

Discussion on Transitional Justice and Post-Conflict Peacebuilding

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Tomorrow (6 February) the African Union (AU) Peace and Security Council (PSC) will convene its 1199th Session. This session will consider transitional justice and post-conflict peacebuilding.

The session is expected to begin with opening remarks by **Mohammed Arrouchi**, the Permanent Representative of Kingdom of Morocco and Chairperson of PSC for the month of February. This will be followed by a presentation of the AU Transitional Justice Policy by **Bankole Adeoye**, the AU Commissioner for Political Affairs, Peace and Security (PAPS). Statement is also expected to be delivered by the African Commission on Human and People's Rights. Representatives of the National Human Rights Council of Morocco and the EU Delegation to the AU are also respectively expected to make statements.

Since the adoption of the AU Transitional Justice Policy (AUTJP) in 2019, the PSC has only convened once to discuss the AUTJP on 23 August 2022. The [1102nd session](#), focused on the deliberation of the AUTJP, aimed at allowing AU Member States to exchange their experiences, best practices, challenges, and prospects in the implementation of the policy. Additionally, it aimed to explore ways of better addressing the underlying causes of conflict and insecurities and foster synergies that can have a multiplied impact. It is also recalled that the 1102nd session decided to regularize briefing on the theme as an annual meeting of the Council.

Facts on the AU Transitional Justice Policy (TJP)

Although there were no specific sessions dedicated to transitional justice and post-conflict peacebuilding, the Council held various sessions to identify policy options for transitional justice initiatives and discussed different transnational justice mechanisms. Under the theme 'peace, reconciliation and justice', the PSC conducted several discussions. Notably, during the 16th Extraordinary Session of the AU Assembly in May 2022 in Malabo, Equatorial Guinea, the focus was on terrorism and unconstitutional changes of government in Africa. It was during this session that 31 January of each year was designated as the 'Africa Day of Peace and Reconciliation'. Moreover, in its 525th session in July 2015, the PSC agreed to include the theme 'Peace, Reconciliation, and Justice' as a regular item on its annual program of activities. Lastly, during its 899th session on 5 December 2019, the PSC agreed to dedicate an annual session to sharing experiences and learning lessons related to national reconciliation, peace restoration, and cohesion building in Africa.

As indicated in the Concept note prepared for the session, tomorrow's session will serve as an opportunity for the PSC to receive an update in the implementation of the AUTJP. In ensuring the effective implementation of the policy, the [Roadmap for the Implementation of the AUTJP](#) outlines various activity areas to be implemented by the AU Commission. One of the key activities is resource mobilisation in support of the implementation of the policy. In this regard, during its 1102nd session, the PSC requested the Chairperson of the AU Commission to mobilize the necessary resources for the successful implementation of the AUTJP.

In response to this request and in alignment with the roadmap, the AU and EU have launched the Initiative for Transitional

Justice in Africa (ITJA) project. This three-year project, officially launched on 25 October 2023, aims to support AU member states in adopting the AUTJP and implementing transitional justice processes at the national level. The ITJA project will be executed by a consortium of three organisations, with the International Center for Transitional Justice (ICTJ) leading the initiative, despite the existence of African institutions that could play a leading role in the development of the AUTJP, most notably the Centre for the Study of Reconciliation and Violence (CSV). The African Transitional Justice Legacy Fund (ATJLF) and the Centre for the Study of Violence and Reconciliation (CSV) are also part of the consortium. This initiative covers various activities outlined in the implementation roadmap, including awareness creation and popularising the AUTJP, technical assistance to AU Member States and commissioning research on transnational justice in Africa. Most importantly, the initiative assists in the establishment and coordination of the African Women Platform on Transitional Justice and increases the meaningful participation of civil society organisations in the design, implementation, and monitoring of transitional justice mechanisms by strengthening its capacity. In this regard, it is expected that the AU Commission will brief the Council on how these activities are planned to be undertaken by the consortium.

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Furthermore, the AU Commission is also expected to emphasize its efforts in implementing the AUTJP in relation to capacity building. In this regard, the Commission is likely to discuss

various capacity-building training activities offered to youth and women. These include providing training on the application of the Policy to The Gambia, Ghana, Zimbabwe and South Sudan.

In exploring the challenges, the PSC may emphasise that the successful implementation of transitional justice in Africa hinges on addressing key challenges. The success of transitional justice endeavours is intricately tied to the political commitment, leadership, mobilization of support for and confidence in the process from a critical mass of the public and the capacity of the country concerned. Political buy-in along with a level of public support for and confidence in the process remains a crucial determinant of the success of transnational justice.

Even when political buy-in exists, capacity limitations may get in the way of implementing the AUTJP. The AU's capacity to provide assistance is intricately linked to the financial resources at its disposal. One viable solution that the Council could explore to overcome this financial challenge involves the exploration of alternative sources of funding identified in the revised AU PCRDR policy considering the critical contribution of transitional justice mechanisms, including truth and reconciliation processes for post-conflict peacebuilding. Additionally, lack of public awareness and active participation in the transitional justice process may also be raised as a factor that could hinder the success of the transitional justice process. Some of the key considerations for addressing technical and public awareness challenges could be the establishment of a continental network of transitional justice practitioners and analysts as an important platform for providing timely and relevant technical support for the implementation of the AUTJP in member states and the institutionalisation of the continental forum on transitional justice into the annual indicative program of the PSC.

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In relation to countries that are undergoing political transition, the absence of a comprehensive legal framework or supportive legislation can impede the successful implementation of transitional justice. Moreover, in regions facing ongoing or latent conflict, security concerns can pose a significant challenge to the implementation of transitional justice.

Another aspect of the session is expected to be the sharing of experiences and challenges in the implementation of the AUTJP, particularly in relation to the development and implementation of transnational justice programs. There are various AU member states that are resorting to the use of transitional justice as a means of resolving grievances that resulted from conflicts. A recent example of this aspect is Ethiopia. The peace deal that was signed in November 2022 between the Federal Democratic Republic of Ethiopia (FDRE) and the Tigray People's Liberation Front (TPLF) envisaged that 'the government of Ethiopia shall implement a comprehensive national transitional justice policy aimed at accountability, ascertaining the truth, redress for victims, reconciliation and healing consistent with the constitution of the FDRE and the African Union Transitional Justice Policy Framework'. In March 2023, the AU announced that it will [pledge](#) to provide support to the planned transnational process in Ethiopia. Therefore, it is anticipated that the PSC will receive an update on the contribution of the AU towards the development of the transitional justice policy in Ethiopia and the extent

to which the AUTJP has been used to inform and shape Ethiopia's policy.

The AU is also assisting South Sudan's transitional justice and post-conflict peace-building efforts. The revitalized Agreement for Resolution of Conflict in South Sudan (R-ARCSS) signed in 2018 provides for transitional justice, reconciliation and healing (Chapter 5). Under the R-ARCSS, the parties committed to the establishment of three transitional justice mechanisms: Hybrid Court, the Commission for Truth Reconciliation and Healing (CTRH) and the Compensation and Reparations Authority (CRA). The AU collaborated with the Government of South Sudan in convening a transitional justice conference in May 2023 in support of the process towards the adoption of the relevant legal instruments for the operationalization of the transitional justice mechanisms under Chapter V of the agreement. Despite the failure to meet the deadline for the operationalization of these mechanisms, there are recent developments highlighted in the [report](#) of the Reconstituted Joint Monitoring and Evaluation Commission (RJMEC). The report stated that CTRH and CRA Bills was adopted by the Council of Ministers and they are expected to be enacted by the parliament. Yet, there is no progress regarding the hybrid court.

The expected outcome is a communique. The PSC may encourage the developments made regarding resource mobilization and advocate for sustained efforts in resource mobilization to support the effective implementation of the African Union Transitional Justice Policy (AUTJP). Additionally, the PSC may applaud and reinforce support for the AU-EU Initiative for Transitional Justice in Africa (ITJA) project and encourage enhanced use of the technical expertise present in African institutions that played a leading role in the development of this globally most up-to-date policy on transitional justice and post-conflict peacebuilding. It may underscore the need to strengthen efforts to raise awareness and popularize the AUTJP

across Member States. The PSC may in this respect call for the establishment of a continental network of transitional justice practitioners and analysts as an important platform for providing timely and relevant technical support for the implementation of the AUTJP in member states. The Council may also request the establishment of a regular monitoring and evaluation mechanism for AUTJP implementation progress. In recognising the important role of civil society organisations, particularly women and youth-led organisations, the Council may emphasise the need for increased collaboration with civil society organisations, empowering them to actively participate in the design, implementation, and monitoring of transitional justice mechanisms. Furthermore, the PSC may reiterate the need for regular updates on the experiences and challenges faced by AU Member States in implementing the AUTJP and facilitating knowledge-sharing sessions to derive best practices and lessons learned from countries undergoing transitional justice processes. To this end, the PSC may decide to institutionalise the continental forum on transitional justice that the AU Commission organises annually as part of its calendar of events in its annual indicative program.