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PEACE AND SECURITY COUNCIL
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**REPORT OF THE CHAIRPERSON OF THE COMMISSION
ON PEACE, JUSTICE AND DEVELOPMENT**

**“NATIONAL RECONCILIATION AS A CRITICAL FACTOR FOR
PEACE AND DEVELOPMENT IN AFRICA”**

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“There is no handy roadmap for reconciliation. There is no shortcut or simple prescription for healing the wounds and divisions of a society in the aftermath of sustained violence. Creating trust and understanding between former enemies is a supremely difficult challenge. It is, however, an essential one to address in the process of building a lasting peace. Examining the painful past, acknowledging it and understanding it, and above all transcending it together, is the best way to guarantee that it does not – and cannot – happen again”. (Desmond Tutu, International IDEA, Reconciliation After Violent Conflict Handbook, 2003).

I. INTRODUCTION

1. At its 383rd meeting, Council will consider the issue of reconciliation in the context of African Union’s (AU) efforts aimed at promoting peace, security and stability on the continent. Over the past few years, as it intensified its efforts towards the resolution of conflicts and peacebuilding, the AU has been grappling with the challenge of reconciliation in the aftermath of conflict and its relationship with justice and development. In particular, at its 347th meeting, held on 12 December 2012, Council addressed the relationship between the fight against impunity, justice, peace and reconciliation, and adopted a press statement on the matter [PSC/PR/BR(CCCXLVII)].

2. The present report is a contribution to the deliberations of Council on this all too important matter. It first provides a brief overview of Africa’s approach to the issues of peace, justice and reconciliation. It then identifies priority areas on which the AU should focus its efforts in order to enhance on-going efforts to promote sustainable peace and development. The report concludes with observations on the importance of reconciliation and related challenges.

II. AFRICA’S APPROACH TO PEACE, JUSTICE AND RECONCILIATION

3. Justice and reconciliation are necessary to put an end to impunity. As the arbitrary use of power and positions, impunity universally inheres where there is a deficit of democratic strictures and structures of accountability, fairness, impartiality, and the common good. Crimes against humanity and other forms of abuses are consequences of impunity. Justice, peace, good governance and reconciliation, on the other hand, thrive in circumstances of stable democratic values, institutions and practices, where the culture of constitutionalism prevails to constrain arbitrariness and abuse of power.

4. As indicated in the report of the AU High-Level Panel on Darfur (AUPD) of October 2009, entitled “Darfur: The Quest for Peace, Justice and Reconciliation” [PSC/AHG/2(CCVII)], reconciliation, as a process aimed at helping communities to overcome grief, anger, animosity and mistrust, and achieve healing, is seen as the key to renewing and strengthening social relations and the foundation for durable peace. Security, truth-telling, justice, reparations, memorials, remembrances, the absence of discriminatory practices, acknowledgment, remorse and forgiveness are commonly regarded as essential prerequisites for reconciliation. But the emphasis upon each of these threads can vary immensely, depending upon the national contexts and the outcomes of the conflict.

5. In Africa’s efforts to promote peace-building, democracy and, by extension, non-violent forms of conflict management, reconciliation must take centre stage. In fact, even where post-conflict agreements are designed with democratic structures and processes at their heart, because the majority of current violent conflicts are internal in nature, belligerents need a modicum of trust, so that they can proceed with implementation of peace agreements and the broader peace-building agenda on a cooperative basis. Indeed, it has been argued, that *“one of the biggest obstacles to such cooperation is that, because of the violence of the past, their relations are based on antagonism, distrust, disrespect and, quite possibly, hurt and hatred ... , so there is a pressing need to address that negative relationship”*. Addressing the negative relationship will not be possible without reconciliation.

6. The issue of human rights, justice and reconciliation is one of the indicative elements of the AU Policy on Post-Conflict Reconstruction and Development (PCRD) adopted by the Executive Council at its 9th ordinary session held in Banjul, from 28 to 29 June 2006. The Policy is intended to serve as a guide for the development of comprehensive policies and strategies that elaborate measures that seek to consolidate peace, promote sustainable development and pave the way for growth and regeneration in countries and regions emerging from conflict. Given the peculiarities of each conflict situation, the Policy is conceived as a flexible framework that can be adapted to, and assist, affected regions and countries, in their endeavours towards reconstruction, security and growth. Regarding more specifically justice and reconciliation, the Policy calls for the pursuit of the following objectives:

- i. total rejection of impunity, as expressed in Article 4(o) of the Constitutive Act;
- ii. encouragement and facilitation of peace-building and reconciliation activities from the national to the community levels;
- iii. creation of opportunities for the use of traditional mechanisms of reconciliation and/or justice, to the extent that they are compatible with national laws and relevant international instruments; and
- iv. promotion of institution-building in state and community-based institutions engaged in reconciliation.

7. Ending impunity and promoting justice and reconciliation in Africa are part of the core objectives of the AU. The opportunities for achieving these objectives have accrued from the spread of democratic values, promotion of the rule of law, and the conclusion of most of the civil conflicts which afflicted African countries since the early 1990s. Member States have committed themselves to these principles and adopted new norms through the AU Constitutive Act and the African Charter on Democracy, Elections and Governance, which was adopted in January 2007 and entered into force in February 2012 – to name just two of the most important legal documents guiding the Union. In addition, Member States have demonstrated commitment to justice and reconciliation through several efforts to hold accountable those who commit human rights violations and abuses. From local and hybrid criminal prosecution mechanisms, the setting up of truth, justice and reconciliation commissions, to the erection of memorials and remembrances, Africa continues to promote these values and adherence to relevant regional and global instruments.

8. Africa has contributed significantly to global ideas and norms that have informed international practices to end impunity and promote justice and reconciliation. At the same time, the continent has legitimate concerns about the modalities of implementing some provisions of the international criminal justice system today. Indeed, while Africa remains committed to the fight against impunity and is mindful of the importance of international and transitional justice in the promotion of peace and security in Africa, it is critical to ensure an appropriate balance between the imperative of justice and that of peace and reconciliation. In the context of the search for solutions to crises and conflicts in Africa, and in view of the fragility of the peace processes, the quest for justice and the search for peace and reconciliation must be pursued in a mutually reinforcing manner. In its press statement PSC/PR/BR(CCCXLVII), the Council rightly noted that efforts to promote international justice and the fight against impunity and massive violations of human rights must go hand-in-hand with efforts to promote peace, security and stability.

9. In this respect, it is worth drawing lessons from the recommendations of the AUPD report, which offers the contours of a policy framework. The report outlines the challenge of finding an effective and comprehensive approach to the issues of accountability and impunity, on the one hand, and to peace, healing, and reconciliation on the other. It elaborates a set of overarching recommendations appropriate for transitional justice in Africa as a whole. The recommendations of the AUPD were endorsed by Council at its 207th meeting held at the level of the Heads of State and Government, in Abuja, Nigeria, on 29 October 2009 [PSC/AHG/COMM.1 (CCVII)].

III. WAY FORWARD

10. Against this background, it is critical that Member States recommit themselves to the relevant AU's instruments and intensify their efforts towards the promotion of peace, justice and reconciliation. In this respect, Member States that have not yet done so should sign and ratify instruments such as the African Charter on Human and Peoples' Rights and its Protocol on the Rights of Women in Africa, as well as the Protocol to the African Charter on the Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.

11. Equally important is the need for the AU, through its relevant institutions, to draw lessons from the various experiences across Africa in the articulation of a set of common concepts and principles that would foster consensus on the issues at hand. These efforts could culminate in an AU continent-wide strategic policy framework on transitional justice that strikes a balance between the imperatives of peace and justice in conflict and post-conflict contexts, and that is based on Africa's rich and diverse experiences, including credible indigenous justice institutions to deal with impunity and enhance reconciliation. Such efforts should build on initiatives taken by the Panel of the Wise and other relevant AU institutions. The development of a transitional justice policy framework will make it possible to respond judiciously and expeditiously to the difficult dilemmas of balancing the immediate need to secure peace with the longer-term importance of establishing the rule of law and preventing future conflicts.

12. Experience in the continent shows the continued relevance of traditional forms of accountability and reconciliation. These approaches permeate everyday life in the continent, and increasing resort to them shows the attraction they continue to hold for many African citizens. Accordingly, , in reviewing their national context and history, Member States may wish seriously consider the integration of traditional forms of justice and reconciliation into their formal instruments and mechanisms of justice, accountability and dispute resolution.

13. Finally, reconciliation should also involve sustained efforts towards socio-economic reconstruction. The impact of violent conflict on development hardly needs to be over-emphasized. Recent studies by the World Bank have demonstrated that rebuilding infrastructure and institutions in the aftermath of a violent conflict takes, on average, thirty-three years, assuming that all the resources required are available. Consolidating the gains of development and preventing their further erosion must remain at the core of efforts to promote reconciliation. Rebuilding communities and community resources and integrating those who have caused harm back into the community, as well as giving hope and opportunity to those who have been harmed contribute to increased cohesion, security, peace and development. In this respect, the African Solidarity Initiative (ASI), which was launched in July 2012, provides an appropriate framework for renewed continental efforts in the area of post-conflict reconstruction and development. More generally, and in view of the on-going huge demographic changes, demonstrated by the youth bulge and increased efforts at gender equality, there is need to develop mechanisms that would give some voice and a greater sense of inclusion, to these segments of the African people to fully transform this resource into an engine for development.

IV. OBSERVATIONS

14. Africa should take pride in the fact that it has been able to find solutions to some of the major and protracted conflicts that have shattered parts of the continent. It is, thus by no surprise that the number of countries emerging from conflict is on the rise. In this context, the challenge at hand relates to the consolidation of peace. Reconciliation comes as one of the major assets at Africa's disposal to create a space and requisite conditions for the consolidation

of peace. But beyond this, reconciliation is also a major asset for the continent in its efforts towards the prevention and resolution of conflicts in countries once afflicted by violence.

15. While reconciliation is fundamental for successful transitions from war to peace, there is no blueprint for what, in essence, transcends the political dimension of peace agreements. Indeed, while stopping the violence and supporting the negotiation of peace agreements are key initial steps needed to move a country away from war, the challenges actors face – from the top to the grass-roots – after protracted, widespread and high intensity conflicts, are considerable. These challenges, more often than not, relate to pressing humanitarian needs and the provision of basic services, to devastated socio-economic infrastructure, lack of opportunity and absence of social capital at the community level, security, law and order. All these challenges require careful and patient negotiation, at a time when the key ingredients for successful negotiation– trust, confidence, cooperation, coexistence are absent. Trust and confidence building, cooperation and, ultimately, conflict transformation requires therefore that reconciliation be conceived as an exercise that goes beyond the elite level to include the entire citizenry.

16. Ultimately, a focus on transitional justice, reconciliation and development reflects the strong emphasis of the AU on conflict preventive measures – in particular structural conflict prevention. In this respect, I would like to highlight the on-going efforts to develop a continental structural conflict prevention framework, as a follow-up to communiqué PSC/PR/COMM/2(CCCLX) adopted by Council at its 360th meeting held on 22 March 2013.

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Report of the Chairperson of the Commission on Peace, Justice and Development , “National Reconciliation as a Critical Factor for Peace and Development in Africa”

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