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QAKEE' AS AN INDIGENOUS METHOD OF CONFLICT RESOLUTION AND JUSTICE ADMINISTRATION.

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Abstract

Oromo as a society, like many African societies, is rich in indigenous institutions of conflict resolution and justice administration. Qakee is one of the multitudes of Oromo indigenous institutions that have exclusively been used to settle blood feuds. In spite of its wider utilization and its multi-disciplinary nature, psycho-social analysis of Qakee is lacking in literature and its attention is decreasing in peace building institutions and within other concerned bodies. With an aim of helping to fill this gap and of maximizing Qakee's potential contributions to conflict resolution, justice administration and peace building, this article offers a psycho-social perspective on Qakee. Having analyzed combined data from multiple sources regarding Qakee within psychological and social frameworks, the author identifies and highlights some interrelated themes about the key roles Qakee plays in conflict resolution, justice administration and peace building. Finally, based on the themes identified and highlighted and other pertinent elaborations and case material, the author theorizes Qakee as a vital psycho-social method of conflict resolution, justice administration and peace building and calls for its official recognition and revitalization.

Introduction

Many African societies apply indigenous approaches and laws to settle conflicts of all types and levels. The Oromo as one of these African societies are particularly rich in indigenous approaches and laws meant for conflict resolution, justice administration and peace building. The Oromo are one of the largest nations (or ethno-nations) in Africa (Gow 2002) and Oromia, the country of Oromo, is the largest and most populous region in current Ethiopia (Gedafa 2008) with its total population of about 35 million according to the 2007 Census (Central Statistics Agency 2008). The Oromo people had been using several different indigenously developed approaches to settle both internal and external conflicts (Etefa 2002) and they were totally dependent on their own indigenous mechanisms until their forceful incorporation into the empire of Ethiopia in the late 18th and early 19th centuries (Holcomb 1999). In concurrence with Holcomb's assertion, Etefa (2002) opines that these various indigenous dispute handling methods played key roles in Oromo's success in their territorial expansions of the 16th and 17th centuries by strengthening their internal unity and cohesion and allowing the incorporation of external forces.

Following their incorporation into the Ethiopian empire, especially since the enactment of the criminal law of the imperial Ethiopia in the 1930s, the Oromo have been using two sets of administration of justice in parallel- the state court system and the Oromo indigenous system of justice -either separately or in combination (Gemechu 2002). That the latter, the Oromo indigenous system of justice, has undergone some changes may be due to internal dynamics and external influences.

Nonetheless, a handful of such methods of justice administration survived the internal and external influences and are actively at work today (Dibaba 2012; Gemechu 2002; Zeleke 2010). Qakee is one of the Borana Oromo indigenous institutions of conflict resolution, justice administration and peace building (in case of homicide) that has been existed and practiced until now. These prevailing indigenous institutions of conflict resolution, justice administration and peace building have mostly been analyzed from anthropological and mythical points of view.

The effective use of these valuable, locally available approaches requires both anthropological and psycho-social analyses, but unfortunately the psycho-social analyses are lacking. With a view to filling this lacuna and maximize the services that can be rendered by these approaches, this paper analyses the Qakee within psycho-social frameworks and then draws implications for conflict resolution, justice administration and peace building that might be put in place either in combination with state court systems or independently.

An Overview of 'Qakee'

According to Dejene (2007:85), "Qakee/Gumaa in other Oromo groups is a widely practiced traditional way of resolving conflicts of homicide". Tsega (2002: 25) states Qakee/Gumaa refers to the blood money that is paid to the family of a murdered person. He also states that Arsi Oromo had also used the term Gumaa to refer to the payment made to the seriously injured individuals and to the attempted murder. Besides, these concepts, among the Oromo in general and the Borana in particular, there were and still are indigenous institutions and practices of dispute settlements. For instance, among Borana, for some minor disputes, local elders ('Jaarsoota'-plural form of Jaarsaa) at the level of neighborhood can act as mediators to reconcile the parties in dispute. "Serious cases which local elders have failed to solve or settle, and which are wicked from their very nature, call for the involvement of supernatural beings, go to the religious institution" (Knutsson, 1967: 110) cited in Dejene (2007: 86). Similarly, the issue is transferred to elders who have considerable expertise in dealing with disputes called 'Hayyoota' (plural form of Hayyuu). Hayyuu is the one who covers a large area to manage conflicts because of good knowledge of the people's norms and customary laws like the law of Qakee and of other types of law. For instance, some other offences, particularly heinous acts such as homicide, are dealt with Qakee through these Hayyoota (including Gadaa Leaders, legislators etc.) Lewis (1984b: 92) reports that the majority of the disputes among Oromo people in general and Borana in particular were settled through traditional procedures. The Guji Oromo have been negotiating with the relatives of murderers and murdered through this Qakee tradition practices. Even nowadays, when the bureaucratic law is functioning, the Qakee has high value to settle disputes, especially when serious cases like killing each other have happened.

Better understanding of Qakee may require some familiarity with the Gadaa system and thus let me briefly introduce this first. The Gadaa system is a complex and holistic system that permeates the political, social and economic

aspects of the Oromo people's lives. It is a complex and comprehensive institution that the Oromo people have been inventing since time immemorial to deal with the hurdles and intricacies of their communal lives (Jalata 2007).

Sisay (2008:53) describes the Oromo and their Gadaa system as follows:

'The Oromo have one of the most open and democratic cultures among Ethiopians. Their system of African Democracy known as Gadaa is a well known African indigenous political system that governs social order, politics, as well as peaceful conflict resolution'. In short, Gadaa is a unique social, cultural, political and economic institution of the Oromo people and it influences all aspects of their life. In addition to Asmarom Legesse's seminal work on this subject (Legesse 1973), there are a number of relatively recent works. Lemmu (2004) gives a wonderful account of the Gadaa system. Daba S. Gedafa (2008) provides a very interesting comparison of the Oromo's Gadaa system and the Maasai's age-set system, and gives various definitions of the Gadaa system and the elements that make it up. Since the space available does not allow for extensive discussion of the Gadaa system, interested readers could refer to the aforementioned sources.

What makes Qakee space, among the Oromo indigenous conflict resolution methods is its familiarity with all localities of Oromia and among all tribes and clans of the Oromo in different names, and its persistence to date, in spite of internal dynamics and external pressures. Qakee, as a miniature subset of the parent Gadaa system, is therefore the focus of this article.

Peace is central to Oromo ritual and ceremonial activities, to administrative and legal functions, to traditional religion, morality, and social life, and the conduct of politics. For the Oromo, nagaha (peace) is an essential key to an orderly universe and societal well-being that humans must pursue' (Oromo Studies Association 2008:2). It is vividly noticeable from the quote above that the Oromo's world view of nagaha (peace) transcends short-lived conflict management. Nagaha (peace) largely concerns an orderly universe and societal well-being. Among the Oromo, an orderly universe and societal well-being are prioritized over individual or personal well-being and interest. Therefore, the ultimate goal of any type of nagaha (peace) is communal well-being in an orderly universe. In short, for the Oromo there cannot be an orderly universe and societal well-being without nagaha (peace) and thus nagaha(peace) is highly valued among them. Since nagaha is so valued among the Oromo people, there are a numerous of mechanisms to restore nagaha when it is lost for whatever reason. Qakee is one of such many mechanisms for the restoration of peace.

Therefore, following the word 'Qakee' is used here in its strictest sense to refer to the institution of settling blood feuds between two persons, families, groups, clans, communities, or even nations. In short, Qakee is an indigenous institution of settling blood feuds between parties (warra Gumaa in Arsi).

Some scholars tend to view conflict resolution and peace building mechanisms drawn from and grounded in African and other non-western cultures as traditional approaches vis-a-vis those from the western cultures (Edossa et al. 2005; Etefa 2002; Gemechu 2002; Zeleke 2010). Although the main purpose of the using adjective 'traditional' in such literature is not clear, the mere existence of the adjective conveys the message that indigenously developed approaches are inferior, or less effective, or non-scientific, compared to western approaches. To avoid such unintentional disregard that the adjective 'traditional' may convey, I use the adjective 'indigenous' instead of 'traditional', because Qakee, as a vital model of conflict handling, justice

administration and peace building drawn from the cultural knowledge of the Oromo, has been able to serve the main purpose for which it was meant since its inception and is as applicable contemporarily as, or even more applicable than, models imported from western cultures in addressing homicide in context.

It is indigenous because it is a wisdom that grew from within the Borana Oromo for ages, and it is indigenous since it is rooted in and has emerged from local contexts, experiences, and practices.

Themes Emerging from Data on Qakee

Data concerning 'Qakee' came from three sources. The first source of data was my own personal observation. I had the opportunity to observe 'Qakee' rites of purification and take notes in January 2018 while I was collecting data. I was so impressed with how the elders in the village wisely handled a complex case of homicide in an extended family and I took extensive notes by asking for additional clarification when necessary. It was this experience that triggered the researcher to explore this valuable asset of the Oromo people. A second source of data regarding Qakee was found in prior case studies that were available. Dejene Gemechu (2002) produced more than a dozen of interesting case studies of Gumaa/ Qakee rites that yielded rich data for this article. Indeed, Dejene Gemechu's work remains a valuable source for prospective researchers interested in Gumaa/Qakee. The third source of information for this paper was my own formal and informal interviews held with local elders. The data obtained from the three sources were combined and analysed thematically. Having read the case studies produced by Gemechu (2002), notes from own personal observation of Qakee rites and interviews held several times, I have produced six interrelated central points. The notes from my personal observation of the Qakee rites in January 2018 have been developed into a case study to furnish readers with a mental picture of the Qakee rites. Each of the six themes produced have been elaborated and discussed in relation to literature available on the subject. The sections below present the themes produced along with their elaborations and discussions.

1. Qakee Restores Relationships and Rebuilds Mutual Trust

Restoring interpersonal, inter group or inter-community relationships and reintegrating offenders into their communities are important goals of any sustainable conflict-resolving, justice-doing, and peace building process (Christie 2001). But, these goals are hardly attainable by individualistically oriented legal systems and other conflict management methods that work within such frameworks. For example, in Ethiopia where ethnic conflict breaks out more than not, the government often uses legal interventions such as trials, for individuals suspected of instigating conflict, and other approaches that work within the country's legal frameworks (e.g. referendums, boundary demarcations) for short-term peacemaking. The government appears to be preoccupied with the 'hardware' components such as infrastructure and economic development to bring about sustainable peace to the neglect of psychological, aspects of the process. But, it is indisputable fact that peace building or conflict resolution has to be inclusive for the prevalence of lasting peace. That is, the process should be able to address the problem at the physical, economic, social and psychological levels. This is because conflict, especially abusive violent conflict that often happens between ethnic groups in Ethiopia, destroys much more than physical property as in the case of cattle raiding or burning of houses; rather it destroys social relationships, harmony and mutual trust. The same is true when the homicide is between individuals, families, or small groups.

Therefore, any peace building and conflict management effort should include healing the social and psychological aspects of the conflict, for complete healing of injuries inflicted by conflict is impossible when these aspects are neglected. The psychological aspect of healing is imperative because those who have experienced the pains of violent conflict are often injured emotionally and left traumatized. In addition, healing at the psychological level allows for the repairing of broken relationships and rebuilding and restoring of mutual trust lost, which is necessary for the human society to remain an integral and functional unity.

For the Oromo, as for many African and other non-western societies, life is a network of relationships. Life without community and relationship is deemed as meaningless and empty. Scholars and practitioners contend that psycho-social healing is an effective way to reconstruct and rebuild society with an improved quality of life, and that physical and economic reconstruction is necessary but not sufficient without the psycho-social aspect.

In line with this, Zeleke's (2010:63) statement, '...the ideology of the state legal system is drawn mainly from the western legal philosophy which is highly influenced by an individualistic orientation and does not fit the strong social orientation on the ground where it is being implemented', rightly illustrates Ethiopia's legal system's neglect of the psycho-social aspects of conflict resolution, justice administration and peace building. And it is obvious that the less the relevance of conflict resolution approaches to the social-economic and cultural contexts in which they are applied, the less their effectiveness to bring about the desired sustainable peace. In accordance with Meron Zeleke's assertion above, Edossa and his associates make a good point about the importance of a customary institution such as the Gadaa system in managing conflict, particularly conflict that arises from the usage of natural resources (Edossa et al. 2005:11).

They state that 'limited understanding of the role played by the Gadaa system by the state has diminished the efficacy and relevance of this customary institution in conflict management in Oromia' (Edossa et al. 2005:11). of relationships in a community; and it is crime committed against not only the individual but also the community to which the victim belongs. Hence, it strives primarily to address the problem at community level as opposed to the western-derived state legal interventions that often tend to individualize the conflict as well as its resolution.

2. Qakee Addresses Gaps and Irrelevance in State Legal Systems

As touched upon in the previous sections, Ethiopia's present legislation appears to have been almost exclusively inspired by western conceptions of law to the neglect of locally available customary laws and institutions. Consequently, the state legal systems at all levels of government operate under an individualistic and disciplinary approach. The state legal system attempts to control crimes and conflicts of all types by punishing the accused evil doer, assuming that doing so not only corrects the wrongdoer but also deters crimes and conflict among the public. I am not arguing that punishing the accused evildoers does not correct them and does not deter criminality and conflict in the larger public independently by itself.

The point I am making here is that effective adherence to an individually oriented and punitive legal system in collectivist society where interdependence and social harmony are a priority over individuality is questionable. Individually oriented legal systems and laws bestow accountability and responsibility only on the accused offenders and work towards penalizing them.

However, in Borana Oromo, if one is guilty of killing another person, especially when the homicide is an intentional one, the kinship or clan to which the killer belongs is by default considered as guilty. The incident, therefore, destroys social harmony between the groups concerned and is likely to lead to vendetta after vendetta.

Customary institutions such as Qakee are well aware of such 'collectivization' of an individual's offence and therefore work towards not only punishing the individual by means of fines, enforced compensations and social sanctions, but also restoring the social ties and harmonies through reconciliation, moral compensation, symbolic penalty and rites of cleansing and purification. State legal systems appear to disregard such cultural elements and tend to focus on punishing the individual found guilty, for example by imprisonment. State legal systems also fail to work towards avoiding further grudge and ending hostility between parties at feud with each other.

In Borana culture, blood feud of the same tribe, Borana, cannot be settled without the Qakee rite of cleansing or purification. It is this rite of purification that marks the end of enmity and feud between the family of the killer and that of the killed. Even in state-intervened cases where the slayer is imprisoned, Qakee needs to be performed after finishing the time in jail and the slayer family is expected to beg for and secure apology from the victim family until the slayer finish his/her jail term, knowing that the imprisonment does not mean the end of the feud and grudge. Therefore, most cases of state-intervened homicides in Borana are concluded by customary institutions such as arbitration, reconciliation and Qakee rites of purification. The slayer, who was convicted say ten years for homicide, is required to show regret and appeal to the elderly in his kin to initiate Qakee upon finishing the prison term. Then the elderly, together with elderly from the victim side, present the slayer's pleading and request for apology to the family of the deceased as culturally prescribed. Within this situation, the process begins. The Qakee involves symbolic penalty and the rite of cleansing and purification. Qakee as a rite of cleansing and purification involves an elaborated process (see Gemechu 2002 for the entire process); however, it begins with the slayer's or his age-mates' appeal and culminates with pledge to end the blood feud. There are a number of rituals that the parties undertake under the dictation of the elderly throughout the purification. For example, the parties at blood drink honey wine together and eat Buna Qalaa (roasted coffee) together to indicate the end of enmity and bitterness towards each other and the restoration of their sweet relationship. The end of the Qakee rites of purification that announces the end of the vendetta and the restoration of peace and harmony is called eebbaa (blessing). It is performed between the parties by the intercession of an elderly person of good reputation. In short, all points in this section speak to the fact that Qakee is still serving as a customary law in filling gaps and incompetence's of the state legal system to fully settle blood feuds in Borana Oromo.

3. Qakee Provides Restorative Justice

Conflict destroys not only physical property and resources, but also psychological and social capital. Whether it is interpersonal or inter-group, conflict leaves a history of mistrust and animosity between the involved parties. At the psychological level, it can be traumatizing and horrifying for the victims and the offender as well as for the group(s) to which they belong. For example, in Oromo culture, homicide results in parties being at blood feud. Individuals or groups in 'Warra Gumaa' are not allowed to eat together, attend the same school, church, Mosque, meeting, market, or even to see each other. Consequently, following homicide, at least the slayer, and sometimes his/her

entire family, is required to disappear from the sight of the victims since their presence may intensify victims' grievances and may trigger retaliation from the victims' side. Feud between families resulting from homicide automatically changes to feud between lineages or clans (Gemechu 2002). The phenomenon is inter-tribal when a person from the same ethnic group assassinates an individual Borana. When this is the case, imprisonment of the slayer does not mean the end of the feud between persons or groups. Even if the conflict has subsided, it can resurface when the slayer returns home upon finishing his/her jail term of, say, ten years. His/her close relatives can also become the target of retaliation while he/she is still in jail, especially when the homicide was intentional. In short, in collective societies such as the Oromo, an individual's criminal act is likely to be attributed to the entire immediate group to which he/she belongs.

In contexts such as this, modern state intervention may not work and hence Qakee may become a more reasonable solution. State interventions mostly focus on penalizing or correcting only the wrongdoer, thereby situating the problem solely in the individual. By doing so, state interventions fail to reach and heal the psychological and social capital that the incident of homicide has destroyed.

Reconstructing and strengthening the social relationships and harmony among the parties involved appear to be more essential than punishing or correcting the wrong doer as a separate entity. State court/justice systems lack or have little ability to reach citizens' emotional, cognitive, and behavioral processes at all the levels concerned, thus making it difficult to bring about restorative justice.

In concurrence with this, Meron Zeleke (2010:70–71, 82) avows that state legal systems' lack of focus on reconciliation and reestablishment of social harmony among the disputants is a key reason for people's preference of the sheikhs' court over the state court. Qakee has managed to heal the victims and the slayer psychological and social levels which the state legal systems fail to manage.

In other words, state legal systems strive to bring about retributive justice by simply punishing the criminal person whilst Qakee strives to bring about restorative justice by focusing on restoration of psychological and social capital destroyed in a case of homicide. By doing so, the Qakee institution among the Guji represents a unique model of restorative justice that state courts and legal practitioners cannot afford to ignore. Therefore, it can be considered as a possible alternative or supplement to a state legal system that is exclusively retributive in nature, since it can manage the likely cycles of vendetta following homicide.

4. Qakee Works towards Family Reintegration

Conflict, including homicide, at the very least leads to family disruption and disintegration and at most to abandonment of the murderer's premises. Among the Borana, as I have pointed out earlier, a murderer automatically transforms the identity of the group (e.g. lineage, clan, ethnic) to which he/she belongs; and causes the group of the murdered one to take up the responsibility to revenge.

The first target of revenge, if any, is the family of the murderer. The responsibility to avenge on behalf of the murdered is shouldered by the immediate group to which the deceased belongs, and the protection of the murderer and his/her family members and close relatives from a possible retaliation attack is the concern of that group. In most cases, even when the individual slayer is imprisoned under the state legal system, other family members who are innocent and left behind are required to go into exile at least

until the victim's group cools down. It is this situation that leads to, at least, disintegration of the family of the murderer. In fact, going into exile for some time to mollify the anger of the victim's group is required from the slayer's group and is culturally acceptable. The assumption is that the presence of the slayer or his/her immediate family members and close relatives fuels the victim group's grievance and thus is likely to trigger impulsive retribution. So, at least the slayer and his/her family members need to seek a place to escape and to disappear from the sight of the victim group for some time to allow their grievance to decrease.

Homicide and its subsequent impacts are the worst and most complex when it happens in a family and between close relatives. Killing one's family member (e.g. wife, husband, child) or close relative (e.g. brother, cousin, sister) is a possible though not frequent incident. When this kind of event is happened, things become complex because the group to which the killer and the killed belong becomes both the slayer and the victim group at the same time. The case material below vividly illustrates this kind of incident. (The case is a real one I encountered in January 2018 while I was collecting data. I used initial letters of the first names of persons involved for the sake of confidentiality.)

K and B were brothers-in-law living in the same village. K was B's brothers-in-law whose wife was B's sister. They were a type of related family than separate families. Both were depended on each other for many things. Their children spent time together mostly playing in a playground near their farms and protecting the farms from wild animals such as monkeys and apes. In the village, children are made to carry spears with them probably to encourage their support in protecting family farms from wild animals. One day, while with a spear in a farm from where they were protecting both families' farms, B accidentally speared K on his back. When K died, B's family became 'Warra Gumaa' – households at blood feud. K's family was in critical need of B's family help but they were not allowed to see each other, let alone to help each other. B has the responsibility to ask the father of his wife and his family (family of the murdered) and he was volunteered to do so; but the custom prohibits him because they were in blood feud. It was amidst this difficulty that the elderly sat down and decided to undertake Qakee instead of reporting to the legal system – which they knew would not help. But local community police reported the issue to the district court and then B sentenced for 8 years. Therefore the two families are not allowed to eat together, attend the same school, church, meeting, market, or even to see each other on the streets. It was when I was going to the purification site with the person called M, brother of the murderer, immediately we met his sister married to that family, he quickly run out of the road. I was shocked started to run with him. So, following homicide, at least the slayer, and sometimes his/her entire family, is required to disappear from the sight of the victims since their presence may intensify victims' grievances and may trigger retaliation from the victims.

The Qakee rite of purification requires preparation and it cannot be performed instantly. It needs 'Daadhii' (home-made honey wine), slaughtering of sheep, and other things that the culture prescribes, which requires at least two to three days to prepare. Also, according to my informants, there is no preferred day for the Qakee ritual. But it is done very early morning at the time when the dark of the night is ending and the bright of the day is coming/emerging which pragmatically signify the bad is ending and the good is coming as darkness refers bad and bright indicates good. Once the Qakee was performed, B was able to hospitalize the family of the murdered though he was not able to save him. Now, B is responsible as a breadwinner for both households. The case

clearly shows that Qakee is an irreplaceable method with which the Borana Oromo were and are still able to address cases of homicide, even in a tight spot as the one given above. Had it not been for Qakee, B's family would have disintegrated and his properties would have been abandoned. The state legal systems lack flexibilities with which to handle cases as complex as the one given above.

So if Qakee is able to manage issues of homicide which are as confusing as the one given above, and which the state legal systems might not be able to handle, how can one afford to ignore Qakee? Let the answer is left to audiences and other stake-holders of the so-called modern state legal and justice systems who try to outlaw indigenous institutions and laws such as the Qakee.

5. Qakee is used to get through Inaccessibility and felt Inadequacy of State Legal Systems

About 83% of Ethiopia's population resides in rural areas (Central Statistics Agency 2008) and the corresponding figure may go well beyond 85% when it comes to Oromia, the most populous regional state in Ethiopia. Social-politically, the present Constitution of Ethiopia (1995) allocates sovereign power to the people and extensive powers of self-rule and administration to regional states.

The regional states are, in turn, sub-divided into zones, districts and kebeles for the sake of decentralization of power and governance to the grassroots level as stipulated in the Constitution. Kebeles (gandoota in Afaan Oromo) or literally 'villages' are the fundamental units and the lowest recognized level of local government having administrative and judiciary structures. The judiciary organ of the kebele is known as 'mana murtii hawaasummaa' in Oromia and it literally means 'social court'. This social court, as its name implies, is mandated to handle non-criminal offences or civil disagreements and it is run by a panel of social judges nominated by the residents of that kebele under the auspices of district administration. The lowest possible level of a judiciary organ mandated to handle criminal offences and civil issues beyond the mandate of a social court is a district court.

Mandates of social and district courts are limited. Social courts are entitled to handle non-criminal matters such as property disputes, private, family and civil issues. They are not even mandated to see property cases exceeding 1500 Ethiopian birr. District courts are mandated to handle simple crimes, but attempted and completed homicides are beyond the mandate of district courts. Interstate and inter-ethnic conflicts are beyond the mandate of State-level Supreme Courts and are solely mandated to the Federal-level Supreme Court.

Despite the promised reforms towards ethnic federalism of a secular kind at both central and state levels and decentralization of governance and justice to the grassroots level following the change of government in 1991, in practice governance and justice still appear aristocratic in Ethiopia in general and in Oromia in particular. Such centrality and aristocracy of governance and justice at zone level and beyond, which may be due to lack of resources and capacity, or political commitment, denies the people access to justice and may erode their confidence in the state legal systems. In fact, the present government has shown remarkable interest and commitment to ensure people's access to good governance and justice and other public services such as education and health.

However, a lot has to be done as far as justice and good governance is concerned. In addition to inaccessibility of governance and justice at grassroots level, for whatever reason, there are some shortcomings in the prevailing state legal system that erodes public confidence in it. Meron Zeleke provides a good point in this regard. She underscores the strength of customary institutions vis-a-vis the state legal system and public doubts in the effectiveness and trustworthiness of the state legal system as two basic reasons for the public's preference of the former over the latter. She further points out that the longer time state courts require for processing a case, the expenses incurred at the state court, the undue emphasis on testimony and verification, and the possibility of corruption are additional reasons for the preference for customary institutions (Zeleke 2010:82).

Article 34(5) of the Constitution of the Federal Democratic Republic of Ethiopia limits the mandates of customary and religious institutions to private and family civil matters. Nonetheless, they operate in domains beyond those mandated to them by the constitution; they handle diverse issues of conflict ranging from civil to criminal offences and inter-ethnic conflict across the country (Zeleke 2010:81–82). Qakee is one of these customary mechanisms that has been and is currently exceptionally in use across Oromia in different names such as gumaa in handling cases of homicide.

In fact, Dibaba is of the opinion that the exceptional utilization of customary laws such as Qakee/gumaa in Oromia and among the Oromo, in lieu of the state legal systems, is an expression of resistance and confrontation to externally imposed laws and laws without justice (Dibaba 2012). I concur with both Dibaba (2012) and Zeleke (2010) that when a legal system is not easily accessible or when the prevailing accessible legal system is unable to do justice to the public's expectation and win credibility among them, the public opts for what is available as alternative. Opting for customary laws on the part of the public might be telling the government that the state legal system has limitations – it is a law without justice, it is an unfamiliar system, and it is not accessible to the public. The government should realize that the society is dissatisfied with the law at work and is demanding context-based and terrestrial laws that do justice to them.

Therefore, it can be argued that the exceptional utilization of the Qakee institution to settle blood feuds across Borana can be an expression of resistance to laws without justice. Or it is a manifestation of inadequacies in the prevailing legal system for settling blood feuds in a manner the public wants. Or it is to communicate that the state legal system is not accessible or not able to do justice in accordance with Oromo's philosophy of conflict resolution and peace building.

In line with this, Dibaba (2012:1) states that '...to understand the choice people make, it is vital to see the world as they see it...', and reminds us not to ignore a meaning people attach to a particular phenomenon or reality. A legal system that does not take into account the Oromo view of blood feud cannot be able to settle such a feud to the satisfaction of the people and this may be the secret behind the consistent utilization and reenactment of Qakee for settling blood feud in Borana independently or in combination with state courts.

Thus Qakee as a recurrent mechanism of handling homicide in Borana ethnic group appears to be one way by which the people react to the lack of administration of justice at community level and to the situation of law without justice that may have emanated from a lack of resources and capacity, or of political willingness and commitment. Moreover, Qakee is a community-owned

institution meant for settling homicide and it is practiced at community level allowing for the full participation of all family members and close relatives of parties involved in the homicide- which in turn might have maximized its trustworthiness and credibility among the larger public and its reenactment in lieu of state legal systems.

6. Qakee Serves as a Rehabilitative Psychotherapy

It is obvious that committing homicide inflicts psychological distress on the slayer, and that the distress may be even worse when the incident has happened between family members or close relatives. Feelings of guilt, fear of revenge, disintegration of family or worry about family members left behind, traumatic events arising from the incident, worrisome regret about imprisonment and being sinful, and remorse are some of the likely repercussions of committing homicide. In societies such as the Oromo where any misfortune that befalls an individual who committed homicide is taken for granted as a wage for evildoing, the slayer always lives under the shadow of fear of death. This firm belief makes committing homicide very distressing to a murderer and his/her family.

Imprisonment has its own impact and it may exacerbate other psychological aftermaths already there. In short, an individual who has committed homicide, whatever the type of the homicide and regardless of whether the case was state intervened or customarily settled, requires rehabilitative counseling.

Indeed, undergoing Qakee rites of cleansing and purification by itself is rehabilitative counseling for the person and the family concerned, for several reasons. First, it clears away fear of vengeance from the victim side. Second, it clears away a sense of guilt and sinfulness that afflicts the individual. Third, it announces the person's reconciliation with and integration into the community, which leads to the enhancement of a sense of belongingness. Finally, it avoids or at least minimizes traumatic experiences related to the incident of the homicide in one way or another. So it is reasonable to propose Qakee as a model of rehabilitative counseling or psychotherapy for it offers valuable psychological healing required for rehabilitating murderers and survivors of homicide.

Summary and conclusion

The Oromo are one of the African societies rich in indigenous institutions of conflict resolution, justice administration and peace building. Qakee is such an indigenous institution that the Borana Oromo have been using to settle blood feud since time immemorial. Even today, Qakee is being used either independently or in combination with state laws to settle blood feuds of diverse nature and complexity. In spite of its wide utilization, Qakee has not yet been viewed seriously enough from a psycho-social point of view. In prior works, Qakee has been analyzed either from an anthropological point of view (Etefa 2002; Gemechu 2002) or from a mythological point of view (Dibaba 2012).

This article has addressed the contributions of Qakee to conflict resolution, justice administration and peace building from psycho-social perspectives. Specifically, the article has analyzed the contributions of Qakee to conflict resolution, administration of justice and peace building within psychological and social frameworks.

To this end, Qakee has been explored as a viable psycho-social method of conflict resolution, justice administration and peace building, and six of its key outcomes in interrelated psycho-social areas have been identified and

highlighted. First, Qakee strives to bring about restorative justice by healing parties involved in conflict socially and psychologically. Second, it works towards family reintegration. It is obvious that violent conflict, whether interpersonal or inter-group, results in disintegration of families. The focus of post conflict or post-homicide reconstruction is restoration of social institutions of which the family is the fundamental one. Likewise, Qakee's priority in addressing blood feud is reintegration of the family of the slayer that might have been disintegrated following homicide and with this it perfectly converges with the ultimate goal of reconstruction. Third, Qakee restores and strengthens relationships and rebuilds mutual trust between parties involved in homicide. Conflict in general and homicide in particular destroy social and psychological capital and hence any post-conflict reconstruction effort cannot afford to ignore this echelon of the reconstruction process. Fourth, Qakee provides and ensures access to governance and justice at grassroots level and by doing so it replaces state legal systems or else it soothes the public's grievances and felt injustice.

Fifth, Qakee addresses gaps and in-competencies in state legal systems. State legal systems that are derived from western individualistic approaches might not be able to deal with vendettas associated with homicides in non-western cultures. Qakee addresses and fills this apparent void in and irrelevance of imported laws by removing grudges and animosity between parties that penalization of the slayer may not remove but leave behind. Finally, Qakee serves as a rehabilitative psychotherapy on the part of the murderer for it clears away clouds of fear of imminent retaliation from the victim side and heals traumatic experiences arising from the event of homicide. Given these key roles that the Qakee institution plays in conflict resolution, justice administration and peace building in relation to homicide and the support it provides to the efforts put in place to ensure access to good governance and justice, the author argues that the legal system cannot afford to exclude Qakee as traditional law. Further, the author recommends Qakee as an essential psycho-social method of conflict resolution, justice administration and peace building which aims at ensuring social and restorative justice as its ultimate goal.

At the end, the author calls for official recognition of Qakee as per article 78(5) of the Constitution of Ethiopia and its revitalization and incorporation into the existing criminal law of homicide.

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