

A WAY FORWARD FOR JUSTICE AND ACCOUNTABILITY IN ETHIOPIA

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teaches that the Holocaust was preventable and that by heeding warning signs and taking early action, individuals and governments can save lives. With this knowledge, the **Simon-Skjodt Center for the Prevention of Genocide** works to do for the victims of genocide today what the world failed to do for the Jews of Europe in the 1930s and 1940s. The mandate of the Simon-Skjodt Center is to alert the United States' national conscience, influence policy makers, and stimulate worldwide action to prevent and work to halt acts of genocide or related crimes against humanity, and advance justice and accountability. Learn more at ushmm.org/genocide-prevention.

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COVER: A family in rural southern Tigray collects water. Northern Ethiopia is still suffering from the effects of the 2020 war, now on pause. More than 800,000 women and children need help, but major humanitarian organisations have stopped food shipments because of suspicions of theft. August 14, 2023. *Photo by Edgar Gutierrez / SOPA Images / Sipa USA via AP Images*



INTRODUCTION

One year ago, the Ethiopian government and the Tigray People’s Liberation Force signed a cessation of hostilities agreement bringing to an end a brutal two-year war, which has been described as one of the deadliest conflicts of the 21st century.¹ All parties to the conflict are alleged to have committed mass atrocities.² Today, the world’s focus has shifted away from Ethiopia, even though the country remains unstable, gross human rights violations are still being perpetrated in Tigray, and conflict rages in Oromia, Amhara, and elsewhere.

The Ethiopian government has signaled its plans regarding domestic transitional justice efforts, and the United States is assisting with these goals.³ Despite these plans, victims and survivors remain doubtful that justice efforts will effectively redress the harm they have endured and break longstanding impunity in the country. What is needed now is sober reflection on the ongoing threats of mass atrocities and a re-doubling of efforts to avert them, including notably through advancing justice and accountability for past crimes.

We are at a critical juncture regarding the pursuit of justice for mass atrocities in Ethiopia. This past September, the UN Human Rights Council (HRC) did not extend the mandate of the International Commission of Human Rights Experts on Ethiopia (ICHREE or Commission). The Commission was established in late 2021 to investigate allegations of human rights violations and support accountability efforts.⁴ As the only international UN-mandated fact-finding effort ends, the international community is losing this source of publicly available documentation and a lever to pressure perpetrators to cease committing violations. Despite the Ethiopian government’s denial of access to the country, the Commission was able to conduct important work, interviewing victims, survivors, and witnesses from across the country. In its final weeks, the Commission detailed the serious nature of ongoing patterns of violence against civilians in several regions of the country, and warned of future mass atrocities.⁵ Their alarm matches concerns from the United Nations

(UN) Special Adviser on the Prevention of Genocide, Alice Wairimu Nderitu, who warned of a heightened risk of genocide and related atrocity crimes in the country.⁶

The Ethiopian government has committed to pursuing accountability for international crimes; in January 2023 the government released a draft “Policy Options for Transitional Justice” (Green Paper)⁷ which presents several options for domestic criminal justice processes. However, the same document precludes external involvement, and dismisses the possibility of an international or hybrid tribunal. The ICHREE expressed concerns about the credibility of the Ethiopian government’s transitional justice plans, claiming they do not adhere to African Union nor international standards. It noted potential barriers to effective domestic justice efforts, including the lack of an independent and impartial judiciary, and widespread mistrust of State institutions.⁸

This paper proposes a way forward for those who support justice and accountability for mass atrocities in Ethiopia. These options are posed in a rapidly changing policy environment: in the past year Ethiopia was invited to join the BRICS group of nations; countries are seeking to normalize relations with the Ethiopian government after the conflict in Tigray; and brutal conflicts in Sudan and elsewhere have focused international attention away from the situation in Ethiopia.

The proposals below list available options which should be seriously considered by policymakers who want to properly address crimes of the past and develop strategies that mitigate ongoing mass atrocity risks to civilians in Ethiopia.

A WAY FORWARD

A genuine and holistic approach to transitional justice would encompass four mutually reinforcing efforts to which victims are entitled: truth seeking, formal accountability, reparations, and guarantees of non-recurrence.⁹ In July 2023, the US Holocaust Memorial Museum convened a group of Ethiopian civil society leaders who identified benchmarks for a genuine and transparent transitional justice process, which inform the ideas below.¹⁰

Truth Seeking

Victims are entitled to information about the fate and whereabouts of their loved ones. Civil society organizations in and from Ethiopia are doing incredible work to document mass atrocities, and they are doing so under considerable security and access restraints. The latest information documented by the Organization for Justice and Accountability in the Horn of Africa and Physicians for Human Rights, for example, indicates widespread crimes of sexual violence even after the cessation of hostilities agreement.¹¹ Additional support would need to fuel documentation efforts across the country. Information from perpetrators and other witnesses will be important to gather a fuller picture of the crimes.

Formal Accountability

Pursuing prosecutions of individuals alleged to be responsible for mass atrocities will be difficult in Ethiopia. This is true both domestically, given the lack of judicial independence, as well as internationally, given the absence of a global coalition of states willing to pursue international accountability options. Victims of mass atrocities are nonetheless entitled to—and are demanding—formal accountability efforts that would publicly

set the record of what happened to their loved ones. Such a process could, in tandem with broader lustration efforts, remove serious offenders from positions of power and provide a venue for resetting the responsibility of the state toward protecting the rights of its people. While it is unlikely, for a myriad of reasons, that all cases would be prosecuted, work to prioritize the most egregious and/or the best evidenced cases must be supported. Formal prosecutions are an important element of more holistic justice efforts.

Reparations

Repairing the harm done can involve individual reparations, which can entail financial restitution to victims and survivors, such as returning property or providing direct funds. Another option is collective reparations, which can also take the form of land return, funds for collective memorialization efforts, and restoring pathways to sustainable employment.

Guarantees of Non-Recurrence

Institutional reforms and security sector reform, including vetting of perpetrators in positions of power, would be essential to building a peaceful future in Ethiopia. Civil society leaders from Ethiopia report deep mistrust of the state, given cycles of conflict and other violence, and a serious effort would be necessary to build transparency, rule of law, and strong and trusted institutions in service of the good of the people.

Centering the Needs of Victims and Survivors

In order to be effective, any transitional justice efforts must center the needs and priorities of victims and survivors, which even the government's green paper recognizes. Any transitional justice effort would need to be undertaken alongside continuous, inclusive, and comprehensive consultations with communities to determine important parameters including the temporal and geographic scope of the process.¹²

Victims and survivors may face long-term trauma and limited mental health and psychosocial support. Those who have experienced crimes of sexual violence—a horrific feature of the mass atrocities in Ethiopia – may face even greater hurdles to care. Trauma-sensitive mental health and psychosocial support can be built into broader transitional justice mechanisms, and the international community should support victims and survivors in their demands to address this need.

The priorities of victims and survivors are likely to be dynamic, to evolve, and to even be competing at times. Transitional justice efforts therefore require constant evaluation and re-calibration across all of the areas listed above to make sure the pursuit of justice continues to address the evolving needs of victims and survivors. While deeply contextual, transitional justice is also often contentious, and external experts may be able to help internal actors navigate difficult truths about the past and important decisions about the future.

OPTIONS FOR SUPPORTING ACCOUNTABILITY

The failure of the UN Human Rights Council to extend or replace ICHREE is a missed opportunity to advance documentation efforts, but there remain meaningful ways for states to support accountability efforts going forward.

International participation and support, including embedded experts with deep experience in implementing initiatives described above, would be essential to increasing the likelihood of success for transitional justice efforts. Indeed, international experts, including judges, medical professionals, scientists, and others have played essential roles in other transitional justice contexts.

Options for All States

- Ensure support for justice and accountability is integrated into broader policies that prioritize atrocity prevention and civilian protection in Ethiopia—for example, by pairing normalization efforts with successful completion of transitional justice benchmarks;
- Use benchmarks above, compiled by Ethiopian civil society leaders, to measure the success of transitional justice efforts;
- Provide funding and technical support for civil society groups that are documenting evidence of mass atrocities, including support for the gathering and secure storage of material from social media sites, for maintaining digital security, and for organizing and verifying information already collected;
- Support experts, including from civil society, who can monitor transitional justice efforts;
- Ensure long-term assistance for civil society groups on the front lines of documentation efforts, including by providing funding and programming to mitigate security threats, and to support mental and psychosocial care. Consult with civil society leaders to understand evolving needs.

Options for Members of the UN Human Rights Council

- Establish a UN Special Procedures Mandate for the situation of human rights in Ethiopia;
- Encourage UN Special Procedures Mandate holders on relevant thematic issues, such as, but not limited to, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, to request country visits to Ethiopia, and encourage the government of Ethiopia to enable such visits;
- Use Ethiopia's 2024 Universal Periodic Review as an opportunity for a cross-regional collaboration of UN Member States to review the human rights situation in Ethiopia and offer recommendations for transitional justice and prevention of mass atrocities;
- Assemble an informal group of concerned States, such as a Group of Friends for Ethiopia, which can share information and support justice efforts in Ethiopia;
- Call on the High Commissioner for Human Rights to include information on Ethiopia as part of his updates on the global state of human rights at each HRC session.

ICHREE indicates that the ongoing violence and human rights violations in Ethiopia, as well as the specter of persistent impunity, remains a threat to peace in Ethiopia and the region. Despite this, Ethiopia is not (and has not been) on the agenda of the UN Security Council, which is responsible for the maintenance of international peace and security. Nor is there a "Horn of Africa" geographic agenda item.

Options for Members of the UN Security Council

- Propose a "Horn of Africa" regional agenda item;
- Raise the evolving situation in Ethiopia as part of relevant thematic agenda items, such as Women, Peace and Security, and Children in Armed Conflict;
- Bring the most recent ICHREE report into Security Council discussion and to the attention of its members;
- Hold 'Arria Formula' meetings that invite Ethiopian civil society to share benchmarks for a credible transitional justice process.

The UN General Assembly is also a platform for UN member states to respond to the findings of ICHREE. Efforts at international platforms can compliment regional efforts and build on initiatives developed by the African Union, such as its Transitional Justice Policy.¹³

CONCLUSION

Genuine and inclusive transitional justice efforts are necessary to redress the harm of past mass atrocities in Ethiopia and mitigate future atrocity risk. Justice efforts that lack substance or sustainability, even if they appear to be more palatable in the short-term, will entrench cycles of impunity and lead to devastating effects. Half steps by the Ethiopian government should not successfully deflect international scrutiny.¹⁴ Now is not the time for the world to turn away from the serious needs of victims and survivors in Ethiopia. Insufficient justice efforts may only widen the gulf of mistrust between the government of Ethiopia and its citizens, chip away at the credibility and efficacy of the state's legal institutions, erode fragile faith in the full implementation of the cessation of hostilities agreement, and could ultimately threaten prospects for peace in Ethiopia.

ENDNOTES

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- ² The International Commission of Human Rights Experts in Ethiopia noted in several reports to the UN Human Rights Council that it found a reasonable basis to believe that all parties to the conflict in the Tigray region had committed serious crimes, including war crimes and crimes against humanity. United Nations, Human Rights Council, *Comprehensive investigative findings and legal Determinations: International Commission of Human Rights Experts on Ethiopia*, A/HRC/54/CRP.3 (13 October 2023), available from <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/chreetiopia/a-hrc-54-crp-3.pdf>;
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