

# Transitional Justice in Africa Armed Conflicts: Examining the Limits of the United Nations SDG 16 in Delivering Accountability and Sustainable Peace

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## Abstract

Transitional justice has emerged as a cornerstone for addressing the legacies of armed conflict, promoting accountability, reconciliation, and institutional reform in post-conflict societies. Despite its widespread adoption, the effectiveness and limitations of these mechanisms remain unevenly understood in African contexts. This study examines transitional justice in Rwanda and Sierra Leone within the framework of Sustainable Development Goal 16 (SDG 16), focusing on how judicial and non-judicial processes contribute to durable peace and governance. The research is theoretically anchored in Liberal Peace Theory, which underscores the role of democratic governance, rule of law, and human rights in sustaining peace, and Institutional Governance Theory, which emphasizes the critical role of institutional capacity, legitimacy, and structural conditions in the successful implementation of justice initiatives. Using a qualitative case-study methodology, the study analyzes legal frameworks, regional and international instruments, and socio-political factors shaping transitional justice processes. Findings reveal that while transitional justice has advanced accountability, strengthened institutions, and facilitated reconciliation, its transformative potential is constrained by political interference, resource limitations, and uneven implementation. The study concludes that integrating transitional justice with broader governance, socio-economic, and institutional reforms is essential to achieving sustainable peace. By linking theory, practice, and SDG 16, this research contributes to a comprehensive understanding of transitional justice's potential and limitations in African post-conflict settings.

**Keywords:** accountability, armed conflict, Africa, transitional justice, United Nations SDG 16, sustainable peace

## 1. Introduction

Armed conflicts across Africa continue to produce profound legacies of gross human rights violations, systemic displacement, institutional fragility, and sociopolitical fragmentation.<sup>1</sup> Civil wars, protracted insurgencies, and post-electoral crises have significantly undermined state legitimacy, weakened governance structures, and eroded public trust in judicial and political institutions. In response, transitional justice has emerged as a critical mechanism for post-conflict accountability, reparatory justice, and the restoration of civic and institutional legitimacy.<sup>2</sup>

Concurrently, the international community, through the United Nations, has embedded peace, justice, and institutional integrity as central objectives within global development frameworks, particularly SDG 16. This

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<sup>1</sup> Branch, A. (2011). *Displacing human rights: War and intervention in Northern Uganda*. Oxford University Press.

<sup>2</sup> United Nations. (2010). *Guidance note of the Secretary-General: United Nations approach to transitional justice*. United Nations.

goal emphasizes the promotion of peaceful and inclusive societies, equitable access to justice, and the construction of accountable, effective, and transparent institutions.<sup>1</sup> In theory, African transitional justice mechanisms — encompassing truth commissions, hybrid tribunals, community-based justice systems, reparations and restitution frameworks, and institutional reforms are designed to advance these normative objectives.<sup>2</sup>

Despite these aspirational frameworks, the operationalization of transitional justice across African states remains uneven, with persistent compliance deficits, enforcement gaps, and institutional constraints. Notable mechanisms, such as the Truth and Reconciliation Commission, the Gacaca courts, and the Special Court for Sierra Leone, illustrate both the jurisprudential and normative potential of transitional justice and its limitations in ensuring systemic accountability, effective redress for victims, and sustainable institutional reform.<sup>3</sup>

A central normative and operational dilemma persists: political settlements intended to terminate hostilities often prioritize expedient peace over legal accountability, incorporating amnesty clauses, political power-sharing arrangements, or deferred prosecutions.<sup>4</sup> While such settlements may mitigate immediate insecurity, they can simultaneously erode the rule of law, entrench impunity, compromise institutional legitimacy, and weaken public confidence in post-conflict governance. Conversely, strict legal enforcement measures may risk destabilizing fragile post-conflict environments, creating a tension between normative obligations to justice and pragmatic imperatives for peace. This tension raises critical questions regarding the extent to which African transitional justice processes substantively advance the objectives of SDG 16 and the mechanisms through which these global normative standards are translated into domestic and regional realities.

This study critically examines the limits of the United Nations SDG 16 in delivering accountability and sustainable peace in African armed conflicts. By engaging in a comparative jurisprudential analysis of selected case studies and regional policy instruments, particularly the African Union Transitional Justice Policy,<sup>5</sup> the paper interrogates the efficacy, legitimacy, and enforcement outcomes of transitional justice mechanisms. It situates African transitional justice within the broader global normative and development agenda, highlighting gaps between aspirational standards and practical implementation, and exploring avenues for strengthening institutional accountability, rule of law consolidation, and reparatory mechanisms in post-conflict settings.

## 2. Conceptual Framework

This conceptual framework provides the normative, theoretical, and analytical scaffolding for examining transitional justice in African armed conflicts, particularly through the evaluative lens of Sustainable Development Goal 16 (SDG 16). It conceptualizes transitional justice not merely as a post-conflict legal response, but as a multidimensional governance architecture embedded within international legal obligations, institutional reform processes, peacebuilding paradigms, and postcolonial political realities.

### 2.1 Transitional Justice

Transitional justice is broadly understood as the set of judicial and non-judicial measures adopted by societies emerging from armed conflict or authoritarian rule to address legacies of mass atrocity, ensure accountability, recognize victims, and prevent recurrence.<sup>6</sup> It operates at the intersection of international human rights law (IHRL), international humanitarian law (IHL), and international criminal law (ICL).

According to the United Nations (2010), transitional justice encompasses:

“The full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”<sup>7</sup> More so, it encompasses criminal prosecutions, truth-seeking mechanisms (example, truth commissions), reparation programs, institutional reforms, vetting and lustration processes.

Scholarly literature further conceptualizes.

<sup>1</sup> United Nations. (2015). *Transforming our world: The 2030 agenda for sustainable development (A/RES/70/1)*. United Nations.

<sup>2</sup> Sriram, C. L. (2007). *Transitional justice and peacebuilding on the ground: Victims and ex-combatants*. United States Institute of Peace Press.

<sup>3</sup> Hayner, P. B. (2011). *Unspeakable truths: Transitional justice and the challenge of truth commissions* (2nd ed.). Routledge.

<sup>4</sup> Snyder, J., & Vinjamuri, L. (2003). Trials and errors: Principle and pragmatism in strategies of international justice. *International Security*, 28(3), 5–44.

<sup>5</sup> African Union. (2019). *African Union transitional justice policy*. African Union Commission.

<sup>6</sup> Teitel, R. G. (2000). *Transitional justice*. Oxford University Press.

<sup>7</sup> United Nations. (2010). *Guidance note of the Secretary-General: United Nations approach to transitional justice*. United Nations.

Ruti G. Teitel conceptualizes transitional justice as a distinct jurisprudential paradigm associated with periods of political transformation. Law in transitional contexts is both retrospective and constitutive addressing past wrongs while shaping a new normative constitutional order.<sup>1</sup>

Priscilla B. Hayner defines transitional justice as a response to systematic human rights violations aimed at recognizing victims and fostering reconciliation and democracy. Her work foregrounds truth commissions as mechanisms of moral acknowledgment and historical clarification.<sup>2</sup>

Pablo de Greiff advances a theory of normative integration, emphasizing that prosecutions, reparations, truth-seeking, and institutional reform must operate coherently to guarantee non-repetition and reinforce democratic legitimacy.<sup>3</sup>

Neil J. Kritz underscores transitional justice as the process through which societies reckon with past abuses while simultaneously consolidating rule-of-law institutions.<sup>4</sup>

Transitional justice is a multi-pillar framework combining judicial and non-judicial measures designed to combat impunity, restore victim's dignity, reform institutions, and prevent recurrence of violence in post-conflict African states.

This conceptualization aligns with normative international standards while recognizing the political realities of post-conflict transitions.

## 2.2 African Armed Conflicts

Armed conflicts, under international humanitarian law, refers to the protracted armed violence between governmental authorities and organized armed groups or between such groups within a state.<sup>5</sup> African armed conflicts often involve civil wars, insurgencies, and identity-based violence linked to institutional fragility and governance breakdown.<sup>6</sup>

The continental peace and security framework is shaped by the African Union and its Peace and Security Architecture (African Union, 2014). In this study, African armed conflicts are conceptualized as: “structurally rooted political crises characterized by sustained organized violence, weak institutions, and systemic human rights violations.”

## 2.3 SDG 16 (Peace, Justice, and Strong Institutions)

SDG 16 forms part of the 2030 Agenda adopted by the United Nations in 2015.<sup>7</sup> It seeks to promote peaceful and inclusive societies, ensure access to justice, and build effective institutions. Unlike binding treaties, SDGs operate as soft-law governance commitments, relying on voluntary implementation and political will.<sup>8</sup> SDG 16 includes targets related to rule of law (Target 16.3), reduction of violence (Target 16.1), anti-corruption (Target 16.5), and institutional accountability (Target 16.6).<sup>9</sup>

In this research, SDG 16 is conceptualized as a global normative-developmental framework linking justice, governance reform, and peacebuilding to sustainable development outcomes.

## 2.4 Accountability

Accountability refers to the obligation of actors to explain and justify their conduct and face consequences for violations.<sup>10</sup> Within transitional justice, accountability encompasses criminal prosecution, institutional reform,

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<sup>1</sup> *Ibid.*

<sup>2</sup> Hayner, P. B. (2011). *Unspeakable truths: Transitional justice and the challenge of truth commissions* (2nd ed.). Routledge.

<sup>3</sup> De Greiff, P. (2012). Theorizing transitional justice. In M. Williams, R. Nagy, & J. Elster (Eds.), *Transitional justice* (pp. 31–77). New York.

<sup>4</sup> Kritz, N. J. (Ed.). (1995). *Transitional justice: How emerging democracies reckon with former regimes* (Vol. 1). United States Institute of Peace Press.

<sup>5</sup> Prosecutor v. Tadić, Case No. IT-94-1-A (International Criminal Tribunal for the former Yugoslavia Appeals Chamber July 15, 1999).

<sup>6</sup> Collier, P., & Hoeffler, A. (2004). Greed and grievance in civil war. *Oxford Economic Papers*, 56(4), 563–595.

<sup>7</sup> United Nations. (2015). *Transforming our world: The 2030 Agenda for Sustainable Development*. United Nations.

<sup>8</sup> Fukuda-Parr, S. (2016). From the Millennium Development Goals to the Sustainable Development Goals: Shifts in purpose, concept, and politics of global goal setting. *Gender & Development*, 24(1), 43–52.

<sup>9</sup> *Ibid.*

<sup>10</sup> Grant, R. W., & Keohane, R. O. (2005). Accountability and abuses of power in world politics. *American Political Science Review*, 99(1), 29–43.

and mechanisms designed to end impunity for atrocity crimes under international law.<sup>1</sup>

International criminal accountability is often exercised through institutions such as the International Criminal Court.<sup>2</sup> In this study, accountability is defined as “the enforceable legal and institutional responsibility imposed on perpetrators of serious violations, coupled with systemic reforms that deter recurrence and restore public trust.”

### 2.5 Sustainable Peace

Sustainable peace extends beyond the absence of violence and involves addressing the structural causes of conflict to prevent relapse.<sup>3</sup> The United Nations has adopted the concept of “sustaining peace” as an integrated approach linking development, human rights, and security.<sup>4</sup> Sustainable peace therefore includes institutional legitimacy, rule-of-law consolidation, inclusive governance, and socio-economic reconstruction.<sup>5</sup>

For this study, sustainable peace is understood as “a durable condition of political stability and institutional legitimacy in which accountability, governance reform, and inclusive development collectively prevent recurrence of armed conflicts.”

### 2.6 Limit (Normative and Structural Constraints)

The term “limits” refers to political, structural, and normative constraints that restrict the operational effectiveness of SDG 16 in post-conflict settings. Soft-law frameworks such as the SDGs lack binding enforcement mechanisms, making implementation dependent on state capacity and political will.<sup>6</sup> Additionally, tensions between peace negotiations and criminal accountability may undermine justice processes.<sup>7</sup> Thus, “limits” are conceptualized as “structural and political constraints that narrow the transformative potential of SDG 16 in delivering substantive accountability and sustainable peace in African post-conflict.”

## 3. Methodology

This study adopts a qualitative research design grounded in doctrinal and socio-legal analysis to examine the limits of SDG 16 in delivering accountability and sustainable peace within the framework of transitional justice in African armed conflicts. A qualitative approach is appropriate because the research seeks to interpret legal norms, institutional practices, and governance structures rather than establish statistical causality.<sup>8</sup> The study is anchored in interpretivist epistemology, which enables critical evaluation of how international normative frameworks particularly SDG 16 under the 2030 Agenda<sup>9</sup> interact with domestic transitional justice processes. This design allows for in-depth assessment of the extent to which global commitments translate into enforceable accountability mechanisms in post-conflict African states.<sup>10</sup>

The research relies on documentary and doctrinal methods of data collection, drawing from both primary and secondary sources. Primary sources include international legal instruments such as the Rome Statute of the International Criminal Court (1998), United Nations policy frameworks on transitional justice, and reports on sustaining peace. Regional governance instruments, including African Union peace and security frameworks, are also examined. Secondary sources consist of peer-reviewed journal articles, academic texts, and policy reports addressing transitional justice, post-conflict peacebuilding, and institutional reform.<sup>11</sup> Documentary analysis is particularly suitable for policy and legal research, as it allows systematic examination of institutional commitments and implementation gaps.<sup>12</sup>

<sup>1</sup> Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90.

<sup>2</sup> *Ibid.*

<sup>3</sup> World Bank. (2011). *World development report 2011: Conflict, security, and development*. World Bank.

<sup>4</sup> United Nations. (2016). *Report of the Secretary-General on sustaining peace*. United Nations.

<sup>5</sup> Paris, R. (2004). *At war's end: Building peace after civil conflict*. Cambridge University Press.

<sup>6</sup> *Ibid.*

<sup>7</sup> Sriram, C. L. (2007). Justice as peace? Liberal peacebuilding and strategies of transitional justice. *Global Society*, 21(4), 579–591.

<sup>8</sup> Creswell, J. W., & Poth, C. N. (2018). *Qualitative inquiry and research design: Choosing among five approaches* (4th ed.). Sage Publications.

<sup>9</sup> *Ibid.*

<sup>10</sup> Teitel, R. G. (2000). *Transitional justice*. Oxford University Press.

<sup>11</sup> Arthur, P. (2009). How “transitions” reshaped human rights: A conceptual history of transitional justice. *Human Rights Quarterly*, 31(2), 321–367.

<sup>12</sup> Bowen, G. A. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, 9(2), 27–40.

Data analysis is conducted using thematic and qualitative content analysis, which facilitates identification of recurring patterns such as enforcement deficits, political resistance institutional fragility, and peace-versus-justice dilemmas.<sup>1</sup> Through comparative analysis of selected African post-conflict contexts, the study evaluates whether SDG 16's soft-law character limits its effectiveness in strengthening accountability institutions. The analytical framework contrasts the normative aspirations of SDG 16 particularly targets relating to rule of law and institutional accountability with empirical realities of transitional justice implementation in African settings.<sup>2</sup>

To enhance validity and reliability, the study employs triangulation by cross-referencing international legal instruments, scholarly literature, and institutional reports.<sup>3</sup> Analytical rigor is maintained through contextual interpretation of legal and policy texts within broader political and governance environments. Ethical considerations are minimal, as the research relies exclusively on publicly available documents and does not involve human participants. Overall, this methodological framework provides a systematic and theoretically grounded approach to assessing the structural and normative limits of SDG 16 in advancing transitional justice and sustainable peace in African armed conflict contexts.

#### 4. Theoretical Framework

This study is grounded in an interdisciplinary theoretical framework that explains the relationship between transitional justice, accountability, institutional reform, and sustainable peace in post-conflict African contexts. To critically examine the limits of SDG 16 in delivering accountability and durable peace, the research draws from Transitional Justice Theory, Liberal Peacebuilding Theory, and Institutional Governance Theory. These theoretical perspectives provide complementary lenses for understanding how global normative commitments interact with domestic institutional realities in fragile states.

Transitional Justice Theory is the body of ideas that explains how societies deal with past human rights violations during periods of political change in order to achieve justice, peace, and reconciliation. Transitional Justice Theory forms the primary analytical foundation of this study. This theory was mainly developed by Ruti Teitel, who is regarded as the principal scholar of the theory, although other scholars such as Priscilla Hayner, Martha Minow, and Neil Kritz also contributed to its development who emphasized truth-seeking, reparations, and institutional reform as mechanisms for addressing past atrocities. Minow (1998)<sup>4</sup> argues that societies emerging from mass violence must balance justice with reconciliation to rebuild legitimacy, while Hayner (2011)<sup>5</sup> highlighted that the role of truth commissions in strengthening democratic governance and preventing recurrence of conflict. These perspectives align with global transitional justice practice institutionalized by the United Nations through its transitional justice framework. Within the context of SDG 16, which promotes rule of law and accountable institutions,<sup>6</sup> Transitional Justice Theory provides the normative benchmark for assessing whether accountability mechanisms in African post-conflict states are sufficient to deter impunity and rebuild trust.

Liberal Peacebuilding Theory provides a second theoretical lens. Liberal peacekeeping theory is the idea that sustainable peace can be achieved through peacekeeping operations that promote democracy, rule of law, human rights, and economic development in post-conflict societies. This theory originates from the ideas of Immanuel Kant and was later developed by modern scholars such as Michael Doyle and Roland Paris, who emphasized the role of democracy, institutions, and international cooperation in maintaining peace.<sup>7</sup> SDG 16 reflects liberal peace assumptions by linking justice, institutional reform, and inclusive governance to sustainable development outcomes.<sup>8</sup>

Institutional Governance Theory is the theory that explains how institutions such as laws, rules, and organizations shape governance and influence political and economic development in society. The theory was mainly developed by Douglas North, who argued that institutions are the "rules of the game" that structure human interaction and determine the effectiveness of governance. North clearly presented this theory in his book

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<sup>1</sup> Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77–101.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> Minow, M. (1998). *Between vengeance and forgiveness: Facing history after genocide and mass violence*. Beacon Press.

<sup>5</sup> Hayner, P. B. (2011). *Unspeakable truths: Transitional justice and the challenge of truth commissions* (2nd ed.). Routledge.

<sup>6</sup> United Nations. (2015). *Transforming our world: The 2030 Agenda for Sustainable Development*. United Nations.

<sup>7</sup> Kant, I. (1795). *Perpetual Peace, A Philosophical Sketch*. London: George Allen & Unwin.

<sup>8</sup> *Ibid.*

*Institutions Institutional Change and Economic Performance, 1990.*<sup>1</sup> However, in many African post-conflict settings, institutional weakness, corruption, and limited enforcement capacity undermine transitional justice implementation. Institutional Governance Theory therefore explains the structural gap between normative commitments and practical accountability outcomes.

In synthesis, Transitional Justice Theory (Minow, 1998; Hayner, 2011) establishes the moral and legal necessity of addressing past violations; Liberal Peacebuilding Theory (Doyle, 1986; Richmond, 2006) explains the emphasis on governance reform as a pathway to durable peace; and Institutional Governance Theory (March & Olsen, 1989; Acemoglu & Robinson, 2012) highlights the structural constraints affecting implementation. Together, these theories provide a comprehensive analytical foundation for evaluating whether SDG 16 meaningfully advances accountability.

## **5. Legal Framework of Transitional Justice in African Armed Conflict**

The legal framework for transitional justice constitutes the foundational architecture through which accountability, reconciliation, and institutional reform are operationalized in post-conflict societies. It embodies a multi-layered constellation of norms, obligations, and mechanisms that span international, regional, and domestic jurisdictions, thereby creating a coherent yet complex regulatory environment for addressing mass atrocities and systemic human rights violations. At the international level, treaties, conventions, and customary law articulate states' obligations to investigate, prosecute, and prevent egregious violations, while specialized institutions such as the International Criminal Court codify and enforce accountability for crimes against humanity, war crimes, and genocide. Complementing these are regional instruments, particularly within the African context, including the African Charter on Human and Peoples' Rights, the Protocol establishing the African Court on Human and Peoples' Rights, and African Union transitional justice policy frameworks, which contextualize global norms to the sociopolitical realities of the continent. National legal instruments operationalize these obligations through domestic legislation, specialized courts, truth commissions, and institutional reforms, ensuring the practical implementation of justice mechanisms.

### *5.1 International Legal Instruments in Transitional Justice*

International law provides the overarching normative and institutional foundation for transitional justice. It articulates states' obligations to prevent, investigate, and prosecute serious human rights violations and humanitarian law breaches. International legal instruments form the backbone of transitional justice, providing the normative and institutional scaffolding necessary to address mass human rights violations, prosecute perpetrators, ensure reparations, and guide institutional reform. They operate at the intersection of international law, human rights, and global governance, translating universal norms into enforceable standards while framing state responsibilities in post-conflict reconstruction. Their effectiveness relies on both the clarity of legal obligations and the practical mechanisms through which violations can be addressed at national and regional levels. Each of these instruments shall be examined seriatim.

#### **A. Treaties and Conventions**

Treaties and conventions define the legal duties of states, establish protections for victims, and provide substantive and procedural frameworks for transitional justice.

#### **The Geneva Conventions of 1949 and Additional Protocols (1977)**

The Geneva Conventions of 1949 and their Additional Protocols of 1977 constitute the cornerstone of modern International Humanitarian Law (IHL) and provide a normative framework that is indispensable to transitional justice processes in post-conflict societies. Although primarily designed to regulate the conduct of hostilities and protect victims of armed conflict, these instruments also establish legal standards that support accountability, reparations, and institutional reform core pillars of transitional justice. By defining grave breaches and imposing obligations on states to prosecute perpetrators, the Geneva legal regime strengthens the juridical basis for post-conflict justice and reconciliation.

The Four Geneva Conventions of 1949 collectively protect different categories of victims of armed conflict. The First and Second Conventions protect wounded and sick combatants on land and at sea, respectively, while the Third Convention governs the treatment of prisoners of war. The Fourth Geneva Convention, particularly relevant to transitional justice, protects civilian populations during armed conflicts and occupations. Articles 27–34 of the Fourth Convention guarantee fundamental protections such as humane treatment and protection against violence, torture, and collective punishment, while Article 146 obliges states to search for and prosecute persons suspected of committing grave breaches. These provisions create a legal obligation that supports

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<sup>1</sup> North, D.C. (1990). *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.

transitional justice mechanisms such as war crimes tribunals and truth commissions.<sup>1</sup>

Equally significant are the Additional Protocols of 1977, which expanded the scope of humanitarian protections and adapted IHL to contemporary forms of conflict. Additional Protocol I (1977) applies to international armed conflicts and strengthens protections for civilians. Article 48 establishes the principle of distinction between civilians and combatants, while Article 75 codifies fundamental guarantees, including prohibition of torture and cruel treatment. These provisions form a normative basis for prosecuting violations in post-conflict settings and reinforce accountability mechanisms central to transitional justice.<sup>2</sup>

Additional Protocol II (1977) is particularly important for African contexts because it applies to non-international armed conflicts, which constitute the majority of conflicts on the continent. Article 4 provides fundamental guarantees for persons not participating in hostilities, including prohibitions against violence to life and dignity, while Article 6 outlines fair trial guarantees. These provisions are directly relevant to transitional justice in internal conflicts such as civil wars and insurgencies, including situations comparable to the Anglophone crisis in Cameroon. Protocol II thus bridges the gap between humanitarian law and human rights law by ensuring that even internal conflicts are governed by enforceable legal standards.<sup>3</sup>

From a transitional justice perspective, the Geneva Conventions and Additional Protocols perform three crucial functions. First, they establish legal norms that define violations and crimes requiring accountability. Second, they impose state obligations to investigate and prosecute grave breaches, thereby reinforcing the accountability pillar of transitional justice. Third, they provide a normative framework for victim protection and reparations, which are essential for sustainable peace and reconciliation. Consequently, these instruments are not merely wartime regulatory tools but also foundational legal sources for post-conflict justice systems.

#### **Convention on the Prevention and Punishment of the Crime of Genocide (1948)**

The Convention on the Prevention and Punishment of the Crime of Genocide (1948) constitutes a foundational legal instrument for transitional justice by codifying genocide as an international crime and imposing binding obligations on states to prevent and punish mass atrocities. Emerging from the moral and legal imperatives of the post-Second World War era, the Convention provides a normative framework that strengthens accountability, combats impunity, and reinforces the rule of law in post-conflict societies. Its provisions remain central to transitional justice processes aimed at addressing large-scale violations of human rights.

Article I establishes genocide as a crime under international law and imposes a dual obligation on states to prevent and to punish. This preventive and punitive framework aligns closely with transitional justice objectives by linking accountability with guarantees of non-recurrence.<sup>4</sup> Article II defines genocide as acts committed with intent to destroy, wholly or partially, a national, ethnic, racial, or religious group, including killing, causing serious harm, and imposing destructive living conditions. This definition provides the juridical standard for prosecuting mass atrocities in transitional justice settings.<sup>5</sup> Article III extends criminal responsibility to conspiracy, incitement, attempt, and complicity in genocide, thereby enabling transitional justice mechanisms to address systemic and organized patterns of violence rather than isolated acts. Article IV affirms that all perpetrators, including state officials and political leaders, are subject to punishment, reinforcing the principle of individual criminal responsibility and rejecting official immunity. Article VI requires prosecution before competent national or international tribunals, establishing the legal foundation for international criminal justice institutions and hybrid courts used in transitional justice processes.<sup>6</sup>

Taken together, the Convention provides a concise yet robust legal framework for defining atrocity crimes, ensuring accountability, and supporting sustainable peace. It therefore remains a central normative pillar of transitional justice in societies emerging from armed conflict.

#### **International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)**

The International Covenant on Economic, Social and Cultural Rights (1966) provides an important legal foundation for transitional justice by emphasizing that durable peace requires the realization of socio-economic rights alongside accountability for violations. As a core component of the International Bill of Human Rights,

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<sup>1</sup> Henckaerts, J.-M., & Doswald-Beck, L. (2005). *Customary international humanitarian law: Volume I: Rules*. Cambridge University Press.

<sup>2</sup> Sassòli, M., Bouvier, A. A., & Quintin, A. (2011). *How does law protect in war?* International Committee of the Red Cross.

<sup>3</sup> Roberts, A., & Guelff, R. (2000). *Documents on the laws of war* (3rd ed.). Oxford University Press.

<sup>4</sup> Schabas, W. A. (2009). *Genocide in international law: The crime of crimes* (2nd ed.). Cambridge University Press.

<sup>5</sup> Cassese, A. (2013). *International criminal law* (3rd ed.). Oxford University Press.

<sup>6</sup> *Ibid.*

the Covenant imposes obligations on states to promote social justice through the protection of rights relating to work, health, education, and adequate living standards. In post-conflict contexts, these guarantees help address structural inequalities that often fuel armed conflicts.<sup>1</sup>

Article 2(1) obliges states to take deliberate steps toward the progressive realization of economic, social, and cultural rights through available resources and international cooperation. This provision supports institutional reform and socio-economic reconstruction central to transitional justice processes.<sup>2</sup> Article 6 and Article 7 protect the right to work and fair conditions of employment, while Article 11 guarantees the right to an adequate standard of living, including food and housing. These rights reinforce the reparative dimension of transitional justice by promoting the restoration of dignified living conditions. Article 12 recognizes the right to health, and Article 13 guarantees the right to education, both of which are essential for recovery, reconciliation, and long-term peacebuilding in post-conflict societies.<sup>3</sup>

Taken together, the Covenant strengthens transitional justice by linking accountability with socio-economic transformation and sustainable peace.

## **B. International Criminal Law Framework**

International criminal law ensures individual accountability, operationalizing the prosecutorial dimension of transitional justice.

### **Rome Statute of the International Criminal Court (1998)**

The Rome Statute of the International Criminal Court (1998) provides a central legal framework for transitional justice by institutionalizing international criminal accountability for serious violations of human rights and humanitarian law. The Statute establishes the International Criminal Court as a permanent judicial institution with jurisdiction over genocide, crimes against humanity, war crimes, and the crime of aggression. By reinforcing the principle that perpetrators of mass atrocities must be held accountable, the Rome Statute strengthens the rule of law and supports sustainable peace in post-conflict societies.<sup>4</sup>

Article 5 defines the core crimes within the jurisdiction of the Court, while Articles 6, 7, and 8 provide detailed definitions of genocide, crimes against humanity, and war crimes respectively. These provisions establish the legal standards for prosecuting grave international crimes and form the normative basis for accountability mechanisms in transitional justice settings.<sup>5</sup>

The Statute further reinforces transitional justice through the principle of complementarity under Article 17, which requires national courts to exercise primary jurisdiction while the Court intervenes only where states are unwilling or unable to prosecute. In addition, Article 75 provides for reparations to victims, thereby linking criminal accountability with victim restoration. Together, these provisions make the Rome Statute a key legal instrument for combating impunity and promoting durable peace in post-conflict societies.

### **Ad hoc Tribunals**

Ad hoc international criminal tribunals were established to address specific instances of mass atrocity and serve as early operational models for transitional justice. Unlike permanent institutions, these tribunals were created by the United Nations to prosecute individuals responsible for grave violations of international humanitarian law in particular conflicts. They played a critical role in demonstrating that leaders, state officials, and other perpetrators of war crimes and genocide could be held individually accountable, thus reinforcing the normative framework for post-conflict justice.<sup>6</sup>

The International Criminal Tribunal for the former Yugoslavia<sup>7</sup> was established to prosecute serious violations of the laws and customs of war during the Balkan conflicts. Articles 2 and 3 of its Statute criminalized grave breaches and violations of humanitarian law, providing a legal basis for accountability and serving as a jurisprudential model for subsequent tribunals and domestic prosecutions. Similarly, the International Criminal

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<sup>1</sup> Alston, P., & Goodman, R. (2013). *International human rights*. Oxford University Press.

<sup>2</sup> Craven, M. (1995). *The International Covenant on Economic, Social and Cultural Rights: A perspective on its development*. Oxford University Press.

<sup>3</sup> *Ibid.*

<sup>4</sup> Schabas, W. A. (2017). *An introduction to the International Criminal Court* (5th ed.). Cambridge University Press.

<sup>5</sup> *Ibid.*

<sup>6</sup> Weissbrodt, D. (2003). *International human rights law: Cases and materials*. West Academic Publishing.

<sup>7</sup> International Criminal Tribunal for the Former Yugoslavia Statute, May 25, 1993, 32 I.L.M. 1203.

Tribunal for Rwanda<sup>1</sup> focused on genocide and complicity in genocide, as defined in Article 3 of its Statute, prosecuting those responsible for the 1994 Rwandan genocide and establishing precedent for crimes against humanity.<sup>2</sup>

These tribunals not only delivered justice to victims but also contributed to the development of international criminal law by clarifying definitions of genocide, crimes against humanity, and war crimes. They reinforced transitional justice principles by emphasizing individual criminal responsibility, documenting atrocities for historical record, and providing a legal foundation for reparations and institutional reform. Their legacy informs both permanent international mechanisms, such as the International Criminal Court, and hybrid tribunals used in post-conflict contexts.

### C. United Nations Policy Instruments

United Nations (UN) policy instruments provide a practical and normative bridge between international law and post-conflict implementation, translating binding obligations into actionable strategies for justice, accountability, and reconciliation. Unlike treaties, these instruments guide states and UN actors in designing transitional justice measures that are context-sensitive, victim-centered, and institutionally transformative. By linking legal accountability with peacebuilding, governance, and development, UN frameworks ensure that transitional justice is not only about punishing perpetrators but also about restoring rights, reforming institutions, and promoting sustainable peace.<sup>3</sup>

#### Guidance Note of the Secretary-General on Transitional Justice (2010)

The Guidance Note of the Secretary-General on Transitional Justice provides comprehensive operational guidance for implementing transitional justice in post-conflict societies. It articulates the four pillars of transitional justice: criminal accountability, truth-seeking, reparations, and institutional reform, and emphasizes their integration as essential for sustainable peace and social reconciliation. The Note also stresses context-specific approaches, urging actors to adapt strategies to local political, social, and cultural realities, while ensuring that justice mechanisms are inclusive, participatory, and victim-centered.<sup>4</sup>

Critically, the Guidance Note underscores that transitional justice extends beyond prosecutions to include institutional reform and reparations, linking legal accountability with structural and social transformation. It also aligns transitional justice with broader peacebuilding and development goals, reinforcing the idea that justice, governance, and social stability are mutually reinforcing components of post-conflict recovery.

#### Sustainable Development Goal (2015)

Sustainable Development Goal (SDG) 16, adopted under the UN 2030 Agenda, emphasizes peace, justice, and strong institutions, making it directly relevant to transitional justice. SDG 16 promotes the rule of law, accountability, reduction of impunity, and transparent governance, all essential elements for post-conflict reconstruction. Its targets, including ending violence, prosecuting human rights violations, and building inclusive institutions, align closely with the core objectives of transitional justice.<sup>5</sup>

Analytically, SDG 16 extends transitional justice beyond legal accountability by linking it to sustainable development outcomes. By embedding justice within broader social, economic, and governance frameworks, SDG 16 positions institutional reform, protection of rights, and restoration of public trust as critical prerequisites for durable peace. Moreover, its emphasis on monitoring and measurable indicators encourages states to systematically track justice and governance reforms, enhancing the effectiveness and credibility of transitional justice interventions.

### 6. Regional Legal Framework in Transitional Justice

Regional legal instruments complement international treaties by localizing normative and operational standards for transitional justice within the specific political, cultural, and legal contexts of member states. In Africa, the African Union (AU) and the African Commission on Human and Peoples' Rights (ACHPR) provide binding and guiding frameworks that strengthen accountability, protect human rights, and support post-conflict recovery. These regional instruments bridge the gap between international obligations and domestic implementation,

<sup>1</sup> International Criminal Tribunal for the Former Yugoslavia Statute, May 25, 1993, 32 I.L.M. 1203.

<sup>2</sup> Akande, D. (2003). The jurisprudence of the International Criminal Tribunals for the former Yugoslavia and Rwanda: An overview. *Leiden Journal of International Law*, 16(2), 345–374.

<sup>3</sup> Teitel, R. G. (2000). *Transitional justice*. Oxford University Press.

<sup>4</sup> United Nations. (2010). *Guidance note of the Secretary-General: United Nations approach to transitional justice*. United Nations.

<sup>5</sup> United Nations. (2015). *Transforming our world: The 2030 Agenda for Sustainable Development*. United Nations.

ensuring that transitional justice processes are responsive to local realities while aligned with global norms.<sup>1</sup>

#### 6.1 African Charter on Human and Peoples' Rights (1981)

The African Charter on Human and Peoples' Rights (ACHPR), adopted in 1981, is the primary human rights instrument in Africa. It enshrines both civil and political rights and economic, social, and cultural rights, providing a broad normative framework for transitional justice. Key provisions relevant to transitional justice include:

- ✓ Article 4: Right to life, forming the basis for accountability for extrajudicial killings and mass atrocities.
- ✓ Article 5: Prohibition of torture and inhuman treatment, critical for prosecuting crimes against humanity.
- ✓ Article 7: Right to fair trial, guiding due process in post-conflict prosecutions.
- ✓ Article 21: Right to freely dispose of wealth and natural resources, relevant for addressing structural inequalities often linked to conflict (African Union, 1981).

The Charter not only establishes individual and state responsibilities but also provides mechanisms, such as communications to the ACHPR, for monitoring compliance and ensuring enforcement of human rights obligations.

#### 6.2 Protocol on the Establishment of the African Court on Human and Peoples' Rights (1998)

The Protocol establishing the African Court on Human and Peoples' Rights (1998) complements the ACHPR by providing a judicial mechanism to adjudicate violations of human and peoples' rights. The Court's jurisdiction includes states parties and, in certain circumstances, individuals and NGOs. Its decisions strengthen transitional justice by: offering a binding adjudicatory forum for serious human rights violations, reinforcing state accountability for violations during and after conflicts, and providing reparations and remedies to victims, thereby supporting reconciliation.<sup>2</sup> By ensuring enforceable regional oversight, the Court serves as a bridge between international norms and domestic transitional justice mechanisms.

#### 6.3 African Union Policy Framework

African Union (AU) policy frameworks provide a continental normative structure for transitional justice by integrating human rights protection, accountability, and post-conflict reconstruction within an African institutional context. These frameworks emphasize holistic and context-sensitive approaches, recognizing that African armed conflicts often arise from complex political and socio-economic grievances. Consequently, AU instruments promote transitional justice mechanisms that combine legal accountability with reconciliation, institutional reform, and sustainable development.<sup>3</sup>

A key instrument in this regard is the African Union Transitional Justice Policy (2019), which provides a comprehensive continental framework for addressing mass atrocities and post-conflict reconstruction. The Policy sets out guiding principles such as victim-centered approaches (Section 7), gender sensitivity (Section 8), and national ownership (Section 9) in the design and implementation of transitional justice mechanisms. It further recognizes core transitional justice measures including accountability and prosecutions (Section 15), truth-seeking processes (Section 16), reparations (Section 17), and institutional reforms (Section 18). These provisions expand transitional justice beyond criminal trials by emphasizing reconciliation and structural transformation as prerequisites for sustainable peace.<sup>4</sup>

The AU peace and security architecture also supports transitional justice through institutional frameworks such as the Peace and Security Council. Under the Protocol Relating to the Establishment of the Peace and Security Council (2002), provisions such as Article 3(f) emphasize the promotion of democratic practices and good governance, while Article 7(1)(e) empowers the Council to support post-conflict peacebuilding and reconstruction. These provisions contribute to transitional justice by promoting institutional reform and preventing the recurrence of armed conflict.<sup>5</sup>

Another significant regional instrument is the African Charter on the Rights and Welfare of the Child (1990),

<sup>1</sup> Viljoen, F. (2012). *International human rights law in Africa* (3rd ed.). Oxford University Press.

<sup>2</sup> Biegon, J. (2013). The African Court on Human and Peoples' Rights: An overview of its jurisprudence and role in human rights protection. *African Human Rights Law Journal*, 13(1), 1–22.

<sup>3</sup> Murithi, T. (2009). The African Union's role in peace and security: Reflections on challenges and opportunities. *African Security Review*, 18(3), 1–12.

<sup>4</sup> African Union. (2019). *African Union Transitional Justice Policy*.

<sup>5</sup> *Ibid.*

which provides protection for children affected by armed conflicts. Relevant provisions include Article 22, which requires states to protect children during armed conflicts and ensure their care and rehabilitation, and Article 27, which protects children against exploitation and abuse. These provisions support transitional justice by ensuring the rehabilitation and reintegration of vulnerable groups in post-conflict societies.<sup>1</sup>

Analytically, AU policy frameworks strengthen transitional justice in three important respects. First, they provide regional legitimacy, ensuring that justice mechanisms reflect African socio-political realities. Second, they emphasize institutional reform and reconciliation, complementing international criminal accountability mechanisms. Third, they promote coordination between national and regional institutions, thereby enhancing the effectiveness and sustainability of transitional justice initiatives across Africa.

## 7. National Legal Framework

National legal frameworks constitute the operational backbone of transitional justice, translating international norms into enforceable domestic obligations. Through constitutional guarantees, legislative enactments, judicial mechanisms, and institutional reforms, states internalize accountability and embed the rule of law within post-conflict reconstruction. Domestic incorporation of international crimes such as genocide, crimes against humanity, and war crimes enables national courts to exercise jurisdiction, thereby reinforcing the principle of complementarity and ensuring that justice is not exclusively externalized to international tribunals. Robust national frameworks thus transform abstract international commitments into tangible legal remedies for victims and binding duties for states.<sup>2</sup>

### 7.1 Constitutional and Legislative Foundations

Constitutions and enabling statutes provide the normative architecture for transitional justice by entrenching fundamental rights, equality before the law, and access to justice. Many post-conflict states constitutionalize human dignity, non-discrimination, and due process as inviolable principles, thereby furnishing a juridical basis for truth-seeking, reparations, and institutional reform. Legislative measures frequently domesticate international humanitarian and human rights law, criminalize atrocity crimes, and establish specialized institutions such as truth commissions and reparations boards. In this sense, constitutional supremacy and legislative precision function as the juridical pillars upon which sustainable accountability regimes are constructed.<sup>3</sup>

### 7.2 Judicial and Quasi-Judicial Mechanisms

Domestic courts and hybrid accountability bodies serve as the principal fora for adjudicating past abuses and vindicating victims' rights. Through criminal prosecutions, civil remedies, and constitutional litigation, national judiciaries operationalize transitional justice and reinforce public confidence in the legal order. Specialized chambers, hybrid tribunals, and investigative commissions often complement ordinary courts by addressing complex atrocity crimes requiring technical expertise. Effective judicial engagement not only combats impunity but also consolidates the rule of law by demonstrating that state authority is constrained by legal norms rather than political expediency.<sup>4</sup>

### 7.3 Institutional and Policy Reforms

Institutional reform constitutes a central dimension of national transitional justice frameworks, focusing on restructuring security services, public administration, and judicial institutions to prevent recurrence of violations. Vetting procedures, lustration policies, and professionalization of public institutions aim to dismantle entrenched cultures of impunity and restore institutional legitimacy. National policies on reparations, memorialization, and reconciliation further contribute to societal healing by acknowledging victims' suffering and affirming collective commitment to justice. Consequently, institutional transformation ensures that transitional justice is not merely retrospective but prospectively oriented toward democratic consolidation and durable peace.<sup>5</sup>

### 7.4 Victim-Centered Approaches

Modern national frameworks increasingly adopt victim-centered paradigms that prioritize recognition, participation, and redress. Legal provisions often guarantee victims the right to truth, justice, and reparations, including restitution, compensation, rehabilitation, and symbolic measures. Such measures elevate victims from

<sup>1</sup> Viljoen, F. (2012). *International human rights law in Africa* (3rd ed.). Oxford University Press.

<sup>2</sup> Teitel, R. G. (2000). *Transitional justice*. Oxford: Oxford University Press.

<sup>3</sup> Bassiouni, M. C. (2013). *Introduction to international criminal law* (2nd ed.). Leiden: Martinus Nijhoff.

<sup>4</sup> Orentlicher, D. (2005). Updated set of principles for the protection and promotion of human rights through action combat impunity. United Nations Commission on Human Rights.

<sup>5</sup> De Greiff, P. (2012). Theorizing transitional justice. In M. Williams, R. Nagy & J. Elster (Eds.), *Transitional justice* (pp. 31–77). New York: New York University Press.

passive observers to active stakeholders within transitional processes, thereby enhancing legitimacy and inclusivity. A victim-oriented approach ultimately affirms that transitional justice is not solely punitive but restorative in purpose and humanistic in orientation.<sup>1</sup>

Overall, a coherent national legal framework represents the juridical crucible in which international norms, domestic institutions, and societal aspirations converge, ensuring that transitional justice evolves from normative aspiration into enforceable legal reality.<sup>2</sup>

## 8. The Pillars of Transitional Justice

Transitional justice is grounded in a multi-dimensional framework designed to address legacies of mass atrocities, restore societal equilibrium, and institutionalize the rule of law. Its effectiveness is built on four interdependent pillars truth, justice, reparations, and guarantees of non-recurrence each serving a distinct function while collectively advancing accountability, reconciliation, and sustainable peace.<sup>3</sup> These pillars are not merely procedural mechanisms; they are normative and operational imperatives that guide post- conflict societies toward holistic recovery.

### 8.1 Truth (Establishing Historical Accountability)

The truth pillar emphasizes the documentation and acknowledgment of past human rights violations. Mechanisms such as truth commissions, investigative panels, and public hearings provide platforms for victims to recount experiences, identify perpetrators, and clarify structural causes of conflict.<sup>4</sup>

Truth mechanisms ensure that societies confront the past honestly, validate victims' narratives, and construct a shared historical memory. By doing so, they counter denial and revisionism, inform judicial processes, and lay the foundation for reconciliation and long-term social cohesion.<sup>5</sup>

### 8.2 Justice (Ensuring Accountability)

The justice pillar operationalizes legal accountability by prosecuting perpetrators through domestic courts, hybrid tribunals, or international mechanisms such as the International Criminal Court (ICC).<sup>6</sup> Justice serves as both a deterrent and a normative reaffirmation, demonstrating that impunity will not be tolerated.

Justice consolidates the rule of law, reinforces institutional legitimacy, and affirms victims' rights. It provides society with assurance that wrongdoing is punished, thereby deterring future violations and anchoring post-conflict governance in legality rather than political expediency.<sup>7</sup>

### 8.3 Reparations (Restoring Dignity and Social Trust)

Reparations address the material, symbolic, and psychological harms suffered by victims, including financial compensation, restitution, rehabilitation, and memorialization.<sup>8</sup> By restoring dignity and acknowledging harm, reparations bridge legal accountability and societal healing.

Reparations recognize victims as rights-holders, foster reintegration, and promote social trust between citizens and the state. They are crucial in transforming victims from passive recipients of justice into active participants in societal reconstruction.<sup>9</sup>

### 8.4 Guarantees of Non-Recurrence (Institution Reform)

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<sup>1</sup> *Ibid.*

<sup>2</sup> United Nations. (2010). *Guidance note of the Secretary-General: United Nations approach to transitional justice*. New York: United Nations.

<sup>3</sup> Bell, C. (2009). Transitional justice, interdisciplinarity, and the state of the 'field' or 'non-field'. *International Journal of Transitional Justice*, 3(1), 5–27.

<sup>4</sup> Huyse, L. (2003). *Transitional justice and reconciliation: Lessons from the South*. The Hague: Netherlands Institute of Human Rights.

<sup>5</sup> Hamber, B., & Wilson, R. (2002). Symbolic closure through memory, reparation, and revenge in post-conflict societies. *Journal of Human Rights*, 1(1), 35–53.

<sup>6</sup> Orentlicher, D. (2005). Updated set of principles for the protection and promotion of human rights through action to combat impunity. United Nations Commission on Human Rights.

<sup>7</sup> Sriram, C. L. (2007). Justice as peace? Liberal peacebuilding and strategies of transitional justice. *Global Society*, 21(4), 579–591.

<sup>8</sup> De Greiff, P. (2012). Theorizing transitional justice. In M. Williams, R. Nagy, & J. Elster (Eds.), *Transitional justice* (pp. 31–77). New York: NYU Press.

<sup>9</sup> United Nations. (2010). *Guidance note of the Secretary-General: United Nations approach to transitional justice*. New York: United Nations.

This pillar ensures that transitional justice is forward-looking, addressing systemic factors that enabled past violations. Measures such as judicial reform, security sector restructuring, vetting of officials, and human rights education are central to preventing recurrence.<sup>1</sup>

Guarantees of non-recurrence institutionalize peace, embed human rights norms, and safeguard democratic governance. By dismantling structures of abuse and promoting accountability, this pillar ensures that transitional justice is not merely retrospective but sustainable and transformative.<sup>2</sup>

Collectively, the pillars of transitional justice form a synergistic framework: truth validates experiences, justice enforces accountability, reparations restore dignity, and institutional reforms prevent recurrence. Together, they enable societies to transition from post-conflict fragility to resilient, law-abiding, and reconciled polities, ensuring that justice is restorative, preventative, and forward-looking.

## 9. Effectiveness and Limitations of Transitional Justice in Africa

Judicial mechanisms constitute a cornerstone of transitional justice in Africa, serving as instruments of accountability, deterrence, and normative consolidation. They provide formal forums to address mass atrocities, ensure individual responsibility, and foster societal trust in the rule of law. These mechanisms ranging from international tribunals to hybrid and domestic courts demonstrate Africa's growing commitment to legal redress and the consolidation of human rights norms (Sikkink, 2011; Schabas, 2006).

### 9.1 Effectiveness of Judicial Transitional Justice

Successes have been registered in the realization of transitional justice in Africa regardless of its limitations. Some of these successes shall be examined seriatim.

#### (a) Reinforcing Accountability and Rule of Law

Judicial processes in Africa have established that even the most powerful political and military actors are subject to the law. The conviction of Charles Taylor by the Special Court for Sierra Leone for aiding and abetting war crimes and crimes against humanity exemplifies this principle, demonstrating the reach of internationalized justice.<sup>3</sup>

Similarly, the International Criminal Tribunal for Rwanda prosecuted senior officials, including Jean Kambanda, who pleaded guilty to genocide. This case was instrumental in shaping international jurisprudence on command responsibility and clarified the legal contours of genocide.<sup>4</sup>

At the regional level, the conviction of Hissène Habré by the Extraordinary African Chambers demonstrated Africa's capacity to administer justice for international crimes domestically, marking a significant step toward regional judicial ownership.<sup>5</sup>

#### (b) Protecting Vulnerable Populations

Courts have also advanced the protection of vulnerable groups. The ICC's conviction of Thomas Lubanga Dyilo for conscripting and using child soldiers in Democratic Republic of the Congo established critical precedents for the prosecution of crimes against children in armed conflicts.<sup>6</sup> Likewise, the conviction of Dominic Ongwen by the ICC highlighted legal recognition of the dual status of perpetrator and former victim, illustrating the Court's nuanced approach to accountability in complex conflict contexts.<sup>7</sup>

#### (c) Promoting Domestic Ownership and Historical Clarification

Domestic courts and community-based mechanisms have complemented international tribunals. Rwanda's Gacaca courts prosecuted tens of thousands of genocide suspects, allowing communities to participate in accountability processes while creating a comprehensive historical record of atrocities.<sup>8</sup> In Kenya, domestic courts under the Truth, Justice, and Reconciliation Commission addressed post-election violence, signaling attempts to integrate international norms locally (Lynch, 2018).

<sup>1</sup> Roht-Arriaza, N., & Mariezcurrena, J. (2006). *Transitional justice in the twenty-first century: Beyond truth versus justice*. Cambridge: Cambridge University Press.

<sup>2</sup> African Union. (2019). *African Union Transitional Justice Policy*. Addis Ababa: African Union Commission.

<sup>3</sup> Schabas, W. A. (2006). *The UN international criminal tribunals*. Cambridge University Press.

<sup>4</sup> Akhavan, P. (2001). Beyond impunity. *American Journal of International Law*, 95(1), 7–31.

<sup>5</sup> Brody, R. (2017). *The Hissène Habré case*. Human Rights Watch.

<sup>6</sup> Mégret, F. (2011). ICC first judgment. *European Journal of International Law*, 22(3), 801–814.

<sup>7</sup> Branch, A. (2007). Uganda's civil war and ICC intervention. *Ethics & International Affairs*, 21(2), 179–198.

<sup>8</sup> Clark, P. (2010). *The Gacaca courts in Rwanda*. Cambridge University Press.

Regional courts, such as the African Court on Human and Peoples' Rights, have delivered rulings on human rights violations stemming from political crises, reinforcing continental accountability frameworks (Viljoen, 2012). These examples illustrate that judicial mechanisms not only punish but also legitimize collective memory and historical truth, a key pillar of transitional justice.

#### **10. Limitations of Judicial Transitional Justice**

Despite these successes, several structural and operational limitations undermine judicial effectiveness in Africa:

##### **(a) Incomplete Implementation of Prosecution**

In Liberia, the Truth and Reconciliation Commission recommended prosecutions of civil war perpetrators, yet only a limited number of senior officials were tried, leaving many lower-level perpetrators unaccountable.<sup>1</sup> Similarly, Nigeria's Oputa Panel investigations were largely unimplemented due to political resistance.<sup>2</sup>

##### **(b) Selective Justice and Perceived Bias**

Selective prosecutions have sometimes undermined legitimacy. The ICC indictments of Omar al-Bashir and Dominic Ongwen were criticized domestically as politically biased, generating perceptions of uneven justice.<sup>3</sup>

##### **(c) Political Interference**

Political dynamics frequently constrain judicial processes. In Kenya, investigations into post-election violence were obstructed by political actors.<sup>4</sup> In Liberia, amnesties granted to lower-level combatants reduced the reach of prosecutions.<sup>5</sup>

##### **(d) Resource and Institutional Limitations**

Judicial systems often lack capacity and financial resources. In the DR Congo, domestic courts cannot fully handle cases of mass atrocities.<sup>6</sup> Hybrid tribunals, such as the Special Court for Sierra Leone, have faced funding shortages that delayed trials.<sup>7</sup>

##### **(e) Tension Between Peace and Justice**

Prosecutions may conflict with peace processes. In Uganda, ICC prosecutions of LRA leaders complicated peace negotiations.<sup>8</sup> Similarly, judicial processes in the Central African Republic were temporarily suspended to maintain fragile ceasefires.<sup>9</sup>

#### **11. Case Study Analysis of Judicial Transitional Justice in Rwanda and Sierra Leone**

To gain an empirically grounded understanding of transitional justice in Africa, this study examines Rwanda and Sierra Leone as comparative case studies, highlighting how judicial mechanisms have delivered accountability while also exposing structural and operational limitations. Both cases provide instructive examples of the ways in which judicial processes can uphold the rule of law, deter impunity, and foster reconciliation, while simultaneously revealing gaps in the practical realization of SDG 16's objectives of justice, accountable institutions, and sustainable peace.

In Rwanda, the aftermath of the 1994 genocide necessitated both international and community-level judicial responses. The International Criminal Tribunal for Rwanda (ICTR) prosecuted senior political and military leaders, including Jean Kambanda, the former Prime Minister, who pleaded guilty to charges of genocide and crimes against humanity.<sup>10</sup> The ICTR reinforced the principle of individual criminal responsibility and clarified the jurisprudential parameters of genocide, thereby establishing a foundational precedent for accountability in African post-conflict societies. Complementing this, Rwanda's Gacaca courts served as a decentralized, community-based justice mechanism, adjudicating over 1.2 million cases and enabling local participation in the

<sup>1</sup> Harris, D. (2011). *Civil war and democracy in West Africa*. I.B. Tauris.

<sup>2</sup> Ojo, E. (2006). Challenges of sustainable democracy in Nigeria. *Journal of African Elections*, 5(1), 6–25.

<sup>3</sup> Peskin, V. (2008). *International justice in Rwanda and the Balkans*. Cambridge University Press.

<sup>4</sup> Lynch, G. (2018). *Performances of injustice*. Cambridge University Press.

<sup>5</sup> *Ibid.*

<sup>6</sup> Autesserre, S. (2010). *The trouble with the Congo*. Cambridge University Press.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> Mehler, A. (2011). Rebels and parties in Central African Republic. *Journal of Modern African Studies*, 49(1), 115–139.

<sup>10</sup> Akhavan, P. (2001). Beyond impunity. *American Journal of International Law*, 95(1), 7–31.

justice process.<sup>1</sup> These courts were particularly effective in fostering reconciliation, enhancing social cohesion, and documenting historical truths. Nonetheless, limitations persisted, including concerns regarding due process, potential coercion in confessions, and perceptions that justice was occasionally symbolic rather than fully restorative.<sup>2</sup>

Similarly, Sierra Leone provides a compelling case of hybrid judicial mechanisms. The Special Court for Sierra Leone (SCSL) prosecuted leaders from both the Revolutionary United Front (RUF) and government forces, including Charles Taylor, former President of Liberia, who was convicted for aiding and abetting war crimes and crimes against humanity.<sup>3</sup> The tribunal advanced legal precedents, notably regarding the recruitment of child soldiers and the prosecution of crimes against humanity, thereby contributing to the normative development of transitional justice law in Africa.<sup>4</sup> The SCSL also highlighted challenges common to post-conflict judicial mechanisms, including prolonged and resource-intensive trials, reliance on state cooperation for arrests, and local perceptions of selective justice, which occasionally undermined public legitimacy.<sup>5</sup>

Comparatively, Rwanda and Sierra Leone illustrate the dual nature of judicial transitional justice in Africa. Both cases demonstrate significant effectiveness: senior leaders were held accountable, normative jurisprudence was developed, historical records were established, and vulnerable populations including children and marginalized communities were acknowledged and protected. At the same time, these cases reveal persistent limitations, including selective prosecutions, political interference, institutional weaknesses, resource constraints, and tensions between the imperatives of justice and peace. These structural and operational challenges indicate that while judicial mechanisms are critical instruments for implementing transitional justice, they are not panaceas and must be complemented by broader institutional reforms, social reconciliation efforts, and developmental interventions to fully achieve the aspirations of SDG 16.

Ultimately, this comparative case study underscores the complexity of implementing judicial transitional justice in African armed conflicts. While Rwanda and Sierra Leone exemplify the potential of judicial mechanisms to deliver accountability and contribute to post-conflict peacebuilding, they also reflect the practical limits of these mechanisms in fully realizing the United Nations' vision for inclusive, just, and peaceful societies. Such insights are invaluable for both policymakers and scholars seeking to reconcile legal imperatives with the realities of post-conflict governance in Africa.

## 12. Summary of Findings

This study critically examined the capacity of judicial transitional justice to advance accountability and sustainable peace in African armed conflicts within the normative framework of SDG 16. The findings indicate that judicial mechanisms have made important contributions to accountability and the consolidation of the rule of law, particularly through the prosecution of perpetrators and the affirmation of individual criminal responsibility. International, hybrid, and domestic tribunals have helped establish authoritative records of past atrocities and have strengthened the legal foundations of post-conflict governance, thereby reinforcing the normative objectives of SDG 16 relating to justice and accountable institutions.

The study further finds that judicial transitional justice has contributed to institutional development and post-conflict stabilization, particularly through legal reforms and the strengthening of judicial institutions. The experiences of Rwanda and Sierra Leone demonstrate that accountability mechanisms can enhance public confidence in state institutions and support the gradual reconstruction of governance structures. In this respect, judicial transitional justice operates not only as a mechanism of punishment but also as an instrument of institutional transformation consistent with the broader aspirations of sustainable peace.

However, the findings reveal that the effectiveness of judicial transitional justice remains significantly constrained by structural and political limitations. Resource shortages, institutional fragility, political interference, and selective prosecutions frequently undermine the delivery of comprehensive justice. These constraints expose the practical limitations of SDG 16 as an operational framework, particularly in contexts where weak institutions and contested political authority hinder the full realization of justice and accountability.

The comparative analysis of Rwanda and Sierra Leone further demonstrates that judicial accountability alone does not guarantee sustainable peace. Although both countries achieved notable progress in prosecuting perpetrators and strengthening legal institutions, persistent governance challenges and socio-economic

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<sup>1</sup> Clark, P. (2010). *The Gacaca courts in Rwanda*. Cambridge University Press.

<sup>2</sup> Sikkink, K. (2011). *The justice cascade: How human rights prosecutions are changing world politics*. W. W. Norton & Company.

<sup>3</sup> *Ibid.*

<sup>4</sup> Mégret, F. (2011). ICC first judgment. *European Journal of International Law*, 22(3), 801–814.

<sup>5</sup> *Ibid.*

inequalities continue to affect long-term stability. This finding underscores the complex relationship between justice and peace and highlights the need for broader institutional and social reforms.

Overall, the study finds that judicial transitional justice is an essential but inherently limited instrument for addressing the legacies of armed conflict in Africa. While judicial mechanisms play a vital role in combating impunity and strengthening the rule of law, their effectiveness depends on their integration with wider peacebuilding and institutional reform efforts necessary for achieving the objectives of SDG 16.

### **13. Conclusion**

This study examined the role of transitional justice in addressing the legacies of armed conflict in Africa within the normative framework of SDG 16. The analysis shows that transitional justice remains a central instrument for promoting accountability, reconciliation, and institutional renewal in post-conflict societies. Through judicial and non-judicial mechanisms, transitional justice processes have contributed to addressing past violations, recognizing victims' rights, and reinforcing the rule of law. These outcomes reflect the core aspirations of SDG 16 to foster peaceful societies supported by effective and accountable institutions.

The study further demonstrates that transitional justice possesses significant peacebuilding potential when implemented within supportive political and institutional environments. The experiences of Rwanda and Sierra Leone indicate that accountability processes, truth-seeking initiatives, reparations programs, and institutional reforms can facilitate post-conflict recovery and strengthen public confidence in state institutions. Transitional justice therefore operates not only as a response to past atrocities but also as a forward-looking mechanism for sustainable peace.

However, the findings reveal that transitional justice remains structurally constrained in delivering comprehensive accountability and durable peace. Political interference, weak institutions, resource limitations, and uneven implementation continue to undermine transitional justice processes across African post-conflict societies. These constraints expose the gap between the normative ambitions of SDG 16 and the realities of post-conflict governance.

The study therefore concludes that transitional justice is an indispensable but limited framework for addressing armed conflict legacies. While it plays a vital role in combating impunity and promoting reconciliation, transitional justice alone cannot resolve the deeper structural causes of conflict. Sustainable peace requires the integration of transitional justice with broader institutional and socio-economic reforms.

This study contributes to knowledge by providing a critical assessment of transitional justice within the framework of SDG 16, an area that remains underexplored in existing scholarship. By linking transitional justice to the justice and peace objectives of SDG 16, the study offers a more integrated understanding of the relationship between accountability, institutional reform, and sustainable peace.

The study further contributes by demonstrating that transitional justice in African armed conflicts should be understood as a broader governance process shaped by political and institutional realities. The comparative analysis of Rwanda and Sierra Leone highlights the contextual factors that influence the effectiveness of transitional justice and exposes the structural limits of its implementation. Most importantly, the study advances a critical perspective on SDG 16 by showing that, although it provides an important normative framework for justice and strong institutions, its realization in post-conflict Africa remains uneven and dependent on political will and institutional capacity.

Overall, the study provides a coherent analytical framework for understanding both the possibilities and limits of transitional justice in achieving accountability and sustainable peace in African armed conflicts.

### **14. Recommendations**

The study demonstrates that transitional justice is a vital tool for accountability and sustainable peace but faces structural, political, and resource constraints. To maximize its impact and support the objectives of SDG 16, the following recommendations are proposed:

#### *14.1 Strengthening Institutional Capacity and Judicial Independence*

African post-conflict states should prioritize the development of independent, well-resourced judicial and oversight institutions. For example, establishing specialized chambers similar to the Rwanda Gacaca courts or hybrid tribunals like the Special Court for Sierra Leone can enhance the credibility and efficiency of prosecutions. Strengthened institutions will reduce political interference, reinforce the rule of law, and provide a solid foundation for sustainable peace.

#### *14.2 Adopting a Holistic and Integrated Approach*

Transitional justice mechanisms should combine judicial accountability, truth-seeking, reparations, and institutional reforms. A prospective example could be designing programmes modeled on South Africa's Truth

and Reconciliation Commission (TRC), which integrated restorative hearings with reparations and recommendations for institutional reform. Such an approach ensures that justice addresses both legal accountability and societal healing.

#### *14.3 Promoting Victim-Centered and Inclusive Participation*

Programs should ensure meaningful engagement of victims and communities through accessible reporting mechanisms, public consultations, and community-based initiatives. For instance, incorporating community dialogue platforms in post-conflict regions, similar to Liberia's Truth and Reconciliation follow-up initiatives, can ensure that victims' experiences shape accountability and reconciliation processes. Victim-centered approaches foster legitimacy and societal ownership.

#### *14.4 Ensuring Political Commitment and Regional Cooperation*

Sustained political will and regional collaboration are essential for effective transitional justice. African governments could emulate frameworks like the African Union's hybrid approaches for cross-border justice, coordinating prosecutions and sharing intelligence on war criminals across nations. Strong political and regional commitment helps reduce impunity and reinforces the credibility of justice processes.

#### *14.5 Providing Sustained International Support and Context-Sensitive Implementation*

International partners should offer long-term financial, technical, and advisory support, tailored to national priorities. A prospective approach could be modeling support on initiatives like the UNDP-supported reparations and institutional reforms Sierra Leone, ensuring local capacity is strengthened rather than replaced. Transitional justice programs must also be adapted to local political, social, and institutional realities to achieve sustainable outcomes aligned with SDG 16.

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