

POLICY BRIEF

THEMATIC COMPLEMENTARITY AND AREAS OF
COLLABORATION IN IMPLEMENTATION OF THE
AFRICAN UNION TRANSITIONAL JUSTICE POLICY
AND THE ETHIOPIAN NATIONAL TRANSITIONAL JUSTICE POLICY

Policy Brief

Thematic Complementarity and Areas of Collaboration in Implementation of the African Union Transitional Justice Policy and the Ethiopian National Transitional Justice Policy

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I. Background and Introduction

The African Union's (AU) Assembly of Heads of State and Government, convening at its headquarters in Addis Ababa, Ethiopia, officially adopted its first continental Transitional Justice (TJ) Policy in February 2019. During that same period, the Federal Democratic Republic of Ethiopia (FDRE) initiated bold political reforms, among other the establishment of a federal reconciliation Commission endowed with the mandate of reconciling long-standing societal and political conflicts in Ethiopia by identifying and addressing the nature, cause, and dimension of human rights violations, while also focusing on truth seeking aspects. Despite these efforts, Ethiopia's reforms, however, faced major setbacks. Principal among them was the two-year armed conflict that began in its northern Tigray region in November of 2020. With the achievement of the Pretoria Permanent Cessation of Hostilities Agreement that ended the two years later, Ethiopia began the process of developing a comprehensive national Transitional Justice (TJ) policy in January 2023. The Pretoria peace agreement, specifically Article 10(3), calls for implementation of a comprehensive national transitional justice policy by the Government of Ethiopia. The adopted Transitional Justice (TJ)

policy aims to ensure accountability, ascertain the truth, provide redress for victims, promote reconciliation, and facilitate healing. Ethiopia's transitional justice policy was developed with inputs from a variety of stakeholders and civil society groups through selected public consultations and a formal national policy-making process. The national policy was adopted by Ethiopia's Council of Ministers in April 2024, following a year of consultations and iterative drafting.

Among the African Union Transitional Justice Policies (AUTJP) main objective is extending assistance to African Union member states achieve sustainable peace, justice, reconciliation, social cohesion, and healing, the continent-wide African Union Transitional Justice Policy (AUTJP) aims to provide states with guidance on effective and credible transitional justice processes. In line with other African Union norms and mechanisms, the African Union Transitional Justice Policy (AUTJP) generally provides policy parameters for holistic and transformational transitional justice in Africa. In the same spirit, the Ethiopian National Transitional Justice Policy (ENTJP) adopted in April 2024 aims to outline fundamental principles for implementation of Transitional Justice (TJ) in Ethiopia, to establish nationally contextualized guidelines for legal,

procedural, and organizational measures, to assure adherence to the principles outlined in international and continental documents, and to guarantee a consistent, transparent, and accountable transitional justice process.

As mandated, the African Union Commission supports members states in efforts to develop country specific policies. In Ethiopia the AU has collaborated with the Ministry of Justice, supporting the convening of a 2023 international workshop of experts on TJ policy options. It also collaborated with the Federal Ministry of Justice and its Transitional Justice Working Group of Experts¹, through provision of technical support.

II. Objective of this Policy Brief

In 2023 the African Union (AU) and the European Union (EU) officially launched a three-year project, entitled Initiative for Transitional Justice in Africa (ITJA), to support AU member states as they incorporate the policy and undertake transitional justice processes at the national level. The project is now implemented by a consortium of three organizations led by the International Center for Transitional Justice (ICTJ) and

including the Centre for the Study of Violence and Reconciliation (CSVr) and the African Transitional Justice Legacy Fund (ATJLF). This policy brief is produced by the Advocacy Center for Democracy and Development (ACDD) of Ethiopia, one of the CSOs supported by the AJTLF program. This brief is part of the ACDD's project entitled "Promoting Awareness and Implementation of the African Union Transitional Justice Policy (AUTJP) in Ethiopia".

As both policies aspire to address the challenges of reconciliation, social cohesion and nation-building more effectively, all of which are central to peacebuilding and sustainable human development, this policy will be a comparative analysis of the African Union Transitional Justice Policy (AUTJP) and the Ethiopian National Transitional Justice Policy (ENTJP) it will further identify alignments and deviations of principles while r with recommending potentials of supplementarily in ensuring an inclusive and meaningful transitional justice implementation process.

¹ The TJ working group defined....

III. Key Findings: Thematic Complementarity and Areas of Collaborations.

1. Guiding policy principles: contextuality, and diversity management.

The ENTJP and the AUTJP are in alignment in terms of key guiding principles. Both policies adopt a comprehensive transitional justice approach covering all elements/ pillars of transitional justice concept. In the same manner, they align in promoting the principle of National ownership in adapting and sequencing the policy framing anchored in the context particularly giving prominence to cultures and indigenous knowledge.²

In addition to the fundamental principles of contextuality and national ownership, the African Union's TJ Policy features a distinct section on diversity management within a context. The section tackles group identity aspects of conflicts, which result in violence based on factors such as ethnicity, sex, language, religion, political beliefs, etc. This is especially crucial in societies like Ethiopia where ethno-cultural and historical issues play key role in contributing to conflicts and

marginalization of groups, further disproportionately affecting women and other vulnerable groups. Despite acknowledging diversity of the Ethiopian nation, the Ethiopian policy does not specifically address diversity management scheme. It is crucial that the process of implementing TJ in Ethiopia pays close attention to managing the multilayered diversity. Going forward, the process of putting the ENTJP into action could refer to the AUTJP's principles and approaches of diversity management schemes and adapt it to its own context.

2. Ensuring Victim – Centeredness in TJ the TJ process

State actors often develop and implement transitional justice processes with inadequate involvement from victims, civil society, and other relevant stakeholders. The exclusion of victims from the design and implementation of transitional justice initiatives perpetuates their marginalization and denies them the opportunity to actively shape processes aimed at addressing their needs. Similarly, in Ethiopia, the prior regimes' attempts to implement aspects of transitional justice have been marked by a lack of victim-

² Africa Union Commission, (2019). Transitional justice policy. In *An Integrated, Prosperous and Peaceful Africa*. (African Union Commission, 2019, p. 5) and Council of Ministers. (2024). National

Transitional Justice Policy of the Federal Democratic Republic of Ethiopia. In UNOFFICIAL TRANSLATION. (Council of Ministers, 2024, p. 3)

centered approaches³. The ENTJP recognizes this gap as a significant shortcoming.

The ENTJP has recognized the significance of victim participation, protection, and the satisfaction of their needs. The policy stipulates that all legal institutional frameworks adopt a victim-centered approach.⁴ Nonetheless, similar to the AUTJP, neither policy explicitly defines "victim centeredness" as an independent guiding principle for integration.

Victim participation and consultation at each stage are crucial elements of transitional justice, necessary for the effective design and execution of the process.⁵ This is also relevant to the ENTJP.

3. Customary and traditional mechanisms in TJ.

In line with decolonial approaches, the African Union's, and Ethiopia's policies both adopt customary and traditional practices that leads to a collective healing and addressing past grievances as an integral part of the transitional justice process having equal status as the formal justice

infrastructure. Both documents give equal status to established mechanisms for resolving disputes and promoting social cohesion and the formal system maintaining the primacy of human rights and international laws and standards accepted by countries.⁶

The policies propose a conception of TJ that transcends retribution, incorporating traditional justice methods that prioritize reconciliation, community involvement, and restitution. They aim to tackle African issues related to violent conflicts and impunity through a comprehensive approach that considers the specific context and cultural intricacies of the societies impacted.

The implementation processes set forth calls for a cautious approach grounded in international standards, while balancing national and continental customs and traditions.

4. Conditional Amnesty and the role of victims.

Amnesty has the potential to serve as a tool for societal reconstruction; however, it may also prompt questions about victim satisfaction, the potential risk of impunity, and future human

³ Council of Ministers. (2024). National Transitional Justice Policy of the Federal Democratic Republic of Ethiopia. In UNOFFICIAL TRANSLATION. P 3

⁴ (Council of Ministers, 2024, p 4).

⁵ (ICTJ, 2019, p. 6-7)

⁶ (Council of Ministers, 2024, p 3)

rights violations going unpunished. Striking a balance between the needs of victims, the constraints of resources, and the establishment of an enduring peace and social unity is complex and should be guided by specific contexts.

The two policy frameworks under review reject the concept of blanket or unconditional amnesties. The continental framework has more room for conditional amnesty by further acknowledging plea bargains and pardons under its amnesty privileges.⁷ However, it does not provide further details or explanations.⁸, which might potentially leave remote cases of impunity. Going into country-level implementation frameworks, it is imperative that the AU work closely and support member states in the development of context-based guidelines that complement its policy principles. In a preferred manner, the Ethiopian policy is clear and specific in delineating the subject matters of amnesty.⁹ Accordingly, the policy categorically excludes any gross human rights violations from amnesty

in congruence with article 28(1) of the federal constitution of the land.¹⁰ minimizing the potential for impunity.

At the operational level, the two policies sanction clear criteria, transparent procedures, and impartial processes. Nevertheless, the significance and the roles of victims in amnesty determination, despite being mentioned in the general objective of the national policy.¹¹are not reemphasized in the specific section that pertains to amnesty. Moving forward in the implementation phase, it is crucial to adopt the specific recommendations of the AUTJP to ensure victim-centered amnesty determinations.

⁷ (AUC, 2019, p. 3)

⁸ International Center for Transitional justice.

(2019). *A Roadmap for Justice in Africa: Understanding the*

African Union's Transitional Justice Policy.
https://www.ictj.org/sites/default/files/2023-11/ictj_position_autjp-web_2.pdf

⁹ (Council of Ministers, 2024, p 12)

¹⁰ (Council of Ministers, 2024, p 7)

¹¹ (Council of Ministers, 2024, p 5)

5. Reparations: focus on fund mobilization

Reparations programs are important for making transitional justice work well because they help fix the harm done to victims and make them feel satisfied, which affects the long-term success of transitional justice, like bringing people together and building a united community. It can be a short-term solution to address urgent needs while more complete reparations are created with input from victims and others involved. It is a mechanism that can be temporarily implemented to meet immediate basic needs while comprehensive reparative measures are developed with the active participation of victims and other stakeholders. Reparations typically constitute the most resource-intensive component of transitional justice processes in any context. Aware of the resource demands, the AUTJP emphasizes the necessity for establishing a victims' fund and a strategy for resource mobilization as a key independent policy issue.¹² According to World Bank data, Ethiopia has a population exceeding 100 million, characterized by diversity that necessitates complex adaptations to local customs and traditional

practices. The nation experiences occurrences of droughts, floods, locust infestations, conflict, or a combination thereof. (World Bank, February 2025).¹³ The AU Commission, as a continental entity promoting reparative justice, is strategically equipped to assist and augment the reparation of victims by creating a continental victim reparation fund that can bolster national initiatives.

6. Institutional Reform

Institutional reform is crucial in TJ processes. Such reforms may address institutional weaknesses and structures, or government actions or inactions, that led to human rights violations and the need for TJ. Institutional reform might encompass vetting processes in the hiring of civil servants, constitutional reform, legal reform, and land or governance reform.

The AUTJP emphasizes the necessity of comprehensive political and institutional reform¹⁴ which might include modifications to the national constitution or other legal and normative frameworks. The ENTJP, on the other hand, emphasizes public

¹² (AUC, 2019, p. 14)

¹³<https://www.worldbank.org/en/country/ethiopia/overview#:~:text=In%20line%20with%20the%202019,through%20the%20G20%20Common%20Framework.>

¹⁴(AUC, 2019, p. 18)

consultations in four distinct sectors: the security sector, the justice sector, the media, and other institutions linked to extensive human rights violations. The AUTJP takes a broader and more flexible approach than does the ENTJP, proposing that wide-ranging political reforms should complement any institutional reforms. Ethiopia's TJ policy and processes could benefit from considering the AUTJP's recommended institutional reforms towards lasting and transformative outcomes.

IV. Recommendations on thematic Complementarity and Areas of Collaboration.

1. Contextuality and Diversity management.

Diversity management: Ethiopia's policy is in accordance with the continental guideline is anchored on national values, mechanisms, and approaches, which are informed by the context. Despite the multilayered diverse context within Ethiopia, the national policy fails to provide effective diversity management strategies. On the other hand, the AUTJP offers specific strategies for internal diversity management. The implementation of the ENTJP can be guided by the schemes provided by the

Continental policy, as per the Policy guideline that incorporates it as an integral part of the process. This is the case at this stage.

2. Ensuring victim-centered TJ process.

Emphasis must be placed on ensuring that all legal and institutional mechanisms in progress are designed and implemented with a victim-centered approach. This requires a clearly articulated guiding and obligatory approaches in the upcoming institutional and operational standards, the inclusion strategy, communication and outreach programs. The prescriptions should ensure that victims take central role and are consulted at every stage in the transitional justice processes and systematically prioritize the needs and concerns.

3. Conditional amnesty and the role of victims.

The Ethiopian policy is commendable for offering clear guidance and excluding gross human rights violations, thereby reducing the potential for impunity. Victims' participation in the cross-reading of the two frameworks can be complementary as AUTJP makes specific references to effectively

engage victims in the determination of amnesty.

4. Reparation of Victims: Focus on Resource mobilization.

The AU Commission, functioning as a continental body dedicated to the advancement of reparative justice globally¹⁵, is well-positioned to support and enhance the reparation efforts for victims through the establishment of a continental victim reparation fund, which can strengthen national initiatives.

5. Institutional Reform: A tool for trust building and creating an enabling environment.

The AUTJP proposes that institutional reforms in TJ process should be accompanied by extensive political reforms, which is a more flexible and broader approach than the ENTJP. Ethiopia's transitional justice policy and procedures may be enhanced by implementing the institutional reforms recommended by the African Union Transitional Justice Policy to achieve sustainable and transformative outcomes. Specific to the Ethiopian context, initiation of a TJ process while there are ongoing conflicts and

post-conflict situation, it is imperative to carryout broader political reforms, especially in the pre-implementation phase.

Based on the mandate of the continental policy and institutions, and Ethiopia's policy acknowledging the African union Policy as a guide.¹⁶

6. Technical Capacity Building – Framework of Collaboration

The ENTJP foresees the need for technical capacity building, which creates opportunities to utilize international comparative experiences.

As per the mandate and objective of the AUTJP the African Union Commission should proactively and in collaboration with the relevant state institutions, do a capacity need assessment and priorities, and develop a framework of collaboration thorough out the TJ process.

¹⁵<https://au.int/en/theme/2025#:~:text=AU%20THEME%20OF%20THE%20YEAR%202025%3A%20The>

[me%3A%20%E2%80%9CJustice%20for,AU's%20commitment%20to%20addressing%20historical](https://au.int/en/theme/2025#:~:text=AU%20THEME%20OF%20THE%20YEAR%202025%3A%20The)

¹⁶ (Council of Ministers, 2024, p 4)

7. Research and Documentation: Human Rights Friendly Traditional Practices and Customary Norms- African Perspectives

The AUTJP and the AU's Peace, Security and Political Affairs Commission gives a mandate to assist member states to ensure that traditional justice and dispute resolution mechanisms, which may preserve cultural authenticity, are consistent with human rights standards. In so doing, the Commission should work in close collaboration with relevant state institutions and CSO actors to document and further develop a continental guideline to ensure human rights friendly community practices to be integrated in as part and parcel of the formal TJ processes.

The AU and its Peace, Security and Political Affairs Commission should support Ethiopia in developing monitoring and evaluation mechanisms for the ENTJP. The AU

should also document and disseminate Ethiopia's experiences with TJ, further integrating and informing TJ practices throughout the continent.

8. Support and facilitate dialogue and peace processes in Ethiopia

In accordance with the principle of "African Solutions for African Problems," it is imperative that the African Union Commission, the AU Panel of the Wise, Femwise,¹⁷ and the AU Peace, Security, and Political Affairs Commission provide support in ensuring the TJ process succeeds.

Currently, in a preparatory phase of the TJ process, the Continental organization can play a constructive role in facilitating and fostering an environment that engages all stakeholders. To this end, robustly support the complete implementation of the Pretoria agreement¹⁸. It should also promote and facilitate dialogue among the various armed insurgencies toward a similar cessation of hostilities and peace processes.

¹⁷ FemWise-Africa, is a subsidiary mechanism of the Panel of the Wise, one of the critical pillars of the Peace and Security Architecture of the African Union

¹⁸ Agreement for lasting Peace through a Permanent Cessation of Hostilities between the Government of Federal Democratic Republic of Ethiopia and the Tigray People's Liberation Front, November 2020.

Acronyms and Abbreviations

ACDD	Advocacy Center for Democracy and Development	ENTJP	Ethiopian National Transitional Justice Policy
ATJLF	African Transitional Justice Legacy Fund	EU	European Union
AU	African Union	FDRE	Federal Democratic Republic of Ethiopia
AUTJP	African Union Transitional Justice Policy	ICTJ	International Center for Transitional Justice
CSO	Civil Society Organization	ITJA	Initiative for Transitional Justice in Africa
CSV	Center for the Study of Violence and Reconciliation	TJ	Transitional Justice

