

Ethiopia: Customary Justice in the Afar *Makaabanna* System. Restorative Practices, Contemporary Adaptation, and Legal Pluralism

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Abstract: The *Makaabanna* is an Indigenous customary justice institution through which Afar elders interpret *Mad'a*, mediate disputes, negotiate responsibility, and restore relationships through compensation and reconciliation. This article examines how the *Makaabanna* classifies harm, applies restorative remedies, adapts to contemporary disputes, and operates alongside Ethiopia's formal legal institutions. It draws on fieldwork conducted from August 2024 to January 2025, comprising 57 key-informant interviews, six focus group discussions with 36 participants, six non-participant observations across six zones, and documentary and archival analysis. Method-specific figures are reported separately because the study did not document potential overlap across methods. We analyzed qualitative materials thematically through iterative coding, comparison, and triangulation. Findings show a structured approach to homicide, bodily injury, defamation, unlawful restraint, sexual and family-related harm, property disputes, road accidents, and mobile-money fraud. The strengths of the *Makaabanna* include accessibility, negotiated responsibility, retaliation prevention, and relationship restoration. Its limitations include variable compensation, incomplete documentation, uncertain jurisdiction in serious criminal matters, uneven coordination with courts and police, and limited technical capacity to address modern offenses. The *Makaabanna* functions as a semi-autonomous normative order whose social recognition exceeds its procedural integration with state institutions. Sustainable

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reform requires referral arrangements, documentation, participation by affected persons, and cooperation that preserves its restorative strengths while maintaining state responsibility for public law offenses.

Keywords: Customary justice, Ethiopia, indigenous law, legal pluralism, Makaabanna, restorative justice.

Introduction

Customary justice systems remain central in Indigenous and rural societies where state institutions are distant, unfamiliar, or unable to repair damaged relationships. In Ethiopia's Afar National Regional State, the *Makaabanna* is a customary forum in which respected elders interpret *Mad'a* and mediate disputes among individuals, families, and clans. Its procedures emphasize dialogue, responsibility, compensation, reconciliation, and the prevention of retaliation rather than punishment alone. These features are consistent with restorative justice, which evaluates justice partly in terms of repairing harm and relationships (Braithwaite, 2002; Pankhurst & Assefa, 2008).

The *Makaabanna* operates within Ethiopia's legally pluralistic environment. Courts, police, religious forums, and customary authorities may become involved in the same dispute, although they apply different concepts of responsibility and remedies. Formal criminal law defines offenses and penalties, while criminal procedure and prosecution rules govern investigations and public proceedings. The *Makaabanna* treats harm as both individual and relational and permits family and clan participation in settlements. Such coexistence can expand access to justice, but it also creates uncertainty regarding jurisdiction, enforcement, parallel proceedings, referral mechanisms, and the legal effect of customary outcomes (Aneme, 2015; Epplé & Assefa, 2020; Halefom, 2022).

The institution is also adapting to social and economic change. Elders continue to address homicide, bodily injury, honor-related disputes, livestock, land, and family matters while confronting road accidents, monetized compensation, mobile money fraud, and other harms that require technical evidence or involve changing forms of valuation. This adaptation demonstrates institutional resilience, but it may also produce inconsistent outcomes where oral rules, local variation, and limited investigative capacity intersect.

Existing studies have established the accessibility, restorative orientation, and conflict-prevention role of Ethiopian customary justice, including among Afar communities (Macfarlane, 2007; Reda, 2011; Enyew, 2014; Gebre-Egziabher, 2014; Yazew & Kassa, 2023). However, they have paid less empirical attention to how a specific Afar institution classifies diverse forms of harm, applies compensation without a uniform written tariff, adapts to digital and transport-related disputes, and navigates the practical boundary between socially legitimate settlement and the state's public-law responsibilities. This

article addresses that gap by connecting offense classification and restorative practices to the institutional problem of customary–formal coordination.

Broadly, the article has three objectives: to examine the role of the *Makaabanna* in classifying and resolving major categories of harm, to analyze its restorative compensation practices and adaptation to contemporary changes, and to assess its interaction with formal legal institutions. It asks *two questions: How does the Afar Makaabanna classify and resolve contemporary disputes, and what institutional challenges arise from its operation alongside Ethiopia's formal legal system?* The central argument is that the *Makaabanna* is a semi-autonomous normative order with strong social recognition but weak procedural integration. Its resilience depends on adaptive interpretation, while its principal risks arise from undocumented variability, technical evidentiary limitations, and unclear regulatory boundaries. The rest of the article develops the analytical framework, explains the research design, presents the findings, and discusses their implications for restorative justice and legal pluralism.

Literature Review and Analytical Framework

Legal anthropology treats law as a social practice rather than merely as a body of state-made rules (Nader, 1969). Customary institutions derive their authority from shared norms, moral standing, participation, and community recognition, while remaining shaped by broader political and legal structures. Moore's (1973) concept of the semi-autonomous social field is useful because it explains how a social arena can generate rules and induce compliance while remaining embedded within a larger legal order. Broader legal pluralism scholarship similarly rejects an exclusively state-centered view of law and emphasizes the coexistence and interaction of multiple normative orders within the same social field (Griffiths, 1986; Merry, 1988). In the Ethiopian context, Yntiso (2020) examines customary laws within their social and legally pluralistic setting, while Assefa (2020) considers the scope for broader constitutional accommodation of customary justice systems. These perspectives connect the *Makaabanna's* internal customary authority to the wider legal and social conditions that shape it, including state institutions, changing livelihoods, mobility, and new forms of evidence. They therefore provide a basis for examining both how the *Makaabanna* generates and enforces norms and how its scope is reshaped by the surrounding legal environment.

Restorative justice provides a second analytical orientation, emphasizing the identification of harm, responsibility, repair, and renewed relationships rather than centering punishment alone. Ethiopian customary institutions commonly use mediation, apology, compensation, ritual, and guarantees against retaliation (Pankhurst & Assefa, 2008). In Afar settings, reconciliation has particular significance because unresolved harm can destabilize families and clans (Ahmad, 2017; Yazew & Kassa, 2023). Earlier studies emphasize accessibility, collective responsibility, and conflict prevention (Macfarlane, 2007; Reda, 2011; Enyew,

2014; Gebre-Egziabher, 2014). Gutu (2020) similarly examines customary reconciliation in the context of homicide in the Gamo highlands, showing that customary and state institutions can cooperate even when they conceptualize wrongdoing and remedies differently.

At the same time, restorative justice should not be romanticized as automatically victim-centered or as the simple opposite of punitive justice (Daly, 2002). Restorative effectiveness must therefore also be evaluated in relation to the safety, autonomy, and procedural voice of directly affected persons. This safeguard perspective is especially relevant where affected persons do not themselves hold customary authority, including women and younger community members whose procedural voice depends on how participation is organized.

Legal pluralism explains the coexistence of state, customary, and religious normative orders. Articles 34(5) and 78(5) of Ethiopia's Constitution recognize consensual adjudication of personal and family matters under religious or customary law and permit the establishment or official recognition of religious and customary courts (Federal Democratic Republic of Ethiopia, 1995). The Criminal Code defines offenses and penalties, while public investigations, prosecutions, and adjudication are governed by separate procedural and institutional rules (Federal Democratic Republic of Ethiopia, 2004). In practice, customary institutions address a wider range of disputes than the constitutionally specified personal and family domain, producing social authority alongside incomplete state incorporation (Epple & Assefa, 2020; Halefom, 2022). Ethiopian case studies show that relations between customary and formal institutions may take cooperative, competitive, and hybrid forms. Abera (2020) documents the interplay of customary and formal legal systems among the Tulama Oromo, while Baker (2013) identifies police diversion to traditional leaders and mixed formal–informal practices within Ethiopia's plural justice system. Cecchi and Melesse (2016), through a lab-in-the-field experiment with customary judges in rural Ethiopia, further show that the availability of formal law can influence customary arbitration outcomes. Conversely, Amsalu (2022) shows that state involvement may also narrow customary jurisdiction, underscoring that cooperation, regulation, and institutional intrusion are analytically distinct.

The literature identifies recurring tensions: context-specific decisions may improve responsiveness but vary across localities, compensation may repair relational harm without satisfying public obligations in serious criminal cases, and compliance may weaken when parties move beyond enduring clan ties.

Modern disputes may require digital evidence, medical assessments, road-accident expertise, or standardized valuation that an oral process cannot always provide. Taken together, the literature suggests that customary institutions are neither static survivals nor simple substitutes for courts. Rather, they can change in response to social pressures and interaction with state law, while the terms of that interaction may strengthen, reshape, or constrain customary authority (Cecchi & Melesse, 2016; Amsalu, 2022).

The study therefore uses three interconnected analytical lenses. Restorative justice assesses repair and the prevention of retaliation; the semi-autonomous social-field perspective explains internal norm production and social enforcement; and legal pluralism analyzes overlap, referral, recognition, and the status of customary settlements.

Research Design and Methods

Design, setting, and sampling

This article reports a focused analysis of data generated within a broader doctoral study of contemporary challenges affecting mediation by Afar elders. The broader project generated a shared qualitative dataset, while this article has a distinct research question, evidence selection, theoretical orientation, findings, and conclusion. It focuses on offense classification, compensation, restorative practices, contemporary adaptation, and customary–formal institutional relations.

Fieldwork was conducted from August 2024 to January 2025 in pastoral, agro-pastoral, and semi-urban settings across six administrative zones of the Afar National Regional State. The seven field locations were Samara-Logya and Aysaita in Awsi Rasu; Aba'ala in Kilbati Rasu; Golina in Fanti Rasu; Dalefage in Hari Rasu; Yangudi in Mahi Rasu; and Awash in Gabi Rasu. Interviews, focus groups, and documentary work were distributed across these sites, and one naturally occurring traditional mediation session was observed in each zone. The locations were selected to capture variation in livelihoods, mobility, and proximity to formal institutions.

Participants were selected purposively based on their knowledge of, experience with, or institutional relationship to the *Makaabanna*. Community nomination identified elders actively involved in mediation. Judges, police officers, and government officials were included because their duties involved customary dispute resolution or customary–formal relations. Women and youth participants were selected based on their experience with community dispute-resolution practices rather than their holding formal *Makaabanna* offices. The qualitative sample was not intended to estimate regional prevalence, and inferential statistics were not used.

Participants and data collection

The research included 57 key-informant interviews: 16 *Makaabanna* elders, 10 judges, 11 police officers, 10 government officials, and 10 participants contributing women's and youth perspectives. This latter group comprised three adult women, two young women, and five young men. The two young women were analytically relevant to both the gender and youth categories but were counted only once in the total of 10 interview participants.

The six focus group discussions (FGDs) were conducted across the six zones, with six participants in each group, for a total of 36 FGD participants. No participant took part in more than one FGD. The six non-participant observations of naturally occurring traditional mediation sessions were conducted, one per zone. Attendance across the six sessions was 12, 9, 8, 10, 11, and 10 persons, producing 60 session-based attendances. Attendees included elders, clan or community leaders, religious leaders, women, and youth representatives. The researcher observed the proceedings without participating in or influencing them. The observation figures describe attendance, not a verified sample of 60 unique individuals. Interview, FGD, and observation figures are therefore reported separately because the study did not document possible overlap across methods.

Table 1. Summary of Data Sources and Analytical Uses

Data source	Scope	Main analytical use
Key-informant interviews	57 interviews: 16 <i>Makaabanna</i> elders, 10 judges, 11 police officers, 10 government officials, and 10 participants contributing women's and youth perspectives (3 adult women, 2 young women, and 5 young men).	Offense classification, compensation, customary authority, institutional interaction, and adaptation.
Focus group discussions	Six FGDs across six zones, with six different participants in each group (36 participants).	Shared understandings, disagreement, local variation, legitimacy, and responses to social and economic change.
Non-participant observations	Six naturally occurring mediation sessions, one per zone; attendance of 12, 9, 8, 10, 11, and 10 persons (60 session-based attendances).	Procedure, attendance and speaking roles, reasoning, negotiation, compensation, and movement from complaint to settlement.
Documentary and archival analysis	Written accounts of Afar <i>Mad'a</i> ; the Constitution and Criminal Code of the Federal Democratic Republic of Ethiopia; relevant policy materials; and archival or scholarly records selected for direct relevance and source authority.	Customary principles, historical context, legal comparison, and interpretation of institutional practice.

Source. Field research, Afar National Regional State, August 2024–January 2025.1

Procedures, translation, and analysis

Semi-structured interviews examined procedures, offense categories, compensation, enforcement, emerging disputes, and relations with courts and police. Focus groups explored accepted rules, local variation, restorative outcomes, and institutional change. The research team conducted most interviews and focus groups in Afaraf. With permission, we audio-

recorded discussions; otherwise, we prepared detailed notes. Quotations were translated directly into English by the first author and checked against the available recordings or notes. No independent back-translation is claimed, and culturally specific Afar concepts were retained where exact English equivalents were unavailable.

The six observations were strictly nonparticipatory. Local leaders convened the meetings as part of their usual conflict-resolution practices; the researcher did not organize the sessions. After elders informed the researcher when meetings would occur, the researcher attended without questioning participants, directing the discussion, facilitating, or intervening. Notes recorded attendance, speaking roles, procedural sequence, customary and religious reasoning, disagreement, negotiation, compensation, and reconciliation. Documentary and archival materials included written accounts of Afar *Mad'a*, the Constitution and Criminal Code of the Federal Democratic Republic of Ethiopia, relevant policy materials, and scholarly or archival records. These materials were selected for their direct relevance and source authority and were compared with interview and observation evidence to distinguish legal rules, reported customary norms, and observed practices.

The qualitative material was analyzed thematically through repeated reading, an evolving coding matrix, comparison, and category refinement (Braun & Clarke, 2006). Coding combined deductive categories derived from restorative justice and legal pluralism with inductive codes emerging from the data. Codes concerning offense, intention, severity, responsibility, compensation, reconciliation, enforcement, jurisdiction, and adaptation were organized into themes of procedure, classification, restorative compensation, adaptation, evidentiary limitations, and customary–formal interaction. Comparisons across interviews, focus groups, observations, and documents tested reported rules against observed practices while retaining contradictory or locality-specific accounts.

Frequencies are reported only when an identified subgroup answered the same item, and denominators are stated. Compensation amounts, by contrast, emerged from open-ended accounts. Where the field records did not preserve a claim-specific denominator for an exact amount, the figure is presented only as an illustrative oral reference, not as a majority view, a universal *Mad'a* rule, or a regional tariff. The interpretation therefore rests on convergence, divergence, context, and the distinction between reported norms and observed practices rather than on numerical prevalence.

Ethics, positionality, and limitations

The researcher's familiarity with Afaraf, local institutions, and social relations facilitated access and interpretation but also required reflexivity because insider knowledge can influence access, questioning, and the interpretation of meaning. Field notes, comparisons across participant categories, and attention to contradictory accounts reduced reliance on a single viewpoint.

The research supervisor at the University of Hyderabad reviewed the research proposal and data-collection materials, and permission to conduct the fieldwork was communicated by email in August 2024. Participation was voluntary, informed consent was obtained, and permission was sought before audio recording. When recording permission was not provided, detailed field notes were prepared. Identifying information was removed or generalized, and sensitive cases were discussed without identifying individuals, families, or exact case locations.

Purposive sampling does not support statistical generalization, and small subgroups should not be treated as population estimates. Oral accounts may be affected by recall, respect for elders, or reluctance to disclose sensitive matters. Compensation varies by locality and circumstance, and several figures were based on participant reports rather than standardized tariffs. The cross-sectional design cannot demonstrate change over time. Possible overlap among interview, focus group, and observation participants was not documented; therefore, the 57 interviews, 36 focus group participants, and 60 session-based attendances cannot be added together to produce a unique-participant total. The absence of claim-specific denominators for some compensation figures also limits conclusions about how widely particular amounts were accepted.

Results

Institutional structure and procedure

The *Makaabanna*'s authority was described as operating across interconnected family, clan, district, and supra-local levels. Minor household disputes were usually addressed close to the parties, whereas disputes involving larger compensation, multiple families, or inter-clan relations were referred to more senior leaders. The Sultanate represented the highest customary authority in the institutional accounts collected, although day-to-day mediation was decentralized and locally managed. Terminology and the precise hierarchy varied across locations; *Fe'ima*, for example, was used in some accounts to denote clan-level leadership and should not be treated as a uniform title throughout Afar.

Across offense categories, the procedure followed a recognizable but flexible sequence: receipt of a complaint; immediate peacekeeping to prevent retaliation; collection of accounts; possible oath-taking when facts remained disputed; negotiation of responsibility and compensation; and a public agreement or reconciliation. The observed sessions likewise showed elders managing disagreement, applying Mad'a, and guiding the parties toward a remedy, although the sequence and duration varied according to the seriousness of the case and the relationships involved.

Table 2. Institutional and Procedural Organization of *Makaabanna*

Institutional or procedural element	Function
Family and extended family	Addresses minor household, family, and low-level compensation disputes.
Clan-level leadership	Handles inter-family disputes and larger compensation matters; locally described in some sites as Fe'ima.
District-level leadership	Addresses serious inter-clan disputes and cases requiring wider authority.
Sultanate	Highest customary authority in the institutional accounts; may address homicide and other matters referred to the highest customary level.
Complaint and peacekeeping	Receives the case and acts to prevent immediate revenge or escalation.
Investigation and deliberation	Collects accounts, testimony, and contextual information and applies Mad'a; oath-taking may be used where facts remain uncertain.
Negotiation, agreement, and reconciliation	Determines responsibility, restitution, guarantees, and contributions and confirms an accepted settlement intended to restore relations.

Source. Field interviews, focus group discussions, observation notes, and documentary material, 2024–2025.2

Homicide classification and restorative compensation

Homicide was classified principally according to intention. Intentional killing (*Baatili*) was distinguished from unintentional killing (*Garci*), and both were interpreted within a restorative framework centered on life compensation (*Biilu*), the prevention of revenge, and negotiated reconciliation. Elders explained that distinguishing between intentional and unintentional killing enabled responsibility and remedies to be adjusted according to intention and the circumstances of the harm.

Some elder accounts referred to 100 camels as an oral reference for intentional homicide and 125 camels for the killing of a pregnant woman. Unintentional killing was described more flexibly: some accounts reported no compensation in particular circumstances, whereas others referred to approximately 50 camels when compensation was claimed by the victim's family. These figures were not elicited through an identical closed-ended question posed to all 16 elders, and the field records did not preserve claim-specific denominators. They are therefore treated as illustrative, locality-sensitive reference points rather than universal rules.

Following a homicide, elders first sought to prevent retaliation and create space for inquiry and negotiation. Oath-taking on the Qur'an could be used when facts remained uncertain.

A settlement could combine compensation, apology, guarantees, collective contributions, and public reconciliation. Enslavement and revenge were described as historical practices rather than acceptable contemporary remedies; the banishment of repeat offenders was exceptional.

Bodily injury, defamation, restraint, and family-related harm

The *Makaabanna* classified bodily injury, insult, and restraint through culturally specific categories. Assault included beating (*Ugra*), choking (*Quxus*), nail injuries (*Lifiq*), fainting (*Awlusiyya*), forced submersion (*Leet kummussiyya*), and physical throwing (*Nikso*). Elders considered the method, instrument, location, and consequences of the injury, as well as intention and the surrounding circumstances. The practice permitted proportional adjustments, although the absence of a uniform written schedule produced local variation.

Defamation was treated as an injury to dignity and social relations. Some interview accounts referred to 10 goats for ordinary defamation and 20 goats for a serious insult directed at a clan chief. The higher amount reflected customary hierarchy but also raised concerns about equality because the same form of verbal harm could be valued differently according to social position. Unlawful restraint was assessed according to duration, intention, treatment during confinement, and resulting harm; no consistent single amount was identified.

Sexual and family-related offenses were described as serious harms affecting the directly affected person, family relations, honor, safety, and social order. Participants described differentiated customary responses according to age, marital status, circumstances, and perceived consequences. The available records did not provide adequate claim-specific corroboration or denominators to support presenting exact compensation figures as reliable numerical rules; exact amounts are therefore omitted. This omission does not minimize the seriousness of the conduct. Customary settlement may mobilize family support and prevent retaliation. Nevertheless, it cannot substitute for trauma-informed support, immediate protection, medical care, or the state's responsibility to investigate serious sexual violence and marriage-related coercion.

The accounts of the 10 participants who contributed women's and youth perspectives were analyzed in relation to family-related harm, participation, and procedural safeguards. Because this subgroup was small and internally heterogeneous, the study does not present a single gendered or generational position or treat these accounts as estimates of subgroup prevalence.

Property disputes and contemporary adaptation

Property disputes revealed the close relationship between customary law and pastoral livelihoods. Livestock theft was treated as both material loss and damage to trust. Some

elders' accounts referred to 90 goats as compensation for the theft of one camel, together with restitution where associated losses had not been recovered. Distinctions among slaughtering stolen livestock (*Qidiyya*), selling it (*Kaliyya*), and killing newborn animals to extract milk (*Nargo*) reflected the economic and cultural importance of livestock.

Damage to irrigation property was described in some accounts through a reference of 60 goats, while land disputes were more commonly resolved through restitution, boundary clarification, and agreements intended to prevent renewed conflict. These amounts were open-ended oral reports and were not presented as standardized regional tariffs. Their analytical value lies in demonstrating the use of livestock equivalents and proportional reasoning, rather than in establishing a uniform schedule.

Contemporary disputes demonstrated both adaptability and technical limitations. Road accidents were addressed through negotiated monetary compensation based on damage, injury, responsibility, and circumstances. In the medical-negligence cases discussed, participants reported that the cases considered had not resulted in customary compensation. Mobile-money and cyber-fraud cases were sometimes addressed through triple repayment. Such innovation shows that elders extend familiar principles of restitution and responsibility to new forms of harm. However, limited capacity to authenticate digital evidence, assess technical causation, and standardize valuation can weaken the accuracy and enforceability of these outcomes.

Table 3. Illustrative Customary Responses and Their Evidentiary Status

Dispute or offense	Reported customary response	Evidentiary status
Intentional homicide (<i>Baatili</i>)	Some elder accounts referred to 100 camels, combined with reconciliation and guarantees.	Illustrative oral reference; no claim-specific denominator preserved.
Unintentional homicide (<i>Garci</i>)	Some accounts described no compensation in particular circumstances; others referred to about 50 camels where compensation was claimed.	Variable and negotiated; not a uniform rule.
Killing of a pregnant woman	Some elder accounts referred to 125 camels.	Illustrative oral reference; no claim-specific denominator preserved.
Assault	Some accounts referred to 5 goats, adjusted for injury, instrument, intention, and circumstances.	Illustrative oral reference; adjustment was central.
Defamation	Some accounts referred to 10 goats, and 20 goats for a serious insult to a clan chief.	Illustrative oral references; the status-based difference raises an equality concern.
Sexual violence and forced marriage	Participants described differentiated compensation and reconciliation practices; exact figures are omitted.	Exact amounts were not retained because adequate claim-specific corroboration and denominators were unavailable.

Dispute or offense	Reported customary response	Evidentiary status
Livestock theft: one camel	Some accounts referred to 90 goats, with restitution for unrecovered associated loss.	Illustrative oral reference; local variation applies.
Destruction of irrigation property	Some accounts referred to 60 goats.	Illustrative oral reference; local variation applies.
Road accidents	Negotiated monetary compensation based on damage, injury, responsibility, and circumstances.	No universal amount verified.
Mobile-money or digital fraud	Some accounts reported triple repayment of the stolen amount.	Adaptive response; technical verification and enforcement remain limited.
Land disputes	Restitution, boundary clarification, and land-use agreements.	Negotiated remedy rather than a fixed tariff.

Source. Interviews with Makaabanna elders, focus group discussions, and field records, 2024–2025.3

Interaction with formal legal institutions

The findings indicated that the *Makaabanna* has strong social recognition but weak procedural integration. Elders regarded it as capable of maintaining peace without formal courts, and judges and police officers rated traditional mediation highly. These assessments, however, did not translate into consistent referral procedures, formal recording of outcomes, or a shared understanding of how customary settlements should affect public proceedings.

All 16 interviewed elders answered the same item concerning the challenges of customary–formal integration. Eleven rated integration as highly or extremely challenging, citing different normative purposes, uncertain jurisdiction, inconsistent enforcement, and concerns that formal intervention could disregard culturally legitimate settlements. Judges and police officers answered differently worded legitimacy items, so their responses are reported separately rather than combined.

A second item asked judges and police officers only about cases encountered through their official work: how often those cases had first been addressed through traditional mediation. It did not ask whether community disputes generally begin with the *Makaabanna*. Most of the cases encountered through formal institutions had not first been addressed through traditional mediation. This finding does not demonstrate low community use; rather, it reveals a weak institutional interface in which customary settlements may occur outside formal referral, documentation, or case-tracking systems.

Table 4. Institutional Perceptions and Formal Case Pathways

Participant group and item	Response	N	%
Elders: challenge of customary–formal integration (N=16)	Not challenging	2	12.5
	Somewhat challenging	1	6.3
	Moderately challenging	2	12.5
	Highly challenging	8	50.0
	Extremely challenging	3	18.8
Judges: legitimacy of traditional mediation (N=10)	High legitimacy	1	10.0
	Very high legitimacy	9	90.0
Police officers: credibility of traditional mediation (N=11)	High credibility	6	54.5
	Extremely high credibility	5	45.5
Judges: formally encountered cases first addressed through traditional mediation (N=10)	Never	10	100.0
	Rarely	0	0.0
Police officers: formally encountered cases first addressed through traditional mediation (N=11)	Never	10	90.9
	Rarely	1	9.1

Source. Interviews with 16 Makaabanna elders, 10 judges, and 11 police officers.⁴

Discussion

Restorative capacity and semi-autonomous authority

The evidence indicates that the *Makaabanna* is more than an informal compromise mechanism. It has recognizable levels of authority, a recurrent procedural sequence, differentiated categories of harm, proportional reasoning, and established forms of compensation and reconciliation. Its effectiveness is strongest where parties remain embedded in continuing social relations and where preventing retaliation is as important as resolving the immediate claim. Compensation is therefore not simply a payment. It acknowledges harm, distributes responsibility across relevant social units, creates guarantees against renewed violence, and supports the public restoration of relationships.

These findings extend Moore's (1973) concept of the semi-autonomous social field in two respects. First, the *Makaabanna* generates operative norms and induces compliance through elder authority, kinship obligations, and the social costs of rejecting a settlement. Second, its autonomy is selective rather than insulated: the institution depends on continuing social relations and becomes less effective where mobility, technical evidence, or public-law duties exceed the reach of clan enforcement. This pattern is consistent with legal pluralism scholarship that treats nonstate normative orders as socially embedded and interacting with state law rather than as isolated systems (Griffiths, 1986; Merry, 1988; Yntiso, 2020). The study therefore demonstrates not only internal rule-making but also the

conditions under which semi-autonomous authority becomes fragile. This qualification is important because customary legitimacy should not be confused with unlimited jurisdiction.

Adaptive restorative justice and evidentiary limits

The handling of road accidents, monetized harm, and mobile-money fraud extends earlier descriptions of Afar customary justice beyond livestock, family, and interpersonal disputes. Consistent with earlier studies of Afar customary justice (Gebre-Egziabher, 2014; Reda, 2011; Yazew & Kassa, 2023), the findings confirm that Afar customary practice is oriented toward restitution, reconciliation, and conflict prevention. They also show that tradition is maintained through interpretation rather than mechanical repetition. Elders translate established principles of responsibility, restitution, and restored relationships into emerging social and economic contexts. This adaptive quality parallels Cecchi and Melesse's (2016) finding that customary adjudication can adjust when formal-law alternatives enter the dispute environment, although the present study concerns different disputes and a different institutional setting.

Adaptation, however, exposes an evidentiary boundary. Oral flexibility is valuable when intention, relationships, and circumstances must be weighed, but it is less dependable where electronic records, medical causation, vehicle assessments, or rapidly changing prices are central. The same problem appears in compensation reporting. Precise figures can look like universal tariffs when detached from locality, source count, date, and case circumstances. Consolidating the compensation evidence and identifying its status prevents oral reference points from being misrepresented as fixed law. Future documentation should record the dispute category, locality, relevant facts, evidence considered, date, agreed remedy, and reasoning without freezing *Mad'a* into an inflexible code.

The recognition-referral paradox

One of the strongest findings is the contrast between the high recognition of customary legitimacy among judges and police officers and the rarity with which cases encountered through their official work had first been addressed through traditional mediation. This is not necessarily a contradiction in community behavior. It is better understood as a recognition-referral paradox: formal actors can acknowledge the *Makaabanna's* cultural credibility and peacebuilding value while operating within institutions that lack routine referral, notification, recording, or feedback mechanisms.

This interpretation extends Macfarlane's (2007) argument for constructive interaction and supports Epple and Assefa's (2020) and Halefom's (2022) emphasis on the institutional difficulties of Ethiopian legal pluralism. Comparable Ethiopian studies show a spectrum ranging from cooperation and hybrid practice to competition and state intrusion (Abera,

2020; Baker, 2013; Amsalu, 2022). The present evidence adds an operational dimension. The central problem is not simply whether the state recognizes custom in principle, but whether a case can move between systems without disappearing from one, being duplicated in both, or producing incompatible expectations. Formal case statistics may therefore understate prior customary engagement when settlements are unrecorded, while customary actors may not know when public proceedings must continue despite reconciliation.

Legal pluralism, safeguards, and regulatory boundaries

The *Makaabanna*'s relationship with state law is characterized by coexistence rather than full integration. Constitutional recognition is clearest in consensual personal and family adjudication, while community practice extends to conduct treated as public crime. Gutu (2020) shows, in another Ethiopian setting, that customary and state actors can cooperate in handling homicide while retaining different understandings of wrongdoing and remedies. Customary reconciliation may be socially necessary after homicide, sexual violence, or serious bodily harm, yet it cannot alone determine whether public investigation, protection, or prosecution should occur. The relationship between the restorative value of a settlement and the state's public-law responsibilities raises distinct questions.

A workable plural arrangement should combine cultural legitimacy with procedural protection. Courts and police can recognize customary peacebuilding without treating settlement as a substitute for mandatory public duties. Elders can refer cases requiring immediate protection, medical or technical investigation, or continuing state action. Referral protocols should outline the conditions under which customary mediation may take place, the information that accompanies a referral, the individual responsible for documenting the outcome, the measures in place to prevent double handling, and the circumstances under which formal proceedings must continue despite reconciliation. Directly affected persons should be able to present their accounts, understand proposed remedies, and influence decisions concerning their safety, dignity, or property.

These safeguards do not guarantee that institutional problems will disappear. Documentation can improve transparency but may also reduce flexibility; state recognition can support coordination but may subordinate customary authority; and referral rules can protect vulnerable individuals while creating delays or competition between forums. This balance is relevant to Assefa's (2020) examination of the broader constitutional space for customary justice and to Daly's (2002) caution against treating restorative justice as a simple substitute for other forms of justice. Reform should therefore be iterative and locally tested. The objective is not to absorb the *Makaabanna* into the state system or to exempt it from legal scrutiny, but to create accountable coordination that preserves its restorative strengths while clarifying the boundaries of public responsibility.

Conclusion and Recommendations

This study examined how the Afar *Makaabanna* classifies and resolves contemporary disputes and what institutional challenges arise from its coexistence with Ethiopia's formal legal system. The findings show that the *Makaabanna* is an adaptive restorative institution that applies differentiated customary categories of responsibility, negotiates remedies, and seeks to prevent retaliation while restoring social relationships. Its central institutional challenge is that social legitimacy remains stronger than procedural integration with the formal justice system. This gap becomes most consequential where serious offenses, technical evidence, uncertain jurisdiction, or public-law duties require customary peacebuilding to coexist with continuing state responsibility.

Empirically, the study demonstrates the existence of a coherent restorative institution with recognizable levels of authority, procedures for peacekeeping and inquiry, differentiated categories of harm, and remedies intended to restore relationships. Its strongest contribution lies in culturally intelligible reconciliation among parties connected through family, clan, locality, and livelihood. The findings also identify a recognition-referral paradox: judges and police officers accord high legitimacy to traditional mediation even though cases encountered through their official work had rarely first been addressed through it. This paradox explains how customary authority can remain socially strong while formal case pathways remain weak. The institution's limits become most visible where compensation varies without documented reasoning, modern disputes require technical evidence, directly affected persons require stronger procedural safeguards, and serious offenses engage public responsibilities beyond family or clan agreement.

Four evidence-based recommendations follow. First, customary councils and formal institutions should develop referral protocols distinguishing disputes suitable for customary settlement from matters requiring public investigation, protection, or prosecution. Second, compensation decisions should record the dispute, locality, circumstances, evidence, agreed remedy, date, and whether the value is a negotiated contemporary amount or a historical reference. Third, training should support customary and formal justice actors in documentation, road-accident assessment, digital-evidence awareness, victim-sensitive procedures, and the legal limits of settlement. Fourth, directly affected persons should be able to speak, understand the process, and influence remedies, particularly in family, sexual, and bodily-harm cases. For example, homicide or serious sexual-violence cases could require immediate police notification. Customary reconciliation could then proceed only where it does not displace formal investigation, protection, or the rights of directly affected persons. These measures should be locally tested so that improved accountability does not freeze Mad'a into an inflexible code.

The principal contribution is to show that the *Makaabanna's* contemporary resilience rests not on unchanged tradition but on adaptive interpretation. The study contributes to restorative-justice and legal-pluralism scholarship by demonstrating that customary legitimacy and institutional integration can diverge: a system may remain socially authoritative

while lacking reliable mechanisms for referral, documentation, and coordination with the state. The same flexibility that enables elders to address emerging disputes also creates evidentiary and regulatory risks when compensation principles, technical evidence, and institutional boundaries are insufficiently documented. The central policy challenge is therefore not to choose between customary and formal justice, but to create an accountable relationship in which culturally legitimate reconciliation remains possible while public-law duties, technical investigation, and individual procedural protections are not displaced. The future of the *Makaabanna* depends on preserving its restorative strengths while clarifying referral, documenting adaptive practice, and protecting access to formal remedies. Future research should examine how the *Makaabanna*'s handling of digital-evidence disputes and formal referral evolves, including whether women, youth, and directly affected persons gain meaningful procedural voice.

Declarations

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Competing interests: The authors declare no competing interests.

Data availability: The qualitative data are not publicly available because they contain sensitive information concerning participants, families, and communities and are subject to confidentiality commitments.

Ethics approval and consent to participate: The research supervisor at the University of Hyderabad reviewed the research proposal and data-collection materials. Permission to proceed with the fieldwork was communicated by email in August 2024; no formal approval reference number was issued. Participation was voluntary, informed consent was obtained, and permission was sought before audio recording. Identifying information was removed or generalized.

Author contributions: Ahmed Humed ABDELLA designed the study, conducted the fieldwork, collected and analyzed the data, and drafted the manuscript. Prof. E. Venkatesu provided academic supervision and contributed to the review and revision of the manuscript.

Endnotes

- 1 Interview, FGD, and observation figures are reported separately because possible cross-method overlap was not documented. Observation figures refer to session-based attendances, not verified unique participants.
- 2 Titles and the precise hierarchy varied by locality; the table summarizes the recurring structure rather than asserting a uniform regional organization.
- 3 The figures are reported as oral references, not statutory tariffs or universal Mad'a rules. Fixed monetary conversions are omitted because no valuation date, livestock-price source, exchange rate, or calculation method was documented.

- 4 The judges' and police officers' legitimacy questions used different response wording and are therefore not combined. The formal-case item referred only to cases encountered through official roles, not to all disputes in the community. Percentages describe only these interviewed subgroups and are not population estimates; totals may vary slightly because of rounding.

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