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## Great text and context Gada system for conflict resolution, as restorative justice: In case of Siinqee Arsii

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### Abstract

Gada as a system is great text and context with numerous elements of conflict resolution mechanisms as restorative Justice of modern time. Its greatness surely lies in its astute / smart of containing different types of restorative justice elements of this era, with workable set of normative criteria as RJ and also very liberal way of solving disputes of different level of severity. Within Gada system siinqee is women's institution of the most important conflict resolutions institution and considered as women's power. It come in to being in the Oromo culture with the Gada system which has governed the social, cultural, religious, political and economic life of the Oromo people for many centuries. Siinqee as conflict resolution mechanism / restorative justice deals with conflicts of different level of severity that may occur at different levels of human or social relations. Under Gada system siinqee mostly services as a symbol of prevention, management or halting from escalation of conflicts between men or groups of men. That is why under Gada system women's role in conflict resolution emanates from the symbolic ritual power attached to the siinqee and the ritual importance of women in Oromo society in general and the Arsii Oromo in particular. However, Siinqee quested for its restorative. Having this issue in hand the paper tried to show doctrinally weather Siinqee is fully restorative or not by Restorative lens.

**Keywords:** restorative justice, siinqee, gada system, conflict

### Introduction

In Oromo community there are several customary conflict resolution mechanisms. They are such Gadaa system or Gadaa council, jarsummaa, Qaalluu system or decision of spiritual leaders, gumaa system, siinqee institution are few of them. Gadaa system is one of the interesting ways of conflict resolution institution and well respected among the Oromo community in Ethiopia <sup>[1]</sup>. The Oromo have rich indigenous conflict resolution mechanism that evolved out of their culture and norm. The most famous institution of governance and dispute settlement of the Oromo people is the Gada system. That was a check and balance mechanism built into the Gadaa system by which siinqee was institutionalized and women formed parallel organizations of their own which actively excluded men. The most important principle of siinqee, is building sisterhood and allying to fight against oppression <sup>[2]</sup>. The Gada system encompasses different mechanisms of women within its system and it plays a significant role among the Arsii Oromo in defending women from any offence, in empowering and giving them an opportunity to make a glowing contribution in preventing, halting and resolving conflicts <sup>[3]</sup>. Siinqee (Straight stick and decorated with cartridge) helps as a symbol of marital status, meaning only married women possess and carry siinqee. It conveys the message of protection and respect. The sacred quality conferred on to the siinqee entails that in Arsii Oromo culture no can refuse to fulfill the demand of women carrying siinqee <sup>[4]</sup>.

<sup>1</sup> women and indigenous conflict resolution institutions in oromia: experience from siinqee of the wayyu shanan arsi oromo by Jemila Adem

<sup>2</sup> Ibid

<sup>3</sup> Tolasa Mamuye, Gebre Yntiso, *et al.* (2011). (Editors). Customary dispute resolution mechanisms in Ethiopia - □□□□ □□□□ □□□ □□□□□ □□□□□□. Addis Ababa: The Ethiopian Arbitration and Conciliation Center P,279

<sup>4</sup> Ibid

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Thus, the reason why siinqee has a power to prevent, halts, and resolve conflicts lies in its wayyuu (being or thing respected and even feared because of its sacred nature) attribute <sup>[5]</sup>. The assumption is that Conflicts may exist every time and everywhere in the daily lives of the society, meaning Conflict is an inherent and ubiquitous element of human society, from the couple to the largest human group. There is no human group or society in which life moves along in harmony at all times. Individuals do not always do what society expects them to do, and they frequently behave in ways that disrupt the social order. Every society is aware of the repercussions of unresolved conflicts. Consequently, that is why Oromo develops different conflict resolutions like Siinqee under Gada system to bring about conflict resolution <sup>[6]</sup>. The term Siinqee' is an Afan Oromo word that symbolizes the thin stick females hold after marriage. It was a sign of fertility, productivity and prosperity. It had a social and religious power in Gada system. In the Gada system there was an institution of governance through which women ensure their rights to ward off the coercion and dominance of their husbands. Mothers used to give Siinqee to their daughters during marriage so that they could ensure their rights by using it <sup>[7]</sup>. The Siinqee in the conflict resolution culture of the Oromo society has an implication. Whenever a woman had a complaint on the way her husband treated her, she would inform the case to the womenfolk in her neighborhood. Soon all women in the neighborhood gather and hold Siinqee <sup>[8]</sup>. Then crying sing ritual songs demanding for the penalization of her husband and for the compensation to her damage. The action created tension and pressure on local elders and representative of the clan to seek ways of peaceful settlement. The women would never return home before the peaceful resolution of the conflict and without compensation. If sentenced guilty, the husband had to slaughter a bull for his wife and ask her and her friends for forgiveness. Moreover, the husband had to swear not to mistreat and abuse her in his entire life. Whenever her husband attempted to beat her or inflict damage on her, retreating into the room a wife would pick her Siinqee by way of defending herself <sup>[9]</sup>.

### Formulation of problem statement

Conflict is one of the social events of human being that are inevitable at all but could be managed through various mechanisms. Conflict is not necessarily limited to just overtly violent situations as there are also non-violent ways of manifesting the prevalence of contradicting needs, ideas, interests and ideologies between and among individuals, groups, clans, societies, regions and states. Within the Gada system as there are many conflict resolutions mechanisms Siinqee is among the top mentioned one. In this case different categories of a society can play their own participatory and specific roles in managing conflicts existing in their respective communities. Among the societal classes that can have the lion's share of conflict resolution potential is found to be women as to Jamila Adem. Despite

the fact that the role of women in the overall livelihood improvement and efforts is not well-considered in most of our societies, it is becoming obvious that almost no effort excluding the genuine involvement of women can be achieved as required. Since women make half of the entire populations and also emanating from their maternal proximity to children and the whole family, their role in all aspect of human activities need to be given a due attention and significant recognition. Having this in hand using siinqee assumed to resolve conflicts of different level of severity, prevent conflicts even at enter clan or inter-ethnic levels. Even though, regarding the conflict resolution mechanism of siinqee is unquestionable however, Siinqee quested for its restorative. Having this issue in hand, whether Siinqee is fully restorative or not by Restorative lens?

### Objective of study are

1. Discussing Siinqee as informal customary dispute resolution and in line of Restorative Justice system.
2. Checking whether Siinqee and criminal justice cooperate for dispute resolutions in the community.
3. Addressing whether siinqee is fully restorative through restorative lenses and reduce the future crime.

### Research questions

- A. What is the overall understanding, and practice of Siinqee within Gada system in general and in Arsii Oromo in particular?
- B. Can Siinqee complement for criminal justice system as traditional dispute resolution mechanism?
- C. Can we conclude that Siinqee for its conflict resolution mechanism under the Gada system fully restorative?

### The Research methodology

Given explorative nature of the research questions, the study has employed a qualitative research methodology of Doctrinal research <sup>[10]</sup>. Doctrinal research uses legislations and cases as primary sources of research, while books, commentaries, and journal article can be used as secondary source of the study <sup>[11]</sup>. The paper therefore, employs a doctrinal method, and in order to achieve the study objectives, under the secondary sources, the paper has given emphasis on the analysis of the relevant available literatures examining, books, academic articles, which have relevance to the study. In addition, various internet sites have been consulted for relevant data and information. In line with these the paper employs the doctrinal research methods.

### Result and Discussion

In Oromo society, women had the Siinqee institution, a parallel institution to the Gada system that functioned hand in hand with Gada system as one of its built-in institutions of checks and balances. These two institutions helped maintain Safu in Oromo society by enabling Oromo women to have control over resources and private spaces, social status and respect, and sisterhood and solidarity by deterring men from infringing upon their individual and collective rights. If the balance between men and women was broken,

<sup>5</sup> Ibid

<sup>6</sup> FN 1

<sup>7</sup> <https://advocacy4oromia.org/resource/the-power-of-siinqee-in-protecting-womans-rights-and-brokering-peace-in-tulama-oromo> last accessed on October 16, 2020

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> Michael Salter and Julie Mason, 'Writing Law Dissertation' (2007) Pearson Education Limited Essex, England pp 44

<sup>11</sup> Mike Mc Conville and Wing Hong Chui (eds), 'Research Method for Law' (2007) Edinburgh University Press, P.1

a siiqqeerebellion was initiated to restore the law of God and the moral and ethical order of society. When there were violations of their rights, women left their homes, children, and resources and traveled to a place where there was a big tree called qilxuu and assembled there until the problems were solved through negotiation by elders of men and women.

Married women have the right to organize and form the siiqqee sisterhood and solidarity. Because women as a group are considered halaga (non-relative) and excluded from the Gadaa grades, they stick together and count on one another through siiqqee which they all have in common in the strange gosaa (lineage) where women live as strangers, siiqqee represents the mother and they even address each other as `daughters of a mother. They get together regularly for prayers as well as for other important individual and community matters. If men try to stop women from attending

these wal-argee (meetings) it is considered against safu. Oromo women used different siiqqee mechanisms to maintain their rights such mechanisms included the law of mukalaafu (soften wood), the abaarsa (curse) iyya siiqqee (scream), and godaanna siiqqee (trek). As Kuwe Kumsa because of their liminality, women wield a special religious power where they draw an enormous moral and ritual authority <sup>[12]</sup>. Men, therefore, try to avoid their curse and seek their blessings. Women in general are symbolically and politically luminal and correspondingly enjoy special sacred power as a class people respect and revere a woman because Waaqaa made her to be respected and revered. Interference with a woman's sacred authority is regarded as violating seera Waaqaa and Safu <sup>[13]</sup>. A man who violated women's individual and collective rights could be corrected through reconciliation and pledging not to repeat the mistakes or through women's reprisal ritual: A group of women ambush the offender in the bush or on the road, bind him, insult him verbally using obscene language that they would not normally utter in the direct presence of an adult male pinch him, and whip him with leafy branches or knotted strips of cloth. In extreme cases, they may force him to crawl over thorny or rocky ground while they whip him. They demand livestock sacrifice as the price to cease their attack. If he refuses, they may tie him to a tree in the bush and seize one of his animals themselves, then other men rarely intervene <sup>[14]</sup>. Assefa Jalata has briefly discussed about the roles of siiqqee in Oromo societies, if the peace between men and women was broken, a siiqqeerebellion was initiated to restore the law of God and the moral and ethical order of society <sup>[15]</sup>. The Gada and siiqqee institutions greatly influenced the Oromo value system in pre-colonial Oromo society <sup>[16]</sup>.

### History of restorative justice practices

The term Restorative Justice was coined by Albert Eglash in 1977 and first introduced in contemporary criminal

justice as Victims' rights movement since the 1970s <sup>[17]</sup>. However, evidence suggest that the root of its concept trace back to tradition of justice as old as antient Greek and Roman civilization <sup>[18]</sup>. Sometimes assumed as Community based corrections for offenders during 1970s <sup>[19]</sup>. Restorative Justice has emerged around the world as a powerful challenge to traditional models of criminal justice, and restorative program, policies and legislative reforms are being implemented in many Western nations <sup>[20]</sup>. However, the underlying aims, values and limits of this new paradigm remain somewhat uncertain and those advocating Restorative Justice have rarely engaged in systematic debate with those defending more traditional conceptions of criminal justice <sup>[21]</sup>. For the definition of JR there isn't a clear and defined meaning that all scholars agree on it. Even tough, no universally acceptable definitions for RJ like for example UNDOC 2006 define it as a method of balancing the needs of the community the victims and the offenders and it is an evolving concept with different interpretation in different countries <sup>[22]</sup>. The other definition is U.K ,RJ as Restorative processes bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward <sup>[23]</sup>. For many Scholars, RJ is concept covers a wide range of practices that lay emphasis on restoring and recovering from the harm produced by violent actions or criminal. Restorative justice's advocates support the idea that criminal justice systems mishandle offenders and victims alike they are not different nor enemies <sup>[24]</sup>. The oppositional status of restorative justice is said to rest, in part, in its origins as a conflict resolution practice directed toward achieving communal harmony one that was eventually concealed by state based retributive justice.

### Restorative lens

Restorative justice seeks to provide an alternate framework or lens for thinking about crime and justice <sup>[25]</sup>. This restorative lens or philosophy might be described as having five key elements or principles <sup>[26]</sup>. There are five Principles of Restorative Justice as the Howard Zehr.

1. Focuses on harms and consequent needs. (victims, but also communities' and offenders)
2. Addresses obligations resulting from those harms. (offenders' but also families', communities' and

<sup>17</sup> Jetu Edosa mediating criminal matters in Ethiopian criminal justice system the prospect of restorative justice p 110

<sup>18</sup> Ibid

<sup>19</sup> Ibid

<sup>20</sup> Andrew Woolford and R.S. Ratner, Conflict resolution in mediation, restorative justice and reparations

<sup>21</sup> Andrew von Hirsch, Julian v. Roberts, Anthony bottoms and Kent roach Mara Schiff restorative justice and criminal justice competing or reconcilable paradigms? p.1

<sup>22</sup>[http://www.unodc.org/pdf/criminal\\_justice/06-56290\\_Ebook.pdf](http://www.unodc.org/pdf/criminal_justice/06-56290_Ebook.pdf) last accessed February 27/2020

<sup>23</sup> Restorative Justice Council UK, <http://www.restorativejustice.org.uk> last accessed February 27/2020

<sup>24</sup> Pedro Miguel Freitas ,Restorative Justice and Technology Universidad do Minho, Portugal p 83

<sup>25</sup> Howard Zehr with Ali Gohar, the little book of the little book of restorative justice p 15

<sup>26</sup> Ibid

<sup>12</sup>, Kuwee Kumsa. The Siiqqee Institution of Oromo Women, The Journal of Oromo Studies 4 (1 & 2).

<sup>13</sup> Ibid

<sup>14</sup> Ibid

<sup>15</sup> Asafa Jalata. 2005. Oromia& Ethiopia: State Formation and Ethno national Conflict, 1868- 2004, second edition, (Trenton, NJ: Red Sea Press).

<sup>16</sup>Irshad Ahmad, Oromo Indigenous Conflict Resolution Institutions: An Example of African

Indigenous Institutions December 2018, Madawalabu University

- society's)
3. Uses inclusive, collaborative processes.
  4. Involves those with a legitimate stake in the situation. (victims, offenders, families, community members, society)
  5. Seeks to put right the wrongs

**Principles of Restorative Justice**



**What approaches that claim to be restorative for Traditional customary Dispute Resolution?**

It is important to view restorative justice models along a continuum from fully restorative to not restorative and with several points or categories in between <sup>[27]</sup>. Degrees of restorative justice can be Fully Restorative, Mostly Restorative, Partially Restorative, Potentially Restorative, Pseudo/Non-Restorative/

**Key questions RJ**

- Does it address harms, needs and causes?
- Is it adequately victim oriented?
- Are offenders encouraged to take responsibility?
- Are all relevant stakeholders involved?
- Is there an opportunity for dialogue & participatory decision making?
- Does it address causes?
- Is it respectful to all parties?

While conferencing or encounter programs may be fully restorative, to only offer such approaches would not be very restorative. What about victims in cases where offenders are not detained or offenders are unwilling to take responsibility is under question <sup>[28]</sup>. In a restorative system services would start immediately after a crime to address victim needs and involve them, regardless of whether an offender is detained. Thus, victim assistance while it cannot be seen as fully restorative, is an important component of a restorative system and should be seen as at least partially restorative. Victim impact panels without matching victims and offenders in a specific case, allow victims to tell their stories and encourage offenders to understand what they have done. These are an important part of a restorative approach and can be seen as partly or mostly restorative. Similarly, what

happens when an offender is willing to take steps to understand and to take responsibility but the victim is unavailable or unwilling also another question. While perhaps not fully restorative, these programs would play an essential role in the overall system of justice.

However, as conventionally practiced, many treatment or rehabilitation have little that is explicitly restorative <sup>[29]</sup>. They could however, and some do by organizing treatment around understanding and taking responsibility for the harm and as much as possible giving attention to victim needs. Depending on how it is done, offender treatment may fall into the potentially, partly or mostly categories. Similarly, offender advocacy, prisoner re-entry programs or religious teaching in prison are in themselves not restorative, however, they may play an important role in a restorative system, especially if reshaped to include a restorative framework.

Regarding the category of pseudo or non-restorative many things are being termed restorative that are not. Some of these might be rescued while others cannot. The death penalty, which causes additional and irreparable harm, is one of the later.

**Analytical Reflections**

When we see siinqee with the pillars of Restorative Justice Weather it identifies Harm and needs can be seen as harm done may be to people and community, Siinqee deals with conflicts of different levels of severity that may occur at different levels of humans or social relation, Wrongs or harm result in obligations. Here as an example when conflict occurs between husband and wife enjoying the wayyuu status there is an opportunity for husband to prevent his wife from organizing a siinqee protest against him. The question here in case of RJ is offenders encouraged to take responsibility in siinqee have been addressed well and even if it passes this stage, there is possibility in which he participates in the last conference. At the initial stage when the husband become alert that his wife is thinking of doing that, he can admit his guilt and beg her saying “siinqee keetiin siweegera” literary means I beg you in the name of your siinqee not to organize a protest against me <sup>[30]</sup>. He thinks that as he has Obligations to put right for victims and her needs to repair the harm. At any rate to participate in most Siinqee encounters a wrong doer must admit to some level of responsibility for the offense, and an important component of such programs is to name and acknowledge the wrong done. He attempts to persuade her not to expose him to anyone. He promises not to commit any offence again and also to give her some of his cattle or sheep as an appeasement/reconciliation. If he pleads with her in this way, it is her responsibility to control her emotions and refrain from organizing a protest against him <sup>[31]</sup>. On the other hand to see whether the outcome agreeable to involved in the process, even if she organizes one turning a deaf ear to his plea, the saddeeta(elder’s council) will ask her saying “siinqee keetiin si wageera?” (Did he admit his mistake and be you not to organize siinqee protest against him?) If they

<sup>27</sup> FN 25, P 56

<sup>28</sup> FN 25, P 57

<sup>29</sup> FN 25, PP 59&62

<sup>30</sup> Tolasa Mamuye, Gebre Yntiso, *et al.* (2011). (Editors). *Customary dispute resolution mechanisms in Ethiopia* - □□□□ □□□□ □□□□ □□□□□□. Addis Ababa: The Ethiopian Arbitration and Conciliation Center, p 289,

<sup>31</sup> Ibid

found that she was reluctant to accept his apologies, they may blame her as wrong doer, “yakkamaa” and may turn against her according to the culture of the society. Therefore, siinqee emphasizes on husband’s accountability and responsibility on the wrong done to his wife. If the husband fails to apologize and beg for forgiveness, the women grab her siinqee and ululeetes three times, ilil.....ilil.....ilili, to attract other women’s attention and organize a siinqee protest. Siinqee deals not only with conflict occurring between women and man but also with those taking place between men <sup>[32]</sup>. In relation to Engagement of stakeholders Siinqee promotes engagements or participation of stakeholders who have legitimate interest. Means Siinqee prefers inclusive collaborative processes and consensual outcomes. Here are the common stakeholders of conflict resolution between husband and wife by Siinqee.

- The victim
- The wrong doer
- Women
- Women’s saddeeta (women’s elder’s) council
- Some daughters of sick or childbirth
- Men’s saddeeta (men elder’s council)
- Community and clan members sometimes

One of the principles of siinqee is that puts emphasis on prevention and halting of conflicts before it escalates. By doing so, siinqee prevents destruction and contributes to building peace <sup>[33]</sup>.

Real accountability involves facing up to what one has done means encouraging offender to understand their behavior the harms they have done and to take steps to put things right as much as possible <sup>[34]</sup>. Here siinqee also at any rate to participate in most encounters a wrong doer must admit to some level of responsibility for the offense, and an important component of such programs is to name and acknowledge the wrong doing. Restorative justice expands the circle of stakeholders those with stake or standing in the event or the case beyond just the government and offender to also include victims and community members <sup>[35]</sup>. In relation to Engagement of stakeholders Siinqee promotes engagements or participation of stakeholders who have legitimate interest. Offenders or their families are encouraged to come forward and to take responsibility to compensate the family of those victimized. The community also takes responsibility for the rehabilitation and reintegration of both offender and victim <sup>[36]</sup>. Communities are impacted by crime and in many cases should be considered stakeholders as secondary victims and it is also similar in case of siinqee. Violation creates obligations in restorative justice also in siinqee. The central obligation is to put right the wrongs in case of restorative justice <sup>[37]</sup>. Whereas the principles of siinqee is that puts emphasis on prevention and halting of conflicts before it escalates. By doing so, siinqee prevents destruction and contributes to building peace. The community needs the restoration of peace and security and preventive measures for the future.

These emphases the importance of making amends or

putting right, indeed making this is an obligation <sup>[38]</sup>. Making right such violations gives offenders a chance for internal healing through forgiveness and security, erasing the threat of revenge which is similar also for siinqee. The victim’s respect is also restored and this provides healing and security for all in both cases. Lastly when we see siinqee in line of restorative justice the principles of siinqee puts emphasis even not only putting wrong done right but also on prevention and halting of conflicts before it escalates and prevent destruction and contribute to building peace. Whereas the central obligation is to put right the wrongs in case of restorative justice.

### Concluding Remarks

Checking siinqee with the pillars of Restorative Justice Whether it identifies Harm and needs has been that Siinqee deals with conflicts of different levels of severity that may occur at different levels of humans or social relation and harms and needs fully addressed with in it. On the other hand, regarding inclusive Process on the given above we can conclude that including the stake holders it complies with RJ principles. We can check it by an example when conflict occurs between husband and wife. In this regard the victim, the wrong doer, Women, Women’s saddeeta (women’s elder’s) council, some daughters of sick or childbirth, Men’s saddeeta (men elder’s council) and Community and clan members sometimes participate on siinqee conference. In the Siinqee institution what has been seen shown is quite similar with what has been included in RJ program in the form of key question and principle of RJ. So, most of the Siinqee as an Institution would be considered as fully restorative as Pseudo or Non-Restorative. Depending on how it is done, offender treatment and other means may fall into the potentially, partly or mostly categories. Similarly, offender advocacy, prisoner re-entry programs or religious teaching in prison are in themselves not restorative, however, they may play an important role in a restorative system, especially if reshaped to include a restorative framework. Regarding the category of pseudo or non-restorative many things are being termed restorative that are not. Some of these might be rescued while others cannot. The death penalty which causes additional and irreversible harm is one of the later.

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<sup>32</sup> Ibid

<sup>33</sup> Ibid

<sup>34</sup> Howard Zehr’s Little Book of Restorative Justice P, 15

<sup>35</sup> Ibid

<sup>36</sup> Ibid

<sup>37</sup> Ibid

<sup>38</sup> Ibid

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