RESOURCE GUIDE

TO THE AFRICAN UNION TRANSITIONAL JUSTICE POLICY (AUTJP)

Department of Political Affairs, Peace and Security,
African Union Commission,
Addis Ababa, Ethiopia

July, 2022

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Union Africaine
African Union
Unión Africana

União Africana
Umoja Wa Afrika
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Peace and Security**
African Union Commission,
Addis Ababa, Ethiopia

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Foreword

Amb. Bankole Adeoye
Commissioner for Political Affairs, Peace and Security,
African Union Commission,
Addis Ababa, Ethiopia.

I am pleased to present to you the African Union Resource Guide on the implementation of the African Union Transitional Justice Policy (AUTJP). The Guide is an important milestone in the AU transitional justice journey towards a peaceful, well-governed, accountable, and developed continent. The Guide is designed for the AU Member States that have gone through a period of conflict and repressive regimes characterized by gross human rights violations, repression, and authoritarian backsliding, with the objective to help re-construct more stable and developed societies in line with the provisions of the AUTJP and the Africa Agenda 2063, the Africa We Want.

Over the years, African countries have sought to address past human rights abuses by relying on a varied mix of transitional justice mechanisms, but lack of common standards and African centered approach, amongst others, have undermined many of these efforts. For AU Member States yearning for accountability, justice, national reconciliation, and lasting peace, the Guide to the AUTJP remains one of the guaranteed solutions.

As the name implies, the aim of this document is to provide simple narratives of the AUTJP and to propose implementation guidance by taking into consideration the national context of implementing agencies and government. It is a source of useful information that would enable key stakeholders, including AU Member States, Regional Economic Communities (RECs), and the non-state actors to design, develop and implement their own country-specific transitional justice programmes taking into consideration shared values and standards in the AUTJP. In particular, it would serve as a "How-to-do Toolbox" providing practical guidelines on methodologies AU Member States, inter-governmental organisations, and civil society actors how to facilitate and support implementation of provisions contained in the AUTJP.

To this end, let me seize this opportunity to express my profound gratitude and appreciation to AU Member States, RECs, Transitional Justice Experts, and

other stakeholders that actively contributed to the successful consultations and development of this Resource Guide.

The African Union Commission looks forwards to continued collaboration with all stakeholders whose utilization of the Guide will go a long way in translating the provisions of the African Union Transitional Justice Policy into practical reality.

Preface

This Resource Guide was prepared by the Political Affairs, Peace and Security (PAPS) Department with technical facilitation by the Governance and Conflict Prevention Directorate. The Guide benefitted from the input of a broad range of colleagues and stakeholders from across the African continent. It was reviewed in a Validation Meeting that brought together government officials, practitioners and other participants with expertise in the subject matter from around the continent. The Guide also incorporated the insights that were shared during this expert group meeting.

African Union Commission
Addis Ababa, Ethiopia
July 2022

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Abbreviations

APSA	African Peace and Security Architecture
AU	African Union
AUC	African Union Commission
AUTJP	African Union Transitional Justice Policy
CAR	Central African Republic
CEWS	Continental Early Warning System
CoW	Council of the Wise
CM PCRD	Crisis Management, Post-Conflict Reconstruction and Development Division
CPEWD	Conflict Prevention and Early Warning Division
CSOs	Civil Society Organisations
ECOMIG	ECOWAS Mission in the Gambia
ECOSOCC	The Economic, Social and Cultural Council
ECOWAS	Economic Community of West African States
EU	European Union
IGAD	Intergovernmental Authority for Development
NGO	Non-Governmental Organisations
PCRD	African Union Post-Conflict Reconstruction and Development Policy Framework
PSC	Peace and Security Council
PSD	Peace and Security Department
PoE	Panel of Elders
PoW	Panel of the Wise
REC	Regional Economic Communities
SADC	Southern African Development Community
UN	United Nations
UNDPA	United Nations Department of Political Affairs

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01

Purpose and Objectives

Purpose and Objectives

The purpose of this Resource Guide is to provide additional information to enable key stakeholders including AU Member States, Regional Economic Communities (RECs), societal actors to design, develop and implement their own **country-specific transitional justice, peacebuilding, and reconciliation processes, policies and programmes.** In particular, it serves as a *"How-to-Toolbox"* by providing practical guidelines on how AU Member States, inter-governmental organisations and civil society actors can contribute towards implementing the provisions contained within the AUTJP.

African stakeholders will be able to utilise this Resource Guide to further enhance their **technical knowledge, practical insights and cross-institutional dialogue** to exchange views on thematic issues, including transitional justice, peacebuilding and reconciliation. Therefore, an additional objective of this Resource Guide is to further discuss the background, context and need for the adoption and operationalisation of transitional justice processes within AU Member States.

The Resource Guide will directly reference, and elaborate, on the AUTJP in order to further:

1.1 describe the function of transitional justice;
1.2 discuss why transitional justice is necessary for African Union Member States;
1.3 illustrate how transitional justice processes can be implemented by referring to cases studies and assess what these processes are expected to achieve;
1.4 identify who is responsible for implementing transitional justice processes;
1.5 assess the role of knowledge management and the review of the implementation of transitional justice processes;
1.6 highlight the importance of national allocation for transitional justice process.

The Guide **directly draws from the AUTJP document** and will draw upon a wide range of African knowledge, experience and insights from across the continent.

In addition, the Guide will utilise concise and self-contained **content boxes** to highlight key definitions which will enable the users to further understand the design and implementation of transitional justice processes.

1.1 Purpose

The purpose of this Resource Guide is to enhance the ability and capacity of African Union Member States, regional economic communities (RECs), and societal actors to effectively address the transitional justice, peacebuilding and reconciliation challenges that they encounter.

The focus of these actors should be to support all AU Member States, RECs/RMs and other non-state institutions to achieve four over-arching objectives:

i) Establishing effective transitional justice processes, mechanisms and institutions;
ii) Improving on the delivery of transitional justice interventions;
iii) Strengthening local and national leadership and ownership of transitional justice processes, by in particular transmitting knowledge to youth actors;
iv) Enhancing the implementation and sustainability of transitional justice processes.

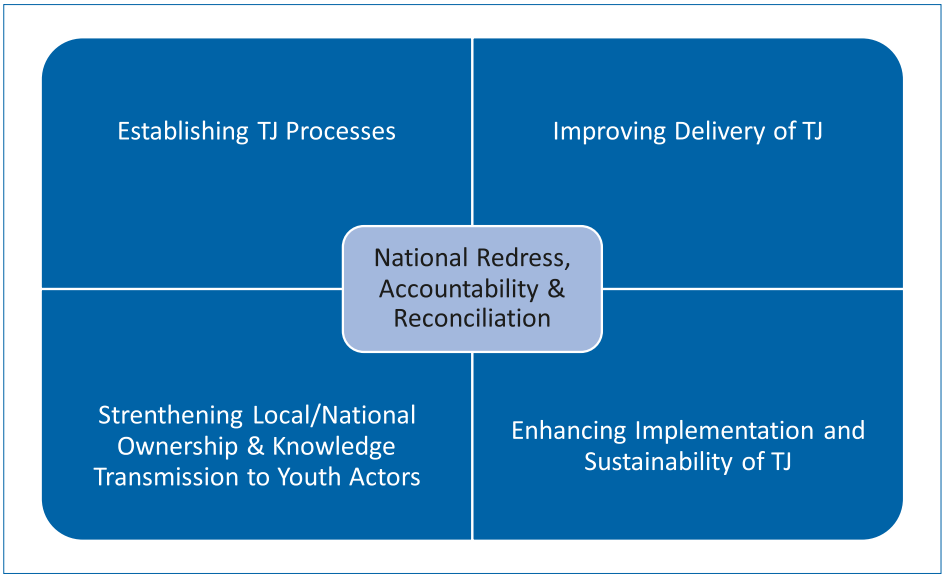


Figure 1.1 Objectives of AUTJP Resource Guide

Transitional justice processes are by definition context-specific in the sense that there is no one-size-fits-all approach that can be applied to AU Member States. Therefore, each society has to find its own approach to balancing the implementation of transitional justice measures to ensure that there is a gradual momentum towards addressing the violations of the past by confronting impunity and laying the

foundations for democratic governance, a culture of human rights, rule of law, constitutionalism, peace, reconciliation, justice, accountability as well as the socio-economic transformation of deeply divided societies.[1] There are international obligations which all nation-states are beholden to, for example, the normative frameworks relating to political and civic rights, including the African Charter on Human and Peoples' Rights, the Protocol Establishing the Peace and Security Council, the African Charter on Democracy, Governance and Human Rights as well as guiding principles of the African Court of Human and Peoples Rights.

1.2 Who Will Use this Guide?

This Guide will be useful to African governments working in tandem with the wider society, who have a primary responsibility in designing and implementing transitional justice processes, in a manner that addresses local needs and aspirations.[2] More specifically, this Guide can be utilised by:

i) Governmental and inter-governmental officials;
ii) African societal actors, including marginalised and vulnerable social groups such as the youth, women, displaced persons, people with disability, minorities;
iii) Academics, analysts and practitioners of transitional justice and peacebuilding;
iv) International partners;

1 African Union, *AU Transitional Justice Policy, Article 38, p.7.*
2 African Union, *AU Transitional Justice Policy, Articles 23 to 28, p.5.*

02

What are the Functions of Transitional Justice?

What are the Functions of Transitional Justice?

This section will discuss how the **formal adoption of the AU Transitional Justice Policy**, in February 2019, has provided a broad range of guidelines for Member States, RECs and societal actors to draw upon in designing and implementing their own country-specific processes and mechanisms.

2.1 Drivers of Conflict in Africa

In terms of the factors causing and leading to communal, national and regional conflict and instability the African continent continues to be afflicted by:

i. *Armed Rebellion/Banditry:* The continent continues to experience a significant level of violent conflict between government forces and armed militia groups (rebels and/or bandits), which are taking on regional configurations in terms of the sourcing and execution.
ii. *Unconstitutional Changes of Government:* The continent witnessed the resurgence of unconstitutional changes of government, which have a knock-on effect on creating political tension which leads to the violations of the rights of citizens.
iii. *Terrorism and Violent Extremist:* The perils of terrorism and violet extremism continue to beset Africa. They are largely fuelled by socio-economic vhallenges and the politicization of identity fault-lines such as religion and ethnicity etc.
iv. *Contested electoral processes and outcomes:* In some AU Member States elections have become a source of political violence and instability. Electoral violence has marked some or all the three stages of the electoral cycle: (a) pre-polling, (b) polling and (c) post-polling stages with dire consequences for democracy, peace and development.
v. *Contested Regime Transitions and Constitutional Tension:* The contestation relating to regimes in transition as well as tensions generated by the lack of respect for constitutional provisions continues to pose a threat to democracy, peace and stability of countries.
vi. *Inter-Communal Rivalry:* The contestation for access to land and the resources to live is a key factor in fuelling inter-communal violence.
vii. *Socio-Economic Unrest, Ethnic Tension and Xenophobia:* The legacy of socio-economic deprivation has seen an increase in social unrest, which can also include ethnic and xenophobic dimensions;

Cross-Cutting Issues:

In addition, there is a wide array of cross-cutting issues that intersect to exacerbate the conflicts across the continent including: gender discrimination; youth exclusion; inequality; environmental destruction; forced migration and human trafficking; illicit trade in narcotics and national resources; money laundering and illegal financial flows; and infectious diseases such as **Covid-19 and Ebola** which continue to ravage communities across the continent, fuelling conflict and instability. While a comprehensive discussion of these cross-cutting issues is beyond the scope of this Resource Guide, additional background information can be sourced from publications available on the AU and website, visit: www.au.int.

2.2 Impact of Conflicts in Africa

As noted above the African continent is challenged by **violent conflicts, authoritarian rule**, and civilians continue to suffer disproportionately from human rights violations including gender-based violence, violent extremism, forced displacement, humanitarian crisis, illicit trafficking of weapons, narcotics and people through globalized exploitation.

The conflicts that have plagued parts of post-colonial Africa have brought about the collapse of social and economic structures and generated political tension. Infrastructure has been damaged and **education and health services** have suffered, not to mention the **environmental damage** which has been caused by conflicts.

Socio-economic development has also been severely retarded as a result of the carnage and destruction caused by conflicts. The transboundary effects of conflicts in terms of refugee flows into neighbouring countries and the phenomenon of rising numbers of refugees and internally displaced persons (IDPs) demonstrates that no African country is an island unto itself.

According to several AU shared values instruments, chief among which is the Constitutive Act, Member States have a responsibility to promote human rights, inclulate a culture of democracy, constitutionalism and the rule of law as well as to provide peace, security, and access to justice, so as to ensure the freedom and well-being of its citizens. Therefore, it is still necessary to continously improve our understanding of how to ensure the effectiveness of national processes for addressing past violations in war-affected and politically oppressed countries, so as to consolidate **peace, justice, reconciliation** and security interventions across the continent.

2.3 The Principles, Objectives and Functions of Transitional Justice

In order to address the conflicts discussed above, there are **principles** that should guide the **design and implementation** of transitional justice and peacebuilding processes as stipulated in the AUTJP include:

i. African leadership;
ii. National and local ownership;
iii. Inclusiveness, equity and non-discrimination
iv. African shared values;
v. Context specificity;
vi. Synergizing, sequencing and balancing transitional justice elements;
vii. Gender and generational dimensions of violations and transitional processes;
viii. Cooperation and coherence;
ix. Capacity building for sustainability.[1]

These principles should be practically applied by the continental, national and communal actors who are responsible for providing guidance on the implementing the provisions of transitional justice to ensure that there is a whole-of-society approach to designing and operationalising measures to address the injustices of the past.

The human rights violations that necessitate transitional justice interventions generally emerge from historical exclusion and the inequitable distribution of power. Consequently, promoting inclusivity and redressing non-discrimination is a key pathway towards building fairer and more equitable societies. There are a range of emerging **Pan-African values**, drawn from cultural practices as well as moral principles enshrined in the founding documents of Africa's continental institutions, such as fairness, self-determination, consultation, and reconciliation which should also inform the implementation of transitional justice processes.[2]

The **functions** of transitional justice are to:

i. address the violations that have occurred as a result of violent conflict, authoritarian rule, legacies of Africa's past, political crises, as well as governance and developmental deficits;
ii. promote redress and accountability for victims and survivors;
iii. enable countries to build fair, inclusive societies through democratic governance, to ensure sustainable peace and reconciliation.

1 African Union, ***AU Transitional Justice Policy***, Principles, Articles 23 to 41, pp.5 to 8.
2 African Union, ***AU Transitional Justice Policy***, Articles 33 to 34, p.6.

iv. Preventing the recurrence of violence through the consolidation of peacebuilding, implementing guarantees of non-repetition/legal and institutional reforms

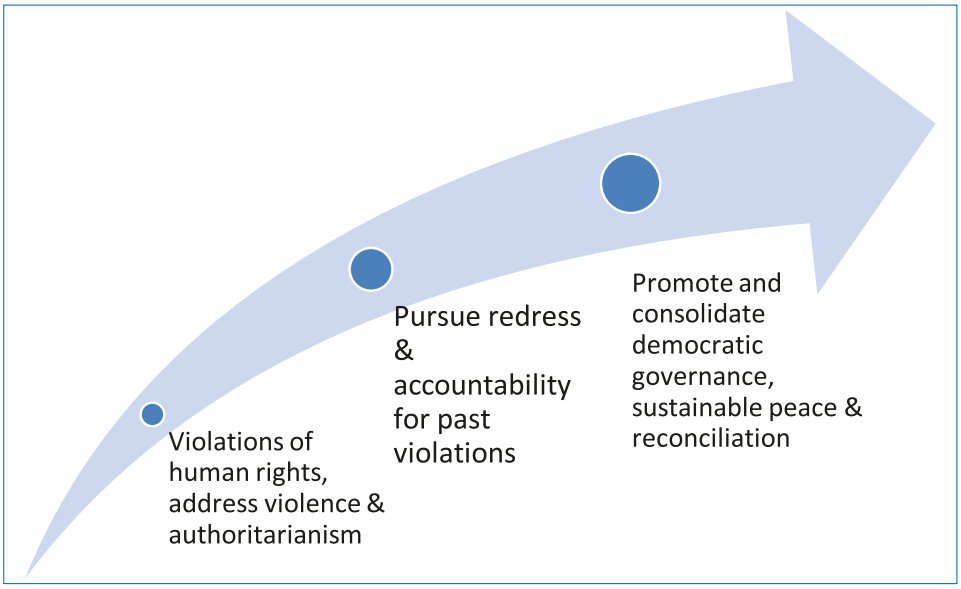


Figure 2.1: Functions of Transitional Justice

Reconciliation is understood as the cumulative and gradual outcome of the broad-based application of transitional justice processes. Concretely, reconciliation processes require that national stakeholders:

1) recognize their interdependence of national stakeholders as a prerequisite for consolidating peace;
2) engage in genuine dialogue about questions that have caused deep divisions in the past;
3) embrace a democratic attitude to creating spaces where they can disagree; and
4) work jointly to implement transitional justice processes addressing the legacies of socio-economic exploitation and injustices.

At the heart of reconciliation are the achievement of the principles of justice and equality. Consequently, transitional justice is viewed as an intermediary set of process that gradually and over time lead towards the promotion of reconciliation, as discussed in Article 1(f) of the AUTJP, entitled *"Synergizing, Sequencing and Balancing Transitional Justice Elements"*.

Transitional justice can function to address and redress the tensions, deficiencies and legacies of the past. In particular, transitional justice stems from human rights obligations enshrined in treaties that AU Member States have signed up to, including the wide-ranging provisions of the African Commission on Human and Peoples' Rights (ACHPR). Specifically, transitional justice is grounded in the three fundamental rights:

i. the right to truth;
ii. the right to justice; and
iii. the right to remedy.

Transitional justice is by design intersectional in its approach of addressing colonial legacies and the historical structural violations endured by post-colonial states. In addition, transitional justice seeks to address and reduce incidences of communal tensions, youth insurgency, violent and extremism.

Transitional justice also seeks to address societal marginalisation, poverty, inequality and illicit resource extraction. Transitional justice is also necessary to curtail and mitigate against post-electoral violence, transboundary, transnational conflicts and climate induced disputes, which fuel human rights violations and international crimes.

03

The Value of Transitional Justice

The Value of Transitional Justice

Article 1, of Section 1, observes that the African Union Transitional Justice Policy *"is conceived as a continental guideline for AU Member States to develop their own context-specific comprehensive policies, strategies and programmes towards democratic and socio-economic transformation, and achieving sustainable peace, justice, reconciliation, social cohesion and healing."*

In this regard, the AUTJP views transitional justice as being necessary for African countries, because the continent continues to experience the **recurrence of violent conflict** and the challenges of sustaining peace across the continent. In order to prevent the recurrence of the violations that emanate from the crisis situations it is necessary to pursue redress and accountability which also contributes towards confronting impunity on the continent. In this context, transitional justice processes are necessary and important to African countries because they **address the violations of the past and put in place remedies and institutional reforms** which will contribute towards stabilizing countries and laying the foundations for more sustainable peacebuilding.

3.1 The Tension Between Peace and Justice

The term "transitional justice" was initially **misunderstood** as being focused in a narrow manner to the International Criminal Court accountability processes and mechanisms. In effect, there was a conflation between transitional justice and criminal prosecutions which created a misunderstanding among States. Some of this negative perception continues to persist among AU policy circles, however, over-time and through extensive work to sensitize and popularize transitional justice, the AU Member States ultimately adopted the AUTJP with a much broader range of **restorative justice and healing processes.**

There is also a perceived tension that exists among some AU Member States, between the **pursuit of peace and the demands of justice.** This perception also originates partly from the conflation that occurred between transitional justice and criminal prosecutions. However, in country situations there is a perceived trade-off between pursuing criminal prosecutions and promoting peacebuilding.

The actors who are supposed to drive the peacebuilding processes, are in some instances also subject to criminal accountability for the role they may have played in perpetrating human rights violations in conflict and authoritarian contexts. Therefore,

the assumed tension arises because of the dilemma of **how to build peace**, while also **pursuing justice for victims and survivors** who have suffered human rights violations in situations of war or authoritarian rule.

Peace is about ensuring a remedy to victims, restoring their dignity, acknowledging the violations both by the individual perpetrators and or by government forces.

According to the AUTJP, "the notion of justice refers to the provision of judicial and non-judicial measures that not only ensure accountability of perpetrators of violations, but also redress to individuals and communities that suffered violations."[1] In this regard, the goals of justice vary and including accountability for impunity, upholding norms.

The dilemma emerges because building peace requires **restoring broken relationships**, while pursuing retributive justice, requires identify those who are **'guilty' of serious war crimes** and subjecting them to prosecution through continental or international criminal tribunals.

The political dilemma arises because some of those who are identified as being "guilty", who tend to be leaders, are also required to proactively contribute as partners towards peacebuilding processes. The problem becomes more challenging when it becomes evident that those who have been identified as the guilty perpetrators, may also have been **victims of human rights violations in the past**, earlier in their lives, due to recurring conflict situations.

The moral and political dilemma emerges because as a victim, the perpetrator should be seen to have received justice and/or held accountable, there should be redress for the violations and harms suffered. But more often than not this has not happened, particularly in Africa's conflict situations. If the perpetrator, who was also a former victim, then goes on to commit human rights violations against other people, is there a requirement for redress to be focused on his or her victimhood and claim to justice for the historical harm that was suffered? This is does not only generate moral and political tension, but it is also a dilemma of criminal accountability. In particular, one of the biggest challenges post-conflict societies face is how to address past violations, because in most cases prosecuting everyone is not feasible and therefore it may not be the preferred pathway for a particular Member State. Therefore, it is necessary to always seek to **prioritize the rights of victims** in the design and development of transitional justice processes. The rights and expectations of victims

1 African Union, AU Transitional Justice Policy, Section 1, para.16, p.3.

should be a central consideration when a State chooses what options to pursue in terms of operationalizing their transitional justice processes.

Justice and Accountability

"The justice and accountability element of the AUTJP deals with the (formal and traditional) legal measures that should be adopted for ***investigating and prosecuting the crimes*** *perpetrated, as a means of establishing accountability and giving* ***judicial remedy*** *to and acknowledgement of the* **suffering of victims.** *As a matter of principle, it should apply to all sides to the conflict and investigate and prosecute all crimes, including sexual and gender-based violence…" – Article 77, Section 2, AUTJP, on* ***Indicative Elements of Transitional Justice***

As noted in the AUTJP's section 3 on "Indicative Elements" and the sub-section on "*Justice and Accountability*", a number of African countries have had to navigate between these different aspects of transitional justice. In their important article entitled, "Courts Can't End Wars", Mbeki and Mamdani make the point that no one is wholly innocent nor wholly guilty, and all warring parties are often implicated as perpetrators to some degree.[2]

3.2 Balancing Transitional Justice Processes and Sequencing Outcomes

The AUTJP addresses this tension by advocating for the balancing of transitional justice processes through carefully sequenced and balanced interventions. Specifically, Article 38, of the AUTJP, notes that in a "post-conflict setting … the choice of the combination of transitional justice measures should endeavour to *mutually reinforce*, and ensure the complementarity of, the objectives of peace and reconciliation, on the one hand, and justice and accountability, as well as inclusive development, on the other."3

In addition, the AUTJP calls for the sequencing and balancing of transitional justice measures to suit the immediate needs of a society in transition. Specifically, the AUTJP notes that "*sequencing* means that the various transitional justice measures should be *comprehensively planned and complementarily organized* in their formulation

2 Thabo Mbeki and Mahmood Mamdani, "Courts Can't End Wars", New York Times, 5 February 2014.

3 African Union Transitional Justice Policy, Section 2, Principles, Article 38(i), p.7.

and programmatically ordered and timed in their implementation."[4] Furthermore, "balancing entails achieving a compromise between the demand for retributive criminal justice and the need for society to achieve reconciliation and rapid transition to a shared democratic future."[5]

The assumed tension and dilemma between peace and justice can be addressed if States proceed on the basis of seeing both processes as mutually reinforcing. Indeed, the AUTJP identifies "Peace Processes" as a key *Indicative Element of Transitional Justice* measures, and appeals to negotiation and mediation interventions to take account of "the need to identify transitional justice goals in peace processes and the measures to end violent conflict."[6]

In terms of justice and accountability, Article 77, of the AUTJP, states that "alongside with its focus on holding perpetrators accountable, and hence on retribution, in the African transitional setting the justice and accountability element should involve conciliation and restitution".

Article 99, of the AUTJP, in the sub-section on "*Human and Peoples' Rights"* emphasise the role of transitional justice processes in **promoting and institutionalizing "a culture of human and peoples' rights** within the framework of the **African Commission of Human and Peoples' Rights** (ACHPR, based in Banjul, The Gambia), the African Union's shared-values instruments and relevant **international human rights instruments."**

Article 99, also notes that "situations that give rise to the need for transitional justice are often characterized by a breakdown of the rule of law, as well as the lack of respect for human and peoples' rights". Therefore, a key **benchmark** for promoting and institutionalizing a **culture of human and peoples' rights** includes **"restoring constitutional and legal rights** to sections of a society that **might have lost them during conflict and/or authoritarian rule."**

There is a link between transitional justice, peacebuilding and security, based on the requirement and importance of bringing together former enemies in a process of sustained dialogue, ensuring redress for past wrongs, as a pathway towards to developing a common vision to shape a new inclusive future. Security and safety cannot be maintained without consolidating societal peace which requires the redemptive function of justice to address an underlying sense of injustice within society.

4 African Union Transitional Justice Policy, Section 2, Principles, Article 38(v), p.7.
5 African Union Transitional Justice Policy, Section 2, Principles, Article 38(vi), p.7
6 African Union Transitional Justice Policy, Section 2, Indicative Elements, Article 45(i), p.7.

3.3 The Developmental and Transformative Dimension of Transitional Justice

In addition, to the dilemma of balancing peace and justice, there are other dilemmas that emerge. Specifically, even if a retributive form of justice delivers punishment through the courts, this does not address the exploitation that **people and their descendants**, suffered through slavery, colonialism, apartheid and authoritarian rule. The effects of slavery and the loss of land through colonialism and apartheid has lingering effects which are transmitted to the subsequent generations.

Transitional justice is now increasingly preoccupied with the issue of how to deal with the historical violations suffered through slavery and colonialism. Transitional justice interventions are expanding their remit, beyond only addressing human rights and political violations, and are now focusing on the need to address **socio-economic and psycho-social issues**, which have been endured by the victims, perpetrators and their descendants, as a basis for promoting **social cohesion and reconciliation.**

Social Cohesion

"Social cohesion requires healing, which includes regard for each other's suffering; coming to terms with the totality of what happened; promoting shared truth; constructing a common narrative about the past, justice and the need to restore and experience a sense of security and overcoming a sense of victimization." – Article 62, AUTJP, Sub-section on ***Reconciliation and Social Cohesion***

It is therefore important to frame transitional justice as having a **developmental and transformative** dimension, through its role in transforming victims and perpetrators into active citizens. This contributes directly to transforming lives and livelihoods of affected communities and empowering them to improve their livelihoods. This also requires identifying and removing structural vulnerabilities and barriers that perpetuate **inequality and marginalization** by those who have endured violations in the past.

Transitional justice that is developmental will actively seek to address **structural inequality** through ensuring that those who have been historically disadvantaged have the autonomy and are empowered to ensure their own food supply, medical care, income, and access to land, credit, training and markets.

04

How are Transitional Justice Processes Implemented and what are they expected to achieve?

How are Transitional Justice Processes Implemented and what are they expected to achieve?

Transitional justice processes can be designed at any stage in a country's political and socio-economic trajectory, but implementation requires certain degree of buy-in and political action from the leadership, as well as the wider society.

Peace agreements or negotiated political settlements can be utilised to frame the design and implementation of transitional justice processes.

Therefore, it is important for Africa's regional and continental **mediators and peacemakers** to familiarize themselves with the provisions of the AUTJP so as to provide advice on transitional justice, that is aligned to the policies of the African Union.

In the absence of a peace agreement, governments can establish the required **policy and legislative processes and frameworks**, or undertake legislative reforms, to design and frame national transitional justice processes.

Peace Negotiations and Transitional Justice

"Peace negotiations and agreements … should incorporate transitional justice considerations from the outset of the negotiation and mediation processes. Transitional justice considerations should form part of the agenda in peace processes to ensure that they positively influence the resolution of all dimensions of the conflict."
– Article 44, AUTJP, Section 2, Peace Processes

Article 49, of the AUTJP further notes that "where parameters of transitional justice measures are negotiated in peace agreements, it is essential that they take full account of the imperative both of ensuring **accountability for past violations** and for **reconciliation between sections of society"**.

African Union Member States and Transitional Justice Processes

"AU Member States shall have the primary responsibility with respect to pursuing transitional justice processes … it is imperative that national and local actors take the lead in planning, implementing, monitoring and evaluation and reporting on lessons learned in all stages and phases of the implementation of the AUTJP" – Article 116 and 117, Section 4, AUTJP, on ***Actors, Processes and Implementation Mechanisms***

African Union Member States, collaborating with the wider society, have the responsibility to initiate and guide the development and implementation of transitional justice processes, including developing **strategies, policies, programmes and projects**, as well as adopting and promulgating enabling **legislation** to establish **structures and institutions** where they are required (Article 118 (i) (ii)).

4.1 Key Stages for the Implementation of the AUTJP at the National Level:

AU Member States and stakeholders are encouraged to follow five (5) stages of interventions in terms of guiding the design, development and implementation of their own context-specific transitional justice processes:

i. **National TJ Strategy** – the initial step is for AU Member States and stakeholders to define and design their national transitional justice strategies, which they can develop by drawing upon the provisions of the AUTJP, as well as drawing upon any regional implementation strategies, that have been developed by RECs;
ii. **National TJ Policies** – the subsequent step is to transform their national strategies into policies that can be utilised to guide the adoption of enabling legislation, through broad and consultative policy development processes that include public consultation processes;
iii. **National TJ Legislation** – the next step is to adopt and promulgate enabling legislation, particularly where the creation of institutional structures and mechanisms is required;
iv. **National TJ Programmes and Projects** – drawing upon national policies and legislation, national actors can then design programmes and projects to engage the wider society through awareness raising, popularization and sensitization to ensure the implementation of transitional justice processes;
v. **Monitoring, Evaluation and Learning** – as the programmes and projects are rolled-out it is necessary to have an ongoing monitoring and a periodic

evaluation process, to draw any lessons learned into improving upon the programmes and projects.

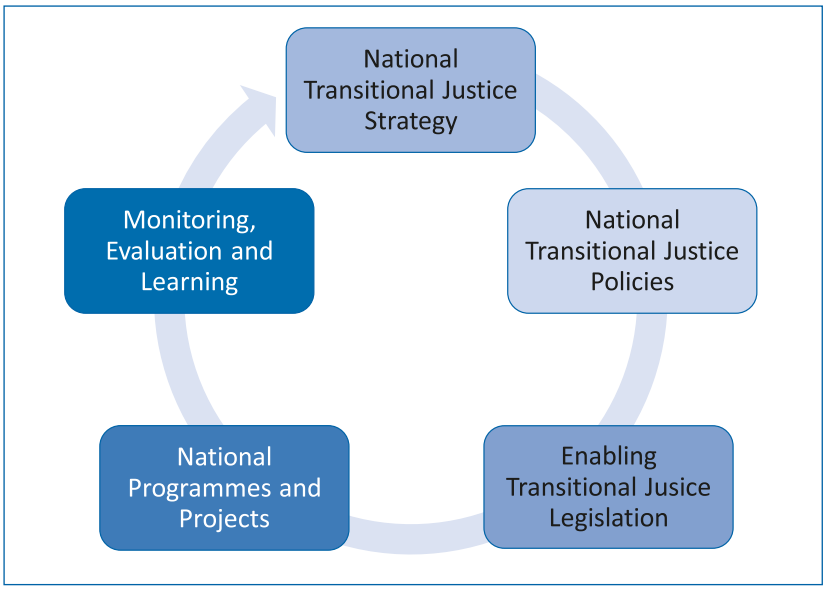


Figure 4.1 – Five (5) Key Stages in Implementing the AUTJP at Member State Level

The AUTJP clearly states that societal and non-state actors can also drive national conversations relating to the design and implementation of transitional justice processes and mechanisms.

Civil Society Initiatives on Transitional Justice

"Civil society members, community-based organizations and the media should campaign for and facilitate the emergence of the necessary public national conversation and debate on pursuing transitional justice processes." – Article 127, Section 4, AUTJP on ***Actors, Processes and Implementation Mechanisms***

4.2 The Range of Transitional Justice Processes

A range of diverse transitional justice initiatives, mechanisms and institutions can be utilised at **different stages** of a conflict and post-conflict situation. Article 20, of the AUTJP states that "rather than referencing a particular time period, transition in this policy refers to the **journey of societies** with **legacies of violent conflicts,**

systematic or gross violations of human and peoples' rights towards a state of **sustainable peace, justice and democratic order.**"

Transitional justice processes vary in nature and scope, and therefore each country has to chart its own path to orient its journey to achieving peace, justice, and reconciliation. This requires the national leadership to engage the wider society on building a consensus for a common national goal after conflict or authoritarian rule.

Transitional justice processes should be designed utilizing a **"whole-of-society"** approach, with an emphasis on public participation and national consultations, which include victims and survivors, and vulnerable groups. This ensures that there is an emphasis on implementing societal interventions to promote **national cohesion** as well as provide **psycho-social** support to victims, survivors, families and communities.

The **trauma** suffered by individual victims, their families, affected communities and society at large, affects citizens and societies in profound ways, which highlights the need to address both individual and collective trauma.

Article 32(i) of the AUTJP states that "victims and other members of society affected by violence have as a matter of principle the **right to justice and to truth in their own country**, based on mechanisms and processes in whose design they take an active part".

In addition, Article 32(ii) emphasises the "primacy of national resources and capacities whereby the formulation of transitional justice should appropriately adapt and exhaust all the suitable **formal and traditional, judicial and non-judicial resources and capacities** that the society can mobilize at the national and local levels for justice and reconciliation responses".

Selecting Transitional Justice Processes

"The choice of the combination of transitional justice mechanisms should be made with due regard to the requirements of impartiality, independence, inclusive consultative processes, due process of the law and accountability, as well as the imperative of preventing new violations and consolidating peace" – Article 34, Section 1, AUTJP on ***Introduction, Goal and Objectives, Rationale, Definitions and Principles***

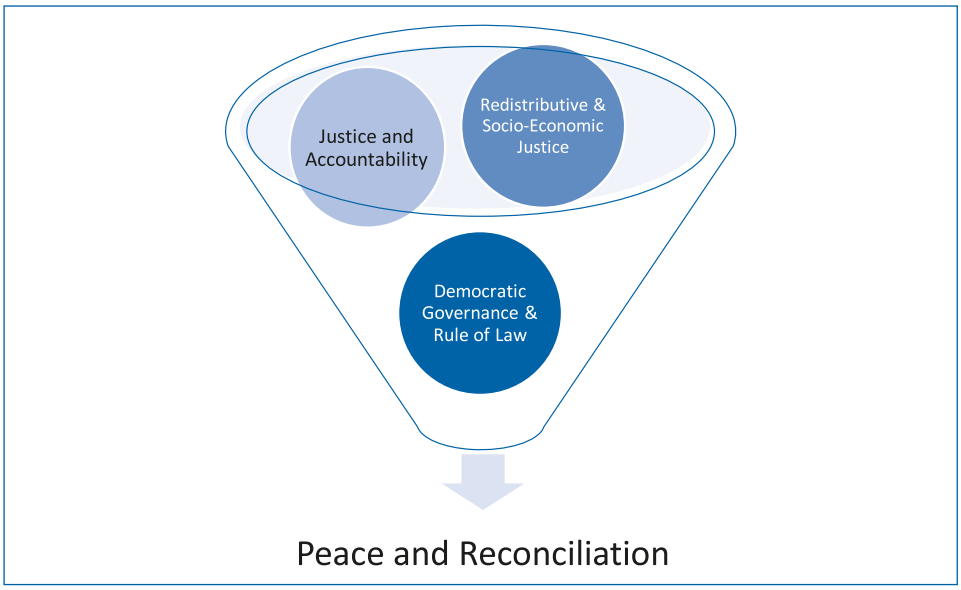


Figure 4.2 - Sequencing Transitional Justice Interventions

There is a time and a place for **prosecution** and, in the context of a civil war, it may not always be immediately after the cessation of hostilities between the belligerent parties. At this point in time the tension within the country tends to be uncharacteristically high and any attempt to prosecute individuals and leaders is often perceived as an attempt to deliberately continue the 'war by other means' by targeting the main protagonists to a conflict.

In situations, where national courts can be manipulated by one side of the conflict against the other, there are generally allegations of **'victor's justice'**.

There is a **role for sequencing in the implementation of transitional justice processes**, which means that not all of the mechanisms need to be implemented simultaneously for it to be considered a comprehensive process.

The decision of what to implement at a given moment in time will be informed by a number of factors including: **state commitments and obligations, victim and survivor demands**, resources available, as well as national preferences for retributive or restorative justice.

There is a key role played by the state as the driver of national transitional justice processes, and emphasise the importance of ensuring a collaborative and supportive

role for civil society, national institutions, victims, survivors, the media and other social, cultural or religious institutions.

It is important that AU Member States adopt a 'whole of society approach' involving **society-wide consultations** in the design, development and implementation of transitional justice processes to ensure that these processes are home-grown and home-owned.

The process of establishing transitional justice frameworks, legislation and programmes should be **inclusive and participatory**. This should begin at the earliest stages of the design of transitional justice process all the way to the implementation as well as monitoring, reporting and review phases.

There is a need, role and value for AU Member States to adopt policies and promulgation of national transitional justice laws, drawing from the AUTJP. This will increase the prospects of AUTJP provisions being incorporated into national statutes and legislation which creates a legal framework for their implementation at the national level.

Member States need to adapt the AUTJP principles and mechanisms to their individual context by:

i. appreciating the nature and impact of the conflict that occurred;
ii. developing consensus on a common national goal for peace after conflict; and
iii. identifying key considerations that should inform national policies and legal frameworks that are non-discriminatory and inclusive of the national population, especially victims and members of vulnerable groups.

4.4 The Nature and Impact of the Conflict and the Transitional Justice Model Adopted

The debate over whether a retributive or restorative approach to justice should be deployed in the aftermath, or at the point of a conclusion of a war has not been resolved definitively. Nor can this debate be resolved definitely because the type of justice that might be appropriate in the context of one country cannot be transplanted to another. In this regard, there is a certain degree of **context-specificity** in adopting a transitional justice model. A combination of justice and accountability and redistributive socio-economic restorative processes of justice can be deployed to address the needs of a society in transition.

The sequence in which either justice and accountability or redistributive socio-economic restorative justice processes are initiated is also not a precise science. In the majority of cases, retributive and restorative justice processes might be instituted and operationalised simultaneously. In some instances, the inability of a government or a society to embrace a restorative approach to justice and reconciliation can require the establishment of an international justice and accountability process.

In other instances, the demands of a restorative justice process with its emphasis on truth-telling and the collective psychological transformation of promoting forgiveness and reconciliation means that efforts to administer punitive measures may need to be carefully sequenced so as not to disrupt these healing processes.

Individuals and leaders who have been accused of planning, financing, instigating and executing atrocities against citizens of another group, all in the name of civil war, were investigated for committing war crimes. These individuals and leaders are the very same people that are called upon to engage in a peace process that will lead to the signing of an agreement and ensure its implementation.

A punitive approach to justice cannot ethically deal with the grievances that arise from **slavery and colonialism**, and the subsequent inter-generational effects on the descendants of the victims and survivors.

A punitive approach will however prosecute key individuals who had the greatest responsibility for committing atrocities. In spite of the available option of pursuing prosecutions for the human rights violations that were committed during apartheid, South Africa deliberately chose the moral path of placing greater emphasis on implementing a restorative transitional justice model. The option of prosecution was available during the country's transition in the mid to late-1990s and is still viable even to this day.

The fact that a number of African countries have developed and adopted their own unique transitional justice paths, despite persistent national challenges, means that there are a number of models to draw from across the continent.

The AU Member States may draw upon the experiences of a broad range of initiatives, but modify their approach in order to address the challenges emanating from their specific and peculiar contexts.

Sequencing in transitional justice requires establishing a coordinated approach to implementing retributive or restorative justice processes, in order to ensure that stability and ultimately peace is achieved in a given country-context.

4.5 Transitional Justice and Gender Equality

Authoritarian rule and violent conflict affect women and men in different and context-specific ways. Specifically, **gender-based violence** is a common atrocity that has to be considered in a transitional justice process.

Around the world, engagement has witnessed women being traditionally marginalised and excluded from defining and framing of transitional justice processes. From the ideas relating to how to frame transitional justice processes, to legislative initiatives to codify these processes in law to the implementation of these interventions through states and societal institutions the phenomenon of **patriarchy** continues to marginalise the participation of women.

Because political leadership around the world is dominated by men, when it comes to the design and operationalization of transitional justice processes, women's participation, views and experiences generally overlooked.

Given that gender constructions determine how women and men are supposed to engage with post-conflict and post-authoritarian contexts, it is vitally important to ensure that transitional justice interventions are **gender inclusive, gender focused and gender transformative**.

Within this larger agenda, a more specific challenge remains how to ensure that transitional justice processes respond to the needs and experiences of women and girls (see AUTJP, Article 3(a) *"Women and Girls"* and Article 1(g) *"Gender and Generational Dimensions of Violations and Transitional Processes").*

It is at the same time important not to reinforce gender stereotypes or suggest that women's participation and leadership on reconciliation issues as such are enough to address gender justice. There is a need to articulate a gendered approach to reconciliation which engages with **patriarchy and masculinity** too.

Transitional justice processes have also paid lip-service to addressing gender-based violations in practice. It is also necessary to confront and address the barriers that exist in ensuring that the voices of women and girls from across society inform the shape, direction and texture of national reconciliation processes.

African women and men need to ensure that the **voices of women** are incorporated into the design and framing of transitional justice processes. It is therefore also necessary to confront and address the barriers that exist in ensuring that the voices of women and girls from across society inform the design and content of national transitional justice processes. This requires the active participation of African women in the **political negotiations** that define the inclusive orientation of transitional justice processes and the nature of its institutions.

4.6 Mechanisms and Institutions of Transitional Justice

Transitional justice can be achieved through a **range of processes** including: truth-recovery, restorative, retributive, redistributive and transformative-developmental justice reparations, institutional reform, psychosocial support, as well as other national reconciliation interventions.

4.7 Truth Commissions

A number of African countries have adopted and implemented transitional justice processes and designed institutions to guide their national processes. Transitional justice can try to recover the truth of what happened through bodies such as **truth and reconciliation commissions and special commissions of inquiry**.

A number of countries across Africa established truth commissions to document and address the violations of the past and implement their transitional justice agenda as a means to building sustainable peace. These included:

i. South Africa – Truth and Reconciliation Commission (1996);
ii. Sierra Leone – Truth and Reconciliation Commission (1999);
iii. Liberia – Truth and Reconciliation Commission (2005);
iv. Kenya – Truth, Justice and Reconciliation Commission (2008);
v. Mauritius – Truth and Reconciliation Commission (2009);
vi. Guinea – Provisional National Commission on Reconciliation (2011);
vii. Côte d'Ivoire – Commission Dialogue, Vérité et Reconciliation (2012) ;
viii. Mali – Commission for Truth, Justice and Reconciliation (2013);
ix. Tunisia – Truth and Dignity Commission (2013).
x. Burundi – Commission Vérité et Reconciliation (2014);
xi. Gambia – Truth, Reconciliation and Reparations Commission (2018);

South Africa's, Kenya's and Sierra Leone's Truth and Reconciliation Commissions (TRC) included **amnesty provisions**, (see discussion below) which granted perpetrators a consideration of amnesty if they revealed the truth of the violations they committed.

This amnesty provision tried to directly address the peace versus justice dilemma faced by these countries.

A number of African countries have established reconciliation commissions as their model of transitional justice to attempt to restore the **broken relationships** between groups in the country including:

i. Rwanda – National Unity and Reconciliation Commission (1999);
ii. Ghana – National Reconciliation Commission (2002);
iii. Morocco – Equity and Reconciliation Commission (2004);
iv. Zimbabwe – National Peace and Reconciliation Commission (2018);
v. Ethiopia – Ethiopian Reconciliation Commission (2019);

A number of African countries have established national institutions which also embody a transitional justice mandate to guide their in-country processes, including:

i. Kenya – National Cohesion and Integration Commission (2008);
ii. Central African Republic – Ministry of Humanitarian Action and National Reconciliation (2017);

There are a number of African countries that still need to establish and conslidate institutions to promote and sustain national reconciliation.

4.7.1 How to Establish an Effective Truth Commission

Establishing an effective truth commission requires a whole-of-society approach in terms of including citizens in defining the parameters of the commission through extensive consultation. Subsequently, these broad views have to be distilled into a legislative framework, if the constitution does not mandate a transitional justice process. Once the legislation is in place, the selection and appointment of commissioners has to be participatory and transparent. Established commissions can learn from the extensive experience of other similar efforts from across the continent. During the proceedings of the commission there needs to be regular and constant communication with the wider citizenry on the process and also emerging findings. Once a report is issued by the commission both governmental and societal actors have a responsibility for ensuring that it is effective implemented in order to promote the transformation that is required to address the injustices of the past. In addition, national monitoring, evaluation and documentation of lessons learned is necessary in order to provide feedback to governmental and societal actors on the effectiveness of their interventions.

4.8 Justice and Accountability

Justice and Accountability

"…the transitional justice policy is to be delivered, as a matter of the ***primacy of national systems,*** *through* ***independent national courts*** *– where they exist and have the capacity and the confidence of the affected Member States' society – and based on relevant national laws. Where national courts lack capacity and the confidence of affected communities, steps should be taken to use* ***special courts, extra-ordinary chambers or hybrid courts*** *that bring in the required capacity and legitimacy to ensure the support and confidence of affected member of society, including victims on all sides of the conflict." – Article 78, AUTJP, Sub-section on* ***Justice and Accountability***

African Union Member states have established a range of national and special courts, as well as extraordinary chambers and hybrid courts. Most of these courts focused on prosecuting those deemed to have held the 'greatest responsibility' for war crimes or crimes against humanity. These include:

- **International Criminal Tribunal for Rwanda,** was established by the United Nations Security Council, in November 1994, and was based in Arusha, Tanzania, to prosecute individuals who bore the greatest responsibility for perpetrating the genocide in Rwanda.
- **Special Court of Sierra Leone,** was established in 2002 by the Government of Sierra Leone and the United Nations, to prosecute individuals who bore the greatest responsibility for serious violations of Sierra Leonean law and international law committed in Sierra Leone after 1996. In 2012, Charles Taylor, the former president of Liberia, was prosecuted by this Special Court for war crimes committed in Sierra Leone;
- **AU Extraordinary African Chambers,** was established in 2013, through an Agreement between the African Union and the Government of Senegal, and was based in Dakar. In this court, Hisséne Habrè, the former President of Chad, was prosecuted and found guilty of perpetrating killings, torture, rape against victims and survivors between 1982 and 1990;
- **Hybrid Court of South Sudan,** was formally established in January 2021, in accordance with the 2018 Peace Agreement, and the Government of South Sudan tasked its Justice Minister to establish the necessary institutions to operationalise the Court;

Article 81(iii), of the AUTJP, proposes that a key **benchmark** for the efficacy of judicial processes, is the "provision of **independent judicial and investigative institutions** that are endowed with the qualified personnel able to perform **judicial and investigative functions.**" There are a number of continental, regional and national processes that have established, and are establishing, judicial institutions which have and can contribute towards furthering the objectives of the AUTJP.

Article 83, of the AUTJP, also identifies the use of "plea bargaining as a prosecution strategy that offers assurances of reduced penalties or lighter charges for perpetrators in exchange for their full cooperation through fully revealing the truth about the crimes" in which they are implicated. Similarly, pardons can be utilised as official processes to exempt convicted criminals from serving the prescribed sentence that is issued to them. These mechanisms provide an additional array of interventions which enable societies to come to terms with the violations that have been committed in the past. Through vetting those who have been implicated or judged to have participating in past violations, individuals can be barred from being appointed to certain state functions due to their perpetuation of injustices.

4.8.1 African Court of Justice and Human Rights

On 1 July 2008, Member States of the African Union adopted the Protocol on the Statute of the **African Court of Justice and Human Rights, which in effect merged the African Court on Human and Peoples' Rights and the Court of Justice of the African Union** into a single Court. Subsequently, the AU adopted the Protocol on Amendments to the **Protocol on the Statute of the African Court of Justice and Human Rights**, also known as the Malabo Protocol. It will enter into force upon the ratification of the Malabo Protocol by 15-member states of the African Union, with instruments of ratification being deposited with the Chairperson of the AU Commission.

Article 28A, of the Malabo Protocol, states that "the International Criminal Law Section of the Court shall have the power to try persons for the crimes" of: **genocide; crimes against humanity; war crimes; the crime of unconstitutional change of government; piracy; terrorism; mercenarism; corruption; money laundering; trafficking of persons; trafficking of drugs; trafficking of hazardous wastes; illicit exploitation of natural resources; and the crime of aggression**. These crimes will not be subject to any statute of limitations.

Article 46H of the Statute of the African Court stipulates that the institution will 'be **complementary to that of National Courts**, and to the Courts of the regional

economic communities'.[1] The African Court will be empowered to try a case if an AU Member State is 'unwilling to investigate or prosecute in a particular case'.[2]

Article 79, of the AUTJP states that "in contexts where **Member States are unable to facilitate the prosecution of perpetrators** using such avenues due to legal, political, economic or social challenges, they should galvanize national and regional consensus for and cooperate with relevant **regional or international judicial processes that have jurisdiction.**"

This is a recognition of the fact that violations take place at different levels of society, and that justice systems designed for one level may not be appropriate for another level. A system of **concurrent jurisdiction** therefore encourages different courts to pursue judicial redress and accountability at the level within which they are most likely to be **effective in administering justice**. Such an approach makes judicial processes more responsive to the victims and survivors, by drawing them into the processes of pursuing redress for the violations that they have endured. A number of African Union Member States have domesticated some of the provisions of the Rome Statute and consequently they have a national jurisdiction to prosecute these crimes of international concern. This provides Member States with another option and forum for pursuing justice against perpetrators of egregious atrocities at the national level, in line with Article 79 of the AUTJP.

4.8.3 National Human Rights Institutions

Articles 100(i) and (vi) of the AUTJP suggests that a key benchmark for promoting and institutionalizing a culture of human and peoples' rights includes "restoring constitutional and legal rights to sections of society that might have lost them during conflict and/or authoritarian rule" as well as "promoting **institution building** of national structures **mandated to promote and protect human rights**, such as **national commissions for the protection of human rights**." This is aligned with the mandate articulated through the African Charter on Human and Peoples' Rights and the work that is conducted by the African Commission for Human and Peoples' Rights (ACHPR).

This is based on the recognition that human rights violations can lead to conflict, and that conflict situations also generate human rights violations. Therefore, **national human rights institutions contribute to transitional justice processes** through

1 African Union, Statute of the African Court of Justice and Human and Peoples Rights, Article 46H(1), (Addis Ababa: African Union, 2014).

2 African Union, Statute of the African Court of Justice and Human and Peoples Rights, Article 46H(3

their complaints-handling mechanisms, which mandate them to address and resolve issues relating to human rights violations. They can also contribute towards raising awareness in the wider society about the importance of protecting and defending the human rights of all citizens. National human rights institutions also assist Member States to uphold their responsibilities, which contributes towards strengthening governance and democracy.

Historically, a number of countries utilised commissions to establish a record of human rights violations, including:

i. Nigeria - Human Rights Violations Commission (1999);
ii. Rwanda – International Commission of Investigation of Human Rights Violations – (Non- governmental body convened from 1990-1993);
iii. Uganda – Commission of Inquiry into Disappearances (1971).

*In August 2018, the African Commission on Human and Peoples' Rights undertook a study on **Transitional Justice and Human and Peoples' Rights in Africa** which was formally adopted by the 24th Extraordinary Session of the African Union Assembly of Heads of State and Government. This study complements the provisions of the AUTJP.*

4.9 Redistributive Socio-Economic Justice

The legal approach to transitional justice is not always sufficient to effectively provide redress for **societal violations and economic crimes** which historical victims have endured, because these effects are less visible to the eye and are much more **complex to quantify** in terms of the specific transgressions which have been perpetrated against victims. Moreover, for situations in which a particular ethnic or racial group benefitted from the **economic exploitation** of another, the culpability is wide-spread across the society from the political leaders who implemented the policies to the constituencies that voted or supported them. In such a context it is much more difficult to pin-point the violators that should be prosecuted for economic crimes. More often than not processes that have to be adopted to promote redress would include a broad range of interventions which are clearly located outside the scope of a punishment model of transitional justice.

Article 64, of the AUTJP, the sub-section on "*Reparations*" states that "reparative justice consists of effective and adequate **financial as well as non-financial redress or**

restitution for violations or losses suffered." Furthermore, Article 67, notes that in addition to reparative measures "forward-looking redistributive measures that address underlying socio-economic marginalization and exclusion and contribute to preventing relapse to violence should be adopted."

In addition, Article 65, outlines the range of forms that reparations can take including: **material reparation, rehabilitation, collective reparation, moral reparation and healing of physical and psychological wounds** that have been endured.

Material Reparations

*Material Reparations include "the **restitution** of access and/or **title to property** taken or lost, **rebuilding of property** destroyed by violence", the provision of employment, monetary compensation … provision of **basic services, restitution of communal lands**, rebuilding of **health, education, security, judicial and other public service infrastructure** as well as the livelihood systems of affected communities" – Article 65(i)-(vi), AUTJP, Sub-section on **Reparations***

According to Article 70, AU Member States need to adopt and implement "policies that offer **educational and employment opportunities for youth**", including "mobilizing investment in social services such as **technical vocational training, infrastructure development and rural agricultural and pastoralist development schemes."**

Victims in transitional societies across Africa have criticised transitional justice measures which did not proactively pursue reparative measures through re-distributive justice. For example, the **Liberian Truth and Reconciliation Commission** found that 'the major root causes of the conflict were attributable to poverty, greed, corruption, limited access to education, economic social, civil and political inequalities'.[3]

In Sierra Leone, when victims were asked what the **Truth and Reconciliation Commission** should include in its recommendations, they responded: access to medical care, adequate housing and free education for their children.

In a number of conflicts across the continent, the demand for equitable land distribution has fuelled the conflict in the past. In particular, the inequality in

3 Liberian Truth and Reconciliation Commission, Final Report, Volume 1, (Monrovia, Liberia: Government of Liberia, 2009).

landholdings, illegal or unjust dispossession, and other land-related abuses is a recurring source of tension and conflict. Concretely, addressing the issues of **economic crimes and inequality** contributes towards advancing a national development programme, which addresses issues such as land restitution, which is viewed as a core factor promoting political instability in the country. The aspirations of victims in terms of social and economic redress therefore becomes vital to the transitional process.

Memorialization

*"Memorialization entails the measures beyond the immediate transitional period that are necessary for truth, reconciliation and healing, which involves the public acknowledgement of victims and the institutionalization of both societal dialogue across generations and non-impunity in national discourse" – Article 71, AUTJP, Sub-Section on **Memorialization***

In addition, Article 65(v), of the AUTJP, notes that there are also **moral or symbolic reparations** which involve non-material forms of reparations including public acknowledgement of harm done and atrocities committed as well as formal state apologies, as well as "the identification and exhumation of the bodies of loved ones, and the provision of support for burial ceremonies and **memorialization**."

Furthermore, Article 73, of the AUTJP, states that "memorialization could include **commemorative activities**, the **erection of monuments and symbols**, renaming of public spaces or buildings, review of artistic or cultural expressions as well as **national symbols and holy days** and/or the **revision of history texts and educational curricula.**"

Article 74, of the AUTJP, suggests that key benchmarks for effective memorialization processes includes the participation of **multiple voices and narratives** from across political, class, ethno-cultural and generational lines, with an emphasis on the inclusion of marginalised groups including women, youth, and the physically challenged.

4.10 Amnesties

South Africa's, Kenya's and Sierra Leone's Truth and Reconciliation Commissions operationalised amnesty provisions, which sought to directly address the peace

versus justice dilemma faced by these countries. These amnesty provisions were not intended to gloss over the violations of the past, but were rather supposed to be granted on the basis of a confessional process of truth-telling.

For example, South Africa's TRC convened an **Amnesty Committee**, whose task was to test the veracity of the claims made by those who submitted applications. The primary criterion was the need to demonstrate that the violations that individuals perpetrated were **'politically'** motivated in a broad interpretation of the term. Of the close to 6,000 amnesty applications that the SA TRC committee received, it only validated approximately **1,000 applications**, which means that a substantial majority was rejected. Some even ended up being directed to the South African judiciary, on the basis that they were not deemed to fall under the rubric of political crimes. Kenya, Sierra Leone and Liberia similarly adopted the amnesty provision in the framing of their own truth commissions, and this has contributed towards influencing how it is understood and implemented across the continent and around the world.

4.11 Transitional Justice and the Consolidation of Democratic Governance

Transitional justice includes the process of rebuilding the political, security, social and economic dimensions of a society emerging from conflict. It also includes addressing the root causes of the conflict and promoting social and economic justice as well as putting in place **political structures of governance and the rule of law** in order to consolidate peacebuilding, reconciliation and development.

Transitional justice is usually used as a bridge to help countries to restore their systems of governments, based on a constitution and the rule of law, in a way that manages the social, political and economic tensions within society. In this regard, the African Charter on Democracy, **Elections and Governance (ACDEG)** is a key document, which outlines a range of provisions on how countries can improve how they govern their societies.

Article 93, of the AUTJP, calls for "reforming critical institutions of the state, and where necessary **creating such institutions…**", this also requires "the creation of political and institutional arrangements, practices and values that ensure **democratic and socio-economic transformation and the prevention of the emergence of future violations.**"

Following the system of apartheid in South Africa, the society created new institutions to support its **constitutional democracy** including the: Office of the Public Protector; South African Human Rights Commission; Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic

Communities; Commission for Gender Equality; Auditor-General; Electoral Commission; Independent Authority to Regulate Broadcasting. These institutions, which are enshrined in the South African Constitution, are now being utilised to address the legacy of historical injustices in the country and build a more inclusive society, despite the continuing challenges of breaking with the structural inequality created by the system of apartheid.

4.12 Traditional Justice Mechanisms

There has always been customary rules, social sanctions and ethical values to regulate African societies. While each society has its own specific approach to dealing with social problems, some common themes emerge across societies. In the majority of African communities, the individual is not considered a separate, autonomous entity but always part of a larger collective of human beings. Family groupings give way to the formation of clan communities and then ethnic nations. These groupings had a responsibility to maintain **social harmony**. Due to the importance of maintaining harmony, peaceful approaches to resolving disputes were generally preferred to more confrontational and belligerent strategies, though these were also occasionally utilised. Most African societies have developed **rich cultural traditions**, of what is now known as transitional, restorative justice and reconciliation, for preserving harmony, making and building peace and maintaining this peace by cultivating group solidarity and avoiding aggression and violence.

Articles 57(v), of the AUTJP stipulates that there is a role and function for **positive traditional practices and customary norms** in the African context, including a focus on how they can complement the more formal state-led processes.

Non-state actors have played a key role in initiating **informal transitional justice processes**, in response to micro-tensions and crises, which has contributed towards addressing some of the unfinished business" of formal TJ processes.

Through state and society collaboration, African societies can utilise non-state actor led processes, such as **community-led truth-telling and reconciliation initiatives** like Fambul Tok in Sierra Leone; or Palava Hut in Liberia, which can then inform national-level processes.

Some of these practices have been mobilised by African states in TJ processes. For example, Rwanda's *gacaca* courts and Uganda's *mato oput* reconciliation framework operationalised indigenous norms restorative justice. The book *When Law Meets Reality: Forging African Transitional Justice* discusses how the utilisation of indigenous norms of restorative justice was a significant innovation that challenged how

transitional justice was predominantly conceived and understood.4 African societies have demonstrated that countries should explore the use of their own indigenous and tradition-based approaches when attempting to address the violations of the past.

Article 57, of the AUTJP, makes the case for the need to "support and respect **community-based accountability mechanisms …**" as well as to "promote communal dispute settlement institutions …provide that a person shall not be compelled to undergo any harmful traditional ritual."

4.13 Covid-19 and Transitional Justice in Africa

The devastating and wide-range effects of the Covid-19 has caused the disruption of human society on a global scale, with Africa being particularly affected by the pandemic. As an initial reaction to Covid-19, African governments called on their citizens to retreat within national borders, closed off international travel, and instituted militarized physical distancing lockdowns in order to "combat" the disease. This further amplified the vulnerabitlies of societies in African which were already devastated by poverty and inequality. A significant number of these African societies were in the process of addressing the injustices and violations of the past, so the trauma of Covid-19 further magnified the trauma, psychosocial and mental health challenges in these communities.

As the pandemic progressed it became clear that the only way to combat Covid-19, was not from behind the artificial borders that we as humans have placed on the Earth, rather it required the collective ingenuity, will and determination of the whole of humanity working as one unit to find both a vaccine and cure for Covid-19.

The provisions in the AUTJP relating to psychosocial support can be utilised strategically, thematically and programmatically towards mitigating against the trauma and mental health effects of Covid-19 in African communities, by providing guidance on how to address the loss of loved ones and to process grief in order to, as Article 62 states, *to come to terms with the loss* that has been endured. As Article 65(ii) notes transitional justice approaches can provide guidance on "the process by which affected **individuals and communities can mend the physical and psychological wounds that they have suffered**" through "the provisions of basic services, including victim-specific support such as **medical and psychosocial services**" as proposed by Article 65(iii). This can contribute towards building the individual and communal resilience required to address the effects of Covid-19

4 Okello, Moses, et. al., *Where Law Meets Reality: Forging African Transitional Justice,* (Nairobi: Fahamu, 2012).

05

Who is Responsible for Implementing Transitional Justice Processes?

Who is Responsible for Implementing Transitional Justice Processes?

The AUTJP identifies the key actors who are responsible for implementing transitional justice processes. Specifically, the AUTJP identifies the following actors who should take responsibility for its implementation including:

AU member states;

i. Regional Economic Communities (RECs) and AU institutions;
ii. Non-state actors, including members of civil socety.

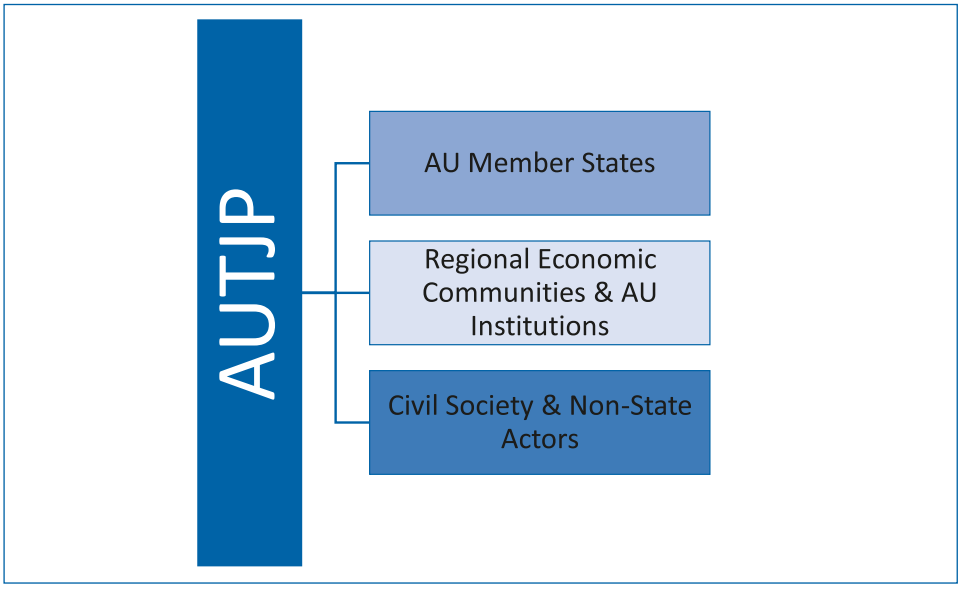


Figure 5.1 Key Implementing Actors of the AUTJP

National and State Responsibility for Transitional Justice

African Union "member states shall have the primary responsibility with respect for pursuing transitional justice processes" and that "they bear the responsibility for removing political and social impediments to the effective pursuit of transitional justice processes." – Article 116, AUTJP, Sub-Section on ***Actors***

5.1 AU Member States

Article 116, further notes that the AUTJP also stipulates that member states have the responsibility for **"guaranteeing the space for debate and advocacy on transitional justice** and mobilising the support of all sections of society across political lines." The AUTJP is an outcome of process that recognised the right of citizens to participate in framing transitional justice processes, specifically in the manner that it solicited and engagaged the views of Africans across the continent.

The AUTJP is framed in a manner that pre-emptively acknowledges that there might be some resistance to genuinely confronting the violations and injustices that were perpetrated in the past and putting in place processes that will address grievances as a means of preventing the cyclical recurence of tension and conflict in societies. Therefore, AU member states should adopt strategies that will facilitate national dialogue on transitional justice, in an open and inclusive manner.

AU Member States should also adopt strategies that can domesticate the provisions of the AUTJP into national legislatures and embed its recommended processes within permanent national institutions so as to ensure the sustainability of transitional justice initiatives at the national level. In effect, the AUTJP places a significant amount of responsibility on AU member states to oversee, plan and execute the implementation of the Policy.

5.2 Regional Economic Communities and Transboundary Disputes

As an over-arching issue, transitional justice is understood as relating to processes that are driven by the state and state actors. Contemporary approaches to transitional justice have an almost exclusive focus on national processes. Yet the national focus of transitional justice processes is increasingly unsustainable particularly in situations where conflicts, and their effects, spill over across borders. In addition, most conflicts are increasingly cross-border in nature and are in some instances sustained by cross-border support and resources.

Consequently, efforts to redress violations that emerge as a result of these conflicts are incomplete if they only focus on national actors and state-driven processes. It is necessary to find a way to pursue and promote transitional justice across borders. This raises the challenge of the prospects for institutionalising cross-border and regional reconciliation approaches to transitional justice.

Aricle 123, of the AUTJP states that "regional economic communities (RECs) should encourage all national actors to pursue transitional justice processes."[1] In terms of

1 African Union Transitional Justice Policy, pp.26.

the continental level, it calls for "key AU organs and institutions to provide leadership in the implementation of the AUTJP, including the African Union Commission" as well as the "AU Peace and Security Council, African Court of Human and Peoples Rights, African Development Bank, African Capacity Building Foundation" and the Pan-African Parliament.

The AUTJP states that "RECs play a key role in helping address the **regional and trans-boundary dimensions of conflicts or violent regression**, through promoting the normalization of relationships between affected neighbouring countries and creating a common understanding of transitional justice processes."[2] In effect, the AUTJP recognises that since conflicts, atrocities and violations are situated across borders, then we have to determine how reconciliation can also take place through ***"regional and trans-boundary"*** processes.

This would require implementing processes of truth recovery, accountability and redress across borders as preliminary processes to the pursuit of **regional reconciliation.**[3] The practicalities of how we operationalise regional reconciliation are challenging but not impossible to institute.

The reluctance of nation-states to devolve their sovereignty and to adopt processes that fall outside of their sphere of authority and control - through the establishment of cross-border institutions – will be the primary obstacle to implementing regional reconciliation.

The AUTJP's championing of a policy of **regional and trans-boundary transitional justice**, is a recognition of the limitations of retaining a state-centric approach towards dealing with the past and ensuring redress and accountability.

Applying a regional lens to transitional justice and reconciliation processes, requires that the war-affected states and communities in close proximity to each other recognise their regional interdependence. Furthermore, these states and communities need to engage in a genuine regional dialogue, based on a democratic attitude, in order to identify the issues that have caused deep divisions and generated violence in the past. Ultimately, the states and communities need to actively work in a collaborative manner to address the legacies of socio-economic exploitation.

2 African Union Transitional Justice Policy, p.26.

3 Tim Murithi and Lindsey McClain Opiyo. "Regional Reconciliation in Africa: Policy Recommendations for Cross-Border Transitional Justice Policy Brief no. 14, No.14, 2014, Cape Town: Institute for Justice and Reconciliation

Like in processes for promoting reconciliation nationally or locally, regional reconciliation mechanisms require the creation of spaces to develop inclusive narratives on the past and shared visions for the future.

The emphasis has been on pursuing national solutions or inward-looking state-centric solutions, to problems that require the adoption of a more expansive regional perspective. Consequently, governments and inter-governmental organisations could adopt regional and trans-boundary transitional justice initiatives as a strategic objective of their policies that focus on stabilising and promoting inclusive societies.

In practical terms, regional actors have to find collective solutions to the conflicts contained in their sphere of influence by leveraging the AUTJP to guide countries to implement their own localized national processes. Consequently, RECs should develop regional strategies to ensure a coordinated approach to promoting regional and trans-boundary transitional justice and reconciliation processes. However, the lack of resources and capacity means that these mechanisms remain incapable of promoting and sustaining regional peace, justice and reconciliation. Therefore, it is necessary for RECs to develop their regional strategies for the implementation of the AUTJP, to complement their existing peace and security frameworks.

A regional reconciliation process would typically require the **negotiation between governments** of how to frame and operationalise transitional justice processes. This requirement of cross-border negotiation would mitigate against each individual state manipulating transitional justice processes.

The **people-to-people** exchanges are already a common feature of the regional reconciliation landscape and are happening in some parts of Africa, notably in the borderlands of eastern DRC, Rwanda and Burundi, as well as historically in the **Mano River Union countries – Sierra Leone, Liberia and Guinea**. People-to-people approaches to regional reconciliation can be convened by civic, academic, business and cultural leaders without the approval of the states, though they can benefit from the support of governments. Consequently, people-to-people processes are developing new norms of cross-border transitional justice.

Arguably the most prominent instance of people-to-people regional reconciliation have occurred in the Horn of Africa. The region has endured the debilitating effects of violent conflict for several decades, notably as a result of the South-Sudan-Northern-Uganda conflict nexus and the Somali conflict system. Despite policy frameworks and the utilisation of significant resources to stabilise affected countries, conflicts in the region have remained resistant to resolution. The Horn of Africa's crises demonstrate that conflicts have a tendency to spill across borders, affecting

communities in more than one country. They also demonstrate that intra-state conflicts usually have a regional dimension, as they include more than one state as either the primary or secondary actor.

Regional economic communities have an important role in designing and designating mechanisms to support processes of Member States. In particular, **IGAD and ECOWAS** have engaged with the AU on utilising the provisions of the AUTJP to develop their own transitional guidelies at the regional level. This will enable the RECs to provide effective support and reinforce the work that is being done on continentally at the regional level. For example, IGAD is developing a *Regional Reconciliation Policy* and ECOWAS is developing *Guidelines on Transitional Justice* for its Member State. In this regards, REC's can play a complementary role in assisting individual AU member states to develop their own in-country transitional justice processes and mechanisms.

5.3 Civil Society and Non-State Actors

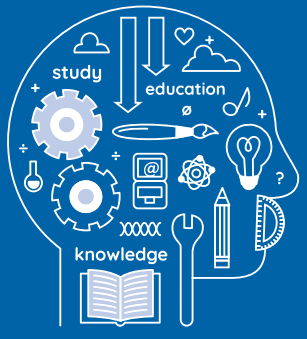
Article 129 of the AUTJP proposes that "the process for national dialogue, reconciliation and healing should enable **faith leaders, traditional and community leaders**, not only to play an active part in such processes … but also pursue intra- and inter-community dialogue, reconciliation and healing at local levels." In effect, the AUTJP mandates local actors including community leaders to play a proactive role in the implementation of the AUTJP and in the creation of national spaces for dialogue on the approach that will be appropriate for specific countries and communal groups.

About 70 per cent of the total population of Africa is made up of youth between the ages of 18-35. New technologies and social media platforms have allowed for an unprecedented level of youth activism. Therefore, **AU Member States and societal actors** need to engage and utilise broadcast, print and social media to promote public support and involvement in transitional justice processes. This will contribute towards enhancing the level of understanding of the issues and functions of the transitional justice mechanisms among the wider Pan-African citizenry. This can be achieved by targeted social media campaigns designed to raise awareness and popularize the AUTJP, with examples such as on the twitter platform through: #AUTJP; #TJinAfrica; and #TJinSADC.

Pan-African citizenship is now a reality on the African continent, because the African Union Passport has been issued to Heads of State, Ministers and Ambassadors. Through the operationalisation of the *AU Protocol on the Free Movement of People*, there are ongoing processes to ensure the further roll out of the AU Passport to all Africans across the continent. This will enable individuals, communities, private sector actors to work across the continent without any hindrances.

06

Knowledge Management



Knowledge Management

It is important for societies in transition to continuously review their efforts and impact of implementing the provisions of the AU Transitional Justice Policy, at the national and regional level. The knowledge and skills transfer to African Union member state officials and societal actors is enabling them to design and drive their own local initiatives to pursue fairness and inclusion towards the deepening of democracy as stipulated in the AUTJP. The evidence for this is the number of African countries that are operationalising transitional justice processes, for example, the Burundi Truth and Reconciliation Commission, Gambia Truth, Justice, Reparation and Reconciliation Commission, or the work of the Central African Republic's Local Peace and Reconciliation Committee's, which are based in the Ministry for Humanitarian Action and National Reconciliation.

The interventions by governments, inter-governmental and non-governmental actors need to ultimately cumulatively contribute towards achieving the impact of promoting just, inclusive and democratic societies. These developments need to be measured through monitoring, **evaluation, learning and implementation** processes.

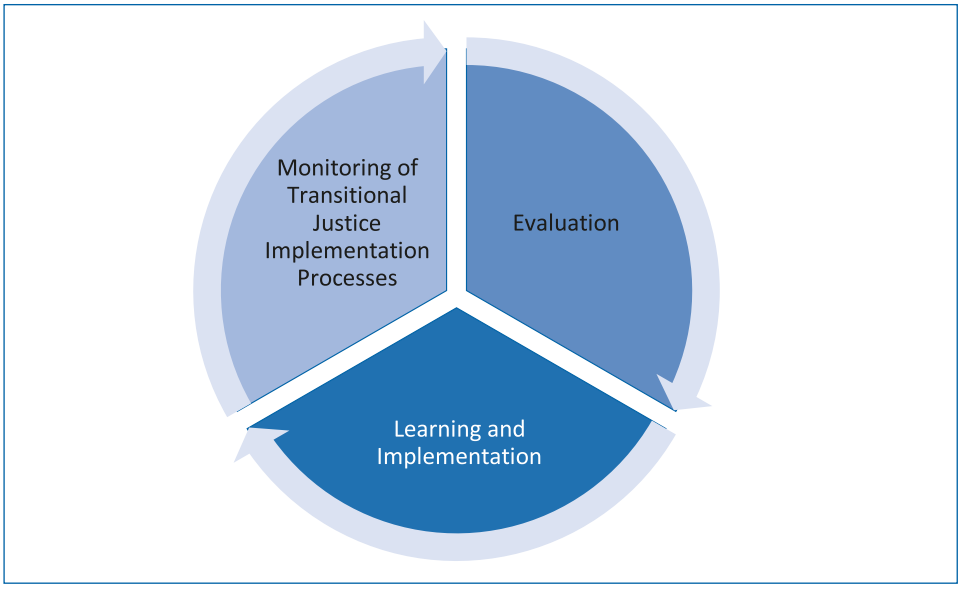


Figure 6.1 Monitoring, Evaluation and Learning of AUTJP Implementation Processes

In terms of the experiences with implementing aspects of the AUTJP, it is equally important to develop processes of knowledge sharing so as to contribute towards an improved understanding of the AUTJP across the continent. In particular, documenting lessons learned so that other Member States and societies can benefit from the best practices drawn from across the continent.

In this regard, AU Member States need to proactively work to mobilize and develop the technical expertise available within the continent to advise and support the implementation of transitional justice processes in the interest of the countries and affected communities. Such expertise would be involved in assessing and gauging the extent to which its national programmes and projects achieve the outcomes that they set out to advance.

The AUTJP Roadmap for Implementation has established an **AUTJP Reference Group and Community of Practice and Innovation** that provides guidance to the AU Commission, Member States and societal actors on approaches to utilising the provisions of the Policy. In addition, the Roadmap also includes the annual African TJ Forum, continental platform which includes Member States, RECs, civil society actors, academics, and analysts. In this manner, the AU Commission and AUTJP Roadmap envisions the transformation of the landscape of transitional justice discourse for it to become an African-owned and anchored on a Pan-Africanist approach.

6.2 The Review of the Implementation of Transitional Justice Processes

Article 135, of the AUTJP also envisages a technical role for civil society and think-tank actors to "support the production of relevant **research and studies**" through processes that systematically "collect best practices and facilitate the sharing of such best practices with societies contemplating or pursuing transitional justice processes."

Therefore, it is important to create a continental network of **transitional justice practitioners, researchers and analysts, from civil society, think-tanks and governments**, who can provide technical support and guidance to all of the fifty-five Member States of the AU which require some form of transitional justice intervention, if they have not already done so, in order to sustaining peace in the future.

The **benchmarks** outlined in the AUTJP, can be utilised to establish baseline measures that can be adopted to ensure that the interests of **vulnerable groups** (women,

youth, children, elderly, persons with disabilities, Internally Displaced Persons, refugees and asylum-seekers) are integrated into laws, policies, and mechanisms.

The South African Reconciliation Barometer (SARB) is a public opinion survey conducted by the South African Institute for Justice and Reconciliation. Since its launch in 2003, the SARB has provided a nationally representative measure of citizen's attitudes to national reconciliation, social cohesion, transformation and democratic governance. It is an important resource for encouraging national debate, informing decision-makers, developing policy and provoking new analysis and theory on reconciliation in post-conflict societies.

Civil society actors, think tanks and academics therefore have an important role to play in the **evaluation and review of transitional justice processes**, which generates insights which can be utilised by AU Member States to guide the future implementation of their own processes. The **South African Reconciliation Barometer (SARB)** conducted by the Institute for Justice and Reconciliation, provides **an important model and methodology** of how to conduct the monitoring and evaluation of national reconciliation processes. These surveys can be utilised to create the reflection and knowledge production spaces that are required to enable the AU Member States and societal actors to interrogate their past practices, emerging challenges and successes in developing and implementing transitional justice processes.

07

Resource Mobilization

Resource Mobilization

Article 131, of the AUTJP, states that "an essential component of the transitional process" is "national ownership" and its states that the "allocation of funds should be made in national budgets for the implementation of national transitional justice policies and programmes." It is therefore important to utilise Member States national budgets to finance and support the elaborate, what can be lengthy and resource intensive transitional justice processes. In a number of countries such as Côte d'Ivoire, Liberia, Kenya, Mauritius, Sierra Leone, South African and Tunisia national budgets were allocated to finance and support the truth commissions and other institutions that were established to anchor transitional justice in these countries.

7.1 Continental Level

At the continental level there are opportunities of engaging the PAPS and its partners, on the provision of technical assistance to design and implement transitional justice processes. The African Peace and Security Architecture (APSA) the AU Permanent Representatives Committee, the African Governance Architecture (AGA) Platform, Sub-Committee on Human Rights, Democracy and Governance also regularly issue statements on thematic aspects of transitional justice which can provide further guidance to Member States and societal actors.

7.2 Regional Level

At the regional level, IGAD and ECOWAS are developing their own sub-regional guidelines for mobilising and designating resource for transitional justice which will provide additional guidance to AU Member States on how they can develop and implement their national transitional justice processes.

Member States in the West African region can engage with the African Transitional Justice Legacy Fund (ATJLF), which supports community-based and survivor-led transitional justice processes and projects for the region. The AU and Member States can also develop similar funds for other regions of the continent.

7.3 National Level

At the national level, there are governmental and societal actors who can be engaged to generate resources and provide guidance on the development of programmatic interventions, such as the multi-stakeholder training of civil servants and civil society actors, who can then anchor and drive national conversations on transitional justice and peacebuilding processes in government departments and

societal associations. In addition, the African Diaspora can mobilise resources for the national implementation of transitional justice process.

7.4 Alternative Sources of Financial Support

There are **alternative sources** of additional complementary financial support for transitional justice processes, including engaging the private sector actors who may have benefited from past injustices, such as **colonial era perpetrators.** Some members of the **Mau Mau**, also known as the Kenya Land and Freedom Army (KLFA), successful pursued a court case in the United Kingdom and were granted reparations for the harm done and injustices that they suffered in the hands of British colonial regime in the middle of the twentieth century. Germany also offered to pay reparations to the descendants of the **Nama and Herero** people who suffered genocide at the hands of the Germany colonial regime, at the turn of the twentieth century. In addition, the global **multi-national corporations (MNC)** that benefited from historical exploitation due to heavy industrialization, pollution and the degradations of the environment, can be held accountable and requested to pay reparations to African countries, as part of environmental redress. The Khulumani Support Group, based in South Africa, which represents a growing database of more than 100,000 victims and survivors, was successful in pursuing justice and compensation against multinational corporations that exploited people and benefited from the abuses of the apartheid regime.

08

Conclusion

Conclusion

This AUTJP Resource Guide provides additional information to assist African countries that are emerging from conflict or transition from authoritarian rule, who will be confronted by the immediate challenge of peacebuilding, as well as the demands for justice for the victims of human rights atrocities.

Traditionally, the pursuit of justice was considered detrimental to achieving peace and reconciliation, which are inherently political processes. However, Africa's experiences and the AUTJP in particular, have challenged this presumption and demonstrated the necessary **interface between transitional justice and peacebuilding processes.**

This Resource Guide discusses why it is necessary to sequence transitional justice interventions so that the pursuit of peace processes can contribute towards preventing the further loss of life. Consequently, the administration of justice can be pursued in a way that does not undermine the fragile peace which can further destabilise societies.

This Resource Guide also discusses why it was necessary to expand beyond the traditionally narrow focus of transitional justice on civil and political issues, to include socio-economic and psycho-social issues.

This Resource Guide discusses how culture gives distinctiveness to a particular society's way of doing things. There is a need to draw upon Africa's indigenous knowledge systems, and culture of transitional justice. However, such an activity has to be informed by the fact that Africa is not a homogenous entity and within its societies there is a vast array of different approaches to dealing with the issues of peace and justice.

This Resource Guide also notes how Africa's experiences have also demonstrated a need to adopt a regionalised approach to dealing with the past through trans-boundary engagements. Despite the growing acknowledgment of regional conflicts, regional reconciliation processes are not being sufficiently implemented.

The AU declared **2014-2024 The Madiba Nelson Mandela Decade of Reconciliation in Africa**, so it is timely that the AUTJP was adopted in 2019, almost half-way through this designated period. However, the continent still has a way to go to stabilize all of its five (5) regions and consolidate peace and security for its people. The fact that all countries around the world need to engage in some form

of transitional justice process which emphasizes introspection in order to address the existing grievances in their societies, means that the AUTJP stands out as a **global example** for other regions to follow.

The AUTJP is a welcome addition to the arsenal of policy documents that can contribute towards the promotion of peace and security, but it is not a panacea or a **magic bullet** that will solve the continent's problems. Governments and societies will have to undertaking the challenging, arduous, painstaking and excavational work of addressing the violations and exploitation of the past, which is vital towards **forging and building stable societies across the African continent.**

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Websites

https://www.csvr.org.za/ - Centre for the Study of Violence and Reconciliation

https://www.ijr.org.za/ - Institute for Justice and Reconciliation

https://www.refugeelawproject.org/ - Refugee Law Project, Makerere University

https://www.ictj.org/ - International Centre for Transitional Justice

https://www.ulster.ac.uk/transitional-justice-institute/home - Transitional Justice Institute

About the Political Affairs, Peace and Security Department

During the Eleventh Extraordinary Session held in Addis Ababa, Ethiopia on 17-18 November 2018, the AU Assembly rationalised and established six (6) portfolios, among which Political Affairs, Peace and Security (PAPS) was created as a merger of two separate departments namely the Political Affairs and the Peace and Security Departments.

The new department focuses on two of the four key priorities of the African Union, namely political affairs and peace and security. It indirectly contributes to the other two namely economic integration and Africa's global representation and voice.

PAPS' mandate contributes to the Pan-African vision of an integrated, prosperous and peaceful Africa driven by its own citizens and representing a dynamic force in the international arena as articulated in Agenda 2063; Africa's long-term blueprint for socio-economic development and structural transformation. Of the seven core aspirations of Agenda 2063, PAPS is tasked to contribute towards the realisation of two. The first is Aspiration 3, which envisions "an Africa of good governance, democracy, respect for human rights, justice and the rule of law "and the second is Aspiration 4, which envisions "a peaceful and secure Africa". In this regard, the mandate of this PAPS is to contribute to the efforts of Member States and Regional Economic Communities and Regional Mechanisms (RECs/RMs) towards advancing democratic governance, inculcating a culture of human rights, the rule of law and constitutionalism as well as the prevention, resolution and management of conflict and disruptive crises. In line with the principles of the Constitutive Act, the new Department shall promote peace and stability, good governance, democracy and human rights as a foundation for inclusion, security and the development of the continent and its people.

The core functions of the Department include:

- Continuous monitoring of Africa's political, peace and security trends;
- Timely assessment, analysis and reporting on political, peace and security trends through early warning systems;
- Support conflict prevention through the development and dissemination of legal and policy frameworks on governance, political, peace and security issues;

- Capacity building and training on relevant political, peace and security issues involving participants of Member States and RECs/RMs;
- Co-ordinate the development of Common African Positions (CAP) on relevant political, peace and security issues as well as the provision of technical support and assistance
- Ensuring complementarity and synergy in the implementation of the African Governance Architecture (AGA) and the African Peace and Security Architecture (APSA);
- Support conflict management efforts, including peace- support operations as well as mediation and dialogue interventions;
- Support post-conflict reconstruction and development policy and strategy development.

In February 2019, the AU Assembly of Heads of State and Government formally adopted the *African Union Transitional Justice Policy (AUTJP)* which provides a broad range of provisions on how Member States can address the historical injustices and violations that have been endured by their citizens, as well as lay the foundations for redress, accountability, peacebuilding and reconciliation. PAPS is the lead Department that is working on the awareness raising, capacitation and implementation of the provisions of the AUTJP.

Expert Validation Workshop on The Draft Resource Guide

African Union Commission, Ethiopia
01 and 02 November 2021

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