



Report of the Ethiopian Human Rights Commission (EHRC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the Findings of Community Consultations on Transitional Justice (TJ) with Victims and Affected Populations in the Federal Democratic Republic of Ethiopia

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Acronyms

ACRWC	African Charter on the Rights and Welfare of the Child
ASF	Amhara Special Forces
AUTJP	African Union Transitional Justice Policy
CAT	Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
COHA	Agreement for Lasting Peace through a Permanent Cessation of Hostilities
CRPD	Convention on the Rights of Persons with Disabilities
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organizations
EDF	Eritrean Defence Forces
EHRC	Ethiopian Human Rights Commission
EIO	Ethiopian Institution of the Ombudsman
ENDF	Ethiopian National Defence Forces
EPRDF	Ethiopian People's Revolutionary Democratic Front
ERC	Ethiopian Reconciliation Commission
ETB	Ethiopian Birr
FDRE	Federal Democratic Republic of Ethiopia
FGD	Focus Group Discussion
HPR	House of Peoples Representatives
ICC	International Criminal Court
ICL	International Criminal Law
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDPs	Internally Displaced Persons
IHL	International Humanitarian Law
IHRL	International Human Rights Law

NDC	National Dialogue Commission
NFI	Non-food items
OHCHR	Office of the United Nations High Commissioner for Human Rights
OLA	Oromo Liberation Army
OLF	Oromo Liberation Front
ONLF	Ogaden National Liberation Front
OP-CRC-AC	Optional Protocol on the Involvement of Children in Armed Conflict
OP-CRC-SC	Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography
SNNP	Southern Nations, Nationalities, and Peoples
SPPO	Special Public Prosecution Office
TMCR	Traditional Mechanisms for Conflict Resolution
TJ	Transitional Justice
TPLF	Tigray People's Liberation Front
TSF	Tigray Special Forces
UDHR	Universal Declaration of Human Rights
UN	United Nations

Executive Summary

From July 2022 to March 2023, the Ethiopian Human Rights Commission (EHRC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) conducted 15 consultations on transitional justice (TJ) in Afar, Amhara, Harari, Oromia, Somali, and Tigray regions, and in Dire Dawa city administration. A total of 805 participants (319 women and 486 men) who constitute victims¹ and families of victims, internally displaced persons (IDPs), persons with disabilities (PWDs), traditional and religious leaders, and grass root civil society organizations (CSOs) working on human rights and peacebuilding took part in the consultations. A separate national consultation was also conducted with religious leaders.

The consultations aimed to document the views and aspirations of some Ethiopians on TJ and bring their voices, based on lived experiences to decision-making processes, including in the ongoing development of a national TJ policy, while raising awareness about TJ concepts and processes at local levels. The consultations were also aimed at contributing to the promotion of a genuine, participatory, inclusive, gender-sensitive and victim-centred TJ process, in line with international human rights standards.

The information was collected and analysed through diverse methods, including key informant interviews, focus group and plenary discussions, and desk analysis and review. Interactions were guided by the principles of ‘do no harm’, independence, impartiality, confidentiality, and objectivity. Checklists and tools were designed to promote meaningful engagement of all participants being mindful of their specific needs (notably in terms of language, literacy, and degrees of ability/disability). Gender considerations were also mainstreamed throughout the planning and consultation processes: 44 separate focus group discussions were organised across all abovementioned locations for women to freely share their experiences and needs. Prior to conducting in-depth discussions on the various aspect of TJ components, EHRC and OHCHR held sensitisation sessions on basic human rights and TJ concepts.²

¹ Victims constitutes persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization. See Principle 8, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law Principles 2005.

² Relevant international human rights standards; 2023 Guidance Note of the Secretary General on Transitional Justice, available at https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf; Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence (A/71/567), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/341/44/PDF/N1634144.pdf?OpenElement>; OHCHR Guidelines on the effective implementation on the right to participate in public affairs, available at https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf - among others, were used to prepare presentations used during sensitization.

This report primarily presents views and priorities³ - as expressed by participants - on justice and accountability, truth seeking, reparations, guarantees of non-recurrence as well as on relevant traditional mechanisms of conflict resolution (TMCR) and reconciliation. To contextualise and frame the findings stemming from the consultations, brief descriptions of past Ethiopian TJ related initiatives are presented. In this regard, the report describes some inadequacies⁴ in the TJ related measures implemented in the past, especially to address human rights violations perpetrated by the *Derg*⁵ regime and a range of measures⁶ put in place by the current Government since it assumed power in April 2018.

As part of wide-ranging solutions to address current and past injustices and grievances, a contextualized national TJ process, in line with international standards, should provide concrete avenues to victims and the society as a whole to achieve justice, ensure accountability for violations, establish the truth, redress for victims, ensure non-recurrence of violations and abuses, and promote a peaceful and reconciled society.

The findings of the consultations point to a consensus on the necessity to implement all components of TJ, encompassing equally on criminal accountability, truth-seeking, reparations, and guarantees of non-recurrence. The importance of holding perpetrators accountable, particularly for gross IHRL violations and abuses and serious IHL violations was consistently highlighted, including by avoiding any grant of amnesty. The need to rebuild trust, establish the rule of law, facilitate reconciliation and healing, sincerely disclose the truth, acknowledge victims' suffering, express guilt and remorse, and take responsibility for crimes committed was repeatedly raised. The necessity of legal, institutional, and other reforms was identified to prevent the repetition of violations and abuses.

The report does not purport to be an exhaustive record of views on TJ for the country, but it illustrates consistent perceptions of affected populations in areas where consultations were conducted on the TJ components.

Justice and accountability

Overall, there was broad consensus among the consultations' participants on the indispensable role of justice in Ethiopia's path to address the legacy of conflicts, violations, and abuses. Participants of all the consultations demanded that perpetrators be held criminally accountable, although, the concept of justice was understood broadly, going beyond criminal accountability. The need to design diverse and contextualized mechanisms, including holistic approach to justice, combining judicial and non-judicial measures, was underscored. Yet, criminal accountability was understood

³ Preliminary findings were published in December 2022. See EHRC/-OHCHR, Joint Advisory Note and Key Findings Stemming from Community Consultations on Transitional Justice to Inform the Development of a Transitional Justice Policy Framework for Ethiopia (2022): <https://www.ohchr.org/sites/default/files/documents/countries/et/2022-12-19/20221219-Advisory-Note-TJ-by-EHRC-OHCHR.pdf>.

⁴ A narrow approach focusing primarily on criminal prosecution was considered by many observers as incomplete, delayed, or selective, because it excluded other violations and abuses committed by armed actors, and ultimately inadequate. Furthermore, there is no evidence to indicate that victims were consulted prior to criminal prosecutions or in other TJ related measures.

⁵ Refers to military Government (Council or Committee) that ruled Ethiopia from 1974 to 1991.

⁶ Which included an official apology for human rights violations, amnesty for political prisoners, the creation of a reconciliation commission, criminal prosecutions, and legal and institutional reforms.

by many as a pathway for victims to be heard, obtain public acknowledgement and remedies for their suffering, and to deter perpetrators from committing similar acts in the future. Some participants understood justice as a means to receive satisfactory solution, such as financial compensation for their loss; establishing the root causes of violations and abuses; being able to live freely without fear for oneself or loved ones; finding comprehensive truth about events, including on killings and displacements, through independent and impartial investigation processes; access to adequate health and education services; restoration of rights and freedoms, including free, safe and unhindered movements within and across regions; durable solutions, especially the safe, voluntary and dignified return of IDPs to their places of origin or habitual residences; and return of illegally-confiscated properties. From the participants' views therefore, criminal accountability and justice was seen as inter-linked to the other TJ components.

Most older women comprehended justice as an opportunity to receive compensation and restitution for the damages. An internally displaced woman stated that justice for her is when quality health services and humanitarian aid are equally provided to all IDPs. Similarly, another displaced person described justice as the process where perpetrators are held accountable, the truth is revealed, wrongdoer confesses and apologizes and pays compensation for the damage. The need to ensure accountability as well as provision of medical and psychological services to women survivors of sexual violence, such as rape and forced marriage, were emphasized by most women participants.

In terms of which crimes and alleged perpetrators to prosecute, some participants called for all types of crimes (both grave and less serious crimes), and a broad range of alleged perpetrators to be held accountable and prosecuted, regardless of status and degree of participation in the commission of the crimes (including through omission). However, many participants in most regions understood that it was impossible to investigate and prosecute all persons who allegedly participated in the commission of every crime due to the widespread nature of violations and abuses, the likely large number of such perpetrators, and the inherent limitations of the criminal justice system. Overall, formal criminal accountability measures focusing primarily on perpetrators involved in the commission of serious crimes,⁷ including those who conceived, sponsored, organized, and enabled the perpetration of crimes (including through omission) was preferred by most participants. Many participants also underscored that amnesty should not be granted to perpetrators implicated in the commission of serious crimes.

The importance of independent and credible investigations, prosecution, and adjudication processes to ensure the effective delivery of justice was underscored by most participants. However, across all regions, participants expressed suspicion and doubts about the degrees of independence, credibility, and competence of the current criminal justice system (the police, prosecution, and judicial institutions), to lead the accountability processes. Therefore, reforming the current justice sector institutions and establishing new mechanisms, such as an independent investigation commission or a special court, were suggested by most participants. While an

⁷ In terms of which crimes would qualify as sufficiently “serious” to be adjudicated before courts, participants’ suggestions focused on acts which could amount to international crimes such as war crimes, crimes against humanity and genocide. Participants across all regions indicated that sexual violence including rape and gang rape has deeply scarred families and entire communities and thus should be considered as a serious crime. Other serious violations and abuses included killings, torture, displacement, and looting and destruction of property, as well as ethnic- and religion-based crimes.

Ethiopian-led accountability process, free from any perception of external influence, was preferred by the majority of participants in most regions, participants in **Tigray** region preferred an internationally-led accountability mechanism, such as, for example, the International Criminal Court (ICC). There were also suggestions in **Amhara**, **Oromia**, and **Somali** regions for grave human rights violations and abuses to be adjudicated by international justice mechanisms, while national courts could adjudicate less serious crimes.

The TMCR enjoyed some level of credibility and trust by consulted communities, especially when in terms of promoting forms of justice which would promote lasting reconciliation and healing. However, participants also acknowledged that these mechanisms are not free from limitations particularly in relation to gender-sensitivity and would require adjustments if they are to play a meaningful role in TJ.

Truth-seeking

Establishing the truth was seen unanimously as a necessary exercise to break the cycle of false and disputed narratives, which continue to trigger mistrust and recurrent violent conflict in Ethiopia. Establishing the truth about past grievances, violations and abuses, and acknowledging victims' suffering was, according to most participants, an important step to resolve conflict, achieve sustainable peace, and facilitate prompt and adequate reparations. However, some participants in **Oromia** region and **Dire Dawa** underscored the need to handle the truth-seeking process cautiously since, according to them, such exercise, may engender further resentments. In terms of institutions to facilitate truth seeking processes, participants in most regions recommended the establishment of a new, inclusive, independent, impartial, and credible institution to lead the process, due to a lack of confidence in the existing public institutions. In **Tigray** region, participants recommended an institution to be established at the international/UN-level while in **Oromia**, **Somali** and **Afar** regions, and **Dire Dawa**, most participants recommended for the truth-seeking process to be led by TMCRs, the EHRC, the Ethiopian Institution of the Ombudsman (EIO), the Ethiopian National Dialogue Commission (NDC), or OHCHR.

Proper implementation of key principles and human rights norms underpinning successful truth-seeking processes such as transparency, victim-centredness, inclusivity, participatory, and independence were identified as crucial by most participants in all the consultations.

In terms of the willingness to testify about human rights violations and the harms suffered, most participants expressed interest and willingness to testify about violations and abuses; but emphasised the risks – including of reprisals – potentially associated with engaging in the truth-seeking process. Hence, they underscored the need to put in place mechanisms effectively to protect individuals and their families engaging in such processes, especially in the context of the current polarized political landscape and ethnic- and religious-based violations and abuses.

Reparations

A wide range of suggestions emerged concerning an effective and context-specific reparation scheme, reflecting the myriad of lived experiences and needs of individuals and communities. Monetary or in-kind compensation proportional to the harm suffered, including for the loss of lives

and property damages; restoration of destroyed or looted properties and businesses; rebuilding of destroyed public facilities; and provision of capital to revive destroyed businesses in the form of loans or tax exemptions were all considered crucial. Considering the impact of violence on mental and physical wellbeing, many participants emphasised the need for medical and psychosocial services in all the consultations.

Urgent action to implement an effective reparations package was unanimously agreed. IDPs in all the consultations repeatedly communicated their immediate basic need for food, water, shelter, and healthcare, as well as longer-term need for durable solutions to end their displacement and dependence on humanitarian assistance. Few women in **Dire Dawa** highlighted their challenges as a result of losing family members who were the breadwinners due to violence. Income generating opportunities suitable for older persons, PWDs, widows and internally displaced women were highlighted as crucial for their survival. Some women participants also stressed the importance of community awareness-raising programmes to tackle stigma against victims of SGBV and underscored the need to accelerate family reunification efforts.

Guarantees of non-recurrence including institutional reforms

The need to review and amend existing legal and/or policy frameworks with human rights implications, particularly the Constitution, in view of the principles of unity, diversity, and equal protection of all Ethiopians, regardless of their gender, ethnicity, language or religion, were emphasized by most participants as central in guaranteeing non-recurrence. They also made consistent calls for reforms of public institutions including through vetting and building capacity, especially justice and law enforcement organs. Many participants described the performance of institutions, as, at times biased, irresponsible, inadequate, or complicit in violations. In **Dire Dawa**, the need to reform the existing “informal and ethnic-based quota system,” which determined whoever assumed political power and employment opportunities at public institutions, was underscored.

The need to ensure the full implementation of the Agreement for Lasting Peace through a Permanent Cessation of Hostilities (CoHA) was emphasised in **Tigray** region as an important factor in guaranteeing non-recurrence, and in **Oromia** region many participants specifically stressed peaceful resolution of hostilities through dialogue as key.

Strong measures to educate citizens and the media, to prevent the spread of hate speech or incitement to hatred or violence were recognized as critical to prevent further conflicts. Reforms to strengthen economic opportunities – notably through job creation for youth and establishing platforms of dialogue among communities within regions and nationwide, as well as between state institutions and the public, to address the prevailing lack of trust - was recommended by many participants. Women participants in **Harari** region recommended, among others, the need to support peacebuilding and accountability initiatives, and for religious leaders to educate their congregation about fully respecting the rights of others. In **Tigray** region, the need to erect memorial monuments to honour victims was suggested.

Views on traditional mechanisms of conflict resolution

Most participants highlighted the vital role of TMCR on the Ethiopian TJ process, particularly in fostering harmony and social cohesion. These mechanisms were considered affordable, speedy, and accessible to rural and remote communities. Overall, TMCR were seen as important vehicles to promote values of truth, non-recurrence, repentance, forgiveness, healing, reintegration through reconciliation rituals, and restoring relationships. However, participants agreed that the TMCR did not replace the formal justice system and that, in practice, some of them fell short of full compliance with human rights principles, including on gender equality. Most TMCR often excluded or limited the participation of women from their decision-making processes and at times discriminated against women in awarding compensation and in resolution of conflicts. While a TMCR was recommended as a suitable mechanism for dealing with interpersonal, inter-communal, or localized inter-ethnic conflicts and promotion of reconciliation, their inadequacy in addressing complex political disputes and/or accountability questions for gross human rights violations or abuses, including sexual and gender-based violence, was highlighted.

Reconciliation

Reconciliation was defined differently in the various regions. It was described as a process of forging lasting peace, ensuring accountability, and promoting forgiveness in **Afar** region. In **Amhara** region, participants defined reconciliation as living together in peace, letting go of the past, and moving forward together, replacing hatred and revenge with peace, trust, respect, love, forgiveness, and togetherness. In **Dire Dawa**, reconciliation was understood as the process by which parties to a conflict were engaged to resolve possible root causes of conflict to build sustainable peace at the community level. For participants in **Harari** region, reconciliation process included the identification and resolution of underlying factors that contributed to human rights violations and abuses with a focus on fostering sustainable peace. In **Oromia** region, reconciliation was described as the restoration of trust and lasting peace, which could occur when sincere discussions involving all sections of society were held based on the truth. In **Somali** region, participants believed that reconciliation would create a conducive environment for accountability, as people would speak without fear of retaliation. In **Tigray** region, participants considered reconciliation as a process of addressing grievances, reaching consensus, understanding, and supporting one another, preventing further conflicts, and opening space for peace and happiness as a community.

It was unanimously agreed that reconciliation was necessary and achievable, but that it could not be achieved while victims were still in pain, stressing the need to first address and heal victims' wounds. Participants further indicated that existing positive religious, cultural, and traditional shared values and TMCR could further promote reconciliation.

Introduction

1. Between July 2022 and March 2023, pursuant to their mandate to promote human rights in Ethiopia, OHCHR and the EHRC held 15 two-day consultations in Afar (2)⁸, Amhara (3)⁹, Harari (1)¹⁰, Oromia (3)¹¹, Somali (2)¹², and Tigray (2) regions,¹³ and Dire Dawa city administration (1)¹⁴, in addition to one consultation targeting specifically religious leaders at the national level.¹⁵ The consultation included victims and families of victims, internally displaced persons (IDPs), persons with disabilities (PWDs), traditional and religious leaders, and grass roots civil society organizations (CSOs) working on human rights and peace buildings
2. The specific objectives of the consultations included the following:
 - I. Raise awareness about TJ concepts and processes at local levels;
 - II. Consult communities about their perceptions and priorities on TJ components, particularly on accountability, truth-seeking and truth-telling, reparations, non-recurrence, and reconciliation; and
 - III. Identify and highlight unique Ethiopian traditional, religious, and community values and processes which could support the TJ work.
3. This report presents the findings of these community consultations, particularly the views and aspirations of affected populations, views on traditional dispute resolution mechanisms that could support TJ, and recommendations to inform the design of a TJ policy.
4. Chapter I of the report includes the background, rationale, methodology, and legal framework. Chapter II focuses on past experiences of attempts at TJ in Ethiopia as well as latest initiatives. Chapter III includes sections on the views and aspirations of affected populations on accountability, truth-seeking and truth-telling, reparations, and guarantees of non-recurrence. Chapter IV covers traditional dispute resolution mechanisms which contribute to TJ processes. Chapter V presents the understanding of victims and affected populations on reconciliation and their views on the promotion of reconciliation. Finally, Chapter VI provides conclusions and recommendations.

⁸ Semera (2-3 August 2022) and Adama (9-10 August 2022). Adama is located in Oromia region, but the participants were from various parts of the Afar region.

⁹ Bahir Dar (11-12 July 2022), Gondar (14-15 July 2022) and Dessie (19-20 July 2022).

¹⁰ Harar (10-11 November 2022).

¹¹ Adama (17-18 November 2022), Jimma (29-30 November 2022) and Shashamene (12-13 November 2022)

¹² Jijiga (31 October -1 November 2022) and Gode (3-4 November 2022).

¹³ Mekelle (22-23 March 2023) and Shire (27-28 March 2023).

¹⁴ Dire Dawa (7-8 November 2022).

¹⁵ Adama (20-21 September 2022).

Chapter I

Background

5. In Ethiopia, human rights violations and abuses, such as killings, ill-treatment and torture, sexual violence, looting and destruction of property, often perpetrated on ethnic or religious grounds, have been increasing since 2018, with repeated incidents of violence in several parts of Ethiopia, leading to an unprecedented number of displaced persons – over 3 million displaced as of early 2023.¹⁶ These incidents of violence, violations and abuses in many parts of the country, including in Tigray, Oromia, and Somali regions, have occurred in a climate marred by increasing polarization and identity-based tensions.
6. The armed conflict that erupted in Tigray region on 3 November 2020 and later expanded to neighbouring Afar and Amhara regions, has claimed thousands of lives, displaced and left millions more in need of humanitarian assistance. On 3 November 2021, the EHRC and OHCHR published a joint report on the violations and abuses of international human rights law (IHRL), violations of international humanitarian law (IHL), and international refugee law committed in Tigray from the beginning of the conflict until the declaration of unilateral ceasefire by the Federal Government on 28 June 2021.¹⁷ The report found that all parties to the conflict, including the Ethiopian National Defence Forces (ENDF), the Eritrean Defence Forces (EDF), the Tigrayan Special Forces (TSF) and allied militia and groups, as well as the Amhara Special Forces (ASF) and allied militia and groups had committed serious violations and abuses, some of which may amount to war crimes and crimes against humanity.
7. The EHRC further carried out investigations into allegations of serious human rights and humanitarian law violations committed in Afar and Amhara regions, as well as parts of the Tigray region, from July 2021 onwards, publishing a report on 11 March 2022.¹⁸ The report determined that the TSF and allied militia and groups, the Oromo Liberation Army (OLA or OLF-Shene), the ENDF, ASF and Afar Special Forces and their allied militia and groups, also had committed gross violations of IHRL and serious violations of IHL, some of which may amount to war crimes and crimes against humanity. The findings in these reports revealed that the civilian population, particularly persons in vulnerable situations and protected persons, including children, older persons, PWDs, IDPs, and refugees, were disproportionately affected.
8. In addition to gross IHRL violations and abuses and serious violations of IHL committed in the context of the conflict in Northern Ethiopia, which is arguably the most violent in the country's recent history, civilians in other parts of the country have also been subjected to ethnic-based violence, including killings, displacements and destruction of property by non-

¹⁶ See IOM, Ethiopia – National Displacement Report 15 (November 2022 – January 2023), at <https://dtm.iom.int/reports/ethiopia-national-displacement-report-15-november-2022-january-2023>, published on 12 June 2023.

¹⁷ For the full report, see, EHRC at <https://ehrc.org/download/ehrc-ohchr-joint-investigation-report-on-tigray-conflict/>, published on 3 November 2021.

¹⁸ For the full report, see EHRC at <https://ehrc.org/afar-and-amhara-regions-report-on-violations-of-human-rights-and-international-humanitarian-law-in-afar-and-amhara-regions-of-ethiopia-published/>

state actors. Violence and gross human rights violations and abuses continue to be perpetrated by State and non-State actors in Oromia, Gambella, Benishangul-Gumuz, Southern Ethiopia, Central Ethiopia, South-West Peoples, Sidama, Somali, and Harari regions, and Addis Ababa city and surrounding areas.

9. The signing of the African Union (AU)-led CoHA between the Federal Democratic Republic of Ethiopia and the Tigray People's Liberation Front (TPLF) on 2 November 2022 was a milestone in the pursuit of peace in the Tigray region. The CoHA's commitment to the respect and protection of human rights, including the protection of civilians; the disarmament, demobilization, reintegration of forces; and the implementation of a national TJ policy are aligned with the recommendations of the 2021 EHRC-OHCHR Joint Investigation Team (JIT) Report.
10. In April 2023, following the decision by the Federal Government to dissolve and reorganize Regional Special Forces, violence erupted in the Amhara region causing tension and sporadic clashes for several months, before it escalated into heavy fighting between the ENDF and the Fano armed group in the region in August 2023. On 4 August 2023, the Federal Government declared a nation-wide state of emergency (SoE) to address the situation in the Amhara region. Since April 2023, the human rights situation in the Amhara region has deteriorated significantly, with gross human rights violations and abuses documented since August 2023.
11. In many parts of the country, systematic and gross human rights violations and abuses occurred against the backdrop of divergent narratives of injustices, ethno-culturally charged political polarization, past and present socio-economic and political grievances, and unaddressed legacies of past violence that continue to breed resentment and animosity between communities.

Rationale

12. A key recommendation of the JIT report was for the Ethiopian Government to “ensure that the country embarks on a human rights compliant, holistic, and victim-centered transitional justice mechanism for crimes committed during the Tigray conflict including accountability for past crimes” and, to “facilitate a victim-centered reparations scheme that includes restitution, compensation, rehabilitation, satisfaction - including the right to the truth, and guarantees of non-repetition; and adopt a comprehensive policy and measures on the right to reparation for victims of serious human rights and humanitarian law violations”.¹⁹ These recommendations aimed to ignite efforts to build a more peaceful path, with TJ being an overarching concept that can ensure accountability, guide effective remedies for victims, document the truth, prevent recurrence of violations, and promote reconciliation.
13. To facilitate the implementation of the JIT recommendations including on TJ, the EHRC and OHCHR organized a consultative meeting with diverse stakeholders, including representatives

¹⁹ See page 93 of JIT report, see, <https://ehrc.org/download/ehrc-ohchr-joint-investigation-report-on-tigray-conflict/>, published on 3 November 2021.

of relevant Government authorities, AU and UN agencies, Intergovernmental Authority on Development, CSOs, and members of the diplomatic community based in Addis Ababa on 3 February 2022 and a specific consultative meeting on TJ from 24 to 25 March 2022. The outcome of the meetings was the agreement on the relevance and timeliness of pursuing a contextualized national TJ process in Ethiopia to address complex challenges in efforts to achieve sustainable peace and reconciliation, and to ensure accountability for IHRL and IHL violations and abuses, and redress for victims.²⁰ A specific action point arising from the meetings was the need to hold more contextualized consultations with community elders, religious leaders, and women’s groups to inform the design and implementation of a TJ policy relevant to Ethiopia’s particular context. Following these deliberations, the EHRC and OHCHR carried out community consultations on TJ across different regions of Ethiopia.

14. Affected populations’ meaningful engagement in the design, implementation and monitoring of TJ processes and mechanisms is a key principle which promotes the credibility and people-centered nature of the process and outcome. Gathering the views and aspirations of affected populations through broad and transparent public consultations is a necessary step to ensure that communities directly affected by conflict and victims of gross human rights violations communicate their experiences, needs and aspirations and also contributes to increase essential knowledge, insights and legitimacy of future TJ measures.²¹ Public consultation further helps to ensure that there is a strong sense of local ownership of the TJ process; promotes stakeholder participation; and helps to revive stalled or slow-moving peace processes.²²
15. Meaningful consultations with victims and affected communities in designing and implementing TJ processes contribute to a shift in victims’ and broader society’s perceptions and understanding of their status and roles not as passive or powerless, but rather as empowered agents of change in pursuit of transformation, peace, democracy, and reconciliation. Underscoring the importance of an inclusive and victim-centered approach, the AU Transitional Justice Policy (AUTJP) indicates that consultations with victims and affected communities and stakeholders are critical benchmarks for a successful TJ process.²³ The UN Secretary-General’s Guidance Note on Transitional Justice also provides that “public consultations that include victims and those “groups who were previously excluded or

²⁰ It was further noted during the meetings that such TJ process should encompass violations across the country and cover a broad range of time periods. Limiting the temporal and geographic scope of TJ to the conflict in Tigray or Northern Ethiopia would disregard broader concerns about past or present gross human rights violations in other parts of Ethiopia. Indeed, the notion of “dealing with the past” as an intrinsic element of TJ requires addressing root causes and wider structural problems that gave rise to massive human rights violations over a broad period and geographic location.

²¹ Guidance Note of the Secretary General on Transitional Justice A Strategic Tool for People, Prevention and Peace, 11 October 2023, p.13.

²² See, OHCHR, Rule of Law Tools for Post-Conflict States: National Consultations on Transitional Justice (2009), p.2.

²³ AU, African Union Transitional Justice Policy, (Addis Abeba, Ethiopia 2019), para. 88.

marginalized” are effective in enabling them to share their priorities to achieve sustainable peace and accountability.²⁴

Methodology

16. This report is prepared based on information collected and analysed through various methods. EHRC and OHCHR first conducted an in-depth desk review of existing documents, reports and legal frameworks related to TJ in Ethiopia and employed qualitative data analysis techniques for Chapters I and II of the report. FGDs, key informant interviews and interactive plenary discussions were used to gather data for findings presented in Chapter III which looks at the views and aspirations of victims and affected communities on different components of TJ, and for Chapter IV, which focuses on existing community-based traditional and religious practices advancing reconciliation, truth-seeking, non-recurrence, and accountability. Responses gathered from 120 FGDs were then analysed descriptively and interpreted using qualitative methods. One staff member from the International Centre of Transitional Justice joined the facilitators from OHCHR and EHRC in Somali, Afar, and Oromia regions.
17. The findings of this report are based on consultations with 805 individuals²⁵ above 18 years old (including 319 women) who are victims, their families, IDPs, PWDs, religious and traditional leaders, and grassroots civil society organizations working on human rights and peacebuilding issues. The identification of participants was based on set criteria to ensure inclusivity and diversity, including in terms of gender, disability, age, geographic representation, ethnicity, religious denomination, status of IDPs or victim. The selection of locations was based on various considerations including accessibility for participants as well as OHCHR and the EHRC and the prevailing security situation. The consultations are part of the ongoing efforts by OHCHR and the EHRC to gather the views of stakeholders on key issues related to TJ in order to advise and support the TJ process in Ethiopia.
18. Prior to consulting participants on their views and aspirations on the TJ components, EHRC and OHCHR held sensitisation sessions on basic human rights and TJ concepts in accordance with the AUTJP, the Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence on National consultations concerning the design and implementation of transitional justice measures,²⁶ OHCHR’s Guidelines for States on the effective implementation of the right to participate in public affairs,²⁷ and the 2023

²⁴ Guidance Note of the Secretary General on Transitional Justice A Strategic Tool for People, Prevention and Peace, 11 October 2023.,p.13

²⁵ Amhara region: 280 (166 men, 114 women); Afar region: 124 (78 men, 46 women); Dire Dawa: 38 (15 men, 23 women); Harari region: 40 (22 men, 18 women); Oromia region: 111 (63 men, 48 women); Somali region: 84 (61 men, 23 women); Tigray region: 88 (51 men, 37 women). Additionally, 40 individuals (30 men, 10 women) were engaged during the national consultation with religious leaders.

²⁶ A/71/567, 25 October 2016

²⁷ https://www.ohchr.org/sites/default/files/2021-12/GuidelinesRightParticipatePublicAffairs_web.pdf

Guidance Note of the UN Secretary General on Transitional Justice.²⁸ Each consultation embedded training sessions on basic TJ concepts to prepare participants with the necessary information and understanding to engage constructively in the consultations through informed opinions about the main principles and components of TJ, as well as their role in the design and implementation of the TJ policy framework. Such sensitization enabled meaningful participation of victims and affected communities during the consultations. Facilitators relied as much as possible on visual materials during the sessions to facilitate full understanding of the issues. Interpretation into various local languages was also provided to ensure full comprehension during the presentations and discussions.

19. During the FGDs, facilitators used standardized guiding questions (see Annex I) to ensure a uniformed methodology in data collection. To promote a conducive environment for meaningful participation, OHCHR and the EHRC devoted two to three hours per FGD, which was preceded by an orientation on the key principles to be observed during the discussions (e.g., respect for everyone’s experience and opinion – refer to Annex II).
20. Due consideration was also given to the fact that women victims of conflict may be less likely to express their views in the presence of men, either due to patriarchal norms prevalent in different parts of Ethiopia or the possible perceptions relating to the violations suffered. As such, 44 of the 120 FGDs were entirely constituted of women and facilitated by female personnel. The selection of the facilitators’ teams also applied gender balance as a key priority and gender expertise was embedded throughout the planning and consultation process.
21. Participants, without revealing their names, were asked to write down some of the harm they suffered on notes which were then displayed in the meeting room. While the consultations were intended to focus on collecting the victims' views and aspirations in terms of TJ components, particularly on accountability, truth-seeking and truth-telling, reparations, and non-recurrence; it was important to acknowledge the violations they have suffered, and to give them the opportunity to voice the harm they experienced. Those who could not write were supported by OHCHR and the EHRC, or by other participants. The box below provides examples of harms suffered as directly stated by participants. An illustrative list of more harmful impacts suffered by various participants and their communities is included in Annex III.

“I am displaced, and my father was killed.”

“I was arrested and raped.”

“Our relationship with neighbours has been highly suspicious because of the conflict.”

²⁸ https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf

“We were displaced because of our ethnicity.” “My husband was killed, and my son injured.”

“Our house has been burnt and we face difficulties to live now as we lack proper aid for clothing and food.”

“The school and hospital in our village were looted and damaged.”

“At IDP sites there is lack of medicine and food.” “I was injured, and I now have a disability.”

“My family’s farm was taken away.”

22. In their interactions, OHCHR and the EHRC were guided by the “do no harm”, confidentiality, impartiality and objectivity principles. Cognizance of the need to protect sources and being mindful of the discussions and opinions on how to address large-scale human rights violations and abuses remains a sensitive topic in Ethiopia, as in many other parts of the world, the information described in this report is presented in an anonymized format without attribution to specific individuals.
23. Lastly, while this report may not be fully representative of the views for the whole country, it depicts the overall perceptions of affected populations consulted. For example, participants’ desires for sustained peace, security, reconciliation, truth, accountability, and healing which were expressed in the consultations appear to reverberate throughout Ethiopia, as also highlighted and collected by other organizations working on issues related to accountability, dialogue, reconciliation, and broader peace-building issues.²⁹

Normative Framework

24. Ethiopia is a State party to seven of the nine core international human rights treaties: the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention on the Rights of the Child (CRC) and its Optional Protocols on the Involvement of Children in Armed Conflict (OP-CRC-AC) and on the Sale of Children, Child Prostitution and Child Pornography (OP-CRC-SC); the International Covenant on Civil and Political

²⁹ Refer for example, Life & Peace Institute and the Peace and Development Centre, "Building Peace through Dialogue: Ten Years of Sustained Dialogue across Universities in Ethiopia," (Life & Peace Institute, 2021); Abdi Xakiin Hassan, "Bayahow: The Aftermath of Jail Ogaden, Sept 2021," Geedka Nabada, <https://geedkanabada.com/?p=2784>. Legal Action Worldwide, "Landmark Case Filed against Ethiopia for Human Rights Violations in Tigray," news release, 2022, <https://www.legalactionworldwide.org/gender-equality-gbv/law-and-partners-file-landmark-case-against-ethiopia-for-human-rights-violations-in-tigray/>. Amhara Association of America, "Aaa and Chr Filed a Complaint against the Ethiopian Government before Achpr," news release, 2023, <https://www.amharaamerica.org/post/aaa-and-chr-filed-a-complaint-against-the-ethiopian-Government-before-achpr>.

Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT); and the Convention on the Rights of Persons with Disabilities (CRPD). Ethiopia is also party to major international humanitarian treaties, including the four 1949 Geneva Conventions and the two 1977 Additional Protocols.³⁰

25. Moreover, Ethiopia is a State Party to the following regional human rights treaties: the African Charter on Human and Peoples' Rights (African Charter); the African Charter on the Rights and Welfare of the Child (ACRWC); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa; and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention). Ethiopia is also bound by relevant norms of international human rights and humanitarian law that form part of customary international law.
26. As a State Party to the above-mentioned treaties,³¹ Ethiopia is obliged to respect, protect, and fulfil the human rights of all persons within its territory and subject to its jurisdiction, without discrimination. This includes duties to investigate and bring to justice perpetrators of violations, as well as the obligation to ensure a prompt, adequate and effective remedy to those whose rights have been violated, including the provision of reparations and guarantees of non-recurrence. IHRL applies both in times of peace and in times of armed conflict.
27. The 1995 Constitution of Ethiopia includes a comprehensive bill of rights chapter (Chapter III) encompassing a detailed catalogue of human rights recognized under IHRL. The Constitution declares all ratified international agreements to be an integral part of Ethiopian law and requires the rights and freedoms recognized by the Constitution to be interpreted consistently with the principles of the Universal Declaration of Human Rights (UDHR) and international human rights instruments ratified by Ethiopia.³² It further provides that all Federal and State legislative, executive and judicial organs at all levels have the responsibility and duty to respect and enforce the provisions under Chapter III of the Constitution (bill of rights).³³

³⁰ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949, Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. Geneva, 12 August 1949, Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949, Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977 and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol II), 8 June 1977.

³¹ Status of ratification available at

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=59&Lang=EN

³² Article 13(2), Constitution of the Federal Democratic Republic of Ethiopia, 1995.

³³ Ibid, Article 13 (1).

28. States' duty to investigate, prosecute and appropriately punish violations of international legal norms under IHRL and IHL, oblige States to uphold and safeguard the relevant rights of individuals. States also have a duty to investigate and prosecute gross human rights violations and abuses and serious violations of IHL, including those which amount to crimes under international law. During periods of transition, while ensuring accountability for cases involving gross IHRL violations and abuses and serious IHL violations, TJ can be a powerful tool, including through its non-judicial components to address the legacy of the past and the root causes of the violations and conflicts. It can also help pursue justice for victims, healing, and national reconciliation, and be a catalyst for wider change for societies at large. TJ is an enabler for the prevention of conflict and serious violations, for sustaining peace, for accountability and the rule of law, and for sustainable development and the realization of the Sustainable Development Goals, particularly Goal 16.³⁴
29. Under IHL and IHRL, States are obliged to investigate war crimes and, where appropriate, prosecute the suspects. This obligation is applicable in both international and non-international armed conflicts.³⁵ States are required to “undertake prompt, thorough, independent and impartial investigations of violations of IHRL and IHL and take appropriate measures in respect of the perpetrators, particularly in the area of criminal justice, by ensuring that those responsible for serious crimes under international law are prosecuted, tried and duly punished”. IHRL obliges states to investigate, prosecute and try those responsible for gross IHRL violations and abuses and serious IHL violations.³⁶
30. The UN Secretary-General's new Guidance Note on transitional justice recalls that the State's fulfilment of its obligation to investigate, prosecute and punish gross violations and abuses of IHRL and serious violations of IHL is crucial to prevention. It stresses that bringing alleged perpetrators to trial in accordance with fair trial standards, and seeing them adequately punished if convicted, helps strengthen societal trust and the rule of law.³⁷ The AUTJP notes that all sides of conflict should be held accountable for their actions, including sexual and gender-based violence.³⁸ It indicates African traditional systems should be adapted for dealing with appropriate crimes at the community level, and outlines benchmarks and standards for

³⁴ United Nations, “Guidance Note of the Secretary General on Transitional Justice A Strategic Tool for People, Prevention and Peace” 11 October 2023., p.2.

³⁵ See ICRC, Customary International Humanitarian Law Study, Rule 158. For treaty provisions, see for instance Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, (12 August 1949), Article 146.

³⁶ Article 8 of the Universal Declaration of Human Rights (UDHR), Articles 2 and 14 of the International Covenant on Civil and Political Rights (ICCPR), Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Article 4 of the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention), Article 7 of the Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Article 3, 7 and 11 of the International Convention for the Protection of All Persons from Enforced Disappearance (CPPED), Principle 9 of the “Updated set of principles for the protection and promotion of human rights through action to combat impunity”.

³⁷ UN, Guidance Note of the Secretary General on Transitional Justice, p.16.

³⁸ AU, African Union Transitional Justice Policy, February 2019, para. 77.

successful criminal justice,³⁹ including the adoption of relevant laws, provision of independent judicial and investigative institutions, and procedures that accord particular attention to sexual and gender-based violence.⁴⁰ The duty to provide an effective remedy under Article 2 of the ICCPR also encompasses obligations to investigate and prosecute human rights violations, notably those recognised as crimes under national and international law.⁴¹

31. The Ethiopian legal framework including the Constitution and the 2004 Criminal Code proscribes international crimes. However, the domestic legal framework presents limitations when it comes to effectively addressing, for example, crimes against humanity and torture. Additionally, the Ethiopian Constitution recognizes ratified international treaties as an integral part of the Ethiopian law, which provides a solid foundation for the application of the duty to investigate and prosecute serious violations in Ethiopia.

I. Right to know the truth

32. IHL provides for the right of families to know the fate of their relatives.⁴² The right to the truth under IHRL primarily relates to States' obligations. It arises in cases of gross human rights violations or serious violations of IHL. The right to the truth has been recognized as linked to the duty of States to protect human rights, investigate violations and abuses and guarantee effective remedies and reparation. It is enshrined in international instruments such as the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, and in UN General Assembly and Human Rights Council resolutions, as well as international jurisprudence.⁴³
33. Preservation of archives and evidence pertaining to gross human rights violations and abuses and serious violations of international humanitarian law, as well as memorialization, are integral components of the right to truth, since they contribute to the dissemination of information regarding violations.⁴⁴

³⁹ Ibid., paras. 56-69.

⁴⁰ Ibid., paras. 81 (i)-(viii).

⁴¹ See ICCPR, Article 2(3) (a and b); General Comment No. 31 of the UN Human Rights Committee, para 18; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Principle 12; and Guiding Principles on Internal Displacement, Principle 7 (3)(f)).

⁴² *Geneva Convention IV*, Article 26; *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol 1)*, (08 June 1977), Articles 32, 33 and 34. See also ICRC Study on Customary International Humanitarian Law, Rule 117.

⁴³ Such as the GA resolution on the right to truth: A/RES/68/165 and the HRC's resolution A/HRC/RES/21/7

⁴⁴ UNGA, Right to the Truth : Resolution / Adopted by the General Assembly, in A/RES/68/165, ed. United Nations (2013), Preamble.

34. The updated set of Principles for the protection and promotion of human rights through action to combat impunity provides for the inalienable right to the truth of victims and society.⁴⁵ Policies and guidance notes on TJ also state that ensuring victims' and societies' right to know the truth about what happened and establishing collective memory is an important benchmark for an effective TJ process.⁴⁶ The Guiding Principles on Internal Displacement provide for the rights of IDPs to know the fate and whereabouts of missing relatives and set out the State's obligations to work towards establishing the fate and whereabouts of missing IDPs in cooperation with international organizations and to inform the next of kin of their progress and result.⁴⁷

II. Victims' right to reparations

35. The right to reparation is firmly established under international law,⁴⁸ and includes restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Individuals who have been subjected to violations or abuses of IHRL and violations of IHL are entitled to receive adequate, comprehensive, prompt, and effective reparations.⁴⁹ The right to redress in IHL is provided under Article 3 of the Hague Convention (IV) and Article 91 of the 1977 Additional Protocol I to the Geneva Conventions.⁵⁰ The right to redress and its processes are outlined under Principles 31 and 32 of the Updated Set of Principles to Combat Impunity. The reparation provided must be commensurate to the harm experienced, as emphasised in the aforementioned principles. General Comment No. 31 of the UN Human Rights Committee emphasizes that the obligation of Government States to offer a remedy is incomplete unless appropriate reparations are provided to persons whose rights under the Covenant have been infringed. In relation to IDPs, the State has the obligation to assist the recovery of their property or for the competent authority to provide appropriate compensation or another form of reparation if recovery is not possible.⁵¹

36. The right to full redress is also recognized in the African human rights system, including under the AUTJP, which provides that reparative justice consists of effective and adequate financial

⁴⁵ Diane Orentlicher, Report of the Independent Expert to Update the Set of Principles to Combat Impunity, (2005), Principle 2.

⁴⁶ See, AU, African Union Transitional Justice Policy, Sec. 2 Para. 53(3). OHCHR, Rule-of-Law Tools for Post Conflict States: Truth Commissions, (United Nations, 2006), para. 1(d).

⁴⁷ Principle 16(1) & (2), UN, "Guiding Principles on Internal Displacement", 1998

⁴⁸ See, UNGA, Universal Declaration of Human Rights, (United Nations, 1948), Article 8. *International Covenant on Civil and Political Rights*, Article 2. *International Convention on the Elimination of All Forms of Racial Discrimination*, Article 6. *Convention against Torture*, Article . *International Convention for the Protection of All Persons from Enforced Disappearance*, Article 24. *Convention on the Rights of the Child*, Article 39. See also Committee against Torture, *General Comment No. 3*, para. 2; and Committee on Economic, Social and Cultural Rights, *General Comment No. 9*, para. 2.

⁴⁹ UNGA, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. AU, African Union Transitional Justice Policy.

⁵⁰ See also ICRC Study on Customary International Humanitarian Law, Rule 150.

⁵¹ Principle 29(2), UN "Guiding Principles on Internal Displacement", 1998.

and non-financial redress for violations or losses suffered, and in General Comment No. 4 on the Right to Redress for Victims of Torture and Other Ill-treatment which speaks to fair and effective reparations in the context of TJ.⁵²

37. Access to a readily available, prompt and effective remedy in the form of criminal, civil, administrative or disciplinary proceedings to all victims is included in the UN Updated Set of Principles for the protection and promotion of human rights through action to combat impunity”.⁵³ Reparation is an individual right owed to any person whose human rights have been violated and that reparations may also be provided through programmes, addressed to individuals and to communities.⁵⁴ Reparation programmes are administrative procedures that, among other things, obviate some difficulties and costs associated with litigation.⁵⁵ Regarding judicial reparations ordered by courts, reparations may be awarded in both individual and collective forms.⁵⁶ Collective and individual reparations are not mutually exclusive. The ACHPR’s General Comment No. 4 on the Right to Redress specifically states that “reparation for collective harm must not substitute the individual’s right to reparation”.⁵⁷ It states that there should be clear distinction between measures of reparation which target harm suffered by particular victims and wider developmental programmes, hence it must establish a link between the service, benefit or measure intended to be provided and the harm it is meant to repair.⁵⁸ Several tribunals have acknowledged the significance of collective reparations such as rebuilding services and infrastructure in the process of reconstructing countries affected by violence.⁵⁹ For instance, the ICC has awarded collective reparations alongside individual reparations in the Lubanga and Katanga cases.⁶⁰
38. The success of reparation efforts in turn depends on benchmarks and standards such as comprehensive and holistic policy frameworks, reparation programmes that promote equality, and participation of victims and holistic approach to harm inflicted by sexual and gender-based violence with proper oversight.⁶¹ Victims’ participation to the reparation process can help improve the reach and completeness of programmes, enhance comprehensiveness, better determine the types of violations that need to be redressed, improve the fit between benefits

⁵² ACHPR, General Comment No. 4 on the African Charter on Human and Peoples’ Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5), ed. African Union (2017), para. 69.

⁵³ Principle 32, “Updated Set of principles for the protection and promotion of human rights through action to combat impunity”, 8 February 2005.

⁵⁴ Principle 32 of the United Nations Set of Principles to combat impunity.

⁵⁵ A/69/518

⁵⁶ See also Rule 97 of the ICC’s Rules of Procedure and Evidence.

⁵⁷ Ibid., para. 56.

⁵⁸ Ibid., paras. 54-55.

⁵⁹ AU, “African Union Transitional Justice Policy,” para. 65 (IV).

⁶⁰ See, *Prosecutor Vs. Germain Katanga 2017* § 293-94 (2017). *Prosecutor Vs. Thomas Lubanga Dyilo* para. 12 (2016).

⁶¹ AU, African Union Transitional Justice Policy, para. 66.

and expectations and, in general, secure the meaningfulness of symbolic and material benefits alike.⁶²

III. Guarantees of non-recurrence, including institutional and legal reforms

39. According to the Updated Set of Principles for Combating Impunity,⁶³ institutional reforms, including reform of state institutions, disbandment of parastatal armed forces, demobilization and social reintegration of children, and reform of laws and institutions which exacerbate impunity, contribute to non-recurrence of violations. Preventing violations in the future includes setting favourable conditions for the respect and protection of human rights and the rule of law, which can only be achieved through reformed institutions and laws.

40. Justice reforms should address the institutional, legal, and political aspects of the functioning of the justice system which are all key to ensuring accountability. Achievement of one is not sustainable without the other. However, justice reforms must also be supported by other TJ mechanisms that are preventative.⁶⁴ For example, prosecution and vetting of those responsible for gross human rights violations can be implemented to complement justice reforms. The judiciary is an important institution which the public relies on to attain justice and deterrence. When the judicial organ becomes ineffective in addressing violations of the past, reform becomes important. Vetting of judges who allegedly participated in past human rights violations is also considered part of institutional reform. This should be done through proper investigation to ensure that the vetting process is sufficiently based on personal culpability.⁶⁵ UN Special Rapporteur on the promotion of truth, justice, reparations, and guarantees of non-recurrence explained that reconciliation is “at minimum, the condition under which individuals can trust one another as equal rights holders again or anew”.⁶⁶ That means that individuals under the jurisdiction of a given State are sufficiently committed to the norms and values that motivate their ruling institutions, that individuals are sufficiently confident that those who operate those institutions do so also on the basis of those norms and values – including the norms that turn individuals into rights holders – and sufficiently secure about other individuals’ commitment to abide by and uphold these norms and values.⁶⁷

41. The AUTJP establishes benchmarks for successful reconciliation, encompassing initiatives that foster reconciliation across all societal levels, initiatives that tackle structural inequality and foster inclusive development, educational programmes that reinforce equality, dignity, and

⁶² Report of the Special rapporteur on truth, justice, reparations and guaranties of non-recurrence, A/69/518, para. 92.

⁶³ Diane Orentlicher, Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, (United Nations, 2005), Principles 35-38.

⁶⁴ See, UN, Guidance Note of the Secretary General: United Nations Approach to Transitional Justice, para. 6. See also, OHCHR, Rule of Law Tools for Post-Conflict States: Vetting: An Operational Framework, (2006).

⁶⁵ AU, African Union Transitional Justice Policy, para. 95 (IV).

⁶⁶ SR report, 2012, para. 38.

⁶⁷ Ibid.

shared humanity, as well as opportunities for forgiveness and the provision of psychosocial support services.⁶⁸

Chapter II

I. Past experiences on or related to transitional justice

42. In the last five decades, Ethiopians have gone through different forms of political transitions, namely from the imperial regime to the *Derg* in 1974, from the *Derg* to the Ethiopian People's Revolutionary Democratic Front (EPRDF) in 1991, and in 2018, from the EPRDF to the Prosperity Party⁶⁹. During these transitions, the new incumbents and Ethiopians at large grappled with complex challenges of confronting legacies of past gross human rights violations, with varied obstacles and/or shortcomings.
43. Historically, on a global scale, the prevailing approach for addressing historical grievances, with a few notable exceptions, largely involved drawing a line under the past, closing the books and moving forward. Dealing with the past holistically through prosecuting perpetrators of past violations in transitioning societies and uncovering the truth about past violations was often viewed as an impediment to reconciliation and moving forward. From the mid-1980s onwards, this view gradually shifted to the need to confront legacies of the repressive past through a TJ approach. This approach was mirrored in Ethiopia where some elements of TJ were put into place after the 1990s.

II. Transitional justice mechanisms adopted to confront violations of the *Derg* regime

44. Ethiopia was ruled by the military junta called *Derg* (Council or Committee) from 1974 to 1991. The *Derg* regime is reported to have committed various human rights violations such as summary executions, torture, arbitrary arrests, and enforced disappearances (also known as the red terror crimes).⁷⁰ Opposition groups and insurgents were also accused of having committed gross human rights abuses.⁷¹ In May 1991, the *Derg* regime was toppled by the EPRDF through a *coup d'état*. The new regime adopted criminal accountability as the main mechanism of addressing the repressive past of the *Derg* regime. A Special Public Prosecution Office (SPPO)

⁶⁸ AUTJP, para. 63

⁶⁹ There was no change of Government unlike in previous cases, but re-naming and re-structuring of the former ruling party and a series of reforms.

⁷⁰ For more discussion on the violations committed during the *Derg* period, see generally Tiruneh Andargachew, *The Ethiopian Revolution 1974-1981* (1994) (London School of Economics, 1990). Amnesty International, *Human Rights Violations in Ethiopia*, (1978). Ethiopia: End of an Era of Brutal Repression – a New Chance for Human Rights, (Amnesty International, 1991). H.G. Marcus, *A History of Ethiopia* (University of California Press, 2023). Human Rights Watch, *Ethiopia: Reckoning under the Law* (1994), Pages 6-7. Zewde Bahru, *A History of Modern Ethiopia, 1855-1991* (James Currey, 2001). Bahru Zewde, *The History of the Red Terror: Contexts and Consequences*, in *The Ethiopian Red Terror Trials: Transitional Justice Challenged*, ed. Charles Schaefer & Girmachew Alemu Aneme Kjetil Tronvoll (United Kingdom: Long House Publishing Services, 2009).

⁷¹ Ibid.

was established in 1992 to investigate and prosecute *Derg*'s crimes,⁷² but a special court was not established for trials. The cases were brought before the regular Central Court (later renamed as the Federal Court) and Regional Supreme Courts which were yet to undergo significant reforms.

45. The initial indictment in the *Derg's Mengistu et al.* case was filed on 25 October 1994. The *Derg* trials were large-scale prosecutions of former *Derg* officials for various crimes, including aggravated homicide, arbitrary arrest, and abuse of power contrary to the Penal Code of Ethiopia. There was also a war crime charge and conviction in the case of *Legese Asfaw et al.* In the trials, 5,119 individuals including a former Head of State and senior *Derg* officials were charged with the crime of genocide and other crimes based on the Penal Code of 1957. After a lengthy process, about 3,500 individuals were convicted and sentenced, out of whom 1,300 were tried/sentenced *in absentia* for the crime of genocide and other crimes.⁷³
46. The post-*Derg* TJ approach focused mainly on criminal prosecution, which proved to be incomplete, delayed, selective, and inadequate.⁷⁴ It was a narrow approach to TJ as it did not include truth-seeking, reparations for victims, and guarantees of non-recurrence. The process was also criticised for lack of consultation with victims and relevant stakeholders.⁷⁵ The criminal prosecution process also had limitations. Notably, it focused only on *Derg* officials, while excluding abuses perpetrated by other armed groups; investigations and prosecutions took many years, thus jeopardising fair trial rights and process legitimacy; and there was minimal engagement and participation of victims in the criminal investigation and prosecution process.⁷⁶

III. A glimpse at post-EPRDF transitional justice initiatives

47. Since April 2018, Prime Minister Abiy Ahmed's administration committed to several encouraging TJ-related measures such as an official apology for human rights violations by the previous regime and acknowledgement of violations by security forces, including the use of

⁷² HPR, Proclamation Establishing the Office of the Special Prosecutor (1992).

⁷³ Tadesse Simie Metekia, *Prosecution of Core Crimes in Ethiopia: Domestic Practice Vis-a-Vis International Standards*, ed. William Schabas, International Criminal Law Series (Leiden, The Netherlands: Koninklijke Brill, 2021), Authors Doctoral Thesis.

⁷⁴ Marshet Tadesse Tessema, Dealing with the Legacies of Repressive Past: Transitional Justice in "Transitional Ethiopia", Jimma University Law Journal (2020)

⁷⁵ Demelash Shiferaw Reta, National prosecution and transitional justice: the case of Ethiopia, DPhil thesis, University of Warwick 2014, pp. 186-87.

⁷⁶ On the contributions and limitations of *Derg* trials, see generally, Kjetil Tronvoll, Schaefer, C. and Girmachew Alemu Aneme, *The Ethiopian Red Terror Trials: Transitional Justice Challenged* (2009). Marshet Tessema, *Prosecution of Politicide in Ethiopia: The Red Terror Trials* (2018).

torture, amnesty for political prisoners,⁷⁷ the establishment of the Ethiopian Reconciliation Commission (ERC),⁷⁸ criminal prosecutions, and legal⁷⁹ and institutional reforms.

48. The Government charged some individuals at the federal and regional levels for past gross human rights violations and /or corruption crimes.⁸⁰ Neither a special court nor a special prosecution's office were established; instead, investigation and prosecution were carried out by existing justice structures which had not undergone meaningful reforms. There was also lack of transparent communication regarding prosecution strategy.⁸¹ Additionally, it was reported that most of the violations the suspects were charged with met the elements of crimes against humanity and torture, but were charged for less serious crimes such as abuse of power.⁸² Akin to Ethiopia's transition from the *Derg* to the EPRDF, the 2018 "transition" as observed was also faced with the challenge of a limited legal framework to address crimes against humanity and torture.⁸³
49. A *Proclamation to Provide for Granting of Amnesty to Outlaws Who Have Participated in Different Crimes*, Proclamation No. 1096/ 2018, came into force in June 2018. Based on this Proclamation, amnesty was granted to persons suspected or convicted of a number of political crimes,⁸⁴ to respond to occasional social, political and economic problems.⁸⁵ The Proclamation had some limitations, which included failure to duly integrate victims' voices in the amnesty process;⁸⁶ reportedly offered blanket amnesty and only required the submission of an application within six months, meaning that it did not meet the objective of repentance,⁸⁷

⁷⁷ The law-making organ passed the Amnesty law on 28 June 2018, which applies for individuals suspected of, charged with, convicted, or sentenced for political crimes such as treason and acts of terrorism. See, Federal House of Peoples Representatives, Amnesty Proclamation, (2018).

⁷⁸ HoPR, Reconciliation Commission Establishment Proclamation, in 1102/2018, ed. Federal House of People Representatives (Addis Ababa 2018).

⁷⁹ The Federal Attorney General of Ethiopia established the Legal and Justice Affairs Advisory Council (LJAAC) in 2018.

⁸⁰ For instances see, *Commander Alemayehu Hailu Et Al Vs. The Public Prosecutor*. (9 accused from federal and Addis Ababa Police); *Abdi Muhamud Omer Et Al Vs. The Public Prosecutor*. (Some 43 accused charged for various crimes).

⁸¹ Kinkino Kia Legide, Exploring the challenges and limits in the compliance with transitional justice norm in non-regime transitions: The case of post-2018 Ethiopia, journal of law and conflict resolution, p. 16.

⁸² Ibid.

⁸³ See, Tessema, *Prosecution of Politicide in Ethiopia: The Red Terror Trials*.

⁸⁴ Including: obstruction of the constitutional order, armed rising or civil war, attack on the political or territorial integrity of the state, treason and high treason, collaboration with the enemy, espionage, material Preparation of Subversive Acts, Inciting the Public through False Rumors, Offences committed in violation of the anti-terrorism proclamation of Ethiopia (652/2009). See, Representatives, Amnesty Proclamation, Article 5.

⁸⁵ Ibid., Preamble. See also, TJWGE, Ethiopia Policy Options for Transitional Justice, ed. Transitional Justice Working Group of Experts (Minstry of Justice, 2023), p. 6.

⁸⁶ Article 7 (4) of the Proclamation to Provide for Granting of Amnesty to Outlaws Who Have Participated in Different Crimes provides that "any person granted amnesty is required to report to federal general attorney or to regional justice offices within six months from the date of promulgation of this proclamation in person or [...] any other means of reporting that he return home, returns back to the society to live peace fully and that he is the beneficiary of the amnesty".

⁸⁷ Article 5(3) for example excluded individuals who are accused of killing persons from benefitting from the amnesty.

and there was a lack of adequate follow up on the issuance of amnesty certificates to beneficiaries by the federal and regional bureaus, which allegedly resulted in persons without certificates joining the communities.⁸⁸

50. The ERC, which was given a three-year mandate, was established on 25 December 2018, and was the first of its kind in Ethiopia. The ERC carried out different preparatory activities such as adopting its strategic plan and staffing, but it was officially closed on 14 February 2020 before starting the implementation of its core functions. The Reconciliation Commission Establishment Proclamation No.1102/2018 framed the ERC on two pillars. The first pillar on social and political conflicts focused on the establishment of national reconciliation, peace and national cohesion, and the second, on addressing gross violations of human rights. Although the preamble of the proclamation repeatedly uses the language of “truth”, the mandate of the ERC seemed operationally to be focused principally on reconciliation.⁸⁹ Article 2(3) of the Proclamation, however, defined reconciliation to involve “establishing values of forgiveness for the past, lasting love, solidarity and mutual understanding by identifying reasons of conflict, animosity that occurred due to conflicts, misapprehension, developed disagreement and revenge.” In support of some TJ measures, Article 6(4) of the Proclamation further granted the ERC the power to examine and identify the basic reasons of disputes and violation of human rights by taking into consideration the political, social and economic circumstances and the view of victims and perpetrator.
51. Some limitations observed in the establishment process and in the founding law of the ERC, included:⁹⁰
- a) The ERC’s establishment was not preceded by a nationwide consultation process which would have informed the establishment process. Similarly, the nomination, selection, and appointment of the 41 commissioners were carried out without broad consultations and direct participation of the public.
 - b) The ERC’s establishment proclamation did not precisely provide the nature and scope of its mandate.
 - c) The ERC’s establishment proclamation did not indicate the period to be covered.
 - d) The law did not regulate the composition of the ERC, the Commissioner’s appointment criteria and procedures to be followed, as well as their removal or replacement process.

⁸⁸ TJWGE, Ethiopia Policy Options for Transitional Justice, p. 6.

⁸⁹ HPR, Reconciliation Commission Establishment Proclamation. See Article 2(3) of the Proclamation that defines reconciliation; Article 5 that places premium on the peace and reconciliation segments of the work of the Commission.

⁹⁰ See, Marshet Tadesse & Markos Debebe, Confronting Past Gross Human Rights Violations in Ethiopia: Taking Stock of the National Reconciliation Commission of Ethiopia, *South African Journal of Criminal Justice* 33 (2020) and Yidnekachew Mitiku Mekonnen, Transitional Justice through “reconciliation Commission” in post 2018 Ethiopia: A critical Examination on its Viability (2021), Vol 5, Hawassa University Law Journal 145-172, p. 170.

This led to the appointment of individuals who were allegedly involved in politics or implicated in past gross human rights violations.

52. The Government of Ethiopia has implemented some legal reforms since 2018, notably through the Legal and Justice Advisory Council (LJAC) which has the mandate to advise the Attorney General (now Ministry of Justice) on matters related to legal and justice reforms. The LJAC conducted a series of studies that led to the revision of 16 pieces of legislation deemed to be unconstitutional and which adversely affected human rights and democracy, including the 2009 Anti-terrorism Proclamation, the 2009 CSOs Proclamation, and the 2008 Media Proclamation. The Government further officially condemned human rights violations by the past regime and offered an official apology for the wrongdoings committed by the State. The prosecution and vetting of senior EPRDF leaders for corruption was welcomed, but with some concerns over the selectivity on the process owing to the alleged targeting of certain ethnic groups while others received new posts and regime protection.⁹¹ These complaints reportedly diminished the spirit of forgiveness and reconciliation.

IV. Latest initiatives

53. In February 2022, the House of Peoples' Representatives (HPR) passed Proclamation No. 1265/2021, which established the Ethiopian National Dialogue Commission (NDC). The NDC is mandated "to resolve the differences and disagreements [among political and opinion leaders] through broad based inclusive dialogue that engenders national consensus."⁹² The Proclamation sets out a number of objectives that would allow the NDC to, inter alia, facilitate consultations between segments of society on root causes of differences on fundamental national issues, implement effective and inclusive dialogue nationwide, establish a platform for effective communication between the public and the Government, and implement the recommendations of dialogues.⁹³ The NDC assumes a critical role in the political and peace process, but its mandate implementation has been affected or delayed by various operational and contextual realities, including insecurity in some parts of the country. At the time of publication of this report, the NDC has engaged in the identification of issues for dialogue and selection of participants for their own consultations across the country.

54. There were also some TJ initiatives at the regional level. For example, the Somali Regional State Council enacted a regional proclamation to establish a Commission for Investigation of Violence and Reconciliation and Reparation of Victims.⁹⁴ This Proclamation empowered the regional commission to investigate and prosecute those who perpetrated human rights

⁹¹ Adem K Abebe, What Ethiopia Needs Is an Independent Prosecution, <https://www.aljazeera.com/opinions/2019/8/16/what-ethiopia-needs-is-an-independent-prosecution/>

⁹² HPR, The Ethiopian National Dialogue Commission Establishment Proclamation," ed. Federal House of Peoples Representatives (2022), Preamble, para. 1.

⁹³ Ibid., Article 6.

⁹⁴ Somali Regional State Council, Proclamation for the Establishment of the Commission for Investigation of Violence and Reconciliation and Reparation of Victims in Somali Region (2021).

violations in the region and bring them to justice. The Commission is also tasked to undertake healing, compensation, sustainable resettlement programme, and establish reconciliation and forgiveness between communities and societies.⁹⁵ While the regional states' TJ initiatives are important to enable them to address their own contextual and local challenges and specificities, appropriate caution should be taken to ensure that such initiatives do not hamper the operational effectiveness of the comprehensive national TJ process which also seeks to build national cohesion beyond regional/ethnic lines.

55. In response to the JIT's recommendation on TJ, the Ministry of Justice of Ethiopia conducted an internal diagnostic study in 2022, highlighting previous attempts related to TJ in Ethiopia and drawing relevant lessons to craft a comprehensive, holistic, context-specific, victim-centred and human rights compliant TJ policy framework. Government One of the objectives of CoHA, signed between the Federal Government of Ethiopia and the TPLF, is "to provide a framework to ensure accountability for matters arising out of the conflict".⁹⁶ More specifically, the CoHA provides for "the Government of Ethiopia to implement a comprehensive national TJ policy aimed at accountability, ascertaining the truth, redress for victims, reconciliation, and healing, consistent with the [Ethiopian] Constitution and the African Union Transitional Justice Policy Framework."
56. A Transitional Justice Working Group of Experts (the Working Group) was set up in November 2022 under the auspices of the Ministry of Justice to advise and lead the TJ policy development process. Building on the diagnostic study, the Working Group developed "a green paper" comprising "Policy Options for Transitional Justice in Ethiopia" which was made public in January 2023.⁹⁷ The document, which was drafted to solicit public feedback and inputs from relevant stakeholders, outlines different policy options on a wide range of TJ mechanisms. Alongside many actors, both OHCHR and the EHRC provided inputs to the "green paper" aimed at mainstreaming human rights standards.
57. On 6 March 2023, the Ethiopian Government launched nationwide public consultations⁹⁸ on TJ policy options in Ethiopia, which marked an important step in the implementation of the JIT recommendations and CoHA in relation to TJ. The Working Group also developed a roadmap to guide the consultation process on the standards and principles that should be followed, to which OHCHR and EHRC inputted. From March to September 2023, the Working Group held at least 67 regional/national consultations with the aim of informing the content of the TJ policy. The report of the findings of the consultations is expected to be published by year's end in late December 2023 while the TJ policy is likely to be adopted in early 2024.

⁹⁵ Ibid., Article 6.

⁹⁶ CoHA (Article 1.7)

⁹⁷ TJWGE, Ethiopia Policy Options for Transitional Justice.

⁹⁸ See, EHRC/OHCHR advisory note on the next steps towards the development of a human rights compliant Transitional Justice Policy for Ethiopia (October 2023), available at <https://www.ohchr.org/sites/default/files/documents/countries/ethiopia/Advisory-Note-OHCHR-EHRC-Trans-Justice-Policy-11oct2023.pdf>

58. Currently, TJ has taken center stage in Ethiopia as a means of addressing past gross human rights violations and abuses and serious violations of international humanitarian law and building sustainable peace. The journey ahead to guarantee accountability, establish truth, provide reparations to victims, and ensure non-recurrence presents challenges and opportunities in a country with a rich history and strong religious beliefs and traditions and a legacy of past serious human rights violations and abuses.

Chapter III

Views and aspirations of affected communities ⁹⁹

I. Justice and Accountability

59. To deliver justice to victims, implementing a comprehensive judicial and non-judicial measures of accountability mechanisms is crucial in the context of TJ.¹⁰⁰ Criminal prosecutions are one of several accountability measures, although “piecemeal” prosecutorial initiatives are ineffective.¹⁰¹ There is need for victims’ participation and their understanding/perception of criminal trials as part of a larger effort to achieve justice.¹⁰²

A. Afar regional state

Meaning of justice

60. To deliver justice to victims, implementing a comprehensive judicial and non-judicial measures of accountability mechanisms is crucial in the context of TJ.¹⁰³ Criminal prosecutions are one of several accountability measures, although “piecemeal” prosecutorial initiatives are ineffective.¹⁰⁴

61. Participants defined justice as uncovering the root causes and details of the conflict, providing proper compensation for the harm suffered, and holding those responsible accountable through the application of the law. They stressed that justice is a precondition for peace and reconciliation. Concerning how justice can be realized, one respondent in Semera highlighted that justice could be achieved when the society and the State agree on the way forward based on shared Ethiopian values. Some participants opined that justice should be context-specific and be based on the values of the Ethiopian people, and not values imposed by others, as understandings of justice in other countries may differ.

⁹⁹ Annex I encloses the questionnaires which guided the discussions and engagements with participants.

¹⁰⁰ AU, “African Union Transitional Justice Policy”, para. 17.

¹⁰¹ The former UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Mr. Pablo de Greiff, 09 August 2012, paras. 23 and 25, A/HRC/21/46.

¹⁰² Ibid., para. 78.

¹⁰³ AU, “African Union Transitional Justice Policy”, para. 17.

¹⁰⁴ The former UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Mr. Pablo de Greiff, 09 August 2012, paras. 23 and 25, A/HRC/21/46.

Crimes to be prosecuted and perpetrators to be held accountable

62. To deliver justice to victims, implementing a comprehensive judicial and non-judicial measures of accountability mechanisms is crucial in the context of TJ.¹⁰⁵ Criminal prosecutions are one of several accountability measures, although “piecemeal” prosecutorial initiatives are ineffective.¹⁰⁶
63. On the question of who should be prosecuted, most participants opined that it would be impossible to investigate and prosecute all perpetrators, due to the large number of those involved in violations. As such, it was suggested by many that senior officials and decision-makers who planned, enabled, and ordered serious human rights violations, and perpetrators who committed serious crimes (including but not limited to killing, rape, sexual violence, bodily injury, and destruction of property) should be investigated and prosecuted.
64. All participants categorically rejected granting amnesties to perpetrators of serious crimes, as it would promote a culture of impunity and send a fundamentally wrong message to potential perpetrators.

Suitable forum to ensure accountability

65. Opinions differed on the best suited model to ensure accountability. Some participants preferred the national judicial system, while others preferred the use of an international mechanism like the ICC. Other participants also suggested a special court option, and some favoured the use of a traditional justice mechanism.
66. Those who preferred the national justice system as a means for achieving accountability stressed that “foreign” courts should not be involved and that the process should be Ethiopian-led, and that Ethiopia has competent experts who could support such a process. The preference of some participants for international mechanisms was predicated on an argument that the national justice system is prone to political manipulation and cannot be trusted as an independent and impartial mechanism to deliver justice.

B. Amhara regional state

Meaning of justice

67. Justice was broadly defined as non-discrimination and equality of everyone regardless of sex, age, or ethnicity; resolution of conflicts; ensuring citizens’ safety and security; sustainable peace; free movement within the country; and holding perpetrators accountable. Many participants stated that justice was dispensed when the harm suffered and loss had been properly identified, documented, and acknowledged; an appropriate remedy was provided including compensation; broken relationships were restored; and perpetrators were held

¹⁰⁵ AU, “African Union Transitional Justice Policy”, para.17.

¹⁰⁶ The former UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Mr. Pablo de Greiff, 09 August 2012, paras. 23 and 25, A/HRC/21/46.

accountable. An IDP in Bahir Dar stated that “justice would be achieved when the wrongdoer confesses and apologizes, pays compensation for the damage caused, perpetrators are held accountable, and the truth is revealed.” Another participant in Gondar mentioned an Amharic proverb “በፍትህ ከሄደች በቅሎይ ይልቅ ካለ ፍትህ የሄደችዋል ቅሎይ” (*losing a meal unjustly is more heart-breaking than losing a mule justly*) to show the pain of loss and the harm suffered, particularly in the most unjust way.

68. Most participants emphasized the importance of providing the perpetrator the opportunity to be reintegrated into the community that he or she had hurt, as their conception of justice was restorative. In this regard, revenge is not what they sought, as a vengeful act simply begets more feuding, damage, and destruction.

Crimes to be prosecuted and perpetrators to be held accountable

69. All participants consistently expressed the importance of holding perpetrators accountable for the abuses and violations. They opined that, without proper and meaningful accountability, there could not be lasting peace and moving forward. Most participants stated that criminal accountability should primarily focus on leaders and masterminds of the violations, due to the vast number of perpetrators and crimes committed during the conflict. Priority should be given to prosecute those who bore the greatest responsibility. Those who conceived, enabled and/or ordered the violations should be criminally charged, while others may be held accountable in other ways depending on the gravity of their crimes, including through means such as traditional mechanisms for conflict resolution (TMCR).

70. Most participants opined that those who bore the greatest responsibility should also be ineligible for amnesties.

Suitable forum to ensure accountability

71. Regarding a suitable model to lead accountability measures, the international and national model as well as the establishment of a special court were identified, while the use of TMCR was also recommended. However, nearly all participants expressed their lack of confidence in the independence and impartiality of the country’s judiciary and law enforcement organs, due to perceptions of widespread corruption, and alleged prevalence of “ethnic politics”, which reportedly resulted in hiding or downplaying certain violations while amplifying violations committed by others.

72. Some participants argued that independent and impartial institutions such as international mechanisms should be employed. Some argued that the national judicial system, despite all its deficiencies and limitations, should be used as international mechanisms would lead to undue or unnecessary interference. Other participants held the view that an independent investigation commission or special court should be established, while others believed that the TMCR could be used to carry out accountability.

C. Dire Dawa city administration

Meaning of justice

73. Participants defined justice as holding perpetrators accountable, the provision of adequate compensation for victims, ability of everyone to live in freedom and security, and “a decision made by a court of law without discrimination or favouritism”. Participants considered truth-telling and apology, as well as reparation for victims and the promotion of reconciliation, as important components of justice. They indicated that justice could only be achieved if there is a commitment from Government and security sector institutions, and if the judiciary is willing and able to uphold the rule of law.

Crimes to be prosecuted and perpetrators to be held accountable

74. Regarding the issue of whom to prosecute, many participants considered that individuals within the Government and the community who planned, financed, and sponsored violations such as killings, maiming, and destruction of property often targeting specific ethnic groups, should be held accountable. At the same time, direct lower-level perpetrators should also be held accountable through traditional mechanisms, as Ethiopia did not have sufficient resources to prosecute all perpetrators in court. Some participants strongly argued that all perpetrators should be held accountable, regardless of the degree of their participation, to deter future violence. Killings and ethnically motivated large-scale destruction of property were identified by some participants as crimes which required criminal liability, while lesser crimes such as property destruction and theft could be handled by traditional mechanisms.

Suitable forum to ensure accountability

75. All participants were of the view that the formal justice system was inadequate, influenced by ethnic considerations, and corrupt. Some participants recommended the establishment of independent institutions such as a special court/bench or a special prosecution office similar to that established for the *Derg* officials’ trials.

76. One participant also raised concerns about the cumbersome procedures and delays of the formal judicial system, while traditional/religious mechanisms were considered as less confrontational and better able to ensure justice among litigants. However, most participants recommended the use of TMCR to settle less serious violations and for reconciliation activities after adjustments.

D. Harari regional state

Meaning of justice

77. Participants explained justice as including peoples’ right to move and work in any part of the country; return of illegally confiscated property, such as land and houses; and establishing the

truth about the circumstances around past violations such as the killings and destruction that occurred in 2020 in Harar city.¹⁰⁷

Crimes to be prosecuted and perpetrators to be held accountable

78. On whom should be prosecuted, many participants suggested focusing on the masterminds, including those in Government and within the community, who planned and supported violence. They also recommended focusing on serious violations, such as killings and serious bodily injuries. Regarding perpetrators, some participants explained that the violence in Harar was mostly perpetrated by “unknown individuals brought-in from outside Harar city under instructions by politically motivated actors.”

79. There was an overall frustration over Government authorities and institutions (both at regional and federal levels) who were perceived as unwilling to address citizens’ grievances despite their multiple and persistent complaints. Some participants opined that those at decision-making positions were complicit in the illegal confiscation of properties such as land, houses, crops etc. and they felt that there was nowhere they could go to submit their complaints.

Suitable forum to ensure accountability

80. Most participants doubted the effectiveness and impartiality of the current formal justice system and suggested the establishment of an independent body which could be trusted by all ethnicities in the Harari region to carry out investigation, prosecution, and adjudication of cases. Many participants stated that formal courts should process perpetrators involved in serious violations, such as killings and serious bodily injuries, while TMCR such as *shimglina*¹⁰⁸ could be used for violations relating to destruction and looting of properties and determine appropriate compensation and restoration of properties to victims.

E. Oromia regional state

Meaning of justice

81. Justice was defined as a sense of security and peace that would surface following the prosecution of perpetrators and guarantees that further harm would not occur. Participants stated that justice could only be realised when the truth is established, accountability is ensured, and when victims of violations and communities received satisfactory solutions including compensation or other measures. Some of the participants argued that finding the truth through an independent and impartial process would amount to justice. They added that respect for the law, and religious and traditional leaders, was necessary to achieve justice.

¹⁰⁷ Violence which erupted on the evening of Epiphany in 2020 in Harar city resulted in the killing and injury of dozens of civilians including individuals participating in the religious festivities.

¹⁰⁸ *Shimglina* is a form of arbitration where elders or respected persons are chosen by the parties to hear and settle their disputes. The arbitrators are expected to be impartial, knowledgeable, and fair. Refer to Annex III for further information.

82. Most participants maintained that accountability was mandatory to serve justice for victims and to guarantee non-recurrence. Lack of meaningful accountability measures due to “ethnic politics” was highlighted as the main cause for instability in the region and other parts of the country.

Crimes to be prosecuted and perpetrators to be held accountable

83. Most participants strongly recommended accountability for those who instigated, planned and executed violence regardless of their status, as well as those who directly participated in the commission of crimes. They stated that only holding lower-level perpetrators (implementing agents) accountable was insufficient, they stressed that higher officials should also be held accountable to help reconciliation efforts and prevent similar future conflicts. Law enforcement personnel should also be accountable for their failure to safeguard the public, as well as those who helped to absolve perpetrators from criminal liability. Many participants suggested the need to focus mainly on the violations of killings, rape, injury, mass destruction of private and public properties, and violations committed as a result of incitement to hatred. On the other hand, it was observed that TMCR could be used for less serious crimes.

Suitable forum to ensure accountability

84. All participants agreed on the imperative to have independent and impartial investigations and judicial bodies to ensure justice. However, opinions differed on the appropriate mechanism to achieve justice and accountability. Some expressed their frustration and lack of confidence in current justice institutions and described them as corrupt, partial, and politically motivated. Some participants explained that they had already witnessed the partiality of national courts and that they feared the national process may not deliver fair justice and accountability. Some participants indicated that reforms were necessary for current institutions to deliver justice, while others preferred the establishment of new national independent investigative and adjudicatory bodies. Others recommended serious crimes or politically sensitive issues to be investigated by international or regional justice mechanisms, while others resisted such proposals expressing scepticism over foreign mechanisms serving the legitimate interest of Ethiopians. There was unanimity on the TMRC’s inability and lack of capacity to investigate complex and organized criminal acts.

F. Somali regional state

Meaning of justice

85. Justice was described as involving two parties in a conflict, the perpetrator and victim, where the latter is provided redress including proportional compensation to the harm suffered, and the perpetrator is forgiven. For participants, forgiveness did not imply impunity and was seen together with other forms of redress including prosecution. Court orders for the return of properties taken from a victim was also considered as justice. For a few participants in Gode, justice is living in peace without facing any type of violation or harassment from anyone. One

participant, a victim, who claimed to have suffered gross human rights violation at the hands of security officials expressed frustration on seeing her abusers walking freely on the streets and still holding Government office positions without being held accountable for their wrongdoings. An older participant stated that “justice is a chance to acquire compensation and restitution for the damages sustained, as well as the ability to live freely without fearing for oneself or their loved ones”. For an internally displaced woman, justice was served when quality health services and humanitarian aid were equally distributed among all IDPs. Another participant opined that justice was served when shelter and medical support were provided to those in needs.

86. Overall, participants emphasized that “justice” meant holding perpetrators accountable, providing medical and psychosocial services, and ensuring non-recurrence of violations including violence against women who were subjected to rape, forced marriages, and other forms of sexual and gender-based violence.

Crimes to be prosecuted and perpetrators to be held accountable

87. Most participants in the Somali region generally agreed on criminal accountability of high-ranking authorities involved in planning, commanding, and supporting acts of violence. One female participant pointed out that most of the violations in the Somali region occurred through the direct order and involvement of high-ranking Government officials. For her, only those who gave the order should be held accountable as they misused and abused their position. One older participant in Gode stated that accountability measures should only be taken against higher officials who authorised and ordered the wrongdoings, because “the subordinates are just doing their jobs, thus, the sole responsibility lies on the one giving command.” A few participants recommended that in addition to accountability measures, the commanding officers should be discharged from holding any Government position.

88. Some participants stressed that apology should not preclude the pursuit of criminal proceedings, especially against perpetrators of serious crimes. Some deemed an apology by perpetrators, facilitated by clan leaders, as sufficient to attain justice, and a few others stressed the need to hold all perpetrators accountable for all types of crimes disregarding their status and contribution level or participation.

89. Many participants opined that amnesty should not be granted to these categories of perpetrators.

Suitable forum to ensure accountability

90. There was a marked preference in the Somali region for traditional/clan-based accountability mechanisms over the formal justice system for any wrongdoings between clans and among clan members. Most participants highlighted the rich culture in dispute resolution based on Sharia/Islamic laws and principles which, according to them, were “ more effective and

trusted”. However, when violence or conflict involved not only community members but also Government officials, resort to the formal justice system was preferred.

91. According to some participants, the gravity of the crime should be considered in determining the appropriate judicial mechanism. For example, a few argued that international courts should adjudicate egregious human rights violations while national courts, or even TMCR would be best placed to adjudicate less serious violations. Emphasis was placed on the need to ensure the independence and impartiality of the justice mechanisms, regardless of the model to be chosen. Some participants in the Somali region expressed deep mistrust towards the formal judicial institutions viewing it as influenced by Government and corrupt. Participants recommended genuine institutional reforms.

G. Tigray regional state

Meaning of justice

92. Overall participants understood justice as establishing the truth, freedom, ensuring equality and equal protection under the law, fully restoring peace, when children receive education and employees return to work, resumption of basic services, returning home, and living a normal life. A participant indicated that justice is the respect for rights, and the existence of a system that receives complaints and provides remedies. Most participants stated that their preferred form of justice was ensuring that perpetrators admit their wrongdoings and were held accountable.
93. Some participants related the notion of justice to the implementation of the CoHA, indicating that specific parts of the agreement that required the parties to cease hostilities and the fighting were not implemented. They added that civilians were still facing violations and that withdrawal of non-Ethiopian and non-Tigrayan forces was required to stop violations and for justice to be achieved for all violations in all areas.

Crimes to be prosecuted and perpetrators to be held accountable

94. Most participants agreed on the need to hold all perpetrators who committed serious violations and abuses accountable. They opined that high-ranking politicians, leadership of the national army, and some religious leaders who instigated hatred and violence should primarily be held accountable for the gross human rights violations and abuses and serious violations of IHL committed in Tigray. Similarly, while most participants recommended focusing on most serious crimes, others would ensure accountability for all types of crimes.
95. Some participants stated that immediate action was required to identify the culprits and “masterminds” of the crimes, proceeding to mention some armed forces, institutions, and individuals who should be held accountable. They stated that once accountability measures were taken against high-ranking Government officials, people-to-people relations would mend naturally by using TMCR.

96. Overall, participants stated that it would be impossible to hold all perpetrators accountable, but that those involved in committing the crime of “genocide, ethnic cleansing, crimes against humanity” and other gross violations such as sexual violence, torture, and destruction and looting of public and private properties, should be held accountable.

Suitable forum to ensure accountability

97. Most participants recommended an international mechanism such as the ICC to lead accountability measures which was perceived as impartial, particularly for the investigation and prosecution of serious crimes such as the crimes against humanity, war crimes, genocide, and rape. Participants stated that, as all parties to the conflict had committed serious crimes, none among them would be in a position to lead investigations and deliver justice. Some participants insisted that an independent investigation body, such as the International Commission of Human Rights Experts on Ethiopia, should be given access to Tigray to investigate crimes and expose the violations committed.¹⁰⁹
98. All participants expressed their scepticism about the capacity of the domestic justice system to investigate and prosecute “heinous crimes committed by non-Ethiopian forces”. While most participants stated that all crimes should be adjudicated by the international mechanism, a few participants strongly insisted that only serious crimes should be addressed by an international mechanism, while domestic courts should adjudicate less serious crimes.

II. Truth-seeking

99. Truth-seeking is an essential component of TJ, which has the overall objective of establishing the facts of past violations. It seeks to: (i) give voice and answers to those who directly experienced violations and abuses including their families, witnesses, or perpetrators who wish to report their own or others’ involvement in violations; (ii) analyse the circumstances and patterns of violence and gross violations, and determine their root causes; (iii) gather relevant evidence that would establish the basis upon which other TJ mechanisms such as reparations and prosecution can be implemented effectively; and (iv) construct a common narrative /shared truth about the past that could contribute to the process of healing and reconciliation. Truth-seeking measures are commonly carried out by a legally sanctioned, temporary, and non-judicial or quasi-investigative body usually known as truth commissions, commissions of inquiry, or other fact-finding bodies.

A. Afar regional state

Why the truth matters

¹⁰⁹ The mandate of the Commission concluded on October 2023.

100. All participants unanimously agreed on the need to undertake truth-seeking measures and on the value of acknowledging past abuses, recognising the suffering of victims, and identifying patterns of violence. Participants stated that a comprehensive account of incidents of gross human rights violations that took place during a period of violent conflict could pave the way for social healing and reconciliation.

How to establish the truth and which institution is best suited to lead such initiative

101. Views differed on the question of how to establish the truth and which institution should lead the process. While some participants recommended that institutions such as the EHRC and OHCHR were best suited to lead the process, others suggested that traditional mechanisms as the most appropriate and culturally relevant structures for pursuing the truth. Referring to the prevalent mistrust in state institutions, participants suggested that elders, religious leaders, and respected individuals could play a role in truth-seeking, due to their good reputation, moral authority, and longstanding trust earned in society. There was consensus that an impartial, credible, and inclusive institution, which broadly engaged victims and grass root community members, should lead the process.

Participants willingness to openly give their statements

102. Most participants indicated that they were willing and ready to give their statements to an independent and credible truth-seeking body, despite fears on the possibility of reprisal.

B. Amhara regional state

Why the truth matters

103. Participants unanimously expressed that uncovering the truth was essential and a precondition to promote genuine healing and reconciliation. They stated that establishing the truth about what had happened was necessary to break the cycle of lies, false narratives, silencing, and denial, which continued to be the major trigger for social polarization, mistrust, and recurrent violent conflict affecting the region and the country. Regarding recent or ongoing conflicts in different parts of the country, most participants underscored the importance of a comprehensive truth, establishing a historical record, and breaking cycles of lies and half-truths.

104. Participants cited Amharic proverbs such as “እውነት ትመነምን ይሆናል እንጂ አትጠፋም” (“the truth may fade but not disappear”) and “አለባብሰው ቢያርሱ በአረም ይመለሱ” (“if not ploughed properly, one will come back for weeding”) to indicate that the truth about grave human rights violations cannot remain hidden and to highlight the negative impact of not addressing the root causes of violations.

105. Almost all participants indicated that there were multiple incidents of gross human rights violations and abuses in Ethiopia, the details of which were largely unknown to the public. They stated that there was a tendency to erroneously label an entire community or population

as the sole perpetrator of past abuses, adding that such an approach did not allow for justice and reconciliation to be achieved due to the failure to construct a common narrative based on the historical truth. In substantiating the need to establish the truth, a participant stated that “we must exhaustively uncover the truth whether it is good or evil, and properly document it, so that the next generation will not repeat the evil acts”.

How to establish the truth and which institution is best suited to lead such initiative

106. While participants’ views differed on how to undertake truth-seeking, they agreed that it needed to be carried out by an independent, impartial, and credible institution, comprised of high-level and independent experts, traditional and religious leaders, and other respected individuals from across Ethiopia. Some participants recommended existing and impartial institutions like the EHRC and other partners like OHCHR to lead the process, while others strongly opposed this idea stating the potential risk of eroding trust and credibility in the process because the EHRC is a state-established institution bringing with it a “perceived” partiality.

Participants willingness to openly give their statements

107. Most participants expressed their willingness to talk about the abuses that they themselves or others had experienced, but some hesitated due to fears of reprisals by the perpetrators, the community, or Government, underlining the need to provide adequate protection against possible reprisal.
108. Some participants cited the Biblical verse that states “the truth shall set you free” to emphasise the profound value of revealing the truth regardless of the risks involved. This was further illustrated by an Amharic saying “እጢናን ተናግሮ እመሸበት ማድረግ” which means that it is better to tell the truth and accept the consequences.

C. Dire Dawa city administration

Why the truth matters

109. All participants agreed on the importance of a genuine truth-seeking process to establish the truth about the harms including grave human rights violations and abuses they and their loved ones suffered. While participants recognized the immense contribution of this process to advance societal healing and reconciliation, traditional and religious leaders in particular placed special emphasis on its role towards non-repetition of violent conflicts.
110. While participants generally agreed on the need to establish the truth, a few participants were of the view that it could lead to grudges and be weaponized to inflame long-simmering grievances and animosity among communities. They advised for careful navigation of such issues, because asking victims to recount the violations they had experienced would be like

“picking at the scab of a healing wound” and, as such, it was preferable to disconnect from the past and move forward.

On how to establish the truth and which institution is best suited to lead such initiative

111. Many participants stressed that such efforts would be successful if the process was free from Government interference and inclusive of stakeholders including *Abba Gaddas*, *Ouggass*,¹¹⁰ religious leaders, community elders, women, victims/survivors, and the youth. They added that the institution would be mandated to lead the process should be credible and able to operate independently and impartially, to ensure the legitimacy of the process and to build public confidence. While some participants recommended for the establishment of a new institution, others, suggested existing institutions such as the EHRC, EIO, ENDC, or OHCHR to lead the process. Many participants also underscored the importance of actively engaging local community and religious mechanisms, CSOs, victims’ groups, and other key stakeholders in the process.

Participants willingness to give their statements

112. Most participants expressed their willingness to give statements about gross human rights violations if there were guarantees against possible retaliation. Some sceptical participants pointed to the risk of speaking the truth in a country where identity-based violations were prevalent, stressing that for them to feel safe to testify, the current political context needed to change, and underlying problems needed to be addressed.

D. Harari regional state

Why the truth matters

113. Participants believed that revealing the truth about issues like illegally confiscated land, properties, and crops, would resolve most issues in the region as it would discourage revenge and address animosity.

How to establish the truth and which institution is best suited to lead such initiative

114. Most participants suggested the establishment of an independent institution, but some suggested the involvement of the EHRC. Participants recommended the new institution to comprise of community representatives who are impartial, honest, trustworthy, and fear

¹¹⁰ Abba gada refers to the father of the gada who is elected for an eight-year cycle. While in power Abba gada is regarded as a leader in the Gadda system, which is a traditional system of governance and social organization found among the Oromo people of Ethiopia. It is a complex system that combines political, social, and military structures. It serves as a mechanism for maintaining social order, resolving disputes, and preserving cultural traditions. Ouggass are specific clan leaders in the Afar and Somali community.

God/Allah,¹¹¹ and others recommended for the institution to be led by independent actors outside of the Harari region and without involvement of local Government offices.

Participants' willingness to give their statements

115.Despite some reservations on whether their testimonies would have an impact, most participants indicated their willingness to give their statement so that what happened to them will not happen to others, citing an Amharic proverb “የበሰበሰ ዝናብ አይፈረም” which means that they have nothing left to fear. Religious and traditional leaders also confirmed that their community was ready to tell and accept the truth, adding that the truth was worth the risk to stop ongoing violence and prevent the recurrence of conflict. They added that addressing root causes was a crucial step in achieving genuine reconciliation.

116.Some participants noted that it was important to design a protection mechanism for those giving their statements, but the women’s group indicated that they were willing to accept risks associated with testifying.

E. Oromia regional state

Why the truth matters

117.Almost all participants appreciated the value of unearthing the truth, at an individual and societal level. At an individual level, disclosing the truth about gross human rights violations would provide a forum for victims to be heard and empowered, have their dignity restored, and receive public acknowledgment of their suffering. At a societal level, it may contribute to the advancement of societal healing, peace, and reconciliation. Some participants stated that non-recurrence of gross human rights violations could not be guaranteed if there was limited understanding of what, how, and why such violations occurred in the first place.

118.Describing how, in the Ethiopian context, different ethnic groups’ versions of the truth were often limited to their own victimization, one participant underlined that “in order to effectively address the root causes of crimes committed in the context of conflict, it is essential to engage in open public dialogue that would provide opportunities for us to establish the truth on historically contested issues and untangle networks of lies and manipulations”.

119.All participants pointed to the necessity of coming to terms with the past and addressing historical grievances in a legitimate and comprehensive manner. Nevertheless, because the truth-seeking process and addressing historical grievances may trigger anger and bitterness between communities, some participants recommended that the process be carried out carefully.

¹¹¹ Verbatim: “ሃቀኛ፣ እውነተኛ፣ ታማኝና ፈጣሪን ፈሪ”.

How to establish the truth and which institution is best suited to lead such initiative

120. Most participants noted that the process should be objective, inclusive (involve stakeholders such as victims, perpetrators, and religious and community leaders), transparent, comprehensive, unbiased, and free from any kind of political pressure. The sensitivities in the involvement of Government in the process in view of citizens' mistrust towards the Government and its institutions was recognised.
121. Most participants recommended that a new, fully independent, and impartial institution should be established to look into past abuses and uncover serious human rights violations. Despite some variations on their degree of involvement, the necessity of including impartial religious and traditional leaders such as Abba Gadda, Hadde Sinqqe,¹¹² and Shimagle¹¹³ was underscored, due to their moral standing in the community. A few preferred that the process be carried out by existing independent institutions such as the EHRC, the EIO or even by formal institutions set up to administer justice. All participants agreed on the need to provide space for civil society, trusted community leaders, victims' representatives, and academic institutions in the process.

Participants' willingness to openly give their statements

122. Most participants indicated their willingness to give their statements if they were protected against possible reprisal from those who were criminally implicated, notably individuals with political and economic power. Some participants indicated that they would not testify about massive violations due to fear of reprisal, with one participant stating: *"If there are people who are willing to testify, it is only because they have nothing to lose... terrible things have already happened to them, and they continue to suffer..."*

F. Somali regional state

Why the truth matters

123. Most participants agreed on the need to establish the truth about what happened and attribute responsibility for serious violations. They opined that the pursuit of the truth was an indispensable part of justice as justice could not be achieved without the truth. Participants stated that truth-seeking measures such as investigating historical grievances and past abuses, recognizing the suffering of victims, and identifying causes and patterns of violence, paved

¹¹² There is a Sinqqe institution that focuses on the issues of women specifically and is composed of Oromo women who identify themselves as Hadha Sinqques. See , Life and Peace Institute *Customary Institutions of Conflict Resolution and their Relevance to Dialogue and Reconciliation Efforts in Ethiopia*, Policy Oriented Study, August 2023, available at <https://www.undp.org/ethiopia/publications/policy-and-research-briefs-making-ethiopian-customary-institutions-relevant-national-dialogue-and-reconciliation-processes>, p. 46.

¹¹³ Refers to group of people, usually elders, appointed on ad hoc basis to help settle disputes, mostly arising between individuals or communities.

the way to achieving sustainable peace and reconciliation, and facilitate access to adequate reparations.

How to establish the truth and which institution is best suited to lead such initiative

124. Many participants noted that the process should be carried out with diligence and consideration as the outcome of a truth-seeking initiative may upset certain groups. Overall, participants advised that broad consultations with grassroots communities, victims, and CSOs should be held prior to the design and implementation of truth-seeking measures.

125. Regarding the type of institution to lead the process, it was suggested that it should be reputable, impartial, independent, and comprised of traditional/community elders, religious leaders, and scholars. There was significant apprehension about the potential involvement of Government-affiliated institutions due to doubts about their impartiality.

Participants' willingness to openly give their statements

126. Most participants expressed their willingness to openly give their statements if there was adequate protection against possible reprisal and if the process was led by a trustworthy institution involving traditional and religious leaders. However, a few participants expressed reluctance to participate indicating that their previous experience resulted in them, or their family members being attacked for telling the truth.¹¹⁴

G. Tigray regional state

Why the truth matters

127. Overall, participants in Tigray agreed on the need to reveal the truth about gross human rights violations and abuses that have occurred, adding that effective truth-seeking measures could serve as a foundation for the realisation of criminal accountability, reparation, and reconciliation. They also indicated that uncovering the truth was a prerequisite for the non-recurrence of similar violations, and to chart a common path forward towards long-term peace and stability. They noted that any efforts towards pursuing the truth about conflict-related human rights violations and abuses must take due cognizance of the unique circumstances in the region and respond to the needs and priorities of those who were disproportionately affected by the conflict.

How to establish the truth and which institution is best suited to lead such an initiative

128. Participants unequivocally stated that the process needs to be genuine, inclusive, and participatory, emphasizing the need for a thorough and timely investigation of the truth by a credible, independent, and impartial institution established at the international/ UN level. They underscored the urgency of the initiative to avoid loss of potential evidence that could

¹¹⁴ For example, according to one of the participants, his father was killed by the police because of the information that he (the deceased) shared with staff of the EHRC, before the EHRC's institutional reform in 2018/19.

prove the commission of serious crimes in different parts of the Tigray region. There was no consensus on who should be involved in the process. While some participants proposed the inclusion of well-known community and religious leaders, CSOs, and members of academia, others preferred for the process not to be influenced by these actors, pointing to the prevalent lack of trust and credibility among the Tigrayan population towards these actors.

129. Some participants stated that the Government and most national and continental institutions were party to the Tigray conflict or complicit in the perpetuation of serious crimes, so their proactive involvement in the process would raise doubts on the credibility of the results. They therefore expressed concerns about the possible involvement of state-affiliated institutions such as the EHRC and continental institutions like the AU, which were broadly perceived to be partial or biased by the Tigrayan population.

Participants willingness to openly give their statements

130. All participants expressed willingness to give their statements if: the process was not superficial; it was led by an institution established at the international level; diversity in terms of age, gender, religion, educational, or other background was ensured; if there was a secure environment for those willing to give statements; and if justice would be dispensed after the full disclosure of facts about grave violations committed in Tigray. Participants acknowledged the risk of reprisal for testifying, but indicated their determination to make their truth known. They however underscored the need to take measures to protect their family members who lived in the disputed areas of the Tigray region.

III. Reparations

131. Reparations include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.¹¹⁵ Restitution entails restoring victims to their original status, including by facilitating the safe and voluntary return and reintegration of IDPs.¹¹⁶ Compensation focuses on economically assessable damage that is appropriate and proportional to the gravity of the harm suffered and the circumstances of victims¹¹⁷ including for physical harm, material or damage, moral damage or lost opportunities such as employment and education.¹¹⁸ Rehabilitation includes medical, psychological, and legal and/or social services to victims. Measures to end continued violations, such as public disclosure of truth, public apology, and an accurate account of violations are also necessary for effective reparation.¹¹⁹ Guarantees of non-repetition include measures aimed at promoting the observance of laws and international standards and reviewing and reforming laws contributing to or allowing gross violations of

¹¹⁵ UNGA, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 15 December 2005, para. 18.

¹¹⁶ Ibid., para. 19.

¹¹⁷ Ibid., para. 20.

¹¹⁸ Ibid.

¹¹⁹ Ibid., para. 65; AU, African Union Transitional Justice Policy.

IHRL and serious violations of IHL.¹²⁰ Satisfaction includes measures aimed at the cessation of continued violations, public disclosure of truth, public apology, and an accurate account of violations that occurred.¹²¹

132. The success of reparation efforts depends on benchmarks and standards such as comprehensive and holistic policy frame works, reparation programs that promote equality and participation of victims, and applying a holistic approach to harm inflicted by sexual and gender-based violence with proper oversight.¹²²

A. Afar regional state

Importance of reparations

133. Participants emphasized the widespread and diverse nature of the harm they and their community had suffered due to the conflict with the Tigray region, and the Issa clan of the Somali region. They explained the loss of lives, physical and mental injuries, rape and stigmatization, widows forced to raise their children alone after losing their husbands, damage to essential infrastructure and social services, and looting and destruction of property. In particular, participants living in IDP sites in Afar indicated that they lived in poor conditions exposed to the sun, rain, wind, and contagious diseases without basic necessities like shelter, sanitation, water, and food.

134. Many participants agreed on the need to provide adequate reparation for the damage suffered, but pointed to the difficulty of fully redressing the damage, as stated by one victim “it is impossible to replace everything that we lost and reinstate us to a position we were in before the conflict.” Another participant referred to an Afari proverb reflecting a similar view: “missing teeth cannot grow back as they were”.

Satisfaction

135. Most participants stated that they would be satisfied and able to move forward if there were other measures to atone for the harm suffered such as, accountability for violations, adequate reparations, and confessions from perpetrators and acknowledgment of the harm caused before they can accept a genuine apology. All participants stressed the need to first assess and determine the magnitude and extent of the harm, loss, and damage. On who should apologise, most participants stated that the TPLF and Issa were the parties who should apologise.

Short-term v. long-term needs

¹²⁰ UNGA, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Principle 23.

¹²¹ Ibid, Principle 22.

¹²² AU, “African Union Transitional Justice Policy”, para. 66.

136. Guarantee of peace and security, an end to the conflict, fear, and violence was identified as the first priority. Some participants emphasised that the Afari people of Afar had lost not just their loved ones and property, but also their peace, safety, and security. They stated that, considering the active¹²³ or possibly new conflict, they and their loved ones lived in fear for their safety and lives, hence ending conflict and ensuring security should be the top priority. A second urgent priority for the participants was the provision of humanitarian assistance, psychosocial support for members of the community affected by the conflict, the rehabilitation of conflict-affected areas, and reconstruction of public service facilities such as education and healthcare facilities.

137. Several participants recommended for the Government to go to affected communities and consult them about the extent, nature, and gravity of the damage suffered, acknowledge their losses, and identify their needs and priorities. A thorough assessment would help to sequence and prioritise measures and to tailor interventions to the specific needs of victims because some people lost homes, others suffered physical injuries and need medical and psychosocial assistance, and others needed monetary compensation because they had lost their livelihoods.

B. Amhara regional state

Importance of reparations

138. Many participants displaced from Oromia, Tigray, and parts of Amhara region explained how they had survived unspeakable violence and massacres, including mass killings of civilians (women and children included); SGBV including gang rape by armed groups; bodily injuries, and psychological trauma. They had witnessed the separation of families; destruction of homes, farms, businesses, and public facilities (especially schools and hospitals); looting; killings of livestock; and displacement of millions of people. Repeated incidents of violence against Amhara civilians in different parts of the country were pointed out as a cause of multifaceted and serious human rights violations, also resulting in a humanitarian crisis. Some participants claimed that although most of the violence was committed by the TPLF, “OLA Shene”,¹²⁴ and other armed groups, Government forces also inflicted or supported the violence. They added that the Government should take responsibility and recognize the harm suffered by victims; for perpetrating hatred, false narrative, ethnic division, and for the systemic corruption; and for failing to address root causes of violence.

139. All participants agreed that reparations were critical for the harm suffered, whether through compensation, in-kind support, or both. Reparations were needed to improve their economic

¹²³ OHCHR-EHRC’s consultations in the Afar region preceded the signing of the CoHA.

¹²⁴ “Shene” (also referred to as the “Oromo Liberation Army,” OLA), is not officially registered but is believed to be the armed wing of the Oromo Liberation Front (OLF), which was established in April 2018, following a disagreement with the OLF, after the OLF entered a peace agreement with the Federal Government of Ethiopia. It operates in West Oromia and other parts of the country.

situation, for rehabilitation and reintegration, to obtain satisfaction, and to overcome the legacies of conflict. The immediate need of humanitarian assistance to IDPs and the need to restore peace and security for those living in conflict areas to ensure their survival was emphasised.

140. Due to the massive damage and harm caused by the conflict, most participants stated that it would be difficult to fully restore most victims to their former situations and/or to fully compensate them for all the harm suffered. Thus, participants indicated that they did not expect reparative measures commensurate to all the damages caused, but rather a reasonable measure of redress to enable them to lead their lives. One participant substantiated this view by stating that “ከሳ በልቶ የከበረ አጉዋት ጠጥቶ የሰከረ የለም” (“there is no one who has become rich from compensation nor satisfied by drinking skimmed milk”).

Satisfaction

141. Overall, participants stated that accountability, truth-seeking measures, apologies, and reparations were necessary for them to feel satisfied. They indicated that perpetrators should be identified and held accountable, and the rule of law must be upheld to address impunity and to ensure non-recurrence of similar violations. Truth-seeking measures about the cause, extent, pattern, and dimension of the harm suffered, and a genuine and public apology by perpetrators to victims about their wrongdoings, was necessary for satisfaction, and to move forward. Most participants indicated their willingness to accept genuine apologies, being an important religious and cultural value of the Amhara community in settling disputes and promoting reconciliation.
142. Many participants stressed that once the harm and damage suffered were identified properly, reparations were necessary for them to feel satisfied and move forward. They added that wrongdoers must earn forgiveness through efforts such as compensation of victims and their families, in order to make reconciliation complete and meaningful.

Short-term v. long-term needs

143. Overall, participants reiterated their urgent needs such as restoration of peace and security, ability to return safely to their homes, and provision of basic items or economic support, before discussions on reconciliation and moving forward. Food, water, adequate shelter, health care, counselling, and restoration of basic services and assistance were identified as urgent. A participant stated that “discussing reparations and reconciliation in the context of active conflict or impending violence and without addressing these urgent needs of victims, is just lip service, like rubbing salt on their wounds, and a mockery of their ordeals”. Several participants stressed that they wished to earn a living, to plough, and for the Government to protect them from further killings and displacements.

144.IDPs in particular stressed their immediate need for food, shelter, and clothing, indicating that they currently survived by begging from their host community. They added that the Government should work towards durable solutions, either through return, local integration, or resettlement elsewhere. One participant emphasised that “even being allowed/assisted to work and earn a living instead of relying on handouts is a form of psychological rehabilitation”.

C. Dire Dawa city administration

145.Most participants in Dire Dawa expressed frustration over patterns of impunity, which they said had significantly diminished their trust in the Government to dispense justice, achieve reconciliation, and ensure sustainable peace and security. They stated that security issues and ethnic polarization had had a severe impact on communities, which had resulted in ethnic Oromos and Amharas living in separate quarters of the city with risks of attack if one crossed to the other side. One participant stated: *“We don’t even go there to access urgent medical treatment, because there is no guarantee of security to move freely”*. Several participants repeatedly referred to the 2019/2020 ethnic-based violence in Dire Dawa where most participants had lost or witnessed the loss of a loved one, and suffered physical harm, property destruction, looting and numerous other violations.¹²⁵

Importance of reparations

146.Most participants indicated that although there was nothing that could bring back the lives lost or the property which they had worked hard to acquire their whole lives, they believed reparations were necessary. They repeatedly mentioned compensation as their preferred form of reparation, indicating that it should be proportional to the harm suffered, including for physical injuries or property damage. A participant who sustained physical injury in an ethnic-based violence explained he would be satisfied if he was reimbursed for the 60,000 ETB (approx. USD 1,070) he spent on medical expenses. Some participants stated that while the Government bore the primary responsibility to pay compensation for violations, individual perpetrators should also pay compensation for the harm they caused.

147.Restoration of destroyed or looted property including residential houses, businesses, and religious institutions, was identified as necessary. Restitution and provision of a minimum capital to restart businesses either in the form of loans or compensation was requested. Older women explained the difficulties faced by older people because their children who used to support them were either killed or were unable to work due to physical or mental harm. They underscored that livelihood and income generating opportunities which suit older persons and PWDs were crucial for their survival.

¹²⁵ Dire Dawa has experienced instances of ethnic-based violence, particularly in 2020 involving the Amhara, Oromo, and Somali ethnic groups. These clashes resulted in severe consequences, including loss of life, bodily injuries, and the destruction of property.

Satisfaction

148. Many participants expressed their willingness to accept a sincere apology, if it was supplemented with proportional remedial measures, efforts of peacebuilding, and guarantees of non-recurrence. They stated that a genuine apology required perpetrators to confess the harm caused to victims, and the Government to acknowledge its role in causing violence and enabling perpetrators by failing to ensure accountability for gross human rights violations. Several participants stated that reform of the current system of ethnic governance, including amendment of “divisive” constitutional provisions that enabled violations with ethnic undertones, was important to address frequent incidents of ethnic-based violence.

Short-term v. long-term needs

149. Most participants identified humanitarian assistance, including food, shelter, and health care for IDPs, and the provision of basic needs for victims who lost their livelihoods, as urgent. An IDP representative stated that “the most painful thing beyond the harm suffered is the fact that humanitarian assistance which came for victims was distributed to groups and persons who caused the harm in one way or another”. Upholding the rule of law and respecting fair trial and due process rights was raised as an urgent need, due to the continuing detention of individuals without charge following their mass arrest during violence of 2019 (2012 E.C) in Dire Dawa. Durable solutions such as return of IDPs to their homes with guarantees of security, relocation elsewhere, or successful integration with the host community was discussed as a long-term need.

D. Harari regional state

150. Participants indicated that they had experienced and continued to experience numerous human rights violations, including ethnic-based violence, arbitrary arrests, killings, destruction of property, physical and psychological harm, looting, and expropriation without due process, also noting concerns with the poor performance of government offices. They also highlighted violations related to the Timket celebrations of 2019¹²⁶ and the recurring violations committed by youth vigilante group commonly referred to as Qeerroo¹²⁷. They stated that the Harari community in particular were affected by the intractable land governance issues which had also violated their cultural rights, due to illegal settlements in culturally protected areas. They added that widespread land acquisition by ethnic Oromos resulted in the displacement of Harari and other ethnic minority landowners who depended on farming for their livelihood. Some participants opined that Government officials were primarily responsible for these violations, because the executive branch at regional level did not

¹²⁶ Violence erupted in Harar during the Timket religious festival in 2019 which according to participants resulted in their property getting burnt, destroyed, or looted, including their businesses and vehicles. Participants added that perpetrators had machetes, and that the police did nothing to stop the attacks.

¹²⁷ Youth group from Oromia region which played a key role in the 2018 political transition in Ethiopia.

cooperate to enforce judgments in favour of litigants who had successfully invoked their land rights in court.

Importance of reparations

151. While most participants agreed on the need for full reparations, proportional and meaningful compensation for material and moral damages was the most frequently mentioned form of reparation. Community elders repeatedly referred to the TMCR methods of determining monetary or in-kind compensation, based on the community's preference which was mostly cattle/oxen in rural areas and monetary in urban areas. Participants viewed compensation awarded by courts as minimal to cover the actual damage caused, which some of them deemed as an insult to victims since it would downplay their suffering. The importance of restitution was also raised, particularly to restore the damaged hotels, businesses, residential houses, and public facilities like schools and hospitals, as well as resumption of utilities like electricity and water.

Satisfaction

152. Most participants stated that they would feel satisfied if there was a genuine apology; accountability for violations by state and non-state actors; reparations including restoration of livelihoods and rehabilitation of victims who experienced physical and psychological harm; support to children who experienced or witnessed violence including psychosocial and education support; sufficient guarantee of land ownership rights; protection of the Harari identity; and guarantees of non-recurrence by addressing ethnic-centred politics, and legal and structural reforms to address root causes of violence.

153. Some participants stated that a clear and sincere apology with admission of guilt, and a plea for forgiveness was needed because it was a public recognition of the suffering of victims. They added that, traditionally in Harari, compensation was first offered as acknowledgement of wrongdoings and sincerity of the apology, which was why some participants believed that apology without compensation was unacceptable.

Short-term v. long-term needs

154. Most participants indicated that their immediate needs included timely, adequate, and fair humanitarian support to IDPs, and resumption of basic services such as water and electricity in areas which were affected by violent incidents. They stated that this should be followed by the provision of minimum capital for victims to rebuild their lives and livelihoods so that they could provide for their families. IDPs requested durable solutions and return to their original place of residence as part of a comprehensive restitution scheme. Long-term initiatives such as durable solutions were indicated as necessary. Finally, many participants emphasised the need to take concrete action to guarantee non-recurrence of similar violations, adding that ongoing violations against minorities in the region should end.

E. Oromia regional state

155. Participants stated that various types of human rights violations had occurred and continued to occur in Oromia directly and indirectly affecting communities, including killings of civilians; physical injuries; loss of livelihoods; large-scale and targeted destruction of businesses, private properties, and public infrastructure; and displacements. Violence by armed groups adversely affected the peace and security of people living in the region. Furthermore, human rights violations committed by the state apparatus and the inability of security forces to prevent human rights violations and abuses, particularly those committed by third parties, was a major source of grievance for victims.

Importance of reparations

156. Most participants indicated that full and comprehensive reparations was necessary in view of the harm suffered. Compensation to address physical and moral damages, assistance for their immediate needs, apology, ending ongoing violations and ensuring non-recurrence, were the major forms of reparations suggested by participants. Victims who owned businesses described the importance of financial support to restart their businesses and tax relief considerations as unique forms of compensation that met their specific needs.

157. Some participants noted a few instances where financial compensation was attempted for loss of property following violent incidents in 2020,¹²⁸ but criticised the process for not being transparent and impartial. They added that reparation efforts should be designed to accommodate the peculiar needs of victims such as rehabilitative and psychosocial support for children, and providing health services to people who suffered physical injury. Particularly widows and other women who had lost male members of their family who were the breadwinners identified livelihood support as a key form of reparation.

Satisfaction

158. Apology was identified as a vital component of reparation and recognized as a shared cultural value of Ethiopians, which can heal wounds and support attempts to move forward. It was noted that the process of perpetrators admitting their mistakes and recognising the damage and suffering inflicted by their actions could contribute significantly to victims' sense of satisfaction. However, many participants stated that an apology by state or non-state actors would not bring satisfaction of itself, unless it was backed by additional measures such as guaranteeing peace and security; reparation; truth-telling; accountability for serious crimes; acknowledgment; non-recurrence of violations; and actively improving the human rights

¹²⁸ Violence that resulted in loss of life and property occurred following the killing of a famous musician Hachalu Hundessa in the Oromia region in 2020. For more information EHRC's report <https://ehrc.org/violence-human-rights-violations-following-musician-hachalu-hundessas-assassination/> and OHCHR-EARO's press briefing note <https://www.ohchr.org/en/press-briefing-notes/2020/07/press-briefing-note-ethiopia>.

situation. Some participants stated that security forces should genuinely apologise for their roles in perpetrating violations and failing to protect victims from violence.

Short-term v. long-term needs

159. Immediate measures such as providing IDPs with humanitarian support were considered necessary by participants. Some stressed that the State should primarily work to prevent and refrain from committing human rights violations and guarantee peace and security in the region. They stated that prevention of human rights violations and guarantees of peace and security was necessary for other forms of reparation to bear fruit. They added that restitution measures such as returning victims to their homes, rebuilding their homes and businesses, and ensuring their livelihoods was crucial.

160. There was an overall scepticism among participants about reparations, due to the immense suffering and difficulties victims continued to face, and because past reconciliation and compensation efforts for violations and abuses committed by and during the current regime had been nominal, frequently exclusionary of the actual victims, and lacked transparency.

F. Somali regional state

161. Participants stated that state actors had carried out arbitrary arrests, extrajudicial killings, enforced disappearances, and torture, which had resulted in permanent bodily injuries and psychological trauma. Some participants stated that they were tortured by security officials in police stations, prisons, and unofficial detention centres on suspicion that they have political affiliation with the Ogaden National Liberation Front (ONLF). Some women who claimed that they were tortured while pregnant, causing miscarriages. Additionally, longstanding and recurrent conflicts with neighbouring clans in Afar and Oromia regions over disputed border and natural resources had caused serious human rights violations, including deaths and displacement. Participants stated that they lived in constant fear because the Government had not made efforts to address the root causes of conflict. Systemic discrimination against ethnic or religious minorities in the region, and the harm caused due to religious conflicts was also mentioned by some participants as a serious issue.

Importance of reparations

162. Some participants indicated that they believed in the importance of meaningful efforts to redress victims for the harm suffered, although they stated that no amount of compensation would address their suffering.

Satisfaction

163. Many participants stated that they would feel satisfied if there was truth-telling, accountability for gross human rights violations, admission of guilt and a genuine apology, compensation (monetary or in-kind), return of displaced persons to their homes, and guarantees of non-recurrence. Consulted community elders gave an example of how traditionally the Somali

community provided camels (or its equivalent market value) as compensation. Participants believed that it was the duty of the Government to provide compensation as most of the violations were committed by state actors.

Short-term v. long-term needs

164. Participants indicated that the short-term need of their community was humanitarian assistance for IDPs, particularly in Qoloji IDP site. An internally displaced woman expressed that she urgently needed humanitarian support such as shelter, non-food items, and health services. She added that IDPs required durable solutions to end their dependence on humanitarian assistance. In this regard, several participants stated that measures to facilitate IDPs' return to their homes or reintegration with the community, and the establishment of livelihoods were necessary.

G. Tigray regional state

Importance of reparations

165. Most participants explained that they had experienced gross human rights violations during the conflict in the region, and that some human rights concerns continued even after the CoHA. The killing of civilians; sexual and gender-based violence (SGBV); displacement; destruction of civilian property and infrastructure including schools and hospitals; the disruption of essential services; and provision of humanitarian assistance were highlighted as some of the violations in the region. Participants noted the complex implications of the two-year-long conflict on human rights in the region, which they believed necessitated a unique approach.

166. Overall, participants noted that peace was a prerequisite for all other efforts and indicated their satisfaction about the CoHA. However, they stated that the CoHA was only a first step, and more issues needed to be addressed. On reparations, participants stressed that they should be assessed through the lens of the unique challenges faced by their community.

167. Most participants explained that thousands of people displaced from different parts of Tigray suffered in IDP sites due to the continued presence of Eritrean forces and the Fano, even after the CoHA. They stated that before discussing other forms of restitution, it was a priority for IDPs to return to their places of origin, so that displaced farmers could farm before the next harvest season. Many participants requested measures to halt such ongoing violations and facilitate the safe and voluntary return and reintegration of IDPs to their homes with proper safeguard mechanisms in place. The urgency of adequate humanitarian assistance for IDPs was also emphasized as an immediate need.

168. Regarding compensation, participants indicated that it was crucial to study the harm suffered and provide monetary compensation for those who lost loved ones, who suffered bodily injuries, and lost property during the conflict. Some participants stated that the compensation should not be just for material or physical loss but for psychological suffering as well.

Satisfaction

169. Referring to what they thought were false accounts of what had transpired in the region during the conflict, many participants emphasized that TJ would be successful only if there was a true account was disclosed. Establishing the truth about the gravity of the harm suffered. This was necessary for satisfaction, for sustainable peace, and to ensure non-recurrence of violence. Many participants stated that an apology was vital for their satisfaction and to move forward, because it was a recognition of the harm caused and the suffering of the people. However, some participants noted that an apology should be supplemented with accountability measures particularly for war crimes and SGBV, underscoring that minimizing efforts towards accountability under the pretext of apologizing and moving forward to bring peace would not avert, but rather delay another round of conflict and unrest.

Short-term v. long-term needs

170. Participants identified the following top priorities: restoration of law and order in the region to guarantee sustainable peace; provision of adequate humanitarian assistance because the conflict increased aid dependency as people lost their livelihoods; and payment of two-year overdue salaries of civil servants. Due to the destruction of infrastructure and disruption of essential services, participants stated that was is essential to reopen businesses, schools, and hospitals as well as restore utilities like electricity, internet and water supplies across the region.

171. Many participants identified rehabilitation as an important long-term reparation effort, including the need for medical and psychological assistance, particularly psychosocial support to heal trauma. Women participants stressed the importance of community awareness-raising to tackle stigma against victims of SGBV, as many victims lived in isolation and fear. They also cited the need to accelerate family reunification efforts by humanitarian partners.

172. Participants also stressed the need for dialogue in the country to ensure non-recurrence of conflict and to guarantee their safety and security. They added that other measures are also important to ensure non-recurrence, such as accountability, truth-telling, apology, memorialization, and concrete response to the needs of the people of Tigray.

IV. Guarantees of non-recurrence, including institutional reforms and non-recurrence

173. Institutional reform including reform of state institutions, disbandment of parastatal armed forces, demobilisation and social reintegration of children, and reform of laws and institutions which worsen impunity contribute to non-recurrence of violations. Preventing violations in the future includes setting favourable conditions for the respect and protection of human rights and the rule of law, which can only be achieved through reformed institutions and laws.

A. Afar regional state

174. To ensure non-recurrence of violations various suggestions were put forward including constructive dialogue and mending relationships between communities; awareness raising programmes on the impact of conflict on communities and society as a whole (to be spearheaded by elders and traditional leaders as well as families); and the meaningful involvement of women in reconciliation and other decision-making processes. Most participants emphasized the necessity of institutional reforms in order to prevent future violations and fostering long-term peace. The rule of law was regarded as critical in this process, because it provided a framework for accountability and guarantees that violations are met with appropriate punishment. The participants proposed that politicians refrained from releasing polarizing propaganda, as it contributed to exacerbating divisions and impeded restoration of trust.

B. Amhara regional state

175. Many participants proposed legal and institutional reforms to ensure non-recurrence of similar violations and conflict. Review of domestic laws was recommended, particularly of constitutional provisions which established ethnic-based federalism as they were perceived to foster divisions or discrimination between or among communities. Other recommendations to achieve non-recurrence of violations included protection of human rights as enshrined in legal instruments; reform and strengthening of law enforcement organs which were seen by the public as unresponsive, incompetent or complicit in violations; upholding the rule of law; and the establishment of community-based early warning mechanisms to forewarn communities of risks and prevent human rights violations, and of community-based dialogue and reconciliation in the Amhara region, among regions, and nationwide.

C. Dire Dawa city administration

176. Participants identified constitutional review of provisions perceived to trigger ethnic polarisation, tensions and violence, as one means of ensuring non-recurrence of violations. They specifically mentioned the informal ethnic-based quota system of assuming political power and obtaining employment opportunities at public institutions in Dire Dawa as one example of a situation caused by such constitutional arrangements. Taking effective steps towards accountability for past violations was mentioned as a priority to prevent further violence – as participants alleged the direct involvement of lower-level Government officials in the violence. Several participants proposed security sector reform, including of the police force, which was deemed incapable of fulfilling its mandate. Other suggested measures to ensure non-recurrence included addressing divisive ethnic-based narratives and religious incitement, and peace education targeting the wider public.

D. Harari regional state

177. Participants opined that non-recurrence of violations could be achieved through legal reforms, especially the review of the Constitution to ensure that principles of unity, diversity, and equality were articulated and fully implemented without discrimination. Moreover, justice sector reform was needed to ensure the prompt, impartial and non-discriminatory delivery of justice for victims and enforcement of court decisions. Participants also suggested enhancing economic opportunities - through for example job creation for the youth – in order to reduce tensions and abuses. Additional recommendations included strengthening community engagement between Harari and Oromo communities to foster collaboration and mutual understanding; addressing root causes of problems; and reform of the federal and Harari regional Government.
178. Women participants recommended the following to ensure non-recurrence: exhibiting positive neighbourly values in communities; respecting other groups' religious practices and traditions; religious leaders playing the role of educating their congregation on respecting others; condemnation of ethnic and religious-based attacks and discrimination by elders and religious leaders; supporting peace-building initiatives and encouraging those in the community who already play this role; eradicating ethnic-based violations or privileges and teaching love; truth-telling; and ensuring accountability.

E. Oromia regional state

179. Reforms were deemed imperative by most participants to re-establish security and the rule of law across the region. They demanded reforms to hold perpetrators of human rights violations accountable, including members of the security forces. They opined that laws should be reviewed or – when necessary – enacted to ensure all Ethiopians enjoyed equal recognition and protection regardless of their ethnicity, language, or religion. In the same vein, laws should be enforced which was often not the case. Some participants suggested that Government institutions and public servants should be vetted and reformed to be impartial, committed and capable to deliver their mandate. They opined that the Government as well as the population should work on the prevention of hate speech and disinformation, which were considered as major factors in inciting violence that resulted in killings and destruction of properties in Oromia region. Other participants recommended enhancing dialogue at two levels: the promotion of community dialogues by community and religious leaders; and dialogue between the Government and opposition groups operating in Oromia to find a peaceful resolution to hostilities. They also stressed the need for initiatives that promote good values within the home, by parents being role models for their children.

F. Somali regional state

180. Participants suggested measures to prevent further violations in order of their priority such as upholding the rule of law and maintaining peace and security including by increasing

resources (both financial and human) in these areas; political dialogue to provide for a swift resolution of border disputes between Afar and Somali, and Oromia and Somali regional states; ensuring accountability for past violations in the region by proactively conducting investigations and reforming institutions such as courts and prisons; educational initiatives to teach the public about peace, forgiveness, conflict-resolution and the rights/duties of citizens; and facilitating dialogue among community members including victims, women, youth, PWDs, and traditional leaders to discuss the root causes of violence and prevent further harm.

G. Tigray regional state

181. Many participants stated that the ultimate goal of TJ should be non-recurrence. Some participants suggested that the reconciliation process should include measures to ensure non-recurrence, adding that acts that could lead to conflict by any side should have serious consequences, even punishment, that would be publicised to deter repetition. Other recommendations by participants to ensure non-recurrence included discussion among elites to resolve their problems around a table; strengthening of people-to-people relations and nationwide dialogue and discussions to resolve long-standing contentious narratives; and reforming media laws and policies to ensure professionalism, address dis- or misinformation and hate speech, and prevent violence.

182. Some participants also recommended returning IDPs to their homes; withdrawal of Amhara and Eritrean forces from Tigray; consulting the people of Tigray on initiatives to resolve conflict and other issues; full implementation of the CoHA by the signatories; ensuring respect for human rights; reconciling “within ourselves and with other communities”; and ensuring the independence of institutions and establishing trust.

Chapter IV

Community-based traditional and religious practices

183. Ethiopia is a culturally diverse and heterogeneous country with over 80 ethno-linguistic groups with most groups having their own dispute resolution methods among themselves and outside their groups.¹²⁹ Customary laws and mechanisms have been the major means of resolving disputes and promoting reconciliation throughout the country, particularly in remote or rural areas.¹³⁰ These mechanisms have prominent roles in the lives of individuals and communities and often promote TJ related values and approaches such as reconciliation,

¹²⁹ Central Statistical Agency *Summary and statistical report of the 2007 population and housing census (2008)*, p. 16.

¹³⁰ Ayalew Getachew Assefa, *Customary Laws in Ethiopia: A Need for Better Recognition? – A Women’s Rights Perspective*, available at https://menneskeret.dk/files/media/dokumenter/udgivelser/ayalew_report_ok.pdf, pp. 8-9. See also, Life and Peace Institute *Customary Institutions of Conflict Resolution and their Relevance to Dialogue and Reconciliation Efforts in Ethiopia*, Policy Oriented Study, August 2023, available at <https://www.undp.org/ethiopia/publications/policy-and-research-briefs-making-ethiopian-customary-institutions-relevant-national-dialogue-and-reconciliation-processes>, pp. 8-9.

repentance, truth-seeking, non-recurrence, and accountability.¹³¹ The Constitution recognizes the adjudication of personal and family disputes in accordance with religious or customary law.¹³²

184. As observed during the consultations, despite some differences, participants in all regional states noted several positive features common to most TMCR¹³³ in Ethiopia's context. For example, they operate within the confines of the immediate vicinity, establishing physical proximity with the parties involved in the dispute as well as the local community. Thus, they provide a relatively speedy services at no or nominal cost and no lawyer's fees.

185. However, limitations have also been observed in all regions. The compliance of traditional mechanisms with fundamental human rights principles was found to be weak. At times, for example, flogging is imposed as a form of punishment in some regions which is also a key area for concern. Concerns related to gender equality include the exclusion of women from participation in the proceedings of the traditional mechanisms, unequal treatment with men with regard to compensation, and their limited right to participate in the dispute resolution and critical decision-making processes.

186. This section outlines the views and preferences highlighted by participants following a discussion on available TMCR in their respective areas, religion, and traditions. See the various available TMCR and their procedures as highlighted by participants in the annex III.

A. Afar regional state

187. Most participants opined that TMCR enjoyed wide acceptance, credibility, and legitimacy among the Afar people, as it helped to resolve disputes in a speedy, cost-effective, and sustainable manner. These mechanisms were perceived to be well equipped to address the root causes of a dispute by uncovering the truth, hearing the views of all interested parties and the community, mending the relationship, and bringing genuine reconciliation and lasting peace.

188. However, participants raised some limitations of TMCR, such as, weak (limited) enforceability of decisions with political implications, and discrimination on the basis of gender and other grounds, such as the exclusion of women from participating in the proceedings of TMCR. Participants reflected on a few examples when TMCR did not succeed, including the attempt by Afar clan leaders who travelled to Tigray region at the beginning of the conflict to seek to address root causes and peacefully resolve the conflict. As such, some

¹³¹ Ibid.

¹³² Article 34 (5). Also, Article 91 (1) states "Government shall have the duty to support, on the basis of equality, the growth and enrichment of cultures and traditions that are compatible with fundamental rights, human dignity, democratic norms and ideals, and the provisions of the Constitution".

¹³³ Making Peace in Ethiopia, Life & Peace Institute; Peace and Development Center, 2016

participants viewed the role of TMCR as complementary to the formal justice system – which they believe was best placed to ensure accountability for large-scale and serious crimes.

B. Amhara regional state

189. Most participants indicated their preference for the TMCR over the formal justice system as the traditional mechanisms were affordable, less subject to corruption, speedy, and offered win-win results for parties as opposed to a “winner takes all” approach. Most importantly, TMCR unravelled the whole truth and helped to restore harmony, promoting the healing of wounds, and reconciliation. Participants however stated that when serious and complex human rights violations were committed, such matters should be dealt with by the regular justice system, not by TMCR. Some participants indicated that most of the current conflicts in Ethiopia were grave and politically motivated, raising concerns that the TMCR may not be fit to deal with these kinds of issues.
190. To improve the efficiency of traditional mechanisms, many participants recommended that the Government should give recognition and provide all the required support, including to ensure the depoliticization of such mechanisms, and including TMCR values and processes in the education curriculum.

C. Dire Dawa city administration

191. Most participants stated that TMCR were useful and preferable compared to the formal justice system in addressing civil, social, and certain criminal disputes involving community members. The advantages of TMCR included their efficacy and priority focus on restoring or fostering communal trust, harmonious and peaceful co-existence, fairness, and affordability. In particular, the practice of “oath making” was regarded as conducive to establishing an accurate account of facts and in seeking truth. As such, participants opined that TMCR could be a useful alternative to the formal justice system which some participants viewed as inflexible, lacking public trust, expensive and slow. They added that the winner-loser result of the formal justice system made it difficult to restore lasting peace between conflicting parties, potentially leaving them filled with hatred and anger. Concerns were also raised over the alleged partiality of the formal justice system due to the de facto political appointment model of “40- 40- 20” quota system in Dire Dawa, applied by the incumbent party.
192. However, most participants were doubtful of the efficacy and/or relevance of TMCR to address past gross human rights violations in Dire Dawa. Participants stated that the traditional and religious mechanisms were most effective in dealing with different types of disputes over water and grazing land. This was due to, for example, the lack of material jurisdiction and institutional capacity, or influence of Government actors (accused by several participants for their direct or indirect involvement in violations), and the alleged political affiliation of some community or religious leaders. Additional concerns about TMCR raised by participants related to their perceived discriminatory practices and lack of inclusivity, especially in relation

to the youth, women, and PWDs who rarely participate in conflict resolution processes. They therefore noted the need for serious adjustments. Other participants remained optimistic that the inherent strength of TMCR could be utilized to address past gross violations if there was a genuine political will to do so, accompanied by concrete measures.

D. Harari regional state

193. Victims emphasized that, depending on the level of harm, they preferred the traditional processes which were considered more trustworthy and usually effective. They prevented recurrence and helped communities to move forward. Participants stated that despite some cases of corruption, local elders were generally trustworthy and reliable, particularly in comparison to the formal justice mechanisms. Participants indicated their shared belief that state officials did not listen to the community but to the orders from higher authorities in order to maintain their positions, which impacted on the delivery of justice.
194. Participants opined that unlike courts, which decided in favour of one party creating a winner-loser situation, TMCR offered amicable dispute resolution based on a compromise that usually benefitted everyone involved. Participants claimed that TMCR were comprehensible and accessible to ordinary people, while presenting cases before courts required technical knowledge of the legal system and its procedures. TMCR helped to mend relations in the community or between disputing parties making reconciliation through such processes more sustainable. For this reason, formal processes like courts and family council sometimes referred disputes to be settled through *Shimglina*.
195. Even though TMCR in Harari region were proven to be effective in settling different kinds of conflicts, a few participants mentioned instances where such mechanisms were not able to resolve disputes between different ethnic groups. The Government also stepped in to resolve disputes when their nature was heavily political and when religious or community elders could not resolve them. Some conflicts between clans may also be beyond the capacity of the elders to resolve, and in such cases involvement of the Government was necessary to manage the issue.
196. Participants explained that the reluctance of the Government to recognize the contribution of TMCR and its failure to work with these mechanisms to prevent disputes should be addressed. This requires genuine collaboration between Government and TMCR. In addition, there should be political will of Government to institutionalise TMCR and provide them with the necessary resources/facilities; and the media should work to promote peace and peacebuilding activities. Participants also indicated that the Government should consider compensating elders in some cases because some disputes take longer to resolve and require continuous travel and meetings, hence the elders incur different expenses.

197. Women participants stated that some of the shortcomings of *Shimglina* include: (1) the corruption, e.g. whereby disputing parties with money influenced judgments by bribing the elders; (2) the undue influence of politicians and the wealthy on religious and community leaders resulting in partiality of the elders; and (3) the limited number of elders available to support the process in light of the growing population number in Harar. As a result of these shortcomings, *Shimglina's* effectiveness has been undermined and elders' relationship with the community has been comprised to some extent.

E. Oromia regional state

198. Due to their ability to find the truth and help to avoid violent confrontations, as well as their accessibility, cost, and efficiency, TMCR were the preferred choice for participants. However, they also highlighted how TMCR could be highly susceptible to political influence by the Government, politicians, activists, and other actors who wanted to manipulate them for their own political interests. Some community and religious leaders who were assigned to reconcile different communities were considered to be affiliated with certain political bodies and agendas. Participants further noted that, while the above-mentioned reconciliation methods were important to address community-level conflicts, they were less effective in dealing with armed conflict between Government forces and non-state armed groups such as the conflict at the time of the consultations in different parts of Oromia which was complicated in nature.

199. Participants also mentioned the lack of inclusivity as a major factor for the failure of these religious and cultural reconciliation mechanisms in the past. In most cases, particularly after widespread conflicts come to an end, the reconciliation process by those mechanisms had not involved the direct victims of conflict. A participant mentioned that this had been the case in the east and west Wollega “reconciliation” process, in which most of the victims of the conflict had no idea about the process, and they were surprised to see it being broadcast on media. After that reconciliation, the victims and those displaced people were taken back to their homes only to be displaced again as the issue was not truly resolved. Another participant explained about the aftermath of the 2018 ethnically motivated violence in Burayu town¹³⁴ which resulted in the deaths of over 20 people, stating that “a sham community reconciliation exercise that engaged a very small number of victims for propaganda purposes was organised and televised to make it seem as if reconciliation was pursued/achieved...the money collected/raised on our behalf disappeared into thin air...we received nothing out of this money.” In addition to victims, participants shared that women, youth, and those with financial difficulties were often neglected in reconciliation processes in the region, and, over the past few years, discrimination based on ethnicity had limited the participation of other relevant

¹³⁴ In 2018 an ethnically motivated violence broke out in Burayu town which resulted in the deaths of over 20 people. See Africanews, *Ethiopia opposition parties, Oromia president speak out on Burayu violence*, 09/05/2019, <https://www.africanews.com/2018/09/17/ethiopia-opposition-parties-romia-president-speak-out-on-burayu-violence/>.

stakeholders. Participants recommended the need to remedy limitations on TMCR before they played a role in TJ processes.

200. According to participants, the Gadda system has a long-established method of preventing acts of conflict, injustice, and inhumanity, such as the imposition of Gumma, and reiterated the need to strengthen such mechanisms to prevent future conflicts. In explaining the best features of the Gadda system to prevent harm, participants mentioned: (1) the shared sense of justice known as “Safu”, which involved consistent messaging of common justice; (2) society’s unwavering solidarity and collective understanding which demanded justice, attempts to realise harmony, and mobilise protection mechanisms to prevent violence; and (3) calling out acts of inhumanity which contributed to non-recurrence of conflicts, as it was designed to shame perpetrators for their acts by drawing the community’s attention to them and raising awareness to prevent future harm.

F. Somali regional state

201. Most participants expressed preference for the TMCR, compared to the formal justice system, to resolve conflicts, achieve reconciliation, peace and justice. In their view, the advantages of these mechanisms included efficacy in addressing the root causes of conflicts, priority for the restoration of harmonious social relations, rehabilitation of not only victims but also perpetrators, efficiency in seeking and establishing the truth (through the practice of oath), increased accessibility (particularly for those without an education, the poor, and persons living in remote rural areas), speedier delivery of justice, less susceptible to corruption, and predictability and clarity of the *Shar’ia* law which was not affected by changing political regimes/laws.
202. However, gaps and challenges were also identified, particularly in the way TMCR addressed violent conflicts. For instance, participants noted that the political rather than communal nature of the conflicts and associated human rights violations rendered these mechanisms ineffective, stating that “political problems require political solutions”. Additionally, participants indicated other shortcomings such as the lack of effective personal accountability in the payment of compensation, discrimination against women, notably in excluding them from becoming clan leaders, and the compensation scheme which treats women less favourably than men.

G. Tigray regional state

203. Participants agreed on the importance of TMCR, but noted that the Tigray conflict could not be resolved solely through TMCR due to the seriousness of the violations, including rape. It was highlighted that the traditional process was not appropriate to resolve SGBV cases because of its focus only on compensation with limited to no efforts to ensure accountability for the violation. Limited accountability for SGBV violations has to some extent contributed to the pervasive nature of SGBV violations. Additionally, TMCR does not offer sufficient

protection to survivors in most cases. Some participants also explained that, in some SGBV cases, the victim and perpetrator would marry in order to “erase” conflict among the families. Moreover, participants raised the inability of TMCR to properly punish perpetrators, the limited participation of women, the lack of a deterrent effect, and difficulties in enforcing the decisions of the TMCR as key challenges. Certain participants indicated that women could participate as *yehager shimagle* (elder), but that they were not represented in dispute resolution processes by religious leaders. They also stated that there was no discrimination against PWD or youth and that “they can also be represented”, but added that children were not represented in dispute resolution processes.

204. Despite all the challenges, participants emphasized the value of traditional mechanisms for their communities and noted their influence on setting moral standards. They recommended that these approaches operate in parallel with the formal dispute resolution mechanisms. Participants indicated that grave crimes such as rape, collective harm, intentional killings, and destruction of property should be considered by the formal justice system, and only non-grave crimes could be addressed by TMCR. Some participants suggested that the only role of TMCR should be to resolve disputes and award compensation to victims, adding that penalties should be imposed by the formal justice organs.
205. Some participants stated that, prior to the conflict, they preferred TMCR, because it was more effective. Its decisions were mostly implemented, the elders were respected and trusted, non-recurrence could be guaranteed due to reconciliation, compensation was paid, and parties could be satisfied as both sides feel that justice was achieved.
206. Some participants highlighted that people preferred the formal justice process, but claimed that ordinary courts were corrupt, which is why they preferred the parallel use of traditional processes. Some other participants expressed their views on the importance of employing TMCR to resolve ethnic conflicts and prevent future escalation as it could deliver a ‘win-win’ outcome.

Chapter V

Promotion of reconciliation

207. Reconciliation is “both a goal and a process premised on building the trust necessary for a degree of cooperation between individuals and communities” that cannot be a “substitute for justice”.¹³⁵ Special emphasis is placed on the centrality of victims, including by ensuring that they are not burdened with demands to “forgive and forget.”¹³⁶ TJ measures such as criminal justice, truth, reparations, and non-recurrence do not of themselves guarantee that

¹³⁵ AU, African Union Transitional Justice Policy, para. 60.

¹³⁶ Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Pablo De Greiff, (2012), para. 55, A/HRC/21/46.

reconciliation will be achieved - attitudinal transformation is required which these measures can ground but not themselves produce.¹³⁷ Official apologies, commemorations, memorials, and educational system reforms have the potential to achieve the required attitudinal transformation.¹³⁸ Moreover, the AUTJP highlights the need to take into account the gender and generational dimensions of violations and transitional processes, and to establish social institutions and events that bring together members of different groups.

208. Mindful of international and regional standards on the understanding of reconciliation as both a process and a goal, this section presents what participants understand by the term “reconciliation” and their views on the promotion of reconciliation.

A. Afar regional state

209. Participants defined reconciliation as a process of forging lasting peace, ensuring accountability, and promoting forgiveness – which was necessary for their community, region, and the country. Participants repeatedly explained that the crux of the problem was not among the ordinary people, thus reconciliation should be among the political elites and leaders. In their own words, in relation to the conflict with Tigray, “it was never a conflict between peoples. As it was primarily a political problem of the two [Government and TPLF], they need to resolve their issues”, adding that “politicians are responsible for starting the war, so they are responsible to resolve it”. Participants opined that, if politicians changed their language and geared their discourse more towards peace and reconciliation, the population would certainly follow.

210. Participants favoured traditional mechanisms as suitable to promote reconciliation because the population respected both clan and religious leaders, as well as the customary and religious principles which formed the basis for decisions. Another proposal raised by participants was the establishment of a national-level reconciliation committee comprised of “individuals known for their integrity, high moral and ethical values, nominated by each region, and experienced in similar processes”. Regardless of the approach, participants unanimously underlined the imperative of an impartial, independent, and trustworthy process.

B. Amhara regional state

211. Participants described reconciliation as living together in peace, forgiving the wrongdoer, letting go of the past, and moving forward together, replacing hatred and revenge with trust, respect, love, and togetherness, and promoting respect, harmony, trust, forgiveness, and peace. All recognized the need and benefits of embarking in reconciliation as an essential step to heal wounds, repair severed relationships, and help victims and perpetrators to be able to live together /side by side again “ከልብ እና በአግባቡ የተደረገ እርቅ የቅራኔ፣ የግጭት፣ እና ቁርኝ መፍቻ

¹³⁷ Ibid, para. 38.

¹³⁸ Ibid.

ከዚህ፡፡” (*a heartfelt and genuine reconciliation will result in sustainably addressing grievances, conflict, and disputes*). They stated that unless this was done, it was hardly possible to ensure peaceful coexistence, togetherness, and unity of Ethiopia and Ethiopians.

212. There was a consensus on the feasibility of achieving reconciliation in the country, especially among ordinary citizens. References were made to shared religious, traditional and cultural values and mechanisms which promoted peace and forgiveness. Participants stated that key elements which could facilitate reconciliation included confessions, apology, repentance, truth-telling, acknowledgment, compensation and forgiveness from the victims.

213. Community-based dialogue through TMCR at the local level was deemed as the best means to promote reconciliation – which would be open to populations of different ethnic groups. Participants stated that TMCR were effective to achieve reconciliation because they utilised shared cultural beliefs and values, and practices rooted in local traditions. They also placed victims, offender, their families, and the community at large at the centre of the reconciliation process. Nonetheless, participants acknowledged that TMCR had limitations particularly in relation to some patriarchal or discriminatory approaches. They recommended for adjustments to be made, as necessary, if TMCR were to play a role in nation-wide reconciliation efforts. A few participants proposed the establishment of a reconciliation committee through an all-inclusive and participatory process as a viable alternative if members enjoyed the confidence of the population.

C. Dire Dawa city administration

214. Reconciliation was understood as the process by which parties to a conflict were engaged to resolve or minimise possible root causes of conflict and to build sustainable peace at the community level. The participants expressed a deep-rooted belief in the cultural value of reconciliation, emphasising the need for traditional practices and religious institutions to lead the way.

215. Most participants preferred TMCR to promote the reconciliation process with the involvement of clan and religious leaders, *Shimagle*, *Aba Geda*, and *Ougaz*, because they believe that their processes were inclusive, respectful to parties, and cost effective. However, concerns were raised over Government interference in TMCR decision-making processes, their lack of capacity to proactively prevent violence, and the limited or total absence of women as decision-makers.

D. Harari regional state

216. Participants indicated that reconciliation comprised a range of dimensions and viewpoints. The process included the identification and resolution of underlying factors that contributed to conflict or human rights violations with a focus on fostering sustainable peace. Participants

agreed on the feasibility and necessity of reconciliation in Harari region and in Ethiopia and stressed the need to actively and directly involve victims and affected communities, as well as perpetrators, in the process to achieve healing. There was overall confidence that local disputes and past wounds between the Harari and Oromo communities could be resolved with the support and commitment of Government and political party officials.

217. TMCR was considered as a suitable forum to promote reconciliation despite problems related to the possible interference of political actors. Some participants suggested that independent state institutions should have an oversight role where traditional mechanisms are used.

E. Oromia regional state

218. Participants described reconciliation as the restoration of trust and lasting peace, which could occur when sincere discussions which involve all sections of society were held based on the truth. Reconciliation was seen as an achievable goal if perpetrators admitted their wrongdoings and offered sincere apologies to victims, as long as reassurance was given to affected individuals/communities that similar harms would not be committed again.

219. Most participants suggested using traditional and religious mechanisms to promote reconciliation efforts because they were comprised of respected and trusted members of the society, such as *Shimagle*, *Aba Gedas* and religious leaders. However, a proposal to vet members was suggested to avoid bias. Some participants added that the success of reconciliation would also depend on the meaningful participation of everyone, especially the victims. Others suggested human rights organizations and CSOs to lead reconciliation efforts, with certain participants suggesting the NDC. Participants however emphasised that the primary factor should be impartiality and non-interference by Government, as well as meaningful participation of affected communities.

F. Somali regional state

220. Participants highlighted three main components for reconciliation: admission of wrongdoings, genuine apology, and adequate compensation for the victim. There was unanimous agreement on the need for a reconciliation process to achieve lasting peace in Ethiopia, to create a conducive environment for accountability, and for people to speak without fear. Reference was also made to Islamic teachings which required followers to settle any issue that may arise between them within three days. Participants also believed that reconciliation would create a conducive environment for accountability, as people would speak without fear of retaliation.

221. Some participants opined that TMCR could be used to promote reconciliation, while others suggested the establishment of a reconciliation committee governed by a clear legal framework (whether through law or proclamation) to operate at the federal and regional level, adding that the committee should include religious and clan leaders, elders, women, and youth.

G. Tigray regional state

222. Participants explained reconciliation as a process of addressing grievances, reaching consensus, and understanding, supporting one another, preventing further conflicts, and opening space for peace and happiness as a community. They added that reconciliation was necessary and achievable, but that it could not be done while victims were in pain, stressing the need to first heal victims' wounds.

223. Some participants recommended the involvement of impartial international mechanisms to promote the reconciliation process, such as OHCHR. Others suggested that reconciliation was broad and cumbersome and should be promoted by local independent mechanisms with the possible participation of religious and traditional actors. In this regard, participants shared experiences of TMCR being used to facilitate reconciliation between the Afar and Irob groups. A few participants recommended for communities, elders or others representing different parts of the country to be involved in reconciliation processes, adding that a reconciliation body should be recognized by law and by the State.

Chapter VI

Conclusion

224. As part of wide-ranging solutions to address current and past injustices and grievances, a contextualized national TJ process, in line with international standards, is expected to provide concrete avenues to victims and the society as a whole to achieve justice, ensure accountability for violations, establish the truth, redress for victims, ensure non-recurrence of violations and abuses, and promote a peaceful and reconciled society.

225. Regarding the implementation of the TJ components, the findings of the consultations point to consensus on the necessity of concurrently implementing each of the TJ components - on criminal accountability, truth-seeking, reparations, and guarantees of non-recurrence. The importance of holding perpetrators accountable, particularly for gross violations and abuses of IHRL and serious IHL violations, was consistently highlighted. The need to rebuild trust, establish the rule of law, facilitate reconciliation and healing, sincerely disclose the truth, acknowledge victims' suffering, express guilt and remorse, and take responsibility for crimes committed was repeatedly raised. To prevent the repetition of violations and abuses, legal, institutional, and other reforms were identified as necessary.

226. To ensure the meaningful engagement of victims and affected populations, the creation of a conducive environment for the design and implementation of TJ was underscored, through ending conflicts and violence, protecting people's human rights, guaranteeing peace and security, and resolving political differences. Regarding the types of institutions to implement TJ processes, suggestions were made across the regions for the establishment of inclusive, independent, impartial, and credible institutions equipped with the necessary expertise to lead

TJ initiatives. The report highlights concrete suggestions in this regard, particularly for the country's judiciary and law enforcement organs which most participants viewed as lacking independence, and therefore in need of extensive reform if they are to be involved in the TJ process.

227. There was a general acknowledgment on the role TMCR have in fostering harmony and social cohesion, as well as in promoting values related to reconciliation, repentance, truth seeking, and non-recurrence. However, some gaps in TMCR such as the limited roles (or entire exclusion) of women from decision-making processes and payment of lesser compensation to women victims in some cases were identified. Additionally, participants largely agreed that the TMCR may not be suitable to respond to gross human rights violations and abuses, and serious violations of IHL, caused by conflict. The TMCR could be used for non-judicial aspects of TJ with the caveat that the representatives had to be reputable, honest, detached from any political agenda, represent different parts of the country, and should include women, youth, PWDs, older persons, IDPs, etc. It was noted that selection of members leading the process should involve the communities in a transparent, inclusive, and merit-based manner, to ensure legitimacy and credibility.
228. On participation and protection against reprisals, participants opined that the TJ process should be inclusive and participatory and create a safe and enabling space for stakeholders particularly victims, women, PWDs, and affected populations to express themselves without fear of reprisal. The willingness and commitment to be involved in TJ-related processes such as accountability initiatives and truth-seeking was prevalent, but protection measures to mitigate risks of reprisals are imperative to actualize meaningful participation.
229. The principle of meaningful participation must be guaranteed, hence the design and implementation of TJ policy and/or programmes at all levels must be informed by the experiences and perspectives of affected populations who should be consulted at every stage of the TJ process, from design to post-implementation. Mainstreaming a victim- and survivor-centred approach is a cardinal principle of human rights work and an imperative if TJ initiatives are to catalyse transformative reforms that prevent recurrence of violence and foster social cohesion. The implementation of a genuine and comprehensive TJ process grounded in human rights norms, with a strong focus on the needs and priorities of victims, is the most appropriate means for Ethiopia to confront its past, establish a just and peaceful future, and foster national cohesion.

Recommendations

230. In addition to observing applicable regional and international TJ and human rights standards, and ensuring that TJ initiatives are informed by best practices and experiences, the EHRC and OHCHR jointly present the following recommendations:¹³⁹

To the Government of Ethiopia and the TJ Working Group of Experts

The design and implementation of the TJ process

231. Create an enabling environment for the design and implementation of an inclusive, victim-centred and human rights compliant TJ process by peacefully resolving ongoing conflicts through dialogue, maintaining peace and security across the country, upholding the rule of law, complying with international standards on the imposition of states of emergency, preventing gross violations and abuses of IHRL and serious IHL violations, and ending a culture of impunity;
232. Ensure that the design and implementation of TJ initiatives is driven by national stakeholders involving all parties to a conflict and all sections of society, as well as victims and affected populations, including women, PWDs, older persons, youth, IDPs, and other groups, ensuring a credible, transparent, inclusive, and victim-centred process. In particular, ensure that women are involved at all stages and levels of decision-making in the TJ process and are provided concrete opportunities to meaningfully mainstream their perspectives;
233. Demonstrate political will and commitment at the federal and regional state level by proactively, regularly, and transparently engaging with diverse stakeholders, including those who may lack awareness or may have doubts about the TJ process, to build a common vision, and allocate the necessary resources for TJ initiatives such as reparations programmes;
234. Ensure synergies and cooperation among key national and international actors implementing and supporting TJ related initiatives, including those promoting dialogue and peace, disarmament and demobilization, legal and institutional reforms, and other related efforts at the federal and regional state level, to ensure reinforcement and complementarity of initiatives;
235. Build the capacity of national institutions, including the justice organs, and engage in extensive outreach and educational campaigns in various local languages to raise public

¹³⁹ Some of the recommendations were also included in the two TJ advisory notes jointly issued by EHRC and OHCHR in December 2022 and October 2023.

awareness, foster participation, and inform stakeholders of progress or challenges to also manage expectations and build trust;

236. Develop a roadmap with measurable benchmarks and indicators, and reporting mechanisms to evaluate progresses and impact of TJ processes, and provide space for independent bodies to regularly monitor the process to ensure its compliance with international human rights norms and standards; and
237. Conduct peer-to-peer learning for key duty-bearers with a mandate on TJ and national dialogue and relevant civil society actors.

Justice and accountability

238. Ensure that institutions that will lead and implement TJ components, such as criminal accountability and truth-seeking, meet international standards and be widely accepted by the public as free from political pressure, acting in independent, credible, legitimate, impartial, and competent fashion; and
239. Accountability, including criminal accountability for gross violations and abuses of IHRL and serious violations of IHL, should be assured, without any resort made to amnesty.

Truth- seeking

240. While exercising caution to prevent further divisions and incitement due to the polarized narratives in the country, ensure that the truth-seeking process provides a comprehensive account of incidents of gross violations and abuses of IHRL and serious IHL violations that took place during recent or ongoing conflicts and work towards establishing a historical record of contested narratives to address cycles of violence, bring justice to victims, and lead to social healing and reconciliation; and
241. Establish a mechanism within the TJ process to address the issue of missing persons, to respond to families' right to know the fate of their loved ones, and to provide the required support to families.

Reparations

242. Develop and implement a victim-centred and gender-sensitive reparations policy and programme which is adequately funded, involves victims in its design and prioritization/sequencing, and includes components of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition for victims of gross IHRL violations and abuses and serious IHL violations. While designing the reparations programme, address the immediate needs of victims such as humanitarian assistance and basic services using interim measures.

Guarantees of non-repetition, including reforms

243. Establish the necessary legal and institutional frameworks for victim and witness protection, in line with international and regional human rights standards to address possible cases of reprisal, both during the design and implementation phases of TJ;
244. Reform and/or develop laws, policies, and institutions for the protection of human rights, including security reforms in line with international standards;
245. Engage with relevant international and regional mechanisms, including the UN Special Rapporteur on Truth, Justice, Reparation and Guarantees of Non-recurrence to provide appropriate support on the TJ process; and
246. Ensure that the TJ process is transformative for society by being forward-looking to address victims' needs and the root causes of violations, including inequalities, unfair power structures, entrenched patterns of discrimination and exclusion, institutional deficiencies, structural impunity, and other human rights violations which underlie or drive threats to peace and security.

Reconciliation

247. Strengthen and make use of TMCR to promote dialogue and reconciliation efforts, in line with international and regional human rights standards, and support community-level peace building efforts such as community dialogue by elders and religious leaders and the establishment of a community-based early warning mechanisms.

To civil society organizations:

248. Support the empowerment and meaningful participation of affected communities, particularly victims and survivors and grassroots organizations, in the TJ process, including by creating awareness and supporting the establishment of associations and networks where they do not yet exist.
249. Proactively contribute throughout the different phases of the TJ process by providing inputs in the design, implementation, and monitoring of TJ-related initiatives to ensure that it is victim-centred, inclusive, and participatory, in line with international and regional standards; and
250. Continue to monitor and document human rights violations and abuses and engage in strategic advocacy.

To religious and traditional leaders:

251. Promote dialogue and reconciliation efforts in line with international and regional human rights standards, including gender equality and non-discrimination;
252. Proactively contribute to TJ initiatives and peace-building efforts such as educating respective congregation on respecting the rights of others and condemning ethnic and religious-based attacks and discrimination; and
253. Undertake community dialogues to seek to mend relationships among communities and resolve contested narratives peacefully and in line with human rights standards.

To political parties:

254. Proactively and constructively engage in the different phases of the TJ process by providing inputs in the designing and implementation of TJ-related policy, legal, and programme instruments; and
255. Refrain from spreading or amplifying hate speech and disinformation, divisive ethnic and religious narratives, incitement, and polarizing propaganda which contributes to exacerbating divisions and impedes restoration of trust in society.

To media:

256. Promote and implement fact- and evidence-based, informative and accessible programmes to raise awareness among the public on TJ and related processes; and
257. Take concrete actions to prevent and mitigate the dissemination of hate speech and incitement to hatred and violence, including by reviewing editorial policies and preparing and implementing programmes on responsible media work.

To development partners/international community:

258. Advocate with the Government to create a conducive environment for the designing and implementation of TJ by inter alia, peacefully resolving ongoing conflicts and preventing gross violations and abuses of IHRL and serious IHL violations;
259. Continue to provide technical and financial support for the TJ process in Ethiopia;
260. Support measures taken to strengthen the capacity of relevant national and regional state institutions to engage in TJ initiatives; and
261. Support CSOs and victims' associations to actively engage with the TJ initiatives and processes.

Annexes

Annex I: Standardized guiding questions used during the FGDs

Focus group discussion 1: Roles of traditional mechanisms, values and best practices in promoting transitional justice

1. How does your family/community/religious group achieve reconciliation after serious wrongdoing/violations (e.g., violence, conflict/armed confrontation between family members of your community and/or against another community member)?
 - 1.1. Please explain in detail as to why it worked or why it has not worked (pros and cons of each one) and what can be done to make it work.
2. How does your family/community/religious group usually hold accountable a community member (or group) that committed grave crimes?
 - 2.1. Do you remember of any instance in the past that any of the approaches have worked or not worked? Can you explain how the case and the perpetrator and/or his/her group were handled? Pros/cons?
 - 2.2. What is your preference between traditional and formal justice mechanisms? Please discuss in detail as to why traditional and/or formal justice mechanisms worked or why they have not worked and what can be done to make them work.
 - 2.3. Were the traditional mechanisms you mentioned useful to deal with past gross human rights violations (or only for minor crimes, wrongdoing)? If so, for what type of violations and perpetrators? Were they complemented by other initiatives to hold perpetrators accountable?
3. How does your community forewarn others not to do the same in the future (non-repetition/prevention)? Any good or harmful practice?

Focus group discussion 2: Views and aspirations of affected communities on transitional justice

1. What actions/things are needed for you or your community to feel ‘satisfied’ after the harm suffered as result of the conflict (although nothing can probably be enough to reinstate pre-conflict situation)?
 - 1.1. Would an apology for example make you feel better? Money? What else? Who should apologise?

- 1.2. Anything else is needed to compensate you/your community? What type of compensation would be acceptable to you?
- 1.3. What should be done to address short-term and long terms needs of victims?
2. If you had to explain what ‘justice’ means to you (in relation to the harm suffered in connection with the conflict), how would you define it? How can it be realised?
3. Should the persons responsible for the violations be held accountable?
 - 3.1. If yes, should only the senior leaders be held accountable? Everyone? Those in senior positions who decided/ordered the crimes or only those who committed them? no matter how senior they are, or their involvement in serious crimes?
 - 3.2. For which kind of crimes should they be held accountable? All crimes or serious crimes only? How to draw the line?
 - 3.3. What kind of judicial mechanism is most appropriate to hold the perpetrators accountable? other option?
4. In your opinion, is it necessary to seek and establish truth of what happened (why, who, when, where, to whom and how did what?)
 - 4.1. If yes, how can this be best achieved? Who (which institution) is best placed to lead the process to find out what happened?
 - 4.2. Would you be willing to openly give statements concerning violations you or others suffered?
 - 4.3. Do you feel that there may be risks when embarking in truth telling? Is it a risk worth taking?
5. What does reconciliation mean to you? Do you think reconciliation is necessary and possible/feasible?
 - 5.1. What should be the most suitable forum(s) to promote reconciliation?
 - 5.2. Would you accept an apology from perpetrators and forgive them?
 - 5.3. In your opinion, should amnesty be given to perpetrators as trade-off for truth?
 - 5.4. Is forgiveness possible? Are you (or your community in general) ready to forgive (everyone or only few people)? At what condition?
6. In your opinion, what measures should be put in place to prevent further harm from happening or to prevent similar future violations/conflict? How would you advise decision makers?

Annex II: Key principles to be observed during the FGDs

- Respect everyone's opinion, whether you agree or disagree. No opinion is wrong.
- Respect everyone's experience of the conflict. There is no hierarchy in the pain suffered, damage etc.
- Be compassionate. Refrain from mocking or belittling others.
- Respect the privacy of fellow participants and others outside of the room.
- OHCHR and EHRC will not attribute opinions to a particular participant. Names will not be disclosed. If a specific practice is attributed to a group (e.g., local tradition to reconcile families), OHCHR EHRC will be guided by the "do no harm" principle.
- Participation is highly encouraged. Ideally it would be good if every member of the FDG contributes to all questions. There is sufficient time allocated for this reason. However, no one is forced to speak unless he/she wants to. Facilitators can be approached after the FDG to share additional ideas/views.
- It is not allowed to say words that endanger anyone's life, safety and security.
- Do not interrupt others while speaking, allow them to finish expressing their thoughts.
- Speeches that incite violence, or hatred or discrimination on the basis of gender, ethnic identity, religion, political opinion, or any other ground will not be tolerated.

Annex III: Traditional mechanisms of conflict resolution

This section highlights the various TMCR and their key characteristics and procedures as described by participants in the consultations and relevant literature due to the possible value-addition of such mechanisms to TJ initiatives as seen from the experience in other countries. However, some of the practices described fall short of international and regional human rights standards, and if they are to be utilised, they should be brought in line with human rights standards.

A. Afar regional state

1. In the Afar region, most conflicts are resolved through customary law, called *Mada'a*.¹⁴⁰ which covers every aspect of the societal life and provides rules on how to handle conflicts between clans and with other ethnic groups.¹⁴¹ Based on the nature of the dispute, the applicable *Mada'a* are classified into two, namely *Afare* and *Adanle*. *Afare* is applicable to

¹⁴⁰ It is stated that: "About 90-95% of the Afar people use traditional system to resolve cases that arise between them" see Getachew Talachew, & Shimelis, Habtewold, Customary Dispute Resolution in Afar Society, in *Grass-Roots Justice in Ethiopia: The Contribution of Customary Dispute Resolution*, ed. Alula Pankhurst, & Assefa, Getachew (ddis Abeba: Centre français des études éthiopiennes, 2008), Page 99. See also, Kahsay Gebre, Mad'a: The Justice System of the Afar People (" in *Customary Dispute Resolution Mechanisms in Ethiopia*, ed. Fekade Azeze Gebre Yntiso, Assefa Fiseha (Addis Abeba: 2011); Yntinso Gebre, "Understanding Customary Laws in the Context of Legal Pluralism," in *Legal Pluralism in Ethiopia: Actors, Challenges and Solutions*, ed. Sussanne Epple and Getachew Assefa (transcript Verlag, 2020).

¹⁴¹ Kelemework Tafere, *Indigenous Institutions of Conflict Resolution among the Ab'ala Afar of North-Eastern Ethiopia* (Department of Sociology and Social Anthropology, Addis Ababa University, 2006), p. 57.

disputes among the Afar; whereas *Adanle* is applicable to conflicts between Afar and other ethnic groups.

2. Serious intra-clan disputes and inter-clan conflicts are resolved through customary law by Mekabon/Mekabantu, who are inter-clan judges. There is a Mekabantu (plural Mekabana) in every clan. The dispute settlement fora extend from Keddoabba to the Sultan, where the sultan will make final decisions. Afar also has a method known as Xinto for resolving disagreements between Afar and other ethnic groups. In the instance of Xinto, the elders are chosen from the Afar side and the other ethnic group with the help of formal or Government administrative systems.
3. According to the information shared by participants, TMCR process starts when a petition is lodged or communicated to the appropriate enforcement mechanism - Keddoabba or judges – Mekabantu, pursuant to the customary law. Procedures depend on the nature and gravity of the dispute and the involved parties. In cases of serious crimes, such as murder, the clan leaders will first isolate the perpetrator to provide a “cooling period” and prevent possible revenge acts. Afterwards, the clan leaders would undertake open deliberation and discussion and the victim¹⁴² is given the first chance to share their case followed by the perpetrator on a fixed date. The parties are given a second chance for further explanations. Members of the community are entitled to give their accounts of the case and their opinions on the proceedings. Before passing the final decision, the deliberations and discussions are summarised by anyone attending the proceedings. Finally, Mekabons after discussion with elders will pronounce their decisions in public and the case will be declared closed.¹⁴³
4. Participants indicated that various measures can be used to hold offenders accountable. Compensation is dependent on the nature of the harm. For example, in case of a minor injury, the offender would first give goats which is referred to as *Maldino*. After this, the offender has to pay the amount of compensation fixed by the elders. In the case of intentional killing, as per *Mada’a*, the amount of compensation to be paid is pre-determined for men and women, with the compensation being less if the victim is a woman.¹⁴⁴ Similarly, and contrary to the principle of equality and non-discrimination, victims who are not ethnic Afar will receive less compensation. As the goal is to promote reconciliation and forgiveness, the amount is usually negotiable and can be reduced. The offender is usually required to disclose his/her wrongdoing, take full responsibility, and apologise to the victim and the community. Corporal punishment such as lashing or flogging is also applicable in *Afar* reconciliation process as one

¹⁴² Depending on the case being dealt with, victim may mean the survivor of the violations and abuses or families/relatives of the deceased.

¹⁴³ Talachew, Customary Dispute Resolution in Afar Society.

¹⁴⁴ For more see, Alula Pankhurst, Getachew Assefa, and French Centre for Ethiopian Studies, *Grass-Roots Justice in Ethiopia: The Contribution of Customary Dispute Resolution* (Centre Français d'Études Éthiopiennes, 2008), p. 15.

of accountability means. One mechanism applicable to a recidivist is *Le'hile* which implies that the reoffender's right not to be killed arbitrarily is removed and killing that person would not have any consequence as per the customary law of Afar. Once the person is declared *le'hile* by the elders, the clan that the person belongs to will disown them and consequently remove any community protection, including against their life.

B. Amhara regional state

5. TMCR is commonly used to resolve conflicts in the Amhara region. These mechanisms are deeply rooted in the region's cultural and social fabric and are often preferred by the local communities. Participants indicated that *Shimglina*, *Dem Adirik*, *Zewoled*,¹⁴⁵ *Abegar*,¹⁴⁶ *Iddir*,¹⁴⁷ *Ye Nefese Abat*,¹⁴⁸ and *Ye Beteseb Gubae*¹⁴⁹ are among the main traditional mechanisms and institutions that are prevalent in the region. These mechanisms and institutions are based on the values and norms of the society, such as respect for elders, religion, culture, and social harmony.
6. Each of these mechanisms and institutions have their own procedures depending on the nature and complexity of cases. As stated during the consultations, the process of resolving the dispute begins once the matter is brought to the attention of elders or religious leaders. As a practice, the elders, disputing parties, their families, and community members deliberate on matters under a big tree, a church, or a mosque. In most cases, the elders selected by the disputing parties deliberate with both sides to the conflict or their respective families to determine the root causes and impact of the conflict; each party will be asked to tell their versions of what happened and their views on how to settle the matter. All sides address the elders by imploring the elders to make a fair and impartial decision; in Amharic “ለባድመ ብለህ ፍረድ” or “ለሰርዶ ብለህ ፍረድ”. The elders also enjoin the parties to tell nothing but the truth.
7. As a means of holding perpetrators accountable, the person who is found guilty is required to apologise and pay compensation, which is usually nominal with the main aim of teaching the perpetrator a lesson, to restore peace, and reclaim the dignity of the victim and their family. The outcome of the traditional mechanisms is premised on the Amharic proverb: “የያዘ መልሶ የበደለ ክሉ”, which means that a person who inflicted harm or took possession of another

¹⁴⁵ *Zewold* is a form of oath-taking where the parties swear by God or other sacred objects to tell the truth or abide by the agreement. It is used as a means of verification or enforcement when there is lack of evidence or trust between conflicting parties.

¹⁴⁶ *Abagar* is a religious leader or a person with moral authority who intervenes to facilitate a dialogue and reconciliation between the disputants.

¹⁴⁷ *Iddir* is a traditional social institution that operates as a burial association or mutual aid society. While not directly involved in dispute resolution, the social cohesion fostered by Iddir can contribute to resolving conflicts within the community.

¹⁴⁸ *Ye Nefese Abat* refers to priests within the Ethiopian Orthodox Church who serve as spiritual advisors and confidants. They offer guidance, counselling, and moral support to individuals seeking solace or resolution of personal and interpersonal conflicts through spiritual means.

¹⁴⁹ *Ye Beteseb Gubae* is a specific type of *Shimglina* that aims to address conflicts arising between family members.

person's property ought to compensate and give the property back to the rightful owner. Participants ascertained that the primary goal of such measures is to repair broken relationships by revealing the truth, providing compensation, requesting apology, and forgiving. Meanwhile, participants indicated that the amount of compensation varies based on the gravity of the offence and the intention of the perpetrator. There is an Amharic proverb that states “ሀይቁም እንዳይደርቅ አሳውም እንዳያልቅ አድርጎ ነው እርቅ” to indicate the need to be fair in determining the amount of payable compensation to avoid harming both sides financially. In the case of murder, for example, if the killing was intentional, such action would be labelled as ጥቁር ደም/ black blood and the amount of compensation is relatively high. In such cases, if the perpetrator's family does not have the means to pay compensation, they will raise funds from the community. Accidental or unintentional killing and injury is known as ቀይ ደም /red blood and the amount of compensation for such crime is relatively less.

8. Participants also explained that there are socio-cultural sanctions such as *Embedadi* አምበደዳ which is a form of social ostracization which involves excluding a community member from attending cultural, religious, or social activities, and prohibiting the community from engaging with such a person if they disregard the decision of the elders on a particular matter/case.
9. Additionally, participants explained that there are different measures which can be used to deter or warn others and to prevent recurrence of similar conflicts. TMCR uses different reconciliatory rituals or activities such as slaughtering an animal to prepare food; making the parties eat together in both houses and feed each other (*gursha*); and stepping over a stick, gun, or similar object to symbolise the end of the grudge and restoration of the relationship. Moreover, an oath is also made to prevent recurrence. The perpetrator, victim, and their families are required to promise according to their religion that they would not take vengeful action against each other.

C. Dire Dawa

10. Dire Dawa city is known for its cosmopolitan character, priding itself for its cultural, religious, and ethnic diversity. Muslim communities residing in Dire Dawa use a religious dispute resolution/reconciliation mechanism that applies the *Shar'ia law*. Christians including protestants and orthodox Christians resort to their respective church authorities to adjudicate disputes/conflicts between and amongst themselves and achieve reconciliation. Typically, *Shimglina* is one of the most preferred TMCR in Dire Dawa, similar to most parts of the country.¹⁵⁰ Participants also spoke of traditional dispute resolution rules applied by the community elders, known as *Hera* (ዓራ). These customary rules regulate the day-to-day

¹⁵⁰ As explained in an earlier report, the Amharic term *Shimagle* (Amharic pl. *Shimagle woch* or *Shimagles*) in its literal meaning refers to an older person, whereas in its broader cultural sense, it refers to age, reconciler, and a peacemaker.

conduct of the community and when disputes, conflicts, or offences occur between families, neighbours, or clans, the elders apply the formal law of the state, also known as Siera to provide amicable solutions.

11. Additionally, participants explained that there is a practice of tying the perpetrator and aggrieved person's family through marriage, especially in cases of murder, to solidify the reconciliation process and minimize the possibility of recurrence of disputes between the two disputing families. This is a practice that has significant implications for the rights of the victim, where applicable, and of members of tim's family, and such concerns require careful assessment from the perspective of international human rights standards.
12. The aforementioned TMCR apply similar procedures of hearing the grievances of the victim and witnesses first, followed by a hearing of the accused (including witness testimony), after which guilt is determined and sanction imposed through consensus. Disputants normally nominate/select their respective *Shimagles* or *Imams* in the dispute hearing process. While payment of compensation remains one of the most important accountability tool in both traditional and religious processes, participants who identified themselves as Christian noted that their community attaches more emphasis to genuine remorse from the perpetrator and a request for forgiveness for the harm caused.¹⁵¹ However, they added, in some grave situations such as murder, the perpetrator can be asked to provide for the expenses of the deceased victim's dependents.
13. As in other parts of the country, including in the neighbouring Somali region, "oath making" is used as one important tool to prevent the recurrence of crimes/violations. After a reconciliation process is completed and the compensation is paid, the perpetrator swears not to repeat the crime in the future. The community attaches high moral value to this practice, including a firm religious belief that breaking one's oath would bring forth spiritual punishment. Traditional/religious leaders apportion accountability on a case by cases basis. For instance, the severity of punishment/sanction for killing is contingent on whether the offence committed was intentional, called *Imma* (አማ), by accident, or negligence. Previously, intentional killing was punished with a death sentence.
14. The community highly condemns revenge, and if a person from one clan kills a person from another clan with the intent of revenge, the families of both the victim and the perpetrator, together with the clan leaders, could reportedly throw the perpetrator off a cliff, although this is currently not practiced. Instead, at present, the perpetrator would be required to pay a high amount of compensation, referred to as *Guma* (ጉማ), to absolve the person from their

¹⁵¹ Symbolic of genuine remorse, the party at fault will beg for forgiveness by carrying a rock on his back and kneeling before the victim.

crime/sin.¹⁵² In case of a killing, a clan leader will typically order the perpetrator (or his/her family) to bring an ox called *Adagn Berie* (አዳኝ ቦሬ)¹⁵³ which will be slaughtered as a sacrifice on the date of the burial of the victim and everyone will have a feast. The elders will make an appointment to meet after two weeks, where the perpetrator's family or clan will bring 15 cattle, including one pregnant *Enba madrekia* (እንባ ማድረቂያ).¹⁵⁴ The reconciliation will be concluded by discharging the *Fers* (ፈርስ)¹⁵⁵ at the site where the victim died.

15. In a tradition known as *Borena*, the perpetrator of a crime such as homicide is required to pay 100 plus 1 cattle. Subsequently the *Borento* traditions came in, and the amount was decreased to 75 plus 1 cattle. According to *Afrenkelo* tradition, one of the 50 plus one compensation cattle will be paid to the elders, while the rest will be shared by the victims' family. However, participants explained that the prevailing current practice is compensation by payment in cash, such as 400,000 ETB (*approximately 7,400 US\$*) for the family of a victim of homicide, and an additional 20,000 ETB (*approximately 370 US\$*) to the elders. If the perpetrator is not able to pay the compensation on his/her own, other members of the clan will share the burden by making contributions. In cases of conflict between communities of two ethnic groups or clans, the perpetrators will be required to pay compensation according to their own tradition. In such cases, each member of the perpetrator's community will contribute towards the compensation, and members of the victim's clan will share the compensation they received, the victim's family taking the largest portion.

D. Harari regional state

16. The Harari region is diverse in terms of ethnicity and religion, and there are different TMCRs that can be used by different ethnic or religious groups. Participants described *miyyay* and *deishain*, *demina* or *yehager shimagle*, *yeselam beteseb*, *Afocha*, *Harari elders mejlis*, and Sharia law as the most used TMCRs in the region applicable to different types of cases/issues. In the tradition of *Miyyay* and *Deishain*, the community elects elders known as *Gerada*, *demina* or *yehager shimagle* who are very respected by the community and whose decisions are highly accepted.
17. Participants also mentioned other dispute resolution mechanisms such as *Shimglina*. The elders involved in *Shimglina* are required to be impartial and they play a fundamental role in ensuring sustainable reconciliation, forgiveness, and healing. Additionally, in the urban areas of Harari region (city of Harar), the local Government has established an alternative

¹⁵² "The term "*guma*" is defined in Afaan Oromo which can be literally translated as "the practice of purifying someone who killed somebody against the victims. Its particular name is referred "*sirna gumaa bituu*" which means the process of undergoing purification between someone who commit a death and the victim's family as well as the nearest relatives." (<https://www.abacademies.org/articles/gumaa-the-oromo-indigenous-conflict-resolution-mechanism-practices-and-prospects-focus-on-the-oromo-of-ilu-and-bunno-south-western-14885.html>)

¹⁵³ Amharic term can be translated as *Adagn* (one who saves) and *berie* (an ox).

¹⁵⁴ Amharic term referring to cattle that has been offered as a nominal compensation, literally meaning "to wipe tears".

¹⁵⁵ Roughly translated, the Amharic terms refers to cattle dung.

dispute resolution mechanism known as *Yeselam beteseb* (የሰላም ቤተሰብ), in which elders from each *kebele*¹⁵⁶ will be selected based on popular vote and tasked with resolving disputes to achieve reconciliation. Additionally, they undertake consultations with the community to identify their concerns and communicate the same to the local Government. Nevertheless, participants expressed their concern that the Government does not listen to and support the efforts of *Yeselam beteseb* to make peace in the city.

18. Another TMCR is *Afocha* (ዕድር), which is classified as farm *afocha* (የእርሻ አፎቻ) and city *afocha* (የከተማ አፎቻ). *Afocha* involves a process whereby individuals from one locality aim to achieve some social objective by addressing different social issues including disputes between husband and wife. Farm *afocha* deals with disputes related to farmland while city *afocha* deals with cases related to administration, housing, and related issues. Harari elders *mejlis* (ሃረሪ ዝራግነት መጅሊስ) which comprises 11 members of whom four are women, was also identified as a well-organised institution of conflict resolution.
19. Participants indicated that applicable rules (which slightly differ from one location to another) determine the types of compensation in view of the gravity of the crime. For example, higher compensation is paid for gross crimes or when blood is spilled, such as killings or deaths caused by car accidents. Once a case is brought to *Afocha*, discussions are held with disputing parties/clans, investigation is carried out, after which the elders decide on the payment of compensation which is also known as *Gumma*. An apology by the offending clan is complemented by the payment of compensations.
20. It was said if disputing parties do not agree with the decision of the elders or religious leaders, they can take the case to the formal justice system. There are rules and regulations for such processes, and it is mostly practiced in the outskirts of Harar city or in rural areas. Religious leaders who took part in the discussion stated that if wrongdoers fail to pay the amount imposed by elders or disobey the ruling, the perpetrators and their family including children will be excluded from community activities. The “*Afocha* will completely cut them off from all social interactions, including weddings and holiday celebrations, and they will not receive any help from the community. The perpetrator will face severe repercussions in his/her social life as a result and will have to pay more money before they can rejoin the community’s activities. It was stated that losing membership in *Afocha* is considered as a big punishment for the Harari community.
21. In relation to participation of women in TMCR, it was acknowledged that in the past, women did not hold decision-making positions as clan leader or community elder. However, there are recent trends of electing women to be part of dispute-resolution processes. Participants provided an example of a traditional role for women in the prevention of violence called

¹⁵⁶ Smallest administrative unit in Ethiopia

Sinqe.¹⁵⁷ The *Sinqe* intervenes to demand disputing parties to end fighting and violence. They gave another example of the Harari elders Mejlis in which four of the eleven members are women, adding that youth are also included.

E. Oromia regional state

22. According to participants in the Oromia region, TMCR led by well-known and respected elders, religious and clan leaders play an indispensable role in promoting peace and reconciliation within their community. Most participants acknowledged that Abba Gadda and Hadha Sinqe, male and female senior community leaders respectively, take the primary responsibility for preventing disputes, halting ongoing violent conflicts, and facilitating reconciliation. In Oromia, it is widely accepted that the elders serve with impartiality and fairness hence they are trusted and their decisions are generally respected by the community. Participants noted that such mechanisms are usually employed to settle both intra-ethnic and inter-ethnic conflicts.¹⁵⁸ The *Gadda* system¹⁵⁹ which comprises different methods of preventing and resolving conflicts, and achieve peace, is the most prominent traditional system by the Oromo people. While the Gadda system is similar throughout the region, there are some unique differences from place to place. For example, whereas the term *Gumma* refers to the amount of compensation to be paid by an offender in most parts of Oromia, in places such as Arsi-Oromo Gumma describes an Abba Gadda led customary mechanism mostly applicable to resolve conflicts of serious crimes such as murder and destruction of property.
23. In explaining the steps in the reconciliation process, participants stated that when a dispute arises between individuals, the Abba Gadda and Hadha Sinqe or other elders would first engage with the victim (and family) and the perpetrator separately, after which the parties would elect their own *Jarsa* (elder) and a hearing will be conducted to determine the party at fault and the amount of compensation (*Gumma*) to be paid. If the conflict arises between members of Oromo and non-Oromo communities, different and more strict procedures are followed, which may affect the human rights principles related to equality and non-discrimination. Firstly, respected elders from the Oromo community will be selected, and the Abba Gada will send them to the victim's family to ask for their consent for reconciliation. Upon receiving a positive response, a date will be set for when the Abba Gada and the victim's family will come together and hold a discussion, to achieve reconciliation. After the party at fault admits their fault and agrees to pay the compensation, both sides will be asked to undertake an oath confirming that they would not engage in similar acts in the future. Finally,

¹⁵⁷ Refer to TMCR in Oromia Region.

¹⁵⁸ In this regard, participants indicated that their traditional conflict resolution mechanisms play a significant role in resolving border disputes between Gujji and Gedio, Arsi and Sidama as well as Arsi and Halaba ethnic groups.

¹⁵⁹ The "Gadda system" is a traditional system of governance and social organization found among the Oromo people of Ethiopia. It is a complex system that combines political, social, and military structures. It serves as a mechanism for maintaining social order, resolving disputes, and preserving cultural traditions.

the reconciliation process will be concluded by feasting together and holding a coffee ceremony.

24. There are different measures taken to hold the party at fault accountable. Most participants explained that the imposition of compensation is the most common way of ensuring accountability, but the type or amount of compensation depends on the gravity of offence and the circumstances of its commission i.e., whether it was intentional or by negligence. In some parts of Oromia like Hararghe when the perpetrator does not have sufficient means to pay the full compensation, their clan members would contribute to help them pay the compensation. Other common accountability measures include social ostracization, referral to the formal justice system, and imposition of social responsibility to assist the victim's family.

F. Somalia regional state

25. Each Somali clan has its own additional mechanism to address disputes within one's own clan and in relation to other clans.¹⁶⁰ The governing rules applicable to address disputes are called *Xeer*, equivalent to the English terms "treaty" or "contract", while the *Xeergurti* are the legislators and judges-males elected by their respective clans-who have jurisdiction over all criminal and civil matters, and provide mediation/reconciliation services for free.¹⁶¹ Participants referred to these traditional leaders/elders as *Odayaasha Dhaqanka* (አዳኝ). They noted that disputes over natural resources such as land and water and inter-clan revenge killings are among the underlying drivers of large-scale conflicts. These religious and traditional leaders/elders apply a combination of *Sharia law* and unwritten traditional/customary rules to resolve disputes and achieve reconciliation within their community. Furthermore, a Peace Committee, composed of twelve senior/elderly residents of the city administration, contributes towards peaceful settlement of dispute in the region, including by disseminating messages of peace and countering hate speech between the Muslim and Christian communities.
26. The dispute settlement process is triggered when an aggrieved person submits his/her complaint to the respective traditional and/or religious elders/leaders. Upon hearing the complaint, the elders/leaders call upon the accused without the presence of the aggrieved person, to hear their side of story and establish a truthful account of the incident, after which they would determine their guilt or innocence. Notably, a dispute is settled by sanctioning the guilty person to pay appropriate compensation commensurate to the harm suffered. All decisions, including the amount of compensation, are made by consensus.

¹⁶⁰ Somalis consist of six clan families, further divided into several clans, which are subdivided into patrilineal kinship groups. The cooperative lifestyle of Somalis lies at the heart of their TMCR. See, Mealin Mohammed, Seid and Jotte Zewdie, Customary Dispute Resolution in the Somali State of Ethiopia, in *Grass-Roots Justice in Ethiopia: The Contribution of Customary Dispute Resolution*, ed. Alula Pankhurst, Getachew Assefa, and French Centre for Ethiopian Studies (Centre Français d'Études Éthiopiennes, 2008).

¹⁶¹ Ibid.

27. Except for the Peace Committee, disputants nominate their own *Imams/Ughaz* to resolve the conflict and achieve reconciliation. The adjudication process attempts to examine the root cause and historical context of the conflict/dispute, beyond the facts of the case. Sometimes, the perpetrator of a crime is made to hide in a safe location to avoid possible retaliation from the victim's family or clan and would return once reconciliation is achieved.¹⁶² Payment of compensation is the most common way of holding wrongdoers accountable and there are unwritten, but widely accepted rules to determine/calculate the amount of compensation. The victim's gender, and the nature and gravity of the crime committed, are parameters used to determine the amount of compensation. According to participants, the perpetrator or their family are often required to pay 100 camels if the deceased is a man, 50 camels if the deceased is a woman, although this is practically difficult as the perpetrator or their families may not have these number of camels. The contrast in the compensation to be paid for men and women victims does not comply with human rights principles related to equality and non-discrimination. Further, the perpetrator is obliged to cover the cost of the victim's funeral and medical expenses, and at times monetary compensation of up to 500,000 ETB (*approximately 9,200 US\$*) is paid in cases of murder.
28. The amount of compensation for bodily injury is mostly decided based on *Sharia* law, which reportedly allocates a monetary value for every part of the human body. Usually, the entire clan of the perpetrator contributes towards the compensation, and it is uncommon for a perpetrator to refuse the decision. Refusal would be met with elders' curse and segregation, considered as the worst form of punishment/sanction within the Somali community as cooperation is pivotal in Somali lifestyle.
29. Once reconciliation is achieved, the aggrieved party would solemnly vow, swearing on the Quran, not to take revenge against the perpetrator or his/her family. Further, a perpetrator is made to lose ownership rights over firearm used as a weapon of crime. The parties to the conflict would also make a pact. The terms of the pact include a formal pledge by the disputing parties not to engage in any activity that would result in recurrence of similar violence or dispute, and it provides a specific sanction that would be imposed if a party breaks the terms of the pact. In areas close to towns and cities, such pacts would be in written format and signed by the parties. In exceptional cases, such as when a person is a recurring perpetrator, the community would tie the person to a tree that has thorns and ants, usually for two days, slaughter the person's goats, camels, calves and eat them as s/he watches. In what also clearly contradicts human rights norms, clan leaders may also order the killing of the perpetrator such as when a person does not stop from committing serious offences to ensure non repetition of harmful acts in the society, i.e. intentional murder. Leaders will be selected from each clan and collectively kill the perpetrator.

¹⁶² OHCHR interview with community leader, Gode, November 2022.

G. Tigray regional state

30. Participants explained that TMCR have been used to resolve disputes. In Raya area, elders called *Yewenz shimagle*, comprising highly respected personalities elected by the community, resolve disputes. Conflicts between *woredas*, and neighbouring regions are mostly resolved by traditional mechanisms. For example, if the conflict is between the Afar and Tigray regions, religious leaders and elders from both regions would be nominated by the disputing parties, they will have a discussion that involves both sides, an investigation will be carried out to identify the root cause, recommendations will be made, and it would usually result in a resolution of the dispute. If matters escalate the *Dubarti*, comprised of women only, intervene in pleading with the actors to de-escalate the issue. It was also mentioned that there is an established and long-lived system of conflict resolution mechanism led by elders called '*Abo Gerb*' practiced in Enderta area.
31. Before the conflict broke out in Tigray region, Irob communities used traditional dispute resolution processes to settle conflicts related to grazing land along the border with Eritrea. The process is led by *Shimagle* comprised of older men and women.
32. The traditional dispute resolution process in Adigrat is facilitated by community and religious leaders. Both sides of the disputing parties are provided with the opportunity to explain their story, which allows the elders to determine whether the violation was, for example, premeditated or unintentional. Once a dispute is settled through this process, local authorities will be informed of the settlement. After resolving the issues, elders will demand the perpetrator to accept the wrongdoing and apologise to the victim and family members. Depending on the gravity of the case, for example, in case of murder, the perpetrator's hands might be tied with a rope and would be brought to the victim's family, and the elders say: "*Here they are, do whatever you want to their life or to their belongings*". Finally, the elders will award compensation which is determined based on the type of violation, to ensure closure and resolution of the conflict. If the perpetrator's family fails to pay the compensation, sanctions will follow. Participants indicated that elders would issue a condition and anyone who bypasses it will be punished, including by social exclusion.
33. Regarding experiences in the use of TMCR, a participant explained that elders from the Tigray region travelled to the Sudan border to stop the displacement from Western Tigray during the conflict but that they were not successful. Another participant shared the example of the work of *yehager shimaglewoch (elders)* in 2018 (2010 E.C.), where they travelled to nine regions to resolve tensions, which was successful to some extent. One of the successes of the delegation was protecting some university students and lecturers who were targeted due to their ethnicity in one of the regions they visited, adding that key actors in all the regions were open and appreciative of the initiatives.

Annex IV. Quotes from victims on harm suffered

- “My family’s farm was taken away”;
- “My house of 800,000 birr was burned down”;
- “I am displaced and my father was killed”;
- “Our relationship with neighbours has been highly suspicious because of the conflict”;
- “Hearing bullet sounds every day has resulted in feelings of fear and intimidation”;
- “I saw bodies of people killed eaten by dogs”;
- “I saw ten people being slaughtered”;
- “Our house has been burnt and we face difficulties to live now as we lack proper aid for clothing and food”;
- “My husband was killed and my son injured”;
- “We were displaced because of our ethnicity. My aunt and her seven children were killed. We lost our land, property and could not bury relatives and friends”;
- “My wife was imprisoned”;
- “The school and hospital in our village were looted and damaged”;
- “Because of the conflict, pregnant women were forced to give birth on the road. Hearing gun noises has affected us psychologically”;
- “At least 2,700 cattle were stolen from us”;
- “I don’t know the whereabouts of many community members”;
- “I used to own a small business selling food which has been fully destroyed during the conflict”;
- “At IDP sites there is lack of medicine and food”;
- “I was detained in prison where I was denied access to maternity services. I lost my unborn baby”;
- “I was tortured. Doctors had to remove my uterus due to the injuries”;
- “I was arrested and raped”;
- “My house was broken into. I lost properties. Due to this I am psychologically affected”;
- “I was injured, and I now have a disability”.

Annex V: Model Agenda – EHRC-OHCHR consultations on transitional justice

Regional Consultations on Transitional Justice in Ethiopia Model Agenda

Location:

Date:

Venue:

DAY ONE

Date: day, month, year

08:30 – 09:00	Arrival and registration of participants (OHCHR/EHRC)
09:00 – 09:15	Welcoming remarks and objectives of the consultation • OHCHR/EHRC
09:15 – 09:30	Introduction of participants
09:30 – 10:30	Introduction to human rights (presenter: XX)
10:30 -11:30	Introduction to transitional justice (Definition, principles, goals etc) (presenter: XX)
11:30 – 11:40	Tea break
11:40 – 13:00	Focus Group Discussions (Phase one) On roles of traditional mechanisms, values and best practices in promoting transitional justice
13:00 – 14:00	Lunch break
14:00 – 14:30	Report and discussion at Plenary (Focus Group Discussion Phase One)
14:30 – 15:45	Presentation on Key Components of Transitional Justice (presenter: XX)
15:45 – 16:00	Tea break
16:00 – 17:00	Centrality of the role/participation of victims and other marginalized section of the community in transitional justice processes (presenter: XX) Q&A
	END OF DAY ONE

DAY TWO

Date: day, month, year

09:00 – 09:15	Recap of Day 1
09:15 – 11:00	Focus Group Discussions (Phase two) On views and aspirations of affected communities on transitional justice
11:00 – 11:15	Tea break
11:15 – 13: 00	Cont'd Focus Group Discussions (Phase Two)
13:00 – 14:00	Lunch break
14:00 – 15:00	Report and discussion at Plenary (<i>Focus Group Discussions Phase Two</i>)
15:00 – 15:15	Tea break
15:15 – 16:15	Recommendations and next steps (<i>facilitator: XX</i>)
16:15 – 16:30	Conclusion and end of the programme

END