Why an African Union Transitional Justice Policy (AUTJP) for AU Member States?

By MRCG

The African Union (AU) is a continental organization that was established on 26 May 2001, in Addis Ababa, Ethiopia. It is the successor to the Organization of African Unity (OAU), which was founded in 1963. The African Union aims to promote economic, political, and social integration across Africa, enhance peace and security, and protect the sovereignty and territorial integrity of its member states. The AU promotes unity and solidarity among African states, accelerates political and socio-economic integration across the continent, promotes peace, security, and stability in Africa, encourages democratic governance and human rights, and promotes sustainable development and poverty alleviation.

The African Union Transitional Justice Policy (AUTJP) provides guidelines for translating comprehensive strategies for Transitional Justice (TJ) into specific actions, as transitional justice plays a vital role in helping countries recover from the legacies of conflict, human rights violations, and governance failures. The reason the AUTJP emphasizes empowering affected countries to lead the process is multi-dimensional, addressing both justice and developmental challenges in post-conflict societies for the following reasons:

Context-Specific Solutions: Every post-conflict society, like Sierra Leone, has unique political, social, and historical circumstances. The AUTJP recognizes that one-size-fits-all solutions often fail. By providing guidelines rather than rigid prescriptions, the AUTJP enables countries to tailor strategies to their own needs, cultural contexts, and specific legacies of conflict.

Ownership and National Ownership: Empowering affected countries to take the lead in the transitional justice process fosters national ownership. When countries actively participate in the design and implementation of transitional justice mechanisms, it increases the legitimacy and effectiveness of those processes. This approach helps avoid external imposition and fosters local accountability, which is crucial for building trust among the population.

Restorative and Transformational Justice: The ultimate goal of restorative justice is not only to provide accountability for past violations but also to repair relationships within communities, heal wounds, and rebuild social cohesion. Similarly, transformational justice goes beyond redressing the past; it aims to create long-term societal transformation. By focusing on restorative and transformational justice, the AUTJP helps countries shift from retributive justice (punishment-focused) to a process that addresses root causes of conflict and systemic inequalities that may have contributed to violence in the first place.

Addressing Governance Deficits: TJ isn't just about dealing with past violence, but also about tackling governance deficits—such as corruption, a lack of accountability, and abuses of power—that may have contributed to the exacerbation of conflict. By focusing on governance issues alongside legacies of violations, the AUTJP encourages reforms that help strengthen democratic institutions and establish good governance practices, which are essential for long-term peace and stability.

Developmental Challenges: The legacies of conflict often include disrupted economies, infrastructure, and education systems. The AUTJP recognizes that developmental challenges are closely tied to the justice process. Holistically addressing these challenges (through economic recovery, poverty alleviation, and sustainable development programs) can create the conditions necessary for a just society. This

ensures that countries don't just emerge from conflict, but also start a path toward lasting peace and prosperity.

Rebuilding Trust in Institutions: After a period of conflict and human rights abuses, there is often a deep mistrust in state institutions. By guiding countries to take the lead in crafting their transitional justice processes, the AUTJP emphasizes the importance of building or rebuilding trust in institutions such as the judiciary, police, and government. This is crucial for ensuring that future governments are not seen as oppressive, but as representatives of the people.

Long-Term Peacebuilding: The process of transitional justice is not only about addressing the immediate aftermath of conflict but also about laying the groundwork for enduring peace. By tackling both historical grievances and current governance issues, countries are better equipped to prevent the recurrence of violence and to build societies that are just, equitable, and stable.

In Sierra Leone, TJ guidelines have been applied in a way that directly responds to the country's devastating civil war (1991–2002), which was marked by widespread atrocities, including mass killings, sexual violence, and the use of child soldiers. The country has worked to address the legacies of these conflicts and the structural governance deficits through various transitional justice mechanisms, drawing on the principles established by the AUTJP and international best practices. Key Mechanisms and Application of Transitional Justice in Sierra Leone include:

Truth and Reconciliation Commission (TRC): The TRC was established in 2002, just after the end of the civil war. TRC was one of the primary tools for achieving restorative and transformational justice in Sierra Leone. The TRC was guided by the principles of truth-telling, acknowledgement of past wrongs, and community reconciliation, which align with the restorative justice framework of the AUTJP. Its goal was not only to uncover the truth about the human rights violations committed during the war but also to foster national healing and reconciliation. The TRC conducted hearings, interviewed victims and perpetrators, and published a report in 2004 that documented the causes and consequences of the war. The TRC's findings also made recommendations for reforms to address the root causes of the conflict, such as governance deficits, economic inequality, and corruption, which is consistent with transformational justice.

Special Court for Sierra Leone (SCSL): The Special Court for Sierra Leone (SCSL), established in 2002 with the support of the United Nations, was a hybrid tribunal designed to prosecute those responsible for the most serious crimes committed during the country's civil war. The SCSL addressed accountability, a central aspect of transitional justice. The court focused on bringing to justice the individuals who played the most significant roles in the atrocities, including leaders of armed groups like the Revolutionary United Front (RUF) and government forces. The SCSL emphasized individual criminal responsibility while upholding international human rights standards. The court held trials for several prominent figures, including Foday Sankoh (RUF leader) and Charles Taylor (former President of Liberia, who supported the RUF). The sentences and trials were intended to provide a sense of justice and deterrence, although the court's work primarily focused on accountability rather than restorative measures. The SCSL reinforced the importance of rule of law and human rights while aligning with the African Union's emphasis on justice for violations.

National Reconciliation Efforts: Following the TRC's findings, Sierra Leone initiated various community-based reconciliation programs designed to facilitate healing at the grassroots level. These programs

aimed to promote dialogue between victims and perpetrators, foster forgiveness, and address grievances. This aligns with the restorative justice aspect of the AU's approach, which prioritizes reconciliation and healing. One of the critical issues in Sierra Leone's transitional justice process has been addressing sexual violence, which was widespread during the civil war. Women and girls were subjected to brutal acts, including rape and sexual slavery. The transitional justice framework in Sierra Leone, influenced by the AU's guidelines, has included provisions for gender-sensitive approaches in addressing GBV, including reparations and support for survivors. The government and civil society organizations have implemented reparation programs that focus on victim compensation, as well as the empowerment of women and girls in post-conflict recovery. These efforts align with the restorative justice principles of making amends and supporting healing for victims.

Governance Reforms and Accountability: After the war, Sierra Leone faced significant governance issues that contributed to the conflict, such as corruption, absence of the rule of law, and weak public institutions. The AU Transitional Justice guidelines emphasise tackling these problems to secure sustainable peace and stability. Sierra Leone launched a series of governance and institutional reforms aimed at rebuilding the judiciary, strengthening accountability mechanisms, and encouraging democratic processes. These reforms aimed to restore public trust in government institutions and prevent future conflicts. An example is the Anti-Corruption Commission, established to fight corruption and promote accountability. This exemplifies the transformative justice elements of the AU's strategy, which advocates for deep-rooted governance changes to guarantee lasting peace and stability.

The Role of Civil Society and International Support: Civil society organizations played a critical role in Sierra Leone's transitional justice process, including advocating for victims' rights, supporting reconciliation, and monitoring the implementation of justice mechanisms. This aligns with the AU's guidelines for ensuring that justice processes are inclusive and that the voices of victims and marginalized communities are heard. International support, including that from the United Nations and various international donors, was crucial in providing the financial and logistical resources necessary to implement these justice mechanisms, particularly in the context of a post-conflict country with limited resources.

Challenges and Ongoing Efforts in Sierra Leone:

While Sierra Leone made significant progress in implementing transitional justice mechanisms, challenges persist. Many victims have not yet received full reparations, and not all communities have equally benefited from reconciliation efforts. Despite reforms, corruption and weak governance structures continue to hinder sustainable peace. Some cultural and societal factors may prevent the complete realisation of transitional justice goals, especially regarding women's rights and gender-based violence.

In short, the guidelines provided by the AUTJP serve as a framework that respects the agency of the affected countries while ensuring their responses are comprehensive, inclusive, and aligned with best practices for both justice and development. This approach allows countries to build a more resilient and cohesive society while recognising and addressing both the legacies of conflict and the structural challenges that could hinder future progress.

Sierra Leone's experience with transitional justice provides a model for how the AUTJP can be implemented in a post-conflict context. By incorporating mechanisms such as the Truth and Reconciliation Commission, the Special Court, and community-based reconciliation programmes, Sierra

Leone has endeavoured to confront the legacy of conflict, human rights abuses, and governance challenges. The country’s initiatives have highlighted the significance of victim-centred justice, restorative approaches, and reforms that foster long-term peace and development — all fundamental principles of the AU's Transitional Justice guidelines.