



Analyzing the Discourse of Customary Conflict Management among Gurgura Clan of Somali People

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Abstract

This article was intended to analyze the discourse of customary conflict management among Gurgura clan of Ethiopian Somali. The aims of the study were to explore how social categories are discursively (re)constructed, to find out the way power relations between customary judges and disputants are discursively (re) constructed, and to investigate how the socio- cultural context of Gurgura community influences discourses at the micro level of customary conflict management. The study, which was rooted in qualitative research design, was anchored on Fairclough's social theory of discourse, and employed Critical Discourse Analysis (CDA) and social positioning theory (SPT) to analyze both the textual and contextual aspects of the customary conflict management. Analysis of data revealed that participants in their interaction reconstruct social categories differently and reproduce unequal power relations between the elders and disputants. Data analyses also revealed that Participants' subjective understanding of their social role, norms, cultural beliefs and the rules dictated in their traditional law influenced the forms and functions of their discourse. Based on the analysis and the findings of the study, it was concluded that through the communicative forms and means, discourse participants actively portray one's own category and others via their ideological positions and representations of meanings. It was also concluded that subjective positions were attributed to elders and disputants through ideological discourses, and the ideological discourses which contravene to the principles of human rights were taken for granted as a matter of common sense. Moreover, it was concluded that socio-cultural context at macro-level influenced the discourses of customary conflict management. The study thus recommends that the academia and civil organization need to work in collaboration to highlight human right issues and enhance justice in Gurgura conflict management practices.

Key words: Discourse; customary conflict-management; social categories; power relations; Socio-cultural context,

1. Introduction

There are institutions of customary conflict management through which people resolve conflicts on the basis of their cultural values and beliefs (Macfarlane, 2007; Heritage & Clayman, 2010). African societies, for instance, possess customary institutions of conflict management which preserve harmony and social tranquility. In Federal States of Ethiopia, customary institutions also form part of social systems in which the objective is usually more than just settling cases (Meron, 2010:63; Pankhurst & Getachew 2008:12).

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As has been pointed out by Pankhurst and Getachew (2008), the burden of resolving conflicts and the building of sustainable peace among people of several ethnic groups in Ethiopia has its own institutions or councils of elders organized along kinship or neighborhood basis. Such councils have their own names such as *Yejoka of Gurage*, *Gereb of Tigray*, *jaarsa Biyyaa of Oromos*, *Yeager Shimagilie of Amhara*, *Odaayal of Somali*, *Makaban of Afar* and others (Pankhurst & Gtachew, 2008); most of the time inter-clan and intra- clan conflicts in Ethiopia are resolved by such councils or customary institutions.

The situation in Dire Dawa Administration and its surrounding areas¹, is no exception to what has been described above. In this area, where this study is conducted, I observed that most cases of conflicts among Gurgura community are resolved by their own indigenous or customary institution. When conflicts appear among members or groups of the community, *Guddi* (ad hoc committee) is summoned by the council of elders or the *Ugaz*, and then performs some functions by resolving conflicts that arose. In other words, the *Guddi* resolves conflicts and maintains smooth social relationships among conflicting parties using their own customary law and traditional values.

During the customary conflict management proceedings, a main judge and / or a secretary is chosen from among the assigned customary judges. Then, the plaintiff presents his case orally, and the defendant responds to the charge against him. The judges listen carefully to all stories told by the conflicting parties. Then, they ask the plaintiff and the defendant different questions, challenge witnesses and so forth. Finally, the judges discusses the case thoroughly and come up with decisions based on the Somali customary law, the-*Xeer*. Within such discourse of the conflict management, discursive practices are acted and customary rules are enacted. As institutional discourses are socially constitutive (Fairclough, 1992:231), the maintenance and reconciliation of social practice by *Gurgura*'s customary conflict management system could constitute distinctive discourse patterns which define and contribute to the (re) construction of the domains of social life in *Gurgura* community. This is to mean that discourse of customary conflict management among *Gurgura* is socially constitutive, and versions of social reality (domains of social life) are discursively (re)constructed through patterns of significations and representations.

Discourse of customary conflict management among Gurgura clan is socially constitutive as well as socially shaped. It constitutes situations, objects of knowledge, social categories and

¹ The surrounding areas are Hurso and Erer in which Gurgura people are found. Gurgura people in these places and Dire Dawa are under the same customary administration. The Gurgura people in these areas are under the same customary administration which is found in DireDawa.

relationship among the social categories or groups. A critical study on this institutional discourse, hence, endeavors to uncover social realities (re)constructed and ideological agendas operated in the customary conflict management discourse. Hence, approaching discourses of customary conflict management through a critical frame work could reveal the social consequences of different discursive representations of reality, and examine social problems manifested discursively.

Nevertheless, recent local studies on customary conflict management view discourse as a route to social world, and seek to describe the organizational patterns of social actors' interactions in talk. Very little attempt has been done to critically analyze the actual discourse of customary conflict management among the people of different nations and nationalities of Ethiopia in general or the Somali ethnic group in particular (e.g. Pankhurst & Getachew, 2008; Debebe, 2009; Meron, 2010; Endalew, 2013; Jemal, 1999; and Bamlaku, Yeneneh & Fekadu, 2010)

These previous local studies were undertaken on traditional conflict management, and their findings provided some theoretical orientations to the current study. However, the studies were restricted to mainly describing the procedures and evaluating the legality of its outcome based on data obtained through interview and observation. As they are in descriptive approach, they hardly ever engaged in explicit and systematic discourse analysis with the purpose of exploring constructive effects of discourse and ideological agendas operated with in the discourse under study. To be specific, attention was not given to the construction of social categories, power relations, and the influence of socio cultural context on participants' discourse structures. Such constructive effects of social discourse, thus, become area of interest and then initiated the current study.

As to my preliminary observation on social practices of customary legal procedures, I observed that disputes and conflicts were resolved on the basis of unwritten customary law-the '*Xeer*.'The '*Xeer* provides conflict settlement rules in the conflict management process. However, the customary law is not wholly determinative as it does not speak for itself; rather, its import depends on how it is invoked and animated by the participants as the hearing unfolds. Interactional or discursive practices are thus important contingencies bearing on the determination of guilt or innocence (Heritage & Clayman 2010).

It has been observed that discursive practices in the legal proceedings embody naturalized ideologies which sustain cultural hegemonies. Preliminary observations of the cultural practices and informal talk with members of Gurgura community designated such situations. For instance, from the procedures of resolving conflicts and colleagues' informal talk about their cultural practices, I tried to examine some harmful social acts that were not necessarily illegal by traditional definition but often have a much greater impact upon the Gurgura social system.

From my reading on these previous local studies, I realized that discourses of customary conflict management would be better understood if they were analyzed critically with the purpose of exploring the constructive effects of discourse and producing a critique of social inequalities. To my knowledge, however, no study has been conducted on discourse of customary conflict management among *Gurgura* clan with the purpose of exploring the constructive effects of discourse which sustain social inequalities. Therefore, there is limited understanding of the constructive effects of discourse of customary conflict management among *Gurgura*. As an applied linguist, I have aspired, thus, to understand the phenomena surrounding the constructions of social reality in the discourse under study and the problems which they may engender. This study, therefore, was intended to analyze discourse of customary conflict management among *Gurgura* clan of the Somali people, and thereby to explore the constructive effects of spoken texts and discursive practices. To this end, the following research questions were raised;

1. How social categories are (re)constructed through discourses of conflict management participants?
2. How power relations between customary judges and disputants are (re) constructed through discourses customary conflict management?
3. How the socio-cultural context at macro level of *Gurgura* community influence the discourse practices at the micro level of customary conflict management?

2. Methods and Materials

2.1. Research Design

The purpose of the research was to explore discursively (re) constructed social realities. Accordingly, qualitative research design, which is characterized by its naturalistic, descriptive, interpretative, and explorative nature, was employed to gain insight into the

social realities under scrutiny. Qualitative research design was chosen for this study since it constitutes a means of achieving a deeper understanding of the phenomena being investigated and often makes knowledge claims based primarily on constructivists' perspectives. To this end, the study was guided by a qualitative approach, and it drew on critical discourse analysis (CDA).

The study takes an eclectic blend of critical discourse analysis approach which views language as a form of social practice. CDA is as an appropriate analytical tool for conflict management discourse analysis as it allows a detailed investigation of the relationship of language to other social processes, and of how language works with in social categories and power relations (Chouliaraki and Fairclough (1999:16). Positioning theory is also used as an analytical tool along with CDA. Social positioning theory, with its three- level of analysis is, thus, used with CDA in the process of exploring how social actors are constructed and positioned through discourse of customary conflict management.

2.2.Sampling Technique

2.2.1. Research Setting

In a qualitative inquiry, researchers select sites that can best help them understand the central phenomenon (Cresswell 2012:206). In accordance with this, I purposefully selected sites in which the *Gurgura* people have been living. These sites were Dire Dawa Administration and Erer district. Before the establishment of the federal states by Ethiopian People Revolutionary Democratic Front (EPDRF), Dire Dawa and Erer were within Issa and Gurgura awraja² Administration. Currently, Erer is, of course, with in the Shinille Zone of Somali Regional State. However, all members of Gurgura community in Dire Dawa and Erer are under the same customary administration which is found in Dire Dawa. They are under the administration of one *Ugas* and the same council of elders.

2.2.2. Research Participants

The sampling technique used in selecting participants for this study was purposive sampling. I selected fifteen traditional elders and one woman as key informants, those who were supposed to have rich information and best fit the research purpose. These participants were important figures in the community and in conflict management practices because of their

² It was the name of an area for each sub-division of regional state. Issa and Gurgura was hence, one sub division for Harerghe regional state of Ethiopia.

deep knowledge of Gurgura customary law (the *xeer*) and the procedures of the conflict management. Participants in the customary conflict management proceedings (customary elders, and disputants) and interview participants were also included for this study as they produce the main object of the analysis. The interview participants were the main judges (elders) of each selected case and the disputants of case 1, case 2 and case 3. Here, the main judges were selected as they were the main actors in the judicial procedure of the conflict management cases observed. In the spousal conflict management, two women were also selected as the interview participants.

Moreover, three traditional elders and three key women informants from Gurgura community were also selected for the interview. To select these key informants, I thought that I have to use snow ball sampling and turned to Cresswell (2012:209) who explained that qualitative snowball sampling is a form of purposeful sampling that typically proceeds after a study begins and occurs when the researcher asks participants to recommend other individuals to be sampled.

Generally the participants involved in this study were categorized into three groups: key informants involved in the study of the research context, participants involved in the customary conflict management proceedings, and participants involved in the interview to enhance the main material.

2.3. Data Sources

The major data sources for this study were observation (videotaped interaction of cases of conflict management) and audiotape interview results. Field notes generated during the observation and informal discussion, and socio cultural context of *Gurgura* community.

2.4. Methods of Data Collection

Predominantly, two methods of data collection were employed in this study. These were observation and interview. Both methods were used to collect data for this study, and the rationale to choose them is discussed below.

2.4.1. Observation

Observation is the process of gathering open-ended, firsthand information by observing people and places at research site (Cresswell, 2012: 213). Hence, this method has been selected to gather first hand customary legal practices /discourses/ in natural settings of the

event (conflict management). The main purpose of the observation was to have empirical data or naturally occurring discourse of indigenous conflict management of *Gurgura* clan.

2.4.2. Interview

Depending on the nature of the study, interview has been selected to collect data for this study. Interview in this research is conceptualized as an interaction (object of analysis) and as an instrument of research for assessing the veridical account of something that happened within *Gurgura* community. Accordingly, depending on the nature of the study and the degree of control, the semi-structured interview and informal interview, which are highly favored for their flexibility, have been selected as methods of data collection.

2.5. Data Collection Procedures

Before the hearings began, disputants and the customary elders were told about the study and they were asked to give their consent for the video recording. Without any hesitation, they agreed; the hearings were opened and the recordings were going on. Six hearings were fully video/audio taped, while hearings of the three cases were partially video/audio recorded. I have selected three cases, which were recorded completely, for detailed critical analysis. After a repeated reading of the transcriptions of the recorded data, I then moved into the semi-structured interview and informal interviews questions. After a repeated reading of the transcription of the interviews, I also conducted further discussions with five traditional elders and two key informant women.

2.6. The Transcription System

Any given approach to transcription can be categorized into an open transcript and closed transcript (Jenks 2011:16). Accordingly, I created a closed transcript to highlight those talks and interaction features that indicate social realities explored in line with the specific research objectives of the study.

In the transcription, complex or detail transcription notations were not employed as would have otherwise been demanded by conversational analysis studies. Thus, such notations, which indicate, for example, the rises or falls of intonation were all excluded. However an attempt was made to include relevant interactional and paralinguistic features of the recorded talk. All in all, the transcription conventions (adapted from Jenks 2011) were used for this study.

2.7. The Process of Translation

I worked with my three translators who were grown up within the *Gurgura* community and who have the experience of translating the Somali language into the target language. They have the mastery of the source language and the skill of translating it into the target language. First, they had been trained how to transcribe the audio and video recorded data. Then, I, along with them, transcribed the recorded materials based on the conventions. The translators translated the source language first individually, and then, they crosschecked the three translations for meaning equivalence. When there were differences, they used to come up with the same idiomatic translation by listening the recordings again and again. Finally, the English version of the Somali language was provided. After the English version was provided, it was again given for two persons who have experiences in translating English language into Somali language in *Shinnile* Administrative Zone of Somali Regional State. These persons, then, translated the English Version into the Somali version. Then after, the previous Somali version (the transcription) and the later Somali version (Which was translated from the English) were compared and crosschecked for meaning equivalence. The previous Somali version and the later Somali version were found to be the same except very few differences which were managed by all the translators.

2.8. Methods of Data Analysis

The current study utilizes an interdisciplinary analytical framework which integrates a variety of theoretical perspectives and methods (CDA). Social positioning theory, which views discourse as a social practice, is also used as a framework of analysis along with CDA. Within the interdisciplinary framework of these tools, I intended to analyze the texts that form the corpus of analysis of the present investigation. In the analysis, attention was given to the matrix of thematic contents or themes which I have devised on the research questions and the basis of a critical survey of the theoretical literature. These were:

- Discursive construction of social categories
- Discursive construction of power relations between disputants and customary elders
- Influence of socio-cultural situations on discourses at micro level.

Generally, the three interrelated processes of analysis which systematically link textual analysis with the analysis of the broader socio-cultural context were utilized. First, textual meanings in conflict management discourse were described by drawing up on various

linguistic and interactional patterns /excerpts taken from the transcripts. Then, textual meanings were interpreted by drawing up on pragmatic features such as assumption, presuppositions, implicative and other sources in the immediate context. At the third stage, explanation was made about the constitutive effects of textual and interactional features to address the first and the second research questions. Explanation was also made on how discourses of customary conflict management have been shaped by socio-cultural norms and beliefs of the target society with the purpose of addressing the third research question.

3. Results and Discussion

The analysis in this section has the following three sub parts related to the identified themes earlier:

- Critical analysis of customary conflict management discourse and the construction of social categories
- Critical analysis of customary conflict management discourse and the construction of power relations among the customary judges and the disputants
- Critical analysis of customary conflict management discourse and the influence of socio-cultural context on participants' discourse at micro level of customary conflict management.

Before proceeding to these three sub parts of the analysis, summaries of the selected cases and a brief description of the hearing procedures among *Gurgura* are presented below.

3.1. The Cases (Customary conflict management hearings)

Three cases have been selected for detailed critical analysis. The brief summaries of the three cases selected for the analysis are presented below.

3.1.1. Case 1

Case 1 (customary conflict management hearing), one of the subject matter of this study, is a case of two persons –the plaintiff (P) and the defendant (D) in *Gurgura* traditional administration. The defendant was accused by the plaintiff of his son abducting the plaintiff's fiancée. The defendant's son abducted the plaintiff's fiancée and tried to coerce her into marriage. The son of the defendant/the accused litigant/ was not present in the conflict management hearing. On the basis of *Gurgura* culture, his father/ the defendant / represented him and was fighting the case.

Five judges as a representative of the customary institution were summoned by the *Ugas* to resolve the conflict between these disputants. They took their seats under a big tree, selected their main judge (jury leader) who acts as a controller and moderator of the talk produced by all the other participants, and then they started the customary conflict management hearing.

In the opening of the hearing, the main judge introduced the case, gave blessings and then queried the disputants to present their stories. He pointed to the plaintiff and questioned him to start. The plaintiff, with feelings of mild anger and impatience, told that his fiancée was abducted by the son of the defendant and she was coerced into marriage. He explained that he came to the elders to get justice, but he revealed that he would take a gun and fight if the elders couldn't manage this conflict and provide him with justice. The judges listened to the plaintiff's story carefully and then asked the defendant to act in response to the charge against him. The defendant told them that the fault was done by a very young man who was not matured enough and he admitted that it was a wrong doing. He, then, promised to accept any decision made by the elders.

The judges, after listening to the stories, they asked each disputant different question with the purpose of getting more information. The main judge examined the disputants' statements and asked the other judges to forward their suggestions on the matter. Then, every judge brought his own verdict and then justified it. After discussing the case thoroughly, all the judges reached an agreement and gave their verdict based on their customary law/ the *Xeer*/. They found the defendant was guilty. They ordered him to make the girl free and bring her to the tree³, fined him some amount of money for the crime he had committed, and made him pay compensations for the plaintiff. They also made him cover all expenses of the conflict management proceedings. Finally, both disputants agreed with the judges' decision. The defendant brought the girl and handed her to one delegated judge (who was far away for about twenty- five meters from the justice tree). The delegated judge (E 4) then called the plaintiff and handed her to him. Finally, the judges gave the blessing and closed the session.

3.1.2. Case 2

Case 2, the other subject of the analysis, is a case of two persons –the plaintiff (P) and the defendant (D) in *Gurgura* traditional administration. The defendant was accused by the plaintiff of doing immoral acts on his wife. The defendant hated his wife and tried to coerce her into divorce. The wife, who was getting irritated by her husband, delegated a

³ The tree is the place where *Gurgura* customary judges sit to manage conflicts. It is customary courtroom in *Gurgura* culture.

representative and presented the case to the customary elders (judges). She was not present in the conflict management hearing. On the basis of *Gurgura* culture, her brother /the plaintiff/ represented her and was fighting the case.

Three judges as a representative of the customary institution were summoned to manage the conflict between these disputants. In the opening of the hearing, the main judge talked about the case, made the blessings and queried the disputants to present their stories. He pointed to the plaintiff and asked him to present his case; the plaintiff presented the case in few words. Then, the judge pointed to the defendant and questioned him to start. The defendant told that he was fed up with his wife and he decided to divorce her. He explained that he hated his wife and asked the judges to give approval of the divorce. The judges listened to the defendant's story carefully and then asked the plaintiff to present his story of the case. The plaintiff told them that the defendant was in love with his wife for many years. He added that the wife was giving the defendant all services in those years, and still she has been serving him, but now he coerced her for divorce. The plaintiff told the judges that the defendant has done injustice or inhuman acts on his wife, and he asked them to discuss the issue and give a favorable verdict.

After listening to the stories, the judges asked each disputant different question with the purpose of getting more information. They have listened to the replies carefully, and the main judge asked the other judges to forward their suggestions on the matter. Then, every judge brought his own verdict with its justification. They again discussed the case thoroughly, reached an agreement and then gave the verdict based on their customary law/ the *xeer*/. They announced the verdict which authenticates the divorce. Though the verdict gave approval of the divorce, it found the defendant was guilty. Then the judges ordered him to give her all the possessions which she deserves. They also fined him some amount of money for the crime he had committed, and made him pay compensations for the divorced wife. They also made him cover all expenses of the conflict management proceedings. Accomplishing all their tasks, the judges gave the blessing and closed the session.

3.1.3. Case 3

Case three, the third object of the analysis, is a case of two persons –the plaintiff (P) and the defendant (D) in *Gurgura* traditional administration. The defendant was accused of committing a physical harm on the plaintiff. They were quarreled for the goats of the defendant devastated the crop of the plaintiff. During their fighting, the defendant had blown off the hand of the plaintiff. The plaintiff's hand was injured on the fighting and serious

conflict was arisen among the families of these two persons. Elders in the village intervened to stop the fighting; they stopped the fighting and took the case to *Gurgura* customary institution.

Three judges who were chosen to manage the conflict between these disputants visited the victim (the plaintiff), carefully examined the harm on his hand and ordered the defendant to bring a goat for the victim. The judges delayed the hearing until the victim would be cured. After the victim had recovered from his illness, they arranged a meeting and fixed the time and place to proceed on the hearing. On the date of the meeting, all the judges came and took their seats under a shade of a big tree.

In the opening of the hearing, the main judge introduced the case, made blessings and then questioned the plaintiff to start. The plaintiff told that the defendant had damaged his crops and blown off his hand. The plaintiff added that he was available under the shade of that big tree thinking that he would get justice; he also revealed that war would break out if the elders couldn't manage this conflict and provide him with justice.

The judges listened to the plaintiff's story carefully and then asked the defendant to act in response to the case. He told them that the damage on the crop was trivial and was not intentional, as well. He also explained that the plaintiff primarily attempted to attack him, but he injured the plaintiff's hand while he was attempting to protect himself from the attack.

After listening to the stories, the Judges asked each disputant different question to get more evidences. The main judge listened to disputants' replies, examined the ways how they were reacting to his questions and then asked the other judges to forward their verdict on the basis of the stories presented and *Gurgura* customary law. Then, every judge delivered his own verdict and then discussed the case thoroughly to arrive at a just and common decision. They arrived at unanimous verdict, and they found that the defendant was guilty. The defendant was then fined, and he was made to pay some amount of money for the crime he had committed. He was also ordered to pay compensations for the plaintiff and to cover all expenses of the conflict management proceedings. The main judge, then, received the compensation from the defendant and handed it to the plaintiff. Finally, the judges gave the blessing and closed the session.

3.2. Description of the hearing procedures among Gurgura

Customary conflict management among *Gurgura* is bound by various procedural rules and institutionalized values. In the proceedings of the conflict management, communicative events are conventional and they usually occur in a predictable manner. The action that the participants perform or the order in which they do things is conventional and determined in advance. In conflict management hearings, the elders usually sit under a shading of a tree in a semi-circle way. The number of elders in a session varies based on the seriousness of the case, but the following are crucial members of any session with their respective role in the proceedings of the case: The main judge, who guides and manages the interaction of the session, the secretary (the second judge) who carefully listens to disputants' story in the session and memorizes it, and the facilitator(s), who facilitate the proceedings and propose decisions to the main judge.

Conflict management hearings among *Gurgura* are primarily organized in five phases of activity, each of which involves different tasks. They are the opening phase, the hearing phase, the confirmation phase, the discussion phase and the reconciliation phase. The boundaries of these phases are often marked by change in topics, communication styles, and the speakers. The first phase which is aimed at introducing the case is the opening phase. This phase, in which the elders are dominants, is linguistically characterized by giving blessings and giving orders. Following the opening phase is the hearing phase which is characterized by question and answer dialogue. This phase is aimed at establishing the basic facts of the case and the divergent interpretations of those facts by parties on each side. Unlike the opening phase, the hearing phase is thus highly taken up by the disputants who narrate their conflict stories one after the other. In most cases, first, the plaintiff narrates his stories and then the defendant follows.

Following the hearing phase is the confirmation phase. In this phase, questions are posed by the judges to the plaintiff and the defendant. The judges frame their questions in distinct communicative styles which significantly affect the response of the disputants. The main judge and sometimes the secretary ask disputants several questions with the intensions of eliciting short answers like 'yes' or 'no'- which will either confirm or disconfirm the version proposed in the question during the hearing phase. Proceeding in such ways, this phase, then, ends with sending the disputants away from the session for a short while.

Following the confirmation phase is the discussion phase. Discussion phase is commonly led by the main judge who manages the interaction of the hearing. In this phase, the elders take turns and give their comments and evaluations on what the disputants had said. They discuss the events of the case and attempts to arrive at decision on guilt. As to my observation, the discussion phase takes so long and continues until the elders arrive at some agreement. The main judge then sum-up the discussion and then proposes decisions on the basis of judgments forwarded by the majority of the elders. The discursive practice in the discussion phase is characterized by arguing, approving, disapproving and suggesting verdicts. Once the judgments are approved, the elders call back the disputants and start the last phase (i.e., reconciliation).

In the reconciliation phase, the judges first ask disputants to bring their advocates. Then the main judge asked them turn by turn whether they will accept the judges' decisions on the case or not. Then, after gaining agreements from each side, the main judge tells the decision to both parties. While telling them the decisions, the judges employ various persuasive strategies to get disputants' agreement to the final decisions. After the disputants accept the final decisions, they are given blessings. Some ritual practices such as kissing each other's hands, eating and drinking together are practiced as part of the reconciliation phase. Hence, the reconciliation phase is the last stage that brings the conflicting parties together and creates peaceful situations among them.

3.3. Analysis, interpretation and findings

Based on the analysis and discussion of the data, the following findings are made with reference to the organizational scheme (themes) derived from the specific research questions.

3.3.1. Construction of Social Categories

The first focus of the analysis was to explore how the customary elders, women disputants and men disputants were assigned, ascribed and evaluated with the purpose of manifesting differences among them. So, attention was given to the communicative forms and means through which the discourse participants apply to construct the three social categories under scrutiny. As the result of data analysis, the customary elders, women disputants and men disputants were ascribed and constructed as follows:

Disputants used various communicative forms to ascribe category specific properties to community elders in the proceeding of the conflict management. The category- specific properties were assigned, ascribed and made noticeable in different ways, and they were used to reconstruct the elders in connection with what they are and according to the function they perform in the community (As data reveals on line 75, the plaintiff said, *you elders with many insights please give your justice*, line 87... *I receive what the kin elders decide*.) Accordingly, the elders were ascribed as knowledgeable and unbiased in terms of what they are, and justice makers in terms of the functions they perform in the community. They were also constructed as fair and impartial pertinent to their decisions they make. In the different phases of the interaction, they were repeatedly constructed as respected, wise and astute mediators who usually manage conflicts on the basis of their experience and knowledge of the customary law. Furthermore, they were represented as the active and dynamic forces in the customary conflict management proceedings; they were portrayed as mediators with authority and as justice providers to victims.

As the analysis also revealed, customary elders were associated with high status activity not only by the disputants but also by the elders themselves. Elders' task of ascribing category specific properties to themselves was indirect and inconspicuous, but the process of exploring such discursive construction was made from "in between the lines". For instance, they drew on linguistic resources which encode combinations of religious beliefs, values, norms, goals and emotions when they ascribe and evaluate themselves. Drawing on such linguistic sources, they constructed themselves as trustful for their *Allah* (God), knowledgeable of the cultural rules of *Grugura* and the preferable judges to resolve conflicts arise in the community. Generally, apart from maintaining a primary role in terms of local conflict resolution and upholding of customary laws, the elders were ascribed with category specific properties pointed out above, and discourse participants used different linguistic forms and means to ascribe and reconstruct the customary elders.

As the data analysis indicated, category- specific properties were also ascribed to women disputants, and their social category was made noticeable in the discourse under study. Some tasks of assigning, ascribing and evaluating of women disputants in the conversational discourse of customary conflict management were inconspicuous and implicit. As a result, discursive construction of the female disputants was also made from "in between the lines". As the data analysis revealed, women's category specific properties were displayed in relation to men's. Women disputants were constructed as those who do not have traditional

legal right to speak in the conflict management hearings. Specifically, the elders and men disputants constructed women disputants as inactive agents and with passive role in the process of resolving spousal conflicts. For instance, as shown in the transcribed excerpt, elder 2 passivized the female participant while he activated the defendant (e.g. line 205-*hasooceliyo geedka hakeeno-let him bring her back to this tree*). In the proceedings of the hearings, women were constructed as passive participants, the recipients of any sort of decision though it matters their life, and the properties of their husbands' relatives by the time their husbands die.

As the result of data analysis also revealed, ascribed group-specific properties and modes of behavior connected to women social group were evaluated as being negative, and such evaluation has a contribution to disregard women disputants in the conflict management proceedings. .

As the analysis of the discourse of customary conflict management also revealed, men's category specific properties were displayed in relation to women's. Men disputants were not constructed in the same way that women were constructed. Rather, they were constructed as active and dynamic forces in the community. For instance, they were constructed as responsible and actors in relation to activities such as 'stealing', engaging', divorcing 'and 'giving,' while 'the female participants were constructed as the recipient of the three processes. Men disputants were also constructed as those who have traditional legal right to speak or participate in the hearings of conflict management. Specifically, they were constructed as influential and dominant gendered groups in the context of managing spousal conflicts.

3.1.2. Power relations between the customary elders and disputants

The second research question was intended to understand the discursive construction of power relations between the customary judges (elders) and the disputants. In line with this, the second focus of the analysis was to explore the linguistic features, interactional resources and discursive strategies that were used by the social actors to (re)construct, to maintain and/or to challenge the existing power relation between the customary judges and disputants. The result of data analysis revealed the following linguistic/interactional resources and discursive strategies through which power relations between the customary judges and disputants were (re)constructed:

Turn taking: as the analysis indicated, customary judges controlled the turn taking, and they implemented specific turn taking system to achieve their own institutional objective. In their turn, many of the elders' contributions took the form of questions, directives and imperatives, and the right to use such forms was symbolic of their power. On the other hand, the disputants were almost constrained in what they can say or do, but they were not constrained in how much they can say, and sometimes the disputants were doing occasional self-select for turns.

As the transcribed data shows, elders in all cases controlled most turns in the interaction. The elders had the right to give orders and ask questions, whereas the disputants had to comply and answer, in accordance with the subordinate relation of disputants to elders (e.g. line 2, lines 97-121, lines 281-350 and lines 443-456). The analysis of the data revealed that the turn allocation system of customary conflict management was an act of control and a sign of a true differential in social power where the customary elders have more real authority than the disputants.

Topic control: as the data analysis revealed, the customary elders were closely controlling the basic organization of the interaction by introducing new topics of each phase. They were opening the hearing, soliciting stories from the disputants and leading the extensive discussion and reconciliation phases. It was also revealed that elders were controlling the speech exchange system of the conflict management by using sanctions, changing topics, redirecting questions and uttering minimal responses (ehh:::,yes:::). Hence, the result of the analysis showed that topic control was an interactional feature through which power asymmetries were manifested.

Questions and steering of Discourse: another aspect of the elders' control which was manifested in the basic organization of the interaction in the conflict management hearings was the nature of the questions they ask. As the data analysis showed, the nature of questions was different from everyday questions raised in symmetrical conversation along a range of linguistic parameters at the exchange level. Normally, only the elders ask questions, and only the defendants answer questions – an asymmetrical interaction. At the level of question structure, two types of questions were used by the elders in the hearing (i.e. wh questions and yes/no questions) with different purposes. On one point, they used wh questions to solicit information from disputants. On the other point, they used yes/no questions to get

confirmation for the precise wording of disputants' response, and such types of questions firmly established the control of the questioner.

Formulation: as it was revealed in the data analysis, power was manifested in customary conflict management through formulation (elders were defining the situation for the disputants). Formulations are control devices, a way of making participants accept one's own version of what has transpired, and thus restricting their options for further involvements. Formulations, as controlling devices, were used frequently in the conflict management hearings. Elders used them as a way to check their understanding and as a way of leading disputants into accepting decisions/ judgments made on the case. They also used formulations as a way of limiting disputants' option for further contribution.

As the analysis also indicated, politeness strategies and mood choice manifested power asymmetries, or they signified true differential in social power where the customary elders have more real authority than the disputants.

Politeness: in the conflict management hearing, some speech acts made by the elders (commands and directives) were threatening to the disputants' negative face and they have a more coercive motivation. Whereas, the disputants were observed being more polite than the elders in their speech.

Mood choices: in the customary conflict management hearing, the customary legal power regulates the choice of mood or discourse type that the participants use. The right to produce more declaratives, polar interrogatives and imperatives than the disputants was symbolic of the elder's power and influence in the hearing. The results of data analysis indicated that the elders frequently used declarative clauses in the confirmation, in discussion phase and in reconciliation phase, while the disputants used far fewer.

Similarly, as the analysis demonstrated, question/answer pattern of interaction and different amounts of knowledge shared by the participants' resulted in asymmetries in the discourse of customary conflict management hearing. Elders were controlling the disputants for it was the prerogative of powerful participants to determine which discourse types are to be legitimately drawn upon. Thus, in the customary conflict management hearings, the customary legal power regulated the choice of mood or discourse type that the participants use.

Generally, turn taking systems, the exchange structure, topic control, agenda setting, formulations, politeness strategy and mood choice were interactional resources or discursive

tools through which the participants (re)construct and maintain power and dominance in discourse of customary conflict management among *Gurgura*.

3.1.3. The influence of socio-cultural contexts on participants' discourse

The third focus of the analysis in this study was to explore how socio-cultural factors at the macro-level impact on the discourses at the micro-level of the conflict management. Accordingly, the focus in this section was on contextual factors, and questions at the context level analysis thus ask about details of the social formation and what roles and linguistic resources it allocates to discourse participants.

As the analysis of wider socio-cultural context revealed, elders were at the highest social status and perceived as effective negotiators, trusted mediators, moving orators or wise men in the community. The analysis of the texts also revealed, participants' subjective understanding of their social power and the socio-cultural context in *Gurgura* community influenced the way they speak in the hearing, and the effect was reflected in the forms and functions of participants' discourse. That is, elders' discourse style was different from the disputants'. Male disputants' discourse style was also different from the female disputants' and other female participants'. The difference between Elders' and disputants' discourse structure was also result of the different roles and responsibilities they had in the communicative context. For instance, elders controlled the organization of the interaction. They had the right to ask and to command, the disputants complied to provide the response using politeness strategy.

Data analysis also showed that disputants positioned the elders as insiders- those with more power and knowledge of the socio-cultural system while they positioned themselves as outsiders- with less power and knowledge of the system, and this was reflected in the forms and functions of disputants' discourse. In other words, disputants' subjective understanding of their social role or the context controlled their discourse production and comprehension. As the analysis of the interview data revealed, both the elders and the disputants were duty-bound to align to the main stream discourses dictated in the traditional law of *Gurgura* (*Xeer Gurgura*). Because of this, the form and the structure of their micro level discourse in the hearings were constrained by socio-cultural conditions, beliefs and practices operating at macro level of *Gurgura* community.

4. Conclusions and Implications

4.1. Conclusions

Conflict management system is valuable in resolving conflicts and maintaining peace among members of Gurgura community and it should be *nurtured* (my emphasis). However, based on the findings of this study, the following conclusions are made.

1. Through customary conflict management discourse among *Gurgura*, not only conflict management tasks were accomplished, but also social categories (i.e., customary elders, men disputants and women disputants) were (re) constructed in different ways. Customary elders were portrayed as impartial and justice providers to victims, and they were associated with high status activities. Men disputants were also associated with positive attributes in comparison with women disputants. The process of assigning, ascribing and evaluating of these social groups was achieved through communicative forms and means used in the interaction. Through these communicative forms and means, discourse participants actively portray one's own category and others via their ideological positions and representations of meanings. Hence, the linguistic resources used in reconstructing the three social categories were ideologically invested, and they were distributed along the lines of social category with the consequences of attributing a differential representation and meaning to the social categories in the conflict management process.

2. Power relation between the elders and disputants were discursively reconstructed through ideological discourses which embody cultural politics and dominance. The ideological discourses were instantiated by interactional control features (turn taking systems, the exchange structure, topic control, agenda setting, formulations) and linguistic features (mood choice and politeness features) which manifest the social and cultural aspects of power relations between the customary elders and disputants. Hence, it can be concluded that cultural ideology was embedded in the linguistic/interactional control features (discourses) which reconstruct power asymmetries between the customary elders and disputants. Those discourses which embody cultural ideology were taken for granted as matter of common sense. Discursive acts which sustain domination and naturalize relations of inequality were obscured and not readily apparent to the disputants in general and women disputants in particular, and those discursive acts which appear to be common sense are ideologically invested in that they divert attention away from a possible need for social change.

3. As transcribed data reveals, participants' subjective representation of socio-cultural context determines the production and structure of participants' talk. The textual personas and interactional features which discourse participants use in the interaction vary as a function of socio-cultural context structures which involve participants' social roles, purposes, norms and beliefs. The customary elders and disputants drew on linguistic resources to enact and reconstruct social realities, and it was possible to conclude that what participants speak about were not only the interpersonal relations between the participants, but the values and beliefs of the culture they were part of. It was also possible to reasonably conclude that socio-cultural context determined the discursal rights and obligations of elders and disputants - what each was allowed and required to say, and not allowed or required to say, within that particular discourse type. Generally, it could be possible to conclude that by determining the discursal rights and obligations of the customary elders and disputants, socio-cultural context shape the discourse of customary conflict management operating at micro level.

4.2. Implication of the study

This sub section discusses the contribution of the study focusing on three main sets of implications: scholarship, advocacy of human rights and further study.

Implication for scholarship- First, it can add to the growth of CDA as a methodological approach in cultural studies as it makes the necessary connection between a language and its actual use in socio-cultural contexts. The results of this study, therefore, suggested a need to use CDA as a methodological approach in the study of socio-cultural practices. Second, it shows the potential of texts or discourses to convey multiple meanings. This implicates those researches on discourse studies need to be critical and should pay attention to the multiple meanings or the constructive effects of the institutional discourse under study. Third, it has pedagogical implication in the field of discourse and communication studies. This is to mean that the study could help us understand much more about how communicative behaviors of people in various contexts determine the nature of relationships they want to establish with their audiences and the communicative purpose they aim at.

Implication for advocacy of human rights- as the study attempted to unearth subtle discourse practices that maintain social inequalities, illegitimacies, and gender discriminations which all contravened to the principles of 1948 United Nations Declaration of Human Rights, it could possibly generate some implications that would be of interest to advocates of human rights. It contributes to advocacy of human rights as it provides a

platform on which civil society and academia can collaborate in highlighting human rights issues so as to enhance democratic governance in areas where traditional administrations are practiced.

Implications for further study- First, similar studies with larger corpus including homicide cases could refine the finding of this study. Hence, it is suggested that analysis of customary conflict management discourse on homicide cases could be taken as a potential area for further research. Second, within *Gurgura* clan, much more work remains to be done addressing the possibility of considerable diversity in relations between discourse and gender in other cultural contexts like weddings, mourning and family talk. Third, much more studies remain to be done addressing the constructive effects of conflict management discourse with reference to other clans of Ethiopian Somali.

Conflict of interest

The author declared that he has no conflict of interest

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