

NATIONAL RECONCILIATION COMMISSION FOR ETHIOPIA

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Introduction

One of the realities of the human conditions, particularly in its organized forms, is that most changes are preceded by crisis. Since the overthrow of King Hailesilassie's government, Ethiopia has faced many changes that were preceded by crisis. The change that recently started in Ethiopia, which brought Dr Abiyeh into a leadership position, was uniquely different, at least until the last three weeks or so sad and depressing developments. The change process began with words of reconciliation, peace and unity among diversity. To this end, among the many reform ideas proposed by the new government was the establishment of reconciliation and peace commission for Ethiopia.

The purpose of this short paper is to briefly trace the history of reconciliation commissions in the global context, reconciliation processes in the Ethiopian context, past and present, summarize the purpose and duration of Truth and Reconciliation Commissions and recommend a hybrid model for Ethiopia that will hopefully improve the organization and efficiency of the Reconciliation Commission of Ethiopia.

Background

Truth and Reconciliation Commissions (TRCs), according to Priscilla Hayner, "are bodies set up to investigate a past history of violations of human rights in a particular country – which can include violations by the military or other government forces or armed opposition forces" (Hayner 1994:600). In many post conflict countries, TRCs are incorporated as an important means for consolidating peace. When parties to the conflict sign peace agreements, the establishment of truth commission is included in peace accords (Hayner, 1994.) Truth commissions are usually established for a limited time (less than five years) and are tasked to investigate human right violations over a specific period and are expected to come up with actionable policy recommendations. Truth commissions are expected to provide space for restorative justice that would allow societies in transition to move away from vengeance towards reconciliation (Freeman, 2006; Hayner, 1994). Typically, TRCs are established after the removal of authoritarian regime to facilitate a peaceful transition to democracy. Governmental bodies, Nonprofits Organizations and Intergovernmental Institutions such as the United Nations (UN) can propose or recommend the establishment of TRCs. Regardless the source of an initiator for the establishment of a TRC, incumbent governments establish them by an executive order with a subsequent act of parliamentarian approval.

TRC processes require substantial amount of financial and human resources. Members of the international community (western governments, and the UN system) often provide these resources, and experts. Especially in post conflict countries, governments, intergovernmental agencies, INGOs that led the negotiations and brokered the peace agreements take the lead in mobilising resources for the commission to discharge its responsibilities and/or the mandates. However, one of the biggest challenges, perceived or real, is that those that support the Commission can influence the functions and processes, and bring to the table a framework which is not relevant to the context and the history of the conflict. All national reconciliation processes are expected to be bold enough to investigate the difficult times, understand the causes and origins of past conflicts and their root

causes. Further, they should have a system in place to support the victims and be inclusive enough to accommodate all perspectives.

Truth commission though mandated to investigate violations of rights (human and economic), they are also expected to promote national reconciliation and political legitimacy (Hayner 1994). TRC processes are designed and expected to re-establish relationships which were strained during violent conflicts. When the warring groups from Liberia signed the Comprehensive Peace Agreement in Accra, Ghana, 18 August 2003¹, the National Transitional Government of Liberia was mandated to establish TRC; as stated in Article XIII. Section 1 of the peace agreement:

A Truth and Reconciliation Commission shall be established to provide a forum that will address issues of impunity, as well as an opportunity for both the victims and perpetrators of human rights violations to share their experiences, in order to get a clear picture of the past to facilitate genuine healing and reconciliation.²

As Archbishop Desmond Tutu stressed, in the foreword of the South African Truth and Reconciliation report, TRCs must deal with the past, "...however painful the experience, the wounds of the past must not be allowed to fester. They must be opened. They must be cleansed. And balm must be poured on them, so they can heal. This is not to be obsessed with the past. It is to take care that the past is properly dealt with for the sake of the future."³ Some countries, for example in Africa, Kenya, Mali and Central African Republic (CAR) have, however, opted to use Truth, Justice and Reconciliation Commission (TJRC) rather than the familiar TRC. There is no substantial difference on the mandates of TRC and TJRC as both are to investigate violations of human and economic rights of the past. It worth noting, however, of the TJRC that were examined in this paper, the TJRC of Kenya has finished its investigation and submitted its report to the government while the TRJC of Mali which was established in 2014, is still an ongoing process. The TJRC of CAR is under consideration as it is part of the peace accord signed in Bangui, 6 February 2019 between Central African State and 14 armed groups.

The government of Kenya established TJRC in 2008 with the overall mandate to focus on rights violation (human and economic) between 1963 and 2008. The specific objectives of the mandate include:

- (a) establishing an accurate, complete and historical record of violations and abuses of human rights and economic rights inflicted on persons by the State, public institutions and holders of public office, both serving and retired ...
- (c) investigating gross human rights violations and violations of international human rights law and abuses which occurred, including massacres, sexual violations, murder and extra judicial killings and determining those responsible for the commission of the violations and abuses...
- d. the investigation, analysis on illegal acquisition of public land, marginalisation of communities, and ethnic violence and submit report...
- (e) recommending the prosecution of the perpetrators of gross human rights violations.⁴

Some other types of TRCs are designed specifically to re-establish relationships among groups who were in a logger head due atrocity committed in the past, for example the indigenous people of

¹ Accra Comprehensive Peace Agreement. Available from <http://www.theperspective.org/theghanaagreement.html>

² Ibid

³ <http://www.justice.gov.za/trc/report/finalreport/Volume%201.pdf>: page 7

⁴ Truth, Justice, and Reconciliation Commission, Act and Amendments (TJRC) - TJRC Act 2008, available from <https://digitalcommons.law.seattleu.edu/tjrc-core/26/>. Accessed on 7 March 2019

Canada and Australia. These processes are not time bounded but an ongoing processes, designed to help healing wounds, recognize and reinstate the values of the indigenous people and honour their past histories by removing systems and structures which were used to discriminate them. Since the atrocities committed were in the distant past and individuals or groups who committed atrocities are not around, governments who apologise do so only to, “clear the air” of the past and bring everybody on board to build an inclusive nation. In short, part of the healing process governments and institutions apologize on behalf of their predecessors for the atrocities they have committed. TRC Canada, in its action plan, asked the Roman Catholic Church to apologize. The commission report states that “[w]e call upon the Pope to issue an apology to Survivors, their families, and communities for the Roman Catholic Church’s role in the spiritual, cultural, emotional, physical, and sexual abuse of First Nations, Inuit, and Métis children in Catholic-run residential schools.”⁵

Overall, a well-designed TRC or TJRC will address human rights violations of the past, whether it is spelled out or not in the mandate. Typically, atrocities committed are investigated and evidences are collected to be used to restore relationship in the context of restorative justice. In this regard the perception that reconciliation undermines justice is not valid as the emphasis is on restorative rather than retributive justice. However, establishing a TRC or TJRC is not good enough as the life span of Commissions are limited, mostly less than five years. The one exception that the authors were able to identify that is longer than five years is the Rwanda Truth Commission, which is a national unit in government established for indefinite duration⁶. Whether the term of office for the appointed commissioners is short or long, one thing that is imperative is that a follow up mechanism to implement the recommendation of the commission is critical. Again as TRC of Canada states:

...as Commissioners, we understood from the start that although reconciliation could not be achieved during the TRC’s lifetime, the country could and must take ongoing positive and concrete steps forward. Although the Commission has been a catalyst for deepening our national awareness of the meaning and potential of reconciliation, it will take many heads, hands, and hearts, working together, at all levels of society to maintain momentum in the years ahead. It will also take sustained political will at all levels of government and concerted material resources.⁷

In summary, governments establish TRCs or TJRCs to accomplish a variety of social goals and objects. From reviewing the available secondary data sources, we find that the most important goals and objectives for establishing TRCs and TJRCs include, to investigate human rights violations in the past, to have a peaceful transition from authoritarian regime, to reconcile communities in post conflict context, to address atrocities committed on indigenous people as well as to provide opportunities to the public at large to acknowledge the wrong committed in the past.⁸

Given this brief background analysis of the rationale for establishing TRC and TJRC in different countries, the question is what kind reconciliation approach is appropriate in the context of Ethiopia? Furthermore, in the current Ethiopia context, what should be the main focus of the established reconciliation mechanism? Should it focus, for example, on human rights violations with the intent to punish the perpetrators or to unveil the truth and restore relationships, kind of restorative justice approach or what? In the past the EPRDF government in principle was against

⁵ Truth and Reconciliation Commission of Canada: Calls to Action. page 11 section 58. Available from http://nctr.ca/assets/reports/Calls_to_Action_English2.pdf, accessed 7 March 2019.

⁶ Article 3, *Law No. 35/2008 of 2008 Determining the Organization and Functioning of the National Unity and Reconciliation Commission* [Rwanda], 8 August 2008, available at: <https://www.refworld.org/docid/4a3f87922.html> [accessed 2 August 2019]

⁷ What we have Learned Principles of Truth and Reconciliation available from http://www.trc.ca/assets/pdf/Honouring_the_Truth_Reconciling_for_the_Future_July_23_2015.pdf, Page 114. Accessed on 7 March 2019.

⁸ John Paul Lederach, *The Journey toward Reconciliation*, Herald Press, Scottdale, Pennsylvania, 1999. Page 66

national reconciliation, but the EPRDF administration since 2018 has established a National Reconciliation Commission by parliamentary decree and 41 Commissioner are appointed for a three years term of office.⁹ Cardinal Berhaneyesus Demerew Souraphiel and Mrs Yetnebersh Nigussie are Chair and Vice Chair of the Commission in that order.

Reconciliation processes in Ethiopia: past and present

The concept of truth and reconciliation are embedded in the Ethiopian cultures. The practise and its implementation, however, may vary to fit the local contexts and the issues that triggered the need to find the truth and reconcile of those involved. Collectively, however, the traditional conflict resolution approaches at the local level are significantly different, both in intent and establishing the truth, from governmental procedures that attempt in finding truth. As it is known the intents of governmental bodies are punitive and rarely restorative. That notwithstanding, recent governments of Ethiopia, the Derge and the current administration, EPRDF, have made attempts in establishing commissions of inquiries, to investigate or to seek truth of incidents: violence, human rights violations or killings during mass rallies. Interestingly enough, despite differences in intent, between governmental institutions and the traditional approaches to resolving conflicts, at times both systems have been used in combinations or in stages. Below are some examples from the two regimes, the Derge and EPRDF.

Derge Regime

The so-called Marxist regime of the Derg had a strong (coercive) judicial system which was inherited from the king's system of governance. During this Marxist regime the traditional methods of truth finding and reconciliation systems, for example *afersata* and *awchachin*, were perceived to be inappropriate. However, they were not totally abandoned and in fact the traditional approaches were used occasionally when the temperature of the revolution dropped. For example, at local levels, ad hoc reconciliation processes remained important specially to address both intra and inter-ethnic disputes. Inter-ethnic disputes (conflicts) are common among pastoralists, over grazing land, access to water to their cattle, and sometimes in the "re-stocking" of their cattle. When conflicts triggered by such developments are observed, they were addressed by either elders or local authorities or at times by a combination of both. Most intra-group (ethnic) tensions, which in some cases can become violent, were addressed within the group by involving religious leaders, elders and social institutions. However, if the violence became deadly the government will intervene to broker peace and punish the party that it considers is guilty.

The EPRDF Regime

When EPRDF took power in 1991, the then Transitional Government created in 1992 the Office of the Special Prosecutor, to investigate and bring to justice those who are responsible for human rights violation and/or corruption between 1974 and 1990, the Derge regime. The Special Prosecutor was mandated to investigate the assassination of young elites, activists, etc. by rival political parties because of their political views (position); this is the period known by Ethiopians as the "red terror".

After the investigation the prosecution was carried within the normal judiciary system. Senior Derg officials and those participated in the red terror, including the Chairperson Mengistu Hailemariam

⁹ https://www.hiiraan.com/news4/2019/Feb/162161/ethiopia_named_members_of_national_reconciliation_commission.aspx

were prosecuted (in this and some other cases in absentia), and those found guilty were sentenced to death, or to life or up to 25 years of imprisonment. In subsequent years, however, since the federally structured EPRDF government is based on ethnicity, violent conflicts among and between ethnic groups became the norm. Even elections triggered violence. For example, the result of May 2005 elections led to series of demonstrations, violence in Addis Ababa and some parts of the country. During the demonstration in Addis Ababa, on 8 June 2005, the security force killed 193/205 or more, depending on the varied sources, of peaceful demonstrators¹⁰. The parliament the day established eleven persons Inquiry Commission by the Proclamation No. 478/2005 to investigate the killing in Addis Ababa, (the incidents of 1-10 and 14-16 November in Addis Ababa) and some parts of the country.¹¹ After what the commission called a thorough investigation, the commission submitted its report to the House of Peoples' Representatives, but members of the Inquiry Commission disputed that the report presented to the parliament stating that what submitted was not the original one but edited version by a third party. Subsequently, some members of the Commission were forced to leave the country. Recently some of the same members of the Commission who are living abroad returned to Ethiopia and approached the Speaker of the House of Parliament to request that the original report should be made public¹².

Inter-religious Council of Ethiopia

As indicated before, religious leaders have played a prominent role mostly in reconciling communities, vertically with the creator and horizontally with fellow sisters and brothers. Their efforts go back to the Derge's regime where the leaders of the four religions: The Ethiopian Orthodox Church, The Ethiopian Catholic Church, the Ethiopian Evangelical Church Mekane Yesus and the Ethiopian Islamic Affairs Supreme Council created a platform to address inter-religious conflicts and mediate between the Derge and then rebel groups TPLF, EPLF, and OLF. The group made several attempts collectively, including through their international networks, but did not manage to broker peace.

After EPRDF took power, the religious leader group continued and brought on board the Evangelical Churches Fellowship of Ethiopia¹³. However, ethnicity, which the Federal government is constituted of, infiltrated in the religious institutions and it too became part of the problem rather than a solution. The churches as well as the mosques began to divide themselves along ethnic lines. This division weakened the institutions' capacity to make peace and more importantly compromised their legitimacy and trust. They could not speak in one voice, work and deliver on shared agenda but had to focus on their own internal problems and struggled to contain the challenges within.

¹⁰ <http://almariam.com/2007/11/17/remember-ethiopian-martyrs-of-june-and/>

¹¹ The proclamation is available at: <https://chilot.me/wp-content/uploads/2013/01/proc-no-478-2005-an-inquiry-commission-to-investigate.pdf>

¹² <https://ethsat.com/2019/01/ethiopia-14-years-later-inquiry-commission-demands-to-present-its-report-on-post-election-violence/>

¹³ <http://ecfethiopia.org/>

In spite of the internal challenges, Inter Religious Council of Ethiopia (IRCE) has made an effort to restructure and expand its membership¹⁴ and has continued to play an active role in creating awareness on coexistence, religious tolerance and provide quasi mediation¹⁵.

IRCE, in one of its national campaign under the theme, “The Role of Religious Leaders and the Community in Resolving Chaos and to strengthen sustainable peace and co-existence,” which was held in different Regions of the country, was able to make an excellent attempt in creating awareness. One of the themes it addressed was the grave concerns, the usage of social media, which is used to spread hate speech, rumours and mobilise the youth for a violence; the Council facilitated training workshops on Media for Peace and Coexistence for a cross section of people.¹⁶ However, some of their constituencies questioned the legitimacy of the leaders, as the constituencies believed that IRCE did not manage their internal conflicts and were silent when the governments (Derge and EPRDF) violated citizen rights.¹⁷

Ad hoc initiatives by the diaspora and international communities

During the two regimes under discussion, the international community made official and unofficial attempts to address issues that created tensions and violence among different groups in the country. The focus of the peacemaking efforts during the Derge regime was to mediate and broker peace between the government and rebel forces. But the initiative changed course when EPRDF regime assumed power as the triggers for violence this time were democracy, violation of human rights and ethnicity. Unfortunately, the Ethiopian parliament on February 2009 passed into law the Charities and Societies Proclamation No.621/2009 that banned the international community and local NGOs from working on advocacy and reconciliation.¹⁸ Due to this restriction, local NGOs working on rights and reconciliation was closed, INGOs whose work in Ethiopia was scaled down moved their respective programmes outside of Ethiopia. This also increased diaspora led initiatives mostly in USA and Europe. For example, in the USA, The Institute for Conflict Analysis and Resolution of George Mason University, Fairfax, VA, identified about 15 members of the Ethiopian diaspora (academics, federal employees, etc,) residents in Virginia, Maryland and Pennsylvania and run dialogues for almost two years. The group met biweekly for a day. The objective of the dialogue was to envision the Ethiopia they want in 2020 and develop a strategy for the realization of that vision. A similar dialogue processes were held for Ethiopian youth studying in universities in the Washington DC metropolitan area. There were other initiatives as well such as the Ethiopian Council for

¹⁴ The inter-religious council of Ethiopia which consists of the Ethiopian Orthodox Church, Ethiopian Islamic Affairs Supreme Council, the Ethiopian Catholic Church, The Evangelical Churches Fellowship of Ethiopia, The Ethiopian Seventh Day Adventist Church, The Ethiopian Evangelical Church Mekane Yesus, and Ethiopian Kale Hiwot Churches was established in 2010. Their vision is “to see a developed Ethiopia where religious communities and their institutions stand together for peace, love, justice, human dignity, mutual respect, tolerance, and religious equality.”¹⁴ The Council with its Headquarter in Addis has branch offices in some Regions and Districts.

¹⁵ When the tension between Amhara and Tigray Regions increased, the Council deployed religious leaders to meet with the Regional leaderships, even managed to bring the two leaders of Regions to a handshake ceremony in Bhair Dar. The handshake, however, was more symbolic to reduce tension as there was not follow up.

¹⁶ <https://www.facebook.com/irce7/photos/pcb.313577705919662/313577139253052/?type=3&theater>

¹⁷ Lemma Desta የኢትዮጵያ የሃይማኖት አባቶች እና የኢትዮጵያ የሀገር ሽማግሌዎች ጥሪ ወቅታዊ ቢሆንም የራሳቸውን ድካምና በደል በሀላፊነት ወስደው ንስሐ በመግባትና ይቅርታ በመጠየቅ ተሰሚናታቸውን ማደስ ነበረባቸው።

¹⁸ The proclamation is available from:

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/85147/95159/F1985589413/ETH85147.pdf>

Reconciliation and the Restorative of Justice, which was formed in Silver Spring, Maryland on 14 February 2016.¹⁹

EPRDF initiatives since April 2018

Dr. Abiye Ahmed who took office as Prime Minister (PM) of Ethiopia on April 2018, changed the discourse from ethnicity to national unity and introduced the concept of “medemer” and “Ethiopianism.” The concept is widely accepted by Ethiopians in the country, the diaspora and the international community, at least at the time of writing this paper. The government has made series of efforts to bring changes. Like-minded people are working together to pull down the ethnic wall, develop democratic culture and sustain the reform.

Within a short time after Dr Abiye took office, leaders of opposition political parties, bloggers, human rights activists, and journalists walked free from the notorious prisons in different parts of Ethiopia. Leaders of opposition political parties who were in exile were given amnesty and invited to return home, participate and contribute in the democratisation processes. The report is that all of them responded positively and came back home, including those who used weapons to challenge the EPRDF government returned with their soldiers and guns.

As indicated earlier, identity politics, politicised ethnicity which dominated the political discourse for the last twenty-seven years was used to build walls among Ethiopians, to divide and make them hostage within the ethnic walls and failed to see outside their boundaries. Inappropriate handling of ethnicity (politicised ethnicity) created tension, and in some cases, triggered violent conflict among Ethiopians. Ethnicity, language, became the main primary identifier for a person to determine the region she/he belongs. Subsequently, regional governments, governments of the killel, began to give priority for people from the region, and the Federal government used a kind of quota system in recruiting civil servants at the Federal level, thus people were forced to be inward looking at the expense of nationalism (Ethiopianism). Religious institutions, Christians and Moslem which are supposed to be blind to ethnicity were implicated too, and dividend along ethnic lines. In some cases, worshippers were denied access to their houses of worship; therefore, had to seek courts injunction to access them. For example, succession of leadership in the Ethiopian Orthodox Tewahedo Church²⁰ became a driver of conflict and the Synod was divided into two, and one group was forced to go on exile while the other stayed at home. The division was so deep that members of the church physically fought in sacred places, churches.

There were many unsuccessful attempts to mediate between the two synods until it became real during the early days of PM Abiye. He encouraged and accompanied the leadership of the two synods to deliberate on their difference and reunite. The leadership agreed to resolve their difference and reunite.²¹ This was a historical moment in the history of the church, a spiritual uplift and psychological relief to worshippers and a relief to people of other faiths too.²² Similar problem among the Muslim communities were addressed by a committee (mediation team) that the Prime Minister Abiye reportedly appointed. The team brought the different groups together, after several

¹⁹ More information available at <https://www.65percent.org/2016/02/press-release-ethiopian-council-for.html>. Accessed on 8 March 2019.

²⁰ <http://ethioforum.org/pm-abiy-preaching-walk-the-talk-in-faith-by-prof-al-mariam/>

²¹ <https://www.ena.et/en/2018/08/05/religious-leaders-laud-reconciliation-of-eoc-synods/>

²² <https://www.ena.et/en/2018/08/02/eoc-reconciliation-solidifies-unity-of-country-inter-religious-council-of-ethiopia/>. Accessed on 8 March 2019.

deliberations the groups sorted out their respective differences, elected new leaders and the past leaders handed over to the new leadership.²³

The government has also revoked most of the proclamation that restricted freedom of speech and now people have started to write, speak and demand their rights. As such kind of freedom is new for Ethiopia and unfortunately some individuals, activists and bloggers are abusing this new found freedom by spreading hate speeches and rumours in social media. Social media has become platform to promote hatred rather than discussion and debate on good governance, nation building and developing a democratic culture. Managing and adapting to the change has become a driver of conflict in different regions of the country. To its credit, to institutionalize reconciliation initiatives, manage the change processes, track the progress being made, and narrate lessons learned and impact, the government formed a new ministry – Ministry of Peace²⁴ with the mandate of promoting peace and security, and unity among people of the nation²⁵.

In any political-economy context, if a given change is to succeed and benefit all concerned, peace is critical. Given this, one of the first initiatives of the PM was to establish a ministry of peace, appropriately headed, in our view, by a woman. The Ministry of Peace is charged to reach out to people in the regions, traditional and religious leaders, women and youth leaders and create awareness of the value of peace by, among other methods, running workshop and seminars. In order to create cadres of peace champions and peace promoters the Ministry is expected to organize and conduct capacity building training workshops and seminars on peace at the:

- Regional level
- Community level
- Educational Institutions (universities, high schools)
- Youth groups
- Women groups and
- Accompany and provide technical assistance to National Reconciliation Commission

Truth and Reconciliation Commission

Regarding peace, another initiative initiated by the PM is the establishment of a reconciliation commission for Ethiopia. After the approval of the draft proclamation to establish a National Reconciliation Commission during 14th regular session of Ethiopian House of Peoples' Representatives, forty-one Commissioners were nominated by the Prime Minister and subsequently confirmed during its 24th regular session of the Representatives.

The emphasis of the proclamation is reconciliation; exception to this is Article 5 Section 4, which mentions violation of human rights (justice), and it charges the commissioners to "...make investigation to identify the basic reasons of disputes and violations of human rights by taking into consideration of social and economic circumstances and the view of victims and offenders."²⁶ The implementation of the Commission's objective is an important process that requires the support of

²³ <https://fanabc.com/2019/04/የኢትዮጵያ-አስልምና-ጉዳዮች-ጠቅላይ-ምክ/>

²⁴ Established on 6 October 2018, b

²⁵ <https://ethio.news/2018/10/13/ethiopia-create-a-new-ministry-of-peace/>

²⁶ Proclamation to Establish Reconciliation Commission (Draft). Article 5 Section 4. Available at <https://chilot.me/2018/12/proclamation-to-establish-reconciliation-commission-draft/amp/>. Accessed on 9 March 2019.

Ethiopians at home and in the diaspora, including the international community and especially countries that have experience in designing and implementing TRCs. Even with such support the commission may not be able to achieve its objectives and be able to deliver in a three years term of office. Here are some of the challenges:

- Managing diversity: the Commissioners are appointed from very diverse groups with different educational background and experiences. Thus, managing this diversity (41 Commissioners) will be a big challenge. Therefore, it will take a while for the Commission to become a group, to operate and to function as a team;
- Developing systems and structures: the commission must put in place systems and structures that would help run its daily routines, handle documents, identify victims and perpetrators, a framework (process) for finding the truth, etc and deliver within the three years;
- Addressing gaps in the proclamation: for example, the proclamation does not mention how far in the past the Commission should to find the truth. Determining and deciding this will be one of the challenging first task; it will be the first litmus test for the Commissioners on their decision-making methods.

Perhaps one strategy that may help in building trust among the Commissioners and establish good working relationship is for the Commission to request the House of Peoples' Representative, through the Prime Minister, to be granted at least a three months preparation time. During this period, the Commissioners should make extra efforts to have a shared view about their tasks and agree on the deliverables as well as put in place working systems and structures that delineate division of tasks and responsibilities among its ranks.

TRC to re-establish relationships, encourage co-existence and strengthen community bonds

To date more than thirty-five Truth and Reconciliation Commissions were established.²⁷ These commissions, more or less, have similar objectives though expressed differently to fit the context of the country in question. Overall, commissioners are mandated to investigate past human rights violations, establish or re-establish relationships among communities, help groups to coexist, and rewrite a shared history by build a peaceful and all-inclusive nation. With such broad framework, governments establish Truth and Reconciliation Commissions through parliamentary decree. For example, the Truth Commission of Canada was established to address one specific issue, the relationship with the indigenous people, especially the human rights abuses in the Canadian-Indian residential school systems. In Kenya, on the other hand, the Truth, Justice and Reconciliation Commission (TJRC) were designed to address multiple issues of human rights violations, economic crimes, illegal acquisition of public lands, and ethnic violence. In general, TRCs life spans are less than five years and are dissolved after submission of a report. Established TRCs are aware of the need for a follow up after they are dissolved and often their respective recommendations are implemented by the appropriate line ministries of the given country. It is not unusual, however, to find out that the follow up mechanisms are often weak, and reports end up seating on shelves. Therefore, lack of a follow up mechanism²⁸ is one of the biggest challenges in establishing TRCs. The

²⁷ https://en.wikipedia.org/wiki/List_of_truth_and_reconciliation_commissions

²⁸ <https://www.hrw.org/news/2019/04/05/tunisia-truth-commission-outlines-decades-abuse>

one exception we were able to establish this time is TRC of Rwanda, where the government transformed the TRC as a government institution with a mandate to implement its recommendations. The table below provides a synopsis of some TJRCs and TRCs in different countries to provide some comparison with the newly established Ethiopia National Reconciliation Commission

Synopsis of TJRC and TRC from Africa

	Mali The Truth, Justice and Reconciliation Commission	Kenya The Truth, Justice and Reconciliation Commission ²⁹	South Africa Truth and Reconciliation Commission ³⁰	Rwanda National Unity and Reconciliation Commission (NURC) ³¹	Tunisia Truth and Dignity Commission	ETHIOPIA National Reconciliation Commission
Number of the commissioners	7 ³²	9 ³³	19 ³⁴	12 ³⁵	9	4
Accountable to	President	President	President	President ³⁶	???	Prime Minister

²⁹ Truth, Justice, and Reconciliation Commission, "Act and Amendments (TJRC) - TJRC Act 2008" (2008). I. Core TJRC Related Documents. 26.

<https://digitalcommons.law.seattleu.edu/tjrc-core/26>

³⁰ [Promotion of National Unity and Reconciliation Act, No. 34 of 1995](#), Chapter 3, Section 3 a, b, & c. The Commission consists of three Committees: Committee of Human Rights Violations, Committee of Amnesty, and Committee of Reparation and Rehabilitation (<http://www.justice.gov.za/legislation/acts/1995-034.pdf>)

³¹ There were five different transitional justice processes in Rwanda which included the National Unity and Reconciliation Commission, the International Panel of Eminent Personalities to investigate the 1994 genocide, *Gacaca* courts, the International Criminal Tribunal for Rwanda and the International Commission of Investigation on Human Rights Violations in Rwanda. National Unity and Reconciliation Commission (NURC) was one of the processes that was established in 1999 (article 178 of the Constitution of the Republic of Rwanda, Law No. 35/2008 of 8th August) as a follow up after the 1994 Genocide where over 800,000 people were killed in 100 days. (Additional information available from <http://www.ogs.gov.rw/about-the-government/justice-reconciliation/>).

³² Under pressure from the armed groups the membership was increased to 25

³³ The commissioners consisted of 3 non-Kenyan citizens and 6 Kenyans, available from <https://digitalcommons.law.seattleu.edu/tjrc-core/26/>. accessed on 7 March 2019

³⁴ [Promotion of National Unity and Reconciliation Act, No. 34 of 1995](#). Chapter 7, Section 1: According to the Promotion of National Unity and Reconciliation Act, 1995, members of the Commission were between 11 and 17 but later the President appointed two judges. The Commissioners consist of ten black, six whites. Seven of them were lawyers, and four active ordained ministers.

³⁵ Law No. 35/2008 of 2008 Determining the Organization and Functioning of the National Unity and Reconciliation Commission; Article 8 and they are appointed for 3 years renewable Article 9; available at <https://www.refworld.org/docid/4a3f87922.html>. Accessed on 5 March 2019.

³⁶ Law No. 35/2008 of 2008 Determining the Organization and Functioning of the National Unity and Reconciliation Commission; Article 3. Available at <https://www.refworld.org/docid/4a3f87922.html>. Accessed on 5 March 2019.

³⁷ Draft Proclamation to Establish Reconciliation Commission Article 3 available <https://chilot.me/2018/12/proclamation-to-establish-reconciliation-commission-draft/amp/>

Commissioners appointed by	The Council of Ministers	President ³⁸	President	President	Parliament	Prime M
Duration of the Commission	3 years	2 years ⁴⁰	3 years	Indefinite ⁴¹	4 years	3 year
Period the investigation to cover	1960 and 2013	12 December 1963 and 28 February 2008.	1960 and 1994	The 1994 genocide	1955 and 2013 ⁴³	No
Mandate (objectives) of the commission	All gross human rights violations, including disappearances, murder, torture, sexual violence, rape, looting, enrolment of child soldiers, kidnapping, forced	To promote peace, justice, national unity, healing and reconciliation among the people of Kenya	<ul style="list-style-type: none"> ➤ To investigate the causes, nature and extent of the gross violations of human rights; ➤ To facilitate the granting of amnesty to persons; ➤ To establish and make known the fate 	To Promote Unity, Reconciliation, and social cohesion among Rwandans and build a country in which everyone has equal rights and contributing to good governance. ⁴⁶	<ul style="list-style-type: none"> ➤ To use both judicial and non-judicial mechanisms to investigate gross human rights violations ➤ To provide compensation and 	To maintain p national unity consensus an Reconciliation Ethiopian pec

³⁸ A selection panel advertised the position in the Gazette and in at least three daily newspaper and invited applicants from qualified persons, directly from the individuals or nomination by groups organisations. The panel selected and submitted 15 qualified applicants to the National Assembly for nomination. The National Assembly nominates 9 persons and submit to the President for appointment (The Truth, Justice and Reconciliation Act, 2008, First Schedule, Procedure for Appointing Commissioners). available from <https://digitalcommons.law.seattleu.edu/tjrc-core/26/>. accesses on 7 March 2019

³⁹ <https://chilot.me/2018/12/proclamation-to-establish-reconciliation-commission-draft/amp/> Article 3

⁴⁰ Plus 3 months preparation time (Article 20 section 2) and request the National Assembly for extension (Article 20 Section 4). available from <https://digitalcommons.law.seattleu.edu/tjrc-core/26/>. accesses on 7 March 2019

⁴¹ Law No. 35/2008 of 2008 Determining the Organization and Functioning of the National Unity and Reconciliation Commission; Article 3. Available from <https://www.refworld.org/docid/4a3f87922.html>. Accessed on 5 March 2019

⁴² <https://chilot.me/2018/12/proclamation-to-establish-reconciliation-commission-draft/amp/> Article 13

⁴³ See: <http://www.ivd.tn/tunisiast-historic-truth-commission-accomplished-went-washingtonpost/?lang=en>. Accessed on 5 March 2019

⁴⁶ The mandate of the Commission is forwarding looking, as the emphasis is on national reconciliation and education on the rights of Rwandese and that of the others, Available from <http://www.nurc.gov.rw/index.php?id=83>, accessed on 5 March 2019,

⁴⁸ <https://chilot.me/2018/12/proclamation-to-establish-reconciliation-commission-draft/amp/> Article 4

	displacement and arbitrary detention ⁴⁴		or whereabouts of victims ⁴⁵		rehabilitation to victims ^{47,3}	
Challenges	<ul style="list-style-type: none"> ➤ It was a top down process where CSOs and other stakeholders were not involved ➤ It took more than a year for the commission to become operational ➤ The ability of the commission to deliver as the conflict is ongoing 	<ul style="list-style-type: none"> ➤ The 45 years the Commission mandated to investigate. ➤ Many victims who had relevant information have passed away, or lost their memories because of their age ➤ Limited public outreach ➤ Lack of confidence on some commissioners⁴⁹ 	<ul style="list-style-type: none"> ➤ Some members of the community took the processes as a witch hunt of the Afrikaners. ➤ The provision of amnesty will encourage impunity. ➤ The commissions is pro movements of the struggle, thus supports causes of ANC, SACP, PAC 	<ul style="list-style-type: none"> ➤ It is a top down⁵¹ ➤ It was more of institutions building rather trauma healing⁵² 	<ul style="list-style-type: none"> ➤ Lack of collaboration, and even obstruction by government authorities ➤ Military courts refused to hand over the judicial files the commission had referred for prosecution. ➤ It was perceived that the project linked to the revolution (mistrust)⁵³ 	<ul style="list-style-type: none"> ➤ When con other con the Comm are almos times tha Africa. ➤ The procl simple co other pro ➤ The proce appoint th Commis clear ➤ It is top d

⁴⁴ The truths that will be brought to light are multiple: the crimes committed in the course of the most recent conflict, in 2012, and its root causes. Such as underdevelopment in the North, bad governance, deep regional inequalities, and entrenched grievances in all communities, and legacies of past trauma.

⁴⁵ [Promotion of National Unity and Reconciliation Act, No. 34 of 1995](http://www.justice.gov.za/legislation/acts/1995-034.pdf) Chapter 3, available from <http://www.justice.gov.za/legislation/acts/1995-034.pdf>, accessed on 23 February 2019.

⁴⁷ <http://www.undp.org/content/undp/en/home/presscenter/articles/2014/06/09/tunisia-launches-truth-and-dignity-commission.html>

⁴⁹ Among the Commissioners, the legitimacy of the Chairperson was challenged. <https://issafrica.org/iss-today/can-kenyas-truth-justice-and-reconciliation-commission-deliver>

⁵¹ <https://www.e-ir.info/2014/05/01/rwandas-national-unity-and-reconciliation-program/>

⁵² Ibid

⁵³ <http://www.ivd.tn/tunisi-as-historic-truth-commission-accomplished-went-washingtonpost/?lang=en>

		➤ There was no road map for reconciliation ⁵⁰				
Outcome/result	WIP During the first six months, the Commission put together structure, systems and Campaigned to increase its legitimacy ⁵⁴	Submitted report to the President and publish the report in the Gazette and make it available to the public at least in three local papers. The Minister table the report to Parliament within twenty days after the publication ⁵⁵	The commission submitted a comprehensive report (6 volumes) to the President on 28 October 1998.	WIP As an institution has to submit annual report on the three main programs: civil education, conflict mediation and community initiatives ⁵⁶	Final reported submitted March 2019 ⁵⁷	WIP

⁵⁰ Truth-seeking in Kenya: Assessing the Effectiveness of the Truth, Justice and Reconciliation Commission of Kenya, Evelyne Asaala & Nicole Dicker; Africa Nazarene University Law Journal, Volume 1 No 2 2013. Available https://www.academia.edu/8666950/Truth-seeking_in_Kenya_Assessing_the_Effectiveness_of_the_Truth_Justice_and_Reconciliation_Commission_of_Kenya

⁵⁴ The Commission drafted internal rules; established internal structure; adopted a general strategy and action plan; drafted statement-taking forms and followed a series of training courses. Five sub-commissions have already been set up: truth-seeking; victims' support and reparations; gender; reconciliation and outreach; reporting and documentation.

⁵⁵ Truth, Justice, and Reconciliation Commission, "Act and Amendments (TJRC) - TJRC Act 2008 (as Amended)" (2008).I. Core TJRC Related Documents. 25. <https://digitalcommons.law.seattleu.edu/tjrc-core/25>. Part VI- Report of the Commission, Section 48 Section 3.

⁵⁶ https://www.nyulawglobal.org/globalex/Africa_Truth_Commissions1.html#Rwanda

⁵⁷ <https://www.middleeasteye.net/news/tunisia-reparation-project-peril-say-truth-and-justice-commissioners>

Intervention frameworks and models for the establishing of TRCs

The Global North has different intervention frameworks and methods for resolving conflicts. These frameworks and models were originally developed by scholars, academics and practitioners from discipline such as International Relations, Psychology, Sociology, Anthropology, Political Science, etc. and are adapted to resolve conflicts. Some of the frameworks and the models include Problem Solving Workshops (Mitchell, 1981), Third party consultation, Contingency Model (Keashly & Fisher, 1991), Sustained Dialogue (Saunders, 2003), Reconciliation, Forgiveness, Transformation (Lederach, 1997), Mediation (Moore, 1996), and Negotiation (Fisher & Ury, 1983), among others. These interventions frameworks and models are used for intra or interstate conflicts (domestic or international). What follows is a brief presentation of the three intervention models/approaches that appear to be relevant to the Ethiopian context.

The first approach is by Harold Saunders (2003), Founder and President of the International Institute for Sustained Dialogue. Saunders developed Track II intervention method as a diplomat. The approach was used to address interacted conflicts between Egypt and Israel, Camp David, Iran hostage crisis, Dartmouth Conference (the longest continuous dialogue between Soviets and Americans) and Inter-Tajik Dialogue (1993-2007). It is a systematic peace building approach.

For Saunders, the peacemaking process is a mixture of politics, diplomacy, changing relationships, negotiation, mediation, and dialogue both in an official and unofficial arena. The process has nonlinear five stages which can be adjusted to fit the context and the progress the participants make in the processes and they are:

- Phase one: defining the problem and deciding to engage
- Phase two: Mapping issues and relationships (draw mental picture of the main problems that affects relationship, reaching a common definitions of the problems)
- Phase three: generating the will for joint solution (individuals probe the problems deeply and determine there is a will to deal with them)
- Phase four: scenario building and negotiation (list obstacles to changing relationships, list steps to overcome the obstacles, prioritize)
- Phase five: acting together to implement agreements

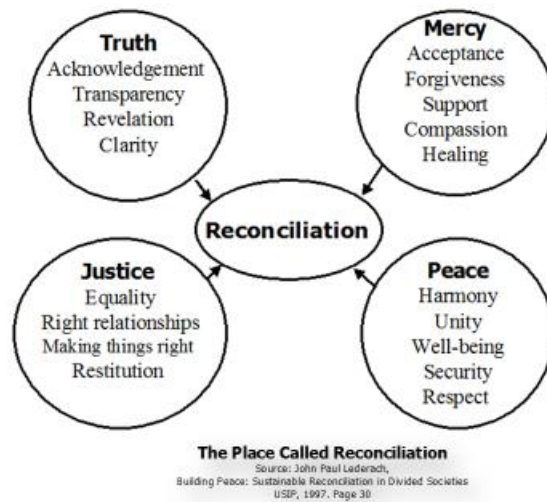
Reconciliation – Paul Lederach

The second approach in reconciliation is by Lederach (1997). Lederach asserts that in reconciliation the past is important but parties to the conflict are expected to look into the future, which is of interest to all, and sustain it together. As he puts it “Reconciliation must find ways to address the past without getting locked into a vicious cycle of mutual exclusiveness inherent in the past.... At the same time, reconciliation must envision the future in a way that enhances interdependence... for people to look forward and envision their shared future” (Lederach, 1997; 26-27).

Lederach’s reconciliation approach, as depicted in figure below, is based on Psalms, from the Bible, chapter 85 verse 10, where Truth, Mercy, Justice and Peace are core phrases. The model, therefore, has a component for finding the truth, and doing justice. As he observes “Reconciliation, ... involves the creation of the social space where both truth and forgiveness are validated and joined together,

rather than being forced into an encounter in which one must win out over the other or envisioned as fragmented and separate parts”⁵⁸

Reconciliation



In this perspective the reconciliation process entails that:

Truth should be told

Justice should be done

Victims have to grant **mercy** to the offenders

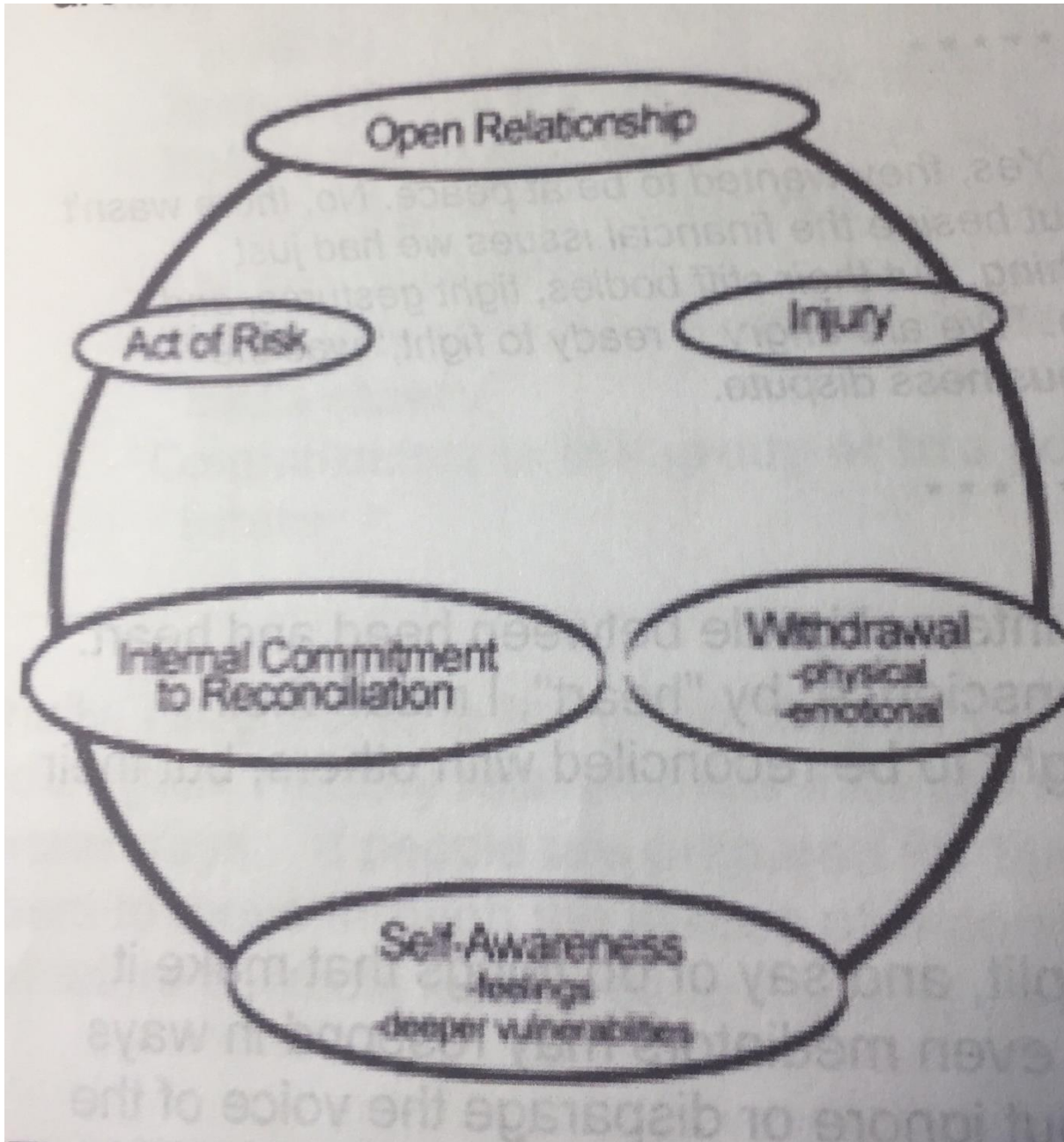
Then **peace** will prevail

The Cycle of Reconciliation: from Head to Heart- Ron Kraybill

The third and last model of reconciliation to be considered here is by Kraybill (1995). Kraybill developed the Cycle of Reconciliation Model based on his experience from South Africa’s search for truth and reconciliation. He argues that the “... people in South Africa have a mistaken image of the process of reconciliation, thinking of it as a process that erases the past.”⁵⁹ He argues further that the past cannot be erased but should be handled with due respect, look into the future and work out how to develop systems and structures which are inclusive and mutually beneficial. In his view, reconciliation is a long process that passes through stages of relationship through which trust is built and claiming identity which has been lost due to the conflict. It requires head and heart, where the two operate in harmony. The processes should not only respond to messages that originate from the “head” but take into account what the heart says. Sometimes, the two can generate and convey contradicting messages. As illustrated in the framework below, reconciliation cycle starts and finishes at relationship, and the cycle should be followed through, as any short cut can disrupt it.

⁵⁸ Ibid p. 29

⁵⁹ <https://www.beyondintractability.org/artsum/kraybill-thecycle>



From Head to Heart, The Cycle of Reconciliation By Ron Kraybill
Riverhouse ePress, 2006 and 2012. www.RiverhouseEpress.com

Which approach is a better fit for reconciliation and peace that is envisioned by the Ethiopian PM? Before we consider this question, this essay will briefly explore two more approaches to reconciliation, peacemaking and peace building.

The first approach is what we call **here the Jesus Model**, የበደላችሁን ይቅር በሉ እናንተም ይቅር እንድትባሉ. This model is based on the Biblical account of Jesus Christ’s admonition, where the emphasis is that forgiving the other is rewarding.⁶⁰ The model can be used to address individual or group conflicts, especially if they are followers of the Christian faith. It appeals both to the offender and the victim as

⁶⁰ Mt. 5:9. “Blessed are the peacemakers, for they will be called children of God” (NIV)

the approach is reciprocal and mutually beneficial: you have to forgive if you want to be forgiven. “For if you forgive others their trespasses, your heavenly Father will also forgive you, but if you do not forgive others their trespasses, neither will your Father forgive your trespasses” (Mathew 6:14). The emphasis is on personal accountability of not only the past but the present. Believers are responsible and accountable on what they do today but with the acknowledgement of the past for acknowledgment seek as well as not to repeat it. In short, the model is deeply rooted on love, “Be kind to one another, tender hearted, forgiving one another, as God in Christ forgave you” (Ephesians 4:32); “But I say to you, Love your enemies and pray for those who persecute you” (Matthew 5:44). It is also forwarding looking and encourages sustaining relationship; “Above all, keep loving one another earnestly, since love covers a multitude of sins” (1 Peter 4:8); and forgiving; “Bearing with one another and, if one has a complaint against another, forgiving each other; as the Lord has forgiven you, so you also must forgive” (Colossians 3:13). Among other things this Biblical model discourages revenge,

Do not repay anyone evil for evil. Be careful to do what is right in the eyes of everyone. If it is possible, as far as it depends on you, live at peace with everyone. Do not take revenge, my dear friends, but leave room for God’s wrath, for it is written: “It is mine to avenge; I will repay,” says the Lord. On the contrary: “If your enemy is hungry, feed him; if he is thirsty, give him something to drink. In doing this, you will heap burning coals on his head.” Do not be overcome by evil but overcome evil with good. (Romans 12:17-21)

Even if this model stresses love and forgiveness, it also emphasises the need for equal treatment of people. “For in one Spirit were we all baptized into one body, whether Jews or Greeks, whether bond or free; and were all made to drink of one Spirit” (1 Corinthians 12:13 (ASV)); “For there is no distinction between *Jew* and *Greek*: for the same Lord is Lord of all, and is rich unto all that call upon him” (Romans 10:12 (ASV)); “There can be neither *Jew* nor *Greek*, there can be neither bond nor free, there can be no male and female; for ye all are one man in Christ Jesus” (Galatians 3:28 (ASV)); “Let all bitterness, and wrath, and anger, and clamor, and railing, be put away from you, with all malice: and be ye kind one to another, tender hearted, forgiving each other, even as God also in Christ forgave you” (Ephesians 4:31-32). In thi model, justice is equally important as love and forgiveness. As the Psalmist wrote “He (refereeing to God) loveth righteousness and *justice*...” (Psalms 33:5 (ASV)); “Righteousness and *justice* are the foundation of thy throne: Loving kindness and truth go before thy face” (Psalms 89:14 (ASV)); “It is joy to the righteous to do *justice*; But it is a destruction to the workers of iniquity” (Proverbs 21:15 (ASV). And finally, even though this model is based on Christian teaching, these values are shared with the Abrahamic religions of the world and there are similar principles in other faiths as well.

Turning now to the second approach, the traditional methods of reconciliation and conflict resolution approaches in Ethiopia, we will list and describe four examples, including *Abba Gadaas*, *Guma*, and the kind of generic approach, *Shemeglina* and *Affersata*. *Abba Gadaa* is a governance framework widely practised among the Ormos’ and has both justice and reconciliation perspectives. In some zones of the Oromia, for example Region, Guji, Borena, Bale and western Arsi, within the *Abba Gadaa* framework women play an important role in conflict prevention and resolution.⁶¹ This framework has played a prominent role in resolving the recent

⁶¹ Additional information available from <https://www.ethiopianreporter.com/index.php/article/15003>. በአካባቢው አለመግባባት ሲፈጠር እናቶች የድረሱልኝ ጥሪ እንደሚያሰሙት ሁሉ ሀደ ሲንቁዎች ብትራቸውን ይዘው እልልታ እያሰሙ ይወጣሉ። እልልታውን የሰሙ ሌሎች በአካባቢው የሚገኙ ሀደ ሲንቁዎችም ብትራቸውን ይዘው እልል እያሉ ይሰባሰባሉ። «እልልታው እጆቻችንና ልቦቻችንን አንድ ላይ አስተሳስረን የተፈጠረውን ግጭት እናብርድ ድምፅችን ይሰማ» የሚል መልዕክት አለው። በጠበኞቹ መሀል ብትራቸውን

conflict between Oromo Liberation Front (OLF) and Oromo Democratic Party (ODP). *Guma*, which is an informal and a process-oriented conflict resolutions (mediation) framework, is practised across communities, ethnic groups and handles both criminal and civil cases.

A typical process of the *Guma* approach is as follows: respected community elders serve as a committee to investigate cases brought to their attention by the victims and try the offenders, usually in an open space, under a tree designated for such purpose. Since *Guma* (ጉማ) is process oriented approach it includes evidence gathering, witness hearing and ruling (passing resolution). Any member of the community can attend the hearings and share their perspectives about the case which makes the system an inclusive and consultative decision-making process. The verdict (ruling) is final, binding and there is no room for an appeal. Though the elders do not have formal structure (police) to enforce their decisions, it is socially binding. The verdict can include a fine (an amount of money payable to the victim), ritual and a guideline how the money should be paid. The verdict is more restorative rather punitive, that facilitates the integration of perpetrators into the community. For example, if the perpetrator is found guilty and the elders decide that he has to pay ransom money, he will either be ordered to pay from his own wealth or by collecting donation from members of the community. As the perpetrator collects ransom money from the community, he has to disclose (tell) the crime he has committed and that he has been ordered by the elders to collect the ransom money from the community. The visited household in principle will contribute money into the ransom pot, which symbolise that the contributor identifies with the perpetrator and welcome him back to the community; the process also allows the community to appreciate him for accepting the guilty verdict and honouring the elders. This ransom collection process reaffirms the power and legitimacy of the elders, and is an expression of solidarity with the victim, and the perpetrator. This model has some similarity to the principle of Restorative Justice, mentioned earlier.

If the verdict includes a ritual, the elders will facilitate, and both the perpetrator and the victim have to perform it. Some of the rituals include a handshake, burying spears,⁶² pouring of libation, kneeling before the elders to receive their blessings, and animal sacrifices.

The third traditional approach to peacemaking, *Shemgelina*, is similar to *Guma* and the focus is on reconciliation (ማስታረቅ). Every community will have its own elders who are expected to mediate any community conflicts. These respected and notable elderly people are called *Shemaglie* (ሸማግሌ). They have a process of truth finding, investigation, and persuasion methods that encourage the parties to conflict to forgive each other (ይቅር ለእግዚአብሔር) and move forward. It is deeply religious and embedded in religious value systems.

From the Global North perspective, this approach has some elements of the science and art of Alternative Dispute Resolution method. For example, if the elders cannot help the conflicting parties to resolve their differences or if the elders find the case to be beyond and above the typical practice, or if the parties to the conflict refuse to accept the resolution (verdict) of the elders, the elders then will advise and encourage the parties to the conflict to use the formal justice system, the courts. However, if the judge, in the formal court system, finds that the *Shemaglie* will be in a

ከወረድ ሲንቁውን ተሻግሮ ለዱላ መጋበዝ የማይታሰብ ነው። እንደዋዛ የምትወረወረው ቀጭኗ ብትር የሚንቀለቀልን እሳት የማብረድ ኃይል አላት። ብትሯን ተሻግሮ ለፀብ መጋበዝ ሲወርድ ሲዋረድ የመጣውን ባህላዊ እሴት መናቅ ነውና ፀቡ ከማኅበረሰቡ ጋር ነው የሚሆነው። ስለዚህም እናቶችን የሚያከብር፣ ከማኅበረሰቡ አብሮ መኖር የሚፈልግ የፈለገ ነገር ቢመጣ ብትሯን አይሻገርም። ፍትሕ ሊያገኝ ነውና ከቁጣውም ቀዝቀዝ ይላል።

⁶² Meron Zeleke, Ye Shakoch Chilot (the court of the sheikhs): A traditional institution of conflict resolution in Oromiya zone of Amhara regional state, Ethiopia. African Journal on Conflict Resolution Volume 10, Number 1, 2010.

better position to handle a case, he/she will put the hearing in the court on hold and assign *Shemaglie* to mediate and report back the outcome to the court. What this means is that the traditional and contemporary court system work in together in unison as is it is in other countries where they have adopted a court-annexed or court-referred mediation services.

The fourth and last traditional method that will be briefly described is the *Affersata* method. This is essentially a structured community meeting. Based on who the organizers and convenors of the meeting are, the structure can be formal or informal. It is typically formal when the organizers and the convenors are from the governmental bodies but informal if organized and convened by the elders of the community in question. This model is usually used to address security issues including the identification of criminals who are operative in the community and to bring them to justice. This process is kind of hybrid system of the traditional and formal. The identification of the criminal is often traditional and informal, especially if organized and convened by the elders but it become formal if a decision by the elders is to hand over the criminal to the courts system.

In short, the method allows for local communities and government officials to work cooperatively in addressing community issues. Usually men attend such meetings. During the meeting, participants will debate on the issue and pass resolution on consensus, especially if it is a civil case. However, if the meeting involves the identification of a criminal who is, for example, hiding in the community, members of the community will be “persuaded” to hand over the criminal to the elders so justice can be served. In most cases, the criminal will surrender to the *Shemaglies* who investigate the case and pass a verdict or hand him over to the formal structure, the government officials.

Reconciliation model for Ethiopia

As mentioned earlier, TRCs are supposed to be designed to reflect the context of a given country and be sensitive to its culture and value systems. Then, the process will be home grown, culturally rooted and locally owned. If a model of TRC adapted reflects such values, as Huyse and Salter (2008: 21) observed “The centre of gravity [for TRC] moves from the courtroom to the hearing, from the judge to the local civil society leader, ... from legal retaliation to ritual reconciliation, from the internationally driven retributive impulses to the full acknowledgement of the opportunities the local context offers.” Again, as was mentioned earlier, many countries have commissioned TRCs of which some were successful, and some have failed to deliver on their mandates.

There are competing explanations for both the successes and failures of TRCs. The one thing where there is no debate is that there is no one universally accepted model that fits to every context, except the name itself: Truth and Reconciliation Commission (TRC). Even the name, however, is contested at times as some countries would rather call the approach Truth, Justice and Reconciliation Commission (TJRC). These differences notwithstanding, in many post conflict countries, TRCs or TJRCs are mandatory as part of the peace agreement, especially if the peace is brokered by outside intervention such as the United Nations or other powers. In this case, more often than not, the TRC and TJRCs approaches are designed from outside and in effect they tend to be cut and paste from other TRCs/TJRCs. Clearly, lesson can be learned and there is no wisdom in reinventing the wheel. The important empirical question is what modification should be done before adapting a given model so it can meet the requirements of a given political culture and in this case Ethiopia? In other words, what model is appropriate for the reconciliation and peace in Ethiopia?

At the risk of stating the obvious, Ethiopia is home of people of diverse cultures and yet they have lived together for thousands of years in relative harmony, though there were pockets of major and minor violent conflicts. When people live together for such a long time, having a shared history is one of the common givens and yet, the meaning and context of that shared history is subject to diverse perspectives and interpretations. What this means is that Ethiopians having different versions of their shared history should not be surprising. What should also be not surprising is that if there is no opportunity to acknowledge the past and recreate a common future, the fixation by some on the unresolved past and the subsequent denial by others will undoubtedly lead to conflict that may even trigger violence. Because a success story to one group will be a story of failure to the others. The implication of this to designing a TRC model is that whatever approach in peacemaking is taken it should by necessity include a process where all people can share their stories and rewrite a shared story for their future as a nation.

The foundation for rewriting a common history of Ethiopia's past in coming together to defeat their common enemies (aggressors); practices enshrined in their value systems such as intermarriages where even religious differences were not barriers and where the celebration of religious festivals together (Christians and Moslems). In a good part of the country even worship places, such as mosques, churches and synagogues were built together. Regardless of their religious affiliations students attended the same boarding school, studied together and even publicly demonstrated against the government of the day together whether the issue had to do with Moslems or Christians. At the same time the model for peacemaking should provide a forum for sharing the sad stories of the past, the forceful evictions of peasants (farmers) by landlords. Clearly, these martial based conflicts were exacerbated by deeper traditional value systems differences between and among the many ethnic Ethiopian communities. To openly address such complex causes of conflicts, to resolve and reconcile these communities and at the same time to do justice to the victims, a **hybrid** of the indigenous, Ethiopian, and Global North reconciliation intervention frameworks and models are highly recommended. As briefly discussed earlier the indigenous and the Global North models share a lot in common though there are some differences. The differences in this case, however, are assets as they will help to effectively address the complex problems described above. In fact, for the Ethiopian society where, at one level, people share a lot in common and are religious, and at another level where there are serious tangible and intangible differences, the indigenous approaches may help make the process community based and sustainable.

In summary, the indigenous methods, the Gadaa system and in general the Shemeglina, in combination with the modern art and sciences of Alternative Dispute Resolution, will add values such as strong enforcement mechanism and processes that are effective and sustainable. The effectiveness and sustainability emanate from the fact that the architectures and mobilisers of the reconciliation processes are **the elders who know and are well connected to the people in their communities. Unlike processes which are outright designed and led from outsiders, members of the community will participate due to the respect and trust they have to their elders; they can also easily identify (since most of the time they know the perpetrators as well as the victims) witness and share, particularly the stories of the victims. Furthermore, when the process is community led participation most likely will increase and makes monitoring easy. Additionally, since reconciliation is a long term engagement, the indigenous method may help to continue the healing process beyond the life of the National Reconciliation Commission. It will also address one of the challenges of TRCs which is lack of follow up once commissioners have finished their term and submitted their final report. It will also advance Ethiopia's traditional values by providing an excellent platform to identify, unpack and share myths, stories and folklores of commonalities.**

National Reconciliation Commission

As mentioned earlier the government of Prime Minister Abiy has established a National Reconciliation Commission by a parliamentary decree during its 14th regular session and appointed 41 Commissioners⁶³.

As the name implies, the commission is to focus on reconciliation; as stated under Article 5 of the proclamation,⁶⁴

- identify principles and values which will be the base for national Reconciliation by making discussion with groups of society which have different view (Section 3);
- make Reconciliation among peoples to narrow the difference created and to create consensus (Section 10). **Please check this...if it is a quote we need to make sure it is accurate!!!!**

The commission has officially started its operation as disclosed during the first press conference held on 30th April 2019, where the Chair, Vice persons and two members of the Commission gave briefings to the media.⁶⁵ It was during the briefings that the Commissioners announced the appointment of an expert group to compile lessons learned from countries such as Rwanda, Mexico, Guatemala and South Africa; The seven persons taskforce is appointed to support the chair and vice persons. The taskforce will meet weekly to deliberate and monitor current conflicts and make recommendations on how to handle them. The government has provided an office space and appointed Head of the Office and assigned two support staff on secondment from the Prime Minister office. What is not apparent is the working structure of the commissioners and the processes to be followed including the truth-seeking method. In other words, what method, the traditional, the global or a hybrid method of reconciliation is the commission to follow?

If the National Reconciliation Commission is going to be successful in delivering on its mandate, **admittedly the mandate beyond reconciliation is not that clear and specific**, it may consider taking into account the following: the first consideration that needs seriously to be taken is that finding the truth is an important component of national reconciliation. The indigenous methods, as described above, especially when combined with the modern art and science of conflict resolution has a truth finding mechanism. Truth telling is an integral part of local dispute resolution practices in many African countries.⁶⁶ Again as described above, the indigenous models are people centred, processes oriented and inclusive. They have an intricate system to gather the truth from people who experienced violent conflicts and human rights violations. If the goal is national reconciliation, and hopefully peacemaking and peace building, the truth should not be something narrated by a third person or contemplated social truth or 'global truth,'⁶⁷ as third-party truth telling will be modified to satisfy the narrator. Therefore, the commission has to recognise the subjective nature of truth, as

⁶³ <https://borkena.com/2019/02/05/ethiopia-named-members-of-national-reconciliation-commission/>

⁶⁴ Draft Proclamation to establish Reconciliation Commission available from <https://chilot.me/2018/12/proclamation-to-establish-reconciliation-commission-draft/amp/>

⁶⁵ The full interview is available from <https://www.youtube.com/watch?v=lce5fBXhq14>

⁶⁶ https://www.idea.int/sites/default/files/publications/traditional-justice-and-reconciliation-after-violent-conflict-learning-from-african-experiences_0.pdf P:29

⁶⁷ T Hunt, 'Whose Truth? Objective Truth and a Challenge for History' (2004) 15 *Criminal Law Reform* 193

there will be different truths which cannot be challenged or negated⁶⁸ unless the commissioners hear it from the horse's mouth, those who have experienced the atrocities.

The second consideration to be taken seriously is the determination of the time frame the commission should investigate-how far in the history of Ethiopia should the commission go to find the truth for reconciliation? The past to be explored by the commission should be realistic enough so that the commissioners will be able to find people who can share their own truth. One of the challenges of TJRC of Kenya was finding victims and perpetrators as the Commission was supposed to investigate atrocities committed before 45 years ago. Therefore, the National Reconciliation Commissions should take lesson learned from Kenya in deciding how far in the past it should go. It will be recalled that the "question of how far in to the past" was debated in the Ethiopian House of Peoples' Representatives when the bill was discussed. Some House members wanted the Commission to focus only on the last 27 years of the Ethiopian political situations while others wanted the investigation to go back in to history. This lack of consensus notwithstanding, as stated above regarding truth telling and as the experiences of other countries suggest, going beyond the Derge' regime is impractical and even logistically challenging. Among other things, going beyond the Derge' regime will pose the difficulty of finding victims⁶⁹ (due to their ages- most of them would have died, if alive they will be old and might not remember what happened due to health and memory loss) to share their true stories and perpetrators to accept or deny atrocities they have committed, take responsibility. In short, a wide open and timeless inquiry neither it will satisfy the requirement of punitive justice nor and restorative justice.

One suggestion that can be made to bridge this lack of consensus is to frame an inquiry that explores in unveiling collective atrocities that might have been committed by previous governments. In other words, it might be possible to go beyond the Derge's regime and investigate truths based on historical records such as history books. The purpose for such investigation, however, is only for democratically elected government of the future to take the responsibility and apologize on behalf of previous governments. Examples of such undertakings include what Australia and Canada are attempting to do with their respective colonized indigenous societies as well the recent action taken by the Vatican. Such symbolic gestures would help, not only in bridging the gap between contending parties, but the very notion of recognition of the past would help in healing the wounds and move the society in question forward.

A third consideration that the reconciliation commission of Ethiopia may make is educating the public about it mandates, objectives and the process for reconciliation. People have been waiting for the establishment of the National Reconciliation Commission and yet they may not be aware of its objectives, mandate and the procedure that the Commission will use to discharge its responsibilities. Therefore, the Commission has to launch an awareness creation campaign to clarify its roles and responsibilities, the structure, the process for finding the truth. The Commission should use all media outlets: the print and electronic media (radio, TV, social media, blogs) and should use the media rural Ethiopians can access to. For example, the South African TRC used the media quiet extensively, to get public attention, to mobilise people to attend victim and amnesty hearings, and come forward to witness (Tutu, 1999). Well planned and organised media campaign will also help to manage public expectations. The following may serve as lead items in awareness creation campaign:

- Clarification on the why, what, and how of National Reconciliation Commission by

⁶⁸ Ibid

⁶⁹ The Derg toppled the emperor in 1974 and took power. A person who is 18 years old in 1974 will be 63 years of age today, according to the National Statistics of Ethiopia Life Expectancy for male in 2018 is 63 years.

- Printing the whole or part of the proclamation in different languages and distributing them to the public and even narrate the proclamation on local radio, organise town hall meetings, dialogues, workshops to expose the contents of the proclamation.
 - Publishing flyers and brochures in different languages which briefly highlight the objectives, the duties and responsibilities of the Commission, contact details, etc.
- Assuring the public that the National Reconciliation Commission is not a “witch hunting” process
 - That all information shared with the Commission will be confidential and the identity of the individual will not be disclosed to the public without the consent of the person involved
 - That justice is enshrined in the processes and not thrown out through the window.
 - That the process is going to be bottom up rather than top down, even if the Commission is established by an act of parliament, it intends to listen to the public, the process will be inclusive, and that individuals and groups participate voluntarily and share their stories in a friendly environment.

A fourth and final suggestion is for the commission to incorporate in its process an inclusive dialogue forum. As indicated above, the government, the inter-religious council and Shemagle groups.. etc. are attempting in conducting dialogues and running workshops on themes that will increase tolerance, encourage co-existence, and reconciliation. However, most of them seem to be events rather than processes. To re-establish relationships, heal wounds and reconcile communities conducting workshops here and there are not good enough; it should be an ongoing process.

The assertion of anti-Ethiopian politicians notwithstanding, the traditional value systems of Ethiopians were instrumental to foster co-existence and increase levels of tolerance among different religious and ethnic groups. As mentioned earlier even differences in belief systems were not barriers to marriages across not only ethnic lines but also religions. After all Ethiopians should not fail to remember that it is their country that welcomed the followers of the Prophet Muhammad as refugees when they were driven out the holy places of today in the Middle East. It is not an accident of history that the Muslim faith serves now in Ethiopia as one of the corner stone’s of the Inter-faith dialogue that was mentioned earlier. Unfortunately these values systems have been eroded in the last few decades due to competing explanations including globalisation and government policies that accentuate differences rather than shared values and heritages. It is timely and important to reinstate and sustain these shared values, including the culture of dialogue and compromise. At the risk stating the obvious, educational institutions (schools systems) are an excellent place to start and that articulation should be one of the centre pieces of the educational program of the public by the commissions. The schools should be and ought to be a place where students can learn to generate ideas and practise constructive engagements for mutual good. As Joseph Joubert stressed, “The aim of an argument or discussion should not be victory, but progress”.⁷⁰

An inclusive dialogue will bring all members of the community on board, where each and every one will speak out about the challenges and concerns as they perceive them and also be part of the solution. In a country where over 70% the population are youth, their participation in any

⁷⁰ Available from <https://www.goodreads.com/quotes/283601-the-aim-of-an-argument-or-discussion-should-not-be>, accessed on 8 April 2019

reconciliation processes are vital as they may bring innovative ideas to the negotiating tables. In short, transparent and inclusive dialogue will help build trust and heal wounds.

Conclusion

During post conflict or transition from authoritarian rule to democracy, governments establish TRCs/TJRCs to investigate the violation of rights and atrocities committed by previous regimes with the purpose of reconciling communities and developing a democratic culture. Reconciliation, however, is a long process of transition management, transformation and adaptation that hopefully leads to a change in perception and subsequently in behaviours.

A review of the body of literature in this area suggests that most TRCs and TJRCs did not deliver on their respective mandates for reasons, among other issues, they lack a follow up strategy and sustainability. In recent times experts and practitioners of conflict resolution and peacemaking are exploring ways including indigenous methods in addressing reconciliation and justice issues. A good example of this recent exploration is the attempts that are being made in reviving the indigenous methods of reconciliation in Australia, New Zealand, Canada and the United States.⁷¹ What this findings suggest is that a hybrid model which incorporates the traditional (indigenous) methods of finding truth, justice and reconciliation processes of Ethiopia, such as the *Abba Gadaa, Afersata and in general Shemegelela* with the modern art and science of conflict resolution might be ideal for Ethiopia's Reconciliation Commission to pursue.

Since PM Abiyeh came to power, his government has created an environment that will help enhance the possibilities of reconciliation such as the establishment of the Ministry of Peace and the National Reconciliation Commission. These initiatives are fertile ground for reconciliation and to reinstate a national identity which, unfortunately, has been eroded for a number of decades. Clearly, a lot is expected from the National Reconciliation Commission which has started its work recently. There are challenges which the commission has to address including creating awareness about its objectives, develop systems and structures, and unveil the process it is going to use to find the truth. Above all the Commission has to win public trust so that victims and witness will come out publicly and share their stories.

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⁷¹ https://www.idea.int/sites/default/files/publications/traditional-justice-and-reconciliation-after-violent-conflict-learning-from-african-experiences_0.pdf P; 36

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