The Oromia Rural Land Dispute Settlement Scheme, So ambiguous and Expectedly Not Working

Birhanu Beyene Birhanu**

Introduction

In a region where a great majority of the population lives in rural areas, rural land disputes deserve a unique treatment. It sounds very reasonable, in such regions, to design a unique dispute settlement scheme for rural land disputes. This is exactly what the Oromia region has done. However, the scheme set up by the region suffers from serious ambiguities, which inevitably makes the scheme not working. Therefore, in this paper an attempt is made to show where the scheme suffers from ambiguities and what evils may result from the ambiguities and how the ambiguities should be addressed. As the scheme is set out under Oromia Rural Land Administration and Use Proclamation No.130/2007, this work is limited to the analysis of this proclamation in light of general principles of alternative dispute resolution.

This paper is divided into **V** sections. Section **I** gives the outline of the scheme. Section **II** pins down the parts of the scheme suffering from ambiguity. Section **III** conjures up the evils resulting from the ambiguities. Section **IV** deals with the way forward. Finally there is a "conclusion and recommendation" section.

I. The Dispute Settlement Scheme

Proclamation no.130/ 2007[1] (henceforth the proclamation) of the *Oromia Region*[2] sets out the rural land dispute settlement scheme (henceforth referred as the scheme). Art. 16 of this proclamation[3] is the only provision laying out the scheme. When a dispute over a rural land

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** **Birhanu(LLB,LL.M) is a Lecturer in the Law School of Jimma University. He can be reached by birejana@yahoo.com**

[1] The full name of this proclamation is: "Proclamation to amend the proclamation No. 56/2002,70/2003.103/2005 of Oromia Rural Land Administration and Use Proclamation No.130/2007."

[2] Oromia region is one of the 9 states constituting the Federal Democratic Republic of Ethiopia.

[3] The article reads:

Conflict and Dispute Resolution

1) Any conflict or disputes arising on land shall be resolved as follow:

(a) First application shall be submitted to the local Kebele Administration.

(b) The parties shall elect two arbitrary [*sic*] elders each.

c) Chairpersons of arbiteration[*sic*] elders are elected by the parties or by the arbitral elders[*sic*], if not agreed

arises, according to this provision, an application must first be submitted to the local k*ebele* Administration[4].Then the disputing parties must appoint two *elders*[5] each[6].The elders will have a chairperson who is appointed by themselves, parties or the *kebele* administrator. Of course, the *kebele* administrator appoints a chairperson when both parties and then elders are not able to reach an agreement to appoint one.

Once the elders are composed this way, then they must report *the result of their work*[7] to the *kebele* administrators with in 15 days[8].It is the responsibility of the *kebele* administration to make the elders observe this time line[9]. The reported findings of elders then must be registered by the kebele administration. The *kebele* administration is also required to put its seal on the copy of elders' finding and hand over it to the parties. A party who is not happy with the result reported by the elders can initiate a proceeding over the dispute in a *woreda* court with in 30 days of the registration of the result in the *kebele* administration[10]. The party

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up on shall be assigned by local kebele administrator.

(d) The Kebele Administration to whom the application is lodged, shall cause the arbitrary[*sic*] elders to produce the result of the arbiteratio[sic] 15 days.

(e) The result of given by the arbitration shall be registered at the Kebele Administration., and a sealed copy shall be given to both parties.

f) A Party who has complaint on the rating[sic] elders has the right to institute his case to the Woreda court attaching the result of arbitration elders [*sic*] within 30 days as of the date registered by the Kebele Administration. .

g) Woreda court should not receive the suit if the result given by the arbitration is not attached to it.

(h) The right of further appeal to the high court is reserved for the party dissatisfied by the decision given by the woreda court.

(i) If the high court reversed the decision rendered by the woreda court, the dissatisfied party may appeal to the Supreme Court.

j) The decision given by the Supreme Court shall be the final.

2) Notwithstanding the provision described Sub-Article I of this Article, the parties shall have the right to resolve their cases in any form they agreed upon.

[4] The proclamation says nothing as to the form and content of the application

[5] Note here that I prefer to use this term, ***elders*** rather than the phrases used in the English version to express these individuals. The individuals are expressed in the English version in a so ridiculously –worded phrases as "arbitrary elders", "arbitral elders" as you can see in the above note.

[6] The law is silent as to the solution if a party is not willing to appoint his side of elders

[7] Here note that I prefer to use the phrase "the result of their work" rather than the phrases used in the proclamations such as "the result of arbitration", in the English version; "the result of conciliation", in the Amharic version and in the Orompha version, because such phrases are used mindlessly as it is shown in section two of the paper.

[8] 15 days since when? There is no answer in the proclamation

[9] What if this time limit could not be observed? Again, there is no answer in the proclamation

[10] No answer in the proclamation as to the question any good cause exception for untimely applications.

must attach the findings of the elders with their application to the court as the courts must not accept the application with out the findings being attached thereto.

A party who is not happy with the decision of the *woreda* court can take an appeal from its decision to a high court. If the high court reverses the decision of the *woreda* court, an appeal lies to the Supreme Court. The decision in the Supreme Court will be final.

This is the scheme for the rural land dispute settlement in the *Oromia* region[11]. However, this scheme suffers from ambiguities. The ensuing section pins down these ambiguities.

II. The Ambiguities in the Scheme

As shown above, there are many questions to which the proclamation fails to give answers, but the scheme is ambiguous basically at two other important points which has the potential of making the whole scheme a- not – working one. In this section, these ambiguities are identified and explained.

A. The Role of Elders; How Do They Need to Approach the Disputes?

A reader who comes across, in art.16 of the proclamation (the English version), such phrases as "arbitrary elders" [sic] (see art.16 (1) (b)), "arbitration elders" (see art.16 (1) (c), "the result of…arbitration" (see art.16 (1) (e)) etc may rush to conclude that the role of the elders is that of arbitrators. A bit more focused reading, however, reveals that their role is not intended to be that of arbitrators as we know arbitration in the 1960 civil code(art.3325-3346) and the 1965 civil procedure code(arts.315-319 and 350-357)[12]

The decision of arbitrators (it is called "award") is as enforceable in the court of law as court judgments are. This is unequivocally stated under art.319 of the 1965 Civil Procedure Code.[13]Once arbitrators pass their decision on a dispute, the dispute cannot be entertained subsequently by courts. The only ways that put courts in contact with arbitrators' decision

[11] Note that the scheme, however, does not prohibit parties from resolving their dispute in way other than just expressed in the above paragraphs if they could agree (see art.16 (2) of the proclamation)

[12] Note here that the arbitration laws which are currently in use in both state and federal jurisdiction are found in these codes.

[13] Even it is required to be written in the same form as court judgments (see art.318(2) of the 1965 Civil Procedure Code)

are the procedure of appeal (see art.350- 354 of the Civil Procedure Code), setting aside (see art-355-357 of Civil Procedure Code) and the execution of awards(see art. 319 of the Civil Procedure Code).

The elders' "findings" in the proclamation have none of the qualities of the award as explained in the above paragraph. Art 16(1) (f) of the proclamation clearly state that any party dissatisfied with the elder's finding can start a fresh proceeding in the *woreda* court. Thus, we can conclude that elders are not intended to do arbitration as we know arbitration in both the civil and civil procedure codes. Unlike the codes, the proclamation does not give the elders' finding the effect of *res judicata*[14]. However, one may argue that the *woreda* court is intended to serve as an appellate court reviewing the elders' finding based on art.16(1)(h) of the proclamation which reads: "The right of ***further*** appeal to the high court is reserved for the party dissatisfied by the decision given by the *woreda* court". The problem with this argument is that unlike the English version both the Orompha version(the controlling version) and the Amharic version of art,16(1) (h) of the proclamation do not presuppose the existence of any appeal before the disputes land in the high courts.

If the *woreda* court is intended to serve as an appellate court, why is it not clearly provided? All the three versions (the Orompha, Amharic and English) of art.16 (1)(f) state that a party dissatisfied with elders' finding can institute his case in the *woreda* court – there is nothing which goes like " the party can lodge his appeal to the *woreda* court." If the *woreda* court is intended to be an appellate court, what is the need of those requirements under art16 (1) (g) stating that the findings of elders must be attached to the application? It will be superfluous to state this as an application for appeal needs to have as an annex the records of the lower court and in this case the records of elders (see art. 327 (2) and 350(3) of the Civil Procedure Code). Therefore, the legislator is not talking about appeal when it says a dissatisfied party "has the right to institute his case to the *woreda* court."[15]

Once we rule out the possibility that the role of elders could be that of arbitrators, the next question is: is it that of conciliators? The answer is a resounding "No". Of course in the Amharic version of the proclamation we encounter such phrases as "¾°`p iTÓM-ć". "¾°`l"

[14] As to the *res judicata* effect of awards, see art.244 (2) (g) of the Civil Procedure Code.

[15] I have posed the question to 3rd year summer students of 2009/10 academic year (almost all of them are judges in *woreda* courts of *Oromia* region)whether they treated such cases as an appeal or fresh suits, all of them told me that they treated them as fresh suits.

¨<Ö?ƒ"(See !6 (1) (S) (W) ([) of the proclamation) in the Orompha version as "*araara"* (see art16(1) (d),(e)(f) of the Proclamation) and then we may be tempted to conclude that the elders are intended to do conciliation or play conciliator. However, after a serious look, what we glean from the proclamation cannot in any way lead to the conclusion that their role is that of conciliator, as we know conciliation and conciliators in the Civil Code (note that the region's law of conciliation is found mainly in the civil code (arts.3318-3324).From the provisions of the Civil Code on the conciliation, all we can easily get is that conciliation is a voluntary process[16].It is impossible to imagine a conciliation process with out the cooperation of parties to the dispute. However, as it is shown in section I, the scheme requires land disputes to first be submitted to elders. Make no mistake here. Conciliation could be law- required – a law may require disputes to be tried with conciliation first before any proceeding is tried subsequently[17]. However, what we have in the proclamation cannot be understood even as this kind of (law- required) conciliation.

Legislations may require disputes to be submitted to conciliation before any other proceedings are tried, but all these legislations require this based on the acknowledgment of the fact that the conciliation (or conciliators) may not produce any result and therefore they provide the next step with out tying it with the existence of a *finding*[18] by the conciliators. In other words, these legislations make the next procedure (beyond the conciliation) available for parties even if there is no finding by the conciliators for whatever reason. However, in the proclamation the next proceeding (i.e. the court proceeding) is tied with the existence of findings by the elders. Art 16(g) of the proclamation states that the *woreda* courts must not handle rural land disputes unless the finding of the elders is annexed. That means the next proceeding is not available for parties unless there is a finding by the elders. Therefore, the role of elders is intended to be different from conciliation. Conciliation does not necessarily result in a finding by conciliators.[19]

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[16] See art.3307, 3318, 3322(2) of the Civil Code.

[17] See the Labor Law Proclamation No.377/ 2003, art. 141 and Cooperative Societies Proclamation No.147/1998, art, .46.

[18] This term must be understood to mean "a proposed solution". It must not be understood to include "memorandum of non conciliation" as expressed under art3321 (3) of the Civil Code.

[19] Assume parties are not willing to give any information on the dispute to conciliators, how can conciliators then come up with any finding. Under this circumstances, conciliators are simply supposed to draw "memorandum of non-conciliation"(see art.3321(3) of the Civil Code)

There is also evidence that what elders are intended to do is not conciliation (as we know conciliation from the Civil Code). From art 16(1) (f) of the proclamation, we can understand that there is a possibility that the findings of the elders could bind parties with out their express consent to the findings. However, art.3322 (2) of the Civil Code sates that "[t]he parties shall not be bound by the terms of the compromiser drawn up by the conciliator unless they have ***expressly undertaken in writing to confirm them*** (emphasis added).

The other evidence is the legislator's intention of not wanting the elder's finding to be confidential. Confidentiality is a key element in conciliation. Obviously, the success of conciliation depends on the availability of the necessary information to both the parties and conciliators[20]. Parties will not give such necessary information if they feel that the information can be used against them by the opponent party or by any public authority in any other proceeding. Parties will not give such information if they feel that the information is embarrassing to their personal lives or prejudicing to their commercial transaction. So to encourage parties to give information (and then to substantially increase the likelihood of the success of a conciliation), the information obtained in conciliation must be kept confidential. Parties give information in the expectation that the information will be kept confidential. Thus, confidentiality is one of the fundamental elements of conciliation.

When we come to the proclamation, parties are required to annex the findings of elders to the application to a court (see art.16 (1) (f) (g) of the Proclamation).It means parties to a rural land disputes cannot have an expectation that the proceeding before the elders will be kept confidential. It is difficult to imagine conciliation with such an environment. No conciliation works unless this expectation is there on the part of parties. So, all we can conclude is that the elders are not intended to do conciliation.

If the role of elders is neither that of arbitrators nor conciliators, so what is it? Here, one may contend that neutral third persons (other than courts) may involve in a dispute resolution not necessarily as arbitrators or conciliators (as we know arbitrators and conciliators in the Civil Code or the Civil Procedure code), they may be involved in other capacities.[21] ; and therefore

[20] That is the reason why art.3319 (1) of the Civil Code requires parties to provide necessary information to conciliators.

[21] For example in USA, there are such forms of ADR (in which third persons are involved) as:

- **Fact-Finding** – it is a process by which a neutral expert, or group of experts, is asked to resolve a factual dispute. The fact-finder relies upon information provided by the parties as well as information

the proclamation could be understood as assigning the elders other role than the role of arbitrators or conciliators. No body can say that the proclamation must make the role of elders only either that of arbitrators or conciliators. It could be a different one, but the question is if their role is intended to be a different one, then the proclamation (or any law supplementing the proclamation) must come up with reasonably detailed procedures or guidelines as to the way elders need to approach the dispute. Then looking at such procedures, we would be able to tell what the role of elders is. Unfortunately, there are no such procedures or guidelines. If their role was that of either arbitrators or conciliators, the proclamation would not need to come up with the detailed procedures and other rules as such things are already covered in the part of both the Civil Code and the Civil Procedure code on conciliation and arbitration. All needed is to cross- refer to the codes.

In general, the proclamation is so confusing that it is difficult to tell what the role of elders is intended to be in the rural land dispute settlement scheme.

B. The Value of the Elder's Findings

The other ambiguous thing in the proclamation (or the scheme) is the status of the findings of the elders. Let us say that the disputants express their consent to the findings, what will then its status be? Is it going to have the status of a contract or a court decision? The proclamation is silent to this issue. So, a problem could arise if one of the parties fails to comply with the findings of the elders to which they express their consent. The proclamation does not give any clue how to get the party comply with it.

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he collects himself. He analyzes the facts bearing on the dispute, and issues a factfinding report. The report is non-binding and used as an aid to settlement negotiations. Factfinding is often ordered in disputes that arise in the public sector.

- **Mini-trial** - is a voluntary procedure in which parties engage in a truncated, non-binding trial before a neutral they select to be their judge. The attorneys for each side present documentary evidence and summarize the testimony they would present at trial. The mini-trial is usually used by corporate defendants to give executives an opportunity to assess the strength of their own case and that of their opponent. The goal of a mini-trial is to induce the parties to settle their dispute.

- **Med-Arb - it** is a combination of mediation and arbitration in which a third party neutral first attempts to achieve a mediated settlement of a dispute. If mediation fails, the same neutral then becomes an arbitrator conducts a hearing and renders a final decision.

- **Court-ordered arbitration - it** is a form of dispute resolution in which parties are required to present their cases to a neutral, court-appointed arbitrator before they can proceed to trial. It is used in many states and federal district courts for civil cases. In court-ordered arbitration, the arbitrator hears the evidence and issues a decision, and either side may appeal for a trial de novo. Some states impose fee-shifting so that a party who appeals an arbitration award to a civil trial and fails to better his position at trial must pay a portion of the other side's costs.

The question as to the status of elder's findings arise also when one of or both parties does not express their consent to the finding. The glance at article 16(1) (f) suggests that it could still be binding on the parties unless a court proceeding is initiated with in 30 days of the date of the finding is registered by the *Kebele* administration. It is not clear how binding it is, though (as raised above, is it binding in the same way as contract is or court judgment?)

The other scenario which calls for an answer as to the status of the finding is when one or both parties to the dispute are not happy with it and initiate a proceeding in the court over the dispute. It is not clear how the court must treat the finding of the elders[22]. Can the court ignore it all in all and resolve the dispute following the same regular procedure it applies in other cases?[23] Or is the court to give any weight to the finding? If the answer is in the positive, what is that weight the court must attach to the finding? The proclamation fails us here too and gives us no clue to these questions.

III. The Price of Ambiguity

In a state where more than 90% of the population is living in the rural areas, rural land disputes takes a special place[24]. They must be studied and handled very carefully. These disputes are not just ordinary disputes; they have a very far-reaching impact on a range of issues from economics to politics and to peace and security. If a scheme for the settlement of rural land disputes is not painstakingly designed, it may result in too many plots of land not tilled or harvested in the right season due to the ongoing dispute over them. Inevitably, such scenarios will have a bearing on the economy of the country and in other spheres too including the politics.

A bad scheme may also end up creating hostilities between the disputants rather than allowing creative solutions, which can satisfy all parties to the dispute. Obviously, a farmer

[22] Note here that when a dispute is brought before the court, the finding of the elders must be attached to the application by the parties; courts cannot proceed with the case unless it is attached –see art.16(1)(g)of the proclamation

[23] If the answer is yes , then what is the point of obliging parties to go through the procedure before the panel of elders and making them annex the finding of elders to the application

[24] Out of the total population of 27,158,471 living in Oromia region, 23,788,431 live in rural areas. See Federal Democratic Republic of Ethiopia Population Census Commission, *Summary and Statistical Report of the 2007 Population and Housing Census, population size by age and Sex,*p.66,UNPF,2008

whose land (that means his livelihood, to say the least) is taken away in an environment of such hostility may resort to self-help that definitely creates disorder (state of nature scenario) in the rural communities. Therefore, there is no exaggeration to say that rural land disputes are so unique that they must be treated that way.

A scheme for the settlement of land disputes must be, among other things, affordable, efficient and sensitive to the vulnerable groups of a society(such as children, women, the poor,etc).To come up with such scheme, it is needed to identify and characterize different rural land disputes[25].However, all understandings about the far-reaching impact of rural land disputes; all studies as to the nature of frequently arising disputes etc, is meaningless if the scheme finally designed is fraught with ambiguities. Ambiguity is this much costly. A scheme, which is ambiguous, takes us nowhere. The legislator cannot achieve whatever goals it has in mind in designing the scheme at the outset. Now let us conjure up some more specific evils arising from the *ambiguities*[26] of the rural land – dispute - settlement scheme of the Oromia region.

The ambiguities in scheme prolongs and multiplies litigations – This bearing of the ambiguities can best be explained via an example. Let us assume, Mr. X brings a claim against Mr. Y. The panel of elders is composed.[27] Mr. Y then prefers not to appear before the elders hoping that whatever finding the elders finally come up with, he can take the case to courts any ways as long as he does not like it (see Art. 16(f) of the proclamation which states a Party who has complaint on the elders' finding has the right to institute his case to the *Woreda* court). After the elders report their findings, he takes the case to the *Woreda* court. This court, which is not clear about the status of the elders' finding (see the discussion on the ambiguity of the status of the elder's finding in section II (b)), ignores it *intoto* and gives a decision favoring Mr.Y based on its assessment of the case.

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[25] In one work, Babette Wehrmann, *LAND CONFLICTS, A practical guide to dealing with land disputes*,Eschborn(2008)available: http://www.landcoalition.org/pdf/08_GTZ_land_conflicts.pdf, Disputes are classified into four general categories and within these categories, conflicts are separated into 35 different types and over 50 sub-types.

[26] Note that this ambiguities are discussed in the above section(section II of this paper)

[27] . Note here also that the proclamation does not have a solution how a panel of elders is composed if a party is not willing to appoint his side of elders, but to explain the point at hand let us assume that the panel of elders is composed

Obviously, Mr. X cannot settle down with the decision of the *Woreda* court. In the absence of clear rule on the status of elders' findings, no body settles down until all available ways are exhausted. Thus, he will want to take an appeal to the high court on the ground that the *woreda* court erred in ignoring the elders' finding all in all. The high court may reverse the lower court's decision holding that the finding must always be upheld unless gross mistakes are there. At this point it will be the turn of Mr.Y to take an appeal to the Supreme Court. This example just gives us a taste of how the ambiguity in the scheme pushes parties to never give up before utilizing every path the scheme provides. It means protracting and multiplication of litigations.

Some writers [28] explain such situations by comparing the situation to betting on a sporting event. When the outcome of the game is certain, as when "a powerful team is scheduled to play a weak one," the lack of uncertainty generates less interest in the game among bettors. When there is great uncertainty in the outcome, however, bettors are more likely to gamble. So the uncertainty of the value of the findings and the role of elders makes it more likely for the parties to engage in litigations after litigations.

The Scheme leads to different perception of the rule of the game and that in turn leads to unfairness –Due to the ambiguity, parties to the dispute cannot have a common perception of what the role of the elders is and consequently what the rule of the game is. One party may perceive that the rule of the game is to be frank and giving away all the information and trying hard to arrive at agreement with the opposing party. The other part may perceive that the rule of the game is to be very defensive, argumentative and argue fiercely to beat the opposing party. Assume that elders perceive the rule of the game to be the same as what the latter party perceives it to be, then the final result will be unfair to the party perceiving the rule of the game as openness, free exchange of documents, etc. Even if the open-player takes the dispute to the court thereafter, the information and/or documents he gives before the panel of elders could be brought as evidence against him in the court room. It means, the open player, will face an up hill battle in the court room too.

The Scheme opens the room for abuse – It is difficult to hold somebody accountable in the presence of vague rules. So, elders can switch from one role to the other to unduly benefit

[28] George L. Priest & Benjamin Klein, *The Selection of Disputes for Litigation*, 13 J. LEGAL STUD. 1, 16–17 (1984).

one of the disputants. Even judges may totally ignore or seriously look at elder's finding depending of the sides they want to unduly benefit. When any claim against them is brought, they may defend themselves arguing that what they did was what they think the right thing to do. When the rules cannot be determined objectively, then subjectivity rules. This makes the holding of elders and judges accountable a very tough job. This, in turn, emboldens unethical elders and judges to abuse their power.

Erodes the farmer's confidence in the scheme – the scheme opens the room for similar cases to be treated differently by different courts or by different panels of elders. Obviously, this foster mistrust among the farmers in the dispute settlement scheme. No system affords to lose the confidence of the majority of public.

In general, these evils resulting from the ambiguity denies the Oromia rural land dispute scheme from having fundamental elements of an effective dispute settlement system such as efficiency, fairness and user's vote of confidence, to name a few.

IV.The Way Forward

I cannot see anything shorter than legislation action clarifying the role of elders and the status of their findings to fix the problem in the scheme. The only evil of the ambiguity that seems to be dealt with out a legislation act, but with a smart move with of elders is the unfairness that results from parties' different perception of the rule of the game. Elders, from the out set, can inform the parties what they are going to do and what behaviors they expect from parties. This may create an environment of common understanding of the rules of the game and avoids unfairness

However, the deeper inquiry of the matter reveals that even this evil, which, in its face value, seems to be addressed with out a legislation act cannot be fully addressed without it. The first obvious reason is that there is no guarantee that all elders inform the parties about their plan and their expectation from the parties in the absence of explicit guiding rules. The other reason is that there is a danger that what is perceived by the elders as their role is may not be perceived by others as legislator- intended - role of elders. Let me explain this with the help of examples. Let us see elders inform parties (Mr. X and Mr. Y) that they must open to each

other and to elders and that evidences must not be held back and that admissions must be made freely as elders are going to hold conciliation.[29]

Then, Mr. X, with a strong desire to reach an agreement with Mr. Y in the conciliation process, admits a disputed fact, which he otherwise would not. Unfortunately, elders could not come up with a proposal that mutually satisfies both parties. The dispute then lands in the court. When this happens, Mr. Y can produce Mr.X's admission in the conciliation process as evidence against the latter. If the court perceives that the role of elders is not supposed to be conciliation, then the court will admit the admission as evidence. Mr. X's interest will then be unfairly jeopardized due to his admission that he would not do it otherwise if he were not informed by the elders that they were going to do conciliation.(Note here that there is a principle that evidences obtained in the conciliation process must be made inadmissible in other proceedings. The whole purpose of this principle is to encourage parties to the conciliation to freely admit and exchange evidences which they would not do otherwise.)

Therefore, the ambiguity in the scheme must be addressed by a legislation act only. In other words, a law dispelling the ambiguity is urgently needed. This law must clearly state the role of elders and the status of their findings. This law must explicitly state whether the elders is intended to do conciliation or arbitration or any other thing. If elders are intended to do either conciliation or arbitration, the law can simply cross refer to the Civil Code or the Civil Procedure Code governing arbitration or conciliation as to the details unless deviation is needed. If a deviation from the rules of the Civil Code and Civil Procedure Code is needed in some areas, the law must stipulate that explicitly. If the role of elders is intended to be different from arbitration and conciliation, then this law must express that role. *Reasonably*[30] detailed procedures or guidelines that elders must follow in playing the role must also be laid down in the law. The role of courts in elders' handling of the dispute must also be unequivocally expressed. To lend more clarity to the scheme, the law must include, on the top of just mentioned matters, the objective of the scheme and other similar things giving general directions where we want the scheme to take us.

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[29] Note that conciliation is the system where parties hold frank discussion with the help of neutral persons (conciliators) in an effort to arrive a compromise agreement regarding a dispute between them.

[30] I used this expression to indicate that excessive details are not necessary and may result in rigidity and inaccessibility.

Conclusion and Recommendations

The Oromia rural land dispute settlement scheme, as set out under art.16 of the proclamation, is fashioned in such a way that disputes are first to be submitted to elders before they are thrown to courts. However, the scheme makes it difficult to determine how the elders are supposed to approach disputes before them- It is not clear whether elders needs to approach the dispute as arbitrators or conciliators or in any other capacity).

The other ambiguous thing in the scheme is the value of elder's findings. The scheme does not shed any light how the elder's finding (which has become binding on parties) is enforced- no clue whether it is to be enforced in the same way as contract or court judgments). The ambiguity regarding the value of elders' findings arises in other situations too. If parties oppose the findings and start proceedings in a court, the scheme gives no idea how the court needs to treat the finding.

All these ambiguities, inevitably, result in the prolonging and multiplication of litigations, in an unfair system, eroding farmers' confidence in the system and mitigating the accountability of elders and judges. In other words, the ambiguity costs the system its workability. Thus, it is recommended for urgent promulgation of a law (which amends the proclamation). This law is recommended to be:

- Explicit in stating the role of elders either as conciliation or arbitration or any other thing. and
- Cross-referring to the rules of Civil Code and Civil Procedure Code on conciliation or arbitration if elders are intended to do either of the two and
- Explicit in mentioning areas of deviation from Civil Code and Civil Procedure Code if some deviations are found necessary
- Equipped with a reasonably detailed procedures or guidelines that elders must follow in playing the role if the role of elders is intended to be different from arbitration and conciliation. The role of courts in elders' handling of the dispute must also be unequivocally expressed.
- Explicit in stating the objective of the dispute settlement scheme as that gives general directions where scheme is intended to take us.