POLICY BRIEF
AFRICAN TRANSITIONAL JUSTICE
AND INTERNATIONAL NORMS
A DYNAMIC RELATIONSHIP
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Authored by Niké Wentholt

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Introduction

Transitional justice (TJ) presents a balancing act between a country’s attempt to find local solutions to conflict and pressure to adopt emerging regional and international best practice norms. Some countries have been criticised for ignoring their international human rights responsibilities while others have been faulted for adopting inappropriate foreign templates. TJ is defined by the United Nations (UN) as ‘the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation’.\(^1\)

In a complex interaction with citizens, civil society and external actors, African states have often come up with innovative TJ approaches. These have transformed the field of TJ on the continent and beyond. The imposition of norms by donors and multilateral organisations has also evoked resistance. The rejection by some African states of the International Criminal Court (ICC) is just one example of this. The dynamic relationship between local innovations and compliance with international norms is a contested terrain. Without a clear perspective on these issues, there is a real danger that policy makers will stifle the development of appropriate solutions on the one hand, and ignore key new principles on the other.

Eleven international TJ norms\(^2\) were identified and analysed to investigate the ways that the international normative TJ framework has influenced and been influenced by African states’ TJ choices:

1. States have the responsibility to uncover the truth about the human rights violations.
2. Truth about the human rights violations will foster reconciliation.
3. Impunity and amnesty for international crimes is unacceptable.
4. TJ process must address sexual- and gender-based violence (SGBV).
5. TJ needs to enhance rule of law and human rights in the post-conflict society.
6. States have an obligation to provide reparations as part of TJ.\(^3\)
7. TJ process requires involvement of civil society organisations (CSOs) and the public.
8. TJ needs to be context-specific and responsive to local communities’ needs.
10. TJ requires a holistic approach with complementary mechanisms.
11. TJ must address socio-economic crimes and contribute to socio-economic justice.

After violence, states face unique sets of circumstances and their decisions are never simply a process of giving effect to international norms.\(^4\) This policy brief specifically assesses the extent to which African states have adopted international TJ norms. It aims to provide a better understanding of the competing norms that shape TJ by exploring one factor within this multidirectional process.

Insight into patterns of norm adoption and resistance can help local policy makers, practitioners and activists to mobilise appropriate international TJ norms to achieve more sustainable peace and transformation. Knowledge of African domestic interaction with international norms can also encourage external donors and multilateral organisations to recognise and act upon the way African practices have enriched international TJ and creatively used these norms in challenging settings.
Our findings suggest that while Africa presents a very mixed picture of norm engagement, the influence of these international norms are becoming increasingly apparent. At the same time, African stakeholders are also key players in developing new norms that are now being recognised as defining global TJ practice.

Methodology

Each of the international norms was identified through literature study and analysis of primary source material from pre-selected multilateral organisations and international CSOs. Each country’s norm adoption was assessed and classified in one of three categories: adopted, partially adopted, or not adopted. The appendix provides an overview of the indicators used to judge the different levels of norm adoption.

To explore the different patterns and forms of norms engagement, this policy brief draws on empirical evidence from twelve African case studies that instigated state-led TJ processes between 1990 and 2011. These cases are: Algeria, Central African Republic (CAR), Democratic Republic of Congo (DRC), Ethiopia, Kenya, Liberia, Morocco, Mozambique, Nigeria, Rwanda, South Africa, and Tunisia.

Adoption of International TJ Norms among 12 African Countries

Below, each norm is reviewed in terms of the degree of adoption. Key trends among the cases are discussed.

<table>
<thead>
<tr>
<th>Norm 1. States have the responsibility to uncover the truth about the human rights violations</th>
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<tbody>
<tr>
<td><strong>Adopted – 42%</strong></td>
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<tr>
<td>• Kenya</td>
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<td>• Liberia</td>
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<td>• Morocco</td>
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<td>• South Africa</td>
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<td>• Tunisia</td>
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| **Not adopted – 25%** |
| • CAR |
| • Ethiopia |
| • Mozambique |

| **Partially adopted – 33%** |
| • Algeria |
| • DRC |
| • Rwanda |
| • Nigeria |

Truth is often framed as a form of justice in itself and thus as a central component of TJ. Many of the cases shared this position: nine out of twelve states adopted this norm to some extent. Further suggesting the popularity of the norm on the African continent, opposition and CSOs in non-adoption cases Mozambique and CAR unsuccessfully called for a truth commission. In the other case of non-adoption, the Ethiopian state showed some sensitivity to the need for truth-seeking by giving the Special Prosecutor’s Office a dual mandate that included establishing a historical record ‘to educate the people’.
In addition to truth being seen as a right on its own, truth is increasingly seen as a prerequisite for societal healing. This understanding gained momentum and strength through the authoritative South African Truth and Reconciliation Commission (TRC). Many African states cited this TRC as model for their own endeavours. For instance, the Nigerian President at the inauguration of the commission popularly known as the Oputa Panel confirmed the state’s determination ‘to heal the wounds of the past... for complete reconciliation based on truth and knowledge’. The legitimacy of this norm was sometimes even higher amongst African states than amongst the international community. In Liberia, for example, ECOWAS, AU and other regional actors favoured the establishment of a TRC, while the US and UN preferred a war crimes tribunal to secure peace and stability.

Amnesty is a highly contested topic. On one hand, it has been argued to be a necessary trade-off to secure peace between warring factions. On the other hand, it has been criticised as promoting impunity because perpetrators have not been held accountable for their crimes. The high level of partial adoption shows that many African states still positioned themselves in the middle. States were reluctant to allow full-fledged criminal justice in case they were implicated, but could also not fully discard the international and societal call for criminal accountability. Countries that did not adopt the norm used a discourse of ‘moving on’ to justify amnesty laws and the limited form, or even lack, of prosecutions. Like many other states worldwide, they framed justice as an impediment to peace. The Algerian state, for example, created an official hegemonic narrative of the conflict and framed amnesty as a prerequisite of reconciliation.
Norm 4. TJ process must address SGBV

- Adopted – 34%
  - DRC
  - Liberia
  - Rwanda
  - Tunisia

- Not adopted – 33%
  - Ethiopia
  - Mozambique
  - Nigeria
  - South Africa

- Partially adopted – 33%
  - Algeria
  - CAR
  - Kenya
  - Morocco

SGBV has received increasing attention in the last few decades. The dispersed adoption pattern points at the norm's increasing prevalence, but also the difficulty to translate promise into practice. While SGBV was often included in TJ mandates, states proved their disinterest in the topic when failing to implement justice for its victims. This was the case in CAR and Algeria. In Morocco, women's groups, incensed by the absence of gendered engagement in the state’s TJ’s approach, pressured the state to integrate it while also pursuing these concerns outside the formal state TJ mechanisms. The international salience of this norm has helped CSOs, although it often did not prove sufficient to force reticent states to pay attention to SGBV.

Norm 5. TJ needs to enhance rule of law and human rights in the post-conflict society

- Adopted – 59%
  - Ethiopia
  - Kenya
  - Morocco
  - Nigeria
  - Rwanda
  - South Africa
  - Tunisia

- Not adopted – 8%
  - Mozambique

- Partially adopted – 33%
  - Algeria
  - CAR
  - DRC
  - Liberia

The growth of TJ has seen it becoming tied to or integrated with other related fields, particularly human rights and rule of law. The high adoption level shows that many African states aimed (or, at least, claimed) to embed TJ in this broader reform package. In Tunisia, for example, the TJ law from 2013 ‘stipulated institutions that protect human rights’. This engagement on paper did not always equal compliance. In Ethiopia, it has been argued that the government mainly implemented a strong human rights framework as part of its TJ process to ‘please the international diplomatic world and the donor community’. 13
Norm 6. States have an obligation to provide reparations as part of TJ

- **Adopted – 17%**
  - Kenya
  - Morocco

- **Not adopted – 25%**
  - CAR
  - Ethiopia
  - Liberia

- **Partially adopted – 58%**
  - Algeria
  - DRC
  - Mozambique
  - Nigeria
  - Rwanda
  - South Africa
  - Tunisia

The growing international commitment to reparations and compensation as part of TJ reflects the increasing attention for victim-centred TJ. The need for reparations is often acknowledged by African states, but many fail to recognise reparations as a right. In their design and implementation, reparation programmes are subject to the post-conflict, transitional political divisions. The high number of countries in the ‘partial adoption’ category speaks to this tendency of states to favour selected victim groups. It also speaks to the reluctance of the state to commit resources in the context of dire post-conflict financial and economic situations.

Norm 7. TJ process requires involvement of CSOs and the public

- **Adopted – 17%**
  - Morocco
  - Tunisia

- **Not adopted – 42%**
  - Algeria
  - Ethiopia
  - Mozambique
  - Nigeria
  - Rwanda

- **Partially adopted – 41%**
  - CAR
  - DRC
  - Kenya
  - Liberia
  - South Africa

TJ policy makers, scholars and practitioners have generally recognised the limitations of a top-down, ‘one-fits-all’ approach. Instead, involvement of CSOs and the public is considered necessary for a responsive TJ process. While African states are generally eager to depict their TJ process as such, the high level of non-adoptions shows that actual CSO and public involvement in TJ is still not a given. Moreover, the cases of partial adoption Kenya, Liberia and South Africa illustrate how the potential strength of CSOs in TJ processes can, paradoxically, scare states into curbing their involvement. In these countries, CSOs were active in discussing and designing the TJ process, but met increasing hostility from the state as the process unfolded. Confirming the limited pervasiveness of this norm, the ‘success’ of Morocco and Tunisia is relative: CSOs were far from content with the role prescribed for them.
Norm 8. TJ needs to be context-specific and responsive to local communities’ needs

- **Adopted – 42%**
  - Liberia
  - Morocco
  - Mozambique
  - Rwanda
  - Tunisia

- **Not adopted – 33%**
  - Algeria
  - CAR
  - DRC
  - Nigeria

- **Partially adopted – 25%**
  - Ethiopia
  - Kenya
  - South Africa

The ‘grassroots’ and local level is now an inherent component of international thinking about TJ. The African continent is often viewed as shaping this norm. There is, however, also a risk of fetishizing African TJ experiences and feeding into the post-colonial discourses of the supposed wisdom of ‘traditional’ rituals and ceremonies. Rwanda’s gacaca trials, for example, are often celebrated as a manifestation of this grassroots approach. While these courts indeed largely drew on local practice, they were substantially redefined to meet the state’s objectives. The international community had also directly advocated for the adoption of this practice.14

More than half of the states did not adopt or only partially adopted this norm. This speaks to the gap between international perceptions and the African reality. TJ processes on the continent largely remained centralised and formal. It is important, however, to always contextualise definitions of ‘formal’ and ‘Western’ TJ mechanisms. In Ethiopia, for example, courts were historically very rooted in Ethiopian society. The states’ commitment to prosecutions is thus not necessarily a ‘Western’ or untraditional TJ choice.15

Norm 9. Victim-centred TJ needs restorative justice

- **Adopted – 50%**
  - Kenya
  - Liberia
  - Morocco
  - Rwanda
  - South Africa
  - Tunisia

- **Not adopted – 17%**
  - Algeria
  - DRC

- **Partially adopted – 33%**
  - CAR
  - Ethiopia
  - Mozambique
  - Nigeria

States were keen on claiming responsiveness to locally informed victim-centred restorative justice principles. Although, these principled commitments were often manipulated or under-implemented in
practice. Rwanda’s gacaca trials were promoted both nationally and internationally as an embodiment of restorative justice. On the contrary, some scholars argue that these trials were characterised more by retributive than restorative practices. Other countries made provisions for victim-perpetrator dialogues, but ultimately provided limited opportunities for this to become a reality. Hence, the high adoption level of this norm does not necessarily reflect a victim-responsive TJ process. Exclusive, biased definitions of victims further limit the reach of restorative justice. In the partial adoption case of Mozambique, for example, 4 October was made into the Day of Peace and National Reconciliation, but the state controlled the narrative and gave limited opportunities for victims to shape these occasions, particularly those who had been victimised by the state.

**Norm 10. TJ requires a holistic approach with complementary mechanisms**

- **Adopted – 33%**
  - Kenya
  - Morocco
  - South Africa
  - Tunisia

- **Not adopted – 25%**
  - Algeria
  - Ethiopia
  - Mozambique

- **Partially adopted – 42%**
  - CAR
  - DRC
  - Liberia
  - Nigeria
  - Rwanda

All TJ mechanisms have circumscribed mandates and powers. Building upon decades of ‘lessons learned’, there is now general agreement that no single TJ mechanism can deal in full with the complexity of a post-conflict situation. Instead, TJ requires a package of mechanisms. Most states employed several forms of TJ. In a case like Kenya, the TJ process included a truth commission, prosecutions, relevant institutional reform, vetting and the allocation of funds for restorative justice, apologies and reparations. The TJ process is one that involves revisiting issues and introducing new mechanisms as unresolved concerns are recognised.
Norm 11. TJ must address socio-economic crimes and contribute to socio-economic justice

- Adopted – 58%
  - DRC
  - Kenya
  - Liberia
  - Morocco
  - Nigeria
  - Rwanda
  - Tunisia

- Not adopted – 42%
  - Algeria
  - CAR
  - Ethiopia
  - Mozambique
  - South Africa

- Partially adopted – 0%

TJ processes often prioritise political and civic rights, but there has been a strong push to expand its scope to include socio-economic rights and structural injustices. The high adoption amongst African countries is thus remarkable, but also not surprising given the clear link between conflict and economic marginalisation on the continent. Special Military Tribunals in Nigeria, for example, incorporated charges of 'economic sabotage' and corruption. Kenya’s Truth, Justice and Reconciliation Act linked socio-economic rights to corruption as well as exploitation of natural and public resources and the socio-economic marginalisation of communities.

Emerging Trends

The findings suggest a varying level of norm adoption by states across the African continent.17

Six international TJ norms were mostly adopted:

1. States have the responsibility to uncover the truth about the human rights violations.
2. Truth about the human rights violations will foster reconciliation.
5. TJ needs to enhance rule of law and human rights in the post-conflict society.
8. TJ needs to be context-specific and responsive to local communities’ needs.
11. TJ must address socio-economic crimes and contribute to socio-economic justice.

Three norms were mostly only partially adopted:

3. Impunity and amnesty for international crimes is unacceptable.
6. States have an obligation to provide reparations as part of TJ.
10. TJ requires a holistic approach with complementary mechanisms.
Two norms were mostly not adopted or equally dispersed:

4. TJ process must address SGBV.
7. TJ process requires involvement of CSOs and the public.

These findings merit two observations. Firstly, African states’ TJ choices to a significant extent follow international practice - as well as inform it. Norms 2, 8, 9 and 11 – which were mostly adopted – developed, in part, as lessons from the African continent. They were sometimes even adopted locally prior to their international prominence. The increased emphasis on ‘local solutions’ over international TJ mechanisms, therefore, does not necessarily contradict the adoption of international norms. African practices have fed into the international normative TJ framework.

Secondly, there is still great variety in the degree of adoption and the choice of which norms to adopt among the countries. This perhaps showcases the influence of domestic demand and circumstances in shaping state choices, rather than a simple prioritised list of norms being pressed upon countries by international actors.

These two observations together speak to the dynamic interaction between local and international context in the construction and adoption of international TJ norms. This is not a one-directional process of innovation or passive acceptance. Local and international actors, norm entrepreneurs and norm enforcers are not mutually exclusive categories and engage in various relationships of influence.

To understand this dynamic, it is helpful to realise that international thinking about TJ has developed over time on the basis of ‘lessons learned’ from around the globe, including the African continent. The table below gives a rough chronological overview of norm adoption in relation to date of transition in the various states. There appears to be a general trend of increasing norm adoption over the time span covered in the study. This is in line with the observation that African experiences fed into the international normative TJ framework, allowing African states in later years to more smoothly navigate international demands and local needs. The increasing norm adoption probably also reflects a more robust accountability to these norms over the years.

The increased emphasis on ‘local solutions’ over international TJ mechanisms, does not necessarily contradict the adoption of international norms.
### Table 3 Chronological table of norm adoption per country

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<tr>
<th>Norm Country</th>
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<td>Mozambique – 1992</td>
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<td>Ethiopia –1992</td>
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<td>South Africa – 1994</td>
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<td>Rwanda – 1996</td>
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<td>Nigeria – 1998</td>
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<td>Algeria – 1999</td>
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<td>DRC – 2002</td>
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<td>CAR-2003</td>
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<td>Liberia – 2003/4</td>
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<td>Morocco -2004</td>
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<td>Kenya – 2008</td>
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<td>Tunisia -2011</td>
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[Black = adopted, Grey = partially adopted, White = not adopted]

Future research should unpack the dynamics, opportunities and dangers that are flagged by these findings:

- The chronology of norm development and adoption deserves more careful attention. The results in the above table suggest some interesting trends and patterns. Careful consideration needs to be paid to the chronology of domestic norm adoption versus the development of international TJ norms in order to better understand the direction of this influence (local versus international).
- A possible correlation exists between states’ norm adoption and the extent of involvement of the international community, including powerful donors and trading partners.¹⁹
- In many of the cases, CSOs appear to have a strong influence on states' TJ choices. More insight is needed into whether and how CSOs have drawn on international norms to fight for particular outcomes.
Conclusion and recommendations

The findings are encouraging for those advocating for more context-driven TJ in African settings, particularly processes that respond to local peacebuilding challenges, promote the rights of victims and other marginalised groups. It also holds important lessons for those seeking to build a more responsive and enforceable international normative framework for TJ:

1 African countries co-created and will continue to co-create international TJ norms.
   • Local stakeholders, whether or not in international and regional partnerships, can seek creative and innovative solutions outside the conventional ‘TJ package’. They can also play a critical role in stimulating states to do so.

2 States are receptive to international norms, particularly ones that have been informed by continental practice.
   • Local actors can remind states of these norms when pushing for the desired change, particularly as these norms become more clearly spelled out and are adopted by states and regional bodies on the continent.

3 Norm adoption happens in clusters.
   • As states seek to demonstrate responsiveness to regional and international norms more generally, local actors can build on this momentum to build state commitment to difficult TJ norms.

4 Inclusion of CSOs, victims and local communities is itself an increasingly authoritative international norm.
   • These local constituencies can demand their seats at the table to push for a more victim-centred, inclusive and transformative TJ process.

Together, these recommendations also present opportunities for international actors, donors and regional networks to mobilise more effectively through a creative engagement with TJ norms to address both local policies and initiatives, as well as to strengthen the legitimacy and enforceability of international norms.

• TJ norms are a moving target that is the subject of intense political controversy both within countries and on the international stage. It is however an avenue of engagement that shows promise due to the popularity of its principles across the political spectrum.

• An increased acknowledgement of TJ as a field that is shaped by local practice, and by community and victim demands, rather than Western norms has been key to its legitimacy in African political debates.

• Local actors are active in shaping the meaning of the norms in different contexts while also contributing to emergent global norms. The significance of their work needs to be understood beyond the confines of their national policy engagement.
About the Centre for the Study of Violence and Reconciliation

CSVR is an independent non-governmental organisation established in South Africa in 1989. We are a multi-disciplinary institute that seeks to understand and prevent violence, heal its effects and build sustainable peace at community, national, and regional levels. We do this through collaborating with, and learning from, the lived and diverse experiences of communities affected by violence and conflict. Through our research, interventions, and advocacy we seek to enhance State accountability, promote gender equality, and build social cohesion, integration, and active citizenship. While primarily based in South Africa, we work across the African continent through collaborations with community, civil society, State, and international partners.

Additional Resources: Comparative Transitional Justice Study in Africa

This publication is one of the outputs of the Comparative Transitional Justice Study in Africa. The study presents a comparative analysis of 13* country case studies in Africa where transitional justice mechanisms have been implemented. Mapping the range of processes in this field, the study pays particular attention to transitional justice mechanisms employed between 1990 and 2011 to deepen understandings of how these processes were developed, and the role of their respective contributions to the prevention or recurrence of war and repression. Specifically, the study examines the factors that shaped State policy decisions in framing the diverse set of responses to dealing with legacies of dictatorship, civil war, and mass human rights abuses, and assesses the consequences of these decisions for achieving sustainable peace and preventing future human rights abuses.

* included CAR and did not differentiate between Nigeria 1+2 and DRC1+2
## Appendix 1: Categorisation of Norm Adoption

The below table lists the eleven international TJ norms. Each TJ norm is followed by one or more indicators that guided the assessment of domestic norm adoption. Definitions of three levels of norm adoption (adopted, partially adopted and not adopted) are given.

<table>
<thead>
<tr>
<th>Norm</th>
<th>Indicator(s)</th>
<th>Levels of norm adoption</th>
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</thead>
<tbody>
<tr>
<td><strong>1. States have the responsibility to uncover the truth about the human rights violations</strong></td>
<td>1. Existence of truth-seeking or investigating commissions (of inquiry)</td>
<td><strong>Adopted:</strong> Commissions (or other fact-seeking efforts) mandated and allowed to focus on full conflict</td>
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<td></td>
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<td><strong>Partially adopted:</strong> Commissions (or other fact-seeking efforts) mandated to focus on limited time period or one side conflict AND/OR</td>
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<td>Mandate is inclusive but their work is impeded by the state</td>
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<td><strong>Not adopted:</strong> No commissions (or other fact-seeking efforts) AND/OR</td>
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<td>Their mandate and work is very restricted</td>
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<td><strong>2. Truth about the human rights violations will foster reconciliation</strong></td>
<td>1. Mandate truth-seeking or investigating commissions (of inquiry) 2. State justification for reconciliation</td>
<td><strong>Adopted:</strong> Truth and Reconciliation both in name truth commission (and/or based on South African example) AND/OR</td>
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<td>States connect reconciliation connected to truth through mandate truth commission or otherwise</td>
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<td><strong>Partially adopted:</strong> Reconciliation connected to truth as well as criminal justice</td>
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<td><strong>Not adopted:</strong> States claim reconciliation without truth-seeking effort</td>
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<td><strong>3. Impunity and amnesty for international crimes is unacceptable</strong></td>
<td>1. Existence of amnesty laws or decrees 2. Execution of criminal prosecution</td>
<td><strong>Adopted:</strong> Establishment domestic court/tribunal that target full conflict (not impeded by amnesties) AND/OR</td>
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<td>Uninterrupted cooperation with the ICC</td>
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<td><strong>Partially adopted:</strong> Adoption partial amnesty law but also limited criminal justice AND/OR</td>
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<td></td>
<td>Mandate domestic court/tribunal limited and/or cooperation with ICC limited leading to de facto amnesty</td>
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<td><strong>Not adopted:</strong> No criminal justice AND/OR</td>
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<td>Full amnesty law or decree adopted</td>
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<td><strong>4. TJ process must address sexual- and</strong></td>
<td>1. Inclusion SGBV in criminal prosecutions 2. Inclusion SGBV in mandate TJ mechanisms</td>
<td><strong>Adopted:</strong> domestic criminal justice mechanisms issue verdicts explicitly on SGBV crimes AND/OR</td>
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<td>TJ mechanisms explicitly include SGBV in mandate and work accordingly</td>
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<td><strong>Partially adopted:</strong> Domestic criminal justice mechanisms adopt limited understanding SGBV crimes AND/OR</td>
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<td>TJ mechanisms include limited understanding SGBV or this focus is impeded by state</td>
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<td></td>
<td><strong>Not adopted:</strong> SGBV not recognised as focus criminal prosecutions or TJ mechanisms</td>
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<tr>
<td>Norm</td>
<td>Indicator(s)</td>
<td>Levels of norm adoption</td>
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| 5. TJ needs to enhance rule of law and human rights in the post-conflict society | 1. Links between rule of law and human rights programs and TJ mechanisms 2. State justification for TJ choices | **Adopted:** Mandates include direct links to enhancement rule of law and/or human rights AND/OR State justifies choices TJ through direct references to rule of law and human rights  
**Partially adopted:** TJ process simultaneous with broader judicial reform or security sector reform, but state does not explicitly connect them  
**Not adopted:** TJ process is not accompanied by broader rule of law or human rights processes or claims |
| 6. States have an obligation to provide reparations as part of TJ | 1. Existence reparations or compensation programmes | **Adopted:** Reparation scheme addresses full conflict  
**Partially adopted:** Reparation scheme addresses one side or limited time frame of conflict AND/OR inclusive reparation scheme adopted, but state impedes implementation  
**Not adopted:** No reparation scheme adopted |
| 7. TJ process requires involvement of Civil Society Organisations (CSOs) and the public | 1. Involvement CSOs in TJ design and implementation 2. Existence public consultations | **Adopted:** State seeks or allows involvement victim groups and other CSOs AND/OR Organises public consultations in TJ process  
**Partially adopted:** State allows limited involvement CSOs and broader public or impedes aspects of their work  
**Not adopted:** State does not allow involvement CSOs and broader public or severely impedes their work |
| 8. TJ needs to be context-specific and responsive to local communities’ needs | 1. Regional diversification TJ process 2. Adoption local justice practices 3. Involvement local communities | **Adopted:** Regional consultations AND/OR Incorporation local justice practices AND/OR Local communities allowed involvement in TJ  
**Partially adopted:** existence regional consultations, local justice practices or involvement local communities, but not central part of TJ process  
**Not adopted:** TJ process is central and formal without seeking regional and local involvement and diversification |
| 9. Victim-centred TJ needs restorative justice | 1. Existence of restorative TJ mechanisms (incl memorialisation) 2. State claims on victim-centred justice | **Adopted:** Restorative and victim-centred justice presented as central element in TJ mandates or justification for TJ AND/OR Inclusive restorative TJ targets all victims  
**Partially adopted:** Restorative and victim-centred justice marginally present in TJ mandates or justification for TJ AND/OR Restorative TJ targets limited victim group(s)  
**Not adopted:** Restorative and victim-centred justice not present in TJ |
<table>
<thead>
<tr>
<th>Norm</th>
<th>Indicator(s)</th>
<th>Levels of norm adoption</th>
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<tr>
<td>10. TJ requires a holistic approach with complementary mechanisms</td>
<td>1. Extent of clustering TJ mechanisms in ten-year time frame&lt;sup&gt;30&lt;/sup&gt;</td>
<td>Adopted: TJ clusters consist of ≥ 4 categories of TJ</td>
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<td>Partially adopted: TJ clusters consist of 3 TJ categories</td>
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<td><strong>Not adopted:</strong> TJ clusters consist of 1-2 TJ categories</td>
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<td>11. TJ must address socio-economic crimes and contribute to socio-economic justice</td>
<td>1. Inclusion in mandate TJ mechanisms</td>
<td>Adopted: TJ mechanisms include socio-economic crimes in mandate and work accordingly AND/OR TJ process strives to contribute to socio-economic justice</td>
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<td>2. State claims on TJ’s contribution to socio-economic justice</td>
<td>Partially adopted: Socio-economic crimes and justice mentioned but limitedly addressed in implementation</td>
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<td></td>
<td></td>
<td><strong>Not adopted:</strong> Socio-economic crimes and justice not mentioned as part of TJ process</td>
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2. Norms and transitional justice are inherently messy notions. This will inevitably mean that this brief will generalise and unfortunately overstep significant nuances and contradictions already in the listing of TJ norms.

3. Here, reparation refers to monetary and/or material compensation and similar forms of redress. Restorative justice measures like memorialisation and apologies are considered under norm 9.

4. It is important to consider international transitional justice in a broader political framework to understand its level of contestation, especially on the African continent, in light of power asymmetries in the global governance system.

5. The focus was on published resolutions, statements and reports.

6. These organisations are: the United Nations (UN), African Union (AU), European Union (EU) and International Criminal Court (ICC).

7. These are: Human Rights Watch (HRW), Impunity Watch (IW), Amnesty International (AI), International Center for Transitional Justice (ICTJ).

8. The data used for this policy brief was extracted from the Centre for the Study of Violence and Reconciliation’s Comparative Transitional Justice Study in Africa. For more information and the detailed country case studies, please see https://www.csvr.org.za/african-transitional-justice-comparative-study.

9. In CAR: recommended by the 2003 National Dialogue; in Mozambique: urged by RENAMO.


12. DRC is a difficult case in this regard. The DRC did refer cases to the ICC but at the same time adopted and implemented an amnesty law.


17. The emphasis in this paper has solely been on the state level. The findings do therefore not necessarily reflect the success of the overall TJ process.

18. In cases of TJ processes stretching out over many years, the ‘starting point’ is the year when a state adopted the main TJ mechanism(s).

19. However, the findings suggest this relation is not unequivocal: in the case of Algeria for example, international partners steered away from TJ options that they feared could destabilisation a fragile political compromise and increase the potential for terrorism.

20. Here, TJ mechanisms were assessed on the basis of the six categories used in the overall research project: prosecutions, truth seeking processes, reparations/redress/restorative programmes, amnesties, vetting or lustration processes and institutional reform programme that seek to deal with those responsible for or affected by the conflict, or which seek to directly address the causes of these conflicts.