

## FORUM REPORT

# TRANSITIONAL JUSTICE AND SILENCING THE GUNS IN AFRICA IN THE CONTEXT OF COVID-19

Report on the Fourth  
African Transitional Justice Forum

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# INTRODUCTION

Africa has been both a nursery and a laboratory for transitional justice ideas and practice for three decades. In recent years, the African Union, regional economic communities and other regional institutions, numerous states and a range of civil society actors have been distilling this experience into an African articulation and approach to transitional justice.<sup>1</sup> Based on this work, the African Union in February 2019 unanimously adopted the Transitional Justice Policy (AUTJP). This policy provides a framework and a set of tools for promoting holistic transitional justice, defined as “the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation.”<sup>2</sup> The AUTJP looks beyond retributive approaches and draws on traditional, indigenous and community-based practices to address legacies of conflict, governance deficits and development challenges, while considering the gender, intergenerational and ethnocultural dimensions of peace and justice.

Since 2010, the Department of Political Affairs (DPA) of the African Union Commission (AUC) and the Centre for the Study of Violence and Reconciliation (CSV), a South African nongovernmental organisation, have partnered first on the development of the AUTJP and now on its dissemination and implementation. As part of this effort, the African Union through the DPA and CSV

instituted an annual African Transitional Justice Forum to promote knowledge sharing and collaboration on transitional justice, as well as monitor the AUTJP’s implementation. The Forum is a multi-stakeholder platform for identifying solutions rooted in collective and national experiences, sharing best practices to advance an African transitional justice discourse and practice, and generating new ideas on how to support transitional justice processes on the continent, while facilitating cooperation among diverse stakeholders.

On 26–28 October 2020, the DPA and CSV hosted the fourth African Transitional Justice Forum. An inaugural online version of the Forum, the three-day conference addressed the state of transitional justice on the continent, specifically its contribution to the AU’s 2020 theme of the year, “Silencing the Guns,”<sup>3</sup> amid the challenges and opportunities presented by the COVID-19 pandemic. The Forum panels focused on development, violent extremism, victims’ experiences and fundraising in relation to African-led transitional justice.

As noted in the Forum discussions, the African continent has been gravely affected by the pandemic, which has overwhelmed healthcare systems, provoked abuses by law enforcement, and exacerbated poverty and inequality, disproportionately affecting women, youth and marginalised groups. It has stalled peace and transitional justice processes, while many countries continue to struggle with political crises, armed conflict

1 African Commission on Human and Peoples’ Rights, *Study on Transitional Justice and Human and Peoples’ Rights in Africa* (2019).

2 See para. 19, <https://au.int/en/documents/20190425/transitional-justice-policy>.

3 See <https://au.int/en/flagships/silencing-guns-2020>.

and repression, as well as fallout from climate change and resource scarcity.<sup>4</sup> At the same time, the pandemic has highlighted the extent and impact of these political, social and economic challenges, providing an opportunity to re-assess dominant theories and practices, build on African approaches as framed in the AUTJP, and articulate new directions for transitional justice in the region.

The Forum proceedings demonstrate that the African Union and other regional institutions are developing instruments and programmes in line with the AUTJP, in collaboration with civil society and with support from numerous African states. Aspects of these processes require strengthening, however. While the AUTJP was used as a guideline even before its adoption, regional bodies need to move beyond ad hoc application of the policy to institutionalising it and providing adequate, dedicated financial, technical and human resources for its implementation. They also need to cooperate with each other and with states to more actively align and uphold existing instruments relating to human rights, governance, democracy, development and peace and security in the region, in combination with the AUTJP.<sup>5</sup> This requires wider dissemination of the AUTJP and related instruments, in addition to awareness raising, public outreach and trainings for diverse stakeholders ranging from policy makers to civil society and those affected by abuses on how to apply them. It also requires documentation and knowledge generation and dissemination regarding transitional justice experiences in Africa so as to promote ownership of transitional justice on the continent and by informed local publics.

At the national level, transitional justice processes still have far to go in ensuring broad-based participation in both the design and implementation phases, particularly by victims and survivors of past abuses and marginalised groups.<sup>6</sup> While there is growing awareness of the value of measures that are tailored to local contexts,<sup>7</sup> transitional justice processes have yet to engage adequately with historical and ongoing socioeconomic marginalisation and inequality, which are often at the root of conflict and which drive its recurrence.<sup>8</sup> They also have yet to address the impact of individual and collective trauma in conflict and post-conflict contexts, including at the personal, family and institutional levels, as well as among leaders across sectors of society who are struggling with their own woundedness.<sup>9</sup> In order to address these complex and deep-rooted issues, transitional justice requires investment in long-term processes, including psychosocial support, which build on existing traditional, indigenous and community-based practices.

At the same time, the Forum discussions indicate that transitional justice needs to look beyond its focus on the state and national processes in order to address the transnational nature of many conflicts in Africa and the complicity of non-state actors in a range of abuses, particularly multinational corporations and private security forces.<sup>10</sup> As the global political economy changes and technological advances occur, especially in light of the COVID-19 pandemic, transitional justice may require a more multisectoral approach—involving cooperation among regional, national, public, private and civic actors—as well as a shift in focus away from

4 International Institute for Democracy and Electoral Assistance, *Transitional Justice and Social Cohesion (re)Construction in African Countries during the COVID-19 Pandemic* (2020).

5 <https://au.int/en/pressreleases/20190212/african-union-adopts-transitional-justice-policy>.

6 Hugo van der Merwe and Nomathamsanqa Masiko, “Addressing Diversity and Inclusion through Transitional Justice,” Centre for the Study of Violence and Reconciliation Policy Brief (2020).

7 Annah Moyo, “Any ‘One-Size-Fits-All’ Approach to Transitional Justice is Doomed to Fail,” PeaceLab, 20 December 2018, <https://peacelab.blog/2018/12/any-one-size-fits-all-approach-to-transitional-justice-is-doomed-to-fail>.

8 Lisa Hecht and Sabine Michalowski, “The Economic and Social Dimensions of Transitional Justice,” <https://www.essex.ac.uk/tjn/documents/theeconomicandsocialdimensionsoftj.pdf>.

9 Trialogue, “Overcoming Trauma and Woundedness for Institutional and Societal Success,” 9 November 2020, <https://trialogue.co.za/overcoming-trauma-and-woundedness-for-institutional-and-societal-success>.

10 Sabine Michalowski, *Corporate Accountability in the Context of Transitional Justice* (New York: Routledge, 2016); José L. Gómez del Prado, “The Crime of Mercenarism,” in *The African Court of Justice and Human and Peoples’ Rights in Context: Development and Challenges*, ed. Charles C. Jalloh, Kamari M. Clarke and Vincent O. Nmeielle (Cambridge: Cambridge University Press, 2019).

the global North towards African-led ideas and practices bolstered by global South–South alliances.<sup>11</sup> As the detailed summary of the Forum presentations and discussions in the next section shows, transitional

justice in Africa is building on a strong base of knowledge and communities of practice, even as it grapples with the contestation and inertia that tends to mark normative change.

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11 Solomon A. Dersso, “The State of Transitional Justice in Africa: Between Wide Application and Deep Contestation,” Lecture (2017), [https://csvr.org.za/pdf/TJ\\_Contintal\\_Forum\\_Lecture\\_Dersso\\_Layout.pdf](https://csvr.org.za/pdf/TJ_Contintal_Forum_Lecture_Dersso_Layout.pdf).

# TRANSITIONAL JUSTICE IN AFRICA: SUMMARY OF DISCUSSIONS

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Amb. Salah Hammad, Head of the African Governance Architecture Secretariat and Senior Human Rights Expert at the AUC Department of Political Affairs, opened and closed each day of this first online African Transitional Justice Forum, thanking the diverse participants, providing an overview of the proceedings and noting that the Forum aims to bring transitional justice theory and practice to a broader African audience.

In his welcome remarks, Tefo Raditapole, Chairperson of the Board of the Centre for the Study of Violence and Reconciliation, acknowledged that despite Africa's ongoing conflicts, governance challenges and developmental deficits, COVID-19 has stalled transitional justice and peacebuilding processes, further delaying justice and redress and compounding victims' suffering. The pandemic has also exposed the pre-existing vulnerabilities of African citizens, brought about by historical injustices and structural inequality. Raditapole indicated that marginalised groups, including women and girls, youth and children, forced migrants, older persons, people with disabilities and people with mental health challenges, have been plunged into new levels of vulnerability and despair, noting in particular that violence against women and girls has increased amid pandemic regulations. After acknowledging CSV's long-standing partnership with the DPA, Raditapole invited participants to engage in robust and candid discussions in the Forum so as to push the boundaries of transitional justice in Africa.

Dr. Solomon Dersso, Chairperson of the African Commission for Human and Peoples' Rights (ACHPR), welcomed participants to the high-level discussion in the Forum, noting that countries on the continent continue to struggle with maintaining peace and security, promoting social cohesion and ensuring good governance and respect for human rights.

Acknowledging that they are seeking the policy, legal and institutional tools to meet these goals, Dersso noted that, with the AUTJP, the AU has put forward a comprehensive instrument that offers the foundations for holistic transitional justice processes. The AUTJP is unique, he reflected, in presenting ideas and tools for addressing not only violence but also socioeconomic deprivations that feed conflict and authoritarianism, in addition to cross-cutting issues such as gender inequality and intergenerational dimensions of conflict, particularly the impact of systemic harms on young people. As countries as diverse as Sudan, South Sudan, the Central African Republic, the Gambia and Ethiopia implement transitional justice processes, the AUTJP and complementary AU instruments and studies offer, for the first time, an authoritative reference to guide the conceptualisation and delivery of mechanisms that cater to the specific needs of each context. Dersso emphasised that the Forum presents an opportunity to reflect on what needs to be done to disseminate the AUTJP and, importantly, enable state and non-state actors to make its provisions a reality, as well as to hear diverse voices from across the continent on transitional justice and silencing the guns.

Dr. Khabele Matlosa, Director of the AUC Department of Political Affairs, speaking on behalf of H.E. Amb. Minata Samate Cessouma, also acknowledged the DPA's partnership with CSV, noting that it has grown significantly over the past decade and continues to be fruitful in advancing the AU's transitional justice agenda. He pointed out that silencing the guns is one of the flagship projects of Agenda 2063 and that the discussions in the Forum will be a concrete contribution to this agenda in the long term. Matlosa asserted that the continent needs both peace and democracy to achieve sustainable socioeconomic development that improves the lives and livelihoods of its people.

Transitional justice is a key component of democracy building, peacebuilding and striving for equitable development that also privileges marginalised groups, particularly given the crises driven by COVID-19. Emphasising that African leaders declared 2021 the year of “Arts, Culture and Heritage: Levers for Building the Africa We Want,” Matlosa encouraged stakeholders to think about how to situate transitional justice interventions within this theme, highlighting especially the value of traditional justice mechanisms and efforts to make them more effective as part of post-conflict reconstruction and development. With these remarks, the Forum was officially opened.

**Panel 1: Assessing the AUTJP’s Role and Contribution to Silencing the Guns and Creating Conducive Conditions for Africa’s Development**

Moderator Shuvai Nyoni, Executive Director of the African Leadership Centre, started the panel with an overview of different forms of conflict affecting the continent, noting that many are driven by historical grievances and unresolved tensions. Reflecting on the #EndSARS protests and police killings in Nigeria, election-related unrest in Guinea and Mali, violent extremism in Mozambique, and protests against endemic gender-based violence in South Africa and Namibia, Nyoni noted that Africa is currently marked by violence. She also noted, however, that it is characterised by citizens, particularly young people, mobilising for better access to livelihoods, good governance and state accountability, and increasingly discussing these issues both in streets and online. These developments have been amplified by the pandemic and its economic fallout. Nyoni opened the panel by asking what role the AUTJP can play in addressing crises and contributing to positive change in Africa, and how African institutions, and the individuals who comprise them, can and do use the policy to do this.

John Ikubaje, Senior Political Officer at the AUC Department of Political Affairs and a coordinator of the AU transitional justice programme, asserted that the AUTJP has the potential to contribute to silencing the

guns in Africa. He noted that the policy’s provisions address three drivers of socio-political crisis and violence: legacies of past conflict, contemporary governance deficits and underdevelopment challenges. As these drivers cannot be separated from each other, proper operationalisation of the AUTJP as a holistic instrument is needed for it to have the impact it promises. Ikubaje indicated that the AU transitional justice programme is providing leadership and guidance on the policy’s operationalisation, including by developing the Roadmap on the Implementation of the AUTJP<sup>12</sup> and providing technical assistance to civil society and other stakeholders regarding the Africa Transitional Justice Legacy Fund.<sup>13</sup> As part of Roadmap activities, it is also setting up the African Youth for Transitional Justice and African Women for Transitional Justice programmes, designed to capacitate these stakeholders and enable their active participation in transitional justice processes, in a substantive and sustainable, not piecemeal, way. Ikubaje indicated that the AU would issue an open call for youth and women participants in these programmes by the first quarter of 2022.

“The African Youth for Transitional Justice programme is one of the core activities on the Roadmap of Implementation of the AU transitional justice programme. Its aim is to promote in-party inclusion of youth in transitional justice processes on the continent, not in a piecemeal way but so that they play a critical role. There will also be training and technical assistance for youth so they can play an active role. And in areas of institutional reform, we want youth to make recommendations.”

*John Ikubaje*

Ikubaje noted that regional institutions and donors have been using the AUTJP to inform their transitional justice engagements, even when the policy was in draft form before its adoption in 2019. For example, the AU referenced AUTJP provisions in its technical support to

12 See African Union, “Press Release,” <https://au.int/en/pressreleases/20190828/first-regional-consultation-and-capacity-building-workshop-african-union>.

13 See <https://atjf.ideg.org>.



mediation processes in Kenya, the peace process in Sudan and the design of the Gambian Truth, Reconciliation and Reparation Commission. ECOWAS used the policy to inform its development of a regional transitional justice mechanism and access to information interventions in Mali, just as IGAD used it in drafting its Regional Reconciliation Framework.<sup>14</sup> The subcommittee that deals with democracy, human rights and governance will also begin to review and take actions on the reports on the AU's implementation of the AUTJP. Member states will later follow suit regarding their own implementation. Ikubaje stressed that, because implementation of the policy continues to be partial and ad hoc, policy makers, civil society and other stakeholders need, first, to advance research, analysis, knowledge exchange and awareness raising on transitional justice in Africa and, second, put in place the technical and financial resources to ensure that the provisions of the AUTJP are widely and consistently implemented. These practices would disseminate the policy on the continent, creating new norms and a conducive environment that creates the political will not only to establish transitional mechanisms but also to ensure that their decisions and recommendations are followed through.

Aleu Garang, Director of the IGAD Mediation Support Unit, confirmed that the AUTJP informed IGAD's Regional Reconciliation Framework, which will soon be validated, and that the technical assistance it has provided to member states promoting positive peace in contexts such as Sudan, South Sudan, Somalia and Djibouti has been in line with the AUTJP. Garang similarly affirmed that institutionalisation of the AUTJP is key to its widespread implementation, adding that awareness raising and societal ownership of the policy is equally important to ensuring the sustainability of peace and transitional justice processes. He argued that, currently, these processes tend to be cosmetic, following the usual template of Track I diplomacy and agreements on power sharing, wealth sharing and sometimes responsibility sharing. For Garang, this approach does not address the root causes of conflict, which are highly contextual, and for this reason risks the recurrence of conflict. Describing IGAD's work in South

Sudan as an example, Garang noted that the peace process in that country succeeded in significantly reducing violence, but that it is incomplete because it did not address a core driver of the violence, which is issues of succession and access to power within the ruling party.

**“Often solutions that are addressing conflict are cosmetic. They look at the usual template—power sharing, wealth sharing, and sometimes responsibility sharing—but they don’t address where the problem is, they don’t look at conflict’s root causes, which are very contextually specific, so the conflict often blows up again.”**

*Aleu Garang*

In addition to stressing the need for contextualised transitional processes based on conflict analyses that include root causes, Garang argued for processes that acknowledge the long-term nature of transitions and open discussion of societal divisions through national and community-based debates and dialogues. These would include but go beyond political actors to create spaces for “people-to-people” processes, where those affected by conflict are heard, grievances are recognised and a common understanding can be formed. For Garang, peace education in schools and via the media is also central to both conflict transformation and prevention, as it provides alternatives to violent responses and helps form different ways of thinking in younger generations. Training and support for youth and women to participate in transitional processes is similarly central, as they are often further marginalised through gate-keeping and limited networking and advocacy skills during such processes. Garang thus emphasised the need for key stakeholders, including IGAD, to focus on Track II and Track III diplomacy and preventive measures to silence the guns, which help create a policy environment where political actors feel pressure to respect and implement the transitional measures and instruments they set up.

14 Kidest Dawit Ejigu, “Africa: Accord Organised an Accord/IGAD Roundtable on Reconciliation and Dialogue Processes,” AllAfrica, 23 October 2019, <https://allafrica.com/stories/201910230577.html>.

Patience Masua, Country Director at Southern Africa Youth Forum, affirmed that silencing the guns in Africa requires addressing the root causes of violence. Noting that 600 million young people remain unemployed on the continent, and pointing to the high levels of poverty and inequality, lack of life opportunities, and constraints on access to education and basic healthcare in Africa, Masua argued that transitional justice will not have a lasting effect unless it promotes socioeconomic transformation. She called for a multisectoral approach to peacebuilding and transitional justice that combines and coordinates the efforts of AU member states, civil society, the private sector and, particularly, people on the ground who are affected by violence and daily work to address its drivers and consequences. Pointing to the protests against gender-based violence in Namibia, she noted that women as well as children and youth are disproportionately affected by both socioeconomic exclusion and conflict, and thus should be key participants in decision making and implementation in transitional processes.

“We can’t have proper implementation of transitional justice unless we have active development. We must address the economic and social causes through multi-sectoral programmes that address these challenges. We are looking at member states, civil society, the private sector, NGOs—people who are on the ground and have direct access to those who are victims of these guns. Unfortunately the reality is that the guns affect the most marginalised and excluded people in our communities—we are talking about women, children, youth—who suffer most from effects such as poverty and inequality.”

*Patience Masua*

Masua argued that transitional justice needs to be proactive and preventative, not just responsive to crises when they have already occurred. This type of work requires measures such as land redistribution,

affirmative action in development programmes and education and employment policies, and investment in training and skills development, particularly for young people. For Masua, COVID-19 has exacerbated marginalisation and violence, but also revealed the extent to which they affect societies. The pandemic has forced the continent to look at the extremity of its problems and into how to resolve them.

Reflecting on the previous panelists’ contributions, Solomon Dersso, Chairperson of the African Commission for Human and Peoples’ Rights, outlined the role of the AUTJP and several AUC studies in formulating a holistic and contextual approach to transitional justice that is based on lessons learnt in Africa. Dersso first discussed the ACHPR’s study on *Addressing Human Rights Issues in Conflict Situations*,<sup>15</sup> initiated after ACHPR Resolution 332 acknowledged that human rights violations are most serious in conflict situations and announced the Commission’s aim of developing a comprehensive strategy and framework for addressing these violations.<sup>16</sup> Having headed up the study, Dersso noted that it identified five issues to address: prevention; monitoring, reporting and investigation; coordination among organs; protection of civilians; and effecting redress. ACHPR adopted the study and began operationalising it, for example by submitting its observations and advising AU policy-making organs relating to peace and security on situations such as Libya and the Sahel, as well as developing a model for coordination with the AU Peace and Security Council. Dersso reflected that compliance with human and peoples’ rights standards is the basis for silencing the guns, as violations make conflict resolution more protracted and difficult. The AU system is key to modelling how this compliance should happen, and to mainstreaming rights in mediation, post-conflict reconstruction and conflict prevention and transformation processes.

Dersso then discussed the ACHPR *Study on Transitional Justice and Human and Peoples’ Rights in Africa*,<sup>17</sup> which he also headed. Noting that transitional justice is central to addressing rights abuses in conflict situations, Dersso emphasised that the continental instruments and

15 African Commission on Human and Peoples’ Rights, *Addressing Human Rights Issues in Conflict Situations* (2019).

16 ACHPR/Res.332 (EXT.OS/XIX) 2016.

17 ACHPR, *Study on Transitional Justice*.

experiences detailed in the *Study on Transitional Justice* make it complementary to the AUTJP. While the AU previously took an ad hoc approach to transitional justice, the principles, standards and benchmarks in the study and the policy together now provide comprehensive guidance at a normative level. They also present a menu of transitional justice options to choose from, eschewing a one-size-fits-all approach and ensuring that processes are practicable and contextually relevant. They indicate how a society can go about initiating, discussing and defining a transitional justice process with a long-term vision, which ensures a sustainable path to peace, stability, democratisation and inclusive development. Outlining accountability, truth-seeking, reparations and institutional reform measures, among others, Dersso noted that the documents together emphasise the value of participatory design and implementation of transitional justice, especially with those affected by conflict, and take into account historical and structural injustices that drive conflict, including their gender and intergenerational dimensions.

“The approach to transitional justice at the AUC until recently has been on an ad hoc basis, which means you respond and apply your advice and guidance on a case-by-case basis, rather than a comprehensive consideration of all the relevant normative standards and applicable instruments. Now, you can provide comprehensive guidance at a normative and a contextual level. Second, the various principles, standards and benchmarks provided in the AUTJP and the *Study on Transitional Justice* offer you a menu of options to choose from, as relevant for your context, as they avoid a one-size-fits-all approach for transitional justice, because these processes need to meet the transition and justice demands of the society concerned. It can't be the case that all countries will choose all seven to eight mechanisms. The most important aspect is how those options are designed.”

*Solomon Dersso*

Considering risks to the implementation of the AUTJP, Dersso acknowledged that the AU is state centric, as it

depends on member states to take responsibility and an active role in AU frameworks. Especially given the slow rate of norm diffusion, he noted that the AU must have the means to ensure implementation with a carrot and stick approach towards member states, and to collaborate with stakeholders such as civil society, academics, journalists and those affected by conflict to popularise the policy. These stakeholders must work with policy makers to build informed African publics and constituencies for AU norms and instruments to ensure that member states commit to domesticating those norms. Dersso suggested that an example of how this might look is the campaign against a third term for the president in Burkina Faso in 2014, when protesters drew on elements of the African Charter on Democracy, Elections and Governance. Like Ikubaje, Dersso stressed the need for knowledge generation on transitional justice in Africa, especially among young people. He also noted that young people need to be drawn into these and other efforts to popularise the AUTJP, while pointing out that such efforts must speak to their different needs and lived experiences, as ‘the youth’ is not monolithic but rather a diverse group in terms of gender, socioeconomic status, education level and other factors.

### ***Panel 2: Transitional Justice in Crisis Situations: Addressing Violent Extremism and Going Beyond a Militarised Approach to Insurgency in Africa***

Moderator Tim Murithi, Head of the Peacebuilding Interventions Programme at the Institute for Justice and Reconciliation, started off the panel with a look at the violent extremist threats in Africa. He discussed the insurgency in Mozambique’s Cabo Delgado province, al-Shabaab’s operations in Somalia and neighbouring countries, Boko Haram’s kidnappings of girls in Nigeria and its operations in the region, rising extremism in the Central African Republic and attacks by groups inspired by ISIS in the Sahel. Murithi emphasised the impact of violent extremism on victims, who are left with the painstaking journey of dealing with their physical and psychological traumas. He also emphasised that violent extremism is not a natural phenomenon, and that a key to addressing it lies in understanding why human beings go to such extremes to attain their political and ideological goals. Part of this is acknowledging the

conditions that fuel alienation and dispossession on the continent, including corruption and state capture, global networks of illicit natural resource extraction, the narcotics trade and human trafficking, among others. Noting the support of international actors such as the United States, Britain and France for militarised responses to violent extremism, Murithi asked what transitional justice approaches—particularly as framed in the AUTJP—could contribute, first, to preventing the radicalisation of vulnerable young people who join extremist groups and, second, to helping them leave those groups.

Hafsa Mahboub, Policy Analyst with the AUC Peace and Security Department, agreed that addressing violent extremism in Africa requires more than militarised responses, as extremism is just one layer of the security and governance challenges on the continent. She noted that while the popular discourse has historically been that extremism is a cause of instability in the region, more recent thinking holds that extremism is also a result of instability. Like Murithi, Mahboub asserted that understanding radicalisation is important to addressing it, particularly by looking at root causes such as poverty, weak governance structures, unequal distribution of wealth and, in some cases, ideology. Noting that research shows militarised responses to be ineffective, she argued that such responses can moreover undermine peacebuilding efforts, as collateral damage from military operations has proven an effective recruiting tool for extremist groups. She also suggested that extremist groups in some cases are more trusted than state institutions, as they often set up an alternative form of government, collecting revenue, establishing justice mechanisms and providing redress to victims, including through mediation councils that resolve land and other disputes. For this reason, states need to adopt trust-building measures in addition to institutional reforms, in order to alter state–society relations and ensure that new legislation and other reforms are actually implemented and that root causes of violent extremism begin to be addressed.

Discussing the example of Somalia, Mahboub indicated that the AU is attempting to revitalise the discourse on

security and shift it towards a comprehensive approach that combines military interventions with a more human security approach. She added that there is a tension within responsibility to protect (R2P)<sup>18</sup> norms between state security and human security, and how to sequence the different interventions these two priorities suggest. Looking at negotiations with al-Shabaab and other extremist groups, Mahboub argued for the necessity of keeping tabs on how each group is evolving in its structures, operations, ideology and so forth as the context changes over time. She pointed out that the language used to describe extremist groups (e.g., radical, extremist) may need to be adjusted in response to such shifts.

**“Until recently the popular discourse has been that extremism is a cause of instability in the region, with more recent approaches exploring extremism not only as a cause of instability but also as a result of instability. This includes discussion around push and pull factors, when it comes to understanding radicalisation, largely addressing the root causes—critical issues ranging from poverty to weak governance structures, unequal distribution of wealth and in some cases ideology.”**

*Hafsa Mahboub*

Turning to transitional justice as a way to address violent extremism, Mahboub identified several foundational issues that would need to be resolved before it could effectively do so. First, being rooted in accountability and redress for victims, transitional justice is based on assumptions about perpetrators and victims that often do not apply in the context of violent extremism, where individuals may be both perpetrators and victims and change roles over time. Second, accountability measures, including amnesty provisions, tend to be different for high-ranking and low-ranking militants, especially in the case of defectors, which often creates resentment and encourages further violence. Third, transitional justice often revolves around rebuilding state institutions,

18 See <https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml>.

with the state as the locus of justice and implementer of rule of law, which is problematic in cases where the state is responsible for gross violations and is still seen as the perpetrator by citizens. Finally, violent extremism often has a transnational character, which the state-centric mechanisms of transitional justice are hard-pressed to address. Mahboub suggested that holistic transitional justice nonetheless represents an opportunity to rethink dominant approaches to violent extremism in Africa.

In his remarks, Prof. Adriano Nuvunga, Director of the Centre for Democracy and Development Mozambique, focused on the insurgency in Cabo Delgado. Noting that one of the drivers of the insurgency is Mozambique's reluctance to implement transitional justice measures at the end of its civil war in 1992, he argued that the last 30 years have been characterised by low-intensity conflict. The state, under the ruling party, the Mozambique Liberation Front (FRELIMO), has continued to marginalise rebel areas and its critics, particularly in the north of the country. With the discovery of oil and gas reserves in addition to minerals, according to Nuvunga, the state shifted from being absent in underdeveloped areas to being highly present but focusing on extractivism and acting primarily in the interests of multinational companies, while ignoring local communities in its development plans. No substantial improvement has occurred in the economic situation of the north of Mozambique over the past 10 years, and since the state apparatus is highly centralised, few resources have been transferred to local elites to address grievances.

As disgruntlement combined with localised ethnic tensions to encourage radicalisation, particularly among young people, the government ignored the warning signs until the insurgency's first high-profile attack in 2017, which openly targeted state institutions. Nuvunga noted that the boldness of the attack, the tactics the militants used and insurgents' claims of building a caliphate in the region indicated that the insurgency had established links with Islamic State. The government's response has been heavy-handed, with the military working with foreign private security groups and mercenaries to root out militants and protect corporate facilities. This escalation of the conflict has resulted in a humanitarian crisis, the displacement

of about 300,000 people, a further weakening of locals' trust in state institutions and the recruitment of additional militants.

*“In cases where there is extractivism taking place, where you have international oil companies and the state defence forces being used to protect the interest of multinational companies rather than the interests of local communities and the livelihoods of the people, I think there is a framework there that could be used, but it has to be an international and regional platform because the state itself in terms of its nature is not responsive. Communities are looked at as ‘those groups out there.’ Their aspirations are not factored into the development process. I think the time has arrived for multilateral mechanisms in the context of the continent to further use the dispensation of the responsibility to protect to critically and constructively engage governments.”*

*Adriano Nuvunga*

Nuvunga noted that the AU and the Southern African Development Community did not intervene in the conflict as Mozambique had not requested their assistance. He argued that regional bodies should engage critically and constructively with the Mozambican government in accordance with the R2P framework, particularly as the government has been unresponsive and the situation risks becoming transnational. As the case of Mozambique is indicative of a larger pattern, Nuvunga suggested that it is important to understand the factors undermining African institutions and preventing them from improving governance on the continent. He also argued that various stakeholders should endeavour to document a range of violations in their contexts and use that documentation to work through multilateral mechanisms to hold not only state actors but also non-state actors accountable, particularly multinational corporations. For example, as many such corporations borrow from banks and are registered in stock exchanges in jurisdictions that uphold human rights, Nuvunga noted that they could be held accountable in those jurisdictions, as could governments that use state resources to protect offending corporations. Nuvunga pointed to the



Voluntary Principles on Security and Human Rights as providing guidance in this regard, in addition to a way to shift perceptions of marginalised groups and communities so they are seen as stakeholders in extraction and development planning.<sup>19</sup> He asked how the AU and other regional bodies can absorb these experiences to improve continental instruments, specifically regarding the extractivism, bad governance and violations that are undermining democratic participation and driving violent extremism.

In wrapping up the panel, Murithi underscored Mahboub's argument that counterextremism efforts require negotiation and dialogue. Noting that states in the global North have publicly announced that they do not negotiate with so-called terrorists since the 1970s while holding negotiations with extremist groups behind the scenes, Murithi argued for the need to expose the hypocrisy of this position and push the agenda of open negotiations and peacebuilding. In his closing remarks, Mathlosa spoke to Nuvunga's comments on the role of private security companies in Mozambique, noting that mercenarism is not adequately discussed considering the extent to which it exacerbates conflicts on the continent and the fact that it is on the rise. He proposed the establishment of a specific platform on mercenarism within the AU. He also emphasised that transitional justice goes hand in hand with the AU's post-conflict reconstruction and development efforts, including with regard to violent extremism, and noted that the upcoming merger of the Department of Political Affairs and the Peace and Security Department as part of the AU's institutional reform provides an opportunity to advance both agendas.<sup>20</sup>

***Panel 3: Prioritising Victims' Experiences of COVID-19 and Their Systemic Vulnerabilities through Transitional Justice: Challenges and Opportunities for Ongoing Transitions and Transitional Justice Processes in Africa***

Moderator Yasmin Sooka, Executive Director of the Foundation for Human Rights and Chair of the UN Commission on Human Rights in South Sudan, started the

panel by indicating that it would focus on one of most important aspects of transitional justice: victims' experiences. Practitioners agree, Sooka noted, that transitional justice mechanisms are judged by whether victims' expectations of truth recovery, justice and reparations were met, and whether they were inclusive and restored victims' dignity. Pointing out that the Nuremberg trials, which influenced the development of transitional justice, were largely silent on victims' role and participation, Sooka argued that the South African Truth and Reconciliation Commission demonstrated that victims should be central to deciding not only the design of a country's transitional justice process but also what their own role in that process should be. Building on subsequent international norms, the AUTJP foregrounds victim participation as a key element of transitional justice. In practice, there needs to be more of a focus on restoring victims' rights as citizens and ensuring that states take up their responsibility as duty bearers, with institutions that work for all citizens regardless of identity and background. Sooka argued that COVID-19 has laid bare the structural problems on the continent and the impacts of governments' disinvestment in socioeconomic programmes. This is particularly the case for women and girls, who are disproportionately vulnerable to sexual and gender-based violence and often have limited access to security, justice and trauma support. She noted that, in many countries, the pandemic is not only a health crisis but also a human rights and justice crisis, with many states focusing on law enforcement instead of the rights of their citizens. The challenge for the AU and other stakeholders on the continent, Sooka concluded, is to keep justice and reconciliation at top of the democratic agenda.

Nomfundo Mogapi, Executive Director of CSV, examined challenges and opportunities for responding to victims' experiences during and after COVID-19 through transitional justice approaches. By exacerbating the existing woundedness in many contexts, COVID-19 has brought attention to individual and collective trauma in societies across Africa. At the personal level, Mogapi argued, individuals are facing increased fear, anxiety and isolation, with negative effects on their ability to function and quality of life, as well as additional economic and

19 See <https://www.voluntaryprinciples.org>.

20 See African Union, *The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union* (2017).

social stressors, increased vulnerability and delays in healing processes. The pandemic has presented the opportunity to address these effects by prioritising psychosocial interventions and identifying creative ways to facilitate access to support, including telecounselling and trainings via online platforms. At the family level, COVID-19 has enforced proximity and increased occasions for stress, conflict and violence, particularly gender-based violence, while also offering the opportunity to demonstrate the importance of family-based psychosocial interventions. At the institutional level, the pandemic has facilitated toxicity, interpersonal conflict and abuse of power, but it has also provided opportunities to transform institutional cultures to build conflict management skills, enable more strategic leadership and programming with a psychosocial focus, enhance performance management and, above all, integrate emotional intelligence and healing work as a critical component of institutional life.

**“Practitioners agree that any mechanism will be judged by whether victims’ expectations of truth recovery, justice and reparations were met, and whether it was inclusive and restored their human dignity. Transitional justice is marked by the Nuremberg trials, but they were largely silent on victims’ role and participation. Much later with the South African Truth and Reconciliation Commission we saw that victims should be central to deciding what mechanisms should be included, but also what their role should be. Transitional justice is about the search for truth about the past, how to hold persons to account, reconciling divided groups and addressing the structural violations that drive conflict to ensure prevention and to build sustainable peace for the future of the new state and society.”**

*Yasmin Sooka*

Highlighting the importance of leaders addressing their own woundedness so that they can manage their emotional responses in work environments, Mogapi argued that the pandemic has highlighted the importance of working with leaders to improve their emotional intelligence through trainings, coaching,

mentorship and other leadership interventions. She noted that as unresolved issues and trauma negatively shape leadership, leaders benefit from acknowledging their struggles, making themselves vulnerable and being more in touch with their own emotions. As many leaders are not receptive to psychological interventions, Mogapi has found that a more effective approach is to speak to resilience rather than psychosocial support, and to discuss the effects of institutional histories, cultures and leadership styles from the perspective of improving strategic planning. Acknowledging that many Forum participants are in senior positions and providing advice to leaders, she urged them to highlight the importance of leaders improving their emotional intelligence and being open to working with these issues. Mogapi also called for transitional justice practitioners to acknowledge the difficulty of working in wounded contexts, the high risk of burnout and secondary trauma, and the possibility of perpetuating wounding. She emphasised self-care as a necessity, not a luxury, encouraging practitioners to recognise the challenges they face, work on their self-awareness and reach out for counselling, mentorship, support systems and other forms of assistance when they need it. Mogapi argued that psychosocial support at multiple levels, from personal to family to institutional, will be key to promoting and operationalising holistic transitional justice during and after the pandemic.

Olivier Kambala wa Kambala, a rule of law and transitional justice expert, agreed that COVID-19 has exacerbated the structural vulnerabilities and socioeconomic marginalisation victims face and, in some cases, exposed them to further human rights violations. He discussed country contexts with ongoing cycles of violence (eastern DRC), increasing political instability and electoral violence (Guinea), delays in human rights documentation (Burundi), postponement of transitional justice mechanisms (Guinea, Côte d’Ivoire, Mali) and lack of follow through on concluded processes (Namibia, DRC), all of which have compounded poverty, inequality, instability and humanitarian crises across the continent. Despite these negative impacts of COVID-19, Kambala argued that the pandemic represents an opportunity to renew advocacy regarding transitional justice and ensure that processes go beyond lip service to have real impact, especially for those affected by past abuses.

**“The AUTJP should benefit from lessons learnt across the continent and clarify the rhetoric so that there is no confusion and a lot of picking and choosing by leaders of mechanisms that are convenient for them and using the whole rhetoric of transitional justice as way of running away from accountability.”**

*Olivier Kambala wa Kambala*

Lauding the adoption of the AUTJP, Kambala argued that it should be synchronised with subregional initiatives, citing as an example the Niamey Declaration on countering impunity, fostering rule of law and fighting gender-based violence in West Africa.<sup>21</sup> He also argued that the AUTJP’s implementation should be grounded in local realities and demands while building on lessons learnt across the continent, clarifying the rhetoric in the policy so that there is no confusion and leaders are less able to select mechanisms that promote their own interests and enable impunity. Kambala proposed that the AU establish “affinity groups,” or sets of practitioners who are available on short notice to provide technical assistance on measures such as prosecutions, reparations and traditional mechanisms, going beyond the normative framework to operationalise the AUTJP for victims. He also advocated for the AU to develop a strong socioeconomic agenda in order to help the institution address root causes of conflict and human rights abuses, while mobilising resources to support victim initiatives in a timely manner. These interventions, he argued, would allow victims to see concrete action rather than just lip service.

Focusing on community-based and traditional justice mechanisms, Mogapi turned the discussion to CSVr’s work with communities affected by violence, specifically experiences of building the capacity of community-based “change agents” to identify victims and ensure they receive support. The field of

psychosocial interventions has evolved in the past decade to build the existing capacity in such communities. Mogapi noted that, as a psychologist, she often looks back on what grandparents in her community were doing when she was young and sees that it correlates with holistic psychosocial interventions. She highlighted the need to emphasise, learn from and build on existing practices, while conducting advocacy to adjust harmful aspects of such practices, such as the exclusion of women and the potential retraumatisation of victims. Mogapi also emphasised the role of family (often extended family) in community-based psychosocial support, noting that the family is the first institution in which people participate, and that a supportive family is better able to help victims deal with the consequences and trauma of being exposed to conflict. Repeating that COVID-19 has provided an opportunity to provide psychosocial support in creative ways, Mogapi noted that CSVr and its partners within the Pan-African Reparations Initiative have been providing telecounselling, including via an emergency hotline, and buying internet data for participants to join remote trainings and webinars. She stressed the need for practitioners to invest more in information technologies, including security measures to protect sensitive information and client data, as well as monitoring and evaluation systems that allow analysis and improvements based on this data.

In addition, Mogapi reflected on the short-term mandates of most transitional justice processes, which are at odds with the fact that addressing past abuses often entails dealing with not just one incident of violence but rather cycles of conflict—a reality victims emphasise. This is one reason for working on trauma. While many stakeholders see such work as too messy, uncertain and overwhelming to justify, evidence shows that ignoring trauma creates more problems over time. Mogapi critiqued the projectisation of transitional justice, with its focus on short-term activities with pre-determined outcomes, arguing for investment in long-term processes and community

21 See <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/05/report/niamey-declaration/20180912-Niamey-Declaration-12-September-2018.pdf>.



rebuilding, as well as efforts to address collective trauma and promote collective healing. Without addressing brokenness and identity issues within communities, she noted, accountability and redress will not be effective or lasting. Pointing out that the AUTJP takes collective trauma into consideration, Mogapi highlighted the need to document and raise awareness, especially among policy makers, of what practitioners on the continent are doing to support collective healing, such as Fambul Tok's work in Sierra Leone.<sup>22</sup> This would influence policy makers' approaches in transitional contexts. Arguing that innovation on collective healing will come from Africa, as its people understand the concept, Mogapi stated that it is time for these practices to become part of mainstream thinking.

“Transitional justice processes on the continent are not dealing with just one incident of conflict but rather cycles of historical conflict. Most victims will tell us, ‘You are choosing to deal with 1958 to 1965, but the conflict and the trauma existed way before.’ When we push for the trauma work, people say it’s too messy, too uncertain and too big, where do you even start, and because of that we shy away from it. The projectisation of transitional justice—where you must have a neat project with outcomes—has been quite problematic. Long-term investment in creating shifts is important, as is the prioritisation of the healing work and the understanding that if we neglect what feels too messy and uncertain, it will create more problems.”

*Nomfundo Mogapi*

Kambala also discussed the effectiveness of community-based measures, including traditional and religious practices, particularly in combination with other transitional justice mechanisms, noting that it would be useful to produce success stories that display how such measures can help bring

about accountability and social cohesion. He argued that stakeholders need to find ways to decentralise and localise transitional justice processes, as countrywide measures often show limited results. Focusing on victims, he criticised delays in establishing criminal accountability, noting that if he had been asked 15 years ago, he would have pushed for trials in Burundi, as an example, in order to separate criminal elements from the rest of society and avoid them generating a sense of collective guilt that undermines reconciliation. Kambala noted that there is little justification for delays, as African contexts have shown both the technical capacity to conduct trials and the ability to generate the political will necessary to avoid *de facto* amnesties.

In responding to the panelists, Sooka posited that it is civil society that builds the political will necessary to undertake transitional justice. She also supported the argument that addressing individual and collective trauma is crucial in transitional contexts, as violations break down social norms and exacerbate divides within communities and even families, which is not resolved with the stroke of a pen on a peace agreement. Learning from work done by Fambul Tok and other African organisations, as well as groups in South America, for example, practitioners can expand on provisions relating to collective healing and rehabilitation in the AUTJP and push governments to uphold them. While lauding efforts to document and learn from such work, Sooka noted that the data and lessons gathered from communities must be reported back to them, as researchers often disappear after extracting the knowledge they need. Sooka emphasised the need for innovative thinking on how to promote accountability, giving examples such as the blacklisting of perpetrators and their family members from travel abroad based on human rights documentation, recovery of illicit gains for use as reparations, and reporting on corporate human rights violations to encourage divestment. She noted that the discussions in the panel are crucial not only for victims but also for societies affected by conflict and authoritarianism more broadly.

22 See <https://fambultok.org>.

#### ***Panel 4: The Future of Transitional Justice in Post-COVID-19 in Africa: Opportunities, Challenges and Strategies for African-Led and Funded Transitional Justice Processes***

Starting the panel, Annah Moyo, Advocacy Manager at the Centre for the Study of Violence and Reconciliation, noted that in addition to political and socioeconomic issues, conflict in Africa is increasingly being driven and exacerbated by climate change, lack of access to water and scarcity of natural resources more broadly. Countries on the continent are hard-hit by COVID-19, as are countries in the global North that fund many of the post-conflict reconstruction and transitional justice processes that occur in Africa. Moyo argued that although the continent is rich in natural and other resources, most countries have not managed to leverage the dividends they could from these resources due to governance deficits and development challenges. She indicated that this pushes stakeholders to question the fundraising outlook for transitional justice and what alternative sources of funding may be available.

Brian Kagoro, a Pan-Africanist development practitioner, leadership development expert and entrepreneur, argued that imaginings of transitional justice need to be informed by contemporary pivots in the global economy, which include increasing social entrepreneurship, moving to working virtually, mobile money transfers, greater use of technology in human rights violations and the rise of high-tech violent extremism. He noted that these developments have influenced citizen responses to the state and often driven the delegitimation of the state, which is a major issue as the state is a key actor in transitional justice. At the same time, they have highlighted a need to address the transnational nature of violations by state and non-state actors. While victims remain local, perpetrators and the types of violations they commit have evolved. Looking at multinational corporations, Kagoro pointed out that they have the capacity to resist accountability, as they are often not subject to local jurisdiction as a result of the agreements they sign with African governments. Yet they can be directly complicit in violations, Kagoro noted, giving the example of private security firms' actions in Mozambique and the Central African Republic.

In addition, Kagoro argued that funders have been slow to adjust to technological change and its impact on both conflict and transitional justice. The problem, going forward, he suggested, will not be a reduction in available funding, but rather the limited utility of this funding and its mechanisms of delivery, particularly given the shift in the demos and the new forms of organisation that are emerging in contexts such as Sudan, Burkina Faso and Nigeria. Kagoro asserted that both funders and practitioners need to rethink what is called transitional justice in our new reality. He also asserted that the African philanthropist, and the private sector generally (frequently a beneficiary of state violations, although sometimes a part of the opposition), might become a key ally in reconceptualising and decentralising transitional justice. Because of racism at the global level, a situation may occur where African entrepreneurs need to lend support to actors in the global North, as African countries are a significant repository of knowledge on transitional justice. In either case, Kagoro argued, the field is poised to become more multisectoral and multidisciplinary on the continent, while becoming less state-centric and dependent on funds from the global North.

**“There are many examples of innovation in communities on the ground in Africa—collectives, cooperatives and social movements working on issues ranging from agriculture to political mobilisation to women’s rights. ... Funders are neglecting this, when they could be accessing and supporting innovative thinking at the national and global level. These entities struggle to get funding because they don’t have concept notes and operational budgets and the like, while funders are scared of organic structures and taking a risk. Funders talk about flexibility but then they don’t do it.”**

*Makmid Kamara*

Makmid Kamara, Director of the Africa Transitional Justice Legacy Fund, spoke from the perspective of a donor, noting that the Fund was established by the MacArthur Foundation to provide support to community-based organisations and survivors to shape state-led and regional transitional justice efforts in Africa. Kamara agreed that the discourse should shift

from the amount of money that will be coming into Africa to how to harness what is already available on the continent, including not only financial resources but also human resources and knowledge from diverse experiences. Practitioners have noticed that funding for transitional justice in Africa has been decreasing over the last 10 to 15 years, he noted, and many have chosen to shift to other issues that are of more interest to donors. COVID-19 has only provided funders with further incentive to shift their focus away from transitional justice. The competition for already limited funds will only increase going forward.

Kamara suggested that, on the positive side, survivors of human rights abuses have demonstrated a high level of ambition, capacity and solidarity in providing support to each other digitally and directly. He discussed the example of a survivor solidarity fund in Sierra Leone run by ordinary citizens, who managed to raise more than 100,000 dollars in donations in a short time for survivors of sexual and gender-based violence. They did not wait to write proposal, instead using social media, WhatsApp and radio to raise awareness and funds in the aftermath of a girl child's killing. Kamara suggested that more citizens and civil society organisations will start taking action for themselves, as they are angered by international funders' lack of interest and responsiveness, which might lead to the dismantling of the current funding fraternities. Due to the use of technology, the rise of solidarity with affected societies, and a growing desire to shift the power balance, Kamara also noted, the institutional egos of big foundations and aid agencies will be challenged by South-South alliances. Indeed, there is significant potential for grassroots solidarity and fundraising on the African continent.

Masego Madzwamuse, Chief Executive Officer of Southern Africa Trust, highlighted the importance of understanding the links between transitional justice and the socioeconomic inequalities that fuel conflict and undermine peace and security on the continent. Conversations regarding sources of funding, she said, need to take into account the history of conflicts in Africa and bring to the fore questions of distributive justice and historical redress. Based on her experience of Britain's Official Development Assistance, Madzwamuse indicated that foreign aid has been reduced in response to pressure from domestic actors

and in many cases replaced by philanthropic funding. Funding from Organisation for Economic Co-operation and Development (OECD) countries has decreased significantly in 2020, she noted, even dropping to 60 percent of the level seen during the 2007–2008 financial crisis. In addition, only 25 percent of funds available globally have been coming to Africa over the past decade. With regard to transitional justice, the pool of funders interested in this area is small, and they primarily fund international organisations, leaving little for innovative community-based work. Madzwamuse agreed with the other panelists that there is potential for domestic resource mobilisation through local tax regimes, but she argued that this will not be possible until illicit financial outflows—which are estimated to be 88 billion dollars per year—are stemmed on the continent.

**“We need to understand the links between transitional justice and socioeconomic inequalities and the role they play in fuelling conflict and undermining peace and security on our continent. Conversations regarding sources of funding also have to pay homage to us understanding the history of our conflicts and bringing to the fore questions of distributive justice and historical redress. ... We have a drop in funding that is coming through traditional aid funds. The level of funds coming to the continent is dropping. Over the last decade data shows that only 25 percent of funds available globally are coming to the continent. ... There is theoretically potential for domestic resource mobilisation through our tax regimes, but we can't do this unless we attend to the issue of illicit financial flows on the continent.”**

*Masego Madzwamuse*

Madzwamuse turned to climate finance as a way of thinking about responsibility and redress. Affirming the link between climate change and conflict, she noted that Africa is bearing the brunt of climate change although its countries are not responsible for it. While 100 billion dollars is needed for climate financing in 2020, only about 10 percent of this

amount has been raised due to lack of political will, particularly among countries in the global North that are most historically responsible for climate change. At the same time, OECD countries have raised billions of dollars for economic recovery plans. Suggesting that the question is whose agenda is prioritised and whose security is at stake, Madzwamuse argued that the conversation should not focus on what countries and communities in Africa can do, but rather on holding to account countries in the global North that have driven historical and ongoing inequalities. She added that multinational corporations should also be held to account, as they contribute to conflicts and climate change, among other problems, yet it is local taxpayers who have to pay the cost. Madzwamuse advocated for African stakeholders to have new conversations and think outside the box to resolve issues on the continent, with inequality positioned as a core issue of transitional justice.

Expanding on the discussion about redress, Kagoro cited Sudan's recent agreement to pay reparations for its role in al-Qaeda's 1998 bombings of United States embassies in Nairobi and Dar es Salaam,<sup>23</sup> noting not only the power imbalance implied by the agreement but also the high figure of the reparations payment, which he said begs the question of how much white lives are worth compared to black lives. Kagoro asked why African governments, civil society organisations, academics and other stakeholders lack the self-belief to demand reparations from countries in the global North for slavery, colonialism, apartheid and the Cold War proxy wars. Suggesting that transitional justice has been deradicalised and become overly localised, he argued for a more holistic approach, which will be driven by conscientised people more than courts. He advocated for looking at the interconnectedness of life, with local communities as victims of multiple harms, from human rights abuses to climate change. Focusing on access to information technologies, Kagoro suggested that communities need the capacity and resources to engage in digital struggles and access virtual platforms that enable a quicker, easily viewable record of harms they are suffering. E-justice and

e-governance is another critical component of the shift, which should be reimagined and expanded, although few governments on the continent have invested adequately in these systems.

**“Why is there not self-belief and self-confidence among African civil society actors and some African governments and academics to demand reparations for slavery, colonialism, apartheid and Cold War proxy wars. It seems to me that we have deradicalised and overly localised our approach to transitional justice. ... Our concern with human rights is a noble concern, but until African civil society takes a keen interest in global political economy, we will see things that are fundamental to our ability to achieve justice for Africans as unrelated to our daily work, so we will reduce ourselves to counting the wounds on our people's bodies and miss the gash that is being dug into the future of Africans.”**

*Brian Kagoro*

Regarding multinational corporations, Kagoro argued that stakeholders must insist that African governments stop signing investment deals that restrict arbitration and conflict resolution purely to foreign jurisdictions, highlighting the need for regional arbitration bodies that are able to hold corporations accountable locally, such as the Arbitration Society of Southern Africa's move to establish a regional arbitration panel.<sup>24</sup> They must organise to tackle questions of debt, illicit financial flows and corporate accountability. Local civil society in particular needs to take a keen interest in global political economy, he noted, or risk being reduced to counting the wounds on African people's bodies and miss the gash that is being dug into Africans' future. COVID is a wake-up call, encouraging us to rethink dependency on countries and billionaires in the global North and to invest in Africa-based partnerships among entrepreneurs, civil society actors, governments and

23 Peter Fabricius, “Sudan Does an About-Turn in US Relations,” Institute for Security Studies Today, 29 May 2020, <https://issafrica.org/iss-today/sudan-does-an-about-turn-in-us-relations>.

24 See <https://arbitration.co.za>.

other stakeholders. Kagoro reiterated the need to move beyond single-issue advocacy and state-centric transitional justice towards a multidisciplinary and multisectoral approach, decolonising the transitional justice discourse and eschewing the neoliberal paradigm while having the courage to adopt a transformative agenda.

Pointing to Nigeria, Sierra Leone and the Central African Republic, Kamara agreed that multinational corporations are key perpetrators and drivers of conflict, often in collusion with state actors, noting that environmental activists are among the most vulnerable in the world. While the United Nations guidelines on business and human rights are a step forward,<sup>25</sup> further concerted efforts are required in this area. Returning to funding, Kamara argued that donors should focus more on community-based efforts by social movements and other collectives and cooperatives, not only in terms of funding them but also in terms of learning from their ideas and methods. While donors have shown more interest in such collectives recently, they have not engaged collectives adequately because they do not have concept notes, operational budgets and other trappings of formal, professionalised organisations. Africa Transitional Justice Legacy Fund, for example, is working with internally displaced persons who seek to participate in the design process of the truth commission and reparations mechanisms in Mali,

organising the funding through an extensive needs assessment and data collection process and a less strenuous grant application procedure. Kamara argued that funders need to reach out to the periphery as much as possible before even announcing a call, as it is usually the big civil society players who apply for funding, even if it is tailored to small organisations. In conclusion, Kamara cited Paolo Freire, acknowledging the need for transitional justice stakeholders to engage in critical self-reflection and unpack the interventions to which they are accustomed, questioning their biases and methodologies to allow for new thinking. Like other stakeholders, funders must recognise that community-based and indigenous knowledge is an asset, which should be respected, incubated, transmitted to other parts of world and channelled into an African renaissance.

As Amb. Salah Hammad ushered the Forum to a close, the DPA and CSVN acknowledged the value of the panelists' and participants' contributions, the importance of continually improving transitional justice ideas and practice on the continent, and the need to address the root causes and consequences of systemic abuses through key efforts including psychosocial support, coordinated regional initiatives, policy implementation and creative resource mobilisation. With this, the Fourth African Transitional Justice Forum was closed.

25 See [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf).

# RECOMMENDATIONS

## FOR THE AFRICAN UNION AND REGIONAL ECONOMIC COMMUNITIES

1. Invest in a knowledge generation and dissemination agenda on transitional justice in Africa to raise awareness of the AUTJP—as well as innovative ideas and practices that improve and complement existing approaches—among member states, the public and other stakeholders.
2. Coordinate with other regional bodies and their member states, while aligning the implementation of regional instruments with a bearing on peace and transitional justice issues.
3. To ensure institutionalisation and consistent implementation of the AUTJP, set up long-term financial, technical and human resources for AU and other regional transitional justice programmes.
4. To ensure widespread buy-in and adequate resources, adopt a multi-sectoral approach to peace and transitional justice processes that combines and coordinates the efforts of regional and national institutions, the private sector, civil society and those affected by violence and conflict, including local community efforts. This also applies to fundraising approaches targeted at potential African funders, rather than international agencies and foundations.
5. To ensure timely and holistic peace and transitional justice processes, establish expert and issue-specific “affinity groups” to provide technical support to member states, civil society and other stakeholders on short notice.
6. In cases of conflict and grave human and peoples’ rights violations in member states, especially where the situation threatens to become transnational, consider prioritising responsibility to protect (R2P) norms over sovereignty in diplomacy efforts.
7. Develop and implement regional instruments for holding multinational corporations accountable for human and peoples’ rights violations, including complicity with state and non-state actors in such violations. Exert pressure on international actors, including in the private sector, to respect, adopt and uphold such instruments, while helping stem illicit financial outflows from the continent.
8. Prioritise the finalisation and official adoption of the draft African Union Business and Human Rights Policy to further mitigate the effects of socioeconomic and human rights violations in Africa.
9. To address the role of mercenaries and private security companies in conflicts and human and peoples’ rights violations in Africa, establish special platforms on mercenarism.
10. Invest in information technologies that facilitate democratisation and peace and transitional justice processes.
11. Adopt institutional policies and practices for addressing individual and collective trauma among leaders and staff, including by building conflict management skills, enabling programming with a psychosocial focus, enhancing performance management and integrating emotional intelligence and healing work as a component of institutional life.



## FOR MEMBER STATES

1. Design and implement peace and transitional justice processes in line with the frameworks laid out in the AUTJP and the complementary ACHPR *Study on Transitional Justice* and study on *Addressing Human Rights Issues in Conflict Situations*, as a step towards domesticating regional governance, human and peoples' rights, and peace and security norms.
2. To ensure institutionalisation and consistent implementation of the AUTJP and transitional justice processes, set up long-term financial, technical and human resources.
3. As provided for in the AUTJP, include historical and ongoing socioeconomic exclusion and inequality—as well as their gendered and intergenerational dimensions—as a key component of peace and transitional justice processes in order to address the root causes of conflict and ensure its non-recurrence. This includes not only dealing with past harms but also instituting forward-looking reforms and policies (e.g., land reform, affirmative action, targeted educational and training programmes, etc.).
4. As provided for in the AUTJP, ensure inclusivity and broad-based participation in the design and implementation of multi-track peace processes and holistic transitional justice processes, alongside in-depth conflict analysis, in order to tailor these processes to contextual needs and avoid wasting time and resources on template-based processes that do not have sufficient local buy-in.
5. Provide financial and technical resources for trainings for women, youth and other marginalised individuals and communities to participate in peace and transitional justice processes.
6. Instead of one or a few short-term mechanisms from the transitional justice 'toolkit,' invest in numerous long-term transitional justice processes, sponsored by the state and civil society, which promote national dialogue and collective healing, reducing opportunities for conflict recurrence.
7. Integrate traditional, indigenous and community-based practices into peace and transitional justice efforts, building on existing capacity, resources and networks.
8. Invest in information technologies that facilitate democratisation and peace and transitional justice processes.
9. Invest in formal and informal educational curricula and materials that normalise the principles in the AUTJP and other regional and international instruments that promote peace and human dignity.

## FOR CIVIL SOCIETY

1. Invest in a knowledge generation and dissemination agenda on transitional justice in Africa (including via new information technologies) to raise awareness of the AUTJP—in addition to innovative ideas and practices that improve and complement existing approaches—among member states, the public and other stakeholders. This popularises and normalises holistic transitional justice, helping generate political will and creating a favourable environment for its implementation.
2. Focus on historical and ongoing socioeconomic exclusion and inequality—as well as their gendered and intergenerational dimensions—as a key component of peace and transitional justice processes in order to address the root causes of conflict and ensure its non-recurrence.
3. Acknowledge the role of individual and collective trauma as a driver and consequence of conflict and integrate psychosocial support into peace and transitional justice efforts at the family, community, institutional and societal levels. This approach includes promoting self-awareness and self-care among practitioners.
4. Integrate traditional, indigenous and community-based practices into peace and transitional justice efforts, building on existing capacity, resources and networks.
5. Expand fundraising activities beyond international agencies and foundations, focusing on multi-sectoral funding sources within Africa and global South–South alliances, including community-based and online efforts.
6. Looking beyond the state, focus on multinational corporations and other such non-state actors as sites and targets of transitional justice efforts, taking global political economy into account.
7. Situate transitional justice ideas and practice within the AU's 2021 theme "Arts, Culture and Heritage: Levers for Building the Africa We Want."



