

Transitional Justice in the New World Order – Maintaining the Path to Peace and Justice

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INTRODUCTION

In recent years, geopolitical polarization and eroded multilateralism have drastically altered the international legal and political landscape, weakening the influence of global norms and institutions. The decline is especially pronounced in conflict settings, where civilian casualties have reached a decade high in the Ukraine and Gaza wars. These events signal more than just institutional failure, they suggest that the very boundaries of what is considered politically and legally permissible are shifting. Practices once deemed clear violations of international law, such as collective punishment, annexation of territory, or targeting of civilian infrastructure, are now openly contested or even normalized.

Post-conflict mechanisms, such as transitional justice, have come under significant strain. Transitional justice emerged as a framework predicated on a liberal vision of global governance, where post-conflict societies could reckon with past atrocities and achieve reconciliation. Its effectiveness has been the subject of much debate over the years, however, it now faces unprecedented challenges as the assumptions that underpinned its development, namely a liberal world order and the willingness of states to collaborate, are in question.

As states grow more reluctant to cooperate with international institutions, and conflicts are increasingly shaped by asymmetrical warfare and the emergence of non-state actors, it is timely to dissect established peacebuilding practices. Research into transitional justice is important not only for understanding its current limitations, but also for rethinking its relevance, adaptability, and future trajectory. As the international order continues to fragment, transitional justice finds itself at a crossroads: will it evolve into a more context-sensitive, politically aware tool of peacebuilding, or will it be sidelined as a relic of a bygone liberal moment? This report seeks to illuminate the risks of selective justice and identify innovative, hybrid approaches that integrate both global norms and local realities, while resisting co-optation by state and non-state actors.

Such research is also vital for reinvigorating the normative foundations of international justice and proposing realistic pathways forward. In a time when human rights are increasingly overlooked and multilateral action appears gridlocked, transitional justice may offer alternative modes of dealing with violence, enabling societies to imagine and pursue justice even in the absence of strong institutional backing. By critically assessing what has worked, what has failed, and why, this report seeks to answer a pressing question: can transitional justice be reimagined to remain relevant in a fractured, multipolar world?

1. TRANSITIONAL JUSTICE: THEORY AND PRACTICE

1.1 Origins and Definition

Transitional justice intervenes in periods of political change, providing a legal response to crimes committed during conflict or by repressive regimes. This has meant holding perpetrators accountable and recognizing victims' suffering to achieve reconciliation and promote democracy. It is both backward- and forward-looking since it seeks to redress the past while rebuilding institutional trust for the future. The roots of modern transitional justice can be traced back to the post-World War II: the Nuremberg Trials (1945–46), and to a lesser degree, the Tokyo Tribunal. Nuremberg established unprecedented principles of individual culpability and trial procedure, breaking with collective punishment and laying a moral-legal framework that would be rediscovered in coming years.

Indeed, transitional justice as a coherent field of theory and practice did not take shape until several decades later. It was the global wave of democratization in the late 20th century, particularly in Latin America, Eastern Europe, and sub-Saharan Africa, that gave rise to transitional justice as a central concept in both human rights advocacy and international law. The collapse of authoritarian regimes in Argentina and Chile in the 1980s and 1990s forced these societies to confront the question of how to deal with entrenched histories of state violence and repression. The end of the Cold War further amplified this trend. The dissolution of the Soviet Union and the subsequent dismantling of regimes across Central and Eastern Europe marked a geopolitical turning point. The so-called “third wave” of democratization, described by Huntington (1991), created both the political opportunity and moral imperative to deal with past atrocities as newly democratizing regimes sought to distinguish themselves from their repressive predecessors. The international community, particularly Western states, played an active role in encouraging these processes, often tying transitional justice initiatives to foreign aid, diplomatic recognition, or access to global institutions.

“Transition” became a defining concept in legal and international relations discourse as it encapsulated the belief that societies could move from authoritarianism to the rule of law on the condition that the past was adequately addressed. Transitional justice became both a symbol and a mechanism of this transformation. It was increasingly institutionalized through UN resolutions, donor frameworks, academic programs, and civil society networks, producing what some scholars have described as a “Transitional Justice industry” (Rubli, 2012; Subotic, 2009).

1.1.2 Transitional Justice Mechanisms

Transitional justice is not a singular policy but a multifaceted framework that acts through a wide range of mechanisms, typically classified into two broad categories: retributive and restorative approaches. While often presented in binary terms, in practice, transitional justice combines these approaches in ways that reflect the specific histories, cultures, and political landscapes of affected societies. The interplay between retribution and restoration underscores transitional justice's dual commitment to individual accountability and societal reconciliation.

Retributive justice mechanisms aim to ensure legal accountability by prosecuting those responsible for mass atrocities, including genocide, war crimes, and crimes against humanity. Such approaches rest on the normative premise that impunity for grave crimes undermines both justice and the rule of law. The global community's endorsement of retributive justice has been most visibly embodied in the establishment of international and hybrid criminal tribunals. These include the International Criminal Tribunal for the former Yugoslavia (1993) and for Rwanda (1994), which not only advanced the jurisprudence of international criminal law but also signaled the global community's continued willingness to hold individuals, not merely states, accountable for violations of global norms. The creation of the International Criminal Court (ICC) in 2002 represented the institutionalization of this commitment. The “justice cascade”, coined by Sikkink (2011), did not stop at the international stage. Domestic courts have played a central role in transitional justice, particularly in Latin America, where post-authoritarian states have reopened or initiated prosecutions decades after the original crimes occurred.

In contrast to retributive justice, restorative justice mechanisms focus on acknowledging harm, restoring dignity to victims, and fostering societal healing. These mechanisms are less concerned with punishment than with truth-telling, moral recognition, and institutional transformation. They recognize that legal accountability alone is insufficient to repair the profound ruptures caused by mass violence and that healing requires a broader engagement with memory, narrative, and public acknowledgment. The most emblematic instrument of restorative justice is the truth commission: a temporary, official body established to investigate a pattern of abuses over a defined period. Truth commissions seek to create a historical record, identify perpetrators and patterns, recognize victims, and issue recommendations to prevent recurrence.

One of the most renowned examples is transitional justice's pioneering project, the South African Truth and Reconciliation Commission (TRC). The TRC instituted a unique model of conditional amnesty: individuals who confessed their crimes publicly and fully could be granted immunity from prosecution. It aimed to balance the need for accountability with the imperative of national reconciliation in a deeply divided post-apartheid society (Wilson, 2001). Additionally, reparations programs are a vital component of restorative justice. Reparations may take various forms: financial compensation, healthcare and educational support, housing programs, or symbolic acts such as public apologies, commemoration days, and memorials. They signal collective recognition of wrongdoing and constitute a tangible effort to mend what has been broken.

1.2 The Effectiveness of Transitional Justice

1.2.1 Benefits

By exposing and adjudicating wrongdoing, transitional justice promotes accountability and breaks cycles of impunity. Central to its framework is the belief that no individual, regardless of rank or position, should be immune from legal responsibility for serious violations of international law. This legacy has continued to evolve and deepen in the contemporary era. A landmark moment occurred in 2009 when the ICC issued an arrest warrant for Sudanese President Omar al-Bashir. It marked the first time that the ICC indicted a sitting head of state. This precedent has gained renewed relevance in the context of current conflicts. In 2023, the ICC issued an arrest warrant for Russian President Vladimir Putin, citing his alleged responsibility for the unlawful deportation of Ukrainian children during Russia's invasion of Ukraine. In 2024, it issued arrest warrants against Israeli Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant in relation to the war in Gaza.

In addition to the prosecution of criminally liable political leaders, transitional justice has the potential to deter future human rights or international law violations. By challenging impunity and reinforcing legal norms, transitional justice mechanisms contribute to the development of a rule-based order, both domestically and internationally. The symbolic and practical message conveyed through criminal accountability, truth-telling, and reparative measures is that violence and repression are unacceptable and punishable. Although the empirical evidence on deterrence is mixed and context-dependent, some studies suggest that transitional justice can reduce the likelihood of future conflict or authoritarian relapse, especially when combined with broader institutional reforms (Olsen et al., 2010). The deterrent effect is not solely based on the fear of prosecution but on the normative entrenchment of human rights values, especially when abuses are systematically exposed and

condemned. Transitional justice thus plays an educational function by publicly articulating the nature of the violations and the consequences for victims and society, fostering civic awareness and delegitimizing political violence.

Another distinctive and enduring benefit is truth-telling and the construction of collective memory. Unlike ordinary criminal trials, transitional justice often prioritizes uncovering systemic patterns of abuse and acknowledging victims' experiences. Truth commissions have played a central role in this endeavor, producing detailed historical accounts of state violence and its societal impacts. These reports serve not only as testimonies to the past but also as counter-narratives to official denial or minimization of atrocities. Truth-telling has also been central in post-colonial contexts, where transitional justice frameworks have addressed grievances stemming from colonialism, settler violence, and dispossession. For example, Canada's Truth and Reconciliation Commission on Indian Residential Schools highlighted the systemic cultural genocide perpetrated against Indigenous peoples, and continues to influence public debate, policy, and educational curricula (Henderson & Wakeham, 2013). This recognition of past harms is a precondition for genuine reconciliation. Without a common understanding of the past, social trust cannot be rebuilt, and the conditions for renewed conflict may persist.

1.2.2 Drawbacks

Despite its aims and many advantages, transitional justice has drawn sustained, often justified, criticism. Scholars, practitioners, and local communities have all voiced concerns over the instrumentalization and limited cultural adaptability of transitional justice frameworks. These critiques are especially pressing in today's deeply fractured international order, where the erosion of multilateralism, resurgence of nationalism, and politicisation of international law have further complicated already delicate post-conflict processes. Christine Bell (2009) notes that it is unclear whether the practice of transitional justice is “good” (advancing human rights and peace), “bad” (serving hegemonic ends), or neutral. In other words, transitional justice can be as much a political instrument as a legal mechanism. This ambiguity is most evident in the recurrent criticism that transitional justice promotes “victor’s justice”, where winners of the conflict write the rules and prosecute losers. The Nuremberg Trials, while groundbreaking in establishing individual criminal liability under international law, exemplify this imbalance: the Allied powers, who orchestrated the proceedings, were exempt from scrutiny for contentious actions such as the atomic bombings of Hiroshima and Nagasaki. This asymmetry set a precedent for the selective application of justice, a criticism that continues to resonate in debates about the ICC and other international institutions.

A related concern is the elite co-optation of transitional justice processes. As Valerie Arnould (2015) observes, new regimes often undercut or manipulate transitional justice policies to serve political agendas at the expense of grassroots participation. Symbolic measures such as state-sponsored memorials or public apologies create an appearance of justice while systemic inequalities and power structures remain intact. This risk is particularly pronounced in states where the transition is incomplete or contested, and where elite interests intersect with international donor priorities, further alienating affected communities from the transitional process.

Academic discourse has also accused transitional justice of over-reliance on legalist approaches, which often fail to resonate with local cultural, historical, or religious

understandings of justice. Nagy (2008) warns against imposing “one-size-fits-all, technocratic and decontextualized solutions” that may be synonymous with the projects conceived by international actors. In such cases, the result is a process that is alien to the very communities it is intended to heal, privileging the perspectives of donors, international NGOs, and foreign experts over local actors and victims. This disjuncture can breed resentment, disengagement, and even backlash, particularly in societies with rich indigenous or non-Western traditions of conflict resolution.

In this light, truth commissions, often seen as a more culturally adaptive form of transitional justice, are not exempt from critique. While the South African TRC is widely credited with helping to avert civil war and initiate a national conversation about apartheid-era abuses, it has also been criticized for failing to ensure adequate prosecutions or reparations. Many victims and communities continue to feel marginalized, frustrated, and betrayed, as the promise of justice has remained unfulfilled for decades. Even so, the TRC model has been exported, sometimes uncritically, to countries such as Sierra Leone, East Timor, Peru, and Canada (Hayner, 2011). Although these commissions have attempted to adapt the TRC blueprint to local contexts, the tension between universal principles and local realities persists, raising questions about the cultural portability of transitional justice experiences.

Finally, the future of transitional justice is increasingly clouded by questions of feasibility, legitimacy, and universality. As transitional justice becomes more embedded in geopolitical rivalries, there is a growing risk that its tools, once intended to advance peace and human dignity, may instead be used to justify entrenched power dynamics or marginalize dissent. The field must thus grapple with its internal contradictions and external pressures, and rethink how it can meaningfully contribute to justice, reconciliation, and peace in a world where the international rule of law is itself under siege.

1.3 Peace v. Justice Debate

One of the most enduring dilemmas in transitional justice is the tension between achieving peace and pursuing justice. In transitioning and post-conflict societies, political leaders, local communities, and international actors are often faced with a complex trade-off: whether to prioritize immediate peace through negotiated settlements, which may even include amnesty for criminal acts, or to insist on accountability and justice for these crimes, even at the risk of prolonging violence. This ‘peace versus justice’ debate lies at the heart of many peace processes. On one hand, the argument for ‘peace first’ is of the view that in order to end violence and stabilize society, some concessions must be made – especially to those who wield political power or command armed groups. On the other hand, the contrary view is that without justice, any peace achieved is likely to be fragile and morally compromised – often at the cost of the victims of gross human rights violations.

1.3.1 Case Studies

A prominent case that exemplifies this tension was Uganda’s handling of the Lord’s Resistance Army (LRA). For decades, the LRA led by Joseph Kony committed widespread atrocities, including mass abductions, rape, and the use of child soldiers. In response, the Ugandan government passed the Amnesty Act in 2000, offering blanket amnesty to combatants who voluntarily laid down arms. The logic behind this move was clear; to reduce

violence and dismantle the LRA by incentivizing defection. While over 26,000 former combatants accepted the offer, significantly contributing to the weakening of the LRA and facilitating peace efforts, this approach sparked controversy. Experts, activists, and stakeholders argued that offering amnesty for serious mass atrocity crimes undermined the rule of law. The debate intensified when the International Criminal Court (ICC) issued arrest warrants for top LRA commanders, including Kony. During the subsequent peace talks, the LRA demanded the withdrawal of the ICC warrants as a precondition for any agreement. International pressure mounting, the Ugandan government could not accept these terms and the peace deal ultimately collapsed. The result was a stalemate – neither complete justice ensured or peace prevailed.

However, Uganda later established the International Crimes Division (ICD) in 2008 to handle serious crimes domestically. In 2024, Thomas Kwoyelo, a mid-ranking LRA commander, was convicted of war crimes and crimes against humanity marking Uganda's first conviction under its transitional justice framework. However, this raised questions about selective accountability, effectiveness, and commitment to a full spectrum of justice as many former LRA fighters who benefited from amnesty previously remained free.

This dual approach of initially prioritizing peace through amnesty and then gradually shifting to justice raises important questions for transitional justice today. Should justice be deferred until stable peace may be achieved or should accountability be immediate and non-negotiable? Allowing time for reconciliation and building institutions to see the transitional justice processes through are also avenues that may be pursued in the quest for justice. In today's geopolitical and legal climate, this debate faces renewed interest. Conflicts in places like Syria, Sudan, and Myanmar highlight the difficulty of negotiating peace when perpetrators face international indictment. Leaders accused of war crimes may be less willing to enter peace processes if they fear arrest and prosecution. This leads to a troubling paradox - international justice mechanisms may unintentionally prolong conflict by raising the stakes for leaders to hold on to power. However, the absence of accountability can embolden future abuses, risk long-term stability, and even result in recurring cycles of violence.

Seen first-hand in the ongoing Israel-Palestine conflict, while calls grow for ceasefires and humanitarian relief, parallel demands for accountability for international crimes raise questions about how and when justice may be pursued. Some argue that prioritizing negotiations and de-escalation must take precedence, while others insist that without a credible justice process, any peace would be short-lived and fundamentally unjust.

From a contemporary perspective, the peace versus justice debate must also contend with the dynamics of multipolar geopolitics. As international consensus on human rights norms is weakening with global powers pursuing competing interests, transitional justice processes risk becoming politicized and polarised. To contend with today's international dynamics, transitional justice must take on a more context-sensitive approach, recognizing that peace and justice are not necessarily opposing ends, but reinforcing sides of the same coin. Inclusive processes, truth and reconciliation with victims at the centre, hybrid mechanisms may be options to move forward. If not, credibility may be threatened by

continuing geopolitical agendas, perception of courts as instruments of western powers, and postcolonial regimes.

2. TRANSITIONAL JUSTICE IN A FRAGMENTED WORLD ORDER

2.1 Interactions of Transitional Justice with Other Mechanisms

Transitional justice has evolved from a traditional set of post-conflict legal mechanisms into a broader framework that must interact with other sectors to be truly effective. In today's multipolar world order, it cannot succeed in isolation. Its integration with development efforts, peacebuilding, human rights advocacy, and civil society movements is essential for building sustainable peace, ensuring accountability, and addressing the causes of conflict.

Aid and developmental activities are crucial for providing critical resources for building or rebuilding institutions and supporting people's livelihoods in post-conflict societies. When aligned with transitional justice goals, it can even help address underlying economic and social inequalities that may have fuelled violence and conflict. Symbolic or purely legal programmes may be integrated into integral systems of healthcare, education, and legal reforms for victim support. However, effective integration requires policy coherence - while development programs are designed with a focus on rehabilitation for past abuses, redressal mechanisms like truth commissions may also subsist concurrently.

In such situations, peacebuilding and transitional justice go hand-in-hand. While the former often focuses on dialogue, reconciliation, and institutional reform, the latter emphasizes accountability, and prosecutions. Despite this often giving rise to the peace v. justice debate, contemporary societies accept the two as being complementary. While truth commissions, for example, may further healing and institutional reform, justice processes can reinforce the rule of law and also further reform.

Human rights organizations and civil society initiatives have historically been responsible for propelling most of such actions. They push for recognition of abuses, undertake representation of victims, and even demand state accountability. Their involvement anchors actors, acting as a driver of change, based on international law, victim interests, and moral correctness. Victim-centric, survivor-led approaches make transitional justice processes inclusive, effective, and meaningful.

Transitional justice also increasingly intersects with other global justice agendas. Discussions involving gender justice, environmental obligations, and refugee protections further ensure inclusive peacebuilding and transitional justice frameworks. In today's world of overlapping crises, shifting geopolitics, and polarised international relations, a multidimensional approach is not just strategic but also essential.

2.2 The Role of Global Power Dynamics

While transitional justice is often framed as a moral and legal response to conflict, in practice it is fundamentally shaped by international relations, geopolitical games, and shifting political agendas. In today's fragmented world order, processes are seemingly steered not by law or principle, but by strategic interest.

The United Nations Security Council (UNSC) with its almost infallible five permanent members, the P5, is a prime example of how global power structures influence accountability. UNSC referrals to the International Criminal Court (ICC) require P5 consensus, which is often blocked for political reasons. Historically, vetoes by Russia and China over Syria, or by the United States over ICC investigations into Israel or Afghanistan, reveal a pattern of selective justice. These interventions are less about the pursuit of truth and accountability and more about obstructions and shielding allies. This weakens the credibility of international justice mechanisms. When powerful states ignore, or even worse, undermine transformational transitional justice processes while advocating for them in theory, transitional justice risks being viewed as an academic exercise or a tool of geopolitical leverage.

Further, transitional and post-conflict societies often rely on international aid to implement justice mechanisms. Donors in the form of governments and institutions play a critical role in funding accountability mechanisms, truth commissions, and reparations. In a geopolitical setup, donor interests may influence funding priorities, rather than being influenced by community needs. This may result in externally imposed models of justice, tone-deaf processes, and lack of effectiveness or relevance. The challenge thus lies in balancing the intricate relationship between stakeholder and justice needs and internationally influenced political decisions.

At the State level, the principle of state sovereignty is often invoked to resist transitional justice through internationally set-up mechanisms. Governments may be inclined to argue that foreign intervention in accountability processes violates state sovereignty and threatens political stability. Even internally, leaders and key players may and have often invoked sovereignty to shield themselves from prosecution. In today's world of rising nationalism and expanding geopolitical interests, sovereignty arguments are increasingly being used to reject international demands for accountability in the name of autonomy.

Therefore, transitional justice increasingly operates in a constrained and politicized environment. Global power dynamics shape what atrocities are addressed, who is prosecuted, and how they are held accountable. As a result, transitional justice processes face growing scepticism, especially in the Global South, where intersectional issues and power imbalances also play a role in it being seen as an externally influenced, selectively applied, driver of tainted justice.

2.3 The Erosion of International Justice

Transitional justice operates on the premise that accountability is possible and that the past can be confronted constructively. Beyond the rampant selectivity of international justice, the foundational principles of the global legal system, namely sovereignty and the prohibition on the use of force, are being openly contested. This erosion of normative clarity evidently impacts victims and survivors. Transitional justice, at its core, is supposed to center their voices, recognize their suffering, and offer pathways to dignity and repair. But when international law is perceived as politicized or inconsistent, victims may lose faith in its mechanisms. They may reject transitional justice processes that seem externally imposed, ineffective, or manipulated by those in power. Indeed, in some contexts, survivors have expressed a preference for community-led or traditional forms of justice over formal

international mechanisms that feel distant or disconnected from their lived realities (Hamber & Wilson, 2002).

Over the past two decades, transitional justice has become highly institutionalized at the global level. The evolution has been driven in large part by the work of organizations such as the International Center for Transitional Justice (ICTJ), various UN bodies, and a wide network of donor agencies. These actors have articulated “best practice” guidelines to direct new transitions. Gissel (2022) and others describe this trend as the standardization of transitional justice, noting that the international “standard” formula has been adopted without guarantee of success in several contexts, such as Bosnia and Herzegovina or South Sudan. Moreover, this reliance on a “global” model has made transitional justice vulnerable to the slightest changes in the structure of international politics.

Indeed, the fragmentation of global consensus, increasing attacks on the legitimacy of human rights discourse, and the strategic weaponization of international law by powerful actors have severely curtailed the political space available for genuine transitional justice processes. In conflicts like those in Gaza and Ukraine, international justice mechanisms have either been paralyzed by great power vetoes, or instrumentalized by one side to delegitimize the other. Mechanisms intended to be universal and principled are now evaluated through the lens of strategic interest, ideological alignment, and political expediency. Hathaway (2025) warns of the normalization of once-unthinkable ideas, such as territorial conquest and forced population transfers, as acceptable post-conflict solutions. Such shifts are not merely rhetorical, but substantive erosions of the normative architecture on which transitional justice was built. If the international community is no longer willing or able to enforce basic prohibitions on the use of force or the protection of civilians, then the promise of justice in post-conflict settings cannot be sustained.

Under these conditions, transitional justice faces a fundamental dilemma: how can it maintain its relevance and moral authority in an international system where legal norms are no longer respected, and political consensus is increasingly elusive? If it is to survive and evolve, it must grapple with the collapse of the liberal consensus that sponsored its development. It must confront the reality that international justice is no longer neutral terrain (if it was ever really), and recalibrate its ambitions and methods accordingly. This may involve greater emphasis on bottom-up approaches and the integration of traditional or indigenous justice frameworks. At the same time, transitional justice must develop a more politically conscious practice, one that does not shy away from the realities of power but seeks to contest them. This might involve building coalitions between civil society actors and victims' groups to pursue justice in spaces where formal legal mechanisms are stalled. It may also require a stronger emphasis on economic and social justice, particularly in contexts where structural violence is a core part of the conflict's legacy.

3. MODERN TRANSITIONAL JUSTICE AND THE INTERNATIONAL CRIMINAL COURT

3.1 The ICC's Influence Beyond Convictions

Within this fragmented world order, the International Criminal Court has a complex relationship with the transitional justice system. While the Court's ability to deliver timely and enforceable convictions has been limited, its significance extends beyond legal outcomes.

The ICC is a pillar for international concern, political and legal pressure, and reinforcing justice and accountability. In this way, it can also shape domestic transitional justice processes, influence political actions, and empower stakeholders towards common goals.

The ICC's involvement in a situation identifies it as a matter of international concern. This can disrupt entrenched impunity and create space for transitional justice initiatives. For instance, the Court's intervention in Uganda during the conflict with the Lord's Resistance Army (LRA) sent a powerful message that crimes against civilians would not be ignored. Though the key figure, Joseph Kony, remains at large, the ICC's arrest warrants at the time sensationalised the conflict at the international level, and contributed to raising the momentum for domestic and international peace talks. The case also subsequently led the Ugandan government to establish its own war crimes division, which till today is hailed as an important example of how ICC engagement can complement transitional justice efforts at even the domestic level.

Similarly, in the Democratic Republic of Congo (DRC), the ICC's investigations helped to highlight the widespread nature of sexual violence as a weapon of war and catalysed reforms within the Congolese justice system. Although the ICC cannot be a substitute for domestic justice processes, as entrenched within its governing document itself, it can amplify the quest for justice by increasing political and legal pressure to end impunity.

Furthermore, even where prosecutions have been delayed, halted or unsuccessful, ICC investigations can still have the effect of legitimising the reality of the atrocities and the experiences of victims. The Court's involvement lends international visibility and recognition to survivors' demands for justice. Such involvement may also be useful as leverage to aid states and organizations in their work towards ensuring accountability.

For instance, in Colombia, when the ICC opened a preliminary examination into crimes committed during the country's decades-long armed conflict, its involvement was instrumental in shaping the foundation of the 2016 peace agreement between the government and the armed militia. This also led to the establishment of the Special Jurisdiction for Peace (JEP), as a comprehensive transitional justice mechanism involving truth-telling, reconciliation, and judicial divisions.

Today, however, the ICC faces tremendous scrutiny. Not just as a body limited in power and effect, but as an institution scrutinising weaker states and engaging in selective justice. The ICC's recent arrest warrant applications for Israeli Prime Minister Benjamin Netanyahu and Hamas leaders however, mark a critical moment in international criminal justice. Though the political and legal fallout is ongoing, the move underscores the Court's potential to disrupt entrenched narratives and challenge impunity in long-standing conflicts. It is also a representation of the rule of law and equality before the law. Regardless of the outcome, the ICC's intervention has signalled that international scrutiny covers all actors, engaging with conflicts in real-time as opposed to previous instances of considering past conflicts. Ongoing ICC investigations in Ukraine, Sudan, and Myanmar further illustrate this evolution. In Ukraine, the Court has issued arrest warrants, including for Russian President Vladimir Putin, over alleged war crimes during the invasion, highlighting how the ICC can function symbolically even when enforcement is unlikely. In Myanmar, investigations into the Rohingya genocide provide international acknowledgment to victims, despite resistance from national authorities.

While the ICC alone cannot deliver comprehensive transitional justice, its strategic importance lies in its ability to frame narratives. The Court works best when its efforts are complementary to domestic and regional avenues, and when it is viewed not as an end in itself, but as part of a broader quest for justice. Despite continued fears of an international criminal judicial mechanism affecting diplomatic actions in bringing violations to an end, the ICC remains a vital tool even when convictions remain elusive.

3.2 The Challenge of Transitional Contexts

While the ICC is undoubtedly an important tool for addressing impunity in many contexts, its ability to contribute meaningfully to transitional justice processes is frequently constrained by political, legal, and practical challenges. These limitations affect the Court's impact on post-conflict recovery, victim satisfaction, and the broader goals of truth, justice, and reconciliation.

One of the primary limitations facing the ICC in transitional contexts is its narrow jurisdiction. The Court can only investigate crimes committed in the territory of, or by nationals of state parties to the Rome Statute, unless the UN Security Council refers a situation. This restricts its ability to intervene in many transitional contexts, especially in states that have not ratified the Rome Statute or where political dynamics at the Security Council block referrals. Moreover, the ICC lacks enforcement powers and depends entirely on state cooperation for arrests, evidence gathering, and access to conflict zones. In many transitional environments, where state institutions are weak or politically compromised, such cooperation is limited or non-existent. This has allowed high-profile suspects, such as Sudan's Omar al-Bashir, to evade justice for years, undermining the ICC's authority and delaying national processes.

Another major criticism has been its supposed disproportionate targeting of leaders from the Global South, while avoiding politically sensitive investigations involving powerful states and leaders. While recent actions in Ukraine, Palestine, and Afghanistan reflect a broader geographical scope, the perception of selective justice continues to affect the ICC's legitimacy, especially in transitional societies. This undermines the Court's impartiality and weakens its role as a partner in transitional justice. This is complemented by non-cooperation of states. Powerful states such as the United States, Russia, and China have either refused to join the Court or have actively obstructed its work. This politicisation again weakens the ICC's standing and hampers its ability to contribute to transitional justice processes in situations where these states are involved or have strategic interests.

Therefore, while the ICC remains a vital component of the international transitional justice toolkit, its effectiveness is constrained by structural, procedural, and political barriers. For the ICC to fulfil its potential, these challenges need to be addressed through legal reforms, political cooperation, and stronger integration with domestic and hybrid justice mechanisms.

CONCLUSION

Transitional justice, in its evolving complexity, serves as both a moral imperative and a strategic necessity in the aftermath of systemic violence and conflict. As explored in the first part of this report, transitional justice mechanisms, ranging from truth commissions to criminal prosecutions, have proven instrumental in promoting accountability, reconciliation,

and institutional reform. Case studies from around the world, from South Africa to Colombia, Rwanda to Uganda, illustrate not only the diverse forms these mechanisms can take, but also the nuanced interplay between justice, truth, and healing. Yet, these processes are never straightforward; they are often hindered by political compromise, limited resources, and the tensions between peace and justice.

The second part of the report expands on these foundational insights by contextualizing transitional justice within the shifting realities of today's world order. The contemporary international landscape is defined by multipolarity, contrasting norms, and a resurgence of nationalist rhetoric. All of these complicate the pursuit of impartial and effective justice. The enduring tension between short-term peace settlements and long-term justice, as demonstrated in Uganda's LRA case study, underscores the ethical dilemmas and strategic trade-offs that transitional and post-conflict societies must navigate. The role of international institutions like the ICC, while symbolically powerful, is similarly constrained by geopolitics, rule of law, selective enforcement, and questions of legitimacy and efficiency.

Moreover, transitional justice today is inseparable from broader developmental and peacebuilding frameworks. Effective justice must not only punish perpetrators but also empower survivors, redress structural inequalities, and contribute to sustainable peace. This requires intersectional, inclusive approaches that also account for issues like gender, displacement, and environmental justice, moving beyond basic legalism into the realm of transformative change.

Ultimately, transitional justice must be understood and treated as a dynamic, context-sensitive process. It is not a one-size-fits-all model, nor is it an endpoint. It is a pathway. It is and must be shaped by historical memory, domestic agency, and international norms. The aim should always be towards building societies and empowering people that do not merely survive conflict, but emerge from it with greater resilience, dignity, and a renewed commitment to peace and justice. In an era where international justice is both challenged and needed more than ever, reimagining transitional justice as a comprehensive, shifting, and politically and legally savvy framework will be crucial for ensuring that the pursuit of peace does not come at the expense of justice; or vice versa.

To navigate these challenges, scholars and practitioners must critically reassess the assumptions underpinning transitional justice. This includes interrogating the legacy of liberal peacebuilding, the limits of legalism, and the need for context-sensitive approaches that genuinely reflect the priorities of affected communities. Transitional justice must evolve not only in form but in philosophy, moving beyond a prescriptive toolkit to a more flexible, dialogic, and inclusive practice that recognizes both the complexities of contemporary geopolitics and the pluralism of justice traditions.

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