

A GLIMPSE AT PAST TRANSITIONAL JUSTICE INITIATIVES IN ETHIOPIA

BY TRANSITIONAL JUSTICE WORKING GROUP OF EXPERTS



Outline

Has Two Parts:

Part one:

- Dealing with Legacies of Repressive Past: Optional or Imperative?
- Transitional Justice
- Goals
- Mechanisms
- Principles

Transitional Justice Attempts in Ethiopia

- Post-Derg Measures
- Post-EPRDF Mechanisms

Dealing with the Past: TJ?

The issue of how to deal with the past egregious human rights violations arises when a country is in transitional process

TJ: often associated with periods of political change: transition

Cont'd

What is transition?

Models?

The mode/nature of transition often influence the policy choice and decision on how to come to terms with the past

Dealing with Past: Necessary or Optional

At the early stage of the genealogy of TJ:

- Reckoning with an atrocious past was deprioritized, delayed or even abandoned altogether.
- DwP viewed as obstacles to reconciliation and peacebuilding;
- Opening old wounds generates political instability and interferes with forward-looking political change

Cont'd

Physical Infrastructure in Disrepair (Syria)



Disrepair (Ethiopia)



Cont'd



Cont'd



Gross Violations

Human Cost



Human Cost



Cont'd



Cont'd

Human Cost



Torture/Wefelala



IDPS

Displacement



IDPS



DwP Necessary

The past must be addressed in order to reach the future

Ignoring past gross human rights violations is not anymore a viable option to start democratization process

Repressive past should not be left un-confronted for to bury egregious past wrongs is a recipe for similar future abuses

Looking Back to Move Forward



Formal mechanisms cannot help confront past adequately

Bypassing them inevitable

Hence, charting TJ necessary

TJ Framework: UN

- ICCPR,
- ICSECR
- CAT
- Geneva and Hague Conventions,
- Genocide Convention
- The International Convention on the Elimination of All Forms of Racial Discrimination
- The Convention on the Elimination of All Forms of Discrimination against Women
- The Convention on the Rights of the Child;
- The Convention on the Rights of Persons with Disabilities

- Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations 2005
- The set of principles for the protection and promotion of human rights through action to combat impunity of 1997 and the updated version of those principles 2005
- Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies 2004, 2011.
- Guidance note of the Secretary-General on the United Nations approach to transitional justice of 19 April 2010
- Rule of law tools for post-conflict societies (prosecution to vetting) conceptual and analytical works of OHCHR
- Transforming our world: the 2030 Agenda for Sustainable Development

AU's TJ Framework

The African Charter on Human and Peoples' Rights

Constitutive Act of the African Union

The African Charter on the Rights and Welfare of the Child

The Maputo Protocol

Kampala Convention

Protocol establishing the Peace and Security Council of the AU

AU Transitional Justice Policy

Adopted 2019 in Addis Ababa

Agenda 2063: the Africa We Want

AU Post-Conflict Reconstruction and Development Policy of 2006

TJ: Definition



the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof. (UNSG Report 2004)

AU



- Transitional justice refers to the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation.

Goals of TJ Mechanisms

The mechanism goals include:

- Justice
- Seeking and establishing official truth
- Acknowledgement
- Reparation
- Promoting reconciliation/peace
- Initiating reform
- Guarantees non-recurrence?
- Transformative

TJ Mechanisms

Mechanisms

Accountability

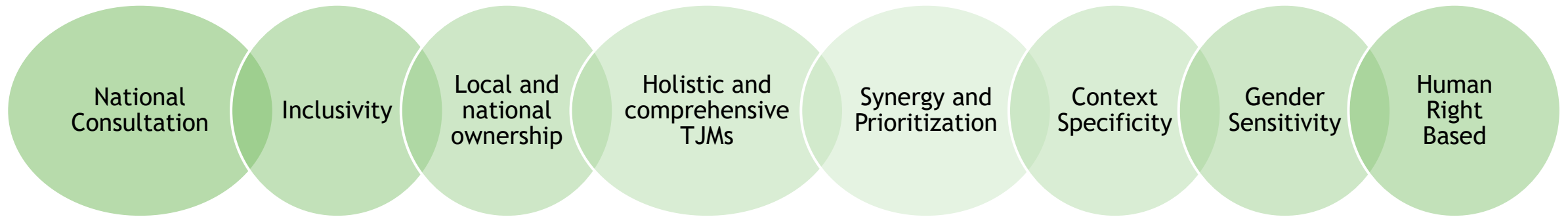
Truth-seeking

Reparation

**Conditional
Amnesty**

**Institutional
and Legal
Reform**

Principles



National Consultation: As TJ Pillar

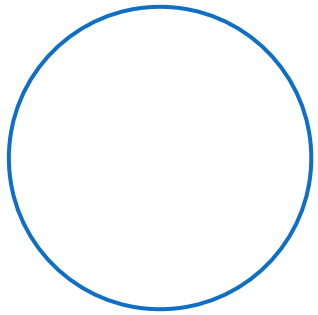
The most successful transitional justice experiences owe a large part of their success to the quantity and quality of public and victim consultation carried out.

National consultations are a critical element of the human rights-based approach to transitional justice...

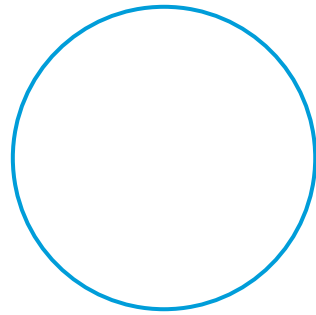
Local consultation enables a better understanding of the dynamics of past conflict, patterns of discrimination and types of victims. (UNSG, Report, 2014, Para 16)

Public participation reveals the needs of communities affected by conflict or repressive rule, allowing States to craft an appropriate context-specific transitional justice programme (UNSG, Guidance Notes, 2010, P. 9)

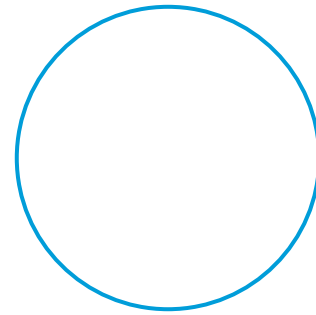
Context Specificity



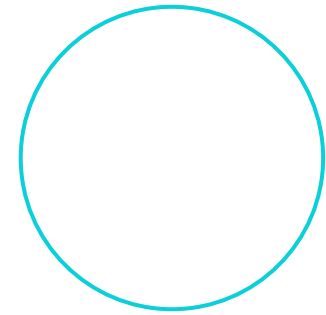
The
standardization



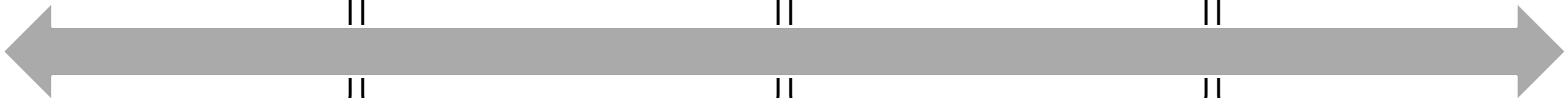
Templatization of
transitional justice
tools;



The one-size-fits
all approach



no handy made
model or approach
that works for all
contexts



Transitional Justice Attempts in Ethiopia

Lessons Learned From Derg to Post-EPRDF
Initiatives



Post 1991 Transition: From Derg to EPRDF

The TG adopted **criminal accountability** as the main transitional justice mechanism



Special Public Prosecution Office was established in 1992



No special tribunal established for this purpose: Cases filled before the ordinary courts.

Reckoning with Derg Crimes

Extensive Criminal Prosecution

- Conducted massive criminal accountability
- Over 3000 convicted
- Over 1200 for politicide and other crimes
- Protracted: 17 years plus?
- Legal and institutional reforms

Terror on Trial



Limitations

Narrow
and
incomplete
mechanism

Selective

Legal
deficiency

State of
the justice
sector

Protracted

Offenders
oriented

Ethiopia's Current Transitional Process: Mechanisms Charted

Prime Minister Abiy A. and his administration adopted several TJ mechanisms to confront the repressive past:

These range from:

Official apology

Amnesty

Reconciliation
Commission

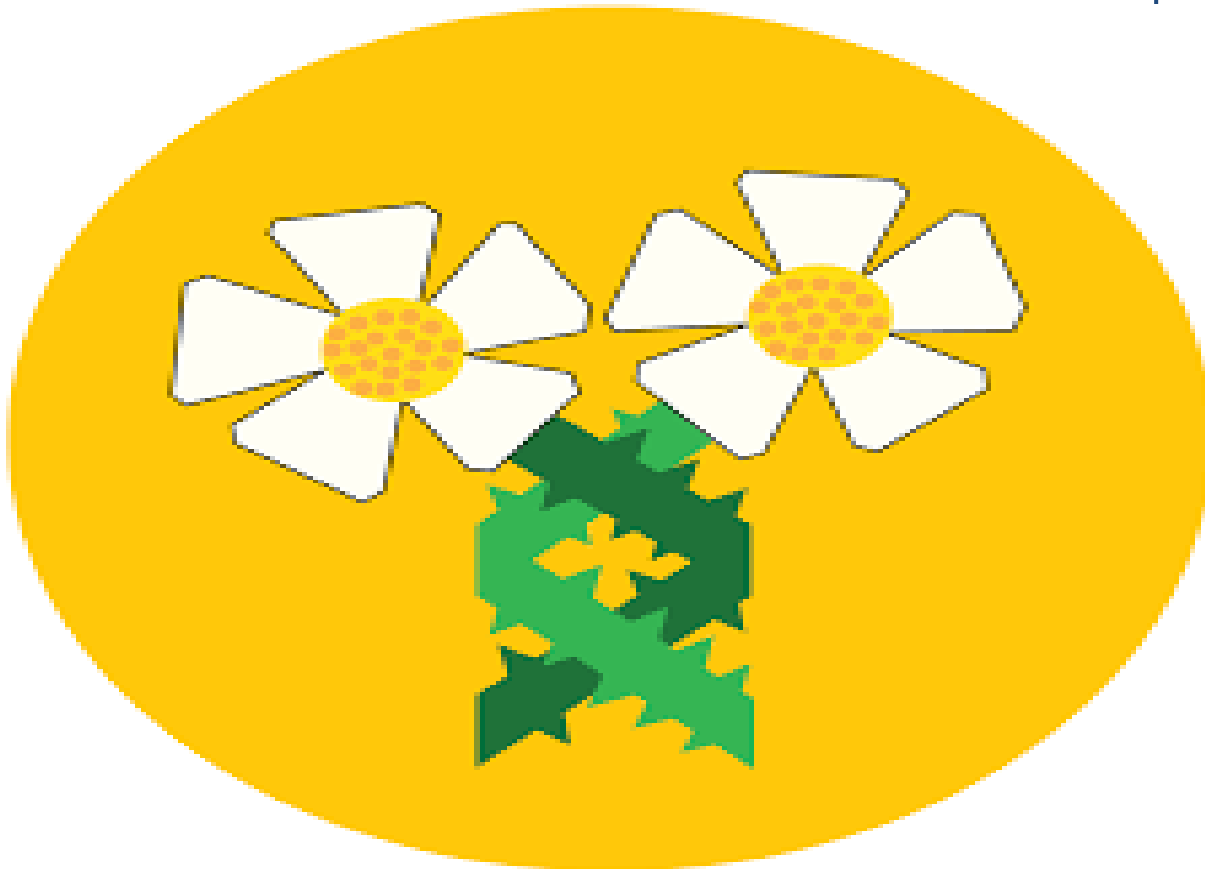
Criminal
Prosecutions

Legal and
institutional
reforms

Ethiopia's
National
Dialogue
Commission

Establishment of the ERC

Motto: ይቅር ለሰላም



ERC

- Established on 25 December 2018 by the law-making organ.
- The first of its kind in Ethiopia
- It is commendable that the new administration took a policy decision to establish the much sought for truth-finding mechanism
- However, there are several limitation

Establishment and Composition

Not participatory

41 Commissioners

The appointment too was conducted without proper public consultation

Appointment parameters: merit and/or representation?

Inclusion of controversial and politically active individuals



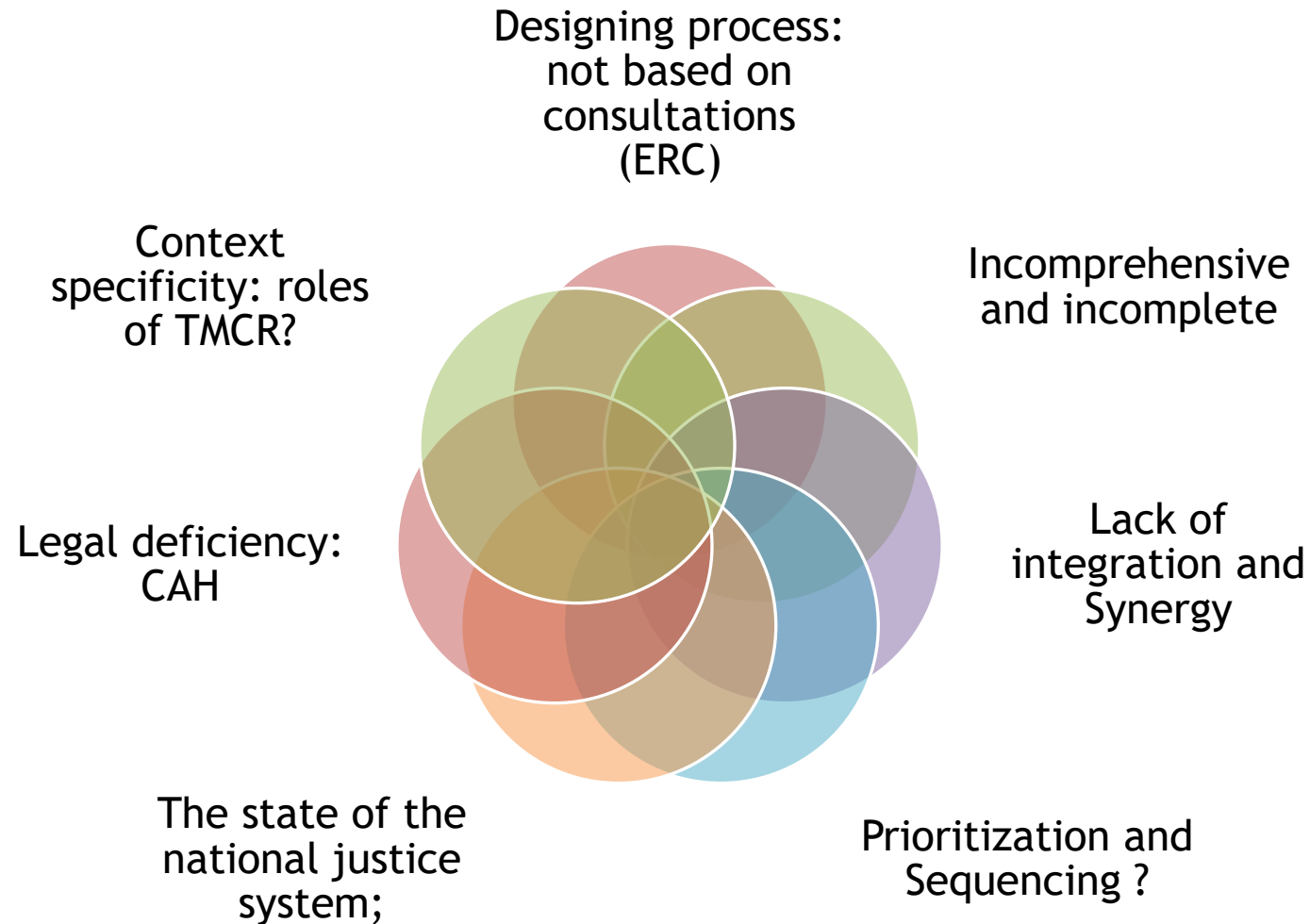
Mandate: Subject matter Jurisdiction

The mandates of the Commission not well defined.

Three pronged:

- National dialogue
- Conflict resolution
- Gross human rights

Limitations of Past TJ Initiatives in Ethiopia



Cyclic Violence and Violations..

Ethiopia's atrocious and repressive past not well addressed, processed;

Denial, silencing, competing narrations; amnesia not challenged not replaced;

Ruptured relationship not repaired, rule of law not restored

Hence violence, and violations continued



THANK YOU

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