

# POLICY BRIEF

## CIVIL SOCIETY ENGAGEMENT WITH THE AFRICAN UNION TRANSITIONAL JUSTICE POLICY IN THE HORN OF AFRICA

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### *About Life & Peace Institute*

*We build peace one change at a time. For more than 35 years, we have promoted nonviolent approaches to conflict in the Horn of Africa and the Great Lakes Region. Working across 8 key programmes in 6 countries and with more than 70 staff, we support the capacity of people living with violent conflict to transform their own communities and societies into inclusive, just, and peaceful ones. We also work to influence regional and global policy agendas, making sure local voices are heard around the world.*

Responding to the changing regional peace and security landscape in the Horn of Africa ('the Horn') and aiming to add value to the structural prevention agenda of the African Union (AU), in 2021, the Life & Peace Institute (LPI) increased its organisational focus on transitional justice (TJ) and reconciliation in the Horn. As part of this work, LPI has conducted a regional TJ policy mapping, surveys of civil society actors, and TJ and reconciliation trainings. Evident from these activities is the important role civil society plays in supporting the development, implementation, and evaluation of TJ and reconciliation policies at the continental, regional, and national levels. This policy brief identifies entry points, particularly through the African Union Transitional Justice Policy (AUTJP), that encourage and enable civil society engagement in advancing TJ and reconciliation policy and implementation in the Horn. The brief concludes by providing recommendations of practices civil

society can use to strengthen community voice in policy design and implementation.

### **Civil Society, Transitional Justice and Reconciliation, and the AUTJP**

The Horn is one of the world's most conflict-prone regions, with most countries having experienced or currently experiencing intra and inter-state conflicts.<sup>1</sup> The region is facing multiple interconnected challenges to peace and security at the national and regional levels<sup>2</sup> – from political contestation in Sudan, to the conflict in Ethiopia's Tigray region, to Somalia's continuing fight against Al-Shabaab and attempts to solidify a federal government system. In confronting such conflicts, addressing the historical injustices underlying current grievances fuelling violence is critical.

Within the Horn, such violent conflicts are often referred to as "intractable".<sup>3</sup> These conflicts have

an immense impact on the social, emotional, and political structures of societies.<sup>4</sup> The underlying causes of conflict often relate to people's feelings, perceptions, and lived realities that their fundamental human rights and needs are under attack. As the conflict continues, communities' collective memories reduce their willingness for negotiation and compromise, resulting in an increasingly protracted conflict. Therefore, transforming intractable conflicts requires immense structural and psychological transformation.

TJ encompasses a range of processes and mechanisms<sup>5</sup> that aim to achieve redress for victims, boost public confidence in government institutions, and uphold respect for human rights.<sup>6</sup> TJ is critical to advancing the phases of reconciliation that enable people to acknowledge the root causes of conflict and begin moving toward a durable peace. Within this context, the AU emphasises the dual objectives of justice and reconciliation for creating sustainable peace and preventing cyclical manifestations of violent conflicts. The adoption of the AUTJP in February 2019 was labelled a "game-changing" policy shift by both the African Union Commission (AUC) and civil society actors.<sup>7</sup> The AUTJP, as an African policy, is designed to guide member states emerging from violent conflicts, wars, and authoritarian regimes to formulate context-specific national policies and strategies geared towards achieving socio-economic and political transformation, sustainable peace, justice, reconciliation, social cohesion, and national healing.<sup>8</sup> The AUC is currently developing a resource guide to enhance the capacities of AU member states, Regional Economic Communities, and other relevant societal actors to address TJ and reconciliation challenges effectively and sustainably.<sup>9</sup>

Notably, the AUTJP emphasises the critical role that civil society actors play as vital partners in promoting TJ and reconciliation efforts.<sup>10</sup> Civil society actors played an important role developing the policy, which spanned over nine years of research, community engagement, coalition building, and advocacy work. The AUTJP recognises the need for multi-stakeholder cooperation and engagement and provides non-state actors with tools and frameworks for engaging in the design and implementation of TJ processes.<sup>11</sup> The policy provides entry points for civil society to inform and influence the development and implementation of national TJ and reconciliation policies. Additionally, the AUTJP specifies roles for civil society and non-state actors, including creating and documenting public conversations and debates on TJ processes and facilitating intra and inter-community dialogue, reconciliation, and healing at the community level.<sup>12</sup> Further, Article 129 of the AUTJP proposes that: "the process for national dialogue, reconciliation and healing should enable [Civil Society Organisations – CSOs], not only to play an active part in such processes but also to pursue intra and inter-community dialogue, reconciliation, and healing at local levels". These provisions provide civil society with the required mandate to engage with governments, non-governmental organisations, and citizens on TJ and reconciliation initiatives geared toward addressing human rights violations and feelings of injustice. Leveraging the AUTJP, civil society can inform TJ and reconciliation processes and the development of policies in their respective communities and countries.

Some civil society actors have been instrumental in driving TJ and reconciliation policies and practices in African countries.<sup>13</sup> Usually representing multiple community groups, civil society can bring broad participation through their strong relationships with their local community members. These

engagements bring the local expertise and buy-in needed to ensure the effective implementation of a policy. In several countries, civil society actors have been driving TJ, reconciliation, and dialogue initiatives as advocates and direct implementers of TJ processes by urging states to address human rights violations and advocating for accountability.<sup>14</sup>

However, more generally, to date, despite the potential entry points established in the AUTJP, civil society engagement with the policy has been minimal and participation of civil society in the Horn, related to peacebuilding and TJ policy, has been restricted. In some cases, governments in the region have yet to be able to engage local populations in a direct and inclusive way, due to factors such as minimal funds and the lack of capacity. In other cases, governments have enforced bureaucratic registration procedures that hindered civil society operations, challenging their active and effective engagement in TJ and reconciliation processes.<sup>15</sup> When not directly restricted by government processes or systems, some civil society actors face knowledge gaps, staffing shortages, and limited funding to conduct TJ and reconciliation-related activities.<sup>16</sup> A regionally focused civil society capacity assessment conducted by LPI highlighted the need for awareness-raising and capacity-strengthening efforts to increase civil society knowledge and understanding of TJ and reconciliation holistically and the AUTJP specifically.

Also recognising this need, the AUC has undertaken awareness creation and popularisation of the policy document by engaging regional economic communities, civil society, and the private sector. The AUC has also engaged the Intergovernmental Authority on Development (IGAD) member states to promote the AUTJP and support national TJ and reconciliation processes. Similarly, as part of its efforts to strengthen the capacities of civil society

in the Horn and contribute to the popularisation of the AUTJP, LPI, in collaboration with the Centre for the Study of Violence and Reconciliation and the Institute for Justice and Reconciliation, launched a tailored capacity-strengthening programme entitled "Introduction to Transitional Justice". The training programme aims to enhance civil society knowledge and understanding of the AUTJP and build civil society capacity to engage with and sufficiently use the policy to develop and implement peacebuilding, TJ, and reconciliation mechanisms in their communities and countries.

When given the space and support, civil society continually proves they can play a critical role through actions like creating platforms for national dialogue, grassroots truth-telling and documentation, engaging in media training and media monitoring of TJ issues, as well as advocacy and awareness raising work of TJ and reconciliation process. For many civil society actors, coalition building, urging states to adopt effective TJ and reconciliation processes, and establishing viable legislation have been their main priorities.<sup>17</sup> In advancing TJ and reconciliation, some African civil society actors adopted the dominant international notions of TJ that focus on a legalistic and accountability approach.<sup>18</sup> Alternatively, others are increasingly taking a more context-sensitive approach to TJ and reconciliation, also drawing lessons from past experiences, including traditional African justice systems, which are also emphasised in the AUTJP.<sup>19</sup>

In addition to these efforts, several other actions can be implemented to enhance the capacities of civil society in the Horn to advance TJ and reconciliation utilising the provisions within the AUTJP. The following section highlights some of the actions that can be undertaken by civil society actors to enhance their active and meaningful

participation in advancing TJ in their respective contexts.

## Recommendations for Civil Society

### 1. Developing the capacity and skills of local and national civil society actors on TJ and reconciliation processes

- Civil society working on TJ and reconciliation initiatives need to continue engaging their networks and peer organisations to share knowledge of best practices and understanding of TJ and reconciliation processes.
- Peer-to-peer training and support initiatives between civil society actors help improve collective civil society understanding of the AUTJP and local TJ and reconciliation initiatives, increase the use of common definitions and practices, develop communities of practice, and create space for the exchange of knowledge. Importantly, every effort should be made to make diverse peer-to-peer networks participatory and inclusive such as ensuring women and youth civil society actors are included. Civil society should continue to engage local communities and strengthen relationships with traditional leaders and elders, to understand how TJ and reconciliation is actively conducted at a local level. Civil society plays an important role in connecting local and national levels processes and translating local practices into policy languages.

### 2. Cultivating expert partnerships and networks

- Civil Society can actively cultivate relationships with regional policy actors by identifying and engaging with regional bodies with TJ and reconciliation mandates.

For example, the IGAD Mediation Support Unit (IGAD-MSU) is mandated to bring reconciliation and healing to the IGAD region and envisions the creation of a Reconciliation Taskforce and Regional Reconciliation Centres.<sup>20</sup> Such platforms can create spaces for academics, practitioners, researchers and community leaders to share experiences, lessons, and learnings pertinent to peacebuilding, TJ and reconciliation initiatives.

- Coordinated efforts can advance activities such as the building of coalitions to actively engage and inform national-level policy formulation or the development of joint advocacy campaigns. Further, civil society can use this platform to continue to obtain the necessary technical support from regional partners and ensure that the voice and needs of society are considered.

### 3. Documenting local TJ and reconciliation initiatives in the region

- Civil society support to the production of evidence-based TJ and reconciliation research by including community and local perspectives will help identify best practices, inform policy development processes, and guide policy implementation.

## Endnotes

- 1 Adeto, A, Y. (2019). "State fragility and conflict nexus: Contemporary security issues in the Horn of Africa". African Journal on Conflict Resolution, 19 (1): 11-35. See also Group Report by Sally Healy. S. 2008. Lost Opportunities in the Horn of Africa How Conflicts Connect and Peace Agreements Unravel a Horn of Africa. Royal Institute of International Affairs. ISBN 978 1 86203 203 3. Available at: <https://www.chathamhouse.org/sites/default/files/public/Research/Africa/0608hornafrica.pdf>.
- 2 International Crisis Group. (2020.) Ethiopia Slide towards Civil war. Available at: <https://www.crisisgroup.org/africa/horn-of-africa/horn-ethiopia-slide-toward-civil-war>. (Accessed on 12 October 2022).
- 3 Intractable conflicts are characterised as being protracted, irreconcilable, violent, of a zero-sum nature, total, and central, with the parties involved having an interest in their continuation.
- 4 Bar-Tal, D. (2000). "From intractable conflict through conflict resolution to reconciliation: Psychological analysis." *Political Psychology*, 21(2):351-364.
- 5 OHCHR: Transitional Justice and Human Rights Available at: <https://www.ohchr.org/en/transitional-justice> (Accessed 8 November 2022).
- 6 UNSC (S/2004/616). The rule of law and transitional justice in conflict and post-conflict societies: Report of the Secretary-General. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement>. For more info on Transitional Justice see Transitional Justice, Reconciliation and Peacebuilding: Assessing the Nexus. August - September 2020 Horn of Africa Bulletin, Volume 32 Issue 1. Available at: <https://life-peace.org/hab-bulletin>; and Transitional Justice, Reconciliation and Peacebuilding: Assessing the Nexus. August - September 2020 Horn of Africa Bulletin, Volume 32 Issue 2. Available at: <https://life-peace.org/hab-bulletin>
- 7 Mail & the Guardian (25 April 2019). The AU's new transitional justice policy could be a game-changer. Available at: <https://mg.co.za/article/2019-04-25-the-aus-new-transitional-justice-policy-could-be-a-game-changer/> (accessed 7 November 2022)
- 8 African Union (12 February, 2019). African Union Adopts Transitional Justice Policy. Press Release N°12/32nd AU SUMMIT. Available at: [https://au.int/sites/default/files/pressreleases/36600-pr-pr\\_12\\_-\\_african\\_union\\_adopts\\_transitional\\_justice\\_policy.pdf](https://au.int/sites/default/files/pressreleases/36600-pr-pr_12_-_african_union_adopts_transitional_justice_policy.pdf) (accessed 7 November 2022)
- 9 AUC, (November 2021). Concept Note for Expert Validation Workshop on Draft AU Transitional Justice Resource Guide.
- 10 Dersso, S.A. (2021). The African Union Transitional Justice Policy: Expanding the frontiers of transitional justice. Centre for the Study of Violence and Reconciliation. Policy Brief. Available at: <https://www.africanportal.org/publications/african-union-transitional-justice-policy-expanding-frontiers-transitional-justice/> (Accessed 26 October 2022).
- 11 African Union. (2019). African Union Transitional Justice Policy: Principle 2. 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: 14 October 2022).
- 12 AUTJP, Article 127, 128, and 129
- 13 Bankrovic, J. (2010). Advocating Justice: Civil society and transitional justice in Africa. African Transitional Justice Research Network, Workshop Report. Available at: DOI: 10.13140/RG.2.2.23354.59843.
- 14 Ibid
- 15 Maru, M, (2018). Shrinking Civil Society Space in the Horn of Africa: The Legal Context. ISBN: 978-94-92487-17-9 NUR 828.
- 16 Life & Peace Institute, (2022). Baseline Study on Transitional Justice and Reconciliation in Ethiopia, Somalia, and Sudan. Unpublished.
- 17 Bankrovic, J.(2010). Advocating Justice: Civil society and transitional justice in Africa. African Transitional Justice Research Network, Workshop Report. Available at: DOI: 10.13140/RG.2.2.23354.59843. See also Arnould. V and Parmentier. S, (2021). Building blocks for regional cooperation on Transitional Justice. Africa Policy Brief No.37.; Advancing Transitional Justice in Conflict-Affected Contexts: A Case Study for Libya. Available at: <https://www.irex.org/sites/default/files/pdf/advancing-transitional-justice-conflict-affected-contexts-libya.pdf>; Wiebelhaus-Brahm, E. (2021). Competition for Control of the State and the Transitional Justice Agenda Among Tunisian Civil Society Organizations., *Peacebuilding* 9:2 (2021) 149-163., Available at SSRN: <https://ssrn.com/abstract=3652610>. (Accessed 27 October 2022)
- 18 Centre for the Study of Violence and Reconciliation (2013) Peace, Justice and Accountability after War and Dictatorship: Prospects for the African context cited in The Role of African Civil Society in shaping national TJ agendas and policies.
- 19 Centre for the Study of Violence Reconciliation (2013) Peace, Justice and Accountability after War and Dictatorship: Prospects for the African context. Available at: <https://www.files.ethz.ch/isn/166668/peacejusticeaccountability.pdf>. (Accessed on 12 October 2022).
- 20 ACCORD November 11, 2020. Available at: <https://www.accord.org.za/news/accords-support-to-the-igad-msu-review-and-validation-workshop-of-the-draft-report-of-the-country-consultations-on-the-development-of-a-reconciliation-framework-and-dialogue-index/> (Accessed on 13 October 2022).