# A Sisyphean Task?

## Implementing Transitional Justice Amid Continuous Democratic Backsliding

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Since late December 2024, the Ethiopian Authority for Civil Society Organization, a government body that oversees civil society groups has suspended four major independent human rights organizations. This act of repression was not the first of its kind. Three months earlier, the same authority announced the closure of 1,504 civil society organizations citing non-compliance with annual reporting requirements. Media freedom has also come under increased pressure. The government's proposed draft amendment to Media Proclamation No. 1238-2021, currently under review by the Standing Committee on Democracy Affairs, would place the Media Authority under the direct control of the Prime Minister's office, removing key safeguards such as parliamentary oversight in appointing the Director General of the Authority. The proposed change removes transparency requirements for board nominations and weakens safeguards meant to ensure political independence. Oddly enough, the ongoing assaults on independent institutions are taking place while the country is at a critical juncture in its attempt to embark on a journey of confronting its violent past through a multi-prong transitional justice (TJ) process. Despite notable progress in drafting the legal frameworks and the establishment of necessary institutional structures to set the wheels of TJ in motion, public trust in the current process remains fragile. In this blog post, I argue that by restricting civil society organizations and undermining media independence, the government is chipping away at oversight mechanisms that could help build public trust and confidence in the ongoing TJ process. An initiative that is not routinely monitored and scrutinized by independent watchdogs can hardly earn legitimacy and credibility.

### Major milestones in Ethiopia's transitional justice process

In November 2020, violent conflict erupted between the Ethiopian central government and the northernmost region of Tigray, later spilling over to the neighbouring regions of Amhara and Afar. The conflict was one of the deadliest in the country's recent history. Investigations by the Ethiopian Human Rights Commission–Office of the United Nations High Commissioner for Human Rights (EHRC-OHCHR) and the International Commission of Human Rights Experts on Ethiopia discovered that all parties to the conflict, including the Ethiopian National Defense Forces, the Tigray and Amhara forces, and Eritrean Defense Forces, committed serious human rights and humanitarian law violations that may amount to crimes against humanity and war crimes. The conflict formally ended with the signing of an agreement on a permanent cessation of hostilities on 2 November 2022, following peace talks mediated by the African Union (AU). The peace agreement calls for an inclusive and comprehensive national transitional justice policy to be developed with input from all stakeholders and civil society groups through public consultations and formal national policymaking processes.

As part of its implementation effort, the Ministry of Justice (MoJ) set up a Transitional Justice Technical Working Group of Experts in November 2022. The working group developed a "green paper" comprising different policy options for transitional justice in Ethiopia. After a series of consultations with diverse stakeholders, the working group released its policy recommendations in a 270-page report. Following very limited and hurriedly conducted validation workshops, the MoJ presented a draft policy to the council of

ministers. In April 2024, a transitional justice policy was adopted by the Ethiopian government.

## Legitimacy and credibility of the process

Anyone familiar with Ethiopia's socio-political history, as well as its current human rights and security challenges recognizes the necessity of implementing a genuine, human rights compliant and victim-centered TJ program. There may be some debate regarding the timing and the presence of necessary preconditions for Ethiopia to implement transitional justice given the absence of a genuine democratic transition and lack of institutional capacity to effectively carry out such a process. However, there has never been any serious question on the need for Ethiopia to confront its violent past and address ongoing atrocities that continue to leave profound scars on its society. While the pursuit of TJ is widely seen as a logical and necessary step in the right direction for Ethiopia, why does the initiated process have a significant lack of legitimacy and credibility in the eyes of the public?

Procedural and substantive issues relating to inclusiveness, objectivity, independence, and broad public ownership are among the main factors that determine the success of any transitional justice initiative. Such ambitious undertakings are more likely to be effective and impactful if they are the result of a local initiative and if, besides relevant civic and political actors, the community at large buys into the process. In the case of Ethiopia's transitional justice process, however, a wide range of stakeholders – opposition political parties, organized armed groups, civil society organizations – are not meaningfully engaging for several reasons.

## Ongoing armed conflicts and fragility of the state

While the government is attempting to implement peacebuilding initiatives such as a national dialogue and transitional justice, armed conflicts between Ethiopia's central government and insurgent groups – the Fano in the Amhara region and the Oromo Liberation Army (OLA) in the Oromia region – continue to flare up with no signs of abating. These ongoing conflicts undermine the transitional justice process in two significant ways. First, from a procedural standpoint, conflict-affected communities, often under the control of armed groups, are effectively excluded from meaningful consultative processes. Ensuring a people-centered, evidence-based, and socially inclusive transitional justice process becomes nearly impossible when large segments of the population cannot engage. As the historian Michael Ignatieff noted, "The truth, if it is to be believed, must be authored by those who suffered its consequences." Unfortunately, that has not been the case for the majority of victims and survivors in Ethiopia as efforts to involve those living in conflict-affected areas don't seem to go beyond 'tokenized' invitations to limited discussions. Second, from a political standpoint, the ongoing conflicts and the federal government's confounding reluctance to resolve them through a peaceful settlement makes clear that there is no genuine political commitment to what the TJ process is meant to achieve.

## Shrinking civic and political space

The election of Prime Minister Abiy Ahmed in April 2018 was heralded as the beginning of a major shift towards the liberalization of one of Africa's most authoritarian polities. His government released tens of thousands of political prisoners, legalized various once-criminalized opposition groups, revised draconian laws such as the Charities and Civil Societies, Antiterrorism, and Mass Media Proclamations and took concert steps to improve the independence of key institutions. However, recent trends, including the unwarranted suspension of prominent human rights CSOs on vague and extra-legal charges and the imposition of restrictive amendments on progressive laws – such as the media and civil society proclamation – signals a reversal of the democratic gains secured in 2018. These trends of democratic backsliding have direct implications for the ongoing transitional justice process. A credible transitional justice mechanism requires an open environment where victims, human rights advocates, and independent media can freely document and discuss past abuses. Yet, despite their critical contributions, prominent civil society and media organizations are facing increasing restrictions

by the government of Ethiopia. Such restrictions will ultimately weaken trust in the ongoing transitional justice process, as key stakeholders may perceive it as government-controlled rather than genuinely inclusive and impartial. Without meaningful engagement from diverse voices, transitional justice risks becoming a top-down initiative that fails to address legitimate grievances.

## The public perception of government "lip service"

"Peace", as Kofi Annan wrote in 2004, "cannot be achieved unless the population is confident that redress for grievances can be obtained through legitimate structures for fair administration of justice". The Ethiopian government, however, has not been able to build strong trust in the ongoing TJ process. For many stakeholders, including opposition political parties, the initiative was driven by considerations of political expediency for the government in power, as opposed to a genuine interest in helping to bring conflict or repression to an end. They view proactive engagement in the TJ process therefore as a meaningless endeavour which may afford undeserved credibility to an initiative that will ultimately serve to advance the government's own political interest. As the incumbent retains a privileged position, they argue, its claims are more likely to be heard and subsequently acted upon. Hence, for them, to assume a concrete result out of such an ill-construed process would, as the Amharic proverb goes, be like "expecting honey from a housefly." Not surprisingly, underpinning their profound sense of skepticism over the ongoing transitional justice process is mainly the fear of political patronage by the incumbent. Other human rights experts labelled the process as quasi-compliance, arguing that it is initiated to evade international scrutiny through the creation of domestic mechanisms ostensibly to "fight impunity".

## What can be done?

Transitional justice examines the conduct of powerful actors while constructing a vision of the future. It is, as such, an inherently political project. And as a political undertaking aimed at catalyzing transitions in constrained circumstances, it is understandable that the authenticity of the government's commitment towards justice is questioned. However, when such skepticism leads to widespread disengagement, the consequences can be severe. Growing mistrust does not merely weaken participation; it deepens the legitimacy gap and risks rendering the entire process ineffective.

The good news is that legitimacy is a dynamic concept. Assumptions and perceptions change over time. Hence, if concerns about the process are taken seriously and addressed properly, trust can be built and damage can be repaired. If the Ethiopian transitional justice process is to win the public's trust, the government must first demonstrate its political commitment by not only ending ongoing armed conflicts, but also by opening up the country's civic and political spaces. Such measures would reassure the public that the government is genuinely committed to the process and could inspire broader engagement and more participation.

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