

## **TAKING STOCK OF THE AFRICAN UNION TRANSITIONAL JUSTICE POLICY ONE YEAR ON**

12 February 2020 marks the first anniversary of the official adoption of the [African Union Transitional Justice Policy](#) (AUTJP). This anniversary presents an excellent opportunity to reflect on the impacts of the AUTJP on the transitional justice landscape in Africa. As we commemorate this milestone, it is crucial to examine the next steps in the journey to implement the AUTJP.

### **Transitional Justice and the Responsibility to Protect in the AU**

In developing its Transitional Justice Policy, the African Union (AU) sought to realize Article 4(o) of the [Constitutive Act of the AU](#) that calls for “respect for the sanctity of human life, condemnation and rejection of impunity” while also underscoring the Seven Aspirations of Agenda 2063 for a “peaceful and secure Africa” that embodies “good governance, democracy, respect for human rights, justice and the rule of law.” This comprehensive policy provides non-prescriptive instruction to AU Member States embarking on transitional justice. By setting standards and benchmarks to guide the implementation of transitional justice processes, the AUTJP enables the AU, States, civil society, and other key stakeholders to monitor progress towards ending impunity for victims and survivors, whose harms are compounded by the absence of justice. The AUTJP’s considerable treatment of different categories of victims, such as women, the elderly, persons with disabilities, children, and youth, especially child soldiers, who merit special attention should further guide Member States in designing and executing transitional justice processes that account for unique experiences of conflict.

Importantly, the year 2020 is not only the first anniversary of the AUTJP, but also the fifteenth anniversary of the adoption of the responsibility to protect (RtoP) norm, in which the [AU Ezulwini Consensus](#) played a leading role. Article 4(h) of the Constitutive Act of the AU recalls the third pillar of the RtoP by granting “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.” As the international community increasingly identifies the mutually beneficial relationship between the operationalization of the RtoP and transitional justice elements, namely guarantees of non-recurrence, there is an additional opportunity to explore synergies between these two fields. The latest report of the UN Secretary-General on the RtoP, “[Responsibility to Protect: Lessons Learned for Prevention](#),” highlights core components of holistic guarantees of non-recurrence that fulfill the primary responsibility of the State to protect populations, including by ensuring justice, memorialization, institutional reform, human rights, and non-discrimination.

#### **Case Study: Uganda**

The AUTJP has inspired Member States to finalize their own policies to guide transitional justice in their respective jurisdictions. Uganda has taken the lead in this regard as the first AU Member State to initiate and pass a [National Transitional Justice Policy](#) (NTJP) (17 June 2019) following the adoption of the AUTJP. However, the NTJP had been underway since 2007, when the government of Uganda signed the Juba Agreement on Accountability and Reconciliation (AAR) with the Lord’s Resistance Army (LRA). Many attribute the delays to a lack of political will to address the atrocity crimes in northern Uganda. Both the AUTJP and the NTJP are non-binding soft law, meaning their implementation depends on the political will of Member States (first and foremost), including the government of Uganda; the AU and economic communities in Africa; civil society; and other key stakeholders. We urge the government of Uganda to revisit the AUTJP and any gaps in the NTJP before translating the national policy into binding national legislation.

## General Recommendations

### AU should:

- Raise awareness and popularize the AUTJP among implementing actors, namely Member States, and victims and survivors;
- Support Member States embarking on transitional justice in drafting and adopting policies and binding legislation in line with the AUTJP and in transforming these words into practice;
- Monitor ongoing transitional justice processes in Member States against the benchmarks set by the AUTJP and offer assistance to Member States to improve the design and implementation of their transitional justice undertakings;
- Facilitate peer-to-peer exchanges among Member States on lessons learned and good practices in implementing the AUTJP; and
- Recognize synergies between transitional justice and the RtoP, including by supporting Member States in guaranteeing non-recurrence.

### AU Member States should:

- Raise awareness and popularize the AUTJP and any national transitional justice policy among victims and survivors;
- Monitor their own transitional justice processes against the benchmarks set by the AUTJP and, as needed, request assistance from the AU, civil society, and other key stakeholders;
- Engage in peer-to-peer exchanges on lessons learned and good practices in implementing the AUTJP with a view to formulating a strong national transitional justice policy; and
- Recognize synergies between their primary responsibility to pursue transitional justice and their primary RtoP populations, including through guarantees of non-recurrence.

### Civil society, community-based organizations, and the media should:

- Raise awareness and popularize the AUTJP among implementing actors, namely Member States, and victims and survivors;
- Monitor ongoing transitional justice processes in Member States against the benchmarks set by the AUTJP and advocate with Member States to improve the design and implementation of their transitional justice undertakings;
- Compile and widely share lessons learned, good practices, and other relevant experiences in implementing the AUTJP with Member States, the AU and economic communities in Africa, and other key stakeholders, including through peer-to-peer exchanges;
- Strengthen the role of the AUTJP and other national transitional justice policies in preventing atrocities, including by operationalizing the RtoP; and
- Examine and share findings on the relationship between transitional justice elements and atrocity prevention, including by operationalizing the RtoP.

**Justice Access Point (JAP)** is a local civil society organization in Uganda that makes strategic interventions to prevent atrocities, including through atrocity prevention education, supporting national efforts to prevent hate and dangerous speech, developing and implementing early warning systems, and utilizing international and regional mechanisms to prevent atrocity crimes. JAP has four areas of programming: (1) atrocity prevention education and capacity-building, (2) prevention of hate and dangerous speech, (3) prevention of violent extremism, and (4) prevention of statelessness. JAP is a member of the International Coalition for the Responsibility to Protect (ICRtoP).

The **International Coalition for the Responsibility to Protect (ICRtoP)**, established in January 2009, is a global network of civil society organizations dedicated to advancing the RtoP as a norm at the international, regional, sub-regional, and national levels. ICRtoP Members come from all over the world and work in a wide range of sectors, including conflict prevention, human rights, women's rights, international justice, and humanitarian assistance. The ICRtoP is a program of the World Federalist Movement - Institute for Global Policy (WFM-IGP).