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## Identity and Transitional Justice in the Horn of Africa and Libya

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# Identity and Transitional Justice in the Horn of Africa and Libya

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Identity and conflict shape each other. This is evident in the historical trajectory of the Horn of Africa (HoA) – notably in the conflicts in the Gambella region, between Ethiopia and Eritrea, in Somalia and Tigray – as well as of Libya during and after the long autocratic rule of Muammar Gaddafi.<sup>1</sup> The nexus between identity and conflict dynamics hampers peace efforts. That is why mainstreaming transitional justice into mediation and reconciliation processes is an opportunity to increase peace prospects.<sup>2</sup> Transitional justice consists of various measures and structures intended to mitigate and ultimately overcome perceived wrongs and past injustices, and dialogue in this context offers different identity formations a platform for redress.<sup>3</sup>

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<sup>1</sup> Jean-Louis Romanet Perroux, “The Deep Roots of Libya’s Security Fragmentation”, in *Middle Eastern Studies*, Vol. 55, No. 2 (2019), p. 200-224; Julia Maxted and Abebe Zegeye, “Human Stability and Conflict in the Horn of Africa: Part One”, in *African Security Review*, Vol. 10, No. 4 (2001), p. 95-109.

<sup>2</sup> Kwesi Sansculotte-Greenidge, Emile Yanaki Taban and Nhial Gogok, “Reconciliation without Regret: National Healing and Reconciliation in South Sudan”, in *Policy and Practice Briefs*, No. 27 (November 2013), <https://www.accord.org.za/?p=35334>; Israel Nyaburi Nyadera, “The Impact of Identity on Transitional Justice and Peacebuilding in Somalia”, in *Horn of Africa Bulletin*, Vol. 32, No. 1 (August-September 2020), p. 18-24, [https://www.africaportal.org/documents/20572/Aug\\_Sep\\_HAB\\_V5.pdf](https://www.africaportal.org/documents/20572/Aug_Sep_HAB_V5.pdf).

<sup>3</sup> Roman David, “What We Know About Transitional Justice: Survey and Experimental Evidence”, in *Political Psychology*, Vol. 38, No. S1 (February 2017), p. 151-177. This position is supported by a report from the African Union’s Panel of the Wise: *Peace, Justice, and Reconciliation in Africa. Opportunities and Challenges in the Fight Against Impunity*, New York, International Peace Institute, February 2013, <https://www.ipinst.org/?p=1140>.

Ethnic identity is weaved into the political landscape of the HoA.<sup>4</sup> The region's history attests to how dominant groups turn their ethnic identity into an instrument of legitimization of their power and exclusion of others' rights. Instances include Somalia's crisis, where the Somalis suffered repression under Siyad Barre's military regime; and Uganda, where the Acholi ethnic group is marginalised through displacements under Yoweri Museveni's rule.<sup>5</sup> Ethnic identities also overlap across states in the HoA. The Gambella region, for instance, hosts ethnic groups spanning across Ethiopia and South Sudan. This has bred conflicts in the area for decades. As a result, power contestation in the region is often cloaked with ethnic conflicts.<sup>6</sup> Broadly speaking, ethnicity in conflicts is a recurrence within, between and among the countries in the HoA and their peoples.<sup>7</sup>

There is a similar trend in Libya, although violent conflicts there have not been as recurrent as in the HoA.<sup>8</sup> The intersection of tribal identity and conflict, reinvigorated by the 2011 ouster of Gaddafi, partly explains the absence of social cohesion in Libya ever since. Just as in the HoA, a narrative of "us" and "them" has often become dominant among Libyan warring factions. It has taken the form of neighbourhood, clan and tribal affiliations, which have become central to the framing and formation of armed groups. Some of these groups have attained a degree of prominence that hinder actions by state institutions.<sup>9</sup>

An inescapable notion which identity communicates is that there is a "us" and there are "others", a default grouping as defined by the parties involved. Conflict research has proved that conflicts have a formative impact on the notion of "us" and "others" as inherently competitive.<sup>10</sup> How "us" and "others" are defined,

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<sup>4</sup> Julia Maxted and Abebe Zegeye, "Human Stability and Conflict in the Horn of Africa", cit.

<sup>5</sup> Afyare Abdi Elmi and Abdullahi Barise, "The Somali Conflict: Root Causes, Obstacles, and Peacebuilding Strategies", in *African Security Review*, Vol. 15, No. 1 (2006), p. 32-54; Richard Ilorah, "Ethnic Bias, Favouritism and Development in Africa", in *Development Southern Africa*, Vol. 26, No. 5 (December 2009), p. 695-707, <https://doi.org/10.1080/03768350903303209>.

<sup>6</sup> Ibid.

<sup>7</sup> Francis M. Deng, "Ethnicity: An African Predicament", in *Brookings Articles*, 1 June 1997, <http://brook.gs/2bMiDBI>.

<sup>8</sup> Al-Hamzeh Al-Shadeedi and Nancy Ezzeddine, "Libyan Tribes in the Shadows of War and Peace", in *CRU Policy Briefs*, February 2019, <https://www.clingendael.org/node/9929>.

<sup>9</sup> Jean-Louis Romanet Perroux, "The Deep Roots of Libya's Security Fragmentation", cit.

<sup>10</sup> Kjetil Tronvoll, *War and the Politics of Identity in Ethiopia. The Making of Enemies and Allies in the Horn of Africa*, Suffolk, James Currey, 2009.

categorised and perceived shapes a narrative of mutual exclusion that becomes self-sustaining over time. This is a channel through which grievances are piled up and passed on. For this very reason, such perceived wrongs are the entry point for transitional justice to be mainstreamed into conflict mediation and resolution.<sup>11</sup>

In this regard, South Sudan, while still an ongoing process, is a case in point.<sup>12</sup> President Salva Kiir is a Dinka, while opposition leader Riek Machar is a Nuer, two ethnic groups with a history of rivalry and grievances which has fuelled internal violence. Dialogue addressing those grievances has proved critical to consolidating the peace process.<sup>13</sup> Although ethnic identity was not the major theme, the dialogue offered a platform through which aggrieved parties could be heard and perceived wrongs be addressed. International institutions like the European Union supported South Sudan in this regard.<sup>14</sup> There are other instances, such as Gambia, that highlight the (limited) success of transitional justice in which the EU contributed to the Peacebuilding Fund (PBF) that aided transitional justice.<sup>15</sup>

These instances show that mainstreaming transitional justice in mediation efforts through dialogues contribute to defusing and mitigating the conflict's complexity and continuity. Belligerents are offered an opportunity to redress perceived wrongs and past injustices. In addition, the narrative of mutual exclusion that

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<sup>11</sup> Israel Nyaburi Nyadera, "The Impact of Identity on Transitional Justice and Peacebuilding in Somalia", cit.

<sup>12</sup> UN Human Rights Council, *Renewed Political Commitment to Initiate Transitional Justice in South Sudan Must Deliver for Victims*, UN Experts Note, 1 February 2021, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26704>; Santino Ayuel Longar, "Transitional Justice in South Sudan: A Case for Sustainable Peace, Accountability, Reconciliation and Healing", in *Sudd Institute Policy Briefs*, 16 February 2021, <https://www.suddinstitute.org/publications/show/602b9d3319101>.

<sup>13</sup> Rens Williams and David K. Deng, *Perceptions of Transitional Justice in South Sudan: Intersections of Truth, Justice and Reconciliation in South Sudan*, The Hague, UPEACE Centre, September 2016, [http://www.upeace.nl/cp/uploads/hipe\\_content/Perceptions-of-Transitional-Justice-in-South-Sudan---Final-Report.pdf](http://www.upeace.nl/cp/uploads/hipe_content/Perceptions-of-Transitional-Justice-in-South-Sudan---Final-Report.pdf).

<sup>14</sup> Israel Nyaburi Nyadera, "The Impact of Identity on Transitional Justice and Peacebuilding in Somalia", cit.

<sup>15</sup> Axel Borchgrevink and Jon Harald Sande Lie, "Regional Conflicts and International Engagement on the Horn of Africa", in *NUPI Reports*, 2009, <http://hdl.handle.net/11250/2366709>; John G. Ikubaje and Khabele Matlosa, "Transitional Justice in the Horn of Africa: Lessons from The Gambia", in *Horn of Africa Bulletin*, Vol. 32, No. 1 (August-September 2020), p. 30-35, [https://www.africaportal.org/documents/20572/Aug\\_Sep\\_HAB\\_V5.pdf](https://www.africaportal.org/documents/20572/Aug_Sep_HAB_V5.pdf). See also Peacebuilding Fund, *The Gambia* (country brief), August 2021, [https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/country\\_brief\\_the\\_gambia\\_20210804.pdf](https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/country_brief_the_gambia_20210804.pdf).

different identity groups pass on to younger generations, which play a key role in achieving and managing sustainable peace, can be reversed. Therefore, transitional justice is an area the EU should zoom in on. The EU may therefore enhance its peacebuilding efforts in HoA and Libya by mainstreaming transitional justice into its conflict management approach. Overall, this further justifies the implementation of Action 22 (b), the commitment to develop and implement an EU Policy on Transitional Justice which was outlined in the EU Action Plan on Human Rights and Democracy 2015–2019.<sup>16</sup>

In conclusion, the works of Graybill and Lanegran, Little and Maddison, Buckley-Zistel et al., Gready and Robbins, and Roman David highlight the depth of gaps concerning the conceptualisation and implementation of transitional justice.<sup>17</sup> However, their works also demonstrate how the choice between retribution and reconciliation is for the society in question and what external actors can do is to facilitate relevant actors towards that choice-making as a worthy step to silence the guns. What dialogue therefore offers is a step-forward towards reconciliation which is rather restorative. Among other things, however, stakeholder inclusion with a co-constructed expectation through a reflective process is proposed to enhance legitimacy and accountability in this regard.<sup>18</sup> Furthermore, the process should not stop at reconciliation. Rather, transformation of the conflictual social relations should be the end game.

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<sup>16</sup> European External Action Service (EEAS), *The EU's Policy Framework on Support to Transitional Justice*, November 2015, [https://eeas.europa.eu/archives/docs/top\\_stories/pdf/the\\_eus\\_policy\\_framework\\_on\\_support\\_to\\_transitional\\_justice.pdf](https://eeas.europa.eu/archives/docs/top_stories/pdf/the_eus_policy_framework_on_support_to_transitional_justice.pdf).

<sup>17</sup> Lyn Graybill and Kimberly Lanegran, "Truth, Justice and Reconciliation in Africa: Issues and Cases", in *African Studies Quarterly*, Vol. 8, No. 1 (Fall 2004), p. 1-18, <https://asq.africa.ufl.edu/?p=707>; Adrian Little and Sarah Maddison, "Reconciliation, Transformation, Struggle: An Introduction", in *International Political Science Review*, Vol. 38, No. 2 (March 2017) p. 145-154, <https://doi.org/10.1177/0192512116681808>; Susan Buckley-Zistel et al. (eds), *Transitional Justice Theories*, London, Routledge, 2013; Paul Gready and Simon Robbins, "Transitional Justice and Theories of Change: Towards Evaluation as Understanding", in *International Journal of Transitional Justice*, Vol. 14, No. 2 (July 2020), p. 280-299, <https://doi.org/10.1093/ijtj/ijaa008>; Roman David, "What We Know About Transitional Justice", cit.

<sup>18</sup> Paul Gready and Simon Robbins, "Transitional Justice and Theories of Change", cit.



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