomenon with regard to the practices and challenges of customary conflict resolution mechanisms in rural land disputes in the study area. The qualitative research was used to collect information from respondents through focus group discussions, non-participatory observation interviews, and from written documents. This study uses multiple tools, which were designed to triangulate with one another.

#### 4.3. Target Population, Sample and Sampling Methods

The tool that the researcher was used to select his FGD discussants and key informants was purposive sampling. In this case, the participants of the study were elders, religious leaders, *Woreda* courts judges, and *Woreda* and *kebele* land administration experts, the land administration committee, and land holder farmers who settled their land dispute with customary conflict resolution mechanisms and experts from Amhara region land administration and use Bureau. Key informants were selected on the bases of their experience, wisdom, and social acceptance with customary conflict resolution methods by the help of the community members, and my own personal experience in the study area.

The study was focused on five rural *kebeles* of Bahir Dar *zuria Woreda* and the target population of the study was residents of Wojer, Sebatamet, Tentakerkose, Feresewoga and Lijome *kebeles* of Bahir Dar *Zuria Woreda*.

#### 4.4. Method of Data Analysis

Qualitative data was analyzed basing on the content presented and developed interpretation from the thematic areas relevant to the study.

### 5. Discussion, Analysis and Findings

#### 5.1. The Cause of Land Dispute in the Study Area

According to the informants, the causes of dispute in the study area are the following. These are boundary disputes between individual farmers who are neighboring in farm and private grazing land, dispute is related to the transfer of farm and private grazing land from one landholder to another land user in the form of rent, donation, inheritance, sell, and share cropping for a limited period of time, Disputes over the inheritance of parental farm land between family members', Illegal occupation of communal grazing lands through squatting, dispute over pathways or road for going to farm fields, grazing lands, connection to villages, church, and to governmentally known public roads, dispute over grazing land, Land property division during divorce, dispute over drainage direction of flood in the farm land, Plant shade land disputes, distraction of crops or harvests by cattle or livestock,

Land Grabbing Dispute, dispute in rural land expropriation with unsatisfactory compensation for the farm land they lost by the government (Interview with elders at *kebeles*, 30<sup>th</sup> February, 2020).

#### 5.2. The Practices of *Shimglina* Indigenous/Customary Conflict Resolution Mechanism in Rural Land Disputes in the Study Area

Resolving disputes before it changed into conflict and hostilities are important as dispute is the heart of any conflict and hostilities. Most of the farming communities in Bahir Dar *zuria Woreda* were using *shimglina* indigenous/customary conflict resolution in rural land disputes and the various variants of *shimglina* customary conflict resolution mechanisms have been practical tools for resolving rural land disputes and they are recognized by the constitution (Interview with regional land expert 1 at Amhara region rural land administration and use Bureau, February, 18<sup>th</sup>, 2020). In this regards the 1995 Ethiopia's constitution has been made specific provisions for their acceptance.

Article 34 (5)

*This constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute.*

Article 78 (5)

*Pursuant to Sub Article 5 of Article 34 the House of People's Representatives and State Councils can establish or give official recognition to the religious and customary courts. Religious and customary courts that had state recognition and functioned prior to the adaptation of the Constitution shall be organized on the basis of recognition accorded to them by this Constitution.*

The above articles shows, the constitution took significant steps in the practice and recognition of customary conflict resolution mechanisms. However, according to Endalew L. [11], such recognition is applicable only to civil disputes. The Constitution does not consider the resolution of criminal disputes through customary dispute resolution mechanisms, despite the fact that they are still being practiced and functional on the ground to resolve criminal disputes and serve as the main way of obtaining justice, mainly in rural Ethiopia.

Indigenous/Customary conflict resolution mechanisms are practiced in resolving rural land disputes in Ethiopia in general [33] and various variants of *shimglina* customary conflict resolution mechanisms in Bahir Dar *Zuria Woreda* in particular. It is the heart of the peace of the community (Interview with elder 2 at Lijome *kebele*, February, 7<sup>th</sup>, 2020). In supporting this argument, ANRS Council stated, as "any civil dispute that may arise in connection to land holding or using right shall priory be seen and resolved in arbitration ([51], No. 18 p. 30)". Thus, this evidence indicated that indigenous/ customary conflict resolution mechanisms were essentially recognized by the government for land disputes resolution at the *kebele* level.

*Shimglina* is one of the indigenous/customary conflict resolution mechanisms in land disputes resolution in the study area to repair harm, and relationships hurtled due to the effect of land disputes (Interview with elder 2 at Lijome kebele, February, 7<sup>th</sup>, 2020). As *shimglina* is a committee of elders that are establishing for resolving different types of conflict and disputes in the society, it works for sustaining the future peace of the disputants [30, 21, 39, 41]. *Shimglina* customary conflict resolutions have been practiced in different forms like kebele level *shimglina*, village level *shimglina*, neighbor level *shimglina* and family level *shimglina*. It is the major and widely used conflict resolution mechanism practiced in rural land disputes (Interview with elder 5 at Lijome kebele, 7th February, 2020). In this regards, elders in traditional African societies form a dominant component of the customary mechanisms of conflict management and resolution. They have social recognition that makes them effective in handling dispute to make the life of the society peaceful [19, 42]. This mechanism has been at the grass root level to resolve disputes over land, grazing land rights, boundary, inheritance, ownership rights, and water [53]. The community in the study area are using various variants of *shimglina* customary conflict resolution mechanism in rural land disputes settlements (Interview with elder 5 Lijome kebele, 7<sup>th</sup>, February, 2020).

According to informants, *shimglina* indigenous/customary conflict resolution mechanisms are practiced in the society based on the shared values and norms and the community used *shimglina* as a major means of land dispute resolution for strengthening their social solidarity and peaceful co-existence (Interview with elder 5 Lijome kebele, 7<sup>th</sup>, February, 2020). The shared values and norms, which are provided for by the cultural system of the society, support the order and harmony of society. In views of this truth, the social solidarity theory argues that customary conflict resolution mechanisms are vital and important to resolve disputes even in societies that have adopted and using the western legal system due to various factors like to maintain social ties, interpersonal relations, and functional interdependences as society is a collective being [54]. The same practice is realized in the study area through the *shimglina* indigenous conflict resolution mechanism for the collective peace of the society (FGD1 with elders at Feresewoga kebele, 9th, February, 2020).

*Shimgelina* is the mechanism that practiced largely in the resolution of land disputes in the rural society of Amhara [50, 39]. Besides, the informants asserted that the community in the study area practiced it to handle land disputes that arise within community members at the grass root level by using the wisdom of *shimageles* (elders and religious leaders) for the harmonious life of the community, to reestablish the then peaceful interaction of the parties who were in disputes and to maintain inter individual and intra community solidarity.

In Ethiopia, the customary mechanisms of disputes resolution in rural land disputes are functional and effective in spite of the position of the formal mechanism. This obvious factual reality calls for a new legal regime on

conflict or dispute resolution that recognizes the importance of local values and customary institutions [33]. The *shimglina* customary conflict resolution mechanisms as a ways of land disputes settlement are not fully recognized by the government to be practiced side by side with the formal legal system and this resulted to the decision of elders and religious leaders are legally non-binding (FGD1 with elders at Feresewoga kebele, 9<sup>th</sup> February, 2020). As one key informant community elder said:

*The practices of shimglina customary dispute resolution mechanism is used for political motives to deceive the community as their cultural practices are accepted and respected for the benefit of community problems without essential supports for the advancement of the mechanism in handling different disputes which are land based. Again, the government bodies involved in the practice of community based shimglina in land disputes and the interference makes the mechanism corrupted in the decision and resolution of the issue (Interview with elder 3 at Sebatamet kebele, 15<sup>th</sup> February, 2020).*

According to Endalew, customary dispute resolution mechanisms play a very vital role in the administration of justice and dispute resolution in land related and other kinds of disputes [11]. In the study area, most of the disputes are land based and the practice of *shimglina* by local actors plays major role in traditional peace making and restoration of the peaceful interaction of the disputants (Interview with the kebele rural land administration expert 1 at Tentakerkose kebele, 9<sup>th</sup>, February, 2020).

The *shimageles* (elders and religious leaders) are the main actor in the settlement of rural land disputes as they are accepted and respected by the community members (Interview with a farmer 1, who resolved his land disputes through *shimglina* customary system at Wojer kebele, 14<sup>th</sup> February, 2020). The community of the study area have developed and used customary laws that can forbid and allowed a certain activity to keep the peaceful existence and interaction of individuals as well as the community in general [41].

As explained by informants, *shimglina* indigenous or customary conflict resolution practices, in which to govern actions or behaviors have been practiced in rural land disputes among the community. These values have the potential to make peace through traditional wisdoms and can change the interest of the disputants through local elders and religious leaders. The customary practice that keeps the harmony of the community, individuals, families and groups in the community of the study area is called "*shimglina* or *shimagile Shengo*" (FGD1 with elders at Feresewoga kebele, 9<sup>th</sup> February, 2020). In relation to this, [32], explained customary dispute resolution mechanisms or the customary law is not only well equipped to handle land related disputes but its judicial processes also provide a mechanism for restoring harmony. One community elders explained it as:

*In the institution of shimglina mediators and conciliators are residents and stakeholders within their community they are living. They work in the resolution of land disputes for*

the shared benefits of the disputant and for the general community, since they are closely connected with the disputants as a member of the community (Interview with elder 4, who resolved his land disputes through *shimglina* at *Sebatamet kebele*, 11<sup>th</sup> February, 2020).

The society in Ethiopia is making innovative use of the customary institutions to resolve disputes on land and other natural resources [21]. Equally, in the study area, there are various variants of *shimglina* customary disputes resolution institutions which are practiced to resolve land and land related disputes in the community and they are serving the community in keeping the peace of the society more than government disputes settlement institutions. *Shimgelina* have different variants in the community as it is stated above. Disputants were settle their land disputes based on their choice from the above listed variants of *Shimgelina*. The informants also explained that, *Shimglina* is a preferable and respected dispute resolution mechanism in land disputes (FGD1 with elders at *Wojer kebele*, 9th February, 2020). Furthermore, elders also described it as follows:

*Shimglina serve as a mechanism to resolve land disputes to maintain the community in peace and stability based on its respected shared norm of the society that promotes forgiveness, tolerance, peaceful coexistence, respect and truthfulness are among others. The variants of the practices shimglina customary conflict resolution mechanism are hierarchical in the community. The dispute resolution activity is guided by the traditional shared norms and values. (Interview with elder 6 at Tentakerkose kebele, 17<sup>th</sup>, 2020).*

In this regards, [36] explained that dispute resolution by the social facts (norms and values) is important to solidity the peaceful coexistence of the society and to restrain the action of the disputants because dispute resolution by elders itself is a social fact. Therefore, individual disputants as a social actor cannot be out of it.

Concerning the hierarches of *shimglina indigenous/customary conflict resolution*, *kebele level shimglina* is the highest level of *shimglina* in the study area. The *shimageles* at this level is called “*Yehager Shimagile*” and the actors of *shimglina* in this level are *shimageles* (elders and religious leaders) that are selected from the villagers within the *kebeles* who are well respected and well known in dispute resolution. The community has the right to follow up the procedure of the reconciliation. This form of *shimglina* is more effective in resolving communal land disputes between the community and individuals that happened due to squatting on communal lands. In addition, the *kebele level shimglina* by *yehager shimagile* is practiced to resolve more serious escalated problems of land disputes (Interview with elder 3 and religious leader 1 at *Lijome kebele*, 24<sup>th</sup> and 5<sup>th</sup>, 2020).

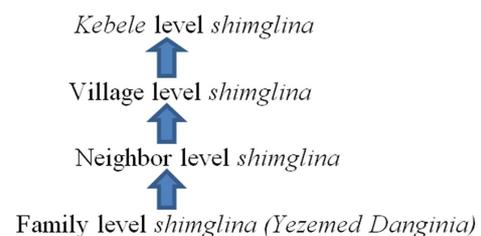
The second level of *shimglina* is village level *shimglina* which is functioned within the members of one village or within one *Iddir* (self-help association of the village). Despite, the primary purpose of *Iddir* is for funeral related services within its members but now their service in the rural community extends to settle disputes which arise within its

members. In this self-help association land disputes are governed based on their established norms and rules. The informants indicated, this level of *shimglina* is functional and effective to settle land disputes in which it were happened in one village members and included in one self-help association (Interview with elder 2 *Feresewoga kebele*, 5<sup>th</sup>, February, 2020).

In addition, *shimglina* in this level involved three chiefs of one *Iddir* (self-help association) and elders. In the procedures of the resolution, it is mandatory to all members of the *Iddir* or villagers to attend the meeting and can suggest their ideas in relation to the disputes. Reconciliation could be conducted based on the values of the community and the wrongdoer is punished based on the specific rules of the *Iddir* in terms of money.

The third level of *shimglina* is neighbor level *shimglina*. It is practiced by farmers who are living as neighborhood in one village and they are interconnected through the social ties such as *wodaje*, grateful, *yekeristena lij*, and marriage. This level of *shimglina* dispute resolution mechanism is effective to settle land disputes which could be happened between neighborhoods in one village. It is important to resolve disputes of divorce related land division, inheritance; cattle crop distraction dispute, private grazing land dispute, drainage directions, access to pathways dispute and plant shade disputes that arise between or among neighbors (Interview with elder 4 and religious leader 1 at *Sebatamet kebele*, 23rd February, 2020).

The fourth level of *shimglina* is *shimglina* in the family level. It is called *yezemed danignet* (family arbitration) (Focus group discussion with elder 1 at *Wojer kebele*, 9th February, 2020). The *shimglina* processes is facilitated, negotiated, and reconciled through blood relationships of the disputants or the relatives and family members of the disputants [30, 41]. This forms of *shimglina* customary disputes resolution practice is used significantly when the rural land and land related disputes are within family members. Mostly, it is importantly used to resolve intra family land disputes that arise due to inheritance of the rural land of their family, divorce related land division disputes, donation disputes and it did vital role in the harmonious existence of families (Interview with elder 3 at *Tentakerkose kebele*, 17<sup>th</sup>, February, 2020). Therefore, this evidence indicated that *shimglina* contributes great role in the peaceful relationships of families and for the restoration of their harmonious interactions in their day to day social and economic interactions.



**Figure 2.** Levels of *shimglina* Indigenous/customary conflict resolution in rural land disputes among and between the rural communities in the study area.

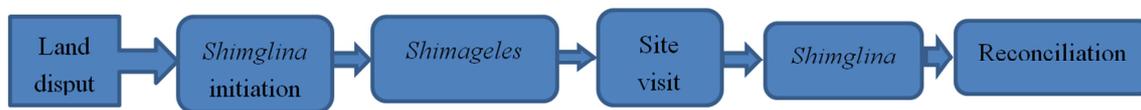
Source: Adapted from the collected data (March, 6<sup>th</sup>, 2020)

In this level of *shimglina*, there is no separation of authority in the settlement of rural land disputes. Thus, disputants have the right to take their cases to any level of *shimglina* based on their choice or preference. *Shimglina* significantly helps the community to restore the broken social ties due to land disputes that were happened between individuals, groups and families (Interview with elder 1 at Tentakerkose *kebele*, 5<sup>th</sup> February, 2020).

The social practices have played a vital role in creating peaceful relations in the community. The different social practices that tie or bound the community together are like *Iddir*, *mahiber*, *debo*, *sembete*, marriage, *yekeristena lij*, *yetut lij*, good neighborhood, and *wodaje*. They are system of social relations in the community and enable the community to live in with a strong peaceful coexistence. This showed that the principle of mediation and reconciliation in customary conflict resolution mechanisms of *shimglina*

confirms the social ties that exist among the community members. This enables the community to handle disputes based on their shared values to restore and solidify social and economic interactions. Again, this makes the disputants to easily persuade to resolve their disputes so as not to lose their social ties and peaceful relations within the community (FGD1 with elders at Lijome *kebele*, 9<sup>th</sup>, February, 2020).

Land and land related dispute is a common phenomenon in the society even between sisters and brothers [26]. These disputes are mostly resolved through *shimglina* by using elders and religious leaders. What obliged the disputants to inter into *shimglina* are their social relations and the culture of *shimglina* because respecting *shimageles* in *shimglina* is one of the social ties that linked them together with shard duties and social trust with each other in the community (FGD5 with farmers who resolved their land disputes through *shimglina* at Feresewoga *kebele*, 11<sup>th</sup> February, 2020).



Source: Adapted from the collected data (April, 4<sup>th</sup>, 2020)

Figure 3. Procedures of *shimglina* Indigenous conflict resolution in rural land dispute resolution.

## 6. The Challenges of *Shimglina* Customary Conflict Resolution Mechanisms in Rural Land Use Disputes

The collected data showed *shimglina* Indigenous or customary conflict resolution mechanism has been encountered many challenges in settling rural land disputes. The challenges have negative influences in the handling of land disputes effectively (Interview with elder 2 at Sebatamet *kebele*, 9<sup>th</sup>, February, 2020). The implementation of customary conflict resolution in rural land dispute settlement practices has been challenges from different directions [33, 31]. The main challenge was designing appropriate policies and institutional frameworks that create conducive environment for an effective deployment of customary dispute resolution institutions in rural land disputes [17]. According to the collected data, the challenges of *shimglina* customary conflict resolution in rural land disputes resolution in the study area community are discussed below:

### 6.1. The Absence of Incentives

*Shimglina* Indigenous or customary conflict resolution through *shimageles* (elders and religious leaders) had no incentives for their disputes resolution activity from anybody [26]. The informants also added that the absence of encouragements negatively influence the *shimageles* (elders and religious leaders) interest in their dispute resolution activity and on their effectiveness. They provide voluntary or

free service to their community by scarifying their time that was very important in their personal agricultural activities. They serve in the resolution of disputes in the community as a moral responsibility and as well as they are concerned for the peaceful existence of the community members. Therefore, the absence of incentives is one of the challenges in *shimglina* customary conflict resolution in land disputes (FGD2 with the elderly arbitration committee at Feresewoga *kebele*, 11<sup>th</sup> February, 2020).

As most informants agreed, land dispute resolution in the community took their time that is important for their personal work to feed their family members. Agricultural activity by its nature needs a lot of time to cultivate. Therefore, providing *shimglina* dispute resolution service consumes their time especially during farming and harvest season. They also told, “we are unpaid judges in resolving land and land related disputes by our traditional wisdom but the government did not support us in different things like money or other things to credit our service” (FGD2 with the elderly arbitration committee at Feresewoga *kebele*, 11<sup>th</sup>, February, 2020).

There were no budget or financial support in the practice of *shimglina* customary conflict resolution mechanisms in rural land disputes settlements to the *shimageles* (elders and religious leaders, even though most disputes are resolved at local level through customary systems of *shimglina* (A religious leader 2 at Sebatamet *kebele*, 23rd February, 2020).

### 6.2. The Absence of Legally Recognized Enforcement Mechanisms

According to the informants, the existence of the shared values or norms of the society was not enough to enforce the

decision after they decided on a certain kind of land disputes through *shimglina*. In this regard the FGD discussants said that:

*We need supportive or strengthening mechanisms from the government for the application of our decision as binding. The potential of social sanctions and mehala (curse) within shimglina customary conflict resolution mechanisms in enforcing the decision of elders and religious leaders in the resolution of rural land disputes are sometimes limited. The government has no mechanism to enforce the decisions of shimageles (Elders and religious leaders) in the community (FGD2 with the elderly arbitration committee at Feresewoga kebele, 11<sup>th</sup>, February, 2020).*

Therefore, according to this evidence, *shimglina* needed a legal framework to solidify the enforcements mechanisms of the society. As to Muigua, South Africa is a good example, in which “in South Africa, if a person fails to obey the decision of a traditional elder, the person is reported to a magistrate who gives the person 48 hours to show cause and if he fails to, he is punished [18]”. Hence, in the study area, the absence of strong enforcement mechanism is the challenges of *shimglina* customary conflict resolution in rural land disputes.

### **6.3. The Influence of Globalization**

Due to the influence of globalization and the modern formal dispute resolution system, new ideas are introduced and inculcated in the society [18]. Similarly, some young members of the community in the study area are influenced by the effect globalization and the introductions’ and expansion of the modern legal system of disputes resolutions and shared new ideas that results to changes of understanding towards *shimglina* customary dispute resolution in rural land disputes as backward mechanism of the ancient society. This makes them negligent to accept and respect the values of the community which are important in customary dispute resolution (Interview with elder 3 at Wojer kebele, 9<sup>th</sup>, February, 2020). This evidence indicated, there were existed some levels of influence of globalization and modern education on the young a little schooled member of the community. Furthermore, two members of elderly arbitration committee stated the issue in the following ways:

*Young farmers in our area were educated with compared to the majority of the farmers and they are at least grade 10<sup>th</sup> and 12<sup>th</sup> completed. Due to the influence of their modern education, the values they give to shimglina in rural land dispute were reduced. Even though they were taking their land dispute to shimglina, mostly they violate the decisions of elders and agreement of themselves (FGD2 with the elderly arbitration committee at Feresewoga kebele, 11<sup>th</sup>, February, 2020).*

### **6.4. The Low Attention Given by the Government to Shimglina Indigenous / Customary Conflict Resolution Mechanism in Land Use Dispute**

In developing countries the significance and practical

implementation of customary strategies have been very much disenabled by the politicization, corruption and abuse of traditional structures, which have gradually, affects negatively the conflict resolution built around them in the eyes of the people and reduced confidence in their efficiency [57, 18]. Lacks of attention to *shimglina* were one of the challenges in the practices of *shimglina* for land dispute resolution. In affirming this idea, two key informants summarized this issue in the following way:

*In our area, shimglina in general and shimageles (elders and religious leaders) in particular are given less attention by the government to settle different cause of rural land use disputes. For the advancement of shimglina, in settling different rural land and rural land related disputes, the support and promotion of the government is very significant. Despite the fact that, the governments more focus on informing the community about the formal mechanisms of rural land dispute resolution institutions rather than encouraging the community in using the local dispute resolution mechanism in local land dispute problems. i.e. Shimglina through local elders and religious leaders in the community to resolve land and related disputes. The government did not give recognition to the work of elders and religious leaders in land dispute resolution and only call us for when land disputes were escalated in our locality. We calm down the disputes, soon after the governments forget us. More over the government use us for political input to interact with the community and to protect their interest in land related benefits (Interview with elder 4 and religious leader 2 at Tentakerkose kebele, 24<sup>th</sup>, February, 2020).*

### **6.5. The Deterioration of Acceptability of Shimageles (Elders and Religious Leaders) in land Use Dispute Resolution**

The informants revealed that some peoples in the community consider *shimglina* customary conflict resolution mechanisms as secondary alternative to settle their land use and land related disputes. So far, some community members lack trust, and neutrality in elders and religious leaders in the procedures and decision of their cases due to the fact that elders and religious leaders were influenced by a government body and local influential peoples that are linked to one of the disputants (Interview with elder 6 at Lijome kebele, 10<sup>th</sup>, February, 2020). In this regard, two informants explained it as follows:

*We understand the shimageles sometimes decides biased decision due to the hidden interference and influence of other body which is the relatives of one of the disputants from the community members or from the government rural land administration offices (FGD5 with farmers, who resolved their land disputes through shimglina at Feresewoga kebele, 11<sup>th</sup>, February, 2020). In addition to this, shimageles (religious leaders and local elders) are struggle for survival due to their low level of living condition and this exposed them to corruption. They sometimes decide corrupted decision. This reduces the*

*trustworthiness of religious leaders and elders (Shimageles) in the community (Interview with farmer 5, who resolved his land dispute through shimglina at Lijome kebele, 23<sup>rd</sup> February, 2020).*

### 6.6. The Absence of Clear Policy Direction

Most African countries lack clear policies on customary dispute resolution mechanisms [56, 55]. Concerning the study area, there is no policy for the practices of *shimglina* in rural land and rural land related disputes (Interview with regional rural land administration expert 1 at Amhara region rural land administration and use Bureau, 17<sup>th</sup>, February, 2020). The practice of *shimglina* customary conflict resolution in rural land use disputes settlement needs national or regional policy direction that deals with the institutionalization and application of customary conflict resolution mechanisms in land and land related disputes (Mequanent, 2016). The absence of clear policy direction, resulted to negative influence in the effectiveness of the mechanism due to that the system is practiced with no enabling policy and legal framework that led the activities and enforcement mechanisms of local elders and religious leaders (*Shimageles*) in the area of rural land disputes resolution (Interview with regional rural land administration expert 1 at Amhara region rural land administration and use Bureau, 17<sup>th</sup>, February, 2020) Furthermore, one of the regional land experts explained this problem in the following manner:

*The nonexistence of polices contributed to the absence of funding for the operation and advancement of shimglina customary conflict resolution in rural land and rural land related disputes as most of the dispute is land and land related in the community. The regional land expert interviewee emphasized that the existence of a single proclamation that hints about the practice of customary conflict resolution in rural land and rural land related disputes is not enough for its implementation. It needs clear policy direction from the national level up to the local administrative units in the practice of customary conflict resolution mechanisms like shimglina (Interview with regional rural land expert 1 at Amhara region rural land administration and use Bureau, 17<sup>th</sup>, February, 2020).*

Thus, the absence of clear policy direction is a major challenge in the practice of *shimglina* customary conflict resolution mechanisms in land use and land related disputes.

## 7. Conclusion

This study was carried out in Bahir Dar Zuria Woreda to examine the practices and challenges of Indigenous/customary conflict resolution mechanisms in rural land use disputes. The findings showed that the resolution of land use disputes by customary conflict resolution mechanisms are largely practiced in the community. *Shimglina* customary conflict resolution mechanisms are practiced in the resolution of land use disputes in the community. There are various variants of *shimglina*. The various variants of *shimglina* institutions are used to settle land disputes in the community and *shimglina* plays great role in the resolution of land use

disputes. Local elders and religious leaders are responsible actors in the practices of *shimglina* conflict resolution mechanisms to create harmonious relation between or among the disputants.

Rural land disputes were addressed through *shimglina* indigenous/customary conflict resolution mechanisms in Bahir Dar Zuria Woreda people such as disputes related to land ownership, boundary trespass, land inheritance, donation, land transfer, share cropping, plant shade, drainage direction, divorce related land disputes, livestock destroy crops, disputes on grazing land, access to pathways disputes, dispute on squatting communal lands and land grabbing disputes.

The strength of the indigenous or customary conflict resolution mechanisms in rural land disputes were also other issues addressed in this study. The findings indicated that *shimglina* customary conflict resolution in rural disputes have been its own strength for the rural poor community in many ways like cost effectiveness to run their dispute case, builds the broken relationships of the disputants through forgiveness, consensus based participation in the process of dispute resolution, timely response or speedy resolution, accessible to their locality, and complementary service to the government to fill gaps were the strength of *shimglina* customary conflict resolution mechanisms in settling rural land disputes in the case study area.

The other issue which was assessed in this study was the weakness of the practices of customary conflict resolution mechanisms in rural land dispute. The evidence from this study indicated that *shimglina* customary conflict resolution mechanisms have the following weakness in the resolution of land disputes. These are; unable to resolve the land disputes which arose between government and individuals due to land expropriation and valuation, gender biases or lack of inclusiveness of women, and youth in the settlement procedures, disrespects the universal principles of human rights and democracy within the resolution process, and lack of records in the dispute resolution practices.

Concerning the challenges of the practices customary conflict resolution in rural land use dispute, the result of this study reveals that *shimglina* customary conflict resolution mechanisms has encountered and faced many challenges in settling rural land disputes that occurred within the community at large. These challenges were; the absence of incentives to elders and religious leaders, the absence of legally recognized enforcement mechanisms for the decision *shimageles* (elders and religious leaders), the low attention given by the government to *shimglina*, the deterioration of the acceptability of elders and religious leaders, the absences of clear policy direction for the institutionalization and harmonization of the mechanism which results to lack of funding or budget and interference and influence of the government and the politicization of *shimglina*.

In general, the findings indicated, the practices of *shimglina* mostly used and effective in the community to settle land use disputes. However, the challenges were extensive and a lot needs to be done to reduce the challenges

of *shimglina* customary conflict resolution mechanisms in rural land use disputes for the realization of its goal which is peace.

## 8. Recommendations

Based on the findings of the study, the following recommendations are drawn:

- 1) The study recommends that for the resolution of land use disputes, the regional and local governments should give high attention to the indigenous/customary conflict resolution mechanism of *shimglina* by elders and religious leaders as a result of local disputes can be better resolved by the customary conflict resolution practices of *shimglina* in the study area.
- 2) The government should develop a clear legal and policy framework for the practice or effective implementation of *shimglina* indigenous/customary conflict resolution by *shimaglies* (elders and religious leaders) in rural land use disputes.
- 3) Emphasis should give for indigenous/customary conflict resolution mechanism of *shimglina* to restore the broken relationships of disputants before the disputants approaching the formal legal system of dispute resolution, which is adversarial to their future relationships of disputants.
- 4) The government should develop an enforcement mechanism to strengthen the community based enforcement mechanisms for *shimglina* indigenous/customary conflict resolution by elders and religious leaders in settling land use disputes.
- 5) The *shimglina* system should be free from the influence and intervention of government bodies which make the decision of elders and religious leaders biased and jeopardize the trust and legitimacy of the mechanism have in the community to resolve land use disputes.
- 6) The governments need to strengthen the practice of *shimglina* indigenous or customary conflict resolution mechanisms to resolve land use disputes, which are important to vulnerable members of the community who are deprived of protections in the state legal systems land disputes resolution due to economic problems to run their issue.
- 7) The community members should give more attention to *shimglina indigenous or* customary conflict resolution systems which has been used since ancient time and fits into the local cultures, economic activity, and social organization, as well as the history and political organization of the community in the study area to promote mutual support and solidify harmonious co-existence.

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