

**POLICY BRIEF**

**JUNE 2021**

# **CHARTING THE COURSE FOR TRANSITIONAL JUSTICE IN AFRICA:**

RECOMMENDATIONS OF THE 2017–2020  
AFRICAN TRANSITIONAL  
JUSTICE FORUMS



## Charting the Course for Transitional Justice in Africa

Africa has been a hub of transitional justice for three decades. Many of the concepts and mechanisms conceived and implemented on the continent have been earmarked as global blueprints and examples of the potential and challenges of transitional justice. Drawing on lessons learnt from these diverse experiences, the African Union in 2019 adopted its Transitional Justice Policy (AUTJP), which defines transitional justice 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.”

From 2017 through 2020, the Department of Political Affairs of the African Union Commission and the Centre for the Study of Violence and Reconciliation organised annual African Transitional Justice Forums—multi-stakeholder platforms 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. The ideas and experiences shared at these Forums have contributed to the development, dissemination and implementation of the AUTJP, in addition to critical reflection on how to elaborate its provisions.

This policy brief presents the recommendations of the four African Transitional Justice Forums, arranged by stakeholder.

## Recommendations

### *African Union Member States*

1. Design and implement peace and transitional justice processes in line with the AUTJP and the African Commission on Human and Peoples’ Rights *Study on Transitional Justice* (2019) and study on *Addressing Human Rights Issues in Conflict Situations* (2019).
2. Draw upon AU institutions to assist with the development of transitional justice processes.
3. Implement the AUTJP at a domestic level and hold other AU Member states to account in implementing the AUTJP. Ensure long-term commitment to national transitional justice processes.
4. Ensure transitional justice mechanisms are independent and priority recommendations have binding powers.
5. Adopt transitional justice processes that are tailored to the context, primarily locally driven and informed by the lived realities of victims and affected communities.
6. Ensure that transitional justice measures are not mainly state-centric and recognise community-level transitional justice initiatives.
7. Include affected individuals and communities, particularly marginalised ones, in the design and implementation of transitional justice measures.
8. Ensure transitional justice processes do not politicise the identities of victims and perpetrators but instead transform both categories into citizens.
9. Ensure that the transitional justice agenda is gender sensitive and that the inclusion of women is substantive.
10. Actively address patriarchal tendencies in transitional justice mechanisms and engage leaders in unlearning patriarchy and violent masculinities.
11. Eliminate youth unemployment, and implement socioeconomic transitional measures to curb deprivations along the lines of group identities such as race, religion, ethnicity and generation. Address structural inequality through redistributive policies and institutional reforms.
12. Include children’s experiences and needs in transitional justice mechanisms, as highlighted in the African Charter on the Rights and Welfare of the Child.

13. Address colonial legacies of domination and repression.
14. Fund transitional processes primarily through the national budget, in addition to regional and independent funding, decreasing potential dependence on international donors.
15. Ensure an adequate budget for reparations at the start of transitional justice processes. Work with regional and international bodies to recover stolen assets and illicit gains for use in reparations.
16. 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.
17. Promote a single anti-corruption institution at state level.
18. Establish a transitional justice implementation Standing Committee at the legislative level.
19. Provide legal assistance to victims through the Ministry of Justice and strengthen judiciaries as part of the transitional justice infrastructure.
20. Recognise collective trauma and the long-term mental health and psychosocial effects of violence and authoritarianism.
21. Ensure compulsory psychosocial support services in transitional justice processes, and ensure that these are integrated from design to implementation of transitional justice mechanisms, including in post-implementation periods through dedicated government departments providing this support.
22. Use education systems in peace and transitional justice efforts. Invest in education curricula that normalise AUTJP principles.

23. Promote knowledge generation and sharing on transitional justice experiences and best practice on the continent.

### ***African Union and Its Organs***

1. Disseminate and popularise the AUTJP at the AU level and promote cooperation among stakeholders.
2. Assess options for formalising the AUTJP as a binding framework.
3. Set up long-term financial, technical and human resources for the AU and other regional transitional justice programmes.
4. Ensure the AUTJP is implemented in a consistent manner by Member States. Provide technical and other support to Member States developing transitional justice processes. Collaborate with national institutions in their implementation.
5. Establish a Continental Fund for Transitional Justice driven by funders from the continent, decreasing potential reliance on external funders.
6. Establish an Advisory Board that can be drawn upon to input on the design and implementation of transitional justice processes.
7. Develop an African community of experts and community of practice on transitional justice, including experts who can be rapidly deployed to provide support on specific issues.
8. Ensure the African Union Commission on International Law formulates legal solutions to address the root causes of conflict and assist Member States.
9. Acknowledge that the African Court of Justice and Human Rights should primarily address international crimes on the continent and only refer cases to the International Criminal Court that it is unable to handle.
10. Establish a Children's Unit within the African Peace and Security Architecture. Establish a Special Envoy on Children Affected by Conflict and a protocol on how to manage child perpetrators.

11. Promote the inclusion of transitional justice provisions as a standard feature of peace agreements.
12. Promote economic, social and cultural rights and addressing these rights as a root cause of conflict through transitional justice processes.
13. Explore redress for historical injustices perpetrated by colonial governments on African peoples.
14. Prioritise the finalisation and official adoption of the draft African Union Business and Human Rights Policy.

### ***Regional Economic Communities***

1. Disseminate and popularise the AUTJP and promote cooperation among stakeholders.
2. Set up long-term financial, technical and human resources for regional transitional justice programmes, in line with the AUTJP and AU transitional justice initiatives.
3. Design a secondary regional approach to address the transnational nature of conflict and repression, for example addressing the needs of refugees and stateless youth.
4. Be sensitive to geopolitical causes of instability.
5. Establish psychosocial support networks.
6. Establish focal points on children affected by conflict and for addressing sexual and gender-based violence.

### ***National Human Rights Institutions***

1. Advocate for states to implement the AUTJP and the recommendations of transitional justice mechanisms.
2. Report coherently on transitional justice processes.
3. Provide for victims not defined by or identified through truth commissions and other transitional justice measures.

4. Promote economic, social and cultural rights at an equal level to civil and political rights.
5. Prioritise the repatriation and reintegration of forcibly displaced persons.
6. Promote the establishment of a national gender commission.

### ***Civil Society Organisations***

1. Disseminate and popularise the AUTJP and support the elaboration of its provisions.
2. Shape the mainstream transitional justice discourse to promote African empirical realities and theorisation.
3. Promote transitional justice processes are substantial, not merely superficial. Promote economic, social and cultural rights at an equal level to civil and political rights via peace transitional justice measures.
4. Design contextualised, victim-centred and citizen-led initiatives. Ensure conceptions of justice and accountability align with the understandings of victims and survivors.
5. Establish support groups to protect and empower victims and survivors, while acknowledging and managing their expectations of transitional justice.
6. Promote transitional justice measures that acknowledge the psychological architecture of society and that address post-conflict trauma, ensuring mental health and psychosocial support services for both victims and perpetrators.
7. Promote redress in the form of individual and collective as well as material and symbolic reparations.
8. Create gender-inclusive transitional justice interventions and prioritise the inclusion of women and girls from different backgrounds.

9. Include children and youth in setting the transitional justice agenda, including by driving transitional justice social media campaigns.
10. Advocate that transitional justice processes include the needs and participation of forcibly displaced persons.
11. Address the disconnect between policy makers and community-level organisations.
12. Engage in anti-corruption campaigns and advocate for corruption-free transitional justice mechanisms.
13. Situate transitional justice ideas and practices within the AU's 2021 Theme "Arts, Culture and Heritage: Levers for Building the Africa We Want."

### **Academics**

1. Raise awareness of and engage with the AUTJP.
2. Create a repository of transitional justice ideas and practices taking place across the continent.
3. Conduct research on successful local processes that are not donor driven.
4. Foreground victims and affected communities.
5. Conduct research that foregrounds gender.
6. Conduct research into the factors that drive the participation of young people in conflicts in Africa.
7. Research the links between transitional justice and forcibly displaced persons.
8. Research gaps in transitional justice responses to new war trends in Africa.

### **Donors**

1. Support the implementation and elaboration of the AUTJP.
2. Be more attentive to the context of transitional justice processes, supporting locally designed processes rather than imposing external agendas.
3. Fund transitional justice processes as whole rather than earmarking specific projects.
4. Act as equal partners with other funders, continental and regional bodies, and national actors. Be more open to the voices of government, civil society and citizens.

### **Ways Forward**

Africa has reached a watershed period in its history. The threats of climate change, COVID-19 and ongoing conflicts and instability, balanced by technological advances and increasing citizen participation, have created an opportunity to reassess past ways of doing and to improve transitional justice theory, practice and policy on the continent.

The adoption of the AUTJP was in many ways the culmination of the ideas and recommendations proposed by the African Transitional Justice Forums. Proper operationalisation of the AUTJP as a holistic instrument is needed. The Roadmap on the Implementation of the AUTJP provides a way forward. As part of Roadmap activities, it is 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 manner.

We are living through a time in which it is often difficult to find a frame of reference. In this unprecedented moment, Africa deserves a chance to develop and to shed the shackles of past abuses. The promise of transitional justice, the AUTJP and the Forums is a chance to take this path.

*This policy brief was authored by Vaughn Rajah, with input from Jasmina Brankovic.*

© 2021 African Union Commission and Centre for the Study of Violence and Reconciliation  
The opinions expressed in this publication do not necessarily reflect those of the African Union Commission or  
the Centre for the Study of Violence and Reconciliation.

