

# POLICY OPTIONS FOR TRANSITIONAL JUSTICE IN ETHIOPIA

TRANSITIONAL JUSTICE WORKING GROUP OF EXPERTS

## INAUGURAL EVENT

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TRANSITIONAL JUSTICE

# Contents

## A. Policy Options for Transitional Justice in Ethiopia

1

The need for TJ process in Ethiopia

2

TJ Mechanisms

A

Prosecution

B

Truth

C

Reconciliation

D

Amnesty

E

Reparation

F

Institutional reform

3

Other Issues: Temporal scope,

## B. Roadmap for National Consultations and Preparation of TJ Policy

# A) Policy Options for TJ in Ethiopia

## 1. The need for TJ process in Ethiopia

### Why TJ?

- **National context demands comprehensive transitional justice approach**
- **An effective transitional justice process plays a positive role in state-building and its sustainability**
- **Democratization and lasting peace are not possible in the absence of an effective transitional justice**
- **Implementation of transitional justice lays foundation for ensuring human rights and rule of law**

# Transitional Justice Mechanisms

## A) Prosecution: which violations?

### Option one

**Gross human rights violations (genocide, war crimes, crimes against humanity, other grave crimes).**

### Option two

**Prosecution for all violations of human rights**

# Prosecution: Who should be prosecuted?

## Option one

**Focus on principal offenders (who gave orders, planned and coordinated actions, inactions including persons holding high positions)**

## Option two

**Prosecution of all persons involved in gross human rights violations in any capacity**

# Institutional Issues: Judicial process

## Option one

**Establishing special benches  
within the high and supreme  
courts**

## Option two

**Establishing special Court (with first  
instance and appellate benches) to  
administer the cases**

# Institutional Issues: Investigation and Prosecution

## Option one

**Establishing separate (dedicated) teams within existing police and prosecution institutions**

## Option two

**Establishing special prosecution office to coordinate investigating and prosecution**

## Elements of Truth seeking

Finding what happened, determining the extent of damage and subsequent acknowledgment to fulfil victims' demand for justice and inclusion in historical records laying the ground for reconciliation.

- **Victims- centred approach**
- **Participation of suspected offenders**
- **Documentation of violations**
- **Publicizing the truth**



# Institutional Issues: who should lead on truth seeking processes?

## Option one

Through a new commission

## Option two

Using existing institutions  
(National dialogue commission and  
Ethiopian human rights commission after  
legal modifications)

## Kinds of reconciliation during a TJ process

**Bringing together people and communities divided by widespread human rights violations, war, conflict and injustice-induced social fractures, hate and fear and enabling them to embark on the path of reconstructing a shared future.**

- **Self-reconciliation**
- **Individual reconciliation**
- **Social and political reconciliation**
- **Institutional reconciliation**

## Who leads the reconciliation process?

### Option one

**Truth and reconciliation  
commission**

### Option two

**National Dialogue Commission: recourse to such option requires a legislative amendment to specifically add a mandate to the institution.**

## Conditions of Amnesty

**Unconditional amnesty would lead to miscarriage of justice, promote impunity and serve a precursor for future violations; and is against international law**

- **Offenders level of participation**
- **Nature and gravity of the crime**
- **Collaboration of offenders**
- **Finding the truth**
- **Repentance and and apology**

# Institutional Issues: Who grants amnesty?

## Option one

Through a new commission

## Option two

Using existing amnesty legal and institutional framework: Amnesty Board under MOJ who sends recommendations to PM

## Building a functioning reparation system

Put in place a system to apply effective and proportional monetary or non-monetary compensation that could include reinstatement, compensation, satisfaction rehabilitation, communal compensation, memorials)

- Legal framework for reparation
- Identifying victim beneficiaries of individual compensation:
- Design ways for offenders to contribute to the reparation system:
- Establishing victims' fund

## Institutional Issues: Who leads/coordinates the reparation process?

### Option one

Through a new commission

### Option two

Using existing institutions –  
(court plus national dialogue  
commission for collective  
compensation)

F)

## Institutional reform

What would it include?

**Vetting and investigation:** Vetting of personnel to enable the identification and investigation of personnel who had committed or ordered the commission of gross human rights violations.

**Terminate employment or position:** take measures to terminate the employment and depose officials based on the vetting and investigation

**Legal and procedural reform:** to ensure laws and procedures are in place to prevent farther violations of human rights



# Institutional Issues: who should lead institutional reform?

## Option one

Through a new (can take the form of a commission, a committee, or specialized office)

## Option two

Establish ad-hoc units within relevant institutions

### Temporal scope

**When should  
be the  
starting point  
of the  
process?**

**Option 1:  
before 1991**

**Option 2: From  
1991**

**Option 3: From  
1995**

**Option 4: From  
2018**

**Option 5: Mixed-  
From 1995 for  
prosecution but even  
before for truth and  
reconciliation**

## The role of sub-national administrations in transitional justice/ The role of traditional justice systems

- **Regions**
- **City admin**
- **Traditional institutions**

- **Subnational administrations (regions and city administrations) will have a role in the process of TJ.**
- **Traditional justice systems will be made an integral mechanism to implement transitional justice without compromising human rights standards.**

## B) Roadmap for National Consultations and Preparation of TJ Policy

**An effective TJ system requires?**

- ✓ **Local ownership and participations**
- ✓ **Extensive consultations with national stakeholders**
- ✓ **Thus, wide ranges of consultations**
- ✓ **Strong legal foundations consistent with international law and standards**
- ✓ **Political settlement and will to address the demands of victims of the conflict**

**Thus, the Transitional Justice Working Group of Experts has developed a roadmap as a general framework of the process**

## WORKING STAGES

Working  
stages?

**The preparation of a draft policy needs to pass through orderly identified three stages**

- 1. Pre-draft consultations**
- 2. Preparation of a draft, and**
- 3. Post-draft activities that include consultations, revision of a draft policy through the incorporation of inputs gained from consultations, and the adoption of a final draft document - along with explanatory notes**

# Consultation Approach?

- **Approach?**

## **Consultations as a right**

- ❖ **UN and AU documents emphasizing necessity and relevance of an inclusive consultative process**

## **Justification?**

- **Targeted participants as a resource**
- **Legitimacy**

## **Guiding Principles?**

- **Consultation will be conducted with identified guiding principles**

## Consultation with who?

- **Who would be consulted?**
- **The need for contextualization?**

- ✓ **All sections of societies and other key actors to inform and shape the designing of the transitional justice process.**
- ✓ **Thus, consultations will be conducted with carefully selected representatives from all sections of society such as communities affected by conflict and victims of gross human rights violations.**
- ✓ **The roadmap also notes that victims and affected communities in a situation like ours, as elsewhere are not monolithic rather they vary in terms of the nature, type, causes, and aspects of the harm they have suffered.**

# Consultation how?

## How and when?

- **Focused and brief sensitization sessions**
- **Different groups will be established based on different parameters**
- **Both in-person and virtual consultative workshops**
- **Based on principles of accessibility and adaptability**
- **To be conducted across the 59 locations within a total of 13 Weeks period**
- **Written submissions since 03 January 2023 (made available in the public domain)**



## Further activities?

### Activities

- **Converting green paper into white paper**
- **Preparation of draft policy**
- **Post-draft consultation workshops and revision of texts**

Thank you