**Transitional Justice Contribution to Sustaining Peace and Realizing SDG 16 in Ethiopia**

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**Introduction**

 Transitional justice is an important and critical phase for communities coming out from conflicts, atrocities and ensuing violations. In the 1990s, the conceptual framework for improving the theory of transitional justice was largely based on the assumption that a political transition from authoritarian rule would lead to democratization that guarantees stability and human rights protection. In the Federal Republic of Ethiopia, despite the change of the regime and the beginning of a formal transitional justice process, the systematic human rights violations remained persistent. These violations are committed by the democratic system that was assigned the task of achieving transitional justice, as the regime change has not necessarily put an end to these systematic violations in the country.

 Prior to the current government in Ethiopia, several human rights grievances were largely denied, which often pushed the country towards a hostile direction. However, from 2018 onwards, the political system in Ethiopia changed and new Prime Minister Abiy Ahmed began to transform the restrictive political system into a system of freedoms by forming a Reconciliation Commission in order to achieve transitional justice and sustainable peace.

1. **Why does Ethiopia need transitional justice?**

The numerous social and political conflicts, as well as the history of human rights violations, are the main causes of polarization and violence in Ethiopia. As such, the Reconciliation Commission could be a mechanism for building the nation and shaping a national consensus, while continuing the political transition that has been going on since the election of Abiy Ahmed as Prime Minister in April 2019 until this present time. The Reconciliation Commission is now required to do things differently. Instead of separately addressing the human rights violations, the Commission must put such violations in a historical, political, social and economic context and examine their root causes. Using this specific application of transitional justice in Ethiopia, national ownership can be achieved by listening to the victims and documenting the history of social and political conflicts in the country as precisely as possible. This is in addition to pulling Ethiopia out of the predicament of the ongoing political infighting that is dragging the country towards a deadly civil war, since each party to the conflict believes that some of its rights have been violated and the perpetrators of such violations were not held accountable, which prevents the realization of the principal goals of SDG 16, namely: Justice and sustainable peace[[1]](#footnote-1).

1. **What are the mechanisms adopted by Ethiopia to achieve transitional justice?**

In December 2018, the House of People’s Representatives of Ethiopia adopted a declaration to establish the National Reconciliation Commission, the first of its kind in Ethiopia. Six months later, the Commission developed a three-year plan and started the consultation process. Nevertheless, this Reconciliation Commission was formed without a broad political consensus on its mandate, as not all the political and ethnic groups of Ethiopia are included in the Commission. Thus, it has not yet earned the trust of several social and political groups that is required for the achievement of transitional justice[[2]](#footnote-2).

Abiy Ahmed stated that achieving transitional justice is one of his government’s priorities, and thereby the new Reconciliation Law was issued to regulate the work of the Commission. However, the Ethiopian government clearly underestimates the people’s need for justice and accountability. Accordingly, the government of Abiy Ahmed must give priority to the victims’ rights and enhance accountability to ensure that are no more conflict outbreaks. Although some of the government officials suspected of committing gross human rights violations are being prosecuted, others continue to shine in their careers without admitting the past mistakes of the government[[3]](#footnote-3).

1. **What are the powers granted to the Ethiopian National Reconciliation Commission?**

The mandate of the Reconciliation Commission is based on two pillars: the first one is particularly related to reconciliation, peace and national harmony. The declaration establishing such Commission describes the first pillar as an establishment of the values of forgiveness for the past, solidarity and mutual understanding by identifying reasons of conflict and animosity that occurred due to conflicts, misunderstanding, developed disagreements and revenge. Nevertheless, unlike the institutions established in other countries, where the concept of truth is given prominence among the goals of such institutions, this is not the case in Ethiopia. Clearly, there is not a single truth about conflicts in Ethiopia. Truth does not only include factual, forensic and scientific ones, but also personal, narrative, social and restorative truths. Thus, the Commission needs to find a way to transparently establish and clarify the various truths in order to succeed in this part of its mandate.

 The second pillar is to identify “the nature, cause and dimensions of the frequent gross human rights violations” as a way of ensuring respect for human rights and promoting reconciliation. However, what constitutes gross human rights violations is not defined. International law provides some guidance in this regard- gross human rights violations are often associated with systematic and widespread violations of the civil and political rights related to an individual’s life and freedom.

**Given that the human rights violations in Ethiopia often take on identity dimensions**, violation of group rights must be taken into consideration in the Commission’s work. This means that the Commission must review the social and economic violations, such as ethnic displacement, land expropriation, corruption and the embezzlement of state resources, in addition to examining acts such as extrajudicial executions, torture, enforced disappearance, sexual violence and gender-based violence that are authorized, overlooked or facilitated by the state.

In fact, the Commission does not do any of that, as since its establishment and until the present time, the Commission has not provided anything for the victims except for only listening to them without trying to pursue criminal accountability amid this massive number of conflicts that undermine the sustainability of peace in Ethiopia. As such, this Commission is no different from the previous mechanisms and measures that were taken by the past regimes to achieve transitional justice, but was very far from realizing justice and peace[[4]](#footnote-4).

1. **The challenges to achieving transitional justice in Ethiopia?**
* It is clear that the Ethiopian government faces many challenges due to the deep divisions that have not yet been properly addressed. The government needs to facilitate and not suppress freedom of assembly, deal with complex security situations and protect the population in line with international human rights law. The Ethiopian government shall ensure that only strictly necessary and proportionate force is used to manage the violence during some protests, and the use of excessive force, mass arrests and prolonged detention without trial are the motives that are fueling the escalation of tensions and a slide back.[[5]](#footnote-5)
* While the commission is tasked with documenting past conflicts and human rights violations to determine their causes, the law does not specify their relation to investigations and prosecutions. There is therefore a real risk that victims and survivors will not have access to justice and reparations, including the right to truth, accountability, compensation, rehabilitation or recognition.

Hence, it is more urgent than ever for Prime Minister Abiy to outline a roadmap for justice during the country's transitional period. Ethiopians need to clarify when and how current and former high-level government officials suspected of human rights violations will be investigated and prosecuted, how survivors will receive compensation, as well as plans for legal and structural reforms to break past repression. Until Ethiopia deals with past atrocities and injustices - through justice for every era and region - the country will remain vulnerable to incidents that provoke far more violence. Together with security sector reform, justice promotes respect for the rule of law, builds national trust and unleashes the country's potential for comprehensive and equitable development, at a time when the African continent needs to search at home for examples and inspiration.[[6]](#footnote-6)

* As noted earlier, there is no broad political consensus on the commission's mandate; the ruling party or its affiliates holds most of the seats in the Ethiopian parliament. This means that the commission has not yet won the trust and support of Ethiopia's diverse social and political groups. Furthermore, there has been no public participation in the development of the law enabling the committee, nor in the nomination and appointment of committee members, so these deficiencies can jeopardize the committee’s legitimacy and to remedy them, the committee must pay close attention to enabling public participation, consultation and input in the development of its regulations and working practices and build popular support for its work, on an ongoing basis.
* The political elites do not trust them, Committee has 18 members (7 of whom are women). However, it is the ruling party led by Abiy Ahmed who took over their appointment and selection without the involvement of the other political forces, which does not confirm the integrity of the recommendations made by the committee, thus avoiding the political forces participating in it.
* How long is the Peace Reconciliation Commission dealing with the violations? When it was established, it was intended to review past human rights violations and establish justice, but Ethiopia had experienced many violations by parties unknown to the government. At times those violations originated from the Ethiopian Government itself and the Commission has not moved for accountability in those violations and the recommendation of a fair trial. The commission has merely stated that it is studying the root causes of the conflict in Ethiopia absolutely to remedy it. But let us know that a policy of selfishness in dealing with human rights and political violations and simply turning time on those violations do not create sustainable peace, but rather fakes reality and fuels fire from under the ashes that drive Ethiopia towards an imminent civil war rather than sustainable development and peace.[[7]](#footnote-7)
1. **How can the government’s decisions contribute to supporting national peace in Ethiopia?**

The Commission must look to the future in facilitating and contributing to nation-building by having one of the Commission’s powers to codify the common principles and values ​​that will be the basis of national reconciliation through discussions with community groups that have different points of view.” On the other hand, the Commission is primarily charged with dealing with events prior to its establishment. The commission also has to find a way to deal with ordinary judicial institutions, and this can happen in three ways: first, these judicial institutions can be sources of information and evidence for the reconciliation commission, and second: existing judicial institutions can provide technical expertise and legal advice to the Commission. Third: Existing judicial institutions may themselves be subject to investigation, as some of them may have failed to fulfill their obligations to protect victims or ensure the protection of their rights. Therefore, all three approaches could be part of the Commission’s examination of the causes of human rights violations and investigation justice.

Unfortunately, the declaration does not authorize the commission to prosecute the perpetrators nor to bring individuals to trial. The commission is only tasked with making recommendations, which can include institutional reforms that may be related to the constitution or other legislation in order to achieve lasting peace and prevent future conflict while reconciliation is the reason for the existence of the commission, however, may have a legacy in the actions it takes to maintain peace and prevent future conflicts without investigating actual human rights abuses that exist.

All of the disadvantages experienced by the Ethiopian Reconciliation Commission for transitional justice during the armed conflict in Tigray, for which the Commission was silent and did not address any human rights violations, were investigated during the war in the Territory, despite numerous regional and United Nations law reports confirming human rights violations against civilians in the Territory, leading the country to a long-term regional decline; Without a clear framework for peace-building, post-conflict reconstruction and transitional justice, the country is at risk of a radical postponement of political and economic recovery, with implications not only for Ethiopia but also for the entire Horn of Africa region, which is already suffering from armed conflict, unequal economic development, border disputes, persistent food insecurity, climate change, an unstable political situation and a dire refugee crisis.[[8]](#footnote-8)

**6. What is the role of civil society in contributing to transitional justice in Ethiopia?**

Even after the change in the system in Ethiopia, civil society continues to suffer from being classified as enemies of the country in one way or another, which prevents the Commission from relying on a significant civil society contributor to social justice, as well as the determination of the current Ethiopian Government to marginalize groups and ethnicities from society, which leads it to restrict the contribution of civil society to peace and transitional justice issues.

Civil society, even after the regime change in Ethiopia, still suffers from being classified as enemies of the state in one way or another, which prevents the committee from relying on the civil society contributor in a large way to achieve social justice, as well as with the insistence of the current Ethiopian government to marginalize groups and ethnicities only in the society, as this pushes it to restrict the contribution of civil society to issues of peace and transitional justice, as there is no joint coordination between civil society organizations in Ethiopia and the Reconciliation Committee.[[9]](#footnote-9)

**Conclusion and recommendations:**

 Although the Ethiopian government has sought to develop a strong legislative form of the Reconciliation Commission in terms of its articles and terms of reference, the Commission has not achieved the desired results as a transitional justice mechanism in Ethiopia due to several factors, including the Commission’s lack of transparency, the lack of participation by other political powers in its composition and the ignoring of the human rights violations that has undermined the efforts of sustainable peace in Ethiopia since Abiy Ahmed’s assumption of power. Accordingly:

1. The Ethiopian government must restructure this Commission in a manner that ensures the representation of all political powers in the country in order for it to gain more support from politicians and civil society.
2. The Office of the High Commissioner for Human Rights (OHCHR) must urge the Ethiopian government to issue a clear statement including the effective measures to be taken by the government of Abiy Ahmed after the renewal of its term as a path towards achieving transitional justice and peace.
3. In addition to the National Reconciliation Commission, the Ethiopian government must expand the concept of transitional justice and must work on establishing more mechanisms that support the issues of peace and development and monitor all violations, corruption and inclusiveness.
4. The OHCHR must urge the Ethiopian government to enhance the role of civil society, particularly human rights defenders because they are the most persecuted group, through the involvement of civil society in the Commission by assigning some government organizations within the Commission’s governing council.
5. In hopes of achieving the desired results, the Ethiopian government must set an indefinite timeframe allowing it to study the current human rights violations, not only the crimes of the former regime, and to pay attention to the current burning issues on the stage, including the civil war in Tigray and the resulting gross violations.
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2. Ethiopian Reconciliation Commission Announces Three-Year Plan, 2019, <https://bit.ly/3mOAttW> [↑](#footnote-ref-2)
3. Keeping Ethiopia’s Transition on the Rails, crisis group, <https://bit.ly/2Z78eP8> [↑](#footnote-ref-3)
4. Ethiopia’s Experiment in Reconciliation, U.S. Institute of Peace, 2020, <https://bit.ly/3AL7WdI> [↑](#footnote-ref-4)
5. The Battle of Mekelle and Its Implications for Ethiopia, csis, <https://bit.ly/3b3cj9P> [↑](#footnote-ref-5)
6. OPED: Justice, not repression, will break Ethiopia’s waves of violence, 2020, <https://bit.ly/3jm82mb> [↑](#footnote-ref-6)
7. Moges Zewdu Teshome, Ethiopia Must Give Transitional Justice a Chance. The Challenges of Reconciliation in a Deeply Divided Nation, 2020, <https://bit.ly/3vhQhcO> [↑](#footnote-ref-7)
8. Ethiopia’s transitional justice process needs restoration work, Ethiopia insight, 2020, <https://bit.ly/3aGhWdW> [↑](#footnote-ref-8)
9. ETHIOPIA: ‘Civil society can play a key role in overcoming divisions’, CIVICUS, 2019, <https://bit.ly/30tx5NP> [↑](#footnote-ref-9)