

**ANALYZING THE ONGOING TRANSITIONAL JUSTICE PROCESS IN ETHIOPIA:
CHALLENGES AND PROSPECTS**

By

Abrham Seife Mulunch

School of Law, Bahir Dar University || abrhamseife94@gmail.com

ABSTRACT

Ethiopia's 27-year EPRDF regime was marked by systematic human rights violations. Following the political transition in April 2018 and the devastating northern conflict (2020-2022), a comprehensive transitional justice (TJ) process was launched. This article critically analyzes the ongoing TJ process, focusing on its legal and institutional frameworks. Employing a qualitative research design, it examines the strengths and weaknesses of the National Transitional Justice Policy, its alignment with the Pretoria Agreement, the African Union Transitional Justice Policy (AUTJP), and the EHRC-OHCHR joint report. The article identifies significant legal gaps, such as the policy's lack of inclusiveness, the contested decision to use a special bench within existing courts rather than a new, independent court, and its inability to effectively address international actors' crimes. It further explores institutional challenges, including the government's perceived lack of impartiality, insufficient funding, ongoing conflicts in Amhara and Oromia, and the credibility crisis of the Ethiopian National Dialogue Commission. The article argues that for the TJ process to be successful, it must be inclusive, establish a truly independent judicial mechanism, and integrate international legal standards. The analysis concludes by proposing recommendations for a more contextually appropriate and effective pathway to justice and reconciliation in Ethiopia.

Keywords: Transitional Justice, Ethiopia, Transitional Justice Policy, National Dialogue, Gross Human Rights Violations

INTRODUCTION

In nations emerging from protracted civil war or dictatorial regimes, confronting a legacy of gross human rights violations is a formidable challenge. Transitional justice (TJ) has emerged as the field dedicated to this task, encompassing the full range of processes and mechanisms societies use to address past abuses, ensure accountability, serve justice, and achieve reconciliation.¹ As the United Nations Secretary-General has articulated, TJ includes judicial and non-judicial mechanisms, with varying levels of international involvement, such as prosecutions, reparations, truth-seeking, and institutional reform.²

Ethiopia's recent history is replete with such challenges. After 27 years of the EPRDF's authoritarian rule, a period marked by extrajudicial killings, arbitrary detention, and torture,³ the political landscape shifted in 2018 with the ascension of Prime Minister Abiy Ahmed. This transition, however, was not a clean break from conflict. The subsequent war in northern Ethiopia (2020-2022), which concluded with the Pretoria Cessation of Hostilities Agreement (COHA), left a devastating trail of human rights abuses.⁴ The COHA, alongside the African Union Transitional Justice Policy (AUTJP) and a joint investigation by the Ethiopian Human Rights Commission (EHRC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), explicitly called for a comprehensive TJ process to address these violations.⁵

In response, the Ethiopian government launched a national TJ process, culminating in the adoption of a National Transitional Justice Policy in April 2024 and an accompanying Implementation Roadmap.⁶ This article critically examines this ongoing process. It investigates the key legal and institutional challenges that threaten its success, focusing on the newly adopted policy and its alignment with international and regional frameworks. The central research question is: What are the legal and institutional challenges and opportunities influencing the implementation of Ethiopia's ongoing transitional justice process, and how is the process currently progressing?

This analysis is based on a qualitative, doctrinal research design, analyzing primary documents such as the TJ policy, the Pretoria Agreement, the AUTJP, and secondary literature. It also incorporates insights from empirical sources, including interviews with legal scholars and facilitators of public consultations. The article contributes to a critical understanding of Ethiopia's TJ trajectory, offering recommendations for a more effective and victim-centered process.

THE ETHIOPIAN TRANSITIONAL JUSTICE FRAMEWORK: POLICY AND INSTITUTIONS

The current TJ process in Ethiopia is governed by a set of legal frameworks and institutional mechanisms established post-2022. These were designed to guide the country from conflict toward a future of justice and stability, though they have been met with significant scrutiny.

2.1 Legal Frameworks: The Policy and Its Implementation Roadmap

The cornerstone of the process is the National Transitional Justice Policy of the Federal Democratic Republic of Ethiopia, adopted in April 2024. Stemming from Article 10(3) of the Pretoria Agreement, the policy aims to establish a coordinated and inclusive TJ system.⁷ It is structured around the four TJ pillars: the right to truth, justice, reparation, and guarantees of non-repetition. The policy includes provisions for criminal accountability, truth-seeking through a dedicated commission, conditional amnesty, and institutional reform.⁸

Following the policy, a detailed Transitional Justice Implementation Roadmap was adopted in July 2024. This roadmap outlines the specific processes, timelines, stakeholder roles, and budgetary requirements for translating the policy's directives into action. It is designed to guide the establishment of new TJ institutions and ensure their coordinated and effective operation.⁹

2.2 Institutional Mechanisms

The policy and roadmap envision a multi-institutional framework. The Ministry of Justice serves as the overall facilitator and coordinator.¹⁰ Beyond existing institutions like the Ethiopian Human Rights Commission (EHRC), which has advocated for accountability,¹¹ the policy establishes four new bodies: a Special Prosecutor's Office, a Special Bench within the regular courts to handle trials, a Truth, Amnesty and Reparations Commission, and an Institutional Reform Commission.¹²

The Ethiopian National Dialogue Commission (ENDC), established separately in December 2021, is another critical institution with a mandate to facilitate national consensus. Its success is considered interdependent with the TJ process, though its own challenges have complicated the broader transitional landscape.¹³

3. CRITICAL ANALYSIS: LEGAL AND INSTITUTIONAL GAPS

Despite the structural efforts, the Ethiopian TJ process is plagued by significant legal and institutional gaps that threaten its effectiveness and credibility.

3.1 Legal Gaps and Critiques of the National TJ Policy

The National TJ Policy has faced substantial criticism from legal experts, opposition parties, and civil society for several key flaws:

- a) **Lack of Inclusivity and Impartiality Concerns:** The policy is criticized for being ‘non-inclusive.’ Key stakeholders, including armed groups (e.g., Oromo Liberation Army, Fano) and some opposition political parties, were not meaningfully engaged in its drafting.¹⁴ This lack of participation undermines the process's legitimacy from the outset. Furthermore, the government's dominant role as the initiator, policy-maker, and implementer raises concerns about impartiality. As one legal expert noted, ‘the perpetrator himself cannot be the judge,’ highlighting the inherent conflict of interest given the government's alleged role in the Tigray war.¹⁵
- b) **Judicial Mechanism: Special Bench vs. Special Court:** A major point of contention is the decision to establish a ‘special bench’ within the existing federal court structure to handle TJ trials, rather than a new, independent special court as recommended by the expert working group.¹⁶ This decision is problematic for two reasons. First, it is perceived as vulnerable to political influence, given the low public credibility and perceived lack of independence of the ordinary courts.¹⁷ Second, it potentially conflicts with Article 79 of the FDRE Constitution, which prohibits the establishment of ‘special’ or ‘ad-hoc’ courts that do not exercise jurisdiction as provided for by law.¹⁸ The decision to place the TJ trials within the regular court structure risks compromising their impartiality in a process that demands the highest level of public trust.
- c) **Inability to Address International Crimes:** The policy's focus on domestic law is a critical gap. The crimes committed during the Tigray war involved foreign forces, particularly Eritrean soldiers, who have been accused of committing war crimes and crimes against humanity.¹⁹ A purely domestic legal framework lacks the jurisdiction and mechanisms to effectively hold such international actors accountable. As one legal scholar argued, ‘seeking justice only through domestic procedures would undermine the process’ and that ‘a matter between two countries is a dilemma that can not be resolved through the internal law of one country.’²⁰
- d) **Overly Broad Temporal and Institutional Scope:** The policy’s temporal scope, which extends back to the 1987 constitution, is seen as overly ambitious, conflating the distinct issues of the Dergue and EPRDF eras with the more recent Tigray war.²¹ Attempting to resolve these different layers of grievances through a single process is logistically and politically complex. Additionally, the Truth Commission’s mandate is ‘open-ended’ and ‘broadened,’ making it susceptible to being overburdened and politicized.²²

3.2 Institutional and Practical Challenges

Beyond the legal framework, the TJ process faces severe practical and institutional hurdles.

a) Perceived Government Impartiality: The ruling government's practical impartiality is perhaps the most significant challenge. Critics argue the process is a superficial attempt to 'escape accountability' and deflect international pressure.²³ The government's closure of a UN Human Rights Council investigative team, citing its own TJ process, is cited as evidence of this strategy.²⁴ The Ethiopian government, as a party to the Pretoria Agreement, is simultaneously the alleged perpetrator and the architect of the justice process, which fatally undermines its credibility.

b) Ongoing Conflict and Instability: The TJ process is being implemented while Ethiopia remains embroiled in ongoing conflicts in the Amhara and Oromia regions. This makes public consultations and the building of trust extremely difficult, as 'peace is essential for transition.'²⁵ The government's inability to halt violence and protect civilians fundamentally contradicts the goals of the TJ process and questions its feasibility.

c) Institutional Failures and Credibility Crisis: The credibility of key institutions is in doubt. The ENDC, established to foster national consensus, has been criticized for its lack of transparency in commissioner selection, leading to the exclusion of influential groups and a perception of political instrumentalization.²⁶ Similarly, the previously established Ethiopian Reconciliation Commission 'ended their terms without doing any valuable work.'²⁷ A lack of sufficient funding also cripples the ability of these institutions to function effectively.²⁸

4. CONCLUSION AND RECOMMENDATIONS

Ethiopia's ongoing transitional justice process is at a critical juncture. While the adoption of a national policy and roadmap demonstrates a formal commitment, the process is fundamentally undermined by a lack of trust, political will, and an enabling environment for justice. The current legal framework suffers from critical gaps, including the absence of a genuinely independent judicial mechanism, an inability to address international crimes, and a non-inclusive design. These flaws are compounded by the government's perceived lack of impartiality and the backdrop of ongoing conflict.

For the TJ process to have any chance of success, it must be fundamentally reformed. Based on the analysis, the following recommendations are proposed:

1. Ensure Meaningful Inclusivity: The process must be broadened to include all affected communities including those in Tigray, Amhara, and Oromia and opposition political parties, ensuring they have a genuine voice in shaping and implementing the TJ mechanisms.
2. Establish a Truly Independent Judicial Mechanism: Given the lack of trust in the regular courts, the government should revisit its decision and establish a new, independent special court for TJ

trials. This would likely require a constitutional amendment to Article 79 of the FDRE Constitution, a necessary step to ensure the judicial process is seen as impartial.

3. **Integrate International Legal Standards:** To address crimes with international dimensions, the process must incorporate international law and experts. A hybrid model, where international and national judges and prosecutors work together, could provide the necessary impartiality and jurisdictional capability to hold all perpetrators accountable, including foreign forces.

4. **Prioritize Peace and End Conflicts:** The TJ process cannot succeed amidst widespread violence. The government must prioritize resolving the ongoing conflicts in Amhara and Oromia and ensure the withdrawal of foreign forces from Tigray, creating a stable environment for justice and reconciliation to take root.

5. **Narrow and Clarify the Mandate of the Truth Commission:** To prevent it from being overburdened and politicized, the mandate of the Truth Commission should be clearly defined with a specific and close-ended temporal scope, focusing on achievable goals.

6. **Secure Sufficient and Transparent Funding:** The government must facilitate the allocation of sufficient budget for the TJ institutions. It should also actively seek and transparently manage financial and technical support from international partners to ensure the process is adequately resourced.

The path to transitional justice in Ethiopia is fraught with obstacles, but it is a necessary journey for the country to heal its deep-seated divisions. The success of this process will ultimately depend on whether the state can transcend its own interests and build a genuinely impartial, inclusive, and accountable framework for justice.

REFERENCES

Books and Journals

Alebachew Birhanu Enyew, 'Transitional Justice Through Prosecution, The Ethiopian Red Terror Trials in Restrospect' (2010) 1(1) Bahir Dar University Journal of Law 128.

Hannah R. Garry with Morgan Brock-Smith & Nicholas Maisel, *The Eritrea Ethiopia Claims Commission at the Intersection of International Dispute Resolution and Transitional Justice for Atrocity Crimes* (Oxford University Press 2022).

Henok Abebe, 'The Facade of Justice: Transitionless Transitional Justice of Ethiopia' (2024) 7(1) African Journal of Law, Political Research and Administration 102.

Kinkino Legide, 'Seeking Transitional Justice Through Reconciliation in a Troubled Transition: The Legitimacy, Performances and Limits of the Ethiopian Reconciliation Commission' (2023) 9(121) *Journal of Law and Conflict Resolution* 121.

Tadesse Simie Metekia, 'Implementing Transitional Justice in Ethiopia with International Standards, From policy to Practice' (Policy Brief Issue no 1, 30 May 2024).

UN, 'Report of the Secretary-General on The Rule of Law and Transitional Justice in Conflict and Post Conflict Societies' (UN Doc S/2004/616, 2004) 19.

Legal Instruments

African Union Transitional Justice Policy (February 2019).

Agreement for Lasting Peace Through a Permanent Cessation of Hostilities between the Government of the Federal Democratic Republic of Ethiopia and the Tigray People's Liberation Front (3 November 2022).

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No.1/1995, *Negarit Gazetta*, Year 1, No.1.

National Transitional Justice Policy of the Federal Democratic Republic of Ethiopia (Council of Ministers, April 2024).

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 (28 December 2023).

Other Sources

Interview with MR. Kenaw Tesfaye, Lecturer at Bahir Dar University School of Law (28 May 2025).

BBC Amharic news, 'UpTo Where That the Transitional Justice Will Cross Ethiopia?' (2024) accessed 14 May 2025.

Mahari Taddele Maru, 'Justice in Ethiopia must not be killed by the Peace Deal' *Al Jazeera* (13 December 2022) accessed 14 May 2025.