

NATIONAL CONSULTATIONS AND TRANSITIONAL JUSTICE POLICY DESIGN PROCESS

TRANSITIONAL JUSTICE WORKING GROUP OF EXPERTS
(MINISTRY OF JUSTICE)

SEPTEMBER 2023



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TRANSITIONAL JUSTICE

DEALING WITH THE PAST: NECESSARY OR OPTIONAL?

- **Issue of dealing with past egregious HR violations arises when a country is in post-conflict/trans.l process;**
- **Early stage of genealogy of TJ:**
 - **atrocious past deprioritized, delayed, or even abandoned;**
 - **dealing with past viewed as obstacle to reconciliation and peacebuilding;**
 - **opening wounds generates pol. instability, interferes with forward-looking pol. change;**
- **BUT – Dealing with past is absolutely nec.:**
 - **to reach to the future; ignoring the past - not anymore viable option when starting democratization;**
 - **burying egregious past wrongs: recipe for similar future abuses;**

THE NEED FOR TJ PROCESS IN ETHIOPIA

ETHIOPIA:

- had attempted to apply certain components of TJ on different occasions; (Derg trials; post-2010 measures)
- absence of holistic TJ framework rendered the efforts inadequate, ineffective, incoherent;

WHY NOW? - NATIONAL CONTEXT DEMANDS COMPREHENSIVE TJ APPROACH

- Effective TJ process plays positive role in state-building, its sustainability;
- Democratization and lasting peace - not possible in absence of an effective TJ;
- Implementing TJ lays foundation for ensuring HRs and rule of law;
- Hence: initiative is imperative - is not an attempt to promote “quasi-compliance” (as alleged by some)
 - to evade int’l scrutiny via creation of domestic mechanisms, or
 - to alleviate int’l pressure, or
 - to preclude prospect of int’l investigation (as stated in ICHREE 2023 REPORT);

ADDITIONAL FACTORS TRIGGERING TJ INITIATIVE IN ETHIOPIA

1) GoE's internal study:

- MoJ brought seasoned experts on TJ/HRs – 2020/21;
- did extensive study on past TJ initiatives in Eth;
 - in light of exp. in other parts, AU TJ Policy, and int'l framework on TJ;
- study recommended rolling out TJ process in Eth.

2) TJ roll out recom. by JIT-EHRC/OHCHR (Nov.3 2021)

3) CoHA with TPLF: operationalizing TJ set as obligation (Nov.2 2022)

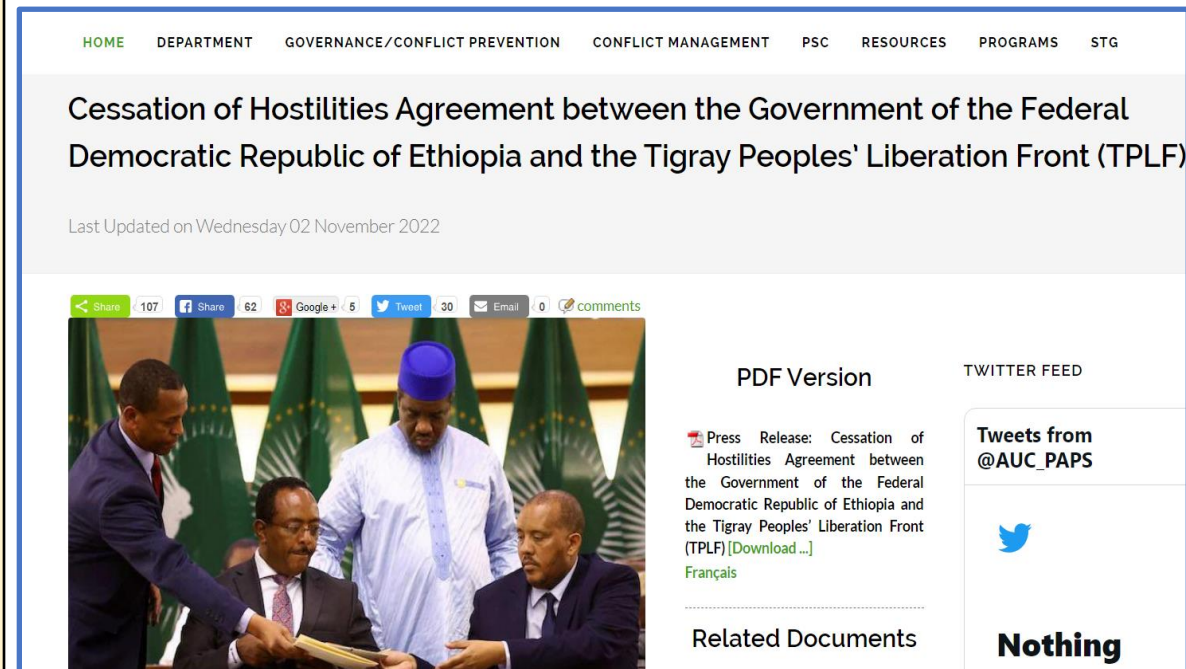


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Report of the Ethiopian Human Rights Commission (EHRC)/Office of the United Nations High Commissioner for Human Rights (OHCHR) Joint Investigation into Alleged Violations of International Human Rights, Humanitarian and Refugee Law Committed by all Parties to the Conflict in the Tigray Region of the Federal Democratic Republic of Ethiopia

UN. Office of the High Commissioner for Human Rights

2021



HOME DEPARTMENT GOVERNANCE/CONFLICT PREVENTION CONFLICT MANAGEMENT PSC RESOURCES PROGRAMS STG

Cessation of Hostilities Agreement between the Government of the Federal Democratic Republic of Ethiopia and the Tigray Peoples' Liberation Front (TPLF)

Last Updated on Wednesday 02 November 2022

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Press Release: Cessation of Hostilities Agreement between the Government of the Federal Democratic Republic of Ethiopia and the Tigray Peoples' Liberation Front (TPLF) [Download ...]

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Tweets from @AUC_PAPS

Nothing

GOE - FORMALLY EXPRESSED INTEREST TO PURSUE TJ PROCESS NOV.2022;

- established the TJWGE: Nov. 2022;
- 13 members (3 women); diverse background;

TJWGE's MANDATE

- prepare 'policy options' document for national consultations;
- organize/carry out broad-based/inclusive consultations;
- lead process of crafting comprehensive, context-specific TJ policy;

- 4 university professors
- 1 HR advocate, consultant
- 4 drafting experts MoJ
- 3 independent experts
- 1 from legal practice

**NORMATIVE BASIS OF TJ CONSULTATIONS AND POLICY DESIGN PROCESS IN
ETHIOPIA**

- ICCPR
- ICSECR
- CAT
- Geneva/Hague Conventions
- Genocide Convention
- CERD
- CEDAW
- CRC
- CRPD

- Basic Principles/Guidelines on Right to Remedy, Reparation for Victims of Gross Violation 2005 (UNGA Res)
- Principles for protection/promotion of HRs through action to combat impunity 1997, 2005 (UN SR on Truth)
- **Report of UN-SG on rule of law and TJ in conflict and post-conflict societies, 2004, 2011**
- Guidance Note of SG on UN approach to TJ: 19 Apr. 2010
- Rule of law tools for post-conflict societies: OHCHR
- Transforming our world: 2030 Agenda for Sus. Dev't

- African Charter on HPR
- Constitutive Act of African Union
- African Charter on Rights and Welfare of the Child
- The Maputo Protocol (to the African Charter - on Rights of Women)
- Kampala Convention (on Internally Displaced Persons)
- Protocol establishing Peace and Security Council of AU
- Agenda 2063: the Africa We Want
- AU Post-Conflict Reconstruction and Development Policy of 2006
- **AU Transitional Justice Policy 2019**

WHY HOLD NATION-WIDE CONSULTATIONS AS PART OF TJ POLICY DESIGN PROCESS?

UNSG, REPORT, 2014, PARA 16

- most successful TJ experiences owe their success to quantity/quality of public/victim consultation carried out;
- local consultation: enables better understanding of dynamics of past conflict, patterns, types of victims;

UNSG, GUIDANCE NOTES, 2010, P. 9

- public participation reveals needs of communities affected by conflict or repressive rule;
- allows states to craft appropriate, context-specific TJ programme;

ICHREE 2023 REPORT:

- Gov't consultation falls well short of AU and international standards; does not reflect victims' voices; is hostage to arbitrary deadline;

WORKING STAGES OF TJ CONSULTATIONS AND POLICY DESIGN PROCESS

- 1) Pre-draft consultations (preparatory works, and consultations - national, regional and with int'l experts)
- 2) Preparation of comprehensive TJ consultations Report and draft TJ Policy
- 3) Post-draft tasks (select validation workshops and approval by CoM via MoJ)

CURRENTLY, THE TJWGE JUST CONCLUDED PREP. OF DRAFTS OF TWO KEY DOCUMENTS

- 1) 'የኢትዮጵያ የሽግግር ፍትህ የፖሊሲ አቅጣጫ አማራጮች - የህዝብ ምክክርና ግብዓት ማሰባሰብ ሂደት ሪፖርት' ታህሳስ 19 2016
- 2) 'የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ የሽግግር ፍትህ ፖሊሲ' ጥር 2016 ዓ.ም

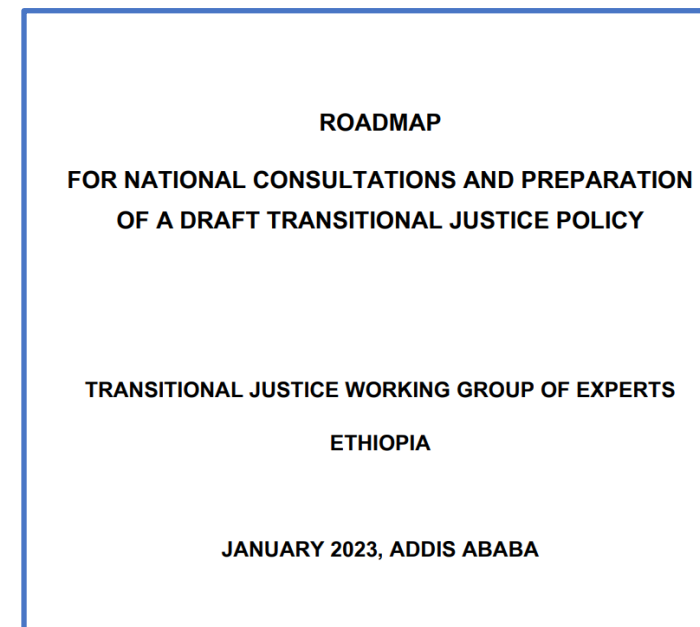
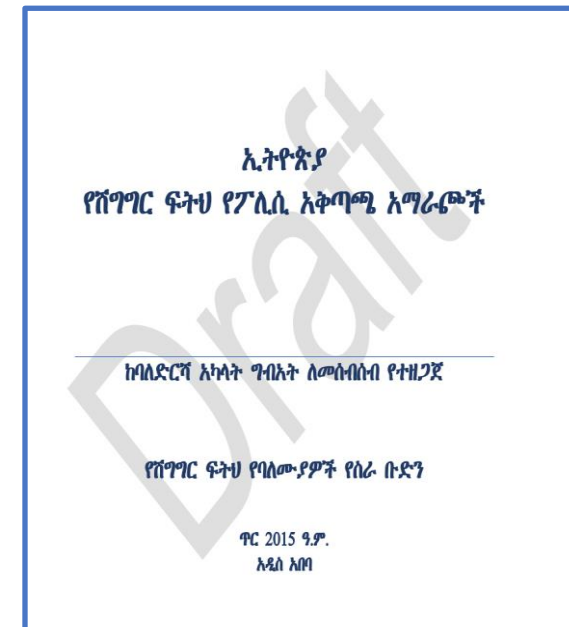
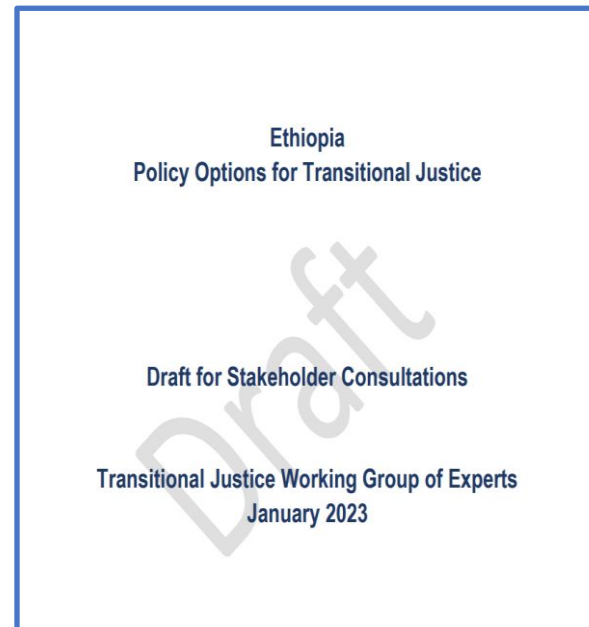
THE POLICY PREPARATION PHASE: CONSULTATIONS GUIDING DOCUMENTS

1) 'Policy Options for TJ in Ethiopia'

- developed to solicit inputs from stakeholders;

2) TJ Consultations/Policy Design Roadmap: defines

- working stages
- rationales: values of consultations
- guiding principles
- sensitization: capacity building
- who to consult: participants and selection parameters
- consultation methodologies
- identification of place and time
- reporting findings/report writing
- preparation of draft policy
- post-draft cons. and revision of texts



OTHER DOCUMENTS DEVELOPED BY TJWGE TO FACILITATE ITS WORKS

- 1) ETHIOPIA - POLICY OPTIONS FOR TRANSITIONAL JUSTICE - DRAFT FOR STAKEHOLDER CONSULTATION
(GREEN PAPER ENGLISH/AMHARIC)
- 2) TRANSITIONAL JUSTICE SENSITIZATION MATERIAL 2023
- 3) TRANSITIONAL JUSTICE CONSULTATIONS AND POLICY DEVELOPMENT ROADMAP
- 4) የሽግግር ፍትህ ፖሊሲ ዝግጅት የባለሙያዎች ቡድን አባላት የአሰራር እና የሰነድ ምግባር መመሪያ
- 5) TRANSITIONAL JUSTICE DOCUMENTATION GUIDELINE
- 6) በሽግግር ፍትህ ፖሊሲ ዝግጅት ሂደት የአጋር አካላት ተሳትፎ ማንግጫ
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- 8) GUIDING PRINCIPLES AND QUESTIONS FOR FOCUS GROUP DISCUSSION

PRE-DRAFT CONSULTATIONS PROCESS ON THE POLICY OPTIONS DOCUMENT

- **Unique/unprecedented process in Ethiopian:**
 - massive consultations, feedback gathered **BEFORE EVEN DRAFTING** a policy;
 - grounded on right to be consulted - as recognized in several HR treaties;
 - also based on further obligation: any TJ process should be pursued via in-depth cons.n.s
 - stakes are high, and choices complex
 - most effective TJ experiences owe their success to quantity/quality of public/victim consul.n.s;
- **Approach also helps to:**
 - gauge disposition of stakeholders (resource for public insights, views)
 - cement commitment during implementation of policy (legitimacy)
 - reinforces empowering argument: viewed as act of recognition of participants/victims;
 - **BOTTOM POINT** - national consultations: are not just box-checking exercises

COMPLIANCE OF THE CONSULTATIONS PROCESS WITH GUIDING INT'L PRINCIPLES

COMPLIANCE WITH GUIDING PRINCIPLES

CONSULTATION ADHERES TO KEY PRINCIPLES

A) Informed Consent: based on will; explained objectives;

B) Inclusiveness:

- reflective of diversity in country
- involves all key stakeholders, regardless of gender, education, political, status, religious, ethnic affiliation;
- identif.n, composition of participants: based on clear parameters (defined in protocol);
- 60 persons invited per each event;
- hugely successful turnout: average 59.5 persons per event (or 99.3% of all persons invited showed up);
- TJWGE solo consultation events total number: 58;
- a total of 3391 persons took part;
- additionally, 22 consul. events organized jointly with partners; a total of 869 persons took part;

TARGETED COMMUNITY MEMBERS

- reps. of relig./community leaders
- civil societies, academics
- int'l and national experts
- inst.s working on TJ, dem. and HRs.
- political parties
- activists/opinion influencers
- media; IDPs/Refugees (in 5 locations);
- youth/youth organizations
- women/victims
- persons from past TJ exercises
- rep.s of gov't institutions
- labor/business org.n, int'l org.s



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C) Do No Harm Principle: no exposure to trauma due to participation;

D) Security:

- consultations pursued in risk-free, secure areas;

E) Meaningful Participation:

- conformed to principles of accessibility (hurdles like illiteracy, language barriers, and context) addressed;
 - subject matter knowledge augmented via sensitization
 - very flexible language approaches adopted
 - policy options document and presentation slides translated into Somali, Tigrigna and Afan Oromo

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SENSITIZATION: CAPACITY BUILDING

- most lack knowledge of basics of TJ, advantages, limitations of various measures;
- quality/meaningful consul.s that inform TJ Policy:
 - presumes knowl. of concepts/measures
- knowledge gap addressed via:
 - sensitization presentations

F) Transparency:

- processes, purposes, methods related to consul. communicated to participants, the public;**
- TV/radio interviews, social media posts, press releases;**



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Special_Program: "Transitional Justice is expected to bring accountability" Misganaw Mulugeta,

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የሽግግር ፍትህ ፣የካቲት 27, 2015 What's New Mar 6,2023



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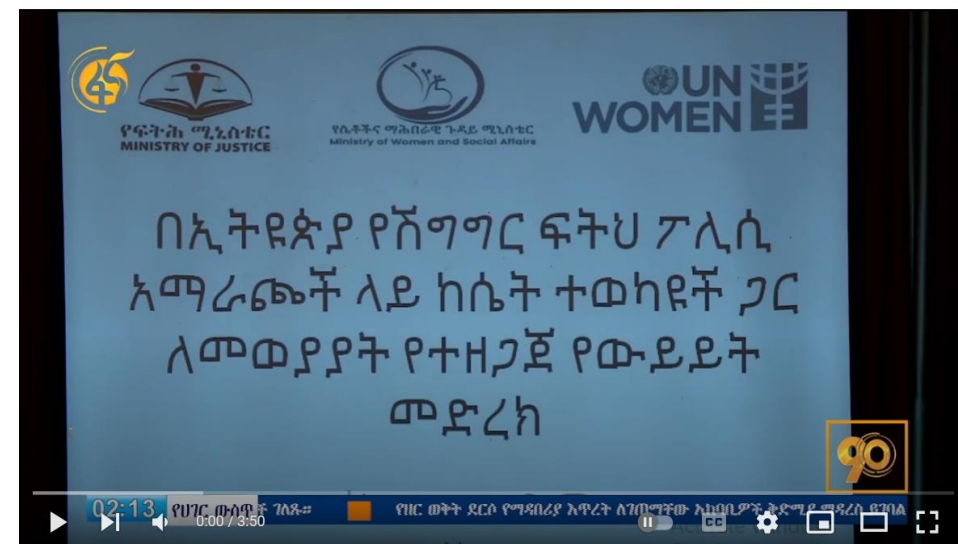
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F) Independence, Objectivity and Impartiality:

- cons.s carried out in credible, impartial, trustworthy manner;
- TJWGE comprised independent/renowned experts:
 - led all work stages of policy preps;
 - helped to ensure impartiality/credibility of process
- plus: consultation methods, activities held:
 - free from political interference,
 - free from partiality, favor, bias of experts (clear **protocol on roles** of facilitators, interlocutors)

I) Gender Sensitivity:

- consultation methods, procedures: paid huge attention to participation of women;
- gender parity in composition of TJWGE (3/13)
- gender parity in terms of event participants
 - 50% planned;
 - in 58 TJWGE consul.s: 1,123 (33.11%) were women; 2,148 (63.34%) were men;
 - 678 were women victims; and 710 male victims;
- plus, 'women victims only' FGD groups organized per each event;
- and one 'Women-Only' national event organized: Bishoftu
- and 3 'Women Victims Only' events: Gondar, Dessie, Mekelle;
- throughout, women participated as victims, experts, youth etc;

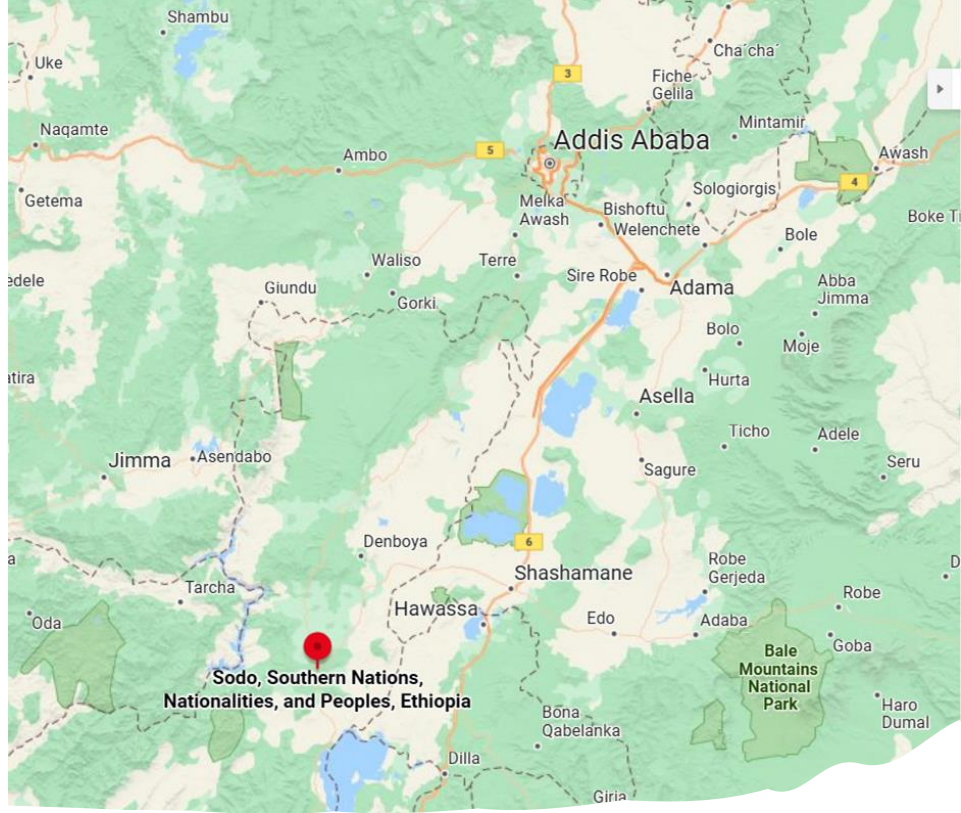


FACILITATION OF THE CONSULTATIONS

- **In each consultative workshop:**
 - **2 experts from TJWGE (for presentations)**
 - **6 carefully selected/trained univ. instructors, from each of the 36 regional universities, total around 214 (responsible for ground logistics, event facilitation and FGD roles);**
 - **12 transcribers;**
 - **all this helps to maintain an apolitical ambience of process, enhance credibility;**
- **Consultations provided opportunity for intensive substantive engagements**
 - **detailed feedback from public; demonstrates credibility of process and public's high expectation;**
 - **occasional detraction (timeliness, political commitment, link to localized grievance ...); otherwise effective;**
 - **EHRC/USAID/Partners monitored many of the consultations, offered written insight/moral support**

WORABE, SILTE ZONE

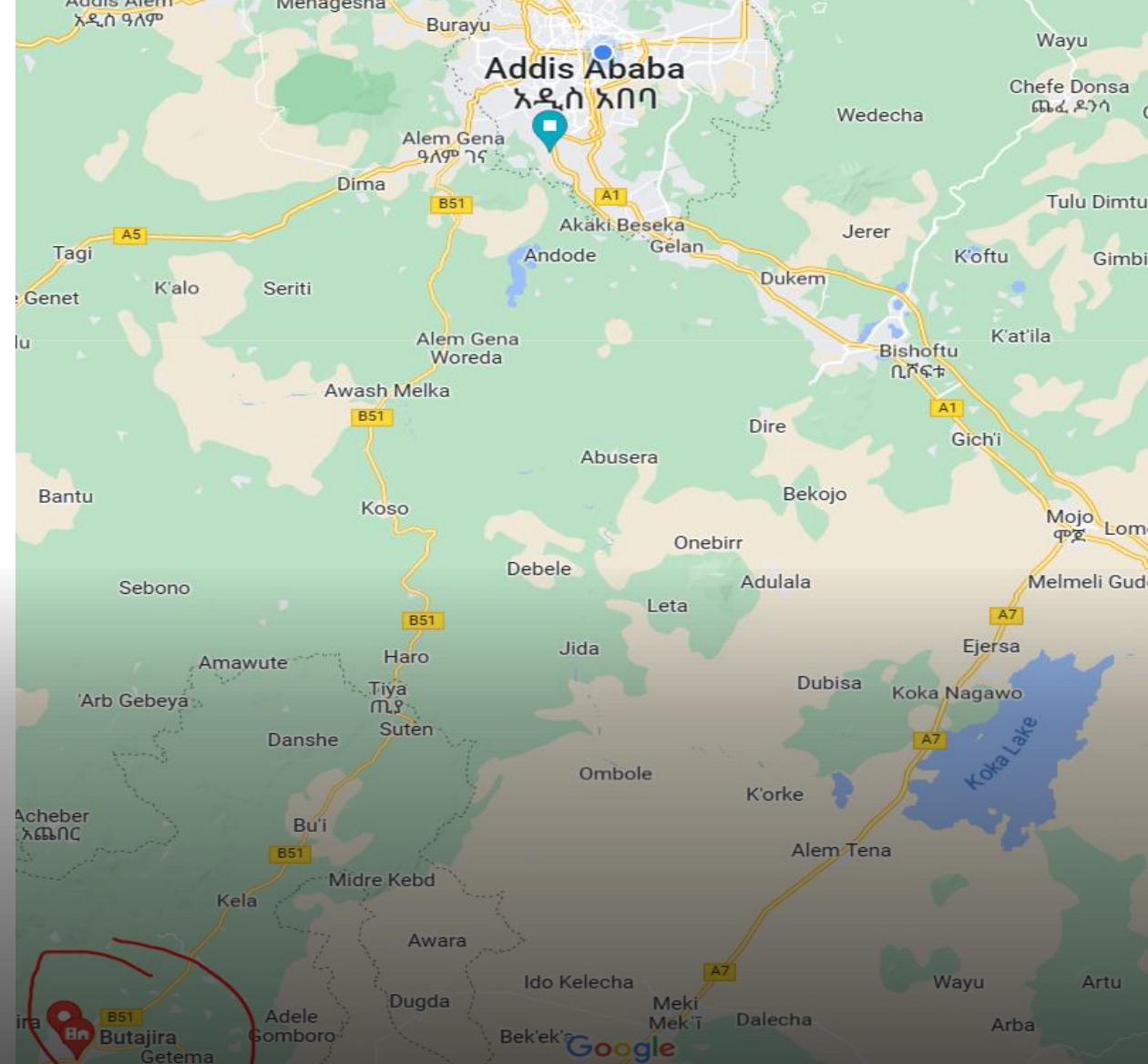


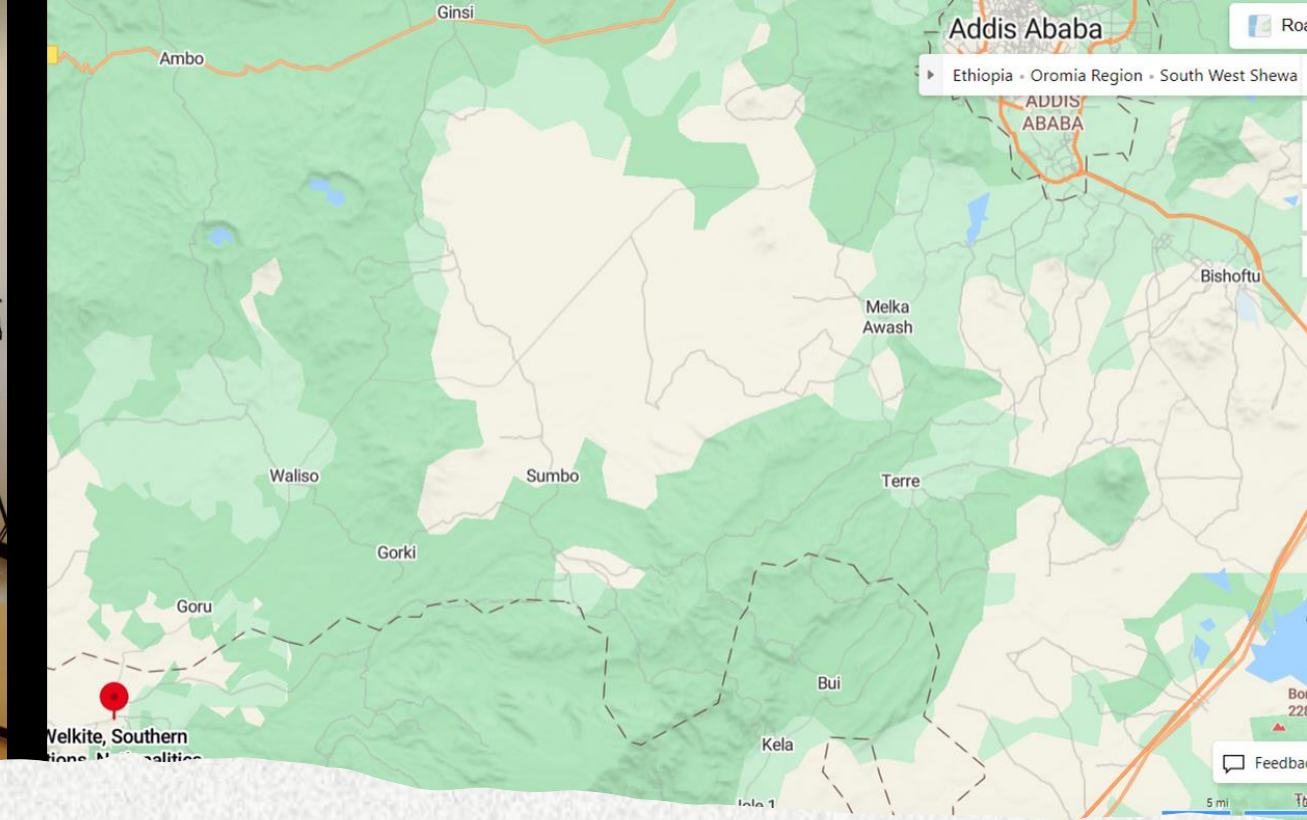


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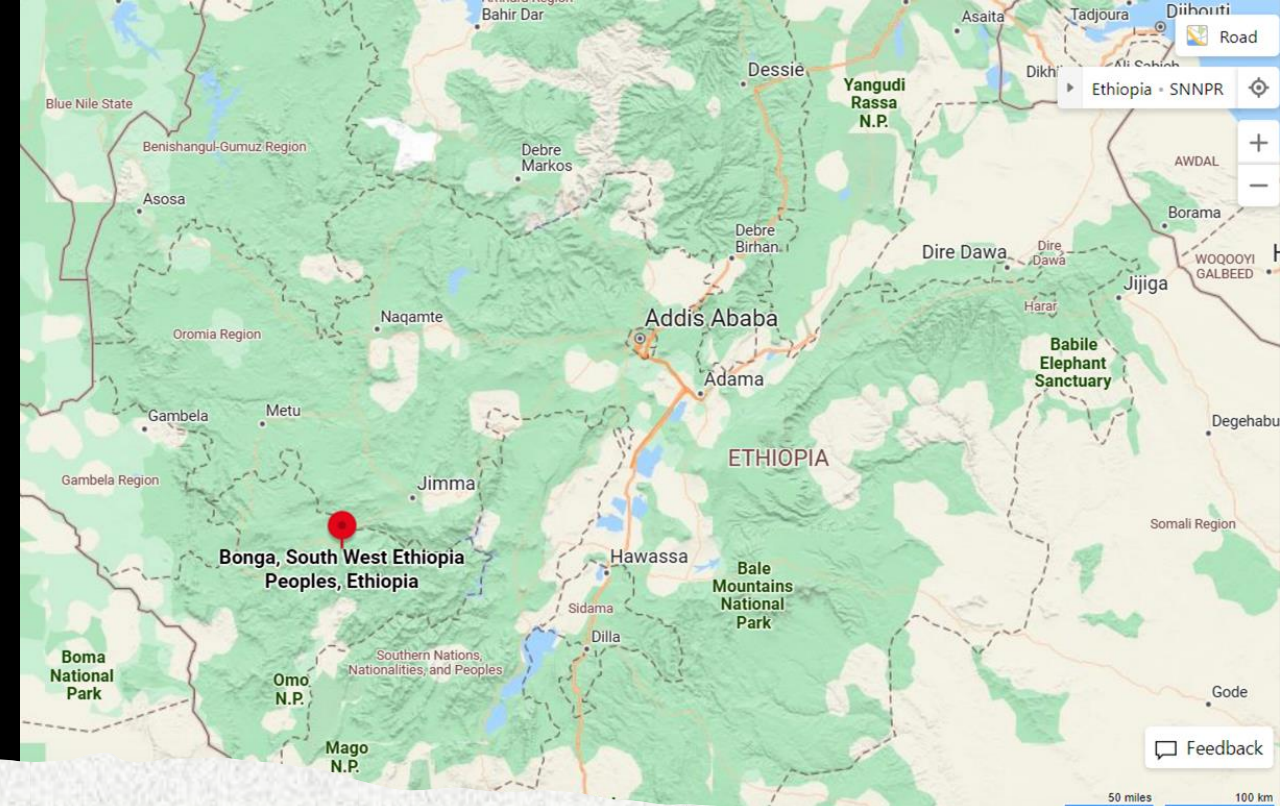


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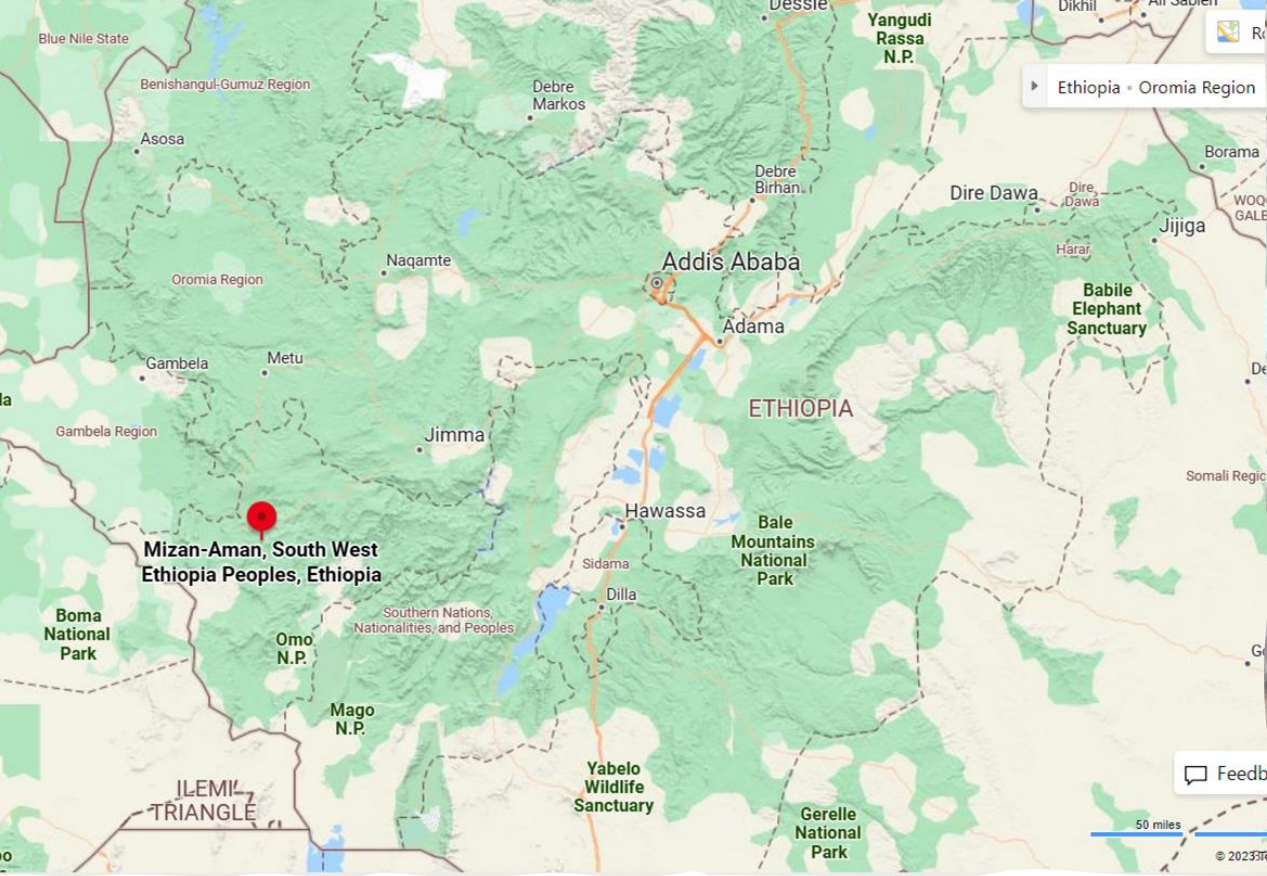




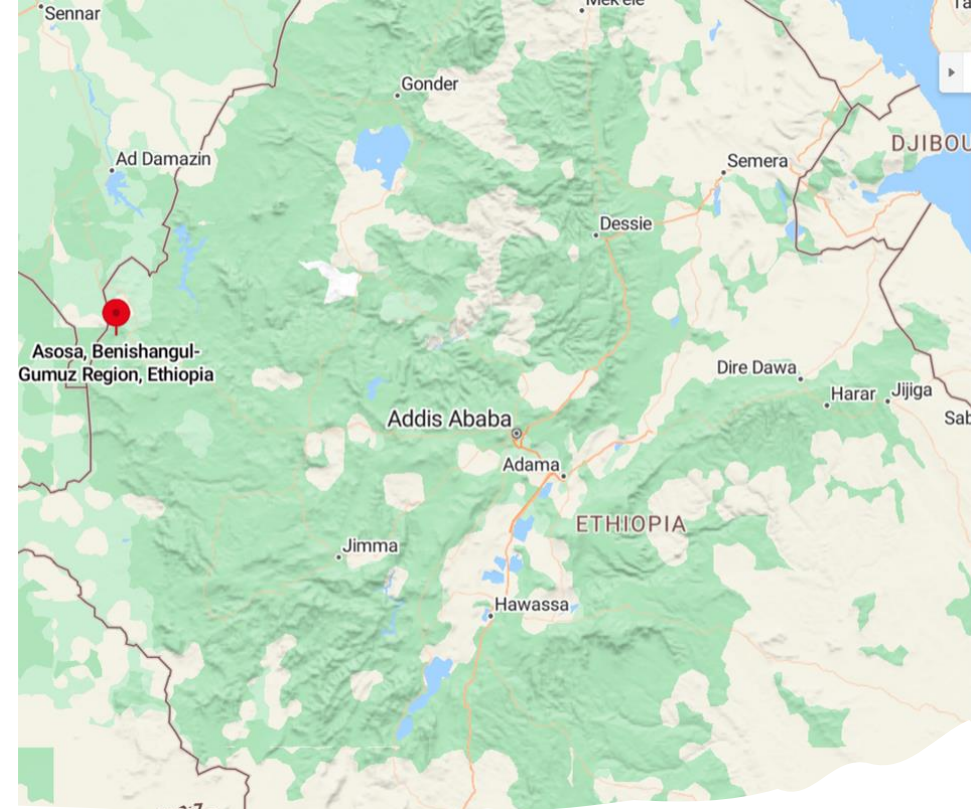
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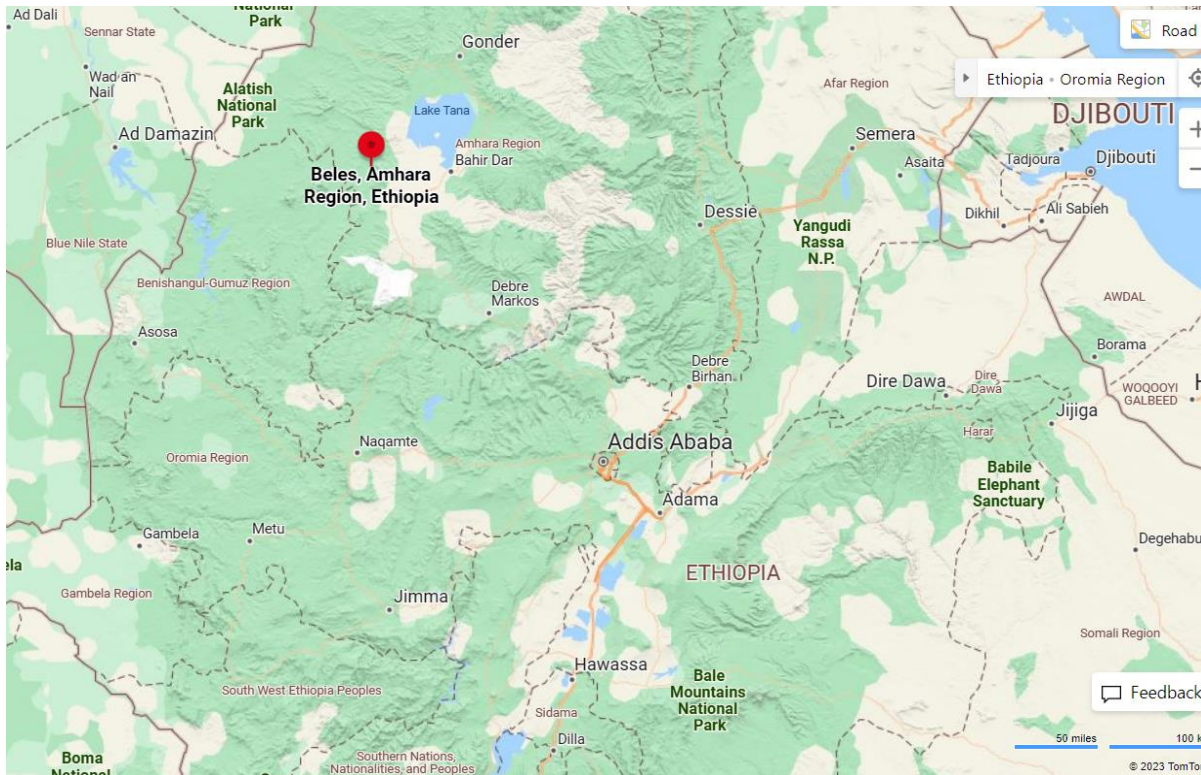
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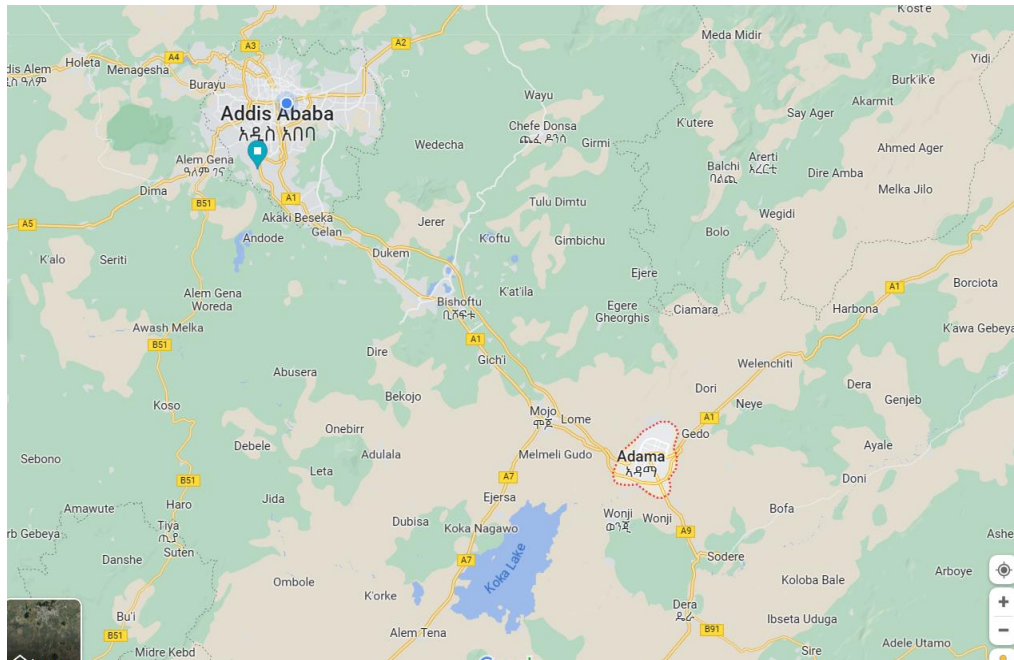


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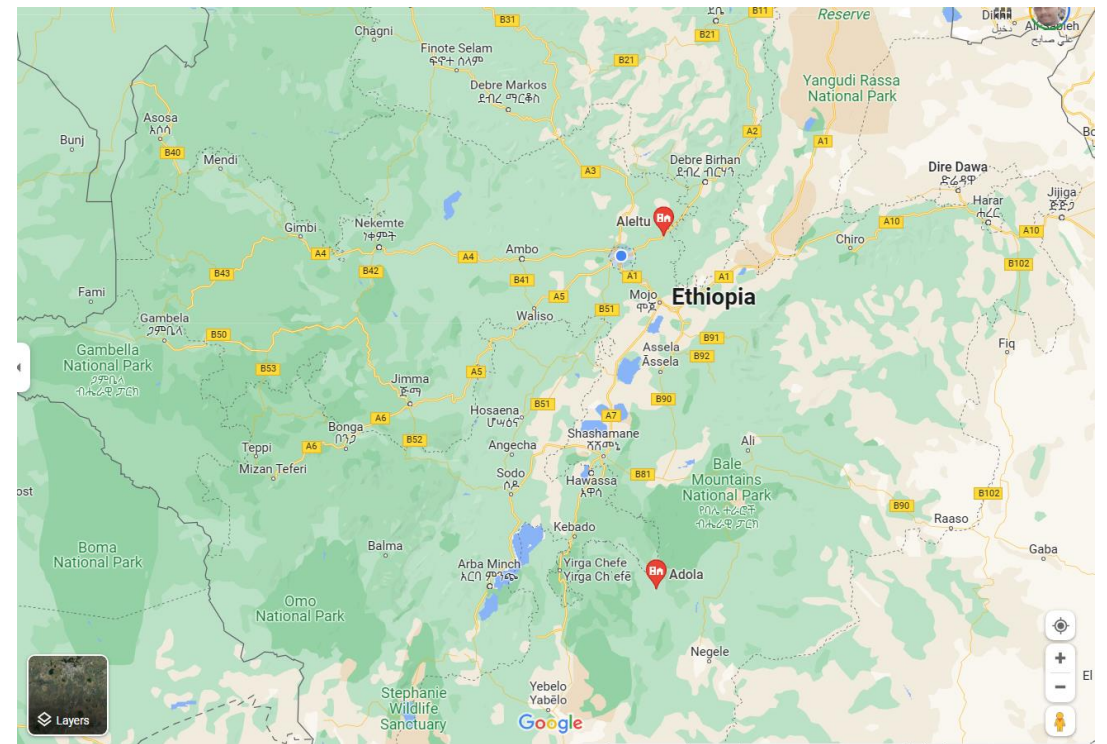


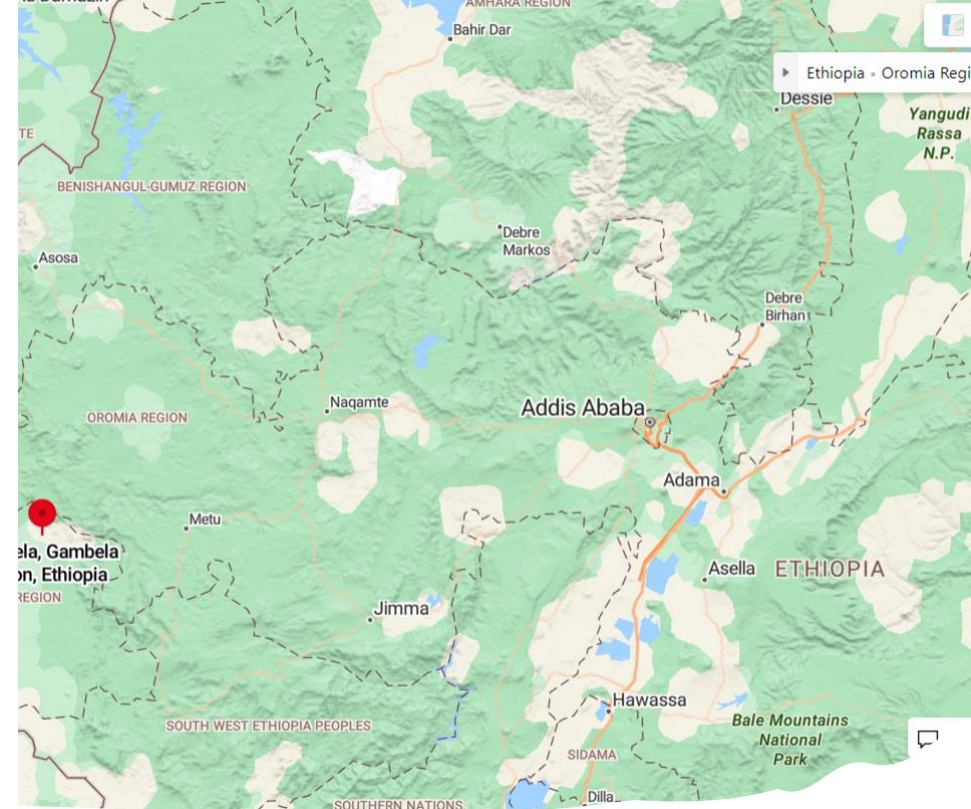
GILGEL BELES

ADAMA



ADOLA EVENT





GAMBELLA

BAHAR DAR



AXUM



CONSULTATIONS TIMELINE AND IDENTIFICATION OF PLACES

CONSULTATION TIMELINE

- **balanced the collection of larger inputs *vis-à-vis* holding quality consultations within defined period;**
- **was neither rushed/nominal consultations, nor unnecessarily protracted;**
- **Inaugural event: March 6, 2023;**
- **consultation workshops conducted from March to September 2023 (seven months long);**

CONSULTATION PLACES

- **Preliminary mapping of patterns of conflicts, violations, and accessibility carried out by TJWGE;**
- **59 locations originally identified for consultations under Roadmap;**
- **80 consultations carried out (58 solo by the TJWGE and 22 jointly with partners); immensely successful;**

TOTAL OF 22 CONSULTATIONS IN COLLABORATION WITH PARTNERS

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1	'በሽግግር ፍትህ ዙሪያ የሲቪል ማህበረሰብ እይታ እና ሚና'	አዲስ አበባ	ጥር 4 2015	የኢትዮጵያ የሰብአዊ መብቶች ድርጅት ህብረት (CEHRO) ከሽግግር ፍትህ ባለሙያዎች ቡድን ጋር በመተባበር፤
2	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከሀገር-አቀፍ እና ክልላዊ ባለድርሻ አካላት ጋር የተደረገ ምክክር'	አዲስ አበባ	መጋቢት 21 2015	Institute for Security Studies እና የኢትዮጵያ ሲቪል ማህበረሰብ ድርጅቶች ምክር ቤት (ECSOC) ከሽግግር ፍትህ ባለሙያዎች ቡድን ጋር በመተባበር፤
3-6	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከተመረጡ ምሁራን፣ ሲቪል ማህበረሰቦች ባለድርሻ አካላት ጋር የተደረጉ የምክክር መድረኮች' (4)	አዲስ አበባ አዲስ አበባ ደሴ ሰሙራ	ሚያዝያ 18 2015 ግንቦት 1 2015 ግንቦት 7 2015 ግንቦት 7 2015	የኢትዮጵያ ሲቪል ማህበረሰብ ድርጅቶች ምክር ቤት እና የአሜሪካ ዓለም-አቀፍ ልማት ፍትህ ፕሮጀክት ከሽግግር ፍትህ ባለሙያዎች ቡድን ጋር በመተባበር፤
7	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከሴቶች ጋር ብቻ' የተካሄደ ምክክር	ቢሾፍቱ	ግንቦት 22-23 2015	UN-WOMEN ከሽግግር ፍትህ ባለሙያዎች ቡድን ጋር በመተባበር
8-9	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከጥቃት ሰለባ ሴቶች ጋር ብቻ' የተካሄዱ የምክክር መድረኮች' (2)	መቀሌ ባህር ዳር	ሀምሌ 24-26 2015 ሀምሌ 24-26 2015	UN-WOMEN ከሽግግር ፍትህ ባለሙያዎች ቡድን ጋር በመተባበር
10	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከፌዴራል ዳኝነት አካላት ጋር የተደረገ ምክክር'	ቢሾፍቱ	ነሀሴ 17-19 2015	NIGAD Security Sector Program (IGAD SSP) እና የሽግግር ፍትህ ባለሙያዎች ቡድን ትብብር
11	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከፌዴራል እና ክልል ከፍተኛ አመራሮች ጋር የተደረገ ምክክር'	ቢሾፍቱ	መስከረም 3-4 2015	NIGAD Security Sector Program እና የሽግግር ፍትህ ባለሙያዎች ቡድን ትብብር
12-15	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከሀገር ውስጥ ተፈናቃዮች እና ሰደተኞች ጋር የተደረጉ የምክክር መድረኮች' (5) ³¹	አሶሳ አሶሳ መቀሌ ጭሮ አዲስ አበባ	ሰኔ 27 2015 ሰኔ 27 2015 መስከረም 11 2016 ጥቅምት 27 2016 መስከረም 29 2016	ቡተ.መ.ድ የሰደተኞች ከፍተኛ ኮሚሽን (UNHCR) እና የሽግግር ፍትህ ባለሙያዎች ቡድን ትብብር

TOTAL OF 22 CONSULTATIONS IN COLLABORATION WITH PARTNERS

16	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከህፃናትና ከህፃናት ሙብት ተጣባቂ ድርጅቶች ጋር የተደረገ ምክክር'	አዳማ	መስከረም 21 2016	UNICEF: የፍትህ ሚኒስቴር እና የሽግግር ፍትህ ባለሙያዎች ቡድን ትብብር
17	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከዩኒቨርሲቲ ምሁራን ጋር የተደረገ ምክክር'	አዲስ አበባ	መስከረም 21-22 2015	የአዲስ አበባ ዩኒቨርሲቲ ሰብዓዊ ሙብቶች ማዕከል ከሽግግር ፍትህ ባለሙያዎች ቡድን ጋር በመተባበር:
18	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከአካል ጉዳተኞች አረጋውያን ጋር የተደረገ ምክክር'	አዲስ አበባ	መስከረም 19 2016	የኢትዮጵያ ሰብዓዊ ሙብቶች ኮሚሽን ከሽግግር ፍትህ ባለሙያዎች ቡድን ጋር በመተባበር:
19	'በሽግግር ፍትህ ሀሳቦች እና የፖሊሲ አማራጮች ላይ ከንግድ ማህበረሰብ አባላት	አዲስ አበባ	መስከረም 05 2016	-

	ጋር የተደረገ ምክክር'			
20	'በሽግግር ፍትህ ሀሳቦች፣ የፖሊሲ አማራጮች እና አካሄዶች ላይ በትግራይ ክልል ከሚገኙ አካዳሚክ ማህበረሰብ አባላት ጋር የተደረገ ምክክር' ³²	መቀሌ	ሐምሌ 22 2015	በሽግግር ፍትህ ባለሙያዎች ቡድን እና መቀሌ ዩኒቨርሲቲ ሕግ ትምህርት ቤት ትብብር
21	'የሽግግር ፍትህ ሀገር-አቀፍ ባለሙያዎች' ጋር የተደረገ ምክክር	አዲስ አበባ	ህዳር 28 2015	በተ.መ.ድ የሰብዓዊ ሙብቶች ከፍተኛ ኮሚሽን እና በሽግግር ፍትህ ባለሙያዎች ቡድን
22	'ከዓለም-አቀፍ ድርጅቶች ጋር የተደረገ ምክክር'	አዲስ አበባ	ህዳር 29 2015	በተ.መ.ድ የሰብዓዊ ሙብቶች ከፍተኛ ኮሚሽን እና በሽግግር ፍትህ ባለሙያዎች ቡድን

THE TRANSITIONAL JUSTICE POLICY OPTIONS DOCUMENT

SUBSTANTIVE PILLARS OF TJ MECHANISM TO BE ORGANIZED IN ETHIOPIA



(UNSG REPORT 2004)

society's attempt to come to terms with legacy of large-scale past abuses, to ensure

- accountability, justice
- achieve reconciliation
- may include judicial/non-jud. mech.s;
- with differing levels of int'l involvement (or none at all)

Pillars:

- individual prosecution
- reparations
- truth-seeking
- institutional reform
- vetting/dismissals, or combination;

AFRICAN UNION

- refers to various (formal, traditional or non-formal) policy measures and inst.l mechanisms;
- societies adopt through inclusive consultative process;
- aim: to overcome past violations, divisions, inequalities;
- to create conditions for security, democratic/socio-eco. transformation;

ORGANIZING POLICY OPTIONS FOR TRANSITIONAL JUSTICE IN ETHIOPIA

A	PROSECUTION
B	TRUTH FINDING
C	RECONCILIATION
D	AMNESTY
E	REPARATION
F	INSTITUTIONAL REFORM
G	OTHER ISSUES: TEMPORAL SCOPE, REGIONAL/TRADITIONAL ROLE

ICHREE 2023 REPORT:

- systemic weakness/lack of efficacy on part of key Eth. institutions tasked with driving its domestic process of TJ;
- tendency to conflate distinctive and urgent needs with the wider objectives of long-term justice sector reform;
- little heard during current period from IMTF 2021 with leading redress and accountability;

POLICY OPTIONS PRESENTED, PUBLIC’S RESPONSE AND DRAFT POLICY’S PREDISPOSITION

1) ‘በየትኞቹ ጉዳዮች ላይ ያተኮረ የክስ ሂደት ሊኖር ይገባል?’

- ‘ጉልህ በሆኑ የሰብዓዊ መብት ጥሰቶች ወይም ወንጀሎች ላይ ያተኮረ የክስ ሂደት ሊኖር ይገባል’
- በዚህ የማይካተቱ ጉልህ ያልሆኑ ወንጀሎች/ጥፋቶች ሌሎች የሽግግር ፍትሕ ስልቶችን በመጠቀም መፍትሔ እንዲያገኙ ይደረጋል።

2) ‘በየትኞቹ አጥፊዎች ላይ ክስ ሊመሠረት ይገባል?’

- ‘ከፍተኛ ደረጃ ተሳትፎ ባላቸው አጥፊዎች ላይ ያተኮረ የክስ ሂደት ሊኖር ይገባል’ (ትርጉሙ በህግ ይዘረዘራል)
- በጉልህ የሰብአዊ መብት ጥሰት/ከባድ ወንጀል ድርጊት የተሳተፉ ነገር ግን ከፍተኛ ደረጃ የወንጀል ተሳትፎ የሌላቸው አጥፊዎችን እንደየአግባብነቱ ሌሎች የሽግግር ፍትሕ ስልቶችን በመጠቀም ጉዳያቸው የሚታይበትና ሥርዓት ይዘረጋል።

3) ‘የፍርድ ሂደቱን ማን ያከናውነው?’

- ‘አዲስ/ልዩ ፍርድ ቤት በማቋቋም ክስ የመሰማት እና ውሳኔ የመስጠት ተግባር ማከናወን ይገባል’

4) ‘የወንጀል ምርመራና ክስ የመመስረት ሂደትን ማን ያከናውነው?’

- ‘አሁን ካለው የምርመራና የዓቃቤ ሕግ ተቋም ውጭ የምርመራና የክስ ሂደቶችን የሚያስተባብር ልዩ፤ ነጻና ገለልተኛ ተቋም’

ELEMENTS

- Victims- centred; Participation of offenders; Documentation of violations; Publicizing the truth;

POLICY OPTIONS PRESENTED, PUBLIC'S RESPONSE AND DRAFT POLICY'S PREDISPOSITION

1) 'እውነትን የማጣራትና እርቅን የሚመለከቱ ተግባራት ለየትኞቹ ጉዳዮች ሊተገበሩ ይገባል?'

- ተገቢውን ጊዜ፣ ሁለት እና የሰው ሀይል በመመደብ እውነትን ሥራው ሁሉንም የሰብዓዊ መብቶች ጥሰት እና ለግጭቶች ምክንያት የነበሩ ተቀዳሚ የማህበራዊ እና ኢኮኖሚያዊ መብቶችን ጥሰት መሸፈን አለበት' (majority view)
- እውነት የማፈላለግ እና የእርቅ ተግባር 'በተወሰኑ ጉልህ የሰብዓዊ መብቶች ጥሰቶች ላይ ያተኮረ' ሊሆን ይገባል (experts/policy)
- በተለያዩ ጊዜያት ለግጭቶች መንስኤ የሆኑ የታሪክ አረዳዶች እና ትርክቶች - የተከሰቱበት የጊዜ ማእቀፍ ወሰን ሳይደረግበት ሁሉንም በመመርመር፣ ትርክቱን በማጥራት እና በመለየት እውነትን ይፋ የማውጣት እና እውቅና የመስጠት ተግባር ይከናወናል፤

- ለጾታዊ ጥሰቶች፣ ለተፈናቃዮች ልዩ በደሎች እና ለሌሎች ተጋላጭ የማህበረሰብ ክፍሎች ጉዳዮች ተገቢ ትኩረት ይሰጣል፤
- ‘ጉልህ ያልሆኑ የሰብዓዊ መብት ጥሰቶች’ በባህላዊ/ክልል-አቀፍ የግጭት አፈታት እና እርቅ ሥርዓቶች ስልጣን ማእቀፍ ስር ያርፋሉ፤

2) ‘እውነት የማፈላለግና እርቅን የማውረድ ሂደቱ በየትኛው ተቋም ሊከናወን ይገባል?’

- ‘የሁሉንም ባለድርሻ አካላት ውክልና/ተሳትፎ ባረጋገጠ መልኩ በሚመሠረት አዲስ የእውነት አፈላላጊ ተቋም አማካኝነት’
- የሚቋቋመው ኮሚሽን ምህረት የመስጠት ሥራን እና የማካካሻ ስራዎችን የሚመለከት ተደራቢ ኃላፊነት ይኖረዋል፤

NO UNCONDITIONAL AMNESTY; IS BASED ON:

- Offender's level of participation; Nature and gravity of crime; Collaboration of offenders; Repentance and and apology'

POLICY OPTIONS PRESENTED, PUBLIC'S RESPONSE AND DRAFT POLICY'S PREDISPOSITION

1) 'ለምህረት ብቁ የሚያደርጉ እና የማያደርጉ መስፈርቶች ምን ሊሆኑ ይገባል?'

- ከሕገ-መንግስቱ አንቀጽ 28 ጋር እንዲሁም ከዓለም-አቀፍ ሕግ ድንጋጌዎች ጋር የተጣጣሙ ሊሆኑ ይገባል፤
- አብዛኛዎቹ ተሳታፊዎች ጉልህ የሰብዓዊ መብቶች ጥሰቶች/ከባድ ወንጀሎችን የፈፀሙ አጥፊዎች ለምህረት ብቁ ሊሆኑ አይገባም ብለዋል።
- 'በጉልህ የሰብዓዊ መብቶች ጥሰቶች ከፍተኛ ደረጃ ተሳትፎ ያላቸው አጥፊዎች' በማናቸውም መልኩ የሚሰጥ ምህረት ተጠቃሚ አይሆኑም (experts/policy)

2) 'ምህረት የመስጠት ሂደትን ማን ያከናውነው?'

- 'አዲስ በሚቋቋም የሀቅ አፈላላጊ ኮሚሽን አማካኝነት ሊከናወን ይገባል'

MONETARY OR NON-MONETARY COMPENSATION

- Reinstatement, compensation, satisfaction rehab., communal comp., memorials;
- Legal framework for reparation
- Identifying victim beneficiaries of individual compensation:
- Design ways for offenders to contribute to reparation system;
- Establishing victims' fund;

POLICY OPTIONS PRESENTED, PUBLIC'S RESPONSE AND DRAFT POLICY'S PREDISPOSITION

1) 'የማካካሻ ሂደቱ በየትኛዎቹ ተገዳዎች ላይ ትኩረት ሊያደርግ ይገባል?'

- 'በመርህ ደረጃ ለሁሉም ተገዳዎች እንደየጉዳቱ አይነትና መጠን ማካካሻ መስጠት ተገቢ ነው.'
- ትኩረት፦ ከፍተኛ የሰብዓዊ መብት ጥሰት የደረሰባቸው፣ የሰነ-ልቦና/የአዕምሮ ቀውስ ያጋጠማቸው፣ ከፍተኛ የአካል ጉዳት የደረሰባቸው እና የጤና እክል ያለባቸው፣ ጾታዊ ጥቃት የደረሰባቸው፣ ተፈናቃዮች፣ በጊዜያዊ መጠለያዎች የሚገኙ፣ ንብረታቸው በህገወጥ መንገድ የተነጠቁ፣ የማስቃዎት ድርጊት ስለባቸው ከጉዳት ያላገገሙ፣ ቤተሰብ ያጡ/አባል ደብዛ የጠፋባቸው፣ ያለ ሕግ ለረጅም ጊዜ በእስር የቆዩ፣ አቅመ-ደካማዎች፣ ቤተሰብ ያጡ ህጻናት፤

2) 'የትኞቹ የማካካሻ አይነቶች ቅድሚያ አግኝተው ሊተገበሩ ይገባል?'

- የማካካሻው ዓይነት እንደየጉዳቱ አይነት የተለያየ ሊሆን ይገባል፤
- የማካካሻው ዓይነት ለጥሰት/ጉዳት እውቅና መስጠትን፣ መልሶ ማቋቋምን፣ የማገገሚያ/ምክር አገልግሎትና ስርዓቶችን መዘርጋት፣ ቁሳዊ ወይም የገንዘብ ካሳ መስጠትን፣ የወደመ ሐብት መልሶ መገንባትን; የስራ እድል እና የጡረታ መብት ማመቻቸትን ሊያጠቃልል ይገባል፤

3) 'የማካካሻ ሥርዓቱን ማን ሊተገብረው ይገባል?'

- 'አዲስ በሚቋቋም የሀቅ አፈላላጊ ጉራሚዎችን አማካኝነት ሊከናወን ይገባል'
- ከእውነት ማፈላለግ፣ ይፋ ማውጣትና እርቅ ተግባር ጋር በተሰናሰነ መንገድ መተግበር አስፈላጊ ነው፤

ELEMENTS

- Vetting of personnel and investigation to identify violators; Terminate employment or position;
- Legal and procedural reform: to prevent further violations;

1) ‘ቅድሚያ ተሰጥቶ የመለየት እና የማጥራት ተግባራት ሊደረግባቸው የሚገቡ ተቋማት የትኞቹ ሊሆኑ ይገባል?’

- አብዛኛዎቹ ተሳታፊዎች ስራው በፍትህ ተቋማት፣ የጸጥታ እና የደህንነት አካላት ላይ ሊያተኩር ይገባል ብለዋል።

- (ባለሙያዎች/ፖሊሲ) በሽግግር ፍትህ ሂደት ማእቀፍ የማሻሻያ ስራዎች ትግበራ ትኩረት ውስን ይሆናል። በዋናነትም በሰብዓዊ መብቶች ጥሰቶች ላይ በተሳተፉ ሰዎች፣ መብቶች በማክበር/በማስከበር ረገድ ኃላፊነታቸውን ባልተወጡ፤ እና ያለፉ ጥፋቶች እንዳይደገሙ በማድረግ ረገድ ወሳኝ ሚና ሊጫወቱ በሚችሉ አገራዊ እና ክልላዊ የፍትህ፣ የጸጥታ እና የደህንነት ተቋማት፣ የሚዲያ ተቋማት፣ ልዩ ትኩረት የሚሹ የህብረተሰብ ክፍሎች ሰብዓዊ መብትን ከማስከበር አኳያ ኃላፊነታቸውን ባልተወጡ ተቋማት፣ ለመብት ጥሰት አስቻይ ሁኔታን በፈጠሩ ህጎች፣ ፖሊሲዎች እና አሰራሮች፤

2) ‘የተቋማት የመለየት እና የማጥራት ተግባሩ በማን ይከናወን?’

- ገለልተኛ እና ነጻ የሆነ አዲስ ተቋም በማቋቋም ተቋማትን የማጥራትና የማሻሻል ተግባር ሊከናወን ይገባል

Option 1: before 1991

Option 2: From 1991

Option 3: From 1995

Option 4: from 2018

Option 5: Mixed:
From 1995 for prosecution,
earlier for truth and
reconciliation

- 1) የሽግግር ፍትህ የጊዜ ወሰን - ለወንጀል ተጠያቂነት 'የኢ.ፌ.ዲ.ሪ ሕገ-መንግስት ከፀደቀበት ከ1987 ጀምሮ' ያለው ወሰን ተፈጻሚ ይሆናል።
- 2) 'ለእውነት ማፈላለግ፣ እርቅ ማሰፈን እና ማካካሻ ሰራዎች አላማ' ጥሰቶች እና ቅራኔዎችን ከመሰረታቸው በማጥራት ለመመርመር፣ ሰብራቶች እንዲሸሩ እና እንዲጠገኑ ለማድረግ እና ዘላቂ ሰላምን ለማምጣት እንዲቻል የተፈጻሚነት ወሰን 'መረጃ እና ማሰረጃ እስከተገኘበት ጊዜ ድረስ'፤

1) በሽግግር ፍትሕ ሐደት ባህላዊ የፍትህ ሥርዓቶች የሚኖራቸውን ሚና

- ‘ባህላዊ የፍትህ ሥርዓቶችን እውነትን በማፈላለግ፣ ተጠያቂዎች ለፍትህ እንዲቀርቡ በማድረግ፣ በእርቅ ጉዳይ፣ የሕዝብ ለሕዝብ ግንኙነትን ለማጠናከር በሚያስችሉ ስራዎች ወሳኝ የድጋፍ ሥራዎችን ማከናወን ይገባቸዋል፤’
- ይሁን እንጂ ‘ባህላዊ የፍትህ ሥርዓቶች ተግባራዊ ከመደረጋቸው በፊት ማሻሻያ ሊደረግባቸው የሚገቡ ጉዳዮችን ለይቶ ማስቀመጥ - እንዲሁም አሰራሮቻቸው እንደየሁኔታው ውስጣዊ እና ውጫዊ ይዘት ያላቸው ማሻሻያዎች ሊደረጉባቸው ይገባል’

(ባለሙያዎች/ፖሊሲ)

- ባህላዊ የፍትህ ሥርዓቶች እውነትን በማፈላለግ፣ ተጠያቂዎች ለፍትህ እንዲቀርቡ በመርዳት፣ በእርቅ እና በማካካሻ ሰርአት፣ እና ሌሎች የህዝብ ለሕዝብ ግንኙነትን ለማጠናከር የሚያስችሉ ስራዎችን በመስራት ዋናውን የሽግግር ፍትህ ሂደት የማገዝ እና የመደገፍ ሚና ይኖራቸዋል፤
- በኮሚሽኑ የሚቀመጡ መርሆችን መሰረት በማድረግ በሽግግር ፍትህ ሰርአቱ በሚቋቋመው ሀገራዊ የእውነት አፈላላጊ ኮሚሽን የማይከናወኑ ወይም የማይሸፈኑ ጉዳዮችን፣ ወይም ቀለል ያሉ የሰብዓዊ መብት ጥሰቶች እና ግጭቶችን ለመፍታት እንዲቻል ተቋማቱ በእውነት ማፈላለግ፣ በእርቅ ተግባራት እና ተያያዥ አካባቢያዊ ጉዳዮች ላይ እንዲሳተፉ ይደርጋል፤

2) በሽግግር ፍትህ ትግበራ ሂደት ክልሎች እና የከተማ አስተዳደሮች የሚኖራቸውን ሚና

- ሁሉም ተሳታፊዎች ሊባል በሚችል መልኩ በሀገር-አቀፍ ደረጃ አንድ ወጥ የሽግግር ፍትህ ፖሊሲ ሊቀረጽ እንደሚገባ አንስተዋል።
- በፖሊሲ ትግበራ ሂደቱ ክልሎች አሰፈላጊ ድጋፍና ትብብር ማድረግ እንዳለባቸው፤ እንዲሁም የራሳቸውን የሽግግር ፍትህ ፖሊሲ ሊቀርፁም ሆነ ሊተገብሩ እንደማይገባ በስፋት ተንጸባርቋል።
- ሆኖም ክልሎች የሀገራዊ ችግሮቹ አካል ስለሆኑ - ዝርዝሮቹ በጥንቃቄ እየተለዩ - የመፍትሄው አካል መሆን እንደሚኖርባቸው፤ ለዚህም የሚያመች አሳታፊ ሥርዓት ሊቀረፅ እንደሚገባ ተሳታፊዎች በአጽንኦት አንስተዋል።
- (ባለሙያዎች/ፖሊሲ)
 - በአገር-አቀፍ ተቋማት የሚከናወኑ ስራዎችን በማገዝ ላይ የሚያተኩር ከፍተኛ ተሳትፎ ይኖራቸዋል፤
 - በሀገራዊ ፖሊሲ አጠቃላይ እሳቤዎች/እሴቶች ላይ በመመስረት ውስን የሽግግር ፍትህ ስራዎችን ራሳቸው በባለቤትነት ይመራሉ፤
 - እነዚህም በዋናነት ‘በአገራዊ የሽግግር ፍትሕ ሂደት የማይሸፈኑ’ የእርቅ/የማካካሻ ስርዓቶችን መተግበር፤ የእውነት ማፈላለግ፤ ይፋ ማውጣት እና እውቅና የመስጠት ስራዎችን ማከናወን፤ ይቅርታ መጠየቅ፤ የመልሶ ማቋቋም፤ የማገገሚያ፤ የመታሰቢያ ስራዎችን ያካትታሉ፤

NEXT STEPS

TJWGE HANDING OVER OF THE DRAFT TJ POLICY DOCUMENT TO MoJ W4 JANUARY



4-6 MAJOR POST-DRAFT POLICY (VALIDATION) CONSULTATIONS, REVISIONS W1 FEBRUARY



SUBMISSION OF POLICY TO CoM FOR APPROVAL (VIA MOJ) W2 FEBRUARY