

# INSURGENCY AND TRANSITIONAL JUSTICE IN AFRICA

LEVERAGING TRANSITIONAL JUSTICE AS  
COUNTERINSURGENCY

POLICY PAPER  
AUGUST 2025

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## INTRODUCTION

In 2019, the African Union (AU) adopted the African Union Transitional Justice Policy (AUTJP) and launched the Implementation Roadmap in 2020. Through this framework, the AU supports Member States in implementing transitional justice (TJ) as a conflict prevention and management mechanism. Thus far, several Member States, including Nigeria, Mali, Ethiopia and South Sudan, amongst others, have referenced the policy in shaping their national TJ processes.

As recognition grows of TJ as a means for social cohesion and sustainable peace, so too should conversations evolve around its compatibility and applicability to different circumstances of peace and security challenges, specifically within the continent.

This policy paper posits that optimising TJ's effectiveness in combating insurgency requires deeper reflection on both conceptual and practical perspectives. It begins by outlining the nature of insurgency, its drivers, and its impact. It then considers interpretative frameworks, raising critical questions about TJ's theoretical, operational and cultural foundations. These reflections provide an understanding of key elements and tensions influencing how TJ processes are designed and implemented.

Against this backdrop, the penultimate section proposes practical pathways for employing TJ as a counterinsurgency mechanism, highlighting the functionality of the AUTJP. The concluding section recommends that the AU, in collaboration with the Centre for the Study of Violence and Reconciliation (CSV), develop a practice guide on using the AUTJP as a counterinsurgency mechanism. This initiative would promote further research and dialogue on the nexus between insurgency and TJ.

## INSURGENCY

Insurgency refers to a widespread and organised armed rebellion against an established government, typically aimed at overthrowing it or fundamentally changing the existing political order. The core objectives of insurgent groups are regime or political transformation, often planned through sustained acts of armed violence that target civilians and infrastructure.<sup>1</sup>

These groups are usually well organised and capitalise on the weaknesses of incumbent governments. In Africa, insurgencies are driven by governance issues, including poor service delivery, corruption, and socio-political and economic exclusion. Other key drivers include systemic human rights abuses, lack of access to justice, and historic ethnic-religious antagonism, often underpinned by competition over access to environmental resources such as land, precious metals, oil, water and benefits therefrom.<sup>2</sup>

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1 Oita Etyang, Lweendo Kambela and Stephen Muleya, "Terminating Insurgency in Mozambique: Reflections on the SADC Mission in Mozambique," *Africa Journal on Conflict Resolution* 2024(3), (2025), <https://www.accord.org.za/ajcr-issues/terminating-insurgency-in-mozambique-reflections-on-the-sadc-mission-in-mozambique/#:-:text=The%20second%20typology%2C%20which%20connotes,and%20the%20use%20of%20terror> (accessed 5 September 2025).

2 Kevin C. Dunn and Morten Bøås, "The Evolving Landscape of African Insurgencies," in *Africa's Insurgents: Navigating an Evolving Landscape*, eds Morten Bøås and Kevin C. Dunn (Boulder: Lynne Rienner Publishers, 2017), 1–22; Herman Butime, "Unpacking the Causes and Catalysts of Insurgencies in Africa," *The African Review* 49(2) (2022): 144–166.

Insurgencies typically have clear political goals, hierarchical leadership structures, recruitment and training systems, and varying levels of support from external actors and the local population, whose sympathy they earn through effective communication and engagement.<sup>3</sup> Recent trends show that insurgent activities across Africa include the decentralisation of operations. Insurgents operate in geographic spaces where the state's presence and impact are limited. Further, these developments are closely tied to broader challenges such as climate, food security, disruption of regional alliances like the Economic Community of West African States (ECOWAS) and the Alliance of Sahel States (AES), and the increasingly significant roles that youth and women play within these dynamics.

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Beyond the immediate threat and acts that negatively impact peace and security, insurgencies have far-reaching social impacts. They distort the social fabric of affected communities through segregation along ethno-religious lines, cycles of revenge and, justice-seeking among victims and their families.<sup>4</sup> These circumstances often exacerbate gender-based violence and deepen societal inequalities.

Across Africa, the scourge of terrorism and insurgency has risen, with dire consequences that often deepen the root causes that enable these crises. Delays in state responses and the absence of long-term strategies give insurgent groups a window of opportunity to further entrench themselves. For example, the Boko Haram insurgency, which began quite innocuously as a 'local' jihadist group from Borno State, Nigeria, has become a regional threat.<sup>5</sup> In part, the Nigerian government's failure to respond decisively in its early stages gave the group ample time to grow in number, strength and alliances to engage the national security apparatus in violent conflict for over a decade.<sup>6</sup> Today, Boko Haram and its factions<sup>7</sup> operations have contributed to making the Lake Chad Basin "one of the world's most protracted conflict and crisis zones",<sup>8</sup> necessitating international counterinsurgency cooperation to support local efforts to address both the combat operations and the pervasive socio-economic issues.<sup>9</sup>

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3 Francis O'Connor, "The Spatial Dimension of Insurgent-Civilian Relations: Routinised Insurgent Space", PRIF Working Paper No. 44, (2019), [https://www.prif.org/fileadmin/Daten/Publikationen/Prif\\_Working\\_Papers/PRIF\\_WP\\_44.pdf](https://www.prif.org/fileadmin/Daten/Publikationen/Prif_Working_Papers/PRIF_WP_44.pdf) (accessed 5 September 2025).

4 Samuel Ojo, "Gender Issues, Insurgency and Violence in Nigeria, Implications on Sustainable Development for Women", *Gender and Behaviour* 20(2), (2022), [https://journals.co.za/doi/abs/10.10520/ejc-genbeh\\_v20\\_n2\\_a26](https://journals.co.za/doi/abs/10.10520/ejc-genbeh_v20_n2_a26) (accessed 5 September 2025); Ruth Ogunnowo and Bamidele Olajide, "The Effects of Insurgencies on the Women in Benue State, Nigeria", *Gender and Behaviour* 22(1), (2024), [https://journals.co.za/doi/abs/10.10520/ejc-genbeh\\_v22\\_n1\\_a17](https://journals.co.za/doi/abs/10.10520/ejc-genbeh_v22_n1_a17) (accessed 5 September 2025); Akinyemi O. Alawode, "Missiological Response to the Effects of Boko Haram Insurgency in Northern Nigeria", *HTS Teologiese Studies/Theological Studies*, 81(1), (2025), <https://doi.org/10.4102/hts.v81i1.10502> (accessed 5 September 2025).

5 Kyari Mohammed, "The Origins of Boko Haram", in *The Oxford Handbook of Nigerian Politics*, eds Carl Levan and Patrick Ukata (Oxford: Oxford University Press), 583–604.

6 Samuel Okunade, Olumuyiwa Faluyi and Emmanuel Matambo, "Evolving Patterns of Insurgency in Southern and West Africa: Refocusing the Boko Haram Lens on Mozambique", *African Security Review* 30(4), (2021): 434–450.

7 This includes the Islamic State West Africa Province (ISWAP) and Jama'atu Ahlis Sunna Lidda'awati wal-Jihad (JAS).

8 *Regional Strategy for the Stabilization, Recovery, and Resilience of the Boko Haram-affected Areas of the Lake Chad Basin Region (RS-SRR) Annual Report 2022*, The Lake Chad Basin Commission (2023), 13, para 2.

9 Ibid. Wazeer Murtala, "Challenges and Prospects in the Counter Terrorism Approach to Boko Haram: 2009–2018", *Global Politics Review* 6(1): 40–56.

Similarly, the Cado Delgado insurgency in Mozambique, which started with a small youth revolt against the police in 2017 in a setting of high poverty and unemployment within a region of liquefied natural gas (LNG) extraction, has morphed to become a regional threat requiring a regional response.<sup>10</sup> The covert group Ansar al-Sunna orchestrated sporadic attacks targeting police stations and civilians, seeking to establish an Islamic state in the region.<sup>11</sup> Due in part to a lack of decisive action to combat both the structural and immediate causes of the insurgency, the spread of the Cabo Delgado insurgency culminated in Mozambique seeking the Southern Africa Development Community's (SADC) support to counter the insurgency. On 15 July 2021, the SADC deployed the SADC Mission in Mozambique (SAMIM).<sup>12</sup>

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These examples illustrate how insurgencies create a vicious cycle where each consequence reinforces the original drivers. Insurgencies breed fear, insecurity and devastation, undermine access to basic services, and further marginalise affected populations. The subsequent sections explore some theoretical ideas about TJ and consider how these can be optimised to respond effectively to the realities of insurgency.

## **TRANSITIONAL JUSTICE: INTERPRETATIVE FRAMEWORKS**

A range of interpretative considerations shape the definition, design and implementation of TJ. This section explores three core tensions, philosophical, operational and cultural considerations, that influence how TJ is understood in different contexts and how it is ultimately applied:

1. **Philosophical:** A central theoretical debate in TJ lies in the tension between the *ideal versus non-ideal theory*, focusing on its primary purpose.<sup>13</sup> In essence, should justice aim for perfection (ideal) or focus on harm reduction and feasibility (non-ideal)? Both perspectives offer nuanced views, especially in the African context, where 'imperfections' exist – such as strong and weak institutions – and economic instability, violent conflicts and repercussions abound. A non-ideal approach often provides a more practical starting point in this context.

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10 Luca Bussotti and Ermenegildo Coimbra, "Struggling the Islamic State in Austral Africa: The SADC Military Intervention in Cabo Delgado (Mozambique) and its Limits", *Frontiers in Political Science* 5(1), (2023), <https://doi.org/10.3389/fpos.2023.1122373> (accessed 5 September 2025).

11 Clayton Vhumbunu, "Insurgency in Mozambique: The role of the Southern African Development Community", *Conflict Trends*, 2021(1), (2021), <https://www.accord.org.za/conflict-trends/insurgency-in-mozambique-the-role-of-the-southern-african-development-community/> (accessed 5 September 2025).

12 Oita Etyang, Lweendo Kambela and Stephen Muleya, "Terminating Insurgency in Mozambique: Reflections on the SADC Mission in Mozambique," *Africa Journal on Conflict Resolution* 2024(3), (2025), <https://www.accord.org.za/ajcr-issues/terminating-insurgency-in-mozambique-reflections-on-the-sadc-mission-in-mozambique/#:~:text=The%20second%20typology%2C%20which%20connotes,and%20the%20use%20of%20terror> (accessed 5 September 2025).

13 Christopher Thompson, "Ideal and Nonideal Theory in Political Philosophy" *Oxford Research Encyclopedia of Politics*, (2020), <https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-1383> (accessed 5 September 2025).

Nancy Fraser's Triad of recognition, redistribution and representation can further inform TJ debates.<sup>14</sup> These concepts relate to cultural respect (e.g., ethnic, religious and gender identities), equitable access to resources (land, resources, economic opportunity), and participation in political processes (decision making in matters of constitutional redesign, electoral reform, for example). Balancing these components requires engaging with the issues of power, agency and structure (manifested in African contexts through colonial borders, global capital and patriarchy), which influence feelings of entitlement or deprivation, and contribute to activities aimed at redefining social structures.<sup>15</sup>

2. **Operational:** TJ processes must also navigate the tension between process and outcome. The central question is whether legitimacy should depend on how decisions are made (procedures) or what they deliver (outcomes).<sup>16</sup> Is it possible to maintain a healthy balance between the process and outcome without sacrificing the trust of the involved parties – perpetrators and victims? Who participates in this decision-making process, and why? These are relevant questions to assess the extent to which 'justice' can be achieved. Addressing these questions requires an all-inclusive approach that reflects society's will, which shies away from the government/elders' approach of enforcing their ideas of TJ mechanisms, particularly in contexts where their authority or legitimacy is already being questioned.

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Another tension lies in the *backwards-looking vs. forward-looking* logic.<sup>17</sup> Retributive justice models, which focus on punishment, may appease victims but can destabilise fragile peace. Alternatively, 'forward-looking' restorative and transformative models prioritise values such as truth, accountability, reparation, reconciliation, conflict resolution and democratic participation. While the latter models align closely with sustainable peace, retributive elements can and should not be disregarded because ignoring the causes of the grievances will lead to an insecure future and contribute to the re-emergence of conflicts.

Ideally, TJ must pursue a delicate balance by addressing past harms while establishing the foundation for a peaceful future. It should consider the particularities of each community or context, but ensure that measures of non-recurrence and reconciliation remain the primary goal and outcome.<sup>18</sup>

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- 14 Nancy Fraser, Hanne Marlene Dahl, Pauline Stoltz and Rasmus Willig, "Recognition, Redistribution and Representation in Capitalist Global Society: An Interview with Nancy Fraser", *Acta Sociologica* 47(4), (2004), <http://www.jstor.org/stable/4195051> (accessed 5 September 2025).
  - 15 Matiangai Sirleaf and Tendayi Achiume, "Reflecting on Race, Racism and Transitional Justice", *International Journal of Transitional Justice* 18(1), (2024), <https://doi.org/10.1093/ijtj/ijae007> (accessed 5 September 2025); Zinaida Miller, "Effects of Invisibility: In Search of the 'Economic' in Transitional Justice", *International Journal of Transitional Justice* 2(3), (2008), <https://doi.org/10.1093/ijtj/ijn022> (accessed 5 September 2025); Anushka Sehmi, "Legacies of Colonial Violence in Contemporary Transitional Justice: Memories of Mau Mau, the 'Kapenguria Six' and the 'Ocampo Six' in Kenya", *International Journal of Transitional Justice* 18(1), (2024), <https://doi.org/10.1093/ijtj/ijae005> (accessed 5 September 2025).
  - 16 International Center Transitional Justice, "After the Rupture: Understanding Transitional Justice and Reconciliation", (2017), <https://www.ictj.org/news/rupture-relationships-transitional-justice-reconciliation#:~:text=To%20the%20extent%20that%20transitional,and%20broad%20civil%20society%20engagement> (accessed 23 July 2025); Patrick Vinck and Phuong Pham, "Ownership and Participation in Transitional Justice Mechanisms: A Sustainable Human Development Perspective from Eastern DRC", *International Journal of Transitional Justice* 2(3), (2008), <https://doi.org/10.1093/ijtj/ijn033> (accessed 5 September 2025).
  - 17 Eric Sottas, "Transitional justice and sanctions", *International Review of the Red Cross* 90(870), (2008), [https://international-review.icrc.org/sites/default/files/irrc-870\\_12.pdf](https://international-review.icrc.org/sites/default/files/irrc-870_12.pdf) (accessed 5 September 2025).
  - 18 Yousef Wehbe and Bojan Gavrilovic, "A Toolkit on Transitional & Restorative Justice", Jiyan Foundation for Human Rights, <https://jiyan.org/wp-content/uploads/2022/10/Toolkit-on-Transitional-and-Restorative-Justice.pdf> (accessed 23 July 2025).

3. **Cultural:** The debate between universalism vs. contextual pluralism asks whether, and to what extent, international legal standards can coexist with customary justice systems.<sup>19</sup> Are the successes of African TJ processes instinctively weighed against benchmarks set by international standards? How pragmatically can one design TJ models for African societies with a plurality of considerations and people? Closely related are questions around the effectiveness of liberal models of TJ and the focus on individual versus collective subjects' culpability, with the latter African conception emphasising and addressing collective harm, Ubuntu, and communitarian justice.

The appropriate TJ model then requires blending traditional and cultural systems and methods compatible with contemporary ideas of society, especially notions of public participation.<sup>20</sup> For example, the traditional or cultural practice that excludes women from speaking publicly or participating in communal decision-making becomes wholly inappropriate and detrimental to the expectations of the TJ process, which is concerned with participation and fairness standards.

## TRANSITIONAL JUSTICE AS A STRATEGIC COUNTERINSURGENCY TOOL

Insurgencies are symptoms of deep ruptures – governance vacuums, colonial legacies, spatial inequalities, and fractured national identities. Relying solely on military or security responses risks delaying future violence rather than preventing it. Therefore, TJ offers a radical strategy by challenging the insurgency's ideological legitimacy and social embeddedness through justice-centred transformation.

For TJ to be an effective counterinsurgency mechanism, its functions must be rethought from its canonical perspective (truth, accountability, reparations, non-recurrence, and cross-cutting themes of gender, trauma healing and memorialisation) towards a framework of political functionalism. This approach suggests four key functions:

1. **Symbolic legibility:** wherein justice processes must navigate contested categories of victimhood and culpability.<sup>21</sup> Victim and perpetrator categories are often politically constructed, and here, TJ must navigate (not erase) these ambiguities.
2. **Moral configuration:** involves TJ recalibrating moral economies, including how communities assign blame, dignity and legitimacy.
3. **Governance interface:** refers to how TJ reinforces public authority and legitimacy, not merely following legal formalism.<sup>22</sup> Doing so emphasises that institutions matter, as does local trust.

19 *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, UN Doc. S/2004/616 (2004), 4–5 and 8, para. 2–8 and 19–22; Geoffrey Lugano, “Distance in the International Criminal Court’s Relations with the ‘Local’”, *International Journal of Transitional Justice* 16(3), (2022), <https://doi.org/10.1093/ijtj/ijab018> (accessed 5 September 2025).

20 Elke Evrard, Gretel Mejía and Tine Destrooper, “The Meaning of Participation in Transitional Justice: A Conceptual Proposal for Empirical Analysis”, *International Journal of Transitional Justice* 15(2), (2021), <https://doi.org/10.1093/ijtj/ijab013> (accessed 5 September 2025); Pamina Firchow and Yvette Selime, “Meaningful Engagement from the Bottom–Up? Taking Stock of Participation in Transitional Justice Processes”, *International Journal of Transitional Justice* 16(2), (2022), <https://doi.org/10.1093/ijtj/ijab031> (accessed 5 September 2025).

21 Kieran McEvoy and Kirsten McConnachie, “Victimology in Transitional Justice: Victimhood, Innocence and Hierarchy”, *European Journal of Criminology* 9(5), (2012): 527–538.

22 United Nations Office of the High Commissioner for Human Rights, “Thematic Paper: Peacebuilding, Sustaining Peace and Transitional Justice”, United Nations, [https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/4.\\_ohchr\\_thematic\\_paper\\_on\\_transitional\\_justice.pdf](https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/4._ohchr_thematic_paper_on_transitional_justice.pdf) (accessed 23 July 2025); Paul Selis, “The Place of Reconciliation in Transitional Justice: Conceptions and Misconceptions”, International Center for Transitional Justice, <https://www.ictj.org/sites/default/files/ICTJ-Briefing-Paper-Reconciliation-TJ-2017.pdf> (accessed 23 July 2025).

4. **Epistemic justice:** entails examining whose truths are heard, archived.<sup>23</sup> This involves interrogating silences, dominant narratives and colonial knowledge erasures.

## PATHWAYS FOR LEVERAGING TJ IN COUNTERINSURGENCY

Several pathways illustrate how TJ can respond to the drivers and impacts of insurgency:

The first involves **disrupting moral infrastructure**, which involves unsettling the claim that insurgencies are corrective projects and deliverers of justice and services. Insurgency actors often cite the state institutions' weaknesses as motivation for their activities. TJ can challenge this narrative by directly addressing the critical issues underpinning distrust in state-society relations. This initiative involves convening the requisite voices to define, design and implement a fit-for-purpose strategy that resonates with the specificities of the situation, considering both historical and contemporary peculiarities.

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Secondly, it is essential to **expand political imagination by creating** an inclusive, plural civic space that insurgencies typically suppress. TJ processes must merge old and new voices, particularly in politics. Youth and women should be integrated more into national conversations, not only because they make up most of the population, but also because they are more vulnerable in times of insurgency. Engaging them as stakeholders presents a viable alternative to supporting insurgents, whether as willing or coerced parties.

Third, **justice frontlines must be established by deploying** TJ mechanisms such as mobile tribunals, hybrid courts and truth forums into conflict zones to enhance the visibility and credibility of justice. Access to justice gives citizens reasonable trust in state institutions while offering an alternative for those seeking recourse outside of self-help and violence.

Fourth, **genuine reintegration** initiatives must go beyond the often-seen vocational training and psychosocial support. Reintegration should be a political settlement where the social contract is renegotiated and power is redistributed. This approach ensures that former fighters' needs are not reduced and limited to training and jobs, but the realisation that they need reinsertion into narratives of citizenship. Amnesties and training are only part of the spectrum of retooling former fighters to be truly recognised and accepted as members of their communities. Truth-telling mechanisms must encourage former combatants to re-author their roles in nation-building.

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23 United Nations Office of the High Commissioner for Human Rights, "A Field of Dilemmas: Managing Transitional Justice in Peace Processes", United Nations, <https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/SG-GuidanceNote-Brief-Field-Dilemmas-digital.pdf> (accessed 23 July 2025); Ulrike Lühe and Erin Baines, "Difficult Stories that Haunt: Towards Research Otherwise in Transitional Justice", *International Journal of Transitional Justice* 19(1), (2025), <https://doi.org/10.1093/ijtj/ijae044> (accessed 5 September 2025); Juan E. Ugarriza and Laly Peralta, "Ex-combatants and the Truth Commission in Colombia: An Analysis of the Participation of Former Military and Ex-guerrillas", *International Journal of Transitional Justice* 18(2), (2024), <https://doi.org/10.1093/ijtj/ijae018> (accessed 5 September 2025).

Fifth, **state legitimacy must be deconstructed** from central authority to local actors, comprising traditional authorities, religious leaders, and survivor networks. These actors must be, and seen to be, primary actors both in terms of ownership and performance of reintegration initiatives. This creates a form of vernacular legitimacy that surpasses formal recognition. The state must step back – not out – to facilitate this process.

Finally, the **link between disarmament, demobilisation, and reintegration (DDR) and TJ** must be practically recognised and implemented. Demobilisation should be connected to community-based truth-telling, while ex-combatants' economic stability depends on access to local public goods, and vocational support should be combined with trauma-informed care and community dialogue.

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*Affected communities often resist reintegration because the TJ process is externally imposed or fails to address power asymmetries*

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Notwithstanding the possibilities of using TJ as a mechanism for counterinsurgency, there are significant risks. The TJ process may be exploited with politicised commissions or selective prosecutions. Participant risks include possible victim exposure, re-traumatisation and targeted retaliation. Notably, affected communities often resist reintegration because the TJ process is externally imposed or fails to address power asymmetries. For the victims, they often resist reintegration because the TJ process is externally imposed or fails to address power asymmetries. Donor-driven formalism, where a TJ process lacks cultural legitimacy or social traction, and the crisis of expectation, where victims' hopes are raised beyond what the process can achieve, also pose additional risks.

Before suggesting how these risks may be overcome, it is pertinent to note that there is a greater risk in doing nothing until the 'expected' peace from the end of the insurgency occurs. The cost of insurgency – loss of human lives and property, breakdown of social cohesion, environmental harm, among other things – makes it implausible not to consider TJ as a potential counterinsurgency strategy.

To mitigate the risks listed above, consideration should be given to implementing partial justice over perfect justice to ensure credibility in the 'fragmented' process; adopting a layered approach to legitimacy by combining state endorsement, community ownership and international safeguards; and institutionalising safety mechanisms such as protective anonymity, off-site testimonies and trauma-informed processes.

## **THE ROLE OF THE AUTJP IN COUNTERINSURGENCY STRATEGY**

The AUTJP has brought TJ's intentions closer to the attention of its Member States by offering a hybrid framework that blends elements and imperatives of international norms and standards on TJ with African traditional justice values and systems. It is established to be "grounded in African norms, values and approaches – including traditional justice systems – and offers a regionally relevant and contextually appropriate framework."<sup>24</sup>

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24 John Ikubaje and Tadessa Simie Metekia, "Does SADC's Post Conflict Reconstruction Plan Marginalise TJ?", Institute for Security Studies, <https://issafrica.org/iss-today/does-sadc-s-post-conflict-reconstruction-plan-marginalise-transitional-justice> (accessed 23 July 2025).

By integrating both redistributive and restorative elements of TJ, the AUTJP aids Member States in tackling key challenges related to reconciliation, social cohesion and nation-building more effectively, which are vital for peacebuilding and sustainable human development. It also emphasises continental specificities, including human and peoples' rights, the balance between reparations and development, and the role of Regional Economic Communities (RECs) and Regional Mechanisms (RMs) in supporting coherent TJ implementation.<sup>25</sup>

Importantly, the policy recognises that TJ is not solely a response to past violations, but also **governance deficits** and **developmental challenges** – core drivers of insurgency in many African contexts. As articulated in the policy, it is, “an African model and mechanism for dealing with not only the legacies of conflicts and violations, but also governance deficits and developmental challenges with a view to advancing the noble goals of the AU’s Agenda 2063, The Africa We Want.”<sup>26</sup>

Notably, the AU prioritises needs assessments in Member State countries as part of the AUTJP implementation strategy. These assessments are intended to identify technical support for defining and implementing a TJ process suited to the local context while remaining aligned to core TJ parameters. The policy has already been successfully applied in different contexts, including transitions and post-conflict settings. Therefore, in insurgency-affected settings, such assessments must explicitly incorporate counterinsurgency elements.

## CONCLUSION

Insurgency is rooted in the failure of governments to uphold the social contract they have with their citizens, particularly in providing security, access to socio-economic opportunities, and participation in governance, among other obligations. This breakdown breeds frustration, creating space for insurgents to challenge the government’s authority using violence while garnering support from segments of society. Although insurgencies may appear ‘for the people’, the consequences do not benefit the immediately affected communities or the nation. The cycle of violence negatively affects social cohesion, economic activities, and peace and security in what becomes a seemingly never-ending cycle.

To employ TJ as a counterinsurgency tool, it is essential to ground its design in intentionality, in a deep thought process of both theoretical considerations and pragmatic implementation. As outlined in this paper, the interpretative foundations of TJ – philosophical, operational and cultural – highlight the key tensions in its application.

TJ must evolve to be considered and implemented not as an event but as a process, not as a legal ritual but as a political re-foundation, and not as liberal technocracy but as insurgent peacebuilding. This evolution requires a deep understanding of power, identity and participation – particularly in patriarchal contexts where gender inclusion remains a critical concern.

Based on the interpretative foundations, some pathways were discussed to achieve TJ as a counterinsurgency mechanism. These include challenging insurgency’s ideological legitimacy and social embedding through

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25 African Union, Roadmap for the Implementation of the African Union Transitional Justice Policy, 2020, [https://au.int/sites/default/files/documents/41242-doc-Roadmap\\_for\\_the\\_Implementation\\_of\\_AU\\_ENGLISH\\_Sep\\_091.pdf](https://au.int/sites/default/files/documents/41242-doc-Roadmap_for_the_Implementation_of_AU_ENGLISH_Sep_091.pdf) (accessed 23 July 2025).

26 African Union, *Transitional Justice Policy*, adopted February 2019, p. 1 [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 23 July 2025).

justice-centred transformation; deliberately disrupting the moral infrastructure by undermining the insurgents' claims of rectifying the state's wrongs; expanding political imagination by creating inclusive, pluralistic civic spaces; establishing justice frontlines by improving access to justice; advancing genuine reintegration initiatives that go beyond providing limited socio-economic opportunities; deconstructing state legitimacy from central authority to local actors; and linking DDR and TJ into a single, integrated process.

While some risks associated with utilising TJ as a counterinsurgency mechanism were identified, along with mitigation strategies, the role of the AUTJP was discussed regarding its adaptability for counterinsurgency. Its blend of international norms and African traditional justice values, combined with both redistributive and restorative elements, makes it versatile for addressing reconciliation, social cohesion, and nation-building, key pillars of peacebuilding and sustainable development.

The AUTJP recognises that TJ strategies must be designed to address not only the legacies of conflict, but also the governance deficits and development failures that drive insurgencies. This dual focus reinforces the central argument of this policy paper: TJ can, and should, be used as a strategic counterinsurgency mechanism.

Recommendation for the AU:

- Convene a consultation of transitional justice and counterinsurgency experts to develop a practice guide on applying the AUTJP as a counterinsurgency mechanism.

Recommendations for CSV:

- Collaborate with the AU to co-produce a practice guide on utilising the AUTJP as a counterinsurgency mechanism.
- Promote and support further research on the nexus between insurgency and TJ in Africa.

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### **Remember Miamingi**

Dr Remember Miamingi is a co-founder and CEO of the Integrate Africa Advisory Services. An international lawyer and a Human Rights and Governance expert, Dr Miamingi has worked in the governmental, non-governmental, and academic sectors for the past 17 years. Dr Miamingi is a graduate of Obafemi Awolowo University, Ile-Ife, Osun State, Nigeria, and holds a Master of Laws and Doctor of Laws Degree from the University of Pretoria, Pretoria, South Africa. Dr Miamingi is a South Sudanese.



**This policy brief is the product of a webinar series held in 2025.**

The Initiative for Transitional Justice in Africa (ITJA) is a continental knowledge and policy platform dedicated to advancing African-led approaches to justice, accountability and reconciliation. Grounded in the African Union's 2025 theme, 'Building a united front to advance the cause of justice and payment of reparations to Africans', the Initiative convened six thematic webinars examining reparations for sexual and gender-based violence, forced displacement, insurgency, corporate accountability, mass movements, and the ongoing crises across various African contexts.

### **About CSVR**

The Centre for the Study of Violence and Reconciliation is an independent non-governmental organisation established in South Africa in 1989. We are a multidisciplinary institute that seeks to understand and prevent violence, heal its effects, and build sustainable peace at the community, national, and regional levels. Through our research, advocacy and psychosocial support work, and in collaboration with communities affected by violence, we seek to enhance state accountability, promote gender equality and build social cohesion, integration and active citizenship.

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