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Centering Survivors in African Transitional Justice Process:

Importance, Opportunities and Challenges

Pelumi Obisesan-Aina and Emmanuel Ayoola

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Executive Summary

From the Gambia to Sierra Leone to Liberia and all the other countries¹ where the Africa Transitional Justice Legacy Fund (ATJLF) works, there are lingering challenges associated with the extent and quality of victims and survivors' inclusion in transitional justice processes². These challenges manifest in different forms ranging from lack of victims' inclusion in process design and decision-making to lack of (or gravely insufficient) reparations and a neglect of mental health and psychosocial support for victims amongst others. This trend has contributed to making justice elusive for victims of mass atrocities and conflicts across Africa. This policy brief identifies ATJLF's key findings on the subject as an intermediary Funder in the African transitional justice space and proffers policy recommendations underlining the importance of engaging victims not only as beneficiaries but also as collaborators, and leaders in the co-creation of transitional justice (TJ) processes that truly deliver justice to victims and survivors. Some of ATJLF's key findings include:

- Absence of victims in process and decision-making instances. Victims are often excluded from design processes and when they are included, it is sometimes as a tick box exercise.
- Implementation of programs and policies that do not reflect victims' plight. Following on their absence from design processes, the programs implemented are not aligned to the expectations and priorities of survivors and victims.
- Inadequate reparations: ATJLF finds that reparations are unpaid to victims, and when paid, are grossly inadequate.
- Excessive reliance on State-led processes. There is an excessive reliance on states despite a wide gulf in the State's priorities and survivors' expectations.
- Victim and Survivor Hierarchization. Ethnic, gender and socio-economic differences among victims often lead to a hierarchization of their needs in government-led processes.
- Neglect of Mental Health and Psychosocial Support for victims
- Elusive justice for victims and survivors.

Some of the policy recommendations made in this brief include the following:

- Adapting national and community-based transitional justice processes to the recommendations of the African Union Transitional Justice Policy (AUTJP).
- Ensuring a deliberate and meaningful inclusion of survivors in the design and implementation of TJ processes.
- Comprehensive and Adequate Reparations for survivors in line with the recommendations of the different Truth Commissions across the continent.
- The decentralization of transitional justice programs to include community-based organisations. This will improve consultation, collaboration and victim inclusion.
- The de-hierarchization of survivors. Despite their gender, ethnic, religious or political affiliations, all survivors of conflict should be given equal access to the process.
- Civil society organisations should strike a balance between donor requirements and survivors' needs

¹ Mali, Cote d'Ivoire, Northeast Nigeria, Guinea

² Emmanuel Ayoola, (2024, March 26). Moving on Without Victims: Reflections from a Field Trip, Africa Transitional Justice Legacy Fund. Accessed on June 15 2023.

- Ensuring that journalistic reporting does not sensationalize survivors’ sufferings but rather focus on reporting that ensures more empowering justice outcomes for survivors.

INTRODUCTION

Transitional Justice (TJ) in Africa has made significant strides, yet significant improvements are needed for more empowering outcomes, especially for survivors and victims. Through painstaking and concerted effort that has taken over fifteen years, Africa has been developing its own distinctive approach to TJ. Through three instruments – the Study of the African Commission on Transitional Justice and Human and Peoples’ Rights in Africa³, the African Union Transitional Justice Policy⁴, and its Roadmap⁵, – Africa has presented an authoritative statement on the continental framework and contours of the knowledge and practice of transitional justice⁶. These documents, which build on lessons from the drawbacks, of the mainstream approach to transitional justice, advances a rich African perspective on transitional justice.

Despite Africa’s growing epistemic agency on transitional justice and five years after the African Union Transitional Justice Policy was launched and adopted, however, the TJ process in most African countries leave much to be desired. There is a significant gap between TJ policies and practice. The central issues addressed by the AUTJP for example, remain issues of critical challenges in ongoing transitional justice processes on the continent especially the survivor-perpetrator dynamic. A quick scan of ongoing transitional justice processes on the continent would reveal that one of the most obvious failings is the minimal level of importance that accrues to victims and survivors.

In 2020, the Africa Transitional Justice Legacy Fund was established to address this gap by providing financial and technical support to survivor-led and community-based organisations implementing transformative transitional justice interventions. Since its inception, ATJLF has funded over 49 survivor-led organisations through 70 grants totalling \$3,131,000 for the implementation of projects that align with the values of the AUTJP. In the Fund’s Legacy Phase (2024 – 2026), another \$2,680,000 has been approved for sub-grants and transformative initiatives. However, the gap between where we are and where we need to be, remains huge. It is therefore clear that only concerted efforts by stakeholders driven by a common knowledge of the centrality of survivors to the effectiveness of transitional justice processes will make a difference.



Informed by our experience supporting transitional justice interventions across the continent, and a panel discussion with practitioners from key stakeholders in the transitional justice space, this policy brief outlines our findings and sets out actionable recommendations that can be adopted by African countries, regional and continental bodies, journalists, civil society

³ Study accessible here: <https://achpr.au.int/sites/default/files/files/2020-11/achprtransitionaljusticeeng.pdf>

⁴ The African Union’s Transitional Justice Policy - <https://atjlf.org/african-union-transitional-justice-policy/>

⁵ <https://atjlf.org/roadmap-for-the-implementation-of-the-african-union-transitional-justice-policy/>

⁶ Solomon Ayele Dersso, Africa’s Transitional Justice Policy Making: Exercising Epistemic Agency and Pushing the Frontiers of Transitional Justice, *International Journal of Transitional Justice*, Volume 15, Issue 2, July 2021, Pages 255–263, <https://doi.org/10.1093/ijtj/ijab015>



organisations and other stakeholders within the field to ensure that TJ been has empowering outcomes for survivors of violence in Africa.

Examination of Key Findings

1. **Absence of victims in process and decision-making instances:** Victims are often left out of the design and decision-making in transitional justice processes in Africa. When included, the engagement is usually tokenistic and not meaningful. This in turn makes it difficult for victims and communities to take ownership of government-led transitional justice processes. ATJLF during its interventions in Sierra Leone and the Gambia recorded trends of victims' non-inclusion in decision making for transitional justice processes. This trend is further exacerbated by poor communication and an outreach gap. Victims and affected communities are often in the dark about the government's plan and activities on transitional justice, making it difficult for victims to hold the government accountable.
2. **Implementation of programs and policies that do not reflect victims' plight:** The concerns of victims have often not been the driving force behind government policies and transitional justice programs in several countries where ATJLF has made interventions. In the Gambia and Northeast Nigeria for instance, under flawed return and resettlement programs, there has been careless and arbitrary release of perpetrators back into communities to live with their victims. This not only poses a threat of renewed conflict but also causes trauma for victims⁷.
3. **Excessive reliance on State Led Processes:** Given the state's centrality, most transitional justice processes are government dependent neglecting the potential of community-based interventions and grassroots involvement.
4. **Inadequate reparations:** This remains one of the major challenges affecting victims of conflicts and mass atrocities in Africa. ATJLF finds that reparations are unpaid to victims, and where paid, grossly inadequate. There is a manifest lack of political will on the part of the government to provide adequate reparations to victims. This is evidenced by the usual refusal to implement Truth Commission recommendations on reparations for victims. For instance, in Sierra Leone⁸, the Truth Commission recommended the establishment of a War Victims' Trust Fund for the war-wounded, but since 2004 when the reports were published the Fund has not been established. Members of the Association of War Wounded and Amputees who spoke with ATJLF stated that there has been no sufficient justice for the atrocities they suffered during the war. Similar concerns have been expressed by victims in the Gambia and North-East Nigeria where ATJLF supports live transitional justice processes.
5. **Neglect of Mental Health and Psychosocial Support for victims:** Victims coming out of horrific human rights abuses and violations often deal with trauma, anxiety, and other forms of mental and psychosocial health issues. This is an area where victims suffer neglect by the

⁷ Murtala Abdullahi, (2022, December 3). 'Operation Safe Corridor Is Useful for Ex-Terrorists. But For People Like Me, It's Injustice, HumAngle Media. Accessed on June 15, 2024

⁸ Fin-Jasper Langmack, (2020, February 3). Reparations In Sierra Leone: News from the Periphery of Transitional Justice, Justice Info. Accessed 15 June, 2024



- government. ATJLF observes that Mental Health and Psychosocial Support (MHPSS) Programs are often not part of government-led transitional justice interventions in Africa. This vacuum has in some cases, led to victims' mental health degenerating into insanity. In Northeast Nigeria, ATJLF's intervention through one of its grantee partners – Kishimi Shelter and Care Foundation brought about the provision of MHPSS support that has helped some of these victims come out of clinical insanity.
6. **Lack of access to justice for victims:** Victims continue to suffer injustices and violations of their human rights even during transitional justice processes. Worse than this, they also faced with the inability to seek redress for those violations. ATJLF has observed that several countries coming out of legacies of conflict struggle with very weak criminal justice systems which breeds continuing violations of rights. Across several countries where ATJLF has made interventions, it has been observed that victims in Internally Displaced Persons Camps and communities continue to suffer violations of their rights with no access to justice. Women and children are mostly victims of this.
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 8. **Victim and Survivor Hierarchization:** In African societies, identity labels are important. Ethnicity, gender, religious and political affiliations are often determinants of who gets what even in post-conflict contexts. Nigeria's Operation Safe Corridor, which does not admit⁹ former women combatants, is a good example in this regard.

Policy recommendations

1. Adapting National transitional justice processes to the recommendations of the African Union Transitional Justice Policy (AUTJP) in dealing with victims and affected communities.
2. **Ensuring Meaningful Inclusion of Survivors in TJ Processes:** Survivor and victim inclusion should not be an afterthought. In some cases, like in Northeast Nigeria, attention that accrues to survivor is determined by the attention that accrues to victims.
3. **Decentralizing Transitional Justice Processes:** Looking beyond the state-centric model of transitional justice is crucial to ensuring that the needs of survivors and victims are prioritized. Centralized state-led TJ models tend to overlook or inadequately address the unique cultural, social, and historical contexts of affected communities. By shifting the focus to more inclusive and community-driven approaches, it becomes possible to tailor transitional justice mechanisms to better meet the specific needs and desires of survivors and victims. This approach not only validates the experiences of those most affected by conflict and violence but also fosters more sustainable and culturally relevant outcomes. HumAngle Media, a past beneficiary of ATJLF, through the Knifar-women reporting fellowship¹⁰ has, for example, been involved in survivor-focused transitional justice interventions that empower and resource survivors to live as peers in the society with non-victims.

⁹ Pelumi Obisesan (2024, March 27). Enhancing Post-Boko Haram Transitional Justice Processes in Northeast Nigeria, CDD West Africa. Accessed 20 June 2024

¹⁰ HumAngle Media, Knifar-women. Accessed 20 June 2024



4. **Taking a long-term approach to Transitional Justice:** A long-term approach to transitional justice and peace building is essential to unpack the details of historical grievances. Without examining and addressing past grievances and structural injustices, transitional justice cannot be effective. In our experience, transitional justice projects across the continent are mostly time-bound as dictated by donors. The implication of this is that processes to remedy protracted conflicts and repression may not be sufficiently developed but be rushed to meet up with donor timelines for reporting and project close-up. It is impossible to comprehensively address protracted ills with short term projects that have no lasting impact. Hence, ATJLF's Legacy Phase approach to invest in projects with the potential to plug into enduring and transformative TJ efforts.
5. **Striking a balance between donor requirements and survivors' needs:** While donor funding has become an important aspect of peace building efforts, it is important to ensure that donors are more responsive to the priorities of communities. Given how deep the roots of conflict go and how sordidly legacies of violence live on in survivors, a donor-inspired timeline on transitional justice processes hampers its effectiveness to definitively address legacies and prevent recurrences. In the Lake Chad Basin for example where the Boko Haram conflict has led to a perpetuation of injustices for over 15 years, donor-funded transitional justice processes often have a one-to-three-year term to address specific issues. By taking a long-term approach, transitional justice can be transformative, not only in dealing with individual victims and perpetrators but also in the transformation of unjust structures that create or fuel conflict and/or repression.
6. **Comprehensive and Sufficient Reparation Efforts:** From Liberia to Sierra Leone, Mali and the Gambia, Truth Commissions have recommended the implementation of comprehensive reparations to victims and survivors. However, these recommendations are often pushed to the back burners of the transitional justice agenda. Further, perpetuating injustice against survivors.
7. **The de-hierarchization of survivors:** No matter their ethnic, gender, political, or religious affiliations, all survivors should be treated equitably. They all should be able to clearly express their needs and have a say in the design of the process. This ensures inclusivity and responsiveness of processes.
8. **Empowering Journalistic Reporting on Survivors:** Victims and survivors often have the capacity to evoke emotions from the public when their stories are publicly shared. However, the media tends to sensationalize these stories in the bid to draw more traffic. Sensationalized stories that are often presented without facts tend to generate disempowering outcomes for survivors they are meant to protect. It is therefore necessary to encourage responsible and empowering media reporting on survivors.



- 📍 Accra, Ghana Adjiringanor - East Legon
- ✉️ +233 302 526 466
- ☎️ info@atjlf.org
- 🌐 www.atjlf.org