

**A CRITICAL ANALYSIS OF INDIGENOUS AND MODERN POLICING
IN ETHIOPIA**

By

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DEDICATION

The study is dedicated to the Tigray Peoples Liberation Front (TPLF), in which I have spent most of my life. The Tigray Peoples Liberation Front has been my University by itself because most of my knowledge is attributed to it.

This study is also dedicated to my late brother, Mohammed Shuffa who invested in my education and took care of me until I joined the Tigray Peoples Liberation Front.

**TITLE : A CRITICAL ANALYSIS OF INDIGENOUS AND MODERN
POLICING IN ETHIOPIA**

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Department : Police practice

Degree : Doctor of Literature and philosophy in Police Science

SUMMARY

The purpose of this study was to determine whether indigenous and modern policing can co-exist in Ethiopia. The two case studies dealt with in this research indicate that customary administration which is based on indigenous customary law governs the lives of most communities in Ethiopia. Most of the civil and criminal cases are resolved through these mechanisms, although there are always operational tensions due to some contradictions between the modern and indigenous policing systems when crime is committed in indigenous areas. This is mainly because the modern police system wants to impose its way of resolving crime while the indigenous police system want crime to be solved in the traditional/indigenous manner that have been practiced for centuries. These fundamental differences have created two parallel institutions which are both rooted in providing safety and security to the community.

The research also reveals that modern policing in Ethiopia can benefit tremendously from well researched experiences and practices of indigenous policing. This does not imply that indigenous policing system is democratic and all the experiences could be relevant to modern policing, but it simply means that the identification and the sharing of best practices from both sides could lead to mutual benefits of these systems.

In its conclusion the research shows that Ethiopia has the potential to develop a unique policing system that reflects its distinctive cultural heritage and that meets the needs of its people. This potential is more likely to be actualized if the country preserves and incorporate

the best practices of both these systems and use them as integral part of the Ethiopian modern policing.

KEY TERMS

A critical analysis of indigenous and modern policing in Ethiopia; Can modern and indigenous policing co-exist in Ethiopia? The use of indigenous and modern policing in Ethiopia; The Ethiopian dual Ethiopian policing system; Indigenous and modern policing in Ethiopia; The role of indigenous policing system in modern policing in Ethiopia.

Student Number: 47189819

I declare that “A critical analysis of indigenous and modern policing in Ethiopia” is my own work and that all sources that I have used or quoted have been indicated and acknowledged by means of a complete list of reference. This study has not been submitted before for any degree or examination in any other University.

Signature
(Hassen Shuffa Abkadir)

Date: 31 March 2014

ACRONYMS

CP	:	Community Policing
CDRM	:	Customary Dispute Resolution Mechanism
EACC	:	Ethiopian Arbitration and Conciliation Centre
EC	:	Ethiopian Calendar
EPRDF	:	Ethiopian People Revolutionary Democratic Front
IIM	:	Indigenous Investigative Mechanism
ICIM	:	Indigenous Crime Investigation Mechanism
OLF	:	Oromo Liberation Front
ONLF	:	Ogaden National Liberation Front
TPLF	:	Tigray Peoples Liberation Front
UNSC	:	United Nations Social Counsel

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CHAPTER ONE: GENERAL ORIENTATION

1.1 INTRODUCTION

From time immemorial Ethiopians have been managing crime through their indigenous policing based on their indigenous laws. From way back in the 15th century successive governments have undertaken major reforms to replace indigenous administrative, laws, dispute resolution, and policing mechanisms by modern administration laws and policing. Their objective has been to make modern policing the prevalent and dominant feature of the policing system in Ethiopia. Despite all these, the resilience of the indigenous policing system sustained it and kept it as the most favoured form of policing in most areas in Ethiopia, leading to the co-existence of the dual policing systems. This research will give an overview of these two types of policing with the ultimate aim of determining whether they could co-exist.

1.2 RESEARCH RATIONALE

Parallel to the modern administration, customary administration has been operating for centuries in Ethiopia. Customary administration which is based on customary law, governs the lives of most communities in Ethiopia. Most of the civil and criminal cases are resolved through these mechanisms. Customary administrations have their own courts, prosecutions, dispute resolution and policing mechanisms. All these other mechanisms have been researched extensively except the policing mechanism. There are hundreds if not thousands of researches on customary law and dispute resolution, both in Ethiopia and internationally. The policing aspects of the customary administration, which will be referred to as indigenous policing in this study operate on the basis of indigenous law.

Indigenous laws are not made by the state but by the people and derive their legitimacy from the communal participation and consensus (Alemayehu, 2004:68). Indigenous policing is based on these laws and has been practiced and worked successfully in Ethiopia for decades in the absence of the modern policing. According to Alula and Getachaw (2008:v), for the past 120 years successive governments in Ethiopia embarked on various attempts of modernizing the whole Criminal Justice System including policing with the intend of making the modern Criminal Justice System and modern policing the dominant and prevalent system in Ethiopia. Despite this, indigenous administration is still prevalent in most areas of the country.

The evolution of modern policing in Ethiopia indicates how the government infused it in society. Zegeye (2010:25), states that the police were invested with the duty of maintaining internal stability, by looking after thieves, four hundred and seventy years ago. Later on, the police force organized by Menelik II was vested with the power of adjudication in certain cases and during Emperor Haile Selassie the king reserved all rights to decide on the direction and practice of policing. Despite this evolution, modern policing is still encountering problems relating to its acceptability and legitimacy in some areas and this makes it to fail to penetrate communities the way in which community policing should (Almayahu, 2004:24). There are always operational tensions due to some contradictions between the modern and indigenous policing systems when crime is committed in indigenous areas. This is mainly because the modern police system wants to impose its way of resolving crime while the indigenous police system want crime to be solved in the traditional/indigenous manner that have been practiced for centuries. These fundamental differences have created two parallel institutions which are both aimed at providing the safety and security to inhabitants who are torn between these systems. This necessitates the need to research on how collaboration could be achieved to harmonize the functioning of both these systems to enhance their effectiveness and efficiency. According to Aleymayeh (2008:67), both these systems are desirable in these areas

Inhabitants of the high mountain plateaus of Ethiopia in the North, West, South West, South Central and North-West are settled agriculturalists engaged in farming. Customary law along with the modern law, to a large extent, governs the lives of these settled farmers, especially those living in the far corners of the highland states. They are predominantly the Amharas, the Tigreans, some parts of Oromia and the Southern peoples. The pastoralists, such as the Afar, the Somalis, some part of Oromo, Anguak, Nuer and other peripheries of Ethiopia, are generally only loosely linked to the Ethiopian state and their lives are governed by their indigenous systems and modern policing have a very limited scope of operation (Afar & Somali Regional Police Reports, 2007).

Theoretically, crime prevention and crime investigation are the tasks that modern policing is supposed to do. This role has, however, been significantly diminished by the long established indigenous mechanisms of investigation and crime prevention. This is evident from the reliance of modern policing to indigenous policing in terms of bringing criminals to courts,

ensuring that verdicts are upheld and reconciliation attained after the conclusion of cases. Kahsay (2007:2) states that most of the criminal cases in many regions of Ethiopia are handled by these indigenous policing systems. The role of the modern policing in these areas is thus mainly confined to controlling disputes arising between the indigenous and non-indigenous residents and dealing with inter-clan clashes which could be fierce and difficult to manage by indigenous mechanisms.

Modern policing in Ethiopia can benefit tremendously from well researched experiences and practices of indigenous policing. This does not imply, however, that indigenous policing system is democratic and all the experiences could be relevant to modern policing. As stated above the identification and the sharing of best practices from both sides could lead to mutual benefit.

1.3 THE EVOLUTION OF POLICING IN ETHIOPIA

The evolution of policing in Ethiopia in terms of the constitution, law and customary administration can be divided into four phases. These are: pre-emperors era, where indigenous administration was the only administrative mechanism; the period between 15th and the 20th centuries, where the indigenous and the *fetha negest* (Roman-Byzantine) based administration was used; the time of modernization during the era of Emperor Haile Sellasei and Derg rule (the council of soldiers under the chairmanship of Mengistu Haile Mariam that ruled Ethiopia with an iron fist from 1974 to 1991); and lastly the Ethiopia under the new constitution as we know it today.

According to Alamyehu (2004:11) before Emperor Menelik II (1889 to 1913), Ethiopia represented Semitic civilization. In essence Ethiopia has been in existence as a polity, shirking and/or expanding in shape and in power for more than two thousand years (Alulu & Getchew, 2008:2). During this period of existence it was largely dominated by traditional mode of administration and social relationships before the introduction of modern bureaucracy including modern policing. There were attempts by different Emperors to introduce laws that were base on criminal adjudication and one of these laws that impacted on indigenous policing was *fetha negest* (Justice of Kings). According to Alula and Getachaw (2008:3) *fetha negest* compromised of the biblical and the Roman – Byzantine laws as it was

used in both criminal and civil matters from the 16th century until the first panel code of 1930.

The panel code of 1930 that directed the activities of the then police covered limited areas and states such as Tigre and Amhara which are predominately Christian continued to use *fetha negest* (Justice of Kings). According to Aberra (2003:839), when the Emperors assumed power they made it clear that the custom of each and every community should be respected and criminal cases were adjudicated according to the customary law of that community. This resulted in most communities in Ethiopia being responsible for the maintenance of order and peace and executing other functions of the police such as arrest and the investigation of crime. Therefore indigenous policing has at least existed for the last 2000 years.

According to (Mogos,1972:16) the introduction of modern policing as we know it today was started by Emperor Melelik II in 1887 and they were then called *Arada Gurard*. During the Italian occupation of some parts of Ethiopia they formed their own police force called police colonel. After the defeat of Italians, the British took the mandate to run the then Italian police force. In 1941 the first regulation that established the Ethiopian Police and Prison Force was published and in 1948 the management of the police was transferred to Ethiopian Police and Prison Force.

The endeavour to modernize Ethiopian laws were embarked upon during the reign of Emperor Haile Sellassie, where the absolute power was given to the King. Emperor Haile Sellassie also imposed his authority on the indigenous administrations and according to Alemayehu (2004:13), both Menelike and Haile Sellassie pursued three distinct but inter related goals of centralization, modernization and integration and this suppressed the local customary laws. Article 347 of 1960 of the Ethiopian code which the policing in Ethiopia was based left no room for indigenous administration, indigenous laws, indigenous policing and indigenous dispute resolution mechanisms. According to Alula and Getachew (2008:5), the political motives and justification for this usurping of the functions of the indigenous administration was based on the belief that providing a uniform and modern legal regime would be beneficial to nation building and socio-economic development in Ethiopia.

Alemayehu (2004:13) states that between 1887 and 1931 both Emperor Menelike and Haile Sellassie tried to import modern policing to Ethiopia. The nineteenth and early twentieth centuries had seen the gradual establishment and refinement of the policing system in Ethiopia and by the 1930s, what had originally been a somewhat amateurish and chaotic police system had been replaced by professional policing. After the overthrow of Emperor Haile Selassie, Derg's Marxist and military government severely circumscribed the authority of the national police. The Derg period introduced a socialist orientation and like the rulers of the previous emperors it place an emphasis on the unitary state in order to uphold what was called the "indivisibility of Ethiopian unity" (Alemayehu, 2004:15).

1.4 RESEARCH QUESTIONS

According to (Bruyns, *et al* 2001), research questions are used to direct the research on the type of the information that should be collected to solve a problem. Research question should be able to be answered by the research.

The main question that this study is designed to answer is: Can indigenous and modern policing co-exist in Ethiopia? In order to answer this main question the following sub-questions will be answered during this study:

- a. What are social and political factors, which makes indigenous policing to be still in operation in Ethiopia 120 years after the introduction of modern policing?
- b. What form of policing is preferred by the community in areas where the indigenous and modern policing co-exist?
- c. What are the crime prevention activities of the indigenous policing?
- d. Is the indigenous policing operating within the rule of law and the constitution of the Republic of Ethiopia?

1.5 RESEARCH OBJECTIVES

The main objective of this study is to determine whether indigenous and modern policing can co-exist in Ethiopia. In order to achieve this objective the following sub-objectives were developed to direct this study:

- a. To determine the structure and functions of indigenous policing

- b. To establish the scope of indigenous policing
- c. To establish the limitation of indigenous policing
- d. To determine the scope and the limitation of modern policing

1.6 SIGNIFICANCE OF THE STUDY

According to Life Style Lounge (2011), research is an act of studying a particular phenomenon carefully and extensively in order to understand it. To be successful, research should be systematic, chronological, summarized and recorded properly. The findings of this study and the recommendations that could emanate from such findings could assist in enhancing the cooperation between the indigenous and modern policing for the safety and security of the Ethiopians.

1.7 RESEARCH DEMARCATION

Research demarcation refers to the area where the research will be conducted. According to Leedy (1985:7), it is the precise indication of the scope that the research will cover. The empirical research of this study will be conducted in Tigra and Afar regional states. These areas were selected for the study based on the following factors:

- The role of modern policing (generally the power of central government) in these areas. This is where modern policing has either high or low involvement in the policing of these areas.
- Religious practices (Islam & Christianity) also have influence in the policing of communities and the resolution of conflicts. To make sure that religion does not become another variable in the analysis of the modern and indigenous policing, the selected areas have less religious influence
- The study areas encompass all the three origins that the Ethiopian society is divided into, namely - Cushitic, Semitic and Neolithic. This is important when one considers that policing could be influenced by the traditions of these tribes.

1.8 DEFINITION OF CONCEPTS

Concepts are defined for the reader to attach the same meaning that the writer had when writing about those concepts so that the same interpretation could be attached to the context in which they are written. According to Goldstein (1990:5), there is no commonly accepted

definition of terms like police, policing, and modern policing, community policing and crime. Goldstein is supported by Mawby (1992:2) who states that there is no commonly accepted definition of the police and what the police do. It is therefore natural for any police research to start with one school of thought and give operational meaning to the concepts. In this study the concepts crime, police, policing, and indigenous policing will be defined.

1.8.1 Crime

Crime is an act which its repression is necessary or is supposed to be necessary for the preservation of the existing social system (Fathah, 1997:35). In this study crime refers to the violation of the vigorously defined indigenous or modern laws.

1.8.2 Police

According to Mawby (1990:2), the police are people who are authorized to regulate interpersonal relations within of the community or society through the application of physical force. Based on this definition, the term police in this study refers to a group of people employed either by the state, municipality, private security companies, or by the public in their local networks of informal social control and tasked with maintaining law and order.

1.8.3 Policing

Policing is the process of preventing crime and maintaining order (Crawford, 2008:147). In line with this, when policing is used in this study it implies the maintenance of order, the control of disorder, the prevention of crime and detection of crime either by modern policing organized by the state or indigenous policing mechanism where societies maintain peace and order based on their norms, values, and indigenous laws.

1.8.4 Indigenous policing

The term indigenous policing is not common in the literature of policing. The nearest definition comes from Crawford (2008:160) who define it as informal policing acts in a form of social capital reflecting the ability of groups to realize common values and to regulate their members according to desired principles. In the context of this study indigenous policing is

used to refer to the mechanism where communities use indigenous laws and informal social control to police themselves.

1.9 ORGANISATION OF THE THESIS

The study is laid out as follows:

Chapter 2 to chapter 5 are Literature review - Chapter 2 deals with the global context of indigenous and modern policing; chapter 3 deals with the general overview of the Ethiopian indigenous policing system; chapter 4 is about the evolution, structure, and the function of modern policing in Ethiopia; while chapter 5 is about the general overview of the functioning of the Ethiopian indigenous policing system.

Chapter 6: Research design and methodology – Discusses the research design the research methods, the sampling, the population, the data collection methods, as well as the data analysis. It concludes by addressing the ethical considerations of the study, as well as validity and reliability.

Chapter 7 and 8 are Research Findings – Chapter 7 deals with the research findings on Afar indigenous policing and chapter 8 deals with the research findings on the implementation of community policing in wajarat *warada* (district).

Chapter 9: Recommendations and Conclusion - Is the last chapter of the study. It makes the recommendations based on the findings of the study. Included in this chapter is the conclusion that gives the conclusive view of the entire study.

1.10 CONCLUSION

As the impact of modern policing on the indigenous law and policing varies from one geographical area to other, there is strong feeling in Ethiopia as the subsequent chapters will indicate that the influence of modern law including policing can be felt most strongly in the ethnic groups of Amharas, the Tigreans, the high land of Oromo, Guraghe, Sidama, Kembata, and Wolayita, as well as in other urban areas. But even in these areas indigenous policing systems still operate and perform an important function in the community. This study will indicate how in the peripheral and pastoralist areas such as the ethnic groups of Afar, the Somalis, some part of Oromo, Anguak and Nuer life is governed by their traditional systems

of indigenous law. The general tendency to revitalize indigenous justice administration will also be dealt with.

CHAPTER TWO: THE GLOBAL CONTEXT OF INDIGENOUS AND MODERN POLICING

2.1 INTRODUCTION

This chapter serves as a conceptual framework for this dissertation and aims to contribute the Ethiopian experience of the current ongoing debates on indigenous policing. Although the title and the objective of this chapter seem to be unambiguous and comprehensible, its actual unpacking and analysis is not that simple. The complexity in this regard could be inferred from Newburn's (2008:4) assertion that there are considerable academic thoughts on how policing should be theorised and understood. The lack of common understanding to terms like - police and policing - makes policing to be a difficult subject to write on and comprehend.

According to Newburn (2008:11); Mawby (1990:2); and Goldstein (1990:5), policing is an extraordinarily complex endeavour and there is no commonly accepted definition. Writing on restorative justice, Hoyle (2008:794) indicates that there are as many definitions on police and policing as there are academics who write on this subject. That is why according to (Mewby, 1990:2) most writers avoid defining these concepts. As defined by the researcher on Chapter 1 of this thesis, it is important to re-emphasize that the term modern policing is used to refer to both professional and community policing.

In an attempt to categorize and compare policing systems, Mawby (2008:17-46) divide policing systems into six categories, namely: England and Wales or continental Europe; colonial societies; communist societies; post communist societies; North America; and Far East countries. Unlike Mawby who was interested in broader literature comparative, the researcher will focus on three policing models of England and Wales; colonial policing; and socialist policing in China. The rationale for confining the research to these three systems is because the policing in Ethiopia went through these systems of policing in the following ways: The analysis of the colonial model is relevant due to the fact that although strictly speaking Ethiopia was never colonized, Ethiopian feudalism, through expansion and dominance had conquered over 85 different indigenous people. And of course the Italian colonization during its stay of 5 years had impacted on the system of policing; The British system of policing came into being in Ethiopia when the British introduced modern policing

in Ethiopia; and the socialist policing model is also relevant, because for 17 years Ethiopia was ruled by socialist ideology during the *Dergue* regime (military Junta that ruled Ethiopia from 1974-1991).

This chapter is also designed to compare and analyze the three stages of policing, which are indigenous policing; professional policing; and community policing. The comparison and analysis will be done in the context the three criteria that have been identified by Mawby (1990:19) as legitimacy, structure and function. Legitimacy refers to where the police get their power, who do they serve, and what is the role of the community. Structure refers to how they are organized internally and function refers to what their role and mandate is.

While the general horizon of this chapter is to compare and analyze whether the indigenous and modern policing could co-exist, constraints of length and relevance in this thesis dictates that a more selective approach should be followed. Therefore, the exposition, comparison and analysis in this chapter will focus on the themes that relates to the core issues of the title of this chapter only.

2.2 THE COMPLEXITY OF UNDERSTANDING THE EVOLUTION OF POLICING

An attempt to understand the evolution of policing raises more questions - such as, do all countries have the same historical policing evolutions? Is there one model that can be a base to analyze and discuss indigenous and modern policing? – Rather than providing answers. According to Newburn (2008:18), the extent to which policing systems of different countries vary is a subject of considerable debate. This is accentuated by the fact that there is no single global evolution of policing, the role of the police has changed significantly throughout its inception and will continue to change, as the values, norms and cultures are continuously changing (Peak, 2000:xxi).

The change in policing indicates the extricable link between policing and the host of variable such as the social structure, culture, and political factors of the country concerned. This is emphasized by Mawby (2008:39) who states that policing systems are closely embedded in the wider societal values. Mawby (2008:17) continues to argue that the nature of policing varies substantially among different countries and over various time periods. According to Findlay and Zvekic (1993:12), policing model is identified by historical context, state

legitimacy, structure, function, and the behaviour of the police themselves. While Mawby's (1990:19) extreme argument asserts that policing is not a universal phenomenon. Having analyzed these different perspectives the researcher is of the view that although there are some similarities in certain aspects of policing, policing is indeed unique, based on the environment on which it is formed and in which it is operating. The comparison and analysis of indigenous and modern policing should be understood within this uniqueness of policing.

There is common understanding among scholars of policing that the history of policing is categorized into pre-policing that Rawlings (2008:47) call it "policing before the police"; and Thacher (2009:55) named it "community policing without the police," which is referred to as indigenous policing in this thesis; professional policing; community policing; and what has recently become known as intelligence-led policing (Riebling, 2006:7-26).

2.3 GLOBAL PERSPECTIVE ON INDIGENOUS POLICING

Indigenous policing where the community takes responsibility to control crime has a long history, long before the existence of formalised and modern policing. This police system that existed before 1829, under different names, has long been neglected by academics and police scientists. Most of the discussions and analysis on policing deal with the police as from 1829, which is related to modern policing. However, it has to be noted that recently there has been some work that is being done in policing for the period prior to 1829. Academics, scholars, and international organizations, who are specially interested in legal pluralism for example NADRAC (2006); Merry (1998); and Beckmann (2002) have started to bring the issue and debates on these indigenous policing practices.

To give a proper context to indigenous policing, it is important to highlight who the indigenous communities are and how were they policed. Osi (2008:171) describes indigenous population as people who have lived in a specific and recognizable geographical area throughout their history, and have a unique cultural appearance which is different from the later settlers. In the developed world indigenous people are mainly comprised of elements of natives, who the first European settlers subjected to colonialism during the colonial enterprise expansion in the United States of America, Canada, and Australia. According to the United Nations these indigenous people represent almost six percent (370 million) of the total world population in seventy countries (U.N Econ & Social Council, 2007:4). There are also

other societies in developing countries in Africa and Asia, who were colonized for some time but are now free. Though colonialists did introduce modern policing, these people have retained much of their indigenous policing (Osi, 2008:171).

The structure and functions of indigenous policing is not independent from the general indigenous administration. Within this structure, there are indigenous laws, indigenous courts, indigenous dispute resolution mechanism, etc. Embedded in the structure of indigenous policing is its system of crime prevention and investigation. Even though the objective of this study is to analyse indigenous policing, some elements of indigenous administration, law and dispute resolution mechanisms will be dealt with because indigenous policing is enforcing indigenous laws.

The next sections will firstly deal with how indigenous policing used to operate in Europe before the emergence of modern policing. Secondly, it will deal with how colonial policing impacted indigenous policing. Finally, a brief discussion of indigenous policing in China will be provided.

2.3.1 Indigenous policing in continental Europe

The need to maintain order and control conflict has always existed in one form or another whenever people lived in a group (Wilson, 1997:4). But this does not mean that all societies had some forms of policing from the beginning, because according to Mawby (1990:16) and Bittner (1990:102) the organization called the police is two centuries old. While Kelling and Moore (1988:2) state that the institution called the police is only 150 years old. The assertion that not all societies had a policing system is supported by Schwartz (1964) in Mawby (1990:16) whose research on fifty one primitive societies found that most of them had no formal policing systems. Schwartz research confirmed the earlier research by Hoebel (1961:67) which found that the Eskimos had no police system. According to Hoebel (1961:67), there were accepted norms and where these acceptable norms were breached, there were little organized and accepted form of response on behalf of the group. For example if homicide occurred, it was viewed as a private matter and the killing of the killer by the victim's kin was condoned. Homicide only becomes group responsibility when the offender was engaged in repeated killings and thus was seen as a threat to the group. In such situations the group could agree on a united action. There was, however, no individual or

group specifically with any responsibility for controls. Hoebel (1961:67) is supported by Berg (1999:16), who states that during primitive times social order was mainly patriarchal whereby the father governed the social organization of the group.

People who lived in a particular tribe or group, performed self policing (indigenous policing) through collective efforts of their adult members. Standard of conducts were enforced by tribal elders and religious leaders. The leader of the tribe or clan had executive, legislative and judiciary control, like it is in some areas in Africa including Ethiopia currently. Although the clan leader might have had people around him who could enforce his rulings, the system used did not represent an organized policing system as we know it today (Berg, 1999:16).

Berg (1999:84) states that there is evidence of formalized policies in China and Greece, but what is more known and documented is the Roman experience. The Roman era has considerable influence in policing. August Caesar - the Emperor of Rome in 27BC - formed the vigilantes whose duties were fire fighting, keeping order and law enforcement. Beginning at about 900 AD in England, the role of maintaining peace and order was in the hands of the community. Each community member had a duty to help himself and his neighbours. Enforcement of group norms and customs was handled primarily by the injured party or by one's family and kin. In turn crimes committed against the group, such as an attack, were handled by the entire clan and tribe. As time progressed, rule enforcement system based upon individual and kin responsibility gained prominence. Berg (1999:16) referred to this indigenous policing system as kin police because in this system the family, clan, and tribe assume the responsibility of administration of justice. Individual members of the clan possessed a rudimentary type of official authority and were therefore, empowered to enforce the group's customs and code of laws. Mawby (1990:18) states that in the Anglo-Saxon tradition, order was maintained on behalf of the local lord by tithing, which was responsible for the good conduct of ten families. Slowly these kin policing, developed into another form indigenous policing where individuals grouped with nine of his neighbours and formed indigenous policing called a tithing.

If a tithing failed to apprehend the offender, the entire tithing were likely be made to pay to the injured party. As the villages grew in sizes and its inhabitants increase in numbers, there was corresponding increase on the need for policing. This led to merging of adjacent groups

of tens to form the groups of hundreds. These groups used “hue and cry” system to solicit the help from the neighbours in pursuing the offenders (Thibault, 1998:1-3). In terms of this system it was obligatory for the neighbours to assist in pursuing offenders. According to Thibault (1998:1-3) this system of policing continued until 1288 and compensation of the robbery victims when the robbers escaped arrest was legalized. Rawlings (2008:48-49) states that every group in a society had its own unique legal and police system.

Another element of indigenous policing was the *magna carat*. The *magna carat*, or Great Charter as it is sometimes called, is a cornerstone of democracy and the rule of law. The *magna carat* eliminated arbitrary edicts by lords and established the responsibilities of the state and the supremacy of formal law. Critchley (1978:34) states that during Saxon times, frankpledge relied on the principle that all members of the community accepted an obligation for the good behaviour of each other. Because communal policing was the progeny of feudalism, its success depended on the existence of a relatively stable communities like feudalism.

The concept of communal policing on the other hand had its origin in the laws and customs of the tribal groups like the Saxons who developed obligatory self policing systems during the reign of King Alfred (Fyfe, 1997:5). However, by the late thirteenth century the feudal system was in decay, the economy was stagnating and food prices were being forced up by a rise in population, coupled with a decline in production. Then, severe famines in the early fourteenth century and later the plague of 1348 decimated the population, destroying many communities (Rawlings, 20008:49). The beginning of the fifteenth century brought and intensification of the campaign for law and order. According to Osi (2008:196), this led to the increase of the powers of the police and the arrest of those who participated in assemblies or riots that disturbed the peace became the duty of the sheriffs. Even though the indigenous policing system was recognized by the Roman Emperor - Charles V - in 1555, it was subsequently outlawed and vanished from the Eurocentric point of view as it was forcefully replaced by modern policing (Osi, 2008:196).

This section indicates that in general the primitive societies took control of policing themselves. The policing systems that emerged after that, both in Greece and Rome, until the formation of the metropolitan police in England, were having a sense of formal policing but

basically the role of handling crime both investigation and prevention were in the hands of the community. While it can be argued that the victim and the community remained central to law enforcement, because this reflected customary practice and lent legitimacy to the new system, it was also the case that the crown had neither the inclination nor the resources to intervene itself. Rawlings (2008:49) states that the feudal system meant the connection between the crown and its subjects was not direct but ran through various intermediaries, who were expected to maintain order. Furthermore, the immediate threat posed by criminals was to the local community, and local people were likely to be better equipped to identify offenders. With the emergence of capitalism the community could no longer be relied on to police itself. Because at a time of geographical mobility, the expansion of the cities, and industrialization, with associated problems of crime and labour unrest, community-based law enforcement, within small areas, was less appropriate. It was further undermined by the changing structure of society which meant that primary community-based systems of control were also breaking down. The industrial revolution and the emergence of capitalism added other tasks such as the need to control and manage labour riots, and political crimes. This created the need for modern policing. According to Rawlings (2008:49), it can be concluded that these events merely accelerated a long-established trend whereby the obligations of the community and the victim for law enforcement were being shifted into the hands of officials who were linked in a network that sought to achieve accountability.

2.3.2 Colonization and its impact on indigenous policing

European colonization and expansion to other countries started in the late 15th century and ended in the 1970's (Tamanaha, 2008:11). Colonization has created two kinds of colonial policing. One category is where European countries colonized the area by dislocating the natives and creating their own settlements. Classical examples being the United States of America, Australia, and Canada, where the settlers have imported their own Western model of policing, and the native have to be policed by the imported policing. The other category of Colonial policing is found in countries where, the colonizers brought their modern policing and used it to police the indigenous people. These countries are now independent, but still colonial policing has impacted their policing systems.

In the early 20th century social scientists, particularly anthropologists were interested on how

indigenous people in Africa and Asia were maintaining social order without European laws (Bechmann, 2002:38). In this section some African countries' indigenous crime management systems will be discussed. In their paper on world development report 2006, Chirayath, Saga, and Woolcock (2005:10), discuss many African indigenous forms of administration. The researcher will briefly look at the indigenous law enforcement systems of Nigeria, Tanzania, South Africa and Rwanda.

Chukwuma (2000:127) states that before the advent of British colonial rule, various ethnic nationalities in Nigerian had some form of community based police service, which ranged from the highly developed system among the *Igbos* tribe of South Eastern Nigeria. Nigerians worked in communities to maintain law and order as well as general development in the communities.

Tanzania's *Haya* (an ethnic group who are situated along the border of Lake Victoria) had a system called the *Ntegeka ya Bagarusi* (Courts of the Elders). These courts were not permanent fixtures but rather community committees made up of a number of *bagarusi* (delegates) appointed by the two parties involved in a dispute. While these delegates could be drawn from any group, parties had an incentive to solicit individuals with political capital, and hence delegates tended to be village elders. The *bagarusi* elected a chairman, who established the time of the hearing and witnesses that had to testify in both sides. The parties involved in a conflict had to present their own cases. While consensus was usually achieved, the chairman had the final say (Chirayath *et al*, 2005:10-11).

Scachs (1973:98) states that the disputes resolution for the Bantu-speaking community in South Africa was based on self representation and a premium was placed on successful pleading and negotiation skills. If these mechanisms failed, parties could present their case before the chief, who, with the advice of his councillors (group of elders), would issue judgments in line with the social norms of the group. A bench of judges composed of a chief and representatives of various community groups sat in a semi-circle facing an audience of community members in the centre of an outdoor courtyard. Litigants generally sat on either side of the assembly, also facing the elders. Both parties state their cases, witnesses were called, and finally judgment was pronounced by the bench in a specific order: members seated on the outer ends of the semi-circle, would issue their opinion first, followed by higher-ranking officials. The chief made the final judgment after considering the statements

of the bench. If they failed to agree at this initial point, the dispute would be appealed to the headman and later to the chief's court (*kgotla*). For crimes such as murder, the cases would be taken directly to the *kgotla*.

The *Gacaca* (an indigenous mediation programme promoting reconciliation wherein the elders would sit on the grass and deliberate on the conflict at hand) is a system in Rwanda, which the researcher believes it represents most African's traditional crime management systems, including the Ethiopia's *Gada* (an indigenous administration system of the Oromo people, where disputes are resolved) is an indigenous community's own restorative and localized system of crime control that have been used for hundreds of years in domestic crime management, dispute resolution, property settlement and the like. The *Gacaca* has two components, namely, the general assembly and the cellule general assembly. The general assembly functions as prosecution by identifying the crimes, victims, and the alleged perpetrators as well as giving evidence in court. At the local level the general assembly is constituted by all the adult inhabitants of that cellule, while at the higher levels it is constituted of representatives from the cellule general assembly (Kahsay, 2007:29). This made the *Gacaca* to be recalibrated more closely to its preventive mission. All inhabitants of the tribe participated and the old wise men were leading group discussions which, at the end, will result in an arrangement that is acceptable to all participants with the ultimate end of restoring social order (Karbo & Mutisi, 2008:5-6). According to Gabbay (2002:421), unlike retributive justice, restorative justice is relational and takes into account the community perspective that views the offender and victim as community members who should be transformed during the restorative process.

This indicates that indigenous people had their own criminal justice system long before colonization. These indigenous administrations were based on indigenous or customary law to govern themselves through values, norms, moral and religious conventions. According to Zartman (2007:7), indigenous mechanisms have been practiced for extended periods and have evolved within African societies rather than being the product of external importation. These mechanisms provide fast remedy rather than delay the resolution and lead to greater tension and conflict.

Before the arrival of colonizers in Africa, general mechanisms of crime control were based in the community. The elders (tribal, religious and spiritual) were playing an important role. Kahsay (2005:24) states that the elders in traditional African societies formed a dominant component of the customary mechanisms of crime control. The elders had three sources of authority that made them effective in maintaining peaceful relationship and community way of life (Kahsay, 2005:30). They controlled access to resources, they had access to a network that go beyond the clan boundaries, ethnic identity and generations; and possessed supernatural powers reinforced by superstitions and witchcrafts. This local actors and traditional community based judicial and legal decision-making mechanisms managed and resolved crimes within or between communities. Local mediation typically incorporated consensus building based on open discussion to exchange information and clarify issues. The elders also acted as a court with broad and flexible powers to interpret and search evidence, impose judgments, and manage the process of reconciliation. Kahsay (2005:32) states that parties to the disputes were not addressing each other but the elders in order to eliminate direct confrontation. Interruptions were not allowed while parties state their cases. Statements were followed by open deliberation which may integrate listening to and cross examining witnesses, the free expression of grievances, caucusing with both groups, reliance on circumstantial evidence, visiting dispute scenes, seeking opinions and views of neighbours, reviewing past cases, holding private consultations, and considering solutions. The exposure of criminal acts which in essence led to the naming and shaming of those who were involved provided an important deterrent mechanism (Gabbay, 2002:447).

European colonizers did not use the same strategy to all those countries that were colonized. The shape and form of colonization and its consequence on indigenous administration, laws and policing depended on factors such as duration of colonization, the circumstance of the area colonized, and the motivation of colonization. Tamanaha (2008:12) argues that the Spanish mission was primary to convert indigenous people to Christianity which led to intrusive involvement in the indigenous policing mechanism. While the Dutch and British colonizer of the densely populated Indian and Indonesian's colonies were initially organized through the royal chartered private corporation to establish laws and courts.

In some of the colonized countries - especially in Africa - the British colonizers established paramilitary police organizations that were suitable for their objectives. Mawby (1990:29)

states that it could not have been expected that the British were to establish a civilian and localized police organization like the one that they had in London. Their main objective with policing was to subjugate the colonized population and to protect their interest. According to Brogden (1987:10), the British were incorporating the local community as a branch of the imperial society. Europeans wanted to enforce law and order and to regulate the lives and habits of the people that they conquered in general. This was evident from the manner in which they ignored local level cultural context and the system of justice that was operational during those times. According to Chirayath (2005:1), colonizers failed to acknowledge and comprehend how the predominant customary systems were maintaining order based on the operating norms and values of the community.

In many of the colonial territories in Africa, the governing powers also recognized that side by side with the general law which they introduced, there were existing indigenous rules which were regarded as enforceable where infringements of local norms of acceptable behaviour occurred. Indigenous or customary courts were commonly established to administer such laws. According to Merry (1998:875), customary law is simply not an adapted or transformed version of indigenous law but a new law created within the context of colonization.

Initially, colonizers were not interested - particularly in Asia - to accept jurisdiction of the indigenous administration, their interest was largely on economy. Tamanaha (2007:12-13) states that until the late eightieth century, there was no serious European endeavour to develop jurisdiction over indigenous population. Indigenous institutions were mostly left untouched unless if they were affecting the colonizers. Later in the ninetieth century, indirect rule through indigenous leaders were applied. But in Africa, the British and French colonizers imposed their own laws on indigenous laws. They allowed indigenous law to work as long as it was not repugnant to natural justice, equality, good conscience, or inconsistent with any written laws. The imposed laws forged industrial capitalism rather than an agrarian or pastoral local way of life. This embedded different principles and procedures for the proponents of the Empire in the ninetieth century. This imposition of European formal laws was seen by the colonizers as a great gift to the colonized by instituting civilized laws to replace what they believed to be anarchy and fear that gripped the lives of colonized people,

and frees them from the scars of war, witchcraft, and tyranny (Tamanaha, 2007:869; Jackson, 1994:123; Ludsin, 2003:21).

According to Cunneen and Schwartz (2002:433), in South Africa, the colonialist recognized customary laws not to acknowledge the rights to self determination, but because it was necessary in the colonial process to maintain order and entrenched their power through that order. They believed that English law was too advanced to be applied to the indigenous people. In any event, recognition was considered, not a right but a privilege that could be easily taken away.

Akron Law Review Justice (2006:1) states that in general it was not always easy for colonizers because they were encountering a legal system that was quite different from their own legal tradition. They faced hostile reaction from strong indigenous cultures which were not necessarily prepared to accept the assumption of the western culture. Ultimately, the culture accepted the creation of legal and policing pluralistic systems in which the English and other Europeans dominated, although indigenous law was also maintained up to a certain point. All of the strategies to replace or harmonise indigenous laws with the western laws suffered from various defects. The basic problem was that local norms and processes could not be removed from their original medium without losing their context. In many indigenous contexts, rules were not treated as binding but rather as flexible rules that could be negotiated in the course of resolving disputes. This was contrary to the fixed law that was brought by the colonizers. What resulted was a dual policing system with various complex mixtures and combinations. Mutual influences that co-existed within the ambit of an overarching legal system were applied mainly to urban areas by the police that were established by the colonisers. While officially recognized customary or religious institutions enforced local norms, both sides of this dual system influenced one another in various ways including exchanging or recognizing the other's norms (Tamanaaha, 2008:15). In most of these colonized countries (Africa, Asia etc), colonial policing influenced policing thus resulting in pluralistic policing where indigenous and modern policing co-exists.

The impact of colonial policing on the indigenous policing in USA, Canada and Australia was direct. Unlike, in Asia and Africa where western modern policing was the dominant feature, in USA, Canada and Australia indigenous people were in minority so whatever they

had was overwhelmed by modern policing. Lithopoulos (2011:5) provide an Australian example where the legal order that was enforced by the police was very much the law of a colonial state that excluded that of the aboriginal people. The defining features of colonial policing in relation to indigenous people in Australia in the nineteenth century was in the context of military style operations which at many times resembled state of war. The war-like police operations which existed were influenced by the level of indigenous resistance, which at times could appear to threaten the general prosperity of the colony. Policing was an important component in the expansion of British *de facto* jurisdiction in Australia. According to Lithopoulos (2011:17), liberals defined indigenous peoples as beyond the scope of liberal justice, too savage, insufficiently settled, and unreasonable.

Indigenous policing in China can be traced to Confucianism and directly to the influence of the Japanese invaders. Troyer (1989:16-24) states that historically, social control in China was decentralized and organized around natural communal and intimate groups, such as the family and the clan, with governmental endorsement and support. Social control had deep base and the state, law, and administration were rarely involved and were used as last resort. The imperial administration considered it expedient to allow the local communities to police themselves. According to Wong (2003:223), the communist party continued with the process and the local social control was institutionalized. Such decentralized grassroots social control was informed by Confucian teachings (Wen, 1971). According to Bary, Chan and Watson (1960:115), crime control in China is a local, indigenous and, above all, family affair. Emphasizing this, Bary *et al* (1960:115) state the following Confucian teachings as a base for the policing in China:

“Wishing to govern well in their states, they would first regulate their families and wishing to regulate their families, they would first cultivate their persons. Wishing to cultivate their persons, they would first rectify their minds. Wishing to rectify their minds, they would first seek sincerity in their knowledge. Wishing for sincerity in their thoughts, they would first extend their knowledge.”

2.3.3 Global re-emergence of indigenous policing

Indigenous policing is not a concept of the past history in some developing and developed countries. It is gradually re-emerging in response to high crime levels and in some countries

dual-policing system exists. For example, when indigenous people of Guerra in Mexico were engulfed by high crime levels in 1995, they turned to indigenous policing methods and replaced modern policing by indigenous in 78 towns and they claim that this has reduced crime by 98% (Bricher, 2011:1).

One of the examples of the re-emergence of indigenous policing in Africa is the *Inkiko-Gacaca*. It is Rwandese phenomenon, which means Justice on the grass. It is where people sit on the grass to settle their disputes in the presence of community members. Karbo and Mutisi (2008:5) state that in order to resolve the 1994 wartime massacres, *Gacaca* courts were resurrected as an indigenous form of restorative and transitional justice by the Rwandan government. While in Australia continuous conflict between the police and the natives forced the police to study and implement a new way of policing that accommodates indigenous customs. This trickled down to allowing the local indigenous communities direct role in local justice administration and where justice processes have been adapted to incorporate local indigenous views and needs. Special courts where aboriginal elders sit on the bench with magistrates were established (Cunneen & Schwartz, 2002:448).

Indigenous crime control processes are also experiencing a revival in Canada. The tripartite agreement has been negotiated between the federal governments, provincial or territorial governments and first nations (indigenous people) to provide police service that are effective, professional and tailored to meet the needs of each community. One element of indigenous policing is circle sentencing. Circle sentencing or circle courts that are based on traditional indigenous forms of dispute resolution and crime control were adopted by a number of traditionally oriented first nation people (indigenous people) in Canada in the early 1992 (Cunneen & Schwartz, 2002:448). Another important process experiencing re-birth is the Navajo peacemaking system. Canada decided to revive, quite successfully, Navajo peacemaking courts. They began by identifying their customary norms of doing things, their traditional institutions for dispute resolution, and the need for leadership (Osi, 2008:198).

In the United States of America (USA), indigenous policing has been and is still operating in indigenous communities. Lithopoulos (2011:7) quoting from USA Census of 2000, put the number of American Indian and Alaska Native ethnicities to 2,475,956. There are about 154 tribally operated police/investigative programmes for the tribes that have exercised their

rights under Public Act 83- 280 and the India Self-Determination Act 1975 Law 93-638 which states that it is up to each tribe to determine the exact nature of policing that they require (Lunna, 1998:75-86). The tribes, under these arrangements, have taken over law enforcement functions in total or in part from Bureau of Indian Affairs (BIA) law enforcement agencies, although the BIA still provides funding for these programmes. Both laws allow tribes to contract with the federal government to deliver their own police service, as well as other services operated by BIA. This is the most popular and fastest growing indigenous policing model in America (Lithopoulos, 2011:8).

2.3.4 The impact of professionalization of policing on indigenous policing

According to Berg (1999:25); Kelling and Moore (1998:1-5), the emergence of modern policing was propelled by the insufficiency of the informal social control to control crime in the new political landscape of industrialization and capitalism. This was further complicated by the increase in economic surplus, the availability of private property, and the complexity of the community structure that led to the demise of a communal value system (Masiloane, 2007:331). It then made no sense for the capitalists to depend on indigenous policing (Rawlings, 2008:49). Mawby (1990: 22-23) states that it made little sense for the middle class to depend on the local community to police itself. When London was threatened by riots, disorder and crime, it became clear to the middle class that the watchman and constable were ineffective to curb lawlessness. The political legal elites of England started to debate the formation of the public police. According to Bittner (1990:103), the idea of public policing in England faced considerable opposition because it was believed that policing is the responsibility of the community. Ultimately, the final argument that the police should be under the government's control prevailed (Rawlinowiz, 2008:49). From what has been stated above, it could be inferred that modern policing emerged from the need to have efficient and effective policing.

From 1829 to 1920's the modern policing was functioning more or less like the indigenous policing up to the point when it was professionalized (Kelling & Moore, 1988:3). Modern policing was initially dedicated to the protection of the population; the welfare of the state and citizen; and improvement of society. Berg (1999:3) states that from 1890 through the mid 1920's religious leaders, active minded groups; and the public forced the political reforms that led to professional policing. By 1930's what had originally started as amateurish system

evolved into professional policing. Peak (2000:xxi) states that changes has been a constant feature in policing and it will continue to be due to the constant changes in the political and ideological values. According to Bridenball (2005:9-10), in London and USA modern policing depended on neighbourhood civilians for crime control and crime information.

The push toward greater operational efficiency gathered momentum as various new technologies such as motor vehicles, telephone systems, radio communications, and computers were used in police work. Thus, for several decades especially from 1940 to 1970 a concern with developing techniques to increase the control and efficiency of the police agency occupied those who were in the forefront of policing (Goldstein, 1990:7).

The core elements of professional policing can be categorized into the following three factors: Firstly, the police were separated from politics; secondly, the main function of police was to fight crime and the relationship between the police and the community was based on the rule of law; lastly, the police depended heavily on the use of technology. The first core element of professional police relates to how the role of the community in crime prevention was diminished. Kelling and Moore (1988:23) state that professionalization of policing changed the role of citizens in crime fighting to passive recipients of the services offered by the police. According to Peak (2000:30), the thinking in professional policing was that only the law and the law enforcement can save society from the horror of crime.

The second core element of professionalism was its strict focus on crime prevention. One of the originators of professional policing - O.W. Wilson - believed that police efforts should focus on suppressing crime and specialise in police functions. This exemplified the view that police forces should be organized along military lines and be devoted to reducing crime through arrests, ticketing, and high visibility (Wilson & Kelling, 1977:5). In short, at the heart of what police do was the immediate arrest and incarceration of suspects. Fattah (1993:5) states that professional policing is based on retributive justice system that is reactive and narrowly focused on crimes that have occurred.

The experience of professional policing in controlling crime is not what its proponents predicted. Raising doubt about the effectiveness of professional policing in preventing crime, Fattah (1993:6) argues that the approach of professional policing of strict law enforcement

leads to more arrests and overcrowded correctional facilities. The overcrowded correctional facilities tend to breed criminality rather than rehabilitating offenders. Kelling and Moore (1988:12-16) state that the police failed to prevent crime because the crime has increased and the fear of crime mounted. According to Fattah (1993:24), the rates of violence and interpersonal property crime recorded by the police have increased in every major industrial country except Japan. Unlike other developed nations, Japan has developed a different policing system where the community actively participates. According to Choundhury (2001:43), community involvement coupled with community policing station boxes, radio and patrol cars has efficiently lowered crime and created a situation where nearly 75% to 80% of the criminals were apprehended. Since the Second World War this increase averaged to 5% per year. This means the rate doubles every 14 years. For Canada, more than 50% women were not feeling safe in their own neighbourhoods at night (Fattah, 1993:24). This indicates that the legalist approach to policing does not bring about the desired results and there is a need for the police to play role in social disorder rather than their narrow focus on crime only.

The second core element was that the police should be separated from politics, which was the same basis that created them. With the establishment of industrial capitalism, the upper class wished to avoid personal danger and made them to favour a police system which is insulated from politics (Silverman, 1999:10-12). According to Otwin-Marenin (1996:10), the police were organized as part of the state's apparatus for social control and the interest of favoured groups values and dominant ideologies. The question that needs to be answered is whether the police were indeed separated from politics or is it possible to separate the police from politics. Cain (1973:13-17) states that the police exist to maintain social order but the question remain whose order are they maintaining? That is whose political ideology do they implement?

Although political interference into police work is not as extensive as it once was, the immediate impact of politics on the operation of law enforcement agency is considerable. Keeping politics out of policing is a slogan that can be heard all over the world. Sir David McNee – the chief officer of police – states that although political neutrality, political independence, and impartiality of chief police officers is central to the policing system in Britain because of what is happening, he no longer regards it as that important and this made

him to no longer exercise his right to vote. He is of the strong belief that police officers must be men and women who are governed by the rule of law (Kelling, 1996:212).

According to Kelling (1996:214), the political neutrality that Sir David McNee talks about cannot be possible in policing because the very same law that the police might be called upon to enforce might be political. Although legislation is democratic in the sense that it is the outcome of a democratic process conducted by democratically elected representatives, even the most naïve observer of the legislative process knows that many laws reflect partisan values and interests, and that police will be expected to enforce at least some of these laws. Even the enforcement process might be influenced by ongoing political events and the expectations of an incumbent political power. Therefore, keeping politics out of policing is a wonderful gesture that is unrealistic in most instances. Hassen (2005:25) states that this is largely because the police are accountable to the political power that controls the government.

2.3 THE EMERGENCE OF COMMUNITY POLICING

Community policing has been the main strategy of crime prevention of the Ethiopian Federal Police for the past 15 years. The Strategic Plan of the Ethiopian Federal Police (2011:17) explicitly put community policing as a driving strategy. The determination on whether community policing could co-exist with the indigenous policing will be based on the analysis of community policing and indigenous policing. According to Hassen (2002); Hassen (2005) and the Institute of Research of the Federal Police (2010), there is a correlation between the concept of community policing and indigenous policing in Ethiopia.

Community policing emerged as a police strategy when the effectiveness of professional model of policing that emerged and there were calls for social reform to transform policing. Regarding this, Eggers and O'leary (1995:4-5) and Brideball (2005:24) state that under professional policing the role of the public to control crime diminished and there was heavy reliance on the police to do that. Police organizations become more professionalized and shifted their mission from peace keeping to crime fighting. Advancements in policing methods and technologies such as motorized patrols, radio dispatches, and the use of rapid response to incidents widened the gap between the police and the policed. This gradually led to the withdrawal of the public from policing. With this shift in roles, alienations grew and lawlessness that led to more criminality cropped up. Berg (1999:35) states that concerned

with high crime levels, governments commissioned research that focused on the role of community in responding to crime, the role of technologies, the effect of patrol in reducing crime, how police performance should be evaluated, etc.

Among the findings was that the police maintained distance from the citizen. Professionalization moved the responsibility of crime control to be the sole responsibility of the police who were dependent on car patrols and the use of technology (Lab, 2003:xvii) and (Eckert, 2009:4). Eckert (2009:4) states that the professional approach was wrong because police should have emphasis on the quality and quantity of the contacts that they have with members of the community. This is so because demand for the maintenance of order exceeds the capacity of the government to provide it (Marks, Shearing & Wood, 2009:159). According to Bayley (1988:4-5), the police should not take total responsibility to reduce crime as crime is usually caused by social factor beyond their control. This indicates that communities were merely receptive to police services. According to Bayley and Shearing (1996:345), the end of monopoly by the public police evolved since the mid 1960's.

Another major finding by police researchers in the 1970s was that policing as a formal mechanism of social control had little effect on crime or public safety. Skolnick and Bayley (1984) found that increasing the numbers of police and conducting protracted criminal investigations did little to reduce crime or increase the proportion of crimes solved. Furthermore, implementing two-person patrol units and reducing response times made little difference in apprehending criminals once the crime was committed and reported (Klockars, 1985:18). Newburn (2008:91) on the other hand states that saturation patrols do reduce crimes temporarily by displacing it to other areas. Crimes that terrify the community most, such as mugging, robbery, burglary, rape, and homicide are rarely encountered by the police through patrols. These studies forced police scientists and police practitioners to seek for new policing strategies that could be effective.

Critical of police service that had lost sight of its purpose and had instead become obsessed with procedures, Herman Goldstein (Goldstein, 1979) and (Goldstein, 1990) introduced problem-oriented policing. Goldstein's approach to policing was a conceptual departure. The main impetus for problem-oriented policing springs from a sense that the demand on police has become overwhelming. Moreover, underlying problems producing calls for service are

not being addressed. The police are called to deal with a very wide range of emergency problems, which are not restricted to crime only. Problem-oriented policing demanded that the police should do more than attending to incidents by looking at the root cause of the incidents. This is because the professional policing was failing to address the issues producing the calls (Tilly, 2008:373-375).

Despite researches that produced the problem oriented policing in 1970 and 1980, many of the police, political leaders and academics continued to be concerned about the role, effectiveness and behaviour of the police. Thus, many governments and police departments spent millions of dollars on research and opened the doors of police departments to outside researches. According to Lab (2003:8) and Kuykendall (1990:16), the failure of the professional policing to curb crime rates and integrate the police to the society gave rise to community policing.

The popularity of community policing as new policing strategy led to a rich source of police research. Among many prominent scholars who have contributed to the development of community policing are Goldstein (1990); Rosenbaum (1994); Skolnick and Beylay (1986) and Trojanowicz and Bucqueroux (1990). Based on the research of these scholars and despite some uncertainties, hundreds and thousands of police departments across the world went ahead and implemented community policing. According to Peak (2008:23) and Dantzker (1997:196), the primary success of community policing in both developed and developing countries has propelled other police organizations to implement it. Many police researchers hail community policing as a new paradigm shift in policing. Trojanowicz and Bucqueroux (1990); Kelling and Moore (1988); Sparrow (1988); and Settles (2001:16) argue that community policing represents the first major attempt to reform the police service and it is an innovation in policing. Anderson (1997:vi) is of the view that community policing is a dynamic movement that concentrate on the root cause of crime. In general, most police researchers advocate that community policing is a necessary and important reform in police science and police practice. According to Lab (2003:xv), it recognizes close relationship between the police and citizens, it represents what is progressive and forward looking and that the evolution of community policing is a new criminological model of peace.

Based on the decrease of crime levels in New York and other places, police academics have also concluded that community policing is effective in reducing crime (Silverman, 1999:7; Bratton, 1998:313; Bayley, 1994). According to Eck and Rosenbaum (1994:3), the popularity of community policing is that it means different things to different people. However, like any other inventions there are also many critics of community policing from people who see it as vague and lacking a clear definition (Moore, 1994:285-6; Slogan, 1994:225; Lab, 2003:xxi). In general many police academics have noted that community police is myth of another feel good approach (Reiner, 1992:107-109). Other criticism levelled on community policing is whether it does indeed reduce crime. Past research, has both supported and refuted the link between community policing and crime reduction (Weiss, 2005:39).

Another challenge raised by scholars on community policing is that it is difficult to mobilize and create partnership with the community. It also creates unnecessary public expectations due to its rhetoric of creating partnership which is at times unrealistic (Sadd & Grinc, 1994:27-32). One of the most serious critiques of community policing literature is that while it emphasizes the importance of community partnership in the design and implementation, it provides few details on how community context should be taken into account (Dixon, 2000:17). Sceptics of community policing argue that the concept lacks a true partnership component between the police and the community.

The implementation of community policing has become very difficult due to the police culture of command and control. Chevigny (1995:116) states that the success of community policing is dependent on the decentralized decision making to police officers who interact with the community and police commanders are not yet ready to cede any real decision making powers. According to Walker (2005:162) and Dontzker (1997:203), the simple fact of the matter is that changing the culture of the police is extremely difficult. Policing is shaped by the internal informal norms which are too difficult to change.

The other difficulty with community policing is the absence of a clear definition and acceptable criteria for measuring its success. Few cultural designed studies have examined how this multi-faced concept has been operational in specific localities and whether such operations have achieved the desired results. According to Roberg and Kuykendall (1990:31), community policing is too vague to be empirically tested and evaluated.

2.3.1 The essence of community policing

While different interpretations and applications of community policing might indicate some confusion with its meaning, it does not conclusively demonstrate that the idea of community policing lacks conceptual integrity or theoretical substance. According to Dantzker (1997:197), while several scholars acknowledge the difficulties with community policing, they still attempted to distil a coherent account on what community policing is.

Many of the most thoughtful and forceful advocates of community policing emphasise that community policing is a new philosophy of policing, and constitute a shift away from professional-model of policing, and it is not just a particular programme or specialized act (Lab, 2003:xvi). Skolnick and Bayley (1999:73-74) suggest that for the world's industrialized nations community policing represents the most progressive and forward looking approach for law enforcement. Today it is common to hear about community based prosecutions, courts, correction, mediation, etc. Community policing as a shift away from professional-model of policing should not be understood as necessarily requiring the abdication of all professional policing methods. Professional policing model is and will always be important to policing. Regarding this, Tilley (2008:389) states that policing should be viewed as a complex social institution with many functions, none which can be abdicated because emergencies have to be responded and crime has to be investigated. In short, the citizen wants the police to react to calls for service and to reduce crime.

Scholars from the West and China have focused on the indigenous and community policing experiences. According to Wong (2003:211), this interest emanates from the fact that historically and traditionally social control in China has been dealt by the community and not by courts. Wong (2003:209) names many prominent scholars of policing who have researched the China's community and indigenous policing. According to Zhong (2009:171), policing in China is essentially community policing because it is based on two layers. Firstly, it is based on the interest of both the state and the public, and secondly, it relies on the public and police function to win the understanding and support of the public. Wong further mentions a metaphor in China which states that as much as the fish cannot survive without water, the police cannot succeed without the involvement and support of the community (Wong, 2003:209-215).

2.3.2 Community, indigenous policing and informal social controls

Crime and criminality is and has been a domain issue that the society in general is grappling with. As such, a large portion of criminological literature has been focused on various forms of social control. Though social control is a broad concept, two prominent general categories that are relevant to this study are formal and informal social control. While formal control is concerned with the enforcement of various laws or codes by formally established institutions, informal social control focuses on norms and values that work to influence behaviour (Brewer, 2000:109). Social control is the mechanism of self-organizing and self-preservation of society by the establishment and maintenance of normative order.

To link informal norms of society to the application of community and indigenous policing, one has to review wide areas of theories and concepts. When coming to theory of relationship between community policing and informal social control, scholars of criminology, sociology and policing have formulated many theories (Posner, 1980; March & Olsen, 1989; Sampson, 1999; Tyler, 1998). According to Anderson (1997:38), community policing is firmly rooted in accepted social science theory.

Many police researchers are of the view that the best example for effective informal social control is in China. In China, over 80% of the village committees perform their self-governing role and functions by providing public security in accordance with the legal prescripts (Li & You, 1994:124). According to Brewer (2000:108), the reason for low crime levels in Northern Ireland is as a result of a democratic transition that has not damaged the structure of informal social control.

In general, informal social control where society through institutions set values and norms to control crime by socializing individuals in the observance and punishes their infringement appears to be more successful. Based on social theory of crime and criminal behaviour, Sampson (2002:213-230) concluded that the combined measure of informal social control, cohesion and trust predict lower rates of crime in a neighbourhood. Brewer (2000:104) convincingly argue that informal social control is the basic solution to crime and sociological theories on crime causation are characterized by focusing on the range of social forces that impinge upon and constrain people.

The second theoretical foundation is related to informal social control and individual criminal behaviour. March and Olson (1989) state that the understanding of social acceptable behaviour, in given rules, norms and values guide personal behaviour. Posner (1980:67) argues for less reliance on the institution of criminal law, with all its moral implication and for greater reliance on the institution of civil law to govern people's behaviour. People functioning within social institutions behave as they do because of normative standards. Individuals who are treated fairly and respected within their social organization tend to have a sense of belonging to the social order that leads to the perception of group membership.

The third theory that links community policing to informal social control is the theory of trust. Tyler and Deqoey (1996:336) explain that trust consistently influences feelings of obligation to obey organizational rules, law and trust matters only when people have social relationships. Trustworthiness is more central to the willingness to defer or cooperate with authorities. They continue to argue that trust corresponds with the theory of social identity, a theory assuming that we use others to help our social selves. The collapse of the sense of community discourages the development of social trust and lead to the decline of legitimacy of legal authority.

The fourth important theory that link informal social control to concept of indigenous and community policing is the theory of legitimacy. Criminological literatures are now being directed at the concept of police legitimacy (Kelling & Moore 1988; Tyler, 1990; Eck & Rosbenbaum, 1994). According to Tyler (1998:288), legitimacy stems from public judgment or perceived observation that legal authorities are competent and honest. Police legitimacy emanates from the trust that the public have in the police. In most cases, people voluntarily obey laws that are thought to be legitimate and just.

Another social science theory, that is related to the above theories is critical social theory, which expound that, through enlightenment, empowerment, and emancipation, people can come together to overcome socio-economic and political obstacles for their needs to be met (Fyfe, 1984). Trojanowicz and Bucqueroux (1990) translate this theory into reality by suggesting that community policing enlightens the people by educating them on ways in which they can change their situation. It empowers citizens by encouraging them to take action and participate in improving their conditions. Finally, citizens are emancipated by

virtue of the freedom they experience through identifying their own problems and taking actions to correct them. The essence of all theories of community policing is that police organizations should weave themselves into fabric of a community in order to detect crime before it happens.

2.4 CONCLUSION

This chapter gave an overview of indigenous, professional and community policing indicating that communities' involvement in crime control has deep historical roots. This was somehow weakened during the era of police professionalisation in the 19th century, but the problem oriented policing and community policing has emphasise this important relationship between the police and the community. This chapter also indicates that the structure of indigenous policing is not independent because it forms part of the entire indigenous administration, which includes indigenous prosecution and indigenous courts. The investigation, prosecution and court decisions are done in a single process in a structure that is mainly based in geographically localized system that consists of many indigenous policing as there are many different ethnic groups.

Indigenous policing emerges from a complex set of knowledge and technologies that are developed around specific conditions affecting particular communities and their functions are rooted in the culture and tradition of a community. They function according to the indigenous laws articulated by communities and their aim is to restore the violated order rather than the strong emphasis on retribution. They start from the premise that the community is an integral part in the resolution of the violated order for the sustainable peace that is why they bring together all the role players and stakeholders when resolving crime. They also work towards re-integrating offenders back to the community once redress and apology is made. This is instrumental in crime prevention as it moulds the offender to be able to live within the society as opposed to modern policing that focus on retribution.

The dramatic change in the concept of policing was introduced by proponents of modern policing who set the principle that government could and should regulate people's behaviour. This notion contradicted the old principle and ideals that communities should police themselves through informal social control. It changed the long established trend where the obligation of the community to control crime through their norms and values shifted into the hands of the state.

Professional policing defined the function of the police as reactive crime fighting with little concern for the underlying causes of crime.

Community policing in both theory and practice on the other hand is based on the principle that the police is the public and the public is the police. The main emphasis of community policing is that officers should weave themselves in to the fabric of community in order to detect crime before it happens. It calls for organizational decentralization, police patrols that are designed to facilitate two-way communication between the police and public. The basic principle of legitimacy in community policing is that of building trust and acting equitably.

CHAPTER THREE: GENERAL OVERVIEW OF THE ETHIOPIAN INDIGENOUS POLICING SYSTEM

3.1 INTRODUCTION

Like most African societies, Ethiopian's diverse ethnic and religious groups have been managing crime through their indigenous policing based on their indigenous laws. Alemayeh (2004:19) states that taking Ethiopia as a geographic whole, by far the major *de facto* source of rules governing social relations are found in the indigenous customs and traditions of various tribal, ethnic and religious groupings.

Beginning in the 15th century, successive governments of Ethiopia have undertaken major reforms to replace indigenous administration, laws, dispute resolution, and policing mechanisms by modern administration laws and policing. Their objective has been to make the formal law and policing system the prevalent and dominant, with the goal of modernizing it (Alula & Getaghaw, 2008:V). However, as mentioned in chapter 1, many studies by prominent Ethiopian and foreign scholars (Alemayhu, 2004; Alula & Getachaw, 2008; Bahru & Siegfried, 2002; Federal Police Research, 2010:45) have shown that even today (during the new era of federalism), this objective has not succeeded.

The impact of modern policing on the indigenous law and indigenous policing varies from one geographical area to other. Donovan and Getachew (2003:4) and Alemayehu (2004:68) emphasize that the influence of modern law including policing can be felt most strongly in the ethnic groups of Amharas, the Tigreans, the high land of Oromo, Guraghe, Sidama, Kembata, and Wolayita, as well as in other urban areas. But even in these areas indigenous policing systems still operate and perform an important function in the community. In the peripheral and nomadic pastoralist areas such as the ethnic groups of Afar, the Somalis, some part of Oromo, Anguak and Nuer, which are located in the Eastern, South-Western and North-Western peripheries of Ethiopia, which are generally only loosely linked to the Ethiopian state, their lives are governed by their traditional systems of indigenous law. The formal criminal justice system has a very limited reach in these ethnic groups.

As indicated in chapter 2, globally, there is a general tendency to revitalize indigenous justice administration (law, policing and dispute resolution). As Bahru and Siegfried (2002:17)

states that the failure of parliamentary democracy in Africa has forced a fresh look at indigenous or pre-colonial systems of governance. They continue to argue that for the continent to emerge out of the vicious cycle of military dictatorships and corrupt civilian regimes, it has to re-examine its indigenous administration systems, revitalize them and make them pertinent for contemporary application. Recently many Ethiopian scholars have developed interest in the revival of indigenous laws and dispute resolution mechanisms in Ethiopia. In fact, a group of Ethiopian scholars have organized a centre called “the Ethiopian arbitration and conciliation centre,” with the objective of revitalizing these indigenous dispute resolution mechanisms (Fekada, Asfaha & Gebre, 2011:viii)

The general focus of the research of these scholars is on dispute resolution and laws. The indigenous criminal jurisdiction aspect specially policing is neglected. However, though their work is on indigenous law, Andergatchaw (2004); Aberra (1988b); and Bahru (1991) have attempted to include indigenous criminal adjudication (including indigenous policing) in their works. The work of these scholars on policing is based on outside knowledge. Andergaghaw (2004:xvii) states that the policing aspect of his research is not based on full knowledge of the police, because despite his effort to get access to the Ethiopian police, the doors were closed to outside researchers. Hence this research, which focuses on indigenous policing, is based on inside information of the police as the researcher has full access to it. Due to the fact that sources are difficult to find, and in many cases, simply do not exist, the history of law and policing institutions of Ethiopia remains obscure. It is therefore, difficult to develop a study based mainly on primary sources. Particularly when it comes to indigenous policing where there is no independent primary work on the topic.

3.2 THE EVOLUTION OF THE ETHIOPIAN STATE IN RELATION TO INDIGENOUS POLICING

Ethiopia’s history and political tradition is briefly presented in order to understand the emergence, evolution and, nature of the indigenous justice institutions both legal and policing. It is not the intention of the researcher to go deep into the political and legal history of Ethiopia. As Kinfe (2000:1) states that any single volume account of the history or political scene of Ethiopia is difficult to achieve, because of the sheer difficulty of fitting its long and intricate past into a restricted format. The Ethiopian history is not also well documented by some scholars. Briggs (1995:21) states that Ethiopian scholarship was like its

subject cut off from the mainstream and the only general history of the country he could find was published in 1935. However, one fact that can be generalized about the history of Ethiopia is that which is stated by Halliday and Molyneux (1981:251) that Ethiopia has long exercised a special fascination over the world. It is the only country in Africa that escaped colonial domination and preserved its highly articulated pre-colonial social structures and culture throughout the period of imperial dominion in the continent.

In many societies, including Ethiopia, key concepts and ideas of justice and notions such as custom, peace, justice, reconciliation, and moral conceptions of right, wrong, truth and falsehood may be considered universal. However, certain concepts are given more salience and may have wider ranges or specific connotations and resonances within specific cultures and wider cultural areas. In the context of Ethiopia, according to Donovan and Getachaw (2003:3), there are over 60 ethnic groups which have different kinds of indigenous criminal law, which have been applied in criminal cases (indigenous policing) and which are not properly studied and reduced to writing. According to Abera (1998:14), it would be very difficult, if not impossible to present these indigenous laws in one study. Furthermore, evolution of these Ethiopian indigenous legal, policing, and cultural systems have been ignited and moulded by a variety of ethnic, linguistic, religious groups and the movement of one ethnic group from one part of country to the other, which has influenced each other's cultures. Allehone (1999:59) states that Ethiopia has a plural society where a visible segmental cleavage exists on religious, ideological, linguistic, regional, cultural, racial, or ethnic bases. Before going to the evolution of the Ethiopian state, however, it is important to look at the religious origin and language of the ethnic groups in Ethiopia.

Tigray and Amhara ethnic groups are predominantly orthodox Christians, which has also spread to other ethnic groups mainly in urban centres. The Oromo ethnic group, which is the most populated of all, had its own religion but converted to Christianity and Islam in the 15th century. Most ethnic groups of the south are orthodox and protestant Christians. Afar, Somalia, Benishagule, and Harare ethnic groups are predominately Muslims and there are also animists in the south and some parts of Oromia region. According to Abera (1998:4), the origin of the Ethiopian nation and nationalities (ethnic groups) is a diverse mix of linguistic groups. Some 70 languages are spoken in Ethiopia, most of them belonging to the Semitic, Omotic, and Nilotic groups. The origin of Tigray, Amhara, Guraghe and Harere are

Semitic. The Oromo, Afar, Somale and Saho ethnic groups are Cushitic. In the Omo River valley, a localized group of languages of Afro-Asiatic origin is spoken. These are known as omotic languages, and are quite closely affiliated to the Cushitic group. Along the western border with Sudan, for example Gambella region, the origin and languages are mostly of Nilotic group (Briggs, 1995:19).

Many scholars of legal and political history in Ethiopia such as Fiher (1971); Kinfe (2001); and Alemayehu (2004), have generally analyzed the evolution of the Ethiopian political, law, and criminal justice history through the model of one major cleavage centre/periphery. Alemayehu (2004:9) defined the centre-periphery framework, as a centre that constitutes part of society “in which authority is possessed, while the periphery is constituted by “the hinterland, over which authority is exercised.” Furthermore, Paulose (2001:25) states that for administrative and land tenure purpose during Emperor Menelik, Ethiopia was divided into *Yemehal Ager* (the centre constituting the Amhara-Tigray groups and *Yedar Ager* (periphery areas acquired following conquest). Based on this division, two districts system of administration and land tenure developed in Ethiopia. One system applied to *Yemehal Ager* (the centre); and the other to *Yedar Ager* (the periphery). In view of this, the Christian highland of Tigray and Amhara ethnic group which were at the centre of law, religious, political and cultural domination are categorized as the centre and the rest ethnic groups in Ethiopia, which are generally only loosely linked to the Ethiopian state and which have been at the receiving end of cultural domination but whose lives are governed by their traditional systems of indigenous laws and policing are the peripheries (Allhone, 1999:4; Lemayehu, 1998:68). The centre/periphery model, which has been used in the analysis of the Ethiopian political development, can also be useful in the analysis of modern and indigenous policing. It is with this in mind that the researcher chose to deal with the history of the evolution of policing in Ethiopia into centre-periphery framework.

For the purpose of this thesis, the evolution of modern Ethiopia in relation to indigenous policing can be divided into three phases: firstly, the evolution of the Ethiopian state from the Axumite Empire until the introduction of *fetha negest* (law of the kings) in the 15th century, where the main form of policing was indigenous policing. Secondly, from the introduction of *fetha negest* to the modern nation-building period under Emperor Menelik II, Emperor Haile Sellassie and the Derg (1887-1991), where there were attempts to introduce modern law and

policing. Thirdly, federalist period under the Ethiopian People's Revolutionary Democratic Front (EPRDF) from 1991 until now, where according to Alemayehu (2004:121) there is an opportunity for the revival of indigenous policing.

3.3 THE CODIFICATION OF THE LAW OF *FETHA NEGEST* BY THE AXUMITE EMPIRE

Ethiopia is believed to have existed as a polity, shrinking and/or expanding in shape and power, for more than two thousand years (Alula & Getachaw, 2008:2; Donovan & Getachaw, 2003:3). Buhru and Siegfried (2002:9) also state that the Ethiopian state has endured considerable vicissitudes since its genesis some two millennia back. At times, it has expanded; at other times it has contracted. It has changed its *loci* on number of occasions. Its component units have also altered with time.

The history of Axum, or indeed that of Ethiopia at large, did not begin with the scramble for Africa pact of 1884. Ethiopia which represented the now Tigray and Amhara, Eritria regional states, which were called Absyniya, has a recorded history which stretches back to biblical times. Donovan and Getachaw (2003:5) argue that Ethiopia evolved from Axum, a highly developed Christian slave-owning kingdom. Axum reached its peak development between the 4th and 6th centuries AD. Briggs (1995:17) also states that the Axumite Empire was an urbanized culture of blended classical and African influences from at least 600 BC and quite possibly earlier. Not surprisingly therefore, at the height of the glory of Axum according to the third century Persian Chronicler Mani, in Kinfu (2001:35), there were four great kingdoms on earth: the first is the kingdom of Babylon and Persia, the second is the kingdom of Rome, the third is the kingdom of the Axumites and the fourth is the kingdom of the Chinese. According to Kinfu (2001:25) the ruins of Haoulti and Melazo, which are located some seven miles outside Axum and which are seen to this day, are the direct ancestors of modern Ethiopia. They confirm the greatness and excellence of the indigenous talent which thrived in this region for more than 2000 years. The presence of native talent in Axumite construction is also underlined by the prevalence of funeral monuments.

There is no document as to what kind of indigenous administration, laws and policing were there in the pre-Axumite Empire. However as Kinfu (2001:26) argues, its people were mainly Africans similar to the ancient Egyptians. Thus northern Ethiopia like other African ethnic

groups had their indigenous African criminal justice systems (which are discussed in the next sections). These indigenous criminal justice systems have been impacted by three phenomena. The migration of people from South Arabia, the creation of international trade, and the introduction of different religions to the region.

The first phenomenon that impacted the then African indigenous culture was the migration of people from southern Arabia. Aberra (1998:4) states that significant influence on the formation of a distinctive culture in northern Ethiopia was the migration of people from southwest Arabia in the first millennium BC, which brought Semitic culture and languages, which were transcribed in a script and become unique to the country's writing system. The second phenomenon refers to the impact of the development of international trade. Axum was a powerful kingdom and conduit of vital international trade, thus exposed to outside cultures. Regarding this, Kifle (2001:26) states that the Kingdom of Axum was closely connected with the international politics of the Near East and to a lesser extent with the Mediterranean world. Its civilization like the other great civilizations is a synthesis of local creativity and borrowing from other preceding and contemporaneous civilizations. Hellenic, Sabean, Jewish and Babylonian influences have been introduced via Yemen civilization. It has also maintained economic, political, and cultural ties with Egypt, Persia, Arabia, Greece and India. This international trade and movement had a major impact on the previous African people living in Axum.

The third major phenomenon that impacted the indigenous law and policing was the introduction of different religions. The first external impact on indigenous criminal justice system (policing and law) can be traced from Judaism. Before Christianity, Axumites were Jews. The multifarious Jewish influences, which along with the presence of an ancient Jewish community in the modern regional states of Tigray and Amhara, most of who have migrated to Israel recently, suggests a large pre-Christian Judaic influence on the Ethiopian indigenous administration (Briggs, 1995:17; Kifle, 2001:17). The second religion that penetrated to Ethiopia was Christianity. Christianity made its entrance into the Aksumite Empire, at least on a limited scale, before the fourth century. Unlike other cultural imports, which atrophied and disappeared with the demise of Axumite civilization, orthodox Christianity took root and grew to become the dominant cultural phenomenon in the Ethiopian highlands, the only place on the Africa continent where Christianity managed to survive as a truly indigenous creed

(Kifle, 2001:37). These two religions have impacted the African based law and policing. According to Abera (1998:38), and Alula and Getachaw (2008:37), those found in the Old Testament of the Jew, together with those of the New Testament, form the foundation of Christian theology. Due to this rich heritage, it was possible for Christianity to become the principal source of many legal systems. The highland Ethiopians took principles of law and policing that developed out of Judaism and Christianity as one of the laws that govern their temporal and spiritual life. The third religion that influenced these indigenous mechanisms is Islam. Ethiopia is the first country that has given shelter to the followers of Prophet Mohammed. Kifle (2001:35) and Emanuel (1989:5) state that Islam was tolerated in its embryonic days when it was prosecuted in Arabia. Large numbers of Muslims led by Ja'afar Abu Talib (the cousin of Prophet Mohammed), settled in Axum till the forces of prophet triumphed in Arabia. However, during the Axumite period the influence of Islam on indigenous administration of Tigray and Amhara were minimal. In general people who migrated from Yemen, the introduction of Judaism and Christianity, Islam and international trade had impacted the African indigenous criminal justice of Amhara and Tigray.

In the peripheral areas outside Amhara and Tigray all other ethnic groups of Ethiopia had different kingdoms of their own and even higher degree of grassroots indigenous criminal resolution mechanisms until the coming to power of emperor Menelik in the 18th century. The society and culture of southern Ethiopia is more typically African in nature than that of the north. In the Omo Valley and the far western lowlands near Sudan there are a variety of people whose modern lifestyle is still deeply African in every sense (Briggs, 1995:18). These ethnic groups not only had their own kingdoms, but they also had their own religions. For example before the introduction of the two world dominant religions, the Oromo believed in one divinity called *Waaqayyoo* that was in short called *Waaqaa* roughly equated to the English term "God". *Waaqaa* is the ultimate source of everything (Tuli, 2001:16). However during the era of Axumite Empire until the 15th century, Islam had made some inroads in to periphery, creating a number of Kingdoms, Sultanates and emirates. Later in the 18 century there was an expansion of the other two versions of Christianity of Protestant and Catholic to the southern Ethiopia. The Missionaries at first attempted to introduce Christianity and do away with indigenous norms. Generally, the traditional religion and indigenous mechanisms have been impacted since the introduction of Christianity and Islam (Zawdu, 1994:15).

However, despite the pressure of these religions in the peripheries as discussed in the next sections, the impact on their indigenous policing was minimal.

The second historical part of the Axumite Empire that is relevant in terms of indigenous policing is the *zemene massafint* (the era of kings). The material and cultural development which Ethiopia had achieved during the era of Axumite civilization dwindled because of the civil wars that resulted from the centuries of feudal power struggle. Particularly, because of the struggle for economic supremacy between the Moslem Sultans of the Eastern and Southern lowlands and the Christian feudal lords of the North. The Christian hegemony was also challenged by the ferocious Queen Yodit, who reigned around 950AD (Kinfe, 2001:39). This created the movement of different ethnic groups within the country that resulted in mixing of different cultures, from the centre to the periphery and from the periphery to the centre. Regarding this Kinfe (2001:59) states that there were a number of other kingdoms such as the Hadiya, Dawaro and Bali to the east of the Gibe River which were Muslim and others which were pagan. Most of them were on the periphery of the Empire in the middle ages, but some were conquered and converted into Christianity. For instance, this was the case with the Enarya, who were subjugated by Sertse Dengel in 1415 AD and later converted to Christianity in 1586. On the other side there was an expansion of Cushitic people which are dominant in southern and eastern Ethiopia to the north. Regarding the expansion of the south to the north, Aberra (1998:4) states that the migration of Cushitic-speaking peoples (in the Middle Ages) has led to the intermingling and exchange of a new culture in various phases of the country's recent history. The most significant of the expansion of the south to the north was by the Oromo ethnic group. The Oromo are Ethiopia's largest ethnic group. They crossed the rift valley into Ethiopia in the 15th century AD. The Oromo nationalities and particularly the Yejju Oromo (who followed the Gada indigenous system explained earlier) expanded to the extent of controlling Gondar, the centre of the north kingdom. Moreover, the Oromo ethnic group mixed up with the western communities of Jimma, Wellega, Anaria and others (Kinfe, 2001:33). This resulted in the exodus and scattering of these populations.

In general there are four facts, which are related to indigenous administration, law, and policing that are worth to discuss. Firstly, there was the influence of each other's culture. The culture and customs of the centre (Amhara and Tigray) was impacted by the movement of periphery Cushitic culture from the south. At the same time the Cushitic culture was

impacted by the north culture. The second point is, unlike other African countries where colonization had major effects on their indigenous administration, Ethiopian indigenous administration was not impacted by colonization. During this time Ethiopia was relatively isolated from the outside world. As Gibbon (1788) in Kifle, (2001:5) states “Encompassed on all sides by the enemies of their religion, the Ethiopians slept for nearly thousand years, forgetful of the world by whom they were forgotten.” Thirdly, the justice system of the centre fell into the hands of the emperors. The Ethiopian emperors had unlimited power, which made them the supreme arbiters of justice or injustice as they saw fit. They were above the law, a tradition which continued well into modern time Gibbon (1788) in Kifle (2001:37). The fourth point that have impacted the Ethiopian indigenous administration law and policing was the expansion of Judaism Christianity and Islam. Aberra (1998:4) states that one of the factors that characterised the 15th and 16th centuries was the renewed intensification of religious conflict. This was also fanned by the rise of Islam globally, under the Ottoman Empire which sent its ripples to Ethiopia.

3.4 THE IMPORTATION OF FOREIGN LAWS

Before and during the Axumite Empire and the imperial period until the 15th century, indigenous criminal adjudication was practiced both at the centre (Amhara and Tigray) and in the peripheries. But in the beginning of the 14th century, the processes of codification started. The first attempts at using written codified law dates back to the 14th and 15th centuries and this can be characterize as a shift in criminal adjudication in Ethiopia. Singer (19970:73) states that Ethiopia did not have a foreign system of laws imposed by European power, yet a distinct indigenous system of written law, the *fetha negest*, had been in existence since Emperor Zar’a Yakob (1434-1468). On the other hand, Ethiopia faced many of the same problems as did other African nations in attempting to modernize and unify its laws. According to Aberra (1988) the first attempt to introduce codified law was *Ser’ate mengist* (the law of the Monarchy). This law was a short collection containing twenty-one articles. This era was known for a continuous legislative activity which started in the 14th century, with King Amade Tsion (from 1314 to 1344), and culminated in the 17th century with king Fasiledes (from 1632 to 1667). This law mostly deals with religious affairs, but also contains texts on civil and penal matters. The second attempt to introduce codified law of Ethiopia was *fewuse mefessawi* (the spiritual remedy). According to Alula and Getachaw (2008:3), Emperor Za’ra Ya’eqob (from 1434 to 1468) caused the compilation of this law, which had

24 articles by the Ethiopian church scholars from the principles of the Old Testament of the Bible.

But the third and the most important codified law was *fetha negest* (justice of the kings). Zar'a ya'eqob was not satisfied with the *fewuse menfessawi*, because it failed to deal with the prevalent legal issues. He was convinced that another code was needed. He further indicated that the *fetha negest* was drafted in Egypt during the 13th century and introduced in Ethiopia in the 17th century. The purpose of this code was to guide Christians living in a Moslem society. According to Aberra (1998:104), the emperor received a copy of *fetha negest* and had it translated from Arabic into Ge'ez and enforced it as a transitional law. Vanderlinden (1967:252) states that *fetha negest* was adapted from the old and new testaments, Roman law and especially Justinian law and comprised two parts, the first based on biblical texts, and the second mainly on Roman-Byzantine laws. It was used as a law in both criminal and civil matters from the 16th century under the kings and was mentioned in chronicles of at least eight emperors (Germa, 2005:274).

Although the *fetha negest* did not completely replace the operation of indigenous law, it received a prominent place in the legal history of Ethiopia, as it served as a transitional law and contributed a number of principles of civil and criminal law taken up in the modern codes of Ethiopia. The main concept of the law of *fetha negest*, started from the presumption that criminals have to pay, i.e. have to be penalized for the injury they caused to individuals and to society at large. The objective of punishment was in essence retributive. Thus for the first time, indigenous law and policing of Ethiopia has been eroded by the adoption of foreign law. According to Vanderlinden (1967:251), one point which is worth mentioning about the *fetha negest* is that it provides a first example of a reception of foreign law in Ethiopian legal history. The impact of the imported law on the indigenous Ethiopian laws can be seen from the influence of the *fetha negest* and the laws enacted since the beginning of the present century (Aberra, 1998:289). Singer (1970:74) argues that the *fetha negest* was never consistently applied in Ethiopia even where it was introduced because indigenous norms persisted despite its introduction. Firstly, because the *fetha negest* existed only in the Geez language which made it inaccessible to all but only to the highly educated. Secondly, as Vanderlinden (1967:252) asserted the *fetha negest* was based on Christian doctrines (Christianity was also the state religion at that time) and its application as a law was limited.

This was so because, much of the Empire was comprised of Muslim and pagan tribal enclaves, which do not adhere to Christianity. As a conclusion, even though it could not replace the indigenous law it can be argued that the *fetha negest* was in fact, the main source of the law for the period preceding the twentieth century.

3.5 MODERNIZATION AND INDIGENOUS POLICING

This section deals with the distinct four periods of various rules in Ethiopia indicating how their attempt to modernize the criminal justice had impacted on indigenous systems. These sections will also indicate that despite various attempts to infuse the modern criminal justice system, this system failed to obliterate the indigenous system that has been practiced for centuries.

3.5.1 The Evolution of the Ethiopian State during Emperor Minilek II

Modern Ethiopia started to emerge during the early 20th century by Emperor Menelik II (from 1889 to 1913). Emperor Menelik II spurred on by a fierce ambition of empire-building, embarked on a campaign of expanding his rule from the central highland regions to the South, West and East of the country and established the current map of Ethiopia which is a country housing more than eighty different ethnic groups (Alemayehu, 2004:10). Bahru (1991:60) argues that Menelik II pushed the frontier of the Ethiopian state to areas beyond the reach even of such renowned medieval empire-builders. The Ethiopia of today was born, its shape consecrated by the boundary agreements made after the battle of Adwa in 1896 with the adjoining colonial powers. The territorial boundaries of Ethiopia were effectively determined during the reign of Menelik II. The Ethiopian Empire was consolidated by conquest or “manifest destiny” through Menelik II takeover of what became the Southern provinces of Ethiopia, as did William the Conqueror in England after 1066 so did Menelik II, (Kilfe, 2001:74; Alemayehu, 2004:11; Bahru, 1991). Approximately two thirds of the land in the southern regions was taken from the indigenous inhabitants and redistributed. Instead of domination involving a foreign power, control was established through internal conquest by the now politically dominant group. These conquests followed the Brussels and Berlin Conferences of 1884 and 1890 which divided coastal and inland Africa among the European powers. According to (Markatis, 2004:11), the lands to the south, East and West that were conquered by Menelik II, known as *yeqign agar* (conquered land), today make up all but two

of the nine regions of the federal republic of Ethiopia, and are home to about three fifths of its total population. Abera (1998:29) states that the southern conquest in short had the same effect on the indigenous culture as colonizers did in most of the third world.

The nineteenth century witnessed the radical shift in the evolution of the Ethiopian state from an “outpost of Semitic civilization” of Tigray and Amhara to what Conti-Rossini (1948) called *Un museum di popoli* (a museum of people). Emperor Menelik II pursued three distinct but interrelated goals, namely, centralization, modernization and integration, which all of them had a lasting effect on the indigenous administration, laws, policing, dispute resolution mechanisms and political culture of the conquered ethnic groups. Furthermore, the imperial regime practiced a crude form of cultural suppression that sought to deny, if not erase, the identity of all subordinate ethnic groups in its domain (Alemayhu, 2004:13). As part of his policy of centralization, modernization and integration, his first move was to create central government. In order to have centralized administration he introduced “modern” institutions. Singer (1970:76) states that Emperor Menelik II attained this goal by 1905 and then turned his attention to formal institution-building and in 1908 initiated a process of modernization by creating governmental institutions on European model. Paulose (2001:5) states that perhaps the major effect of the conquest of southern Ethiopia and the consolidation of power in Ethiopian politics was on the relations between the different powers to be under the aristocracy under Emperors. Menelik II altered the balance of ethnic groups within the then formed Ethiopian state. Paulose (2001:5) further argues that the New Imperial regime viewed the newly concurred peripheral people as subjects and dependents to be pacified rather than satisfied. According to him, the state was more interested in control and exploitation than in attempting to politically integrate the new subjects. According to Donham (1986:26), part of centralizing indigenous leaders were to replace them by *ballabat* (nobility) from the north, who were responsible for administration in an ‘indirect rule’ system, in some senses akin to some aspects of colonial administration. The first administration that was introduced was *atbia dagnia* (Local court). According to Singer (1971:312), it is clear that the *atbia dagnia* was designed not as a stand alone practice because by doing so it could have failed to be a vehicle for integration. Rather it was to be part of an overall development scheme with the ultimate aim of creating a unified society in which all persons assume Amhara social ideologies. The immediate goal was to create a flexible structural framework through which legal disputes would be heard. The power of indigenous systems was not to be dislodged, but

each of the customary legal systems was to operate as it formerly did with the no mandatory possibility of coordinating its activities to the now official government norms. In his research, Singer (1971:327) states that only 12.5% of the cases instituted came to a decision by the *atbia dagnia*, and 60% were referred elsewhere for a decision and this seems to indicate that other indigenous conflict resolving bodies are perceived as more effective.

The second policy of integration was creating uniformed law. Alemayhu (2004:13) states that the basic policy of Emperor Menelik II in terms of law and policing was that like a common language, a common law and policing should help wield a single nation out of the jumble of classes or tribe. The new nation will have to be built from the centre. The centre will have to grow at the expense of provinces and outlying culture. Paulose (2001:24) also note that on this newly created relation between centre and periphery, imperial Ethiopia introduced a package of the modern and indigenous laws and policing of the north to the peripheries. He stressed that most of the indigenous cultural and other institutions were either weakened or they attempted to abolish them totally. The *ballabats* (governors) relied on Amhara indigenous laws with which they were familiar. For example, Tuli (2001:1) states that classless and egalitarian form of government (*Gadaa*) social norm, religion and the general morality, laws and regulations, which constitute the bedrock of Oromo ethnic group and which were operating efficiently and effectively all over Oromo land before the incorporation of the Oromo into Ethiopian empire were reduced only to ritual ceremonies. The third policy of Emperor Menelik II was that in an effort to bring about national integration, emperor Menelik II embarked upon cultural and religious homogenization and Orthodox Christianization. Van Doren, (1994:3) also states that the nomadic tribes in the south were pagan and Muslim and were hostile to the conquerors. Menelik II army was composed largely of Christian Amhara. He attempted to Christianized the conquered indigenous people. According to Markakis (2004:12), the identification of Abyssinian Christianity with the political and cultural life of the country is so complete that no numerical increase of Islam can touch the intrinsic nature of this phenomenon. In short, as Allhone (1999:58) puts it, the expansion of Emperor Menelik II choked the rational expression of ethnic identity.

3.5.2 Modern Nation-building laws under Emperor Haile Sellassie

Emperor Haile Sellassie continued the policy of modernizing, centralization and integration of Emperor Menelik II (Alemayhu 2004:13). In order to avoid repetition and to save space,

the researcher, will not deal with the impact of Haile Sellassie's policies on indigenous cultures in detail, because Emperor Haile Sellassie almost followed the policy of Emperor Menelik II, which are discussed above. Here some important and different policies are discussed.

Ethiopia embarked on a politically motivated modernization of its laws with the coming to power of Emperor Haile Sellassie (from 1930 to 1974) with the drafting of the first constitution of 1931. Before this constitution as discussed above, Ethiopia neither had a distinct formal legal system nor modern policing. Rather, it had as Brietzke (1982); Singer (1970); Sedler (1967); and Alemayehu (2004) state numerous and overlapping systems of laws. According to Brietzke (1982), there were, on the one hand indigenous rules which were used to regulate the day-to-day activities of individual members of the numerous ethnic groups. On the other hand, there were traditional rules (*fetha negest*) which were used to regulate various relations within the Amhara and Tigray and Sharia law for Muslims or general indigenous law for pagans. Therefore during and the pre 1957 period, except for the Ethiopian normative orders, there were informal, non-systematized, undifferentiated and particularistic indigenous laws.

Under Emperor Haile Sellassie however, there came a shift in indigenous laws and policing. In theory Emperor Haile Sellassie stated that no modern legislation that does not have its roots in the customs of those whom it governs can have a strong foundation (Fisher, 1971:709). Though some attempts were made to incorporate certain principles of indigenous law into the enacted modern codes, it aimed at being comprehensive and governing all the legal relations in the country without leaving any space for the widely-practiced indigenous mechanisms. According to Aberra (1998:14), the application of custom or tradition was marginalized. In order to modernize the laws, Aberra (1998:14) argues that Haile Sellassie had specifically declared that Ethiopia should endeavour to adopt the best that modern legal institutions have to offer. However the laws have a predominantly western flavour and seemed to bear little relation to the traditional patterns of life prevailing in the country. Fisher (1971: 223) argues that the chief drafter of the Civil Code of 1960, Ren'e David, and his team directly borrowed its contents from continental Civil Codes. As Allhone (1999:91) notes that under the name of modernization, progress and social change, the Ethiopian codification ideals projected Ethiopian customary laws as rigid, unreflective and anti developmental. Rene

David author of the Ethiopian law said “Ethiopians considered their codes to precede a new edition of the *fetha negest* founded on reason and on the teaching of comparative law,” and he did not consider indigenous law of the country partly because as Beckstrom (1994:699) states little of it was known by Ren’e David and the men charged with preparing and enacting it. Thus, David developed sophisticated set of six codes for a modern state-enacted for the world’s least developed nation. The new codes were Characterize as “fantasy law,” which may serve to put a modern “face” on the country but, at least for some time to come, will not have any serious impact on the conduct of its affairs (Fisher, 1971:710).

This policy under Emperor Haile Sellassie was clear, notably in the civil code of 1960, which repeals the indigenous laws. Article 3347 of this code states that unless otherwise expressly provided, all rules whether written or customary previously in force concerning matters provided for in this code shall be replaced by this code and are hereby repealed. According Aberra (1998:13), the repeal did not aim only at those indigenous laws that were inconsistent with the provisions of the code, but rather it refers to all indigenous rules concerning matters provided in the code, whether they are consistent with the civil code or not. It also did not allow for some grace period until the code could be disseminated (both physically and in content) but rather its immediate enforcement was sanctioned, superseding the indigenous laws of the various groups of the Ethiopian society. Alula and Getachaw (2008:4) put it that there is no single African country where the legal applicability of indigenous rules has been restricted more than Ethiopia. Aseres (2007:7) also asserted that during the codification process in the 1960’s, indigenous law, so to speak the “pure people law” was largely scrapped.

The political motives and justifications for this usurping of indigenous law was primarily the belief that providing a uniform and modern legal regime would be necessary for the socio-economic development of the country, and a precondition for effective nation-building. But it has not succeeded. Even Rene’ David, the principal draftsman of the Civil Code, writing some time after its enactment, stated that the new laws were aimed immediately at the more developed elements of the population, those living in the highland plateau regions (Beckstrom,1994:560). The research by Donovan and Getachaw (2003) confirms that the Imperial Penal Code written in 1957 and still in force purports to establish rules uniformly applicable throughout the geographic confines of the Ethiopian state. Yet to many, as

discussed above, if not most, criminal cases are dealt with by the sixty Ethiopian customary law systems. The new laws have had little effect to date on the social fabric of even the urban areas of the highland plateau.

3.5.3 President Mengistu's period: The *Dergue* Rule from 1974 to 1991

During the reign of both emperors, as discussed above, the subjugated ethnic groups became landless peasants and the tenants of political economy, and cultural dominant of the new culture. According to Paulose (2001:25-26), the direct consequence of the process of conquest was contradictions based not only on social class but also on ethnicity. And this contradictions and conflicts based on ethnic and class identities catalyzed the society in to revolutionary conclusion, and the old order collapsed. And as a result the *Dergue* government headed by President Mengestu Haile Mariam came to power.

Any government in 1974 could not have hoped to win legitimacy without solving two basic issues; the nationality and the land issue. Alemayehu (2004:15) and Van Doren (1994:3) state that a far reaching decentralization and land distribution was at that moment the only chance to keep Ethiopia together and that was what the *Dergue* did. Firstly the *Dergue* espousing Marxist- Leninist rhetoric suspended the constitution of 1955, but retained the criminal law, adding specific laws of its own. Secondly, Paulose (2001:26) states that *Dergue* readily acknowledged that many nationalities within Ethiopia had been oppressed and exploited. Section 2 of the constitution of Ethiopia of 1976 states that given Ethiopia's existing situation "the right of self-determination of all nationalities will be recognized and fully respected. No nationality will dominate another one since the history, culture, language and religion of each nationality will have equal recognition."

However, it took only one year for the *Dergue* to reverse its policy. Despite its Marxist-Leninist orientation, the *Dergue* continued the centralist project with very minor concessions to religious and ethnic interests. By issuing this programmeme *Dergue* promised political integration and wanted to appear different from its predecessors. But the main element of the emperor's policy of forced unity continued. The Derg's policy never took off as it was overtaken by the raging civil/ethnic wars, recurrent drought and the political crises that heralded the regime's collapse in 1991. Siegfried (2002:27) states that the ideology of 'nation

building' with Amharic as the common language and Amhara as the leading nationality was becoming official policy again.

The situation of indigenous laws and policing was worsened in the period of the *Dergue*, because of the communist ideology that highly favored the uniformity of law and central institutions, the operation of indigenous laws were deliberately suppressed. In order to do so *Dergue* manipulated the Marxist philosophy of rigorous social control by establishing peasant and pastoral associations, which would administer the new land system both in the centre and peripheries. In the centre, and the *Dergue* introduced the *kebele* (urban dweller association) and *Gebre mehaber* (peasant association) as efficient lowest level administrative units and mechanisms of control over the population (Aseres, 2007:69; Behru and Siegfried, 2002:53). In addition the party representatives maintained intimidation and surveillance over the state bureaucracy and the state-controlled enterprises and services. They further state that the *Dergue* vast party network completely dominated Ethiopian life down to the lowest urban and rural administrative unit. The unprecedented control that the state was able to exercise over society through the peasant and neighbourhood associations tended to stifle the indigenous judicial institutions. Indigenous institutions were forced to operate in semi-clandestine fashion. In fact, in terms of administration penetration, the *Dergue* was more effective and efficient than its previous governments (Alula & Getachaw, 2008:48). Despite this the *Dergue* has not completely done away with the diverse indigenous administration, law and policing. In fact these indigenous systems did function as they did before. Thus, during the *Dergue* era, a complicated networking (not necessarily structured) of indigenous law systems, western private laws, socialist oriented public laws, and Islamic laws have also been involved (Allhone, 1999:4).

3.5.4 The Federalist period under the Ethiopian People's Revolutionary Democratic Front

The overthrow of the Mengistu's government in May 1991, by The Ethiopian Peoples Revolutionary Democratic Front (EPRDF) amounted to more than the collapse of a particular regime. It effectively marked the failure of a project, dating back to Emperor Menelik II of creating a modern and centralized Ethiopian state (Alemayahu, 2004:17). Thus after the defeat of the Derg, a new approach has been followed. Article 39 of the Federal Constitution of Ethiopia of 1995 recognized the right to guaranteeing full self-determination (up to and

including secession). Clapham (1994:27) states that the principle of self-determination for federated regional units was a departure from the formerly highly centralized and unitary state which went further than any African state and took ethnicity as its fundamental organizing principle to a greater extent than almost any state worldwide. Logically this premise implied a greater recognition of indigenous values. According to Turton (2006:1), the new approach based on ethnic federalism was both radical and pioneering. The claim for self-determination carries with it legislative autonomy to federated regions to a certain degree. The 1995 Constitution embodied a clear recognition of the jurisdiction of customary and religious laws and courts in family and personal matters. Article 34(5) of the 1995 Constitution states:

“this constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute. Art. 78(5) also states that Pursuant to sub-Article 5 of Article 34 the House of peoples’ representative and state councils can establish or give official recognition to religious and customary courts. Religious and customary courts that have state recognition and functioned prior to the adoption of the constitution shall be organized on the basis of recognition accorded to them by this constitution.”

Articles 34(4) and 78 (5) of the federal constitution can be seen as a move in the right direction in respect to indigenous laws. According to Art.34 (4), legislations giving recognition to the nation and nationality to pass laws on religious or customary marriage is also a positive one. These articles imply that at least in those areas mentioned, the indigenous systems can exist separately from, and parallel with the state-sponsored legal-judicial system (Alula & Getachew, 2008:7). In effect, family law and the law of succession are therefore now potentially within the competence of the members state (Scholler, 2003:751). Therefore one can imagine the possibility of the new state recognizing certain jurisdiction for the indigenous laws when they enact law on civil matters (Alula & Getachew, 2008:2).

With regard to criminal laws however, the old thinking still continues. Under the new constitution, criminal laws are not allowed any formal space of operation in spite of the fact that they are heavily involved in criminal matters. Indeed as will be discussed in the

following section and chapters, *de facto* criminal justice institutions are involved in criminal cases in many of the states, particularly, though not exclusively, in the border regions.

The government of Ethiopia is in a dilemma that is posed by the Ethiopian government's commitment to the concept of uniform legal rules throughout its territory and rules protecting human rights. The Ethiopian Federal Constitution of 1995 guarantees protection for a broad range of human rights, incorporating by reference the major international human rights. On the other side there is the government's commitment to the preservation of the Ethiopian culture, indigenous law and policing systems. The challenge for the government is therefore how to reconcile these two seemingly opposing practices (Donven & Getachaw, 2003:1).

3.6 CONCLUSION

Unlike other African indigenous laws and policing discussed on chapter 2, before the introduction of *fetha negest* (law of the kings), Ethiopian indigenous laws and administration were impacted by different religions (Christianity, Judaism and Islam), and the movement of cultures from Yemen due to trade. Ethiopia has never been colonized, thus the impact of colonial laws is minimal.

The Ethiopian state is constituted by heterogeneous ethnic, religious, linguistic, and cultural communities. There was no common thread linking all these communities under the decentralized states until the coming of emperor Menelik II in 1889. The empire constructed and created new power relations between the traditional *abyssinian* (the centre) state and peripheral people which resulted in an internal colonialism that in turn created an ethnic hierarchy system in Ethiopia. Emperors Menelik II, Haile Sellassie and president Mengestu's policy of centralization, modernization and integration, had a lasting effect on the indigenous administration, laws, policing, dispute resolution mechanisms and political and culture of the conquered ethnic groups.

Under the current Ethiopian government, indigenous laws and crime management systems have secured constitutional recognition in the new federal arrangement and administrative structure. Through the entrenchment of regional powers, Ethiopian communities live together as a united political community without losing their identity and the government have opened the way for all ethnic groups to develop their indigenous laws and policing. During the

Ethiopian People's Revolutionary Democratic Front (EPRDF) period, there are examples of cooperation with indigenous leaders. Indigenous institution as noted by Pankhurst (2003c); Asnake (2006); and more recently the Ministry of Federal Affairs has sought to involve elders in crime prevention through courts and to ensure that verdicts are upheld and there is reconciliation after cases are concluded.

Both the past and present governments of Ethiopia have undertaken major reforms to replace indigenous administration, laws, dispute resolution, and policing mechanisms by modern administration, laws and policing. Their objective has been to make the formal policing system the prevalent and dominant policing system with the goal of modernizing it. But these indigenous mechanisms are still active and prevalent. Generally a century after the enactment of the modern codes and the establishment of a modern judicial system there has been no success to supplant indigenous policing laws and institutions of dispute settlement. Indigenous laws and institutions are still active and vibrant. As Brietzke (1974:155) pointed out "Many centuries of legal history and social relations are not transformed by simply legislating custom out of existence."

Indigenous law systems co-exist parallel to the state law system with various levels of confrontation and subtle reciprocal responsiveness that had preserved the indigenous law, policing and customary law systems. There are three reasons for the relative autonomy of Ethiopia's indigenous law and policing systems. Firstly, is the fact that state resources are insufficient to extend the state legal system to every corner of its Empire. Secondly, is the fact that the Ethiopian government is to some extent still committed to the preservation of the indigenous law systems within its boundaries. Thirdly, the few indigenous laws, *fetha negest* and the infusion of modern law create some confusion in the real life in Ethiopia.

CHAPTER FOUR: THE EVOLUTION, STRUCTURE, AND THE FUNCTION OF MODERN POLICING IN ETHIOPIA

4.1 INTRODUCTION

As discussed in chapter 3 the politics of Ethiopia have been changing throughout history. The various ideological and political changes have impacted the Ethiopian police significantly. Every time a new government comes to power, the Ethiopian police have been disbanded and a new police has been created. If one traces the evolution of the Ethiopian police, it have been disbanded and created six times. First, there was indigenous policing, which was discussed in chapter 3 in detail. The second time Emperors Menelik II and Haile Selassie created a new police force, the *Zabagna* (Guard force) and later *Ye-Arada Zebegna* (city guard) that functioned from 1889 until the 1936. The Italians have also reorganized the Ethiopian police during the war between 1936-1941. They disbanded the then police and created their new police known as *policia colonia*. Fourthly when the Italians were defeated by the British force, the *Polizia colonia* was replaced by Occupied Enemy Territory Administration (O.E.T.A).When Emperor Haile Selasse came to power, a new police, called the Ethiopian Imperial Police was created in 1942. This Ethiopian police was destroyed and replaced by new police for the fifth time by the socialist oriented *Dergue* regime. Finally, in 1991 it was disbanded by the Ethiopian People's Revolutionary Democratic Front (EPRDF) and a new police, the Ethiopian federal police was created based on the ideology of federalism (Hassen, 2005:79; Bereket, 1981:39).

Commenting on the disbanding of the *Dergue* police and creating a new police by the EPRDF, Andargachaw (2004:32) argued that the Ethiopian police force, since its inception in 1942 had attained, though not perfect, a certain level of standard that needs to be reckoned with. The EPRDF has disbanded it and now, it has to be restarted all over again and all the experiences accumulated over several decades have to be sacrificed. This is the cost that has to be paid when the police force falls under the control of interest groups, be it under the government of the day (the one in power) or that of party affiliation. The police force should be made up of independent civil servants, serving the people, under the law, no matter who holds the reign of power. The researcher agrees with the loss and cost of such actions, but disagrees with Andargachaw's view of "keeping politics out of police". This is a slogan that can be heard all over the world. This can be explained by the extreme position taken by the

former commissioner of the Metropolitan police, Sir David McNee (1977-82) in Kleinig (1996:21) who wrote:

“The political neutrality of the police service and the political independence and impartiality of chief police officers is central to the British policing system. I personally do not regard it as so important that I no longer exercise my right to vote, nor have I since I was appointed a chief officer of police. Police officers must be men and women of the middle, bound only by the rule of law”.

The researcher believes that this posture is unrealistic. The very laws police will be called up on to enforce may be political and partial in the sense that Sir David sought to avoid. The police are organized to defend a constitution and a law of a country but the constitution and the law itself is political (Hassen, 2005:80). Regarding this Kleinig (1992:214) argues that even the most naïve observer of the legislative process knows that many of the constitutions and laws reflect partisan values and interest. The police are influenced by ongoing political events and the expectations of an incumbent political power. Therefore keeping politics out of police organizations is unqualified gesture and unrealistic. Policing should be regarded as a governmental activity. One cannot expect the African National Congress (ANC) of South Africa to continue with the apartheid policing. This should only mean that within the context of the given laws, police have to be free from the political influence on their daily policing activities and they have to challenge pressures coming from any individuals or political parties to bypass the given laws or constitutions (Hassen, 2005:25).

This chapter will assess the evolution, structure, function, and political developments of modern policing in Ethiopia. The chapter is divided into 2 sections. The first section deals with the evolution of Ethiopian modern policing from its inception until now and will assess the present modern policing. Due to the objective of this research as stated in chapter 1, the second section will assess and identify challenges and best practices of the implementation of Community Policing in Ethiopia.

4.2 THE EVOLUTION AND FUNCTIONS OF MODERN POLICING IN ETHIOPIA

The origin of the Ethiopian Police Force has its own legendary beginnings. According to Aemero (1963:17), Ethiopia had its own form of a police force for centuries. He quotes a

book called “Pentolian” which was written before 2575 years in *Geez*, (one of the ancient language of Ethiopia), that there existed a police force called *Hibrat* (unity) formed by king Sebtah. But the researcher takes this as part of indigenous policing. One cannot claim the existence of a police force in Ethiopia even in its rudimentary form, as we understand the term today (Andergachaw, 2004:10). Let alone in Ethiopia even internationally as discussed in chapter 2, the English police force was organized as a public institution in 1829. According to Taft (1956:393), modern policing started from there and gradually spread through-out the world.

The formation of Ethiopian Policing as a specialized phase of the administration of justice is fairly of recent origin. Its beginning is closely related with the foundation of Addis Ababa in 1887 (Beraket, 1981:11). During this time, Addis Ababa was exposed to modernization. After about 1900 it saw many of its innovations like the bank, European style hotels, a printing press etc. and foreign advisers and businessmen started to settle in Addis Ababa. During this period their number increased from 205 in 1906 to 1,096 in 1910 (Pankhrust, 1968:62). With this socio-economic development the need for modern policing came into being.

4.2.1 The *Dewaria* police: the first attempt in developing modern policing

There are two views on when exactly the *Dewaria* police was formed. According to Andargachaw (2004:12) and Aemero (1963:34), the first formal trained police known as *Dewaria* (patrol or watchman in Arabic) was created in 1906, by Ras-Mokonnen - the governor of Hararge - to protect the lives and property of foreign nationals and to enforce the curfew. He had seen the London police in one of his visits and he wanted to model his force after what he saw. A group of people from Harar city (mostly Somalis) were recruited and sent to Turkey and returned in 1887 having undergone professional police training, mainly on patrolling and city policing. The other information is that the idea of having a specialized force existed in the city of Harar before the occupation of Egypt (1875-1885). Richard Burton (Burton, 1855:126), the first European to visit Harar, reported that the *Amir* (king) had watchmen who patrolled in the streets of the walled city from sunset to sunrise in order to enforce a curfew, and that each gate was carefully guarded during the night.

According to Beraket (1981:12); and Aemero (1963:34), in 1881, Emperor Menelik had formed a city police force of 50 called *Zebegna* (Guard) police. Menelik added some of the *Dewaria* to his force as he was informed about their arrival. He requested Ras Mekonnen to send him about 100 of the *Dewaria* police (mostly Somalis) to serve in Addis Ababa. Terzian (1930) in Beraket (1981:28) claimed that the Somali had been chosen in order to impress the people by the use of a different race. The task of the *Dewaria* in Addis Ababa was to control the market, tax collection and they had the power to bring offenders to be punished by the *Dej amoch* (chief) (Zelalem, 1998:8). Around 1916, the *Dewaria* was expanded in size to 400 men. The additional men were recruited from Shoa (Menelik's birth place) from "good families" and those who could produce responsible guarantors (Aemero, 1963:34). They were armed and had uniforms with turbans or tarbush and served under the municipality and received regular salaries.

In 1916 the *Dewaria* was replaced by *Zebegna* (Guard) police. The task was given by the proclamation of Emperor Menelik, which states that "*Until now I have done every possible means to stop crimes. From now on if you find somebody committing crime bring him to me. I will brand his head with hot iron and will be given to you to be your slave* (Aemero 1963:36). During the reign of Menelik, perpetrators of minor offenses were either flogged or branded on the face with a hot iron. Grave offenses were punishable by hanging or amputation. According to Vivian (1901:129), amputated criminals were left to bleed unless a compassionate passerby cared for the wounds. A person condemned for homicide was handed over to the relatives of his victim for execution. Beraket (1981:30) concluded that this practice seems to have dealt with crime. In 1915 the *Titibuli* (an emergency *Zebegna* force) was organized and trained by Halga Gebru, who had served in the Italian colonial army. He had also served as the head of the *Dewaria* in Harar under Ras Mekonnen (Beraket, 1981: 45). Despite the Emperor's effort to create modern police, the *Arada Zebegna* was mostly restricted to Addis Ababa and the surrounding. In the rest of the country the policing task of crime prevention, investigation, and law enforcement was done basically by the indigenous policing (Anderagachaw, 2004; Berekt, 1971; Zelalem, 1998).

4.2.2 The consolidation of *Zebegna* from the death of Menelik until the Italian occupation

After the death of Emperor Menelik in 1913, *Lej Eyssue* (king) came to power and increased the number of the *Arada Zebegna* to 2800. After him the daughter of Emperor Menelik, Emperos Zawditu came to power. But the real power was with Ras Tafri who became the regent and later Emperor Haile Selassie. Fifty physically fit individuals were recruited to replace the Somali members of the *Dewaria* (Bereket, 1981: 8).

Following the Regent's visit to Europe in 1924, a Belgian military mission consisting of four officers came to Ethiopia and together with the French and Ethiopian police officers made the police conform more closely to European models of policing. It was only after this mission that the Ethiopian police were modernized (Zelalm, 1998:6; Berekat, 1981:21). A written Constitution and a new Criminal Code was issued in 1930. Article 6 of this Criminal Code of 1930 specified the task of the *Arada Zebegna* as: to deploy police officers and organize police stations throughout the country; to protect the city; to reach rapidly to a place where people cry for help; and to punish and fine criminals.

In 1930 *Yewesit Demb* (internal regulation) to administer the *Arada Zebegna* was issued and nine departments were created to regulate its functions. These included: the court police; the secret police; the interrogation office; the political office; counter intelligence; the immigration office; the mounted police (patrolling the periphery of the city); the supply office; sanitation office with clinics both in Addis Ababa and some regional cities; and traffic police (Zelalm,1998:9; Berket,1981:22). Addis Ababa was divided into ten districts each having its own police station (commissariat) connected with the head quarters in the city's centre by telephone. There were 270 officers that were stationed in these police stations (Berket 1981:21).

The *Arada Zebegna* started to collect records of modus operandi of known criminals and photographs and registered all the prostitutes and bartenders in Addis Ababa. It also censored shows and songs that were thought would create instability. The office reported daily events to then *Kantiba* (mayor) through the chief of the police (Bereket, 1981:22). When crimes were serious and offenders were caught, they were produced before *wonberoch* (municipal judges) (Lakew, 1973:19).

A new branch *Ya mistir zabana* (secret police) was formed within *Arada Zebegna*, which was responsible for aborting rebellions and for watching the behaviour of suspected persons (Berekt, 1981:23). Though they were to be secretive, they were having uniform that shows that they were secret intelligence officers (Mogous, 1971:140). All of its recruits were carefully selected and appointed directly by the *Kantiba* (mayor). Another branch of the police was *Ya polatica Sifat Bet* (political office) which was charged with counter intelligence to suppress activities directed against Ethiopia by foreign nationals and by their local agents (Mogous, 1971:24). *Adrasha ena yilafmascha* (the immigration office) was assisted by the local administer to register the names, addresses, and other details of the city's inhabitants, a list of employed and unemployed, and of the number of deaths and births as well as issuing entry and exit visas (Mogous, 1971:23). *Ya faras zabana* (mounted police) was another specialized branch tasked to patrol the peripheries of the city during the day time and the centre at night. They also served as postmen (Mogous, 1971:25) *ya Awtomabil Zeban* (traffic police) which was given the task of directing pedestrians to walk along the side leaving the road for vehicles (Mogous, 1971:26).

About seven months before the outbreak of the war with Italy in 1935, a detachment known as the *gendarmerie* was established with about 600 men whose task was riot control. The general number of *Arada Zebegna* before the invasion reached 5563 (Mogous, 1971:26). As can be seen from the above discussion both Emperor Menelik and Haile Selassie have tried to expand modern policing service throughout the country; however the expansion was limited to some urban areas. Therefore, before the Italian occupation, as discussed in chapter 3 indigenous policing was the main system of policing in the country.

4.2.3 Policing During the Italian Occupation from 1936 to 1941

The efforts to expand the police force and cover the different regions with a modern, trained police force, was disbanded by the Italian occupation from 1936 to 1941 and established the *Polizia colonia* and brought their own police men, both from Italy and from some of their colonies (Bereket, 1981:39; Andargachew, 2004:13). The guiding principle of *Polizia colonia* as manifested in Italian East Africa was 'divide-and-rule' and this was applied with the declared intention of sweeping away the old Ethiopian system of government, where by the Christian Amhara had played a predominant role (Bereket, 1981:39). On June 1936, a new

code of law that was called force order No 1 which deals with duties and responsibilities of the then colonial police was issued. This code states that the colonial police were created to enforce order No 1 and since the major purpose of the *Polizia colonia* was to impose Italian rule, these laws were issued for both the Italian and the indigenous population. According to Force Order Number 1 Article 6, *polizia colonial* was given full power to arrest and torture anybody whom they suspect of having committed crime (Hassen, 2005:5). They were also to defend the rights and prestige of the white man. Considerable emphasis was placed on retaining racial purity; co-habitation and promiscuity were discouraged by imposing serious penalties for such violations. A clear line was drawn to prevent the interaction between the indigenous and the Italians. Restricted areas were defined and places where contact was easy such as bars were strictly controlled (Bereket, 1981:48).

The activities of colonial police may be divided into three functions: political, criminal, and administrative. The *Polizia Politica* was entrusted with guarantying public order and security by suppressing rebellions and any agitation against Italian rule. The *Polizia Giudiziaria* had the duty of controlling juvenile delinquency and preventing promiscuity and other offenses. The *polizia* administrative kept control of the possession and use of arms and explosives. It supervised industries which might endanger public health and checked the activities of the press, of foreigners, associations and closely watched all public places. It also had political duty of acting against customs that contradicted the general principle of Fascist civilization (Bereket, 198:42).

Although the *Polizia Colonial* was established to preserve Italian rule, it also spread modern policing in many parts of the Empire through establishing police stations in the provinces. The *polizia colonial* police stations had even served as bases for the next government that was formed by the British (Andargachew, 2004:3). One policy of Italian colony was not to interfere with local customs and as a result of this, Perham (1940:64) states that the use of the *Afersata* (Indigenous policing) was uninterrupted, even during the Italian occupation because they found that it was an effective method of investigation.

4.2.4 Policing during the British Era

In January 1941 when British troops occupied Addis Ababa, the Italians had left about twelve thousand armed troops and twenty thousand Italian civilians. The British had to ensure law

and order and the safe evacuation of the Italian population. Thus, they organized a police corps to safeguard the life and the property of these people. The *Carabinieri* (horse police) which, were used to control riot and other Italian police were called upon to assist in maintaining order for the first few days. A curfew was rigidly enforced and those police stations that were formed by the Italians were made to function. But the commanders of these stations were replaced by British commanders (Mogous, 1971:26; Bereket, 1981:46). Mogous (1971:26) also states that the British also formed *Zebegna* (Guard) force, which was led by a Greek commander to protect business and government institutions.

When the campaign of defeating the Italian occupation was over, Brigadier Lush was appointed as Deputy Chief of political office by the British government. In collaboration with local British officers he formed a new police called Occupied Enemy Territory Administration (O.E.T.A). All the 45 commanders of the police stations were British. They invited all people above the age of 20 to be recruited to the police and one thousand Ethiopians were enlisted and they were trained as police officers by South African officers (Mogous, 1971:114). Following the Ethio-British Agreement of 1942, the responsibility for the newly established police became that of the Ethiopian government. However Article 2 of the 1942 agreement gave the power to the British subjects to be commissioners of police, police officers and inspectors (Beraket, 1981:65).

Emperor Haile Selassie returned to power in 1942 and the country's system of administration was set up. The re-establishment of the police force was one of the first tasks of the government, during that time; there were 10 police stations in Addis Ababa and 22 regional police stations over the country, with British police officers as commanders. Almost all decisions were made by these British officers. Therefore, the Ethiopian government had little say in the police affairs (Mogous, 1971:26-32). However, as part of the agreement, the British forces made Ethiopian officers to work as translators until the police force was transferred to Ethiopians. Ethiopian officers from the pre-Italian occupation police force *Arada Zebegna* were assigned the translation duty (Mogous, 1971:38). In 1941 the first regulation "the Ethiopian police and prison force order" was published detailing new uniform, salary, and medical benefits (Bereket, 1981:46).

4.2.5 Independent Policing after the Return of Emperor Haile Selassie from 1941 to 1974

On the departure of the British armed forces from Ethiopia, the Occupied Enemy Territory Administration (O.E.T.A) came to an end. Hence, the Imperial Ethiopian police force was re-established in June 1942 under police proclamation No. 6 of 1942. From this time the name was changed from O.E.T.A. to Ethiopian Imperial police force (Beraket, 1981:34). According to article 17 of this proclamation, the main functions of the police were stated as the prevention of crime, the apprehension of criminals, the maintenance of law and order, the protection of the safety of people and property, to assist the prosecution, and the regulation of traffic. In so doing, they have to ensure that every citizen is accorded due process of the law (Andargachew, 2004:8). A new internal procedure code was introduced which stated that the police would be composed of superior officers, inspectors, non-commissioned officers, and constables as determined by the Minister of Interior (Kaplan, 1971:465).

At the earliest stage, there were no recruitment criteria and recruits were mainly from the unemployed people in Addis Ababa. These men, after some preliminary training, were posted to various main towns in the country (Banks, 1957:2). The number of police stations reached 54. Lefever (1970:166) also emphasized that, at the early stages, the men recruited from the unemployed and the illiterate were not very much committed to legality. He added, *“Irregular pay encouraged bribery and outright extortion, and policemen frequently had little knowledge of the laws they were called upon to enforce.”*

Security outside the towns was mainly in the hands of the Territorial Army, supported by the regular army. According to Kaplan (1971:464-65), most of the people lived in widely scattered, small and remote villages or in isolated farms, and police posts were usually found in the larger towns and cities or along the main roads. Thus, a visit by the police was an occasion of some importance and usually was noted with apprehension. Although the police were themselves a part of the local culture and reflected its values, the people did not generally appreciate being the object or potential object of police attention.

For the first time, in 1945, an Ethiopian deputy police commissioner’s position was created and an Ethiopian with a rank of major with a police training abroad, before the war, was appointed to fill the position (Mogous, 1971:154). A training programme for the policemen was developed in 1944, faced with the greater bulk of the constables who were illiterate, an

educational programme was established in each police station to teach the force how to read and write (Mogous, 1971:7-9). In 1945 the Territorial Army was disbanded and 15 810 police officers of all ranks were placed under the control of the Ministry of Interior. They continued to serve as security forces in the rural areas, but to facilitate control and supervision, they were taken back into the police force in 1948 (Bereket, 1981:49).

In order to reorganize the police, in 1946, sixteen British police officers returned to the police. The training was undertaken at the Kolfe Training Centre, where the famous Nelson Mandela was also trained and lasted for four months (Mogous, 1971:214). By 1949 the total police force numbered 19 250 composed of 174 superior officers (majors and captains), 580 inspectors and sub-inspectors, 2 228 non-commissioned officers, 16 224 constables and 44 health officers (Banks, 1957:19).

Administratively, the Ethiopian police forces began as a department within the Ministry of Interior. However, early in 1970 it was organized as a separate agency and was commanded by the Chief Police Commissioner who was responsible to the Minister of interior, but with a certain amount of autonomy. In the provinces the command of the force was put under commissioners of police working in collaboration with the provincial governors, but remaining under the direct command of the Chief Commissioner of Police. This resulted in serious question of dual loyalty and contradictions were common (Lefever, 1970:167).

By 1946 the Abba Dina Police College was established in Addis Ababa. Young Ethiopians with grade six education were recruited and Swedish Police officers were brought to conduct the training. From this time onwards the Ethiopian police have begun to enter the age of modern policing in its proper sense. Since 1960, the collage was fully Ethiopianised in terms of its faculty members. The recruitment of candidates was gradually upgraded, and they were required to complete grade 12 educations (Andargachew, 2004:16). Generally, the police force was organized into uniformed (including the traffic unit), and the detective units. There were also specially trained riot control squad and police laboratories and technicians though these were not found in all parts of the country. In order to improve performance of the police and relieve the army, in 1962 a paramilitary emergency police force, known as "*Fetno Derash*", consisting, of about 3000 members was trained with the assistance of Israel Government (Andargachew, 2004:22).

About 300 officers were sent to India, Germany, Canada and Israel to be trained as professional police officers with the assistance of West Germany, mainly in terms of vehicles and some relevant communication technologies. According to Lefever (1970:169), between 1952 and 1969, the U.S. public safety programme in Ethiopia provided more than 3 million, U.S dollars, half of which was used to train some 120 Ethiopian police officers in the United States. Part of the assistance was also used for the establishment of a crime investigation laboratory and for the purchase of radio equipments and tracks and other vetches (Lefever, 1970:170). These efforts enabled the Ethiopian police to be equipped with aviation transport and maintenance capacity. Thus, it can be fairly concluded that during the time of Emperor Haile Selassie, Ethiopian had modern police force.

During the time of Emperor Haile Selassie, police was constitutionally mandated to protect the king and the king reserved all rights to decide in the direction and practice of policing. Its mode of operation was generally on punitive rather than preventive function (Kaplan, 1976:467), and they were centralized and commanded from the Police Head Quarters. They were paramilitary in character and were involved in all war fronts. Although public participation in policing was weak; people with guns (militias) were active in maintaining security in society. There was also a programme in all schools that enabled school children to participate in traffic management. Students were trained as traffic police to help the traffic department in their school areas (Hassen, 2005:18). Even the Emperors, the Italian, and the British tried to introduce and implement modern policing in Ethiopia, it is widely known that indigenous policing remained operative in several parts of the country including central highlands and urban areas where state institutions were assumed to have strong presence (Alula & Getachaw, 2008:6). The transplanted modern policing and law were not able to penetrate deep into rural Ethiopia. Beckstorm (1974:701) states that as early as 1968, indigenous law and policing remained live throughout the country despite the effort to limit them.

4.2.6 The State of the Ethiopian Police Force during the *Dergue* rule from 1974 to 1991

After the overthrow of Emperor Haile Selassie, the Marxist government of the *Dergue's* come to power. Due to the ideological change the police were renamed as “Revolutionary police” and then “people’s police” The *Dergue* severely circumscribed the authority of the

national police. Andargachaw (2004:24) states that in the early part of the period of revolution, the importance of the police was to some extent played down. The *Dergue* did not amend the laws, therefore, in theory the duties and responsibilities of the police remained as stipulated in the police proclamation No 6 of 1942. The police force maintained more or less the same structure and was centrally commanded from Addis Ababa (Hassen, 2004:16).

The *Dergue* was confused as to whether or not the police should be replaced by the militia. One could see clearly that the *Dergue* tried to tie up policing to the ideology of communism. According to a *Dergue's* police Annual Report (1981:17), the vision of police was stated as being to intensify the class struggle. Based on this vision the police were given at least in theory the following functions: to protect properties which were nationalized from what was regarded as anti-revolutionary and anti people; to implement the progressive proclamation and laws of revolutionary Ethiopia; to participate in development of the socialist economy; and to protect the country from internal enemies. The document continues to look at other normal police functions like crime prevention and investigations (Annual Report, 1981:17).

During the *Dergue*, there was no clear policing strategy and what could be distilled from this unclear strategy according to Task Force Report (1983:71), was that in order to prevent crime the revolution was to: destroy the old regime and build socialist government as this by itself was to decrease crime; replace the police work by that of the militia; to take out those criminals who build their lives on crime to agricultural land and make them productive; organizing the workers and making sure they expose criminals; and preventing the consumption of alcohol on day time etc.

In practice the police were left without any real power because most of their mandates were taken by different organizations. The investigation department was taken to “special investigation” department, which was directly led by the *Dergue* committee. The lower level of crime investigation, prevention and law enforcement were taken by local administration, here after referred as *kebele* which were authorized to imprison, investigate and even kill offenders. Andargatchew (1986:70) states that the revolutionary squad of the urban dwellers and rural peasant associations were expected to take over the role of the police. The police were left with the role of traffic policing because even the police stations were run by revolutionary guard committees.

Because policing was not a priority, most of the professional police officers were taken to different organizations. For example in 1982, 236 officers were taken to the army, 64 officers were taken to the central special security investigation department, and about 1 234 officers and none commissioned officers were taken to train and lead the militia. Thus, the police lost most of its trained officers. According to the Task Force Report (1983:73) in 1981/82 the number of positions in the police force were 26 451, however the number of officers on duty were only 16, 896.

In 1981 the police were short of 10,033 police officers. According to Hassen (2005:35), in 1991 the number of enrolled police officers was raised to 21 000. As many as 12, 418 were misplaced in activities that did not have any relation with the primary objectives of the police. For example more than 10 000 were assigned to political cadres, *kebele* administration guarding political cadres and army etc. Some were put (placed) in investigation and leadership activities, while others were assigned in staff activities such as sport recreation, transport etc. In 1991, those who have been working in patrol duty were not more than 5 000 (25%) of the total staff component. Thus in essence there was no effective and efficient patrolling. The various regional police training schools were closed down and new recruitment was abandoned. Since the military was pre-occupied with war, besides removing the best managers from the police, they also took away police cars, arms, and buildings.

As indicated previously, the police did not have clear principles and strategies during the *Dergue* rule. It could be summarized as having been undemocratic, centralized, bureaucratic, and paramilitary in nature and alienated from the population. It was composed of few nationalities, with very little public service experience and it was too much politicized. Thousands of young people who were viewed as counter revolutionaries were killed in what was termed as white and red terrors – the name red terror was used by the *Dergue* cadres for the campaign of mass killings, while the white terror was the name given by the opposition for the killings of the *Dergue* cadre (Special Prosecutor Office, 2010:46). Bahuru (1991:58) states that although the indigenous policing was working underground during the *Dergue* rule, it was still functioning effectively in Ethiopia.

4.2.7 Modern Policing during the Ethiopian People’s Revolutionary Democratic Front from 1995 to date

The existing federal and regional police activities can be categorized into the period from 1991 to 2003 and from 2004 until to date. In the first period, the federal police’s main task was to reorganize a new police force while at the same time were doing crime prevention, investigation and law enforcement tasks. This is the period that could be regarded as the first phase of reorganizing the police. The second phase is between 2004 until now, where strategic issues have been raised and attempts to transform the federal police are underway.

4.2.7.1 The period from 1991 to 2003

Andergachaw (2004:23) commented that after the Ethiopian People’s Revolutionary Democratic Front (EPRDF) took over the government in May, 1991, it disbanded the police force and the country was left without police officers for some time. All his comments are right except his comment that the country was left without police officers, before the fall of the *Dergue*, EPRDF had created the core of the police. How to deal with the police, army and security was decided while the *Dergue* was in power. In the conference of EPRDF conducted in 1989 the issue was raised and decided that “*since the existing military, security and police are the oppressing machineries of the Dergue, they have to be disbanded, and preparation for the new police should start*” (Report of EPRDF 1990:31). A committee led by the researcher of this dissertation was organized to formulate the policy and to train new police based on the new policy. Twelve police officers from the prisoners of war, who had policing back ground, were selected to help in formulating the policy and prepare the curriculum. In 1990 to 1991,123 police officers were trained and prepared to replace the *Dergue* police when the system was defeated. The policy that was formulated then was the base for the policy that EPRDF continued to employ after the defeat of the *Dergue* (the details are discussed below).

The over throw of the *Dergue* and the coming to power of the EPRDF has not changed the view that police serve politics. The EPRDF has its own political ideology. As discussed in chapter 3, the radical change of politics that have the impact of creating a new police was the belief of EPRDF programme which is reflected in Article 39 of the 1995 Constitution which states that “*Every Nation, Nationality and people in Ethiopia has an unconditional right to*

self determination, including the right to secession.” This programme has impacted the way the new force should be developed, because it meant that each nationality will be entitled to administer among other things its police force.

When the Ethiopian People’s Revolutionary Democratic Front (EPRDF) took power, it did not form the government alone, but it included other 33 political parties and formed the transitional government from 1991 to 1994. This transitional government issued proclamation No. 8 of 1992 on the 16th January 1992 that provides for the deployment of the State Defence and of Police Force, which gave the legal framework for the police. In its preamble this proclamation states “ *the huge army and a repressive espionage machinery committed atrocities against the people thereby making their lives miserable, and now it is necessary to change its character and disengage its members to enable them to resume peaceful live.*”

The reorganizing process headed by this researcher was started in 1991 through a commission composed of eight senior police officers. The reorganization was based on the following principles: police decentralization to ensure that the power to police is divided between the federal government and the regional states; the police should be composed of all nationalities; changing the police from the paramilitary to civilian and professional policing; standardization of the police organization throughout the country; developing democratic leadership and professional competence in policing; the police force should have a mass base i.e. community policing should be the strategy; the recruitment of police officers to be carried out with the full participation of the local community to ensure that undesirable people are not recruited. The policy excludes the recruitment, of former *Dergue* party members, former leadership of *kebele* (the lowest administration unit) associations, and former member of the armed forces. Some members of the former police force could be retained in the new police force provided that they were certified by the community to be free from any crime and wrong doing, particularly during the *Dergue*’s period (Policy Document 1, 1992:7).

Based on the above policy and recruitment criteria, the first Federal Police Force was formed from the following four entities: 51% were former police officers who were select by the community to rejoin the new police force. The second category was 1.3% police officers that had been trained by EPRDF before the fall of the *Dergue*; the third category, 6.25% that were brought from the army; and the last category was of the new recruits. This served as a basis

for the present Federal Police. The next task of the commission was to train these police officers. A delegation led by the researcher went to Sudan, South Africa, England and Germany to learn experiences and to get help. South Africa and Sudan send their trainers to train the police and 12 British experts were called to help reorganize the police and were deployed in all the fields. The Germans supplied the police with cars and forensic equipments (Hassen, 2002:18).

Under Article 10(8) of Proclamation 7 of 1992 that established National/Regional Self-governments, the regions were given the power to establish their own police force. Under this proclamation the national security issues were located under the central government. Thus the federal police was responsible to manage security issues like terrorism, money laundering, organized crimes and standardization of the police from 1991 until 1994. The tasks and functions of the federal police were based on the above proclamation and the policy document approved by cabinet of the transitional government which is referred to as police document no 2 (Document No 2 of 1992).

4.2.7.2 Duties and responsibilities of the Federal Police from 1991 to 2003

In 1995 a new constitution was adopted and election was conducted. In the election EPRDF won the majority of the chamber, replacing the transitional government with the EPRDF led government. Between 1995 and 2004, the federal police had two major legal provisions which give legal backing to its authorities and responsibilities, namely - the constitution and the federal police proclamations.

The source of powers of Federal Police is specified in the 1995 Constitution as follows: to ensure observance of the Constitution and to obey it (Article 9 (2)); to ensure observance of all international agreements ratified by Ethiopia and to obey them (Article 9 (4)); to organize and administer federal police force established by federal government (Articles 51(6) & 55(7)); at the request of a state administration, to deploy federal police forces to avert a deteriorating security situation within the requesting state when its authorities are unable to control it (Article 51(14)); if any act occurs which infringes upon fundamental human rights of citizens and national security, to carry out investigations (Article 55(7)).

According to proclamation number 207 of 2000 the federal police has the following functions: to prevent any crime; to investigate crimes that fall under the jurisdiction of Federal Courts; to execute orders and decisions issued by courts having judicial powers; to execute orders issued by the Federal public prosecutor concerning investigation of crimes; to safeguard the security of borders, airports, railway lines and terminals, mining areas, and vital institutions of the Federal Government; to give protection to higher officials of the Federal Government and dignitaries of foreign countries; to issue certificate of no criminal record; to collect, conduct research and distribute criminal information and statistical data; and create a nationwide system for criminal data collection and processing; to carry out technical investigations.

4.2.7.3 Duties and responsibilities of the regional police

Powers originating from Article 52(g) of the 1995 Constitution of Ethiopia states that regional states have the power to establish and administer a state police force and to maintain public order and peace within their state. Power of regional state's police originating from Article 6 on Proclamation 7 of 1992 stipulate the powers of regional police as follows: to follow up, prevent and control the commission of crime; to follow up, prevent and control crimes committed in violation of the human rights guaranteed by the Charter (Transitional Constitution); to investigate, in accordance with the law, crimes committed and submit it to the appropriate organ; to carry out court decrees and orders when the court so instructs; and to perform other security and police duties as may be assigned to it by the Central Government or the National/Regional Transitional Self-government. According to Article 7 (1) of Proclamation No 7 of 1992, the police force had to be independent from political interference and the power of the chairman of the regional council is only to give an overall guidance to peace and order of the region. This type of organizational relationships between the police force and administrative levels is completely different from what has been experienced ever since the history of its establishment in modern sense.

4.2.7.4 The relation between regional and federal police

The relationship between the federal and regional police is clarified both in the proclamation and the constitution. The board of commissioners composed of regional police commissioners and central bureau assistant commissioners (dept. heads) was established

based on the proposal made by the reorganizing team (Document No 2, 1995). Its objective is to increase mutual understanding and cohesion among regions as well as between central bureau and regions. The board is chaired by the police force central bureau commissioner or by person delegated by him. According to this policy document the board is responsible for the following activities: to decide on plans and programmes to be implemented in the regions; to decide on policing issues emanating from research and exert every effort for its implementation; to set standard (i.e. training, uniforms, man power quota etc); to conduct annual meeting to evaluate past experience and to plan for the future (Federal Police Strategic Plan, 1995:14).

4.2.7.5 Challenges and achievements between 1991 until 2004

In 2004 the first strategic plan was organized and there were achievements, problems and challenges since its reestablishment on new foundation in 1992, the Federal Police has been taking measures in order to strengthen its policing services. The Federal Police has also been transforming itself to get out of the previous manpower management and administration, organizational and process related constraints that presented bottlenecks against full and effective realization of the objectives of the institution over the years. To ensure effective realization of its mission and enable delivery of improved policing services, the institution has embarked on implementation of Business Process Reengineering (BPR) studies and restructuring measures on the basis of the change programme, which enabled to identify and address the hitherto constraints in the institution (Strategic plan, 2010:45). In respect of building the capacity and shaping attitudes of police force members, a number of short term courses and trainings from certificate to graduate level education and trainings programmes have been offered which would enhance the executing capacity of the institution. One of the achievement is bilateral cooperation with the police of other countries in the world, which enabled the leadership and force members to benefit from short term and long term police training at home and abroad (Hassen, 2005:45).

According to the Management Evaluation Report (2004:34), there were problems and challenges that faced the smooth operation of the police such as the basic problems of having the clarity of purpose and definition of the Ethiopian police itself; the mission, vision, values the structures were not institutionalized; there was lack of integration, dislocation, and confusion of roles; top managers have been forced to devote their attention to lower-level

tasks such as operating, controlling, and budgeting - thus they were overwhelmed by administrative details allowing the organization to become turgid, sluggish, and ineffective; there was no common institutionalized thinking among the members of the police. This was a challenge created by the two different cultures that existed in the federal police. The federal police are composed of two entities. These are ex-fighters who joined the police after 1991 and police officers who had been in the police for several years. There were two different decision making and communication styles. The ex-fighters had a culture of group decision making process. They evaluated their work openly and sometimes on interpersonal level. Hierarchy is not important to them and they were seen as non-professional by traditional police officers and they had less respect for following procedures. The traditional police officers are professional and formal, they believe in hierarchy and they are less risk taking. There was misunderstanding between the two sub cultures that crumbled the organization (Hassen, 2005:57). This was resolved after the delegation led by the researcher returned from South Africa and took the experience of the way South Africa dealt with the issue of members of the ANC and the previous police officers.

4.2.7.6 Current situation of the federal police from 2004 until now

The Federal Police has been working to discharge its duties and responsibilities in terms of fostering the rule of law and respect of citizens' rights and freedoms. In 2004 as part of the civil service reform of the country's past challenges, weakness, strength, threats and opportunities were indentified and a five year 2004 – 2009 was adapted and implemented (Strategic Plan, 2004:16).

As discussed in chapter 2, the federal police has re-examined its structures to ensure that they support and facilitate the implementation of the philosophical, strategic and tactical dimensions of community policing. This has been to ensure that organizational structures and training are in place to support the concept of community policing. In addition, vision, value, mission statement should set out broad goals of community policing, and encourage police to develop practices that will enable those goals to be achieved. Changing to a community policing/problem solving model needs careful planning with strategic focus, as well as taking into account the considerable variations across police districts. The policing strategy of 2010-2015 was developed based on the Constitution of Federal Democratic Republic of Ethiopia (FDRE), which established the Federal Police's Growth and Transformation Plan, Ethiopia's

Foreign Affairs and the strategy of community policing. According to the Federal Police five year Strategic Plan (2011:3), the vision, mission, value and structure of the federal police has been developed as followings:

Vision: to see delivery of policing service that matches public satisfaction and trust in line with international standards by 2023.

Mission: Contribute due role to development and prosperity of the nation by respecting and enforcing respect of the Constitution and other laws of the land, preventing crime and criminal threats and ensuring prevalence of peace and security through active participation of the people.

Values: Loyalty to the Constitution of Federal Democratic Republic of Ethiopia (FDRE); safeguarding vital interests of the nation and the people; believe in and respect diversity of nations and nationalities, and differences in faiths and opinions; ensure public participation and satisfaction; Honour policing trade and insignia; confidentiality, transparency and accountability; commitment to self improvement and merits; working together as a team.

Strategic issues: On the basis of situation analyses of past challenges and achievements, the following six strategic issues of federal police have been identified: community-policing-based crime prevention; intelligence-led crime prevention; building police fully equipped with Constitutional perspective, attitudes and professional capacity and competence; efficient, effective and accessible support service; standardized process supported by sustainable change programme; and technology transfer that enables to realize the mission of the institution.

4.2.7.7 Duties and responsibilities

As discussed above the federal and regional police have three major legal provisions which give legal backing to their authorities and responsibilities. These are the constitution and the federal, regional police proclamations and powers originating from establishing proclamations of other relevant institutions. As there is no change in the constitution and the regional police powers, the researcher will concentrate on the duties and responsibilities of federal police that have been added and emphasized.

Powers originating from Federal Police Commission Establishing Proclamation 2 of 2011: The Federal police have four proclamations since its formation, as most of them have been discussed above in order to save space only the powers conferred by respective sections of those that have been added and emphasized are dealt with in this section: When disruption of security occurs which is beyond control of regional state administrations, restore law and order within the regional state upon the request of the regional state administration or in the case of conflicts that may arise between two or more regional state administrations when so ordered by federal government in terms of Article 22; Safeguard security of borderline or peripheral checkpoints, dry ports, air ports, fuel depots, railway lines, main bridges and communications networks, main hydropower generation plants, mining sites and other federal government institutions in terms of Article 9; Prevent and investigate criminal acts perpetrated against foreign government institutions and expatriates in terms of Article 12; Conduct national policy, strategy and standardization studies; submit such findings to federal and regional police commissioners; make appropriate efforts for their implementation in terms of Article 22; Develop national standards governing police force recruitment, placement, education and training, rank promotion, wages and allowances, uniform dress codes, ammunitions, termination, retirement age and any other procedures in terms of Article 20; Provide security services to high level federal government officials and visiting foreigners in terms of Article 7; Register arms possessions, identify prohibited arms which need not to be possessed by individuals and firms; Issue permits for private security firms and follow up conduct of their work in appropriate manner in terms of Article 26; Issue explosives permits for civil construction activities, provide convoy cover, security and control services in terms of Article 29.

Powers originating from establishing proclamations of other relevant institutions: The powers of Federal Police in conducting its activities under this strategic plan also originate from proclamations establishing other relevant institutions such as Anti-Corruption, Ethiopian Aviation, and Telecommunication. The federal police can in terms of certain articles of Anti-Terror Proclamation 652 of 2001 conduct surprise search and can investigate corruption under Article 8 of the Revised Federal Ethics and Anti - Corruption Commission Establishing Proclamation 433 of 1997. The federal police also have powers to investigate crimes against flight safety in terms of Proclamation 31 of 1998 and it has powers to investigate crimes committed against institutions and equipments associated with flight

safety. Under Articles 3 and 4 of the Telecommunication and Electric Power Infrastructure Networks Security Proclamation 464 of 1997, the federal police has powers to keep security of telecommunications and electric power networks laid out all over the country. Under Article 18 of Proclamation 587 of 2000 of custom and tax, the federal police has the powers to put in order and deploy police officers to prevent crime arising from customs and tax; control contraband and illicit trade.

4.2.7.8 The existing federal police structure

A change in the organization structure is a prerequisite for the successful implementation of community policing. This structural change has a dual purpose, namely – is the flattening of the organizational structure and awarding greater autonomy for those members at the lowest level of the line functions. Secondly, is changing the paramilitary and bureaucratic organization model to an organizational model which is in keeping with the needs of the community and the rendering of a high quality service as a priority. Simultaneously, there should be decentralization of functions such as management and resource utilization, in order to devolve some decision making power (Hassen, 2002:39).

From 1991 to 2003 numerous proposals were made on the development of the organ gram of the Ethiopian Federal Police Commission that is depicted on table 1 below. According to (Strategic Plan, 2004:27) the structure of the Ethiopian Federal Police which was put in effect as of April 2002 was not as a result of valid research because according to Management Report (2004:56) the management failed to answer the following questions: What is the mission of the organization? What are the organizational values? What are the relationship between the strategy and the structure and vision? What organizing principles should be employed in designing the structures? What should be the roles of the head office and lower ranks of the organization? And what type of structural supports is in place to enable the management to achieve their goals? In fact, the federal police had been operating under a structure not officially endorsed and recognized for 3 years before the approval of the 2002 structure. The three previous Organ Grams had the following weaknesses:

- a) The structure lacked fairness and equity in job distribution. It was full of inequity and unfairness. For example, the main role of the federal police is standardization.

However the department that is supposed to work on the standardization was less staffed as it consisted of only two or three officers.

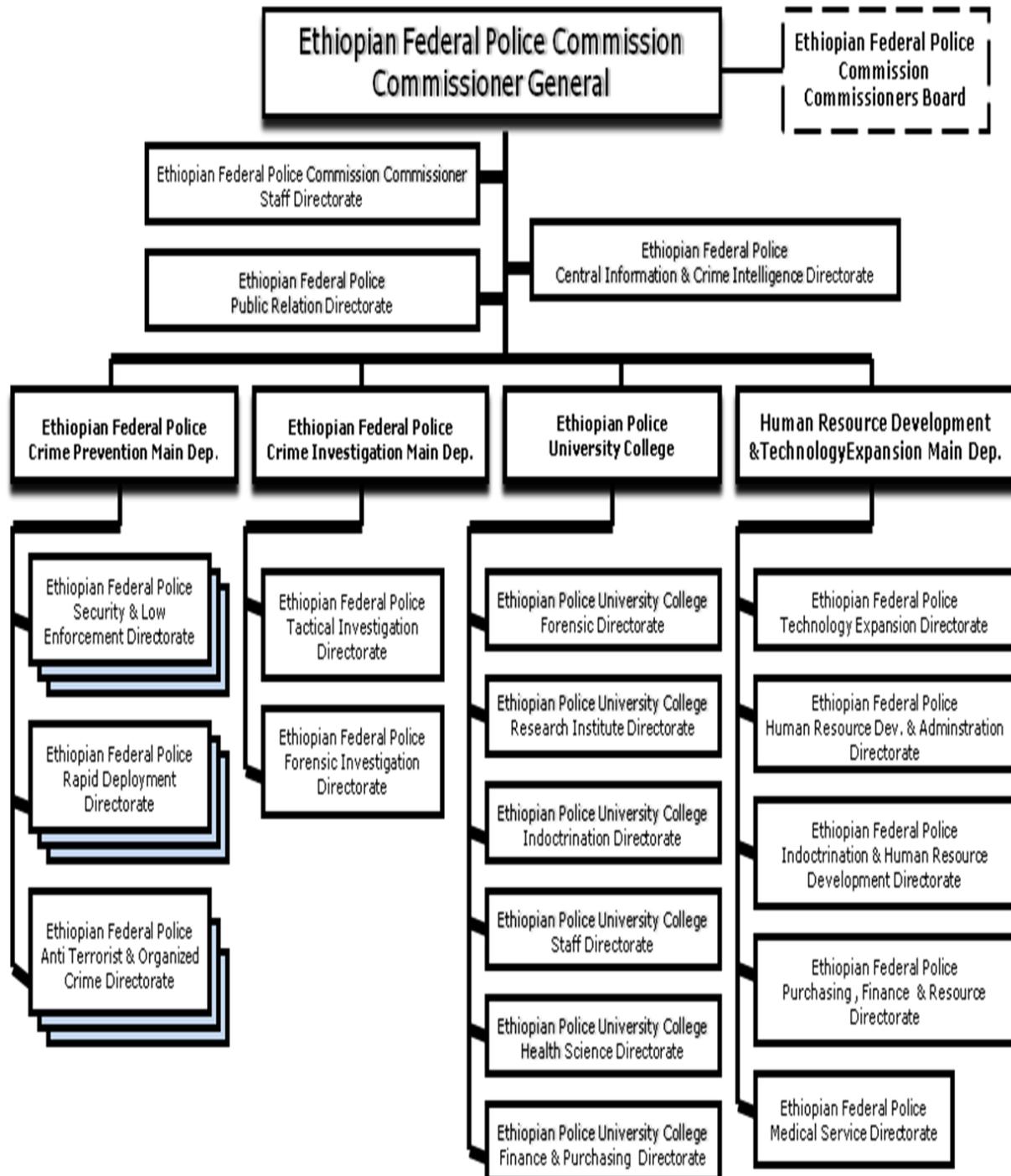
- b) There was lack of integration, dislocation, and confusion of roles. Some examples here being role confusion between the College and Human resource departments. For example there was confusion as to who will assess the training need and the follow up training; there was also confusion as to what the role of the Ethiopian Police College was in research and that of the research department; there was problem of coherence between the research, inspection, training, crime investigation and crime prevention; there was no connection between training and practice; there was no system that makes information feeding and performance automatic; there was disintegration between operations and performances evaluation. Some of the issues were that crime prevention and public relation and community service departments were separate departments. Crime prevention department was performing the community service work but the radio and Television were in different departments. The role of the Federal police commissioner, Regional commissions, the management council and the minister were also not specific.

- c) Some of the sections such as rapid force and the Ethiopian Police College were not having legal sections.

The new structure that is depicted on table 1 below has addressed most of the previously identified short comings, is flatter and there is synergy of various components. According to the researcher, this structure has helped smooth decision making and information flows.

Table 1: Organ gram of the Ethiopian Federal Police Commission

Ethiopian Federal Police Commission Managerial Structure



Source (Strategic Plan, 2011)

Since its reorganization in 1991, the Ethiopian Federal Police had on one hand been engaged in creating the new police, while on the other hand it was working to discharge its duties. One can conclude that it has now reached the level of a professional police system because it has managed to create institutionalized thinking, it is now more accessible to the community, and it has created the capacity to investigate and prevent major and complicated crimes. Advanced technology has been introduced in all fields of policing and various programmes such as educational programmes, has worked towards the development of the capacity of its members. Over 170 police officers are being trained on topics that will enhance professionalism at various universities such as the University of South Africa, Turkey, etc.

Despite the above mentioned strength of the federal police, it still has the following weaknesses that were identified by the Federal Police Management Evaluations of 2011 (Federal Police Strategic Plan, 2004:46): the need to build constitutional loyalty and commitment by the entire members of the police force; the leadership is still focused on micromanaging routine work instead of concentrating on strategic leadership; professional personality of police members has not been adequately developed, this is displayed by the violation of rules, lawsuits instituted against police officers, and defections with property and ammunitions; the capacity to carry out standard crime prevention and forensic investigation activities led by pre-emptive crime intelligence in prevention of terrorist attacks, cyber crimes and economic crimes has not been adequately developed; the absence of national policies and manuals that are inline with worldwide policing standards for efficiency, cost effectiveness, rapid crime prevention and investigation services based on full participation of the society and stakeholders.

4.3 GENERAL OVER VIEW OF THE IMPLEMENTATION OF COMMUNITY POLICING IN ETHIOPIA

When the Ethiopian People's Revolutionary Democratic Front (EPRDF) took power from the military junta (*Dergue*) in 1991, one of the most important policies that they came up with was the formulation of the role of the community in policing. To this effect the Ethiopian Police Policy (1992:13) states that the police strategy should be based on the full participation of the community that could be achieved by the following: to win public confidence by involving the community through its established social organizations; creating awareness about the role of community in crime prevention and involve the community in crime prevention such as neighbourhood watch; creating community organizations, which have

powers to take some responsibilities of policing and to scrutinize police operations; deploying liaison officers who would work as community police officers; exploiting the indigenous conflict resolution methods.

However this strategy has never been implemented in full and Getachaw (2003:11) mentioned some of the reasons why the federal police failed to implement community policing strategy. He firstly attributes it to the misconception or partial understanding of community policing. Community policing was understood merely as an aspect of organizing watchmen in numerous communities and deploying them to oversee their vicinities that was meant to establish a network of information resources within the community. Secondly, no research was done to identify socio-cultural peculiarities amenable to the implementation of community policing in Ethiopia. It was implemented at once in the country in a one size fit all approach of organizing village representatives into neighbourhood watchmen. Thirdly, no real assessment was carried out to determine what model of community policing was suitable to the multi-ethnic and multi-cultural society of Ethiopia. The major drawback however was that community policing was viewed as an external phenomenon devoid of any structural, cultural and organizational changes. There was no legislative support to guide its implementation and its lack of understanding was not confined to certain levels of policing but it permitted through all the rank and file of police officers.

4.3.1 Revision of the Early Strategy

Based on the research of the Ethiopian Police Research Department (2007:23), a new Community Policing Implementation Strategy was approved by the police management in 2006. The main elements of this strategy are summarized as follows: Firstly, instead of implementing Community Policing in the whole country at once, the implementation process should now be started as a pilot project. This led to the choosing of two *Waradas* (districts) each from Amhara, Tigray, Oromia and Addis Ababa as pilot areas. Secondly, the implementation of community policing should involve the entire agency. Agency wide commitment will require a re-evaluation of all aspects of operations. The command structure of the police organization must be decentralized so that problem solving, decision-making, and accountability are spread to all levels of the organization. Thirdly, many systems will need to be restructured to facilitate new job responsibilities and to foster productive partnerships with the community. Fourthly, effective implementation will require time to

train personnel, establish bonds with the community, and create appropriate support systems. Fifthly, change must come from top down. The behaviour of the management should set the tone and pattern for the entire organization. Management must create a new, unified organizational outlook, and implementation strategies must be developed to deal effectively with obstacles. Sixthly, a certain amount of opposition to community policing should be anticipated. Lastly, the management should communicate the concept of community policing to its own personnel and to the community, including political and business leaders and the media (Strategic Plan, 2004:43; Hassen, 2002:54).

4.3.2 The Outcome of the Implementation of Community Policing

Based on these strategies the federal police embarked on community policing activities from 2006 to 2008 and the success and challenges of these activities were evaluated every year by the board of commissioners and a responsible department that was created for this purpose. In 2009 after the management concluded that the pilot project was a success it decided that community policing should be implemented in all the selected regions.

A critical aspect of the implementation is the assessment of community policing efforts, both in terms of achieving the necessary change within the organization itself and accomplishing external goals such as, establishing working relationships with the community and reducing levels of crime, fear, and disorder (Federal Police, 2009:6). The existing situation of the community policing best experiences and challenges are discussed below.

4.3.3 Organizational change within the police

It is hardly possible to talk about the implementation of community policing without dealing with organizational change that are necessitated by this concept. The federal police management took an entirely different leadership of considerable strength and perseverance to change the fundamental culture of the organization throughout the period of implementation, the management and board of the commissioners were actively involved. Major changes that were done in operations included: decentralization of activities; role changes for most personnel; new training and revised schedules were conducted. These changes were carefully considered and coordinated. Training was given to communicate and reinforce the changes taking place in organizational values and policies and to build

consensus, resolve problems, and to create unity both inside and outside the police organization. Several seminars and workshops were conducted both at the federal and regional level (Toshome, Jemal, Workneh & Molla 2011:57). About 2 780 community police officers were trained by the regional police training centres in collaboration with the police University College to cover each *warada* (district) nationwide with these community policing officers (Annual Report of the Ethiopian Police University College, 2007:31). Regarding organizational change the recent research conducted by Teshome, Jemal, Worknh and Molla (2012:56), reveals that the community feels that organizational change was desirable as indicated by the following percentage in the following three states: 96.9% in Amhara; 96% in Tigray; 90% in Oromia. This implies that most of the people in the implementation areas have felt the need for organizational change as desired by the management.

4.3.6 The deployment and achievement of community police officers

For effective implementation of community policing, the police have to empower two groups: the community itself and the community police officers who work closely and regularly with the community. The implementation of community policing through a special, well-trained unit often offers early indications of success and focuses the attention of the community on the beneficial nature of community policing (Hassen, 2002:36). Therefore, in all policing regions the structures that coordinate the projects were formed and their roles were identified. Community policing skills were also integrated into the training curricula and it was not treated as a separate component of the training programme. The training in community policing was made to supplement law enforcement techniques with communication and leadership skills that encourage participation from the community. The collected documents from the regions and city administrations indicates that there is organizational change which is decentralized from the regions to family level and most of the selected regions have trained and deployed the number of community police officers as indicated on table 2 below.

Table 2: Number of deployed community police officers

Number of community police officers deployed						Summary
	Regional level	Zonal Level	<i>Werda</i> level	<i>Kebele</i> <i>Levl</i>	<i>Ketena</i> <i>level</i>	
Amhara	4	19	270	4208	-	4501

Tigray	7	7	52	598	154	818
Oromia	5	24	298	1706	-	2033
A.A	1	10	50	4	-	65
Summery	17	60	670	6516	153	7267

Sources: Annual Reports (Amhara, 2012:16; Tigray, 2012:14; Oromia, 2012:2; Addis Ababa, 2012:23)

According the Strategic Plan of Community Policing (2006:32), the *Kebeles* (lower administration) of all the selected regions have at least one community police officer. The implementation of Community Policing in the areas that are selected for study is currently as follows: Amhara 94.4%; Tigray 93.7%; Oromia 96.7%; and Addis Ababa 11%. Furthermore the number of community police officers has reached 7 267 which is 18% of the total regional police. This is a radical decentralization strategy that was ever embarked upon by the police in Ethiopia. Community police officers are decentralized from region to *kebeles* (blocks) to families for relatively permanent time and with full responsibility and specified duties. The role of the community police officers towards working together and sharing the values of the geographically identified local community were identified. This helped community police officers to develop knowledge about the community. In this regard, research was conducted by Teshome *et al* (2012:62) to examine whether this deployment has increased partnership, accountability, responsibility and communication or not. Respondents were asked to rate the partnership with the community and respondents of Addis Ababa rated it as 36.2% and the ratings in other three states were little bit higher at 41.2% in Amhara; 44.1% in Oromia; and 47.3 in Tigray. Furthermore the analysis of written community policing reports of 2012 of Amhara, Tigray, Oromia and Addis Ababa also show that organizing and deploying geographical based officers has helped to maximize and strength police-community relationships, which in turn increase mutual recognition, responsibility and accountability. This deployment has enabled early intervention and problem identification and avoids community based conflict, misperceptions or misunderstanding. In the same research respondents were asked if the presence of community policing officers has helped to resolve conflict (problem), the vast majority indicated that community policing officers do help with resolving conflict with the following percentage: Amhara 96.4%; Tigray 94.6%; Oromia 92.6%; and Addis Ababa 80.6%(Teshome *et al*, 2012:56).

Due to the decentralized policing policy, community police officers are responsible for the daily policing needs of the community, with guidance and backing from *warada* and zonal supervisors. Their long term shifts and neighbourhood patrol assignments give them the opportunity to function more efficiently and successfully. Moreover, the community police officers have been acting as a role model and creative for the society through enhancing their knowledge in the selected regions. Beyond that, taking immediate measures on members of the police who violate laws is considered to be a means of encouraging communities to be active participants in community policing (Annual Report of Amhara, 2012; Tigray, 2012; Oromia, 2012; Addis Ababa, 2012).

4.3.7 Creating awareness of community policing concept

As discussed in chapter 2, one of the fundamental principles of community policing is enlightening the people by educating them on the ways in which they can change the situation of crime in their community. Community policing must involve the community in the quest for better crime control and prevention by creating awareness (Hassen, 2002:56). The effectiveness of the implementation of community policing throughout the organization will depend on the manner in which community policing goals were initially communicated. In this regard the federal police have been engaged in creating awareness among the population since its formation in 1991. However, it was not organized, thus not effective and efficient (Hassen, 2002:26). But beginning 2010 a well organized, efficient and effective awareness creation programme was launched and over 234 workshops were conducted that brought awareness to 17.5million people in Amhara; 2.5 million in Tigray; 912 461 in Addis Ababa; and 9.6 million in Oromia according to the Yearly Community Police Reports of Amhara (2012:22); Tigray (2012:18); Oromia (2012:5); and Addis Ababa (2012:5).

In implementing community policing, regions have worked to keep the community well informed, involving them in ongoing planning and implementation, soliciting their inputs and suggestions, and encouraging feedback in all areas of implementation. The early cooperation and influence of community police officers was key to gaining support throughout the implementation areas with regards to the understanding and awareness of the community policing concept. In the research conducted by Teshome *et al* (2012:52), respondents indicated that there was a high level of awareness on community policing as reflected by the

following percentage: 98.2 % in Amhara; 97.7% in Southern Nations Nationalities Peoples Region; 96.7% in Tigray; 96.5% in Oromia; 85% in Addis Ababa; and 75% in Dire Dawa.

4.3.8 Community organization

An early measure of the effectiveness of community policing is the number and type of community organizations that have been formed. There are two categories of organizations that have been organized, the first category is the community as a population, and the second category is using organizations that are set up for other purposes. In order to encompass the community as a part of the implementation process, the organizational structure of community policing in the selected regions begins from the lowest level to the highest level, i.e. family representative, *kabele*, *warada*, zone and region. The experience of some of the regions indicates that the community is organized in different organizations. Table 3 below indicates the organization of the community at different level.

Table 3: Organization of the community at different level

Region	Type of community organization	Zone level	Werda	Kebele	Ketena	School police clubs	Family police
Amhara	Community consuls	180	3015	43,807	-	5571	1.3 million
Tigray	Security consul	5	1793	27,641	20725	1129	-----
Oromia	Community police boards	24	316	6630	26856	4290	3524
Addis Ababa	Security coordinating committee	10	764	412	3386	165	116,599
Total		219	5888	78,490	50,967	11,155	1.419,05

Source: Yearly Community Policing Reports Amhara (2012:12&18); Tigray (2012:15); Oromia (2012:13); Addis Ababa (2012:10, 12&21)

Although community organizations are called by different names, they have the same task of mobilizing resources, conflict management, consulting (to advice those who are involved in crime activities), organizing the community, creating awareness about crime in order to secure their neighbourhoods, and coordinating, patrolling and neighbourhoods watches. The

school police clubs have three tasks, to resolve conflicts between students, advise those who disturb the social order in the school, and serve as traffic police both in their school and outside. The task of family police is to resolve conflicts and advise their family to refrain from crime (Yearly Report of Amhara, 2012:9; Tigray, 2012: 20; Oromia, 2012:6; Addis Ababa, 2012:3). The outcome of these community originations is discussed below.

4.3.9 Governmental and none governmental organizations and civil society

External mobilization of support for community policing is critical. The regions mentioned above have secured support from the local government, public and private agencies, the media, and other security organizations in the region. Based on this all the selected regions have involved elected and appointed administrators from the region down to the level of *kebele* to be part of the implementation strategy and participate in its development. They are guiding the expansion of the community policing movement as part of the government strategy of “community-oriented government” at the local level. Though there is some variation from place to place. In all study areas, governmental and nongovernmental organizations have been directly involved in advocacy works and resource mobilization (Teshome *et al*, 2012:59).

4.3.10 Resource mobilization

As discussed in chapter 2, indigenous policing is the mechanism where communities use indigenous laws and informal social control to police themselves. The foundation for implementing community policing is the ability to use community resources. Community resources in this context are to mean community cultures, traditions, values, norms, knowledge, materials and even labor. As discussed in chapter 3 in the indigenous community of Ethiopia, community values, norms and culture are rich and these are easily accessible community resource to support and make use in implementing community policing. Accordingly in the project areas there are a lot of community resource mobilization efforts such as those mentioned below:

Financial mobilizations: In the project areas the resources of the police agency, local government and private agencies, citizen groups, the business community, and the neighbourhood residents were first identified. The first resource mobilization was for the purpose of housing and building community policing police stations. The Community, local

governments and non-governmental organizations have build housing and office for the community police officers in order to make them accessible in their *kebele* day and night. According to Annual Reports of Community Policing of the Regions Amhara (2012:11); Tigray (2012:26); Oromia (2012:2); and Addis Ababa (2012:13), the Amhara region has built 3 299 residents for community police officers and 3 268 community police centres and police stations through the support from the community and government agencies. In Tigray region the community has built 72 houses for residence and an office. In Oromia 446 residence and offices were built and in Addis Ababa 81 police station offices and 490 community police posts were built. In addition to this there has also been financial and material contribution from the civil society towards the functioning of community policing according to the Annual Report of Amhara (2012:11); Tigray (2012:7); Oromia (2012:12); and Addis Ababa (2012:7).

Conflict management through indigenous policing mechanism: Among other things, in all regional states and city administrations, community policing has been implemented by utilizing the culture and values of the community (indigenous policing). Indigenous mechanisms have been successfully used to resolve conflict and prevent crime in many parts of the country (Teshome *et al*, 2012:79-81). In Oromia Regional State, community police officers have built partnership with *Aba Gaddas* (Oromo clan leaders), Elders, religious leaders and organized youths in order to prevent crime and solve local problems applying local solutions. In addition they have performed considerable effort by advising the society not to commit crime. Moreover community police officers have organized elders and assigned budget with the ‘council of truth and elders’ especially in Kuyyu and Odda *waradas* (Annual Report Oromia, 2012:26). In Amhara and Tigray, the community has been actively participating in meetings by raising problems and recommending solutions through its social organizations, like *ikub* (indigenous credit associations), *mahber* (religious associations). In some *kebeles* the community has elected elders and prepared its own memorandum whereby the offenders will be punished or will be left in pardon as the case may be. For example there is a group called *Wonjel Be’enie Yibka* (let’s end crime with me) that force some criminals to give up their activities and begins to work and live peacefully by placing the responsibility to families to ensure that their members behaves responsibly, priests talk about crime challenges at church services every Sunday, and thirdly creating alternative work for idling people. This is the collaborative efforts of the community, religious leaders, NGOs elders, indigenous crime prevention techniques and community policing. The community police officers have

used the opportunity of “Ethiopian coffee ceremony” that is daily practiced almost in all areas of the country to bring neighbourhood families together and discuss on their security issues and pre-cautionary measures. Community police officers have actively participated in these awareness programmes (Annual Report of Amhara, 2012:16; Teshome *et al*, 2012:78-81).

As described in Chapter 2 above, only when the public has a real voice in setting police priorities will its needs be taken seriously, only when street officers have the operational latitude to take on the problems they encounter with active departmental backing will those needs really be addressed. According to Hassen (2002:32), in all the selected regions, community police officers have proactively prevented crime by resolving conflicts that would have developed into crime. In this regard several disputes and conflicts were settled through *Shimglena* (indigenous conflict mechanism) through the collaboration of community policing officers with the militia, religious leaders, elders and “fathers of peace” (elders who are chosen by the community to keep peace and reconciliation). According to Annual Report of Community Policing of Tigray (2012: 23), in Tigray region 87 451 conflicts, 23 274 domestic violence cases and leaser - lessee disputes were resolved before the case was taken in to the court. In Amhara region community police officers have created 30 341 centres in 3 116 *kebeles* where discussion, conflict resolution and consulting are conducted. There are about 40 636 crime prevention committees that organize their main task is resolving conflicts among the society. Based on this 182 565 conflicts has been resolved by these conflict resolution committees and about 17 690 of these were resolved by the community police officers. Some positive results have been achieved to stop harmful traditional practice like underage marriage, rape, abduction and female genital mutilation in collaboration with community and elders. For example 13 079 children and 8 210 women were protected from violence, underage marriage, human trafficking, rape and other crimes. In the Amhara region, traditional conflict resolutions such as *Ewuse and Dem-Adraki* (blood driers i.e. a committee formed by the community to look at past killings and reconcile the conflicting parties) have been used to settle revenge disputes. The community has also developed a custom of discriminating criminals from social bondages like *eider*- social organizations used for burial purpose - (Annual Report of Amhara, 2012:17). The use of these indigenous policing in Addis Ababa has managed to resolve 87 451 conflicts that would have led to crimes and consultation were given to 10 359 who have been engaged in criminal activities in 2012. Through community mobilization, potential crimes like pornography, hashish, chat and

gambling houses were dealt with. Addis Ababa also erected 67 776 light bulbs to supply dark neighbours with light to reduce potential crimes at night (Annual Report of Addis Ababa, 2012:12). The majority of respondents in Amhara, Oromia, and Tigray regions rated the community policing's conflict resolution through indigenous mechanism being moderate to very high and this is also seen in Addis Ababa where 85.1% of the respondents rated it from moderate to very high (Teshome *et al*, 2012:63).

Supplying information: Increased levels of community participation in crime reduction and prevention efforts are another indication of programme success. The community has become more willing to work with the police in a variety of ways, from involving police actively in neighbourhood watch groups to provide information on criminal activities in the area. When it comes to the status of sound communication system in study areas, there is swift flow of information from the lowest to the highest level. Moreover, community police officers have been using three tactics so as to get information from the community. These are non-apparent, apparent and through religious leaders. In Amhara region for example, the community has started to provide the police with information about community problems and location of criminals, crime concerns and incidents, identity of criminals and hideout of stolen properties, and in return police provide the community with information pertaining to community fears, problems, advice about preventing and reducing crime (Annual Report of Amhara, 2012:21). In fact, calls to report crime have increased considerably during the early phases of the implementation of community policing as community confidence in police capability rises and community trust increases. For example Addis Ababa community policing officers have recruited about 1 653 voluntary information sources to follow crime committed in their neighbourhoods. Accordingly 2 068 information on crime were reported, out of which 1 394 were effectively dealt with (Annual Report of Addis Ababa, 2012:16).

Involving the community in patrolling: The presence of a number of militia at *kebele* level (for example, in Oromia, Tigray, Amhara regions, and in Addis Ababa) has created an opportunity for the community to directly be involved in keeping its own security by voluntary patrolling and by paying monthly salary for militia. The community police officers have identified gates which are robberies outlets and assigned militia and community members as neighbourhoods watch. The presence of private and government employed security officers to safe guard their institutions (particularly in Addis Ababa, Tigray, Amhara

and other regions) have also opened the opportunity to the implementation of community policing. In Tigray region over 152 464 voluntary patrol and 84 035 militia with salary paid by the community are deployed (TigrayYearly Reported, 2012:17). In Addis Ababa 50 907 voluntary neighbourhood watches and 3 120 militias paid by the community are deployed, as the result of these deployment 14 932 criminals were captured by them (Annual Report of Addis Ababa, 2012:7). In theAmhara region 1.9 million people (both armed and non-armed) have been deployed to 15 709 spots of infrastructures (roads, telecommunication, power stations, and towers). As the result of these deployments over 10 772 cattle, 400 guns 5 kilograms of minerals, 200 mobile phones, televisions, and other contraband goods were recovered. It has also prevented criminal activities such as cattle wrestling, illegal arms, human trafficking, and other different house breaking and theft cases (Annual Report of Amhara, 2012:37-39).

Social activities: In the community policing projects, community policing officers participate with the community in developmental, humanitarian and charitable activities like helping elders as well as at funeral and wedding ceremonies as a tool to build police-community relations and partnerships. In Amhara, Addis Ababa, Oromia and Tigray there are models in organizing youths and prostitutes to make them active participant in crime prevention. Community police officers also participate in community services like in cleaning activities, building communal toilets, cooking, and creating job opportunity for unemployed youths which help them to develop positive interaction between the community and police officers. Community policing has built good relation and exchange information with those who have been considered as juvenile delinquents, prostitutes, and other people who are vulnerable to crime. The police also organize for them and use the community advisory committee to advise youths to change their criminal behaviour and to participate in developmental activities (Teshome *et al*, 2012:62).

4.3.11 The Impact of Community Policing on Crime Reduction

An effective community policing strategy might reduce neighbourhood crime, decrease citizens' fear of crime, and enhance the quality of life in the community. The ultimate goal of community policing is the reduction of crime and disorder, with the implementation of different strategies like the joint identification and analysis of the actual and potential cause of crime and conflict within communities which is known as problem solving. Additionally,

the mission of the police begins from the fighting of crime and order to maintain public order, which will create a feeling of security within the community. Its duty is not only reduction of crime, but also ensuring sustainable order and security within a community (Hassen, 2005:45). Since Community Policing is beneficial as a policing approach to address a range of different crimes, disorder and anti-social behaviour, there is fairly strong evidence that community policing is able to reduce disorder and anti-social behaviour (Mayhill, 2006).

4.3.12 Increasing Perceptions of Safety and Decreasing the Fear of Crime

Reducing crime, although a benefit, is not always the main focus of community policing programmes and often the principle outcome is to reduce victimization, increasing perceptions of safety and decreasing the fear of crime. It is widely accepted that community policing increases the perceptions of safety and decreases the fear of crime. According to Skogan (2006:187), there is evidence to suggest that increasing community-police interactions is associated with lower levels in fear of crime. Since the implementation of community policing in Ethiopia, fear of crime has decreased within the community and community's security has been enhanced. Community policing has also reduced social disorder and anti-social behaviour in the community (Teshome *et al*, 2012:78-81). According to the Community Policing Reports (2012), Amhara, Tigray and Oromia have mobilized the community to change youths' criminal behaviour and to organize youngsters who were in conflict with the law and community values and made them to participate in developmental activities in order to decrease crime rate and the number of criminals. In villages and neighbourhoods the community has become relatively somewhat peaceful, people move from place to place peacefully, some individuals come out from antisocial acts/risky behaviour like chewing khat, shisha and drugs, and there is a contribution in the reduction of unemployment rate - for example in Addis Ababa 10 760 people were consulted and after discussions they were given jobs. About 17 465 potential criminals were organized under different associations to participate in the construction sector (Addis Ababa Report, 2012:14). Teshome *et al* (2012:25) confirm that 94% of the respondents regard crime prevention strategies as increasing perceptions of safety and decreasing the fear of crime.

4.3.13 The Role of Community Policing in Fighting Major Crimes

One of the challenges that is facing the federal police and the police in general worldwide are sophisticated crimes such as terrorism, economic crimes, drug related crimes, human trafficking, etc. According to the Report of Crime Investigation (2010:34), which was present

at the conference of anti terrorism, in Ethiopia for example, 170 economic crimes which cost the country over 109 million US dollars were committed during the period 2007 to 2010; about 20 000 to 25 000 people have become the victims of human trafficking during the period 2008 to 2009; a total number of 2 896 drug related crimes have been committed during the period 2007 to 2010 in Ethiopia. In this regard the federal police based on the strategy of community policing played an important role in tackling the problem and the role of the community in preventing these crimes. The two sections on terrorism and ethnic conflict below indicate some of the roles that is being played by the community in crime prevention.

Terrorism and the strategy of community policing: From the time period 2007 to 2010 there were 106 terrorist attacks perpetrated by the Oromo Liberation Front (OLF); the Ogaden National Liberation Front (ONLF), *Al ETHAD* and *Al-Shebab* (Islamic terrorist organization which operate in Ethiopia) which claimed the life of 381 and injured 538 people and caused an estimated 369 millions of birr (Ethiopian currency) worth property damage. The Ethiopian federal police in collaboration with other security institutions has successfully caught all of the perpetrators except the six that are still at large and aborted over 116 such terrorist attacks (Central Investigation Department Report, 2010; Strategic Plan, 2011:24). The above information shows the efficiency of the federal police in executing its functions of crime investigation and prevention. This efficiency and effectiveness in fighting terrorism is not only the work of the federal police but it has been in collaboration with the community organizations that have been discussed above which have been pivotal in minimizing latent terrorist threats.

The successes of police operations in these crimes have largely been influence by the information that the police got from the community, a classical example of this being the attempted murder of president Mubarak of Egypt in 1993. Once this attempt was announced on television, there were immediate response from the community that culminated in 2 343 information supplied to the police which led to the capture of the terrorists (Annual Report of Crime Investigation Department, 1994:20). The community itself without the help from the federal police and the army has also been fighting against these terrorists, for example the community of Oromia regional state exposed about 129 terrorist cells which had the potential to commit terrorism during the time period 2005 to 2009 and captured 25 terrorists in 2006 (Annual Report of Oromia, 2009:32). Most of the prisoners of war were captured by the

community when the Oromo Liberation Front (OLF) was retreating after the intensive war with the federal police and the army, and one of the leaders of the OLF and his team were killed by the community in 2007 (Annual Report of Crime in Oromia Regional State Police, 2008:34). The contribution of the community in the fight against terrorism perpetuated by Ogaden National Liberation Front (ONLF) is also remarkable. In the Somali region the community is highly involved in preventing terrorist attacks, for example the 130 terrorists groups that were to infiltrate the region were destroyed by the Somali community and the militias in 2010 (Annual Report of Somali Regional State Police, 2011:28). In Tigray about 16 underground terrorist cells were exposed (Annual Report of Tigray Regional State, 2010:17). In general, the federal police together with other security institutions have been active in the fight against terrorism and the strategy of community policing has contributed to the success of this fight. One of the military indoctrination the Ethiopian government is using in fighting terrorism is “whoever wins the minds of the community wins the war on terrorism.”

Ethnic conflicts and the strategy of community policing: Ethiopia is a country of diverse nations and nationalities where different religious faiths coexist peacefully in a harmonious manner. Natural to this kind of diversity, traditional and age-old incidents of tribal and religious conflicts are apparently observed in many areas from time to time. As Paulose (2001:24) states that the expansion of Emperor Menelik gave Ethiopia its present form but it also enlarged the magnitude of the problems that Ethiopia has to tackle. From 2007 to 2010 there were 71 major ethnic conflicts which claimed the lives of 431 and injured 282 people (Federal Police Strategic Plan, 2011:24). The federal police have played a significant role in stopping these conflicts. Historical, conflicts between these ethnic groups used to take thousands of lives. For example in 1998 the conflict between the Afar and Essa ethnic groups took the life of 753 (Annual Report of Federal Police, 1998:16). Since the formation of the rapid deployment force of the federal police in all conflict areas, the number of conflicts has decreased. The federal police plays an important role by not only being involved in stopping conflicts once they happen but by also being involved in preventing conflicts from happening both by its presence between the conflicting parties but also through the indigenous conflict management systems (Annual Report Crime Prevention Department, 2010:34).

Even at federal level despite the existing modern laws and policing, most of the above intra ethnic group conflicts were resolved outside the justice system of the federal or regional states. They are handled by local mediation where conflicts are addressed in a less rigid manner. The resolution by local mediators in the form of negotiation or arbitration are generally reached within indigenous laws of the conflicting parties as soon as the guilt, murder, injury or theft is proved and the indigenous guidelines are followed on the amount of compensation or fine to be paid (Tirsit, 2004:56). So far as any form of inter ethnic conflict is concerned the official attitude of the Ethiopian government is to let the indigenous system handle it the way it sees fit (Seyoum & Yacob, 2000:25) that is why the community is highly involved in the strategy of community policing because it provides a forum of dealing with this.

4.3.14 Regional Crimes and the Role of the Community Policing Strategy

In order to understand the role of the strategy of community policing, it is better to go back to the history of the crime trends in Ethiopia. The following table 4 shows crime development from 1970 until now.

Table 4: Crime development from 1970 until now

	Year	N ^o of crimes	N ^o OF OFFEND	POPULATION	Area in sq kilo meter	N ^o of police	Average area Per. Police	Average Population Per. Police	Average Population Per.
Haile Sellassie	1970	100,482	136,025	24,319,000	1,227,900	32,584	37	746	242
<i>Dergue</i>	1983	47,230	82,253	42,019,418	1,223,600	18,322	66.7	293	889
EPRDF	1994	96,995	151,900	55,615,982	1,105,075.59	32,567	33.9	1,707	573
	2002	261,101	407,634	69,127,000	1,104,905.59	45,068	24.5	1,533	264
	2007	196,284	310,318	79,221,000	1,104,905.59	58,308	19	1,268	403
	2011	199,572	300,958	84,320,987	1,104,905.59	61,408	17.9	1,373	422

Source: (Human resource crime Intelligence department, 2012)

As can be seen from the above table, the number of police in Ethiopia was 32 584 in 1970 (during the Emperor). Then it was reduced to 18,322 in 1983 during the *Dergue* regime. Now

it has reached 61,408. If we compare the number of police per average square area coverage, the ratio in 1970 was one police per 37 sq meters. This ratio was 66.7 in 1983 and now it is one police per 17.9. sq.m which implies that now more areas are covered. Similarly, in terms of population covered, there is significant improvement nowadays. During the emperor in the 1970s the population was 24 million and the ratio of police to population was one police for 746 people. During the *Dergue* the police population ratio was 1: 293, and despite the fact that the population has increased four times now, the ratio is one police for 1: 373, thus, the population is more covered now. The most important information from the table is the crime trend. As can be seen from the table during 1970 number of crimes was 100,025 and the number of offenders was 136,482. During the *Dergue* in 1983 was 47 230 and 82 253. This is not real if one takes into account what was discussed in the section that dealt with the *Dergue* rule because the power of investigation was taken from the police, by other organizations. According to the publication of the Special Prosecutor Office (2009:38), at one particular time during the era of red terror there were over 531 000 prisoners, thus making the record of crimes during the *Dergue* rule not to be comparable with any other record. In 2011 the number of crimes was 199 572 and number of offenders 300 958. This can be explained by average crime per population during the 1970's one crime was committed per 242 persons while during the *Dergue* it was one crime per 889 persons – now despite the economic boom, and worldwide crime increase, it is one crime per 422 persons. This implies that the federal police are more effective and efficient.

One of the important observations from the table is the trend of crime from 1994 to 2011. In 1994 the crime rate was 96 995, however this number is questionable because most of the crimes were not reported mainly due to lack of organisation in the then federal police and lack of public trust in the police for them to report crime among other factors. In 2002 crime rate was 261 101 after almost 10 year the crime rate has dropped to 199 572, which means crime has decreased by 62%. This decrease could be attributed to the partnership between the police and the community.

The research by Teshome *et al* (2012) indicates that the implementation of community policing has reduced the fear of crime, social disorder and crime rates. Regions have built partnerships with different organizations and groups, daily labourers and others stakeholders, and there are visible achievements in dealing with crime and other social disorder such as gambling, drunkenness and group fighting. It has also to be noted that the implementation of

community policing faced challenges such as the creation of sustainable partnerships, changing police priorities, police resources, traditional policing methods etc (Teshome *et al*, 2012:61).

4.4 CONCLUSION

Unlike other African countries, the formation of modern policing in Ethiopia was not impacted by colonization except the brief five years of the Italian occupation of Ethiopia. In fact the formation of modern policing in Ethiopia is closely related to the formation of the English police. The English modern policing was formed in 1829 while the Ethiopian modern policing was formed and trained by Europeans in 1887. The other unique feature of the Ethiopian police is that it has not been a stable institution since its inception in 1887 because it has been disbanded and reorganized six times. First there was indigenous policing that Emperor Menelik II formed which was interrupted by the occupation of the Italians and the British. After that came Emperor Haile Sellassie who formed modern and professional policing in Ethiopia that was destroyed by the *Dergue* rule, and now there is the federal police. Despite disbanding and reorganizing the police one thing common to all of them was that they tried to modernize the police but both the centre and peripheries were generally loosely linked and their life were governed by their indigenous system of laws and policing.

In 1991 the police was disbanded and a new police force based on federalism, which was decentralized to the regions was created. Since its reestablishment in 1992, the federal police have been taking a lot of measures in order to strengthen policing services in the country. It has also been transforming itself to get out of the previous manpower management and administration, organizational structuring and process related constraints that presented bottlenecks against full and effective realization of its objectives. To ensure effective realization of its mission and to enable delivery of improved policing services, the institution has embarked on implementation of Business Process Reengineering (BPR) and restructuring.

Community policing has been the main strategy of the Ethiopian federal police and this is in line with the central government policy of federalism. Both the federal and regional police have tried to re-orient community policing practices to ensure and to enable officers to develop long term solutions for community concerns. Community policing officers have

worked to re-orient police activities to focus on problem solving, crime prevention education, and building positive interaction with the community. All regions are busy to establish advisory groups that are focused on awareness creation and establishing support groups from different organizations (youth groups, community based organisations, associations, elders and etc). In almost all regions and city administrations, police and community have a common goal, i.e. keeping peace and security in society by working on proactive crime prevention and problem solving. Moreover, the community police officers have been participating in and fostering community development activities. In relation to crime reduction the presence of mini community policing centres in neighbourhood were associated with a reduction in the overall rate of reported crime, moreover community policing officers and patrols were effective in raising awareness and visibility of the police. This brings the researcher to the conclusion that there is a need to study detailed experience of the indigenous policing in order to reorient the strategy of the Ethiopian federal police to exploit it and come with new strategy of indigenous based modern policing.

CHAPTER FIVE: GENERAL OVERVIEW OF THE FUNCTIONING OF THE ETHIOPIAN INDIGENOUS POLICING SYSTEM

5.1 INTRODUCTION

Indigenous policing is both general and specific in Ethiopia. On the one hand it is widespread and found throughout the country and has been operating for centuries in the absence of the modern policing system. On the other hand, it is localized and the constituency and jurisdiction of indigenous policing institutions are generally limited to particular localities within ethnic groups. Alula and Getachaw (2008); Aberra (1998); and Allhone (1999) state that various types of indigenous laws and criminal adjudication systems were applied in different parts of the country and among different segments of the population. This in part explains the multi-ethnic composition of the country. As it would be clear in the subsequent sections, there exist diverse legal and policing systems in the country, rather than a single legal policing system.

As Aberra (1998:4) rightly states that it would obviously be impossible to examine every aspect of Ethiopian indigenous policing and laws (which are over 70) within the confines of one study. It has, therefore, been necessary to limit the scope of this chapter to focus on the experience of some selected ethnic groups. Following Aberra's (1998:41) methodology, the researcher has selected some representatives. These selected ethnic groups are: Tigray, Amhara, Oromo, Guraghe, Afar, Somali, Wolaitta, Kafecho, Gamballa, and Sidama. The selection is based predominately on the availability of information, geographical locations of their settlement and the size of the ethnic group. Although these ethnic groups are in reality mixed and leave widely dispersed in the country, it can be indicated that their main geographical areas of settlement is in the north, south, west, east and central parts of the country. Selecting these ethnic groups, however, does not exclude the experience of other ethnic groups which are not mentioned above. Some very important experiences of other ethnic groups have also been included. The researcher believes that the coverage is wide enough to understand indigenous policing mechanisms in Ethiopia in general.

Before going into the main subject of the chapter, there are some issues that have to be addressed. Firstly, indigenous administration as discussed above, play different roles. However, whenever indigenous administration i.e. elders and clan leaders are mentioned in

this chapter, it is not the role they play as general indigenous administration that is the centre of the discussion, but the role they play in indigenous policing system. Secondly, the objectives of most of researches reviewed by the author for the purpose of this research were focused on legal and dispute resolution and they have used different terminologies for similar concepts. For example some use the word “ethnic groups” others use “nation and nationalities” the researcher has used both terminologies interchangeably. The researcher also, in order to be consistent has replaced terminologies such as “customary,” “traditional,” informal, “alternative dispute resolution” as indigenous. It should also be noted that since the Tigray and Afar ethnic groups indigenous policing will be studied through field research and the findings will be analyzed and discussed separately in chapter 7, they will not be the focus of this chapter.

The general objective of this chapter, therefore, is to discuss the overview of the function, structure, and relevance of indigenous policing in Ethiopia, by giving special emphasis to crime prevention, investigation and law enforcement.

5.2 THE ETHIOPIAN INDIGENOUS LAWS AND POLICING

Modern criminal adjudication is composed of four separate major institutions namely; the police, the public prosecutor, courts and prison administration. There are many relevant laws related to these criminal justice systems, among which are the penal code, criminal procedure code, proclamations establishing the police, the public prosecutor’s office, the federal courts and prison administration. This is not so in indigenous criminal justice systems. All of the above functions are performed by one institution which is indigenous administration. According to Fisher (1971:3), this is the case in most African traditional dispute resolution systems. Indigenous administration institution of the Ethiopian ethnic groups acts as the police, the public prosecutor’s office, courts, prison administration, and general administration. Therefore, in order to understand the context of indigenous policing, it is necessary to review some aspects of indigenous administrative structure. In this connection again, the researcher is restricted to considering and analyzing the role that these indigenous administration institutions play as a police function. That is the roles of indigenous administration in terms of legislation of indigenous criminal code, crime investigation, crime prevention and law enforcements, which are the basic function of policing. This section deals with Ethiopian indigenous laws in general and indigenous criminal laws in particular, as well

as the litigation process, the objective, the principle and the content of selective ethnic group's indigenous criminal laws.

5.3 WHAT IS INDIGENOUS LAW IN THE ETHIOPIAN CONTEXT?

Under modern criminal law, criminal acts are regarded as a breach and violation of public right and duties. In other words, criminal offences are acts which endanger public order and security of state in which the public at large has an interest to safe guard. Since the state has a responsibility to safeguard the community, there must be an enforcing machinery to give effect to the interest of the community (Aseres, 2007:35).

It is obvious that Ethiopia enjoys a rich heritage of indigenous law system. According to Donvan and Getachaw (2003:1) and Aberra (1995:45), there are more than sixty indigenous law systems in Ethiopia, which are operating quite independent of the formal legal system. Zewudu (1994:1) explains that laws are based on custom, so custom is a source of indigenous law. It is a norm of action, or rule of conduct which is generally accepted and practiced by a group of people. It is an explicitly recognized, acknowledged and dictates what should or should not be done and what cannot be transgressed. He added that there is no systematized and codified body of indigenous laws. They are simply guided by customary rules of behaviour or traditional usage and practices recognized by the people and regarded as binding. Aberra (1998:39) states that indigenous laws of Ethiopia are different in form and substance and each applies to a given area only. So they do not have uniform application all over the country. He asserts that indigenous law is made by the people and not the state and derives its legitimacy from participation and consensus of the community. According to Tuli (2001:24), indigenous laws are kept in the living constitution "the hearts of elders." In short the meaning of indigenous law as Asres (2007:35) defined it as the behaviour where a person should not offend public morality when he/she acts or fails from acting.

It is very difficult to identify a 'national' indigenous criminal law, even though one may trace, in rare instances the criminal indigenous laws used in a wider application such as *Gudifecha* (adoption), *Guma* (blood money), etc. When we talk about the indigenous criminal law of Ethiopia, we are more or less referring to the whole corpus of indigenous law of the different ethnic groups. To have an idea of the totality of this body of law, one needs to study the criminal indigenous laws of each ethnic group. This is not a simple task, particularly

where there is a scarcity of written materials (Aberra, 1998; Alemayhu, 2004; Alula & Getachaw, 2008). Generally, indigenous laws deal with land tenure and pastoral rights, criminal offences, marriage, inheritance, property, and procedure in litigation. Out of the indigenous laws of these groups, this study considers only the indigenous criminal laws which are the bases for indigenous policing.

5.4 THE OBJECTIVE OF INDIGENOUS CRIMINAL LAWS

Assefa (2006:1) states that the objective of modern laws is to respond to an offence and its effects are retributive justice, focusing on the violated laws, the offender and his/her punishment thereof. On the other hand, the objective of indigenous criminal justice is restoring future relationships and the maintainance and promotion of social harmony and re-establishing social relationships. He further states that in the objective of the Ethiopian indigenous laws the victim's pain is a primary concern, for which mediation of both parties to restore relationship is of greater importance. This is so because indigenous criminal laws aim at making offenders accountable through face-to-face discussions with victims in the presence of support people to help parties in reaching reconciliation. Thus with indigenous criminal law, unlike with criminal law of Ethiopia, the primary aim is to compensate the victims who has suffered damages as a results of the actions of wrongdoers. It is the society that has been compensated. The society would be redressed through the compensation of the interest of the victim. As Asers (2007:35) and Assefa (2006:5), state the concept of restoration implies the existence of a state of wrong that disrupts the relationship in society between those implicated in the doing and the suffering of a wrong. This means that restorative justice is forward looking taking the social dimension and relation towards the future objective.

5.5 THE ESSENCE AND PRINCIPLES OF ETHIOPIAN CRIMINAL INDIGENOUS LAWS

The essence and principle of Ethiopian indigenous laws generally are arranged to prevent crime. Indigenous criminal justice system which is part of the traditional dispute resolution system and indigenous law is basically embodied in the indigenous administration as such. It is much more elaborate, efficient and effective because it takes a short time in terms of administration of justice, there are fewer adjournments, and the procedure is known to the

people. Similarly, it is conducted within a familiar environment that is less intimidating to the parties (Aberra, 1998). It is based on the principle that if crime is committed the wrongdoer must be found and brought to the chief; the remedy is to redress what happened by measures such as monetary compensation; return of the stolen properties; etc. in order to restore the original position. In other words, the native conception of law extended only to restitution. According to Zewdu (1994), when there is a violation of some sort, the machinery of the law is available to restore the violated order.

Because decisions are forward looking, the resolution creates smooth and good neighbourhood relationship, and the decisions are designed to mend the future relations of the disputants (Alula & Getachaw, 2008). Indigenous laws must be viewed in the context of a method of resolving crimes as much as in the context of a body of law. The emphasis is on compromise as well as adjudication by submitting disputes to a respected figure in the community and parties may be persuaded to reconcile their differences. The indigenous law is more of a guide to the resolution of disputes than a binding norm. According to (Sedler, 1967), the indigenous law itself cannot be separated from the traditional method of resolving disputes. Aseres, (2007:30) and Zawdu (1994:1), state that in the Guraghe and Gedeo ethnic groups, there is no clear distinction between civil and criminal action and people who violates either of these laws are given the same punishment e.g. to pay a sum of money to the victim.

Indigenous laws are the reflection of indigenous people's customs, cultures, morals and the aspiration at large, as a result, the people accept and comply with it and since the substantive and procedural laws are revised and developed by the community themselves and most people have a saying at the time of legislation of the laws, everybody become familiar with the laws (Tuli, 2001). In the indigenous legal system there is no concept of a majority that can impose its will on the minority. All members entrusted to resolve crime must be there when the case is to be settled and debate should continue until all the members come to an agreement. Thus, a resolution to be reached at any of the dispute settling levels must be through unanimous agreement to minimise mistakes or injustices (Tuli, 2001).

A speedy justice is rendered because there are many alternative dispute-settling organs and if the disputants found one institution stuffed with cases, they would resort to the other and settle their differences quickly. For example in the Oromo ethnic group, there are many

Jarsoli who would assist the *Abba Gadaa* and if one is busy, the others would be called to investigate the matter (Tuli, 2001). The alleged wrong doer does not abscond since he has great respect for the law and his guarantor. The security given for the appearance of the defendant in the next day for proceeding is effective in that the guarantee promises to abide by the requirements and not to abscond (Aberra, 1998). There will be no vengeance after negotiation has come to an end because the wrongdoer and the wronged or his family has forgiven the wrongdoer and his family. Thus there will be no reason to regret and take a retaliatory measure against each other (Tuli, 2001).

5.6 THE LEGISLATION OF INDIGENOUS CRIMINAL LAWS

There is no separate body tasked to legislate indigenous criminal laws, as it is done in modern judicial systems. However, most of these indigenous ethnic groups have their own mode of legislation. Tuli (2001:75) states that Ethiopian ethnic groups especially in the peripheries for example the Oromo ethnic group is structured and is composed almost exclusively of tribes or confederacies of tribes. The tribes, in their turn, are divided into sub-tribes and the sub-tribes into clans and the clans into lineages. It is this net work or organization that enabled them to effectively manage their relations and activities including the litigation of indigenous laws.

In order to understand the process, some of the ethnic group's processes are discussed. In the kambata ethnic group there is legislative body, which is formed from the representatives of territorial units known as *Gotcho*. It is a deliberative assembly where *sera* (rules) are laid down by consensus and sanctions given (Bahru & Siegfried, 2002:50). In the Sidama ethnic community, a web of relations and interrelations has traditionally been ruled by the *sera*. *Sera* are a set of local cultural norms or codes regulating the communal social structure and interaction that provides the community with a procedure of legislation through consensus (Bahru & Siegfried, 2002:67). The *madaa* (indigenous laws of Afar) ethnic group is also a legislative body. In the event of major litigation or of a previously unheard-of-case or when the various clan leaders have been unable to impose their judgment on the legislation, appeals are made to the *madda abba* (father of the law). He in turn gathers an assembly, the *malla* which function as a legislative body to pronounce a new judgment, which in turn will be incorporated into the *madda abba* (Alula & Getachaw, 2008:10; Kahsay, 2007:46).

In Oromia as Dinsa (1975) states, *sera caffee* (the general assembly) serves as a legislative body and passes the law. Every eight years, the *gadaa* (elected officials of Oromo) transfer power, and revise laws. Every clan from both confederacies sent delegates and after having participated in the law making ceremony the delegates would be back to their respective clans and execute the laws made. They even label their assembly deliberation as *dubi aada* (custom taking) or *dubi sera* (law taking) (Tuli, 2001:21). Among the Guraghe, there is a legislation body called the *agar*. It passes governing laws like prohibiting, abduction, and fixing dowry. They also issue laws which are compatible with the situation that might need new legislation (Asres, 2007:17). In the Ethiopian Somali, when the issue in dispute is a newly experienced one (*xaajo ugubah*), which does not have a rule governing it the justice and equity (a panel of elders) would gather and legislate (Jamal, 1999:19).

5.7 THE CONTENT OF INDIGENOUS CRIMINAL LAWS

The Ethiopian ethnic groups like any communities have lived according to their own moral values, religion, customs, and world-view, and led their political, social and economic activities within the domain of indigenous laws (natural law) in addition to the conventional rules or principles posed on them. These norms, which prohibit deviant behaviour, has also played significant role in controlling the unwanted behaviour of the society (Tuli, 2001). Thus, the administration of justice was unique in that the law enforcing organs successfully dispensed justice by adhering to indigenous (unwritten) laws. So before directly going to the criminal proceeding, it is imperative to have a general overview about wrongs which are conventionally regarded as crime and are also condemned by the ethnic groups and society at large.

Jamaludin (1973) in Alula and Getachew (2008:10) states that in most indigenous groups criminal acts are divided into five types: crime on life, body, property, adultery and insults. Asres (2007:27) add further crimes like insults, arson, theft, burglary, slander or simple fighting, deliberate burning of a house, physical damages, theft or cattle raid. There are also indigenous wrongs such as the wrongs against the family and morals, which include raping, incest, adultery etc; failure to maintain family members, illegal occupation of other's land, damage to public institutions, illegal succession to political or religious titles, disgrace of political figures, theft, and false testimony (Geday, 2000:19).

The Ethiopian ethnic groups have detailed indigenous laws for all the above wrongs. However the researcher, due to the limitation of space, will focus on homicide. The crime of homicide has been chosen for a case because it presents the extreme tension. The substantive rules of law governing homicide are basically the same in both customary and modern legal systems. Unprovoked killings are wrong; self-defense is an excuse, and so on. Because of this high level of consensus, the variances, when they occur, are startling and crystal-clears (Donvan & Getachaw, 2003:2). In most indigenous societies of Ethiopia classification of types of homicide tends to distinguish whether the act was intentional, negligent or accidental. In some societies there are even further distinctions for example in case of intentional murder, hanging a person while he is sitting and while he is sleeping is different.

Among the Oromo, three types of homicide with differential settlements are distinguished, an intentional homicide (*gumaa adii or white gumaa*) and negligent homicide (*gumaa baruu*) (Alula & Getachaw, 2008:67). In traditional Oromo culture, if someone committed a crime in self-defense or while protecting his property, the act is considered not a crime (Geday, 2000:92), and the compensation and punishment are given accordingly. Dinsa (1975) documented that criminal and civil wrongs are punishable pursuant to the provisions of the *sera caffee* (the law passed by the general assembly). Depending on the gravity of the offence, the punishment include death penalty; payment of blood price with or without a reconciliation ceremony; exile; exclusion from association, participation in the communal socio-economic activities; corporal punishment; condemnation of the wrongdoer; and asking for apologies. The death penalty in the Oromo administration of justice is based on restitution and not retribution. Apart from the death penalty, because of its gravity and the nature of its commission, all wrongs are dealt with in a system which resembles mediation or arbitration rather than punishment (Alula & Getachaw, 2008:30).

Among the Guraghe ethnic group, premeditated murder is differentiated terminologically from unpremeditated murder and inadvertent homicide. In the case of murder for instance, three types of homicides have been identified with the corresponding levels of compensation under the *kitcha* (indigenous law) they are: for pre-mediated murder (*mura-dem*), the punishment include death penalty; payment of blood price (compensation) with or without reconciliation depending on the gravity of the offences (Asres, 2007:42). For non pre-mediated murder (*madara-demorsakaba*) the punishment is lesser than that of pre-mediated

murder. The mental state of the wrongdoer is taken into account for determining the amount of compensation for the crime committed.

In the Gedeo ethnic group, homicide is classified into two major categories: *Gifet*, *Garimale shiye*, literally meaning killing of a human being by intention, atrocity and violence, and *dannote sheye*, *seaning* which is unintended, accidental homicide. Among Gedeos, various remedies are available to the victims. These remedies may include imposition of death penalty, flogging, compensation or restitution depending on the nature of the wrong (Zawdu, 1994:109). In the Somali ethnic group tradition, no distinction is made between intentional and accidental or even justifiable homicide. Thus in the Somali tradition there is no circumstance under which a killing becomes justified and the murderer is relieved of responsibility for the murder he or she commits (Jamal, 1999:19).

5.8 CRIMINAL PROCEDURE AND METHODOLOGY OF ETHIOPIAN INDIGENOUS CRIME INVESTIGATION

The structure, procedures and the methods through which crime is investigated depend on the seriousness or number of disputants involved in the crime (Tuli, 2001:26). The lowest level crime committed between husband and wife is investigated and resolved by members of the family or by the people selected from the neighbours or by the head of the family (father). At the third level, crime among the neighbours is settled by the elders selected by both parties. However, when a crime is committed between or among different clans and at the final stage, the case can be submitted to upper clan leader. But if the case was between the different ethnic groups, elders will be elected from both sides to investigate and arbitrate the dispute (Tuli, 2001:27).

5.9 CRIMINAL PROCEDURE OF INDIGENOUS LAW

As discussed above Ethiopia is a country which embraces a complex variety of ethnic elements representing a veritable mosaic of races, tribes, and linguistic groups. Most generalizations about “the indigenous criminal procedure law of Ethiopia” would therefore be absurd if taken literally (Fisher, 1971:712). In this section, the researcher has chosen to focus on some representative ethnic groups criminal procedure that are common among them and that are relevant to the objective of this research. Therefore, when the researcher speaks

of “indigenous Ethiopian criminal procedure” he is referring to the actual procedure followed to investigate crime by indigenous method. Some of these procedures are from the centre, Amhara, and some from periphery. Though not organized in writing, there are indigenous law of evidence, which incorporate techniques of investigation and highly sophisticated interrogation and cross-examination procedures, methods of interpretation of indigenous law and categorization of issues, including principal and side issues. All these are found in the indigenous criminal administration of justice process of the Ethiopian ethnic groups and will be categorized as general and specific.

5.9.1 GENERAL INDIGENOUS CRIMINAL PROCEDURE

The typical outcome of indigenous criminal procedure is that the slayers are freed by the payment of compensation to the families of the victim. In other words the slayer does not encounter any loss of liberty as a penalty. For example in the Amhara and Oromia ethnic group, once the amount of compensation is paid out in full, the offender can engage himself in day-to-day activities as though nothing has happened (Donvan & Getachaw, 2003:3).

Committing crime is not considered as an individual case. If the relatives of the victim are neither compensated nor reconciled through elders with the killer’s family, the male relatives of the victim are not freed from their moral and social duty of exacting revenge. They could be a target for homicidal vengeance at the hands of the relatives of the victim. When such situation happens, the blood feud (revenge) continues (Donvan & Getachaw, 2003:9). If there is no evidence to prove the truth; the disputants will be required to take an oath, which is something that is strongly respected (Tuli, 2001:64).

In the modern criminal procedure of investigation, witnesses are introduced at the final stage where the claim was disputed, whereas in the indigenous criminal procedure the production of evidence and witnesses occur at the initial stage (Aberra, 1998:245). Investigators may often demand that witnesses not provided by the parties be produced in order to resolve conflicting testimony. They may also compel the presence of such witnesses by refusing to proceed with the case or, occasionally, by sending their own messengers to get the witnesses (Bush, 1974:1127). Hearsay evidence is admissible, but it is not sufficient grounds for the investigators to arrive at a judgment of guilty, but it can influence judgment (Shack, 1966:158).

In some of the ethnic groups, if an offender seeks sanctuary in the church, anyone invading the church to remove such an offender from his/her claimed asylum is considered to be committing a serious crime. According to Shack (1966:724) one who by his/her power and with violence takes a person seeking refuge in a holy church out of that church shall be beaten and his/her hair shall be shaved. He/she shall be sent into exile and remain there forever. In cases of theft and assault, the plaintiff will often engage 'one who tells' (a diviner), to seek out the suspect, the goods, or both. Once he has discovered the suspect or goods, the diviner informs the victim, who together with armed kinsmen, descends on the suspect and publicly announces the accusation. Later the diviner appears in court as witness against the defendant (Shack 1966:158). Most of the criminal cases that are adjudicated by the indigenous criminal justice systems are not adjudicated according to the prescribed rules and regulations only, but according to a sense of natural justice, fairness and equity as well (Aberra, 1998:289).

In the indigenous criminal procedure, the accused in a criminal case is required to prove his/her innocence. The accused in the modern criminal procedure is, presumed to be innocent until proven guilty. Cross-examination between private complainants and the accused (*tat ayyeq Litayq ser'at*) is allowed under the indigenous law. In the indigenous criminal procedure the contending parties are allowed to go astray in the process of investigation when trying to harass their adversaries or flatter the investigators (Aberra, 1998:288). In the modern criminal procedure investigation is conducted by investigators while in the indigenous criminal procedure assessors are used to hear cases together with investigators and had the right to give their opinion. It is after hearing the opinion of the assessors in public that the investigators render their decisions (Aberra, 1998:288).

5.9.2 SPECIFIC INDIGENOUS CRIMINAL PROCEDURAL LAWS

Under Articles 11; 13; and 16 of the Ethiopian modern Criminal Procedure of 1961, the authority empowered for receiving accusation or complaint is specific. Any accusation or complaint may be made to the police or the public prosecutor. If the prosecutor receives it, he/she shall forward it to competent police officers with a view to an investigation being made. Under the indigenous criminal procedure, people and institutions get involved in the

criminal investigation and interrogation. Individuals, the family, elders, clan leaders and indigenous administration are all involved.

A system of one man investigation: In the Ethiopian indigenous criminal procedure, if a wronged person meets his assailant by chance on the street, he has the right to demand any person passing by to investigate the crime under a tree. The passer-by on his part has the power to demand that the alleged defendant submit to his authority. The person ordered to obey the indigenous law submit and the one who gave the warning could investigate and decide the dispute there, on the side of the road (road-side policing). Such a person would, more often try to bring about the settlement of the crime by investigating the case between the parties in an amicable manner. He could also require the assistance of others, usually elders or members of the clergy to help him. If all modes to settle the dispute did not work, the road-side police officer would bring the disputants before the local chief by tying up the tips of their *shammas* (cotton garments) (Aberra, 1998:30).

The family as crime investigators: In most indigenous (ethnic) societies, simple crimes committed among families or clans are investigated and resolved by family or close relative or arbitration-members of the immediate or extended family. Mediators are thus selected among kin. For instance, among the Amhara and Tigray ethnic groups the *yezemed dagna* (the relative judge) acts as a crime investigator (Alula & Getachaw, 2008:52). This will be discussed in detail in the case study of Tigray in chapter 7.

Elder institutions as investigation institution: In many Ethiopian societies, elder system is highly involved in crime investigation. For example, in the Afar ethnic group the *Makaban* (Afar elders), wise and neutral third parties known for their crime and dispute resolution skills get involved in helping resolve criminal cases. They allow all persons to speak, and continue till a consensus is reached. The *lub* (elders) have to investigate the cause and the initiator of the crime by interrogation, production of testimony and swearing (Kahsay, 2007:65). In Tigray the *Gereb* institution elders are highly involved in the investigation of homicide cases. The *Gereb* is also said to be effective in inter-ethnic homicides and conflicts over grazing, territory, and live stock that involve homicide (Alula & Getachew, 2008:46). In the Gamo Ethnic group, there are individuals selected by the clan to fulfil general or specific investigation roles (Alula & Getachew, 2008:46). In Oromia the *abba boku* (clan leader) had

the power to investigate criminal cases. The plaintiff and the defendant would select five and four assessors respectively. Together with the three judges, the nine assessors would sit for a hearing and investigation of crime (Aberra, 1998:52).

5.9.3 INDIGENOUS MECHANISM OF SETTING IN MOTION INQUIRY INTO CRIME

According to Articles 11 and 13 of the modern Criminal Law of 1961 any person has the right or duty to report any offence, whether or not he/she has witnessed the commission of the offence, with a view to criminal proceedings being instituted. Upon a formal complaint by the injured party or those deriving rights from him/her, while under indigenous criminal laws there are different ways of setting crime in motion.

In case of indigenous criminal procedure it is the offender, or the family of the victim that must initiate the process. Indigenous criminal law systems are generally not self-initiating. They must be triggered by the individuals or the families involved. In their studies of ten different ethnic groups Donovan and Getachaw (2003); Alula and Getachaw (2008); Jamal (1999); and Aberra (1998), discovered that a case may be initiated by either a litigant, elders, neighbours, friends or kin of either party.

5.9.4 THE INVESTIGATIVE AND ARREST PROCEDURES

Articles 23; 25; and 26 of the Ethiopian modern Criminal Procedure of 1961 empower the police to investigate and arrest. Where the investigating police officer has reason to believe that a person has committed an offence, he/she may by written order summons the offender and require such person to appear before him/her and arrest him/her. Under indigenous criminal procedure there is no police station to implement arrest but there are many methods to keep offenders under control. Some of the most common methods are discussed below.

The church as a custody place: In some cases the church may be involved in making sure that the offender is under control. Especially the Orthodox Church serves as detention centre and safe house for offenders notably homicide. Fisher (1971:724) states that the procedure is for the accused to enter a churchyard and ring the bell, thus announcing to his pursuers (whether they are government police or the victim's kinsmen) that he had placed himself

under the protection of the church. To violate legitimate sanctuary is a serious crime. One who by his power and with violence takes a person seeking refuge in a holy church out of that church, shall be beaten and shall be sent into exile and remain there forever. Among the Oromo ethnic group the offender may also be imprisoned in a cave or empty house or he/she may be kept under the custody of the *waata* (the chief) or the murderer may also be sent to exile (Abdullahi, 1994).

According to Aberra (1998:56), if for instance, a person kills another accidentally or willfully, he/she would together with all his close relatives take refuge in the house of a *sanga nenay* (chief) and none of the relatives of the victim will dare to go in and harm him/her. If they do, they would be penalized for violating the indigenous law. A spiritual leader or a chief can also protect offenders until an initial agreement to avoid reprisals has been brokered. In case of Gambella ethnic group, when a person commits a crime, for example murder, the culture obliges him to surrender himself to the traditional king (*Nyiye*) or to the chief (*kwarro*) within a short period of time. The head quarter of the *Nyiye* or *kwarro* is known as *Bura*, something like a police station where a felon reports a crime he/she committed. Not only the offender but also the victim is expected to report to the *Bura*. Based on the *Kworro-principles*, procrastination or a delay on the part of a murderer is interpreted as if the offender decided to take his/her own life and the risk of bitter revenge increases with delays (Tirist, 2003:58).

Custody without imprisonment: Prisons were virtually unknown in Ethiopia before the modern era. Even though there are no prison stations in most of the Ethiopian indigenous criminal procedure, they have different mechanisms to make sure that the offender is under their control, until the criminal case is resolved. For example, in case of Amhara and Tigray, following the accuser's initial physical submission to the indigenous legal process, there have been two major types of restraint employed to assure his/her continued attendance at the proceedings: ambulatory custody (*koragna*), conditional release to sureties, fixed-location detention in public facilities such as the parish headman's living compound, which seems to have occurred only exceptionally. Ambulatory custody refers to the practice of physically linking the accused and his/her accuser by knotting together one corner of each of their cotton wear (*shammas*). The pair thus joined was under an obligation not to break the knot unless ordered to by a judge. A creditor had the right to keep his debtor under his custody or require

his guarantor to make the payment, in cases of default in payment on the agreed day (Aberra, 1998:289). Fisher (1970:728) states that in Amhara ethnic group, a small hut (show room), may be used to keep wrongdoers who frequently disturb social life.

In most periphery ethnic groups of Ethiopia, instead of police stations they use specific places with trees to investigate and resolve crimes. Crime investigation sessions are often held under trees appreciated for their shade during lengthy sessions. In some societies there are ritual spaces for assemblies that consider among other things disputes and methods of imprisonments. For example, in Gamo the most famous places used are the *konso mora* (hut made of grass) and *gamo dubusha* (a big tree) (Alula & Getachaw, 2008:52; Zewdu, 1994:65).

5.10 INDIGENOUS INVESTIGATION METHODOLOGIES

Indigenous Investigation in the centre (Amhara and Tigray): In the centre (Amhara and Tigray), there are many devices of crime investigation. These were known as *leba shay*, *Afersatea*, etc. According to (Aberra, 1998:237), *Afersatea* was a device by which all male members of a community would assemble to identify an offender. If a person who has committed crime is not identified, there will be a public gathering (*Afersatea*) to find out who the wrongdoer is. The institution is also known as *auchacin* in Shoa and Wollo provinces, and as *iwus* in Gojjam province (Bulcha, 1965:80). *Afersatea* took the form of a communal inquest, in which all adult males were called to a meeting place and were obliged to remain until each had given a testimony swearing an oath to a group of investigators among the community (Andargatchaw, 2004:11). If a crime is committed, the local chief (*chiqa shum*) would call on all male members of the community in that locality to assemble in a fixed place on a given date. The crowd will then select seven or eight or nine *mirtocc* (chosen ones) who will sit apart with the clerk. First each of the chosen will take the oath saying “what I saw and heard I will not hide, even if he is my father I will tell.” In the assembly, the elders would call upon each person to tell whom he/she suspected.

Aberra (1998:239) further states that every person would declare the identity of the person he/she suspected or what he/she had been told by *wofe* (the singing bird). The person who said that he saw the commission of the crime was known as a *wofe*, while the one who testified as having heard it from another person was referred to as *dengay* (the stone). The

“bird” will swear, “Having seen I speak not with lies,” having related all in secret to the chosen ones, the person who would testify as to the identity of the criminal under oath was kept secret. The person identified as the offender would be prosecuted and convicted before a court without having the chance to confront the witnesses for the prosecution. It is an established practice not to allow anybody to go home until the identity of the criminal is established. In the procedure of *Afersata*, if the homicide escapes unknown, the inhabitants of the place, in the entire neighbourhood, are obliged to pay a fine, by so doing many murders are either prevented or discovered. But as Walker (1933:153) suggested, there would be no communal liability if they could prove that the offender was a passing person and that they were blameless in failing to prevent the crime. The chosen elders having assembled the evidence they declare who the criminal is. Mahteme (1969:99) and Abera (1998:237) state that in August 1933 the central government issued a proclamation procedural and substantive rules for conducting *Afersata*, to limit the hardships and provide safe guards against fake complaints and untrue or malicious testimony. From the perspective of modern investigation procedure, *Afersata* can be seen to be undemocratic, as people are forced to stay in one place. Failure to attend the *Afersata* was sanctioned by an absence fine that was decreed as: no cow should be milked nor a baby suckled until the investigation was over (Fisher, 1971:713). This could also be important even by the modern standard because the more people participate in the investigation process, the more the information that can be collect in a case. Secondly, the witness protection principle is important even by today’s standard. This is the practice that worked very well during the armed struggle of the 1980s by the Tigray Peoples Liberation Front (TPLF). The researcher’s own experience as an administrator of a system that was similar to the indigenous administration, where communal inquest was used by calling a meeting to identify an offender can attest to the efficiency and effectiveness of this system. For example, during the 1981 to 1983, 41 crimes were committed, 38 of them were resolved through communal inquest that resembles the *Afersata*, but somehow different in its democratic nature, because it was voluntary (Hassen, 2006:123).

The *le’ba-shay* (thief seeker) a device of detecting criminals: According to Walker (1933:157) the *le’ba-shay* was an early form of police force which probably developed before the 19th century. *Le’ba-shay* was a method employed to identify a thief by using a young boy who had not attained the age of puberty. The boy was made to drink a beverage made of a certain herb and then be made to sniffs out the culprit. Fisher (1971:720) states that in this

method they tie one end of a strip of a cloth around the waist of the boy and the chief of *le'ba-shay* would follow the intoxicated boy wherever he goes by holding the other end. In the house where he collapsed, he would again be made to drink the beverage so that he could identify the particular individual from among the inhabitants of the house. The boy would push aside anyone he meets entering the house of the suspected culprit, any person on whom he laid his hand would be taken as a suspect and brought before court. Much reported traditional methods of criminal investigation involve the *le'ba-shay* and it discovers the wrongdoer's identity and the location of any fruits of the crime. Even though *le'ba-shay* is not by any standard a modern method of criminal investigation, it nonetheless, in the absence of such modern institutions as a police force and crime investigation, the institution of *le'ba-shay* must, at the time, had served as a psychological deterrent in the minds of potentially dangerous people (Fisher, 1971:727; Aberra, 1998:238).

The *bel'e* institution: The *bel'e* institution run by Abbeegars ethnic group in the south involves community gathering after a theft or other crime and each person having to step over a stick or spear swearing innocence. Swearing falsely is believed to be very dangerous leading to a curse that could last seven generations and culprits tend to admit. Punkhurst (2001a:100) states that the Abbeegars are often involved in dispute resolution, and have a *rekebot*, literally a coffee table referring to it as their court particularly in homicide cases and in finding out who the criminal is. The Abbeegars are feared for their curses and are involved in seeking out guilty persons.

Supernatural means of investigation: The victim of a crime committed by unknown persons might resort to supernatural means of investigation other than the thief-seeker. An Amhara might go to the *tankwa* (sorcerer) who can divine the offender's identity by throwing bones, and whose supernatural powers enable him to summon the devil to liquidate the enemy of a client. The use of diviners for such purposes is a practice that is well known in Africa and it is also reported among the Guraghe ethnic group of Ethiopia (Fisher, 1971:748).

Investigation *tatayek letayek* (the work of being interrogated): In centre Amhara and Tigray there is an investigation system known as *tatayek letayek* or *mugget* which literally means "the work of being interrogated" is a highly sophisticated technique of interrogation and cross-examination that involves sustained question and answer game has been practiced

for many centuries in Ethiopia before the Italian occupation in solving committed crimes (Aberra, 1998:259). He noted that this traditional Ethiopian mode of investigation is of great historical interest. Although it has some equivalents in African and other societies, it has special characteristics, especially in the rhetorical and dialogical use of language. This will be further explored in the case study of Tigray.

Elders as crime investigators: In the centre in Amhara and Tigray, elders also act as criminal investigators and work with reference to orally transmitted customary norms referred to as *Yeabat ager hig* (the law of the land of the fathers). In terms of the use of investigation methodology the elders who act as crime investigators listen to both parties. The first act to institute any case is the establishment of one or more guarantors according to the importance of the case. And then dismiss them to discuss the case. They investigate the evidence, and reach a consensus on a verdict (Alula & Getachew, 2008:15). If the defendant denied some of the facts alleged against him, the facts that were denied had to be proven. The plaintiff could, therefore, introduce oral evidence, to prove his allegation. After both parties laid their bets and the issues between them had been determined, at least three witnesses from each side would be heard. The accused could insist on the disqualification of the accuser's servants and other dependents, and his relatives by blood or marriage within four degrees of relationship. He could also reject any witness who was involved in litigation against him, or otherwise known to be his enemy, and young children (Fisher, 1971:734). According to this author, the subject of witness testimony under traditional bound up with the matter of oaths, where witnesses would testify openly before the investigating elders and in the presence of the parties or their legal representatives. At this juncture if the issue is not clear, evidence is obtained through what was known as a commissioned judge (*yechibette dagna*) who would go to the crime scene and collect additional information (Aberra, 1998:245). Where the accuser is unable to produce sufficient quantity of acceptable witnesses, he might challenge the accused to take a decisive oath. The supernaturally enforced consequences of these oaths are considered so terrible that every effort is made to reconcile the parties at the church to avoid the accuser's taking of the oath (Fisher, 1971:730).

5.11 INDIGENOUS METHODS OF INVESTIGATION IN THE PERIPHERAL

In the peripheral areas each ethnic groups has its own methods of investigation. In the Ethiopian Somali, elders who are given the mandate to investigate crime between groups and members of a corporate group are called *xeer geegti*. Knowledge of the indigenous rule is the most important criterion for being elected as investigators. Moreover, elders chosen to investigate crimes must be acceptable to both parties. Various objections are customarily available to the parties against any of those appointed investigating judges. According to (Jamal, 1999:19), the number of investigating judges selected to investigate a case vary in size depending on the nature of the case and the structural distance between the segments concerned. Irrespective of the place of hearing of the case it is always open to the public.

The investigation usually begins by Qu'ranic verses read by the sheikh of the clan. The plaintiff or his representative is given the first chance to state his case. Then the defendant takes the stage to respond to the allegations. If he disputes the allegation, he is given a similar opportunity as that of plaintiff's to present his refutation. When the investigating elders are satisfied that they understood the crux of the crime, then they proceed by ordering the plaintiff to substantiate his allegations with a definite proof. The most important means of getting evidence among Somali pastoralist is the calling of human witnesses to dispute issue of fact. Oath is also used and in addition witness presentations is also heard. When homicide is committed by an unidentified person and the kinsmen of deceased fails to provide tangible evidence, fifty elders of the suspected lineage selected for their probity and good character are required to swear fifty Oaths each (*Dhaarmayd*) to the effect that no member of their lineage is implicated.

Shack (1966:158) states that in Guraghe ethnic group, when a man who has suffered an injury accuses another person for this on suspicion alone, he or his kinsmen will seek investigation. Failure to respond to summons issued on behalf of the investigators by the headman in the company of appointed elders is taken as an admission of guilt, the accused and his clansmen then being liable to pay compensation. If there is insufficient evidence to support the plaintiff's charges, he demands that the defendant swear a ritual oath (*mwaris*) of his innocence, the burden of asserting innocence is extended further to kinsmen of the accused.

According to Alula and Getachaw (2008, 27:33), in Oromia, if the wrong-doer makes admissions without embarking on other procedures, the investigating elders direct the discussion on how to reconcile the parties. If the defendant denies the claim, the case will proceed to the next step, which is the evidence hearing process where the claimant will be asked to produce witnesses and/or other evidence. The investigating judges inform both the plaintiff and the defendant to select *Jarsolii* (assessors) who will investigate the matter with the judges. The plaintiff is allowed to select five *Jarsolii* while the defendant selects four. The three judges together with the nine assessors constitute the *Dhadacha* (the investigating committee). The reason why the plaintiff is given a right to select one more *Jarsa* than the defendant is because it is believed that one cannot accuse another person without harm inflicted either on his right or property and evidence by the claimant could not establish the truth about the defendant's commission of the said wrong. The defendant will be required to take an oath (*kakun*) which is considered to be very dangerous if he/she has committed the crime. Bahuru and Siegfried (2002) in their study on Sidama ethnic group also confirmed that elders are highly involved in crime investigation.

In general, in all ethnic groups oath-taking is an important spiritual aspect used in crime investigation. It may take place in different contexts and phases and involve various actors or combinations in criminal investigations including: the accused if there is no proof; witnesses, that they will tell the truth; elders that they will be fair; both disputants that they will abide by the decision; and all the members of the clan to testify that they are not guilty (Alula & Getachaw, 2008:54). It may be expected that not just the suspected criminal but his close relatives including his father, mother, elder brother, and wife also take the oath (Nicolas 2005:207-8). According to (Shack, 1966:162) ritual oath has a double-edged function in the Guraghe judicial process of determining guilt or innocence. Firstly, it manifests the moral and economic liability under which men assume the liability for the misconduct of kinsmen. Secondly, it limits the possibility of presenting perjured evidence since the threat of supernatural punishment ultimately affects all living clansmen and future descendants as well.

Cursing is also connected to investigation and may also be used in the event that litigants do not comply with decisions or swear falsely. It is considered potentially more powerful and inherently dangerous, but its force relies in the threat that induces deterrence. According to

Pankhurst (1992b:67), cursing is performed very rarely, primarily in the context of crime investigation and in instances where litigants do not comply with decisions or swear falsely. Among the Oromo the commonly used curse is *kakuu*, which refers to the lightning that could strike people who swears falsely (Nicolas, 2005:217).

5.12 THE STRUCTURE, FUNCTION, STRATEGIES AND TACTICS OF CRIME PREVENTION

Generally different Ethiopian ethnic groups have been resolving conflicts using their own methods and procedures at different times, because it was discovered that the unresolved conflict lead to crime. Even if the rules, principles, and the mechanisms are unique to the different ethnic groups, they all have some common elements, such as settling dispute out of court and imposing sanctions such as ostracism and exclusion of the wrongdoer from public services (Tuli, 2001:7).

According to Tigist (2003), Ethiopia has societies that have traditional settings, relationships, and indigenous mechanisms that play a significant role in resolving and preventing violent crimes. So far, few studies have been conducted on the role of indigenous norms and values in crime prevention. As discussed below, these indigenous norms and values of crime prevention have been working for centuries and they are still used and relevant in Ethiopia. Before discussing the role of these indigenous institutions in crime prevention, one has to look at the cause of crimes and factors that aggravate crimes in these ethnic groups.

5.12.1 Causes of crime

Simon and Dekba (2000) argue that conflict is a natural phenomenon in human history. Conflict is a relationship between two or more parties who have, or think they have, incompatible goals and it is not realistic or even desirable to attempt to eliminate it, as it can be a creative force for change in personal, societal and political situations. Ethiopia is a country in which various ethnic groups live together and where conflicts are common. Conflicts that lead to crimes had been erupting from time to time leading to crimes such as, murder, and robbery and are even today the main challenge in Ethiopia. Conflict often resumes shortly even after reconciliation. Obviously neither the previous nor the present government have brought about durable solution to the problem. For example, in 2010 the

federal police recorded over 167 ethnic conflicts (Report of the federal police 2010:17). This is because none of them addressed the root causes, but they opt to gloss over the root causes of conflict such as the perceived differential access to life sustaining resources by the different population groups; and the norms and values that encourage crimes (Giday, 2000:40).

Ethiopia has a resource based violent conflicts that normally creates and aggravate conflict which lead to crimes (Giday, 2000:41) and most killings are done to fulfil the cultural stereotype of proving once manhood that most ethnic groups subscribe to. According to this stereotype, in order for men to marry they have to prove their manly worth by their exploits in the battlefield that happens against inter clan wars. For example, if a young Afar kills an Oromo or an Amhara, youngsters of both sexes gather together and dance the whole night in honour of the hero. On such occasions any girl considers it an honour to be asked to marry such a man. It goes even further with the Afar and Oromo. One way an Afar or an Oromo young man can prove his manly worth is to carry the penis of the man he killed and makes a public spectacle out of it (Giday, 2000:24).

Manhood and courage to retaliate revenge against others who killed one of his families are highly respected in almost all ethnic groups. A self-respecting Amhara and Tigray for example must avenge the blood of a relative killed by others (Giday, 2000:26). Public instability can arise when families or family members connive in murder cases. These types of family feuds are mostly caused by land dispute, adultery, etc. This is supported by *bemistu ena be hagaru yemimot yelem* (there should not be any person who should not die for his country and wife) norm. Another norm that can lead to killings is the marriage refusal by the girl's family, which is interpreted as an insult/despiteness to the family of the boy who wants to marry that girl (Giday, 2000:24).

In most ethnic groups where the killing has been revenge killing, the slayer goes free and he is honoured by his family and community for the killing he has committed. Revenge killings in such instances by a male relative of the victim *dem-mellash* (the blood avenger) is more often directed against a member of the perpetrator's family who had nothing to do with the original killing by the perpetrator who might be hiding elsewhere (Donvan & Getachaw, 2003:8). These norms of conduct are still adhered to by Amharas and Tigray in rural settings.

In case of the Somalia for example, culture has its own influence. Extempore poems composed in indignation at the wrong suffered plays an important role in fanning the flames of anger for revenge. The clan is a vital unit in providing the security of individual member amid the wide speeded hostilities between the various units of Somali society. Murder is therefore believed to be an attack against the honour of this unit and people who commit revenge murder are regarded as assuming the duty to protect this honour. Thus, an act of homicide most often gives rise to retaliation because according to the tradition of Somali society it is vengeance alone that fully restores honour. Nonetheless, blood revenge is not strictly individualized and does not always direct itself exclusively against the slayer but his lineage (Jamal, 1999:28). The honour and the pride of the victim's group dictate that even the life of the murderer should be followed by the taking of another life (Shack, 1966). This practice perpetuate continuous circle of violence.

5.13 INSTITUTIONS RESPONSIBLE FOR INDIGENOUS CRIME PREVENTION

Modern justice systems rely on police through arrest and patrol for their crime prevention function. Ethiopian indigenous societies have no specialized form of policing who are assigned to prevent crime. Most of the functions of crime prevention are performed by different indigenous institutions that are organized to perform the duty of indigenous administration. These institutions play their respective roles in crime management activities and in a co-ordinate way by applying indigenous criminal laws and civil laws respectively. Among the indigenous institutions that have bigger roles in crime prevention are individuals, family, elders, religious and spiritual leaders, clan appointed mediators, and indigenous administration institutions at different levels, and inter ethnic institutions. In some cases there are combinations of the above (Alula & Getachaw, 2008:19). The following sections explain how each of them works towards indigenous crime prevention:

The role of individuals in crime prevention: In the Amhara and Tigray ethnic group the “road side policing” where if a victim meets his assailant by chance on the street, he has the right to demand any person passing by to investigate and resolve the crime under a tree to avoid crime from being committed between the contending parties is widely practiced. This according to Fisher (1971:728) indicates litigation at its lowest stages is a voluntary and spontaneous form of arbitration. Parties in civil and minor criminal disputes would call upon

a passer-by to decide the issue between them under a tree. In the Oromo's ethnic group, any person do not simply observe when people are involved in a dispute, they rather persuade the disputants to settle their differences peacefully either by themselves or through the intervention of third parties as quickly as possible. Among individuals for instance, the disputants themselves negotiate (*wal Kommachuun dubi fixuu*) or ask any person to mediate (Tuli, 2001:21).

The role of family in crime prevention: In the centre (Amhara and Tigray), they have another important traditional institution which is known as *yezemed dagba* (family arbitrators). The entire function of family arbitrators is to bring the opposing parties to an amicable solution. Such attempts help to settle criminal cases among family and clan members without going to regular courts whose decision might inflict further damage on an already precarious relationship. Abera (1998:49) states that in all minor disputes, family arbitrators help to bring the parties to an agreement on their own before seeking the assistance of others or government officials.

The role of social organizations in crime prevention: These social organizations are created for different purposes such as the following: *idir* (for cooperation in funeral); *Mahber* (religious party); and *ikuub* (for credit association). However they also serve as dispute resolutions which also prevent crime. These institutions developed along with urbanization and modernization of the economy resulting in semi-formalized institutions with their own rules and sanctions that could involve fines or ostracism (Punkhurst, 2003b) in Alula and Getachaw (2008:50). Though these social organisations originate from the north Amhara and Tigray, they are shared by other communities as well. Hence, their advancement and the criminal dispute settlement forms are still appreciated. Any severe act of violation of the customarily norms or commonly agreed/written rules leads to expulsion from the land of origin. In their research, Koehn and Koehn (1975) in Alula and Getachaw (2008:49) found that in the early 1970s the majority (87%) of *iddir* (leaders) in Addis Ababa regarded resolving misunderstandings and crimes among members as the second most important role after their purpose of arranging funerals and burials.

5.13.1 The role of religion in crime prevention

Orthodox christianity: Usually when crime is committed the church intervenes in two important aspects. Orthodox Church for example is used as a safe house for offenders and as reconciliation institutions. *Yenfse Abbat* (religious father) has a great role in crime prevention in the Tigrean and Amhara followers of the Orthodox Coptic Church. Sometimes the Church itself intervenes in serious crimes and settles them. Fisher (1970:724) states that church authorities took an active part in promoting this reconciliation. Any attempt to deny its mediation is tantamount to marginalization and lead to alienation by the church and the community. He further states that the procedure is for an accused to enter a churchyard and sound the bell, thus announcing to his pursuers that he had placed himself under the protection of the church. According to Geday (2000:116), a direct or indirect excommunication then follows for anyone who rejects or violates the verdict of the church. This has a great role in preventing crimes. After the settlement a ritual of making the criminal pass over a gun lying on the ground and/or kissing priest's cross is performed. The criminal will not involve himself in any more murders and both disputants swore to that (Bahru & Siegfried, 2001). Christian priests may likewise conduct final blessings, and may carry the *tabot* (Ark of the Covenant) to the reconciliation session as noted by Alula and Getachaw (2008:53). Aseres (2007:8) in his study of the Guraghe ethnic group also asserts that whenever crime is committed the offender's family immediately takes action and ring the bell of the church on the day of Shabbat. Soon the announcement is made that some crime has been committed. Members of the church, the clergymen and elders make their way to the gathering ground and start the mediation process. According to Donovan and Getachaw (2003), in general the Orthodox Church plays a great role in preventing crime.

Muslim institutions: In all Muslim society religious leaders play a great role in crime prevention. Reconciliation is carried out by a sheikh who may accompany elders in cases where they are trying to persuade parties to be reconciled. Among the Afar the Fatiha, the opening verse of the Qur'an is pronounced by the clan leader to seal a homicide case (Kahsay, 2007:64). The role of Islam in crime prevention will be discussed in chapter 7 (in the case study of Afar in detail)

Spiritual institutions: The third pervasive principle of social organization in the prevention of crime is spiritual authority. Even though spiritual authority is not a principal component of

crime prevention system, three common elements that are crucial in crime management in the spiritual authority are: blessing, cursing and oath taking. According to Alula and Getachaw (2008:53), many societies' ritual leaders have a crucial role in crime settlement. As Teferi (2000) in Alula and Getachaw (2008:16) and Kmutsson (1967) in Alula and Getachaw (2008:43) state that in many parts of Amhara region for example (In south wello) the *Abbegar* are indigenous religious leader who are also referred to as *Dem adriq* or blood dyers, highlighting their role in homicide cases. The *Abbegar* is important in maintaining peace and stability and finding culprits. Oromo spiritual leaders play an important role in crime resolution, they enter into trances and get possessed by spirit that provides guidance about guilt and how to resolve conflicts. The disputants fear to take oath for false allegations or claims since they fear that *Waqqa* (the God of Oromo) will kill them. In the Gumuz society there is another authority of crime reconciliation, known as *Gafia*. It is a magic religious authority in which the witch-doctor is considered the protector of the community's wellbeing. The *Gafia*, which could be male or female, is often consulted and his or her words are strictly adhered to (Seyum, 2000:32).

5.13.2 The role of clan and elder institutions in crime prevention

In case where the complainant knew the alleged offender's identity, his first task was to secure the latter submission to some dispute-settlement machinery. In appropriate cases informal techniques for reconciling the procedure could progress on more formal levels (Fisher, 1970:726). *Iraq* (reconciliation) is the most common form of crime prevention throughout the Amhara and Tigray. At a local community level it involves *shimagill'e* (respected elders) who plays a key role in mediation. The *shimagill'e* (elders) emphasizes community values, repairing broken social relations, and cultural consensus. Generally, crime resolution tends to rely on elders developing a consensus and persuading litigants to reach a compromise. The elders consider any kind of dispute relying on the voluntary participation of the litigants (Alula & Getachaw, 2008:15.) Indeed, as Solomon (1992:55) and Donvan and Getachaw (2003:9) state that the term *shimagill'e* denotes age, a peace-maker, reconciler and/or mediator. Moreover, dispute resolution mediation is often termed *shimgillinna* a noun derived from the word for elder, which one might translate as "eldering." As in the case of the Amhara, the elders of the community do not themselves initiate proceedings. They wait for a request for intervention from a member of families involved.

The procedure for settlement varies according to the social or relational distance between the killer and his victim. If the killer and his victim are members of the same family, the matter will generally be dropped. No request will be made to elders for initiation of settlement proceedings. Giday (2000:116) explains the process of crime resolution as follows: First, the accused is asked whether he accepts or rejects the mediation role of elders. He/she often accepts elders as any refusal might jeopardize the relationship. After hearing and studying the case, the elders would try and resolve it. Actual resolution of the dispute depends on the nature of the problem, any violation of the decision of the elders by wrongdoer can lead to penalties payable to the wronged one (Giday, 2000:117). The verdict of the elders may require merely an apology if the matter is simple, but often it requires some form of compensation. In serious cases such as homicide 'blood money' is usually required. The amount is often open to negotiation and reduction, and may be substituted by a symbolic payment. Often the case is concluded with institutional forgiveness *Yiqir leIgzabher* (forgiveness in the name of God) or may even be waived in return for the humiliation of a public apology. The elders may also require the guilty party to provide a guarantor who undertakes to ensure that the verdict is respected (Alula & Getachaw, 2008:64). The entire exercise of the implementation of *irq* (reconciliation) is creative, consultative and compromise-oriented. Elder administration aims at pacification, conciliation, correction and reintegration. Elders are generally expected to have wisdom, patience and broad views about justice and peace. They are expected to restore and maintain balanced relationships in the community (Behru & Siegfried, 2002:49). The winning plaintiff invites the clan's elders committee and entertains them with the goods with which he is compensated.

Feuds and homicides are sometimes settled through inter-marriage (Giday, 2000:117). Donovan and Getachaw (2003:8) state that in pre-modern times, the *shemagles* (reconciliators) could authorize the family of the original victim to kill the perpetrator themselves if the perpetrator could not pay the blood money ordered by the *shemagles*. If the criminal has become a threat, not only to an individual but also to the entire peace and tranquility of the community, then the likelihood is that he is either killed or captured. Settlements of such cases take longer periods in Tigray as the injured holds a grudge and wants revenge. But once the vendetta is taken or a stalemate is reached between the disputants then the case is closed. Behru and Siegfried (2002:128) argue that the *shimhilinna* (reconciliation) is portrayed as more economical, time saving, open, and flexible in the resolution process. The traditional

Amhara and Tigray *irq* and *shemgelena* proceedings were, and probably still are, far more successful than State proceedings in restoring peace to the community as a whole. Donovan and Getachaw (2003:9) concluded that a culturally sensitive approach to revenge killings that is the one that preserve the traditional indigenous law processes might have saved many lives and it still could.

According to Tesfa (1995), disputes or animosities among Guraghe clan members are usually solved through mediation, consultation and arbitration. The Guraghe have little tendency for revenge taking or for disputes to be inherited unless a major crime is committed and they are also not prone to homicide. Aseres (2007:68) further explains that the Guraghe ethnic traditionally believed that the family of the victim must cool their anger against the offender. The process that they use in this regard is to let the victim's family construct a small hut which is made of hay and stubble. The offender will then sit in the hut with his brother or the son (if the deceased is married and has a son) that will be set on fire and the offender jump out from the fire immediately. This process is regarded as serving the following two purposes: to make the family of the victim not to urge for revenge; and secondly to make the offender to be free from fear of revenge. Having completed the above process they slay a black goat and tie the hands of the disputing parties with its intestine. This is considered as the covenant between the parties in their future life (Asres, 2007:6; Bahru & Siegfried, 2002:12). Admission of a crime and a request for pardon to the elder committee by a defendant usually settles a crime. In case of dispute involving murder, injury or torture, the compensation is paid depending on the degree of the crime. Guraghe customary law, known as *kitcha*, provides the legal framework (Shack, 1966:16).

5.14 CRIME PREVENTION SYSTEMS IN OROMO

The study by Wako (1997) in Alula and Getachaw (2008:29), stress the democratic nature of the Gadaa system and its overall structures, organization for administration, law making and dispute settlement, and crime prevention. The three major crime prevention systems in Oromo society are: aspects of *Gadda* (dispute settlement); the *Jaarsa Biyyaa* (law making); and *Qallu* (spiritual leaders and their transformations into spirit medium mediators). The Oromo ethnic group has a high tendency for reconciliation. According to their believe *Ewnete Keagegnehu Yibekagnal* (if one find truth in a case brought before the settling agency) then it is enough for one to drop the case. The research by Hinnant (1977) and Yacob (2001) in

Alula and Getachew (2008:31) show that the Oromo communities rely on the Gadaa-related indigenous mechanisms for most of cases, since the solution needs to be lasting and aims at an overall peace and reconciliation. According to the Oromo ethnic group's reconciliation process, if crime is committed the offender gives his hand to one of the above institutions and the process starts. The slayer would send elders to the *Abba Gada* (the elders) to inform them about the homicide and the whereabouts of the slayer. The elders also request the *Abba Gada* to reconcile the perpetrator and his family with the family and relatives of the deceased (Tuli, 2001:45). Aberra (1998:54) further elaborates that to commemorate the start of reconciliation process, an animal would be killed and the offender would be anointed with its blood.

After the elders feasted on the meat, they would bless him so that he may not be tracked down by those who would want to take revenge. Then he would live in hiding and after some days, women would go to the territory of the clan of the deceased, and a person who is not a blood relative of the deceased would be made to talk to them. According to Oromo tradition, settlement of disputes by arbitration cannot be refused. The women would then go to their clan and inform the clan leaders as to the date fixed and the place where the meeting should take place. The relatives of the slayer would be requested to come forward and hand over the perpetrator. The slayer would go forward and he would declare that he has killed their relative by mistake and he would therefore surrender. The clan to which the deceased belonged would sit holding green grass in their hands and the relatives of the slayer would stand asking for mercy if they admit the crime. The slayer confesses that it is he, who has killed their relative and his act was wrong. After the confession, the *Lubaa* ask the family of the deceased whether they would forgive him or not, if they answer positively, both sides move forward and shake hands (Tuli, 2001:51).

The *Abba Gadaa* discuss about all the circumstances surrounding the homicide with both sides separately. After protracted negotiations both sides would finally come to an agreement. After similar intensive negotiation and bargaining, the amount of blood money and the form in which it would be paid would finally be fixed (Aberra, 1998:5). Decisions are taken by consensus and reference is constantly made to the body of indigenous law called *Aadaa Borana* (Alula & Getachew, 2008:29). The councils rely largely on persuasion and the rhetorical threat of sanctions including fines and corporal punishments which, however, are not usually implemented. The ultimate sanction is exclusion from the *Nagaa Boran* (the

peace of the Boran), such that the person will not be greeted or blessed and will not receive social and ritual support and may be cursed (Alula & Getachaw, 2008; Geday, 2000; Shack, 1966). The council of elders serves as a criminal court as well as civil juries. When the compensation is in terms of a girl or a young woman, the atmosphere of the reconciliation ceremony changes into one of a wedding ceremony, since the girl or woman is given as a wife to the victim's brother, uncle or cousin, children born of her are accepted as the offspring of the deceased person (Tirist, 2003:60).

In the Ethiopian Somali ethnic group, the task of the *xeer beegti* (Elders) is to find a solution to the crime or the problem presented before it. Once the facts are ascertained in a manner appropriate to the case at hand the elders order the contestants to withdraw from the court and consult among themselves to arrive at a solution and sanction (Jamal, 1999:22). The compensation scheme which is the sentencing for the crime is not compensation paid to the victim *per se* but to the whole of the group on the side of the victim, which includes a kinship network far greater than the nuclear family. In the final analysis the victim's family gets only a third of the blood money that is paid. This is because the Somalis being a highly communal society view crime, even homicide, as their communal responsibility (Donvan & Getachaw, 2003:11; Jamal, 1999:28). According to Jamal (1999:46), Somali pastoralists accept their tradition as part of their life and still believe it to be the most effective and just way of dealing with murder. No matter how just and fair the action of the modern criminal justice system could be in dealing with murder, no reconciliation between the contending parties can take place so long as their own customs and traditional rule of *xeer* remained unfulfilled.

5.15 THE CRIME RESOLUTION PROCESS IN THE BENESHANGULE GUMUZ ETHNIC GROUP

According to Gumuz and Sellassie (2002) in Alula and Getachaw (2008:21), the Beneshangule Gumuz ethnic group has four levels of sophisticated layered institution that deals with crime, namely, *Burra; Nemma; Terra; and Falla*. Matters not solved at the lower level can be taken to the next level. In the initial stage those involved in the killing will not be present to avoid tensions and are represented by their relatives. Settlement of intra-Gumuz family feuds generated by homicide is done by elected or appointed "go-betweens" or conciliators who arrange a settlement and then pronounce it before the assembled male members of the families or clans involved. The settlement procedure is commenced at the

request of one of the families involved. Elders' decisions are accepted unquestionably and enforced vigorously (Fekadu, 1998:4). Therefore authority is exercised among the Gumuz by the respected elders and leaders. They have the ability to punish those who violate traditional customs and laws.

The customary law goal is the restoration of peace to the community by effectuation of reconciliation between the warring families or where only one death has occurred between the family of the victim and that of the offender. In the case of sorcery and adventure killings the Gumuz indigenous law system does not respond at all for such killings as they are viewed as justified (Donvan & Getachaw, 2003). Research by various researchers on Gamo, Guraghe, and Gambela ethnic groups found the existence of similar mechanisms of crime prevention (Zawdu, 1994; Bahru & Siegfried, 2002; Alula & Getachew, 2008:22).

5.16 INDIGENOUS LAW ENFORCEMENT

In the ethnic groups mentioned above (both in the centre and periphery) there are political authorities, administrative machinery and judicial organs that enforce indigenous law and order on behalf of the community (Zawdu, 199:1). In all ethnic groups the main element of law enforcement in indigenous community is to ridicule and ostracise, their effect put the victim out of status and no longer in a position to participate in communal activities. Elders both in the centre and periphery ethnic groups may ostracize the offender by not eating or drinking with him; not talking to or greeting him; not burying him should he die; etc. The next section is devoted to highlight the law enforcement mechanisms of selected indigenous communities.

Law enforcement in Amhara and Tigray (the centre): Whenever justice was found to be lacking or the government apparatus failed to operate and as a result crime and insecurity prevailed in a region. Persons known for their intelligence and most of the time elderly persons who are respected and feared in the community are elected to this office at a general meeting of the community. This institution is called the *Gobez alega* (leader of choice) and is empowered to lead all able-bodied men in the community. The group under the *yegobez alega* (leader of the strong people) maintain peace and order, re-institute property to those who were dispossessed and forced to submit to the people's power (Aberra, 1998:47). Aberra (1998:47) further explains that the elected persons would then read out the rules prepared by

them in the general assembly. In addition, directives containing the following orders will be issued: to remain on your own holding avoid any trouble; to watch out for stranger and not let them go in and out on their own will; to bring those who violate the law before the public authority; to ask for information from persons who go to the market and from any passer-by; to help any person in distress and help persons to find their way.

Anyone who infringe on the law would first be advised by his relatives and neighbours. If he did not heed the advice a reprimand by the assembly of the locality followed. If he still persisted in his misbehaviour he would be made to appear before the assembly and would be given a warning. Finally, if he still continued to misbehave he would within the limit of his capacity be ordered to prepare food and *t'alla* (beer) so that the members of the community would feast on it. If he commits the same wrong for the third time, everybody would conspire against him. If he still failed to abide by the indigenous law, *regman* (ostracism) would be decided (Aberra, 1998:48). In this way, law and order is maintained in the village. The norm being that everyone conduct his/her daily activity in peace, a merchant his own trade, a farmer his farming, a priest his religious duty, etc.

There is also another indigenous law enforcement called *Awachia* (Lineage Assembly) set up at village level. At this level all the heads of lineage had the right to participate and discuss any problem that concerns the community. The role of this assembly is surveillance of the market, fixing and collecting levies from merchants, catching wrongdoers who frequently disturb social life, in a small hut (show room), and discussing proposals for the maintenance of roads and keeping law and order. It also settles disputes between clans, imposed fines or imprisons offenders of the law. When its decision is disregarded, it could arrest anyone and bring him to the *uduga* (local chief). The assembly elect its own moderator for two or four years (Aberra, 1998:71).

Another mechanism is the *mist'ir Zebegna* (secret guard), which is a unit of the market guard that is charged with the responsibility of crime prevention. The secret guard is charged with the crime prevention by moving around public squares. Although they give away their identity, this is done to have a deterring effect on would-be criminals. The secret guard remain a device of crime prevention and control during the period before 1936. It maintained peace and order, gave due warnings, reprimanded offenders who committed petty offences,

and brought before a court those persons who were accused of committing serious crimes. In short, the institution can be said to have served as useful technique for the enforcement of enacted laws and indigenous laws (Aberra, 1998:20).

Law enforcement in the peripheries: In Oromia ethnic group *Gada* system was one of the mechanisms of law enforcement. It guided the social, political and legal life of the society. There are organs that have some sort of political, military and judicial powers (Zawdu 1994:19). The Abba Gada hold *Boku*, which is the symbol of executive organ, made from wild olive tree called *Ejersaa*. This organ was responsible to enforce the laws made by the legislature and to execute the judgments rendered by the Luba, judiciary organ, in coordination with the public (Tuli, 2001:21). So the *Jilba* or *luba* council were responsible to interpret the law made by the legislature and to apply it in settling crimes. If the law breaker surrenders peacefully, he would be brought to trial to court of the Gadaa council. The verdict would be passed, part of which was to give back the plundered property and if not, for the neighbours to contribute a commensurable amount. But if the outlaw refuses to surrender peacefully, the verdict might be that he be chased and killed (Geday, 2000:92). If he has escaped into another clan or tribe and is given asylum, his home and property may be publicly destroyed or burned and his animals/cattle confiscated (Bahru & Sienfried, 2008:89). As there are no written decisions, it is mandatory that executive officers to be present at the *jiba's* proceedings, to be able to enforce decisions. The *jiba* is independent of pressure or influence by the executive. It is the *messensa* (assembly) that selects or removes the *jiba* members (Alula & Getachaw, 2008:31). If court condemned the offender to death, the murderer was in accordance to the decision submitted to the deceased's family who would execute him immediately.

Another important indigenous law enforcement mechanism is through imposing social sanction. The Maacaa-Tuulama ethnic group in Oromo ostracize those who do not comply with the general social norms and those who do not respect the solutions reached by arbitration. Consequently the deviant would soon comply with the idea of the majority, since it is impossible to stand alone in the Oromo society because the nature of the Oromo society necessitates the individuals to be in social groups (Tuli, 2001:52).

In the Gedeo ethnic group, sanctions were imposed upon Gedeo man in the form of social control to restrain him from violating established rules of conduct. Diligent adherence gives him the approval and respect of his fellows. Failure to comply with the rules on the other hand is penalized in various ways depending on the nature of the offence. The offender may lose social esteem or is treated with ridicule or contempt and may be denied social services of communal life. If he commits different taboos it is believed that sickness, calamity or some other misfortune will be released (Zewdu, 1994:48). Similarly, Asres (2007:57) states that the Guraghe indigenous law is very strict and requires a careful observance of the decision of the elders. This is because no one with a right mind will accept and live as an outcast member alienated forever. Whenever crime is committed, these law enforcing bodies are entrusted to deal with it and the judgment rendered here is found to be effective.

In the Ethiopian Somalis ethnic group, sanctions are imposed upon the individual in the form of social control to restrain him from violating *xeet* (the indigenous law) of the Ethiopian Somali ethnic group. Diligent adherence to the *xeet* gives a man the approval and respect of the public, while failure to comply with the rules of *xeet* on the other hand leads to loss of social esteem. Besides that, each individual of the community is acquainted with the principle of *xeet* in his childhood and accepts it as part of his life. The violation of the rules of *xeet* is not common (Jamal, 1999:18). Jamal (1999:18) further states that elders of a lineage group can also use force to assure that their members comply with the customary rules. These elders may compel a man to carry out obligations, make restitution, pay compensation or suffer punishment. If after the declaration of the award by the judge, the guilty party complies with the term of the judgment, the case is closed. But if he defies the verdict and refuses to pay the fine or compensation or to make restitution as decreed, the issue of enforcing compliance arises. The most effective sanction for the compliance comes from the fear of attracting public disapproval (Jamal, 1999:24).

Traditionally, the suggestion of the elders in general and the decision of the court in particular are believed to be sacred and highly respected. Furthermore to accept and apologize when the council of the ancient moves one to be wrong is seen as a courageous action. However, force may be used against incorrigible rogues to assure compliance. This force can be used by close kinsmen and not even by distant member of the clan. When the kinsmen are convinced that the culprit is reluctant to abide by the judgment, they set down a time limit within which he

should execute the decision. If he fails again then kinsmen use force. His property is seized to the extent of the judgment and transferred to be consumed by the force organized to enforce the judgment. The murderer was in accordance to the decision submitted to the deceased's group who had to execute him immediately (Jamal, 1999:33).

In general, the strategy of crime prevention, investigation and enforcement of indigenous policing is based on restorative justice. Restorative justice addresses the trauma of crime by recognizing that victims have many needs. Accordingly therefore, victim's pain is a primary concern of restorative justice for which mediation of both parties to restore relationship is of greater importance. The concept of restoration implies the existence of a state of wrong that disrupts the relationship in society between those implicated in the doing and the suffering of a wrong. This means that restorative justice is forward looking taking the social dimension and relation towards the future objective (Assefa, 2006:5). The restorative justice doesn't limit its focus to victims only, rather expands it to include the perpetrator and the community in attempting to respond to the harm done to the victim which viewed crime as an injury more to the victim than to the government. Similarly, assessment of loss of sense of security derived from disrupted victim-offender relationship is the difficulty that should be restored (Assefa, 2006:7).

In restorative process the perpetrator must submit to this willingly as a result of negotiations with those affected by the wrong doing and as part of the perpetrator's efforts to restore equality to the relationship. Restorative justice requires that wrongdoers face both their victims and themselves with what they have done and demands that the wrongdoers actively seek the restoration of relationship as a result of discussion, negotiation and community participation. Accordingly justice is to be about a human concern focused on equality between human beings. Relationships of equality are ones in which each of the parties to the relationship enjoy dignity and treat one another with equal concern and respect. Reconciliation processes are concluded by conducting closing ceremonies. On the feast both disputing parties are obliged to eat and drink together. The purpose behind eating and drinking together is to perpetuate peaceful relation between the two parties; to make a promise and bind the parties not to harm each other; to cooperate with each other in times of weeding, mourn, burial service, marriage and death respectively; and to warn each other not to do any offences that endangers their peaceful relation (Asres, 2001:60).

5.17 CONCLUSION

The study of the Ethiopian legal and policing system reveals a large variety of state originated norms in an uncertain relationship with each other and with indigenous norms. The prevailing norms appear to be unwritten and customary and certainly indigenous. The parities in conflict were/are not averse to the peace-building process. Indigenous customs and practices are seriously respected and carefully practiced. In this sense, these traditional principles for crime resolution and reconciliation provide them with an established design and bases for living and resolving the current and future conflicts within themselves.

Ethiopia has the potential to develop a unique policing system that reflects its distinctive cultural heritage and that meets the needs of its people. This potential is more likely to be actualized if the country takes steps to ensure that what is best about existing policing systems is not lost but preserved and incorporated as an integral part of the Ethiopian modern policing. Thus, the scope for accommodating indigenous policing institutions and collaboration between the modern and indigenous policing systems deserves further investigation and consideration.

However, this does not mean that these indigenous law and policing and conflict resolution mechanisms are without their own weakness and could continue being efficient, as society moves towards modernization the disadvantages of system of indigenous law and policing however is readily apparent. This will be discussed in detail in the case study. There is indeed considerable indigenous democratic tradition in Ethiopia if only one looks for it in the right place. In local affairs people are capable of solving crimes and other conflicts that can trigger crime without resorting to violence because they are convinced that discussion rather than force leads to better solutions. The experience of the Amhara and Tigray *shimgelna* system as well as the *Gada* of the Oromo, the *Ottuba* of the Sidamo and corresponding procedures in other Ethiopian indigenous societies have one thing in common: they establish a set of rules by which issues are discussed and solved by collective decisions. The rules are such that everybody feels represented and made co-responsible for the well-being of all.

Local crime are in most Ethnic group negotiated by a group of elders, individuals, religious and spiritual institutions who usually follow a general African tradition of giving every body

involved a chance to voice their views and interests, and discussing as long as necessary to reach a solution with which all parties involved can live. Ethiopian ethnic groups are committed to localizing and apportioning guilt and to administering punishment as to re-constituting peace in the community and re-integrating a deviant into the collective life. It obliges the individual to accommodate the majority way of seeking harmony and consensus rather than an individual opinion and personalized justice. Hence it is vital to think about their applicability in this setting and look for possibilities of merging or using the indigenous mechanisms with the non-indigenous ones so that they could be used in modern states.

Based on the above discussions and conclusion, the author took the task of detailed field study of two ethnic groups one from the Tigray (from centre) one from the Afar (peripheries) to identify relevant experiences and to find out if modern and indigenous policing could be harmonized as part of the strategy of community policing in Ethiopia.

CHAPTER SIX: RESEARCH METHODOLOGY

6.1 INTRODUCTION

This chapter deals with the research methodology that was used in this study indicating the research demarcation and sampling. The justification for adopting the adopted methodology, the research demarcation and sampling is also provided to indicate the academic soundness of this study.

6.2 RESEARCH METHODOLOGY

Qualitative research deals with exploring issues, seeking to understand phenomena, and answering questions (QSR, International 2011). According Wong (2000) with few exceptions in recent years, modern policing has been studied primarily through qualitative field methods. Capowich and Roehl (1994); Greene, Bergman and McLaughlin (1994); Hope (1994); McElroy, Cosgrove and Sadd (1993); Sadd and Grinc (1994); Skogan (1995); Son and Rosenbaum (1994) are among the most popular researchers that have studied modern policing through qualitative field methods. These Researchers have conducted case studies of organizational processes and problem-solving activities and have occasionally supplemented them with quantitative outcome measures. The focus of their qualitative evaluations has varied substantially, from general assessments of multiple police organizations to detailed ethnographies of police-modern dynamics in specific neighborhoods.

Field methods have demonstrated the wide range of police strategies being pursued under the fabric of modern policing, in organizations, largest communities, and among partnership members. Therefore this study has followed qualitative methods like the above mentioned scholars because the research question that this study intend to answer and the objectives that are set out to be achieved could best be researched by qualitative rather than quantitative method. According to Creswell (1994:166), the important aspect of the qualitative research is that the researcher plays a pivotal role in constructing concepts, theories, and principles out of detailed discussion, interviews and observations. Thus the research employed qualitative approach, where the required data were collected from relevant sources to address various objectives of the study.

6.3 RESEARCH DEMARCATION

Research demarcation refers to the area where the research was conducted. According to Leedy (1985:7), it is the precise indication of the scope that the research covered. All indigenous crime resolution mechanisms are vast to cover in this type of research. As a result, this research has only concentrated on areas of indigenous criminal resolution which are relevant to the objective of both modern and indigenous policing. It has examined the effectiveness of indigenous and modern policing institutions and their roles.

The empirical research of this study was conducted in Tigray (Wajarat) and Afar regional states. These areas were selected for the study based on the following factors:

- The role of modern policing (generally the power of central Government) in these areas and its intensity of being the prevalent and the dominant prevalent form of policing.
- Religious practices (Islam & Christianity) also have influence in the policing of communities and the resolution of conflicts. To make sure that religion does not become another variable in the analysis of the modern and indigenous policing, the selected areas have less religious influence.
- The study areas encompass all the three origins that the Ethiopian society is divided into, namely - Cushitic, Semitic and Neolithic. This is important when one considers that policing could be influenced by the traditions of these tribes.

6.4 POPULATION SAMPLING TECHNIQUES

Ethiopia is a diversified country that is historically divided into the centre and the periphery, therefore the sample was taken from both the centre and the periphery. In this respect Tigray represents the centre and Afar represents the periphery. Secondly the Ethiopian people have three origins, namely, the Semitic, Cushitic and Nilotic. The Semitic and Cushitic together cover 94% of the Ethiopian population. Tigray is a representative of the Semitic population, Afar is a representative of Cushitic people.

Thirdly there are two major religions in Ethiopia (Islam and Christianity) Afar represents the Islam, while Tigray represents Christianity. Fourthly the researcher's knowledge of the area

was also one factor. The researcher has worked in both areas. Lastly availability of documents was also conceded as a criterion for the areas that were selected.

The participants of the research who fill the structured questionnaire were selected from elders and community police officers. The elders were chosen by the local community policing officers based on their knowledge and authority on the subject matter. The participants from various lineage organization and associations for the focus group discussion (FGD) were selected using purposive sampling. They were selected from the institutions that have exposure and involvement in the implementation of indigenous and community policing. Moreover participants of the structured interview were selected purposively and voluntarily.

6.5 DATA COLLECTION

Data collection is the systematic process of gathering information on variables of interest to enable the researcher to answer stated research questions, test hypotheses, and evaluate outcomes (Whitney, 1998:73). According to Aberra (2010:13), in qualitative research data is mostly collected by the researcher in person and the reaction of the respondents get recorded in their natural settings.

In this study the researcher was responsible for collecting data through interviews and has used 13 other police officers to collect data in the regions that are outside of Addis Ababa. Such police officers were firstly trained on how to pose questions and record the responses. Prior to the data collection these community policing officers (data collectors) were given one day training in Addis Ababa, at Federal Police Commission head quarter on 4 January 2012.

Semi-structured interviews of open ended questions were used to get the information from identified community members, law enforcement agencies (modern and indigenous) and traditional leaders. Interviews were very important in this study because the experience that people have particularly with the indigenous policing is not documented and these experiences are crucial in answering the research question and achieving the research objectives. Respondents were selected based on their knowledge of these policing systems

and it was fairly easy to get knowledgeable people in this regard as people in these identified areas are exposed to these systems.

Because this study seeks to understand the operation and the challenges of modern and indigenous policing, intensive literature research on the theory of modern policing and the basis of indigenous policing were conducted. As an introductory to the research of indigenous policing, the researcher has also conducted literature study on customary administration, customary law, and customary dispute resolutions.

Another data collection technique that was used is focus groups. According to Andrew (2000:vi), focus group study is a carefully planned series of discussions designed to obtain perceptions on a defined area of interest in a permissive, non threatening environment. The purpose of using focus groups as a method for data collection within social research is to explore a particular phenomenon rather than describe or explain it. Focus groups have been used by social scientists to obtain a more complete picture of the phenomenon they are studying.

The focused group discussion was based on guideline that was prepared in advance. The number of participants was 8. Participants were selected based on their knowledge of the indigenous and modern police systems. This has helped to allow everyone to have a say and to get the most from the group, to talk flexibly and get in-depth insight into the issues. The focus groups were constituted by the representative sample from the community, law enforcement agencies (modern and indigenous) and traditional leaders. The sessions were recorded and transcribed later.

Observations were also conducted to determine the operational methods of the indigenous policing and that of the modern policing in indigenous communities. Observation has enabled the researcher to verify the information obtained from the interviews and the focus groups and provided him with an ideal opportunity to observe the approach and the attitude of these agencies when providing service to the community as well as the community's response to such services. Observations were done without any prior notification of the agencies involved so that they do not alter their mode of operation for the duration of the observation because this could have misled the study. As stated by the Asian Market Research (2011), a key

advantage of conducting observation while participants are not aware allows their behavior to be observed in their naturally settings.

6.6 DATA ANALYSIS

The collected data was grouped into themes that were based mainly on the research question and research objectives that were developed to focus the study. This was to ensure that the related information was grouped together for systematic and chronological analysis. This also ensured that all the relevant information is not lost and it is used in the study.

6.7 VALIDITY AND RELIABILITY

Qualitative research helps the researcher to gain insight and understanding from the respondents on the concepts and themes that are being researched. The question of validity and reliability arises from a need to persuade researchers and others on the authenticity and trustworthiness of the method that is used to collect the data as well as the interpretation and the presentation of such information (Castle, 1996:31). Standardized questions were used for the interviews and focused groups and such questions were first piloted to test their comprehensibility and lessen their ambiguity.

6.8 SIGNIFICANCE OF THE STUDY

According to Life Style Lounge (2011), research is an act of studying a particular phenomenon carefully and extensively in order to understand it. To be successful, research should be systematic, chronological, summarized and recorded properly. The findings of this study and the recommendations that emanates from this findings could assist in enhancing the cooperation between the indigenous and modern policing for the safety and security of the Ethiopians.

6.9 ETHICAL CONSIDERATIONS

The ethical guidelines of the University of South Africa were adhered to and the necessary authorization was obtained from the relevant police departments that were involved in this study. Permission was sought from the respondents who were engaged in this study and the reasons and the intention of the study was properly explained to them. All the resources in

this research that are used are properly acknowledged and full details given in the list of references.

During the process of data collection all necessary precautions were taken to ensure that the rights of the sources of data were respected. Thus, in all the data collection instruments and guidelines a consent form was attached and the data collectors were instructed to inform the data sources on the objectives of the study and that they have a right to volunteer out of the study on their own volition. Furthermore, during data collection, except in focus group discussions all interviews were conducted in the privacy of data sources.

6.10 LIMITATION OF THE STUDY

Little research has been done on the indigenous legal system, which made it difficult to obtain enough secondary information for comparative analysis. Due to the socio-economic and cultural impositions on women in the research areas, the researcher was not able to secure sufficient number of female interviewees and informants.

6.11 CONCLUSION

The judgement and the academic soundness of the study is largely depended on the approach and the methodology used. This chapter explained the methodology that was used, the demarcation of the study and the limitation of the study. This is done as the precursor for the empirical findings that will be presented in the following two chapters.

CHAPTER SEVEN: THE RESEARCH FINDINGS ON AFAR INDIGENOUS POLICING

7.1 INTRODUCTION

The Afar people are known as “Danakil” by the Arabs and Westerners, “Adal” by the Amhara, and “Tilt’al” by the people of Tigray (Aberra, 1998:59). Despite all these varied names, the name Afar (*cafara-umata*) which is the one that is used by the people of Afar themselves is the one that will be used in this research. The Afars are eastern Cushitic language speakers of the Horn of Africa like the people of Saho, Somali and Oromo. These people are closely related and are believed to have once been made up of a single speech community in the southern Ethiopia and Kenya. Due to colonial policy their settlement distribution covers the borders of the three countries of the Horn of Africa: Ethiopia, Djibouti and Eritrea. There are about 2.5 million Afars across the east African region out of which about two third of them live in Ethiopia (Humed, 2010:vi).

The Afar regional state is located in the northeastern part of Ethiopia between 39-34 and 42-28 east longitude 8-49 and 14-30 north latitude, the total area of the regional state is estimated at 95,265 square kilometers (Kahsay, 2007:3). The Afar regional state is bordered by Tigray regional state in the northwest, Amhara regional state in the southwest, Oromiya regional state in the south, and Somali regional state in the Southeast. Afar regional state also shares international boundaries with Eritrea in the northeast and with Djibouti in the east. The average annual rainfall ranges from 100 to less than 200mm per annum and this is one of the hottest places around the year on earth (Humaed, 2010:34). According to the Ethiopian Central Statistics Authority (2007:7), the population of the region is estimated at 1.42 million of which more than 95% reside in rural areas while the balance lives in urban area. The Majority of the people are Muslims and speak Afrigna which is a family of the Cushitic languages in Ethiopia. The Afar people are among the most homogenous ethnic groups in Ethiopia and they have one culture and heritage (Hummed, 2010:vi). The current political administration of the region is divided into 5 zones, 29 *waradas* (districts), and 358 *kebeles* (local administrations) (Regional Profile, 2006:12).

This chapter is composed of the overview of the Afar to familiarise the readers with the socio-political history of Afar before giving the findings on the structure and the functioning of policing in this region.

7.2 SHORT HISTORY OF THE AFAR STATE BEFORE JOINING THE ETHIOPIAN STATE

The researcher has no intention of going deep into the history of the Afar nation. However, there is one issue that should be discussed before going to the Afar indigenous policing, which is, when did the Afar nation joined the Ethiopian state? This is important because different authors have noted different times and answering this question will indicate the impact of modern policing on the indigenous policing of the Afar. According to Wako (1997:9), like any pastoral community living in the peripheries of Ethiopia, the Afar nation was integrated into Ethiopian state in 1905, while Humad (2010:38) on the other hand state that Afar was incorporated into Ethiopia by Emperor Menelik II in the 19th century. Elthibeth (1955) in Hashim (2007:67) state that beginning the dark ages until 1935 the Abyssinian kingdom was limited to Gojam, Shoa, Tigray, and Gonder provinces and has never included Afar and Harari, while Hashim (2007:124) state that Afar was not part of Ethiopia until 1944.

In order to establish the correct date in which Afar was incorporated into Ethiopia the researcher posed this question to Mahammed Algani – who is one of the few experts on the Afar history and was respondent number 2 of the interviewees. Mahammed Algani stated that all the above mentioned dates are correct because since the loosely confederation of the Afar nation, the Afars were divided into five sultans, therefore its incorporation into Ethiopia had happened at different times in different places. For example, when Hashim (2007:146) wrote that the expansion of Ethiopia into Afar was in 1944, he was referring to one part of Afar which is Awsa. Humed (2010:34) on the other hand is referring to the northern part Afar. All the focus group participants agreed that it was in 1944 that the real Ethiopian administration infrastructure including policing was installed in Afar. Therefore, in order to understand indigenous policing and how it was impacted by modern policing it is better to look at some important historical events of the Afar people.

The Afar people are the earliest people to live in the horn of Africa. The Afar land is the origin of human species and the cradle of humankind. It is believed that the first human

civilization of the world was most likely started in the coastal area of the Afar land of the Red sea. Afar is also important in its world history as the second for the world's oldest stone tools, and the last for Lucy, the fossilized specimen of *Australopithecus Afarensis* (Kahsay, 2007:71). Despite their relative small numbers in Ethiopia they are the most important ethnic groups because of their location between the highlands and the Red sea (Alula & Getachaw, 2008:93). They are believed to have occupied their present territory as a result of a continuous north and eastward movements of the Cushitic speakers from southern Ethiopia and Northern Kenya. The Afar and the Saho were the forerunners of these movements, followed by the Somali sometimes later (Lewis, 1966:39).

After the advent of the Islamic religion the Afar people established a sultanate or sheikhdom pattern of administration. Hummed (2010:36) states that through their clan structure and their confederations the Afar society developed a hierarchical political structure known as sultanates related to a precise territory. At the beginning of 11th century the Ethiopian Afars started to divide into five kingdoms and at the beginning the 14th century like all peripheries the Afar people suffered from imperialist intrusion. Although they were exposed to foreign invasion, they were very powerful in the 16th century because they managed through their leader - Sultan Mohammed Gragne – to conquer the Abyssinia Highlands between 1542 and 1647. From 16th century onwards, the power of the Afar Emirates declined and disintegrated due to various factors such as the Christian empire's political power expansion; the invasion of Afar land by the Oromo expansionist; and the control over islands in the Red sea coast by Turkish imperialist (Hashim, 2007:67-68).

Hummed (2010:35) states that civil wars between the highland Christian Empire and the low land multi ethnic Muslims of Emirate of Afar had a major influence in the disintegration of the sultanate or sheikhdom. Thus after the 16th century the Afar people had several kingdoms and indigenous government systems in different areas of their territory. Afar have five sultanates, namely - the sultanates of Rahauytto; the sultanate of Tajurah; the sultanate of Awassa; the sultanate of Griffu; and the sultanate of Goba'ad (Hummed, 2010:90).

Hishim (2007:67) states the chronology of the occupation of Afar as follows: between 1847-1866 some parts of Afar was conquered by the Ottoman Turkey; between 1866-1885 Egypt conquered some parts of the Afar coastal areas; during the 18th century due to the colonial

policy (scramble for Africa) the Italians occupied all of the Afar land. But the real occupation of the triangular Afar (those Afars in Ethiopia Eritrea and Djibouti) was from 1869 to 1941 by the Italians; and then from 1941-1952 they were conquered by the British. Despite these invasions the Afars indigenous administration was functioning independent of the colonizers (Hishim, 2007:67).

7.2.1 Relations between the Afars and Ethiopian regimes

Relations until Emperor Menelik II: The fact that the Afars were independent from Ethiopia does not mean that there was no trail to conquer the Afar land by Ethiopian rulers. The relation between the Afars and the then Ethiopia (*Abyssinia*) can be traced back to the era of Axumite Empire's (4th century) dominance over the port of Adulus, a home for the Ankala clan of the coastal Afar sea, which was used as outlet for trade contacts with the outside world. This can be taken as the first expansion of the highland Ethiopians into the Afar area (Hashim, 2007:89).

Like many pastoralists living on the peripheries of greater Ethiopia, Afar was part of the expansion of the Ethiopian state. The neighbouring highlanders had made several attempts to invade the Afar lands, for example in the 14th century king Ba'ada Marian tried to conquer the Afar but he failed. Then in the 18th century two Tigray rulers Ras Sehul and Emperor Yohannis IV attempted to invade the Afar lands for economic and socio-political hegemony. However the Afar successively resisted extensive intrusion of their land by highlanders (Hassim, 2007:96). He also states that although there were some kings who tried to occupy Afar, it had never been materialized. Thus before the 19th century, the Triangular Afar (Afar in Eritrea, Ethiopia and Djibouti) were largely independent of the Ethiopian influence.

The first organized campaign to conquer the Afar land was conducted by Emperor Menelik II in 1895. According to Humed (2010:36), Emperor Menelik II tried to invade Afar but was resisted and defeated by the sultanate of Awassa under Sultan Mohammed at place called Arado which is an indication of the strong resistance by the Afar to the intervention from the centre. Hashem (2010:416) also states that except those areas that boarder the Highlands Kubarta and Awoo, the rest of the Afar nations had never been under the centre (Ethiopia). Thus, until the end of the 20th century the Afar people had an independent indigenous political system, which possess clearly defined geographic boundaries. They had an overall

control of all activities and imposed tax on caravans carrying goods across the Afar land from the sea. Moreover, criminal adjudications were handled by the indigenous mechanisms. In general it was from the 12th to 16th century when the power of Afar kingdoms started declining and disintegrating due to colonization (Hashem, 2010:108).

Afar nation and Emperor Haile Selassie: Hashim (2010:No page number) states that it is after the return of Emperor Haile Selassie from London in 1944 that the British gave Afar to Ethiopia. Thus it was in 1944 that the Afar in real terms joined the Ethiopian state. According to Hummed (2010:36), until 1944 the Afar governed themselves and they had their own indigenous policing. During Emperor Haile Selassie, the relation between the Amoyta clan of Sultan - Ali Mirahi - who had a strong influence within the Afar society was relatively strong.

The domination, marginalization and oppression of the Ethiopian state over Afar people had progressively increased under Emperor Haile Selassie regime. This was in part due to the introduction of motor vehicles after World War I because vehicles enabled the emperor to tighten his control over former inaccessible peripheral regions by quickly dispatching soldiers to any troubled spots within short time. The strong centralization policies of the Emperor highly affected the Afar people in Ethiopia whose region was administratively partitioned into five different provinces as mentioned previously. As the result this partitioning, the Afar constituted smaller minority within the provinces and were deprived their political, economic and social status (Hemel, 2010:35). In 1961 at a place called Tio a conference was held in which 55 tribal chieftain from Dankalia region participated and reached a general consensus regarding the urgency of a quest of the formation of Afar autonomous governance inside Ethiopia comprising those in Hararge, Shoa, Wallo, Tigray and Eritrea but it was rejected by the Emperor (Hemel, 2010:40).

All over the country Emperor Haile Silassie challenged the position of the aristocracy and regional lords by attempting to restructure the feudal system. He created modern centralized administrative and security systems, abolished regional feudal armies, and levied uniform tax to support this centralization and modernization policies. The most important accomplishment of the emperor in Afar include the expansion and modernization of the army, strengthening and opening up new ministerial offices including the police, reorganization of

provinces and provincial administration and the employment of salaried civil servants by the government (Hashim, 2007:131).

During Emperor Haile Selassie the relation between the Afar people and the central government of Ethiopia were such that the central government used to appoint its own representative as governors, tax collectors and agents of the central government at local levels including modern policing. These government appointees were strangers to the area in terms of their culture, values and pastoral economy. Thus, these governors in turn depended on local Afar clan leaders to govern and maintain smooth relations with the local pastoral Afar population. Their control over the people was through the clan lineage and *fe'ema* (leaders) (Kassa, 2001). These local leaders were recognized as representatives of the Afar people. Despite this strong relation between the Emperor and Ali Mirahi (Sultanates of Awsa) the Afars used to preside over an effective juridical machine, supported by the sanction of their army and their own indigenous police (Lewis, 1955:166).

Relations during the *Dergue* regime: After the fall of Emperor Haile Selassie, president Mengistu came to power and the contradiction between the Afar people and the *Dergue* become apparent from the beginning. The ideology of communism and the land nationalization proclamation put the *Dergue* at odd with the Afar people (Hashim, 2007:426). Since the 1970s the Afars have been preoccupied with the long struggle to the realization and the quest for self rule as well as the struggle for the fair allocation of national resource and to be represented and to participate in the governing coalition in the centre (Hummed, 2010:42). However the 1974 popular revolution in Ethiopia brought the military junta into political power and pursued a centralization policy with different political ideology and vigour. Although the *Dergue* abolished feudalism, the centralized imperial character of the state continued. Its subsequent economic as well as political measures did not redress the national socio-economic problems of the Afar people. The seventeen years record of the *Dergue* regime was witnessed as indiscriminate reign of terror against any opposition (Hummed, 2010:41).

Relations during the Ethiopian People's Revolutionary Democratic Front: Following the downfall of the *Dergue* the Afar nation has been guaranteed self determination and became one of the nine autonomous regions in Ethiopian federation. The Ethiopia federalism has

enabled the Afar to establish their own regional state, to govern themselves, determine and administer their socio-economic and political affairs. According to Haji Abdu (Respondent No 6), the Ethiopian nation and nationality that is based on federalism has succeeded to provide an effective remedy to address the problem of ethnic inequality and ended the feeling of subordination and exclusion from governing coalition in the centre. Hummed (2010:27) states that in terms of the constitution of Ethiopia all sovereign power resides in the nation, nationalities and people of Ethiopia. The Federal Government is formed and hold together by devolution of the formerly unitary state and constituent units of federation that had no prior existence as independent and sovereign states.

Since 1991 Afar has been active both at region and federal level and this is reflected by their representation at the ministerial position and Ambassadorial positions. For the first time they have been represented in eight seats in House of People Representative and in two seats at House of Federation in the Federal Parliament. This indicates that the Ethiopian federalism has not only addressed the quest of self rule for the Afar people, but also addressed their quest for fair representation in the federation.

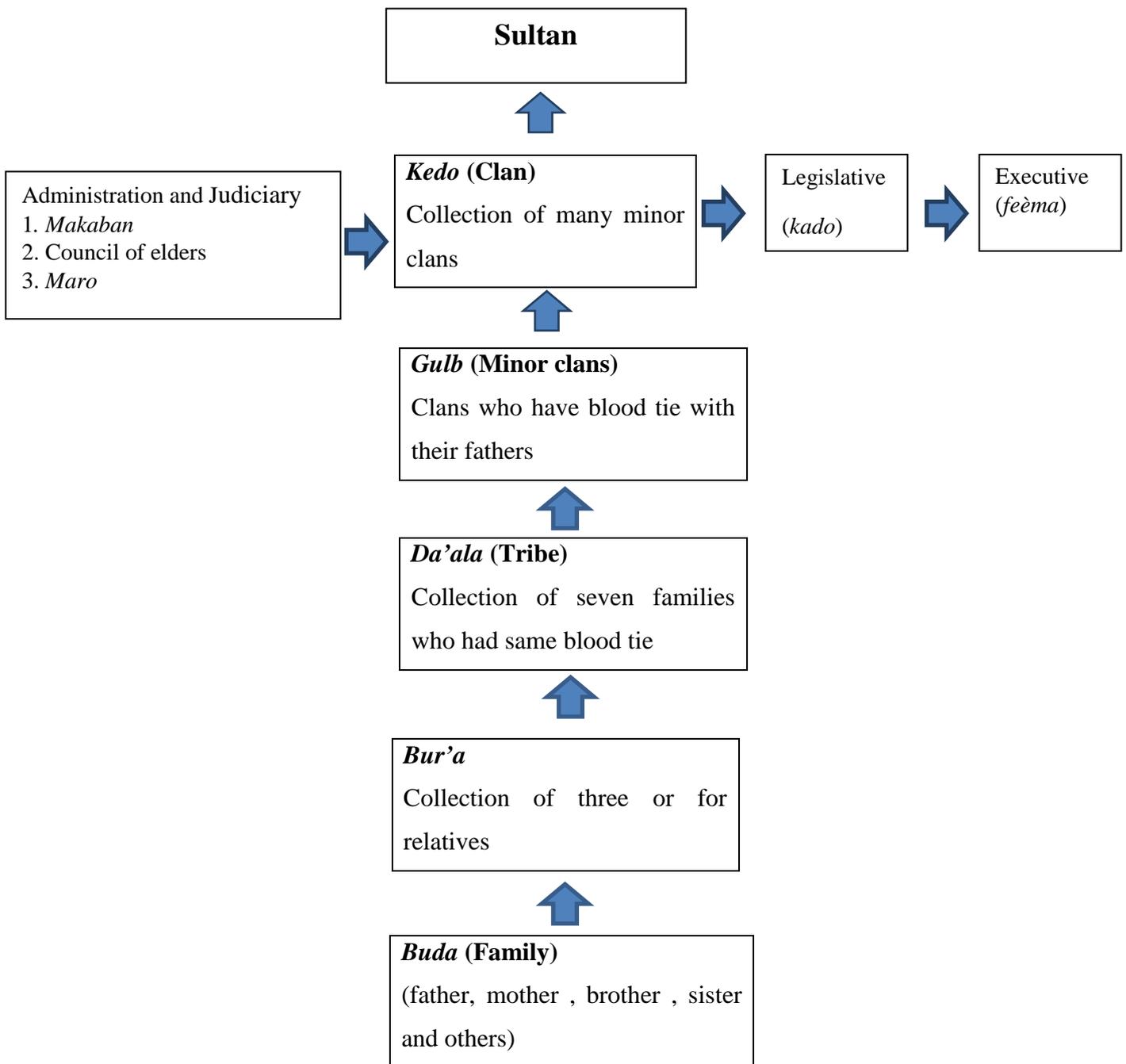
7.3 SPECIFIC FINDINGS

This section will present the both literature and empirical findings of the study categorising them into findings that relates to the previously stated research objective (7.3.1) and those that relates to the previously stated research question (7.3.2). This is done in order to determine whether the previously stated objective is reached and that the previously asked research question is indeed answered.

7.3.1 The Structure and Functioning of the Indigenous Policing: Indigenous Administrative setup of the Afar Nation

The indigenous institutions of the Afar carry not only administrative work, but also the administration of justice including indigenous policing. The Afar indigenous policing do not operate in isolation from the general Afar administration. Thus, it is important to briefly discuss the overall administrative structure of the Afar nation. The Afar administration is classified into three branches of political structure as reflected on table 6 below: namely - administration and judiciary; legislative; and executive.

Table 6: Afar's political structure



Different layers of the families: In the social matrix of the Afar, family is referred to as *buda*, which denotes a much wider meaning than that which is conveyed by the English word family. It is more of a lineage group, with married members attached to it. The Afar economic, social and administrative ties start from family and goes upwards as indicated on

table 5 above. The first organization (*buda*) consists of husband, wife, children and other family members and it is led by a husband. At the second level (*bur'a*) usually members of a family living in the same area, who move together in search of water and grass, who keep their cattle together and who have strong social bond are included and they are led by an oldest member of this group called *Bur'a Aba*. The third level is collection of *Bur'as* called *Da'ala* and led by *Da'ala Aba*. The fourth level is collection of *Da'alas* who have blood tie by their fathers and called *Guld* led by *Gulb Aba*. The family union is important for the general administration, justice and indigenous policing (Aberra, 1998:50; Focus Group Discussion, 2013; Mahamed Algani- Respondent No 2).

The clan Structure (*Kado*): The next unit on which the social structure of the Afar people is built is the clan. The names *gulb nafta* and *kado* are also used to denote this unit in different parts of Afar. The researcher has preferred *kado* to refer to the clan. In Afar societies there are about fifty major clans and about 100 sub-clans (Kahsay, 2007:56). Some of the major clans in Afar are, Dahimela, Dammohoytta, Hadarmo, Dulliussuiva, and Haddu that are found in the northern part of the region; Arabtta-Asa'bakary, Nasaar,ma'dasarra, Ankeba, Aydahisso, Ma'andita and walwalu are found in the central part or Awassa-zone of the region; Harkamela, Ayrol'asso, Hasoba, Rakba-Dermela, Mafay, Madiima, Moday and Mesaara are found in Southern part of the Afar region (Mahamed Algani - Respondent No 2; Hummed, 2010:35).

The clan structure is the most important political and social unit in the Afar culture. The clan as a social organization serves as a nucleus for administration, to conduct social activities and justice system among clan members. Issues that affect members of clan are discussed and decided collectively. The guidance and leadership of clan leaders are vital in time of great difficulties such as in times of war when a family is endangered by external attack, etc. As it is mentioned above, there is separation of power in the Afar society. As such within the clan structure there is judiciary and administration (*Makaban*); legislative (*kado aba*); and executive (*fe'ema*) which functions as follows:

- i. **Judiciary and Administration:** The Judiciary and Administration is subdivided into three bodies, namely - *Makaban* (the *Mada'a* central judge); the council of elders; and *maro*. The head of the Afar clan families is called *Makaban*. Under him a *kedo aba* rules each sub-clan. A clan head has traditional authority with a prescribed

responsibility and defined powers, which includes dealing with almost all important internal affairs of the clan, particularly the settlement of disputes and economic issues. These clans or tribes (*kedo*) leaders and clan elders are prominent persons ruling the Afar society and are in charge of criminal jurisdiction (UNDP, 2001:3). A clan head is also the chief representative of his clan in all external relation with the state or its agents at local level and in all non Afar neighbours and highland communities (Kassa, 2001:64).

- ii. **The council of elders:** When criminal cases are brought to the *Makaban* (investigative judge), he chooses elders who have the knowledge of *mada'a*. This formed council of elders together with the *Makaban* as the chair person become responsible for resolving criminal cases (Ali Bered - Respondent No 3).
- iii. **Maro:** *Maro* is an assembly of a *Makaban* which consist of the elders, disputants, witnesses and observers who sit in a circle from which the term *maro* is driven from. It (*maro*) is literally the session held under a tree to resolve crimes committed and this structure is considered as council (Ali Arfa - Respondent No 8).The Afar use this institution to resolve criminal cases that ranges from insults to homicide and every civil case without taking into account the amount of money the case involves. With the exception of disputes relating to marriage, divorce and inheritance that are left to the Sharia court mainly in urban area (Focus Group Discussion, 2013).
- iv. **The legislative body (*kado aba*):** The Afars have a legislative body of all clans (*Makaban*) coming together to legislate when there are for example an appeal that is made in cases that are unheard of before. In this case the *Makaban* gathers an assembly that is called *malla*, which functions as a legal body to pronounce new judgments which will subsequently be incorporated into the *mada'a* (Focus Group Discussion, 2013).
- v. **The *fe'ema* institution (the executive):** The term *fe'ema* in Afar language literally denotes “of equal” or “of the same stage of circumspection but not necessarily of coevals.” *Fe'ema* is a multi-purpose institution that serves the Afars as an avenue of securing peace and order among themselves. It is also a participatory floor for different group associations of the Afar people. This indigenous body is used as an enforcement mechanism of the *mada'a* indigenous legal system and its adjudication process (Kahsay, 2007:44).

7.3.1.1 Sultanates

Among the Afar the sultan is known as *Omowate* or *Amayta*. The Afar people's indigenous administrative structure and political leadership has historically been divided into five various sultanates. There are the Tajurah sultanate centred in Djibouti; the Rahauytto sultanate along the border of Eritrea and Djibouti, the Awassa sultanate centred in Aysaita; the Griffu sultanate centred in Bilu which are located along the border of Ethiopia and Eritrea, and the Goba'ad sultanate which are in Djibouti-Dekel. Although the influence and integrity of the sultanate is declining due to separation of Afar into three countries, they are still recognized as providers of political and indigenous leadership (Hashim, 2007:49).

The Afar indigenous law (*mada'a*): Historically, at least three separate but interrelated sources of legislation constituted the Afar legal system, namely – *mada'a* (indigenous law); modern law; and Sharia (Islamic) law. *Mada'a* is based on jurisprudence and stipulates the scale of compensation for various types of offences and crimes committed within the community. It generally determines the nature and type of crimes, and the degree of responsibility together with the corresponding penalty. Sharia is secondary to indigenous law and *kadi* (Muslim judges) are only consulted for civil affairs matters like marriages and divorces. Modern law is mostly used in some urban areas and when the crime committed is between the Afar and outsiders (Mohamed Algani-Respondent No 2; Ali Bered - Respondent No 3).

There are two broad types of *mada'a* in Afar called *Afare* and *Adale*. *Afare* is used to resolve crimes committed within Afar society itself and *Adele* is used for crimes committed between Afar and other social groups (Haji Abudu - Respondent No 6). What has to be noted also is that the *mada'a* varies from tribe to tribe and has complex rules. In Afar the *mada'a* is further broken down into smaller segments of five categories, namely - *bur'uli mada'a*; *buidetoh badeh mada'a*; *afk'ek-ma'adeh mada'a*; *boayta melah mada'a*; and *dibinek wa'ima mada'a*. These laws are named after the tribes which took the initiative to organize conventions where laws dealing with certain crimes or antisocial behaviour were adopted. Although through the passage of time these laws got practiced at different places and were given different names, there is no significant difference among them (EJLRI, 2001:1). According to Redo (1973:4), *mada'a* is governing the day-to-day activities of the Afar people of which *bur'uli mada'a* has existed for more than 350 years and is widely accepted and adhered to still today.

The legislation process: *Mada'a* was first legislated at the place called 'Dida' near Red sea by clan leaders and endorsed at Griphone, which is a place found in Afdera district in Ethiopia. According to Haji Abudu (Respondent No 6), eight clan leaders gathered and endorsed it to be the law by which the people of Afar will be administered. In the event of major litigation or of a previously unheard-of-case or when the various clan leaders have been unable to impose their judgment on the litigants, an appeal is made to the *mada'a aba* (the father of the law). Most of the time a *kedo abba* is chosen based of his knowledge of *mada'a law* and is backed by other elders. When appeal is made to him in unheard-of-case, he gathers *malla* (an assembly), which functions as a legal body to pronounce a brand-new judgment, which in turn will be incorporated into the *mada'a*. Hajrulata Ibrahim (Respondent No 4) states that although the Afars formulated *mada'a* through their assembly, the late Fitwarari Yasin Mohammad made efforts to put it in written form. What he collected from the memories of the Afar elders has helped to preserve the *mada'a* for future generations. The Focus Group Discussion (2013) with elders and *Makabans* (judges) revealed that there is no reference to written rules when cases are dealt with but reference is made to previous decisions and the knowledge of the *mada'a*.

The objective of indigenous Afar criminal laws: Kahsay (2007:35) states that the Afar indigenous laws are derived from the custom (a repeated practice of what people do and accepted by the community as governing principle and hence binds the society as a violation of which entails social consequences and even punishment). These rules are based on conceptions of morality and their effectiveness depends on the approval and consent of the people. As illustrated in chapter 3 it is a manner of resolving crimes committed with its emphasis on compromise, reconciliation and adjudication. Thus, the objective of the Afar indigenous law is to strike a compromise in an attempt to restore peace and order. The person or party who suffered the consequences of the offense is compensated and the offender fined. At the end of the resolution the disputants feel that the restoration has been done and the process aims at reintegrating the offender into the society is initiated.

7.3.1.2 The content, essence and principles of the Afar indigenous law

The unofficial collection of some contents of Afar *mada'a* shows that criminal acts are classified mainly into three ways. The first classification consists of: *eido* (crime on life);

aymissiya (crime on body, such as injury); *rado* (crime on property); *sammo* (crime related to adultery); and *Oaffu* (crime of insult). The second classification consists of: crimes committed using hands, for example - murder, beating, robbery, theft, arson; crimes committed using legs, for example - taking some body to crime; crimes committed by reproduction organs, for example - attempting or having a sexual intercourse with a girl who one does not have a love relationship with; crimes committed using tongue - insults and disparaging and humiliation. The third classification relates to the nature and gravities of the offence such as *amidi or gorhi* (intentional murder), organized theft, rape, etc which are considered grave crimes (Mahamed Algani; Haji Abudu; Esmael Derso - Respondents No 2, 6 & 7).

According to Jamaludin (1973:6) and Mahamed Algani (Respondent No 2), the *mada'a* classifies the homicides case into three major categories as follows: *Amidi or gorhi* (Intentional murder) implies an act of killing a person with adequate and relatively long preparation which has not shown a sign of regret. The second instance being *gafan* (homicide) implies an act with no preparation but caused by disagreement and spontaneous conflict with subsequent deep regret. The last instance being *gerhi* (unintentional act) having no idea of killing but caused the death through accident i.e. accidental deaths. According to Mahamed Algani (Respondent No 2) - who is one of the few experts on the Afar culture – the *mada'a* of Afar is distinguished by its details. For example as seen in the table if we take the crime of injury to the body it is treated differently. Cutting upper lip and Cutting major finger are treated differently. Some of the penalties that are imposed for different crimes are indicated on table 6 below.

Table 6: Penalties for different offences

Nº	Type of crime	Punishment /compensation
1	Hanging standing man	1000 goats
2	Hanging seated man	15000 goats
3	Hanging sleeping man,	2000 goats
4	Hanging women	300 goats
5	injury to the body	750 goats

6	Cutting upper lip	250 goats,
7	Cutting lower lip	270 goats,
8	Cutting major finger	300 goats
9	Cutting other fingers	300 goats
10	Extracting upper teeth	120 goats
11	Extracting lower teeth	120 goats
12	Destroying jaw	80 goats,
13	Breaking ribs	40 goats
14	Breaking ankles	140 goats
15	Cutting female breast	150 goats

Source: Mahamed Algani (Respondent No 2)

7.3.1.3 The essence and principles of *mada'a*

Among the people of Afar, *the boreli wodani bidito mada'a* (indigenous law principles) governs human relations and protection of animals. Some of the essence and principles of the Afar indigenous laws (*mada'a*) are: **Collective responsibility** – when crime is committed the focus is on the clan rather than the individual who committed the crime. This makes it possible to hold the clan accountable even if the individual offender cannot be identified. EJLRI (2001:6) states that even though the actual offender is not identified, it is not difficult to find a responsible body because if the place of commission is identified, the clan living at that place is made responsible for the crime and they are also responsible to identify the real offender, otherwise the clan takes the responsibility. Aberra (1998:56) emphasise this by stating that the normative behaviour of the Afars, including the taking of life is determined as a group because *mada'a* does not blame the criminal only, but the whole clan is responsible for crimes committed by members of the clan.

Injury and subsequent death – A person who injures another person is held accountable unless if such injury emanated from a sporting activity. If a person who has been injured by another dies on the way to hospital for whatever other intervening circumstances, the original

injurer is held accountable for that death because it is believed that should the original injury not have occurred the person could not have died (Focus Group Discussion, 2013; Esmael Derso –Respondent No 7). A person who has killed another has to hide himself in the abode of the tribal leaders until matters cool down. After that he would have to go to his own clan to arrange negotiations for the settlement of the blood feuds (Ali Arfa - Respondent No 8). Kadir Hussen and Esmael Derso (Respondents no 1&7) stress that when a crime is committed the clans involved would have to solve it through mediation and compensation. Only children and females get excluded in resolving committed crimes (Focus Group Discussion, 2013).

Like the modern laws, the Afar indigenous laws are based on commissions and omissions and imposes heavier sentences on intentional rather than unintentional acts and the imposed sentences do not include capturing and imprisonment (Kadir Hussen - Respondent No 1; Focus Group Discussion, 2013). There is also a provision to punish people who did not commit crime but saw it happening and did nothing to stop or report it because this is considered as an act of collaborating with criminals (EJLRI, 2001:3).

7.3.1.4 Remedies and punishment

There are four types of punishment that can be imposed in terms of the Afar indigenous law, namely: Expulsion from tribal membership - this is the heaviest penalty that might be imposed by any indigenous court having the competence to try serious crimes (Focus Group Discussion, 2013); Vengeances - is ordered in exceptional and rare cases such as where a person who committed murder disappears and the case is heard in his absence. In this case *Makaban and maro* (indigenous court sessions) might decide that the murderer be killed to avenge the death. The clan of the offender usually accept such decision to avoid vengeance on their other members (Mahamed Algani; Hajrulata Ibrahim; Haji Abudu; Ali Arfa – Respondents no 2; 4; 6; 8).

Death sentence – The Focus Group Discussion (2013) indicated that although for intentional murders death sentence is considered as another form of punishment, it is seldom used because it is not regarded as giving a person a lesson. Compensation – for crimes such as theft, raping, etc punishment in the form of compensation is made. *Marusso* (imposing fines) – for other property crimes the offender is required to pay three fold to the individual whose property is stolen.

7.3.1.5 Afar Indigenous Criminal Procedure

Under *mada'a* (indigenous law), crime resolution process follows the following procedure: an assessment to determine whether crime has been committed; identification of the victim and the perpetrator; and then this is followed by the resolution process which according to Fitawrari Yasin(interview) in Jamaludin (1973:4) operate as follows: the plaintiff lays the complaint with the judge (*Makaban*) and the judge fix the date and place of the case; investigators are appointed; the cost for the meals is dealt with; complainant and defendant present their cases; the judge and the investigators discuss the case in details; and judgement is made. If the clan believes that the accused has indeed committed the crime they can talk to the judges to sentence him even if he denies the allegations (Mahamed Algani - Respondent No 2).

The Afar indigenous law system has unwritten rules of procedure and does not make a distinction between the procedure applicable to civil and criminal cases and conflict resolution is a collective responsibility. Any member of a clan who comes across conflict between two or more individuals has the moral obligation to try to reconcile the disputants. If they do not accept the proposal of reconciliation or the committed crime is grave, the injured party or anyone who witnessed the occurrence of the dispute can bring the case to the *Kedo Aba* of the sub-clans or *Makaban* of a clan depending on the gravity of the case (Kadir Hussen - Respondent No 1; Focus Group Discussion, 2013).

If a person died before it is proved that he/she is guilty, then execution of the punishment is terminated but if a person died after it is proved that he/she is guilty, then his/her family will still be required to pay the fine (Focus Group Discussion, 2013). If the witness is a relative of the accuser, he can give his witness but the accuser must find other witness in addition to this one. Alternatively the accuser acts both as accuser and witness by oath on Quran, as it is considered that the accuser found no witness (EJRI, 2001:6). Children below the age of 15, women and persons who are considered not able to explain their case are not allowed to give testimony in front of the *maro*, and must be represented by an elder from their clan or by her husband in a case of married woman (EJLRI, 2001:6).

7.3.1.6 Indigenous investigation methods

There are different ways of reporting crime in Afar, the primarily one being where an offender who admits his offense takes the initiative to report to his clan leader to solve the problem. Secondly, if the defendant denies the charge in serious crimes, the injured party or anyone who witnessed the occurrence of the crime can bring the matter to the *Makaban* and in most cases the case is presented by clan or sub-clan leader. Thirdly, a third party who is directly or indirectly concerned with a particular dispute may also report such an act to a selected indigenous investigators and takes the initiative for their conciliation process. Women often report the wrongful acts and misbehaviour of their husbands to the *Makaban* and demand that they organize proceedings for them (Focus Group Discussion, 2013).

The investigation and arrest procedure: When serious crime like murder is committed the offender and his family may confine themselves to custody without being imprisoned by going to a clan leaders homes and staying in custody. This action indicates regret on the part of the murderer and as a result no revenge can be taken against him or his family. Until the case is fully investigated and the decision reached the two parties are not allowed to meet in order to minimise revenge killings (EJRL, 2001:I5).

Investigators: An investigator can be any person who comes across crime and has the obligation to resolve it as indicated before. The categorisation here include the **family** - When someone is suspected of having committed homicide and he is not willing to confess, the family of the suspect take the responsibility of investigating the case. Three persons from the father's line and two from that of the mother constitute the full investigating body (Focus Group Discussion, 2013); **Sub-clan chiefs (*kedo aba*), *Makaban***- There are sub-clan chiefs called *kedo aba* who also investigate and hear minor criminal cases that arise within the sub-clan. About 15-20 sub-clans exist under each major clan. Except for crimes like the theft of camels and homicide, which come directly to the *Makaban*, all crimes that arise within the sub-clan and between the sub-clans are investigated and resolved by the *kedo aba* of the sub-clans (Mahamed Algani - Respondent No 2); **Inter-clan investigators** -When crimes are committed between members of different clans the *Makaban* of one of the disputant clan bring the case to the *Makaban* of a neutral clan before the conflict can cause serious damage (Focus Group Discussion, 2013).

The *Makaban* to whom the criminal case is brought selects elders who can help him in investigating the case and fix the place and date of hearing the criminal case in the *maro* (a session where the elders, disputants, witnesses, and observers are gathered under a tree). The *Makaban* starts the proceeding by requesting the disputant to bring a *habi* (gurranter), who guarantees the good behaviour and acceptance of the decision by the *Makaban*. The *habi* may be a member of a family or sub-clan chiefs of the disputants. Indigenous police investigators attempt to prove the truthfulness of cases through information secured directly from the plaintiff and defendant. Both parties are expected to be honest in providing information and to be reasonable in claiming and counter-claiming certain issues (Kahsay, 2007:67).

After the disputants nominate their *habithe Makaban* gives the first chance to the plaintiff to explain his case. The plaintiff may personally explain his case or select a representative, usually a chief of his clan, to speak in his name. Unless he admits the allegation the defendant or his representative is given the chance to explain their version of the case after the plaintiff complete his presentation. After hearing both parties, the *Makaban* may give the second chance for both parties to rebut, if possible, what their opponents say. If there are witnesses named by the plaintiff the *Makaban* asks them to explain what they know about the crime. If the witness is not present in the *maro*, the *Makaban* orally order his appearance and adjourn the case for another day. The plaintiff or any one that hears such order informs the same to the witness. The witnesses appear in the *maro* by respecting the order of the *Makaban*. The people of Afar take as their religious obligation to give testimony on what they witnessed and never hesitate to accomplish this duty (Kahsay, 2007:45; Focus Group Discussion, 2013). The defendant has the right to cross-examine the testimony of the plaintiff's witnesses and the plaintiff has the right to cross-examine the testimony of defendant's witnesses as well. All the criminal cases in *maro* are made in public irrespective of the nature of the dispute (Lewis, 1984:96).

7.3.1.7 Specific investigation methodologies

The life of the pastoral majority in Afar is characterized by communal social structure where an individual exhibits a considerable sense of communality intertwined with autonomy and self-esteem (Siseraw, 1996:43). Pastoralists basically depend on livestock and livestock products to make living and they hardly make permanent residential settlements because they

move from place to place to ensure that their stock have enough to eat. This makes them to leave a simple and less technologically influenced life.

According to Mahamed Algani (Respondent No 2), the family is divided into three herding groups as they move from place to place. The most able-bodied follow after camels and normally travels long distances. The youths and elder men following after cattle to less distances while females and younger boys/girls rear sheep and goats around the temporary houses. This division coupled with a usual tendency of the people to go to the unknown places necessitates the need for factual and reliable information to be used as a base for making important decisions in regard whether there is peace and order as there is possibility of facing clashes with neighbouring clans if one moves cattle in a certain direction. Afar people acquire important information such as the availability of water or perilous wild animals in places that they are planning to move to through *dagu*.

Dagu: According Mussa Mohammed - Head of the Department of Culture in the regional office of Culture and Tourism – *dagu* is a traditional mode of communication which is meant to address basic questions regarding situations such as availability or shortage of rain, the prevailing peace, or anything affecting the lives of the Afar people. It is a well organized indigenous channel of communication where two or more people exchange current information in a much disciplined manner.

Gulilat (2006:56) who has done an extensive research on *dagu* states that *dagu* works like an internet for the people of Afar because it transmit information among the people through mouthing. The information spread wide and rapidly and tend to be heard as far as Massawa or Djibouti (ports in Eritrea and Djibouti respectively) in two or three day's time. Sending false information is an absolute social taboo as far as *dagu* is concerned. According to Morell (2005:41), *dagu* is more than a village gossip and the latest headlines. Instead, in a ceremony of handshakes and hand kisses, the Afar pass along recitations of all that they have seen and heard, a poetic litany that can be almost Homeric in its detail and precision using the two common phrases “*Iytii maha tovie?*” and “*Intii maha tubilie?*” (“what have your ears heard?” and “what have your eyes witnessed?”). Even though there is a somewhat similar oral and face-to-face communication in other communities such as the Kereyou, Oromo, and Issa Somali

ethnos, theirs do not reveal the rigour, discipline and social value that the Afar's *dagu* enjoys.

It is not the intention of the researcher to go deep into the subject as this will need a full research by itself. What the researcher is interested in is the role of *dagu* in indigenous policing. While the respondents and Focus Group Discussion revealed a lot of relevance of *dagu* in their social economic and political lives, what is of much relevance to this topic is the way the Afar people employ the *dagu* as a means to ensure safety and security of the clan, that is crime prevention, investigation and law enforcement.

It is through *dagu* that the people of Afar learn of any new comers to their desert, hear the news of missing camels, caravan, new alliances and betrayals, of the latest battles fought, and the condition of the trial ahead. They learn about what has changed in a changeable land, and in the world at large, and from all this, they peak a course of action. Those who pay closest attention to the news, they say, may go on to survive (Mahamed Algani – Respondent No 2). Mahamed Algani (Respondent No 2) further states that:

“One important point to remember here is that life is not just a peaceful journey for Afar people. Inter-clan, ethnic clashes as well as raids and counter raids happen in different places. As a result, everyone passing through our village is thoroughly inquired and investigated using extended dagu. We do so to avoid any possible damage that can be done by any person to our clan or our people. If we welcome a passerby who is a wrong-doer without detailed inquiry on his background, we would be out of context to tell who he was, where he was from, which clan he belongs to etc. In such instances, either the blame would fall on our shoulders for letting wrong-doer pass freely or we might be suspected for the wrong deeds. Detailed dagu is held to avoid such risks.”

To emphasise the importance of *dagu* in the investigation of crime, Gulilat (2006:53) states that if someone treks a stolen camel, he cannot avoid being part of the *dagu* and any Afar who welcomes a person as a guest must investigate to find out the fact about

the guest's mission. If he feels unsatisfied with the logic of the guest, the guest will be sent to elder men or clan elders (*makabaan*) for further investigation. If the host carelessly let the guest leave without doing so, he will be liable to a punishment of up to 12 goats as compensation for those who are searching the lost camel as he failed to discharge the social responsibility the clan bestowed on him as a member.

Another important role of the *dagu* in the resolution of crime is that information which is collected through *dagu* is forwarded to an eloquent clan leader or representative (*kedo aba*) who argues in favour of a man of his clan who is accused or who accuses someone else for wrongdoing. Then arguments are presented from both sides until consensus is reached between the two parties. Investigators evaluate which *dagu* is more relevant for reaching a conclusion of the case (Mahamed Algani – Respondent No 2).

Foot prints: The Afar *madda* (investigators) try on their own to find the possibility of getting evidence through foot and hoof prints. The mechanisms are to designate any person who has the skill of detecting the foot / hoof prints so as to trace the location. In this respect even the judges also participate in this process (Ali Bered – Respondent No 3). Especially in theft cases, the hoof prints are found visible until at a certain place where they become invisible due to various factors. The last area where the hoof prints are observed would be liable for the lost animal (Hajrulata Ibrahim; Haji Abudu; Ase Hussen- Respondents no 4; 6; 9). When such instance occurs, the clan leader (*fe'ema*) summons the community of the village and this community shoulder the responsibility of the lost animal. It is at this stage where every community member exerts his utmost effort to trace the location of the lost animal.

7.3.1.8 Crime causation and resolution in Afar

Causes of crime: Like in all other societies, each level in the Afar social structure - extended family, lineage, clan – get involved in divisions, conflict and competition. What get emphasised in order to manage these tensions is the solidarity and dealing with the rivalry that go beyond individual animosities, thus creating rights and obligations for the peaceful

co-existence of the society. The values prevalent in this type of society that can be a cause for crime can be summarized as follows:

Farmland and grazing areas - Shortage of farmland and grazing areas are among the major problem of the Afar. Consequently, competition over farmland, boundary of farmland and pasture are common and often lead to disputes and crimes. For example the competition to control access to scarce resources pasture and water as well as the competition over territory is the fundamental causes of the conflict between the Afar and Issa ethnic groups. In addition, the historical animosity and the hatred between both ethnic groups (Afar and Issa) are considered as the major causes of inter-ethnic conflict. Lastly, ethnicity or ethnic overtones do also constitute the basic causes of the conflict in certain cases due to the fact that the Afar and Issa are both indigenous societies where ethnicity is an important basis for identity and group competition (Hummed, 2010:67).

Waydal as a cause for crime - *Waydal* is a collection of stones in a form of a pyramid which symbolizes that revenge is not yet done. The essence of the culture is that when a person is killed the family of the deceased do not bury the body, but lay it on the ground where every family member put a stone on the deceased promising to revenge. This heaping of stones on the deceased continues until the revenge is done or reconciliation is archived and it is only after this that the body will be buried. According to the Focus Group Discussions (2013), *waydal* culture has been one of the main causes of crime because it always encourages the clan to take revenge.

Honours – Honour as a source of crime involves the actions that are taken in order to defend the humiliation of one's name or the women's virginity before marriage. Hence actions that emanated from the defence of one's honour is highly valued and in Afar community these actions often lead to crime.

Minor disputes - Disputes that occur among members of a clan and lead to crime usually arises from minor incidents like insults and quarrels.

Crime prevention: Afar has a social organisation that execute sanctions; supervise the executions of the decision and other activities of the members who maintains peace and order in the community and working closely with the clan leader and elders called *Fe'ema* (Wako,

1997:11). This organisation also serves as a defence of clan land and other resources. Mahamed Algani and Ali Bered (Respondents no 2&3) state that when there is a decision to be executed on a clan, member or any sort of community tasks to be done, a *fe'ema* leader and/or his deputy will call upon *fe'ema* members with the peculiar cry *fataha* (a call to duty) early in the morning. On hearing the sound *fe'ema* members would duly head to the residence of their chief or deputy where they will be given an order to enforce a specific duty or the decision to be executed. Although the Afar indigenous legal system is not organized in material and human force as that of the modern legal system, there are groups consisting of 30-40 youth called *Fe'ema* to implement a decision. These bodies have the duty of frightening the offender who refused to implement the decisions through methods such as immersing the person in the water and previously they used to torture the person.

Fe'ema also serves as a riot control structure in the disputes between sub-clans but this usually happens during the *kuiso*-yearly spot activity- (Mahamed Algani – Respondent No 2). It is also used to patrol the new areas that the Afars have just moved into to prevent an attack from outside. The number of *Fe'ema* varies from one clan to the other and it could be comprised of twelve to hundred members. Bigger clans with large population may have more *Fe'ema* than those clans with small population and territories. Furthermore, the effectiveness of *Fe'ema* also varies from one clan to the other (Focus Group Discussion, 2013; Mahamed Algani – Respondent No 2).

The recruitment of *fe'ema* member is often conducted by clan leaders and the head of sanction executing unit (*fe'ema-t-tab*). The members are conscripted from all lineage of the clan to minimise bias that may inhibit *fe'ema* members from performing their functions impartially. Secondly, the principle used in recruiting member is birth into one of the lineage of a clan, kinship affiliation, locality, young and strong men, coeval or circumcised around the same time. Other additional elements considered are of personal character, such as good manners and respect for elders and the Afar values (Mahamed Algani – Respondent No 2).

The resolution of crime: Another important feature of Afar community which is conducive to the resolution of crime is their strong link with spirituality, faithfulness and search for the truth. The insistence by the elders in finding out the truth and their reliance on oath particularly when there is lack of evidence and the use of sacrificial animals indicate the role

of belief systems in the resolution of the committed crimes. One of the key attributes for the prominence of the elders is the commitment to and/or fear of supernatural powers due to their believe that homicide could be hidden only from human beings and not from the creator whose penalties are more serious and long-lasting (Hajrulata Ibrahim & Ali Arfa - Respondents No 4 & 8). Oath as discussed above is the most important mechanism of religious, supernatural and moral principle in resolving criminal cases. Cases are not dismissed on the ground that there is no evidence or that the evidence is not conclusive enough. A defendant or his representative has to prove his innocence by swearing. The failure or refusal to swear to prove one's innocence is an indication that the person is guilty. This system forces the defendant to think in a more serious way before swearing for fear of sin.

When crimes are committed, the clan leaders of the offender promptly bring the case to the *Makaban* of the neutral clan in order to avoid revenge. This action helps to avoid more crimes because if the case is not promptly brought for amicable settlement members of the deceased clan are duty bound to take vengeance by killing any member of the offender's clan, including the innocent. The revenge mostly targets the most important person of the clan even if the person knows nothing about the crime that is committed (Ali Arfa - Respondent No 8). To protect the victimized clan from committing revenge and prevent crimes the *Makaban* will send elderly people a message expressing that they would investigate the crime committed. A search for the culprit is then carried out comprising of a neutral clan leader and other persons who are assumed to know the culprit.

Reconciliation: The final process of the reconciliation is that the criminal's family kneels down in front of the victim's clan members by calling Allah and asking forgiveness from victim's clan. Then the victim's family kiss the criminal family to show their willing to forgive the criminal and his family. Then the criminal clan pays compensation. If possible, camels are slaughtered if not, other food is prepared with drinks. Then both parties sit and eat together and then they declare that they restored the previous peaceful relations. Finally the victim and his clan's good name are restored. Then, the *woydel* (pyramidal structure that is erected when someone is killed by someone else) is destroyed and the body is buried. Ase Hussen (Respondent No 9) states that the *woydel* is not destroyed until an agreement (peace making process) is completed.

7.3.2 The Relationship between Modern Police and Indigenous Police in Afar: Can Indigenous and Modern Policing Co-Exist in Ethiopia?

As mentioned above, modern policing was introduced in Afar in 1944 and the successive Ethiopian governments tried to penetrate and do away with indigenous policing. The resilience of the indigenous policing can be seen by the number of cases that are solved by the modern and indigenous policing as reflected on table 7 below.

Table 7: Cases solved by the modern and indigenous policing

Crime	Total Crime	Resolves by indigenous police	Resolved by Modern Police	Of those resolved by Modern police(case of None Afars)
1. Homicide	2	–	2	2
2. Injury	92	32	60	53
3.Robbery and theft	143	82	61	58
Rape	11	6	5	5
All other crimes	358	2890	169	162
Total	606	409	297	280

Source: Afar Regional Police Report 2012

In 2012 the total crimes reported to police in Afar Region were 2340. Out of this 1995 are from urban (cities) and the rest 345 were from rural areas. What can be noted is that most of the cases that the police are handling are around the cities where the majority of residents are non Afars. The second point is that out of the 2340 cases only 170 have gone to the prosecutor while the rest have been resolved through the Afar indigenous policing system (Afar Regional Police Report, 2012:5).

As it can be seen from table 7 above, out of 606 total crimes reported, 409 were resolved by indigenous policing and 197 were resolved by the modern policing. According to the Afar Regional Police Report (2011:4), 35 homicide cases were investigated by the modern police. The researcher also found that in Dalifze district, 99% of the cases are handled by the indigenous policing and only 1% is handled by modern policing. In the Asseyta district 96% of the cases are handled by indigenous policing and 4% are handled by modern policing. The

role of the modern police is thus mainly confined to control disputes arising between the Afar and non Afar resides in the region, controlling inter-clan and inter-community clashes which could be fierce and difficult to manage by the local indigenous mechanisms.

The researcher also analyses 3 homicide cases that happened between the Afars that were initially dealt with by the modern police but had to be withdrawn from them due to the pressure from clan leaders. The analysis revealed the following:

Case one: On November 2012 there was a conflict in Adamiy to between Afars and Issas which resulted in the loss of life of six people. The regional police, the federal police and higher officials of the regional state were involved in calming the conflict between these two clans. The police and the officials of the regional state played a role of calming the conflict only. To resolve the conflict the two parties in conflict nominated neutral elders who dealt with the case without sending it to the formal institutions.

Case two: Osman Yaed was suspected of killing Handu Abdella in Zone 2, at the compound of Afdera Werrfs ZLake Salt production project, on 22 September 2000. The prosecution witnesses confirmed the commission of the offence by the suspect and the suspect admitted the offence in the confession that he made under Article 35 of Criminal Procedure Code of Ethiopia. After proper investigations the State police referred the case to the state's prosecution office, which prepared a charge believing that there was sufficient evidence to justify the conviction of the suspect. In the meantime elders resolved this case amicably by using indigenous institutions and wrote a letter to the State's Council. In the letter the elders requested the release of the suspect– Usman Yaed. The State's Council accepted the peaceful resolution of the case by elders and wrote a letter to the State's Justice Bureau (Prosecution office) not to institute the charge on the suspect. The Justice Bureau of the State on January 20, 2002 decided not to institute a charge on the suspect accepting the request of the State's Council. The Justice Bureau cited Article 42(1) of the Criminal Procedure Code as the basis of its decision. The Justice Bureau justified its action by stating that the amicable resolution of such a case by the elders was preferable to avoid conflict between the clans.

Case three: The Federal Police operates in the Afar region because this is a region with the main highway from Addis Ababa to Djibouti port which import and export almost all good through heavy trucks. On June 2012 a person who was walking pass this area with his wife was murdered by the Afar. Both the regional and federal police knew who the killer was and completed their investigation. The clan leaders refused to hand the offender to the modern authorities. Because in instances of this nature the federal police - which is the highest law enforcing agency - can do little to bring the offender to the law, a committee formed by the elders was tasked to resolve this matter using Afar's indigenous problem solving mechanism.

The importance to the indigenous mechanism is also asserted by the President of the Afar's Supreme Court - Kedir Husen –who stated that *mada'a* law is better, in terms of speedy and successful creation of agreement between the disputants than the formal legal system that focuses more on punishing the offender. He supported his assertion by providing the following case:

Five years ago, there was conflict between two clans. In the conflict, 10 people were killed from both side and the responsible court sentenced the offenders. After few days, people from both sides crowded the court office and demanded the release of the prisoners stating that if the case is not resolved by indigenous way, sever conflict will arise and more people will die from both sides. Even though there is no legal basis for such demand, he - Kedir Husen - allowed the prisoners to be released after the necessary release procedure was completed. He mentioned that he did that because the aim of the criminal law is to realize peaceful co- existence of the society.

The extent, usage and accessibility of indigenous policing: The people of Afar overwhelminly trust, use and support their indigenous policing, laws and conflict resolution processes within their communities. The community expressed the strong urge of wishing to be able to continue practicing these indigenous mechanisms because they perceive them as being more fair, pro-poor and more accessible than the formal criminal justice system (Ali Arfa - Respondant No 8). The accessibility of the system should also be understood in their context of moving from place to place in search of grazing pastures for their cattle. In this case indigenous policing becomes more suitable as the law is interpreted by their own

members who move with the community unlike formal legal institutions that are fixed at certain places. Indigenous policing operate locally and resolve disputes within specific ethnic groups, in a specifically circumscribed geographic location and most often within a community of people who know each other and live within close proximity.

Regional police commissioners and other police members confirmed that despite what the modern laws of the federal and the regional state expect from the police, the practice and the belief of the people is that the police are there as an institution to complement the function of the indigenous policing system. In general about 90-95% of the Afar people use indigenous policing system to resolve crimes that arise between them, except marriage, divorce and related issues which are resolved by Sharia law.

Justice and legitimacy: The findings of the research demonstrated that the concept of justice for indigenous communities extends much wider than simply punishing the offender. It also includes other important elements such as compensating the victim, restoring harmony in the community and reconciling the two parties. To achieve these, other aspects of justice requires a wide and active participation of community members in the resolution of crime. It is believed that indigenous community members have a strong and clear sense of right and wrong and based on this belief indigenous community members perceive the decisions coming out of this process to be fair and legitimate. They base this on the fact that authority is legitimized through precedent, custom and usage. There are binding codes of behaviour for the leaders and members of the community. Moreover, the election and representation process are important sources of legitimacy of such mechanisms.

Leadership and adjudicating people of the indigenous policing are not elected/nominated on intrigue or forced, but on certain clearly defined criteria such as respect, wisdom, ability, neutrality, honesty, etc. The *mada'a* legal system makes provision for people to recall and change *Makabans* when the disputant parties are not happy and this guarantees this system the trust and confidence of the society. Respondents also mentioned that even in those few cases that are taken to the regular courts they are finally resolved by the *maro* even if the court decided.

Cultures and adaptability: Afars made it clear that the preservation of their culture and traditions (their very survival) is premised on the maintenance of community solidarity. Indigenous policing and criminal law plays a much wider role in this society as it is the main way in which community harmony and solidarity is preserved. This is enhanced by the adaptability of the *mada'a* criminal law which makes it possible to display the culture of the community concerned. *Mada'a* justice system is quicker and cost effective because a case is resolved in one day, or if not possible, it is discussed continuously until it is resolved. There is a broad base for the resolution of the crime because the focus is more on group responsibility than individual responsibility. This also leads to sustainable crime prevention as the clan to which the offender is a member takes primary responsibility for the person's (offender's) act. On the other hand one can question whether the individual offender feels the punishment because the compensation given in terms of livestock or money is mostly paid by the contribution of families of the clan of the offender to the injured party or clan. But when taking into account the different mechanisms that the clan or community deals with, the offenders as discussed above and the restorative principle that underpins their punishment system, there is reasonable inference that the offender does feel the punishment.

Because the investigations and the sentence that is ultimately imposed are all done orally without reducing them to writing, there is the risk on variations and lack of standardization at various places at different times. Although this can objectively be regarded as a challenge, respondents regard this as a flexibility that makes decisions and judgements to be appropriate in that context at that particular time and in that particular place.

Involvement and harmony: Implementing indigenous disputes resolution mechanisms does not require sophisticated structure, but provide a low cost empowering means of resolving crimes within a relatively short timeframe through the selected participants or community-selected mediators and decision-makers. This enables the community members to get involved in the resolution process and keep control over the outcome. Indigenous systems' arbitrators are from within the community and known to the litigants. Those who are selected usually have experience, knowledge or skills in indigenous policing, and they often have a respected and higher status than the litigants.

Due to the fact that indigenous policing is rooted in restoration and harmonious co-existence of communities, its processes goes beyond the punishment of the offenders. That is, after completion of punishment decision and compensation process, it ends the problem and brings agreement and peace between the disputing parties

Decision making: Rapid decision making in the resolution of the committed crimes prevents revenge that may be taken against the offender's family and clan. Coupled with the fact that according to *mada'a* law there is no fear that the offender may escape and the decision may not be implemented. The deliberation of the case tends to give sufficient attention to the punishment and restoration aspects when making a decision, which is something that could be contributing to the success of the *mada'a* law.

Children are taught the *Mada'a*: One of the main reasons that Afar community prefers indigenous policing system is their difficulty to educate their own people on the modern legal system because they are largely a pastoral community that moves from place to place. Children in Afar learn *mada'a* law through exposure i.e. they observe it when it is practiced by the elders and experienced it as it is applied in the community. Through this process it becomes easy for the knowledge of this law to pass from one generation to the other. This is what is making *mada'a* law and ideal law for them as compared to the modern legal system.

Discrimination: Like in any other system, there are also concerns and challenges in the application of the indigenous policing systems that mostly relates to human rights and the rule of law as is applicable in the modern legal system. Some of the rules and procedures applicable may violate fundamental human rights of citizens and accused persons, including the right of equal protection under law. Conspicuous in most facets of the indigenous policing system is its discriminatory mechanism against the women or female in general as they are not allowed to participate directly in the proceedings of indigenous policing. In addition, the *mada'a* indigenous law does not provide an equal protection for male and female, for example - when homicide is committed the fine or compensation imposed when a male is killed is 100 camels, while the killing of a female is fined by half of that amount - 50 camels.

The *mada'a* indigenous law favours women as compared to men in adulterous cases by putting a hefty penalty on man and less on a woman. Even in all sexual crimes, the man will be held responsible for the act even if the woman does it willingly.

There has been a widespread discrimination of minorities (children and non-Afar clans) in political, economic and social spheres. Indigenous policing operates on the basis of indigenous laws and procedures, which may differ significantly from those written and passed by the legislative bodies. Thus, individuals may find themselves convicted of a crime that is unknown to law or subject to a consequence that is not supported by the formal legal system.

7.4 CONCLUSION

This research has been able to establish conclusively that indigenous policing and dispute resolution systems are widely distributed and prevalent throughout Ethiopia. Despite their wide coverage, indigenous policing institutions are localised and serve particular groups. They are built on cultural rules linked to local belief systems, and are based on localized trust among people who know each other in face-to-face communications.

This research has also shown that indigenous policing institutions co-exist with the modern policing system and are very relevant in the day-to-day lives of the members of community within the Afar society. Despite lack of formal recognition in practice, indigenous policing institutions at a local level have strong *de facto* linkage with the formal justice system. This research considers the state of relationship between the formal and indigenous policing system as “coexistence and collaboration without mutual recognition.” There might be a better service delivery if these two systems could be harmonised and be more integrated to compliment each other.

CHAPER EIGHT: THE RESEARCH FINDINGS ON THE IMPLEMENTATION OF COMMUNITY POLICING IN WAJARAT WARADA (DISTRICT)

8.1 INTRODUCTION

As it is mentioned in chapter two, the researcher has chosen two case studies to find out whether modern policing and indigenous policing could co-exist. In chapter seven the chosen case study was the Afar regional state as a whole. Here the researcher found out that the dominant policing style in the Afar regional state is indigenous policing. Modern police do exist but is non-functional, and it coexists and depends on indigenous policing for implementing its mandate. In this chapter the researcher's findings of Wajarat police district where modern policing has been dominant and indigenous policing had been left aside although there are now signs of it being revitalised and being used to implement the community policing philosophy will be presented.

Wajarat police district is found in Tigray regional state on the northern part of the country. Thus the objective of this chapter is to assess the revitalization of indigenous policing as a strategy for the implementation of community policing. The chapter has three sections that are categorised as follows: the first section deals with the back ground on the structural setup and indigenous laws of the Wajarat district; the second section deals with the implementation and how community policing is experienced in this area; and the last section deals with how the community policing and indigenous policing strategy have improved the safety and security of the residents in Wajarat *warada* (district).

8.2 BACKGROUND ON THE STRUCTURAL SETUP AND INDIGENOUS LAWS

Wajarat is in the southern part of Tigray and its inhabitants use the indigenoussystem of administration called *serat hake* and *aquay wajrat esra emba* (roughly translated as the system of administration of the common man), which is based on equality, justice and the truth (Assefa, 2001:379). These people were not happy with the formal hierarchical administrative system that is why they preserved their political and social autonomy for centuries until the forceful subjugation by the central governments of Ethiopia (Burton, 1909:78). Their main reason for the dislike of the formal administrative system was its hierarchical nature where there were provincial governors and their followers at the top

echelons and ordinary people at the lower level. This goes against their indigenous administrative system which asserts that people are born equal so there should be no rulers and the ruled. They also considered the formal social stratum to be unjust, discriminatory and against God's prescription of equality (Focus Group Discussion, 2013). According to Degafi (2007:276), the basic principles behind their agreement of Gra Gorombo (a river where meetings are held) is the opposition to dynasty and their belief that Wajarats should be ruled by Wajarats, not outsiders. To make sure that positions in the structure are not changed into sources of status and privilege, they have a strict tenure system which is short - in many cases one year (Kiros Gebere - Respondent No 10).

Degafi (2008:153) states that the indigenous administrative system of Wajarat people was unique not only to its surrounding area of Tigray, but to the entire Ethiopia. Based on Gra Gorombo (a river where meetings are held) law, they had their own system of administration, unique organisation of women called *debert*, land administration, conflict handling mechanisms, social and economic system, as well as their own military doctrine called *gas* (Hagos Halayu - Respondent No 11). They managed to maintain their own political and justice system contributing to their identity in which their bondage was established.

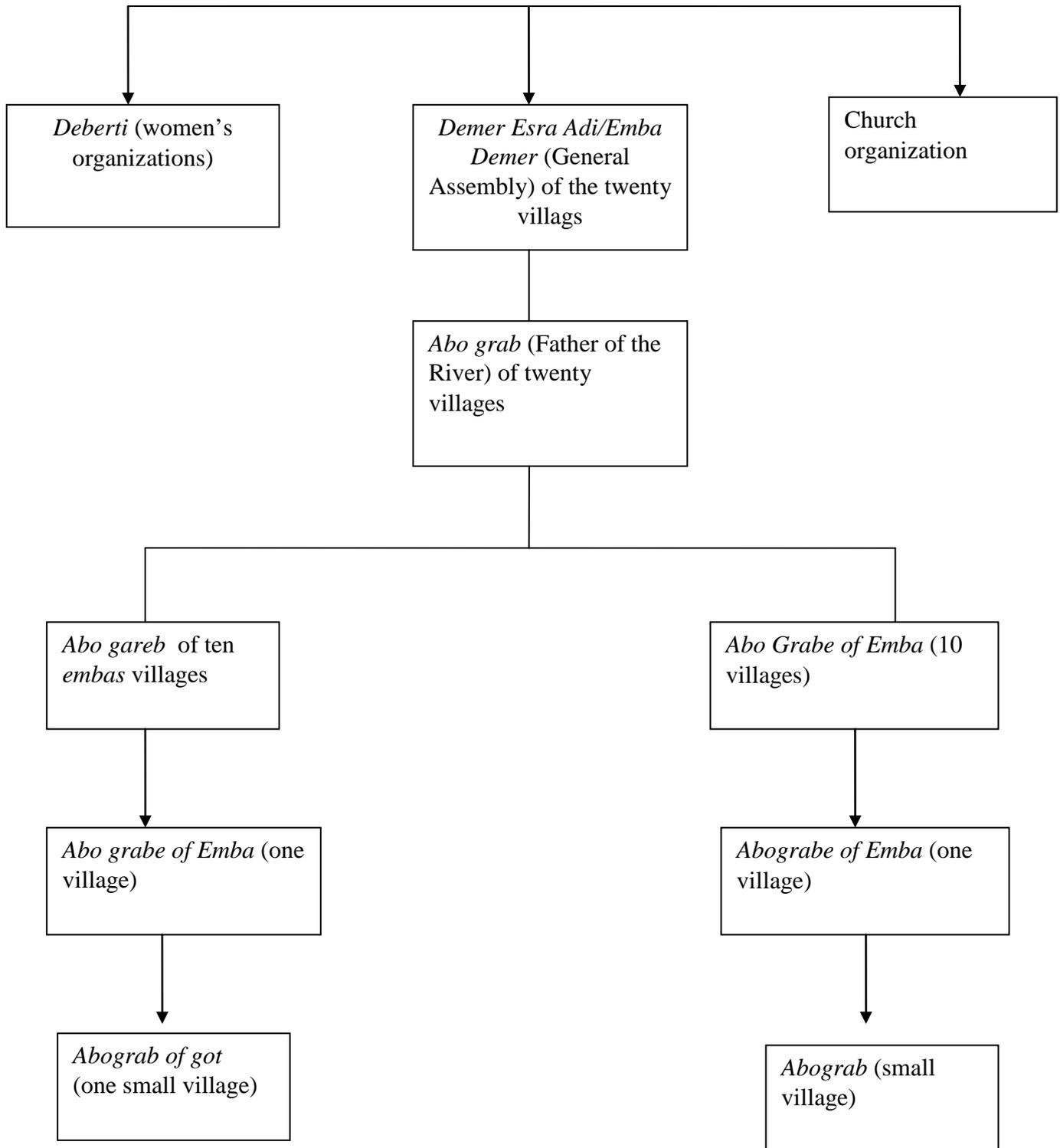
In Tigray, as in many other parts of Ethiopia, the person who thinks that his rights are violated and is in disagreement with his neighbour would utter "*Ziban higi*" (in the name of the law, please...) or "*ziban nigus*" (in the name of the king...) etc. In Wajarat, they utter "*ziban sebari encheti*" (in the name of the herd ...) or "*ziban defai dinkul*" (in the name of the farmer ...) this signifies their determination to be administered under a system where everyone is treated as an equal (Assefa, 2001:379).

This indigenous administration and policing was effectively working throughout the Italian aggression and continued until it was prohibited during Emperor Haile Selassie's era. It was during the time of Emperor Menelik II that the first governmental institution was introduced. In Wajarat however, the structure was not strong enough to dominate the Wajarat indigenous administration. It was in 1935 that Emperor Haile Sellassie who formally institutionalized the central governments representative like *nech labash* (militia) and *atbia dagna* (local administrator) (Dagafi, 2008:153). The indigenous practice was later stopped by the *Derg* rule.

The *Qaddamayi woyyane* (first revolution) which was fought for justice and fair administration assisted in developing *Isira Amba* (twenty villages) system of justice that is depicted on table 8 below and will be discussed later. However, with the decline of the *Qaddamayi woyyane* movement, the system of *Isira Amba* was weakened and its role in indigenous policing was replaced by the similar system of the *demer* (indigenous policing) until the early years of the *Derg* regime (Assefa, 2001:382). During the time of the Ethiopian People's Revolutionary Democratic Front (EPRDF), the *demer* was used to catch bandits, thieves, murderers, etc and handing them over to government institutions like the police and administrative bodies in the region. The former system of dispute settlement has now been replaced by the *Abbo Gareb* (father of the river), which is constituted by the council of elders elected by residents on the recommendation of the government. The current Ethiopian government revitalised the indigenous policing mainly due to the need for conflict resolution between the Afars and Wajarats and on the other hand to use the indigenous policing in the implementation of the community policing philosophy.

8.2.1 The structure and functions of indigenous policing in Wajarat district

Table 8: Political and structural set up of the Wajarat



Source (Dagafi, 2008:134)

8.2.2 The Structure

The structure of Wajarat's indigenous system of administration consists of three levels as depicted on table 8 above. The lowest level consist of *tabia* (sub district) or *got* (small village) that deals with low level matters such as the administration of land that is to be used for cultivation and grazing for newly married couples; border disputes; and the use of water and grazing land between two adjacent *tabia* (sub districts) or *got* (small villages). The *demer* (indigenous policing) of each *emba* (assembly) that make the decision on a particular case elect a person called *Afer Chika* or *Abo garab* (indigenous police) who will execute its decision/judgement (Assefa, 2001:381). Another organ elected by the *demer* of each *emba* is the *Abo Shera* (judge) and his assistants who are responsible for the administration of the grazing land and the environmental issues in general. The *Aserte Emba* and *Adi* (small villages) have to designate spokespersons for the community who discuss or negotiate issues with the government through a complex system that is based on unanimity (Focus Group Discussion, 2013).

The top structure of the Wajarat is composed of *Demer Esra Adi Emba* (general assembly) which consists of the sum total of the two *Aserte Adis* (small villages), which legislates *sirit* (indigenous law). *Sirit* is applicable to the entire Wajarat and is used in deciding all cases and disputes (Dagafi, 2008:153). The method used to select elders for appointment in this structure involves calling the *demer* (which is a meeting of the community) of *Isira Amba* (twenty villages). To ensure the impartiality of the process of election, each *Aserte Adi* (small village) elects not its own delegates but those of the other *Aserte Adi* (small village) and submits it to the *Demer Esra Adi* (general assembly) for approval. Ten villages select ten elders from the villages that are beyond *gera gerewo* (river) and the same approach is used by the other ten villages. The total of twenty elders representing the residents of the twenty villages constitutes the body of the indigenous justice system at Wajarat. The type of case that the indigenous justice system handles includes: murder, theft, rape, denial of paternity, denial of debt, assault, rape, insults, and quarrels between parents and children (Himanote, 2006:17).

According to Abraha Huluf (Respondent No 13), the gathering of the *Demer Wajarat Esra Adi Emba* (the general assembly) commences with blessings of the elders and the process in this forum is to try as far as possible to reach consensus in decision making. Any male

resident of age 20 and above is required to attend the *demer* and failure to do so expose him to serious consequences. Through a system called *hirud* (literally means killed), he will be forced to cover all expenses of the *demer*. In normal cases, anyone who is financially better off covers the cost incurred by the gathering (food and drinks) and at a later stage, every attendant will share the cost and initial contributor thus gets reimbursed. But if one fails to attend the gathering for no good reasons, the burden of reimbursing will fall on him. The *Afer chika*, which is indigenous police, is the responsible person for affecting this in each *emba*.

The main function of the *dimer* (General Assembly) is to serve as leadership in all administrative law matters making judiciary and executions. It is a final appellate for individual's criminal and civil cases to resolve contradictions between *embas* (villages) on issues such as land hearings, security and agreement between the Wajarat and surrounding areas (Degafi, 2008:285). Tamano Gerges (Respondent No 12) states that each *kebele* (district) has its own grazing area, which may at intervals be protected from cattle by selected members of the community. These are 20 people where 2 of these 20 act as leaders and play the role of administrators for the grazing land. In addition to this they are in charge of punishing those who are caught for letting cattle graze on the land, thus enforcing the grazing agreements locally. The two leaders are known as *Dagna Abbo Shera* and in cases where the 20 people who are charged with protecting the grazing area fail to carry out their duties properly, they are made to collect a given amount of money - ranging from 600-1000 birr (Ethiopian currency) which serves as a guarantee or collateral.

According to Alula and Getachew (2008:219), *Abo Gareb* (father of the river) has been and still remains a key administrative and indigenous policing in Wejerat. *Abo Garebs* are elected by the *demer* of *Esra Emba/Adi* (village) for one year and their number could range from three to twelve depending on the nature and complexity of the case. The *Abo Gareb* is a key institution responsible for maintaining security and peace by negotiating with elders of the Afar and leaders of the clans. The *Abo Gareb* has a crucial role in dispute resolution of cases related to homicide, cattle raids, and the use of water, grazing land, robbery, theft, rape and abduction. With the implementation of community policing, it is also involved in dispute resolution within Wajarat itself. *Abo Gareb* are elected by their respective ethnic groups based on their dispute resolution skills, honesty, and acceptance by the community (Focus Group Discussion, 2013).

8.2.3 The Basic Principles of the Wajarat Indigenous Laws and Legislation

In order to resolve conflicts of any nature, be it individual or group, the Wajarat have indigenous institutions that are mainly headed by the council of prominent elders of that locality. According to the Focused Group Discussions (2013), indigenous institutions possess simplified laws for which all members of the Wajarat society owns obedience to. The laws of these institutions regulate cases of murder, rape, theft, injury, looting, and problems pertaining to marriage and also provide punishment depending on the time and place of the commission of the offense (Haimanot, 2006:17). There are many principles and laws that apply to different civil and criminal cases including land, use of water and grazing land, which according to Degafi (2008: 298-301) includes duties such as the protection of Wajarat; choosing leaders every year; and having a say in the decision that affects them; redistributing land every four years. The elderly people resolve these cases according to the laws of respective institutions, and because the indigenous law is not in a written format, everything referred to emanates from the recollection in the memory of the speaker and is presented orally.

All the indigenous structures apply a law adopted by the *Demer Wajarat Esra Adi Emba* (the general assembly) approved in a place called *Gera Gorbo* (headquarters or common place). The people in each locality of Wajarat deliberate on the codification of these indigenous laws in order to make them known to outsiders or strangers (Focused Group Discussions, 2013).

8.3 THE IMPLEMENTATION OF COMMUNITY POLICING IN WAJARAT WARDA

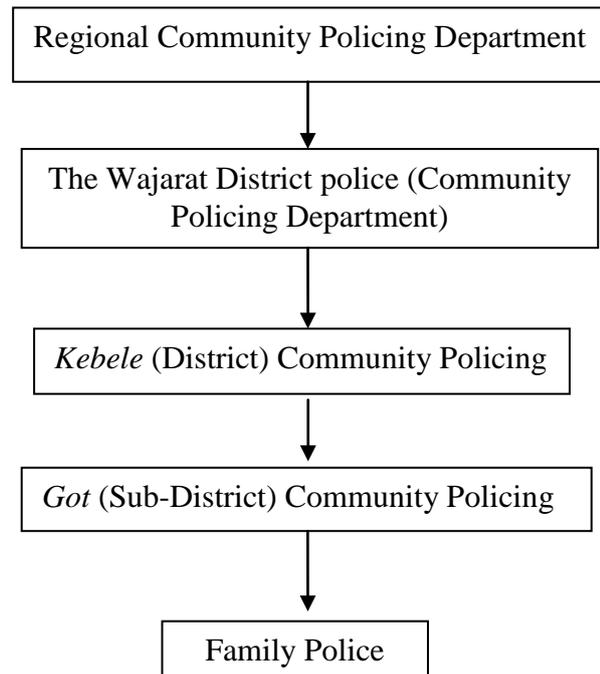
As discussed in chapter 4 in relation to the concept of community policing, the following principles are emphasized: the decentralization of functions, geographic focus based deployment, social activities, creating awareness, organizing the community direct contact with the police, discretionary action and the supplying of social services, resource mobilization from the community (material mobilization, information collection patrolling) and reducing fear of crime to maintain social order and crime reduction. In short the emphasis no longer falls on meeting arrest quotas, but on meeting community priorities and addressing the fundamental causes of crime and social disorder. The following findings are based on the above principles.

8.3.1 Organizational Change

A change in the organizational structure is a prerequisite for the successful implementation of community policing. This structural change requires the flattening of the organization structure to ensure greater autonomy for those members at the lowest level of the line functions, that is, member who are in contact with the community daily. Secondly, the paramilitary and bureaucratic organization model should be changed to an organization model which is in keeping with the needs of the community and which has the rendering of a high quality service as a priority. Simultaneously, there should be decentralization of functions such as management and resource utilization, in order to devolve some decision-making power to the community (Hassen, 2005:45). Based on these principles the Wajarat district police has transformed itself to embrace community policing.

In order to create an integrated practice and coordinated performance on Community Policing, the Wajarat district has developed a strategic plan that help to address the underlying conditions that lead to crime and have focused on long term solutions. The collected documents on Wajarat police district from 2003 to 2004 reveals that Wajarat police tried to develop an organizational structure which address how to gather information, make analyses and synthesize, establish partnership and establishing aims and objectives. Community policing officers have an organized community at the grassroots level (at family level) and have a detailed manual on the profile of the community; environment; hotels, pensions, restaurants, crime places, and recorded crime information. Table 9 below depict the structure of the Wajarat police.

Table 9: The structure of the Wajarat police



Source (Wajarat Police, 2011:7)

8.3.2 Attitudinal Change

The nature of the law enforcement by the police tend to attract a degree of negative attention, so it is argued that police should make every attempt to ensure that the manner in which they enforce the law is perceived more positive than negative by the public. This made the changing of police officers' attitudes and behaviors a priority in Wajarat. Thus, the first selected Community Police officers from the region were taken to the Ethiopian Federal Police University College for training, and they were also trained in the regional police training center. Over and above this training they are also give in-service and refresher training on a monthly basis through seminars and workshops. Of the 97 respondents who were asked whether the police have changed their attitude towards the community since the adoption of community policing, 69% believe the police have changed their attitude while 22% are of the view that there has only been slight change of the attitude and 9% are of the view that there has been insignificant or no attitudinal change at all. This provides an understanding that most of the community members experience an attitudinal change from the police since the adoption of community policing.

8.3.3 Deployment: Geographic Focus

As discussed in chapter 4 above, community policing is all about establishing community police officers as “mini chiefs” in permanent beats, where they enjoy the freedom and autonomy to operate as community-based problem solvers. They work directly with the community making their neighborhoods better and safer places to live or work in. Community policing enables a police officer to become a career-generalist as opposed to a specialist, there by equipping him/her to accept responsibility and authority for a wide range of activities. This enables police officials to act innovatively and creatively along a broad front (Toshome, Jamal, Worknih & Molla, 2012:45).

In comparison with this theoretical concept, it is observed that the Wajarat police have been deploying police officers geographically to maximize identification between specific officers and their respective community. This made them to have stronger police community relationships, which in turn has increased mutual recognition, responsibility and accountability. Kiros Gebere (Respondent No10) states that a permanent officer has accountability to naturally form communities rather than communities decided by statistical boundaries. This has led to the development of sustained relationships between police officers and their communities. It has enabled early intervention and problem identification and avoids conflict based on misperceptions or misunderstandings. According to the Wajarat Police Report (2011:17) analyzing, organizing and deploying geographical based officers has helped to maximize identification between specific officers and their specific community.

The Wajarat police district has assigned one Community Police officer for a *kebele* (district) in rural areas and *got* (small village) and there are family representatives which have regular meetings with Community Police officers. Of the 97 respondents who were asked whether the deployment of the Community Police officers had enhanced the relationship between the police and the community. Eighty three percent (83%) stated that the deployment has significantly increased the relationship between the police and the community, while 9% said it has increased this moderately and 8% were of the view that the deployment did not have any positive impact on police community relationship at all. From this finding it can be concluded that the geographic based deployment has a positive outcome to enhance the relationship between police officers and the community to a large sector of the community.

8.3.4 Social Services

The mission of the police is broadened from the mere combating of crime to the social service. To achieve this goal, a service must be provided, which will create a feeling of security in the community. Community policing strive not only to prevent and decrease crime, but to also ensure order and stability within the community. The Community Police officer therefore also assumes the role of a social worker and not of a law enforcer only (Hassen, 2005:65). The Wajarat police officers have built good relationship that makes it easy to exchange information on juvenile delinquency, prostitution and other crime related information. They also use the community advisory committee to advise the youth to change their criminal behaviour and participate in developmental activities. A classical example being the employment of 1 768 Wajarat *warada* (district) youths who were previously unemployed in various economic sectors (Wajarat Police Report, 2012:16). The police have also been giving imminent response to calls made by and information given by the community. According to the Focused Group Discussions (2013), all these activities played a role in changing the negative attitudes of the community towards the police.

8.3.5 Creating Awareness

Community policing profess the broad function of the police that goes beyond the narrow law enforcement and recognizes the role of the police in maintaining and contributing to stable communities. As community organizers they are required to increase the consciousness of the community and various organizations to deal with encountered problems (Hassen, 2005:67). Based on this understanding Wajarat district Community Police officers have been engaged in creating awareness among the community and this is typified by the seminars and workshops where 67 123 members of youths, farmers, women's associations, religious institutions etc were in 2012 (Wajarat Police Report, 2012:12). Of the 97 respondents who were asked on the level of awareness that the community has on community policing, 56% indicated that they were very much aware of community policing, 27% indicated that they have moderate awareness on community policing and 17% indicated that they have minimal awareness on community policing.

8.3.6 Community Organizations: Partnerships

As discussed in chapter 4 the success of community policing lies in the development of trust-based partnerships between law enforcement agencies, local government officials, and citizens. This is based on the idea that the community should know, contact and be able to deal directly with a specific officer, who should respond, whenever possible in a friendly, open and personal manner to satisfy the community. Community policing works best when the officer knows the residents and can deliver a personalized service, as opposed to stranger policing.

Teshome *et al* (2012:45) state that the rationale for citizen input is for law abiding citizens to support police activities. The community defines their problems, which police then take seriously even if they differ with police priorities. Based on this principle, the Wajarat community policing practice confirms this type of authority by granting local community representatives a direct say in how policing is carried out. This participation ensures consensus about the role and the legitimacy of policing, which makes a major contribution to the success of community policing. According to Tamano Gerges (Respondent No 12), community is co-responsible for attaining policing goals and there are community structures that are created to support and facilitate the implementation of the philosophy, strategic and tactical dimensions of community policing.

8.3.7 Number of Community Policing Joint Forum Members and their Responsibility

Every joint forum in *kebeles* (sub districts) and *waradas* (District) have 30-40 members selected by the community based on the number of people living in that community as well as the decision of general assembly. The main tasks of the *weredas* community policing forum are: to preventing crimes in the *wereda*; insuring peace and security of the society; supporting the peace keeping bodies with human resource and material; and organizing clubs and committees which can support various operations. The division of labour for this committee is categorised into income generation; organising the public; planning and implementing new working styles; and leading the peace and security of the area and other adjacent areas.

According to the Manual of the Community Policing Implementation Strategy of Wajarat Police (2012:22) the *warada* Community Police Forum is made of 40 members consisting of

2 members from *idirs* (social organisations); 4 militias; 3 civil servants; 3 from other associations; 3 from youth's association; 2 from farmers' associations; 2 from professional associations; 4 from schools and colleges; 5 from religious organisations; 5 from trade associations; 2 from disabled and veterans; and 7 from other organisations/associations. The delegation to major committee is composed by 7-11 people as follows: 2 members each from associations and other organisations in the area; and 1 member from *idirs*, militia, civil servants, schools and colleges, religious organisations, trade associations, and disabled and veterans respectively (Manual of the Community Policing Implementation Strategy of Wajarat Police, 2012:13).

The Wajarat Community Police Forum has the following four sub-committees: **Security coordinating committee** – that is assessing security and peace threats of the area; assessing and following crime trends and threats in the area; solving security problems happening in the area; preventing crime and planning crime prevention strategies; organizing the society for crime prevention; identifying and following the causes of any conflict in the area; creating situation in which societies living in the area can discuss together regarding peace and security of the area; identifying cases solved by arbitration and widening the experience to other *waradas*; report cases beyond its capacity to other relevant bodies; and striving hard to create integrated society which has love and agreement.

Education, public organization and propaganda committee – that teaches crime prevention using various methods and ways; breaking and weakening crime tendencies and creating plan based on societies existing condition; educating the public in gatherings like *Idir* (Social organization); structuring the crime prevention education up to family level; and evaluating the system of the education and improving based on the feedbacks.

Arbitration Committee – that assess disagreements in the area and solving them before they result in conflict; arbitrating conflicts before they result in big damage; and creating sustainable peace in the environment. **Fund Raising Committee** – that is raising money from the community in order to cover expenses of community policing activities mainly from people living in the area; seeking aid and support from other GOs and NGOs; and reporting the income and expenses of the general assembly.

8.3.8 The role of school clubs on crime prevention

There are ethics and traffic committees which are established in schools and colleges to enhance awareness of the school community and the public in general as well as creating awareness about road and traffic safety for the school community and the public in general respectively.

The above committees have been functional since the establishment of Community Policing in the district and have improved the partnership between the community and the police. Seventeen of the respondents who were asked whether community policing enhanced the relationship between the police and the communities responded as follows: 74% were of the view that community policing has strongly enhanced the relations between the police and the community; 12% believe that the community policing has moderately enhanced the relations between the police and the community; while 14% are of the view that the implementation of community policing had no impact on police community relations.

The Report on Community Policing of Wajarat (2011:13-16) indicates that the accessibility of Community Policing on the region to the grass-root level and at the *kebeles* (districts) is 91.17%. The Wajarat police district has built partnership with different organization and groups, daily laborers and others stakeholders. However, the creation of partnership was not sustainable, i.e., it becomes strong when police gives attention and diminishes when the focus of the police changes. In addition the community policing partnership efforts improved an information interaction with the community. The community has started to provide the police with information about the community problems and locations, crime concerns and incidents, identity of criminals, and hideout of stolen properties, and in return police provide the community with information pertaining to community fears, problems, advice about preventing and reducing crime (Wajarat Police Report, 2012:19).

8.3.9. Inter-Organizational Cooperation

Wajarat Community Policing has cooperation at all levels with organizations which can assist in reducing factors which cause crime, inter-organizational cooperation has been established. This means that the police form part of a network of organizations which can help to ensure security and an improved quality of life within society. Though there is some variation from

place to place, in the study areas governmental and nongovernmental organizations have been directly involved in advocacy works (Focused Group Discussions 2013). One of the basic contributions from governmental and nongovernmental organization is building houses and offices. Out of the 22 *kebeles* 17, *kebles* have been supplied with office and the community has supplied materials that are worth more than 100,000 Ethiopia Birr (Wajarat Police Report, 2012:21).

8.3.10 Supply of Information

Community policing sees the community as a source of information which must be utilized, because without information from the community, the work of the police is doomed to fail. The Wajarat Community policing relies heavily on police contacts within the community and this constitute the main source of crime related information. Through the implementation of community policing in Wajarat, information channels that enhance the communication and interaction between the police and the community are created. This has enhanced the free flow of intelligence (crime related information). In 2012 about 170 crime related information that were supplied led to the arrest of 86 suspects (Wajarat Police Report, 2012:14).

8.4. COMMUNITY POLICING AND THE REVITALIZATION OF INDIGENOUS POLICING IN CRIME PREVENTION

As discussed in chapter 4 Community Policing enhances the ability of the police to reduce crime, helps minimize fear of crime, and enhances the quality of life in communities. It expounds the problem oriented strategy that emphasise on the handling of crime prevention factors by minimising predisposing and precipitating factors. Both the modern and indigenous systems are used in the investigation of crime and the most appropriate solution adopted. Creativity and innovation in the application of methods and techniques that deals with crime are central principle embodied in the community policing philosophy (Tashome *et al* 2012:43). The Wajarat police have revitalized the indigenous policing practice as a community policing strategy to investigate and prevent crimes. The following discussions focus on how the Wagarat police have combined indigenous policing and modern policing to prevent crime, reduce fear of crime and maintain social order.

8.4.1 Investigation

Besides the formal investigation strategy the Wajarat police have revitalized the indigenous means of investigation known as the *Abo Garab*. The *Abo Garab* investigates the nature of the crime and identifies its category. The procedure the elders follow to find evidence is often based on an oath taken by laying a hand on the bible or making the suspect to walk over a weapon placed on the ground as a sign of an oath. This symbolizes that if the suspect is telling a lie, his life would be taken by the weapon, or at least that his life will be endangered. The footprint on the mud and sand are often measured and taken as evidence against a suspect by elders if he fails to admit that he had committed crime. Although not common, there are occasions where disputes are discussed and dealt with in the absence of either disputant or both the disputants (Focused Group Discussions, 2013). According to Degafi (2008:308), when a crime such as theft is committed the *abo garab* would announce that every activity has to stop and people will gather at a certain identified place. Then the *abo garab* will go and search every house and if the wanted materials are found in a certain house the owner of that house becomes liable. Even nowadays this investigative mechanism is being used to resolve minor crimes and is accepted by the modern policing.

8.4.2 Revitalisation of the role of women and church in crime prevention

The church and the women association that is called *dibarte* play an important role in the creation of peace and social order. Women and priests are first send to reconcile in Wajarat when well-armed intruders are about to launch an attack. This process does not involved mature men and it is only after exhaustion of this process that the mature men will march to the battle field. There is a belief that an angry man or soldier may cruelly punish a prisoner, so to avoid this, prisoners are taken care of by women. According to Hagos Halayu (Respondent No 11), although women and the church play such an important role, they are not allowed to participate in the *Demer Wajarat Easra Adi* (general assembly).

8.4.3 Crime resolution through indigenous policing within the Wajarats themselves

The people of Wajarat have their own indigenous mechanism of resolving crimes that occur within the district. For example if we take the case of murder, whether the murder is committed intentionally, accidentally or by negligence, the murderer needs to leave the locality and get the sanctuary in the church or mosque. This paves way for him to disclose the

crime to religious leaders of his choice and enjoy protection from the possible attacks by the deceased's relatives. However, if he opts to live in his locality or move freely everywhere disregarding the possible attacks from the victim's relatives, it means he despises them, and they might seize this opportunity to kill him or any one of his nearest relatives. Hence, there are instances where there has been revenge killing of the accused or their relatives.

The other approach of avoiding this is to provide compensation to the relatives of the deceased. The effectiveness of this process is undermined by the fact that taking revenge against the murderer or, if not, against his closest relatives endows the avenger a high social respect in society as *demmelash* (blood avenger) (Focused Group Discussions, 2013). Those who fail to take blood revenge are given little or no respect and they are dishonoured. This kind of feeling gives rise to persistent crimes until it comes to an end through the indigenous ways of resolution *erq* (reconciliation) process in general. Abraha Huluf (Respondent No 13) is of the view that were it not for these customary practices, the loss of human and material asserts would have been great and societal instability in Wajarat would have been high. In determining the gravity of the sentence to be imposed or the amount of the compensation to be paid, crime in Wajarat is categorised into *key dem* (red blood), which occurs when the commission of the murder is made negligently, accidentally or in absence of any intent and *tikur dem* (black blood) which is a situation where the murder has been committed wilfully and intentionally.

8.4.4 The process of reconciliation

The perpetrator is required to submit himself to the *abo garab* or religious leaders else there will be serious consequences to be imposed by the *demer* Wajarat apart from the retaliation by the victim's family. Usually the perpetrator is kept hidden for his safety until peace is brokered by the *Abo Gareb*. If the murderer submits early, he and his family will wear *shema* (black cloth) signifying his regret, repent and submission and may join the *abo garab* in visiting the victim's family. If the *abo garab* thinks this is a risky adventure, then the murderer and his relatives will appear dressed like that during the process of reconciliation usually on the third or fourth appointment.

Mostly, the nearest relatives of or the wrong doer requests the elders and clergy men to settle their conflict. Elders and religious fathers who are member of the indigenous tribunals are

pertinently responsible to facilitate *erq* (reconciliation) process and may also call for the involvement of religious fathers like priests, *she'ks* (moslem priests), besides the customary tribunals. Women are also engaged in resolving the conflict through facilitating the *erq* (reconciliation) process. *Erq* is mostly made after 40 days of the death of a person (Focused Group Discussions, 2013).

Litigants could be represented by a relative or anyone during the dispute resolution process when the case is brought to the elders either through the litigants or by the initiative of the elders themselves when the case has something to do with public affairs. A litigant may also present the case requesting the elders to consider it and complaints are given orally during this process. Litigants who are called *seb-zenge* (men with sticks) could stay together while presenting their complaints to the elders. The elders take a list of witnesses when the need arises, whose number varies from three to seven. A group of elders are selected and sent to the residences of witnesses so as not to allow time for them to create unnecessary contacts before the hearing (Focused Group Discussions, 2013).

Meetings of the *demer* (public gathering) are called by sending messengers to the surroundings, who would tell residents that the next meeting would be held at the bank of Gera Gerwo river. Women do not take part in the meetings except when requested to be witnesses and when they come as litigants. Government officials could take part in meetings as members of the community but they do not act in their official capacity as government appointees. They could collect tax, facilitate social services, etc. but they do not deal with bandits or thieves as these roles are played by the elders. When a child failed to give services to the parent and when his case is presented to elders he would be made to carry his parent on his back while presenting his arguments. After the reconciliation process, the outcome is send to the formal court and unlike in Afar region where the accused is released, courts in Wajarat do not release the accused but make the reconciliation process to have an impact in reducing prison terms (Kiros Gebere - Respondant No10).

8.4.5 Reconciliation between the Afars and the Wajarat inter clan conflict through indigenous policing

There is always a conflict between the Wajarat and the Afar region. In recognition of this fact and frequency of conflicts, the governments of Tigray and Afar regional states have since

1991 (Ethiopian calendar) re-established the *abo garab* (Agreement of 1991 between the Afar and regional state of Tigray 1991). Thus *abo garab* is responsible for maintaining not only local peace and order in Wajarat but has become an institution of regional peace and stability. The major roles of *abo garab* include settling group conflicts that occur between the highlander Wajarat and lowlander Afar people who sometimes have disputes over grazing land and drinking water, which are often scarce due to drought in the area. Moreover, there are some individual causes of conflict like theft and murder that the *abo garab* have to settle. The institution of *abo garab* has some written rules compiled by the mutual consent of elders of both Afar and the Wajarat, which consists of a council of elders from each ethnic group (Kelemework, 2000:96-97).

The nature of conflict that is often dealt with by elders of *abo garab* could be elucidated by one of the eight cases that were studied and documented by the researcher between the Wajarat and Afar people from 2008 to 2012. In all the studied conflicts about 12 persons were killed from both sides and the main causes of the conflicts were grazing land and water. All these crimes were resolved through indigenous policing based on the agreement for the revitalization of indigenous administration between the Afar and Tigray regional states that was signed in 1991. In order to understand the reconciliation process the researcher has chosen one case, which explains the whole process of the other conflicts. According to (Kadir Humad Respondent No 1):

A Tigray farmer tried to beat the Afar youngster, who was armed with a gun and told him to leave behind the donkey he was driving home. The youngster's refusal to obey resulted in a fight between the two men that resulted in the youngster shooting dead the Tigray farmer. This led to the arrest and detention of the youngster by the police.

The elders pleaded with the family of the deceased to pardon the killer stating that in their discussion with the killer they discovered that the murder was not intentional. The family of the deceased accepted this and the killer was then put on wacco (black wool) as a sign of mourning for the dead person and was handed to the family of the deceased to beg for their mercy. The police were then asked to give the killer oral warning without necessarily writing a letter and finally a fine of 1000 birr was imposed and this concluded the reconciliation process. According to Hagos Halayu (Respondent No 11), the intervention by the elders was to settle the dispute and to

establish permanent peace between the two communities. He stated that the police do not have power to refuse such requests in terms of the signed agreement of dispute resolution in 1991 between the two regions.

8.4.6 Remedies and compensation

The compensation for murder which is most common in Wajarat due to the high premium that people attach to revenge killing could be in cash or in kind (camel, ox, horse etc.) is usually the contribution of the entire family but if that is not enough, the murderer has to beg money from the public in church or market places carrying chain which marks him as seeking to pay the amount of blood money. In other cases, usually when the victim's family is not willing to take *gar nebsi* (compensation) because the murder is attributed to an accident or negligence the case is closed. Abraha Huluf (Respondent No 13) states that besides the compensation, if the murder is *tikur dem* (intentional), the killer might be ordered to leave the area to go and leave in an area far from the deceased's family. If the murder is found to be *key dem* (unintentional), the family of the killer and the deceased could establish smooth relationship with each other through marriage and other bonds in order to reveal heartfelt forgiveness. The *abo garab* may as well propose an inter-marriage between the two families as a means to end any blood feud in future. In the past, the decision or proposal of the *Abo Gareb* needed to be approved by the *Demer Wajarat Esra Emba*, but now they can decide on their own. The objective of all the reconciliation process, regardless of the gravity of the crime, is to restore peace and harmony in the community and prevent any blood feud in the future.

Abraha Huluf (Respondent No 13) states that social condemnation (ostracizing) is also a remedy when the party refuses the decision of the tribunals. Historically, there were times when the property of the disobedient was destroyed and his cattle slaughtered. But this is a violation of his rights and is often not practiced nowadays. Yet sanctions like reluctance to visit the person when he is sick or when he is in need of some assistance for example during weddings, funerals, harvesting, or building a house are common ways of enforcing the decisions of the elders in Wajarat.

8.4.7 The outcome of the strategy of integrity, Community Policing and indigenous policing in Wajarat District

Increased Patrols: Community Policing officers identified areas where most robberies occurs and assigned militia and neighbourhoods watch members to patrol the identified areas. The private and government employed security officers were also used to safeguard government institutions and over 7654 voluntary patrol and 186 private security paid by the community are deployed in Wajarat district. As the result of this deployment over 145 criminals were arrested and criminal activities such as wrestling, arms smuggling, human trafficking, and other different house breaking and theft offences were prevented (Wajarat Police Report, 2012:123).

Crime reduction: Since crime prevention is central to the concept and ultimate goal of community policing and have long term benefits according to the literature research, the emphasis given to crime prevention in terms of community policing is more proactive than the traditional policing models. In this regard data obtained from document analysis indicate that crime has decreased in Wajarat during for the period 2011 and 2012 as per table 10 below.

Table 10: Decrease of crime incidence in Wajarat district

No	Crime	2011	2012	Incidence resolved by modern policing	Incidence resolved by Indigenous policing
1.	Homicide	19	19	19	None
2.	Injury	69	36	36	None
3.	Robbery and Theft	90	67	67	None
4.	Rape	4	3	3	None
5.	All other crimes	71	72	72	3320
Total		253	195	195	3320

Source (Wajarat Police Report, 2012)

As reflected on table 10 above, general crime incidence has decreased from 253 to 195, which constitute the general decrease of 23%. Another important finding from table 10 above is the fact that formal policing handled 195 cases and the indigenous policing that has been

revitalised under the broad parameters of Community Policing dealt with 3320 crime related incidence.

8.5 CONCLUSIONS

The Wajarat district have successes in crime prevention by organizing one militia for every 10 families, thus making the police not to take the sole responsibility for crime prevention but to play a crucial role in developing strategies in partnership with local communities. Some of the activities in this regard have been to organised youngsters who were in conflict with the law and community values to participate in developmental activities with the ultimate goal of creating peaceful neighbourhoods.

CHAPTER NINE: RECOMMENDATIONS AND THE CONCLUSIVE VIEW OF THE STUDY

9.1 INTRODUCTION

As described in chapter two, the main objective of this research was to find out whether modern and indigenous policing can co-exist. This chapter also provided an over view of indigenous policing in the context of international perspective. The third chapter discussed and analysed general overview of the Ethiopian indigenous policing system, the fourth chapter discussed the function of modern policing in Ethiopia. The main part of the research is composed of two case studies of the Afar regional state and the Wajarat district in Tigray.

The issue of indigenous policing has a long history, yet it has not been studied and researched thoroughly. As it has been indicated previously, indigenous policing in this research has been defined as a strategy where the community takes responsibly to control crime. One important issue raised in this study is the fact that the structure and function of indigenous policing is not independent from the general indigenous administration.

9.2 RECOMMENDATIONS

Acknowledgement of indigenous policing: The principle of equality before the law and non-discrimination, which are enshrined in the Ethiopian Constitution and international human rights instruments that Ethiopia is a signatory to should be drawn on to enhance the role of indigenous policing and law within the formal Ethiopian policing and legal system. These established principles can give the Ethiopian Government the legal authority to include indigenous policing and law in the Constitution.

The historical analysis carried out as part of the Case Study showed that every successive Ethiopian government recognized and encouraged indigenous policing and law as a way to control local populations. The political motives and justification for the reform and usurping the indigenous mechanisms was primarily the belief that a uniform and modern legal regime would be necessary for effective nation building. However a century after the modernization and the establishment of modern judicial system (including policing) neither was the much sought legal and policing uniform achieved nor were the modern policing able to successfully supplement indigenous laws and institution of indigenous policing. To enhance the formal

role that the indigenous policing requires the acknowledgement and allowance for the fact that the indigenous policing system needs to evolve and adapt to changing circumstances.

Emphasis should be on imitating and supporting a process whereby indigenous peoples themselves are engaged in codifying their own law, policing system and conflict resolution processes. Flexibility is one of the advantages of the indigenous system and utmost care must be taken not to sacrifice this, the aim should be to strengthen what already exists and is working and to develop the capacity to address external problems. Consolation needs to include dialogue about dealing cooperatively with tricky issues such as the application of village-based penalties for more serious criminal offences and how to integrate the indigenous policing system with the modern system.

Reformation of the formal system: Indigenous communities should manage their indigenous areas supported by an environment where laws are implemented and people are punished for their crimes. As the Case Study and research has shown, many of the problems indigenous people face come from inside their communities. Justice in this sense is not something that can operate, be delivered or exist as an island. If this type of justice is not seen to be done, impunity, corruption, power of position and money will be the *de facto* law of the country and eventually infect and contaminate the entire indigenous system.

Enhance participation: Given the size of the indigenous population in Ethiopia and the present decentralization process, the community councils, although a foreign construct in indigenous structures, could afford them the best opportunity for self-determination (or participation). The right to self-determination (or participation rights) forms the basis by which indigenous peoples may share power with the state, and gives them the right to choose how they will be governed.

Indigenous policing and modern policing includes a call for reforming the constitutions and other laws and procedures enabling law enforcement agency and other volunteer group to solve minor cases outside the formal court. The constitution should also require indigenous law and policing to comply with constitutional norms and human rights. The regular courts should be duty bound to ensure that the specific application of indigenous law in a case does not violate the bill of rights section of the constitution. In other words, the courts should be

duty bound to monitor the fact that indigenous policing systems remain consistent with bill of rights.

In the meantime, it is strongly recommended that the indigenous policing be allowed to continue providing the valuable social function that they are already doing, including allowing the constructive interface already happening between indigenous policing and community policing (at the community and district levels).

Indigenous conflict resolution processes should also be recognized within existing government structures. Indigenous conflict resolution processes should further be formally recognized in the procedures for Registration of indigenous laws. As this legislation is currently under development, there is an excellent opening to explore opportunities for merging indigenous and national law regarding conflict resolution.

Support an ongoing process of consolation, research and documentation with indigenous peoples' communities. This should be led by indigenous organizations/networks, and feed into national level consultations and the objective should be to build agreement on how indigenous policing systems can best be recognized by the formal system, and how the interface between the two could function. The collection of studies by Alula and Getachew (2008) and Kahsay (2007) on *Grass Root justice in Ethiopia; indigenous Adjudications of criminal cases in Afar society; customary Dispute Resolution Mechanisms* in Ethiopia by the Ethiopian Arbitration and conciliation centre; as well as this research could be a starting point for more in-depth research and analysis.

9.3 CONCLUSION

As described in chapter two, the main objective of the research is to find out whether modern and indigenous policing can co-exist. The main part of the research is composed of two case studies. Chapters seven focused on the Afar regional state and eight focused on the Wajarat district of Tigray. The research revealed that in many societies, including Ethiopia, key concepts and ideas of justice and notions such as custom, peace, justice, reconciliation, and moral conceptions of right, wrong, truth and falsehood may be considered universal. However, certain concepts are given more salience and may have wider ranges or specific connotations and resonances within specific cultures and wider cultural areas. In the context

of Ethiopia, where there are over 60 ethnic groups which have different kinds of indigenous criminal law, which have been applied in criminal cases (indigenous policing) and which are not properly studied and reduced to writing it would be very difficult, if not impossible, to present the concept of indigenous policing and community policing in one study. Furthermore evolution of the Ethiopian indigenous legal, policing and cultural system has been ignited and molded by a variety of ethnic, linguistic, religious groups and the movement of one ethnic group from one part of country to the other, which have influenced each other's cultures.

The study revealed that the structure and function of indigenous policing is not independent from the general indigenous administration. Within indigenous administrative structure, there are indigenous laws, courts, dispute resolution, and policing system. This is linked to the fact that the need to maintain order and conflict resolution has always existed in societies in one form or another. But this doesn't mean that all societies had some form of policing from the beginning. People who lived in particular tribe or group performed self policing (indigenous policing) through collective efforts of their members. Although the policing systems that emerged, both in Greece and Rome, until the formation of the metropolitan police in England, were having a sense of formal policing basically the role of handling crime both investigating and prevention were in the hands of the community. While it can be argued that the victim and the community remained central to law enforcement because this reflected customary practice and lent legitimacy to the new system, it was also the case that the crown had neither the inclination nor the resources to intervene itself.

Another important point in the evaluation of indigenous policing discussed, in the research is the impact of colonization on policing. European colonization and expansion to other countries which started in the late 15th century and ended in the 1970's has created two kinds of colonial policing. After being neglected for centuries, indigenous policing is emerging as a helpful policing system. Globally, there is a general tendency to revitalize indigenous justice administration. The emergence of modern policing was propelled by the insufficiency of the informal social order to control crime in the new political landscape of industrialization and capitalism. This was further complicated by the increase in economic surplus and the availability of private property. The complexity of the community structure led to the importance of indigenous community to be less and it made no sense for the capitalists to

depend on indigenous policing. Modern policing initially functioned more or less independently until the point when it was professionalized. By 1930 what was originally started as an amateurish system evolved into professional policing.

As discussed in chapter 4 in the 70's many researches had been conducted on the effectiveness and efficacy of modern professional police and found out that policing as a formal mechanism of formal social control and had little effect on crime or public safety, As a result of this a new concept of community policing has emerged. It also rests on the belief that solutions to contemporary community problems demand freeing both people and the police to explore creative, new ways to address neighbourhood concerns beyond a narrow focus on individual crime incidents.

Although indigenous policing and legal system is still active, like many aspects of indigenous culture, it is clear that it is facing several challenges to its continued existence. One of the hallmarks of indigenous policing is that its management is almost always by elders. Although the manner in which they are constituted and the roles they play may vary from society to society. In most cultures, the elders are elected based on their reputation, impartiality, familiarity with the community norms, wisdom, and rich experience, elders are elected up on the request of the parties in dispute often on an *ad hoc* basis.

The indications are that in very remote areas, where there are few and far-between state courts, indigenous administration, laws and policing will continue to be used extensively. The modern codes will only be resorted to in exceptional circumstances (e.g. tax) or where indigenous dispute resolution has failed. The courts will still be used as a last resort, where settlement with the indigenous law has failed.

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APPENDIXES

APPENDIX A

LIST OF RESPONDENTS FROM AFAR AND WAJERAT AS WELL AS THE DATES OF INTERVIEWS

NO	Name	Social status	Place	Date
1	Kadir Hussien Humad	President of the Supreme Court of Afar	Samera	9/3/2013
2	Mahamed Algani Ahmed	Office for the Development of Afar Culture	Samera	8/3/2013
3	Ali Bered	Afar Regional state V. Commissioner of police	Samera	8/3/2013
4	Hajrulata Ibrahim Idir.is	Afar elder and <i>mada'a</i> expert	shikat	13/3/2013
5	Haj Usman Damas Mahamed	Afar elder and <i>mada'a</i> expert	Shikat	13/3/2013
6	Haji Abudu Ahamed Ali	Afar elder and <i>mada'a</i> expert	Shikat	13/3/2013
7	Esmael Derso Usma	Afar elder and <i>mada'a</i> expert	Shikat	13/3/2013
8	Ali Arfa Momamed	Expert on media	Semera	8/3/2013
9	Ase Hussien Alui	Expert on media	Semera	8/3/2013
10	<i>Kiros Gebere</i>	<i>Community Policing</i>	<i>Tigray Adikayh</i>	<i>1/04/2013</i>
11	<i>Hagos Halayu</i>	<i>Community Policing</i>	<i>Tigray Adikayh</i>	<i>1/04/2013</i>
12	<i>Tamano Gerges</i>	<i>Community Policing</i>	<i>Tigray Adikayh</i>	<i>1/04/2013</i>
13	<i>Abraha Huluf Alata</i>	<i>Community Policing</i>	<i>Adikah</i>	<i>1/04/2013</i>

APPENDIX B

MEMBERS OF THE FOCUS GROUP DISCUSSION IN AT SEMERA IN AFAR AND WAJERAT AS WELL AS THE DATE

No	Name	Place	Date
1	Mahammed Said Ali	Ewa	9/3/2013
2	Yoyu Ahmed Aidaas	Cheffra	9/3/2013
3	Haji <ahamed Daama	Awarj	9/3/2013
4	Umer Mahammed Umar	Ewa	9/3/2013
5	Mahammed jeal Ade	Gulena	9/3/2013
6	Sajan Kadir Memeta	Adaar	9/3/2013
7	Abdela Dewede mahammed	Delezo	9/3/2013
8	Ali Abadir Alo	Dawi	9/3/2013
9	<i>geowarge Geber Yohans</i>	<i>Sanala</i>	<i>1/04/2013</i>
10	<i>Habtu Berhe G/yesus</i>	<i>Sanala</i>	<i>1/04/2013</i>
11	<i>Mikal Woldu</i>	<i>Gonca</i>	<i>1/04/2013</i>
12	<i>Radae Michial</i>	<i>Gonca</i>	<i>1/04/2013</i>
13	<i>Hagos Kalayo</i>	<i>Adi kayh</i>	<i>1/04/2013</i>