

Legal impact assessment

Oromia customary courts

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1. Introduction

The Ministry of Justice in Ethiopia has recently unveiled a comprehensive three-year Justice System Transformation Plan designed to significantly enhance justice delivery across the nation. A key component of this strategic initiative is the expansion of customary courts, building on the successful model currently employed in the Oromia regional state. To facilitate this ambitious scaling effort, the Ministry has prepared a model law to guide the establishment and operation of customary courts in other regional states throughout the country. To support this expansion initiative, this paper undertakes a critical assessment of the legal impact of customary courts in the Oromia regional state.

In Oromia, customary courts are defined as judicial or social institutions recognised under the provisions of a recently enacted proclamation.¹ These courts adjudicate disputes based on customary laws, with a focus on preserving social cohesion and maintaining harmony within the community.

Customary justice systems are frequently criticised for failing to meet international human rights standards, raising concerns about their ability to safeguard fundamental rights, especially for vulnerable groups such as women and minorities. At the same time, the process of formalising these traditional mechanisms into state-recognised customary courts has sparked fears that it could erode the cultural foundations of these systems, which rely on local norms and communal values for their legitimacy and effectiveness.

The proclamations that established customary courts in Oromia were designed to ensure compliance with both constitutional and international human rights standards, while preserving the cultural integrity of the justice processes. These proclamations mandate that customary courts operate within the framework of the Ethiopian Constitution and respect human rights, aiming for a balance between modern legal requirements and the cultural traditions that underpin customary justice. Despite these efforts, however, there has not yet been a comprehensive impact assessment to evaluate whether these and several other objectives (such as accessibility, effectiveness, complementarity) behind the establishment of customary courts have been successfully translated into practice.

This paper has two primary objectives. First, in Part 1, it evaluates the legal impact of customary courts through a qualitative methodological approach and through the framework of people-centred justice.² Supported by interview data, we identify and discuss the areas that determine the success of customary courts in delivering justice that is people-centred; examining the effectiveness of these courts in delivering the outcomes that individuals and communities need, and assessing accessibility, affordability and the quality of the outcomes achieved. Included in this part is also a review of Oromia customary courts' adherence to gender sensitivity and human rights (inclusive justice). Lastly, Part 1 identifies and analyses the critical

¹ See Megeleta Oromia, [Proclamation No. 240/2021](#), A Proclamation to Provide for the Establishment and Recognition of Oromia Region Customary Courts, *entered into force* 17 July 2021.

² People-centred justice refers to a way of strengthening justice systems by putting people and the outcomes they need at the centre, not institutions and existing procedures.

success factors that contribute to the effective delivery of justice through people-centred mechanisms.

Second, in Part 2, this paper provides an analysis of factors relevant to the scaling of customary courts as a means to improve justice delivery at the community level. This section offers a discussion on the challenges and benefits of standardising customary courts interventions within the Ethiopian context, dives deeper into customary court financial models and provides a set of recommendations grounded in international best practices on community justice.

The assessment is guided by principles from the national Model Law and the Oromia Regional Customary Courts Proclamation, which establish foundational criteria for recognising and operationalising customary courts. These principles include:

- **Accessibility** – Customary courts must ensure both geographic and procedural accessibility, making justice available to all community members.
- **Complementarity** – Customary justice mechanisms should function as supplementary systems that enhance, rather than replace, the formal judicial process.
- **Human Rights Compliance** – The recognition and operation of customary courts must align with constitutional and human rights standards, ensuring that justice processes uphold fundamental rights.
- **Do-No-Harm** – Customary courts should preserve the cultural integrity of justice mechanisms, allowing them to operate without compromising traditional values and practices.

These principles serve as benchmarks for assessing the effectiveness and legitimacy of Oromia customary courts within the broader justice system.



2. Context: Customary dispute resolution

Around the world, people rely on a diverse array of pathways to resolve justice issues, including customary and informal justice institutions and alternative dispute-resolution mechanisms. In recognition of this reality, there has been a growing international trend toward integrating customary and informal justice systems with formal legal frameworks. One effective approach to bridging these often competing legal systems is to support normative changes in both state law and customary norms. This process may involve investing in model laws or constitutional reforms that formally recognise legal pluralism, promote human rights principles across all normative systems in plural legal settings, and regulate the interaction between these systems.³

The global emphasis on establishing governance infrastructures that enable people-centred justice at the community level highlights the importance of lessons that can be drawn from customary courts. As the OECD advocates for legal frameworks that facilitate seamless, efficient, integrated, sustainable, resilient, and user-centred justice pathways,⁴ it becomes essential to examine how customary justice systems in various contexts perform against some of these criteria. At the same time, customary justice offers a valuable opportunity to leverage existing people-centred solutions, and therefore also provides useful insights for developing more inclusive justice pathways.⁵

A 2020 justice needs satisfaction survey conducted by the Hague Institute for Innovation of Law (Hiil),⁶ revealed that 43% of legal disputes in Ethiopia are resolved through customary dispute resolution mechanisms involving village elders.⁷ This form of justice, which emphasises reconciliation through consensus, has in some situations been found to be more effective at restoring relationships between disputing parties and maintaining communal harmony than other forms of justice delivery. Hiil's study concluded that Ethiopians are generally more satisfied with justice processes led by village elders (*Jaarsa Biyyaa* in Afaan Oromo or *shemagalye* or *shimagillé* in Amharic) finding them to be procedurally fair, accessible, swift, and trusted.⁸

Despite the potential of traditional dispute resolution mechanisms to deliver grassroots justice alongside the formal legal system, scholars have argued that Ethiopia has historically failed to provide sufficient legal recognition to its customs. Rather, when customary laws have been incorporated into the modern legal system, this integration has often been limited and selective.⁹ Nevertheless, there are (new) provisions within the Ethiopian legal framework that

³ Denney, L., & Domingo, P. (2023). [Taking people-centred justice to scale: the role of customary and informal justice in advancing people-centred justice](#). London: ODI

⁴ OECD. Recommendation of the Council on Access to Justice and People-Centred Justice Systems. (2023)

⁵ IDLO. (2023). Diverse pathways to people-centred justice: Report of the Working Group on Customary and Informal Justice and SDG 16.3

⁶Hiil (2020), [Justice Needs and Satisfaction Survey In Ethiopia](#)

See also: Hiil (2021) Informal Justice in Ethiopia, Role in justice delivery and Potential for game-changing community justice services, December 2021, available online at < <https://dashboard.hiil.org/informal-justice-in-ethiopia/>> accessed 14 August 2023.

⁷ Ibid.

⁸ Ibid.

⁹ Pankhurst, A., & Assefa, G. 2008. Understanding Customary Dispute Resolution in Ethiopia. In Pankhurst, A., & Assefa, G. (Eds.), *Grass-roots Justice in Ethiopia: The Contribution of Customary Dispute Resolution*. Addis-Ababa: Centre français des études éthiopiennes. doi:10.4000/books.cfee.479

allow for legal pluralism and encourage synergy between customary and formal jurisdictions, making their coexistence and interaction increasingly relevant.

The Ethiopian Constitution provides a degree of recognition for legal pluralism. Articles 39(2) and 91(1) broadly promote the cultures of the nations, nationalities, and peoples of the country. More specifically, Article 34(5) allows for the adjudication of disputes related to personal and family matters according to customary laws, provided that the parties involved consent.¹⁰ In alignment with these constitutional provisions, the Oromia National Regional State has officially established customary courts, which have been operational in most parts of the region for the past two years.

Customary courts represent a scalable model of community justice services with the potential to be transformative. However, research on customary justice systems has predominantly been conceptual rather than empirical, often focusing on theoretical insights rather than measurable results. While these perspectives are valuable, they leave a gap in understanding the practical impact of customary justice on real-world outcomes.¹¹ This knowledge gap becomes even more pressing when considering that customary justice systems are not only widely utilised but are also frequently accessed by the communities they serve.

The legal impact assessment presented in this paper aims to fill this research gap by evaluating customary courts through the lens of their practical value, merit, and impact on local communities. Instead of contributing further to the already extensive theoretical discourse on informal justice mechanisms, this assessment starts from the premise of legal plurality as a given in Ethiopia and focuses on evaluating the impact of customary courts in relation to critical success factors for delivering people-centred justice.

¹⁰ Yntiso, G. (2020). Understanding customary laws in the context of legal pluralism. *Culture and Social Practice*, 71.

¹¹ Harper, E. (2011). *Customary justice: from program design to impact evaluation*. Rome: International Development Law Organization.

3. Oromia Customary courts: What are they for and how do they work?

In 2019, the Oromia Legal Training and Research Institute (OLTRI) conducted a landmark study¹² that corroborates the findings of HiiL's 2020 survey, further affirming conclusions drawn from numerous prior studies.¹³ OLTRI's study has been instrumental in laying the groundwork for the establishment of customary courts in Oromia.

The formalisation of customary courts in Oromia was achieved through Proclamation No. 240-2021.¹⁴ To facilitate the effective operationalisation of these courts, the Oromia regional state also promulgated Regulation No. 10/2021,¹⁵ which provides comprehensive guidelines for their establishment and functioning throughout the region. These legislative instruments outline four core objectives for the establishment of customary courts across the Oromia Regional State:

- 1) To enable the society of the region to resolve disputes based on customary laws and societal values.
- 2) To contribute to the observance of respect for human rights and the rule of law by dispensing justice based on customary law that is better in fact finding and justice, and strengthen the social relations of the disputants.
- 3) To enable the people of the region to get accessible justice service, with simplified procedures and low cost.
- 4) To create a legal and justice system that contributes to the growth of the custom, values and language of the Oromo people and also within which a sense of ownership is ensured.

Customary courts in Oromia operate on a two-tiered system. The first instance customary courts are established at the '*Ganda*' (local) level, while appellate customary courts are found at the '*Aanaa*' (district) level. As of July 2023, a report from the Oromia Supreme Court indicates that there are approximately 6,252 first instance customary courts serving communities in 6,355 localities. However, 1,122 of the total 7,477 localities in the region have not yet established customary courts due to security challenges. Additionally, there are currently 355 appellate customary courts functioning at the district level in the Oromia region.

In addition to the two-tiered system including the option of appeal, Oromia customary courts operate within a coordinated framework administered by formal courts, the Cultural Bureau, and the Ganda administrations. Together, these institutions create a supportive structure that

¹² ILQSO, Hundeeffama Mana Murtii Aadaa Naannoo Oromiyaa, (unpublished, November 2019) 11-16.

¹³ See in general, PANKHURST, Alula (ed.) ; ASSEFA, Getachew (ed.). *Grass-roots Justice in Ethiopia: The Contribution of Customary Dispute Resolution*. New edition [online]. Addis-Abeba: Centre français des études éthiopiennes, 2008 (generated 13 août 2023). Available on the Internet: <<http://books.openedition.org/cfee/471>>. ISBN: 9782821872349.

¹⁴ See Megeleta Oromia, Proclamation No. 240/2021, A Proclamation to Provide for the Establishment and Recognition of Oromia Region Customary Courts, *entered into force* 17 July 2021.

¹⁵ A Regulation to Implement the Oromia Region Customary Courts, Proclamation No. 240/2021, Regulation No.10/2021, *entered into force*, 28 September 2021.

enables customary courts to function effectively within Oromia's broader justice system, ensuring they uphold cultural integrity while respecting human rights standards.

The Supreme Court of Oromia provides high-level oversight and strategic support for customary courts, including training initiatives and efforts to integrate them into the formal justice system.¹⁶ The District Court (*Aanaa* level regular court) oversees the day-to-day operations of customary courts, handling their establishment, official recognition, and regular monitoring to assess effectiveness and compliance with regulations.¹⁷

The Culture and Tourism Bureau is dedicated to the preservation and development of customary law.¹⁸ It contributes through research, training, and initiatives aimed at strengthening customary courts and safeguarding knowledge transfer across generations. By collaborating with the District Court to mobilise resources, the Bureau enhances the institutional sustainability of customary justice mechanisms.

The Ganda Administration plays a critical role in supporting the operational needs of customary courts.¹⁹ This includes providing security, enforcing orders, and coordinating logistical arrangements for 'Gaaddisa' sessions,²⁰ ensuring that customary decisions are respected and implemented at the local level.

¹⁶ See Megeleta Oromia, Proclamation No. 240/2021, A Proclamation to Provide for the Establishment and Recognition of Oromia Region Customary Courts, *entered into force* 17 July 2021, Article 37(1).

¹⁷ *Ibid.*, Article 37(2)

¹⁸ *Ibid.*, Article 39.

¹⁹ *Ibid.*, Article 38.

²⁰ Gaaddisa' sessions, refers to Customary court proceedings or sessions

4. National Framework / Model Law on Customary Courts

Ethiopia has struggled with the issue of integrating traditional justice mechanisms, which handle over 3 million legal disputes each year, into the broader formal justice system,²¹ despite the constitutional recognition accorded to customary dispute resolution systems. This oversight has been widely perceived as a significant deficiency within the national legal framework. In response, the FDRE Justice System Transformation Plan,²² which is poised for nationwide implementation, emphasises the urgent need to transition these customary mechanisms from their current de facto status to full de jure recognition.²³

To address the current gaps in the legal system's approach to traditional dispute resolution, the Transformation Plan advocates, albeit implicitly, for the establishment of customary courts at regional and local levels. Among the key initiatives is the enactment of specific legislation at the regional and municipal levels to officially recognise, support, and oversee the implementation of community-based justice.²⁴ This legislative framework is aimed at preserving the autonomy of elders and the cultural integrity of customary practices while facilitating their integration into the formal legal system.

While the Transformation Plan lays an essential foundation for incorporating customary dispute resolution mechanisms into Ethiopia's formal justice system, it simultaneously highlights the absence of community-focused legal information and education, the necessary outreach and support services,²⁵ and a comprehensive national legal framework to guide this integration. The complex task of harmonising customary and formal justice systems necessitates that the Ministry of Justice develops a robust and thoughtful framework that regional governments can adopt and adapt, ensuring that customary courts become an integral component of the regional judiciary with enough consistency across the board to standardise implementation.

The strategic emphasis of the Transformation Plan on integrating traditional dispute resolution mechanisms within a modern, rights-based legal system has culminated in the development of a Model Law for the establishment and operation of customary courts. This model law is grounded in key principles vital to the creation of a well-functioning plural legal system, including the "do no harm" principle, human rights compliance, accessibility, and complementarity. Additionally, it draws on the valuable experiences gained from the establishment of customary courts in the Oromia region

²¹ See Hiil, *Informal Justice in Ethiopia, Role in justice delivery and Potential for game-changing community justice services*, December 2021, available online at <https://dashboard.hiil.org/informal-justice-in-ethiopia> accessed 14 August 2023.

²² See የኢትዮጵያ የፍትህ ዘርፍ ትራንስፎርሜሽን ዕቅድ, (Ethiopia Justice Sector Transformation Plan) .

²³ Ibid.

²⁴ See Ibid., The original reads: ሁሉም ክልል እና አስተዳደር በአካባቢ ሽማግሌዎች የሚሰጠውን ፍትህ ነጻነት በማይጋፋ እና በማያንጎስስ አግባብ ለማህበረሰብ አቀፍ የፍትህ አገልግሎት እውቅና የሚሰጥ፣ የሚደግፍ እና የአፈጻጸም ክትትል የሚደረግበትን ስርዓት የሚገዛ ህግ እንዲያወጣ ማድረግ። (Each region and administration should enact laws that outline the procedures for recognising, monitoring, and supporting the provision of justice by community elders without undermining the independence of community-centred justice.)

²⁵ OECD (2021), *OECD Framework and Good Practice Principles for People-Centred Justice*, OECD Publishing, Paris.

In the model law, there is a significant emphasis on the 'do-no-harm' principle which aims to preserve the integrity, cultural values, and philosophies of traditional dispute resolution mechanisms as they are recognised and incorporated into customary court systems. This is essentially about recognising customary methods of dispute resolution in their traditional sense that embodies local values, philosophies, and culturally specific methods of conflict resolution. Imposing external structures or legal standards without consideration of these deeply ingrained traditions risks eroding the legitimacy and effectiveness of these institutions within the communities they serve.

The 'do-no-harm' approach also safeguards against unintended negative consequences, such as the marginalisation of traditional leaders or the imposition of foreign legal frameworks that may be incompatible with local customs. By allowing customary courts to retain their unique characteristics—such as their focus on reconciliation, community healing, and restorative justice— this principle helps to ensure that these courts can continue to provide accessible and culturally relevant justice. Additionally, it attempts to prevent the politicisation or manipulation of customary justice by external forces, thereby maintaining the impartiality and trust that these systems have historically enjoyed.

The model law is crafted with careful consideration of the constitution²⁶ and the federal state structure, where the responsibility to recognise and licence traditional institutions, and transforming them into customary courts, rests with individual states. Since compliance with human rights is a national priority, the model law serves as a guiding framework, establishing minimum guarantees for the adherence to human rights standards, accessibility, complementarity, and the protection of traditional values. Beyond these foundational principles, however, the specific procedures and mechanisms for the establishment and regulation of customary courts remain within the jurisdiction of state governments. This approach allows for flexibility and contextual adaptation while ensuring alignment with national human rights obligations.

In the last couple of years, the Oromia regional state has showcased rapid developments towards establishing customary courts, demonstrating in practice the potential of customary dispute resolution as a participatory enrichment of the formal justice system, particularly in minor civil disputes and select criminal matters. However, the primary challenge — and the potential success — of the customary court model lies in balancing the preservation of the cultural integrity of these practices with the standardisation required to ensure adherence to human rights principles. The integration of traditional and formal justice mechanisms is not merely desirable but essential for streamlining and scaling justice delivery at the community level across Ethiopia, thereby ensuring a legal system that is both inclusive and effective.

²⁶ See Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Articles 34 and 78.

5. Methodology

At the end of 2023, the Oromia Legal Training and Research Institute (OLTRI) and the Ethiopian Ministry of Justice requested assistance from HiiL to assess customary courts through an assessment of their legal impact. HiiL has experience with developing data-driven, research-based, and innovation-focused approaches to delivering people-centred justice. With that foundation, HiiL's focus and emphasis on evidence-based interventions closely aligns with the Ethiopian Ministry of Justice's priority of scaling up customary courts as community-centred justice models that emphasise active community involvement in decision-making, problem-solving, and conflict resolution.

This study is based on a central research question that is: **“in what ways do customary courts enhance scalable justice delivery in Ethiopia at the community level?”**

To systematically examine this question the following secondary questions are developed:

1. What are the main functions of customary courts in Oromia, and how do they function within local communities?
2. How effective are customary courts in providing timely, affordable, and culturally relevant justice, especially in resolving minor civil and criminal cases?
3. What challenges arise in ensuring that customary courts uphold human rights standards, particularly with respect to gender equality and punitive practices?
4. How has the establishment of customary courts affected the workload and efficiency of Ethiopia's formal justice system?
5. What factors contribute to the long-term success and sustainability of customary courts, and how can these be expanded to other regions of Ethiopia?
6. What role do financial models and donor contributions play in supporting and expanding the operation of customary courts?

To address these questions, HiiL employed a qualitative research approach and sought OLTRI's assistance in the data collection process. The collaboration led to a joint framework for assessment based on mostly firsthand and some secondary data made available throughout the research period.

The Oromia Legal Training and Research Institute

This legal impact assessment builds further on the findings and observations of the Oromia Legal Training and Research institute (OLTRI). The OLTRI was established in 2007 as a regional implementing agent of the justice reform program by the Oromia Regional Government. The Institute is an autonomous institution re-established by Proclamation 242/2022 as one of the executive organs of the regional government and is accountable to the Supreme Court Oromia.

Formal establishment of customary courts in the Oromia regional state was first explored by the OLTRI. Between 2019 and 2020, they conducted research on the opportunities and challenges related to the workings of customary courts and their potential for scaling, ultimately culminating in a proclamation to provide for the establishment and recognition of Oromia customary courts.

5.1 Qualitative data

The qualitative method consisted of semi-structured qualitative interviews (N=60) conducted by representatives of OLTRI between March and April 2024. The interviews were supplemented by an analysis of performance reports from Oromia courts and media sources, including news reports and documentaries. Due to budgetary restraints and a short time frame, the collected data is only that of a limited research project. Direct quotes of respondents are used as much as possible to capture the voice of users and judges of customary courts, yet we should be careful in considering this research as compelling evidence from a representative data set. While the respondents are evenly distributed over sample groups of users of courts and judges/staff, a larger sample size, including even more regions, would help further validate the assessment offered in this paper. Systematically monitoring outcomes of disputes resolved by Oromia customary courts would help substantiate the data related to important people-centred justice criteria.²⁷ It would also help strengthen the case for using this model as a blueprint for scaling community justice services to a national level.

The interviewed subjects included users/clients (both male and female) of customary courts (at both the first instance and appellate levels), judges/elders (both male and female) of customary courts (first instance and appellate), and presidents (both male and female) of customary courts (first instance, appellate level). An interview protocol was translated from English to Afaan Oromo (see Annex 1).

Conducted interviews were transcribed and translated to English. The translated transcripts were analysed with a specific focus on identifying relevant responses, reflections and other possible evidence in relation to the research questions listed on page 6. The most illustrating quotes from the transcripts were used to support the results presented in this paper.

²⁷ A people-centred justice system will also be one that monitors and evaluates its services and systems to ensure their effectiveness from a people-centred perspective. (OECD, 2021)

Throughout the text, quotes derived from interview transcripts of users are indicated as RU (respondent user), quotes derived from interview transcripts with elders/judges are indicated as RE (respondent elder) and the interview with customary court staff other than elders (1 interview) is indicated as RS (respondent staff). With the exception of a few cases, all interviews were conducted in person. The interviews took place in seven regions within the Oromia regional state (see below).

Regions (Zone, followed by <i>Aanaa</i> and <i>Ganda</i>)	No. of interviewees (N=60) Users N=30 Judges N=28 Staff = N=1 Ministry of Justice N=1
West Arsi Zone -Shashemene (Bulchena, Faji Gole, Melka Bedessa)	12
East shewa (Lume)	10
Bishoftu city - Calalaka (Hora-arsadi, Babogaya)	8
Borana Zone - Gomole (Surupa, Dadacha Kufa)	10
East Hararghe Zone (Haramaya, Maya Gudo, Adelle)	7
Adama City (Dembala, Irecha, Melka Adama)	6
Sheggar City and West Shewa (Koyye Fache and Dandi)	7

Table 1. Survey sites

5.1.1 Evaluation questions

The semi-structured interview protocol (see Annex 1) consisted of open-ended questions that allowed participants to elaborate on descriptive elements most relevant to the workings of the customary courts, including their accessibility, effectiveness, efficiency, and both positive outcomes and opportunities, as well as potential negative outcomes and risks. To ensure relevance and appropriate scope, slightly different interview protocols were drafted for the three subject categories: users, judges/elders, and presidents/chairpersons. The interview protocol for users, for instance, placed a stronger focus on user experience, expectations, effectiveness, and quality of outcomes.

5.1.2 Media Review

In attempts to supplement the interview data, the assessment also included a review of several media reports focusing on the effectiveness of customary courts in Oromia. This data includes documentary films and news items (video) published by OBN (Oromia Broadcasting Network) and EBC (Ethiopian Broadcasting Corporation). The sources are available in local languages (Afaan Oromo or Amharic).

5.2.1 Performance Reports (quantitative data)

In addition to the interviews and media sources, the assessment examined reports compiled by the Supreme Court of the Oromia Regional State, the judicial organ to which the customary courts are accountable, regarding the performance of these courts. These reports show information on the amount of first instance customary courts established at the *Ganda* (lowest administrative unit) level and appellate courts established at the *Aanaa* (smallest administrative subdivision, standing below regions and zones but above *Ganda*) level. The reports also contain statistical data of cases heard by these courts and information on their clearance rates. In addition, the data made available through performance reports exposes trends in the use of formal courts upon establishment of customary courts in the same region, which proves essential in the analysis of impact on caseload (see section 10). Furthermore, the researchers attended an annual performance evaluation meeting of customary courts held in Addis Ababa in July 2023.

5.3 Validation workshop Addis Ababa (October, 2024)

The findings of the impact assessment were presented to a broad group of stakeholders in Addis Ababa at the end of October. The presentation was followed by an interactive session that brought in voices from regional and federal government, first-instance courts, law schools, and civil society organisations. Stakeholders were given the opportunity to respond to the initial findings, offering feedback on issues such as impact on caseload, linkages between customary and formal justice systems and the consent principle amongst other things. The clarification questions have been used to further validate and strengthen the assessment by emphasising the initial findings that required a specifically thorough examination. This has been reflected throughout the paper.

Part 1: Results of the impact assessment

This section of the paper analyses the collected data, aiming to assess Oromia customary courts' impact along the lines of effectiveness, quality, gender sensitivity, human rights, and other relevant critical success factors for delivering justice at the community level.

6. Effectiveness

Investigations of effectiveness explore the impact of an activity on the outcomes its designers intend to affect.²⁸ In most cases, the effectiveness of legal advice, assistance or information needs to be measured through research programmes that start at the beginning of a user's justice journey, follow them throughout the different procedures, and finally follow up on the outcome and degree of satisfaction experienced.²⁹ In the case of this impact assessment, we were not able to follow peoples' justice journey from beginning (before the intervention) until end (after resolution), but instead were able to conduct interviews with users of the courts who would describe the intervention from their own experience and perspective after their participation in the resolution process. While this might limit in some ways the insights on the degree of satisfaction and outcomes, the interview data still allows for reflections and observations that prove useful for a discussion on the effectiveness of customary courts for those who have used it. Contrary to those who used the courts, those who purposefully decided to avoid customary courts in resolving their disputes have not been included in the interview data. Additional interview data inclusive of this subject group would help with a more thorough analysis of potential users' own evaluation of the effectiveness of the courts prior to their decision to use them or not.

Either way, measuring the effectiveness of customary courts poses a unique challenge due to the distinctive nature of these institutions. Their success is often evaluated in comparison to the formal justice system, with customary courts frequently addressing issues that regular courts struggle to resolve. These courts are praised for handling disputes without the extensive backlogs that typically plague formal judicial processes. Insights gathered from interviews suggest that their effectiveness is primarily attributed to two factors: their accessibility (both in physical and financial sense) and the speed with which they resolve disputes. Additionally, cases heard by customary courts show a high rate of overall resolution, with few cases moving from the first instance to the appellate level (see section 6.2), suggesting an overall effectiveness of procedure towards realising resolution outcomes.

To maximise their effectiveness, it is crucial that customary courts are situated in close proximity to the communities they serve. This strategic placement minimises the logistical and financial burden on individuals who might otherwise be discouraged from seeking justice due to the distance and costs associated with travelling to distant courthouses.

In interviews conducted by the OLTRI, both the elders presiding over customary courts and the users of these services consistently report these courts as highly effective. For instance, the

²⁸ Burnett, M., & Sandefur, R. L. (2024). A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States. *Fordham Urban Law Journal*, 51(5), 1509.

²⁹ OECD (2021), OECD Framework and Good Practice Principles for People-Centred Justice, OECD Publishing, Paris.

chairperson of the Customary Appellate Court in Shashamane Town, West Arsi Zone, remarked: "Our people receive justice under the shade of their own village, free of charge. They can also avoid the pitfalls of false evidence, which is a significant challenge in ordinary courts. It is a major achievement to resolve cases that would otherwise be impossible to address in the formal justice system." (RE1: Interview). Although the above-mentioned quote captures the purview of Oromia customary courts in practice, its source represents the court of which he describes its effectiveness. A certain unavoidable element of response bias echoes throughout the interview transcripts and while we can use the data as illustrative, we must be hesitant in approaching its content as strong and compelling evidence for effectiveness and quality.

6.1 Swift justice, proximity and affordable services

Timeliness is another critical advantage of the customary courts. Respondents pointed out that these courts are effective in delivering justice swiftly, which is in stark contrast to the formal legal system, where cases can be delayed for extended periods. As one respondent stated, "They are effective in terms of getting justice without delay, which is unlikely in regular courts" (RU:8 interview). The speed with which customary courts resolve disputes not only reduces the emotional and social strain associated with prolonged legal battles but also enhances the perceived legitimacy and effectiveness of the justice system.

Swift justice appears as a strong indicator of effective delivery at the community level. Especially with cases that are rooted in that same community, moving forward at a steady pace avoids derailing important community relationships for too long. Several respondents reference the speed at which their case was handled comparatively to the formal system, suggesting that cases which had previously taken years, were now heard and settled within days. However, it should be noted that unless the customary court system is strengthened from time to time and scaled according to increasing demand, the speed at which cases are heard and resolved may decline as the number of cases increases over time.³⁰

Respondents also emphasised that customary courts offer a more accessible form of justice, as they are physically present within the villages and communities, unlike regular courts which are often geographically distant and harder to reach. One respondent noted, "The customary courts are effective in terms of accessibility in that they are available to the society at large in its village, unlike the regular courts" (RU:8 interview). This proximity ensures that the courts are embedded in the everyday lives of the community, making justice much easier to attain.

Moreover, customary courts are praised for their cost-effectiveness. Unlike the formal justice system, which is often criticised for being prohibitively expensive, customary courts provide their services without charge. As remarked by a respondent, "Our people are able to get justice under the shade of its village and without costs" (RE14: interview). This ability to access justice without financial barriers makes these courts especially valuable to rural and economically disadvantaged populations, who might otherwise be excluded from formal legal mechanisms.

³⁰ Ayana, T. B. (2023). Administration of Justice in Customary Courts in Oromia. *Haramaya Law Review*, 12, 1-24.

6.2 Cases resolved

The positive perception of customary courts is echoed by respondents across multiple survey sites. One key indicator of their effectiveness is the high percentage of cases they resolve. According to an Annual Performance Report compiled by the Supreme Court of Oromia, both first instance and appellate customary courts achieved an over 80% case completion rate by June 2024.

	Roll over	New cases	Total	Completed	Pending	Performance
First Instance - Customary courts	48,165	313,520	361,685	294,699	68,730	81.47%
Appellate - Customary courts	5577	12,852	18,429	15,293	3,140	82.98%

Beyond proximity and high case completion rates, the effectiveness of customary courts is further demonstrated by their unique ability to resolve issues that are often considered intractable by the formal justice system. These courts have shown remarkable success in uncovering the truth, even after many years, and in preventing individuals from resorting to criminal activity due to a lack of justice within the formal system.

For example, in Bilo Boshe, Jawis Ganda, a Customary Court (File No. 015/2014) successfully mediated a dispute involving over 136 individuals who were engaged in a violent blood feud, with many intent on killing each other. The court's effective reconciliation efforts led to the safe return of 62 people who had fled their village, thereby restoring peace and stability within the community.

In another case in Nekemte City, the Darge Sub-City First Instance Customary Court (File No. 0002) averted a potential murder. An individual had travelled from Bishoftu to Nekemte with the intent to kill a friend who had refused to repay a loan. Upon learning about the customary court in the city, the individual decided to seek resolution through the court as a last resort. The debtor acknowledged the debt and agreed to repay the loan.

In Ejere Aanaa, the Ejere First Instance Customary Court revealed the truth about a crime after eight years of wrongful imprisonment. In this case, a false accuser had testified against his neighbour, leading to the neighbour's conviction and sentencing to eight years in prison, with his wife also receiving a one-year sentence. This wrongful conviction resulted in the dissolution of their family. Upon his release, the victim sought justice through the customary court, accusing his neighbour of perjury. The false accuser ultimately confessed to his wrongdoing, bringing justice to the victim.

Similarly, in West Hararghe, Gemechis Aanaa, Kumbi Ganda First Instance Customary Court delivered justice in a case involving an incident that occurred eighteen years earlier. An assailant had stabbed a victim and thrown him into a river at night, believing him to be dead. The victim

survived but was unable to pursue justice in the formal courts due to a lack of evidence. After 18 years, the victim presented the case to the newly established customary court in the village. The assailant confessed to the crime, and as restitution, he compensated the victim with five cows and 10,000 Ethiopian birr.

Customary Courts in Oromia resolved over 300,000 cases last year, and while these unique cases described above underscore the effectiveness of customary courts in resolving deeply entrenched conflicts and delivering justice where the formal system may falter, these instances may not fully capture the broader effectiveness and satisfaction levels associated with the functioning of customary courts. A more comprehensive and methodical analysis of the cases handled by these courts is crucial to assess whether they resolve disputes in a way that aligns with constitutional principles and human rights standards. Such an analysis is also necessary to generate more evidence and evaluate the extent to which customary courts fulfil the claims of accessibility and effectiveness in dispute resolution.

6.3 Quality of outcomes

Without a review of the quality of the outcome, the 'effectiveness' of an intervention only tells part of the story. In that respect, the frequent positive feedback from beneficiaries highlights not only effectiveness, but also to some level the quality of the outcomes reached via Oromia customary courts. Outcomes can be first-order results for the individuals who are party to the dispute – such as a resolution of their justice problems – but may also include second-order results (material and immaterial). For the latter, desirable outcomes could be directly related to the dispute and its intervention towards resolution, such as adequate housing, nutrition or sufficient income, or more so be related to the participation in the resolution process itself (the activity), such as stronger communal ties, increased confidence in oneself, and a feeling of legal empowerment.³¹

Many respondents expressed that they were able to attain justice outcomes (both of first and second-order) through customary courts, a process that they believe might have been more difficult, if not impossible, through formal legal channels. As one respondent stated, "after I brought my case to the [customary court] demanding payment, the court easily ruled for the defendant to pay my money back" (RU:40) interview). A second respondent recalls "I get rest from that day when the conflict was resolved" (RU:39 interview), while another respondent answered "I am strongly satisfied with the decision of customary court. It is very fair and justiciable" (RU:58 interview)

Examples of material and immaterial outcomes reached by customary courts are frequently found throughout the interview transcripts. One user of the court even described "they gave me back my truth" (RU:34 interview), encapsulating a sentiment that goes beyond the fact-finding purview of the courts and shows that these outcomes can even extend beyond legal to existential empowerment.

³¹ See for a discussion on evaluating community justice worker programmes: Burnett, & Sandefur (2024).

As the Chairperson of a customary appellate court in the West Arsi Zone mentioned, “the main mandate of the customary court is to settle cases by *arara* (win-win style not win-loss) not to decide the winner.” (RE1: interview). This approach of striving for consensus suggests an awareness of the importance of outcomes from the onset. Only if it is not possible to solve it amicably, customary court judges will decide the case (RE:52 interview).

While it is clear that users and local communities are often satisfied with customary courts and their rulings, the data remains somewhat unclear on whether the quality of the customary court interventions is evaluated based on a perceived effectiveness or the actual outcomes users/clients desired and received. What is also interesting is that some respondents praised the quality of the outcome from a secondhand perspective. One elder/judge suggested that “the outcomes of the customary court have brought many benefits. We have reconciled families that have been in dispute for many years.” (RE:25 interview). While the restoration of peaceful social relations as an ambition of elders is clearly a prerequisite to reaching desirable outcomes for the people they serve, quality of outcomes should mostly be evaluated by users/clients. Similarly, one interviewee referenced that “customary courts succeeded in settling my brothers and his wife’s case. All respected elders in the village, relatives from near and far have tried their best to stop them from getting divorced. But the customary court did.” (RU:53 interview). In this particular case, for instance, the outcome would have been better evaluated by the husband and the wife.

Further research is needed to show what outcomes are actually reached by customary courts beyond the interview data, and whether these outcomes align with needs of both parties. Supplementing this research with data on outcomes reached by the formal system, and outcomes for those who decided to do nothing in the case, or resort to other resolution mechanisms (such as family) in the same districts would give the best insight in a comparative measure of quality of outcomes.



7. Gender sensitivity and human rights

According to much of the literature on justice services, traditional justice mechanisms run the risk of not aligning with contemporary human rights standards,³² primarily due to their roots in local patriarchal societies where gender inequality is deeply embedded. In Ethiopia, there are growing concerns that the customary justice system falls short in safeguarding human rights, especially women's rights. However, this critique is not universal. Some elders of customary courts defend their institutions as embodying principles of equality and respect. For instance, one elder highlighted that '*Gaaddisa*,' the Oromo institution, is fundamentally a space of equality, with violations of human and constitutional rights occurring only in what he termed "evil '*Gaaddisaa*,'" an aberration unknown to the broader community (RE23: interview). Similarly, throughout the data, clients of these courts have reported experiences where human rights and gender equality were purposefully respected. Occasionally, in some cases priority was given to vulnerable groups such as the elderly, pregnant women, and persons with disabilities, but without discrimination against others (RU:16 interview).

7.1 Gender Equality in Customary Courts

Customary justice systems are often perceived as gender-insensitive.³³ In an effort to remedy this, the Oromia Customary Courts Proclamation mandates the inclusion of at least one female judge in each court. Additionally, it provides that any unequal treatment of a female defendant or plaintiff can be grounds for appeal to the formal courts. The proclamation also requires that gender equality be a key component of the capacity-building training for customary court elders, recognising that gender bias is a critical human rights issue within these courts.

The above mentioned requirements show goodwill towards gender inclusion in the formal customary courts provisions, however from a people-centred perspective it really only matters how this effectively plays out in practice. In that sense, there has been some progress in appointing women as customary court elders in parts of Oromia, but significant challenges remain. In many areas, societal norms still consider it taboo for women to serve as judges. Women are often either unwilling to assume such roles or discouraged by family, particularly husbands. The broader community often resists the idea of women in judicial positions, with only a few urban areas having successfully integrated female judges into the customary court system. Even where women have been appointed, they frequently play passive roles, observing rather than actively participating in court proceedings. (RU:7 interview).

Furthermore, during a validation workshop on the model law, representatives of CSOs underscored the insufficient participation of female judges in customary courts. This concern was further substantiated by the annual performance report of customary courts, which included visual documentation of customary court sessions across different regions of the country. The report revealed several instances where male judges dominated the proceedings,

³² See amongst others Shaikh & Mohyuddin (2019) & UN OHCHR (2016)

³³ See amongst others Williams (2011) and Ezer (2016)

with female judges either absent or positioned in secondary roles, seated behind their male counterparts.

Cultural institutions that promote gender sensitivity, such as the 'Siinqee Institution,' have supported the involvement of women elders in some areas, notably Arsi. However, this is far from the norm. Comprehensive community awareness programs are needed to address the resistance to women's participation in customary justice. If gender equality is not adequately addressed, customary courts may struggle to fully align with the constitutional and human rights standards of the 21st century and could face challenges in garnering the necessary support for expansion from the (international) justice community.

In terms of equal treatment, female respondents of the impact assessment shared mixed experiences with customary courts. A thorough examination of appeal cases is needed to better understand how often complaints are filed on the grounds of unequal treatment between men and women, which would provide a clearer picture of how these courts handle gender-related cases.

7.2 Human rights concerns and the issue of punishment

A significant human rights concern regarding informal justice mechanisms is the potential imposition of corporal punishment, which would contravene constitutional protections. However, the assessment did not uncover any direct evidence of such punishments being administered. This absence of corporal punishment may be attributed to the nature of Oromia customary courts, which prioritise reconciliation and compensation over punitive measures. Multiple respondents noted that the focus of these courts is on resolving disputes amicably through forgiveness and reparative actions, rather than punishment (RE:24, RE:54: interview).

When disputes arise over the proportionality of a punishment or compensation, particularly when it deviates from accepted customary practices, parties have the right to appeal.³⁴ Appeals from first-instance customary courts to appellate customary courts (such as those at the '*Aanaa*' level) are possible when issues of fairness or human rights violations are alleged. If discriminatory penalties are imposed on one party, this may constitute a human rights violation, warranting an appeal from the customary courts to the formal judicial system, combining the strengths of informal justice and rights-based dispute resolution.³⁵ Such mechanisms serve to ensure that customary courts remain accountable to human rights standards, even within the seemingly more ambiguous framework of traditional justice.

³⁴ A person who is aggrieved by the decision of the Customary Court of Appeal may take his appeal to district Court if his grievance is related to one of the following: (a) Applying customary law which undermines the right to equality of disputing parties; (b) Overlooking the rights to be heard or important evidence presented by a disputing party; (c) Applying customary law or practice which violates human rights and basic freedoms recognized under the Constitution and international human rights instruments.

see: Megeleta Oromia, [Proclamation No. 240/2021](#) (pg.22)

³⁵ See: Hiil (2022). [Community justice services](#). Hiil Justice Dashboard

7.3 Human Rights Compliance through continuous training

Training has been recognised as one of the key mechanisms to enhance the compliance of customary courts with human rights standards. The Justice Sector Transformation Plan underlines the importance of capacity-building initiatives to ensure that customary court elders integrate basic constitutional principles into their dispute resolution processes. Continuous capacity-building is particularly vital for customary court judges. Through sustained and well-designed training, these custodians of customary law can embed fundamental human rights principles into their judicial deliberations, ensuring that their decisions are not only culturally appropriate but also aligned with human rights standards. Such training should focus on raising awareness about the rights of vulnerable groups and ensuring their protection within the customary justice framework.

The Model Law governing customary courts, prepared by the Ministry of Justice and shared with the regional justice bureaus, further stipulates that training is a mandatory requirement for these courts to continue operating under formal recognition and registration. The registration and licensing of customary courts must include stringent requirements that ensure immediate and demonstrable adherence to human rights standards. Customary institutions that resist inclusivity—such as the inclusion of women judges—or that refuse to participate in human rights training would not be granted operational licences.

Contrary to potential concerns about resistance, findings from the impact assessment revealed no opposition to human rights training among customary court actors. On the contrary, respondents emphasised the need for more training. A female customary court judge expressed this sentiment, stating, "There are training sessions provided for the elders of customary courts and the public, but these are insufficient. We need consistent training" (RE:13 Interview). The primary issue appears to be that training is often sporadic and inadequate. A customary court judge in Haramaya stressed the urgency of this need, remarking, "I would like to strictly address the importance of training. We need training urgently and continuously." (RE:11 interview). Several respondents echoed this concern, pointing out that the training sessions provided have generally been one-off events and insufficient to meet the ongoing needs of customary court judges.

Furthermore, some of the training has not specifically focused on human rights but instead covered general aspects of the proclamation establishing customary courts. In some areas, training is offered only to the chairperson or chief justice of the customary courts, leaving the other elders without access to similar learning opportunities (RE:33 Interview).

At present, many of these training sessions are conducted by formal courts, particularly at the *Ganda* (first instance court) level. However, the need for specialised training in customary courts confirms the necessity of collaboration with a dedicated legal and justice training institute, such as the OLTRI. With its extensive experience in planning and delivering judicial training, such an institute would be well-positioned to develop custom-tailored training resources, structure the

curricula and instructional framework, and manage the delivery of training programs, thereby ensuring that proper judicial standards are upheld.

Currently, there is no standardised or adaptable curricula to support the capacity-building of customary court elders. To address this issue, the model law proposes the establishment of an independent Customary Courts Administration Council, which would include key stakeholders, such as research and training institutions. This council would play a crucial role in strengthening the administration and capacity-building efforts within the customary court system



8. No harm principle

In the context of legal pluralism, integrating customary dispute resolution mechanisms into the formal legal system through a "do-no-harm" approach requires a careful balance that preserves the distinctive nature of traditional justice while ensuring its compatibility with modern legal frameworks. This approach encompasses several critical elements:

A) Shielding customary courts from political influence: Customary courts must be protected from political interference to maintain their impartiality. This can be achieved by adhering to established community traditions for judicial appointments and dismissals, ensuring that decisions follow customary protocols, free from external pressures. The necessity for impartiality has become even more evident in light of instances where political administrations, such as the *Ganda*, have interfered with the selection or removal of customary judges, undermining these safeguards. While customary protocols call for the careful selection of mature, ethical, and stable elders to serve as judges, the process is often rushed, with political connections sometimes playing a role in appointments, compromising the integrity of the courts (RE:19 interview). In practice, the removal of elders due to conflicts of interest, as outlined in proclamations, is not always enforced, leading to public dissatisfaction. There are also reports of bribery, nepotism, and unlawful detentions in certain customary courts (RE:15 interview).

To further insulate customary courts, cases involving government parties or administrations should be excluded from their jurisdiction, ensuring a clear division between governance and traditional adjudication. In Oromia, for instance, customary courts focus on cases between private individuals, reinforcing this separation.

B) Ensuring judicial independence: Customary courts must be granted the autonomy to apply their indigenous laws, rituals, and principles without external influence. This independence is crucial for judicial decisions, enforcement of judgments, and implementation of culturally appropriate sanctions. However, there are challenges, as some local administrative bodies, particularly *Gandas*, are uncooperative in executing the orders of customary courts. This lack of support often leads to delays in justice (RE:11, RE:15, RE:29 interviews). This finding is corroborated by a World Bank survey affirming that the weak execution of decisions is viewed by Ethiopians as a serious shortcoming of traditional justice mechanisms.³⁶

C) Preserving cultural practices in court proceedings: Customary courts should maintain their traditional procedures, which often differ significantly from those of formal legal systems. By operating within their local cultural context, these courts provide justice that aligns with the community's values. In Oromia, for example, the culturally significant practice of oath-taking is an essential part of truth-telling in proceedings. Both the accuser and the accused participate in this ritual, reinforcing the cultural authenticity of the process.

³⁶ Malik, W. H., & Maghani, C. L. (2024). *Voices of the Vulnerable: Promoting Access to Justice in Sub-Saharan Africa*. p.30

However, there are concerns that some customary courts have begun to adopt practices from the formal legal system, such as dismissing cases due to lack of evidence or repeatedly adjourning hearings. While synergy between the formal and customary systems is beneficial to both, these deviations from cultural norms risk undermining the very foundation of customary justice, as noted by the president of the Oromia Supreme Court.³⁷

D) Limited oversight by formal courts: The review of customary court decisions by formal courts should be minimal, focusing solely on ensuring compliance with national and international human rights standards, constitutional principles, and fairness. In Oromia, formal courts have appellate jurisdiction over customary court decisions, but only in cases where fundamental human rights violations, such as those involving women’s rights or where inhumane punishments are alleged.³⁸

On 18 June 2024, the Cassation Bench of the Oromia Regional Supreme Court issued a binding decision to clarify the appellate jurisdiction over customary courts.³⁹ According to this ruling, only District-level Regular Courts (first instance courts) and the Cassation Bench itself hold the authority to review appeals from customary courts. This decision addresses concerns that the prior practice—allowing appeals from the Aanaa-level customary courts to proceed through the high courts and the supreme court before reaching the Cassation Bench—undermined the customary justice system’s efficiency and accessibility.

By restricting appellate jurisdiction to designated courts, the Cassation Bench’s decision aims to streamline the appeals process in support of the customary courts’ core goal of swift and accessible justice. Furthermore, this decision aligns with the approach taken in the Model Law, which emphasises the importance of maintaining procedural efficiency and accessibility in customary justice systems.

³⁷ Remarks of the President of the Supreme Court of Oromia Region, Annual Customary Courts Conference, July 2024, Addis Ababa.

³⁸ The issue of inhumane punishment remains a grave concern that must be addressed with care, as assuming that such practices no longer occur is far from accurate. Recent social media posts from, allegedly, the Borena region of Oromia have revealed alarming instances where women have been subjected to cruel and degrading physical punishments. See below ([warning](#) for graphic content of corporal punishment) https://www.linkedin.com/posts/firdaweke-aklilu-a91056239_thereality-weneedmore-endgbv-activity-7253162769594642432-UdYK/?utm_source=share&utm_medium=member_ios. These incidents showcase the urgent need for comprehensive reform and oversight to ensure that all justice mechanisms, including customary courts, strictly adhere to human rights principles.

³⁹ see Oromia Supreme Court Cassation Bench, *Daadhi Gaarradoo v. Madaanit Warqaalammaa*, *Cassation Decision*, File No.453487, 18 June 2024.

9. Critical success factors

Simply said, critical success factors indicate actions that help organisations achieve their goals. In the context of this impact assessment, critical success factors can help inform decision makers about ways community justice services can be scaled, whilst respecting the needs and capabilities in the communities they intend to serve.⁴⁰ Some success factors, such as ensuring accessibility, gender sensitivity and human rights and combining the strengths of informal and formal justice have been addressed in the previous sections. The data collected, however, are indicative of additional success factors that deserve attention.

9.1 Serving diversity

One of the critical success factors of the customary courts in Oromia is their capacity to adjudicate cases involving individuals from diverse ethnic backgrounds. This effectively counters the perception that these institutions discriminate against those who do not belong to the dominant clan or ethnic group traditionally associated with the customary courts. This inclusivity is especially significant given widespread concerns that customary institutions may marginalise or exclude people outside of the ethnic or clan structures tied to their customs and practices.

A respondent from the Tigre ethnic group shared their experience with the Oromo customary courts, offering a clear illustration of this inclusiveness: "When you see my practical case, I am Tigre. I cannot speak Afan Oromo. The defendant is Oromo. Despite this, the customary court properly resolved my issue, and I am extremely happy with the outcome. They went above and beyond my expectations—may God repay them" (RU:39 interview). This testimony highlights unbiased and equitable treatment that non-Oromo individuals can expect when engaging with these courts. The respondent's satisfaction – which is also echoed by many other respondents (RU:6, RU:8, RE:14, RE:23, RE:33 & RU:39 interview amongst other) – reflects the courts broader reputation of fairness, with elders acting more like religious figures than mere arbiters, extending justice impartially to all ethnic groups, including Gurage, Amhara, and Tigre.

Another respondent reinforced this perception by noting, "They are like religious leaders, not just elders. They work equally for all without discrimination against other ethnic groups like Gurage, Amhara, Tigre, and others. I have seen them speak to someone in their own language and translate his words for the rest of us" (RU:37 interview). This ability to navigate linguistic and cultural barriers further emphasises the adaptability and inclusiveness of the Oromo customary courts, showcasing their commitment to administering justice fairly across different ethnic and cultural groups.

The strength of the customary courts is also underscored by the gravity of their proceedings, particularly the traditional oath-taking ceremonies, which are taken very seriously across ethnic lines. One Amhara respondent described their experience, stating, "The oath is very intimidating, even in my native region. The oath taken by the name 'Giicha Sardo' is a powerful

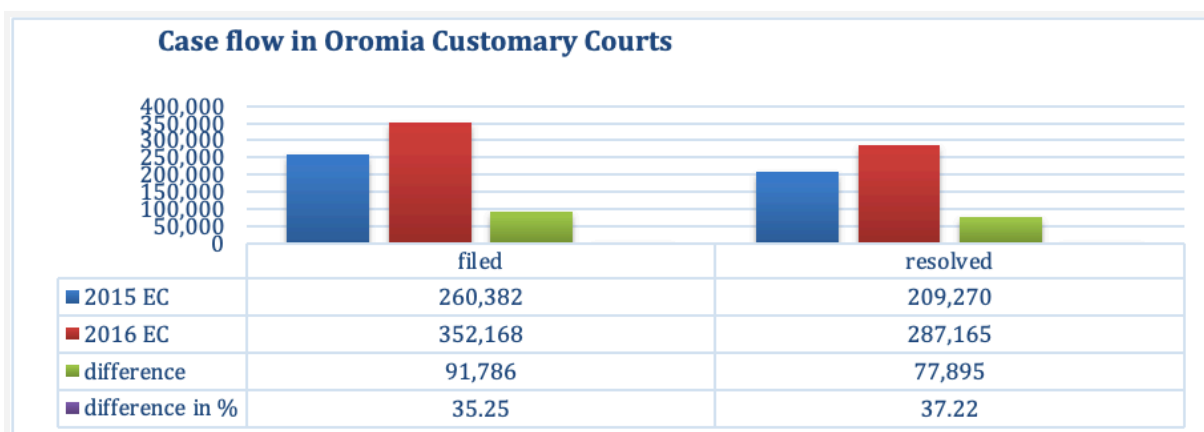
⁴⁰ In a 2022 policy brief, HiiL listed a number of critical success factors that were developed with insights from leading experts in the field of community justice services. Several of these critical success factors are addressed below and in part 2. – See HiiL (2022). [Community justice services](#). HiiL Justice Dashboard

one, and no one dares to speak falsely after taking it. I am Amhara, but the elders of the court ruled in my favour, and I now respect and trust Oromo traditional law, which I find to be fair and serious" (RU:41 interview). The fear and reverence associated with such oaths highlight the moral and cultural weight of these customary practices, reinforcing the trust and confidence individuals from diverse backgrounds place in the system.

These testimonies illustrate that the customary courts in Oromia have been successful in building a reputation of fairness and inclusiveness, challenging claims and perceptions of ethnic-based discrimination. Their ability to bridge ethnic divides and administer justice impartially has contributed to their credibility and effectiveness in diverse communities.

9.2 Attracting more cases: proof of confidence

Another significant success factor for the customary courts in Oromia is the substantial number of cases they have handled—over 360,000 cases in just nine months of the 2023-2024 calendar year (2015-2016 EC in the Ethiopian calendar).⁴¹ This figure underscores the strong presence of these courts within their communities and the trust that individuals place in them as one of the preferred mechanisms for resolving disputes. The fact that so many cases are being directed toward customary courts indicates not only accessibility but also the confidence that communities have in their ability to deliver justice.



Source: annual customary courts performance report, Oromia Supreme Court

9.3 Ensuring local ownership and sustainability

The Oromia region has achieved notable success by embedding customary courts within the community, ensuring strong local ownership and sustainability. One of the key factors behind this success is the community-based support model that sustains these courts. Customary courts in Oromia are primarily financed through community contributions, which reflect a grassroots approach to maintaining their operations. In rural areas, nearly all community members contribute to the functioning of these courts, with each individual typically providing

⁴¹ Annual Performance report by the Supreme court of Oromia region

around 200 Ethiopian birr annually.⁴² For those facing financial difficulties, exceptions are made to ensure inclusivity. This widespread participation demonstrates a collective commitment to the customary justice system, reinforcing its legitimacy, relevance and ownership in local communities.

The community contributions are streamlined through the involvement of local government structures, such as revenue and tax collection offices, and *Ganda* administrations, which assist in collecting funds on behalf of the customary courts. A formal invoicing system has been implemented to facilitate the process, ensuring transparency and efficiency. This system not only enhances the financial stability of the courts but also fosters a sense of shared responsibility among community members for the upkeep of their justice mechanisms.

In urban areas, the support model shifts slightly, with a greater reliance on donations from wealthier individuals/households and private contributors. Fundraising campaigns are actively organised by the president of the *Aanaa* court in collaboration with customary court elders, who solicit contributions from affluent community members. This urban model of support reflects the adaptability of the customary court system. All in all, ensuring that financial sustainability is achieved through various means, depending on the specific context of each community.

It is important to note that customary courts in Oromia do not receive a dedicated government budget for their operational costs. The construction of court buildings, for instance, is typically funded through the internal revenue of city administrations. In some cases, other government departments, such as the revenue authority or other designated bodies, take on the responsibility of building these facilities. This decentralised approach to funding emphasises the critical role that both community engagement and local government resources play in sustaining the customary courts.

In essence, the success of Oromia's customary courts lies much more in their integration into the social fabric of the community, than in the reliance on formal government support. The consistent support from both rural and urban communities, combined with the involvement of local government structures, ensures that these courts remain functional and relevant. This model of community-driven justice emphasises the importance of local ownership in the sustainability of customary justice systems, making them a vital component of the region's overall judicial framework.

9.4 Consent

A defining feature of customary justice systems lies in their voluntary basis for jurisdiction, where a court's authority to adjudicate disputes is triggered (solely) by the mutual agreement of the disputing parties. In this framework, individuals are not legally obligated to submit to the authority of customary courts, which allows for 'escaping' judgement from customary courts by simply not submitting to their jurisdiction. However, once parties voluntarily engage and provide their consent, it is considered a binding commitment, one that cannot be arbitrarily withdrawn. This approach, as reflected in the Oromia Customary Courts Establishment

⁴² On October 3th 2024, 200 Ethiopian Birr equaled 1,52 Euro

Proclamation and the model law, is crucial for upholding the integrity of justice. The voluntary consent of the parties involved ensures that the process remains both participatory and binding, thereby reinforcing the legitimacy of the justice system.

Despite this, respondents affiliated with Oromia customary courts express dissatisfaction with the requirement to obtain the defendant's consent before assuming jurisdiction. Many customary court elders, as voiced during an annual performance evaluation conference, find this requirement to be at odds with traditional justice principles. One elder voiced the frustration by stating, "The law needs immediate amendment regarding the consent of the parties, particularly the defendant. Because of this legal provision, which bases the jurisdiction of customary courts on the defendant's consent, we are unable to deliver the full extent of justice we could" (RE:14 interview). Other respondents maintain similar opinions suggestive of the idea that the jurisdiction of the customary court must not be based on the consent of the defendant (RE:1, RE:11, RE:20 interview)

Nonetheless, the consent requirement differentiates customary courts from formal judicial systems, where participation is mandatory. Partially due to the consent principle, customary courts are seen as participatory alternatives, particularly for minor civil disputes and select criminal matters, with a focus on reconciliation over punitive measures.⁴³ Importantly, because customary courts do not provide the same guarantees of a fair trial as formal courts, the consent-based system ensures that individuals voluntarily relinquish certain rights available in the formal legal framework.

The model law views consent as a safeguard for human rights, allowing individuals who are uncertain about the customary courts' ability to protect their rights to withhold consent. This provision is particularly significant given the low level of use of customary courts among women with higher education (only 5% of women with university education or above reported resorting to customary courts compared to other potential avenues for help such as family members (40%), police (30%), or formal courts (15%)),⁴⁴ making a consent-based framework essential to respecting individual choice.

In practice, however, securing consent can be complex. Customary courts often rely on informal pressures and tactics that may border on coercion. In an attempt to solve the submission problems – a situation where a second party does not want to cooperate – elders of Oromia customary courts frequently pressure defendants into consenting, with social and familial influences playing a significant role. One respondent shared that, "The person I sued initially refused the jurisdiction of the court, but the court referred him to his relatives and tribe, who ultimately pressured him into giving consent." (RU6: interview). Another respondent noted, "In most cases, people do not refuse customary courts because of the social impact and the pressure from family or community" (RU:7 interview). A customary court judge explained that, while individuals are not formally compelled to consent, a refusal often results in being viewed by the community as disrespectful to cultural traditions (RE:51 interview).

⁴³ see: Megeleta Oromia, [Proclamation No. 240/2021](#)

⁴⁴ HiiL Justice Dashboard - Justice needs survey data and informal justice

<https://dashboard.hiil.org/publications/informal-justice-in-ethiopia/justice-needs-survey-data-and-informal-justice/>

Although formal compulsion is rare, this dynamic underscores the complexity of consent within customary justice systems, as social pressures can blur the line between voluntary agreement and coercion. Despite these challenges, the consent-based framework remains a crucial mechanism for ensuring both participation and the protection of individual rights within the Oromia customary justice system.



10. Impact on caseload of the formal system

The establishment of customary courts is often viewed as a strategic initiative aimed at diversifying avenues for dispute resolution, which, in turn, is expected to alleviate the overwhelming caseload burden of formal courts. Both the Justice Sector Transformation Plan and the OLTRI's background study on Oromia Customary Courts highlight the reduction of caseloads on formal courts as a key objective of recognising and operationalising these customary institutions. Additionally, it has been suggested by some respondents in the impact assessment that there has been a notable decline in the caseload of formal courts following the introduction of customary courts (RE:3, RE:15 interview).

This assumption, however, warrants critical examination. Firstly, the causal link between the operationalisation of customary courts and the reduction of caseloads in formal courts is not conclusively supported by empirical evidence. The reduction in formal court caseloads may be influenced by a multitude of factors, including political, social, and economic dynamics that shape the flow of cases. For instance, changes in government policies, fluctuations in crime rates, and shifts in public trust in formal courts could all contribute to case flow variations, independent of the existence of customary courts.

Secondly, available data does not substantiate a significant reduction in caseloads in the formal justice system as a result of customary courts. From 2019-2020 to 2023-2024, the case load in the region fluctuated as follows:

- **2019-2020:** 520,970
- **2020-2021:** 662,046
- **2021-2022:** 651,006
- **2022-2023:** 590,430
- **2023-2024:** 586,317

In 2023-2024, customary courts handled 486,000 cases,⁴⁵ an increase of 214 cases compared to the previous year's 272 cases. However, the reduction in the formal courts' caseload—4,113 cases—may or may not be directly attributable to the operationalisation of customary courts. Slight fluctuations in caseload have historically been common, even before the establishment of customary courts in the region.⁴⁶

Given these figures, the link between the increased activity of customary courts and a reduction in the formal courts' caseload appears tenuous. The modest decrease in caseload suggests that other factors may be contributing to this shift. A more comprehensive investigation into the factors influencing caseload fluctuations in formal courts is necessary before attributing reductions to the operationalisation of customary courts.

⁴⁵ see Ethiopian Press Agency , 'ገለጽ ሚ.ያ ከስድስት ሺህ 300 በላይ ቀበሌዎች ውስጥ ባህላዊ ፍርድ ቤቶች ተቋቁመዋል' 4 November 2024, available at <https://press.et/?p=139975>.

⁴⁶ Ibid.

This, however, does not imply that customary courts play no role in reducing the formal courts' caseload, although a causal link has yet to be clearly established. To manage caseloads more effectively, formal courts might consider implementing a systematic referral process for cases suited to customary courts. Encouraging litigants to use customary courts as alternative forums for swift and amicable dispute resolution, especially in cases within their jurisdiction, could be a viable strategy to alleviate pressure on the formal justice system.

It should be noted that the formal establishment of customary courts does not necessarily represent an opening of a new avenue for justice; rather, it formalises and acknowledges longstanding informal mechanisms that have existed for centuries. According to a survey by HiiL, customary institutions in Ethiopia handle approximately three million cases annually,⁴⁷ despite their previous lack of formal recognition. Thus, the persistence of high caseloads in formal courts may be attributable not to the absence of alternative dispute resolution mechanisms but rather to the inefficiencies in case flow management within the formal court system itself.



⁴⁷ HiiL (2021) Informal Justice in Ethiopia, Role in justice delivery and Potential for game-changing community justice

Part 2: Scaling up customary courts in Ethiopia

Customary courts are one model of scalable community justice services that can be game-changing. The Oromia model of customary courts already shows impressive numbers of processed cases and resolution rates on a yearly basis. Nevertheless, community justice services have to overcome barriers to growth, and scaling should occur by developing a model that can be replicated and then piloted to test effectiveness and sustainability. This can be done by finding sustainable revenue models, by developing an oversight and monitoring system connected to formal justice institutions, by standardising effective working methods and by securing a long term commitment from national governments or donors.⁴⁸ The main scaling question related to replicating the Oromia model to other regional states is that of transferability. Transferring a justice delivery model developed in one context (Oromia regional state) to another (other regional states) requires specific and purposefully considered adaptations to the new environment that are critical to its viability.⁴⁹

Customary courts in Oromia have demonstrated their ability to deliver justice that is accessible, affordable, and procedurally simplified at the community level. This distinction is particularly significant in light of the broader challenges facing Ethiopia's formal justice system, where more than half of the population perceives the formal courts as being too expensive for ordinary people (50%), inaccessible (53%), and overly complicated (53%),⁵⁰ all while, still making use of the formal courts relatively often compared to other countries.⁵¹ Although customary courts may be preferred over the formal justice system in specific contexts, a harmonious coexistence between both systems is productive in a pluralistic legal framework. In the Oromia region, as well as in the model legal framework developed by the Ministry of Justice, customary courts are designed to function as complementary institutions. In that regard, their role is also to extend the reach and effectiveness of the formal justice system, rather than to replace it.

The widespread establishment of customary courts across Oromia already shows positive signs of building scale from the ground up. In less than two years, the region has successfully launched and operationalised 6,252 first-instance customary courts and 355 appellate customary courts.⁵² This rapid expansion reflects both the demand for these courts and the government's commitment to supporting traditional justice mechanisms complementary to the formal justice system. The reach of these courts is integral to their success, ensuring that communities throughout Oromia have access to local, culturally sensitive means of resolving disputes. Below we discuss several relevant prerequisites to scaling in relation to community justice services.

⁴⁸ HiiL (2022). [Community justice services](#). HiiL Justice Dashboard

⁴⁹ Burnett & Sandefur (2024) offer some relevant research questions related to measuring transferability as a factor for scalability. These questions include: 1) *Given an identifiable new context in which to launch the activity, what is needed to launch?* 2) *Who are the service populations in the new context?* 3) *How do they compare to the original context?* 4) *What are their accessibility needs (language, cultural-responsiveness, socio-spatial issues)?* 5) *What is the status of the resources needed to be effective in the new context?* 6) *How does the service meet the needs and wants of potential consumers of the service in the new context?*

⁵⁰ Pham PN et al. (2023). Ethiopia Peace and Justice Survey 2023. Harvard Humanitarian Initiative.

⁵¹ HiiL (2020), [Justice Needs and Satisfaction Survey In Ethiopia](#) p.75

⁵² Oromia Regional State Supreme Court, 'Annual Performance Report of Customary Courts in Oromia, July 2023', (unpublished).

11. Standardising interventions

Standardising interventions is an important prerequisite for scaling justice services and there is much to gain by standardising the practical steps that justice workers take to resolve a problem. However, standardising may not be suitable in all contexts, especially if resources available to justice workers are limited. In such situations working with what is available becomes imperative.⁵³

11.1 Challenges and opportunities of standardising customary courts

One major challenge in standardising customary court practices comes back to the no harm principle, namely ensuring judicial independence and preserving cultural practices in court proceedings. As this paper shows, customary courts offer a unique alternative to the formal system, with a culturally grounded specific focus on customary norms, both in the approach towards resolution as in the decision-making process. HiiL's policy brief on community justice services identifies this as a potential pitfall of building scale from the ground up. Scaling will be less effective if the goal also seeks to preserve uniqueness in practices followed for dispute resolution at the community level. Especially in culturally and ethnically diverse countries such as Ethiopia, customary practices may differ depending on geography.

At the same time, culturally relevant characteristics that are quintessential to Oromia customary courts can be identified as enablers of the dispute resolution system in which the courts operate. Other regions may have enablers of a similar cultural relevance that have emerged organically and can be almost of interchangeable utility. In any case, local communities where new customary courts would be established will always already have informal institutions or social norms in place that are meant to deal with disputes and might involve a third party to mediate or arbitrate. An analysis of these pre-existing communal structures in areas where new customary courts would be established helps uncover any suitable enablers necessary to preserve a 'unique' justice delivery mechanism, while still fitting within the respective customary context.

Another challenge pertains to awareness and adoption of newly erected justice delivery mechanisms into the community, with a clear communal understanding as to what services are being provided. Our data indicates that customary courts are popular in the Oromia regional state. At the same time, as the customary courts are newly established, the public does not have enough awareness about their jurisdiction and power, about the service these customary courts can deliver, and about its duty to support their community (RE:1: interview). Increasing awareness of customary courts as an alternative to formal courts in communities where they are newly established might be a slow process. Outreach campaigns would help with informing community members about the role customary courts can play in preserving social cohesion, maintaining harmony within the community and offering redress for grievances. Communicating stories of cases in which these desirable outcomes were achieved – in an affordable and timely manner – are one way to highlight the people-centred approach. In that

⁵³ HiiL (2022). [Community justice services](#). HiiL Justice Dashboard

sense, any lack of awareness about the potential customary courts might also prove to be an opportunity for spreading the word to communities that have yet to formally see customary courts established.

11.2 Guidelines

One way to help the scaling of community justice systems is by standardising their interventions in line with what works and making sure they are evidence-based. In so-called 'Guidelines', experts – informed by international research about what works – grade interventions based on criteria developed in consultation with users and practitioners. These criteria can be operationalised per justice problem (land, family, crime, etc). Guidelines help to improve the overall quality of interventions, and offer a more standardised way of working by supporting front-line practitioners, such as village elders, with recommendations on actionable interventions that they can apply to effectively reach desirable outcomes. Recommendations may include communication techniques, tools for de-escalation, mediation methods and other useful (soft) skills that are essential in dispute resolution. The new ways of working must match the values and standards of practitioners and should also fit as well as possible into existing workflows.⁵⁴

⁵⁴ Together with a group of experts, the Ethiopian Ministry of Justice and Destiny Ethiopia, HiiL has developed the [Ethiopian Land Justice Guidelines](#). Soon to be published and made available to front-line practitioners

12. Financial models of customary courts

Not only is justice underfunded in absolute and relative terms compared to other sectors,⁵⁵ institutions in the formal justice system, such as courts, police, prisons, and legal aid clinics, compete for funds within the same justice budget.⁵⁶ Community justice services may fall outside official justice budgets due to their informal nature and locality, but they are nevertheless in need of sustainable funding.

When considering scaling customary courts to a national level in Ethiopia, it is useful to have a closer look at their overall financial models. Community justice services tend to cater to the justice needs of community members, including the poor and marginalised. Due to this, they are generally not designed to generate revenues beyond the operational costs. In their current form, Oromia customary courts are financed through community contributions, fines imposed and collected, and *'gumaataa'* to be collected from different bodies.⁵⁷ A 2023 report by the Oromia Supreme Court revealed that customary courts have collected 134,071,479 Ethiopian birr in the form of *gumaataa*. Of the 6,607 first-instance and appellate customary courts operating across the region, 5,008 have implemented formal procedures for issuing printed payment receipts, thereby standardising and enhancing transparency in the collection of contributions.

Yet, as the data indicates, many have reservations about the sustainability of this financial model for keeping the courts operational in the long term. Customary courts in Oromia face financial challenges such as lack of materials, lack of secretary and appropriate logistical provisions. One judge of a first instance court in Adama city even recalls repeatedly apologising for the tables and chairs used in their facilities (RE:28 interview). In seeking increased independence from the formal system and regular courts, many customary courts staff members mention not only the need for their own independent institutional leadership (governance), but also formal management and independent budget sources beyond community contributions. Budget problems were mentioned by at least 9 respondents (RE:4, RE:15, RE:12, RE:20, RE:22, RE:24, RE:30, RS:50, RE:51 interview).

On top of that, village elders in Oromia receive no formal salary or per diem for their services, but rather offer these services for the sake of customary values (RU:9 interview). While many respondents note that this system helps with the credibility of village elders as judges within the community, elders and other customary courts staff saw their participation in this study also as an opportunity to voice their request for salary and/or other forms of compensation (RE:12, RU:40, RU:41 interview). Some respondents even warn that elders are abandoning the court because of the absence of some payment in return (RE20, RE23: interview). Considering compensation.

Exploring sustainable funding and revenue streams should happen at the design phase of the scaling operation. HiiL's case study on local justice services suggests that investors may be willing to fund them, provided that the revenues from such services are stable, predictable and

⁵⁵ Manuel, M. and Manuel, C., (2021). People-centred justice for all: A route to scaling up access to justice advice and assistance in low-income countries. ODI

⁵⁶ HiiL, (2020). [Charging for Justice: SDG 16 Trend Report 2020](#).

⁵⁷ "Gumaata" means a donation, in cash or kind, given by different bodies to the customary courts.

substantial, with outcomes that are well-monitored.⁵⁸ When considering the position of customary courts in their communities, external funding and investments (non-profit) to keep courts operational and cover salaries would be most suitable, as commercial revenues would run the risk of the mission drifting toward profit making with customary courts losing their credible identity. We identify two of the most plausible financing options below:

A) Outcome-based financing with government funding: outcome-based (also termed as performance-based) financing would require impact data to help attract investment from the government who is looking for measurable returns and social impact. It enables governments who undertake outcome-based budgeting to identify service delivery models that are effective in resolving disputes. Customary courts, as the data of this study suggests, would score high on the criteria needed to attract this type of funding.⁵⁹ Structurally monitoring outcomes would be needed to effectively measure the impact needed to return on the investment of the outcome payer. Information that in this case would also be relevant is data on cost of inaction. How much would it cost (local) government/society if the outcomes were not delivered, and how does this compare to other current investments aiming for similar impact?

B) Non-repayable finance: in some instances, a more dependable source of finance for community justice services are philanthropic foundations or bilateral agencies whose core agenda is to strengthen the capacity of the state to govern and to empower people. The financing would come in through either donation, subsidies, grants or partnerships, with the advantage of no risk of debt and the likely alignment of the mission of the customary courts with that of the donor or subsidising organisation. In the long term however, this type of financing may lead to donor dependency and funding is often limited in duration.

12.1 Boosting donor confidence

In terms of sustainable funding, mobilising international donor support for customary courts remains a challenge. Many international donors may express reservations about financially supporting traditional justice mechanisms, often due to the perception that these systems do not comply with international human rights standards. To overcome this, it is critical to boost donor confidence by demonstrating that Ethiopia is taking proactive steps in ensuring that customary courts adhere to human rights principles. A transparent awareness creation strategy should be developed to communicate the national government's efforts to make customary justice mechanisms human rights-compliant, through both legislative reforms and oversight mechanisms. By doing so, Ethiopia can build trust with the international donor community, highlighting the progressive measures taken to modernise within the context of legal plurality and align traditional systems with human rights standards.

⁵⁸ HiiL, (2020). Charging for Justice: SDG 16 Trend Report 2020.

⁵⁹ In this funding scheme - and in contrast to competitive fee-for-service arrangements - funders (so-called outcome payers) would pay the service provider (customary courts) for measurable results for the targeted population (improved social cohesion, resolved long standing conflicts, etc) rather than for activities (hearing cases). The outcome payers are the 'problem owners', usually public sector agencies (*Aanaa* or *Ganda* administrations at the local government level). They only pay if the targeted outcomes that they have agreed upon with the service provider at the outset, are being achieved. See: Social Finance (2024) Financial models and governance (March, 7)

Furthermore, the formal recognition and establishment of customary courts present a unique entry point for the state and the international community to directly engage with traditional institutions. This engagement opens doors to address any existing human rights shortcomings within customary practices. By integrating customary courts into the formal legal system, the government and international stakeholders can work collaboratively to ensure that these institutions evolve to meet both their cultural and human rights obligations.

13. Enabling environment

Ethiopia exhibits a strong commitment to formally recognise and operationalise customary justice mechanisms through the establishment of customary courts. The National Justice Sector Transformation Plan explicitly identifies the recognition and utilisation of customary courts as a key focus area for transforming the justice system. This commitment aligns with the provisions of the 1995 Constitution, which acknowledges customary justice systems as alternative avenues for delivering justice. Moreover, the Constitution imposes an obligation on the government to promote cultural values, providing a constitutional foundation for the formal establishment of customary courts.

This national commitment is also reflected in the Ministry of Justice's initiative to prepare a model framework for regional states to use when drafting their own laws on customary justice. Before finalising the model law, a series of discussions were held with state justice officials, highlighting the collaborative nature of the process. A committed leadership coalition at the national level is emerging in support of the model law designed to provide a uniform approach to customary justice, while allowing flexibility for regional adaptations based on local customs and needs.

An additional element of the model law that seeks to create an enabling environment for customary courts is the proposal to establish a Customary Courts Administration Council with an oversight mandate. This represents a shift from the current practice in Oromia, where only the regional Supreme Court (the judiciary) oversees the administration of customary courts. Instead, the model law calls for the creation of a council composed of key stakeholders, including representatives from the judiciary, the Ministry of Justice, the Ministry of Culture, the Ministry of Women and Social Affairs, justice sector training and research institutions, the police commission, and, where applicable, an elders' council. This multi-stakeholder approach aims to ensure that customary courts are administered with greater accountability, inclusivity, and alignment with national justice priorities.

14. Conclusion and recommendations

The legal impact assessment conducted for this paper will only possess a limited temporal relevance. Assessments such as this one, provide merely a snapshot of a dynamic and complex environment.⁶⁰ With evidence collected within a period of several months, the findings of the impact assessment should be regarded as time-bound. Provisions for follow-up research and structural outcome monitoring should be made so that the assumptions put forward in this paper remain valid and relevant, and are tested in the future against the backdrop of an ever changing legal landscape.

Nonetheless, the legal impact assessment of Oromia Customary Courts highlights their important role in delivering accessible, culturally relevant, and cost-effective justice to communities in the Oromia region. These courts operate within a framework of local traditions and norms, offering an alternative to formal justice systems that is deeply embedded in the community. They have proven particularly successful in resolving disputes quickly, efficiently, and with community-based legitimacy, making them an essential complement to Ethiopia's formal judicial system. Challenges remain, however, particularly regarding gender sensitivity, human rights protection, and long-term financial sustainability.

As Ethiopia moves forward with plans to expand the customary court model to other regions, it is critical to balance the preservation of culturally grounded practices with the need for evidence-based, standardised, and rights-based approaches. The future success of these courts depends on harmonising these systems while ensuring their ability to meet modern justice demands and uphold human rights standards, all while eventually operating at the necessary scale for national impact.

Recommendations

- 1. Encourage the adoption of the model law by regional states:** The federal government, in particular the Ministry of Justice, should continue advocating for the adoption of a model law that sets the groundwork for establishing customary courts across Ethiopia, with flexibility to adapt to regional differences. As regional states draft their own legislation, they must prioritise gender equality, ensure adherence to human rights principles, and maintain the cultural integrity of customary practices and institutions. Specifically, the law should:
 - Mandate the inclusion of women as judges in customary courts, with clear measures to support their active participation.
 - Standardise the protection of human rights within customary courts, ensuring that no cultural practices violate constitutional principles or international human rights standards.

⁶⁰ Harper, E. (2011). *Customary justice: from program design to impact evaluation*. Rome: International Development Law Organization.

- Establish oversight mechanisms to ensure accountability while preserving the customary courts' autonomy and cultural relevance.

2. Strengthen integration and complementarity with formal courts: Customary and formal courts should work in synergy, with each system filling gaps in the other. Integration should not mean replacing one system with another but fostering a cooperative model where:

- Formal courts refer appropriate cases, such as civil disputes and minor criminal offences, to customary courts for quicker and culturally appropriate resolutions.
- Customary courts operate within a defined scope, primarily handling cases suited to reconciliation-based justice, leaving serious offences and human rights cases to formal courts.
- Regular reviews of interactions between customary and formal courts should be conducted to identify opportunities for improving cooperation and ensuring that the strengths of each system complement the other.
 - i. In this regard, the Federal Supreme Court and Regional Supreme Courts could play the required role in implementing this recommendation in collaboration with customary courts.

3. Establish a comprehensive monitoring and evaluation system: To ensure the continued effectiveness of customary courts, the Ministry of Justice should establish a robust monitoring and evaluation framework that:

- Regularly tracks court outcomes, particularly regarding gender equality, human rights compliance, and the fairness of decisions.
- Involves community members in feedback processes to assess the effectiveness of court decisions and their alignment with community needs.
- Uses data-driven evaluations to inform policy adjustments and scaling strategies, allowing for a more agile and responsive justice system.

In addition to the Ministry of Justice, Civil society organisations (CSOs) and non-governmental organisations (NGOs) can play a crucial role in establishing a comprehensive monitoring and evaluation system for customary courts. Their involvement enhances transparency, accountability, and inclusivity in the administration of justice.

4. Ensure women's participation beyond current legal frameworks and guarantees:

Although Oromia's customary courts have made some progress toward gender inclusivity, more work is needed to ensure that women are actively involved in the justice process, both as participants and judges. The promises enshrined in laws and regulations must be translated into real-world practices. The government should:

- Expand training programs for women, ensuring they are equipped with the necessary knowledge and confidence to serve in judicial roles.
- Address societal norms that hinder women's participation in customary justice by conducting public awareness campaigns emphasising the importance of gender equality in the justice system.

- Introduce mechanisms to systematically review and address cases where women may face unequal treatment or discrimination in court proceedings, providing pathways to escalate grievances to formal courts if necessary.

Several Key Offices such as Oromia Regional Supreme Court, Federal Supreme Court, Ministry of Justice, Ministry of Women, Children, and Social Affairs (MoWCSA), Oromia Bureau of Women and Children Affairs, Regional and Federal Judicial Training Centers, and The Ethiopian Human Rights Commission are relevant here. A collaboration with CSOs and women led organisations could further enhance the actionability of this recommendation.

5. Develop sustainable financial models for customary courts: Ensuring long-term financial sustainability for customary courts is critical for their continued success. To achieve this, the government and relevant stakeholders should:

- Explore outcome-based financing models where funding is tied to measurable social impacts, such as improved community cohesion or reduced formal court caseloads.
- Establish partnerships with philanthropic organisations and international donors to secure funding for customary courts, focusing on operational costs, capacity building, and infrastructure development.
- Formalise financial support structures, such as community contributions, ensuring transparency and fairness in fund collection and allocation while avoiding over-reliance on voluntary contributions that may be unsustainable.

Key organisations for implementing this recommendation may include, Ministry of Justice, Ministry of Finance, Oromia Regional Government Bureaus (or relevant regional governments), Philanthropic Organizations, International Donors, Community Leadership and Customary Court Councils, Non-Governmental Organisations (NGOs).

6. Leverage customary courts in transitional justice processes: Customary courts can play a significant role in Ethiopia's transitional justice efforts, particularly in addressing lower-level offences and facilitating community reconciliation. Drawing from examples like Rwanda's gacaca courts, Ethiopia could:

- Assign customary courts the role of handling cases involving lower-level perpetrators of past human rights abuses, allowing formal courts to focus on high-profile cases.
- Utilise customary courts to enforce decisions from formal courts, including secondary penalties for serious crimes and the most responsible individuals.
- Design reconciliation programs led by customary courts that focus on restoring community relationships and promoting healing, while ensuring justice for victims is prioritised.
- Provide clear guidelines to ensure that customary courts adhere to transitional justice principles, particularly in ensuring accountability and protecting victims' rights.

Key transitional justice actors including the Ministry of Justice could consider implementing this recommendation as part of the transitional justice implementation roadmap.

7. Reassess the consent requirement for customary court jurisdiction: The requirement for mutual consent of both parties before a customary court can hear a case protects individual autonomy but may limit the court's ability to resolve some disputes, such as long-standing communal divisions and violence. To address this, the government should:

- Allow exceptions where public or community interests necessitate the involvement of customary courts, such as in cases of significant community conflict or unresolved disputes.
- Ensure safeguards are in place to protect human rights in cases where consent is waived, ensuring that all parties' rights are respected and that customary courts maintain their legitimacy and credibility.

The Federal Parliament and Regional State Councils could adopt the required amendment based on draft provisions by relevant organisations such as the Ministry of Justice (at the Federal Level) or Bureau of Justice (at regional levels). CSOs may need to engage in a coordinated advocacy work on this in collaboration with formal and customary courts.

8. Standardise best practices for scaling customary courts: As Ethiopia expands customary courts to other regions, standardising best practices based on successful experiences in Oromia will ensure more consistent justice delivery. This includes:

- Developing evidence-based guidelines for customary court procedures, emphasising mediation, reconciliation, and culturally relevant justice mechanisms.
- Training customary court judges on soft skills such as mediation, de-escalation, and community engagement, ensuring that these courts maintain their problem-solving and people-centred approach.
- Conducting pilot programs in other regions to assess how the Oromia model can be adapted to fit local customs and traditions, ensuring that justice solutions are community-specific.

The implementation of the recommendation may require proactive engagement by Federal and regional judiciary and the Ministry of Justice as well as setting up Customary Courts Administration Council proposed in the Model law.

9. Expand public awareness and education campaigns: Public awareness of the role, scope, and benefits of customary courts is crucial for their success. The government, in collaboration with civil society organisations, should:

- Launch widespread public education campaigns to inform communities about the availability and advantages of customary courts, particularly in regions where they are newly established.
- Highlight success stories from customary courts that demonstrate their effectiveness in resolving disputes quickly, affordably, and equitably, helping to build trust and encourage wider use.

- Engage with community leaders and elders to champion customary courts as a viable, respected justice mechanism that complements formal judicial systems.

10. Foster judicial independence and local ownership: Customary courts thrive when they are independent of political interference and enjoy strong local ownership. To safeguard their independence:

- Ensure that customary court judges are selected based on merit, community trust, and cultural knowledge, free from external political pressures.
- Establish transparent oversight mechanisms involving community stakeholders to maintain the integrity and accountability of customary courts, ensuring they remain respected and trusted justice institutions.
- Develop legal frameworks to protect customary courts from political or external influence, particularly regarding case rulings and the appointment of judges.

Establishment of Judicial Administration Council at federal and regional level as proposed by the Model law will significantly assist in implementing this recommendation.

11. Provide free legal support and enhance awareness of women and vulnerable groups: As customary ties are eroded by demographic changes such as increased population pressure, urbanisation, migration, increased HIV infection and mortality, policy reforms need to evolve to guarantee women's rights to equal treatment and to increase women's legal literacy so they are able to claim what is rightfully theirs

Despite the guarantees aimed at ensuring the rights of women in customary proceedings, an additional layer of protection is needed in the form of free legal aid services. Women and other vulnerable groups would benefit from expert support, particularly when appealing to formal courts in cases where their human rights are not respected during customary court proceedings. This is crucial, as women may face an intimidating traditional justice atmosphere, making it difficult to resist elders' decisions.

This recommendation requires a collaborative engagement of CSOs, University level legal aid centres, Human Rights Commission and the justice departments.

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Annex 1 - Interview protocol (Afan Oromo and English)

Qajeelchituu Gaaffii Afaanii Jaarsolii Mana Murtii Aadaatiif Qophaa'e

Interview questions for customary courts judges/elders

1. Dhimmi manneen murtii aadaa ilaalu danda'an yookiin hin dandeenye ifatti beekamaa? Dhimmoota ilaalu qaban ilaaluuf aangeffamanii jiruu? (Dhimmoota murteessoo fi irra deddeebiin quunnaman ilaalu?)
Are issues that fall under the jurisdiction of customary courts clearly known? Are the courts empowered to deal with the issues they need to deal with? (Consider critical and frequently encountered issues)
2. Namni mana murtii aadaatti himatame tokko yeroo dhiyaatu dhimmi isaa aachitti akka ilalamu fedhii qabaachuu isaa haala kamiin mirkaneessitu?
How do you ascertain whether a party to a dispute has given his/her consent?
3. Bu'a-qabeessummaa manneen murtii aadaa kallattii:
 - a. dhaqqabummaa,
 - b. si'oominaa fi
 - c. haqa-qabeessummaatiin akkamitti madaaltu?*How do you assess customary courts' accessibility, effectiveness, and ability to find the truth and resolve disputes amicably?*
4. Manneen murtii aadaa seera aadaa bu'uureffatanii hagam hojjetu? Adabbii ulfaataa adaa dhaan hin deeggaramane ni murteessuu?
*How far do customary courts operate within the framework of customary laws?
Do they impose severe penalties that are not known to customary laws?*
5. Hariiroon manneen murtii aadaa, qaamolee haqaa biroo fi abbootii hirtaa jidduu jiru maalfakkaata? Hanqinaalee fi ciminaaleen gama kanaan jiran maal fa'i?
*What does the relationship between customary courts and justice sector stakeholders look like?
Can you elaborate on the weaknesses and strengths of the relationship?*
6. Qormaatawwan manneen murtii aadaa quunnaman maalfa'i? Rakkoolee kanneen to'achuuf maaltu hojjetame?
What are the challenges the customary courts have been facing? What are the solutions that have been put in place to mitigate the challenges?
7. Milkaa'inootni argaman maal fa'i? ciminaalee kanneen itti fufsiisuuf maaltu hojjetame? Maaltu dabalataan hojjetamuu qaba?
What are the successes achieved by customary courts? What measures have been taken to ensure the continuity of the successes? What should be done more?
8. Labsii fi Dambiin Mana Murtii Aadaa naannichaa haala qabatama waliin akka walsimataniif fooyya'iinsi isaan barbaachisaa? Eeyyee yoo jettan maal akka ta'e ibsaa?
Do you think the proclamations and regulations governing the mandate and operation of

customary courts need revision? If yes, which aspects of the legislation should be revised?

9. Manneen murtii aadaa mirga namoomaa fi walqixxummaa Korniyaa kabajuu fi kabachiisuu irratti maalfakkaatu? Hanqinaalee fi ciminaaleen gama kanaan jiran maal fa'i?
How do you assess customary courts in light of respecting constitutional and human rights principles?
Can you elaborate on the challenges and strengths witnessed in this regard?
10. Mana murtii aadaa isin itti hojjetanitti waggaa 1 darbe keessatti dhimmoota hammamtu ilaalame?
How many cases or disputes have been resolved in your customary court in the past one year?
11. Leenjiin gahuumsaa fi naamusa jaarsoliifi barreessitoota manneen murtii aadaa cimsuuf kennamu ni jiraa? Gahaadhaa?
Is there a capacity building training that has been provided for customary court judges?
12. Dhimmi tokko jalqaba irraa kaasee ilaalamee hanga xumuramutti (hanga raawwii waan murtaa'uutti) adeemsa keessa darbu ibsaa.
Could you explain a customary dispute resolution process encompassing from the time the issues comes to the court until it gets resolved?
13. Yaadota olitti ibsaman irraa adda kan ta'e, yaadni dabalataa kaasuu barbaaddan yoo jiraate ibsaa.
Could you tell us anything else that is helpful in understanding and improving the operation of customary courts in Ethiopia

Qajeelchituu Gaaffii Afaanii Pirezidaantota Mana Murtii Aanaatiif Qophaa'e

Interview questions for presidents of regular first instance (Aanaa level) courts

1. Dhimmi manneen murtii aadaa ilaalu danda'an yookiin hin dandeenye ifatti beekamaa? Dhimmoota ilaalu qaban ilaaluuf aangeffamanii jiruu? (Dhimmoota murteessoo fi irra deddeebiin quunnaman ilaalu?)
Are issues that fall under the jurisdiction of customary courts clearly known? Are the courts empowered to deal with the issues they need to deal with? (Consider critical and frequently encountered issues)
2. Bu'a-qabeessummaa manneen murtii aadaa kallattii:
 - a. dhaqqabummaa,
 - b. si'oominaa fi
 - c. haqa-qabeessummaatiin akkamitti madaaltu?*How do you assess customary courts' accessibility, effectiveness, and ability to find the truth and resolve disputes amicably?*
3. Manneen murtii aadaa seera aadaa bu'uureffatanii hagam hojjetu? Adabbii ulfaataa ni murteessuu?
*How far do customary courts operate within the framework of customary laws?
Do they impose severe penalties that are not known to customary laws?*
4. Hariiroon manneen murtii aadaa, qaamolee haqaa biroo fi abbootii hirtaa jidduu jiru maalfakkaata? Qaamoleen dhimmi ilaallatu mana murtii deeggaruuf dirqama qaban hagam bahatu?
*What does the relationship between customary courts and justice sector stakeholders look like?
Can you comment on the weaknesses and strengths of the relationship?*
5. Qormaatawwan manneen murtii aadaa quunnaman maalfa'i? Rakkoolee kanneen to'achuuf maaltu hojjetame?
What are the challenges the customary courts have been facing? What are the solutions that have been put in place to mitigate the challenges?
6. Milkaa'inootni argaman maal fa'i? ciminaalee kanneen itti fufsiisuuf maaltu hojjetame? Maaltu dabalataan hojjetamuu qaba?
In your opinion, what are the successes achieved by customary courts? What measures have been taken to ensure the continuity of the successes? What should be done more?
7. Labsii fi Dambiin Mana Murtii Aadaa naannichaa haala qabatama waliin akka walsimataniif fooyya'iinsi isaan barbaachisaa? Eeyyee yoo jettan maal akka ta'e ibsaa?
Do you consider the proclamations and regulations governing the mandate and operation of customary courts need revision? If yes, which aspects of the legislation should be revised?
8. Manneen murtii aadaa mirga namoomaa fi walqixxummaa Korniyaa kabajuu fi kabachiisuu irratti maalfakkaatu? Hanqinaalee fi ciminaaleen gama kanaan jiran maal fa'i?
*How do you assess customary courts in light of respecting constitutional and human rights principles?
Can you elaborate on the challenges and strengths witnessed in this regard?*

9. Manneen Murtii Aadaa kuufama galmee manneen murtii idilee hir'isuu irratti bu'aa akkamii hordofsiisan? Manneen murtii aadaatiin waggaa 1 darbe keessatti dhimmoota hammamtu ilaalame?
Has the establishment and operation of customary courts contributed to reducing the caseload on regular courts?
How many cases or disputes have been resolved by customary courts in this *Aanaa* in the past year?
10. Dandeettii fi naamusni jaarsolii fi barreessitoota manneen murtii aadaa maal fakkaata? Gahuumsa isaan gama kanaan qaban cimsuuf hojiiwwan hojjetaman ni jiruu?
How do you assess the integrity and expertise of customary court judges and personnel? Have there been efforts to enhance their capacity and strengthen their integrity?
11. Tajaajilli mana murtii aadaa kutaalee hawaasaa saaxilamoo ta'an (vulnerable and marginalized population groups) hagam ilaalcha keessa galchee kennama?
How well does the customary justice process take into account the needs and situations of vulnerable and marginalized groups?
12. Yaadota olitti ibsaman irraa adda kan ta'e, yaadni dabalataa kaasuu barbaaddan yoo jiraate ibsaa.
Could you tell us anything else that is helpful in understanding and improving the operation of customary courts in Ethiopia

Qajeelchituu Gaaffii Afaanii Tajaajilamtoota Mana Murtii Aadaatiif Qophaa'e

Interview questions for users of customary courts

1. Dhimmi manneen murtii aadaa ilaalu danda'an yookiin hin dandeenye ifatti maal akka ta'an hubaattaniittuu? Dhimmoota ilaalu qaban ilaaluuf aangeffamanii jiruu? (Dhimmoota murteessoo fi irra deddeebiin quunnaman ilaalu?)
Are issues that fall under the jurisdiction of customary courts clearly known? Are the courts empowered to deal with the issues they need to deal with? (Consider critical and frequently encountered issues)
2. Namni mana murtii aadaatti himatame yeroo dhiyaatu dhimmi isaa aachitti akka ilaalamu fedhii qabaachuu isaa ni gaafatamaa? Fedhii keessan akkamin bsattan?
*Do customary courts verify whether you have consented to their jurisdiction?
How did you give your consent?*
3. Murtiiwwan Manneen murtii aadaatiin kennaman hammam haqa-qabeessa isinitti fakkaata?
In your opinion, do judgements of customary courts satisfy your expectations of justice?
4. Si'oominaan waldhabbii hiikuu irratti manneen murtii waliin hammam dorgomuu danda'u?
In your view and as compared to the regular courts, how effective are customary courts in resolving disputes?
5. Manneen murtii aadaa seera aadaa bu'uureffatanii hagam hojjetu? Adabbii ulfaataa ni murteessuu?
Do you think customary courts are operating based on customary laws? Do customary courts impose excessively harsh penalties that are not supported by customary rules?
6. Manneen murtii aadaa hagam mirga namoomaa keessan kabaju? Tajaajilamtoota isaanii garaagarummaa Koorniyaa malee walqixxummaan ni keessummeessuu?
*Do you believe customary courts are respectful of human rights principles?
Do they serve everyone equally and without discrimination?*
7. Dhimmi keessan gama mana murtii aadaatiin akka ilaalamu maaliif filattan?
Why did you choose to settle your dispute through customary courts?
8. Jaarsolii fi barreessistootni manneen murtii aadaa naamusa gaariin isin keessummeessuu? Naamusa isaaniitiin walqabatee rakkoon yeroo jiraatu komii dhiyeeffachuuf sirni dandeessisu jiraa?
Do elders and clerks at customary courts treat you with respect and integrity? Is there a complaint lodging procedure to air grievances you might face?
9. Yaadota olitti ibsaman irraa adda kan ta'e, yaadni dabalataa kaasuu barbaaddan yoo jiraate ibsaa.
Could you tell us anything else that you have observed in relation to the handling of your case by the customary court?

Annex 2 - Media reports

1. OBN- Amharic documentary about customary courts
2. OBN - News
3. OBN – documentary about customary courts of Oromia
4. ETV news report and program
5. OBN - How customary courts settled a dispute which lasted for more than 20 years.
6. The Ethiopian Herald - Traditional courts have been established in more than 6.300 kebeles in Oromia