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Transitional Justice and Reconciliation in the Horn

The Limitations of Xeer and Community-Based Reconciliation in Jowhar

Institutional Independence in Ethiopia's Transitional Justice and National Dialogue Processes

Perspectives on Integrating Traditional Justice Mechanisms in Ethiopia's National Dialogue
Process: A Survey of Key Policy Actors

Community Perceptions of Kenya's Transitional Justice Process: Assessing the Inclusion of
Marginalised Groups

Examining the Role and Limitations of Cross-Border Peace Committees in Conflict Resolution in
the Moyale Cluster

Photo Competition

Through Our Lens: Transitional Justice and Reconciliation

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THE LIMITATIONS OF XEER AND COMMUNITY- BASED RECONCILIATION IN JOWHAR

Hassan Mohamed

INTRODUCTION

During the Somali civil war, the role of the government in promoting peace and reconciliation was instead fulfilled by religious scholars, traditional elders, and non-governmental organisations (NGOs). Even before the civil war, community-based reconciliation was always central to Somali society. Long-term conflict and the fracture of the central government made this even more the case.

The traditional elder-led conflict resolution system, “Xeer”, has been applauded internationally. Xeer is a traditional dispute resolution mechanism based on clan customary law and elements of Sharia law. Despite its international recognition, Xeer only has limited efficacy. With Somali society remaining fragmented, most Xeer agreements are unsustainable, lasting only on a temporary basis. There are several reasons Xeer agreements are not sustainable, including a lack of impartial enforcement mechanisms, the changing role and status of Somali elders, and rapid changes in Somali society that undermine the effectiveness of traditional systems.¹ While Xeer is a force for justice and social cohesion, this traditional justice mechanism is criticised for conflicting with both international human rights standards and Islamic Sharia law.

Recognising the limited capacities of government institutions and the subsequent role that communities, supported by elders, have played in conflict resolution and peacebuilding, while also understanding the restricted success of these structures, this research began with the following question: What are key determinants for reducing conflict relapse in local reconciliation efforts in Jowhar, Hirshabelle Federal Member State, in Somalia? The research used qualitative research methods, giving study participants the opportunity to express their opinions fully. Conducted in Jowhar and Mogadishu, focus group discussions and key in-

formant interviews engaged a total of 34 people, including civil society representatives, elders, religious leaders, women, politicians, and youth.

An interesting dichotomy emerges in these discussions and interviews. Through Xeer, elders concentrate their power on how communities live together peacefully. Although sometimes elders agree to punish criminals, the justice they deliver is more similar to restorative justice than punitive justice. This contrasts with community members (mostly victims), who express a desire for individual accountability mechanisms. In addition to a desire for the individual accountability of local offenders—whether for crimes such as assault, rape, or murder—there is also a clear desire for higher-level accountability of elders and government officials. The lack of individual accountability impacts perceptions of elders (and their recent judgements under the Xeer system) and government officials, which reduces the efficacy of local conflict resolution practices and contributes to conflict relapse. This is compounded by the fact that neither elders nor government actors can offer a clear enforcement mechanism. Many participants in this research study articulate a desire for such a service.

BACKGROUND CONTEXT

Jowhar is the capital of Hirshabelle State. Hirshabelle State is characterised by the presence of the Shabelle River, the water that enables irrigation farming to be a significant source of income.² The agricultural industry is the main livelihood of the people living along the Shabelle River in the Jowhar area. Conflict over agricultural land and clan boundaries is commonplace now that more people are aware of the advantages of agriculture. In search of a farm on which to live, the herders who lost their livestock due to drought have settled in villages and surrounding areas near the river.

As in other areas in Somalia with weak authorities, landownership, resource-based conflicts, politically motivated conflicts, and other conflicts stemming from rape, roadblocks, and revenge killings, are common in the Jowhar area. As a result, conflict frequently arises between pastoralists and farmers. Two factors aggravate land disputes: 1) landowners who do not have legal rights to their land; and 2) unmarked land boundaries. As one prominent elder asserts, “Clan land, grazing land, and agricultural land are the most contentious issues.” A government official offers a similar analysis:

Disagreement over grazing and farming land exists in the countryside, while a disagreement over housing occurs in the city. In rural areas, disputes between farmers and herders are frequent. Clan conflicts over landownership increased as the nation’s federal system collapsed.

Consequently, lives are continually lost, many people are displaced, properties are destroyed, and livelihoods are disrupted.

Local conflicts are also exacerbated by ongoing political changes in the country. For example, Somalia currently has a federal government that is based on a clan power-sharing agreement called the 4.5 system. This system divides power between clans at the federal level, which can often lead to tensions as sub-clans challenge one another over power and distribution of resources, such as political positions. A prominent elder in Jowhar explains: “Due to the shared political system in Somalia, the rights of some clans have been violated [by the 4.5 formula]. Within the political structure, some clans hold multiple positions, while others only hold one or two.”

Due to the limited formal justice system in many parts of the state, coupled with the legitimacy placed on traditional conflict management mechanisms, many So-

malis rely on Xeer, and this system is still the most used justice mechanism in the country. It is estimated that Somalis use Xeer to resolve 80 to 90 percent of justice and legal matters involving crimes, especially in rural areas, where there is a lack of transportation and tradition prevents people from using other justice mechanisms.³

The principles of restorative justice and Xeer are highly compatible, with the latter following a restorative justice approach. For example, preserving community cohesion and averting the escalation of conflict are the main objectives of Xeer. Blood compensation is given to the victim in the form of cash or livestock. Conflict resolution procedures in Somalia do not often involve retribution. This only happens occasionally, when the clan of a perpetrator wants to end the conflict with the opposing side, or they have the right under Xeer to punish the perpetrator.

Community elders, who are the main actors in the Xeer system, are known to dispense swift and inexpensive legal solutions to communities. This traditional system is widely recognised as a code of conduct for settling disputes and keeping the peace between clans and between community members. Traditional conflict management is led by a council of elders, comprised of respected and influential elders who make decisions on behalf of the community. They also set the rules and norms to which the entire community adheres, with any violation of these rules and norms attracting penalties.⁴

One of the shortcomings of Xeer is that under the Provisional Constitution of the Federal Republic of Somalia adopted in 2012, elders have the authority to choose lawmakers. This has created tensions between community members and elders, as elders could be seen as prioritising their own interests over the good of the public. In addition, local administrations resembling clan hierarchies have resulted in

administrations that are often perceived to favour some and alienate others. As an elderly woman respondent notes, “The dissatisfaction of some communities with power-sharing [the 4.5 formula] within their specific sub-clan is one of the root causes of some conflicts.” Organisations such as al-Shabaab, Daesh, and others, as well as politicians with special interests or those who have lost their positions, take advantage of these concerns. In some circumstances, this has created a worrying trend of reduced public trust in authority.

Apart from the role of the council of elders, other local and international third-party actors also engage in conflict resolution initiatives. These actors include religious leaders, women, youth, professionals, local, regional, and central government, as well as local and international NGOs. Sharia law, which is administered by religious leaders, also remains a highly sought after justice mechanism. In addition, other local mechanisms such as local peace committees play a role in conflict resolution. These institutions facilitate dialogue and provide support both to mediators and those affected by the conflicts. For example, in Jowhar the Danish Demining Group, working with Women and Child-care Organization, a local NGO, has established a local peace committee known as Duubab+. This 45-member (30 traditional elders, 10 women, and 5 youth) peace committee has resolved numerous conflicts since its establishment in January 2017.

KEY FINDINGS

It is clear from this and previous research that in the absence of the state, traditional elders and religious scholars are the only authorities responsible for resolving disputes and reconciling communities. Many applaud the role they play in society; however, not without criticism. More recently, elders are accused of not being fair and impartial, as well as not addressing the root causes of conflict. These are key ra-

tionales for explaining the breakdown of agreements or their failed implementation in the first place. The breakdown of agreements is further advanced through a lack of enforcement mechanisms and desires for individual accountability.

Justice as accountability

In situations of conflict in which war crimes, crimes against humanity, and other human rights violations are committed, the dichotomy of peace versus justice presents numerous challenges. Can peace be achieved without justice? Should a peace agreement be signed before issues of accountability are addressed? Can justice contribute to the achievement of peace? How is justice defined and what are its goals?⁵

While the restorative justice approach in Xeer is broadly accepted, study participants clearly articulate a desire for more consistent and accessible forms of accountability. As this respondent explains: “One of the reasons the agreements fall apart is that they are not truly agreed upon in the first place. Without a true agreement, not much will get done, and the war will continue in this manner. The elders take the diya [blood money], leaving suffering people unsatisfied.” She continues with a personal reflection, saying that “After the death of my nephew’s 15-year-old son, the family was given 500,000 Somali Shillings, the equivalent of USD 30 dollars, as blood money.” There are many other similar experiences.

Elders who participated in this study are aware of such challenges. One traditional elder says, “Traditional elders prioritise peacemaking over justice. In situations involving murder, accidental bodily injury, or property damage, the victim’s heirs receive very little financial compensation, which is decided by elders without the victim’s consent.” It is challenging to hold human rights violators accountable in Somalia because of the clan-based so-

cial structures and customary law, which is mainly based on shared accountability. Participants in this study report that victims do not take part in the process of reconciliation facilitated by elders and that there is no follow through on the measures to be implemented. They add that the root causes of conflict are not addressed in the traditional processes of conflict resolution.

Research participants commonly state that women and minorities in particular do not get justice, even though most crimes are perpetrated against them. They assert that Xeer is not in the interests of vulnerable people. During the period of anarchy (1991–2006, when there was no state government in Somalia), for example, well-known expressions such as “Looma Ooyaan” (no one weeps for them) implied that those who committed crimes against minorities were not held responsible. Although victims are not usually part of the dialogue process, study participants indicate that they are socially required to comply with the decision elders have made—regardless of these decisions. Study respondents further perceive both statutory and Sharia law as more appropriate in terms of individual accountability than customary law, which prioritises peace over justice. For this reason, some individuals turn to al-Shabaab for justice because they are well-known for enforcing individual accountability mechanisms. Along similar lines, more and more people are also bringing their cases before government courts, despite acknowledging the many shortcomings of statutory law.

Enforcement

This research reveals that recurrent conflicts arise from the lack of authority to implement the resolutions that communities have reached regarding their differences. Long-lasting peace is hampered by the limited number and calibre of law enforcement organisations due to inad-

equately public funding, insurgents, and public mistrust of the security forces. In interviews, study participants say that several factors contribute to the ineffectiveness of the security sector, such as the fact that the security forces are primarily drawn from armed communities; that they commit crimes against communities; and that they lack proper training and equipment. They add that when communities reach an agreement, it is often broken by independent armed militias. Community elders do not, however, have the power to arrest these actors. While security forces do have this power, they are either not present in the area or cannot reach because of security issues.

Public confidence in both law enforcement agencies and their ability to fulfil their mandate is low. Public mistrust is a result of widespread corruption and abuse on the part of law enforcement officials, which in turn drives many people to demand justice from al-Shabaab. According to a senior policy adviser in Hirshabelle, there are 600 police officers in the Hirshabelle state forces, with an aspiration to grow the force to 800. In this large geographic region—where clans are well-armed, al-Shabaab is present, and there are autonomous clan militias—a small police force that is, moreover, lacking adequate training, equipment, and weapons, cannot effectively maintain security. All study participants agree that one of the biggest challenges in Hirshabelle State is the weakness of the security forces.

Respondents clearly indicate the limited efficacy of the security forces as a problem in the implementation of the agreements communities reach to resolve their conflicts. They say that while traditional elders can bring people together and foster reconciliation among conflict parties, they are unable to arrest criminals. Many study participants articulate the missing, but desired role of government to be able to provide effective enforcement, punishment, and security.

Trust and independence

The profile of traditional elders is changing. Poets, ulema (Islamic scholars), and clan elders used to lead the community, but now businesspeople, politicians, and members of the diaspora are given senior roles. Consequently, the number of elders has proliferated as a result of opposed politicians appointing different elders and the position has become increasingly politicised. Study participants also indicate that the changes in people's way of life, thinking, and values have negatively impacted both public faith in, and respect for, elders and customary law, as has political "meddling: in customary processes. According to study participants, for example, the clan customs and laws are largely unknown to younger generations.

New institutional processes have diluted the role elders play in community life. In the past, traditional elders led the government formation process and selected members of the federal and state parliaments. According to the findings of this study, the respect that traditional elders once had has suffered greatly because of feelings of partiality toward some members of the community in these selection processes. Previously, a clan elder was chosen by the community, but more recently, in some cases, politicians appoint elders. Now, there is a feeling that communities are ruled by businesspeople and politicians.

When chiefs, sheikhs, and traditional elders oversaw the community, traditional elders sought assistance from the sheikh and the Duub (crowned elder) in disputes that they found difficult to resolve. Traditional elders were strong, and everyone was required to abide by the rules. The community also used to hold an annual meeting to discuss issues of concern and resolve disputes. Women attended these meetings and put pressure on elders to find a solution if they were unable to resolve a conflict themselves. At present,

however, these meetings are no longer held due to clan divisions and the growing number of clan elders with different views.

Conflict between the state government and al-Shabaab has also influenced the view of traditional elders. Some elders work with the government and others work with al-Shabaab, with a clear division between urban and rural, respectively. Elders residing in government-controlled areas are unable to travel to those areas under al-Shabaab control, and vice versa. This creates further divisions within the community. Mariam, a young female respondent, sums up: "al-Shabaab inflame clan rivalries to gain freedom of movement." The conflict between clans is beneficial for al-Shabaab to freely move in the area.

CONCLUSION: LOOKING TO THE FUTURE

In Somalia, the high number of historical violations of human rights means that both peace and justice are desired. Addressing these violations faces numerous challenges, however. Top leaders, for example, are thought to have committed human right violations, which raises questions about accountability, impartiality, and impunity. There is also no single federal justice system, the nation is divided into ethnic-based federal member states, and there is no consensus on how to prosecute the crimes that have been committed.⁶ States emerging from civil war and violent conflict often face challenges in their endeavours to achieve peace and reconciliation because the issues of the perpetrators of violent crimes and the victims of these crimes often dominate the process. Thus, the task of a society to deal with the past and build a future depends on justice in the present.

According to study respondents, Somali communities expect the government to maintain security, bring legal action

against those who violate human rights and commit other crimes, collaborate with traditional elders, and implement agreements reached by parties to a dispute through traditional conflict resolution procedures. There are, however, numerous barriers standing in the way of these hopes, including a lack of genuine reconciliation,⁷ low levels of public trust in traditional elders and Xeer, well-armed clans, limited areas under government control, and weak government law enforcement institutions and capacities.

In addition to the work of the National Reconciliation Framework (NRF), the findings from this study suggest the following recommendations:

Strengthen law enforcement institutions: Law enforcement agencies should be reformed, trained, equipped, and expanded so that they can fulfil the justice service that Somali society expects. With protracted civil wars and rampant criminality, it is necessary to have a strong security force that can prevent acts that undermine security and social cohesion. It is also necessary to improve the quality of traditional elders and legitimise the decisions made by elders, which translates to a need for bringing the formal and traditional justice systems together.

Institutionalise and empower local traditional conflict resolution mechanisms: Study participants point to a need for government (federal, state, and local) administrations to establish peace committees to address peace, enhance the expertise of traditional elders in resolving conflicts, and legitimise the decisions made by traditional mechanisms. Given that it is difficult to reach national consensus on a transitional justice model, this can assist elders in addressing past violations through traditional conflict resolution methods.

Enhance collaboration between traditional mechanisms and law enforcement institutions: Recognising the traditional justice system and strengthening cooperation between traditional mechanisms and law enforcement agencies (courts, police, custodian corps)⁸ can reduce the frequency of conflict and help make the agreements that are reached to be permanent and binding.

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- 7 It is worth noting that the ministry of interior, federal affairs and reconciliation has issued the NRF, which is designed to ensure regional and national leadership for a national reconciliation process and provide a platform for coordinating various new and ongoing efforts around reconciliation and peacebuilding across Somalia. The NRF represents government commitment to the Somali people to begin a process of national reconciliation. Transitional justice cannot exclusively depend on existing state structures, however. Rather, state actors can participate along with other actors in transitional justice processes, within the context of a national transitional justice framework.
- 8 The Somali Custodial Corps is a section of law enforcement in Somalia responsible for the maintenance and guarding of prisons. It is also a military provost (military police) because the corps investigates crimes in the Somali Armed Forces and bring individuals before the military courts.

INSTITUTIONAL INDEPENDENCE IN ETHIOPIA'S TRANSITIONAL JUSTICE AND NATIONAL DIALOGUE PROCESSES

Yeabsra Minwyelet

INTRODUCTION

Ethiopia has made various attempts to implement components of transitional justice (TJ), but the absence of a comprehensive framework has resulted in fragmented and ineffective initiatives over time. As one observer notes:

Following the overthrow of Ethiopia's imperial regime, no official mechanism for holding the previous regime accountable was established. Instead, summary justice and mass executions were prevalent until 1991. After the military defeat of the Derg regime, the transitional government adopted criminal prosecutions as the primary transitional justice mechanism, neglecting other approaches such as truth and reconciliation. This resulted in an incomplete and inadequate approach to transitional justice.¹

Recognising the severity of past atrocities in Ethiopia and the limitations of the formal justice systems in the country to address them, there is a growing call for a different approach. Advocates of a new approach are taking ideas from other TJ processes to achieve reconciliation and justice. In 2018, TJ advocates received an opportunity when Prime Minister Abiy Ahmed introduced two commissions, Ethiopian Reconciliation Commission (ERC) and the Administrative Boundaries and Identity Issues Commission (ABIIC). Almost from the outset, however, these initiatives faced challenges.

Indeed, participants in recent public TJ consultations state that they are willing to engage with independent and impartial processes and note that the process can only be credible if it is representative of all Ethiopians.² Participants call for regular monitoring of TJ process by independent bodies, from beginning to end, to ensure that the process is credible, transparent, and seen as legitimate.³

Assessments of key gaps in two main peacebuilding processes—namely, the Ethiopian National Dialogue Commission (ENDC) and the Transitional Justice Working Group of Experts (TJWGE)—highlight concerns about the independence of these two institutions. In reference to the technical working group established to conduct public consultations, “Critics argue that the group lacks representation from opposition factions, and its members are hand-picked by the justice ministry.”⁴ Similarly, the refusal of some political parties in the country to participate in TJ and national dialogue processes has raised questions about inclusivity. Learning from past processes attempted in Ethiopia shows that, for the Ethiopian TJ and national dialogue processes to succeed, they must be able to overcome both the perceptions and operational challenges that hinder their independence, as a key criteria for building trust among citizens and stakeholders.

The Ethiopian government has also demonstrated a commitment to fostering national dialogue and addressing complex historical wounds through the two initiatives. In addition, there is a concerted effort to develop a more comprehensive approach that addresses the underlying causes of internal conflicts in the country. Government focus on creating broad consensus around key national agendas is evident. Continuing to do so is the way to foster sustainable peace.

The research upon which this article is based explores the independence of Ethiopian TJ and national dialogue processes, with a specific focus on the ENDC and the TJWGE. Using qualitative methods, this research involved interviews with academics, civil society organisation (CSO) leaders, TJ experts, policy actors, and representatives from the two institutions. A total of 10 interviews were augmented by both a review of relevant literature and on-going analysis of current events throughout the country. Through these

combined methods, the research aims to provide a detailed examination of the challenges, opportunities, and safeguarding mechanisms to ensure the independence of the ENDC and the TJWGE.

Key findings reveal a lack of sensitisation around the objectives, activities, and selection processes of the ENDC and the TJWGE. Transparency and clarity in participant selection, coupled with a commitment to inclusivity, emerge as pivotal, but lacking elements. Moreover, a prevalent sense of public distrust about the nature of government commitment to implement the findings from these two processes, underscores the urgency of taking tangible action and ensuring accountability.

INSTITUTIONAL INDEPENDENCE: WHY?

Institutional independence creates conditions that support accountability, transparency, trust, and reconciliation. Accountability requires institutions to be answerable for their actions. Transparency provides access to information and public scrutiny. Independence helps to remove biases and influences to decision-making that support accountability. Moreover, it allows institutions to protect individual rights and preserve the rule of law. Developing legal frameworks, independent oversight bodies, codes of ethics, and financial autonomy are the major mechanisms that can be applied.⁵ In practice, disclosing conflicts of interest, publicly reporting, engaging stakeholders, adopting best practices, and continually evaluating should be applied. By implementing these mechanisms and practices, institutions can strengthen their independence and fulfil their roles in society with integrity and effectiveness, thus fostering public trust and reconciliation.

Without institutional independence, there is a risk of political interference that could undermine the credibility and legitimacy of the two initiatives. Politicians

may interfere with such processes for various reasons. One significant factor is political considerations, where decisions about which aspects of the past to address are often driven by political motives. This selectivity may stem from a desire to shield specific individuals or groups from accountability or to manipulate the narrative surrounding historical events.⁶ It can also reflect the specific (exclusive) interests of elites or dominant groups. Resistance can arise from individuals involved in past human rights abuses and their supporters, who may oppose efforts to hold them accountable for their actions.⁷ Critically, lack of independence can erode public trust in the impartiality and actions of the two institutions.⁸

EMERGENCE OF NATIONAL DIALOGUE AND TRANSITIONAL JUSTICE

The emergence of national dialogue and TJ in Ethiopia is a response to the pressing need to address historical grievances, foster reconciliation, and build a more just and equitable society. Recently, these processes have gained prominence, acknowledging the importance of inclusive dialogue, accountability, and healing for post-conflict transformation. In Ethiopia, two primary institutions have been mandated with facilitating these processes: the ENDC, established under House of Peoples Representatives; and the TJWGE, established under the ministry of justice. Both are responsible for conducting consultations, gathering diverse perspectives, and developing recommendations to guide the path towards reconciliation and justice.

Establishing the ENDC

The ENDC was established in December 2021 by the Ethiopian Parliament under Proclamation 1265/2014, with the aim of facilitating dialogue.⁹ It is tasked with creating a platform for constructive dialogue, fostering consensus, promoting national

unity, and identifying the root causes of conflict and division. The establishment of the ENDC, coupled with the release of numerous political prisoners, including opposition leaders and activists, can be interpreted as a sincere and genuine dedication on the part of the government to reconciliation, justice, and inclusivity; alternatively, it can be seen as a carefully crafted facade of such commitment.¹⁰

Immediately after parliament established the ENDC, it set up a committee to facilitate the process of selecting commissioners based on a set of criteria, all of which was publicly announced. Submitting recommendations for commissioners was held online and a total of 632 nominees were received. Of these, 42 nominees were shortlisted, with the top 11 candidates selected based on a screening procedure mandated to facilitate “an inclusive dialogue and reconciliation process that would heal wounds, build a consensus on key issues and help the country to solve its complex problems”.¹¹ As the commission spokesperson states during an interview for this research, “The National Dialogue Commission was established as an independent body to facilitate the identification of underlying issues, formulate an agenda, and facilitate open and peaceful discussions.”

Even though the public was engaged in the nomination of commissioners, the screening procedure to shortlist the 42 nominees and approve the 11 commissioners was heavily criticised. Issued on 23 February 2022, a joint statement by eight local women’s civil society organisations (CSOs) notes:

The criteria for nomination, particularly that of academic backgrounds, was favourable to the very few elites in the country and in effect eliminated community and religious leaders, the youth, and women by virtue of academic status. Of the 632 nominees to the commission whose iden-

tities have not been made public, the House of Peoples Representatives shortlisted 42 candidates for further consideration, and finally confirmed the 11 commissioners from the list of 42. However, there was very little transparency regarding the evaluation metrics that informed this decision. It is hard to tell if it was based solely on merit, integrity, or socio-demographic quotas, or if strategic, pragmatic, and other considerations were made, or by whom. This lack of transparency, if left unaddressed, is likely to undermine the credibility of the Commission and fuel suspicions that the process is not free from political influence.¹²

Despite initial scepticism, after three years, the commission has reached its final year. During this time, it has institutionalised the national dialogue process, formed a number of partnerships, identified and selected participants for national-level dialogue, and in the phase of collecting agenda items through consultations. The commission has made progress in most regions, except for Amhara, Tigray, and parts of Oromia controlled by armed groups. Financial support comes from the government and international actors through a pooled funding mechanism managed by the United Nations Development Programme (UNDP) and the Ethiopian Ministry of Finance. According to Ethiopian News Agency/ENA/s on September 28/2022, it stated that the Ministry of Finance, United Nations Development Program (UNDP), and National Dialogue Commission have signed a programme document to financially support the national dialogue process in Ethiopia. UNDP has allocated 2.2 million USD to finance the process and will manage a financial buffer to collect funds from development partners for the 3-year programme.¹³

The TJWGE: developing a TJ policy

The emergence of TJ policy development in Ethiopia can be traced back to the aftermath of the violent conflict in Tigray and other regions. Before the outbreak of the Tigray conflict, however, the government had already made prior attempts to distance Ethiopia from the human rights abuses of former regimes, in line with TJ. This included the December 2018 parliamentary declaration to establish the Ethiopian Reconciliation Commission (ERC) that was set up in 2019, as well as acknowledgement of the violence perpetrated against the Ethiopian people by the pre-2018 regime. Various government institutions such as the Office of the Attorney General began implementing measures to hold accountable those responsible for corruption and other abuses committed both before and during the 2018 transition period—despite on-going war in Tigray at the time. Eventually, the government decided to dissolve the ERC as it's faced limitations and external pressures from the beginning, including broad mandates, a legitimacy deficit, resource scarcity, and the challenging social context it operated in¹⁴ and instead establish the NDC, which introduced a parallel dialogue process alongside existing TJ initiative.¹⁵

The war between the federal government and the Tigray People's Liberation Front (TPLF) concluded on 2 November 2022 with a Cessation of Hostilities Agreement, also known as the Pretoria Agreement.¹⁶ This agreement emphasises the need for a comprehensive national TJ policy, including accountability, truth seeking, victim redress, reconciliation, and healing. Accordingly, the Ethiopian Ministry of Justice established the TJWGE in November 2022 to lead the TJ process:

Comprised of 13 independent experts from diverse backgrounds, the Working Group is mandated to craft a national TJ policy and conduct public

consultations. Subsequently, in January 2023, the Working Group released a green paper on transitional justice policy options, providing an analysis of alternative policy options to pursue the different TJ pillars: prosecution, truth-seeking, reconciliation, amnesty, reparations, and institutional reform.¹⁷

As part of designing a comprehensive TJ policy, the TJWGE held public consultations and feedback on its green paper. Public input was gathered through a series of more than 80 consultations that engaged individuals from diverse backgrounds across the entire nation.¹⁸ These consultations were monitored by a joint investigation team of the Ethiopian Human Rights Commission—Office of the United Nations High Commissioner for Human Rights (EHRC—OHCHR), the final report of which highlights the need for a victim-centred TJ approach.¹⁹

From the beginning, however, questions were raised about the independence of the process to establish the TJWGE and, consequently, of the TJWGE itself. As one research participant from a political party, who prefers to remain anonymous, explains:

We believe that the ministry is a part of the ruling party and the government's ministerial apparatuses. Also, there was not enough awareness raising done by the government to inform the public about what TJ means as well as policy processes.

In March 2024, eight democracy and human rights CSOs provided their feedback to the ministry of justice on the draft TJ policy.²⁰ This feedback raises nine key points in need of being addressed before the TJ policy is sent to the council of ministers for approval, including: 1) emphasising public accessibility for transparent discussion; 2) involving diverse institutions for a comprehensive approach; 3)

establishing mechanisms to address accountability for crimes by foreign forces; 4) aligning indigenous conflict resolution with human rights standards; 5) broadening accountability for all involved in crimes against humanity; 6) providing adequate resources for effective investigations; 7) identifying clear justification for special courts and including experienced (international) judges; 8) ensuring opportunities for external input in court decisions; and 9) calling for comprehensive justice system reform, beyond TJ, for a more equitable system.

Other critics perceive the national dialogue and TJ processes as imposed by the federal government in response to internal and external pressure, rather than as a genuine commitment. As evidence of this lack of sincerity, they cite the lack of accountability for human rights violations, ongoing conflict-inducing rhetoric, and unfulfilled promises. A research respondent elaborates:

The problem here is that the establishment of the commission and the TJ working group of experts are for the sake of fulfilling the procedural requirements to respond for international pressure and local requests for having dialogue and transitional justice. People are still dying, abducted, and arrested illegally, including parliament members. Besides, there is no recognition of violations of human rights and the chaos that is happening.

Such critics argue that without concrete actions to address the previous causes of human rights violations, peace efforts initiated in the country are merely symbolic. They emphasise the need for meaningful dialogue with all stakeholders and tangible steps towards reconciliation to truly achieve lasting peace in Ethiopia.

CHALLENGES TO THE INDEPENDENCE OF THE NATIONAL DIALOGUE AND TRANSITIONAL JUSTICE PROCESSES

As central institutions to build sustainable peace, the ENDC and the TJWGE are mandated to address historical violations, grievances, foster reconciliation, and rebuild trust among communities. This research analysis focuses on three key aspects necessary to establish the institutional independence of TJ and reconciliation processes: 1) transparency and awareness; 2) selection of appointees; and 3) accountable implementation.

Establishing transparency and awareness: National Dialogue Commission

The fact that the ENDC was established by the House of Peoples Representatives, which is expected to be impartial and free from executive influence, marks it as the first legislation of its kind to be detached from the office of the prime minister. From the start, however, the process of forming the ENDC raised concerns about potential influence from the executive branch. As a study respondent from an opposing political party states:

Political parties were not consulted or involved in the design of the proclamation [Proclamation No 1265/2021 to establish the ENDC] or the selection of commissioners, despite being established under the Ethiopian parliament. Our party therefore sees no distinction between the parliament and the executive branch.

In support of this perspective, an editorial in the Addis Standard similarly remarks:

The ENDC was initially met with collective dismissal and scepticism from major political parties, including a request from the Ethiopian Political Parties Joint Council (EPPJC), a coalition of more than 53 legally registered political parties, to “temporar-

ily halt” the process and reconsider steps that will guarantee meaningful participation of key stakeholders and transparency of the process.²¹

The ruling party was repeatedly requested by opposition political parties and key stakeholders to ensure a transparent and inclusive process, both during the drafting of the bill and the appointment of commissioners. While clearly unsatisfied no party outright rejected ruling party involvement in the process.²²

Nonetheless, some critics argue that the affiliation of parliamentary representatives with an executive that potentially limits their ability to challenge executive decisions and influence is problematic. This study respondent offers more detail:

Opposition parties that have positions in the parliament are currently dismantled and couldn't strongly oppose the government. So, we wouldn't expect the ND [national dialogue] process established by the parliament to resolve the existing problems.

As a result, the expectation that national dialogue processes would remain neutral and be able to effectively address on-going challenges in the country is seen as limited from the get-go. Even though many political parties are working with the ENDC, there are also political parties with large number of supporters that have openly disclosed their complaints to the commission and the government and refuse to participate in the processes. Instead of addressing the root causes of this dissent, the ENDC simply continues with its own processes without properly addressing these complaints.

Establishing transparency and awareness: Transitional Justice Working Group of Experts

In terms of the TJWGE, the draft TJ policy fails to include political opposition groups

in its implementation framework.²³ Another notable gap identified during the study is a lack of sensitisation efforts. A member of the EHRC–OHCHR joint investigation team observes:

The consultations on the green policy paper reveal disparities in participant engagement based on geographic location. For instance, participants in more developed areas such as Addis Ababa demonstrate greater interaction and proposed additional options, contrasting with those in regions with limited information flow.

This highlights a lack of awareness and clarity about TJ processes in regions outside the capital, thus raising questions about inclusion and representation.

The novelty of the concepts of national dialogue and TJ in Ethiopia exacerbates the lack of awareness on these issues, hindering effective stakeholder engagement and feedback mechanisms. Despite sensitisation sessions during public consultations, broader community outreach remains a challenge. Insufficient sensitisation about TJ is especially problematic. Since this is a new process for Ethiopians, it has left many without an adequate understanding about how to participate. One TJ expert notes that insufficient awareness and knowledge end up creating processes that are exclusive:

The concept of transitional justice is often misunderstood by the community due to a lack of awareness, leading to a general lack of understanding among the public. As a result, many people are unaware of what TJ entails and, therefore, do not question the process. Additionally, it is observed that a significant portion of the population either lacks interest in or knowledge of transitional justice, turning it into a game for the elite.

A member of the TJWGE supports this view: “Even though there were media

briefings at the beginning, it's not enough as per the demand and how critical the process is. There is still a gap in sensitising the public about the process, which potentially makes the public feel left in the dark." The 2023 EHRC–OHCHR advisory note on the next steps towards the development of a human rights-compliant TJ policy for Ethiopia, also mentions that there is a need to create and implement a tailored awareness programme to educate participants and enable them to contribute informed opinions.²⁴

Selection of appointees: National Dialogue Commission

During the selection of the 11 commissioners for the ENDC, the process was publicly and openly disclosed, yet one commissioner was appointed without a public nomination. This appointment (as opposed to nomination) was spotted by a number of people interviewed in this study. Many study respondents feel this compromised the nature of the screening process and raised doubts about the impartiality of the commission. In particular, this appointment is seen to create an opportunity for findings to be manipulated or compromised. This is also noted in the joint statement issued by the eight women-led CSOs on 23 February 2022, which asserts that continued lack of transparency carries a likely risk of fuelling suspicions that ENDC processes are open to political influence.²⁵

Practically, the ENDC has signed a memorandum of understanding with collaborating parties at the regional level to facilitate participant and representative selection from diverse community groups, starting from the kebele (lowest government administrative division) level. The involvement of government officials, including judges, in the participant selection process has raised concerns, however. Critics argue that this may lead to a lack of independence and accountability, as the government itself is a key stake-

holder in the national dialogue process. They worry that the mistakes committed by the ruling party may be overlooked or downplayed as a result. Also, an article by Tegbaru Yered indicates that the government structures were engaged in dialogue participants selection.²⁶

Selection of appointees: Transitional Justice Working Group of Experts

The TJWGE consists of 13 individuals selected based on their professional backgrounds and expertise in TJ and related fields. Notably, the TJWGE does not include representatives from political parties, community groups, or CSOs. This composition is intended to ensure TJWGE independence from any political bias or specific interest groups. The absence of direct representation from these stakeholder groups, however, has raised concerns about the inclusivity and legitimacy of TJWGE work. A TJWGE member who was interviewed for this study responds to this concern as follows:

It's difficult to contain all the diversified groups within this technical working group, and there might be a high chance of being partial to the interest group's agenda. Instead, various sections of the society were included during the consultations. Being led by professionals helped the group [TJWGE] to work neutrally.

In contrast, another observer notes, "The working group could have been both expert and politically representative. Also, had it been established by parliament instead of the executive branch of government, these concerns might have been lessened."²⁷ This suggests that there may be room for improvement in the selection process of TJWGE members to ensure more balanced representation.

Accountable implementation: National Dialogue Commission and Transitional Justice Working Group of Experts

The absence of a clear roadmap, strategic plan, stakeholder communication plan, and publicised selection criteria at the outset of the establishment of the ENDC hindered accountability. This led to confusion over roles, responsibilities, and timelines, resulting in delays and inefficiencies. Moreover, the lack of transparency and accountability in planning and implementing ENDC tasks eroded trust in the process. The commission website was only updated after most preparatory actions were complete, preventing stakeholders from monitoring the process and providing feedback. A CSO representative who closely follows the process confirms this: “The commission has no publicised roadmap, stakeholder engagement plan, or strategic plan, and working procedures are not officialised.”

As most of the past and ongoing conflicts in Ethiopia have occurred because of power struggles and disagreements between political elites, dissenting political parties and experts have proposed an immediate political dialogue between political leaders across and outside the country. This is accentuated as political party leaders from dissenting parties have been barred from these processes. This raises credibility issues about the consequences of dissenting on the two processes.

Internal influence is not the only concern. Some critics worry about external influences. Some of those who were interviewed for this study articulate suspicions that some international actors may have specific agendas influencing these two significant processes. Given the numerous human rights violations occurring in Ethiopia that appear to be overlooked by Global North, this raises concerns among some study participants about the possibility of underlying political motives. Some question whether international donors have a genuine interest in maintaining justice and equality in Ethiopia. As an internationally funded process, they express concern that international actors

might pursue their own interests. At the same time, the need for external financial resources for these processes is recognised on account of limited Ethiopian government resources. In contrast, as per the information from the ENDC spokesperson and as a member of TJWGE states during an interview, the government treasury is the major source of funding for these two processes, which mitigates concerns about outside interference or influence.

Some experts view, these processes as instruments the government is using to stay in power; as mechanisms to avoid accountability. All study participants generally agree that conducting consultations, gathering evidence, and collating findings can serve as a foundation for future actions by other stakeholders. At the same time, however, most of them doubt that these processes will have an impact on addressing the ongoing conflicts in Ethiopia, much less will they achieve lasting peace in the country or the region.

MOVING FORWARD

In many respects, the ENDC and the TJWGE are major accomplishments in a country beset by long-term and ongoing conflicts, large-scale government changes, and persistent human rights violations. Study findings highlight gaps in the implementation of these two processes, however. This is particularly the case around their independence, which is and can continue to reduce the overall impact of both initiatives.

One of the major future-focused concerns raised by study participants is related to government commitment to addressing the issues raised by dissenting political parties, experts, and other actors, as well as their willingness to genuinely implement the TJ policy and the findings from the national dialogue process. As noted, in part this stems from a lack of transparency in the selection process of commission-

ers and TJWGE members. Although the public was allowed to nominate potential commissioners for the ENDC, the screening procedure was not made transparent, which raised doubts and confusion.

To ensure the success of TJ processes in Ethiopia, it is therefore crucial to address the concerns of dissenting political actors and bridge the gap between the government and those who have refused to engage in these processes. This is essential for fostering inclusivity, trust, legitimacy, and ultimately achieving reconciliation and healing.

Another notable gap identified by study participants is the insufficient sensitisation of the population, especially rural residents who lack technological access. This hinders their understanding of the two processes (national dialogue and TJ policy), limits their ability to monitor them, and constricts their ability to ask questions and seek answers. The involvement of government officials at the Woreda [district] and Kebele (lower form of government structures)²⁸ levels in selecting discussion participants and representatives for the national dialogue creates the appearance of a conflict of interest and can be seen in terms of undue influence on agendas, both of which are likely to reduce trust.

Another gap that study participants note is the absence of a clear roadmap and strategic plans to guide the overall tasks in the two processes. These concerns collectively raise questions about government commitment, transparency, inclusivity, and strategic planning in implementing the TJ policy and incorporating the findings from the national dialogue.

At the time of writing, the TJWGE has finalised its task and the council of ministers has adopted the National Transitional Justice Policy of Ethiopia. Alongside this, the ENDC is conducting a process to identify participants in areas across the

country where representatives have been elected. There is also improvement in terms of announcing ENDC activities on its website and other social media options. In addition, the ENDC is providing new opportunities for community members who were not directly involved in the initial consultations to present their agendas and perspectives. An online form to collect agenda items has been prepared and posted on the ENDC website for anyone to submit topics for the national dialogue.

Notably, national dialogue preparatory actions are lacking in two crucial regions, Amhara, and Tigray, as well as in those parts of Oromia under the control of armed groups. Given the high political significance of these areas in Ethiopian politics, overlooking these regions undermines attempts to address the root causes of division in the country. This also raises significant questions about the inclusivity of the national dialogue processes. Moreover, those who live outside their ethnic regions or are minority ethnic groups, have not (yet) been provided with a bespoke platform to contribute to the selection of community-level national dialogue representatives. Given the reality of identity-based attacks in various parts of the country, the inclusion of ethnic minorities in every region is necessary for both the processes and agendas to be seen as broadly representative, neutral, and independent.

To ensure a comprehensive and inclusive national dialogue process and to fully implement the TJ policy across the country, it is important that efforts are made to engage with these regions and address their concerns. Concerted efforts should also be made to educate and engage rural residents, ensuring inclusivity and transparency. Community meetings, radio broadcasts, and other accessible means should be used to provide information and bridge the technological gap, empowering all citizens to participate in shaping the future of the country. Failing to do so may result

in a fragmented dialogue that does not truly represent the diverse perspectives in Ethiopian society.

As these two processes reach a critical stage, all stakeholders must engage in open and constructive discussions. Their goal should be to constructively address concerns, overcome obstacles, address past grievances, and promote reconciliation. This requires a commitment to transparency, inclusivity, and accountability to build trust and foster sustainable peace in Ethiopia. To address the lack of trust in government commitment and political will, and maintain public confidence and accountability, the government must involve all stakeholders. This includes previously unengaged and/or disengaged political parties and those with differing opinions, as well as remote and hard-to-reach groups. This involvement should aim to clarify confusion and discuss concerns. Above all, it should focus on implementing TJ policies and findings from the national dialogue process.

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PERSPECTIVES ON INTEGRATING TRADITIONAL JUSTICE MECHANISMS IN ETHIOPIA'S NATIONAL DIALOGUE PROCESS: A SURVEY OF KEY POLICY ACTORS

Eden Matiyas

INTRODUCTION

To resolve differences of opinion on the most fundamental national issues, Ethiopia started discussions on a national dialogue process. In December 2021, the Ethiopian Parliament established the Ethiopian National Dialogue Commission (ENDC), and in February 2022, it approved the appointment of 11 commissioners. These commissioners are tasked with identifying the root causes of fundamental national issues and facilitate inclusive consultations across diverse sectors of society. The goal is to build mutual trust, restore social values, pave the way for lasting peace, and bolster national consensus.¹

The effective facilitation of dialogue in societies affected by conflict requires a strategic approach that considers cultural nuances. As Ethiopia progresses in its conflict resolution and peacebuilding journey, the involvement of traditional justice mechanisms into formal national dialogue processes is being considered. This reflects the commitment of the ENDC to leverage traditional knowledge and values from across the country.² While this involvement presents challenges—such as aligning various methods with legal structures and ensuring human rights and gender equity—it also provides opportunities to leverage the depth and community-centred nature of traditional systems to enhance legitimacy and community cohesion, and simultaneously lend support to formal legal processes.

This study explores the views of national policy actors on the involvement of traditional justice mechanisms in the overarching framework for national dialogue in Ethiopia. Focused exclusively on these actors, the study sheds light on their perceptions of the benefits and limitations of doing so, as well as their proposed recommendations for facilitating effective involvement. This study engaged 15 national policy actors, including government

officials, national dialogue commissioner, scholars, transitional justice (TJ) experts, peacebuilding practitioners, and civil society representatives. They participated in semi-structured interviews focused on their experiences, beliefs, and perceptions of both traditional justice and the national dialogue process. By understanding the perspectives of national policy actors, this study aims to contribute to the ongoing policy discussions and decision-making processes regarding the role of traditional justice mechanisms in the Ethiopian national dialogue process. Ultimately, the study findings are relevant to the development and implementation of national dialogue policy recommendations, providing valuable insights for policymakers.

UNDERSTANDING TRADITIONAL JUSTICE MECHANISMS

Traditional justice mechanisms involve a diverse range of practices and processes rooted in the cultural traditions, customs, and norms of specific communities or societies. They often engage local elders, religious leaders, or community councils in mediating disputes and resolving conflicts, and restoring societal harmony through informal processes. Despite ongoing debates about the definition of terms such as “traditional”, “local”, and “informal”, there is broad consensus that they include “practices occurring at the community level, rooted in a community’s cultural repertoire”.³ Traditional justice mechanisms tend to possess three key attributes: they focus on groups rather than individuals, seek compromise and community harmony, and emphasise restorative justice over other forms of punishment.⁴

The significance of local ownership is reiterated in the 2004 report of the UN secretary-general, “Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies”. In this report, Kofi Annan notes, “Due regard must be given to indigenous and informal traditions for admin-

istering justice or settling disputes, to help them to continue their often vital role and to do so in conformity with both international standards and local tradition.”⁵ Similarly, the African Union Transitional Justice Policy recognises the historical use of traditional justice mechanisms in African societies. Reflecting the concept of “ubuntu” (the interconnectedness of humanity), the policy acknowledges the role of traditional leaders and community structures in promoting reconciliation, accountability, and peacebuilding efforts.⁶

Traditional justice mechanisms can provide accessible and culturally relevant frameworks for conflict resolution and justice. Combining traditional practices with formal legal systems enhances the potential effectiveness and acceptance of the formal justice system and its procedures when implemented in a culturally relevant and community-involved framework. In turn, this allows communities to nurture trust and social cohesion. Importantly, traditional justice mechanisms help fill the gaps in formal justice systems, particularly in regions with limited access to legal institutions or where customary practices are prevalent.⁷ Traditional justice can also sometimes be imposed on local communities by those administering it, similar to other post-conflict justice initiatives. That is, traditional justice systems are often influenced by local politics and historic power imbalances within the community, which has the potential to make them more oppressive than emancipatory.⁸ Power imbalances, such as those between elders and youth, or between women and men, therefore, warrant consideration in discussions on the fairness of traditional justice mechanisms. Addressing these power differentials is crucial for ensuring equitable access to justice in traditional systems.

Traditional justice mechanisms in Ethiopia

In Ethiopia, traditional justice practices are deeply entrenched in local customs, communal values, and indigenous conflict resolution methods. They have historical significance in resolving disputes and maintaining social order in local communities. Exemplifying the rich diversity of these mechanisms, these traditional systems have a variety of names or titles for those who are responsible for administering traditional justice: For example, “Gaarad”, “Ugaz”, or “Sultan” in Somali society; “Kawo”, “Ogade”, “Kere”, and “Ganna” in Gamo society; the “Shimglina” tradition in Amhara society; and the “Gadaa” system in Oromo society.⁹

Traditional justice proceedings involving respected community elders are characterised by their accessibility, flexibility, and emphasis on consensus building, which are valued by many Ethiopians who view these mechanisms as more familiar and trustworthy in areas where formal institutions may be inaccessible or perceived as ineffective.¹⁰ A 2023 survey reveals that approximately 80% of Ethiopians (with slight regional variations) advocate for the use of traditional methods to address violence.¹¹ This survey further indicates that most of the population perceives traditional actors and institutions as more beneficial and relevant for peacebuilding compared to the formal justice system.¹² In addition:

A 2021 survey by the Hague Institute for Innovation of Law found that Ethiopia’s formal justice system typically resolves only about 18% of legal disputes annually, while approximately 43% are managed through traditional structures involving local elders. These traditional mechanisms handle around 3 million disputes each year.¹³

Despite this, the Ethiopian constitution only grants traditional justice mechanisms a limited mandate to deal with civil matters. The lack of comprehensive constitutional provisions has resulted in interactions between state law and traditional justice mechanisms that are characterised by arbitrariness, inconsistency, a lack of regulation, and unpredictability.¹⁴ Occasionally, however, the two legal systems acknowledge each other and work together through case transfers or information sharing. Government authorities and traditional justice custodians may also collaborate to address inter-ethnic conflicts. Nonetheless, hostility sometimes arises when one system encroaches on the jurisdiction of the other.¹⁵ Although the constitution does not recognise traditional justice involvement in criminal matters, in practice, traditional mechanisms continue to be used to resolve criminal cases and provide justice, especially in rural areas of Ethiopia.¹⁶ Currently, demand is growing for increased acknowledgement of traditional justice systems. At the regional level, for example, the Oromia Regional State passed a proclamation acknowledging and establishing customary courts, which have the authority to handle minor offenses and crimes that can be punished based on a complaint.¹⁷

OVERVIEW OF THE ETHIOPIAN NATIONAL DIALOGUE PROCESS

In December 2021, during the peak of the conflict between the Ethiopian federal government and the Tigray People's Liberation Front (TPLF), the government established the first ENDC with Proclamation No 1265/2021. As the proclamation states:

There are difference[s] of opinions and disagreements among various political and opinion leaders and also segments of society in Ethiopia on the most fundamental national issues and it is a necessity to resolve the differences and disagreements

through broad based inclusive public dialogue that engenders national consensus.¹⁸

Since its inception, the ENDC has encountered significant criticism and doubts from major political parties. This is largely attributed to the absence of meaningful involvement by key stakeholders such as the TPLF and the Oromo Liberation Army (OLA), as well as transparency issues surrounding the selection process of ENDC commissioners. Some politicians contend that candidates must be assessed according to transparent and merit-based criteria in an openly accessible forum to instil confidence in the commission among the public.¹⁹

ENDC challenges persisted, particularly regarding the involvement of armed groups such as the OLA and Fano militia and ensuring the inclusivity of key stakeholders. Efforts to engage armed groups and secure ceasefires in regions such as Oromia and Amhara were deemed crucial to the success of the process.²⁰ In the absence of these key participants in the dialogue, some argue that the influence of the national dialogue process could be limited and insignificant—both in the Oromia and Amhara regions, and on a national scale. Despite these challenges, the ENDC is progressing with its preparatory phase. By April 2024, the ENDC identified and selected participants in ten regional states and two city administrations, except for some districts in Somalia and Dire Dawa, and parts of Oromia as well as Amhara and Tigray regions. The ENDC is now transitioning to the agenda-collection phase for the national dialogue.²¹

It is anticipated that traditional justice mechanisms will aid in strengthening public acceptance of the ongoing ENDC process, acknowledging their substantial contribution to promoting a sense of community ownership over national dialogue processes and strengthening social cohesion among citizens. The ENDC acknowl-

edges traditional justice mechanisms for their inherent ability to understand the needs and priorities of communities. Consequently, the ENDC regards them as a valuable platform for facilitating social discourse and raising awareness on a wide range of issues. Moreover, traditional justice mechanisms are recognised for their skill in identifying both victims and perpetrators in times of conflict and peace violations, in accordance with community customs.²²

PERCEPTIONS ON TRADITIONAL MECHANISMS AND TRADITIONAL LEADERS

Perceptions hold a central role in shaping the effectiveness of policies and public engagement in peacebuilding initiatives. There is an intricate relationship between citizen perceptions and their willingness to engage with and support peacebuilding measures.²³ It is essential to underscore the significance of public trust and confidence in the mechanisms employed, emphasising that positive perceptions of procedural fairness, accountability, and inclusivity significantly contribute to the success of national dialogue initiatives. Policymakers must understand and address public perceptions to design effective policies and engagement strategies that resonate with diverse communities, promoting greater societal acceptance and support for peacebuilding processes.²⁴

The findings of this study show that many interviewees recognise the importance of traditional mechanisms and the involvement of traditional leaders in various aspects such as truth finding, reconciliation, community awareness raising, and adopting victim-centred approaches during conflict resolution and peacebuilding efforts. One interviewee from the Ethiopian Civil Society Organizations Council cautions against romanticising traditional justice, however. This participant points out potential conflicts with human

rights and gender standards, particularly in politically intricate contexts such as Ethiopia. Another peacebuilding practitioner notes that, traditional justice systems were originally designed to resolve conflicts at the local level. With many conflicts in Ethiopia now going beyond local boundaries, encompassing broader translocal dimensions, this interviewee argues the necessity to adapt and reconfigure these institutions to maintain their relevance and effectiveness on a wider scale. In contrast, an interviewee from the ministry of justice remains optimistic about traditional leaders and the abilities of traditional justice to restore community trust in traditional institutions. Yet, this interviewee also stresses the importance of institutional reform and capacity strengthening for traditional leaders to counteract political interference. This interviewee further underscores the necessity of providing legal protection and institutionalising traditional mechanisms to empower them for more active participation in conflict resolution and justice efforts.

Many interviewees also express concerns about the compromised integrity and neutrality of traditional leaders, citing their co-optation by government and their susceptibility to political influence. A human rights lawyer who was interviewed for this study suggests making a clear distinction between traditional justice mechanisms and the leaders who oversee them. This proposal implies recognising that while traditional justice mechanisms may hold value in specific contexts, the individuals in leadership positions within these mechanisms may not always uphold the principles of neutrality and impartiality. By distinguishing between the mechanisms themselves and the individuals who administer them, it becomes possible to assess their effectiveness and integrity separately.

VIEWS ON THE NATIONAL DIALOGUE PROCESS

The Ethiopian national dialogue remains a work in progress, as study findings indicate. According to a large majority of interviewees, although there appeared to be some public participation, the establishment of the ENDC was not transparent and did not receive complete support, especially from the political elite. A peacebuilding expert reiterates that the commission was established hastily, without building upon or giving adequate consideration to existing national dialogue initiatives.²⁵ This highlights a significant problem in the formation of the ENDC and underscores the necessity of rescuing it from potential failure. Many interviewees also highlight the importance of the preparatory phase in the national dialogue process, but express concerns regarding the lengthy time needed to identify and select participants.

Furthermore, some interviewees voice concerns about the lack of clarity in the national dialogue process, in particular the dialogue participants. They raise concerns about the ENDC decision to commence the participatory process at the community level, as most differences of opinion and disagreements tend to emerge from elite circles. Despite the ENDC proclamation explicitly stating that the aim of the national dialogue is to involve a wide-ranging public rather than exclusively elite groups, there is still uncertainty about who should engage in the dialogue first. An academic from Addis Ababa University emphasises, that the root issues in Ethiopia primarily arise from conflicts within elite groups rather than among the wider population. This interviewee believes that addressing these issues requires intense negotiation rather than just dialogue and emphasises that dialogue should start among the elite and then involve the broader community once consensus is reached. In contrast, one peacebuilding practitioner argues that the

national dialogue process should ideally begin with grassroots community engagement before gaining consensus among the political elite. This interviewee stresses that prioritising grassroots community engagement from the beginning of the national dialogue process is in line with the principles of inclusivity, legitimacy, and sustainability in peacebuilding efforts.

In addition, many interviewees highlight the challenges of conducting the national dialogue amid a political environment lacking in mutual trust in the community, especially given conflicts in regions such as Amhara and limited accessibility in parts of Oromia. A TJ expert questions the feasibility of conducting a national dialogue when the Tigray region has expressed doubts about the legitimacy of the ENDC. An interviewee from the Advocacy Center for Democracy and Development raises further concerns about the inclusivity of the term “national” when some segments of society or the community are unable to participate due to ongoing conflicts. Amid the challenges facing the national dialogue process, the ENDC has announced efforts to facilitate a peaceful avenue for armed groups to engage and negotiate in an inclusive process. Encouraging militants to lay down their arms, ENDC appeals have yet to garner agreement from any armed group to participate.²⁶

Nevertheless, some interviewees recognise the daunting task of the ENDC. A human rights lawyer compares the Ethiopian dialogue with those of other nations that undergo similar dialogues following periods of conflict or legitimacy crises, particularly during transitional periods. This lawyer emphasises that engaging in dialogue nurtures a culture of communication in which political issues can be tackled. Even if success is not achieved, there are valuable lessons to be gained. This highlights the ongoing evolution of the national dialogue process in Ethiopia, emphasising the need for continuous dedication to inclusivity and transparen-

cy. Policy actor concerns regarding ENDC inception and operation underscore the importance of genuine engagement across Ethiopian society. There is growing consensus emerging that a genuine and meaningful national dialogue process is the sole means of guaranteeing national survival. It is viewed as a critical moment, a make-or-break situation, emphasising the need for a more serious approach to the process amid continuing uncertainty.

Involving traditional mechanisms in the national dialogue process

Traditional justice mechanisms continue to be utilised in Ethiopia, demonstrating their enduring significance and relative effectiveness. The relevance and efficacy of involving traditional justice into the national dialogue process is, however, an ongoing topic of exploration. Many interviewees highlight that as Ethiopia navigates the complexities of national dialogue and reconciliation, involving traditional justice mechanisms into the process could serve as a cornerstone for sustainable peacebuilding efforts. By drawing on local knowledge and customs, these mechanisms can guide dialogue initiatives, prioritise inclusivity and community participation, and advance healing and the restoration of relationships. Through the mediation of traditional leaders and elders, grievances can be addressed, and the voices of grassroots communities can be brought to the forefront of the national dialogue process. This grassroots engagement ensures that the dialogue process is informed by the realities and aspirations of local communities, leading to more informed and inclusive policy recommendations.

While obviously relevant, a member of the Transitional Justice Working Group of Experts²⁷ points out that Ethiopian customs span across 80 plus ethnic groups. The highly diverse ethnic composition of the country implies that identifying suitable traditional justice mechanisms for

national implementation will prove challenging. An interviewee from the Consortium of Ethiopian Human Rights Organizations further suggests that traditional mechanisms may be more proficient at facilitating community dialogues than addressing political and elite-centred national issues. This interviewee indicates that the complexity and scale of these challenges could potentially exceed both the capabilities and authority of traditional mechanisms. Highlighting the insufficient participation of women and youth, a representative from a women's coalition working with the ENDC emphasises that women often do not reap the benefits of traditional justice and are subject to societal pressure to accept decisions without having their meaningful input considered. This shows up a further limitation of traditional mechanisms in the context of the national dialogue process.

Despite these challenges, the ENDC commissioner emphasises that traditional justice nonetheless both aids the national dialogue process and gives it an Ethiopian flavour and essence. Traditional mechanisms are also hoped to contribute to garnering public buy in. The commissioner further states that traditional justice mechanisms have the ability to identify and address community needs and concerns and are thus expected to play a crucial role in shaping the agenda-setting process. Moreover, the commissioner notes that it is anticipated that the dialogue process will encounter challenges, characterised by disputes and potential deadlock. In such instances, traditional leaders will be called upon to offer wisdom, provide guidance, and offer conflict resolution expertise to bridge these differences and facilitate progress. The commissioner also reiterates ENDC commitment to identifying traditional justice mechanisms in diverse communities, acknowledging the challenge in determining how and to what extent these mechanisms will be involved, as well as the appropriate timing for their inclusion.

The commissioner emphasises that answers to these questions will evolve as the national dialogue process progresses, recognising the need for a flexible framework due to diverse community realities.

In contrast, a senior researcher points out the difficulty of involving traditional justice without clear laws and policies supporting their incorporation. This interviewee emphasises the importance of institutionalising traditional justice mechanisms for representation and legitimacy during the national dialogue process. For traditional justice mechanisms to play significant roles in national dialogue, policy reform is essential. This reform should entail greater recognition and autonomy granted to these mechanisms. An interviewee representing an international multilateral organisation highlights that the recommendations from the ENDC may also incorporate traditional justice as an outcome, particularly in addressing widespread violations. Traditional justice mechanisms could play a decisive role in this implementation phase, given their customary influence and community trust. The specific role of traditional justice in this context remains to be defined, however. It is contingent upon the evolving agenda and objectives of the dialogue process.

Overall, traditional justice mechanisms are expected to offer valuable insights and community trust. Nonetheless, their involvement into the national dialogue process in Ethiopia requires careful consideration of legal, institutional, generational, and gender-related dimensions to realise their full potential as agents of reconciliation and peacebuilding.

RECOMMENDATIONS:

ADDRESSING CHALLENGES OF INTEGRATING TRADITIONAL MECHANISMS IN THE NATIONAL DIALOGUE PROCESS

A decentralised approach to traditional mechanisms in Ethiopia

The ENDC should consider adopting a decentralised approach to involving traditional justice mechanisms instead of seeking a single system for national implementation. This involves allowing each region or community to maintain and draw on its own customary practices within a broader framework of legal standards and human rights principles. By doing so, the ENDC can respect the cultural diversity of the country while ensuring that justice systems remain relevant and effective at local levels. These mechanisms can still have a national impact by legitimising the national dialogue process and utilising reconciliation rituals to acknowledge the past, foster healing, and establish a foundation for a more inclusive and harmonious future. Involving traditional justice mechanisms should be based on thorough assessment and identification of roles in local contexts. This can be accomplished by acknowledging their status and determining relevant subject matter and geographic areas that necessitate their participation. Adopting this model alleviates the burden on formal institutions and enhances the effectiveness of the process, thereby contributing to sustainable peace, reconciliation, and amnesty.²⁸

Balancing representation: Engaging women and youth in the dialogue process

Many traditional justice mechanisms are often dominated by elder males, which may minimise or exclude marginalised groups such as women and youth. Engaging women and youth enhances diverse perspectives and ensures the inclusivity of the national dialogue process. Providing specific platforms and resources for their participation helps mitigate challenges by addressing gender and generational dynamics, promoting equitable representation, and enhancing the relevance and effectiveness of traditional justice approaches in terms of their unique

needs and concerns. International examples, such as the national dialogue in Yemen, provide experiences upon which the Ethiopian process can build.²⁹

Vetting and strengthening the capacity of traditional leaders

Ensuring impartiality is essential in the national dialogue process. Transparent and participatory selection processes should be implemented, with checks and balances in place to prevent favouritism. Regular training on ethical governance and conflict resolution can help cultivate impartiality. By investing in their professional development, traditional leaders can effectively contribute to the national dialogue, addressing complex issues and promoting peaceful dispute resolution within their communities. Establishing independent oversight bodies can also effectively monitor and address any allegations of bias or misconduct.

Developing a legal framework for traditional mechanisms

There is a need to develop a legal framework that recognises and respects traditional justice mechanisms while ensuring compatibility with national laws and human rights standards. This provides clarity and legitimacy to the involvement process and support the implementation of the recommendations made by the ENDC. The drafting of a proclamation by the Ministry of Justice to provide a model law for the establishment and operation of customary courts in Ethiopia is a step in the right direction.

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COMMUNITY PERCEPTIONS OF KENYA'S TRANSITIONAL JUSTICE PROCESS: ASSESSING THE INCLUSION OF MARGINALISED GROUPS

Rose Alulu

INTRODUCTION

Marginalisation refers to the often systematic or deliberate exclusion of particular groups from social, economic, and political processes. The challenges such groups face vary depending on their context, which highlights different types and sub-groups of marginalisation. This research examines the marginalisation of two informal settlements in Nairobi: Kibera and Mathare. It explores the inclusion of marginalised groups, specifically women and the hard-to-reach youth¹ in these informal settlements, in transitional justice processes.

Informal settlements in Nairobi have been in existence for a long time. Residents of these informal settlements have developed a system to coexist with one another, despite the vast challenges that accompany their experiences of marginalisation. The uniqueness of these forms of coexistence is based on informal local mechanisms such as *Nyumba Kumi* [ten households] and community policing committees that residents have used over time.² Using locally led traditional conflict resolution mechanisms, these committees have helped foster long-term coexistence, reconciliation, and the creation of support and social welfare groups that are the backbone of social cohesion and community resilience in these two informal settlements.

Conflict in informal settlements often arises due to challenges linked to marginalisation such as poor sanitation, lack of proper infrastructure, vulnerability to manipulation by both religious and political leaders, exclusion from development agendas, and limited employment opportunities that contribute to economic disadvantage. These conflicts have significant impacts with ripple effects in other areas. The most prominent example is the 2007–2008 post-election violence that led to more than 1,000 fatalities across the country.³ More recently, in 2023, an-

ti-government protests showed similar dynamics. Conflict began in one informal settlement and spread to other informal settlements, resulting in looting, death, injuries, road blockages, work restrictions, property destruction, and economic sabotage, affecting all communities in Nairobi, including middle- and upper-class areas.⁴

Transitional justice refers to the set of processes and mechanisms that aim to deal with the past and prevent the recurrence of violence in post-conflict societies.⁵ Transitional justice processes can include truth commissions, trials, reparations, amnesty, institutional reforms, and memorialisation that are key in addressing the root causes of conflict for sustainable peace, especially in informal settlements. Transitional justice is important for post-conflict societies because it can help acknowledge victims (survivors), hold perpetrators accountable, restore the rule of law, promote healing and forgiveness, and foster social cohesion. To communities in the informal settlements in Nairobi, the term “transitional justice” is a new one, yet to be internalised by the communities that live there. This does not mean, however, that these communities have no mechanisms or activities in place to promote healing, reparation, reconciliation, forgiveness, or restitution, among others. As one female international NGO worker explains, “When transitional justice became the catchword, the rest were forgotten. But this doesn’t mean they are not happening. This is basically conflict transformation.”

Informal settlements are often the hardest hit by conflict and violence. They are known as sites of resistance and easy mobilisation. This research therefore focuses on the involvement of marginalised communities in transitional justice processes and locally led conflict resolution mechanisms that have promoted individual and community resilience. Marginalised groups often include ethnic minorities, women, the poor, and youth [mostly male

youth]. While disproportionately affected by conflict and violence, these groups frequently lack representation in transitional justice processes. For example, women and youth may not have their voices heard in truth commissions or reparations programmes, leading to justice outcomes that do not fully address their specific harms or needs.

The research upon which this article is based highlights the need for context-specific transitional justice approaches, considering the unique challenges and dynamics of marginalised communities in areas such as Kibera and Mathare. It emphasises the intentional inclusion of marginalised groups from the outset (particularly women and the hard-to-reach youth) to strengthen existing conflict resolution mechanisms, enhance awareness, and foster shared responsibility in implementing transitional justice. By integrating already well-known and established local traditions and practices like alternative dispute resolution (ADR), into national and international justice mechanisms, significant progress can be made towards achieving justice and reconciliation in these communities.

RESEARCH METHODOLOGY

The study upon which this article is based explores how marginalised populations participate in and view transitional justice processes. It combines theoretical insights on transitional justice and informal settlements with empirical findings, comparing them to existing literature. The research employed a qualitative methodology, utilising semi-structured interviews, with participants selected through purposive and snowballing sampling to ensure diverse perspectives.⁶

A total of 20 (11 female; 9 male) key informant interviews were conducted with key stakeholders, including community members, religious leaders, government representatives, a transitional justice commis-

sioner, civil society organisation (CSO) representatives, academics, activists, and community leaders. Four focus group discussions (FGDs) were conducted with 52 participants (32 female; 20 male), with single and cross-identity groups, including: 1 male youth only group; 2 females only groups; and 1 group with both male and female. The FGDs brought together diverse community members who have been affected by conflict or engaged in transitional justice processes at the local level. The literature review (desk study) analysed a range of reports, articles, and official documents related to transitional justice and the specific context of Kibera and Mathare.

The research also embraced a participatory framework by involving community members in the research process. This approach enhances the credibility and relevance of the research findings by directly involving those affected by the issues under study. It was also vital in ensuring the inclusion of marginalised voices and perspectives often excluded from formal decision-making processes. Community engagement occurred through consultative meetings, the FGDs, and collaborative analysis sessions, in which participants could share their experiences, insights, and recommendations regarding transitional justice.

BACKGROUND CONTEXT

Kibera and Mathare are the first and second largest informal settlements in Kenya, respectively. According to a UN-Habitat report, Kibera is considered the largest contiguous slum settlement in Africa, with a population of more than 750,000 people.⁷ The Nubian word “Kibera” means forest. This informal settlement originated as a forest reserve settled by Nubian soldiers. Mathare is home to around 500,000 people and began as a quarry site occupied by rural migrants.⁸ A Kikuyu word, “Mathare” means branch. Historical conflicts in these areas have often

been fuelled by political tensions, ethnic divisions, and socio-economic disparities with deep roots that date back to colonial times (1920–1963), when land dispossession was government policy and institutionalised discrimination, and marginalisation were commonplace practices. The post-independence period saw continued neglect and marginalisation of these informal settlements, exacerbating social inequalities and creating fertile ground for conflict.⁹ As a male community leader from Kibera succinctly puts it:

Anybody living in Kibera is a marginalised person. Irrespective of your tribe, race, or nationality, living in shanties is a marginalised person. So, the fact that some people want to classify themselves as marginalised and others as not marginalised, how do you become not marginalised when you are living in a mud house like another person? All of us are marginalised.

The role of the Kenyan government in the conflicts in the informal settlements is complex. While the state has often been implicated in perpetrating violence or neglect, it has also occasionally intervened to mitigate conflicts or provide essential services. This is done through local administrative offices such as the deputy county commissioners, chiefs, and assistant chiefs. To address local conflicts in these informal settlements, community policing committees have emerged through the Nyumba Kumi initiatives. Community policing is regularly cited as a key factor in resolving conflict at the local level.¹⁰ While effective, these administrative and community structures continue to face challenges due to the exclusion of marginalised groups, especially women and youth. Processes led by local administrative units have also often been marred by corruption and inefficiency.¹¹

LITERATURE REVIEW

In the evolving field of transitional justice, the inclusion of marginalised groups has become a focal point for ensuring comprehensive and equitable redress for past injustices. The literature underscores the importance of integrating diverse voices, especially those who have historically been excluded from justice processes, to foster genuine reconciliation and societal transformation.¹² Scholars argue that transitional justice must move beyond traditional legalistic frameworks to embrace a more holistic approach that addresses structural barriers and power imbalances perpetuating marginalisation.¹³ This shift towards a more inclusive transitional justice is seen as essential both for addressing the root causes of conflict and for the creation of sustainable peace. Studies highlight the need for mechanisms that are not only reparative, but also transformative, capable of reshaping societal relations and empowering those at the margins.¹⁴ The literature calls for a reimagining of transitional justice that is participatory and responsive to the needs of all community members, including women, children, the elderly, and people with disabilities, ensuring that their experiences and perspectives shape the justice agenda.¹⁵ The inclusion of marginalised groups is a crucial aspect of transitional justice strategies, requiring a commitment to addressing systemic inequalities and fostering deep-seated change.

While inclusion of diverse voices is emphasised, the literature on transitional justice nonetheless has gaps and limitations, especially in terms of examining processes that have been able to include marginalised and hard-to-reach populations, such as those who live in the informal settlements of Nairobi. These populations often need help accessing and benefitting from transitional justice processes and outcomes, such as the need for more awareness creation at the local level, adequate representation of marginal-

ised communities, protection of witnesses, victims, or perpetrators, and sufficient resources for implementation. Marginalised groups also have specific needs and expectations that may differ from or conflict with those of other groups or actors involved in transitional justice processes.¹⁶ This is based on the unique aspects, magnitude, and intersectionality of marginalisation for different groups, all of which present different challenges.

With most studies focused on national or regional transitional justice processes, specific case studies of cities and informal areas are sparse. Nonetheless, there are some existing studies that provide insights and evidence on how informal settlements are both affected by, and affect, transitional justice processes in various ways. On the one hand, informal settlements have the potential to contribute to transitional justice, as they have the resources, networks, and capacities to engage with and benefit from these processes and outcomes. Local informal networks in communities are crucial in identifying both victims and perpetrators to participate in transitional justice processes, with village elders and community leaders often consulted to map out who these actors are. Informal settlements can also challenge and transform transitional justice by offering alternative or complementary perspectives and practices of justice, peace, and reconciliation. A number of different types of activities have significantly influenced change, including community “barazas” [public meetings], dialogues, peace walks, friendly sport tournaments, informal gatherings such as the “Bunge la wazee” [Parliament of the elderly is a local male community gathering that discuss day to day context], and organised pressure or advocacy groups. On the other hand, informal settlements have specific needs and expectations in terms of transitional justice, such as the recognition of their rights, the provision of reparations, genuine participation in decision-making, and protection from

further violence.¹⁷

Looking at Kenya specifically, some studies show that the Truth, Justice, and Reconciliation Commission (TJRC) has had a mixed impact in the informal settlements. While the TJRC has provided a platform for truth-telling and documentation, it has also faced challenges of accessibility, credibility, and follow up.¹⁸ Similarly, other studies indicate that the International Criminal Court proceedings following the 2007–2008 post-election violence, played a controversial role in the informal settlements, as they generated both hope and fear, as well as support and opposition, among settlement residents, depending on their ethnic, political, and personal affiliations.¹⁹ In contrast, some studies suggest that the constitutional and institutional reforms that were undertaken have positively affected the informal settlements by introducing new provisions and mechanisms to improve resident representation, participation, and service delivery.²⁰

The literature on transitional justice in informal settlements in Kenya also discusses how grassroots advocacy on transitional justice can be enhanced in informal settlements and what the best practices and recommendations are for doing so. One study offers a wide range of strategies, including:

- Building trust and dialogue among the diverse and marginalised communities in informal settlements.
- Strengthening the capacity and coordination of the civil society organisations and community-based groups that work on transitional justice in informal settlements.
- Increasing the awareness and education of the residents on their rights and responsibilities regarding transitional justice.
- Ensuring the inclusion and participa-

tion of the residents in the design, implementation, and monitoring of transitional justice mechanisms.

- Addressing the structural and systemic causes of violence and injustice in informal settlements, such as poverty, inequality, and marginalisation.
- Promoting the local and indigenous forms of justice, peace, and reconciliation that already exist or emerge in informal settlements.²¹

Kenyan scholars and practitioners have developed various frameworks and structures as discussed in the research to effectively integrate marginalised groups into transitional justice processes to ensure that they are just, equitable, and reflective community needs.

TRANSITIONAL JUSTICE PROCESSES IN KENYA

The Kenyan TJRC was established on 23 October 2008, shortly after the 2007–2008 post-election violence, through the enactment of the TJR Act by the national assembly. The TJRC is mandated to launch an inquiry into historical injustices and human rights violations, starting from independence in 1963 up until February 2008, after the post-election violence. TJRC operations involve several different types of activity: statement taking; research and investigations; hearings; and report writing. The TJRC has ensured the inclusion of special and marginalised groups—for example, children, whose statement forms were prepared with special consideration in collaboration with child protection agencies. As a marginalised group, women were given special consideration in the form of women-only hearings, called “conversations with women,” that aimed to create a safe space to address women-specific violations.

Despite these efforts, the TJRC nonetheless faced challenges in terms of ful-

ly including marginalised groups from the informal settlements. In Kibera and Mathare, outreach efforts often missed the most marginalised (notably, women and youth) due to a lack of trust and accessibility.²² In terms of the TJRC findings on extrajudicial killings and forced disappearances – occurrences that largely affect youth as either victims or perpetrators – data from the informal settlements suggest that while some community voices were heard, many felt excluded from the process. This is especially the case for those youth who either suffered from human rights violations or committed them. Considering the number of young people who were killed during the post-election violence, however, there was a clear need to include youth voices. Moreover, many youths who committed crimes were actually engaged by politicians to provide security, which highlights a further need for more grassroots-focused strategies in transitional justice initiatives.

Offering greater detail about the challenges of inclusion, a female community mobiliser from Mathare explains how people were chosen to participate in the TJRC process:

The selection for the hearing was done through community mobilisers [third parties]. Despite knowing the real victims, at times they were biased and selected people based on who they knew could articulate themselves very well or would not fail them—“wanachagua watu wao” [they choose their own people]. Also, there was a notable “kuja wewe unaweza ongea” [come, you can talk] kind of mobilisation. Not because you have the information needed, but simply because you can sustain a conversation.

After conducting research and hearings, the TJRC report was published in four volumes. The fourth volume includes TJRC recommendations on the implementation

mechanism and reparations framework to prevent future violations. The report was presented to the then president of Kenya, Uhuru Kenyatta, on 21 May 2013. To date, however, the people of Kenya are awaiting implementation of the TJRC recommendations.

As a male community leader from Kibera describes this situation:

Yes, the community participated in the hearing and the evaluation of the TJRC report. This is why there are some hard-hitting chapters in the report. This makes the government—the people in the current government—very jittery about implementing it.

KEY FINDINGS AND ANALYSIS

Inclusion of marginalised groups

This research reveals a significant gap in the inclusion and participation of marginalised communities in transitional justice process at both local and national levels. While the challenges of community participation can be experienced in any initiative, they can be mitigated by proper planning for engagement, including participation in transitional justice processes. There are a number of different challenges that contribute to exclusion in participation, as indicated. **Inadequate resources** often hinder participation, resulting in only a small section of affected communities being reached. Addressing root causes and underlying conflict factors, overcoming trauma from violent pasts, and implementing reparation frameworks are among the approaches that require significant financial resources. This study reveals that women who have experienced sexual abuse, particularly rape, often fear being victimised and choose to live in different communities or remain silent to avoid **stigmatisation**, highlighting the significant impact of such experiences on their lives. A female rape survivor from Mathare explains, “Rape is

not something to talk about. You can even be shamed in front of people. We only talk about it with people who are not from our community.”

The TJRC process implemented a special hearing for women called “conversations with women”, ensuring their participation and creating a safe space for engagement. Other organisations also provided special programmes for women, such as women’s talking circles and meetings for mothers of victims. Despite these activities, there is a gap in community awareness regarding the stigmatisation that women experience. This has contributed to the choice of self-exclusion and remaining silent rather than seeking help or justice. **Lack of sensitisation** on the transitional justice process may also lead to self-exclusion and negative rumours. The TJRC process in Kenya did incorporate community sensitisation information as a crucial part of demystifying rumours. These efforts were, however, overpowered by community expectations and rumours about both the potential benefits (compensation) and consequences (risks of reporting against the government) of participation.

Generally, Kenya has made strides in improving **gender equality and justice**, but many women and girls remain marginalised due to traditional beliefs, religious barriers, poverty, inadequate social inclusion, and pervasive gender norms. Despite the implementation of policies such as the National Gender and Equality Commission Act of 2011,²³ progress remains uneven. Most marginalised Muslim women from the Nubian and Borana communities in Kibera indicate that their participation in community engagement is highly determined by their spouses (they need permission to participate) or community leaders (who speak on behalf of the rest of the community). This also applied to the transitional justice process. A female participant from the Nubian community in Kibera elaborates:

Although we are affected by the conflict, our community does not allow us women to take part in these processes, especially our neighbours, the Borana. They say we will bring shame to the community, while others are afraid to talk about their challenges due to stigmatisation.

A male youth from Kibera emphasises the importance of involving marginalised groups, such as children, the elderly, and people with disabilities, in the transitional justice process. He states, “The women, elderly, and disabled are sometimes included, but not all the time. Unlike the disabled, they are disregarded. If they are included, it is to rubber-stamp the process, but they are not fully included.” This quote illustrates the need for inclusive participation in transitional justice processes, as marginalised groups often feel or actually are excluded and ignored by the formal mechanisms that are supposed to address their needs and grievances.

The selection criteria to participate in formal transitional justice processes are perceived to be influenced by factors such as third parties, self-interest, corruption, and nepotism. Community feedback suggests that people were selected based on how well they were known, potentially excluding those who never reported their experiences. Given that focus is on survivors of human right violations, deliberate planning for the intentional inclusion of marginalised groups, especially hard-to-reach youths, contributes to their participation in transitional justice processes. The TJRC process, however, left out hard-to-reach youth (whether victims or perpetrators of violence). This research highlights the importance of including both victims and perpetrators in transitional justice processes, thus demonstrating the need for a more comprehensive approach to the inclusion of hard-to-reach youth.

Study findings indicate that the community emphasises the importance of con-

sidering the **engagement period** for marginalised groups. In particular, women and youths often do casual labour. If engagements are conducted during their work hours or on weekdays, they are not able to participate, despite the importance of their doing so. This highlights the need to adopt timing that takes these constraints into consideration. **Language barriers** significantly impact the inclusion of marginalised groups in the transitional justice process. To ensure effective participation, this must be addressed. Despite participant fears of engagement due to language barriers, most ADR and TJRC processes do consider these factors by including local translators and community actors to lead or support implementation. The inclusion of marginalised groups in the **planning and evaluation** of projects is also crucial for effective and sustainable transitional justice processes. Given that they often face unique challenges, this requires their inclusion at the beginning to design effective and sustainable initiatives.

GOING FORWARD: INCLUSION AND TRANSITIONAL JUSTICE PROCESSES IN KENYA

In some ways, the TJRC has learned from its failures of inclusion. Today in Kenya, several key frameworks and structures promote the inclusion of marginalised communities residing in informal settlements in transitional justice processes. For example, the National Inclusive Development Framework takes a comprehensive approach. It ensures marginalised groups not only gain recognition, but actively participate in transitional justice initiatives. This framework emphasises legal and policy reforms that acknowledge the historical roots of marginalisation. It also advocates for establishing joint coordination structures. These structures facilitate the inclusion of marginalised voices in transitional justice decision-making processes.²⁴ Moreover, the Vulnerable and Marginalised Group Framework (VMGF)

outlines interventions and activities designed to mitigate negative effects on marginalised groups and promote their active engagement in societal affairs, including transitional justice mechanisms. This framework also has institutional arrangements for assessing project-supported activities and ensuring that marginalised groups are identified and represented in project sites.²⁵

In terms of structures, the Legal Aid Act of 2016 represents a significant step towards unlocking access to justice for marginalised communities. This act aims to provide legal assistance to those who cannot afford it, particularly in marginalised and rural communities, thereby facilitating their involvement in transitional justice processes.²⁶ To further support the inclusion of marginalised groups, the National Gender and Equality Commission plays a crucial role in promoting gender equality and freedom from discrimination for all people in Kenya, focusing on special interest groups such as women, children, youth, persons with disabilities, the elderly, minorities, and other marginalised groups.²⁷

The implementation of these frameworks, structures, and targeted solutions can significantly improve the inclusion of marginalised communities in Kenyan transitional justice processes. At the same time, the challenges that the TJRC faced—agenda politicisation, insufficient awareness of policy, insufficient resources—also hinder

the effective implementation of these policies and frameworks. In particular, transitional justice reparations mechanisms, such as the TJRC reparation framework, require significant financial resources to compensate victims. These are, however, largely unavailable.

Despite these challenges, the government and the non-government actors can ensure that transitional justice delivers justice and empowers communities. Positively, since 2008, frameworks to promote inclusion have been developed. Nonetheless, there is an ongoing need to raise awareness through culturally appropriate outreach and equipping marginalised communities with the knowledge and skills to participate effectively. This research underscores the significance of context-specific transitional justice approaches, considering the unique challenges and dynamics of communities such as Kibera and Mathare. The insights emerging as a result of community participation in this research focus on key concepts such as sensitisation, engagement periods, selection processes, gender equality, language, and inclusion (from the beginning) in project development. By addressing these areas, transitional justice processes in Kenya can foster local inclusion and engagement, while integrating national and international justice mechanisms. In this way, meaningful progress can be made toward achieving justice, reconciliation, and the prevention of recurrent violations in these communities.

Author Information & Contact

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Endnotes

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equality, human rights, non-discrimination, and protection of the marginalised, people living in the informal settlements still suffer from human rights violations perpetrated by community members and security actors. This includes gender-based violence (e.g. rape and defilement), physical abuse, extrajudicial killings, destruction of property, lack of access to services and basic needs.

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EXAMINING THE ROLE AND LIMITATIONS OF CROSS-BORDER PEACE COMMITTEES IN CONFLICT RESOLUTION IN THE MOYALE CLUSTER

Mohamed Wario

INTRODUCTION

Moyale is located on the Kenya–Ethiopian border. In Ethiopia, Moyale is the administrative centre for two Ethiopian woredas, Moyale of the Oromia Region and Moyale of the Somali Region. In Kenya, Moyale is the largest town in Marsabit County and the capital of the Moyale sub-county. Moyale is the main border post on the Nairobi-Addis Ababa Road. It is situated along the Borana Plateau’s southern escarpment, north of the Chalbi Desert. The greater region to which the town belongs is known as the Moyale Cluster. The region has a long history of recurring conflicts and interwoven ethnic tensions. These tensions are made more complex due to competing interests at national and subnational administrative levels, which stem from the location of Moyale on an international border. Inter-community violence has primarily been unconcerned with national boundaries, resulting in regular cross-border spillover. This transboundary dimension creates competition among the various administrations and jurisdictions involved, which complicates conflict resolution efforts and the administration of justice, sometimes to the point of stagnation.

The research upon which this article is based asks how community-oriented transitional justice mechanisms support peacebuilding in this cross-border region. This question explores transitional justice operating at community levels and considers the role of local actors and indigenous movements as agents for sustainable peace. Using the Moyale Cluster as a case study, the research focuses on peacebuilding with overlapping governance systems and long-term unresolved and recurring tensions arising from economic, political, and ethnic dynamics¹. The multitude of jurisdictions in Moyale, the limited government interaction, attention, or capacity, and the need for community-based approaches to support justice and peacebuilding make a compelling case study.

In particular, this context offers valuable insights and understanding of how traditional justice mechanisms intersect with transitional justice practices.

This research draws on two primary sources of input. First, it engaged 30 participants in 6 focus group discussions, each comprising representatives of the various identity-based groups living in the Moyale Cluster. This included members of cross-border peace committee, local officials, and residents directly affected by the legacy of conflict in their area. Second, 15 key informant interviews were conducted with administrative personnel from numerous ethnicities and community leaders responsible for peacebuilding in their respective regions. These interviews were designed to dig deeper (and sometimes more critically) into specific topics for more detailed perspectives. Interviewees included participants from the judiciary, security stakeholders, NGO workers, community members, and Moyale cross-border peace committees. The gender breakdown among these informants was also considered, ensuring that female leaders and youth representatives were included to provide a comprehensive view of the challenges and opportunities in the peacebuilding process.

A HISTORY OF CONFLICT IN MOYALE

Moyale is a perpetual flashpoint for ethnic clashes between various pastoralist communities that live in the border areas. These conflicts often spill over from one country to another. Recent disputes between the Borana and Garre and the Borana and Gabra communities in Ethiopia have escalated, however, as a result of increased use of heavy weapons such as AK47s, G3 rifles, and sub-machine guns by both sides. This is leading to higher numbers of fatalities and casualties. For example, on 13 December 2018 in Moyale (on the Ethiopian side of the border), approximately 20 people were killed. More

than 60 people were injured because of these weaponised intercommunal clashes.² A few days later, on 17 December 2018, a deadly shooting occurred inside the Bekele Molla Hotel (also in Moyale, Ethiopia), claiming the lives of at least a dozen civilians.³ This incident happened during talks between regional security forces, representatives of the two warring factions of the Borana and Garre, and members of the federal army on handing over city security of regional troops to the federal military. On the Kenya side, the situation is similar as the same community resides on both sides of the border. The ethnic rivalry on the Kenya side has been entrenched by the devolution politics, making it a more audacious and deadly competition. On 14 March 2024, the government shut down 13 mining sites in the Hilo area of Dabel location, Moyale sub-county, a few kilometres from Moyale town, where close to 7 people were killed: 5 Kenyans and 2 Ethiopian nationals. The conflict brought tension to the entire region and almost metamorphosed into an inter-ethnic clash. The peace dialogue effort of the Moyale cross-border peace committees calmed the temperature and led to the relative peace the border region is currently enjoying.

Conflict analysts and development workers in the Moyale Cluster classify the causes of conflicts between various ethnic groups along the Kenya–Ethiopia border as follows:⁴ 1) disputes over political and administrative boundaries; 2) competition over resources, such as traditional pasture land, water sources, and gold mining (in Hillo); 3) ethnic or clan political rivalries that lead to communal revenge attacks, alongside cattle raids and counter raids;⁵ and 4) weak governance and rule of law structures. Due to the straddling of Kenya and Ethiopia, Moyale town is subject to the jurisdiction of both Kenyan and Ethiopian authorities. The delineation of responsibilities between these two administrations is often unclear and overlapping, leading to confusion and

inaction in addressing conflicts that arise in the region. When a dispute erupts over grazing rights or access to water resources between communities on either side of the border, it is not immediately clear which government entity can intervene and resolve the conflict. So, Kenyan authorities claim jurisdiction over Kenyan citizens involved in the dispute, and Ethiopian regional state government authorities assert the same over its citizens.

As a result, government responses are delayed, as each entity hesitates to take action for fear of overstepping its boundaries or causing diplomatic tensions with the neighbouring country. This creates a situation whereby conflicts persist unresolved, exacerbating tensions and leading to further instability in the region. The lack of coordination and cooperation between Kenyan and Ethiopian authorities further contributes to stagnation in conflict management. Since there is no established mechanism for cross-border collaboration and information sharing among these government actors, essential opportunities for conflict resolution are not addressed, and existing resources are underutilised.

CROSS-BORDER PEACE COMMITTEES

In the Moyale Cluster, myriad factors—historical grievances, ethnic dynamics, political interests, and socio-economic disparities—intricately shape a socio-political landscape where grassroots movements have emerged as fundamental catalysts for sustainable peace. In particular, historical tensions between the Borana and Gabra pastoralist communities over land, water, and grazing rights have led to violent conflicts, resulting in the loss of lives and the displacement of community members. Other communities in Moyale, such as Garre, Burji and Sakuye, have experienced ethnopolitical and business-related conflicts.

Various cross-border peace initiatives have been undertaken to address escalating violence and government inaction on both sides of the border, with the Moyale Peace Accord offering a notable example. The cross-border peace committees in Moyale Kenya-Moyale Ethiopia harmonised and established in 2022 by the Inter-Governmental Authority on Development (IGAD) & The Strategies for Northern Development (SND) signed an agreement that brought together representatives from both communities, government officials from Kenya and Ethiopia, local NGOs, and international mediators. The cross-border peace committees are currently confined to the Moyale-Moyale area. Efforts to establish similar committees in Sololo-Miyo were initiated in 2023 after seeing the results of work undertaken by Moyale cross-border peace committees, while corridors such as Sololo-Miyo, Forolle-Dirre, and Dukana-Dillo do not yet have cross-border peace committees. This highlights the region's evolving nature of peacebuilding efforts and the ongoing need to expand these initiatives to other border areas. Through the efforts of local non-governmental organisations (NGOs), such as SND and its partners, mechanisms for cross-border dialogue, conflict resolution, and resource sharing were established, and a review of previously signed treaties and community declarations were revisited.

This included the establishment of cross-border peace committees to address the complex conflict dynamics in the borderlands in ways that both transcend political boundaries and acknowledge the intricate social relationships in the Moyale Cluster.⁶ Aiming to facilitate communication and collaboration between the communities in the Kenya-Ethiopia borderlands, the cross-border peace committee are comprised of 30 local leaders—15 members from each side of the border—including elders, community councils, and influential individuals from

both Ethiopia and Kenya. They operate through informal networks, community engagement, and mediation efforts.

With a clear mandate to foster peace, harmony, and stability across the border region, the Moyale cross-border peace committee exemplifies a crucial mechanism for promoting reconciliation and cooperation. Importantly, this peace committee includes representatives from all the major communities resident in the Moyale Cluster, namely, the Borana, Gabra, Garre, Burji, and Corner tribes. Moreover, the committee includes one youth and eight women, who bring diverse perspectives and directly address the concerns of these key demographic groups. Even though not balanced, this composition of committee members is better because, in the patriarchal and pastoralist community of Moyale cross-border, no other committees have representation of women and youth, which helps to ensure a holistic approach to peacebuilding efforts.

At its core, the primary goal of the Moyale cross-border peace committee is to facilitate open communication channels between communities on both sides of the border. By providing a platform for dialogue, it seeks to cultivate understanding, empathy, and cooperation among the diverse groups residing in the area. This emphasis on communication serves as the foundation for addressing underlying tensions and grievances, thereby preventing the escalation of conflicts into violence. Central to the role of the Moyale peace committee is the resolution of disputes that arise in the border region. Through mediation and negotiation, the committee works diligently to find equitable solutions that address the concerns of all parties involved. By actively engaging with stakeholders from various sectors, including government authorities, community leaders, and civil society organisations, the committee ensures its efforts are inclusive and reflective of the diverse perspectives within the commu-

nity. Moreover, the committee seeks to empower marginalised voices and promote social cohesion by involving youth groups, women's associations, and other grassroots organisations.

In addition to its conflict resolution efforts, the Moyale cross-border committee plays a vital role in promoting cross-border cooperation. By encouraging joint initiatives in areas such as female health, campaigning against child marriage, and advocating for cultural exchange, cross-border trade, and infrastructure development, such as operationalising the Moyale one-stop border post,⁷ the Moyale cross-border peace committee fosters mutual trust and collaboration between neighbouring communities. Using monitoring and evaluation mechanisms, the peace committee continuously assesses the effectiveness of its peacebuilding interventions, adapting its strategies to address emerging challenges and promote sustainable peace over the long term.

The committee also staunchly advocates for peace, promoting a culture of tolerance, nonviolence, and respect for human rights in the border region. Through awareness-raising activities and public outreach campaigns, it seeks to instil these values in the broader community, emphasising the benefits of cooperation and mutual understanding. However, despite its positive impact, the committee faces several challenges. Some members have been accused of commercialising peacebuilding, fueling conflicts for personal gain, and being out of touch with community issues. Additionally, there are concerns about the lack of neutrality and impartiality, with some members taking ethnic sides or actively participating in politics. These issues, limited resources, and political interference highlight the need for ongoing support and adaptation to ensure the committee can continue its vital work.

LOCAL IMPLEMENTATION AND TRANSITIONAL JUSTICE

The cross-border peace committees mediate, negotiate, and facilitate dialogue between conflicting parties to de-escalate tensions and achieve peaceful resolutions. To do so, they draw on local practices and interpersonal relationships. Peace agreements have facilitated these processes, providing a formal structure and recognition for the cross-border peace committees' efforts. These agreements outline the responsibilities and protocols for conflict resolution, ensuring that all parties adhere to mutually agreed-upon rules. Rooted in local traditions and customs, these practices often involve respected elders who play central roles in leadership and problem-solving. For example, conflicts over grazing land and water resources between various ethnic groups are usually resolved through traditional dispute-resolution processes.

Elders and community leaders convene council meetings, adhering to customary protocols, to discuss grievances and facilitate dialogue. Serving as impartial mediators, elders seek root causes and encourage compromises acceptable to all parties involved and perceived as unbiased by their respective communities. These processes also include representatives from the broader community, ensuring decisions reflect collective interests. Through storytelling, ceremonies, and symbolic gestures, elders foster understanding and unity, bridge divides, and promote reconciliation. By addressing underlying causes and preserving social cohesion, these community-based approaches contribute to maintaining peace along the Kenya–Ethiopia border in Moyale.

The operational methods of the cross-border peace committees are intricately linked with transitional justice practices, emphasising restorative justice to address harmful behaviour and promote healing rather than punitive measures. These

committees facilitate community dialogues, providing a platform for members to express grievances, seek solutions collectively, and engage in mediation facilitated by traditional mediators to reduce tension and build consensus among conflicting parties. Incorporating traditional rituals and ceremonies into these processes symbolises reconciliation and restoring order and harmony within communities, highlighting the importance of preserving cultural values and fostering community participation in peace.

The significant role of local traditional processes in the transitional justice framework is extensively acknowledged, as demonstrated by empirical studies that examine their application and effectiveness in diverse contexts. Some studies emphasise the need to integrate conflict sensitivity and transitional justice to break the cycle of violence, advocating for context-specific transitional justice mechanisms aligned with norms and practices.⁸ Along similar lines, others underscore the importance of aligning transitional justice interventions with local justice structures to ensure legitimacy and effectiveness. These studies recognise community engagements and context-specific approaches' significance in transitional justice processes. In general, the insights from research on the cross-border peace committees in the Moyale Cluster point to the necessity of recognising the uniqueness of local traditions and customs in community-based transitional justice initiatives.

KEY FINDINGS

Overall, this research finds that the cross-border peace committees in the Moyale Cluster are crucial for promoting peace in borderland communities. Interviews and discussions with study participants detail these peace committees' operations and critical challenges. Despite these challenges and the corresponding limitations on their efficacy, cross-border

peace committees are effective in helping to address and resolve conflicts and support peace, especially when there is competition over the jurisdiction of formal legal systems or formal mechanisms are absent.

In particular, the research findings highlight the pivotal role of the cross-border peace committees in the Moyale Cluster, which serve as integral components of the justice and peacebuilding infrastructure. These committees focus on resolving conflicts about pastoralism, particularly disputes over pasture and water resources, which often escalate into conflicts. Study participants highlight the importance of peace committees in intervening and facilitating conflict resolution, thus reducing tensions, encouraging reconciliation, and promoting peaceful coexistence among communities. They also emphasise the role of these committees in fostering dialogue and addressing the root causes of conflicts.

At the same time, study participants identify several complications these peace committees face. These include legal limitations, resource constraints, political interference, and exclusive practices. As study participants explain, legal barriers in cross-border peace committees encompass a range of issues, such as conflicting laws and regulations between Kenya and Ethiopia, lack of formal legal frameworks for cross-border cooperation, and bureaucratic hurdles in implementing joint initiatives. For example, discrepancies between both legal systems create challenges in enforcing agreements and resolving cross-border disputes.

Regarding financial resources, cross-border peace committees often rely on funding and support from various sources, including governments, international organisations, and local NGOs such as SND. These resources are, however, insufficient to adequately address the complex and multifaceted nature of cross-border con-

flicts. Study participants note that these financial constraints hinder the peace committee's ability to mobilise resources effectively. For example, limited funding means peace committees cannot carry out essential activities such as conflict resolution training, infrastructure development along border areas, or facilitating community dialogue. Moreover, lack of financial support limits peace committees' operational capacities and diminishes their recognition and acknowledgement status within communities.

Study participants identify political influence as an impediment to the autonomy of cross-border peace committees. This is manifested in several ways, including interference from national governments, county governments, and political leaders who prioritise their agendas over regional peace initiatives. Such actions serve to undermine the independence, impartiality, and neutrality that are essential for the credibility and legitimacy of cross-border peace committees. Respondents also highlight cross-border peace committees' struggles regarding bottom-up initiatives gaining wider influence and sustaining operations.

Despite the involvement of women and youth in cross-border peace committees, study participants indicate that more than representation of these vital demographic segments is required compared to the participation of men. This limited engagement of women and youth can be attributed to cultural barriers where space for women and youth is generally neglected in matters like negotiating for peace among diverse communities. This is a coveted role for elders perceived to be custodians of culture. However, things are slowly changing, and the involvement of youth and women in cross-border committees, despite few, is an excellent gesture in these borderland communities. Involving more women and youth to participate in decision-making processes in cross-border peace committees is crucial

for promoting sustainable peace and addressing the root causes of conflicts in the region in inclusive ways.

CONCLUSION

This study prioritises community activism and engagement elements in cross-border peace committees, noting the integration of traditional and customary practices in their work. In doing so, it highlights the need for a community-centred transitional justice approach and advocates for improved holistic know-how involving diverse people's views in the borderlands. This study also underscores the necessity to consider elements such as commitment, engagement, and establishing sufficiently strong informal structures within complex judicial and administrative relations.

Despite challenges and shortcomings, the sustainable peace and unity achieved in the Moyale Cluster through community-based initiatives points to the importance of leveraging traditional customs and the authority of elders for socio-economic development and fostering understanding and harmony within diverse societies. In contrast to formal government justice institutions, which tend to be rigid and inflexible (with unclear and overlapping mandates), local peace committees prioritise human connection and dialogue, emphasising relationship building, mutual understanding, and a personal, structural, and institutional approach to conflict resolution. This inclusive strategy promotes a culture of common ownership and shared duty in peacebuilding, distinguishing cross-border peace committees as a unique form of governance that embodies qualities complementary to formal justice systems.

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PHOTO COMPETITION

THROUGH OUR LENS: TRANSITIONAL JUSTICE AND RECONCILIATION

This edition of the Horn of Africa Bulletin incorporates a photo competition. Titled “Through Our Lens: Transitional Justice and Reconciliation in the Horn”, the competition received submissions from dozens of photographers, both professional and amateur, from residents of Ethiopia, Somalia, Sudan, Kenya, and Uganda. Submissions were asked to document transitional justice and reconciliation processes within the region in their many forms. Submissions were encouraged to capture these concepts through a variety of perspectives, including:

- Local practices and traditions employed by communities to achieve reconciliation and lasting peace within their specific contexts.
- A nuanced examination of the challenges and opportunities that shape the pursuit of sustainable peace and justice in the Horn of Africa.
- Aspirations for the future, as envisioned by communities yearning for a region defined by peace and reconciliation.

The photographs received explored the multifaceted concepts of transitional justice, reconciliation, and peace. Selection of the finalists was conducted by a panel of judges

from the Life & Peace Institute that reviewed all submissions and deliberated based on both the photograph and the caption provided by the photographer.

These photos showcase a powerful narrative woven through the lens of local communities, offering invaluable insights into the pursuit of a peaceful and a just future for the Horn of Africa through processes of transitional justice and reconciliation.

Asalefew Wolde



“Sera, an Ethiopian Northern Shewa Reconciliation Ceremony that reconciled the families of offenders with the family of the victim. The event took place in an open field. There was a small crevice running through the field that carried a trickle of water during the dry season. The first to arrive were the families of the offenders. They carried a sheep, homemade bread, barley beer, and other gifts and symbols of their remorse on behalf the offenders. They would stay on their side of the riv-

ulet of water until forgiven and invited to cross over by the victim's family. Next to arrive were the Shimageles, or village elders and the priests. Then the victim's family appeared on the opposite hillside. These two sides, physically separated on opposite hillsides with a stream of water in between, were once part of a close rural community. The convicted men's families carried stones on their shoulders, symbolising the weight of the murder their children had committed. When they sat down by the water's edge, members of the victim's family took the stones and placed them on the ground, symbolically removing their guilt. A lamb was sacrificed next to the stream ending the blood feud. An elder from the offender's family held the animal still while an elder from the victim's family killed it quickly with a sharp scythe. At that point, the offender's family crossed the stream to join the victim's family. The reconciliation was formally recorded by the government officials and the village elders." - Asalefew Wolde

Tizta Workneh



“Respecting laws and regulations is important for the continuation of a thriving community. However, today, respect comes from the fear of incarceration. Before the dawn of modern Ethiopia, there was a community who respected laws because of their respect for God and the throne. Whenever conflicts occur, the plaintiff and defendant would search for

justice in a process of “Kuragna”. Kuragna or, is a process where the “kuta” (robes) of two enemies get tied together until they get justice. What is interesting is that they usually walk several days to reach a higher court and during their journey, they take care of each other like they are best friends. They eat together, help each other, and discuss on whatever is on their mind, not because they love each other, but because they are reliant on one another. If something happens to the other, the remaining will be enchained for the rest of their life. It is interesting to think that the only time the robes get untied is when they get to court and state their business. At that point, they are allowed to be enemies, in front of a judge and jury. Until then, however, they walk as friends.” - Tizta Workneh

Amensisa Ifa



“The Embrace of Peace’ is a picture taken on 20 Feb 2024 in Guji during a power transfer ceremony between indigenous elder leaders. Each leader serves for eight years and hands over power to his successor. Here, Obboo Cimeessa Booqqee of Guji zone in southern Ethiopia embraces his successor after serving his eight year term during the Gujii Gadaa power transfer ceremony. The photograph captures the essence of the Oromo people in Ethiopia, the largest nation in the country - two elders are sharing an embrace, their weathered faces

reflecting a lifetime of shared experiences. The photograph resonates with themes of peace, reconciliation, and justice within the indigenous community.

The intimate embrace symbolises the triumph of harmony over historical grievances, embodying a collective vision for a tranquil future. Amidst the vibrant cultural tapestry of the Oromo, the Gadaa governance system emerges as a pivotal African traditional justice mechanism. Rooted in social cohesion, it fosters reconciliation by promoting the cyclical transfer of power and responsibilities among age groups. This ancient system epitomises the community's commitment to justice, offering a timeless blueprint for societal healing and unity. The photograph encapsulates a narrative of hope, showcasing the Oromo's enduring dedication to peace and the revitalisation of their rich cultural heritage- the outgoing power granting his blessing and well wishes to the incoming." - Amensisa Ifa

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