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# The State of Transitional Justice in Africa

Volume 1

Benchmarking Country Processes

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*The project seeks to facilitate the domestication of the African Union Transitional Justice Policy through technical assistance, knowledge production, and management and support for civil society across Africa.*

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# 01

# Executive Summary

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This report provides an assessment of the state of transitional justice in Africa, with a particular focus on 10 countries with diverse contexts in different regions of the continent and at various stages of transitional justice: Libya, Mali, Ethiopia, The Gambia, South Sudan, Lesotho, Guinea-Conakry, Democratic Republic of the Congo (DRC), Central African Republic (CAR) and Burundi.

The report provides a comparative analysis of the transitional justice processes in these 10 countries, through the lens of the 11 indicative elements of transitional justice in the African Union Transitional Justice Policy, namely peace processes, justice and accountability, reconciliation and social cohesion, managing diversity, reparations, memorialisation, redistributive (socio-economic) justice, transitional justice commissions, African traditional justice mechanisms, political and institutional reforms, and human and peoples' rights, as well as cross-cutting issues such as gender inclusivity and the role of civil society organisations.

Insights from the study suggest that effective peace processes are critical for ending violence and laying the groundwork for sustainable transitional justice, while integration of transitional justice considerations into peace negotiations helps address causes of conflict more comprehensively. Accountability for human rights violations through trials and other legal proceedings faces the challenge of political will but is necessary for reinforcing the rule of law and deterring future abuses. Comprehensive reparations programmes and addressing socio-economic inequalities through redistributive justice, meanwhile, are vital for restoring dignity to victims and addressing drivers of conflict and preventing future violence.

Participation in transitional justice processes, particularly of often marginalised groups such as women, youth and internally displaced persons, aims to ensure that their needs and perspectives inform the processes and are addressed. Civil society organisations have played a pivotal role in this, by promoting complementarity of formal mechanisms, advocating for victims' rights, raising awareness, and advancing the implementation of transitional justice initiatives and recommendations. Traditional justice mechanisms are vital but challenging as a consequence of the diversity of cultural beliefs and their rootedness in mostly patriarchal norms.

Finally, the impact of conflict and oppression on women's lives is central to this study. Of particular significance is recognition of socio-economic justice and holistic, appropriate justice and reparations mechanisms that address the intentional targeting of and discrimination against women during periods of oppression or conflict.

The study has yielded numerous recommendations for policy makers, practitioners, scholars, donors and other stakeholders in transitional justice in Africa, particularly the following:



Demonstrate a strong commitment to implementing transitional justice processes and recommendations, including creating and enforcing laws that support transitional justice processes and ensuring the independence of transitional justice institutions.



Ensure the participation of victims, women, youth and other marginalised groups in all stages of transitional justice processes, through public consultations, educational campaigns and the inclusion of these groups in decision-making bodies.



Blend modern legal standards with traditional justice practices to foster local ownership and acceptance, by recognising and incorporating traditional conflict resolution methods and cultural practices into formal transitional justice processes.



Allocate sufficient financial and technical resources to support comprehensive transitional justice initiatives. This requires regional and international support, while national and international partners should provide training and capacity-building support for transitional justice practitioners.



Support from regional and international organisations to enhance capacity building and resource mobilisation is important for transitional justice in Africa. Engagement with bodies like the African Union, the United Nations and various civil society organisations can facilitate technical assistance and financial backing.



Measure progress and adapt strategies to evolving needs and challenges. National human rights institutions should engage in regular monitoring and evaluation of transitional justice processes, as well as in proposing necessary adjustments based on feedback and changing circumstances, which helps ensure effective implementation.

While the various countries in the study face challenges in transitional justice implementation, the African Union Transitional Justice Policy principles and elements provide a relevant and well-designed framework for pursuing sustainable peace, justice and reconciliation through context-specific transitional justice. By learning from the experiences of these countries and adopting a holistic approach, the African continent can address its complex legacies and build stronger, more inclusive societies.

# 02

## Introduction

### 2.1 The Importance of Transitional Justice in Africa

The African Union Transitional Justice Policy (AUTJP) states that transitional justice (TJ) *refers to the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation.*<sup>1</sup>

TJ is meant to assist societies with legacies of violent conflicts and systemic or gross violations of human and peoples' rights in their effort to achieve transitions to a future of justice, equality and dignity. At the heart of TJ is the imperative for healing, reconciliation and guarantees of non-repetition. In the aftermath of conflict or authoritarian rule, societies are left divided, with deep-seated grievances and mistrust among communities, in addition to often dysfunctional institutions incapable of fulfilling their roles. TJ mechanisms serve as a medium for societies to come to terms with their past through truth-telling and acknowledgement of past wrongs, redress for victims, accountability for perpetrators, and institutional reforms.

The importance of TJ in the African context lies in the multi-pronged approach to addressing the multi-layered legacies of conflict and human rights abuses. Given Africa's history of slavery and colonialism, its diversity and post-independence governance challenges, and its structural inequalities and prevalence of conflicts, TJ provides a framework for remedy through various modes of justice beyond the conventional notion of retributive justice. This is reflected in the rationale and objectives of the AUTJP, which include the need to address the root causes of conflict, to promote healing and reconciliation, and to establish mechanisms for preventing the recurrence of violence.

1 African Union. 2019. Transitional Justice Policy. Addis Ababa: African Union. Available at: [https://au.int/sites/default/files/documents/36541-doc-au\\_tj\\_policy\\_eng\\_web.pdf](https://au.int/sites/default/files/documents/36541-doc-au_tj_policy_eng_web.pdf) [Accessed 10 August 2024].



*The AUTJP, adopted in 2019, offers a comprehensive framework to guide member states transitioning from conflict or authoritarian rule towards peace, stability and democracy.*

## 2.2 Development of the African Union Transitional Justice Policy

The AUTJP, adopted in 2019, offers a comprehensive framework to guide member states transitioning from conflict or authoritarian rule towards peace, stability and democracy. Within the African context, where numerous countries have grappled with the legacies of violent conflicts and systemic violations of human and peoples' rights, the AUTJP offers a beacon of hope by providing a structured approach to addressing the multi-faceted challenges of post-conflict or post-authoritarian societies, aiming not only for justice and accountability but also for reconciliation, healing, equitable co-existence and the prevention of future conflicts.

During their 10<sup>th</sup> anniversary meeting in May 2011, the AU Panel of the Wise, one of the AU Peace and Security Council pillars, developed the report, *Non-Impunity, Truth, Peace, Justice, and Reconciliation in Africa: Opportunities and Constraints*.<sup>2</sup> This report recommended that the AU Commission work with all stakeholders, particularly AU member states and members of the Human Rights and Transitional Justice cluster of the African Governance Architecture (AGA), to develop a TJ policy. Additionally, the AU Assembly's decision on the theme of the January 2011 Summit, "Towards Greater Unity and Integration through Shared Values",<sup>3</sup> and the declaration of 2014–2024 as the "Madiba Nelson Mandela Decade of Reconciliation in Africa" were steps towards the development of the AUTJP.

2 African Union Panel of the Wise. 2013. *Peace, Justice, and Reconciliation in Africa: Opportunities and Challenges in the Fight Against Impunity*. Addis Ababa: African Union. Available at: [https://www.ipinst.org/wp-content/uploads/publications/ipi\\_epub\\_peace\\_justiceafrica2.pdf](https://www.ipinst.org/wp-content/uploads/publications/ipi_epub_peace_justiceafrica2.pdf) [Accessed 10 August 2024].

3 Assembly of the Union Seventeenth Ordinary Session 30 June–1 July 2011 Malabo, Equatorial Guinea. Discussion Paper "Towards Greater Unity and Integration Through Shared Values". Available at: <https://archives.au.int/handle/123456789/9098> [Accessed 10 August 2024].

The policy is founded on several key AU commitments and ideals, including AU Agenda 2063 and its first Ten-Year Implementation Plan, which aimed to achieve the “Africa We Want” by declaring an end to all wars in Africa by 2020. The 2008 AU High-Level Panel on Darfur report provided recommendations on integrated TJ and reconciliation responses, emphasising the importance of national processes and special courts alongside truth-seeking and reconciliation efforts. Article 4(o) of the Constitutive Act of the AU also calls for the peaceful resolution of conflicts, respect for human life, and the condemnation and rejection of impunity, while Article 4(h) empowers the AU to intervene in cases of mass atrocities, grave human rights abuses, crimes against humanity, and genocide within its member states.



*The AUTJP's emphasis on practical outcomes, sustainability and continuous stakeholder engagement reflects a pragmatic, dynamic and tailored approach to TJ. It is a visionary framework embodying the aspirations and realities of African nations in building peaceful and socially cohesive societies.*

Furthermore, Article 19 of the African Charter on Human and Peoples' Rights guarantees the right to equality and proscribes oppression. Articles 6 and 14 of the Protocol Relating to the Establishment of the Peace and Security Council of the AU mandate peacekeeping and peacebuilding efforts to restore the rule of law and establish conditions for post-conflict rebuilding. Articles 40, 41 and 42 of the AU Policy on Post-Conflict Reconstruction and Development also highlight the need to protect human and peoples' rights.

The AUTJP represents a significant achievement, establishing a continental model of TJ tailored to the unique challenges, cultural nuances and historical contexts of African countries. It incorporates international, regional and domestic legal norms, as well as informal and traditional approaches, providing clear reference points for state and non-state actors involved in reconciliation, non-repetition and nation-building, all essential to peacebuilding and sustainable human development.

The policy outlines benchmarks and standards for measuring progress, ensuring accountability, and adapting strategies to meet evolving needs and challenges. The AUTJP's emphasis on practical outcomes, sustainability and continuous stakeholder engagement reflects a pragmatic, dynamic and tailored approach to TJ. It is a visionary framework embodying the aspirations and realities of African nations in building peaceful and socially cohesive societies. By promoting cultural sensitivity, a holistic and inclusive approach, and a commitment to implementation and sustainability, the AUTJP offers practical strategic proposals for the design, implementation, monitoring and evaluation of African TJ processes.

## Indicative Elements and Cross-Cutting Issues of Transitional Justice

The 11 indicative elements of TJ in the AUTJP may be considered building blocks for member states to adapt and use in designing and developing TJ policies and strategies.

At the heart of the AUTJP is a focus on “peace processes” as critical initial steps towards ending violence and securing a foundation for sustainable peace. These processes, which encompass peace negotiations and security guarantees, particularly focus on the protection of civilians, including women, children and marginalised groups.

Another pivotal element of the policy is the establishment of “transitional justice commissions”, tasked with investigating and documenting the legacies of violent conflicts and gross violations of human rights, establishing historical records, and making recommendations for reforms and prevention of recurrence. Recognising the unique socio-cultural realities of Africa, the policy also underscores “African traditional justice mechanisms” as an indicative element. By adapting and integrating these traditional practices with international norms and standards, the policy envisions a trusted justice system that respects local customs while promoting global human rights standards.

The element of “reconciliation and social cohesion” acknowledges the significance of rebuilding trust and cooperation among communities torn apart by violence. It advocates for measures that facilitate forgiveness, address structural inequalities, and promote inclusive development as pathways to healing. Furthermore, “reparations” are highlighted as essential for providing both material and moral redress to victims, thereby restoring dignity, promoting equality and laying the groundwork for social cohesion.

“Redistributive (socio-economic) justice” seeks to address the socio-economic marginalisation that is often a root cause of violence and to rectify structural inequalities and ensure equitable development. “Memorialisation”, meanwhile, involves acknowledgement of victims through symbolic means, including the erection of monuments and establishment of commemorative events and holidays to honour the memory of victims, confront the atrocities of the past, and commit to “never again”.

“Diversity management” is envisaged through educational programmes and regulatory measures against hate speech. Through “justice and accountability” in the form of investigations and prosecution of crimes, meanwhile, the AUTJP aims to promote social cohesion, tolerance and a culture of accountability.

The AUTJP's emphasis on "political and institutional reforms" promotes the transformation of state institutions to embed transparency, human rights and accountability, and thereby foster peace and justice across Africa. These reforms prioritise the participation of marginalised groups, such as women and youth, in decision-making processes. Key measures proposed include constitutional reforms, decentralisation of power, security sector reform and the establishment of independent oversight bodies, in addition to vetting processes and integration of traditional practices.

Finally, the policy places strong emphasis on promoting and institutionalising the element of "human and peoples' rights", ensuring the protection and participation of all members of society, including women, children, youth, the elderly and persons with disabilities, in TJ processes. The AUTJP thus aims to build inclusive societies where the rights and dignity of every individual and collective are respected and protected.

In addition to these indicative elements, the AUTJP puts specific emphasis on the protection of various marginalised groups, particularly women, children, youth, the elderly and persons with disabilities, in the design and implementation of TJ. The policy acknowledges the specific injustices and vulnerabilities these groups face. It strongly recommends promoting their active participation in peacebuilding efforts and ensuring that TJ measures are inclusive and equitable for sustainable peace and development across Africa.

## 2.4 Report Purpose, Scope and Methodology

This report assesses the current state of TJ processes across Africa and their alignment with AUTJP standards. It aims to enhance understanding and implementation by documenting progress, challenges and achievements in 10 African countries that are representative of different regions, contextual specificities and stages of TJ. The report offers insights and recommendations to policy makers, practitioners, civil society organisations (CSOs) and other stakeholders involved in TJ efforts. The analysis covers TJ initiatives in Libya, Mali, Ethiopia, The Gambia, South Sudan, Lesotho, Guinea-Conakry, DRC, CAR and Burundi.

The study is based primarily on 41 interviews with key TJ stakeholders, supplemented by desk research. This approach was designed to provide well-rounded but also localised perspectives on the TJ processes in the 10 countries. Participants were selected to ensure a wide representation of views, and included government officials involved in TJ policies, representatives of TJ bodies, CSOs, victims or their representatives, and scholars (targeting five from each country). To complement the interviews, a review was done of TJ literature, including academic publications, reports from non-governmental organisations (NGOs), CSOs and national human rights institutions, and policy documents on TJ from the 10 countries. Publications from CSOs and community-based organisations were included to provide grassroots perspectives.



*The report offers insights and recommendations to policy makers, practitioners, civil society organisations and other stakeholders involved in TJ efforts.*

The interview data were analysed using MAXQDA software for qualitative research, to identify trends, challenges and achievements. This analysis was guided by the benchmarks and standards of the AUTJP. Throughout the development of the report, a gender lens was adopted to ensure the perspectives of women, youth and minorities were adequately represented.

This study has several limitations. Securing the targeted five interviews was challenging in some countries, necessitating a greater reliance on desk research. Additionally, given the dynamic nature of TJ processes, some situations may have evolved between the time of data collection and the publication of the report, potentially impacting on the findings. It is important to note that this report relies on information current as of December 2024.

Finally, the report presents the majority view on the TJ processes, not necessarily the consensus of all interviewees. Given the sensitive nature of the information shared, informed consent was obtained from all participants, and their confidentiality was maintained where requested. It will thus be noted that in some cases, the specific names of persons making comments is replaced by a generic description, such as “academic” or “victim”.

The report presents a profile of the 10 target countries. For each country a concise overview of the background and evolution of TJ is offered, followed by an examination of the TJ initiatives in relation to the most relevant elements of the AUTJP for each country. The impact and challenges of the TJ efforts are assessed, concluding with a summary of the current state of TJ in each context. The report then provides a discussion and cross-country analysis of the various contexts, using the indicative elements of the AUTJP as a framework. Finally, the report concludes with recommendations aimed at key stakeholders, addressing the specific challenges identified in each context.

## 3.1 The State of Transitional Justice in Libya

### 3.1.1 Introduction

Libya has experienced major political and social upheaval since the 2011 uprising that led to the fall of Muammar Gaddafi's 1969–2011 dictatorship. The Transitional Justice and National Reconciliation Law of 2012 began the TJ initiative in Libya. It was replaced by the 2013 Transitional Justice Law,<sup>4</sup> aiming for a more comprehensive framework with the establishment of the Fact-Finding and Reconciliation Commission (FFRC).<sup>5</sup> However, political fragmentation has resulted in two separate authorities running different parts of the country, hampering TJ efforts.<sup>6</sup>

A Libyan academic interviewee noted that key elements of the TJ Law, such as issuing executive regulations and making the FFRC operational, have not been implemented. The 2013 Political Isolation Law, aimed at vetting public officials associated with the Gaddafi regime, was widely criticised for deepening political divisions and impeding reconciliation. Additionally, he noted that the country's accountability mechanisms were biased, granting amnesty to anti-Gaddafi forces while targeting former regime officials and supporters for prosecution, such as Saif al-Islam Gaddafi and Abdullah al-Senussi. This indicates the shortcomings of the process in relation to political and institutional reforms, as well as equitable justice and accountability as envisaged in the AUTJP. Its significance to the objective of effective peace processes was further highlighted by a Libyan CSO representative Munay Al-Moqaddim, who pointed to the impact of political fragmentation and the politicisation of the judiciary on TJ efforts. She highlighted the need for an independent judiciary, political will and social awareness to advance TJ in Libya.<sup>7</sup>

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- 4 Law 29 of 2013, Libya. Available at: <https://security-legislation.ly/latest-laws/law-no-29-of-2013-on-transitional-justice/#:~:text=This%20law%20aims%20to%20achieve,2> [Accessed 17 June 2025].
  - 5 DCAF. 2013. Law No. (29) of 2013 on Transitional Justice. Available at: <https://security-legislation.ly/latest-laws/law-no-29-of-2013-on-transitional-justice/> [Accessed 3 July 2024].
  - 6 United Nations Security Council. 2024. Report of the Secretary-General on the United Nations Support Mission in Libya (S/2024/301). United Nations. Available at: <https://undocs.org/en/S/2024/301> [Accessed 3 July 2024].
  - 7 United Nations Human Rights Council. 2023. Libya: Urgent Action Needed to Remedy Deteriorating Human Rights Situation, UN Fact-Finding Mission Warns in Final Report. Available at: <https://www.ohchr.org/en/press-releases/2023/03/libya-urgent-action-needed-remedy-deteriorating-human-rights-situation-un> [Accessed 3 July 2024].



*Libya's TJ efforts have primarily focused on establishing justice and accountability mechanisms and, to a limited extent, initiating reconciliation and social cohesion processes.*

In November 2024, the AU Peace and Security Council convened its 1244<sup>th</sup> session to discuss the situation in Libya with a view to promoting reconciliation efforts<sup>8</sup> and a new National Reconciliation and Transitional Justice Law was approved by Libya's Eastern Parliament in January 2025 in a move intended to address past grievances among Libyan factions.<sup>9</sup> International efforts also continue to push for accountability, for example pursuit by the International Criminal Court (ICC) of alleged perpetrators such as Ossama Anjiem.<sup>10</sup>

### 3.1.2 Alignment with AUTJP Standards

Libya's TJ efforts have primarily focused on establishing justice and accountability mechanisms and, to a limited extent, initiating reconciliation and social cohesion processes. However, significant gaps and challenges exist in aligning with the comprehensive standards in the AUTJP.

Another interviewee criticised the selective application of TJ in Libya, noting that certain groups have often been excluded from the processes. For instance, the FFRC, established by law in 2012, was criticised for its legalistic approach and lack of victim-centred hearings. This TJ commission's short-lived efforts and subsequent lack of implementation under the new TJ Law have further marginalised victims.

Munay Al-Moqaddim stressed the need for greater inclusivity and participation of victims, particularly women and survivors of sexual violence. Recognising the need to address the issues of gender and women more specifically in TJ processes, her organisation has worked to integrate

- 8 Amani Africa. 2024. Briefing on the Situation in Libya, November 12. Available at: <https://amaniafrica-et.org/briefing-on-the-situation-in-libya-nov-12-2024/?utm> [Accessed 10 February 2025].
- 9 US News. 2025. Libya's Eastern Parliament Approves Transitional Justice Law in Unity Move, MPs Say. Available at: <https://www.usnews.com/news/world/articles/2025-01-08/libyas-eastern-parliament-approves-transitional-justice-law-in-unity-move-mps-say?> [Accessed 10 February 2025].
- 10 AP News. 2025. Libya Warlord Arrested in Italy on Warrant from the International Criminal Court, but Then Expelled. Available at: <https://apnews.com/article/italy-libya-ossama-almasri-icc-arrest-hague-305b5eed193ef7774e6591d4f0a256fc> [Accessed 10 February 2025].

women victims into society through psychological support and assistance in navigating the legal system. However, her organisation faces obstacles to accessing justice and reparations given the toxic political environment, the state of the judiciary, and societal stigma.

The interviewees acknowledged the prevalence of sexual violence during the conflict and the challenges in addressing these crimes. The academic interviewed noted that initial accusations against Gaddafi's troops highlighted the need for accountability, but legislative attention and practical implementation have been lacking in relation to sexual and gender-based violence (SGBV).

The Libyan context also grapples with redistributive (socio-economic) justice challenges. The interviewees described the critical nature of land ownership issues in Libya, tracing conflicts back to Gaddafi-era laws that appropriated tribal lands and redistributed them, leading to longstanding grievances.<sup>11</sup> Efforts at reparations in the form of compensation and restitution have been inconsistent and incomplete, exacerbating tensions.

Reconciliation and social cohesion efforts led by tribal leaders have proven crucial in the absence of strong state institutions. However, these agreements often prioritise collective over individual reparations and lack efforts to establish the truth of the history of violations, thus falling short of AUTJP standards.

### 3.1.3 Impact and Challenges

The positive impact of Libya's TJ efforts on peace, reconciliation and social cohesion has been negligible. Interviewees noted that despite the high-profile trials conducted, the selective application of justice and exclusion of certain groups have undermined the credibility of these efforts.

The CSO representative emphasised a unified, central political authority and an independent judiciary as prerequisites for advancing meaningful TJ in Libya. She reported that the current state of the judiciary and the presence of local militias have undermined trust in the legal system, making it unsafe for individuals to seek justice through the courts. Despite these shortcomings, she noted some positive gains, including municipal projects to reconcile divided families by relocating individuals without criminal records across the east/west divide controlled by the two political authorities. She also highlighted a decrease in SGBV cases since 2020, partly ascribing it to increased awareness-raising and efforts by civil society to promote peace over conflict.

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11 Legal Agenda. 2023. The Right to Occupancy in Libya: Gaddafi's Real Estate Legacy. Available at: <https://english.legal-agenda.com/the-right-to-occupancy-in-libya-gaddafis-real-estate-legacy/> [Accessed 3 July 2024].



*Political fragmentation remains the most significant challenge to implementing TJ in Libya. Bias in accountability mechanisms and selective application of justice have further undermined trust in the process.*

Political fragmentation remains the most significant challenge to implementing TJ in Libya. Bias in accountability mechanisms and selective application of justice have further undermined trust in the process. There has been no meaningful attempt at objective truth-seeking and limited implementation of reparations measures. Under the circumstances, the AUTJP could provide guidance for a coherent and comprehensive approach, beginning with an inclusive peace process that sets the stage for a better TJ commission, political and institutional reforms, reparations, and other mechanisms.

### 3.1.4 Conclusion and Outlook

Libya's TJ process remains in early stages, facing significant challenges due to political circumstances, dysfunctional institutions, and a lack of coherent approach. While there have been some efforts towards accountability through trials – mostly of former Gaddafi associates – and initiatives by CSOs to support victims, overall, there has been little impact on social cohesion, peace, and reconciliation. To advance TJ in Libya, it is crucial to initiate a comprehensive peace process, which will require concerted efforts by local, continental and international actors, including the AU. The AU Peace and Security Council's 2024 session on the situation in Libya and subsequent ongoing efforts is a promising trend.

## 3.2 The State of Transitional Justice in Mali

### 3.2.1 Introduction

Mali's journey towards TJ has aimed at addressing decades of conflict, human and peoples' rights violations, and socio-political instability. Despite appearances of a model democratic dispensation, systemic corruption and a failure of state institutions culminated in a Tuareg rebellion in 2012 and a subsequent military coup that exacerbated state instability and a deteriorating security situation.<sup>12</sup>

The country has implemented several key TJ mechanisms. The main one is the Truth, Justice, and Reconciliation Commission (Commission Vérité Justice et Réconciliation, CVJR), established under the 2015 Algiers Accords (Accord pour la Paix et la Réconciliation au Mali)

<sup>12</sup> International Centre for Transitional Justice. 2014. Mali: A Preliminary Assessment of the Transitional Justice Needs and Priorities. Available at: <https://www.ictj.org/sites/default/files/ICTJ-Briefing-Mali-Assessment-2014.pdf> [Accessed 23 September 2024].

with a mandate to investigate human rights abuses committed from 1960 onwards, propose reparative measures, and foster reconciliation.<sup>13</sup> The TJ process sought to include traditional justice mechanisms and local customs to address conflicts in specific regions. The country also referred its situation to the ICC.<sup>14</sup>

Ali Abdourahamane Maïga, an academic, noted that the TJ mechanisms established have helped combat impunity and human rights violations by holding perpetrators accountable, but pointed to various challenges in the TJ process, including the inadequacy of reparations, the slow pace of justice and accountability, and the attendant challenges of integrating traditional and modern legal systems.

The current military government's reluctance to engage with the CVJR's findings has stalled progress, with the final report submitted in December 2022 remaining unpublished. Furthermore, the cessation of truth-telling and gathering of victim statements since the commission's closure, amid continuing human rights violations, has left many victims uncertain about reparations and other forms of redress. The ongoing security crisis, creating new victims, complicates the situation.<sup>15</sup>

Security instability such as the terrorist attacks in Bamako in September 2024<sup>16</sup> and governance challenges continue to hamper TJ efforts, although some judicial progress was made with the ICC convictions of Al Hassan Ag Abdoul Aziz, a former Al Qaeda-linked police chief.<sup>17</sup>

### 3.2.2 Alignment with AUTJP Standards

Mali's TJ process aims to align with AUTJP standards, including an emphasis on truth-seeking, reparations, reconciliation, inclusivity and participation of victims, minorities and marginalised groups, all relevant to AUTJP element of reconciliation and social cohesion.

Ousmane Oumarou Sidibé, former president of the CVJR, highlighted the commission's efforts to build trust among victims through the diverse composition of the staff and using mobile teams to gather testimonies from various areas affected by the conflict. He said the

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- 13 Agreement for Peace and Reconciliation in Mali. 2015. Accord pour la paix et la réconciliation au Mali issu du processus d'Alger. Available at: <https://archives.au.int/handle/123456789/5432> [Accessed 23 September 2024].
  - 14 International Criminal Court. 2012. Referral of the Situation in Mali to the International Criminal Court. Available at: <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/A245A47F-BFD1-45B6-891C-3BCB5B173F57/O/ReferralLetterMali130712.pdf> [Accessed 23 September 2024].
  - 15 African Transitional Justice Legacy Fund (ATJLF). 2024. Transitional Justice in Mali: An Increasingly Complex Endeavour. Available at: <https://atjlf.org/transitional-justice-in-mali-an-increasingly-complex-endeavour/> [Accessed 23 September 2024].
  - 16 ReliefWeb. 2024. Mali: Upcoming Electoral Process Should Open Civic Space and Address Human Rights Challenges, Says Expert. Available at: <https://reliefweb.int/report/mali/mali-upcoming-electoral-process-should-open-civic-space-and-address-human-rights-challenges-says-expert> [Accessed 9 February 2025].
  - 17 AP News. 2024. ICC Sentences Al-Qaida-Linked Former Police Chief to 10 Years for War Crimes in Mali. Available at: <https://apnews.com/article/ffe7ce21557b6f1312a163f2cf664a23> [Accessed 19 February 2025].

commission's work adopted victim-focused investigations, conducted public hearings, and collaborated with various stakeholders to ensure comprehensive representation.

In relation to the element of reparations, Fatoumata Touré, president of the National Council of Victims, saw gaps, discussing the need for victim representation within the Authority for the Management of Reparations for Victims of Crises in Mali (Autorité de Gestion des Réparations en faveur des Victimes de Crises au Mali, AGRV), established to oversee the implementation of reparations as recommended by the CVJR. She argued that victims should be represented at both the Steering Committee level and within the Authority to ensure their concerns are adequately addressed. She also reiterated the need for prompt reparations to address the needs of victims.

Sidibé pointed to the CVJR's extensive efforts to address SGBV, including the establishment of a gender sub-committee, holding of public hearings on SGBV, and collaborating with UNICEF and the Ministry of Education to sensitise the public. The CVJR also trained women statement takers to support women victims and create a safe space for them to talk about sexual violence. These show efforts to address the cross-cutting issues of gender highlighted by the AUTJP, which affect women and girls.

Bouaré Bintou Founé Samaké, president of Women in Law and Development in Africa, also highlighted the contributions of women's CSOs in advocating for the protection of human rights during the peace process in Mali, ensuring that forms of sexual violence related to the conflict were recognised as crimes in both the Constitution and the peace agreement.

Regarding the peace process, Samaké noted:

*I would say that the feminist organisations that I am part of have focused their advocacy so that conflict related sexual violence becomes a recognised crime. This was successful, and it was clearly stated in the Constitution and in the peace agreement that sexual violence remains a violation. Also, in the civil society organisations, including the women's organisations, we had observed the absence of women around the negotiating table, so we made a plea for the women, that they were present at the negotiating table, and to be taken into account in the development of the agreement.*

The CVJR made various proposals for political and institutional reforms. According to Sidibé, the commission recommended the creation of the Centre for the Promotion of Memory, Unity, and Peace to promote reconciliation through inclusive public policies that reflect the country's diversity. In terms of diversity management, Maïga stressed the importance of leveraging Mali's cultural and ethnic diversity for state-building and ensuring equal access to resources and opportunities for all regions. A National Strategy for Reconciliation and Social Cohesion was adopted in September 2022, aimed at promoting a culture of peace, preventing and managing conflicts, and strengthening the role of traditional authorities.

Furthermore, the 2022 draft Constitution enshrined the importance of cultural diversity and the role of traditional authorities in social cohesion.<sup>18</sup>



*Civil society has also contributed by supporting economic improvement through initiatives to facilitate income-generation activities for displaced victims, such as saponification projects, which improved livelihoods and helped victims become self-sufficient.*

While redistributive (socio-economic) justice was not specifically addressed within the CVJR's mandate, its reparations proposals aimed to support economic resilience in disadvantaged regions. Maïga emphasised the need for equitable distribution of state resources and services, such as education and healthcare, to ensure legitimacy and stability. Civil society has also contributed by supporting economic improvement through initiatives to facilitate income-generation activities for displaced victims, such as saponification projects, which improved livelihoods and helped victims become self-sufficient. According to Touré, these efforts are important for socio-economic justice in rebuilding lives and integrating victims back into society.

### 3.2.3 Impact and Challenges

The impact of Mali's TJ efforts on reconciliation and social cohesion has been mixed. While interviewees recognised the positive efforts, they argued that the centralised approach in the capital, Bamako, reduced opportunities for genuine dialogue and understanding.

Maïga argued for more localised reconciliation efforts that allow communities to engage with the process within their own context. Sidibé also mentioned the difficulties in gaining the trust of victims due to past unfulfilled promises of reparations and the need for creative solutions to deal with security challenges, such as using mobile teams to gather testimonies.

The CVJR's public hearings and collaboration with victims' associations in promoting reconciliation were cited as positive impacts of the TJ process, with Samaké praising the role of CSOs in promoting reconciliation and economic justice, despite challenges such as insecurity. Additional impacts of CSOs efforts included the documentation of human rights violations and advocating for Mali's ratification of the ICC's Rome Statute. CSOs have also worked closely with victims in remote areas, further promoting inclusivity.

18 The Carter Center. 2022. Report of the Independent Observer: Observations on the Implementation of the Agreement on Peace and Reconciliation in Mali, Resulting from the Algiers Process. Available at: [https://www.cartercenter.org/resources/pdfs/peace/conflict\\_resolution/mali-independent-observer-report-april-2020.pdf](https://www.cartercenter.org/resources/pdfs/peace/conflict_resolution/mali-independent-observer-report-april-2020.pdf) [Accessed 3 July 2024].

On reparations, Sidibé noted that the CVJR's extensive database of victim statements supports the reparation process but admitted that significant financial mobilisation is needed to support the AGRV. Touré also stressed the need for the reparation process to be prompt in addressing the needs of victims, as well as arguing for victim representation within key policy- and decision-making bodies.

Specifically, interviewees pointed to a critical need to address SGBV and provide income-generating activities to help reintegrate traumatised victims into society. Despite efforts, challenges such as political interference and resource constraints remain. The situation is exacerbated by recurring climatic shocks in addition to the ongoing conflict, which continue to create significant humanitarian needs throughout Mali. The United Nations estimates that around 7.1 million people, roughly 32 percent of the population, will require humanitarian assistance in 2024.<sup>19</sup>

Finally, the tensions of integrating traditional justice mechanisms with state legal systems were reiterated as challenges by Maïga, who urged a more deliberate and holistic approach to reconcile indigenous and formal mechanisms, highlighting the need to address the concerns of the Berber communities in the Great Delta and land issues in Bamako as examples.

### 3.2.3 Conclusion and Outlook

Mali's TJ process reflects both progress and significant challenges. The establishment of key TJ mechanisms, efforts to integrate traditional justice mechanisms, and the efforts of CSOs are positive steps towards justice and reconciliation. However, fluctuating political will, instability, ongoing conflict, and resource challenges pose constraints to the overall effectiveness of these efforts, particularly in the implementation of reparations and promotion of reconciliation efforts per the recommendations of the CVJR.

Looking ahead, it is crucial to accelerate the implementation of the recommendations and ensure that the AUTJP serves as a standard for coherent implementation and monitoring. Promoting the cessation of violence through inclusive engagement, expanding outreach efforts, and providing direct reparations to victims are essential steps towards promoting a victim-centric process that can bring lasting peace and reconciliation. There is an urgent need to address the root causes of conflict, such as political instability and socio-economic disparities through redistributive justice and diversity management, as well as to reform the security sector to reduce its politicisation. However, the international community, including the AU, must take a proactive role in supporting Mali's TJ efforts.

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19 ReliefWeb. 2024. Mali: Assistance Overview, April 2024. Available at: <https://reliefweb.int/report/mali/mali-assistance-overview-april-2024> [Accessed 16 July 2025].

## 3.3 The State of Transitional Justice in Ethiopia

### 3.3.1 Introduction

The roots of TJ in Ethiopia go back to when the Ethiopian People's Revolutionary Democratic Front (EPRDF) took power, establishing the Special Prosecutor's Office in 1992 to address past atrocities by holding former Derg officials liable for crimes they committed while in power. When Prime Minister Abiy Ahmed came into power in 2018, the Ethiopian Reconciliation Commission was established as part of his political and institutional reform agenda following years of conflict and authoritarian rule. These reforms aimed to address grievances and promote national dialogue and healing reconciliation.<sup>20</sup> The Administrative Boundaries and Identity Issues Commission was also established to address disputes related to administrative boundaries and ethnic identity, which have been sources of conflict in Ethiopia.

TJ has been a gradual and ongoing process since, with efforts focusing on addressing ethnic tensions, political repression, and human rights violations through legal, institutional, and community-based mechanisms.

In 2021, a National Dialogue Commission was established, but its efforts were initially impeded by ongoing conflicts in Tigray and Oromia. However, effort towards a more comprehensive approach to TJ continued with the Ministry of Justice commissioning a diagnostics study of past TJ efforts in the country and comparative international perspectives. Transitional justice gained renewed momentum following the signing of the Agreement for Lasting Peace and Cessation of Hostilities (CoHA)<sup>21</sup> on 2 November 2022 between the Ethiopian government and the Tigray People's Liberation Front. Article 10(3) of the Agreement explicitly called for a comprehensive TJ policy.

After the CoHA, the Ministry of Justice formed the Transitional Justice Working Group, which guided the drafting of a Green Paper outlining policy options for TJ. The Green Paper served as a foundational document for public consultations and policy formulation. Although Ethiopia's history of resurgence of violences and simmering tensions, such as between Amhara and Oromia, initially raised some doubts about the feasibility of sustaining peace and the overall TJ process, the process progressed.<sup>22</sup>

20 Ayele, Z. and Fikreyesus, D. 2019. Protest, Repression and Revolution in Ethiopia. Review of African Political Economy. Available at: <https://roape.net/2019/01/24/protest-repression-and-revolution-in-ethiopia/> [Accessed 3 July 2024].

21 Intergovernmental Authority on Development (IGAD). 2022. Agreement for Lasting Peace Through a Permanent Cessation of Hostilities. Available at: <https://igad.int/wp-content/uploads/2022/11/Download-the-signed-agreement-here.pdf> [Accessed 23 September 2024].

22 ReliefWeb. 2023. Ethiopia Moves Forward with Its Transitional Justice Initiative, but Challenges Abound. Available at: <https://reliefweb.int/report/ethiopia/ethiopia-moves-forward-its-transitional-justice-initiative-challenges-abound> [Accessed 3 July 2024].

Broad public consultations across regions were initiated between March and September 2023 to gather feedback on the proposed policy options, which led to the development of a comprehensive TJ policy.



*The Transitional Justice Policy was approved by the Council of Ministers in April 2024, and outlines mechanisms for truth-seeking, reconciliation and accountability.*

The Transitional Justice Policy was approved by the Council of Ministers in April 2024, and outlines mechanisms for truth-seeking, reconciliation and accountability. An implementation roadmap was developed in August and subsequently the government initiated the drafting of five legal frameworks to establish TJ institutions, as well as international consultations in December 2024 to refine these frameworks. Additionally, national consultations are also planned to finalise the process and set the groundwork for operationalisation.<sup>23</sup>

### 3.3.2 Alignment with AUTJP Standards

Ethiopia's recent TJ efforts aim to align with AUTJP standards. The involvement of the AU in the Pretoria Peace Agreement and the development of the Green Paper has helped. The national TJ policy proposes a comprehensive approach that includes key indicative elements outlined in the AUTJP – criminal investigations, prosecutions, truth-seeking, reconciliation, compassion-based initiatives, rehabilitation, and institutional reforms guided by fundamental principles and frameworks.<sup>24</sup>

The Ethiopian Human Rights Commission (EHRC) has played a pivotal role in ensuring that victim inclusion and CSO participation are central in the TJ process. Albab Tesfaye, director of the Office of the Chief Commissioner, noted that the EHRC conducted about 15 consultations with over 800 victims, producing a comprehensive report to ensure their needs are addressed in the TJ framework.

Redistributive (socio-economic) justice is a significant issue in Ethiopia. One interviewee, an academic, argued that the root cause of conflicts in Ethiopia may often be framed in ethnic terms but is inherently socio-economic, with land disputes being a significant factor.

23 Ministry of Justice. 2024. Transitional Justice Implementation Roadmap Finalized: Ministry of Justice. Ethiopian News Agency, 19 August. Available at: [https://www.ena.et/web/eng/w/eng\\_5001231](https://www.ena.et/web/eng/w/eng_5001231) [Accessed 9 February 2025].

24 Ethiopian Ministry of Justice. 2024. Transitional Justice Policy of the FDRE. Report. Ethiopian Ministry of Justice.

He noted that the 1974 revolution, the conflicts of the 1990s, and the 2018 crisis over the Addis Ababa Master Plan<sup>25</sup> all highlight the centrality of land and hegemony over resources. He argued that even though the Administrative Boundaries and Identity Issues Commission was established to address these conflicts, socio-economic grievances continue to fuel tensions.

Ahmad Shuri, a victim, noted that despite participating in various engagements, the issue of redistributive justice, particularly concerning land, was not really discussed. Tesfaye, meanwhile, stated that consultations conducted by the EHRC revealed that many conflicts in the country are deeply rooted in disputes over land and resources. However, the Ministry of Justice notes that the issue of land is covered under the mandate of the Truth Commission, which addresses the root causes of injustice and grievances, and has also been partly dealt with by the National Dialogue Commission. While the TJ policy itself does not explicitly mention redistributive justice, it emphasises the importance of addressing territorial disputes and ensuring fair access to land and resources as part of broader reconciliation efforts.

Despite the effort to align TJ with the AUTJP framework, one interviewee opined that, given Ethiopia's practical complexities, some of the propositions in the AUTJP may be too idealistic to implement in reality. He noted that the country's diverse conflicts and complex historical grievances are likely to make implementation a very challenging endeavour. He noted for instance, that the current government, with its roots connected to armed movement, may face conflicts of interest in holding accountable those within its ranks responsible for past human rights violations. However, the Ethiopian Ministry of Justice points out that the development of the TJ policy and laws has taken cognisance of such potential tensions, and their provisions preclude all forms of discrimination and bias, including on the basis of power, rank or other status.

### 3.3.3 Impact and Challenges

The TJ process in Ethiopia has made significant progress but faces potential challenges. There is increasing public interest in the process, which interviewees hope will translate into public confidence and participation. Substantial efforts to increase awareness and advocacy for human rights and justice have been made, led by the Ministry of Justice, while EHRC and CSO groups such as the Consortium of Ethiopian Human Rights Organizations (CEHRO) are also at the forefront. The EHRC has provided technical support to the government, monitored the TJ process, and engaged with international and regional stakeholders. This includes collaborations with the Office of the High Commissioner for Human Rights and the AU.

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25 Abate, A.G. 2019. The Addis Ababa Integrated Master Plan and the Oromo Claims to Finfinnee in Ethiopia. *International Journal on Minority and Group Rights*, 26(4), pp. 620–638. Available at: <https://www.jstor.org/stable/26846264> [Accessed 4 July 2024].



*Alignment with the national TJ policy may be particularly challenging on issues of inter-regional contestation, which necessitate a coordinated approach that ensures consistency in addressing conflicts comprehensively.*

The EHRC has also engaged on cross-cutting issues, with a focus on mainstreaming the interests of women and children, in its capacity-building efforts, emphasising the need for a comprehensive approach to SGBV. Similarly, Mesud G. Reta, executive director of CEHRO, stressed civil society's work with vulnerable groups, ensuring their inclusion in peace processes. Progress has been made despite difficulties in building trust and cooperation between communities. He notes that the revision of the civil society law<sup>26</sup> has helped reframe advocacy organisations as development partners, making the space more conducive to a collaborative approach to TJ.

Civil society has also engaged service delivery organisations with strong community ties, providing training in advocacy, accountability, and human rights-based approaches to increase stakeholder buy-in.

Ethiopia's diverse regions, each with its unique socio-political context, also present a potential challenge to a coherent implementation process. For example, the Somali Regional State of Ethiopia has started its own TJ initiative through the establishment of a Truth and Reconciliation Commission (TRC), raising questions about how these fit within the national framework. However, the commissioners of the Somali TRC said that their process was necessitated by the need for an internal reckoning even before engaging in wider TJ. However, they stated challenges in their work, including limited expertise and logistical challenges. They noted that integrating different legal systems – including sharia and customary laws – adds complexity to the process. Resource constraints for data management and immediate victim support were also cited as significant hurdles at the regional level. Alignment with the national TJ policy may be particularly challenging on issues of inter-regional contestation, which necessitate a coordinated approach that ensures consistency in addressing conflicts comprehensively.

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26 Ethiopian Organizations of Civil Societies Proclamation No. 1113/2019. Available at: <https://leap.unep.org/en/countries/et/national-legislation/organizations-civil-societies-proclamation-no11132019> [Accessed 4 July 2024].

The current political climate in Ethiopia further complicates the TJ process. Ongoing conflicts and tensions mean government control in some areas is tenuous, which may make implementation of TJ measures challenging. As stated above, some interviewees noted that if some officials in the current government are implicated in human rights violations, it might affect political will. Civil society in Ethiopia, while active, needs more capacity to effectively influence the TJ process. An interviewee noted that CSOs often adapt their work to donor agendas in order to access funding, which can impact on TJ priorities. Another interviewee argued that fixating on criminal accountability in the current atmosphere could also lead to arbitrary or selective justice, and thus requires serious deliberation.

### 3.3.4 Conclusion and Outlook

Ethiopia's TJ process is at an opportune but critical juncture. Wide consultations, engagement of national and international stakeholders, and the consolidation of various initiatives to design a coherent TJ process suggest a good start for the process. However, the complexity of Ethiopia's internal border disputes, ongoing conflicts, socio-economic roots of disputes, and political issues present significant challenges that demand a deliberate and sensitive approach.

Interviewees note that, moving forward, Ethiopia will need to adopt a conflict-sensitive approach to TJ, including consultations for comprehensive peace that consider the competing interests of all stakeholders. Acknowledging the victimhood of various groups and addressing both individual and collective reparation needs are essential. Integrating redistributive (socio-economic) rights into the TJ process, addressing land disputes, and ensuring that all regions are included in a unified national framework is crucial.

One interviewee argued that reforms in Ethiopia must target conduct and attitudes threatening institutional integrity, rather than focusing solely on institutional structures. Political interference and the lack of political will remain challenges, suggesting the need to highlight how TJ is favourable to government interests. Sequencing and timing TJ efforts carefully to avoid further conflict and ensure meaningful reforms are also vital.

The EHRC and other key stakeholders, such as CEHRO, must continue supporting formal TJ mechanisms, monitoring the process, and promoting victim and public trust through awareness raising, consultation, and capacity building. The AU also has a vital role in providing technical and resource mobilisation support and ensuring that AUTJP standards are effectively incorporated in the process.

## 3.4 The State of Transitional Justice in The Gambia

### 3.4.1 Introduction

The Gambia's TJ journey began with the end of Yahya Jammeh's 1994–2016 authoritarian regime, which was marked by gross human rights violations. Initiatives included the Commission of Inquiry into the Financial Activities Of Public Bodies, Enterprises and Offices as Regards their Dealings with Former President Yahya A.J.J. Jammeh and Connected Matters (Janneh Commission),<sup>27</sup> political and institutional reforms, and the 2018–2021 Truth, Reconciliation, and Reparations Commission (TRRC). The commission of inquiry submitted findings and recommendations, many of which were ignored or selectively implemented.<sup>28</sup> The Constitution Review Commission's (CRC) draft Constitution was rejected by the National Assembly due to contentious issues such as a retrospective presidential term limit. The security sector reforms have faced criticism for their slow pace and lack of public consultation.

However, the TRRC, tasked with investigating human rights abuses from 1994 to 2017, received significant public and international support.<sup>29</sup> It submitted its final report in November 2021, recommending prosecutions, reparations, reforms and reconciliation measures. The government committed to implementing these recommendations between 2022 and 2027.<sup>30</sup>

According to the National Human Rights Commission (NHRC), there has been progress in the implementation process, but the pace remains slow. Of the 265 recommendations, two were rejected by government, 16 have been fully implemented, 192 are in varying degrees of progress, and 55 have not yet started. Key achievements include the enactment of several laws such as the Special Accountability Mechanism (TRRC) Act 2024 and the Special Prosecutor's Office Act 2024 both of which help establish the framework for criminal accountability. A Victims Reparations Act 2023 was also passed, and the government has reached an agreement to establish the proposed hybrid court with the Economic Community of West African States (ECOWAS) to prosecute human rights violations.

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27 Government of The Gambia. 2019. Janneh Commission White Paper: Government of The Gambia. Available at: <https://www.moj.gm/download-file/21ba671b-d0f1-11ea-837b-025103a708b7> [Accessed 24 September 2024].

28 Fatu Network. 2023. Touma Njie Makes Fresh Calls for Consistency in Janneh Commission Recommendations. Available at: <https://fatunetwork.net/touma-njie-makes-fresh-calls-for-consistency-in-janneh-commission-recommendations/> [Accessed 23 September 2024].

29 Truth, Reconciliation and Reparations Commission Act 2017, section 13. Available at: <https://www.moj.gm/downloads> [Accessed 16 June 2025].

30 Ministry of Justice of The Gambia. 2022. Government White Paper on the TRRC Recommendations. Available at: <https://www.gm-nhrc.org/trrc-downloads> [Accessed 4 July 2024].

However, persistent challenges include delays in setting up the Special Prosecutor's Office, insufficient funding for reparations, and incomplete institutional and legislative reforms. While some steps have been taken in security sector reform, justice sector improvements, and memorialisation efforts, significant gaps remain. Additional challenges have affected victim support efforts and enforcement of bans on implicated officials, with victims alleging bias and waning political will. The government continues to face calls for greater urgency and transparency in implementing the TRRC's recommendations.<sup>31</sup>

### 3.4.2 Alignment with AUTJP Standards

The first phase of TJ in The Gambia was inclusive, involving diverse groups, despite some criticism from victims. An interviewed victim noted that the Victim Support Unit of the TRRC sometimes made decisions without consulting victims, limiting their ability to express their needs. This was partly attributed to inadequate consideration of victims' lack of understanding of TJ due to illiteracy or geographical remoteness. Both a victim and CSO representative interviewed for the study proposed better communication and capacity building to enable more meaningful participation in the post-TRRC implementation phase.

The Gambian process has made significant efforts to align with AUTJP principles. For instance, to address some of the cross-cutting issues highlighted by the AUTJP the TRRC included a Women's Unit and a Youth Unit to ensure inclusion and participation. The Victim Support Unit incorporated a mental health and psychosocial support sub-unit. The TRRC's focus on reparations included setting up an urgent interim reparations programme providing livelihood support, rent support, school fees and medical care. The NHRC was also established and has been a positive development towards political and institutional reforms as an element of the TJ process. The NHRC has been robust in promoting human rights and monitoring implementation of TRRC recommendations.

In the post-TRRC phase, the Gambian government has passed legislation including the Reparations Act 2023, Prohibition of Torture Act 2023, and Mutual Legal Assistance Act 2023. According to Saffie Nyang, state counsel and member of the TJ implementation taskforce at the Ministry of Justice, arrangements are underway to set up a hybrid court to try those recommended by the TRRC for prosecution, in collaboration with ECOWAS. Efforts are also ongoing to revive the 2021 draft Constitution.

However, some stakeholders are concerned about the slow pace of implementation, particularly prosecutions and resource mobilisation for reparations. Despite Jammeh's Potomac Mansion being sold,<sup>32</sup> funding for comprehensive reparations remains inadequate in a country with a significant budget deficit.

31 National Human Rights Commission of The Gambia. 2024. Status Report on the Implementation of the Government White Paper on the Report of the TRRC: May 2023–May 2024.

32 Zane, D. 2022. How ex-Gambia President Yahya Jammeh's US Mansion was Seized. BBC News, 28 May. Available at: <https://www.bbc.com/news/world-africa-58924630> [Accessed 4 July 2024].

The government has made some progress with new legislation and policy frameworks, but reforms have been criticised for being neither inclusive nor consultative enough. Political interference and a lack of political will have undermined these efforts. Interviewees urged stronger government commitment to carrying out recommendations more consultatively. The TRRC recommended the NHRC monitor implementation, which it has been doing through quarterly stakeholder meetings and annual progress reports. However, the NHRC faces challenges in obtaining information from various institutions, particularly security institutions.

### 3.4.3 Impact and Challenges

The impact of TJ efforts has been mixed, especially on victim support and redress. While the TRRC took a comprehensive approach, implementation of some of its initiatives faced challenges.<sup>33</sup> For example, only two MHPSS officers were available to address the needs of TRRC witnesses, and the approach to granting reparations has been criticised for poor implementation. Victims whose reparations fell below a certain threshold (50,000 Dalasi) received the whole sum, while those owed higher compensation were paid 19 percent and given promissory notes for the rest, causing frustration and emotional toll.<sup>34</sup> Some of the gaps in the TRRC's efforts were complimented by CSOs' efforts (e.g., MHPSS and other support to victims). Advocacy is ongoing to ensure government capacity is strengthened during the implementation phase.



*Both victim and CSO interviewees emphasised the need for technical processes, such as establishment of the Hybrid Court, to be bolstered by political engagement and lobbying to ensure the necessary political will and stakeholder buy-in to facilitate them are also achieved.*

When the ECOWAS Parliament voted against collaborating with The Gambia in establishing a special hybrid tribunal in mid-2024, fearing it would undermine ECOWAS' legitimacy,<sup>35</sup> it raised alarm among stakeholders, especially victims. However, as Salieu Taal, former president of the Gambia Bar Association noted, the decision was merely an advisory opinion and in December 2024 the ECOWAS heads of state set it aside, opting to collaborate with The Gambia in setting up the hybrid court. Both victim and CSO interviewees emphasised

33 Gbery, D. 2021. Measured Optimism in The Gambia as Stakeholders Consider the TRRC's Final Report. Available at: <https://www.ictj.org/node/27278> [Accessed 23 September 2024].

34 Friedrich-Ebert-Stiftung. 2022. Women's Perspectives on Reparations and National Reconciliation: The Gambia. Available at: [https://pscc.fes.de/fileadmin/user\\_upload/images/publications/Womens\\_perspectives\\_on\\_reparations\\_and\\_national\\_reconciliation\\_The\\_Gambia\\_EN.pdf](https://pscc.fes.de/fileadmin/user_upload/images/publications/Womens_perspectives_on_reparations_and_national_reconciliation_The_Gambia_EN.pdf) [Accessed 23 September 2024].

35 Kerr Fatou. 2023. ECOWAS Parliament Decides Against Participating in Special Tribunal for The Gambia. Available at: <https://www.kerrfatou.com/ecowas-parliament-decides-against-participating-in-special-tribunal-for-the-gambia/> [Accessed 4 July 2024].

the need for technical processes, such as establishment of the Hybrid Court, to be bolstered by political engagement and lobbying to ensure the necessary political will and stakeholder buy-in to facilitate them are also achieved.

### 3.4.4 Conclusion and Outlook

The Gambia has made many positive efforts in its TJ process but faces challenges in implementing the TRRC's recommendations. Inclusivity, cultural integration and international support have been positive steps, but slow implementation, fluctuating political will, and the need for better victim awareness are key challenges. The government must adhere to its implementation timeline and manage expectations of victims and the public accordingly. Ensuring the independence of the proposed Reparations Commission, resuming interim reparations, adopting a consultative approach to security sector reforms, and reducing politicisation will be essential. The international community, including the AU, should support resource mobilisation and enhance technical capacity to support national efforts.

## 3.5 The State of Transitional Justice in South Sudan

### 3.5.1 Introduction

South Sudan's TJ journey began in 2018. Despite hopes for peace, the 2005 Comprehensive Peace Agreement that led to independence did not resolve key grievances, and conflict reignited in December 2013. South Sudan's efforts toward TJ were formalised in Chapter 5 of the 2018 Revitalized Agreement on the Resolution of Conflict, which aimed to address past human rights violations, foster accountability, and promote reconciliation by proposing the establishment of mechanisms such as the Commission for Truth, Reconciliation, and Healing (CTRH), the Compensation and Reparation Authority (CRA), and a hybrid court. Abeja Sara Jackson, country coordinator for the South Sudan programme of the Women's International Peace Centre, explained that persistent dialogues from South Sudanese CSOs during the peace negotiations led to implementation of Chapter 5.

Chapter 5 of the Revitalized Agreement mandated the Ministry of Justice and Constitutional Affairs, in collaboration with CSOs, to conduct public consultations and gather input to guide the formation of proposed TJ institutions.<sup>36</sup> These efforts resulted in the establishment of the Technical Committee, which led consultations in 45 conflict-affected areas. Despite significant efforts and some progress, TJ in South Sudan has been slow to progress, particularly regarding the establishment of the hybrid court due to political resistance.

36 Magara, I.S. 2021. Timing of Transitional Justice Mechanisms and the Implications for the South Sudan Peace Process. *Journal of the British Academy*. Available at: <https://pureportal.coventry.ac.uk/en/publications/timing-of-transitional-justice-mechanisms-and-the-implications-fo> [Accessed 8 August 2024].

In September 2024, South Sudan's parliament approved the CTRH Bill and the CRA Bill to advance accountability and justice for victims of the conflict since December 2013.<sup>37</sup> However, implementation continues to face delays, particularly in establishing the Hybrid Court for South Sudan, a core aspect of the 2018 Peace Agreement. These, and delays in security and constitutional reforms, as well as the postponement of elections from December 2024 to December 2026, have led to further frustration among victims and many other stakeholders.<sup>38</sup>

### 3.5.2 Alignment with AUTJP Standards

CSOs and other stakeholders in South Sudan have made efforts to promote public ownership and participation, targeting a broad range of stakeholders in various regions and the diaspora. Opio Moses Korsuk, deputy chairperson of the Technical Committee, said that public consultations targeted key stakeholders, including conflicting groups, internally displaced persons (IDPs), refugees, and marginalised groups, ensuring comprehensive representation. However, challenges remain in reaching certain groups, particularly those in remote areas.<sup>39</sup>

On the cross-cutting issue of women and youth participation, Jackson noted that they were initially excluded from consultations, but were later included thanks to CSO advocacy efforts, resulting in women-only and youth-only consultations that contributed gender and generational perspectives to the draft bills for the CTRH and CRA. Harriet Dumba, a CSO representative, highlighted the widespread challenge of addressing SGBV, noting that fear of backlash and stigmatisation discourages reporting, leading to severe health consequences, including high HIV rates among young girls. Training military personnel and establishing military courts to handle conflict-related sexual violence have been helpful, but Joseph Modi, an academic, argued that without specific SGBV legislation, these efforts remain inadequate.

The importance of incorporating traditional justice mechanisms into the TJ process to foster forgiveness and non-repetition of past atrocities was highlighted. Modi argued that the limited integration of traditional justice mechanisms in the process has hindered the impact of TJ efforts. He argues that traditional leaders and community elders, who play crucial roles in local conflict resolution, have not been adequately involved in the TJ process, an omission that has left a gap in addressing the root causes of conflicts and fostering genuine reconciliation.

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37 Human Rights Watch. 2024. South Sudan Parliament Approves Transitional Justice Laws. Retrieved from: <https://www.hrw.org/news/2024/09/09/south-sudan-parliament-approves-transitional-justice-laws> [Accessed 11 February 2025].

38 United Nations. 2025. 'No Appetite for Another Extension' of South Sudan Peace Agreement, Mission Head Tells Security Council, Urging Leaders Focus on Benchmarks without Delay. Available at: <https://press.un.org/en/2025/sc15989.doc.htm> [Accessed 11 February 2025].

39 Ngari, A. and Kolok, J.D. 2019. Citizens' Perceptions on Transitional Justice Processes in South Sudan. ISS East Africa Report. Available at: <http://issafrika.s3.amazonaws.com/site/uploads/ear-29.pdf> [Accessed 8 August 2024].

However, CSO representatives have made attempts to include traditional justice mechanism in their reconciliation efforts, with mixed views on the extent to which they can be effectively adopted for accountability processes or even reconciliation. The diversity of traditions among various groups presents challenges on the use of traditional mechanisms even in reconciliation efforts, although there is consensus among interviewees on their desirability for reconciliation and social cohesion. According to one CSO leader:

*The issue of justice is being mixed up with our internal differences, ethnic diversity. So, you find that when we ask for a leader from one tribe to apologise for the violence, they'll say, ... "you are targeting our son ... our daughter ...", yet these were perpetrators. We are trying to manage. Of course, there are some divergent issues, but there are also unique issues that almost all the ethnic groups agreed, we all converge on the issue of forgiveness and reconciliation. But also, the top of it was South Sudanese in general agreed that we want to guarantee non-repetition. A guarantee of non-repetition would mean that if we are going to forgive and move forward, we don't want the repetition of what has happened, the suffering we've gone through.*

### 3.5.3 Impact and Challenges

The TJ efforts in South Sudan have seen some positive impacts and significant challenges. Dumba as well as Opio Moses Korsuk, executive director of the South Sudanese Community Based Organisation, noted the role of CSOs in public consultations, awareness-raising, documenting human rights violations, and lobbying for the inclusion of marginalised groups. They have conducted analysis of TJ bills, conducted civic education, and pushed for timely implementation of the TJ process. The inclusion of marginalised groups, women, ethnic minorities, IDPs and people with disabilities shows positive and concerted efforts to ensure their voices are heard.

However, political resistance, bureaucratic delays and poor infrastructure further slowed progress. Resistance from some community members and logistical challenges in reaching remote populations also persist, as does insecurity and limited funding which further limit CSO efforts in the TJ process. Modi pointed out the insufficient involvement of the academic community in shaping TJ discourse, laws and policies due to a lack of funding for research. This renders academia's potential to support conflict prevention and peacebuilding through research largely untapped.

All interviewees emphasised the resource and technical capacity gaps that hinder the effective implementation of a comprehensive TJ process. They acknowledged some of the support from international actors such as the AU but urged more international support for South Sudan's TJ efforts. Particularly, interviewees urged greater proactivity from the AU in supporting the establishment of the hybrid court and other TJ mechanisms.



*The international community, including the AU, should play a proactive role in supporting South Sudan's TJ process through technical assistance, capacity building and resource mobilisation, to push for sustainable peace, justice and reconciliation.*

### 3.5.4 Conclusion and Outlook

South Sudan has made some strides towards TJ but is still in its nascent stages, with the draft bills for the proposed TJ mechanisms having just passed into law as of the finalisation of this report. Challenges related to political resistance, funding limitations and diversity issues need resolution to move the process forward. The roles of civil society, including academic research, are crucial in shaping and supporting TJ. It is essential to support their work to promote greater inclusivity, victim participation, and integration of traditional justice mechanisms that align with reconciliation goals and conform to international human rights standards.

The international community, including the AU, should play a proactive role in supporting South Sudan's TJ process through technical assistance, capacity building and resource mobilisation, to push for sustainable peace, justice and reconciliation. Using the AUTJP as a guiding framework will help approach TJ more effectively, including security sector reforms, managing diversity, and pursuing transformative reparations and redistributive justice.

## 3.6 The State of Transitional Justice in Lesotho

### 3.6.1 Introduction

Lesotho has faced chronic instability and political violence since its independence in 1966, compounded by authoritarian rule and socioeconomic struggles.<sup>40</sup> Initial efforts at TJ included institutional reforms and the creation of the National Reforms Authority (NRA) to translate public aspirations into actionable reforms. The Phumaphi Commission of Inquiry into Disturbances to Peace and Stability in Lesotho was established by the Southern African

<sup>40</sup> Kurtz, T. 2021. Kingdom in Troubled Waters: Lesotho's Forgotten Political and Security Crises. Available at: <https://www.ifri.org/en/papers/kingdom-troubled-waters-lesothos-forgotten-political-and-security-crises> [Accessed 1 October 2024].

Development Community (SADC) in 2015,<sup>41</sup> leading to the National Dialogues Act of 2018. However, reform processes have been over-reliant on the court system to address political violence, neglecting broader TJ initiative for truth-telling, peace and reconciliation, and TJ has been slow to gain traction due to stakeholders' limited understanding of TJ. In 2021, the government introduced the National Peace and Unity Bill as part of governance reforms. CSOs, such as the Transformation Resource Center, opposed it due to the exclusion of key stakeholders, particularly victims, which led to the bill's revocation.<sup>42</sup>

Efforts are now focused on creating a more inclusive TJ process that involves all stakeholders, especially victims. Despite this, progress has been hampered by institutional weaknesses, such as a lack of resources and the absence of a Human Rights Commission. Additionally, poverty and unemployment continue to fuel political instability, as individuals seek government positions for financial gain, undermining political will for justice. CSOs have played a vital role in incorporating traditional peace-making mechanisms, while academia has contributed through research. The current government, elected in 2022, has committed to prioritising TJ as part of broader governance reforms, with plans to establish a Peace Commission, Truth and Reconciliation Commission, reparations authority, and victims' centre.

In December 2024, supported by the German Development Cooperation, the AU and CSVR, in collaboration with Lesotho's Ministry of Law and Justice and the National Reforms Transitional Office (NRTO), conducted a workshop to enhance security agencies' understanding of the policy as part of its efforts to pursue a more comprehensive approach guided by policy.<sup>43</sup>

### 3.6.2 Alignment with AUTJP Standards

TJ efforts in Lesotho have been significantly inadequate when measured according to the AUTJP.<sup>44</sup> Professor Khabele Matlosa, a scholar and expert on TJ in Lesotho, noted the absence of a formal TJ initiative as such, noting that justice and accountability have been narrowly focused on judicial processes through courts, and hampered by political dynamics. This further highlights the weaknesses of the political and institutional reforms element of the process with laws often flouted by public officials. For example, Mamphanya Mahao, a victim/survivor and civil society activist, criticised attempts to pardon perpetrators without victim consultation. Advocate Mpho Motsamai also highlighted the lack of resources

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41 Government of Lesotho. 2016. SADC Commission of Inquiry to the Kingdom of Lesotho Report. Available at: <https://www.gov.ls/download/sadc-commission-of-inquiry-to-the-kingdom-of-lesotho/> [Accessed 1 October 2024].

42 Nyane, H. 2023. The State of Lesotho's Constitutional Reforms: Progress or Stagnation? ConstitutionNet. Available at: <https://constitutionnet.org/news/state-lesothos-constitutional-reforms-progress-or-stagnation> [Accessed 1 October 2024].

43 Government of Lesotho. 2024. DPM Opens Transitional Justice Workshop. Available at: <https://www.gov.ls/international-relations/16479-2/> [Accessed 19 February 2025].

44 Nyaku, R. 2023. A Call to Integrate the African Union Transitional Justice Policy (AUTJP) Within the Southern African Development Community's (SADC) Regional Policies on Politics. The Public Sphere: Journal of Public Policy. Available at: <https://psj.lse.ac.uk/articles/127> [Accessed 8 August 2024].

and absence of a Human Rights Commission as other critical shortfalls in the necessary institutional architecture to document human rights violations and support TJ measures. She said despite notable support from SADC, Lesotho's TJ framework remains fragile.

The absence of TJ commissions has also limited participation by victims. Victims like Mahao feel excluded from reform processes, stating that they only learn about developments via the media. Advocate Motsamai suggested that integrating traditional justice mechanisms and practices, such as local traditional councils and community elders, could enhance victim and community participation, management of local conflicts, and promoting reconciliation if properly incorporated into the TJ framework, but remains underutilised.

The cross-cutting issue on women, particularly in relation to SGBV remains a seriously under-addressed issue. According to Professor Matlosa, Lesotho ranks among the top three countries for SGBV, yet Mahao asserted that most shelters in the country are privately run, reflecting the lack of adequate support from the state. She notes that the state's failure to address redistributive justice, despite some legislative reforms such as the 1992 Land Amendment Act and the 2006 abolition of marital power, poverty and inadequate support exacerbate SGBV on women, especially in rural areas.

Lesotho's TJ process falls short across key AUTJP elements, requiring significant realignment to meet the comprehensive standards envisaged in the policy. Advocate Motsamai highlighted the need for more international support for Lesotho in advancing a comprehensive TJ process by boosting resources and capacity within both government bodies and CSOs.

### 3.6.3 Impact and Challenges

Lesotho's efforts have had a limited impact on victim support and redress, according to interviewees. Mahao noted that victims' voices and opposition to certain decisions has been largely ignored, which reflects a fundamental flaw in the process. This lack of victim engagement has undermined inclusivity, despite CSOs' active advocacy for accountability and representation of victims in litigation. Advocate Motsamai highlighted that CSOs, including the Transformation Resource Center and the Lesotho Council of Non-Governmental Organisations, have played crucial roles in pushing for effective reforms and assisting the government with coalition management and constitutional amendments. However, interviewees point to political interference and a lack of transparency in the processes as hinderances to their efforts.

Academia has also contributed significantly to Lesotho's TJ discourse. Professor Matlosa emphasised the role of the National University of Lesotho in advancing the TJ discourse through research, advocacy and education. His own work, including a paper on the National Peace and Unity Bill, helped shape debates on TJ and pushed for a more inclusive process. Moreover, academics have collaborated with CSOs in the push for reforms.

The Transformation Resource Centre, in conjunction with academic institutions, has been at the forefront of these efforts, advocating for a TJ process that aligns with the AUTJP.

The reliance on judicial mechanisms to address violence has also limited TJ's broader objectives. Efforts are now underway to prioritise TJ within the governance reforms efforts, with the new government committing to these reforms. The introduction of the National Peace and Unity Bill in 2021 without involving key stakeholders, particularly victims, highlighted the need for a more inclusive approach. Professor Matlosa notes that institutionalising TJ processes has been slow, but recent efforts aim to be more inclusive and comprehensive.

### 3.6.4 Conclusion and Outlook

While challenges abound in the transitional process, ongoing efforts involving civil society, academia, and international bodies like the AU and SADC offer cautious optimism for the future of TJ in Lesotho. The success of these efforts depends on continued commitment to reform, inclusive stakeholder involvement, and robust institutional frameworks to address the country's history of violence and governance issues. Looking ahead, it is crucial to take a comprehensive approach that aligns with AUTJP standards while enhancing and supporting the capacity-building of CSOs to further strengthen the process.



*Looking ahead, it is crucial to take a comprehensive approach that aligns with AUTJP standards while enhancing and supporting the capacity-building of CSOs to further strengthen the process.*

Moreover, addressing the root causes of conflict, such as political instability and socioeconomic disparities, should be an essential focus of the TJ process. This includes a focus on reforming the security sector to reduce its politicisation. In conclusion, much work needs to be done in designing a comprehensive, inclusive, and victim-centred process in Lesotho, supported by CSO contributions and international collaboration. The recent collaborative workshop led by the AU and CSVN is a start.

## 3.7 The State of Transitional Justice in Guinea-Conakry

### 3.7.1 Introduction

Guinea's TJ efforts were initiated to address a complex socio-political history marked by authoritarian rule and instances of violence, including the Boiro camp massacres (1958–1984), the September 28, 2009, stadium massacre under Captain Moussa Dadis Camara, in which 156 civilians were killed and at least 109 women and girls were raped by security forces, and more recently the protests against constitutional revision during Alpha Condé's presidency.<sup>45</sup> In response, President Condé established the Provisional Commission for Reflection on National Reconciliation (Commission Provisoire de Réflexion sur la Réconciliation Nationale, CPRN) in 2011, and in March 2022, Colonel Mamady Doumbouya formed the Comité National des Assises (CNA). While these mechanisms have completed their mandates, Guinea still lacks a comprehensive system to address justice, truth and reparations fully.

Regional conflict resolution initiatives in Guinea, including the involvement of religious figures, have sought to address the violence, particularly the surge of gender-based violence following the 2009 stadium massacre.<sup>46</sup> Although human rights organisations have offered psychological, health and judicial support to victims, a comprehensive legal framework and expanded reparations and reconciliation efforts are still needed.

Alpha Oumar Diallo, an academic at Kofi Annan University of Conakry, advocates for integrating cultural and traditional justice mechanisms into the TJ process, for greater inclusivity and participation, given Guinea's ethnic diversity. He argues that community structures, like the Peulhs' Hali Pulaaku and the Malinké coordination, could play vital roles in local conflict management if effectively incorporated.

On July 31, 2024, former junta leader Moussa Dadis Camara and seven other military officials on trial were convicted of crimes against humanity for their roles in the 2009 stadium massacre. Camara was sentenced to 20 years in prison and financial compensation was ordered for victims' families.<sup>47</sup>

45 Balde, R. & Wemmers, J.-A. 2021. Perceptions of Justice and Victims of Crimes against Humanity in Guinea. *International Review of Victimology*, 27(2), pp. 138–161. <https://doi.org/10.1177/0269758020929221> [Accessed 6 August 2024].

46 Stefan, C.G. 2021. Lessons in Atrocity Prevention: A Closer Look at Guinea. *Journal of International Peacekeeping*, 24(3–4), pp. 367–385. Available at: [https://brill.com/downloadpdf/view/journals/joup/24/3-4/article-p367\\_367.pdf](https://brill.com/downloadpdf/view/journals/joup/24/3-4/article-p367_367.pdf) [Accessed 6 August 2024].

47 Reuters. 2024. Guinea Court Finds Former Junta Leader Guilty in 2009 Stadium Massacre. Available at: <https://www.reuters.com/world/africa/guinea-court-finds-former-junta-leader-guilty-2009-stadium-massacre-trial-2024-07-31> [Accessed 10 February 2025].

In September, another former minister (for Presidential Security) Claude Pivi, who had been convicted in absentia for his involvement in the massacre, was arrested and extradited to Guinea to serve his sentence.<sup>48</sup> However, the transitional process continues to face challenges. According to Human Rights Watch, the military authorities have failed to honour their pledge to restore civilian rule by December 2024, noting that the civic space in Guinea has increasingly shrunk.<sup>49</sup>

### 3.7.2 Alignment with AUTJP Standards

In line with the AUTJP principles, the transitional mechanisms in Guinea (the CPRN and CNA) provided all stakeholders, including CSOs, people with disabilities, and victims, the opportunity to appoint representatives. Even at the regional level, CSOs and victims have been stakeholders in the process. Members of the CNA had the freedom to go to all regions and meet whoever they wanted.

Binta Nabe from the CNA stated:

*No text was imposed on us. We ourselves drafted our documents and travelled everywhere, in private vehicles, to meet people in places where we wanted, sometimes in the neighbourhoods, inviting people to come and say what was working and what wasn't. Everyone had the right to speak, whether they were persons with disabilities, widows, or even uniformed personnel because they were first and foremost citizens ... some people said it was the first time the state had created a space for them because other commissions came and met with leaders, NGOs, and left without giving them any space to express themselves.*

The compositions of the two TJ mechanisms, according to the interviewees, were also inclusive and representative of the Guinean population. International collaboration has also been crucial in supporting the positive gains in Guinea's TJ efforts. Organisations like the Office of the High Commissioner for Human Rights (OHCHR), United Nations Development Programme (UNDP), United Nations Children's Fund (UNICEF) and United Nations Population Fund (UNFPA) have provided funding and support for awareness-raising projects. Moriba Magassouba, the national director of Public Liberties and Borders at the Ministry of Territorial Administration and Decentralization, highlighted the collaboration with the ICC in organising the trial for stadium massacre. The representative of the victims of the massacre said that, "Since 2009, victims have been marginalised and not recognised by the authorities, and it was the support from partners that assisted the victims". The representative said this support allowed the victims to keep hope until the trial was opened.

48 AP News. 2024. Guinea's Most Wanted Fugitive Extradited from Liberia. Available at: <https://apnews.com/article/ffe1590e7acc0d358fde4e6d4dcfddbe> [Accessed 10 February 2025].

49 Human Rights Watch. 2024. Guinea: Rights at Risk as Promised Transition Derails. Available at: <https://www.hrw.org/news/2024/12/02/guinea-rights-risk-promised-transition-derails> [Accessed 10 February 2025].

Gender-based violence has remained a critical issue in the TJ process and efforts to address it include the creation of the Office for Gender Protection (OProGen) within the police and significant support from CSOs and international partners providing psychological, medical and economic aid to survivors. The TJ process has incorporated the needs of SGBV survivors, ensuring their participation in decision-making bodies like the National Transitional Council.

### 3.7.3 Impact and Challenges

The September 28, 2009, massacre trial was viewed as essential for justice and reconciliation, contingent on the punishment of the true perpetrators. Interviewees stress the need to implement recommendations from the Provisional Commission and CNA, particularly mechanisms for truth, justice, and reparations. The CNA's meetings have allowed victims of other abuses to engage in the TJ process, helping reduce regional tensions.

Souleymane Camara, Association des Victimes (AVIPA) Programme Officer and a massacre survivor, notes that community dialogues and public assemblies have fostered social cohesion. CSOs have trained journalists, youth, imams, and women in conflict resolution, encouraging them to resolve community conflicts without financial incentives, thus empowering rights holders to testify.

According to Binta Nabe, the CNA's grassroots outreach saw significant engagement from youth, women, and security personnel, leading to recommendations such as memorial construction and support funds for reparations. However, challenges persist, including inconsistent language among various actors and concerns over fairness of the process, which risk confusing and frustrating victims. Salifou Camara, from the Guinea Youth Africa Network, also highlighted CSOs' advocacy for marginalised groups, ensuring their needs remain central. CSOs have also collaborated closely with TJ institutions to navigate obstacles. Despite progress in inclusivity and civil society involvement, Guinea requires a formal legal and policy framework to comprehensively address human rights abuses.

Moriba Magassouba, the Secretary of State for National Defence and Security, outlined priorities for enhancing TJ effectiveness, including concluding the 2009 massacre trials (concluded in July 2024) and advancing reparations to foster reconciliation. He said the Comité National des Assises' outreach led to medical support for victims with various health issues, with complex cases even treated abroad. Civil society has also launched interim reparative actions, with partners like the Dr Denis Mukwege Foundation supporting reparations for gender-based violence survivors, and AVIPA establishing a support centre in Forékaria. Following the conviction of Moussa Dadis Camara, the Court also ordered financial compensation for victims' families, allocating 2 billion Guinean francs per deceased victim and 1 billion per rape or torture victim.

### 3.7.4 Conclusion and Outlook

TJ in Guinea has seen significant effort, particularly from civil society and victims' groups. The inclusivity initiatives, international support, and CSO efforts reflect positive steps towards justice and reconciliation. However, stakeholders see the absence of a comprehensive TJ policy framework as a major shortcoming of the process, despite the recent convictions for the stadium massacre and the reparations awarded. Additionally, delayed implementation of key recommendations undermines the overall effectiveness of the processes already conducted.

Looking ahead, it is crucial for Guinea to align its approach with the AUTJP framework and develop a comprehensive TJ policy to facilitate a coherent and holistic approach that incorporates its principles and standards. Expanding awareness and outreach efforts and providing comprehensive reparations to victims are essential steps towards effective change. Enhancing collaboration with international partners and supporting the capacity-building of CSOs will further strengthen the TJ process, ensuring sustainability and effective implementation.

## 3.8 The State of Transitional Justice in the Democratic Republic of the Congo

### 3.8.1 Introduction

The DRC's TJ efforts trace back to the Sun City Agreements and the election of President Félix Tshisekedi.<sup>50</sup> Two TJ initiatives have been undertaken, with the first being the 2003 establishment of the Truth and Reconciliation Commission (Commission de Vérité et de Réconciliation), which ultimately failed to have much effect and eventually concluded with recommendations for the possible establishment of another truth commission.<sup>51</sup> Dr Philippe Tunamsifu Shirambere, professor of law at the Université Libre des Pays des Grands Lacs (ULPGL-Goma), notes that the current process has seen some developments such as the establishment of the National Fund for the Reparation of Victims (FONAREV), but DRC still lacks a comprehensive TJ policy that aligns with the AUTJP.

Initial hopes for a holistic TJ approach faded as the Sun City Accords resulted in the integration of warlords into government, complicating truth-seeking and accountability. President Tshisekedi's election raised expectations for renewed TJ efforts, yet challenges persist.

50 Peacemaker UN. 2003. The Sun City Agreement. Available at: <https://peacemaker.un.org/en/node/916> [Accessed 6 July 2024].

51 International Center for Transitional Justice (ICTJ). N.d. Challenging the Conventional: Can Truth Commissions Strengthen Peace Processes? Available at: <https://www.ictj.org/sites/default/files/subsites/challenging-conventional-truth-commissions-peace/> [Accessed 2 October 2024].

The DRC's collaboration with the ICC was pivotal to the court's early work, with the first cases referred from DRC, including the 2012 conviction of Thomas Lubanga Dyilo, the former president of the Union of Congolese Patriots. Despite this, ICC prosecutions in DRC have faced criticism for limited stakeholder engagement, especially with victims.<sup>52</sup>

The creation of FONAREV marks a positive step in the TJ process. FONAREV has started outreach through itinerant missions, working with both domestic and international justice initiatives for a cohesive TJ approach. In partnership with the United Nations Joint Human Rights Office (UNJHRO), FONAREV is cataloguing judicial decisions on sexual violence and international crimes. Additionally, its support for commemorating the August 2, 1998, Gencost, a civil society-led event protesting genocide and resource exploitation, is appreciated by interviewees as another significant step. Nonetheless, substantial obstacles continue to hinder the full implementation of TJ objectives in the DRC.

### 3.8.2 Alignment with AUTJP Standards

The TJ process in the DRC diverges from the AUTJP standards, particularly due to the lack of mechanisms for truth-seeking. Unusually, DRC's TJ efforts began with the creation of the reparations fund FONAREV, rather than focusing initially on truth-seeking and justice. While civil society actors collaborate with judicial authorities, the absence of a dedicated truth commission limits progress. NGOs, victim associations, and local leaders work to enhance inclusivity and resilience, though conflict restricts FONAREV's access to certain areas, and no targeted initiatives exist for marginalised groups. FONAREV leads TJ efforts by conducting outreach to victims, mapping those eligible for reparations, and coordinating with CSOs. Despite conflict limitations, FONAREV collaborates with victim associations, youth, women and local leaders, although a more targeted approach for marginalised groups is still needed.

The DRC government, through the Ministry of Justice, partners with the UNJHRO and the ICC to address mass crimes. Cases like those of former warlords Jean Bosco Ntaganda<sup>53</sup> and Germain Katanga<sup>54</sup> have aimed to prosecute human rights violators. However, according to interviewees, the accountability efforts are hindered by alleged perpetrators, including former warlords, who hold government roles, diminishing political will for full truth and justice. To better align with AUTJP standards, the DRC must either establish a unified mechanism for truth, justice and reparations or address each independently.

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52 Ugwu, J. 2024. Transitional Justice in Democratic Republic of the Congo (DRC): Context and Prospects. Available at: [https://atjlf.org/wp-content/uploads/2024/06/Briefing-note\\_TJ-in-DRC-1.pdf](https://atjlf.org/wp-content/uploads/2024/06/Briefing-note_TJ-in-DRC-1.pdf) [Accessed 2 October 2024].

53 International Criminal Court (ICC). n.d. The Prosecutor v. Bosco Ntaganda. Available at: <https://www.icc-cpi.int/sites/default/files/CaselnformationSheets/NtagandaEng.pdf> [Accessed 6 July 2024].

54 International Criminal Court (ICC). n.d. The Prosecutor v. Germain Katanga. Available at: <https://www.icc-cpi.int/sites/default/files/CaselnformationSheets/KatangaEng.pdf> [Accessed 6 July 2024].

SGBV also remains a significant issue in conflict zones and displacement camps. Although the DRC has laws against sexual violence, their enforcement remains inadequate. Interviewees highlighted the lack of targeted awareness campaigns for women and marginalised groups although academia contributes to awareness by translating legal frameworks into national languages, as noted by Dr Philippe, who emphasised that these efforts are vital for enforcing laws and protecting vulnerable populations. While progress has been made in some respects therefore, more substantial measures are necessary to fully address SGBV victims' needs and advance gender equity in the TJ process.

### 3.8.3 Impact and Challenges

The absence of a comprehensive TJ policy and roadmap in the DRC hinders systematic reform, while political interference further complicates accountability and truth-seeking efforts. FONAREV, mandated to provide reparations to victims from 1993 onward, represents a key step toward victim support but faces security and financial constraints, limiting its engagement to itinerant missions with restricted reach. Ongoing violence exacerbates these challenges, making it difficult to access victims and provide essential support. Victims face barriers in accessing support structures and justice, and while remote hearings could ease travel burdens, logistical challenges prevent their effective use. Financial constraints also restrict the support provided by CSOs and other stakeholders, compounded by limited TJ training for these groups, which further reduces the effectiveness of TJ efforts. As a result, impunity persists, with civil society monitoring cases involving senior military officers and warlords since 2017 noting that individuals accused of abuses often enjoy protection, and CSOs reporting violations face retaliation, undermining the justice process and victim trust. Interviewees noted that the impunity for warlords especially weakens victim confidence.



*FONAREV, mandated to provide reparations to victims from 1993 onward, represents a key step toward victim support but faces security and financial constraints, limiting its engagement to itinerant missions with restricted reach.*

Dr Philippe highlighted the positive role of academia, in tandem with CSOs, in advancing TJ. He notes that academic efforts influenced the creation of the sexual violence law and FONAREV's establishment. He also notes that the curriculum at the Law Faculty at ULPGL-Goma now includes modules on human rights and mass crimes, though it lacks a dedicated TJ course. Academic contributions have been substantial, with researchers publishing on TJ topics, thereby supporting the development of a legal and policy framework for TJ in the DRC.

### 3.8.4 Conclusion and Outlook

One of the most significant challenges in DRC is the absence of a comprehensive TJ policy. The Truth and Reconciliation Commission, established following the Sun City Agreement, was never operationalised due to political complexities. The establishment of FONAREV is intended to address the reparation element of TJ but neglects other critical elements such as a comprehensive peace process, truth-seeking, and other initiatives that are a prerequisite for effective reparations. Current efforts represent some progress but cannot be meaningful unless incorporated into a holistic approach that offers a coherent roadmap for change.

Looking ahead, it is crucial to learn from the recent Ethiopian approach that decided to recalibrate and begin a comprehensive approach beginning with a broad consultative process that aligns with AUTJP. Furthermore, regional and sub-regional support to promote and encourage the political commitment for TJ may also help the process. Enhancing collaboration and supporting the capacity-building of CSOs will further strengthen the TJ process, but additionally, political and institutional reforms will ensure that TJ not only addresses past atrocities but also paves the way for sustainable peace and development in the DRC.

## 3.9 The State of Transitional Justice in the Central African Republic

### 3.9.1 Introduction

CAR's TJ efforts began with the National Criminal Court's 2002 conviction of former president André Kolingba and others, followed by the ICC's prosecution of individuals for war crimes and crimes against humanity. These early initiatives sought to address the legacies of CAR's repeated coups and conflicts, which were largely driven by competition over the nation's rich mineral resources, including oil, gold, diamonds and copper. Years of military and political crises have left approximately 3.1 million people in CAR in need of humanitarian aid.<sup>55</sup>

55 Centre for the Study of Violence and Reconciliation. 2023. Central African Republic Peace Process. Available at: <https://atjhub.csvr.org.za/central-african-republic-peace-process/> [Accessed 8 July 2024].

In addition to prosecutions, CAR implemented amnesty laws and reconciliation measures, including the 2007 peace agreement and 2008 amnesty law aimed at disarming rebel forces.<sup>56</sup> Renewed conflict spurred the 2015 Bangui Forum for National Reconciliation, leading to the establishment of the Special Criminal Court (SCC) in 2015 and the Commission for Truth, Justice, Reparations and Reconciliation (Commission Vérité, Justice, Réparations et Réconciliation, CVJRR) in 2020. These mechanisms aim to deliver justice for past atrocities, promote reconciliation, and provide reparations to victims. However, logistical issues, limited staffing, and security concerns have constrained the effectiveness of both the SCC and CVJRR. The CVJRR faces particular challenges, including a limited number of commissioners, unvalidated internal regulations, and difficulties accessing conflict-affected regions.

To address SGBV, CAR established the Unité Mixte d'Intervention Rapide et de Répression des violences sexuelles faites aux femmes et aux enfants (UMIRR),<sup>57</sup> a rapid-response unit comprising jurists, police and social workers to respond to SGBV incidents through legal action and support services. The Ministry of Women's Promotion has been actively involved in SGBV issues, and CAR has partnered with various stakeholders to support TJ for SGBV victims. The United Nations Multidimensional Integrated Stabilization Mission in CAR (MINUSCA), has offered substantial support to the CVJRR, while CAR's government also collaborated with the ICC in the case of Bemba, leading to his conviction.<sup>58</sup>

In November 2024, the UN Security Council extended MINUSCA's mandate until November 2025 to support national reconciliation and security, and in December 2024 the ICC began closing statements in the trial of anti-Balaka leaders Patrice-Edouard Ngaïssona and Alfred Yekatom for war crimes and crimes against humanity.<sup>59</sup> At the national level, the Special Criminal Court also sentenced former rebel leader Azor Kalité and three others for crimes against humanity committed during the 2020 N'Délé clashes.

### 3.9.2 Alignment with AUTJP Standards

CAR has not developed a national TJ policy. The CVJRR's mandate covered the four main TJ pillars which constitute key elements of the AUTJP (establishment of TJ commission, justice and accountability, reparation, and reconciliation), but the commission made negligible

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56 United Nations Security Council. 2008. Report of the Secretary-General on the Situation in the Central African Republic. Available at: <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CAR%20S2008733.pdf> [Accessed 8 July 2024].

57 United Nations. 2016. Team of Experts Annual Report 2016: Addressing Sexual Violence within the Military Justice System in the Great Lakes Region, pp. 14–15. United Nations. Available at: <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/report/team-of-experts-annual-report-2016/TOE-ANNUAL-REPORT-2016.pdf> [Accessed 9 July 2024].

58 Open Society Justice Initiative. 2016. Briefing: Bemba Judgment. Available at: <https://www.justiceinitiative.org/uploads/463b8e42-973a-44d6-abcd-cc065b8cea3e/briefing-bemba-judgment-20160315.pdf> [Accessed 8 July 2024].

59 AP News. 2024. Closing Statements Begin in the Trial of Central African Republic Rebels at the Hague. Available at: <https://apnews.com/article/11e0d51c740b8edc825b7314879afd9d> [Accessed 10 February 2025].

progress in its efforts. Juliana Boui Yodiam, a commissioner at the CVJRR, highlights that while the CVJRR engaged in outreach and reconciliation, insecurity and resource constraints limit its operations, affecting its ability to fully align with the AUTJP's element of inclusive peace processes. Similarly, in relation to cross-cutting issues highlighted by the AUTJP, efforts to include women, youth and marginalised groups are hindered by these constraints, especially in conflict-affected regions. The establishment of UMIRR to combat gender-based violence is a positive step, though its impact is limited by ongoing financial challenges.

The justice and accountability element also remains weak. Francine-Evodie Ndemade of the Collectif de la Plateforme des Victimes de Centrafrique and Evrard Bondade, secretary general of the Central African Observatory of Human Rights, emphasise that victims distrust the system, as some perpetrators still hold government positions, undermining confidence of the CVJRR's ability to deliver impartial justice. Although CSOs collaborate with the CVJRR to advocate for victims, the insecurity and funding issues limit their effectiveness. Memoranda of Understanding between the CVJRR and CSOs aim to strengthen collaboration, but challenges remain due to the country's size and ongoing conflict.

Diversity management, a central element of the AUTJP, is partly addressed, but full engagement with communities is similarly hampered by the abovementioned challenges. Reparations remain a point of frustration for victims, as noted by Ndemade, despite the AUTJP's emphasis on its significance for restoring dignity and addressing needs of victims. International support from MINUSCA and the Dr Denis Mukwege Foundation has been crucial, particularly for victims of sexual violence, but broader reforms and technical support and funding are needed.

### 3.9.3 Impact and Challenges

The CVJRR has faced significant operational challenges, including a lack of administrative support staff and limited logistical resources. Boui Yodiam noted that the CVJRR has had to operate from rented premises, undermining the confidence of its partners. Additionally, ongoing conflict has created security issues, rendering many regions inaccessible and restricting the commission's capacity to fulfil its mandate effectively.

The CVJRR's internal regulations remain unvalidated, while a pervasive distrust between victims and authorities complicates its work. This mistrust, heightened by the presence of some alleged perpetrators within the government, underscores the need for extensive awareness campaigns. A shortage of specialists for psychological and healthcare support further exacerbates the challenges faced by victims. Nevertheless, collaboration between CSOs and victim groups has enabled some support through advice and information sharing. Ndemade reported that many victims are still waiting for government reparations, and although human rights organisations provide some assistance, the lack of direct reparations risks diminishing the CVJRR's credibility. Confidence in the TJ process is further eroded by perceptions that certain perpetrators in government remain "untouchable".

Interviewees noted that government engagement with traditional leaders and communities has fostered some local ownership and participation through consultations. However, the CVJRR's progress has been limited, with training workshops and public education campaigns reaching only select cities, leaving many areas underserved. Partnerships with organisations such as the Global Survivors Fund and the Dr Denis Mukwege Foundation have provided critical support, especially for victims of conflict-related sexual violence, but interviewees stressed the need for expanded outreach. Resource constraints and security concerns also continue to be the main obstacles to effective TJ implementation in CAR. Insufficient funding has severely restricted CVJRR operations, and CAR remains heavily reliant on external support from partners like MINUSCA to sustain its TJ initiatives.

### 3.9.4 Conclusion and Outlook

The TJ process in CAR has made some progress, but like many other contexts, it faces significant challenges. The inclusive and participatory approach of the CVJRR, supported by CSOs and the international community, has been hindered by resource constraints, security concerns, and the lack of trust in the process. These issues have undermined the effectiveness of victim support, accountability measures, and efforts to promote social cohesion.

Looking ahead, it is essential to equip the CVJRR with adequate resources, technical assistance, and capacity support to enable it to fulfil its mandate more effectively. CAR would benefit from drawing on the AUTJP to develop a comprehensive framework that integrates context-specific elements, taking critical steps toward promoting lasting peace and reconciliation in the country.

## 3.10 The State of Transitional Justice in Burundi

### 3.10.1 Introduction

TJ in Burundi began with the 2000 Arusha Peace Agreement, eventually leading to the establishment of the Truth and Reconciliation Commission (Commission Vérité et Réconciliation, CVR) in 2014. Since gaining independence from Belgium in 1962, Burundi has faced recurring interethnic conflicts between the Hutu majority and Tutsi minority, including civil wars in 1965, 1972, 1988 and 1991, along with multiple coups.<sup>60</sup> The CVR, which began operations in 2016, was mandated to investigate human rights violations from 1885 to 2008. Its investigations have covered the massacres of Hutus, other large-scale killings, and conflict-related sexual violence by both armed rebels and the army.

60 Ngaruko, F. and Nkurunziza, J.D. 2005. Civil War and Its Duration in Burundi. *Understanding Civil War*, 1, pp. 35–61. Available at: <https://lib.ugent.be/catalog/rug01:000910678> [Accessed 17 June 2024].

Interim CVR reports have documented the discovery of mass graves, recovery of remains, and extensive accounts of sexual violence.<sup>61</sup>

Despite these efforts, the CVR's final report, submitted to the government in 2022, has not been fully disclosed to the public. The process has faced significant challenges, including political interference and limited transparency, which have hindered the broader TJ objectives of truth and reconciliation.<sup>62</sup>

### 3.10.2 Alignment with AUTJP Standards

Burundi's TJ as outlined in the Arusha Peace Agreement aimed to include all four main pillars of TJ, with the establishment of the CVR for truth-seeking and a proposed mechanism for accountability, in addition to measures for reparations and institutional reforms. The CVR investigated and established the truth about human rights violations from 1885 to 2008, aligning with the AUTJP's emphasis on addressing the impact of colonial legacies in addressing conflict and past abuses. However, the Special Tribunal proposed in the Peace Agreement for prosecuting crimes against humanity has not been fully realised yet. The delay in establishing judicial mechanisms remains a significant gap in aligning with the AUTJP's standards for accountability. Provisional immunities granted to former perpetrators have further complicated efforts to ensure accountability, as highlighted in the International Center for Transitional Justice (ICTJ) 2008 submission to the UN Human Rights Council.<sup>63</sup>



*The CVR's mandate to develop a reparations programme, supported by a government fund, is a key element of the TJ process that addresses the reparative justice needs of the victims.*

The CVR's mandate to develop a reparations programme, supported by a government fund, is a key element of the TJ process that addresses the reparative justice needs of the victims. However, this has faced challenges and delays, with inconsistent execution particularly affecting victims of sexual violence. National consultations are crucial to ensure the reparations process is inclusive and reflects the needs of all victims. This will require broad participation and transparency to build trust. As highlighted by the ICTJ's submission to the UNHRC, international partners are pushing for an effective reparations framework.

61 Centre for the Study of Violence and Reconciliation. 2024. Burundi: Truth and Reconciliation Commission (2014–Present). Available at: <https://atjhub.csvr.org.za/burundi-truth-and-reconciliation-commission-2014-present/> [Accessed 7 July 2024].

62 Human Rights Watch. 2023. World Report 2023: Burundi. Available at: <https://www.hrw.org/world-report/2023/country-chapters/burundi> [Accessed 7 July 2024].

63 International Center for Transitional Justice (ICTJ). 2008. Burundi: Submission to the Universal Periodic Review of the UN Human Rights Council. Available at: <https://atjhub.csvr.org.za/burundi-truth-and-reconciliation-commission-2014-present/> [Accessed 7 July 2024].

### 3.10.3 Impact and Challenges

The CVR's documentation of human rights violations, including widespread sexual violence, and raising awareness about the extent and nature of abuses in Burundi, is significant in acknowledging victims' experiences and setting the stage for reparations, reforms and accountability. However, numerous challenges persist in the TJ process in Burundi. One major challenge is the delayed implementation of key mechanisms, including the establishment of the Special Tribunal. Another significant challenge is the issue of provisional immunities granted to former perpetrators, including members of the Palipehutu–FNL, which raises concerns about political will, accountability, and addressing impunity for serious international crimes. Additionally, integrating a gender perspective into TJ remains a formidable challenge. Stereotypical perceptions of gender roles, coupled with cultural and social barriers, have limited women's participation in the TJ process. Political instability and security concerns have also posed significant challenges to the TJ process.<sup>64</sup>

Ongoing incidents of violence and repression by state and non-state actors undermine efforts to promote justice and reconciliation. The persistent denial of CRSV and sexual violence during the conflicts in Burundi has led to limited awareness and insufficient attention to these crimes, and thus inadequate support for victims and survivors. This denial is often perpetuated by the high prevalence of perpetrators within the security forces. Additionally, the extensive displacement crisis stemming from the conflict has correlated with severe human rights abuses and CRSV, predominantly affecting women and girls.<sup>65</sup>

### 3.10.4 Conclusion and Outlook

Burundi's TJ process is an effort to address decades of interethnic conflict and human rights abuses. However, challenges remain in fully aligning this process with the holistic approach that the AUTJP framework envisages. Moving forward, several key actions will be necessary to enhance the effectiveness of Burundi's TJ efforts. First, it is imperative to expedite the implementation of the Special Tribunal and ensure comprehensive national consultations to strengthen the TJ efforts, including the publication and implementation of the CVR recommendations. Furthermore, addressing gender-specific barriers and integrating a gender perspective into all aspects of TJ can help ensure more inclusive and equitable outcomes. Similarly, looking into a comprehensive reparations programme designed to provide adequate support for victims, including psychosocial assistance, is crucial for promoting healing and reconciliation. However, ensuring a stable political and security environment is vital for the successful implementation of TJ mechanisms. This can be initiated through reforms and building on the progress made. The successful implementation of TJ measures can contribute to lasting peace and stability in Burundi.

64 Impunity Watch. 2018. Genre et justice transitionnelle au Burundi: entre rôles sexo-spécifiques, hiérarchies & dynamiques politiques. Available at: [https://www.impunitywatch.org/wp-content/uploads/2022/08/PolicyBrief\\_Genre\\_Justice\\_Transitionnelle\\_a\\_Burundi\\_2018\\_french-1.pdf](https://www.impunitywatch.org/wp-content/uploads/2022/08/PolicyBrief_Genre_Justice_Transitionnelle_a_Burundi_2018_french-1.pdf) [Accessed 10 July 2024].

65 African Transitional Justice Hub. 2024. Burundi Truth and Reconciliation Commission (2014–Present). Available at: <https://atjhub.csvr.org.za/burundi-truth-and-reconciliation-commission-2014-present/> [Accessed 10 July 2024].

# 04

## Lessons from Practice

This section analyses the case studies of TJ in the different country contexts considered in this report, based on the indicative elements of the AUTJP that emerged as priorities. Nine out of the 11 indicative elements are discussed in some detail. Human rights and memorialisation are not discussed under specific headings, considering that while memorialisation efforts have been undertaken by some of the countries, they did not feature as a primary focus. Furthermore, human rights is also not addressed under a separate heading because of its overarching role within the overall TJ framework, underpinning all aspects of TJ. Human rights is thus integrated throughout the discussion, reflecting its centrality as a core essence of TJ processes.



*This section analyses the case studies of TJ in the different country contexts considered in this report, based on the indicative elements of the AUTJP that emerged as priorities.*

Furthermore, while the AUTJP identifies multiple cross-cutting issues the section prioritises a focus on gender because of its prevalent yet often under-addressed impact across all TJ contexts, particularly given the specific and disproportionate ways in which women experience conflict-related harm.

### 4.1 Peace Processes

Interviewees in this study highlighted the challenges that ongoing conflict poses for TJ initiatives. They agreed with the view that in countries plagued by continuous conflict, TJ must begin with a peace process aimed at ending conflict and serving as a foundation for TJ. However, the interviews revealed that peace processes face numerous challenges which are also often connected to other indicative elements of TJ noted by the AUTJP, underscoring the interdependence of the elements.

A primary obstacle is political resistance to accountability. In South Sudan, high-ranking officials continue to resist mechanisms like the proposed hybrid court meant to hold perpetrators accountable for war crimes and human rights violations. This resistance hinders the implementation of justice and accountability as well as reconciliation measures and is also common in the other countries where those in power (often alleged perpetrators) have a vested interest in maintaining the status quo to avoid scrutiny and punishment for past actions. According to Abeja Sara Jackson:

*The process of trying the military, it is two-way. One, it acted as a deterrent that the military are no longer going on rampage of raping and all that, but then also on the other side, it acted as a blockade, some people are now fearing to come up even to ask for apology to ... accept that some of these things happened, because they feel like if the hybrid court comes on board and already the juniors are being tried, it's going to be an issue for those who are already in authority. Because you may want to know that in South Sudan, some of the commanders, most of these people are already in the government. They already have power in the government. So, it is very difficult now to ask for accountability for the perpetrators who are already in power. So that is, I think, even one of the reasons why the hybrid court is not taking stronger steps is because those in power feel that once it is set, it's going to come back to them.*

The politicisation of security forces is another significant obstacle. Interviewees in Lesotho noted that political parties often manipulate security agencies for their advantage, particularly during elections. Comprehensive reforms needed to depoliticise security institutions and promote accountability are often hindered by control over national resources and patrimonialism.<sup>66</sup> In addition, sustainability of peace processes requires addressing elements such as redistributive (socio-economic) justice and diversity management. In DRC, South Sudan and CAR, control and exploitation of natural resources like oil have fuelled conflicts, adding complexity to resolving them. Ethiopia faces similar challenges, with internal disputes over land and resources driving conflicts between bordering regions. These disputes often stem from competition over scarce resources, leading to prolonged and violent confrontations that undermine peace efforts.

Peace processes cannot endure without addressing cultural and ethnic diversity constructively.<sup>67</sup> An interviewee in Mali argued that state policies that continue to use colonial classifications, emphasising geographical and ethnic distinctions, contribute to divisions that exacerbate conflict. Managing ethnic diversity is therefore crucial for peace processes, as interviewees pointed out in Mali and with Ethiopia's ethnic federalism.

66 Sharp, D.N. 2013. Interrogating the Peripheries: The Preoccupations of Fourth Generation Transitional Justice. Harvard Human Rights Journal. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2093452](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2093452) [Accessed 7 August 2024].

67 Ekpo, E. 2022. Trends of Ethnicity, Culture, Strategies of Peace Building and Conflict Resolution Process. AKSU Journal of Social Sciences (AJSS), 2(2), pp. 33–47. Available at: <https://www.aksujournal.com/vol.2%20No.2/TRENDS%20OF%20ETHNICITY,%20CULTURE,%20STRATEGIES%20OF%20PEACE%20BUILDING%20AND%20CONFLICT%20RESOLUTION%20PROCESS.pdf> [Accessed 7 August 2024].

The experiences of several countries highlight trends and lessons that support peace processes. In Guinea, civil society involvement in TJ has been crucial for raising awareness and promoting peace and reconciliation. Despite challenges, initiatives have succeeded in creating dialogues and memorialisation efforts that foster a sense of community and collective memory, showing the importance of involving victims and other stakeholders in peace processes beyond the immediate parties involved in the conflict. As Mamphanya Mahao noted in reflecting on the TJ commission in Lesotho:

*I wish all the people in power, as they approach these processes, they bear in mind that the people who suffered are the ones they should concentrate on. Not to say everything in this country should be about us, but consider the victims. But here in our country, it is the other way around. People do everything in their power to make sure that they are comfortably placed within that system, which is why they decided to form that commission and everything else was focused on everyone other than the victims. So, if they could observe that at the heart of this process is the victims, then I think everything would go fine. We are not saying everything should be about us, but we are at the core of that system and the minute they ignore our existence then there won't be any peace.*

Most participants in the study also believe that Integration of African traditional justice mechanisms and local peace instruments can further bolster peace processes.<sup>68</sup> Interviewees in The Gambia, for example, described the use of traditional joking relationships and other cultural practices to promote reconciliation and prevent conflict, and similar views was expressed by other interviewees including from South Sudan and Guinea-Conakry. Such traditional mechanisms, deeply rooted in the social fabric, can foster more inclusive peace processes.

## 4.2 Transitional Justice Commissions

TJ commissions, sometimes referred to as truth commissions, have become the centrepieces of TJ processes and most of the countries included in this study have either initiated some form of TJ commission or are in the process of designing or setting up one. Their mandates vary, informed by the conflict or political context, and their implementation and effectiveness largely depend on the contextual realities. In South Sudan, the CTRH and CRA have yet to be operationalised, similar to CAR where the CVJRR struggled to operate, highlighting a gap between policy formulation and implementation, which participants ascribed to inadequate funding, staffing or empowerment to function effectively.<sup>69</sup>

68 Galvanek, J.B. & Planta, K. 2017. Peaceful Coexistence: Traditional and Non-traditional Conflict Resolution Mechanisms. Berghof Foundation. Available at: [https://berghof-foundation.org/files/publications/20170228\\_DSFR\\_Report.pdf](https://berghof-foundation.org/files/publications/20170228_DSFR_Report.pdf) [Accessed 7 August 2024].

69 Wiebelhaus-Brahm, E. & Wright, D. 2023. Examining Compliance with Domestic Human Rights Bodies: The Case of Truth Commission Recommendations. *Journal of Human Rights*. Available at: <https://www.tandfonline.com/doi/abs/10.1080/14754835.2022.2111657> [Accessed 7 August 2024].

In contrast, The Gambia presents a more positive scenario where the TRRC had the necessary convergence of international support, political will, and public endorsement, and made significant progress. The government's publication of a white paper and roadmap for implementing the commission's recommendations is also seen as a positive step for transparency and commitment, although victims and CSOs believe the pace of actual implementation of its recommendations has been slow. One interviewee noted that when governments are open about their intentions and actions, it can lead to greater international and public support and cooperation.

The role of political will and institutional support was a recurring theme in the study. In Guinea, despite multiple attempts to establish an effective truth commission, political instability and lack of sustained support hindered progress. In The Gambia, when the 2021 elections led to the incumbent president's party entering into a coalition with Jammeh's party, participants stated that there was a significant dip in public and victim confidence in the TJ process. Without strong and consistent political backing, TJ commissions are unlikely to achieve their objectives.<sup>70</sup>

In Burundi, the CVR has focused on restorative justice, emphasising rehabilitation and reconciliation. It has endeavoured to conduct consultations and promote public participation, which are essential for building trust and ensuring the process addresses the needs and expectations of victims and society. However, lack of political will has frustrated the efforts of the commission, whose final report has yet to be published. In Mali, the CVJR achieved significant milestones, including a comprehensive reparations policy. However, security challenges and limited resources have impeded its effectiveness. Ongoing conflict and instability can severely restrict the operations, investigations and implementation of recommendations by truth commissions.

Inclusivity and public engagement are also crucial for the success of TJ commissions. Ethiopia's Diagnostic Study of the Ethiopian Criminal Justice System emphasised the importance of public participation and inclusivity in justice sector reforms, critiquing the lack of consultation that characterised the establishment of the Ethiopian Reconciliation Commission. The Commission, which was rushed without prior public dialogue, faced criticism for its flawed establishment process, which affected its legitimacy and effectiveness. Similarly, it noted that the establishment of the National Dialogue Commission in 2022 was met with public scepticism, particularly due to ongoing conflicts in the Oromo and Tigray regions, further demonstrating the consequences of inadequate public engagement in TJ processes.<sup>71</sup>

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70 Hayner, P.B. 2010. *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, 2nd ed. New York: Routledge.

71 Criminal Justice System Working Group. 2021. *Diagnostic Study of the Ethiopian Criminal Justice System*. Addis Ababa, Ethiopia. Available at: <http://ethcln.com/system/files/Ethiopian%20Criminal%20Justice%20System%20-%20Diagnostic%20Study%202021.pdf> [Accessed 13 October 2024].

Several lessons emerged from the interviews, primarily highlighting sustained political will in establishing TJ commissions. The cases of Guinea and Libya further show that political instability and lack of support can stymie or derail TJ initiatives. Public trust in the process is crucial, and transparency and public engagement are essential. The Gambia's TRRC demonstrates how transparency through public hearings, outreach activities, reporting and implementation can build public trust. Moreover, the experiences of Libya, DRC, CAR and Mali highlight the effects of ongoing conflict on the work of commissions, either by impeding access to certain regions and groups or by creating security risks for victims and witnesses. Ensuring secure environments where victims and witnesses feel safe to engage with TJ mechanisms is essential for comprehensive and accurate truth-seeking and documentation.

### 4.3 African Traditional Justice Mechanisms

Traditional justice mechanisms are usually rooted in the cultural and communal practices of societies, providing a trusted framework that resonates with the community. This enhances the legitimacy and acceptance of TJ efforts.

In Guinea, the Comité National des Assises leveraged local traditions to engage victims and perpetrators in dialogue, ensuring the inclusive participation of women, youth, and marginalised communities. Interviewees believe that this culturally sensitive approach facilitated community involvement in the reconciliation process. Similarly, the DRC has utilised traditional mechanisms such as the intercommunal baraza in North Kivu, where community delegates mediate disputes, emphasising community-based conflict resolution. In CAR, TJ efforts included consultations with community leaders and the general populace, ensuring that the mechanisms are culturally relevant and reflective of local needs. South Sudan's approach recognises traditional customs and ethnic diversity in its pursuit of justice. In Libya, CSOs incorporate local customs and traditions to foster national reconciliation amid political division.

Some TJ scholars<sup>72</sup> have drawn attention to the attendant challenges of integrating traditional practices in TJ processes, stressing that local practices sometimes contradict international human rights standards of justice, fairness and inclusivity. While culturally resonant, traditional systems are often dominated by community elders (mostly men) or majority groups, often excluding women, youth and other marginalised populations, which perpetuate existing inequalities and hinder comprehensive and equitable justice.

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72 Allen, T. & Macdonald, A. 2013. Post-Conflict Traditional Justice: A Critical Overview. Justice and Security Research Programme, International Development Department, London School of Economics and Political Science, London, UK. Available at: [http://eprints.lse.ac.uk/56357/1/JSRP\\_Paper3\\_Post-conflict\\_traditional\\_justice\\_Allen\\_Macdonald\\_2013.pdf](http://eprints.lse.ac.uk/56357/1/JSRP_Paper3_Post-conflict_traditional_justice_Allen_Macdonald_2013.pdf) [Accessed 7 August 2024].

Adam Kochanski,<sup>73</sup> assistant professor in the Department of Political Science in Guelph, argues that traditional justice mechanisms can also be used to deflect justice to allow ruling parties to avoid accountability and to conceal violations.

Based on the interviewees for this study, the effectiveness of traditional mechanisms varied across the countries. In Guinea, integrating local traditions has been effective in creating a more inclusive reconciliation process. In DRC, while traditional practices have been beneficial, their overall effectiveness is limited by the lack of comprehensive TJ policies and stakeholder involvement to guide the process. In CAR, the use of popular consultations has ensured cultural sensitivity and inclusivity, though challenges such as logistical constraints and security issues persist. South Sudan's recognition of traditional customs has been somewhat effective, but ongoing conflicts and resource limitations hinder full implementation. In Libya, traditional reconciliation practices have shown promise in building trust within communities, although political instability impacts on their overall effectiveness.

Interviewees agree that traditional practices resonate with local populations, enhancing their acceptance and participation in TJ. They noted that integrating traditional mechanisms with formal processes can bridge the gap between state-led initiatives and community-based needs. In a continent with low literacy and civic knowledge, using traditional mechanisms promotes meaningful inclusivity among marginalised groups, including women and youth, who are more familiar with these practices. While complicated, some of the challenges and critiques highlighted above can be mitigated by enhancing support and collaboration between formal TJ institutions and CSOs, and between CSOs and community-based organisations. Comprehensive policies that integrate traditional mechanisms can provide a clearer framework for their implementation and ensure consistency in their application.

## 4.4 Reconciliation and Social Cohesion

Reconciliation, as reflected in the AUTJP, is both a process and a goal of TJ. This is also apparent in the conceptualisation of reconciliation by various participants in this study. For South Sudanese TJ, reconciliation is characterised by a yearning for peace and the restoration of dignity and socio-economic rights, as articulated by Abeja Sara Jackson, who emphasised the necessity of truth-telling, compensation, and guarantees of non-recurrence. In this effort for a reconciled society, CSOs are engaged in consultations in conflict-affected areas, recognising the importance of inclusivity and addressing the needs of those most impacted by the violence. However, these efforts need support and political will to attain greater gains.

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73 Kochanski, A. 2021. Framing, Truth-Telling, and the Limits of Local Transitional Justice. *Review of International Studies*. Available at: <https://www.cambridge.org/core/journals/review-of-international-studies/article/framing-truth-telling-and-the-limits-of-local-transitional-justice/9CD49046631C6937DF760896C5095A4C> [Accessed 7 August 2024].

Similarly, Ethiopia's Somali regional TRC commissioners noted that the long history of violence has bred divisions and created a situation where perpetrators and victims live side by side. They thus view TJ as an effort to heal deep-seated wounds and foster coexistence among the community. Inter-regional conflicts between ethnicities further highlight the need for addressing structural issues that underpin conflicts, such as resource allocation and ethnic disputes.<sup>74</sup> This underscores the need for the national TJ effort to establish mechanisms that not only address past wrongs but also promote societal integration and mutual understanding.

In CAR, victims like Francine Evodie Ndemade shared how violence has resulted in profound personal and communal scars. While reconciliation initiatives are ongoing, more resource support, capacity building, and coordination of efforts is needed. Libya's reconciliation process, meanwhile, is hampered by divided state institutions. To facilitate reconciliation, addressing root causes of division, such as national governance, decentralisation, and security reforms, must be prioritised. One interviewee highlighted that merely establishing a single government in Libya is insufficient; deeper issues like ethnic marginalisation and militia control must be resolved to ensure reconciliation.

In Guinea, Souleymane Camara stated that CSOs continue to mediate between communities in conflict to promote understanding through historical remembrances and communal dialogues. These efforts aim to ensure that past conflicts are remembered in ways that foster unity rather than division. Additionally, in Guinea, Binta Nabe describes efforts by provisional structures and the Comité National des Assises in listening to citizens and addressing the mistrust between authorities and the population through open dialogue. In Mali, Ali Maïga discussed the influence of regional coordination and traditional mechanisms in strengthening social cohesion. He notes that the integration of indigenous conflict resolution methods with formal justice systems has been crucial for addressing local issues. He urged further efforts to blend traditional and conventional practices to create a more comprehensive and culturally sensitive reconciliation process in Mali. In Burundi and Lesotho, interviewees suggest that reconciliation is hampered by structural issues such as political interests and hegemony over resources.

In all contexts, the need for truth-telling, compensation and guarantees of non-repetition, as well as the integration of traditional justice mechanisms, have been cited as requisites for reconciliation processes to succeed. However, historical grievances, cultural practices and other factors should also be considered.

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74 Yusuf, S. 2019. Drivers of Ethnic Conflict in Contemporary Ethiopia. Institute for Security Studies Monographs. Available at: <https://ethiopianeje.com/wp-content/uploads/2019/12/mono-202-2.pdf> [Accessed 7 August 2024].

## 4.5 Reparations

Participants in this study emphasised that reparations not only serve as compensation to victims but also support community healing, peace and justice. They highlighted the need for a multifaceted approach that considers both individual and community reparations, showing the intrinsic links between reparations and other indicative elements in the broader process (e.g., diversity management, socio-economic justice), thus underscoring their importance in achieving TJ goals.

Interviewees stressed the interplay between individual and community reparations and the necessity of a deliberate approach to designing and implementing a comprehensive reparation programme. For example, in The Gambia, the TRRC initiated interim reparations which, though inadequate according to some victims, provided urgent immediate relief while broader reparations mechanisms were being developed. This approach acknowledged the urgent needs of victims, while the dissatisfaction and inconsistencies in its application highlighted the need for a comprehensive reparations process that requires time, consultation, and careful planning. Similarly, in South Sudan, the need for immediate support for victims, such as medical care and psychosocial assistance, contrasted with the long-term planning required for comprehensive reparations, leading interviewees to call for a balanced approach that addresses both immediate and long-term needs.

Victims and CSOs in DRC, meanwhile, suggested that reparations must extend beyond individual or mere economic compensation to include psychological support and community reconstruction. This holistic approach seeks to heal communities, particularly in conflict contexts, ensuring that collective trauma and destruction are addressed. In Ethiopia, the Somali TRC emphasised the need for economic and financial compensation for irrecoverable losses, such as livestock, highlighting the importance of reparations in regions where traditional livelihoods have been devastated by conflict. Tatiana Mukanire, a survivor and advocate, noted:

*Personally, I think that the psychological is the same as the economic. A woman who has been raped and who can't meet the primary needs of her family. It's a bit complicated. It repeats all the time. It becomes a bomb in the long run. Another demand that comes from the factory is really reparations, real reparations. Reparations are not only economic. Of course we need to have compensation, but the reparations are psychological. The reconstruction of a whole community. And I think that to reconstruct a community, first of all this community needs to be fixed, and this peace should be taken by justice which will guarantee that it will never happen again. And finally people will say we live in peace, and you can rebuild and elevate the community together. So, there is the recognition of the violence suffered, the holistic care, the reparations both individual and collective for the communities.*



*The AUTJP framework on reparations, and attendant benchmarks, provides a guiding foundation for developing comprehensive reparations programmes.*

In all 10 countries studied, the role of reparations as a fundamental component of achieving lasting peace and reconciliation was highlighted, as was the fact that reparations are broad and can be subcategorised. In Guinea, the state's acknowledgement of past atrocities and organisation of national mourning days for victims were seen by civil society and victims as satisfaction, and a crucial step towards reconciliation. This underscores the importance of acknowledging past wrongs through reparations as a foundation for building a peaceful future.

The connection between justice and reparations for victims was also emphasised. In Guinea, victims and civil society expect trials to lead to reparations. This link is recognised by policymakers, as evidenced in Mali, where the government adopted a comprehensive reparations policy that includes both judicial and non-judicial measures. The establishment of an Authority for the Management of Reparations for the Victims of the Crises in Mali and the incorporation of reparations into the national TJ framework in Mali illustrate this. Similarly, the establishment of FONAREV in DRC and the passing of the Reparations Act in The Gambia points to the recognition of reparations as integral to TJ in Africa.

Despite this, implementation of reparations in the various countries faces numerous challenges. In Mali, CSOs decried the lack of clear mechanisms for identifying victims and determining compensation as a significant hurdle, while in DRC, lack of political will to facilitate the implementation of a fair and effective reparations programme has impeded efforts. Delays in documentation and truth-seeking have also hindered progress in CAR, while the prolonged development of TJ mechanisms and ongoing need for resources present challenges in South Sudan.

The AUTJP framework on reparations, and attendant benchmarks, provides a guiding foundation for developing comprehensive reparations programmes. Additionally, support from Regional Economic Communities (RECs), the AU, and international stakeholders can boost reparations efforts. Integrating reparations into national development plans can also foster the reconstruction of affected

communities and marginalised groups. For example, in The Gambia, the government incorporated elements of the proposed implementation of TJ recommendations into its National Development Plan, aligning reparations and development priorities with the socio-economic rights of affected individuals and communities.

However, some TJ scholars have argued that reparations should be distinct from regular development initiatives because they specifically address injustices suffered by victims, rather than fulfilling a state's general obligations to its citizens. According to this paradigm, reparations serve as a form of justice, aimed at acknowledging harm and restoring dignity, rather than addressing broader social needs.<sup>75</sup> While reparations can be linked to development for greater effect, it risks diluting their unique role as a legal and moral duty to victims, framing them merely as social service extensions. Keeping reparations separate prevents politicisation and ensures they remain focused on redress and rehabilitation, rather than substituting for general socio-economic development efforts.<sup>76</sup>

Additionally, the role of CSOs and international partners is crucial in supporting reparations efforts. In Guinea, CSOs have been instrumental in advocating for and implementing various forms of support for victims. Similarly, in South Sudan, collaboration with international organisations and particularly the AU has provided critical support for the development of reparations policies and laws. CSOs not only advocate for the implementation of reparations but also engage in documenting, raising awareness, and other activities to improve access to reparations.

## 4.6 Redistributive (Socio-Economic) Justice

In addition to reparative measures, resolving post-conflict or post-authoritarian legacies necessitates redistributive or socio-economic justice efforts.<sup>77</sup> These efforts aim to rectify historical injustices that have characterised Africa's past and created conditions that breed internal tensions.

In Ethiopia, the Boundaries and Identity Commission was established to address such issues, showing the importance of land reallocation and the resolution of ethnic tensions. In Guinea, the Fund for Women's Economic Activities aims to economically empower women at the grassroots level, providing them with necessary financial resources

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75 Firchow, P. 2013. Must Our Communities Bleed to Receive Social Services? Development Projects and Collective Reparations Schemes in Colombia. *Journal of Human Rights*, 12(4), pp. 514–536. Available at: <https://dx.doi.org/10.1080/15423166.2013.863689> [Accessed 7 August 2024].

76 Balasco, L. 2017. Reparative Development: Re-Conceptualizing Reparations in Transitional Justice Processes. *Journal of Intervention and Statebuilding*, 11(1), pp. 102–119. Available at: <https://dx.doi.org/10.1080/14678802.2016.1231842> [Accessed 7 August 2024].

77 Haldemann, F. & Kouassi, R. 2014. Transitional Justice Without Economic, Social, and Cultural Rights? Available at: [https://www.researchgate.net/profile/Frank-Haldemann/publication/299897984\\_Transitional\\_Justice\\_Without\\_Economic\\_Social\\_and\\_Cultural\\_Rights/links/58517b8108ae7d33e012a8b8/Transitional-Justice-Without-Economic-Social-and-Cultural-Rights.pdf](https://www.researchgate.net/profile/Frank-Haldemann/publication/299897984_Transitional_Justice_Without_Economic_Social_and_Cultural_Rights/links/58517b8108ae7d33e012a8b8/Transitional-Justice-Without-Economic-Social-and-Cultural-Rights.pdf) [Accessed 7 August 2024].

and supporting their movements, thereby ensuring equitable access to resources and opportunities. Decentralisation in Mali represents another approach to redistributive justice, which strengthens local governance by creating schools, health centres and administrative offices in villages to foster community development and reconciliation. Reparation efforts in these contexts have included economic support policies prioritising vulnerable groups to promote economic resilience and social justice. However, these measures face significant hurdles, such as inadequate infrastructure, bureaucratic challenges and resource constraints.

These varied approaches underscore the commitment of various countries to addressing socio-economic disparities through their TJ processes. They represent targeted interventions that consider local contexts and needs. In South Sudan, participants highlighted the importance of resource redistribution but noted that meaningful progress cannot occur unless the TJ process is fully operationalised. Abeja Sara Jackson observed:

*In my view, having been in this process for so long, I've lost hope in most of the promises, its rhetoric. But at least if only the government and AU have, show will, if they could implement the CTRH and reparations, let's talk about the truth, let's reconcile, let's move on, let's guarantee non-repetition, let's compensate those communities that lost a lot. People of South Sudan, we have suffered for so far so long. We are yearning to be a people that are recognised as human beings because the way we are being treated, we are no less than animals. We don't live a life of a human being. How can you live in a rich country but live like someone who is dead alive? We really would recommend that AU stands on its word to support the people of South Sudan. Let's look at the people of South Sudan as human beings. We need justice, and justice in this case, we need education, we need reparation for those communities that lost their hospitals, that lost their schools, that lost a lot. We are not even looking at individual reparation, but what are those group reparations that will leave us living dignity as human beings.*

Integrating socio-economic justice initiatives into TJ frameworks is essential. In Ethiopia, CSOs have made efforts to link business, human rights and conflict resolution in their advocacy, showing potential in addressing resource-driven conflicts. According to Mesud G. Reta:

*So now, what we are doing is to advocate for the promotion and protection of social economic rights so that we have a fair distribution and share of resources in the country, because if you see like the conflict between Somalia and Oromia, Tigray and the Fira government, and Amara and wherever it's about border and it's about land issues. So why is that? Because those areas over which the parties are conflicting are rich. They want to monopolise. One party wants to win the other and then monopolise. But by the end, people will be victims and even the party who wants to monopolise won't do it because they finish their resources by the conflict.*

Prioritising the needs of vulnerable populations, such as women and displaced persons, can significantly enhance the impact of redistributive justice efforts. In Guinea, dedicated funds for women's economic activities have empowered women and strengthened their economic positions.<sup>78</sup> However, participants noted that bureaucratic inefficiency impedes the effective distribution of funds and resources, undermining the goals of socio-economic justice initiatives. In The Gambia, socio-economic justice has been integrated into the National Development Plan to align with TJ objectives, which the government believes will maximise their impact and promote equitable sustainable development. In Libya, meanwhile, deeply entrenched issues of property rights complicate efforts to rectify historical injustices and establish equitable land distribution systems, while in South Sudan, ongoing conflicts undermine socio-economic programmes, exacerbating the difficulties faced by affected populations.

These challenges underscore the serious obstacles to achieving redistributive justice in African contexts. However, strengthening the capacity of CSOs can enhance their impact. This is demonstrated by the Transformation Resource Centre and the Catholic Commission for Justice in Lesotho, which have played vital roles in sustaining advocacy and implementation efforts.

## 4.7 Managing Diversity

One of the fundamental elements that makes the AUTJP relevant and suitable as a context-specific framework for TJ in Africa is its emphasis on managing the rich diversity of African societies. It proposes addressing the unique cultural, ethnic and social dynamics within African communities, promoting inclusivity and local relevance, which CSOs are uniquely positioned to support and advocate for. The study highlights the critical role of civil society in promoting and advancing this aspect of TJ.<sup>79</sup> In South Sudan, CSOs have been critical in ensuring that marginalised groups, including IDPs, returnees, people living with disabilities, youth and women, are included in the design of the TJ process. These CSOs have conducted tailored civic education and awareness campaigns and have lobbied various government ministries to represent their voices and fulfil the interests of marginalised groups. Additionally, they have documented the specific needs, perceptions, and preferences of these communities.

78 World Bank. 2019. Guinea: The Economic Benefits of a Gender-Inclusive Society. Available at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/607191569339066369/guinea-the-economic-benefits-of-a-gender-inclusive-society> [Accessed 7 August 2024].

79 Kirabira, T.R. 2021. The Role of NGOs in the Domestic Implementation of the African Union Transitional Justice Policy Framework: Perspectives from Uganda. *African Human Rights Yearbook*, 5, pp. 221–239. Available at: [https://www.scielo.org.za/scielo.php?pid=S2663-323X2021000100010&script=sci\\_arttext](https://www.scielo.org.za/scielo.php?pid=S2663-323X2021000100010&script=sci_arttext) [Accessed 7 August 2024].

In Ethiopia, the policy consultations on TJ have been notably inclusive, involving over 80 consultations, including those specifically focused on women's rights issues and the concerns of older persons and persons with disabilities. The Ethiopian Somali region's Truth and Reconciliation Commission has actively engaged with community leaders, religious leaders, and youth groups to understand their perspectives and ensure their participation, hoping that the national process will similarly engage diverse demographics. Furthermore, in Guinea, the TJ process recognised the importance of involving all ethnic groups to foster reconciliation and prevent future conflicts. The Peace and Reconciliation Committee included officials from various religious organisations, opposition parties, and government representatives. While challenges were encountered due to political will and resource constraints, Burundi also made efforts to engage broadly, building trust and legitimacy in the TJ process, while in Mali, one of the interviewees noted that diversity can be seen as a resource for the country, provided it is harnessed constructively.

Libya presents unique challenges in managing diversity and promoting inclusivity due to its complex political and social landscape. The institutional division that has resulted in two executive authorities has led to a stagnation of justice, often leaving issues in the hands of local communities, who may take tribal viewpoints. Participants noted the politicisation of the judiciary. A CSO participant said that tribalism often dictates the course of justice, and recourse to obtaining rights is frequently outside of international standards, undermining efforts to create a cohesive national identity. Furthermore, Libya's national identity is complicated by the presence of marginalised ethnic groups, such as the Amazigh and Tabu, who have been systematically excluded from political and economic processes.



*Some of these lessons demand caution when integrating traditional justice measures with national processes. Careful consideration must accompany efforts to incorporate local practices.*

Some of these lessons demand caution when integrating traditional justice measures with national processes. Careful consideration must accompany efforts to incorporate local practices. The issue of sexual violence in South Sudan also underscores the necessity of addressing gender-specific discrimination within cultures to ensure that women are protected and supported in the process of embracing diversity. While challenges remain, the experiences shared provide valuable lessons for building inclusive societies in post-conflict settings.

## 4.8 Justice and Accountability

TJ in Africa weaves together socio-economic, cultural and political threads, adding complexity to the discourse on justice and accountability. Stakeholders from the 10 countries in this report have highlighted the difficulties of implementing TJ in environments where the lines between perpetrators and victims are often blurred and political and social power dynamics complicate processes of truth-telling, accountability and reconciliation. In many of the countries, alleged perpetrators maintain some level of influence that affect the TJ processes.

The study finds that in African TJ contexts, the need for justice for serious crimes of human rights violations is severely counterbalanced by the practical implications of pursuing accountability in politically and socially fragile environments. The participants in the study perceived political interferences as the primary obstacle to accountability in the TJ contexts considered in this report. However, other challenges to implementing judicial justice mechanisms in conflict-affected regions and transitional contexts also emerged. These include the need to find the right approaches that are contextually tailored, inclusive and sensitive to the complex histories and dynamics of the society they aim to serve.

Justice and accountability were strongly linked to peace processes and the need for social stability. According to an Ethiopian interviewee, in many cases, the immediate aftermath of conflict sees a push for conventional criminal accountability from various actors, particularly international partners. He however argued that this may not be feasible or conducive to peace processes in fragile post-conflict environments:

*Accountability cannot happen suddenly. Ethiopia is dealing with a situation of multiple conflicts that happened in multiple contexts at multiple temporal periods. Government will, after the publication of the TJ policy, have to consider how to implement it properly. It cannot be implemented uniformly.*

He also argued that CSOs lack adequate TJ knowledge to make independent decision, thus they generally follow donor agenda, thus advocating for accountability as long as it is the priority of the donor community. He noted that even in Europe, accountability for human rights violations was either in the context of victor's justice or took some time to attain (for example Spain's atrocities in Argentina, which took some 50 years for accountability to happen). "The more you rush the accountability process, the more arbitrary and selective it becomes, the less impartial it becomes," he argued.

From the perspective of victims, the enduring pain and longing for acknowledgement and justice, irrespective of time, were strongly highlighted. In interviews, many victims expressed a deep-seated need for their suffering to be recognised and addressed through

reparations and socio-economic means but also by holding perpetrators criminally accountable. Without these actions, they believe true reconciliation will remain elusive as trauma, anger and frustration persist. Victims in South Sudan and DRC expressed frustration with the slow pace of establishing justice mechanisms and the lack of concrete actions against those in power responsible for atrocities. Their testimonies highlight the psychological impact of delayed justice on individuals and communities striving to heal from the scars of conflict.

CSOs play a pivotal role in the pursuit of justice and accountability in all the target countries, advocating for victims and often pushing against significant resistance to ensure that justice and accountability components of TJ are effective and meaningful.<sup>80</sup> Representatives revealed the complexities of navigating political landscapes where power dynamics and self-preservation can obstruct progress in judicial justice pursuits. For example, a CSO representative from South Sudan discussed the delicate balance of advocating for justice while ensuring the safety of witnesses and protecting vulnerable populations from further harm. This underlines the risks involved in CSO work in this area and the strategic, often courageous approaches they must adopt.

## 4.9 Political and Institutional Reforms

The implementation and impact of reforms vary across different contexts, as each country faces unique challenges. In Mali, for example, reforms have focused on establishing TJ institutions and decentralising power to local authorities. In Lesotho, initial reform proposals in the National Peace and Unity Bill of 2021 were strongly opposed and discarded. The subsequent reform process aims to prioritise TJ to ensure inclusivity and representation of all stakeholders, especially victims. Ethiopia has also attempted various institutional reforms, but these efforts have often lacked inclusivity and a comprehensive approach and have been hampered by political resistance. According to one Ethiopian scholar:

*Reforms have not been undertaken in Ethiopia in the real sense. Most of the efforts have been focused on purging perpetrators from the government and also dealing with corruption. The problem is that there are not many mandated institutions with constitutional basis (what is referred to in South Africa as Chapter 9 institutions). Most of the institutions set up in Ethiopia have been ad-hoc temporary organisations without constitutional tethering. These institutions are expected to address complex issues of permanent and strong institutions, and whenever they clash with the government's agenda, they get dissolved.*

80 Van der Merwe, H. & Brankovic, J. 2016 The Role of African Civil Society in Shaping National Transitional Justice Agendas and Policies. *Acta Juridica*. Available at: <https://journals.co.za/doi/abs/10.10520/EJC-6103ddb9> [Accessed 7 August 2024].

Security sector reforms have been a key focus in several countries. In The Gambia, the National Human Rights Commission has initiated training programmes to shift from a state-centred security mindset to a human security approach. In contrast, Libya has seen a resurgence of old security apparatuses and behaviours despite post-Gaddafi reforms, largely due to the lack of sustained institutional changes. One interviewee noted:

*Nowadays you can see in several parts of Libya the old security apparatus basically functioning again in the same way. I mean, during Gaddafi's time, the internal security agency was quite infamous for its role, involvement in human rights violations. They were targeted in 2011, not in a very good way, as I mentioned, like political isolation, sometimes even outside the law, but because of the neglect of TJ and especially institutional reform, you have those organisations back to the fore with the same behaviour.*

Legal and policy reforms have also been central to the TJ efforts of the countries in this study. In The Gambia, the reform agenda has focused on drafting a new Constitution and a number of legislative changes to overhaul outdated or oppressive laws, ensure restraint on executive power, establish a clear separation of powers, entrench human rights, and consolidate TJ outcomes. Interviewees from several of the countries similarly echoed the importance of reform to address shortcomings in their national infrastructures.

A key lesson drawn from the insights shared by participants is the necessity of sustainability. The resurgence of old security apparatuses in Libya and similar challenges in The Gambia underscore the importance of continuous commitment to institutional reforms. In Lesotho, interviewees highlighted that governance reforms have been paralysed due to political instability, similarly emphasising the need for ongoing political commitment to the reform agenda.

Ensuring the broad inclusion of all stakeholders, especially victims, is essential for the legitimacy and effectiveness of reforms. The criticisms of Ethiopia's earlier reform efforts highlight the negative impact of a lack of inclusivity. Engaging civil society, as seen in Guinea, where victim groups and CSOs played significant roles in formulating reparation policies, is crucial for garnering support for reform initiatives. Additionally, as seen with Ethiopia's challenges, establishing permanent, rather than ad-hoc institutions with constitutional mandates, such as national human rights institutions, ensures continuity and resilience against political changes.<sup>81</sup>

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81 Echeonwu, M.S., Odey, W.O. & Ajah, S. 2024. United Nations and Human Rights Protection in West Africa: The Nigerian Experience, 2015–2020. *American Journal of Public Diplomacy and International Studies*, 2(4), pp. 138–153. Available at: <https://www.grnjournal.us/index.php/AJPDIS/article/view/4317/3795> [Accessed 7 August 2024].

Political interference remains a significant barrier to reforms. Some participants in Burundi and The Gambia blame political vested interest for impeding the progress of reform (in The Gambia failure of the draft constitution, and in Burundi delay in publishing the CVR report). In Guinea, the lack of political will to pursue TJ has slowed progress in addition to financial and resource constraints also limiting the effectiveness of reforms. In Lesotho, inadequate resources for NGOs have hampered their ability to tackle issues head on. Bureaucratic delays have significantly slowed the implementation of justice mechanisms and the passing of crucial bills, such as the CTRH and CRA bills in South Sudan and the establishment of the hybrid court. In The Gambia, despite progress, lengthy legislative and preparatory processes have some participants to question the government's seriousness about implementing TJ reforms, undermining public trust.<sup>82</sup> This signals the need for transparency and better management of expectations by the government.



*The study has highlighted the importance of addressing gender issues and ensuring that women's rights are integral in TJ processes.*

#### 4.10 Cross-Cutting Issues: Women and Girls

The study has highlighted the importance of addressing gender issues and ensuring that women's rights are integral in TJ processes. However, SGBV remains a pervasive issue across all the countries. Addressing SGBV within TJ frameworks is fraught with challenges. Despite legislation and institutional mechanisms, effective implementation is often undermined by a lack of political will, resource constraints, and ongoing conflicts among other factors.<sup>83</sup>

82 Afrobarometer. 2023. Gambians Report Declining Trust in Institutions Amid Rising Concerns Over Corruption, According to New Afrobarometer Survey. Available at: <https://www.afrobarometer.org/articles/gambians-report-declining-trust-in-institutions-amid-rising-concerns-over-corruption-according-to-new-afrobarometer-survey/> [Accessed 7 August 2024].

83 Adolphe, K.S. 2023. Gender Equality in the Context of Transitional Justice in DRC: State of Play of Legal Reforms. KAS African Law Study Library, 10. Available at: <https://www.nomos-elibrary.de/10.5771/2363-6262-2023-4-601.pdf> [Accessed 7 August 2024].

In DRC, prolonged conflicts and political instability exacerbate SGBV. Tatiana Mukanire, a survivor and advocate, describes the justice system as having a “double standard” and being “mired in politics”, and thus failing to ensure non-repetition. She urged a complete reorganisation of the justice system and stressed the importance of FONAREV in addressing victims’ needs. Despite constitutional provisions for equality, enforcement is weak, and many SGBV victims in DRC, especially those in displacement camps, continue to suffer. A policymaker highlighted the implementation of Law 22/065 for victim protection and reparation but admitted that enforcement is hindered by financial and political challenges.



*Effective SGBV redress requires considerations of women and marginalised groups and cuts across all TJ elements, including truth-seeking, justice and reparations.*

In CAR, Juliana Boui Yodiam, a commissioner at the CVJRR, discussed operational challenges in addressing SGBV, which are further complicated by insecurity in some of the regions. Victim advocate Francine Evodie Ndemade also noted the lack of formal reparations, with SGBV victims relying on CSOs for support and their trust in the process being undermined by perpetrators within the government. Burundi’s Peace and Reconciliation Commission also incorporated gender considerations into its activities, ensuring that over 30 percent of its staff were women. However, challenges persist in addressing SGBV, particularly in reintegrating IDPs and refugees, many of whom are SGBV survivors. Effective SGBV redress requires considerations of women and marginalised groups and cuts across all TJ elements, including truth-seeking, justice and reparations.

# 05

## Conclusion and Recommendations

The state of TJ in Africa, as documented in this report, illustrates both promising advancements and persistent challenges across countries implementing TJ. The report highlights diverse experiences and levels of alignment with the AUTJP standards, emphasising the unique socio-political contexts that shape each country's TJ journey. Key elements such as peace processes, justice and accountability, reparations, and redistributive (socio-economic) justice emerged as key to addressing legacies of conflict and promoting sustainable peace and reconciliation. Additionally, cross-cutting issues, particularly gender inclusivity and the active participation of youth, have proven pivotal for holistic and inclusive implementation of TJ initiatives.

Despite strides in TJ implementation, countries continue to face obstacles, including political interference, resource constraints and limited public engagement. The findings highlight the need for institutional reforms, sustained political will and a comprehensive approach that leverages traditional justice mechanisms with formal legal processes. The following recommendations draw upon the identified achievements and address the overarching challenges, presenting actionable steps for stakeholders, including governments, international partners, CSOs and the AU. Pursuing these recommendations can help African states strengthen the foundation for TJ to have an impactful effect on justice, accountability and social cohesion across the continent.

### 1

#### ORGANISE VICTIM SUPPORT STRUCTURES

Governments, in addition to setting up formal commissions and other TJ mechanisms, should support and (possibly) fund victim centres, which can provide psychological, legal and other forms of support to victims, thus enhancing meaningful participation and inclusivity and gender sensitivity in line with the AUTJP principles.

The AU and RECs should facilitate networks among victim organisations, including those focused on gender-specific issues, and facilitate sharing of experiences and recommendations with policymakers in TJ fora.

CSOs should provide training and capacity to victims for managing victim centres, with an emphasis on gender-sensitive approaches, and partner with them and with academia to collect data that informs policy advocacy.

## 2

### ENHANCE COMMITMENT TO TJ IMPLEMENTATION

The AU and RECs should establish mechanisms to monitor member states' commitments and support publication of regular progress reports on implementation with attention to gender-inclusive practices.

Governments implementing TJ should establish an oversight body with participation from victims, CSOs, gender specialists and experts to track TJ progress and issue public updates for accountability.

CSO advocacy should monitor and highlight gaps in commitment and implementation, as well as partner with affected communities and media to raise awareness on the importance of TJ.

Donor partners should initiate or support technical and other necessary assistance that builds TJ implementation capacity within governments and TJ implementing institutions.

## 3

### DEVELOP CONTEXT-SPECIFIC TJ PROGRAMMES

Governments should conduct broad consultations in the design process to incorporate diverse views, cultural practices and historical contexts into TJ design and strategies, paying particular attention to the inclusion of women's and other marginalised voices.

CSOs and academia should research local conflict histories and justice methods to inform tailored TJ approaches and ensure marginalised voices contribute to shaping the process.

The AU and RECs should establish a knowledge hub to share TJ knowledge products and experiences, as well as host peer-learning opportunities for member states and TJ stakeholders.

## 4

### PROMOTE COMPREHENSIVE/HOLISTIC IMPLEMENTATION OF TJ RECOMMENDATIONS

Governments should develop a phased and deliberately sequenced TJ implementation roadmap with clear benchmarks and integrate TJ recommendations into national policies to enhance effectiveness of TJ outcomes, with specific strategies for promoting gender inclusivity.

CSOs should monitor and report on TJ progress, facilitate regular dialogues and feedback loops between victims and TJ implementing institutions/government, as well as provide capacity-building based on their expertise areas.

The AU and RECs should offer technical/expert support to promote best practices in TJ implementation in line with the AUTJP.

**5****INTEGRATE TRADITIONAL JUSTICE MECHANISMS TO IMPROVE VICTIM/PUBLIC PARTICIPATION IN TJ**

Governments should endeavour to decentralise TJ processes to include culturally relevant practices by providing guidelines for traditional mechanisms that align with human rights standards and gender-sensitive standards, and also support community-based TJ initiatives.

CSOs should train traditional leaders on human rights and gender-sensitive and trauma-informed approaches to implement TJ initiatives.

The AU should facilitate forums where traditional leaders, TJ practitioners and academics can discuss opportunities and challenges in integrating traditional justice in TJ.

Academia should also engage in researching modes of optimising effectiveness of traditional mechanisms within formal TJ frameworks.

**6****ENHANCE REGIONAL COOPERATION AND LEARNING**

Governments and CSOs should support exchange programmes for TJ practitioners to learn from similar national experiences.

CSOs should form regional networks of TJ practitioners to share resources, research and strategies, as well as establish platforms to publish knowledge products and case studies on successful initiatives.

**7****COORDINATE TECHNICAL AND FINANCIAL SUPPORT FOR TJ INITIATIVES**

Governments should incorporate development of a clear funding strategy, including for reparations, with technical/expert support from the AU and other TJ partners.

CSOs should establish collaborative networks to prevent duplication and maximise resource efficiency.

The AU and RECs should provide technical and resource mobilisation support by establishing TJ expert teams and facilitate an annual donor conference to align international support with national TJ needs.

**8****INTEGRATE TJ PRINCIPLES IN EDUCATION**

Government and educational institutions should incorporate TJ topics and courses into high school and university curricula to foster awareness and participation among youth in peacebuilding initiatives (covering historical events, TJ principles, human rights and gender equality).

CSOs and academic institutions should conduct awareness programmes, capacity-building and memorialisation projects to deepen understanding and respect for TJ and its goals.

**9****PROMOTE SOCIO-ECONOMIC JUSTICE INITIATIVES**

Governments should ensure equitable access to essential services like education, healthcare and infrastructure in all regions as part of socio-economic reforms and diversity management, with particular attention to gender disparities in access.

CSOs should advocate for policies that promote equal access to resources and services, especially in underserved areas.

The AU and RECs should support collaborative efforts to reduce socio-economic inequalities, aligning with regional human rights and development goals such as Agenda 2063.

**10****EMPOWER MARGINALISED GROUPS IN TJ IMPLEMENTATION**

Governments should deliberately facilitate participation of women, youth and marginalised groups in all phases of TJ, including them in all decision-making spheres of the TJ process.

CSOs should provide capacity-building programmes for marginalised groups, ensuring their participation in TJ processes are effective and meaningful.

The AU and regional bodies should develop guidelines to support the inclusion of marginalised groups such as refugees, persons with disabilities and others in TJ, promoting equitable engagement across member states.

**11****FOSTER COLLABORATION BETWEEN TJ MECHANISMS AND CSOS**

Government and TJ implementing institutions should actively engage CSOs in TJ processes to synergise their expertise, solicit feedback and enhance public outreach.

CSOs should also actively seek to collaborate with formal TJ institutions (through memoranda of understanding, for example) to support inclusion and victim-centred, trauma-sensitive approaches.

**12****ESTABLISH PERMANENT NATIONAL HUMAN RIGHTS INSTITUTIONS TO SUSTAIN NON-REPETITION**

Governments should establish and support independent human rights institutions to monitor, enforce and protect human rights standards sustainably, to promote non-recurrence.

CSOs should support and collaborate with national human rights institutions (NHRIs) to strengthen their impact and ensure they remain accountable to the public.

The AU and regional bodies should provide guidelines and technical support (including resource mobilisation) to member states to set up and sustain independent NHRIs, fostering long-term TJ success.



# The State of Transitional Justice in Africa

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## Volume 1

Benchmarking Country Processes

