

Investigating the Legacies of Violence and Conflict in Transitional Justice and Peace

The Values of Law in Politics

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Abstract

Violations of law, human rights abuse, and socio-economic and political grievances are legacies of violence and conflict-affected politics. In recent times, the aggravation of violence and conflict has hindered political development and instigated socio-economic grievances. Transitional justice and peace deal with human rights abuses, violation of rights, violence, and other grievances in societies in transition. One of the main focuses of transitional justice discourse is to engage human rights law for political stability, accountability, and peace in changes, as developed in the strict law practice. This research is descriptive and relies on secondary data. Thus, transitional justice and the rule of law are considered a framework for analysis in violence and conflict-affected politics as intertwined to promote post-violence and conflict or socio-economic and political stability. Therefore, various political actors have engaged in promoting the rule of law and the promotion of peace through security sector reform. With the focus on transitional justice, various processes have been considered through the promotion of rule of law, security, and accountability in the Niger Delta and the northeast of Nigeria that have been ravaged by insurgency, terrorism, violence, and conflict, and these processes have been supported and developed by an increasing number of actors at the national and international levels. Therefore, this paper investigates the socio-economic and political legacies of violence and conflict in transitional justice and peace and examines the interaction of transitional justice and the values of the rule of law in dealing with political tensions as shown in the cases of Boko Haram and Niger Delta. This paper recommends that transitional justice and the rule of law contribute to peace and post-conflict recovery for socio-economic and political grievances resulting from violence and conflict.

Keywords: Transitional Justice; Violence and Conflict; Rule of Law; Socio-economic and Political Grievances

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Introduction

The focus of transitional justice specifically relates to situational contexts where the rule of law has been blatantly raped, where conflict has left a demeaning legacy, or human rights have been systematically violated. Transitional justice has, therefore, extended its influence beyond the acknowledgment and examination of the past by focusing on the victims of the rule of law and human rights violations. Recently, transitional justice's compass has examined how legacies of violence, conflict, and human rights violations are addressed and how this 'affects short-term peace processes and longer-term state-building and development processes' (World Bank Report, 2011). Why this current study relates and links transitional justice with restructuring and examination of the rule

of law, socio-political and economic matters, state accountability, and the use of human rights to rebuild relations between the state and society, the World Bank Report in 2011 did not make many attempts to reconstruct these relations. However, several advocates of transitional justice against human rights violations, abuse of the rule of law, and misappropriation of human rights have made moves for 'judicial accountability for human rights crimes as a matter of legal and moral principle and because they assume that impunity is more destabilising over the long term (Pilar, 2012).

The primary explanation for this is to consider victims of various violations and other parts of an affected population by demanding accountability and justice for acts of iniquity and atrocity. Beyond transitional justice advocates and human rights activists who have consistently called for peace, security, and justice, various developments in international law and jurisprudence which led to the establishment of the International Criminal Court and the emergence of a transnational network of human rights activists have not only evolved to support the demands for peace and justice in international politics but it has also prepared better grounds for peace, security, and justice across levels. Recognition of the need to investigate the legacies of violence and blatant human rights violations have motivated political factors to shape the plausibility of transitional justice and in practice, domestic and international human rights activists have been politically astute in their efforts to materialise the adoption of transitional justice as an opportunity to renew and obtain justice.

To achieve these objectives, international bodies like the United Nations (UN) made an enormous agitation for transitional justice through its Secretary-General. They presented a guideline which reads: Guidance Note on the United Nations Approach to Transitional Justice. One of its principles, especially principle nine calls on the United Nations for the need to "strive to ensure transitional justice processes and mechanisms take account of the root causes of conflict and repressive rule and address violations of all rights, including economic, social and cultural rights" (United Nations Report on Transitional Justice and Economic, Social and Cultural Rights, 2014). This principle is in total agreement with the position of this paper that recognition and firm establishment of transitional justice would deal substantially with the legacies of atrocity, violence, and conflict inflicted through abuse of the rule of law and violation of human including economic, social, and cultural rights. The Guidance Note of the United Nations further presses that a situation or an approach like this is indispensable for peace and justice to prevail, as values of law in our political practices. Therefore, the Guidance Note emphasises that 'transitional justice must have the ambition to assist the transformation of oppressed societies into free ones by addressing the injustices of the past through measures that will procure an equitable future. It must reach to, but also beyond, the crimes and abuses committed during the conflict that led to the transition, and it must address the human rights violations that predated the conflict and caused or contributed to it' (Arbour, 2007, p. 59).

The emphasis is that transitional justice is a way of dealing with the failure of the past on economic, social, and cultural rights and abuse of the rule of law and violations of these rights which have led to violence and conflict and reassurance of peace and justice. And since the actions or omissions by States and non-state actors during the violations of human rights and economic, social, and cultural rights often lead to violence and conflict, transitional processes can be used as a transformational tool to release societies from widespread legacies of violations of economic, social and cultural rights which are the root causes of violence and conflict. For this purpose, the paper aims at examining transitional justice and the rule of law as the framework through which the promotion of economic, social, cultural rights, security, and accountability can be achieved, as it would be demonstrated through various processes of transitional justice in Niger Delta and northeast of Nigeria where insurgency, terrorism, violence, and conflict are always on the increase. Therefore, this paper investigates the socio-economic and political legacies of violence and conflict in transitional justice

and peace and examines the interaction of transitional justice and the values of the rule of law in obscuring political tensions.

The Concept of Transitional Justice

Implications of past violence and conflict on humans and economic prosperity have pronounced the widespread use of transitional justice as a global concept through which various past atrocities and legacies of violations are checked and addressed. The emergence of the term was prevalent in the early 1990s. According to Buckley-Zistel et al. (2010), the term has since come to be “an ever-expanding range of mechanisms and institutions, including tribunals, truth commissions, memorial projects, reparations and the like to redress past wrongs, vindicate the dignity of victims and provide justice in times of transition”. Transitional justice can, therefore, be defined, as the “effort to respond to the needs of societies emerging from conflict or political violence” (Robins, 2012, p. 21). Also, transitional justice is seen as “the range of processes and mechanisms that are utilised to enable war-affected or post-authoritarian societies to make a transition to a more democratic and peaceful dispensation” (Selim and Murithi, 2011, p. 59).

These definitions have shown that transitional justice has set measures and parameters as designs for implementing actions to redress the legacies of abundant human rights abuses and violations of the rule of law during violence and conflict in authoritarian regimes. The development of these measures is set to provide enduring norms against human rights violations. The specific violations of transitional justice dealt with were civil and political abuses and economic and social violations. With this, the contexts associated with the operation of transitional justice have expanded to cover conflict and post-conflict contexts. It extends to countries that are currently experiencing conflict and those that have not even gone through a significant economic and political transition (Jon, 2004). Such conceptions are not necessarily based on the idea that civil and political rights are intrinsically more important than economic, social, and cultural rights; instead, “this view sees transitional justice as being meant to address one part of the problem with the hope that it can contribute to solving the whole” (Ruti, 2003, p. 71). Transitional justice initially developed as a particular way of both addressing serious human rights violations and facilitating transitions to democracy; responding to claims for justice for the violation of economic and social rights was not part of this understanding of how best to effect such a transition. More so, as viewed by Olsen et al. (2010, p. 11), transitional justice is ‘the array of processes designed to address past human rights violations following periods of political turmoil, state repression, or armed conflict’. The concept of transitional justice is meritoriously given an all-encompassing definition that attempts to include different transitional settings and a situation or context where the violators of human, political, economic, and social rights are not limited to state actors or are not seen as the only provider of justice. Still, all facets of the social setting were involved.

Rule of Law and Transitional Justice

The rule of law is an indispensable legal framework for the stability of any organisation. Its presence in any establishment ensures there is a situation in which all persons, institutions, and entities, public and private, hold on to the principle of accountability, lawfulness, and responsibility for the promulgation, enforcement, and independent adjudication which are consistent with human rights norms and standards and economic, social and political rights. Since the rule of law deals with adherence to the principles of law to ensure peace and justice, transitional justice examines the processes and mechanisms that ensure a legacy of large-scale past abuses, human rights violations, accountability, justice, and social, political, and economic rights are achieved for reconciliation. Mihr and Sriram (2015) have raised the argument regarding the tenets of human rights and the

rule of law concerning transitional justice and the prevention against violence and conflict, such as (a) the State obligation to investigate and prosecute alleged perpetrators of gross violations of human rights and serious violations of international humanitarian law, including sexual violence, and to punish those found guilty; (b) the right to know the truth about past abuses and the fate of disappeared persons; (c) the right to reparations for victims of gross violations of human rights and serious violations of international humanitarian law; and (d) the State obligation to prevent, through different measures, the reoccurrence of such atrocities in the future (Kathryn & Hun, 2013). These tenets are cardinal to achieving transitional justice's purpose(s) with formidable principles of rule of law in practice.

While an argument can be deduced concerning the collaboration between the rule of law and transitional justice, Kathryn and Hun (2013) have concretised the values of law to the operation of transitional justice such that both are almost considered inseparable entities for the accomplishment of peace and justice in conflict and post-conflict contexts. A similar point was raised in the 2011 Report on "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies," by Ban Ki-Moon, UN Secretary-General, who summarised his argument as thus: "though linkages between transitional justice processes and institutional capacity-building" such as rule of law have to be "strengthened...greater commitments to integrate" these approaches should be enforced to ensure more commitment on justice and the need to move forward. Adherence to principles of rule of law approach to ensure transitional justice brings about accountability and careful respect for certain fundamental human and procedural rights, which can even be outside of formal legal proceedings, in truth-seeking, or in assuring peace and justice. The proposition this attempts to affirm is that the rule of law always plays an essential role in ensuring that the demand for peace and justice is achieved in the transitional justice process. This process is also an approach to generate a critical opportunity to rebuild public institutions and confidence in the rule of law. What this means is that any failure to seize this opportunity, and reinforce the rule of law to sow seeds of peace and justice through the procedurally balanced transitional justice process, the popular legacies of violence and conflict such as human rights abuse and social, political, and economic rights violations would prevail.

Critical examples or lesson of where a rule of law approach to transitional justice processes have been adopted could be revealed in the pronouncements of the International Criminal Court (ICC), especially in 2012, where Thomas Lubanga from the Democratic Republic of the Congo was found guilty of human rights crimes, Charles Taylor, from Liberia and their ex-President, was found guilty of crimes against humanity and war crimes by the Special Court for Sierra Leone. Strict implementation of rule of law has also evolved other mechanisms for achieving transitional justice in a wide range of post-conflict and post-authoritarian contexts, and this has, therefore, ensured social, political, and economic stabilities in countries where this has been adopted, such as Spain. In fact, in countries with a legacy of violence, oppression, or impunity for human rights abuses, there is now an almost automatic expectation that issues of redress, justice, and accountability will feature in the ensuing governance transition (Theidon, 2007).

Legacies of Rule of Law and Human Rights Violation in Transitional Justice

Legacies of violence and systemic violation of human rights is an unavoidable policy issue in the conflict, post-conflict, and other transition settings, which has led to the question of disagreement about the merits and perils of the various transitional justice choices (Pilar, 2012). To counter the perilous legacies of blatant violations of fundamental human and procedural rights, advocates of transitional justice, human and economic rights, and organisations have moved for adherence to rule of law and judicial accountability for human rights crimes as a matter of legal and moral

principle. With this unavoidable move, the era of impunity for violence and conflict against human rights would be dealt with.

Rule of law in transitional justice signals human rights violators and perpetrators that impunity would be critically dealt with and not tolerated, and this would result in deterrence for any future recourse to violence and other human rights violations. Transitional justice processes, in this case, make violence or conflict and post-conflict non-issue and reassure citizens that the government is committed to accountability, justice, rule of law, with the potential to improve public trust. Mihr and Sriram (2015) have, therefore, averred that transitional justice and the rule of law are unavoidably expected, especially in conflict-affected societies, as a measure against the legacies of violence and conflict and to help to promote post-conflict or post-agreement stability. This is achieved with the help of several actors who not only engaged in rule of law promotion and the promotion of security sector reform but also the eradication of conflict and post-conflict disorder. To ensure this, for, over the past two decades, various transitional justice processes have emerged to promote accountability, rule of law, and security for human rights and conflict-affected states, and this is developed at the local, national, regional, and international levels to ensure that the influence of these processes cut across.

However, several challenges were encountered in the transitional justice effort to identify and clarify its goals and design processes and projects that would deal with the atrocity of the past or legacies of human rights violations. The goal of transitional justice can be varyingly or simultaneously identified as peace, reconciliation and social cohesion, retribution, punishment, restitution, reparation, truth-telling, vindication, validation, deterrence, prevention, reform, and development (Mihr and Sriram, 2015). This approach takes as its starting point the idea that prevention is prioritised among all the possible goals for transitional justice, positing that the principal goal for transitional justice interventions should be non-recurrence, to guarantee never again. And this approach also assumes that the most effective prevention strategy is a well-developed rule of law, defined broadly to encompass not just effective and efficient justice sector institutions, but also guarantees of basic human rights such as due process, fairness, and equality, and indices of good governance such as transparency and accountability of governmental institutions. There are other ways, as Mihr and Sriram put, in which transitional justice processes can present challenges to early rule of law in ensuring that atrocious legacies are eliminated.

As the first challenge to peace-building, transitional justice processes might further destabilise severely damaged justice sectors in the short term, making it more difficult to promote longer-term rule of law in several ways. They can provoke responses from perpetrators or elements of the old regime, which could destabilise a fragile peace in nascent democracies, as they might question its legitimacy or actively seek to undermine the authority of public institutions. As the second challenge, the attempt by national courts to prosecute perpetrators of human rights violations and rule of law abuses can put excessive pressure on judicial systems, which may be severely damaged after conflict. An instance of this can be seen in the processes to the accused of genocide in Rwanda, and due to the pressure on the judicial system, the national judicial system was destroyed totally. With these challenges, relating transitional justice with rule of law promotion is essential to dare the atrocity of violence named above because these principles, transitional justice, and rule of law promotion, are often adopted to face over-pressured judicial systems and conflict-affected societies. Thus, to reassure no reoccurrence of the conflict, Louis (2007, p. 34) has said that support must be given to judicial, legislative, and police reform, reform of the closely related security and corrections sectors, and the support of transitional justice and criminal prosecutions, truth-telling mechanisms such as truth commissions, vetting, and reparations.

Interaction of Economic, Social and Cultural Rights in Transitional Justice

Beyond the interplay of rule of law and human rights with transitional justice processes, the interaction of cultural, social, and economic rights must be safeguarded against past legacies of violence and post-conflict contexts. As such, transitional justice has taken an additional dimension in building the assumption for social, economic, and political changes which are significant during negotiations for power and establishment of rights in a State. While human rights law has strongly influenced transitional justice, the recent focus of transitional justice on violations of civil and political rights has similarly affected important developments in economic, social, and cultural rights. On the obvious, according to *Transitional Justice and Economic, Social and Cultural Rights, 2014*, transitional justice mechanisms may lack economic and human resources and moral and political capital (United Nations Report on Transitional Justice and Economic, Social and Cultural Rights, 2014). Transitional justice processes relate substantially to social, political, and economic rights and this is particularly essential with the consideration of transitional justice to address violations of these rights. Although these rights may be included in 'transitional justice processes, even a successful transitional justice experience will not secure the enjoyment of these rights by everyone.

Nevertheless, transitional justice can contribute to the fight against impunity for violations of economic, social and cultural rights, and their prevention, by laying the foundations for forward-looking reforms and agendas' (United Nations Report on Transitional Justice and Economic, Social and Cultural Rights, 2014). In the preamble to the International Covenant on Economic, Social, and Cultural Rights, it is averred that economic, social, and cultural rights are part of universal human rights. As a legal framework, it is stated that all rights are "universal, indivisible and interdependent and interrelated" (Vienna Declaration and Programme of Action). They are more like other rights such as civil and political rights, which aim at protecting human dignity by ensuring both negative and positive obligations for States. As such, since economic, social, and cultural rights establish the similar minimum conditions required for the exercise of rights to live in standard life, the dignity of human life, freedom from trepidation, and enjoyment of life, it must be covered by transitional justice processes because it affects fundamental human rights.

The necessity for the establishment of these rights in transitional processes can be said to be built on the foundation that economic, social and cultural rights are enshrined in various international instruments, such as the 1948 Universal Declaration of Human Rights (arts. 22–27) and the 1966 International Covenant on Economic, Social and Cultural Rights. These international laws, the Declaration and the Covenant have firmly provided for rights such as:

work, just and favourable conditions of work; form and join trade unions; protection of the family, maternity and childhood; social security; an adequate standard of living, including adequate food, clothing, and housing; health; education; take part in cultural life; benefit from scientific progress, and protection of the moral and material interest of authors of scientific, artistic or literary works. The property right is mentioned in the Declaration and regional human rights treaties and has been interpreted, for example, as protecting housing, indigenous peoples' ancestral territories, indemnities for unfair dismissal, and the right to social security (United Nations Report on Transitional Justice and Economic, Social and Cultural Rights, 2014).

Beyond the above, the Declaration and the Covenant, many other binding universal human rights instruments such as the 1965 International Convention on the Elimination of All Discrimination, have provided for the promotion and protection of economic, social, and cultural rights.

Similarly, the interaction of economic, social, and cultural rights under transitional justice can also be linked to many regional treaties which also promote and protect economic, social, and cultural rights, such as the 1961 European Social Charter (revised 1996); the 1988 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador); the 1981 African Charter on Human and Peoples' Rights; the 1990 African Charter on the Rights and Welfare of the Child; and the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The relevance of these regional treaties cannot be underestimated in transitional justice processes as a measure to ensure peace, security, and justice are sustained in conflict or during post-conflict situations. More so, we have other legal frameworks that focus primarily on civil and political rights, which have been read or interpreted to include protecting aspects of economic, social, and cultural rights such as the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and its first Protocol of 1952, the 1969 American Convention on Human Rights and the 1994 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (United Nations Report on Transitional Justice and Economic, Social and Cultural Rights, 2014).

Other important treaties incorporate state obligations relevant to economic, social, and cultural rights and help to link these rights to transitional justice. For example, the report of United Nations on Transitional Justice and Economic, Social and Cultural Rights has declared that the 1948 Convention on the Prevention and Punishment of the Crime of Genocide stipulates that 'genocide can be committed by deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part—for example, by deliberately depriving the group of the minimum standards of living, such as food.' On this note, it can be surmised that international refugee law also protects the economic, social, and cultural rights of refugees within the stipulation of transitional justice processes. As reported in United Nations Report on Transitional Justice and Economic, Social and Cultural Rights, in 2014, for instance, the 1951 Convention on the Status of Refugees contains provisions on such rights as the right to work, the right of association, and the right to education under transitional justice processes. The conclusion to reach here is that transitional justice processes have extended beyond human rights violations and abuses of rule of law to economic, social, and cultural rights.

Discussion of Transitional Justice Processes in Peace-building

Since transitional justice is defined by Robins (2012) as an effort to respond to the needs of societies emerging from conflict or political violence, Maria (2017) has, therefore, under critical discussion, considered transitional justice as mechanisms and practices which are directed to 'redress past wrongs, institutionalise the rule of law and construct new legal and normative frameworks in post-conflict contexts or in societies that have suffered occupation, dictatorship or other suppressive situations, to prevent violence and war from happening again.' Even though the United Nations has, in 2014, referred to transitional justice measures as a set of judicial and non-judicial instruments and mechanisms as trials, truth commissions, lustration, memorials, reparations. Based on the arguments on human rights violations and economic, social, and cultural rights under transitional justice processes, there is a need to then see the overall focus of transitional justice as part of peace-building processes. Thus, a holistic perspective about the working of transitional justice as peace-building practices is an attempt to provide links between the past and reconstructing for the future, to ensure an enabling and more sustainable peace, security, and justice in the society, as against the violation of rule of law, human rights, and economic, social and cultural right. From this perspective, transitional justice projects and outcomes have important implications for political, civil, and economic relations in post-conflict societies (Maria, 2017).

To ascertain peace-building through transitional justice, most advocates of this attempt to promote justice and accountability with strict adherence to principles of rule of law and fundamental procedural rights. Various justice systems such as normative, retributive justice which build peace and justice are developed by postulating that “those who do wrong ought to be punished” (Aukerman, 2002, p. 40-41) and others have further argued for the ability of punishment to deter future abuses (Huyse, 2001). Beyond prosecutions focusing on violators and perpetrators of abuses of rights, transitional justice mechanisms that have been advocated for peace-building are truth commissions or reparations and which are ‘a victim-centred approach allowing victims a public voice, as potentially cathartic or healing’ (Hayner, 2001, p. 28). “They may also argue that accountability processes of some sort are essential for longer-term peacemaking and peace-building” (United Nations Secretary-General, 2004). Impunity for certain key perpetrators of these rights will undermine people’s belief in the rule of law and the possibility of building a culture of respect for the rule of law (Huyse, 2001, p. 325).

Lutz (2006, p. 330) has averred that peacebuilders and negotiators have also relied on amnesties to secure a peace agreement. Under here, the primary concern of peace-builder is that transitional justice mechanisms may ensure peace, security, and justice and the endurance of a peace agreement and efficacy of peace-building measures. As peacebuilding is not only a multifaceted process but also a way to confront violence and conflict, transitional justice also addresses various goals which are potentially helpful to confronting conflict and post-conflict challenges. Thus, it would be easy to say transitional justice and peacebuilding activities play a more complementary, where possible, to ensure the legacies of violence and conflict are dealt with. Both sets of activities are dynamic and context-specific. In this case, ‘several peace operations have been mandated to address transitional justice as well as activities in rule of law, security sector reform (SSR) and disarmament, demobilisation, and reintegration of ex-combatants (DDR).’ A typical example of this is international territorial administrations, the UN Mission in Kosovo (UNMIK) and the UN Transitional Authority in East Timor (UNTAET)--all of these had responsibility for judiciaries, police, and prison services (United Nations Secretary-General, 2004).

In Nigeria, for instance, as peace-building evolves to deal with restoration of security, peace, and rule of law and other activities to ensure careful respect for human prosperity, transitional justice processes also include a range of institutions and activities which engage in post-conflict issues and reassure citizens that the government is committed to accountability, justice, rule of law, with the potential to improve public trust, even peace-building. From the point and for the attainment of peace restoration, certain local mechanisms that would ensure rule of law, peace, and security in Nigeria, especially in the northeast, such as oath-taking, dialogue, and consultation, obligation to forgive, and so on, have been considered (Hassan and Tyvoll, 2018, p. 20). For reassurance of peace and conflict, the suggestion is that these local or indigenous justice systems in northeastern Nigeria that feature some form of oath-taking, consultation, and dialogue are integral to conflict resolution and this would not only help in tackling Boko Haram insurgency but it would also assist the operation of rule of law that requires consultation and dialogue in the transitional justice system. For instance, oaths may be restrictive by preventing a penitent criminal from repeating an act even though a criminal act had previously been committed, or can be adjudicative by determining which of two parties is in the right, that is where the government or the Boko Haram members. Since these members appear to venerate the Qur’an, the restrictiveness of oaths is to make them swear upon the Qur’an to reach a compromise.

While this is encouraged for peace and security to be attained and it no doubt seems to support rule of law through its restorative means, consultation and dialogues with insurgent members should be done with participants who are encouraged to subdue emotional responses and unrealistic

expectations to prevent the generation of new resentment or grievances. If this is achieved through a policy-making decision to ensure reconciliation or justice, it would enable victims, perpetrators, and community leaders to make arrangements that will best benefit the future and guarantee security and peace. As recognised by the United Nations Secretary-General, rule of law can be adapted to support these local mechanisms such that the purpose of peace-building activities is to prevent the recurrence of conflict through the provision of technical assistance to transform national structures and strengthen new democratic institutions are guaranteed. These mechanisms are sensitive and community-specific approach to reconciliation and justice, would create an assurance for potentially thousands of hardened Boko Haram members to denounce their dastardly acts for complete eradication programmes, and this method would provide a comprehensive approach to transitional justice measures supported by judicial and otherwise processes to redress human rights abuses and repair social cohesion following armed conflict. The ultimate need for this is, to provide accountability for crimes committed during the insurgency and simultaneously empower local communities to lay the groundwork for an enduring peace against the legacies of insecurity, violence, and conflict.

From the above case of using local mechanisms as support, it is no news that transitional justice is associated with internal political changes within a state to attend to conflicting or wrong acts and this means that a wide range of mechanisms which may include both judicial and non-judicial approaches supported by the rule of law, involving both local and international actors at different levels to seek reparations, institutional reforms, vetting, etc., can be considered. As such, consideration for regional mechanisms such as oath-taking, consultation, and dialogue, obligation to forgive, and so on, together with the judicial process, would make transitional justice stress two broad ideas: retributive and restorative justice, where retributive justice supports how to judicially bring the perpetrators to account for their human rights violations and the restorative justice focuses the victims of violations and address their emotional, economic and social needs through dialogue, reconciliation, forgiveness and compensation (International Centre for Transitional Justice, 2017). This position is not outlandish, the similar step was taken in South Africa where this transitional justice method was adopted to deal with the post-apartheid era, the Truth and Reconciliation Commission (TRC) was set up, and patterned in a court-like manner. The hearing session was broadcast live to promote national consciousness. Despite a few errors committed in the process, the method helped to eradicate a certain level of conflict and political violence by laying a formidable foundation for peace and tranquillity in South Africa (Zwanbin, 2017, p. 78).

In the case of the Niger Delta, where armed conflict between militias and government forces in the region has lasted for more than two decades, a different number of instruments such as disarmament, demobilisation, and reintegration (DDR) mechanisms have become a key component of national and international efforts in the facilitation of transition from war and insecurity to peace and security. This usually involves a multi-staged transition process that ranges from the political settlement, peace agreements, disarming and rehabilitation of ex-combatants, processes of reconstruction and economic recovery, the restoration of institutions of democratic governance and justice, and processes of reconciliation and peacebuilding (CEPD Monograph Series, Ikelegbe & Onokerhoraye, 2016). This approach is radical enough that it enforced transitional justice and it became successful immediately because it forced ceasefire and had planned programmes to rehabilitate and reintegrate militias into the civil society.

However, there is a doubt that DDR has achieved what it is set out to because it can be argued that DDR programmes are somewhat narrowly conceived, bureaucratic, and detached from the political transition for reconstruction strategies. Even though the concerns of policymakers are to make DDR programmes effective to end the protracted conflict and establish peace in the long term. (Okonofu,

2016). Specific challenges can be outlined to have affected the effective operation of DDR in ensuring transitional justice in the Niger Delta. With the failure of the Human Rights Violations Investigation Commission of 1999 which was expected to foster reconciliation and prevent future violations of human rights, one of the significant challenges associated with attempts to establish transitional justice in Nigeria is the failure of 'some perpetrators of gross human rights violations to appear and testify before the Human Rights Violations Investigation Commission. There were no consequences for the perpetrators who refused to appear, and no decisive effort was made to ensure that such persons accounted for their actions' (Umukoro, 2018, p. 98). Since some former military leaders were among those who failed to appear before the human rights investigation tribunals, this adversely affected the transitional justice methods of truth-telling and reconciliation.

Indeed, the failure to continue the enforcement of the 1999 Human Rights Violations Investigation Commission had a disastrous effect on the success of transitional justice in Nigeria and reconciliation could not be ensured because the commission's recommendations were not implemented. The most important recommendation of the commission regarding transitional justice is that all victims of human rights violations in Nigeria during the period of a military rule should be compensated. Additionally, it recommended that perpetrators of human rights violations should be punished. The transitional justice focus of the commission would have had milestones on DDR in Niger Delta if the government had complied with the recommendations and taken appropriate actions to hold violators accountable and compensate the victims (Umukoro, 2018, p. 99).

Like it has been recommended for northeastern, sustainable peace can be ensured in the Niger Delta through the establishment of local mechanisms such as platforms, forums, and organised consultative meetings, dialogue, and obligation to forgive as instruments for reconciling diverse groups, sectors, and interests and these methods should be combined with judicial and international organisation intervention. The establishment of effective government-sponsored structures such as dialogue, negotiations, and the reconstruction of broken relationships together with a non-judicial local mechanism within and between communities and ethnic groups or between communities and the oil companies and oil-servicing companies would ensure efficient and effective transitional justice and application of rule of law. Since transitional justice is a requirement for sustainable peace after periods of gross human rights violations and violent conflict, efforts should be made to put transitional justice mechanisms in place to punish perpetrators of human rights violations and provide redress for victims through these local mechanisms. Additionally, the federal government should embark on activities to adopt local instruments and develop the infrastructure of the Niger Delta, and the actions to adopt by the government should be both judicial and non-judicial and include local mechanisms and international body intervention.

Conclusion

Transitional justice has been considered through rule of law, human rights, and economic, social, and cultural rights to examine the complex issues emerging from conflict, armed violence, authoritarian rule, and post-conflict which are at stake in societies. As such, transitional justice and peace are considered a field of scholarship that deals with human rights abuses, violation of rights, violence and conflict-affected politics, and other grievances in societies in transition. One of the main focuses of transitional justice discourse is to engage human rights law for political stability, accountability, and peace in transitions, as developed in the strict practice of law. Transitional justice and rule of law are often considered in violence and conflict-affected politics as intertwined with one another to promote post-violence and conflict or socio-economic and political stability. More so, this paper has radically shown that transitional justice processes have also addressed economic, social, and cultural rights issues, in addition to rule of law and human rights, as an essential part of the main

causes of violence and repression or human rights violations and abuses of rule of law occurring during the conflict. Thus, the paper has also averred that peace-building is ascertainable through transitional justice, and most advocates of this have attempted to promote justice and accountability with strict adherence to principles of rule of law and fundamental procedural rights.

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