

The background is a gradient from dark blue at the top to red at the bottom. It is filled with various white-outlined geometric shapes, including squares, rectangles, and triangles, some of which are nested or overlapping. In the upper right quadrant, there is a stylized illustration of a gavel. The head of the gavel is black with white vertical bars, and it is positioned as if about to strike a black, rounded object below it. The handle of the gavel is black and extends towards the right.

# INTERNATIONAL STUDY TOUR ON TRANSITIONAL JUSTICE FOR ETHIOPIA

*Activity Report*

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# BACKGROUND

In partnership with the Federal Democratic Republic of Ethiopia (FDRE) Ministry of Justice, the American Friends Service Committee and the Institute for Security Studies (ISS) organized an International Study Tour on Transitional Justice. The Institute for Justice and Reconciliation, DR Cape Town, was also one of the strategic partners on the ground in South Africa involved in this work.

The Study Tour took place from March 16 to 20, 2025, in Pretoria, South Africa, with lessons drawn from the Gambia, Ghana, Sierra Leone, Kenya, Togo, etc., through virtual platforms like Teams and Zoom. The Study Tour was viewed as an opportunity to learn from the experiences of other African countries that had navigated comparable or similar issues in their TJ processes. Given the AFSC and the ISS's strategic partnership with the AU and given that TJ was a common niche area for the three institutions, it was a great opportunity to stand together at this event.

The Study Tour was inspired by Ethiopia's April 2024 adoption of a comprehensive transitional justice policy aimed at addressing its violent and repressive past. This policy aligned closely with the AUTJP, emphasizing the integration of traditional conflict resolution mechanisms. To implement the policy, Ethiopia had drafted key legislations (five in number) to establish TJ institutions like a Special Bench, a Special Prosecution Office, a Truth and Reconciliation Commission, an Institutional Reform Commission, and an International Crimes Bill. The Ministry of Justice, tasked with leading the TJ process, had consistently emphasized the value of experience-sharing visits as a means of addressing critical challenges in the ongoing TJ implementation.





# EXECUTIVE SUMMARY

Ethiopia is in a process of establishing transitional justice mechanisms and has drafted key legislations to establish five important institutions: a Truth and Reconciliation Commission, a Special Prosecution Office, a Special Bench within the Judicial system, an International Crime Bill and an Institutional Reform Commission. This is a challenging process that requires internal and external support. Learning from experiences from other nations that went through similar processes is also crucial. It is in this context that an international Study Tour on Transitional Justice in Ethiopia was organized from March 16-20, 2025 in South Africa. This International Tour was made possible through the partnership between the American Friends Service Committee (AFSC), the Institute for Security Studies (ISS) and the Ministry of Justice of Ethiopia. They were also supported by the Institute for Justice and Reconciliation (IJR).

The tour and learning experience in South Africa proved to be a necessary step in the right direction. It allowed the Ethiopian delegation to get first hand information from experts who were involved in the TJ process in South Africa. They shared practical knowledge that can be adapted to the Ethiopian reality. The tour helped in understanding better what TJ is all about but also some of the gaps in how it was implemented in SA. And Ethiopia needs to take these gaps into consideration. Despite the problems of violence that Ethiopia is experiencing in some of its parts, the TJ process should continue.

There is a need to create a sort of formula that will push people to collaborate. The TJ process has to be a national issue concerning everyone, and not a problem of the government. It will be important to insist on CSO joining the process, beg them if necessary. Currently, they are not active. They can be instrumental in sensitization. There is also a need for champions within the government to instill the political will that is needed for the process to move forward. The importance of having a strong political undercarriage was emphasized and Ethiopia has been invited to ensure that the TJ process is established on a strong foundation. A key lesson is that it is better not to start a TJ process than start it and keep it halfway.

# ABBREVIATIONS & ACRONYMS

<b>ANC</b>	African National Congress
<b>AFU</b>	Asset Forfeiture Unit
<b>AUTJP</b>	African Union Transitional Justice Policy
<b>AZAPO</b>	Azanian People’s Organization
<b>CSO</b>	Civil Society Organization
<b>CODESA</b>	Convention for a Democratic South Africa
<b>DPCI</b>	Directorate for Priority Crime Investigation
<b>TRC</b>	Truth and Reconciliation Commission
<b>AFSC</b>	American Friends Service Committee
<b>IJR</b>	Institute for Justice and Reconciliation
<b>ISS</b>	Institute for Security Studies
<b>NPA</b>	National Prosecution Authority
<b>NPS</b>	National Prosecution Service
<b>PCLU</b>	Priority Crime Litigation Unit





# CONTEXT

Ethiopia is engaged in a process of establishing Transitional Justice Mechanisms in order to address past human rights violations and foster reconciliation and healing. Once operational, the various entities charged with dealing with the traumatic past will cover a long period of violent history, starting with the communist

regime in **1974** to present day Ethiopia. The Federal government of Ethiopia created several commissions tasked with the elaboration of legislative frameworks to guide transitional justice processes.

Ethiopia's history of violence is deeply rooted in its complex political, ethnic and social dynamics. The more pronounced era of instability started after the overthrow of

Emperor Haile Selassie in **1974**. The military established a new dictatorial regime known as the Derg. This period was marked by what is commonly referred to as the **"Red Terror"**. This was a campaign of political violence and repression that resulted in the death of tens of thousands of people.

Between **1998** and **2000**, Ethiopia was involved in a border war with Eritrea which exacerbated political tensions and affected many communities which were caught in the crossfire. This conflict had lasting political and economic impacts on both societies.

Ethiopia was also affected by internal conflicts. The diverse ethnic composition of the country represents a source of tensions.

The Tigray war between **2020** and **2022** between the Tigray People's Liberation Front (TPLF) and the Federal Government forces is a recent example. This war caused a lot of human rights violations and devastation, and has been considered as a human catastrophe.

In **2024**, Ethiopia adopted its Transitional Justice Policy to address historical injustices and human rights abuses, to foster accountability and to promote reconciliation. The Ethiopian TJ policy was inspired by the AUTJP. The country is in a process of establishing transitional justice mechanisms and has drafted key legislation to establish five key institutions: a Truth and Reconciliation Commission, a Special Prosecution Office, a Special Bench within the Judicial system, an International Crime Bill and an Institutional Reform Commission.

This is a challenging process for the different teams tasked with the elaboration of the legal frameworks that will guide the above institutions. It is in this context that an international Study Tour on Transitional Justice in Ethiopia was organized from March 16-20, 2025 in South Africa. This International Tour was made possible thanks to the partnership between the American Friends Service Committee (AFSC), the Institute for Security Studies (ISS) and the Ministry of Justice of Ethiopia. The tour was supported by the Institute for Justice and Reconciliation (IJR).





# SOUTH AFRICA'S HISTORICAL CONTEXT & CIVIL SOCIETY ENGAGEMENT

## I. Visit to the Constitution Hill and the Women Jail

After four days of planning, the study tour began on 17 March and concluded on 20 March 2025. The first day was dedicated to visiting the memorial to a former women's jail and a section of the prison famously known as Number Four. At this commemoration site, the group of Ethiopian experts learned about the detention conditions which reflected the apartheid policies, as they were applied during that period in South Africa.

Beside institutionalized segregation, there were deliberate acts of dehumanization meant to break the spirit and destroy the soul: Black and colored people were kept at section known as Number Four where the living conditions were at the lowest level. The prisoners were given the bare minimum to be able to survive. For example, 60 to 100 people were kept in one small cell which had only one open toilet. As people struggled for survival in such a small cell, the level of violence increased. As a result, the inhuman treatment at Number Four caused the death of many inmates. Number Four was a place of not only humiliation and brokenness but also of annihilation both in physical, emotional and spiritual manners.

The living conditions and treatment were different for white prisoners, who were given a different type of food, received normal beddings which included bedsheets, blankets, pillows, and a couch, and lived in less crowded rooms. This happened despite the fact white inmates were equally criminals as the blacks and others races.

Today, the memory site which used to be home to one of the most brutal symbols of apartheid has been reclaimed and hosts the highest court of South Africa: The Constitutional Court. The decision to build such an important institution of justice on this site was motivated by an imperative to send a strong message to the new generation of leaders – namely the importance of upholding justice where injustice prevailed in the past. The idea is to constantly remind those in charge of the injustices committed in the history of South Africa so that the same mistakes are avoided and justice is rendered.

*A quote from the memory site:*

**“A nation should not be judged by how it treats its highest citizens, but its lowest ones”**



## II. Discussion on the role of the civil society organizations in Transitional Justice Processes: Victim participation and accountability

Government institutions and civil society organizations play different roles and act differently depending on objectives to achieve, especially during transitional justice processes.

In the South African context, the government and the political actors played an important role in creating conducive conditions for a democratic South Africa to emerge. The Convention for a Democratic South Africa (CODESA) was at the center of the process and played a pivotal role in addressing transitional justice issues during South Africa's shift from apartheid to democracy. The convention served as a platform for various political parties and organizations to establish a framework for a democratic South Africa.

Several transitional justice measures were discussed and adopted during CODESA. Key measures included a commitment to unity and equality and the establishment of a united, democratic, and anti-discriminatory state as a step towards healing the divisions of the past. Another measure was the formation of an interim government to oversee the transition and lay the groundwork for transitional justice mechanisms aimed at addressing past human rights violations and fostering reconciliation.

CODESA provided a platform for dialogue and consensus-building, which were crucial in addressing the injustices of apartheid and laying the foundations for a democratic society.

The choice to hold the first meeting with the Ethiopian delegation at the former women's jail was not by coincidence. This was a place where the law was ignored despite the existing legislation. People were mistreated without the possibility of getting defense from the country's law.

As noted by Dr Shirley Gunn, Director of the South African Coalition for Transitional Justice (SACTJ) such study visits aim is to learn from the wrong done in the past in order not to repeat it. According to her, Ethiopia is in a better position today in comparison to where South Africa was when their transitional justice process began. Today, there are many examples of transitional justice processes to learn from. Many countries in Africa and across the globe have dealt with the past in different ways, and their experience offers a possibility of getting many lessons from the work already done.



## III. What should be the role of the CSOs during TJ processes?

Drawing from examples of the work of her organization, Anna Moyo from the Center for the Study of Violence and Reconciliation (CSVR), showed the different areas where the action of the CSOs is needed.

Documenting the facts: CSOs play a significant and necessary role by engaging in research and data collection. This is a work that most government agencies don't like to do. Government agents generally don't have time to understand the various phenomena linked to a given process, such as TJ. Through research and analysis, CSOs bring a much-needed contribution in explaining and understanding the root causes of a problem. When for example the law is discussed, the tendency is to view a problem through black and white lenses. However, for any phenomenon like the apartheid, there are also many grey zones that need to be explained, clarified. This is only possible through research and analysis. The CSOs can easily intervene in such an area.

Very often, the various activities the government is involved in are not well communicated. This can include for instance reparations or any other processes taking place. You will find that many people are not aware of what is happening, even when they are affected. CSOs tend to fill in this gap, explaining in detail what the government is doing and how the people should respond. In other words, the CSOs help in raising awareness on processes that are taking place and help people understand how to react or respond. One such example was the work of an organization of the CS known as the Khulumani Support Group, which accompanied a number of victims of the apartheid in their quest for justice.

The CSOs can also play a role in transforming the language used in some of the official documents so that it is understood by all. This includes for example justice related documents and other administrative papers that use a specialized language. In addition, these organizations can offer different types of support. This may include psycho-social support for example. The CSOs have the capacity to provide citizens with support in engaging with justice. They can provide support to network with advocates, advisers etc. For example, 20 000 people were found to be eligible for reparations in South Africa. Many were not aware of this information and did not know how to proceed to access the reparations. The work of the CSOs was important in ensuring that these people could access this form of justice. The CSOs can also intervene in monitoring and evaluating the implementation of the recommendations of the TRC. This an important task which the government cannot do. Another challenging issue for the government is related to publishing a report from the Truth and Reconciliation Commission, when it has completed its task. And this is when the CSOs step in and lead the campaign to raise awareness on the conclusions and recommendations of the TRC, particularly regarding what needs to be implemented.

CSOs can support the TJ process through the drafting of various reports, and in offering expertise in crafting legislation, having in mind people's expectations. Involving CSO members, academia, researchers etc., gives more legitimacy to the TJ process and increases trust in the work being done. So, to gain trust and credibility, it is important to open up some space for the CSO and other stakeholders to actively participate in the TJ process, allowing them to contribute at various



levels. When TJ processes are focused on people working closely for government institutions, the credibility is quickly lost. Ethiopia could borrow the language used in contexts where CSOs were allowed to play a more prominent role in TJ process. CSOs should include victims' organizations as well.



## IV. Victim Participation

During the TRC public hearings, Dr Shirley Gunn was called to testify as a witness of the horrors committed by the apartheid regime. She shared her testimony as a former political prisoner. Being pregnant at the time, she was tortured and put in confinement or in an isolation cell which was another form of torture itself. During the TJ process, especially during the TRC public hearings, Dr Shirley was called by the commission and described the horrors prisoners endured while in prisons. This period was particularly difficult, especially for her, as she previously had never been involved in such a process. Following her testimony, she was assailed with questions from the media, researchers, academics and all those who wanted to know about different aspects of the information she held. And sometimes it was hard to handle the pressure from that kind of questioning. From her perspective, this is a very sensitive phase of the transitional justice process and its success depends largely on how the documentation of the crimes has been done and on other available information.

For this reason, Dr Shirley Gunn advised the Ethiopian experts to start thinking about the documentation of the past and how to keep and protect the invaluable information that is already available, but which can disappear anytime. In particular, with regard to reporting, it is equally important to ensure that the information destined to the public space is digestible, so that the public can access it easily. The reports must be easy to read and to understand.

Dr Shirley Gunn also talked about reparations and the importance attached to this crucial process. But most importantly, she emphasized the important role of the CSOs in pushing for the implementation of legal provisions for reparations. In the TRC report, the recommendation to ensure that there are reparations for victims was among the top priorities for South Africa. It was decided that reparations would take place at the provincial level. It is important to know that reparations raise a lot of expectations for victims. They expect the government to take care of a number of issues, which may include for instance medical treatment, housing, psychosocial assistance and some payments (monetary compensation).





Initially, there was a proposition for a six years package that would be given to victims of the atrocities committed during the apartheid era. The process was so complex that it was difficult to launch. In 2003 President Thabo Mbeki came up with an idea of making a once off payment for victims. Everyone one would receive an amount equal to R 30 000. This was below the reparation threshold proposed by the TRC and it has led to an overwhelming feeling of unfulfilled promises.

There were symbolic reparations as well. These included at a personal level for example, the expunging of a former prisoner's criminal record. This was part of restoring people's dignity. Dr Shirley also made a point on the importance of sequencing the different stages of the transitional justice process. According to her, reconciliation must come as the ultimate purpose of this process but this has to be preceded by other processes such as the truth seeking, reparations and many more. In order to succeed, Ethiopia will have to avoid committing the mistake of South Africa when it decided to go through the process alone. It will be important for Ethiopia to make a room for cooperation with other countries, stakeholders, and to keep learning.

In retrospect, what could South African CSOs could have done better? On this question Dr Shirley Gunn indicated that some issues remained unresolved because in some context there was no clarity, but what kept the organizations working was the belief in the power of the people. That has given CSOs in South Africa the energy to move forward.

There is room for CSOs participation in TJ processes, and Ethiopia can open up a space for such organizations to contribute more significantly to the process. One of the best ways is to involve people from CSOs in the TRC process through the drafting of different reports. Most CSO are eager to offer their expertise in crafting draft legislations, having

in mind people's expectations. Involving CSO members, academia, researchers etc., gives legitimacy to the TJ process and increases trust in the work being done. So, if the process needs to gain trust and credibility, it is important to open up for the CSO and other stakeholders to actively participate in the TJ process, allowing them to contribute at various levels.

When TJ processes are focused on people working closely for government institutions, the credibility is quickly lost. To empower CSOs in the legislation process is to provide a role to non-state stakeholders within the TJ process as it unfolds. Ethiopia could borrow the language used in other contexts where CSOs were allowed to play a more prominent role in TJ process. CSOs should include victims' organizations as well.

## The Legal Aspects of the TJ process: Pushing for accountability

In his discussion on how the TJ process was handled, Chris Gevers pointed out that South Africa has not been good at learning from other contexts (or at least it did not keep learning). South Africa was celebrated for its achievements and at the time it was something good. However, since that time a lot has happened and the world has drastically changed. Today, the need to learn remains important.

The question of amnesty was addressed in a problematic way during the South African TJ process. Amnesty was based on a full disclosure of what the requesting person has done. The problematic issue here was the fact that there was no difference between those who committed crimes while fighting against the apartheid regime and those who were fighting on behalf of that very regime.





## The Constitutional Court made two different decisions on the same issue of amnesty:

The first decision was made before the TRC finishes its work. At this time, apartheid was not yet defined as a crime against humanity, and some wrong decisions were made with such an understanding. For example, for people who committed crimes during apartheid and who did not appear before the TRC for hearing, there was no consequence. There were no coercion or obligation to appear before the TRC or any court.

And the second decision was made after the work of the TRC. This is when the apartheid regime and policies were recognized as a crime against humanity. However, in the aftermath of the TRC's work, there was no other legal mechanism put in place to pursue those accused of having committed those crimes against humanity. Today, the Constitutional Court is much more aware of the international law and is in a better position to define the type of crimes that were committed during apartheid.

An important issue that the Truth and Reconciliation Commission in South Africa did not address was related to the problem of collusion between business and apartheid. Several decades down the line, this problem is proving to be a difficult and complex one and much more difficult to solve than it was when all South Africans were still enthusiastic about TJ processes. It is one of the main factors explaining the difficulties the South African society is experiencing and why it is not yet fully reconciled.

Why did the TRC fail to deal with this issue? Domestic politics prevented the TRC from looking into the collusion between business and apartheid, in particular how some businesses made substantial profits thanks to advantages offered by apartheid policies. Another factor which prevented the TRC from dealing with economic injustices, was the need to move faster to the next phase. It seemed then that the issue could wait. At the time there was an illusion that the past had been dealt with properly. However, many problems still remained and needed to be resolved for the South African society to heal completely. Today, South Africa remains one of the most unequal societies.

It was obvious that people needed to be encouraged to come forth and testify. The most important aspect of this process was the fact that, at the highest level, a commitment to provide amnesty had been made. This gave people the confidence that if they decide to give a testimony, a full disclosure, nothing was going to happen to them.

Nevertheless, there were proponents and opponents of the amnesty provisions within the SA Constitution. The case of the Azanian People's Organization (AZAPO) illustrates well the difficulties linked to the issue of amnesty in the South African context. The AZAPO challenged the constitutionality of the provisions for amnesty within the Promotion of National Unity and Reconciliation Act (Act 34 of 1995) in its section 20(7).

They argued that the provisions for amnesty were unconstitutional because they allowed for impunity for those who committed human rights abuses during apartheid. However, the Constitutional Court upheld the constitutionality of the section 20(7) because it found that the provisions had the objective of promoting national reconciliation and that the state was entitled to adopt a wide concept of reparations.

Another serious problem was related to the complexity of using the apartheid era legislation in judging the crimes committed under the same regime. This means that the legislation was not adapted to deal with the new type of cases brought for judgment. It should be noted that even the judges of the apartheid era were skeptical about the TJ process as it unfolded. No one trusted the process enough to come forward and testify. Members of the judiciary system were part of the same violent system.

In fact, the judiciary, the intelligence and the police were some of the most difficult state institutions to transform. They did not help in solving the problem. They were part of the problem to be eradicated as they participated in the committed apartheid crimes. When the discussion is about institutional reforms, these are the type of institutions that need to go through such a process. It gives victims hope that there is willingness to genuinely address the past and foster accountability.

However, the top suspects within the hierarchy of the apartheid system did not appear before the TRC. This was surely problematic, but at the time it was difficult to force these people to cooperate. They were still in control of the political machinery, and they were protected by a political deal concluded with the ANC during a delicate period when reaching a peace deal was the key priority. Indeed, the senior members of the former regime seemed not afraid of the TRC. One of the possible explanations is the political agreement that was concluded between the ANC and the top leaders of the apartheid regime, in particular the military top brass. On the one hand, the ANC decided that it was not strong enough to win and overthrow the apartheid military force. On the other hand, the apartheid army accepted that, even with the superior military force, it was not able to kill and annihilate all the black population demonstrating on the streets. Therefore, the agreement was to conclude sooner than later an agreement on peaceful cohabitation.



# EXPERIENCE SHARING AND LEARNED LESSONS FROM DIFFERENT AFRICAN CONTEXT (SOUTH AFRICA, SIERRA LEONE, GAMBIA, KENYA, BURUNDI)

## I. The need for a strong political agreement on the way forward

The success of a TJ process depends on having a common vision for a common future. It is a long-term engagement to ensure the nation's strength is built on its people being united. This is reflected by the political leadership's willingness to leave aside vested interests and focus on what is important: Peace.

According to Dr Fanie du Toit, South Africa's Transitional Justice was unfortunately crafted as an event that was limited in time. That was wrong. When you look at the Colombian case, you understand that TJ processes are for life, or at least several generations have to go through such a process. There are two important elements that determine the level of success of a TJ Process: the way the process is designed and the involvement of the government in it.

In South Africa, the TJ process was designed in a way that lacked a certain degree of firmness but it was mounted on a robust political deal, and that made the difference. Earlier, there was a consensus that the apartheid system was a crime against humanity. However, the government did not insist on this aspect. As a consequence, today there is a new tendency towards revisionism to deny the criminal character of the apartheid.





## II. The Buffalo metaphor

Dr Fanie du Toit compared the strong political deal that was concluded by South African political actors to a buffalo bull with a terrible pair of horns and four strong legs that represented four key principles:

### a) A strong political undercarriage

The first principle was related to creating incentives for exiled politicians to come back home, while benefiting from amnesty. At the same time the African National Congress (ANC) accepted to conduct an investigation against its own fighters, a kind of self-assessment on what violations could have been committed. The Goldstone Commission showed that human rights violations were committed by ANC members. This process was very important as it showed good intent from all parties during the crucial period when the negotiations on how to establish a new democratic order were taking place. This happened before 1994.

Then, it was the turn for civil society organizations to come out and start asking the difficult questions, those that precisely need to be asked in order to make sure the foundation on which the new system is built on will be strong enough to withstand future challenges.

It was crucial for the TJ process in South Africa to be victim-centered. It is morally correct to give a voice to victims because a focus on such people plays a significant role in preventing revenge. It also gives the nation's leadership a political high ground. One of the key objectives of the TJ process was to create a new South Africa that was called to be a melting pot for different racial groups, where all people learn to live together.

### b) Public Consultation

Consulting the public is an essential element to establish the basis for strong Transitional Justice mechanisms in a process that is considered credible and trustworthy. Ethiopia can work around this issue while focusing on the strong national identity that characterizes this nation. The national identity is a binding element, and it will be crucial to use it in fostering reconciliation.

### c) Ensure the process is inclusive – a key principle

The TJ process must be inclusive. The focus on victims as a central element of the process should be accompanied by a gendered inclusiveness. This means that no one should be left behind, men and women, young and old, rich and poor. It is particularly important to take into consideration the suffering that women go through. In South Africa, the gendered inclusiveness was not insisted on enough but later it became obvious that the approach should have been different.



### d) Perpetrators should not be left untouched

In order to fight against impunity, it is necessary to address the committed crimes and target perpetrators behind them. However, it is generally known that these people remain in strong political positions after peace negotiations as was the case in South Africa. However, for the TJ process to be successful, these people should be encouraged to come forward and testify. If they refuse to comply, there should be a real and strong threat of prosecution. For Ethiopia, the idea of establishing a Special Bench is very important and responds to this concern.

For South Africa, there was a 43 page report that contained the names of people to be prosecuted. The report also showed how the money for reparations could be collected by taxing the Johannesburg Stock Exchange 1% of its profits. It suggested a six-year period to cover all needs in terms of reparations.

There was an incident that highlighted the challenges linked to prosecuting people in strong political and military positions. One day Mac Maharaj was called to meet the South African Army Generals in a private place. They informed him that they wanted to talk directly to Nelson Mandela as they did not trust the political class under Frederik De Klerk. When they finally met with Mandela, it was agreed that they will focus on peace and stability first.

Mandela's position was that South Africa needed peace and there was no need to wait longer. He told the general that the anti-apartheid forces were not strong enough to defeat the army, but the army was not in a position to eliminate all blacks. It was necessary to reach a compromise for peace sooner than later.

It should be noted that the TRC also criminalized the liberation movement. However, some of the leaders of the ANC did not support this approach. For them the liberation movement was justified in its acts, including the violent ones. One of those leaders was Thabo Mbeki who later on became President of South Africa. Some of the decisions made during his term in office undermined the reparations process. In fact, it was decided to abandon the six years package proposed during TJ processes. Instead, a once-off payment of R 30 000 was made for all victims of apartheid. This decision has had a negative impact on the whole process and as a result, the work of the South African remains as an unfinished business.

Regarding the challenge of having to address many conflicts, Dr Fanie Du Toit shared the experience of Colombia. He stated that Colombia tackled one conflict at a time. Then it added progressively other dimensions in line with the TJ process.

For Ethiopia, it is important to first understand what the real problem is (the elephant in the room). There is a need to challenge the political narrative developed during the period of violence. This will be possible if victims are given a space to testify. To document what happened is also another important task. During TRC processes, people want to see real transformation in their lives.

**“It is better not to engage in a Transitional Justice process at all, than do it halfway”**

*Dr. Fanie Du Toit*



### III. Lessons from Investigations and Prosecution processes in South Africa

According to Justice Dumisa Ntsebeza-Brady, in South Africa there was an insistence on having a TJ process that was focused on investigating and prosecuting gross human rights violations. These violations included: killings, abductions, torture, severe ill-treatments (KATS). This process was important as it helped in determining who could benefit from amnesty and who could not.

If someone applied for amnesty, that person had the obligation of making a full disclosure, despite how heinous the committed crime. If the investigation shows that the applicant did not tell everything or lied about some events, the amnesty was denied. The objective was to push people who applied for amnesty to be truthful. This was in line with the Act with the purpose of promoting national unity and reconciliation.

The investigation commission of the TRC had a mandate to cover 34 years of violence in South Africa, from 1960 to 1994. The decision to start investigation from 1960 was based on the fact it was the year when all liberation movements decided to start an armed struggle. It was important to investigate and look into the violence that was intended to bring change. The investigation took place at a critical time when the Head of the Police, the Intelligence and Secret Services, the Judiciary and the Armed forces were all from the apartheid regime (the Afrikaners Secret Society).

The process was quite challenging and there was a need for some fundamental changes. This is why there was a suggestion to establish a government of national unity, that could create conditions allowing for the fundamental changes to take place. Change was possible if all parties were involved and in agreement on what to do.

The investigations and decision to prosecute helped in creating a climate of confidence that allowed victims to come out and share their painful stories and what they went through during apartheid.

One of the significant outcomes of the work of the TRC and its commissions such as the one tasked with investigations, is to restore dignity of victims. It is therefore important to know how to treat people, especially those who have been victimized by repression when they come to such commissions looking for help.



### IV. Challenges linked to prosecuting people in strong political positions

Advocate Picoli was one of the few people who had the delicate mission of implementing the decisions of the Truth and Reconciliation Commission regarding decisions to prosecute. When he became the Head of the National Prosecuting Authority, he attempted to prosecute some of the people identified by the Truth and Reconciliation Commission. The list included the former Police Commissioner and other top figures who played a leading role in violating human rights during the apartheid era. However, Advocate Picoli encountered a strong opposition and was not able to prosecute. He was later fired from his position.

The reason for this failure was to be found in the political deal conducted between the apartheid regime and the ANC in order to give peace a chance. Indeed, ANC started discussing the future of South Africa during the time when its leaders were still in exile. The representatives of the white minority in South Africa were concerned by the possibility of creating a democratic state in which they may not have as much political strength as they used to. So, they reached out to the ANC, and discussions were held on the future of the country.

They wanted to know if they would be safe once ANC comes to power, and wanted some security guarantees. This is how the political deal was reached.



When Adv Picoli attempted to prosecute some of those identified as perpetrators of human rights violation, the political game prevented him from doing so. The political deal derailed the Transitional Justice process with regard to prosecution, as suggested by the TRC's Investigative commission.

In South Africa, there was both restorative and retributive justice elements going hand in hand. The TRC relied on existing judicial institutions but insisted on the main problem – addressing the wrong that has been done in the past.



## V. The National Prosecuting Authority in South Africa

The NPA was under the Ministry of Justice. Within the judiciary in SA, there was a unit mandated to deal with the TRC prosecutions. It was important also to understand the question of the timing for justice to prevail. It is important to strike a balance between the need to preserve peace and bring spoilers on the table and the need to prosecute the committed crimes in order to fight against impunity. If a focus is put only on preserving peace, it is possible to miss an opportunity to tackle impunity and as time goes on, some of the key witnesses or perpetrators get old and die without appearing before justice. All these aspects need to be taken into account if we need to bring justice to those who have been victimized.

For the case of South Africa, there has been no specific court established to deal with TRC related prosecutions. The existing courts at the district, regional and higher levels and courts of appeal were used. At the same time, there was no limitation of the cases that could be brought to these courts or limit to the timing allocated for each case. The timing depends on the judges who sit examining the case and the time it takes to investigate, analyze, and deliberate.

In the past, the judges were appointed by the President of the Republic. Today, there is a clause requiring the appointment to take into account the race, gender, and regional representation so that no one feels segregated as was the case in the past. The correction of imbalances within the judiciary system was necessary and an important step towards addressing the historical wrongs in SA. (For example, during apartheid there was 163 white male judges, 2 white females and 3 black males in the whole country). So, today the selection of judges has been corrected and is quite different from what it used to be.

With regard to representing victims in SA, there is a process that allow people to have a legal representation. When a person is not able to pay, the government has the obligation to provide him/her with legal representation pro bono. Otherwise, it can be very expensive. The lawyers have to be consulted as soon as the process to introduce a case starts.





## VI. On Political Interference

Political interference is a real problem that has to be taken into consideration. It is a mistake to ignore it. But this should not prevent the prosecution process from taking place. Justice Dumisa Ntsebeza advises the Ethiopian Team to consider establishing an investigation commission during the TJ process, to investigate cases related to what political leaders (the big fish) did. The prerogatives of such an investigative commission must be well defined (how extensive should be the powers of such a commission).

Drawing from his personal experience, Dumisa Ntsebeza shared how he was called by the top brass of the security apparatus. They explained him that they had concluded a deal with the African National Congress that they would not be prosecuted. They warned him that his investigative commission was going too deep in its work to understand what happened. This is where political interference came in.

The TRC presented a list of 300 individuals considered as the most prominent among perpetrators and could rightly be prosecuted with forensic evidence. But this did not happen as politics interfered and undermined the process. This is why it will be important even for Ethiopia to keep in mind the importance of politics during a TJ process. In South Africa, there was no missed opportunity but there was unfortunately an abuse of power. The law required that there is prosecution. But those who held the power refused or undermined the process and the investigative commission had less power than it needed to handle the problem.



## VII. Amnesty in South Africa

In South Africa amnesty was granted to 1000 people who applied. But 6000 were refused. The Amnesty commission was a quasi-judicial institution. In 2003 the Amnesty committee asked people who previously did not come out to testify. The 6000 who did not get amnesty did not meet the requirement for full disclosure. The most important aspect of this process related to amnesty was to ensure that those who committed crimes or violated human rights understood that their actions were wrong and they cannot get away with them. But in SA, this mission failed. Some of the people who accepted to disclose what they did became a laughing stock for those who did not go, because nothing happened to those who refused to go. It is important to fight against impunity.





## VIII. The importance of AU Transitional Justice Policy for Ethiopia

During his presentation on the importance of the AUTJP, Prof. Emeritus Gilbert Khadiagala explained why it was necessary in the first place to have such a continental policy. It all started with the AU Panel of the Wise asking how Africa should navigate security issues and democratic governance. It was agreed that the absence of democratic governance and the prevalence of impunity was the starting point to develop a policy on Transitional Justice at the continental level. Prof. Gilbert Khadiagala and his team were asked to work on a report that showed why transitional mechanisms were important for Africa.

The Panel of the Wise adopted the report in 2011. Then the report was handed to AU Department of Political Affairs. This was a crucial period when Africa needed to address the issue of impunity in the face of an ICC which was targeting African Leaders, among whom were sitting presidents such as Omar Al Bachir from Sudan. The ICC approach represented a discomfort for the African Union. In 2013 the Legal Office at the AU started reviewing the report. In 2019 The AU Transitional Justice Policy was adopted.

The adoption of the AUTJP responded to the need for a policy that spoke to African values. It was not about reinventing the wheel but building on existing foundations (Rwanda's Gacaca; North Uganda's Mato Oput).

So, the fact that Ethiopia, which is a headquarter to African Union, is in a process to establish transitional justice mechanisms is very important. Also, the recent Pretoria Agreement in article 10, makes provisions for the implementation of Transitional Justice



with reference to the AUTJP. Despite the ongoing violence in some parts of Ethiopia, there is no need to back down. The Transitional Justice process has to continue.

## IX. Reparations as a key aspect of Transitional Justice Mechanisms

Reparations represent one important pillar of transitional justice processes. At the same time reparations constitute a serious challenge for the overall process. For example, in Gambia, a country of less than four million people requires more than 100 million dollars US for the needs in compensations. For a country like Ethiopia whose population is beyond 100 million people, how can one address the issue of reparations, particularly with regard to monetary compensations? These are important questions to understand before embarking on such a process. It is necessary to define what can be done and what can't.

Talking on reparations, Prof Tim Murithi emphasized the importance of such a process. According to Tim, in South Africa only about 45 000 people received compensations. Today, people many people are not satisfied with what happened.

There is an ongoing contestation, and people are still asking for reparation processes to continue. At the same time, it is important to note that South Africa has managed to move ahead with symbolic reparations through the construction of museums and monuments, and the renaming of places and infrastructures. In general, South Africa had a good plan to deal with the past, but it dropped the ball on implementation.

Reparations must have value not only in terms of compensations but also with regard to restoring victims' dignity. The fact that the government (Thabo Mbeki) refused the proposal for a six years package was like spitting in the face of victims. This is an important lesson to take into account. For Ethiopia, it will be important to also keep the public engaged on the TJ process. The public can intervene on a number of issues which include for instance memorialization and reparation with non-material means. Ethiopia will also need to look into the possibility of using some traditional mechanisms to address the past and to ensure that its TJ is a true African product.





## X. How do we manage victims' expectations?

It is important for the political to meet the technical with regard to TJ processes. This leads to greater impact. The successes registered in South Africa were made in contexts where the political and technical met.

But with regard to reparations, in SA there was a delay resulting from the attitude of political leadership. The report from the human rights commission was handed over in 1998, but the government did not act directly. In meantime some victims died, and others lost contact. It would have been timely to start the reparations soon after the release of the report by the human rights commission. The case of SA also shows that there should not be a closed list for victims. The list should remain open until there is no more victim to register. This did not happen. The government of South Africa did not act decisively.

As a consequence, there are protests once again. It is really important to understand that a TJ process is for a lifetime; it's a life commitment. It's a calling. You cannot consider being involved in fostering TJ as a carrier only. If we don't deal with an issue, the next generation will have to deal with it in more difficult conditions.



## XI. How do we sequence Truth and Justice?

For the Ethiopian Team there was a clear need for clarity on how to approach activities related to finding the truth about the past and promoting reconciliation on the one hand, and prosecuting those who abused human rights on the other hand. One answer was that there should not be a rigid way to approach this issue. The rule of the thumb is to do things when you are ready to do so. Sometimes you have to use the available gap, during the time when the political side is open and ready to support you. So, when the circumstances are conducive, you use them for the process to move forward. In Sierra Leone for instance, the TJ process took a very traditional approach. There was no cooperation with the Special Tribunal. When the report of the TRC was released, this challenge was indicated with the advice that the different institutions involved in the TJ process do not have to fight. They can always find a way of collaborating.

In South Africa, when the investigation was concluded, the judge from the apartheid era refused it. He could not believe that the apartheid regime committed all the crimes it was accused of. The case was dismissed as a result of having an unreformed judicial system. This case points to the need to examine whether the judicial system needs to be reformed or not while the TJ process is pushing ahead. This could help avoid similar scenarios from happening. Some cases in SA failed also because the government took much longer to act. When you start dealing with crimes committed in the 70s, 80s or 90s, this means that you will not have a lot of witnesses left. Perpetrators and witness get old and die. So, it's important to act when there is still some time to get valuable testimonies.

In the context of Burundi's Transitional Justice process, the sequencing was rather about which tragic event should be investigated first as a matter of priority. The country has had a cycle of violence with killings taking place in 1961, 1965, 1969, 1972, 1988, 1993 etc. According to Louis Marie Nindorera, the massacres that took place in 1988 should be the starting point. This tragedy happened during a period when Burundi was at an intersection of key political events that were taking place.

It is also necessary to develop local capacities so that they can handle the cases of crimes against humanities or genocide. We should not be relying on people from outside or the ICC. For example, the Gambia has made provisions for the International Customary Law to be adapted to its national laws.

Another important thing is to work holistically, across a range of subjects, disciplines, to be able to cover the different aspect of the TJ process, as it has to be inclusive, with various institutions and individuals being involved. The principle of sequencing TJ priorities is very important. This where priorities are determined, and institutions in charge of the TJ process must be ready to act when this phase is completed. We should, however, not forget that TJ or the establishment of a truth commission is not a solution to every problem related to the past. It generally opens up the debate for other processes to follow. The work of the TRC will also require a number of processes to be complete. This is why identifying priorities is important.



# CASE STUDIES

## The Gambia

Dr Baba Jallow, former executive secretary of the Gambia Truth Commission, indicated that the Ethiopian context is different in comparison to many in Africa. One of the key elements for the Ethiopian process to be successful will be inclusivity, which takes into consideration the many ethnic groups living in the country. The imperative to be inclusive should also concern the selection of the members of the TJ mechanisms themselves. It is important for people to see that all groups are represented.

The media coverage of the process has also to ensure that everyone is well informed about what is happening. This means the message that is communicated should be in a language that people understand. It is important to cater to for the needs of people at the community and individual levels.

## Sierra Leone

Ms. Valnora Edwin discussed how the civil society organizations collaborated with the TJ mechanisms in Sierra Leone and what actions were prioritized.

The first important action was to raise awareness and to educate the population on the work of the TRC in SL. There was a serious challenge in convincing the SL population about the role of the TRC. (The funds to carry out such an activity were not sufficient as well).

In Sierra Leone, CSOs included the Human Rights organizations, Women and Youth organizations, etc. All these organizations engaged the public on the TJ mechanisms. The importance of CSOs in supporting such process cannot be overstated. They play a crucial role in managing the expectations of the public and victims in particular by explaining what to realistically expect and what should be focused on. The SL experience shows that reparations need to be supported by the political leadership in order to succeed. When there is a political willingness to support the process, the successive mechanisms get the possibility to implement the provisions related to reparations.

## Burundi

Louis-Marie Nindorera, an experienced TJ expert that technically supported the Burundi Truth and Reconciliation Commission, threw some highlights on the process. Burundi's TJ process took about fourteen (14) years after the Arusha Peace Agreement (2000). This Agreement recommended two TJ Mechanisms: the Truth and Reconciliation Commission (TRC) and the Special Tribunal. The legislative process decided to sequence the process rather than the two TJ Mechanisms running parallel. The law establishing the TRC was enacted in late 2014 and the nomination of 11 Commissioners

then followed with a full mandate operationalizing in 2015. This Commission is its third mandate today. The reconciliation process at the community level was slow.

With regard to sequencing, it could be necessary to ensure that the TJ processes are organized in a way that one process build the case for the next. What is referred to as tactical sequencing depends on available resources. In general, the debate about sequencing is mainly a problem of resources. The idea of sequencing was highlighted when Mamdani said that African societies need more reconciliation than justice. The assumption was not true. When the resources are available, reconciliation and justice should be considered at the same time.

Regarding the way the different activities are organized during the process, there should normally be no discrepancies. Commissions pursuing the same objective of dealing with the past should be able to collaborate. This is generally an organizational and technical issue. For Ethiopia, right now the priority should be on what is common and what could bring together the country. That would be the element to focus and build on.





# LESSONS FROM SOUTH AFRICA'S NATIONAL PROSECUTING AUTHORITY

## The Priority Crime Litigation Unit (PCLU)

Advocate Gideon Mashamaite discussed the work of the Priority Crime Litigation Unit (PCLU). This unit deals with a number of issues which include protection against terrorism, high treason, money laundering, non-proliferation of weapons of mass destruction, sedition, regulating military assistance, and abuse of the Roman statutes. The prerogatives of the unit extend to both national and international cases. For example, there is currently an ongoing work on the Palestine case and another case related to sexual violence in Zimbabwe during the elections. In both cases, South Africa is looking into possibility of assisting victims. This work is being conducted in line with the international law that SA has signed and the court has granted the permission to conduct investigations.

There are challenges related to the fact these cases are out of the SA territory but the existing jurisdiction indicates how to act. For instance, when a citizen of South Africa has committed a grave offense, the unit has the prerogative to go abroad and bring him back to face justice. The Unit collaborates with other institutions such as the intelligence, the police, the financial crime unit, the DIRCO.

With regard to apartheid era offenses, it has been difficult to address those cases. There is a lot of information that has been concealed and most of the crimes were committed a long time ago. Mashamaite advised the Ethiopians to have a broad mind and a clear strategy during investigations.

According to him, it is important to:

- ***Look for the relevant agencies and institutions for the case***
- ***Find the needed expert to conduct analysis of critical information***
- ***Talk to other colleagues and make sure you gather all important information***
- ***Establish facts and meet requirements***

For example, if you are working on a case of terrorism financing, you have to investigate the flow of money, the channels used, etc. And when you don't have expertise, you ask for it from another relevant institution. Basically, you collaborate with others and look for assistance when it is necessary.



## The Asset Forfeiture Unit (AFU)

Advocate Richard Cheney discussed the work of the Asset Forfeiture Unit (AFU). This unit was established in 1998, on the basis of the Financial Crime Act. At the time many people did not understand what it was all about.

The reason why the unit was created was “to take the profit out of the crime”. The mission is to show that crime should not pay. It is a way of fighting against financial crime. It starts with targeting what is used to commit the crime. You target the infrastructure that is facilitating crime commission. The most difficult task is to reach the bosses of criminal organizations as they use other people. It is only when you touch their money that you are able to hurt them.

In order to work on issues related to assets forfeiture, you need to understand the legislation around it and how it works. In the South African legislation on Asset Forfeiture, the chapter 5 deals with the persons involved in financial crimes and criminal assets. Those are the one to be targeted. In this chapter the leading question is how much profit is the criminal getting out of the crime. In order to act a freezing order is requested from the Judge. However, the chapter 6 which deals with civil assets does not require to necessarily identify the person behind the crime. Here what is important is to identify the link between the property (asset) and the committed crime. In this case, the preservation order is required from the judge, and the suspected criminal does not need to be present. Both chapter 5 and 6 have the same proceedings and are civil in nature.

There were two main challenges appeared as the unit started its operations: In the first place, the judges did not understand what the AFU was doing or what it was all about. Secondly, at the AFU itself, not everyone understood what it was getting into, the difficulties related to the operations to be carried out and the decisions to be made.

Therefore, it became obvious that for the AFU to be well prepared, it needed to have best lawyers and judges on its side. It was also necessary to change some laws in order to act retrospectively. But this process was very long. When there is a need to change the law, the process takes a long time. There are cases that the AFU lost and it was necessary to reverse the judgement in order for the unit to proceed. Many people are against the AFU and most of time they try to undermine its work. This happens when you are dealing with “High Flyers”, who most of time are trying to get rid of you. The main strategy to fight back is summarized in two actions: Develop a good relationship with the press, so that your work is widely known across the country and ensure that you do your work and do it very well. In the case of AFU, there is a 98% success. In such conditions it becomes difficult for those who are trying to get rid of the AFU because people recognize its achievements.

## The Missing Person Task Team

The missing persons task team is in charge of tracing people who disappeared in South Africa for political reasons during apartheid. The notion of finding the disappeared started in Argentina in the 70-80s. Initially the research was carried out using the bulldozers. But in these conditions many bones were broken and it was difficult to identify who was who. The forensic team can accurately identify a person when the skeleton is kept together.

Today the new technology uses DNA identification (but this is expensive and it is not popular in Africa) to bring closure for family still waiting for their loved ones. The use of archeological techniques is essential in establishing who was in the mass grave. This technique allows to also find associated evidence related to the person who disappeared.

In South Africa, the disappeared persons included the following categories:

- Enforced disappearances
- Exile disappearances
- People who disappeared during violent clashes between political organizations (mainly ANC and IFP).
- Those whose fate is known but their remains are missing

While researching for the missing persons, the task team makes a number of steps which include for example historic investigations through the analysis of oral and written sources; the collection of ante-mortem information; the developing of hypothesis on the fate and the possible location of the remains; the excavation and archeological recovery.

Normally, it is important to understand what happened to the body. There are two possibilities: Either the body was left in a public place or it was secretly disposed of. In the first case, the body is generally taken to the mortuary where the post-mortem process is conducted. There is information at the police and an inquest into police docket can be done. In the second case, there is no paper trail.

In South Africa, the Missing Person Task Team (MPTT) has been conducting two kinds of excavations: Excavation when the location of the place of burial is not known and excavation when the exact location of burial is well known. The bureaucracy of death is called upon during the investigations. It starts at the mortuary, then at the police station that may have handled the case, then to the cemetery. The paperwork from these three places is consulted to determine what happened to the body and where it may be located. The MPTT shared the examples of several cases when the bodies were found: The Mamelodi 10 or the Mamelodi 3/4.

During the process of searching for the missing persons, the MPTT associates the families who lost the person it is looking for. Associating families of victims is important as it helps in bringing closure. The MPTT has also helped with symbolic burials when the bodies cannot be found, especially when they died while fighting abroad.



## Challenges in looking for missed persons

The journey from the TRC investigation to the actual recovering of the remains of the missing persons has been very challenging. Challenges include such issues like limited funding for the work. The MPTT has a small budget of around five million rands only. There is also the question of availability of qualified personnel for such a task: the team is made of only six people. Administrative hurdles represent another non negligible challenge. Here the problem can be related to lost documents or delay tactics when there is no willingness for the truth to be known. When witnesses die without sharing the information they hold, it is a great loss for the investigation process. But there also are cases of witnesses who simply refuse to testify.

When the recovery of the remains is completed, it becomes possible to continue the prosecution with the available evidence. So, today 126 cases from the TRC are being investigated. The cases from TRC were previously sent to the National Prosecuting Authority. Since 2021, the cases are sent to the Directorate for Priority Crime Investigation (DPCI). Ethiopia has already an experience of using human remains as evidence in a court. Remains were found thanks to the collaboration between Ethiopian and Argentinian forensic teams.

What the MPTT team is doing is revaluing the black people's life. The apartheid regime wanted to erase them and their identity, but today the project seeks to restore them. So far, only around 250 remains of victims have been found. This amount is small compared to the number of the missing persons. But this work has a great significance as a symbolic reparation.

The example of SA shows that some of the cases can be prosecuted much later, not immediately after the establishing of the Prosecution Office. It will be important to ensure in the first place that all places suspected to hold evidence are mapped and protected. This is far more important than attempting to conduct investigations at once. Another important recommendation is to issue a moratorium on the destruction of administrative documents. This is essential in finding evidence on what happened during the time of violence or repression.





# LESSONS LEARNED & KEY TAKE AWAYS

- Transitional Justice is about a society that has harmed itself, but then decides to turn around and do an introspection in what can be done for healing to take place. TJ is the road to stability.
- It is difficult to pin point perpetrators down as they always try and ensure that there is no evidence leading to them or their alleged responsibility. They use other people and try to stay clean. They have power to harass investigators or undermine their work. SA did not have a vetting process per se. The context was not ripe for such a process to take place. It was necessary to keep people committed to the peace process. As an example, in Iraq, the attempt to prosecute members of Saddam Hussein Baath Party led to their insurgency. In SA, the position of perpetrators was maintained to keep them committed.
- Sequencing TJ mechanisms should start with the “low-hanging fruits” then move to the next. When you try to prosecute immediately, politics could jeopardize the whole reconciliation project.
- There is always a need to prioritize information monitoring and sharing. Ethiopia will need to develop a comprehensive communication strategy.
- To understand that reconciliation does not imply the absence of prosecution. These two processes can complement one another in a move to heal the nation. By prosecuting perpetrators of crimes, the objective is to fight against impunity and establish a system of deterrence. Ethiopia should reflect well on what objectives it needs to achieve and make an assessment whether prosecuting is necessary or not.
- The issue of sequencing should not be a hindrance even if there is room for caution. The process needs to move forward.
- The fact that the political will needs to be demanded. The CSO play a role in ensuring that the political leadership takes action in favor of a TJ process. Political will is like a wheel. It is here today and somewhere else tomorrow.
- Even if Transitional justice processes take longer, it should be possible to measure the success achieved at each stage. This start with defining the goals, objectives that will be achieved through TJ process.
- Victims have to be at the center of the TJ process and this should be reflected at every stage.
- Reparations are beyond handing over material benefits. It goes beyond. When you look at the families that participated in the work of the MPTT, it is clear that when reparations are evoked, it should be something deep.
- Compared to South Africa, the Civil Society Organizations in Ethiopia are weak and not well organized. It would be necessary to start engaging them more pro-actively.
- Ethiopia is on the right track. But it should not rush the process.
- Learning from others is about understanding what other did, what challenges, what mistakes were done, and what do we get from this. There is a need to be open even as we learn from others, taking into account that some language may put limitations on the TJ process.

- In Ethiopia, the political institutions must be solid to withstand the rigor of a TJ process. Importance of a strong political deal that will carry the whole process. A TJ process cannot be built on a wobbly political deal. (like taking the horns of a buffalo and attaching them on small fox – it does not bring results).
- It is important to be able to manage expectations both internally and externally. Ethiopia needs to make sufficient preparations to take on this process. Ethiopia must succeed in this process. If not, another generation will be condemned to do the same work of reviving the hope for a nation.
- Context and institutions matter (the Ethiopian context is different and the institutions overseeing the process are different from the ones in SA). Some South African realities will not work in Ethiopia.
- A TJ Process is an investment for the whole society.
- Memory is an important aspect of TJ processes. It is associated to everything related to the process.
- Overall, the experience in SA was very informative and practical on point. It helped understand better what TJ is all about but also some of the gaps in how it was implemented in SA. And Ethiopia needs to take these gaps into consideration. Despite the problems of violence that Ethiopia is experiencing in some of its parts, the TJ process should continue. There is a need to create a sort of formula that will push people to collaborate. The TJ process has to be a national issue concerning everyone, and not a problem of the government. It will be important to insist on CSO joining the process, beg them if necessary. Currently, they are not active. They can be instrumental in sensitization. There is also a need for champions within the government to instill the political will that is needed for the process to move forward.





# RECOMMENDATIONS & LESSONS

## FROM SOUTH AFRICA'S CONTEXT

- To start thinking about the documentation of the past and how to keep and protect the invaluable information that is already available, but which can disappear anytime. In particular, with regard to reporting, it is equally important to ensure that the information destined to the public space is digestible, so that the public can access it easily. The reports must be easy to read and to understand.
- To avoid separating political and economic injustice when the past is being dealt with through transitional justice processes. This is difficult but it has to be done. It is one of the lesson South Africa is still learning.
- To be aware of problems that arise when political actors become a hindrance to the success of the TJ process. In many cases, the lack of political will is a threat to the success of TJ. In South Africa, there was a clear interference from political actors who opposed the prosecution of the top leaders. Political will has to be incentivized. TJ must be discussed everywhere (media, dialogue, conference), otherwise it dies out.
- To avoid blanket amnesty. Amnesty should be based on people recognizing the crimes they committed individually. There is no need for perpetrators to become saints. They just need to tell the truth about what they did and go.
- To appoint strong leaders who have moral authorities and who are able to withstand political interference more efficiently. One should be assured that politics will always try to interfere in any TJ process. This is difficult to avoid. But with strong leaders the process will not be compromised. It is also important to remember that political will cannot be manufactured. It has to be demanded. Civil society are able to do this by making a lot of noise.
- To be very sensitive to the issue of victims and what they need. It is important for a country to have a clear vision of how it will move forward as it deals with its painful past. Moving forward is always the most important aspect when the past is trying to hold us back. The TJ Process must also be sensitive to gender related issues and understand how to address them. In general patriarchy and oppression go hand in hand.
- To put in place provisions on how the TRC recommendations are going to be implemented.
- To look into a possibility of establishing regional variable of the national TJ process and to adapt it to the local reality.



- To create of interministerial Task Team already at this level. This could add more funding and such task team is difficult to stop.
- To ensure that Civil Society Organizations in Ethiopia are reinforced. Currently they are very weak.
- To require that organizations that benefited from the abuses are asked to contribute to the process of peace.
- To start reflecting on the creation of fund that will finance the TJ process and its activities.
- To always insist on the importance of having victims at the center of reparations. Their satisfaction is fundamental for the success of the TJ.
- To develop people's confidence and trust in the process. If people could trust in the system and process that would grant success. Ethiopia will need to clearly develop this aspect.
- To establish a moratorium on the destruction of official documents. Administrative entities must protect all existing documents.
- To enhance the Transitional Justice process, the active involvement of the private sector will serve as a critical resource—providing sustainable funding for victim reparations, truth-seeking initiatives, and institutional reforms through a dedicated TJ fund supported by public-private partnerships.



# ORGANIZERS

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