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Expanding pathways for the right to development in the context of transitional justice

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Abstract: *The interpretation and implementation of the right to development have greatly evolved over the past decades, but one thing that needs to be given closer attention relates to its actual implementation in post-war or authoritarian contexts. Sadly, many African states and communities continue to struggle with legacies of mass political violence. This chapter explores pathways for advancing the right to development within the ambit of transitional justice. Benefiting from the authors' extensive field experience, the chapter highlights important linkages in the African Union Transitional Justice Policy, post-conflict governance architecture, and domestic frameworks. Contexts of Uganda and Ethiopia illustrate how accountability mechanisms can serve as catalysts for broader socio-economic transformation. The Ugandan cases show how accountability can generate restorative and institutional consequences beyond punishment, while also exposing the limits of judicial mechanisms when reparations, participation, implementation, and structural reform remain disconnected from development policy and laws. Ethiopia's transitional justice policy is shown as an important normative opening to connect accountability and reconciliation with the right to development. The chapter envisages a transformative potential that turns on meaningful participation, independent institutions, equitable distribution of resources, victim-centred reparations, local ownership, and integration with national development and budgeting frameworks. Ultimately, the chapter proposes a holistic model of TJ and the right to development built around six interconnected pathways: accountability and institutional legitimacy; truth-seeking and recognition; reparations and capabilities; reconciliation and social capital; institutional reform and non-recurrence; and participation and local ownership.*

Résumé : *L'interprétation et la mise en œuvre du droit au développement ont considérablement évolué au cours des dernières décennies. Mais un aspect qui mérite une attention particulière concerne sa mise en œuvre concrète dans des contextes d'après-guerre ou autoritaires. Malheureusement, de nombreux États et communautés africains continuent de faire face aux séquelles de violences politiques de masse. Ce chapitre explore les voies permettant de faire progresser le droit au développement dans le cadre de la justice transitionnelle. S'appuyant sur la vaste expérience de terrain des auteurs, ce chapitre met en évidence les liens importants entre la politique de justice*

transitionnelle de l'Union africaine, l'architecture de gouvernance post-conflit et les cadres nationaux. Les contextes ougandais et éthiopiens illustrent comment les mécanismes de responsabilisation peuvent servir de catalyseurs à une transformation socio-économique plus large. Les cas ougandais montrent comment la responsabilisation peut générer des conséquences réparatrices et institutionnelles allant au-delà de la sanction, tout en mettant en évidence les limites des mécanismes judiciaires lorsque les réparations, la participation, la mise en œuvre et les réformes structurelles restent déconnectées de la politique de développement et de la législation. La politique de justice transitionnelle de l'Éthiopie apparaît comme une ouverture normative importante permettant de relier la responsabilisation et la réconciliation au droit au développement. Ce chapitre envisage un potentiel de transformation qui repose sur une participation significative, des institutions indépendantes, une répartition équitable des ressources, des réparations centrées sur les victimes, l'appropriation locale et l'intégration dans les cadres nationaux de développement et de budgétisation. En fin de compte, ce chapitre propose un modèle holistique de justice transitionnelle et de droit au développement articulé autour de six axes interdépendants : la responsabilité et la légitimité institutionnelle ; la recherche de la vérité et la reconnaissance ; les réparations et les capacités ; la réconciliation et le capital social ; la réforme institutionnelle et la non-répétition ; et la participation et l'appropriation locale.

Key words: *transitional justice; right to development; reparations; Ethiopia; Uganda*

1 Introduction

The fortieth anniversary of the United Nations (UN) Declaration on the Right to Development (DRtD) falls at a fitting moment to confront one of the most persistent challenges in African governance. The challenge relates to translating the recognition of development as a human and peoples' right into institutional practice that measurably improves lives and capabilities. It is sharpest in societies emerging from conflict and political violence that suffer from weakened institutions, displaced populations, destroyed livelihoods, and unequal access to resources. These socio-economic and cultural dimensions of mass conflict constrain

the capacity of individuals and communities to participate meaningfully in their own development.

This chapter treats the right to development (RtD) as its analytical framework for transitional justice (TJ) implementation. TJ generally refers to a broad range of both judicial and non-judicial mechanisms and approaches to deal with gross violations of human rights and atrocities following armed conflict or authoritarian rule.[1] The most common TJ mechanisms involve criminal prosecutions, reparations, truth commissions and amnesty.

The chapter begins from the RtD's substantive elements and the state obligations attached to them, and it asks how TJ mechanisms can realise those elements and discharge those obligations.

Africa's normative foundation for treating development as a right, stated under article 22 of the African Charter on Human and Peoples' Rights (African Charter),[2] recognises the right of all peoples to economic, social and cultural development. The provision links development with self-determination, control over natural resources, peace and security, and an environment favourable to development.[3] This conception is broader than growth; it includes participation, equality, sovereignty, dignity, social justice, and the distribution of development's benefits and burdens. Similarly, the African Union (AU)'s wider architecture, under the Constitutive Act, names the promotion of peace, security and stability, popular participation, good governance, human rights, and social justice among the Union's core objectives and principles.[4] Agenda 2063 translates these into a continental vision of inclusive prosperity, good governance, peace and security, the empowerment of women and youth, cultural identity and people-driven development.[5]

Read together, these sources yield a set of substantive elements that can serve as analytical criteria for TJ. These are participation and consultation, equitable distribution and benefit sharing, equality and non-discrimination; accountability and transparency, self-determination

1 See, generally, R Duthie & P Seils (eds) *Justice mosaics: How context shapes transitional justice in fractured societies* (2017).
2 African Charter on Human and Peoples' Rights adopted 27 June 1981, entry into force 21 October 1986, 1520 UNTS 217 art 22.
3 Arts 20, 21, 23 & 24 African Charter.
4 African Union Constitutive Act of the African Union (2000).
5 African Union Commission *Agenda 2063: The Africa we want* (2015).

and sovereignty over resources, respect for identity, and the enabling conditions of peace and security. These important aspects also yield a corresponding structure of obligations, namely; the duties to respect, protect and fulfil the right, including the duty to adopt legislative and other measures to give it effect.

These elements and obligations are not merely aspirational. In *Endorois,* the African Commission on Human and Peoples' Rights (African Commission) treated the right as both a means and an end, so that a failure of process or of outcome suffices for a violation, and it required effective consultation, free, prior and informed consent for major interventions affecting the community, and a reasonable share of the resulting benefits.[6] In *Ogiek,* the African Court on Human and Peoples' Rights (African Court) confirmed that article 22 is justiciable.[7] It found a violation where a community was excluded from decisions affecting its land and livelihoods, and it ordered collective and structural reparations that included restitution, a community development fund and guarantees of non-repetition.[8] Two further decisions were not decided under article 22, but they clarify the content of the corresponding obligation. *Zongo* establishes the duty to investigate, prosecute, and repair gross violations,[9] and *Mtikila* shows that violations of participation in public affairs may call for constitutional and legislative reform as a form of reparation.[10] This jurisprudence is significant for the present analysis because the remedies it prescribes, which include accountability, disclosure, restitution and compensation, institutional and legislative reform, and participation, closely resemble the mechanisms that TJ deploys.

Despite the clear interlinkage between economic dispossession and conflict, orthodox TJ mechanisms have historically largely operated

6 *Centre for Minority Rights Development & Another v Kenya* (2009) AHRLR 75 (ACHPR 2009) (*Endorois*).

7 *African Commission on Human and Peoples' Rights v Republic of Kenya* Application 6/2012, African Court on Human and Peoples' Rights, Judgment (26 May 2017) and Judgment on Reparations (23 June 2022) (*Ogiek*).

8 As above.

9 *Norbert Zongo & Others v Burkina Faso* Application 13/2011, African Court on Human and Peoples' Rights, Judgment (28 March 2014) and Judgment on Reparations (5 June 2015).

10 *Tanganyika Law Society and Legal and Human Rights Centre v United Republic of Tanzania and Reverend Christopher R Mtikila v United Republic of Tanzania* Applications 9/2011 and 11/2011, African Court on Human and Peoples' Rights, Judgment (14 June 2013) and Judgment on Reparations (13 June 2014).

within a narrow, legalistic paradigm.[11] Measured against the RtD, this narrowness amounts to a failure to engage some of the right's core elements, notably equitable distribution, sovereignty over resources and participation. By marginalising drivers of conflict such as systemic corruption, resource extraction and colonial dispossession, orthodox TJ risks delivering an artificial peace that leaves intact the structures of inequality that triggered violence in the first place.

Yet, the evolution of the RtD in the past decades reflects a consistent effort to link structural equality, socio-economic progress and human rights. The DRtD conceptualised development as an inalienable human right through which all human beings and peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development.[12] Similarly, as earlier noted, article 22 of the African Charter guarantees the right of all peoples to economic, social and cultural development, with due regard to their freedom and identity, while placing both an individual and collective duty on states to ensure its exercise.[13] When read together with article 23 (peace and security) and article 24 (a favourable environment) of the African Charter, the RtD is expansively interpreted to equally encompass peace, security and an environment conducive to holistic human flourishing.

The AU Transitional Justice Policy (AUTJP) marks a transformative shift in post-conflict governance by formally embedding socio-economic and cultural nuances into TJ infrastructure. The AUTJP explicitly links justice to socio-economic rights, distributive equity and systemic redress.[14] As Dersso rightly notes, this integration expands the traditional frontiers of TJ by tackling the root causes of conflict, such as long-standing economic marginalisation and deep-seated structural inequalities.[15] Furthermore, situating the AUTJP within the broader African Governance Architecture (AGA) enhances its operational

11 See, eg, P McAuliffe 'Rhetoric and realpolitik: Interrogating the relationship between transitional justice and socio-economic justice' (2014) 24 *Finnish Yearbook of International Law* 239-307.

12 Declaration on the Right to Development adopted by General Assembly Resolution 41/128 (4 December 1986) (DRtd).

13 Art 22 African Charter.

14 AU Transitional Justice Policy 2019 para 19.

15 S Dersso 'The African Union Transitional Justice Policy: Expanding the frontiers of transitional justice' *Centre for the Study of Violence and Reconciliation* (2021) Policy Brief 3.

capacity, enabling regional institutional synergies and harmonised enforcement across member states.[16] Consequently, the chapter highlights viable pathways to implement the RtD for African societies emerging from conflict and authoritarian rule.

There is vast scholarly reflection on the interpretation of the RtD, presenting useful prospects, but also challenges about its acceptability and enforceability.[17] Kamga explores unique pathways for African governance institutions to ensure the realisation of the RtD,[18] while Tadeg presents important perspectives linking with the international economic order.[19] Desierto also rightly shifts the framing of international economic law using the RtD, for more tangible outcomes for marginalised persons, under national, regional and global decision-making processes.[20] Arts and Tamo seek to mobilise existing international law provisions to revitalise the RtD, and make a good suggestion for adopting regional understandings of the right.[21] More recently, scholars along with practitioners from AU organs and policy makers have explored different dimensions of the RtD within peace building, emphasising the linkages across governance, security and development.[22] A key issue to note is how to effectively translate norms on the RtD into practice, under concrete TJ policies and tangible outcomes.

16 GM Wachira 'The African Union Transitional Justice Policy Framework and how it fits into the African governance architecture (AGA)' in CC Jalloh, KM Clarke & VO Nmehielle (eds) *The African Court of Justice and Human and Peoples' Rights in context: Development and challenges* (2019) 147.

17 N Udombana 'The Third World and the right to development: Agenda for the next millennium' (2000) 22 *Human Rights Quarterly* 753; W Vandenhole & P Gready 'Failures and successes of human rights-based approaches to development: Towards a change perspective' (2014) 32 *Nordic Journal of Human Rights* 291-311; SD Kamga *The right to development in the African human rights system* (2018).

18 Kamga (n 17).

19 MA Tadeg 'Reflections on the right to development: Challenges and prospects' (2010) 10 *African Human Rights Law Journal* 325.

20 DA Desierto 'The human right to development as a new foundation for international economic law' (2023) 31 *Tulane Journal of International and Comparative Law* 58.

21 K Arts & A Tamo 'The right to development in international law: New momentum thirty years down the line?' (2016) 63 *Netherlands International Law Review* 221-249.

22 See, generally, the second edition of the African Union Journal on Post-Conflict Reconstruction and Development: Peacebuilding in Practice, published in 2025, https://www.peaceau.org/uploads/final-pcrd-journal-iss-au-vol-2-1-web-r.pdf (accessed 12 September 2026).

The chapter is based on doctrinal analysis of TJ-related frameworks and literature. Uganda and Ethiopia are utilised for contextualising the chapter's perspectives. It equally draws upon information from the authors' experiences. Uganda and Ethiopia were selected based on the authors' professional experiences in the countries. Both countries have similarities with respect to the simultaneous implementation of different TJ mechanisms. However, the chapter does not engage in a comprehensive examination of the differences and similarities between the two states. Rather, it illuminates useful sequences and patterns across the countries that potentially link TJ with the RtD.[23] Uganda is analysed through a TJ background and two seminal court decisions, whilst the analysis on Ethiopia is largely on the recent policy and legal framework on TJ.

Uganda and Ethiopia offer useful insights as both countries seek to implement their TJ policies to address multifaceted dimensions of TJ. Uganda adopted a National Transitional Justice Policy in 2019.[24] Following the Pretoria Agreement of 2022, Ethiopia adopted its Transitional Justice Policy in April 2024.[25] The chapter shows that TJ can contribute to the realisation of the RtD when its mechanisms are deliberately connected to the restoration of rights, capabilities, participation, institutional integrity, and equitable access to social and economic opportunities.

The chapter is organised in five parts. After the introduction, part 2 explores the nexus between TJ and the RtD, highlighting transformative dimensions from existing frameworks such as the AUTJP. Part 3 highlights insights from Uganda, scrutinising reparatory outcomes in two important court cases. Part 4 equally adds perspectives from Ethiopia's evolving TJ landscape, showing the potential for transformative justice that aligns with socio-economic realities of the conflict-affected communities. Finally, the chapter then advances a set of targeted recommendations for strengthening TJ practice, before concluding

23 For additional explanation on sequences and patterns in comparative research, see BA Andreassen 'Comparative analyses of human rights performance' in BA Andreassen, HO Sano & S McInerney-Lankford (eds) *Research methods in human rights: A handbook* (2017) 235.

24 Uganda National Transitional Justice Policy 2019 (Uganda TJP).

25 Transitional Justice Policy of Ethiopia 2024 (TJPE); see also YH Getahun 'The transitional justice policy of Ethiopia and its relevance for peacebuilding' (2025) 25 *African Journal on Conflict Resolution* 60-83.

with a holistic model built around six interconnected pathways linking substantive elements of the RtD with TJ.

2 Nexus between transitional justice and the right to development

2.1 Transformative dimensions of transitional justice

A good starting point of reference is a reflection on the substantive elements of the RtD, namely, free and meaningful participation, equitable share in the benefits of development and self-determination.[26] On the other hand, as already pointed out, TJ emerged primarily as a set of mechanisms – truth commissions, criminal prosecutions, reparations and institutional reforms – designed to address mass human rights violations during regime transitions. It is therefore possible to implement TJ elements such as reparations and institutional reforms in line with the substantive elements of the RtD, to achieve broader social, economic and cultural rights outcomes.

One fundamental aspect of TJ that links directly with the RtD is reparations. These are the measures providing both material and symbolic benefits to victims and conflict-affected communities. They can be offered on an individual or collective level. The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles) offer useful guidance on the scope of effective reparations.[27] It includes elements of restitution and compensation, among others.[28]

It is important to note that guidelines such as the Basic Principles are not legally binding on states. As such, states are reluctant to incorporate elements that enhance collective rights, making it difficult for marginalised groups such as indigenous peoples to seek justice and reparations collectively.[29] Nonetheless, the African human rights

26 See DRtD (n 12) arts 1(1), 2(3) & 8(2).
27 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law UN Doc A/RES/60/147 (2005).
28 Basic Principles (n 27) para 19.
29 E Desmet 'The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation: A landmark or window-dressing? An analysis with special attention

legal regime includes provisions for reparations.[30] Both the African Commission and the African Court have offered expansive guidance on reparations, encompassing measures of restitution, compensation, satisfaction and guarantees of non-repetition.[31]

Reparations, taken within the ambit of the RtD, are not confined to financial compensation for colonial crimes or legacies of atrocities. It is important to think about reparations beyond the narrow academic and TJ lens. The perspectives of economists and international governance actors are equally important. In this respect, the perspectives of Cristina Duarte, Under-Secretary-General and Special Adviser on Africa to the UN Secretary-General, are highly instructive, emphasising the need to look at the broader picture of reparations within the contemporary world.[32]

The notion of 'transformative reparations' is useful, as it visualises aspects of inclusion, participation and socio-economic rights language, relevant for advocacy and implementation purposes.[33] Gready and Robins define it as[34]

> transformative change that emphasizes local agency and resources, the prioritization of process rather than preconceived outcomes and the challenging of unequal and intersecting power relationships and structures of exclusion at both the local and the global level.

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to the situation of indigenous peoples' (2008) 24 *South African Journal on Human Rights* 71.

30 See Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights art 27(1).

31 See African Commission on Human and Peoples' Rights General Comment 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (art 5) para 1 (2017). See also *Konate v Burkina Faso* Application 4/2013, African Court on Human and Peoples' Rights, Judgment on Reparations (13 June 2016); *Zongo v Burkina Faso* Application 13/2011, African Court on Human and Peoples' Rights, Judgment on Reparations, (5 June 2015); *Mtikila v Tanzania* Application 11/2011, African Court on Human and Peoples' Rights, Ruling on Reparations (13 June 2014).

32 C Duarte 'Beyond compensation: Reparatory justice as a structural economic imperative for Africa' UN Office of the Special Adviser on Africa (2025), https://www.un.org/osaa/en/news/beyond-compensation-reparatory-justice-structural-economic-imperative-africa (accessed 8 September 2026).

33 BM Leyh & J Fraser 'Transformative reparations: Changing the game or more of the same?' (2019) 8 *Cambridge International Law Journal* 39.

34 P Gready & S Robins 'From transitional to transformative justice: A new agenda for practice' (2014) 8 *International Journal of Transitional Justice* 340.

Leyh and Fraser are sceptical about the label of 'transformative reparations', as it may not always be practical in different contexts, highlighting a need to manage victims' expectations across different TJ mechanisms.[35] Nonetheless, they acknowledge its usefulness in addressing institutional and structural problems outside the international law criminal context, 'but only when victims and affected communities play a central role'.[36]

A reparations programme that provides health care, education, housing, livelihoods, rehabilitation or community infrastructure can simultaneously remedy specific harms and restore capabilities necessary for development. As such, TJ can be strengthened to synthesise important aspects of the RtD, through a more comprehensive interpretation of concepts such as reparations. Proponents of the transformative reparations framework argue for structural socio-economic reforms in post-conflict societies.[37] TJ contributes to development when its mechanisms address the institutional and socio-economic consequences of violations, and development policy reinforces TJ when it deliberately prioritises communities and groups affected by historical injustice. TJ is not necessarily the same thing as international development or humanitarian assistance, although they often overlap and can complement each other.[38] As such, the focus of this chapter is on reparations within TJ that address harm suffered following human rights violations. [39]

Beyond the discussions on reparations, there is a general marginalisation of economic and social rights within TJ scholarship.[40] As Hammergren notes, justice reforms and donor assistance in developing and transitional countries frequently suffer from technocratic top-down approaches that isolate rule of law projects from broader developmental

35 Leyh & Fraser (n 33) 52.
36 Leyh & Fraser (n 33) 39.
37 S Gready 'The case for transformative reparations: In pursuit of structural socio-economic reform in post-conflict societies' (2021) 16 *Journal of Intervention and Statebuilding* 182.
38 L Moffett & others *Civil society organisations and donors engagement on reparations* (2022) 17.
39 See also Gready (n 37); OA Bello & O Gbede 'Justice, restoration and reparations: A Nigerian perspective on addressing the pre-colonial, colonial and post-colonial economic legacies' (2025) 9 *African Human Rights Yearbook* 251-278.
40 See also FE Torres 'Repaired but poor victims? The post-conflict encounter with transitional justice and the remaking of the field' (2026) 39 *Leiden Journal of International Law* 174.

realities.[41] Reconsidering the relationship between TJ and development requires moving beyond an exclusively individual and retrospective understanding of reparations towards a collective, transformative approach that addresses structural inequalities and historical patterns of exclusion. In this regard, collective reparations should not be understood as discretionary assistance or charitable interventions, but rather as rights-based measures through which affected peoples and communities can claim the material, social and institutional conditions necessary to realise their development aspirations.

The analysis in parts 3 and 4 will highlight how TJ can explicitly link with the RtD: first, showing that effective implementation of TJ aspects such as reparations should link with substantive elements of the RtD such as participation, consultation and non-discrimination, among others. Second, as has already been pointed out, TJ mechanisms must expand beyond rectifying individual human rights violations and confront socio-economic and structural injustices. Busieka's emphasis on the nexus between legal imperatives and development realities is important for the RtD to effectively support post-conflict communities.[42] For instance, when TJ mechanisms such as truth commissions document systemic economic exclusion and corporate plunder, they lay the groundwork for developmental redress. Moreover, as Ndiloseh and Yakohene argue, the RtD is no longer an aspirational concept, but functions as an actionable legal norm within African jurisprudence.[43]

2.2 Reinterpreting international and domestic accountability frameworks through the African Union TJP

The AUTJP, adopted in 2019, is an important framework for the interpretation and implementation of TJ across the continent. TJ is defined as

41 LA Hammergren *Justice reform and development: Rethinking donor assistance to developing and transitional countries* (2014).

42 M Busieka 'The nexus of legal imperatives and development realities: The right to development as a catalyst for post-conflict transformation in Africa: Case studies and comparative insights' (2025) 2 *African Union Journal on Post-Conflict Reconstruction and Development: Peacebuilding at Work* 111.

43 MM Ndiloseh & AB Yakohene 'The right to development as a legal norm in African peace agreements: Aspirational or enforceable?' (2025) 2 *African Union Journal on Post-Conflict Reconstruction and Development: Peacebuilding at Work* 22.

> the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation.[44]

The specific objectives of the AUTJP include:

> (iii) Defining the policy agenda for holistic and inclusive socio-economic transformation and development of societies emerging out of periods of conflict, serious human rights and humanitarian law violations, legacies of exclusion and historical injustices.[45]

In terms of rationale, the policy

> provides guidelines to translate comprehensive strategies for TJ into specific actions that empower affected countries to take the lead in the process of providing restorative and transformational justice with respect to not only the legacies of conflicts and violations, but also governance deficits and developmental challenges.[46]

More notably, the AUTJP contains a human and peoples' rights element for situations including 'guaranteeing and protecting socio-economic and cultural rights, including the right to development as provided for in the ACHPR'.[47] This can be directly linked with the pillar of redistributive justice (socio-economic justice), which aims to 'rectify structural inequalities, marginalisation and exclusion for achieving social justice and equitable and inclusive development'.[48]

By going beyond the traditional paradigms, the AUTJP redefines TJ to include redistributive and restorative dimensions. This alignment is critical for the RtD, based on the collective dimension under article 22 of the African Charter.[49]

The RtD has been interpreted by the African Commission to include aspects of participation, non-discrimination, accountability, transparency, equity and choices.[50] The foundations of this expanded vision are thoroughly detailed in the African Commission's study on TJ,

44 AU Transitional Justice Policy 2019 (AUTJP) para 19.
45 AUTJP para 10.
46 AUTJP para 11.
47 AUTJP para 100(ii).
48 AUTJP paras 67-70.
49 African Charter art 22.
50 See *Endorois* (n 6).

highlighting the need to connect justice with the socioeconomic realities of victims and communities.[51]

The design and implementation of the AUTJP are guided by nine key principles, including African leadership; national and local ownership; inclusiveness; equity and non-discrimination; African shared values; context specificity; the coordination, sequencing and balancing of transitional justice elements; due consideration of the gender and generational dimensions of violations and transitional processes; cooperation and coherence; and capacity-building for sustainability.[52] These principles are interpreted to mean that TJ 'also seeks to address societal marginalisation, poverty, inequality and illicit resource extraction'. [53] These key principles under the AUTJP can be linked with six constituent components of the RtD:

> (i) environmental liability for active, free and meaningful participation; (ii) being self-determined (the right to self-determination); (iii) being peaceful; (iv) providing an equal opportunity to have access to basic resources; (v) being naturally clean and healthy; and (vi) being sustainable.[54]

Looking at the linkages, it can therefore be argued that the AUTJP does not treat the RtD as an optional secondary goal, but rather as an integral imperative of TJ. In a nutshell, this entails a comprehensive TJ roadmap that not only breaks cycles of violence, but also achieves social equity and sustainable development across Africa.

The other dimension through which to consider the potential pathways for the RtD is the process of post-conflict reconstruction and development. Achieving sustainable peace and development in post-conflict communities requires addressing past violations, but also simultaneously constructing resilient socio-economic systems. In this regard, the AUTJP and the Revised Policy on Post-Conflict Reconstruction and Development (PCRD) serve as mutually reinforcing frameworks within the AGA, with huge potential to implement

51 African Commission 'Study on Transitional Justice and Human and Peoples' Rights in Africa' (2019).
52 AUTJP paras 23-41.
53 African Union Commission 'Resource Guide to the African Union Transitional Justice Policy (AUTJP)' (2022) 10.
54 A Chalabi 'The right to development as a human right to an enabling environment for collective well-being' (2026) 25 *Journal of Human Rights* 262-263.

the RtD.[55] Generally, the RtD can be considered a central aspect of peacebuilding and TJ, if aligned with the PCRD.[56] Scholars and policy makers ought to pay closer attention to the implementation of the TJ and PCRD infrastructure in fragile contexts within Africa.

At the international level, institutions such as the International Criminal Court (ICC) have faced criticism for operating in a socio-economic vacuum. While the ICC focuses primarily on retributive outcomes, we should not lose sight of the need for international justice mechanisms to incorporate restorative justice and broader TJ principles to enhance their impact and legitimacy before conflict-affected communities. As such, domestic implementation of the AUTJP ought to include restorative outcomes, in order to effectively address both individual and collective harm.[57] Equally, regional and international justice mechanisms need to embrace more transformative TJ approaches. It is apt to analyse the impact of TJ on the realisation of the RtD in particular contexts.

3 Transitional justice or transformative justice in Uganda

3.1 Brief overview of conflict

The TJ arena in Uganda involves a complex interplay of historical grievances, post-war context and socio-economic realities. In Northern Uganda, particularly in the Acholi and Lango sub-regions, the pursuit of truth, accountability, reconciliation and institutional reform following decades of violent conflict remains incomplete but also contentious. The core of this conflict lies in the armed conflict between the government

55 African Union Commission Revised Policy on Post-Conflict Reconstruction and Development (PCRD) 2024. Addis Ababa: African Union. https://www.peaceau.org/uploads/amended-pcrd-policy-rev-05-february-2024.pdf (accessed 12 September 2026). See also GM Wachira 'The African Union Transitional Justice Policy Framework and how it fits into the African governance architecture (AGA)' in CC Jalloh, KM Clarke & VO Nmehielle (eds) *The African Court of Justice and Human and Peoples' Rights in context: Development and challenges* (2019) 147.

56 Busieka (n 42); Ndiloseh & Yakohene (n 43).

57 JJ Sarkin 'Why the International Criminal Court should apply restorative justice and transitional justice principles to improve the impact of its criminal trials on societies around the world' (2025) 19 *International Journal of Transitional Justice* 260.

of Uganda (GoU) and Joseph Kony's Lord's Resistance Army (LRA) between the late 1980s and late 2009.[58]

As in many African countries, the legacy of colonial rule adversely impacted Uganda's long-standing socio-political and ethnic environments. Historically, British colonial rule employed divide-and-rule administrative policies that institutionalised ethnic divisions. Following Uganda's independence in 1962, successive regimes did not do much to bridge these regional disparities and deepened ethnic polarisation. The insurgency that emerged in the north was largely rooted in these deep historical grievances, perceived political exclusion, and the economic marginalisation of the region.[59] The rise of rebel movements such as Alice Auma's Holy Spirit Movement and, subsequently, Joseph Kony's LRA, capitalised on the socio-economic vulnerabilities and psychological disillusionment of the post-1986 Acholi population. The LRA maintained a violent campaign in Northern Uganda, characterised by mass abductions, forced conscription of children, and brutal atrocities against civilians. For over two decades, Northern Uganda endured horrific violence. The military approach pursued by the GoU initially failed to contain the LRA, leading to prolonged displacement and widespread human rights violations.[60]

An important dimension in the conflict landscape emerged during the Juba Peace Talks that took place between 2006 and 2008, mediated by the government of Southern Sudan. The Juba process represented a comprehensive effort to reach a negotiated settlement between the GoU and the LRA. A central pillar of these negotiations was the TJ framework, under the Agreement on Accountability and Reconciliation, which set out key principles for formal legal accountability, traditional justice mechanisms and institutional reform.[61] Article 9 of the Juba Agreement on Accountability and Reconciliation also included provisions for both individual and collective reparations such as restitution and compensation. Notably, the Agreement provided for the establishment

58 See, generally, A Branch 'Uganda's civil war and the politics of ICC intervention' (2007) 21 *Ethics & International Affairs* 179-198.

59 Z Lomo & L Hovil 'Behind the violence: Causes, consequences and the search for solutions in Northern Uganda' (2004) Refugee Law Project Working Paper 11.

60 As above.

61 The Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the LRA/M (Annex to June 29 Agreement, Juba, Sudan, 29 June 2007).

of the War Crimes Division of the High Court of Uganda (later renamed the International Crimes Division or ICD), aimed at prosecuting individuals bearing the highest responsibility for serious crimes.[62]

Despite these formal negotiations and agreements, the Juba Peace Process did not bear much fruit as the talks collapsed due to Kony's absence and failure to sign the agreement. Kony feared that he would be arrested on account of the warrant of arrest against him and his top commanders.[63] Nevertheless, the peace agreements offered an important foundational framework for Uganda's post-war TJ framework and national policy formulations.

The other important TJ dimension during the conflict relates to the aspect of amnesty. Within armed contexts, the term is associated with formal pardon granted to members of rebel movements as an inducement to defect or surrender. In response to pressure from religious leaders, civil society organisations and local community elders in Northern Uganda, the Ugandan Parliament enacted an amnesty law.[64] The law granted a blanket amnesty to LRA rebels who renounced insurgency and surrendered their weapons, regardless of the crimes committed.

As Afako highlights, the Amnesty Act served as an essential peacebuilding tool that triggered mass defections from the LRA.[65] It also led to the return of abducted children and facilitated community reintegration. For the war-affected communities, amnesty was viewed as a necessary pathway to rescue abducted relatives and stop the cycle of violence. However, as Akello notes, the reintegration of amnestied ex-combatants equally generated social frictions.[66] War survivors often witnessed former commanders who had committed severe atrocities return to communities, receiving resettlement packages, while victims

62 Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the LRA/M (Addendum 4, 3 November 2007).

63 LE Gissel 'Legitimising the Juba Peace Agreement on Accountability and Reconciliation: The International Criminal Court as a third-party actor?' (2017) 11 *Journal of Eastern African Studies* 367-387.

64 Amnesty Act of 2000.

65 B Afako 'Undermining the LRA: Role of Uganda's Amnesty Act' August 2012, https://www.c-r.org/news-and-views/comment/undermining-lra-role-ugandas-amnesty-act#:~:text=Societies%20faced%20with%20intractable%20conflict,groups%20to%20abandon%20their%20fight. (accessed 11 September 2026).

66 G Akello 'Reintegration of amnestied LRA ex-combatants and survivors' resistance acts in Acholiland, Northern Uganda' (2019) 13 *International Journal of Transitional Justice* 249.

received little to no formal reparations. This triggered various subtle forms of survivor resistance and moral discontent within post-war Acholi communities. These are very crucial aspects to keep in mind when thinking about the impact of TJ on the realisation of the RtD.

The third notable TJ dimension relates to the ICC intervention. The TJ landscape shifted when President Museveni referred the situation in Northern Uganda to the ICC. In 2005, the ICC issued arrest warrants for top LRA commanders, including Joseph Kony and Dominic Ongwen. As has been pointed out by observers, the ICC's initial intervention created significant controversy and local resistance.[67] Local leaders argued that international arrest warrants directly undermined the ongoing peace talks in Juba and conflicted with the amnesty process. Moreover, the ICC focused exclusively on LRA atrocities while overlooking alleged war crimes and grave abuses committed by state forces, reducing the legitimacy of the Hague-based justice mechanism.

An important feature of the conflict relates to forced displacement, which can be examined from both TJ and development dimensions. The war led to mass forced displacement as many people were driven into internally displaced persons (IDP) camps. At the height of the war, over a million people lived in these camps under abysmal conditions, severe food insecurity, poor sanitation and high mortality rates.[68] Traditional social structures were shattered as the displacement created severe economic dependency. Most crucially, it separated communities from their ancestral land for over a decade.

The disentanglement of traditional land ownership systems during the period of encampment severely impaired housing, land and property (HLP) rights in post-war Northern Uganda.[69] It is important to note that in Acholi and Lango sub-regions, land is predominantly held under customary land tenure systems, which rely on oral tradition, communal

67 L Hovil 'Challenging international justice: The initial years of the International Criminal Court's intervention in Uganda' (2013) 2 *Stability: International Journal of Security and Development* 1-11.

68 See T Allen and others 'What happened to children who returned from the Lord's Resistance Army in Uganda?' (2020) 33 *Journal of Refugee Studies* 666-668; see also JK Kamara, S Cyril & AMN Renzaho 'The social and political dimensions of internal displacement in Uganda: Challenges and opportunities – A systematic review' (2017) 76 *African Studies* 444-473.

69 TR Kirabira & L Choukroune 'Uganda's post-war transitional justice process: Have housing, land and property rights been restored?' (2023) 14 *Journal of International Humanitarian Legal Studies* 156.

memory, boundaries marked by natural features, and the authority of traditional elders. Prolonged displacement adversely impacted socio-economic structures, which are necessary for the realisation of the RtD.

Contemporary disputes over land in post-war communities are partly driven by internal displacement. When the LRA retreated from Northern Uganda, IDPs returned to their rural homes. However, the return process triggered disputes over land ownership, in the form of intra-family and inter-family conflicts. Traditional justice and conflict-resolution mechanisms in regions such as Lango could not effectively resolve these complex land disputes. With the support of local non-governmental organisations (NGOs), some people formalised land ownership through individual titling, but this also clashed with traditional customary tenure models. As part of PCRD programmes by the government, there were some large-scale land acquisitions by private investors, which were meant to create employment in commercial agriculture and enhance the economy. However, these have not created tangible socio-economic outcomes.

The socio-legal consequences of the LRA war extend into gendered dynamics and intergenerational trauma. Thousands of women and girls were abducted by the LRA and forced into sexual slavery or forced marriages with commanders. Children born of war, that is, those fathered by LRA combatants during their mothers' captivity, faced profound challenges in relation to social reintegration.[70] They remained highly vulnerable to social stigmatisation, identity denial and exclusion from land inheritance. There are calls for transformative justice that addresses such structural inequalities.[71]

3.2 Transformative justice in the post-war era: Addressing socio-economic and developmental dimensions

The element of criminal prosecutions presents a good opportunity to evaluate the impact of TJ on the realisation of the RtD. Two judicial

70 See, generally, E Baines & C Oliveira 'Securing the future: Transformative justice and children "born of war"' (2020) 30 *Social & Legal Studies* 341; TBC Mutsonziwa, K Anyeko & E Baines 'Child tracing: Locating the paternal homes of "children born of war"' (2020) 30 *Development in Practice* 635; J Ocitti *Birth registration for children born in LRA captivity in Northern Uganda* (2019).

71 See, eg, Baines & Oliveira (n 70).

processes are examined: the case of Dominic Ongwen before the ICC in The Hague, and that of Thomas Kwoyelo before the domestic International Crimes Division (ICD) of the High Court. In particular, it is important to look beyond the retributive outcomes and highlight the broader contribution to socio-economic justice and collective measures.

Dominic Ongwen was abducted by the LRA as a young boy and eventually rose to become a senior commander. He was later apprehended and tried at the ICC in The Hague for war crimes and crimes against humanity. In 2021, he was convicted and sentenced to 25 years in prison. For the purpose of this chapter, the aspect of reparations is a central element, particularly, how the Court addressed the socio-economic dimensions of victims and conflict-affected communities. In this regard, we analyse the redress for the victims who participated in the case and the indirect victims (approximately 49 772), but also, more importantly, the potential beneficiaries of reparations across Northern Uganda.

As indicated by the GoU in its submissions on reparations in the *Ongwen* case, the prolonged war led to a diversion of key socio-economic and developmental resources from the conflict-affected communities.[72] Victims' representatives and NGOs had proposed transformative reparations that include sustainability in agriculture, land and other socio-economic development opportunities.[73] This reminds us about the tension between victim-specific reparations and development owed to all citizens.[74] The Court was hesitant to award substantive individual restitution and compensation due to the large number of victims. However, the Court awarded a symbolic EUR 750 payment to each eligible victim, alongside collective programmes.[75] These collective community-based reparations and rehabilitation programmes to address multifaceted types of harm:[76]

> physical, moral, material, community, and transgenerational harms. These programmes should be designed by the TFV [Trust Fund for Victims] in close consultation with the victims. Collective community-based measures

72 The Government of the Republic of Uganda's Submissions on Reparations ('Uganda's February 2022 Observations') 7 February 2022, ICC-02/04-01/15-1978 para 14.
73 *Prosecutor v Ongwen* Reparations Order ICC-02/04-01/15-2074 (28 February 2024) (Reparations Order) paras 607-611.
74 Gready (n 37) 186.
75 Reparations Order paras 614 and 626.
76 Reparations Order para 617.

> of rehabilitation in this regard may include rehabilitative medical services (including physical, psychiatric and psychological programming) to address physical and moral harms and socio-economic rehabilitation to address material harms. Collective programmes could include, for example, group educational programming, vocational skills training, and community programmes designed to eradicate the stigmatisation of victims of SGBC or child soldiers.

Besides having 'a transformative value', the reparations illuminate elements of the RtD, in the form of participation and consultation, equitable distribution and benefit sharing, equality and non-discrimination. The Trust Fund for Victims is required to consult victims during the design and implementation of the reparations awards.[77] Ultimately, the RtD is realised through a victim-driven, responsive, community-based reparations programme with tangible benefits for an estimated 60 000 victims and other related beneficiaries in Northern Uganda.[78]

The case of Thomas Kwoyelo equally offers important insights on the possibility of connecting TJ and the RtD. Unlike Ongwen, Kwoyelo was tried domestically before the ICD.[79] He was charged with domestic offences, war crimes and crimes against humanity committed during the LRA insurgency. He was convicted in 2024 and sentenced to 40 years' imprisonment. Different scholars have criticised the Court's overly retributive sentencing approach, which neglected traditional justice mechanisms in the conflict-affected communities.[80] Ruhweza rightly argues that the state should look beyond retributive justice in such instances, by equally implementing rehabilitative approaches.[81]

These arguments make sense in terms of linking TJ with crucial RtD elements of participation and communal engagement. For the purpose of this chapter's focus, the key aspect drawn from the case relates to the reparations. The victims sought a broad range of reparations encompassing aspects of restitution, compensation and rehabilitation, akin to the idea

77 Reparations Order para 799.
78 Reparations Order para 762.
79 *Uganda v Thomas Kwoyelo* HCT-00-ICD-CR-SC 2 of 2010 (25 October 2024) (*Kwoyelo* Sentencing Judgment).
80 W Nortje & B Nanyunja 'An appraisal of the *Kwoyelo* judgment at the International Crimes Division in Uganda: A tale of retribution or restoration?' (2025) 23 *Journal of International Criminal Justice* 689-705.
81 DR Ruhweza 'Wild goose chase, or a quest for genuine prosecution? Lessons from Uganda's ongoing trial of Thomas Kwoyelo' in EC Lubaale & N Dyani-Mhango (eds) *National accountability for international crimes in Africa* (2022) 427-468.

of 'transformative reparations'.[82] More interesting is the aspect broadly classified as collective community-based reparations. The arguments for such reparations are very interesting, from a RtD perspective, as they highlight the need to address both individual and collective outcomes in post-conflict communities.

The Court expressly distinguished reparations from development programmes.[83] However, it also affirmed the state's responsibility to provide compensation and reparations in specific instances – in this case, where people were driven into IDP camps.[84] The Court did not offer collective community-based reparations and/or satisfaction measures, noting that such 'measures are generally geared towards state responsibility to amend violations in ways unaddressed by classic forms of restitution and compensation'.[85] Overall, the Court's reasoning reflects Gready's concern about the tension between victim-specific reparations and development obligations by the state in general.[86]

In the ideal sense, the *Kwoyelo* reparations decision could have included a good blend of retribution and restoration, if the Court had awarded expansive reparations, including development-oriented and collective community-based reparations. Effective design and implementation of such context specific approaches would require the utilisation of RtD aspects such as participation and transparency. However, there would still be a huge implementation gap. Uganda does not have a victims' programme akin to the ICC's TFV, to administer and implement such reparations orders. The Court ordered the Attorney General to establish a Victims Fund and an implementation plan for the victims in the *Kwoyelo case.* This is a declaratory order, which is impossible to implement in the absence of a clear legal framework.

The country adopted a National Transitional Justice Policy in 2019,[87] which equally encompasses formal reparations programmes and socio-economic rehabilitation. However, effective implementation of the policy requires a Transitional Justice Law that ushers a holistic approach.

82 *Laker & 102 Others v Uganda & Kwoyelo v Attorney General* Miscellaneous Application 35 of 2024 (2024) para 2.
83 *Laker & 102 Others v Uganda & Kwoyelo v Attorney General* Miscellaneous Application 35 of 2024 (2024) para 90.
84 *Laker* (n 82) para 96.
85 *Laker* (n 82) para 84.
86 Gready (n 37) 186.
87 Uganda TJP (n 24).

This would include reparations with participation and accountability with institutional reform; additionally, local ownership, recognition (both judicial and non-judicial) and equitable distribution to address the structural conditions that underlie the conflict. Generally, the implementation of TJ measures in Uganda has been slow and largely dependent on non-governmental actors and donors to fill the gaps.[88]

The chapter has discussed the TJ dimensions in Uganda that link with the RtD. Through an analysis of the cases of *Ongwen* at the ICC and *Kwoyelo* before the High Court of Uganda, the chapter has illuminated the potential impact of reparations on realising the RtD, if linked with substantive elements such as participation and consultation, equitable distribution and benefit sharing, equality and non-discrimination. As such, it can be argued that when reparations are structured to deliver both individual restitution and collective societal benefits, TJ offers pathways for additional rights, such as the RtD. The next part uses another country context to further explore these TJ-RtD synergies.

4 From transitional justice to transformative justice in Ethiopia

4.1 Socio-political landscape of conflict

Ethiopia's TJ challenge is underlined by a succession of political transitions that have shaped the modern state. These have largely focused on criminal responsibility without addressing the socio-economic architecture within which each authoritarian order operated. Ethiopia's adoption of ethnic federalism in 1995 adds a further distinctively Ethiopian layer. A diversity by devolving authority to ethnically defined regional states. Yet, the same architecture meant to resolve historical grievances over self-determination has also become a site of contest over resources, representation and territorial boundaries – contests that feed directly into the conflicts of the past decade, including the Tigray war that erupted in 2020. This bears directly on the RtD analysis. Ethiopia's experience shows how unresolved questions of self-determination and equitable regional representation can themselves become a driver of conflict, not merely its backdrop.

88 See T Kirabira 'NGO influence in global governance: Achieving transitional justice in Uganda and beyond' (2021) 10 *Cambridge International Law Journal* 280-299.

The socio-economic dimension is equally important, as displacement disrupted livelihoods, unequal access to land and public investment, and contested control over regional resources are reflected across the conflict-affected communities. These challenges trigger a negative impact on the RtD, as they limit the potential of people to develop socially, economically, and culturally.[89] Unlike the great majority of African states, Ethiopia was never subjected to sustained colonial rule. Its brief Italian occupation between 1936 and 1941 was a forcible interruption rather than a colonial settlement. It is important not to lose sight of Ethiopia's own history of imperial and post-imperial state formation, even though its origin lies in indigenous state building rather than external colonisation.

Ethiopia's TJ process, therefore, inherits not a single legacy of violation, but multiple, overlapping legacies produced by successive political orders, an unresolved federal settlement, and long-standing disputes over the distribution of development itself. The Pretoria Agreement of November 2022,[90] which called for a comprehensive TJ policy addressing accountability, truth, redress, reconciliation and healing, must be read as a response to this deeper, layered landscape, not only to the immediate Tigray conflict.

4.2 Evolving Ethiopia's transformative justice architecture

Domestic law may reinforce the framework, as in Ethiopia, where article 43 of the Constitution guarantees the right to improve living standards, to participate in national development, and to be consulted on policies and projects affecting one's community.[91] This foundation is significant for the present analysis because the remedies it prescribes include accountability, disclosure, restitution, and compensation, institutional and legislative reform, and participation, closely resemble the mechanisms that TJ deploys.

89 JN Ashukem & CC Ngang 'Land grabbing and the implications for the right to development in Africa' (2022) 22 *African Human Rights Law Journal* 403-425.

90 African Union 'Agreement for Lasting Peace through a Permanent Cessation of Hostilities between the Government of the Federal Democratic Republic of Ethiopia and the Tigray People's Liberation Front' (2022).

91 Constitution of the Federal Democratic Republic of Ethiopia, Proclamation 1/1995.

Ethiopia's TJ architecture did not emerge in a vacuum. It builds on an earlier, informal history of confronting past violations that predates any formal policy. Even before the 2018 Reconciliation Commission, Ethiopia's engagement with its Derg-era past was neither wholly absent nor state-driven. The Special Prosecutor's Office pursued criminal accountability for the 1977-1978 Red Terror, but truth finding and memorialisation emerged largely through civil society rather than government initiative. Survivors and victims' families formed the Association of Red Terror Survivors, Families and Friends, registered in 2003, whose advocacy led to the establishment of the Red Terror Martyrs' Memorial Museum in Addis Ababa in 2010.[92] This mode of non-governmental truth telling signalled an enduring societal demand for recognition, even as it exposed the limits of what civil society alone could achieve without comprehensive institutional support and reparation. Against this backdrop of partial, informal engagement with historic injustice, Ethiopia's more deliberate institutional turn toward TJ began to take shape.

Following the political change of 2018, the new administration took several steps that can be read, in retrospect, as early and partial gestures towards TJ. The Reconciliation Commission was established under Proclamation 1102/2018.[93] The Administrative Boundary and Identity Issues Commission was created around the same period. The government issued a public apology for past violations,[94] and a wave of political prisoners was released. Yet, the Reconciliation Commission's design was defective from the outset. It was not born of meaningful consultation, and its mandate focused narrowly on reconciliation, without explicit provision for truth seeking or accountability.[95] In a nutshell, it fell

92 B Conley *Memory from the margins: Ethiopia's Red Terror Martyrs Memorial Museum* (2019).

93 Reconciliation Commission Establishment Proclamation 1102/2018, Ethiopia (2018), https://leap.unep.org/en/countries/et/national-legislation/reconciliation-commission-establishment-proclamation-no-11022018 (accessed 3 October 2026).

94 Amnesty International 'Ethiopia: Lack of accountability for past violations haunts the present' (May 2019), noting the apology was made in the Prime Minister's April 2018 inaugural speech, https://www.amnesty.org/en/latest/press-release/2019/05/ethiopia-lack-of-accountability-for-past-violations-haunts-the-present/ (accessed 2 October 2026).

95 KK Legide 'Seeking transitional justice through reconciliation in a troubled transition: The legitimacy, performances and limits of the Ethiopian Reconciliation Commission' (2023) 19 *Journal of Global Justice and Public Policy* 121-216.

short of the interconnected pillars a holistic TJ process requires. Its 41 commissioners were appointed on the Prime Minister's recommendation, without a transparent selection process, and its administrative units were not even established until over a year later. This outcome is consistent with Hammergen's broader critique of technocratic justice-sector reform.[96] The Commission's limitations, therefore, are theoretically significant, not merely descriptively, as they demonstrate the gap between institutional form and institutional substance. Dissolved by Parliament in 2022 without producing truth telling, reparations or institutional reform, its failure left a critical gap in the TJ environment. There is need for sufficient mandate, independence, participatory selection and adequate resourcing. Additionally, the parallel and interconnected application of all TJ pillars are preconditions for legitimacy, not optional refinements.

Ethiopia's TJ policy was preceded by an unusually broad consultation: more than eighty nationwide, including vulnerable groups, to gather input. For a country of more than 130 million people, this is among the most extensive consultation exercises in Ethiopia's history. Scale, however, does not guarantee meaningful participation. The right to development judges participation by its effectiveness, and not by headcount, and questions remain about representation of groups such as youth and diaspora who have been prominent in political mobilisation and opposition movements. What matters is therefore those whose voices were included, underrepresented, or excluded, and how they shaped the framework

The Council of Ministers adopted the Policy in April 2024.[97] It envisages a holistic and differentiated architecture. Instead of concentrating TJ functions within a single institution, it envisages distinct but interconnected institutional arrangements for different approaches, specifically criminal accountability, truth-seeking, reconciliation, reparations and institutional reform. These are meant to be supported by dedicated legislation, transparent and participatory selection processes, institutional independence and adequate resources. This approach is reflected in the implementation roadmap, subsequently finalised[98] by the

96 LA Hammergren *Justice reform and development: Rethinking donor assistance to developing and transitional countries* (2014).

97 TJPE (n 25).

98 See Ethiopia Transitional Justice Implementation Roadmap, Federal Democratic Republic of Ethiopia, Ministry of Justice (August 2024), https://www.ena.et/web/eng/w/eng_5001231 (accessed 3 October 2026).

Ministry of Justice in August 2024. The Ministry later provided five draft legislative instruments: The first proclamation on Fundamental Crimes Committed in Violation of International Law, intended to close gaps in the existing framework on core international crimes and to provide a clearer basis for domestic prosecution. The second and third were the legislation establishing a Special Prosecution Office and Special Bench legislation. The fourth was a proclamation establishing a National Commission for Truth and Social Cohesion, mandated to document the nature, extent, root causes, consequences and context of gross human rights violations committed by governmental and non-governmental actors from 1974 onwards, regardless of the nationality of the perpetrators. The fifth was legislation establishing an Institutional Reform Office with a vetting function. These draft legislations were presented and reviewed in the presence of international experts, Ethiopian experts, and members of the respective drafting teams to exchange comparative insights and provide recommendations to strengthen and finalise the draft legislation for effective accountability and reconciliation ...[99]. This marked a further stage in the development of Ethiopia's TJ framework, moving beyond the articulation of institutional arrangements towards detailed consideration of the legal rules, institutional mandates, and interrelationships required for their eventual operationalisation

Updates obtained during this research indicate that the Ministry of Justice decided to consolidate three of the five drafts: the Proclamation on Fundamental Crimes, the Special Bench Legislation, and the Institutional Reform Office Legislation. These were compiled into a single code grounded in shared core values, while updating and retaining the Special Prosecutor's Office and the National Commission for Truth and Social Cohesion as independent instruments. The proposed core values include a human rights-based approach, confidentiality, consistency, inclusiveness, victim-centeredness, equity and equality. Additionally, universality, interconnectedness, a context-specific focus and transformative impact, which correspond closely to the elements of the RtD. This suggests that the framework has a latent receptiveness to it.

99 Institute for Security Studies (ISS) and Ministry of Justice of Ethiopia, *Supporting Legislative Drafting for Transitional Justice in Ethiopia*, Conference, Addis Ababa, Ethiopia, 10–11 December 2024.

The National Truth and Social Cohesion Commission, as proposed, would perform the truth-seeking function, and its draft mandate contains the single most theoretically significant feature of the entire architecture for this chapter's argument. An inclusion of aspects such as serious socio-economic violations within the definition of grave violations falling under its mandate would be ideal. With this amendment, the TJ outcomes would be broader. Cognisant of the fact that extending accountability into economically and politically sensitive territory can equally attract contestation during public consultation. As such, TJ actors need to take note of the fragmentation among conflict-affected communities across the country. For the Rtd, the most significant feature of the draft Commission proclamation is its definition of gross human rights violations. Alongside acts such as genocide, war crimes, and crimes against humanity, sexual and gender-based violence, extrajudicial killing, and enforced disappearances, the definition extends to gross social and economic crimes. These include grand corruption, abuse of power, and the embezzlement of public resources, when these are connected to the other violations. This recognises that the deprivation of resources can itself be a mechanism of violence. It also aligns with the African Charter,[100]under which peoples' wealth and natural resources must be exercised in the exclusive interest of the people, and under which the African Commission has treated the plunder of resources and the neglect of the affected population as violations in their own right.[101]

Another development during this research is the decision to narrow the mandate of the proposed Legal and Institutional Reform Commission to vetting. This raises concerns about the scope of institutional reform as the fourth pillar of Ethiopia's TJ process and one of the most direct links to RtD. While the proposed mandate focuses on justice, security, defence, and media institutions, vetting should also consider institutions whose decisions directly affect socio-economic rights. This would help address institutional practices that may contribute to displacement, unequal access to resources, and exclusion from economic opportunities. A broader approach would recognise that institutional reform is not

100 Art 21 African Charter.

101 African Charter on Human and Peoples' Rights, art 21(1); *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights v Nigeria*, Communication 155/96, African Commission on Human and Peoples' Rights (2001)

merely about administrative efficiency but also about accountability, inclusive decision-making, and the equitable governance of public resources. This is consistent with De Greiff's and Duthie's understanding of development as encompassing governance capacity rather than economic growth alone but also encompassing governance capacity.[102] The proposed Strategy for Participation and Inclusion of Victims and Vulnerable Community Groups deserves particular emphasis. It is expected to establish a clear framework for ensuring meaningful, inclusive, and sustained participation throughout Ethiopia's TJ process.

Ethiopia's TJ process ultimately depends not on any single institution, but on the coordinated engagement of a differentiated set of state and non-state actors, each contributing distinct and complementary functions. The Ministry of Justice and other state institutions, civil society organizations, the Ethiopian Human Rights Institution, and, above all, the people affected by past violations, particularly victims, are central to translating the TJ Policy and Implementation Roadmap into legislation and functioning institutions, while the judiciary, prosecution, and justice-sector bodies discussed are essential to accountability and due process. Given the TJ is a long-term process that will unfold over years, the care taken in establishing its legal, institutional, and participatory foundations will be critical in shaping its future credibility, effectiveness, and sustainability.

Generally, the TJ policy has the potential to advance peace building by combining retributive and restorative justice. However, much work needs to be done to overcome concerns such as political capture, contested legitimacy and continuing violence in parts of the country.[103] It can thus be said that Ethiopia's framework is well designed in principle. However, as to whether its design translates into practice in a way that reaches victims, redistributes resources and institutional reforms, is still in question.

102 P de Greiff & R Duthie *Transitional justice and development: Making connections* (2009).

103 YH Getahun 'The transitional justice policy of Ethiopia and its relevance for peacebuilding' (2025) 25 *African Journal on Conflict Resolution* 60-83; BD Debaba 'Does Ethiopia have a workable transitional justice framework? Appraisal of the challenges of sustainable peacebuilding' (2025) 9 *Hawassa University Journal of Law* 153-188.

The central challenge, therefore, is whether the TJ policy can be followed by the enactment of the necessary legislation as the foundation for effective remedies.[104] Currently, Ethiopia's TJ process was paused for approximately a year pending the conclusion of the National Dialogue. The Dialogue subsequently addressed TJ among its agenda issues, with the Commission expected to provide recommendations to the government. It is expected that the government will consider these recommendations and work with relevant institutions to translate them into reforms. Generally, there has been a renewed political impetus for the continuation of TJ, while reinforcing the complementarity between the two processes. Importantly, the National Dialogue did not create the TJ process, which is grounded in Ethiopia's 2024 TJ Policy and related legislative preparations; rather, its recommendations can inform and strengthen implementation.

4.3 Transformative capacity of Ethiopia's transitional frameworks

The transformative capacity of Ethiopia's TJ framework to address RtD-related issues depends ultimately on whether its mechanisms reach the socio-economic and institutional drivers of conflict. Institutional independence is equally important to prevent selective justice or political capture. This requires transparent appointments, adequate resources, professional expertise, victim participation and effective accountability. Finally, TJ should inform but not be absorbed into development planning. There should be connections across reparations programmes, institutional reform, non-recurrence, reconstruction, budgeting, land, social protection, education, health and livelihoods.[105] Without this integration, justice may restore formal rights without addressing material inequalities, while development may rebuild infrastructure without confronting the inequalities and institutional failures underlying conflict.

A transformative approach to Ethiopia's TJ must extend beyond legal remedies to include psychosocial support, meaningful participation and coordinated implementation. Advocacy for integrating mental

104 TS Metekia 'Implementing transitional justice in Ethiopia with international standards: From policy to practice' Policy Brief Konrad Adenauer Stiftung (2024) 1-20.

105 See, eg, Bello & Gbede (n 39). A combination of legal, financial, institutional and cultural measures is necessary to achieve socio-economic restoration.

health and psychosocial support needs to recognise that survivors may require psychological, social and economic assistance. These need to be implemented alongside legal recognition and reparations. Following the National Dialogue, TJ and dialogue should remain institutionally distinct but strategically coordinated through complementarity without subordination and sequencing without indefinite postponement.

Ultimately, success will not depend on the policy's comprehensiveness on paper, but on whether accountability, truth, reparations, reconciliation and institutional reform improve victims' lived conditions. Beyond the individual victims, there should be additional focus on collective rights of conflict-affected communities, akin to the RtD model. The successful implementation of the policy equally requires independent institutions, participation, credible remedies, psychosocial support and links to public resources. Ethiopia, therefore, demonstrates that the relationship between TJ and the RtD is not linear or automatic; rather, justice mechanisms can restore rights and capabilities and strengthen the social and institutional foundations of sustainable peace and the rule of law. The implementation of the TJ frameworks needs to equally follow the AUTJP's guidance on 'redistributive (socio-economic)' to address structural inequalities, marginalisation while achieving equitable and inclusive development.[106]

We propose a holistic model for Ethiopian TJ, based on six pathways moving beyond justice to development, each running from a specific mechanism to a specific development outcome. The first pathway runs through accountability and institutional legitimacy. Accountability challenges impunity and strengthens the principle that state and non-state actors alike are subject to law; where it is credible and impartial, it strengthens public trust and institutional legitimacy in turn. This pathway can be traced as a chain running from accountability to the rule of law, from the rule of law to institutional trust, and from institutional trust to the broader conditions that make development possible.

The second pathway runs through truth seeking and recognition. Truth seeking gives victims and marginalised communities an opportunity to establish their experiences within the public record. The recognition this produces contributes to dignity, inclusion and

106 See AUTJP paras 67-70.

social cohesion. Here, the chain runs from truth to recognition, from recognition to inclusion, from inclusion to social cohesion, and from social cohesion to participation in development.

The third pathway concerns reparations and capabilities. Reparations restore rights and capabilities through compensation, rehabilitation, education, health care, livelihood support and community-based measures. A chain can be traced from reparation to restoration, from restoration to capabilities, from capabilities to socio-economic participation, and from that participation to development itself.

The fourth pathway concerns reconciliation and social capital. Reconciliation helps repair relationships between communities and between citizens and institutions – a form of social trust that matters most precisely where conflict has fragmented social relations. The chain here runs from reconciliation to social trust, from social trust to cooperation, from cooperation to collective action, and from collective action to sustainable development.

The fifth pathway concerns institutional reform and non-recurrence. Institutional reform addresses the structures that enabled abuse and reduces the likelihood that such abuse will recur. It produces a chain that runs from institutional reform to accountability, from accountability to non-recurrence, from non-recurrence to predictable governance, and from predictable governance to sustainable development.

The sixth and final pathway concerns participation and local ownership. Participation ensures that victims and communities can influence the processes affecting their lives.[107] It traces a chain from participation to agency, from agency to ownership, from ownership to accountability, and from accountability to rights-based development. These six pathways reinforce one another, and each can fail independently of the other. Reparations without participation may fail to reflect victims' priorities. Accountability without institutional reform may punish individual perpetrators without changing the conditions that enabled abuse in the first place. Equally, development pursued without recognition and redistribution may simply reproduce the historical inequalities TJ is meant to address. The transformative model this chapter

107 See also ST Fomekong 'Framing reparations for historical injustices: The normative and strategic potential of the African Union Transitional Justice Policy' (2025) 9 *African Human Rights Yearbook* 290.

proposes, therefore, requires these mechanisms to operate together, not in isolation.

5 Concluding remarks

This chapter has explored how the RtD links with TJ in two ways. First, it has shown that effective implementation of TJ aspects, such as reparations, can link directly with substantive elements of the RtD such as participation, consultation and non-discrimination, among others. Second, it has been argued that TJ mechanisms must expand beyond rectifying individual human rights violations and include collective aspects. The AUTJP provides an important normative potential for making these connections. Its effective implementation can therefore contribute not only to accountability for the past violations, but also to the broader objectives of inclusive and sustainable development reflected in Agenda 2063. Even where TJ policies have yet to acquire full domestic legal force, the relationship between justice and development warrants greater attention in scholarship and policy making.

The experiences of Uganda and Ethiopia demonstrate both the potential and limitations of this approach. In both contexts, historical grievances, armed conflict, displacement,[108] socio-economic inequities and contested accountability processes have shaped the TJ trajectory. These experiences show that accountability can produce restorative and institutional effects beyond individual punishments. Transformative reparations may include equitable access to land and natural resources, the restoration of livelihoods and community infrastructure. Additionally, healthcare and education services and the rehabilitation of institutions whose discriminatory practices contributed to historical marginalisation. In this way, reparation becomes a practical mechanism for translating the RtD into substantive entitlements. At the same time, judicial mechanisms alone cannot generate transformative outcomes where reparations, participation, institutional reform, local ownership

108 Recalling that forced displacement itself is considered as a development challenge that requires inclusive, participatory and development-oriented approaches, see C Cazabat & A Tadaa 'Investing in development responses to forced displacement in Africa' 3, https://www.afdb.org/en/documents/investing-development-responses-forced-displacement-africa (accessed 10 October 2026).

and socio-economic recovery remain disconnected from development policies, laws and resource allocation.

Against this background, the chapter proposes a holistic model of TJ and the RtD built around six interconnected pathways: accountability and institutional legitimacy; truth seeking and recognition; reparations and capabilities; reconciliation and social capital; institutional reform and non-recurrence; and participation and local ownership. These pathways are not strictly sequential or self-executing. Rather, they reinforce one another: Accountability can strengthen the rule of law and institutional trust; truth can promote recognition and inclusion; reparations can restore capabilities; reconciliation can rebuild social trust; institutional reform can support non-recurrence and predictable governance; and participation can strengthen agency, ownership and accountability.

TJ's transformative potential, therefore, lies not in adding development concerns as a separate component, but in connecting these pathways to national governance, development planning, budgeting and resource allocation. Reparations without participation, accountability without institutional reform, or development without recognition and equitable distribution may leave the structural conditions underlying conflict insufficiently addressed. A holistic approach requires meaningful participation, independent institutions, equitable access to resources, victim-centred measures, and local ownership to operate alongside accountability and other TJ mechanisms.

Ultimately, integrating the RtD perspective into TJ and national governance frameworks can help situate transitional justice within a broader project of social, institutional and socio-economic transformation. Further comparative research across African contexts is needed to examine when and under what institutional conditions TJ can contribute to more inclusive, equitable and sustainable development.

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