

## 10. Legal pluralism and Protestant Christianity

### From fine to forgiveness in an Aari community

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#### Introduction

For several years, the topic of legal pluralism in Ethiopia has been the subject of lively scholarly debate (e.g. Donovan and Getachew 2003, Pankhurst and Getachew 2008, Baker 2013, Girmachew 2015). In this chapter, I would like to contribute to this debate by offering a new perspective. My suggestion is that, at least in some parts of the country, there is a further actor in the legal arena that has hitherto been overlooked: Protestantism.

Legal pluralism is commonly defined as ‘a situation in which two or more legal systems coexist in the same social field’ (Merry 1988:870); with ‘legal system’ meaning both ‘the system of courts and judges supported by the state as well as non legal forms of normative ordering’ (Merry 1988:870, cf. Griffith 1986, Benda-Beckmann 2002, Berman 2009). In the Ethiopian case, interest in legal pluralism followed in the wake of the 1995 constitution, which provided ‘a clear recognition of the jurisdiction of customary and religious laws and courts in family and personal matters’ (Pankhurst and Getachew 2008b:6). So far, research has concentrated on examining the customary norms and legal procedures of the different ethno-cultural groups in Ethiopia, both as such and in their relation to the formal, state-organized legal system. In addition, some attention has been paid to Islamic jurisdiction, notably in the form of *Sharia* courts (Mohammed 2011, Berihun 2013, Girmachew 2018).

Protestantism, by contrast, has not yet received any attention. However, there are at least two reasons to think that Protestantism ought to be part of the debate. First, the number of Protestants in Ethiopia has increased massively over the past few decades, rising from 5.5 per cent in 1984 to 18.6 per cent (or 14 million people) in 2007. The majority of believers live in the Southern Nations, Nationalities and Peoples Region (SNNPR), where 55.5 per cent of the population (or 8.4 million people) are Protestant; followed by Oromia (4.8 million or 17.7 per cent). Indeed, with Ethiopia having ‘one of the fastest growing evangelical churches in the world’ (Anderson 2004:126), numbers are bound to increase even further. Second, Protestant Christianity, like Islam or Judaism, offers not only a set of substantive rules and

norms, but also stipulates procedures through which believers should deal with conflicts.

Taken together, these points suggest the importance of including Protestantism in the study of legal pluralism in Ethiopia. In this chapter, I take a first step in this direction, offering an ethnographic case study of legal pluralism in a southwest Ethiopian community, with a particular focus on the role of Protestantism. I show that in my field site, the Protestant church offers an alternative approach to dispute resolution to that of the state, and that, in fact, the Protestant approach, which privileges forgiveness over retribution, is increasingly informing the functioning of local formal judicial institutions.

The chapter is based on twenty-two months of fieldwork conducted between 2014 and 2017 in a rural southwest Ethiopian community called Dell. Dell is a *kebele* of SNNPR's South Aari *woreda* (district), located at about four hours walk into the mountains north of Jinka, the zonal capital. The roughly 4,000 inhabitants of Dell are ethnic Aari and speak Aaraf (on Aari see Jensen 1959, Naty 1992, Gebre 1995). People are subsistence agriculturalists and live in dispersed homesteads. Since 2010 a small village has emerged in the western part of Dell, next to the *kebele's* administrative buildings; it has been accessible by a 40-minute motorbike ride from the *woreda* capital at Gob (also known as Gazer) since 2014.

At the time of my fieldwork, about 60 per cent of the population in Dell were Protestants and 40 per cent were traditional believers. Conversion to Protestantism began in the late 1980s, accelerated in the early 2000s and continues today. The vast majority of Protestants in Dell belong to one of the three local branches of Ethiopia's largest evangelical church, Kale Heywet. In recent years, two small Pentecostal churches have also emerged, although these do not differ in terms of dispute resolution and will therefore not be treated separately. The 40 per cent of the population that have not converted are locally referred to as *alem*, Amharic for 'world'.<sup>1</sup> The term was originally introduced by the Protestants to signify 'non-believer', and has over time been adopted as self-designation by the non-Protestants. It is perhaps best translated as 'traditionalist', since the people who call themselves *alem* self-consciously follow what they consider to be 'tradition' (*karta*) or 'the ways of the ancestors'.

Both traditionalists and Protestants have their own modes of dispute resolution. These two approaches and their respective institutions coexist with the judicial institutions of the state. Formal courts have existed in Dell since the administrative unit of the *kebele* was first established by the Derg in 1975. While people used the formal courts from the beginning, their importance has clearly increased

1 The Aaraf spoken by people in Dell features many Amharic loanwords. In this chapter, both Aaraf and Amharic terms appear in italics; but when using an Amharic word for the first time, I indicate this in brackets: (Amh.).

over time. Today, when faced with a conflict, every person in Dell has to decide between two ways of addressing it. The traditionalists have to choose between what, following Pankhurst and Getachew (2008a: viii), I will call the 'customary mode of dispute resolution' on one hand, and formal litigation on the other. The Protestants, in turn, have to choose between the Protestant mode of dispute resolution and formal litigation.

In what follows, I will discuss customary, formal and Protestant ways of dealing with conflicts. The largest part of the chapter deals with the Protestant way, since the chapter's main aim is to make a case for taking Protestantism into account as a hitherto overlooked player in Ethiopian legal pluralism. However, some knowledge of both the customary and the formal approach is required in order to understand the specificity of the Protestant approach to conflicts. My description of these approaches will be rather brief both because of the demands of limited space and because it seems justified since customary and formal legal institutions in Dell do not – in their broad logics – strongly differ from their counterparts elsewhere in Ethiopia, which have already been described quite extensively in the literature.

## Legal forums in Dell

### Customary dispute resolution

To understand the customary mode of dispute resolution, some knowledge of traditional social organization is required. Dell forms part of Baaka, one of nine Aari kingdoms. While Baaka lost its political independence with incorporation into the Ethiopian empire in the early twentieth century, it has retained its ritual significance. Baaka is headed by a hereditary ritual king (*babi*), who is assisted by a group of hereditary ritual specialists (*godmi*) in guaranteeing the fertility and well-being of the land and its people. There are two exogamous moieties, each of which is composed of numerous patrilineages; and each lineage is headed by a so-called *toidi*, who carries out rituals on behalf of his junior kin. Relations between seniors and juniors are strictly hierarchical; and those higher up in the hierarchy are thought to be able to bless or curse those further down. The hierarchy characteristic of traditional social organization also plays an important role in the customary mode of dispute resolution.

This customary mode of dispute resolution is called *k'esh*. *K'esh* refers to a process aimed at finding an agreement between conflicting parties and restoring peaceful relations among them. It is therefore best translated as 'reconciliation'. *K'esh* is done for conflicts of every magnitude, ranging from minor quarrels between spouses to land or property disputes to adultery and homicide. The men – and it is only men – charged with leading the negotiations are referred to as *galta*

(elders) and are selected depending on the nature of the case. Conflicts between members of the same household or lineage are commonly dealt with by their lineage head, who may sometimes also call elders from related lineages considered as ritual helpers (*geta*). In case of conflict between people of different lineages, respected men unrelated to either of the opponents are usually chosen as *galta*. In more serious cases, such as adultery or where there has been bloodshed, cases are taken to the *zia*, the local representative of the ritual king, who will call upon other high-ranking elders to assist him with arbitrating. The most severe cases, especially homicide, may also see the involvement of a high-ranking *godmi* (ritual specialist).

In every case, the *galta* begin by hearing the two sides and then make further inquiries, sometimes among witnesses. The aim here is to gain a clear understanding of the offence (*dax'iksi*) that has been committed. Sometimes, a perpetrator will openly and from the outset acknowledge (*buts*) his or her wrongdoing; in other cases such an acknowledgement is only obtained in the course of the hearing and under pressure from the elders. In all cases, an admission of guilt is necessary for *k'esh* to be possible;<sup>2</sup> only once it has been obtained does the work of reconciliation proper begin.

Here, it is useful to distinguish four techniques or practices through which the imbalance created by the offence is redressed: humiliation, compensation, purification and commensality. Each of these practices features in every instance of *k'esh*, taking on a more or less elaborate form depending on the magnitude of the conflict.

(1) The first key element of reconciliation is the humiliation of the offender; with 'humiliation' defined as 'rendering humble' (rather than 'shaming' or 'disgracing'). This needs to be understood against the background that people in Dell frame most transgressions in terms of disrespect – of one person 'belittling' (*toksi*) another by treating them as 'smaller' than they can rightfully expect to be treated. During *k'esh* this belittlement is redressed by way of inversion: the offender humbles himself before the victim by displaying signs of inferiority – being submissive, displaying fear (*bashi*), addressing the other with honorific titles, clutching the other's knee, putting grass on his own head etc. The victim, in turn, will participate in the humiliation of the offender by acting for a while as if unwilling to agree to a settlement. This forces the offender to beg (*miks*) more strongly by displaying even clearer signs of humility.

2 Where a defendant continues to deny the charge, the plaintiff can either take the case to the formal system or, remaining within the customary system, take the case to a *godmi* living on the eastern boundary of Dell. The *godmi* is able to bring out the truth by way of letting the disputants testify before making them drink water which is thought to make ill or kill anyone who has testified falsely.

(2) Compensation is the second key principle of *k'esh*. The plaintiff commonly requests a certain amount of compensation, but ultimately the elders decide the amount to be given. Compensation can range from a small sum of money or a litre of alcohol, to a sheep or several heads of cattle (or an equivalent sum of money). It is important to note that, while victims often do take compensation, they may also refuse it for the sake of social harmony. In one homicide case, for instance, the kin of the victim refused to take the virgin girl and ten heads of cattle that had been agreed as compensation. They argued that the two lineages had previously intermarried and that to normalize their affinal relations it would be better to be magnanimous and not take what was rightfully theirs. Similarly, there are instances – such as stray livestock damaging crops – where compensation is agreed but both sides work with the tacit understanding that it will not really be paid.

(3) Most conflicts and transgressions are thought to produce either pollution or a sort of heat in the disputants' stomach (*norti*, the locus of feelings), which will lead to harm if unremedied by purification. Purification can take numerous forms, ranging from small acts, such as a lineage head throwing grass into the granaries of a household where spouses have quarrelled over the distribution of grain, to large rituals, such as two lineages washing their hands in the blood of a bisected sheep to overcome enmity after homicide. But the most basic form of purification, used in almost every reconciliation, is the drinking of purifying water which washes away the pollution or heat and brings 'coolness' (*shimma*), and which, together with the pronouncement of 'forgiveness' (*negane*), marks the penultimate step in the reconciliation process.

(4) The final step is commensality between the disputants and the elders. Drink and food need to be provided by the offender, who thus incurs expenses even when the victim does not take compensation. In a very immediate way, commensality marks the end of hostility, since the parties in dispute refrain from eating together until reconciliation has been achieved – not least because eating together before reconciliation is thought to entail illness or even death.

## Formal litigation

If *k'esh* denotes customary dispute resolution, *kisi* (Amharic 'lawsuit') is the term people in Dell use for the process of dealing with disputes through state institutions. Contrary to *k'esh*, which is about reconciliation, *kisi* is locally understood as being more antagonistic. Why this is the case and why people file lawsuits nonetheless is one of the questions addressed in this section.

There are two levels at which people can sue others in Dell: the level of the 'cell' (local people use the English term) and that of the *kebele*. Dell *kebele* is subdivided into sixteen so-called cells, each of which groups together between thirty-five and fifty households from one neighbourhood. The cells were first formed in

2006. Officially, they are party organizations of the EPRDF, Ethiopia's ruling political coalition. In practice, however, people consider the cells as part of the state apparatus – they belong to the realm of the *mengist* (Amharic 'government') no less than the *kebele* or the *woreda*.<sup>3</sup> As well as carrying out public works, the different cells assemble on one morning each week at their respective meeting grounds. At these meetings, court hearings take place, with the cell's three leaders acting as judges (*danya* [Amharic]). Issues commonly dealt with include domestic conflicts, petty theft, unreturned loans and disturbances. Usually cases concern members of the same cell, although it is possible to sue outsiders by going to their cell. Cases that remain unresolved in the cell or that fall outside its jurisdiction are referred to the *kebele*.

The *kebele* has two courts and one *komitee* (committee) for dealing with legal issues, all of which operate on Wednesdays and Fridays: the *meret komitee* (Amh.) for land disputes; the *mahberawi firdebet* (Amh.) or Social Court for property and monetary claims; and the *wana firdebet* (Amh.) or Main Court. The first two refer more serious cases to the Main Court, which also deals with matters like adultery, divorce and fights involving bloodshed. The Main Court, whose judges are the five main *kebele* leaders, is the highest court at the *kebele* level and it alone is able to refer cases upward to the *woreda*. No matter at which level litigation takes place, there are three possible outcomes: (i) the respective court passes its own judgement; (ii) the court asks people to deal with the case through *k'esh* and then notify it about the agreement reached; (iii) if neither of these works – for example, because one party does not consent to doing *k'esh* – the case can be referred to the next highest level.

Judgements are usually passed in those cases where the evidence is clear and where the damage done can be easily assessed. For instance, in one case, where a man had beaten up his wife, the cell ruled that he had to give her the money she had spent on going to hospital, and pay a fine to the cell. In another case, the judges of the Social Court ruled that a defaulting debtor had to repay his loan with interest. In a third case, where one man had sued another for injuring him with a stone while they carried out public works together, the Main Court found the accused not guilty, arguing that he had not hurt the other with intent.

In many cases, however, disputants are asked to solve their conflict by way of *k'esh*. There are two main reasons for this. First, cell and *kebele* courts lack the capacity to deal with every case presented to them; and asking people to do *k'esh* is a way of reducing caseload. Second, having no legal training whatsoever, cell and *kebele* judges are aware that they lack detailed knowledge of state law and therefore, in some cases, might not make adequate or legally binding judgements.

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3 For similar observations from elsewhere in Ethiopia see Vaughan and Tronvoll 2003:41.

In one case, for instance, an unmarried woman who had become pregnant by a married man sued him for alimony. Her original demand had been that he marries her, but the Main Court judge told her that the law did not permit a man to take a second wife and that a monthly support should be paid instead. He went on to say that the *kebele* court was unable to decide the amount of alimony to be paid, and that the woman would have to go to the *woreda* court to get a decision. Pointing to the costs of this, the judge proposed *k'esh* as an alternative. For this, both sides selected elders, and negotiations took place outside the court building. After an hour, the disputants reported back to the judge that it had been agreed that the man would pay 50 Birr and 3 *tassa* (c. 2.5 kg) of grain each month. This agreement was written down by the judge, who also included a clause stipulating that the man would have to pay a 500 Birr fine to the *kebele* should he fail to stick to the agreement. The document was signed by thumbprint by both parties. Finally, the judge decreed that the man had to immediately pay a 150 Birr fine (*zera* [Amh.]) to the *kebele* for having failed to support the woman as had been agreed between them orally at the time of the child's birth.

As this example shows, people who sue others in court often end up being asked to deal with their conflict through out-of-court negotiations. These out-of-court negotiations are – like the customary mode of dispute resolution – referred to as *k'esh*. Contrary to customary *k'esh*, however, this latter kind of *k'esh* does little to diminish the antagonism between the disputants. This is for two reasons. Firstly, *k'esh* done on the recommendation of a judge commonly only deals with questions of compensation. It does not feature the other three elements of customary *k'esh* – humiliation, purification, commensality – and therefore is not as reconciliatory. As people often put it, this kind of *k'esh* is 'done just with the mouth' (*gurri afak*) and not 'truly from the stomach' (*dofen norti girank*). Secondly, the court is always notified about the agreement reached, which is written down and commonly includes a threat of punishment for repeated infringement. Beyond that, virtually every case ends with the offender having to pay a fine, which varies with the magnitude of the offence, from 50 Birr for minor cases to 5000 Birr for adultery.<sup>4</sup> Fines – often linked to one-day imprisonment – are the main punishments (*k'itat* [Amh.]) dealt out by local courts, and it is the inevitability of these fines that makes taking someone to court such an antagonistic move.<sup>5</sup>

4 The courts have a strong institutional interest in imposing fines because fines are the main source of income for the cells and the *kebele*. It is also true that, while one part of the fines is used to finance the operation of these institutions, another part goes to the judges, who – not receiving any remuneration for their work – take them in lieu of a salary.

5 As one reviewer has pointed out, in many other Ethiopian societies, rituals of reconciliation and purification may be done even after a case has been settled in court. In principle, this also applies for Dell, in particular for serious crimes like homicide, where it is felt that communal life would be impossible unless the punishment imposed by the court was complemented

Given that reconciliation and the restoration of peaceful relations have traditionally been important values in Dell, why do people sometimes take the antagonistic step of suing someone in court? There are several reasons. Firstly, there are cases where an offender refuses to do *k'esh* and openly challenges the claimant to sue him. Secondly, some groups in local society, especially women and craftworkers (*mana*), feel disadvantaged by the male-dominated customary mode of dispute resolution. Thirdly, for these groups in particular, but also more generally, it seems that one can get a higher compensation by going to court than by solving a case through customary *k'esh* because one has more bargaining power. A final reason relates to the fact that customary *k'esh* does not have any developed notion of punishment (*k'itat*), whereas punishment – in the form of fines and short-term imprisonment – is central to the formal system. When asked why they had taken someone to court, several people explained that they hoped that the punishment would deter the offender from repeating their offence. There also exist cases where the plaintiff's main desire is to see their opponent fined out of a belief that one's enemy's loss is one's own gain.

The perception locally is that people now use the formal judicial system much more frequently than in the past; and during my fieldwork I heard many complaints about the fact that 'these days' people even sue their parents, and brothers go to court. This assessment is not free of romanticism. On closer examination, it turns out that the purportedly better past also had its cases of litigation among kin. Yet, it would be wrong to simply dismiss the emic analysis. In a context of progressive land scarcity and intensified competition for economic 'growth' (*gabinti*), conflicts touching on money and property in particular have increased, and so have the perceived costs of peaceful reconciliation. It is not least against this background of increased litigation that the Protestant message of unconditional forgiveness needs to be understood.

### Protestant dispute resolution

In Dell, the Protestant mode of dispute resolution is shaped by the key local Protestant value of forgiveness (*negane*). Protestants in Dell regularly make use of a number of Bible passages to promote this value; the most frequently cited one is Matthew 6:14-15:

If you forgive others the wrongs they have done to you, your Father in heaven will also forgive you. But if you do not forgive others, then your Father will not forgive the wrongs you have done.

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by reconciliation. In many other, less dramatic cases, however, rituals of reconciliation do not follow settlement in court and latent antagonism thus remains.

The Protestant logic of forgiveness stands in utmost contrast to the logic of formal litigation. And while *negane* is a concept that also plays a role in the customary mode of dispute resolution, the Protestant and the customary understandings of the concept differ starkly, as do the respective modes of dispute resolution, as I show in the following.

This section, then, explores the differences between customary, state and Protestant ways of dealing with conflicts by taking an in-depth look at the latter. Additionally, it looks at the personal, institutional and ideological factors that move people to employ the Protestant mode. As a way into my discussion, let me offer a case that exemplifies some key characteristics of Protestant dispute resolution.

One day when passing by his field in the morning, Mathos<sup>6</sup> saw two large oxen belonging to his neighbour Elias. The oxen had broken free from where Elias had tethered them the previous evening, and had spent the night feeding on Mathos' ripening maize, causing considerable damage. Mathos dragged the oxen out of his field and tethered them securely by the wayside. Early the next morning, Elias went to Mathos house. He was accompanied by two Protestant men, whom he had asked to act as his *galta* (elders). One of the *galta* began with an apology for only coming after a whole day had elapsed. He explained that Elias had gone to town the previous day and had only heard about the troubles when he returned in the evening. Mathos calmly replied that it wasn't a problem at all, and that he had trusted Elias to come. Then, Elias spoke about how very sorry he was for what had happened, and how much it 'burnt inside his stomach' to see his neighbour's maize devastated. He also offered to bring Mathos some dried maize in compensation. At this point, however, Mathos gently interrupted him by clearing his throat to indicate that he would now speak himself. He began by asserting that they were all believers in God, and that the Bible demanded that you 'not make your brother pay' (*indapsi antam ay kashishka*).<sup>7</sup> He went on to say that he didn't doubt that God would find a way to feed his family, and that he was willing to forgive Elias freely and without further ado. Thereupon, one of the elders asked the two to 'take confession' (*nisah teykate*). Rising to his feet, Elias gave a condensed account of what had happened, stated that he had 'made his brother sad' and asked for God's and Mathos's forgiveness. In response, everyone including Mathos waved their hands over Elias, saying '*sabi an negane!*' ('May God forgive you!').

6 All personal names are pseudonyms.

7 The term 'brother' is part of an idiom of spiritual kinship; in reality Elias and Mathos are unrelated.

Then Mathos himself got to his feet, gave a similarly condensed account, noted that he had become sad on first seeing the damaged crops, and asked God's forgiveness for this sadness. Like Elias before him, Mathos then bowed and everyone waved their hands over him, calling out 'May God forgive you!' The reconciliation was thus officially concluded and, after one of the elders had spoken a prayer, the elders and Elias left. (Summary of fieldnotes, 2 August 2016)

The case of Mathos and Elias exemplifies a number of characteristics of the Protestant mode of dispute resolution that, in the following, will be drawn out through a comparison with how a similar case would be handled in the formal or the customary mode.

To begin with, Mathos did not take the opportunity to take Elias' oxen to the *kebele*, that is, he decided not to use the formal system. This would have been a way of punishing Elias, since Elias would have had to pay money to the *kebele* to ransom his oxen. Such antagonistic moves are sometimes made by people in Dell, but they are prohibited to Protestants since they would violate the principle of not making others pay.

Secondly, it is noteworthy that no assessment of the damage was made, even though the damage was considerable. In the customary mode, such an assessment (*gemet* [Amh.]) is always made, and the elders subsequently state approximately how much grain has been lost. There is usually a tacit understanding that compensation will not really be paid, but people use the assessment for mental accounting, and might in a future conflict make use of this knowledge. Moreover, verbalizing how much has been lost helps in the humiliation of the offender, since it increases the pressure on the latter to submissively beg the injured party (see above).

In Mathos' case, humiliation is conspicuously absent; and this is a third key distinctive feature of Protestant dispute resolution. While Elias humbly apologizes for the damage done by his oxen, Mathos in no way exploits the fact that his property was damaged or that Elias only came to apologize one day after the event. Rather than blustering and being unconciliatory so as to force Elias into acting submissively, Mathos himself acts in a humble way. Behind this attitude is the local Protestant idea that the one who has been damaged or otherwise wronged is as much in need of forgiveness (and thus of humility) as the offender, because 'becoming sad' – for example, about losing crops – is no less sinful than 'making someone sad'. Hence, in the end, both Elias and Mathos ask God's forgiveness.

Finally, it is also characteristic of Protestant *k'esh* that the offender is not required to provide drink or food. Rather than engage in commensality, as would be done in the customary mode, Elias and the elders quickly leave once reconciliation has been achieved. The eschewal of demands for food and drink is partly motivated by the notion of 'not making others pay', but an idea of divine blessings is also at

play. Protestants in Dell believe that God rewards people with blessings (*anje*) if they forgive freely or freely help others to solve their conflicts. Mathos and the elders would have lost their entitlement to divine blessings by asking Elias for food, since their forgiveness and help would no longer have qualified as 'free'.<sup>8</sup>

The requirement to forgive freely applies in all cases where damage is caused involuntarily – no matter how great the damage. For instance, during my time in the field, one man lost two of his four oxen when they were gored to death by another man's bull. The enormity of the loss notwithstanding, church leaders urged the man not to ask compensation and, after some inner struggle, he agreed to this.

At this point it is important to note that, where damage was caused involuntarily, forgiveness is not merely a recommendation. Rather, it is a duty backed up by a threat of divine punishment (*sabite gami*) – a threat, which is very real to Protestants in Dell. Protestants frequently cite the case of Angri's horse to illustrate the reality of this threat. Some years ago, Angri's horse died after being kicked by another man's horse. Angri, despite being Protestant, did what would be done in the customary mode: he took the other man's horse as compensation. Soon after, however, Angri's hut was destroyed by fire, and a little later he suffered the death of a child. These troubles were interpreted as divine punishment for having taken compensation. It was only when he returned the horse and asked God's forgiveness – or so people in Dell say – that Angri's luck improved.

Cases where damage was caused involuntarily are distinguished from conflicts resulting from intentional action. While forgiveness is mandatory in the former case, it is virtuous but not strictly required in the latter case, as can be seen in the following case. The case at the same time allows me to introduce a second Protestant setting for dispute resolution: taking a case to the church leaders rather than gathering elders and going to another person's house for *k'esh*.

Every Tuesday evening, the leaders of Dell *Kale Heywet* church assemble for their weekly meeting. The evening begins with a service, celebrated in the intimacy of the leaders' assembly room. Afterwards, church business is conducted, and then the leaders turn to dealing with conflicts brought to them by church members. On one evening in May 2017, two men – Mangi and Ali – turned up and asked the leaders for help with solving a conflict that had been smouldering for weeks.

The two men had share-cropped together for several years. Using a common type of share-cropping arrangement (called *kotsa*), Mangi provided the field and Ali

8 Note also that Protestantism in Dell does not place high value on commensality. Contrary to what traditionalists assume, local Protestantism does not consider commensality necessary for (re)producing relations. Rather, it is thought that believers are already related in and through Christ, and that this relatedness is more profound than any relatedness that could be produced by worldly means like commensality.

provided seeds and the bulk of the labour, and each year they divided the harvest equally. Recently, however, Mangi had announced that he would stop working *kotsa* with Ali because he needed the field for his own purposes. Ali was unhappy about this decision and asked Mangi to give him 300 Birr. He reasoned that he had a right to this money because, when they first negotiated their share-cropping arrangement, Mangi (who at that time was in need of money) had asked Ali to pay 300 Birr as a sort of entry fee and had promised to pay back the money once their cooperation ended. Now, however, Mangi refused to return the money to Ali, arguing that they had worked together for several years, and that Ali (who had very little land of his own) had greatly benefited from their partnership, so that the money had effectively already been repaid.

After each side had presented its point of view, one of the church leaders rose to speak. In a way typical of Protestant dispute resolutions, he began in very general terms: 'God's Holy Word tells us to not fight with each other. So abandon your fight and live together in peace and love... What is dividing you, are but things of the flesh – things that will remain behind on earth [i.e. cannot be taken to Heaven]... God blesses the one who forgives.' As these exhortations moved neither of the disputants to give in, another of the leaders then started to gently urge them to compromise. Both of them had a point, he asserted. Ali was right to claim back the money if that was what had originally been agreed. But Mangi was also right to observe that Ali had profited a lot from their cooperation. These days, he noted, it was not uncommon for field-owners to terminate share-cropping agreements after only a year or two, at a point when the partner had hardly recovered his original investment in seeds. Mangi, by contrast, had worked faithfully with Ali for several years, and so Ali had gained more than he could initially have hoped for. After the leader had gone on in this way for some minutes, Mangi – adopting a conciliatory attitude – said that Ali had been a good partner, that he was grateful for the economic success they had had together, that he did not want there to be any resentment between them and that he therefore offered to give Ali 150 Birr. Thanking him for this offer, the church leader turned to Ali and urged him to content himself with this offer rather than to take the case to the *kebele* court to sue for the full 300 Birr. Still somewhat disgruntled, but bowing to the leader's authority, Ali agreed to this. The two disputants were then asked to take confession (*nisah* [Amh.]) and to speak 'truly from their stomach' if they harboured any other ill feelings.

As it turned out, there was another issue. In his *nisah*, which followed Mangi's, Ali recounted how, two or three years ago, the onions had not grown well and Mangi's wife had hinted that someone with the 'evil eye' (*afi*) might be responsible for the poor growth. She had said this in a way that made Ali feel that she suspected him. 'No one has ever accused me of being *aish* [person with the evil eye]', Ali told the church leaders, 'but this woman [pointing to Mangi's wife, who

had come along to the dispute resolution] is always belittling me because I am poor.' After Ali had finished his confession, asking forgiveness for having become sad about both Mangi and his wife, the latter was asked by a church leader to take confession herself since she was also implicated in the conflict. She did so, saying that she had not meant to imply Ali had given the onions the evil eye, that she was sorry if it had come across that way and that she asked Ali's forgiveness. With this apology the confessions ended; and Mangi and Ali, as well as Ali and Mangi's wife, were asked to hug each other. With a prayer the case was then laid to rest, and the church leaders called in the next two disputants. (Summary of fieldnotes, 23 May 2017)

The conflict between Mangi and Ali differs from that between Mathos and Elias inasmuch as there is no clear-cut requirement for either of them to freely forgive the other. As one of the church leaders points out, forgiving would be virtuous and divinely rewarded; and it is imaginable that more committed believers might have solved the issue that way, with one paying the 300 Birr or the other abandoning his claim. But in Mangi and Ali's case, neither of the two was ready to back down so the church leaders had to negotiate a compromise between them.

Given their initial unwillingness to give in, one may well ask why they did not take their conflict to a formal court. Addressing this question allows us to take a closer look at the factors that move people to solve their conflicts through Protestant rather than through state institutions, and also brings to light further specifics of the Protestant mode of dispute resolution.

The first, straightforward answer to why Mangi and Ali avoided court is that the church in Dell prohibits its members from going to court. Given that courts inevitably impose fines (see above), filing a lawsuit against someone is seen as equivalent to 'making him pay', which is impermissible for a Protestant. As one church leader put it to me: 'The Bible tells us to not give our brother to the hyena; but the government will always make you pay.' Hence, the church's prohibition. Moreover, drawing inspiration from 1 Corinthians 6:1–6, the church holds that believers suing each other would set a poor example for outsiders. By solving their conflicts through the church, Protestants can instead impress unbelievers with the peacefulness of their religion.

Under certain conditions the church will give permission for someone to go to court.<sup>9</sup> But anyone who goes to court without having first asked permission will

9 Among others, this may happen in the case of a conflict between a Protestant and a non-Protestant, if the latter does not agree that the case can be handled by the church. Note, however, that non-Protestants do sometimes agree to the church handling a conflict, because church leaders have a reputation for being excellent at reconciling people. According to my informants, the only cases that would not be handled by the church, but would directly be referred to the formal system, are homicide cases.

be punished with *dakri*. Literally translatable as ‘tying’ (the same term, indeed, as the one used for ‘imprisonment’ in the *kebele* prison), *dakri* means that a person is banned from active religious participation (praying out loud, singing in a choir etc.) for a specified number of months. Should the person die without first having been ‘untied’ (*bul*), i.e. absolved, their soul is believed to go to hell.

On top of the church’s threat of disciplinary action, there is the threat of social disapproval. As I have said above, forgiveness and peacefulness are key values for Protestants in Dell, and the violation of these values elicits much gossip and disapprobation. Therefore, those who care about being considered good Protestants have to solve their conflicts without recourse to the formal system.

Alongside these negative incentives that deter Protestants from going to court, there are also positive aspects of the religious mode of dispute resolution that Protestants in Dell find attractive. To begin with, solving a case through the church has economic advantages. For both parties it saves a lot of time, since formal lawsuits often drag on for several weeks, with people spending hours waiting in front of the court house, or being asked by judges to return the following week. In church, by contrast, cases are usually solved in one evening. For the offender – or the one who is more likely to be found guilty – it is also financially advantageous to settle the case in church. Although, as we have seen in Mangi’s case, Protestant dispute resolution may involve compensation payments, these are usually lower than those agreed in the context of litigation. This is because there is a moral expectation – embodied by the church leaders – that the claimant compromise at least a little bit. Thus, in the above case, Ali agreed to content himself with 150 Birr rather than to demand the full 300 Birr originally requested.

More importantly, the church unlike the formal courts – does not levy any fees or fines. This, of course, is hugely advantageous to the offender. But the absence of fees also means cost benefits for the claimant, since filing a lawsuit in the *kebele* requires paying a fee for ‘opening a dossier’ (*dosi pots*) and, in some cases, for sending a *militia* (auxiliary policeman) to seize the defendant.<sup>10</sup> The church’s refusal to levy fees and fines is not only a matter of religious principle. Unlike the *kebele*, which is financially dependent on collecting fines (see footnote 4), the church is financed through members’ tithes. Hence, the operational costs of the church’s forum for dispute resolution – notably the food served to church leaders after a long evening of arbitration – need not be covered by the disputants. Likewise, the church leaders have no personal interest in imposing fines, even though they are unpaid volunteers. They conceive of their work as a service to God (*sabite woni*), which will be rewarded with divine blessings if carried out freely.

10 Note also that costs of litigation increase massively for the claimant should the case be referred to the *woreda*: according to people in Dell, *woreda* judges do not consider cases without first having been bribed.

Aside from the locally perceived cost and time-saving advantages of solving conflicts through the church, another – even more meaningful – advantage relates to social harmony. It is true that there is a culture in Dell of exhibiting one's greatness or 'heaviness' (*detsmi*) through self-assertive and feisty behaviour, with litigation being one means to this end. At the same time, however, many people also have a genuine interest in maintaining respectful and harmonious relationships with their surroundings. As was often explained to me, life in a small place like Dell becomes awkward and unbearable if one has to avoid someone. Thus, the Protestant mode of dispute resolution's peacefulness and capacity to repair damaged relations makes it attractive. This concern with overcoming hostility and recreating harmony is readily perceptible in the atmosphere of Protestant *k'esh*. Both church leaders and disputants speak softly, often with humbly downcast eyes, and there is none of the yelling and cursing typical of cell or *kebele* court hearings. Furthermore, as Ali's confession in the case above exemplifies, the Protestant principle that people may only ask or grant forgiveness after having confessed *all* the ill feelings they harbour toward their opponent, even though these may not directly relate to the case, can bring to light further conflicts, which then become the subject of reconciliation efforts. In this way, the Protestant mode of dispute resolution is able to repair social relationships in a very comprehensive way. And this, I would suggest, is one of the key things people cherish about it.

## Protestantism's impact on the formal system

In the previous section, we encountered the church's demand that conflicts be solved through the Protestant mode of dispute resolution, rather than by the formal judicial system. Not every church member, of course, follows this rule: cases exist where Protestants have demanded compensation where they ought to have forgiven freely or have gone to court without the church's permission. Yet, even though they may sometimes fail, and even though it may not always feel easy, most Protestants in Dell do genuinely try to forgive or compromise most of the time. With 60 per cent of the population in Dell currently Protestant, the church is clearly an important player in the local legal arena, providing a much-used alternative mode for dealing with conflicts. However, Protestantism's impact on legal life in Dell goes even further. Beyond offering a mere 'alternative', there is an observable tendency for Protestantism to also affect the way in which the local formal system operates. In short, one could speak of a 'Protestantization' or – to use a slightly less awkward term – 'Christianization' of local courts.

To spell out this point, I need to begin by explaining how local state institutions, including cell and *kebele* courts are staffed. All people who work in state institutions in Dell are locals. They do not get a salary, and work is quite time-consuming.

Consequently, hardly anyone is keen to work in these institutions. However, once appointed to office,<sup>11</sup> one is obliged to do the job. Starting in the early 2000s, when a Protestant was appointed as *kebele* chairperson for the first time, the number of Protestants working in local state institutions has increased rapidly. Indeed, since around 2013, all *kebele* staff have been Protestant. At cell level, too, Protestants are clearly over-represented, although there remain a few cells in which the leaders are predominantly 'traditionalist'. The over-representation of Protestants in local state institutions is due to the understanding – shared by 'traditionalists' – that Protestants are better suited to these kinds of job because they don't drink alcohol, do subscribe to ideals like punctuality and industriousness, and are often literate.

The observation that almost all local officials are Protestant raises an important question. Given that the Protestant mode of dispute resolution is deeply opposed to the formal approach, how do Protestant cell or *kebele* staff deal with this contradiction? How, that is, do Protestant officials reconcile belonging to a religion that demands forgiveness with working in judicial institutions that convict and punish people?

More than an anthropologist's musing, this is a burning question for at least some of the local judges. As one of my interlocutors, a middle-aged man by the name of Simon, who had recently ended his term as judge in the *kebele* Social Court, told me:

On us Protestants, work in the *kebele* weighs very heavily. God says 'Do not judge!' (*ay berimka*), but the government says 'Beat!'<sup>12</sup> Fine! Imprison!' (*gika, kashka, dak-erka*) ... After my election, I pleaded with God. I told Him that this work [as judge] clashed with His Word, and I prayed and prayed that God would relieve me from my office. I also asked the church leaders to pray on my behalf, and now, finally [after five years], my prayer has been answered and God has removed me from this heathen work (*aysafte woni*). (Interview, 4 March 2017)

Having told me how God had extricated him, Simon went on to talk in more detail about the dilemmas he had faced in his work. One issue was beating suspects to extort a confession, as Simon explained: 'The Bible does not give us authority to beat others. All people have been created by God and one may not beat God's creatures. So when acting as a judge, I did not permit beatings.' Oaths were another problematic point. Courts in Dell frequently make disputants or witnesses testify under oath (*tsha'x'a*), on the assumption that false testimonies may result in supernatural punishment, including death. But, as Simon asserted:

11 Appointment is either through the '*kebele* parliament' (composed of 200 local people) or by higher-level officials.

12 Note that Ethiopian law does not allow suspects to be beaten. In reality, however, beatings do happen and thus local people may come to the understanding that beating is an officially sanctioned practice.

God says, 'Don't make others swear oaths'. I had read that in Matthew's Gospel. I was very afraid. You know, these oaths have the power to kill people. But if someone died after I had made him swear, God would punish me. So I said I wouldn't make people swear. Although this may be the way of the government, I will not follow it. The government rules over the flesh, but as a Protestant I need to look after my soul. I need to save my soul – I need salvation for myself, do I not? (Interview, 4 March 2017)

Simon's account shows two things. First, it reveals how seriously he had reflected on what it meant to work as a Protestant in state institutions. The problem, as he sees it, is that by using certain procedures typical of the local formal system (e.g. requiring people to swear oaths), he may be committing sin. This means nothing less than to imperil the salvation of his soul. Second, it is clear that Simon had not only reflected on this problem but had taken practical steps to mitigate against it. Driven by anxiety over salvation, he decided that he would conduct court business without recourse to beating or oath-taking. In other words, Simon introduced a small change to how the Social Court worked in order to make it less opposed to Protestant values. Of course, the change was not very substantial and may not be adopted by other judges. Yet, it is noteworthy because it fits into a broader pattern, composed of similar subtle changes, introduced by other Protestant officials. Some further examples will help to substantiate this point. The first example concerns a case that occurred some years prior to my fieldwork. It was related to me by Petrus, who was vice-chairperson of the *kebele* at the time of the case.

The *kebele* Main Court at that time had repeatedly dealt with a man who regularly beat his wife. The man was a drunkard and the beatings always happened when he was intoxicated. An agreement was signed that he would pay a 200 Birr fine to the *kebele* should he repeat his offence. Before long, however, his battered wife once again appeared before the Main Court. A *militia* was sent out to seize the man who admitted to the offence. Petrus, who was presiding over the court that day, pointed out to the man that he would never stop beating his wife and paying fines to the *kebele* if he did not give up alcohol. He then proposed to him that he should become Protestant (which is locally deemed the best way to stop drinking); and proposed that he would not have to pay the infringement fine of 200 Birr if he converted. The man agreed to convert on the spot; and it was the judge Petrus who then went with him through the declaration of faith required to become a Protestant. Indeed, eager to demonstrate to the new convert the brotherliness that reigns among believers, Petrus not only did not impose a fine but actually paid the 20 Birr fee that the man would have had to pay to the *militia* who had gone to fetch him. 'You are a child of God, now', Petrus recounted having

said to the man, 'so I will pay for you.' Ever since – and to the satisfaction of his wife – the man has been a Protestant. (Summary of an interview, 12 July 2017)

This example, like the previous one, shows how a Protestant logic is introduced into the formal system. Rather than imposing a fine, Petrus dealt with the violent drunkard by way of forgiveness. Indeed, by making conversion a precondition for forgiveness, Petrus – from his point of view – not only respected God's command to not make others pay but also realized the Protestant value of making converts. In this example, too, then, personal religious convictions find their way into the mode of operation of public institutions.

This colouring of public institutions by religion can be seen in the cells too. In some areas of the *kebele* – namely in those located at some distance from a church – the concentration of Protestants is lower than in other areas. Therefore, since cells bring together people from one area, some cells are – both in terms of members and leadership – predominantly Protestant while others are predominantly traditionalist (although no cell is entirely homogeneous). It is commonly understood among people in Dell that this difference is reflected in the legal life of the respective cells. As people repeatedly pointed out to me, and as I observed myself, 'there is not a lot of fines' (*kashi beday*) in Protestant-majority cells; whereas in traditionalist cells fines are common. The reason for this is that Protestant cell leaders, when acting as judges in the cell court, urge disputants to solve their conflicts peacefully through confession (*nisah*) and forgiveness, and without payment. By contrast, in traditionalist cells there is a stronger impulse to impose fines. This is because such cells lack the Protestant concern with 'not making others pay', but also because they believe that commensality is an important part of dispute resolution. Consequently, it is common in traditionalist cells for parts of the fines imposed on the offender to go towards *hisbint dassken*. Roughly translatable as 'helping people up', *hisbint dassken* means that the offender has to provide food and drink for all cell members, who will not leave the cell's meeting ground until they have eaten.

One way in which Protestant logic is introduced into the cell, then, is through the judges' personal religious convictions. However, I have also observed cases, such as the following one, where the church directly influenced proceedings.

One Wednesday morning in March 2017, the cell, the meeting of which I regularly attended, dealt with the case of Doba's dog. Some days before, a sheep belonging to a man called Gizo, had been found dead, torn apart by what was suspected to have been a dog. Gizo had then set a trap and, a day later, had indeed found a dog caught in the trap – Doba's dog. Bigger than any other dog in the area, and known for its voracity, everyone agreed that this must have been the dog that had killed Gizo's sheep. After some discussion, the cell leaders granted Gizo's claim for compensation. Doba's own sheep had recently given birth to twins, and it was decided that – after raising them for a while – Doba was to give the two lambs

to Gizo. A couple of weeks later, during another cell meeting, Gizo angrily told the cell leaders that, according to Doba, one of the lambs had died. However, no one had seen the carcass, which Doba claimed to have buried quickly, so Gizo alleged that Doba had secretly sold the lamb. The cell judges once again sided with Gizo, ordering Doba to pay 300 Birr to Gizo as a substitute for the lamb. Doba was deeply angered by this decision and exclaimed before the whole cell, 'Oh, God! How is it that my nephew deceitfully makes me pay?' (Gizo and Doba were indeed not only members of the same Protestant church, but Gizo was also Doba's sister's son.) Soon after the meeting at which Doba had to pay 300 Birr, Gizo fell very ill, and this illness coincided with the sudden death of two of his sheep. He called the church leaders to pray for his healing. As is normal on such occasions, the leaders asked him to reflect on possible sins, and Gizo mentioned the issue with Doba. For the church leaders, Gizo's illness was a clear case of divine punishment for having sued Doba in the cell rather than having solved the issue the Protestant way – an offence aggravated by the fact that Doba was Gizo's mother's brother (*irki*), and thus someone to be treated with special respect. Two of the church leaders therefore decided that they would personally go to the next cell meeting to rectify things.

At that meeting, speaking to the assembled cell members, one of the two began by reminding everyone that while there was, of course, the law of the government (*mengiste higi* [Amh.]) and while God wanted his people to obey that law, ultimately everyone was subject to God's law (*sabite higi*). And God's law was clear that believers should not take each other to court. It had thus been a first mistake for Gizo and Doba to deal with their case through the cell rather than through the church. The decision of the (Protestant) cell leaders in favour of compensation was problematic too, since this was the type of case where damage had been done involuntarily and free forgiveness would have been the right and necessary response. Even worse, the church leader claimed, was that Gizo had accused his uncle of lying and had pressed for the 300 Birr. Even if Doba had been lying, didn't the Bible say (at 1 Corinthians 6:7) that it is better to be wronged and cheated than to take a fellow believer to court? To rectify things, the church leader ended, Gizo should return the money to Doba and renounce his claim to the remaining lamb. Gizo agreed to this, and there followed the standard Protestant ritual of confession and forgiveness. (Summary of fieldnotes, March and April 2017)

The church leaders' intervention in the affairs of the cell is a clear case of the church exercising direct influence on local judicial state institutions: by making Gizo return the money and relinquish his claim to the lamb, they effectively overruled the cell judges' earlier decision.

By way of closing, I would like to note two conditions that make this 'Christianization of the local judiciary' possible. First, there exists no developed notion of

'secularism' in Dell, that is, no real sense of the division between state and religion. While people do conceptualize the two as distinct realms, they also assume there is a clear hierarchy between them, with God ranking above the state. From their perspective, therefore, there is nothing unusual or critique-worthy in church leaders intervening in state affairs. Second, the particular nature of state institutions at the grass-roots level permits the kind of religious influence seen here. Unlike at higher levels of the state, the *kebele* has very little in the way of clear procedural rules. To a large extent, the local *kebele* staffs have to decide how they are going to run the local state institutions, and this relative absence of strict procedural rules allows the religious background of the local officials to influence their work.

## Conclusion

This chapter has investigated legal pluralism in a southwest Ethiopian community. It has brought to light three coexistent modes of dealing with conflicts: customary, formal and Protestant. The customary mode aims at reconciliation, and draws on the key practices of humiliation of the offender, compensation of the victim, purification of both disputants, and commensality. Formal litigation is antagonistic rather than reconciliatory. Though sometimes requiring disputants to find a solution through out-of-court negotiation, local courts in the end always impose fines and often sentence offenders to short-term imprisonment. Protestant dispute resolution shares with customary dispute resolution a concern with reconciliation and restoring peaceful relationships, but it also differs in some profound ways: it does not allow for the humiliation of the offender, but asks humility of the victim, too; it does not permit compensation claims where damage has been done involuntarily, and requires compromise where conflicts are the result of intentional action; and it does not require the offender to provide food or drink for commensality. In positive terms, the key principle of Protestant dispute resolution is forgiveness.

Over the past few decades, 60 per cent of the population of Dell have converted to Protestantism. This means that an ever greater number of people has started to use the Protestant rather than the customary mode of dispute resolution. This is a first reason for considering Protestantism an important player in the legal arena in Dell. A second reason became visible through a closer inspection of the relation between the Protestant and the formal system. Protestantism, as I have shown, is deeply opposed to the antagonistic logic of litigation and the imposition of punishments. Believers are not only prohibited from going to court (at least, without having previously obtained the church's permission), but Protestants working as judges in the *kebele* or cell courts also bring to bear Protestant principles on these institutions. Driven by anxieties over salvation and enabled both by Protestantism's moral authority and a relative lack of clear procedural rules, these Protestant offi-

cials sometimes draw on the logic of forgiveness rather than on that of punishment. Clearly, this tendency is still in a nascent stage. Yet, it does not seem unlikely that if the number of Protestants in Dell grows even further, Protestantism's influence on the functioning of local formal institutions will also increase. All in all, this shows that Protestantism in Dell is a legal player to be reckoned with.

Whether or not this is true in other places in Ethiopia could well be the object of further inquiry. In advancing the study of legal pluralism in this direction, the following questions could be of help. What role does Protestantism play in urban settings, as opposed to rural areas? What differences are there between places where Protestants are in the majority and where they are in the minority? Can Protestant influence on state institutions also be observed at higher levels, such as *woreda* or zone? To what extent are there differences with regard to legal matters between different types of Protestants, such as Evangelicals and Pentecostals? And is forgiveness also a key principle elsewhere, or do other Protestants in Ethiopia emphasize different principles and parts of the Bible? Considering these and other questions, I hope, would help broaden what is already a very rich and lively debate on legal pluralism in Ethiopia.

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