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Peacebuilding and Justice in Conflict: The imperative for Transformative Justice in the post-war reconstruction of Chad

by

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1

Declaration

I **Adeyemi Saheed Badewa** declare that this work: **Peacebuilding and Justice in Conflict: The Imperative for Transformative Justice in the post-war Reconstruction of Chad** is my work, that it has not been submitted for any degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged by complete references.

Student: Adeyemi Saheed Badewa

11-11-2023

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13-11-2023

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2

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3

Dedication

I dedicate this thesis to the Hector Peterson Residence (HPR) students of the University of the Western Cape, who were assaulted and brutalised on Wednesday 22 December 2021 by the University's Campus Protection services and the private security unit (Black Ants). This infamy occurred upon the students' refusal to vacate the residence (without a court order) in preparation for the 2022 implementation of the university's interim COVID-19 policy.

4

Table of Contents

Table of Contents

List of Abbreviations

ACHPR	African Charter on Human and Peoples' Rights
AU	African Union
BINUCA	UN's Integrated Peacebuilding Office in the Central African Republic
CAR	Central African Republic
CAT	Convention against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CNS	Conférence Nationale Souveraine (National Sovereign Conference)
CRC	Convention on the Rights of the Child
DDS	Direction de la Documentation et de la Sécurité
DNIS	National Inclusive and Sovereign Dialogue (after its French initials)
EAC	Extraordinary African Chambers
ECOWAS	Economic Community of West African States
EU	European Union
EUFOR	European Union military force
FACT	Front for Change and Concord in Chad
FNT	Front Nationale du Tchad (Chad National Front)
FROLINAT	Front de Libération Nationale du Tchad
G5S	Group of 5 Sahel
HRW	Human Rights Watch
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
IDB	Islamic Development Bank
IMF	International Monetary Fund
LTDH	Ligue Tchadienne du Droits de L'homme (Chad's Human Rights League)
MCNS	Movement for Chadian National Salvation
MDJT	Mouvement pour la Démocratie et la Justice au Tchad
MINURCAT	United Nations Mission in the Central African Republic and Chad
NGO	Non-governmental organisation
NHRC	National Human Rights Commission
OAU	Organisation of African Unity
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OIF	International Organization of the Francophone
PBF	Peacebuilding Fund
PIP	Priority Investment Plan (Plan d'Investissment Prioritaire)
PNA	National African Party
PPT	Parti Progressiste Tchadien (Chadian Progressive Party)
PSC	Peace and Security Council (of the AU)
PSM	Patriotic Salvation Movement
SDGs	Sustainable Development Goals
SRSG	Special Representative of the Secretary-General
TC	Truth Commission
TMC	Transitional Military Council
ToR	Terms of Reference
TRC	Truth and Reconciliation Commission
UN	United Nations
UNOCA	United Nations Regional Office for Central Africa
UNOWAS	United Nations Office for West Africa and the Sahel
UPC	Union for the Progress of Chad

Abstract

The fault lines in the implementation of transitional justice mechanisms have posed enormous challenges to peacebuilding, reconciliation, and reconstruction in many post-conflict societies, particularly in the Global South. This illustrates the complex nature of Chad's conflicts (since 1965), its deep-seated political instability, and armed intervention, worsened by the lack of justice for victims of repression and social injustice. Regrettably, the flawed processes of peacebuilding and justice in conflict, amidst democratic *faux pas* have undermined nation building and post-war reconstruction in Chad, with far-reaching regional implications. Dissecting the needs and justice of the average Chadian population from those of the key actors has been problematic in the country's peacebuilding processes. The research advances the imperative for transformative justice as a model for conflict resolution, sustainable peace, good governance, and social justice in the post-war reconstruction of Chad. A qualitative method involving a desk review of secondary data, including theories of peacebuilding and transitional justice is undertaken. Its delimitation was the post-Hissène Habré era (1982-1990) till the present. Although, references were made to the events from the post-independent Chad and the Habré years, as background. Therefore, the study argues that peacebuilding or post-war reconstruction in Chad should be predicated on the long-term transformation processes involving socio-economic, political, and legal justice priorities toward sustainable development. This further highlights the significance of transformative justice in achieving the Sustainable Development Goals (SDGs) and multidisciplinary approach to strategic peacebuilding in fragile states.

Chapter 1

Introduction

1.1 Background and contextualisation

The emergence and disintegration of states, under conditions of appalling violence, have posed critical challenges to peace, justice, human rights, and nation-building. However, the growing relevance of transitional justice (TJ) has been deliberated by international organisations, experts, and donor agencies in their engagements with peacebuilding, reconstruction, and reconciliation in post-conflict societies. Transitional justice denotes the variety of processes and mechanisms formulated or implemented by states or international partners to address incidents of conflict, repression, and large-scale or systematic violation of human rights, beyond the affected state's ordinary justice system.[1]

Peacebuilding entails the development of constructive processes, relationships, and institutions to resolve conflicts among diverse interest groups, it includes conflict prevention; conflict management; conflict resolution, post-conflict reconciliation; and transformation.[2] Peacebuilding underscores and seek to address the structural conditions that generate conflicts and to promote sustainable peace in the post-conflict period following peace agreement(s) or military victory. This encompasses security, humanitarian, development measures, and diverse organisations engaged with the country in the quest to re-establish security, strengthen governance and political processes, restore

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[1] International Center for Transitional Justice 'What is Transitional Justice?' available at *https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf* (accessed 20 August 2021).

[2] KROC Institute for International Peace Studies 'What is Strategic Peacebuilding?' available at *https://kroc.nd.edu/about-us/what-is-peace-studies/what-is-strategic-peacebuilding/* (accessed 22 August 2021).

basic services, and rebuild livelihoods and the economy.[3] The complex nature of intermittent conflicts in Chad, a few years after independence, including its flawed peacebuilding and justice in conflict processes, and democratic *faux pas* remain challenging. Chad's protracted civil strife and foreign intervention indicate some fundamental difficulties in her politics and nation-building processes.

Chad descended into civil war in 1965, five years after President François (N'Garta) Tombalbaye of the Chadian Progressive Party—*Parti Progressiste Tchadien* (PPT), led his country to independence from France (on 11 August 1960). This stemmed from Tombalbaye's mismanagement and autocratic rule, the banning of opposition parties in 1962, and the establishment of a one-party system.[4] The inter-ethnic tensions exacerbated, as a result, pitched the Christian Sora peoples of the south against the northern Toubous and the Islamic Sahelians of the central region.[5] The National Liberation Front of Chad (*Front de libération nationale du Tchad*, FROLINAT) from the northern Muslims majority, led by Goukouni Weddeye (otherwise written, Oueddei) and Hissène Habré began a civil war in 1965. The overthrow and assassination of Tombalbaye in a military coup brought General Félix Malloum N'Gakoutou (another southerner) to power in 1975, however, FROLINAT continued its war against the Chadian government.[6] The rebel faction's takeover of the capital, N'Djamena, led by Habré occasioned the collapse of central authority in Chad in 1979.[7] The contest for power by armed militias, mostly from the north, escalated the disintegration and weakened the French position in

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[3] Bruch et al. 'The Changing Nature of Conflict, Peacebuilding, and Environmental Cooperation' (2019) 49: 2 *Environmental Law Reporter, News and Analysis* 10134–10154.

[4] Collelo T *Chad: A Country Study* Second edition (1990) 5.

[5] Kieh GK 'Resolving African Conflicts' (1993) 5: 4 *Peace Review* 447–54.

[6] Kieh GK 'Resolving African Conflicts' (1993) 5: 4 *Peace Review* 447–54.

[7] Nolutshungu SC *Limits of Anarchy: Intervention and State Formation in Chad* (1996) 268.

Chad. Libya's involvement in Chad's civil war evoked both the French support for Habré and a united resistance from Chadians. These eventually forced out the Libyan army from Chad's territory in 1987in the adventure, which ended in disaster.[8]

Habré's dictatorship was consolidated in a power system fixated on corruption and violence. His misrule, leading to the killing of an estimated 40,000 people; favouring his own ethnic Toubou (group) to the discrimination of former allies—the Zaghawa tribe, among others, precipitated his overthrow in 1990 by Idriss Déby (Itno), his army general.[9] Efforts to bring Habré to justice led to his confinement to house arrest in Senegal in 2005, and further prosecution in 2013, where he was formally charged with war crimes committed during his rule (1982-1990). In May 2016, Habré was sentenced to life imprisonment, having been found guilty of committing war crimes and crimes against humanity, including sexual slavery, rape, torture etc.[10] Déby's earlier attempts at reconciliation, the reintroduction of multiparty politics and the approval of a new constitution by referendum in 1996 were eroded by his continued electoral victories in controversial circumstances. The constitutional two-terms limit on the presidency was abolished at the expiration of his second term in 2006.[11]

Idriss Déby's reign, from 1990 till his death in 2021, was marred by internal political opposition, coup attempts, and civil war (mostly conflicts in the east), worsened

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[8] Nolutshungu SC (1996) 150, 230.

[9] Nolutshungu (1996) 234–237.

[10] The Habré's trial adjudicated by the Extraordinary African Chambers (EAC), apart from the charges of war crimes and crimes against humanity, included compensation for the victims of his misrule. The hybrid tribunal's legal competence was based on the principle of universal jurisdiction. See Hicks C *The Trial of Hissène Habré:*
How the People of Chad Brought a Tyrant to Justice (2017) 79-105.

[11] Marchal R 'An Emerging Military Power in Central Africa? Chad under Idriss Déby' (2016) 40 *Sociétés Politiques Comparées* 2.

12

by political tension with Sudan. However, the chances of peace and economic prosperity brought by the advent of oil exploitation in Chad in 2003 (although discovered in commercial quantities in 2000) were shattered by favouritism, nepotism, clientelism, and mismanagement of oil revenues by the Déby family.[12] Similarly, Chad's military and civil service were highly polarised and controlled by their closest relatives.[13] Announcing Déby's assassination by rebels on 20 April 2021, a Transitional Council of military officers replaced the Constitution with a new decree. In effect, Déby's son General Mahamat Idriss Déby was named the interim president and head of the armed forces of Chad.

The tragedy of Chad's unpleasant drift from years of conflicts reflects the lack of justice for victims of human rights abuses and the manifestation of social injustice, poverty, and despondency. These have further induced insurgency and warfare amidst its democratic failing and manipulations. This dilemma gives credence to Sam Nolutshungu's denigration of Chad as "an aberrant, marginal, and fictive state,"[14] a nation suspended between creation and destruction, several decades since independence, and "alternating under a cloud of contingent anarchy or tyranny" even in its 'peaceful moments'.[15] Therefore, the imperative of transformative justice in Chad's peacebuilding and democratisation processes is further underscored.

This thesis conceives transitional justice in the context of peacebuilding in Chad. It conceptualises the elements and principles of transformative justice as a model for

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[12] Marchal (2016) 2.
[13] Marchal (2016) 2.
[14] Nolutshungu (2016) *2*.
[15] Nolutshungu (2016) 14.

conflict prevention, sustainable peace, democracy, good governance, and social justice amidst Chad's fragility. The application of the transformative justice model to peacebuilding processes enables a holistic rethinking of 'transition' beyond the interim process of linking the past and the present. Instead, the 'transformation,' implies long-term processes, predicated on economic, political, psychosocial, and legal perspectives of justice and sustainable development in Chad.

1.2 Problem Statement

The relevance of transformative justice has not been fully stressed in the implementation of transitional justice in Africa. The case for peacebuilding and justice-in-conflict in Chad, makes transformative justice pertinent to post-war reconstruction of Chad. Along the intensely amplified "peace vs. justice" debate, Chad's intractable repression, conflicts, human rights abuses, and democratic failings, elicits concerns about the effectiveness and the interests served by the various transitional justice mechanisms in Chad. The country's lack of accountability and redress for victims has placed its population at the receiving ends of the power play among the country's warlords, politicians, and their foreign benefactors. Hence, dissecting the interests of the key actors from those of the population and justice for the victims remains a challenge in the country's peacebuilding processes.

The proponents of inclusive justice and accountability maintain that comprehensive and sustainable peace is impossible without justice and accountability. Lambourne emphasises "the significance of understanding and incorporating various

cultural approaches to justice beyond the dominant western worldview and practice".[16]

A syncretic approach (reconciling restorative and retributive justice) toward transformative justice and sustainable peacebuilding promote enduring peace and democratic space. In addition to transitional legal justice mechanisms, the need to transform the socio-political and economic structures and relationships in Chad is accentuated toward addressing Chad's fragility, conflicts, and human rights abuses.

1.3   Significance of the Research

The study's conceptualization of transformative justice advances the imperative of recognising and promoting the multiple justice needs and expectations of the Chadian population in peacebuilding. It significantly draws on the various cultural apparatus along with prevailing neo-liberal conception and practice. Justice principles are conceived to catalyse transformation and sustainable peace toward enhancing the citizen's agency and promoting the rule of law. This is pivotal to resolving grievances about injustice in nonviolent ways and transforming the structural conditions that generate conflicts.

Secondly, the study underscores the linkage between transformative justice and the Sustainable Development Goals (SDGs)—in achieving strategic peacebuilding. Goal 16 of the SDGs seeks to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels".[17] Peacebuilding, thus, becomes strategic by promoting long-term cooperation among people locally and globally, achieving conflict

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[16] Lambourne W 'Transitional Justice and Peacebuilding after Mass Violence' (2009) 3:1 *International Journal of Transitional Justice* 28–48.

[17] United Nations 'Open Working Group Proposal for the Sustainable Development Goals and Targets' (2018) *Atlas of Sustainable Development Goals available at* https://doi.org/10.1596/978-1-4648-1250-7_bm (accessed 25 August 2021).

management/resolution, and building societies, policies, institutions, and relationships that sustain peace and justice. [18] It addresses issues of human rights, economic development, environmental sustainability, and peace, and creates platforms for sustainable human development and security.

Finally, the study adopts a multidisciplinary approach to peacebuilding and transitional justice processes in fragile states. Hence, it will significantly contribute new thinking to the domains of international criminal justice, peace and conflict, development, international relations, history and public policy, etc.

1.4 Aim and Objectives of the Research

The study aims to advance the imperative for transformative justice as a model for conflict resolution, sustainable peace, good governance, and social justice in the peacebuilding process in Chad. This conception is further explored along with three main objectives.

1. To discuss the ideals of transformative justice in post-conflict transitions.

2. To assess the peacebuilding process and its transformative justice in Chad.

3. To analyse the prospects of transformative justice in the post-war reconstruction of Chad.

1.5 Research Questions

1. What are the ideals of transformative justice in post-conflict transitions?

2. How has peacebuilding promoted transformative justice in Chad?

3. What are the prospects of transformative justice in the post-war reconstruction of Chad?

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[18] KROC Institute for International Peace Studies 'What is Strategic Peacebuilding?' available at *https://kroc.nd.edu/about-us/what-is-peace-studies/what-is-strategic-peacebuilding/* (accessed 22 August 2021).

1.6   Literature Review

Since the post-Cold War era (1945-1990), the global community has increasingly grappled with peacebuilding and transitional justice in post-conflict societies. This has amplified the concerns for transitional justice as an important aspect of post-conflict reconstruction and justice for the repressed population. However, greater volumes of the literature on peacebuilding and transitional justice processes in post-conflict societies have been elaborated in the official reports of governments, international organisations, and civil societies. Others include the array of journal articles and policy briefs written by international legal scholars, human rights scholars, political analysts, development practitioners and peace and conflict researchers etc. While the above underscores the multidisciplinary lens of this sub-field, this thesis reviews some of the recent scholarly works related to conflict and peacebuilding in Chad. It also explores the critical arguments on 'peace vs justice' along with Chad's 'justice in conflict' process to determine how transformative justice models can enhance sustainable peacebuilding and development.

Discourse on Conflict and peacebuilding in Chad: The quandaries of conflict and peacebuilding in Chad have been critically discussed in scholarly works. Chad's protracted experience of civil strife and foreign intervention poses fundamental difficulties to its attempt to achieve political stability through armed intervention. Nolutshungu's "Limits of Anarchy…" reflected on the dire consequences of the disintegration of state construction in Chad. Pervasive corruption, ethnic favouritism, and violence, particularly since Habré's regime were worsened by self-serving foreign military interventions. The "democratic transitions" of Déby's sit-tight era drifted Chad

17

back into ethnic massacres and warlord squabbles.[19] Geo-politics, Nolutshungu argues, "exacerbate Chad's misfortunes, particularly the roles of France, United States, and Libya". Hence, the appeal for democracy and human rights underpins the extensive reforms needed for a complete rebuilding of the state and its political landscape.[20]

Similarly, Marchal perused the fragility of Chad under Idriss Déby against the backdrop of the country's emerging military power in Central Africa. Chad's involvement in the Mali crisis (January 2013) and its neighbouring states throughout the subsequent years gives an image of strength while Déby continued successfully to play the card of the West's principal anti-terrorism ally in the Sahel region.[21] Such gambit was rooted in its repression of internal tensions amid regional polarisations beginning in the 2000s, from which impressive military machinery was developed.[22] It highlights the centrality of the oil revenues to his power and the attendant negative consequences of the rentier economy's increasing greed among the president's family and the ruling elites. This further weakens the regime's legitimacy among the marginalised Chadians. The ambiguity of military mobilisation was inhibited by the international oil price crash of 2014. The undoing of Déby's regime escalates with its exorcising of internal contradictions. While developing new international and regional partnerships to earn alternative financial and political support to maintain its military machine, dissent against the regime undermines peacebuilding processes and further destabilises Chad.

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[19] Nolutshungu (1996) 300.
[20] Nolutshungu (1996) 301.
[21] Marchal (2016) 2.
[22] Marchal (2016) 2.

The situation in Chad, according to Kieh Jr.,[23] was not different from the postindependent crises that engulfed several African states, which were in two major forms - interstate and domestic. Consequently, the now defunct Organisation of African Unity (OAU) - now African Union (since 2002) employed both "peacekeeping" and the traditional peaceful settlement methods—negotiation, mediation, and conciliation, to resolve conflicts. It further contended that OAU's conflict resolution efforts were largely focused on interstate conflicts, with less attention to domestic or intrastate conflicts. In cases where it intervened, the practice was to defend the status quo—supporting the government in power, as it did in Chad against the anti-government factions. This rationale was based on the lack of legitimacy by most African regimes, the leaders' obligation to support their colleagues in expectation of reciprocal treatments when confronted by similar problem and their avoidance of setting a bad precedent through subversive activities.[24]

Moreover, the scale of violence and politics of the region particularly Darfur in Sudan, the Democratic Republic of Congo, the Central African Republic (C.A.R) and Chad, heighten the dilemmas and challenges faced by peacekeepers, and forced peacekeepers to operate under limited consent from key parties to the conflicts.[25] The United Nations Mission in the Central African Republic and Chad (MINURCAT) was established by the *Security Council resolution 1778* on 25 September 2007, with one Special Representative of the Secretary General (SRSG) coordinating the mission across

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[23] Kieh (1993) 447–54.
[24] Kieh (1993) 447–54.
[25] de Coning C 'Mediation and Peacebuilding: SRSGs and DSRSGs in Integrated Missions' (2010) 16:2 *Global Governance* 281–300; Murphy R 'Post-UN Withdrawal: An Assessment of Peacekeeping in Chad' (2010) 4:3 *Irish Yearbook of International Law* 3–28. [25] Murphy (2010) 3-28.

parts of the two countries. The MINURCAT's military and civilian presence in both countries were aimed toward civilian protection rather than peacebuilding. Hence, the mandate was to protect civilians under imminent threats of physical danger; and to promote human rights, rule of law; and regional peace, including the return of refugees and displaced persons.[25] Moreover, de Coning emphasised the role of the SRSG in the purview of UN integrated missions has been suggested as pivotal in terms of operational coherence and strategic direction across the political, governance, economic, development, and security facets of a peacebuilding process. Thus, the influence of the SRSG is significant to muster and coordinate multi-level agencies' resources including donors, and countries to the peacebuilding process, instead of a top-down, dictatorial, military, privately or directly controlled approach.[26]

Peace vs. Justice discourse: justice in conflict (Chad): Scholars of transitional justice have evaluated the *peace vs. justice* dichotomy. Proponents of inclusive justice and accountability maintained that sustainable peace is impossible without justice and accountability. While peace should be understood beyond the cessation of hostilities and justice also understood in more than retributive terms, justice is a fundamental ingredient of achieving peace. The basic political challenge before the transitional justice process is that the criminalisation of political violence may be controversial and potentially destabilising to the transitional justice process.[27] As every conflict is *sui generis,* justice is often evaluated based on community norms. In the context of a potentially volatile conflict, transitional justice institutions and processes would need to maintain equilibrium

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[26] de Coning (2010) 297-298.
[27] Leebaw BA 'The Irreconcilable Goals of Transitional Justice' (2008) 30:1 *Human Rights Quarterly* 95–118.

in applying the law to accomplishing political ends, particularly the long-term aspirations of the transition process and its short-term strategic considerations. [28]

Transitional justice and post-conflict peacebuilding encompass several nuanced approaches to both peace and justice. This includes postponement of justice, lustration, conditional amnesties, and truth and reconciliation mechanism as a middle way in bridging the gap between retribution and reconciliation.[29] Scholars argue that a conflict resolution that promotes impunity is counter-productive to transitional justice, especially amnesties without reconciliation. Hence the assertion that "there can be no peace without justice". This highlights the concept of positive and negative peace. Thus, by producing negative peace, impunity often fall short of promoting genuine reconciliation. Such a narrow conception of negative peace may also fail to promote a holistic, long-term, and sustainable peacebuilding process.[30] Lambourne argues that determining the specific path towards transitional justice should be cognizant of the needs, expectations, and experiences of conflict participants. This includes the perpetrators, survivors, victims, and members of the society directly affected by the conflict. Hence their involvement is significant for sustainable peacebuilding. [31]

Hicks illustrates the overwhelming evidence of violence and human rights abuses perpetrated in Chad in the 1980s and the culpability of Hissène Habré's government,

[28] Leebaw BA (2008) 95-118.
[29] Mansour K & Riches L 'Peace versus Justice: A False Dichotomy' (2017) *Contemporary Issues in Conflict Resolution* 1–16.
[30] Galtung J 'Theories of Peace: A Synthetic Approach to Peace Thinking' (1967) *20*; Fischer M 'Transitional Justice and Reconciliation: Theory and Practice' in Austin B Fischer M & Giessmann HJ (eds) *Advancing Conflict Transformation: The Berghof Handbook II* (2011) 405–430.
[31] Lambourne (2009) 28–48.

commanding the network of secret prisons, night-time disappearances, torture of political adversaries, massacres, and the destruction of communities.[32] His trial before the Extraordinary African Chambers (EAC) in Senegal, specially created by the African Union in 2015/16 unearthed complex questions about serving justice after long years of impunity. It further interrogates the need to understand the role of Habré's secret police and his subordinates who never had to answer at the EAC's trial, the motivation for his war with Libya and how much it was to protect his position. Added to this concern is the role of France and the United States, two world powers, who protected the regime despite significant international awareness of its atrocities.[33] The EAC's impressive outreach programme in Chad and its capacity to restore faith in local justice were noteworthy. Similarly, practical suggestions for the EAC's significant use in future justice projects and the establishment of hybrid courts were proposed amidst the African leaders' row with the International Criminal Court (ICC). [34]

Transitional justice remains an important aspect of post-conflict peacebuilding, even though it is historically perceived to compete with the demands of peace. Sharp underscores the sense of shared space between transitional justice and post-conflict peacebuilding mechanisms, including the potential linkages that exist between both domains.[35] He argues that attention to mutual shortcomings should be factored into developing the connections between the two domains. While transitional justice and post-conflict peacebuilding have proceeded on distinct tracks, notable similarities exist in their

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[32] Hicks (2017) 79-105.
[33] Hicks (2017) 79-105.
[34] Hicks (2017) 79-105.
[35] Sharp DN 'Beyond the Post-Conflict Checklist: Linking Peacebuilding and Transitional Justice Through the Lens of Critique' (2013) 14:1 *SSRN Electronic Journal* 165–196.

concerns and critiques. Striking a balance between the demand for peace and justice in conflict can be sought through the lens of the historic concerns and critiques with the end goals of building peace, supports for justice in conflict, strengthening the justice processes and the rule of law in post-conflict societies particularly the most fragile ones in the developing world, including Chad.[36]

Discourse on transformative justice models and sustainable peacebuilding: Pro-justice approach illustrates the prospect of comprehensive and sustainable peace and socio-political and economic transformations. An interdisciplinary reflection on key debates on the problems of transitional justice conceives range of measures, according to Teitel, in addressing the legacy of injustice. Apart from criminal retribution, historical inquiries, reparations, administrative and constitutional measures have been critical to promoting justice, albeit a liberal political construct for the transitioning state.[37] Lambourne emphasises the imperative of identifying, understanding, and incorporating various cultural and local approaches to justice along with the western worldview and practice.[38] Such syncretic approach reconciles restorative and retributive justice towards transformative justice and sustainable peacebuilding. It further argues for the importance of determining the specific path to take in a transitional justice process. This, it argued, should be cognizant of the needs, expectations, and experiences of conflict participants – the perpetrators, survivors, victims, and members of the society directly affected by the conflict.[38] Hence their involvement is significant for the peacebuilding process, as

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[36] Sharp (2013) 165–96.
[37] Teitel R G 'Transitional Justice Genealogy' (2003) 16 *Harvard Human Rights Journal*
69–94. [38] Lambourne (2009) 28–48.
[38] Lambourne (2009) 28–48.
[40] Lambourne (2009) 28–48.

sustainable peacebuilding requires an adequate rethinking of 'transition' as an interim process connecting the past and the future. The goal, therefore, should employ a long-term and sustainable process of 'transformation,' through the lens of psychosocial, economic, political, and legal perspectives of justice. [40]

Significantly, Nitzschke gives insights into the legacies of war economies in conflicts, focusing on the impacts of predatory and illicit exploitation of natural resources and the extensive criminalisation of economic life in conflict dynamics.[39] It noted that global and regional connections sustained the war economies, by promoting the vested interests of both licit and illicit actors in the perpetuation of conflict and instability. An effective application of UN commodity and financial sanctions against rebel or government combatants profiting from predation in conflicts, and incorporating disarmament, demobilisation, and reintegration (DDR) programmes into national post-conflict reconstruction and development strategies are useful tools in conflict resolution and peacebuilding.[40]

Similarly, enhanced resource governance is also imperative where illegal exploitation or inequitable use of natural resources influence the conflict dynamics. Addressing challenges of shadow economies and economic criminalisation through 'sticks and carrots' approaches, is conceivable through judicial reform and law enforcement (including international peace operations).[41] The carrots approach can be incentivised by integrating shadow entrepreneurs into the legal economy and

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[39] Nitzschke H 'Transforming War Economies: Challenges for Peacemaking and Peacebuilding' (2003) *Report of the 725th Wilton Park Conference, New York 27-29 October 2003 1-22.*
[40] Nitzschke (2003) 1-22.
[41] Nitzschke (2003) 1-22.

strengthening the state's capacities to deliver basic services, employment, and security.[42] Therefore, understanding intrastate conflict from a political economy viewpoint requires that the 'war economies' sustaining conflicts are 'dis-configured' and transformed to create opportunities for conflict resolution. This would also create strategic priorities for policymakers in peace-making and peacebuilding processes.

The above reinforces the argument for conflict and post-conflict environmental peacebuilding in the post-Cold War world. Bruch et al. discuss three key premises and their interconnections—the changes in how wars are fought and financed; the UN's extensive intervention in conflicts and peacebuilding efforts; and changes in the policy and international cooperation on the environment.[43] It underscores the necessity of establishing linkages between post-conflict environmental peacebuilding and SDGs, particularly its Target 1.5 (reducing vulnerability to climate-related extremes, other economic, social, and environmental shocks, and disasters). It encourages the UN to proactively identify emerging tensions and support member-states against vulnerability to environmental-related security risks before degeneration into crises. To sustain this, robust capacities for mapping, monitoring, and evaluating the impacts of interventions on local conflicts, community resilience and peacebuilding dynamics were accentuated.

Furthermore, the new conception of justice and its influence on transitional justice processes have also been examined against the narrow emphasis of traditional justice conceptions predicated on civil and political rights violations.[44] McGonigle-Leyh argues that new justice conceptions have emerged as the subject naturally expands into

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[42] Nitzschke (2003) 1-22.

[43] Bruch et al. (2019) 10134–10154.

[44] McGonigle-Ley h B 'The Socialisation of Transitional Justice: Expanding Justice Theories Within the Field' (2017) 11:1 *Human Rights & International Legal Discourse* 83–95.

peacebuilding, thus shifting the frame from 'transition to democracy' to 'transition to peace', the same way as transitional justice gravitates from 'transition to peace' to 'transition to just societies.' Hence, the need to reconceptualise the goals of transitional justice in order to accommodate the more complex territory infused with structural social circumstances potentially demanding total transformation.[45] Consequently, it amplifies the call for a broadened traditional transitional justice mandate to expedite social and transformative justice. It explores how and the extent to which transitional justice mechanisms could reinforce the place of social, cultural, and economic rights, and explores needs-based and priority assessments.[46] Therefore, the inclination necessitated by the complex and dynamic patterns of transitional justice in the last few decades has propagated the idea of socialisation of transitional justice.

The reviewed scholarly works have made significant (transdisciplinary) contributions on a general level. Nevertheless, a major lacuna to peacebuilding, justice in conflict and post-war reconstruction in Chad is the absence of transformative justice. The transitional justice approach emphasises more of peace and conflict resolution and democratisation faux pas. Hence the need to review peacebuilding along with multiple justice needs and aspirations of the population. Therefore, rethinking transformative justice mechanisms with post-conflict reconstruction and peacebuilding strategies can enhance the transformation of socio-political and economic structures and relationships in Chad. It will also create strategic priorities for policymakers and researchers in peacebuilding and transitional justice domains.

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[45] McGonigle-Leyh (2017) 94.
[46] McGonigle-Leyh (2017) 95.

1.7 Research Methodology and Delimitation

This research was written from a multidisciplinary perspective. It adopted scholarly analysis from the domains of international criminal justice, peace and conflicts, development, international relations, history, and public policy. The reason was due to the complex nature of the phenomena, actors, and policies reviewed and the diverse background under which scholarship in transitional justice could be undertaken. The research was purely qualitative and adopted a desk research method. It used secondary data from materials published in research reports including books, journal articles and relevant internet sources. It also used similar documents from practical experience and theories of peacebuilding and transitional justice to conceive a transformative justice model that supports sustainable peacebuilding and justice processes in Chad. The documents were downloaded from academic databases such as Westlaw, HeinOnline and Google Scholar. They were properly referenced and arranged alphabetically in the thesis's bibliography section using Mendeley reference Manager 1.28.0.0. The available data were summarised and aggregated to improve the overall effectiveness of the research. Significantly, the author's bilingual capacity in English and French languages helped to address the challenges posed by language barriers in accessing documents written in French.

Delimitation of the Study

For the delimitation, the major starting point for delimiting the desk review was the Habré and post-Habré era (1982-1990) till the present, although some critical historical events since Chad's independence in 1960 were contextualised. The post-1990 era was when critical efforts on transitional justice, peacebuilding and post-conflict

reconstruction process began to assume a definite form in Chad. However, Chad's situation today remains a developing story, hence the relevance of the study's conclusions and recommendations.

1.8 Chapters outline

The research is divided into five Chapters.

Chapter One presents the introduction section. It presents the study's background and contextualization, the problem statement, the significance of the research, the aim and objectives, research questions, literature review, and the methodology and delimitation.

Chapter Two discusses transformative Justice and peacebuilding as theoretical analyses. It elucidates the conceptual elements and principles of transformative justice as a model for peacebuilding. This includes the significance of economic transformation, democracy and good governance, and social justice to address the challenges of fragility in post-conflict societies.

Chapter Three assesses the peacebuilding process and the challenges of transformative justice in the post-Habré transition period in Chad. This includes the review of the challenges or lack of transformative justice in Chad's peacebuilding, justice in conflict, and democratisation processes and its implications.

Chapter Four analyses the prospects of transformative justice as a tool for the post-war reconstruction of Chad. This section engages with the issues of the political economy of conflicts and the prospects for the implementation of the SDGs in Chad. It also embraces futuristic thinking, projection, and articulation of thoughts on transformative justice.

Chapter Five is the Conclusion and recommendations. This also includes the identified

gaps in the research, the contributions to knowledge and areas for further research.

Chapter 2
Transformative Justice and peacebuilding: A theoretical analysis

2.1 Introduction

Transitional justice as a real-world practice has been conceived in general terms and within a dominant theory to imply best practices across the world. Its broad view embodies the complexities of managing massive abuses of human rights and assessing the practical methods or policies adopted in addressing the legacies of violence and injustice.[47] It is a significant component of peacebuilding, that is often incorporated into the justice and democratic processes in post-conflict societies, and peace operation mandates. Importantly, the United Nations (UN) and other organisations, since the 1990s, have promoted transitional justice along with human rights, the rule of law, democratisation, and good governance, as essential components of peacebuilding, interventions, or reconstruction in post-conflict societies.[48]

Transitional Justice developed from the transitions of Latin American and Eastern European states from repressive and communist regimes to democracy in the 1980s and 1990s. Accordingly, scholars and practitioners grounded on these transitions espoused the politics of 'post-utopian reparations' to correct the past abuses of power and human rights.[49] These encompass 'truth-telling, prosecutions, restitution, and reform of repressive state institutions— other than justice measures, particularly those associated

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[47] International Center for Transitional Justice 'What is Transitional Justice?' available at *https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf* (accessed 20 August 2021)

[48] Kent L 'Transitional Justice and Peacebuilding' in Simić O (ed) *An Introduction to Transitional Justice* (2021) 219–40.

[49] International Center for Transitional Justice 'What is Transitional Justice?' available at *https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf* (accessed 20 August 2021).

with the calls for distributive justice, often identified as the authentic justice propositions' in political transition processes.[50] The above historical and intellectual premise illustrates the earlier focus on 'legal-institutional reform, instead of the socio-economic transformation.

Moreover, transitional justice has since the 2000s undergone its own transition, assuming new forms or contexts and advancing new goals beyond its original embodiment as a legal mechanism of democratic transition.[51] Its broadening is largely induced by disappointment over its outcomes, including the degeneration of most political transitions into illiberal democracies, and their abysmal responses to socio-economic needs and injustices against the masses of victims.[52] For other reasons, human rights activists had increasingly demanded socio-economic rights and the attendant redistributive consequences, beyond the corrective justice for the violation of civil and political rights. Hence, its progressive expansion covers a range of violations, actors, and measures over a long period.[53] The above resonates with the UN's call for transformative justice to assume more ambitious and more transformative engagement with violations of socio-economic rights. The UN High Commissioner for Human Rights, Louise Arbour, stated in 2006 thus:

> Transitional justice must... assist the transformation of oppressed societies into
>
> free ones... addressing the (past) injustices through measures that will procure
>
> an equitable future. It must reach to, but also beyond the crises and abuses

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[50] Paige A 'How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice' (2009) 321.
[51] Waldorf L 'Expanding Transitional Justice' in Simić O (ed) *An Introduction to Transitional Justice*, second ed (2021) 311–32.
[52] Waldorf L 'Expandig Transitional Justice' (2021) 311–32.
[53] Waldorf L 'Expanding Transitional Justice' (2021) 311–32.

committed during the conflict which led to the transition, into the human rights

violations that pre-existed the conflict, caused and or contributed to it. When

making that search, one would likely expose a great number of violations of

economic, social, and cultural rights.[54]

Importantly, Arbour's submissions have resonated widely among advocates,

policymakers, and scholars in their criticisms of liberal peacebuilding mechanisms in

developing countries on the one hand, and their call for transitional justice to address

gross violations of socio-economic rights on the other. Parts of the criticisms against

liberal peacebuilding is the imposition of liberal democracy, which wrongly presupposed

that democracy and free markets would secure a liberal peace, thus, becoming

counterproductive in many transitional states.[55] Accordingly, its externally imposed "top-

down" approach often lacks legitimacy among local population and communities, hence,

its failure to achieve sustainable peace. Similarly, the liberal model's excessive emphasis

on free markets and international peace often overlooks the socio-economic needs and

grievances of the masses or victims of repressions.[56] Hence, transitional justice

mechanisms have become unpopular among local communities amidst the shortcomings

of the neo-liberal socio-economic policies, with negative consequences across the

developing world. Consequently, Zwart's receptors approach, highlights the states liberty

to adopt their own means, fully through local social institutions that meet human rights

standards, for implementing international human rights obligations. If unable to meet the

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[54] Arbour L 'Economic and Social Justice for Societies in Transition' *Annual Lecture on Transitional Justice, New York University School of Law* New York (2006) 1–12.
[55] Sriram CL 'Justice as Peace? Liberal Peacebuilding and Strategies of Transitional Justice' *(2007) 5:4 Global Society* 579–91.
[56] Sriram CL 'Justice as Peace?' *(2007) 5:4 Global Society* 579–91.

obligations, they can also be reformed and improved however, with the objective of fostering cultural legitimacy of international human rights standards.[57]

In calling for transitional justice to address gross violations of socio-economic rights, Mani (2008) advocated that transitional justice 'will continue to lose credibility where it operates across the poor and devastated communities' amid growing social injustice, corruption, and resource conflicts.[58] The International Centre for Transitional Justice highlights the linkage between transitional justice and development.[59] The UN's transitional justice policy also proposes accountability, including economic, social, and cultural rights, as prerequisite for addressing the root causes of conflict and repression, violations of human rights. While the UN Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence, Pablo de Greiff and his successor emphasised that promoting socio-economic rights intersects with transitional justice and Sustainable Development Goals,[60] the African Union (AU) explores beyond the mere promotion of political transition and liberal rights. The AU's Transitional Justice Policy (AUTJP) expressly empowers transitional states' lead in promoting restorative and transformative justice and addressing the violent past and developmental challenges.[61] Specifically, AU objectives highlight "transformation" beyond "transition" at the top, "laying a foundation for social justice and sustainable peace." By addressing the root causes of conflicts and facilitating a "policy for holistic and inclusive socio-economic

[57] Zwart T 'Using Local Culture to Further the Implementation of International Human Rights: The Receptor Approach' (2012) 34: 2 *Human Rights Quarterly* 546-569.

[58] Mani R 'Dilemmas of Expanding Transitional Justice or Forging the Nexus between Transitional Justice and Development' (*2008) 2 International Journal of Transitional Justice* 253–254.

[59] International Center for Transitional Justice 'What is Transitional Justice?

[60] Salvioli F 'Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-Recurrence, A/73/336' (2018), paras 4–5, 50–64.

[61] African Union 'Transitional Justice Policy' (2019) 3.

transformation and development" the goal is to sustainably address the legacies of exclusion and historical injustices in transitional states. [62]

The missing link in the liberal peacebuilding proposition (as represented above) underscores the need for a shift towards accommodating socio-cultural and economic transformations in transitional justice. This is indicative of the three genealogical phases of transitional justice—the politics of 'post-utopian reparations' against repressions (of the 1980s and 1990s); the degeneration of political transitions into illiberal democracies (2000s); and the all for inclusive governance and development (since mid-2000s) response to the injustices against victims and their needs. [63] Therefore, the chapter elucidates the concept and principles of transformative justice as a model for strategic peacebuilding, economic transformation, democracy, good governance, and social justice amidst the fragility of post-conflict societies. It also explores the controversies around the transformative model of transitional justice.

2.2 Transformative Justice

Articulating a normative theoretical construct presents the opportunity to elucidate the relationship among its basic elements and establishes the relevance of its practical applications to real-world situations. Thoughts have been drawn from Arbour's aphorism by practitioners, policymakers, and scholars both on the language of transformation and a rethinking of the liberal conception of transitional justice. [64] To make it more transformative, some advocates link transitional justice to development initiatives, while others, favouring a more radical approach, recommend that transformative justice

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[62] African Union 'Transitional Justice Policy' (2019) 5.
[63] Waldorf L 'Expanding Transitional Justice' (2021) 311–32.
[64] Arbour 'Economic and Social Justice for Societies in Transition' (2006) 2.

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complements or replaces transitional justice. Nevertheless, various scholars have defined transformative justice, drawing from different concepts such as rights-based development, gender justice, restorative justice, reconciliation, positive peace, conflict transformation, as well as advocacy networks etc.[65] Aggregating the links among these ideas, Paul Gready and Simon Robins depict transformative justice as a mechanism that

> (i) promotes local agency and resources; (ii) prioritises pluralism process rather than singular models and preconceived outcomes; (iii) addresses a violent past (through an open-ended, ongoing project), ...in a manner that acknowledges continuities between past and present, to create a better future; and (iv) combats unequal and lopsided power relationships and structures of exclusion via strategic actions spanning local, national (the state), and global levels. [66]

The objective of transformative justice is the inclusion of social and economic matters in the process of transitional justice, without jeopardising civil and political rights concerns. This underscores the need to strike a balance between these two concerns while crafting a holistic and comprehensive approach to justice in transition.[67] Sharp highlights transformative justice's deviation from the liberal model, and its critical emphasis on new mechanisms that address socio-economic challenges confronting citizens in transitional states.[68] Accordingly, it advocates for the replacement of the established belief system of

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[65] Waldorf (2021) 321.
[66] Gready and Robins (2019) 51.
[67] Duri J 'Deploying Transitional Justice Mechanisms as Anti-Corruption Tools in Africa' (2020) 42. Available at *http://etd.uwc.ac.za/handle/11394/7620* (Accessed on 24 September 2021)
[68] Sharp DN 'Interrogating the Peripheries: The Preoccupation of Fourth Generation Transitional Justice' *(2013)*

"excluding economic violence with a more nuanced, contextualised, and balanced approach" to reflect the whole gamut of physical and economic justice challenges of societies in transition.[69] It also reconceptualises the goals of transitional justice tools by accounting for longterm structural violence which escalates during the transition and its aftermath. This phenomenon of structural violence, referred to by Johan Galtung as "the social structures which systematically harm or disadvantage people" reflects the challenges of abysmal transition processes.[70] Hence, transformative justice offers to challenge and transform the power structures that induce structural violence or inequalities.[71] Moreover, Daly's disentangling of the terms "transition" and "transformation" suggests that the former occurs at the top, without reaching deep into the fabric of the 'new society' where the commitment to democracy and justice are expected to take root".[72] Contrariwise, the latter, percolates strata of the community, thus closely measuring the context of the problem and the population's needs.[73]

Transformative justice seeks a balance between local and international agencies. Given the design and implementation of most transitional justice mechanisms within the purview of the liberal peace order of state-building. The "top-down" measures are often externally driven, elitist, and imposed on the victims or local communities without due consultation or inclusion.[74] Hence, their failure to strike an equilibrium between the international and local agencies' ownership, accountability, and authority of justice, with

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[69] Sharp (2013).
26:1 Harvard Human Rights Journal 157.
[70] Galtung J 'Theories of Peace: A Synthetic Approach to Peace Thinking' (1967) 20.
[71] African Union 'Transitional Justice Policy' (2019) 2.
[72] Daly E 'Transformative Justice: Charting a Path to Reconciliation'
[73] Daly E 'Transformative Justice: Charting a Path to Reconciliation'
(2001) 74.
[74] Sharp DN (2019) 161.

"selective disregard to local context", has brought neither peace nor justice in most parts of Africa.[75] Engrossed with their strengths and weaknesses, both external and local approaches should not be applied to the exclusion of the other. Thus, transformative justice endeavours to reinforce the two values, where local actors are active in the design and implementation of the transitional justice processes.[76]

By rejecting the imposition of an unworkable global template, transformative justice proposes a more "bottom-up approach" to addressing the root causes of violence and rights violations in sustainable ways.[77] Its break with the "one-size-fits-all" method of transitional justice, seeks to incorporate the "voices from below". The former United Nations Secretary-General, Kofi Annan, captured the need "to eschew one-size-fits-all formulas and the importation of foreign models, and, instead, base our support on national assessments, national participation and national needs and aspirations."[78] Therefore, a transformative approach to transitional justice includes engagement of the victims and survivor communities in crafting responsive institutions and mechanisms. Likewise, it also prioritises their empowerment, transformations, needs and aspirations, as well as addressing social dysfunctions.[79]

Articulating a theoretical construct, as de Grieff suggested, "can help to guide actions, and clarify propositions and the scope of normative arguments, beyond exerting

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[75] African Union 'Transitional Justice Policy' (2019).
[76] Shaw R & Waldorf L 'Introduction' in Shaw R, Waldorf L & Hazan P (eds) *Localising Transitional Justice: Interventions and Priorities after Mass Violence* (2010), 1–12.
[77] Daly E 'Transformative Justice: Charting a Path to Reconciliation'
[78] Duri 'Deploying Transitional Justice Mechanisms as Anti-Corruption Tools in Africa' (2020) 50.
[79] Daly E 'Transformative Justice: Charting a Path to Reconciliation' (2001) 74; Gready & Robins 'From Transitional to Transformative Justice: A New Agenda for Practice' (2014) 355.

judgement." [80] An understanding of such construct can therefore give meaning to practices and outcomes beyond the dominance of its peculiar legal analysis. Reflecting on the dominant theoretical postulations and models of effective transitional justice, Lambourne highlights four critical elements or aspects of transformative justice. These include accountability or legal justice, 'truth'- knowledge and acknowledgement, socioeconomic justice, and political justice. [81]

2.2.1 Elements of Transformative Justice

Accountability and legal justice: Accountability and legal justice are significant components of transitional justice. Available studies suggest the imperative of a tribunal that provides justice and accountability for the actions of perpetrators, repression, or violations of human rights, such as the culprits in the 1991-2002 civil war in Sierra Leone (most especially the Revolutionary United Front), the former Khmer Rouge massacre in Cambodia (1975-1979, and the 1995 Srebrenica genocide of Bosnian Muslims during the Bosnian War etc.) Meanwhile, survivors often demand accountability and punishments for perpetrators. For instance, survivors of the Rwanda genocide and the East Timor massacre voice their displeasure with limited retributive justice measures against the perpetrators of grave crimes. [82] The human rights activists made similar complaints against government forces, rebels and multinational peacekeeping forces in Sierra Leone and Liberia. In most cases, the failure of truth commissions to prosecute can only translate to a fragile peace. Hence, restorative justice may need to be mediated with retribute justice in order to address the survivors' aspiration for justice and accountability as

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[80] de Greiff 'Theorizing Transitional Justice' (2012) 32.
[81] Lambourne (2009) 32.
[82] Lambourne (2009) 38.

demonstrated in East Timor. This can in turn reinforce respect for the rule of law and enhance conditions for peace and security. At the same time, efforts on accountability and prosecutions of past human rights violations or serious crimes that fail to rebuild relationships through elements of the restorative process may induce societal divisions capable of undermining peace and stability. Hence, accountability and legal justice are key elements of transformative justice and sustainable peacebuilding.

Truth-seeking (knowledge and acknowledgement): The concept of truth is very ambiguous and remains inadequate as variously conceived in transitional justice. Its interpretation as "the finding of what (actually) occurred, who was responsible and why" is often misleading. In his distinction of four types of truths illustrated in the Truth and Reconciliation Commission (TRC) in South Africa, Parmentier elicits the models of truth in transitional justice to include: personal or narrative truth; forensic or factual truth; healing or restorative truth; and social or dialogue truth.[83] Such dimensions of truth are essential to understanding people's expectations toward reconciliation, although with terminal, spacial, and circumstantial variations.[84] As Lambourne emphasised, the relevance of historical records of conflicts or abuses/violations and the acknowledgement of who was/were responsible can be derived from both personal/narrative truth, facts, and forensics. These can produce the adequate knowledge needed for reconciliation, forgiveness, and restoration of damaged inter-personal or group relations in post-conflict societies. Truth can enhance justice for victims while forensic truths and personal narratives of survivors can provide a sense of acknowledgement of the past suffering, as

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[83] Parmentier S 'Global Justice in the Aftermath of Mass Violence: The Role of the International Criminal Court in Dealing with Political Crimes' *(2003) 41:1-2 International Annals of Criminology* 203–224. [83]
[84] Parmentier S 'Global Justice in the Aftermath of Mass Violence:

it was in Cambodia.[83] Similarly, knowing what happens to one's loved ones through acknowledgement of past wrongdoings can enhance community reconciliation processes, particularly when victims and perpetrators (deponents) are brought together. Genuine dialogue or engagement toward facilitating a sense of 'social truth', and establishment of agreed-upon records of the past wrongdoing through monuments, museums etc., and periodic commemoration can impact victim's healing, enhance peacebuilding, justice, and reconciliation.

Socio-economic justice elucidates the application of justice principles within the purview of both economic and social scales. It underscores the importance of a human rights-based approach to socio-economic development.[85] Socio-economic justice is a concept developed from socialist movements' struggles, the industrial revolution, and the growth of Christian and social democrats.[86] It thrives on the notion of a just world which guarantees equality, human rights, an egalitarian economy, property and income redistribution and progressive taxation.[87] Social justice developed from John Rawls's "justice as fairness" theory, which illustrates the principles governing the social order.[88] This illustrates the framework for equality, personal and political liberties, equity in opportunities, and the mechanisms for an equilibrium growth among the strata of the society.[89] Economic justice illustrates the social order, the individual and the moral principles that underpin the design of the economic and social institutions.[90] Lambourne extrapolates 'socioeconomic justice' to aggregate the several justice elements related to

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[85] Sharp DN *Justice and Economic Violence in Transition* (New York: Springer, 2014) 2.
[86] Barry *Why Social Justice Matters* (Cambridge, MA: Polity, 2005) 2.
[87] Barry *Why Social Justice Matters* (Cambridge, MA: Polity, 2005) 2.
[88] Rawls J 'Justice as Fairness' (1958) 67: 2 *The Philosophical Review* 164–94.
[89] Rawls J 'Justice as Fairness' (1958) 67: 2 *The Philosophical Review* 164–94.
[90] Rawls J 'Justice as Fairness' (1958) 67: 2 *The Philosophical Review* 164–94.

financial or material compensation, reparation or restitution of past crimes or violations (historical justice) and socioeconomic/distributive justice in the future (prospective justice). [91] The author's motive reflected the need to establish a feeling of justice concerning the past violations and to minimise future structural violence as a guarantee for sustainable peace.

Notably, most of the past and current models of transitional justice stress more on reparation, particularly historical reparations rather than future socio-economic justice. While retributive justice often responds to violations through appropriate punishments, distributive justice emphasised the fair allocation of burdens and resources.[92] Hence, alleviating the effect of those violations and redress through distributive justice are essential transitional justice measures in peacebuilding. The inability of most of these measures to meet the basic needs of the masses significantly impedes the peace and reconciliation process, as examples of Cambodia, Sierra Leone, and Rwanda aptly come to mind. Several victims in post-conflict societies are often recognised as witnesses but the tribunals neglect their material needs including the failure to provide them with financial compensation, healthcare support, restitution, or other essential assistance.[93] Given the lack of development and adequate support, high levels of poverty have significantly fuelled their feelings of injustice. Consequently, restitutive justice is essential to fostering peace and reconciliation. The campaign for socio-economic justice and transformation is at the core of political transitions in Africa, its neglect or downplay of transitional justice over the years has made the region's efforts toward justice appear

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[91] Lambourne (2009) 43.

[92] UKEssays 'What Is Socio Economic Justice?' Politics Essay (2018) available at: *https://www.ukessays.com/essays/politics/what-is-socio-economic-justice-politics-essay.php?vref=1* (accessed 22 February 2022).

[93] Lambourne (2009) 43.

as a mere charade. In most transitional states, citizens prefer socio-economic justice as a means to entrench accountability, inclusion and fair distribution of state resources.[94] This is critical for alleviating poverty and harsh socioeconomic conditions. For instance, South Africa's Truth and Reconciliation Commission's major concern was the violations of civil and political rights. The downplay of reparations and socio-economic issues such as housing, employment, education and health care in the post-apartheid transition, creates an atmosphere of gross economic inequalities, deprivation and exclusion, thus making true reconciliation a mirage.[95] Likewise, the TRC established after Sierra Leone's decade-long civil war revealed the victim and citizen's preferences for distributive justice, i.e., socio-economic inclusion in education, healthcare, employment, and poverty alleviation as more important than retributive justice.[96] It is worrisome that several African states struggle to address socio-economic injustices, including marginalisation and structural inequalities perpetrated in the past. Indeed, socio-economic justice is an essential instrument for correcting the threats to peace, security, and development, particularly in post conflict societies and even beyond the transition.[97]

Political justice: A successful transitional justice measure can be implemented based on institutional reform, rule of law and the respect for human rights. These are essential for good governance, socio-economic development and avoidance of a victor's justice or

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[94] Muvingi I 'Sitting on Powder Kegs: Socioeconomic Rights in Transitional Societies' *(2009) 3:2 International Journal of Transitional Justice* 163–82.
[95] Oosthuizen GH 'A Country Unmasked: Inside South Africa's Truth and Reconciliation Commission' *(2002) 15:1 Leiden Journal of International Law* 281–84; Langa P 'South Africa's Truth and Reconciliation Commission' *(2000) 34:1 International Lawyer (ABA)* 347–54.
[96] Park ASJ 'Community-Based Restorative Transitional Justice in Sierra Leone' *(2010) 13:1 Contemporary Justice Review* 95–119.
[97] African Union 'Transitional Justice Policy' (2019) 14.

impunity. In most failed transitions, perceived socio-economic discrimination and unresolved political divisions often disrupt peacebuilding and democratic processes.[98] A critical illustration was the inclusion of some former Khmer Rouge in the Cambodian new administration and its lack of democratisation. Such trends undermine the justice processes by furthering a disrespect for the rule of law, abuse of human rights and a culture of impunity.[99] A similar outcome is the perception of victor's justice and the lack of democratisation in Rwanda's Paul Kagame era, particularly as the majority Hutu population remained discontent amidst a government dominated by the Tutsi minority. This seemingly represents a repetition of the previous government's mistakes that caused the war in 1994, although not as elaborate in the new administration.[100]

Political justice reflects the will and the capacity of governments at all levels to provide qualitative, responsive, and responsible leadership to the citizens. In this regard, this should embrace an unalloyed commitment to good governance, provision of essential services and combatting corruption. Government must be unbiased and exude commitment to a "just peace" in a manner driven by strong and effective institutions instead of a strong man's rule or rule of men that is doomed to be unjust, oppressive, or protecting some vested interests against the collective will of the masses. [101] Transformative justice is incomplete without political justice, yet civil and political rights and socio-economic justice are mutually reinforcing. Commitment to these rights can enhance the justice process in nascent democracies, and aid in tackling the root causes of

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[98] Lambourne (2009) 44.

[99] The thesis underscores the counterpoint that total exclusion of the Khmer Rouge could have led to them becoming "spoilers" and derailing the entire TJ process, see Kent L 'Transitional Justice and Peacebuilding' (2021) 219-40.

[100] Lambourne (2009) 44.

[101] Sharp DN *Justice and Economic Violence in Transition (2014) 3.*

conflict. Hence, their absence makes any peacebuilding progress unsustainable. The foregoing affirms the indivisibility and interdependence of rights as critical elements for the pursuit of comprehensive and integrated transformative responses to past abuses.[102]

2.2.2 Principles of Transformative Justice

The model of transformative justice suggests six fundamental principles, that appeal to the above-stated elements, toward sustainable peacebuilding.[103] These include:

1. Symbolic (including rituals) and substantive justice.
2. Prospective - connecting the long-term goals, with present (procedural) and past (historical) justices.
3. Local ownership and capacity building.
4. Structural transformation and institutional reform.
5. Reconciliation and relationship transformation.
6. Comprehensive, holistic, and integrated approach.

Towards an effective transformation, symbolic justice and rituals are substantive to promoting the local customs and heritage in transitional justice processes. In dealing with past violations, transformative justice seeks to establish structures and conditions that facilitate justice in both the present and the future. This includes mechanisms for long-term vision and commitment beyond the transition period, suggested by the axiom 'transitional justice.'[104] Its application to legal justice, according to Lambourne, enhances accountability for past abuses and 'truth' through the historical record. Hence, its

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[102] Gready & Robins '*From Transitional to Transformative Justice*' *(2014) 355*.
[103] Lambourne (2009) 46.
[104] Balasco LM 'Locating Transformative Justice: Prism or Schism in Transitional Justice?' (2018): 372–80.

institutional and structural reforms also engender the transformation of relationships and enhance procedural justice i.e., respect for the rule of law and human rights (both present and long-term). Indeed, transitional justice, as Teitel noted, produces an exceptional amount of knowledge and instituted processes that remarkably drives political change.[105] However, Lambourne argues that effective socio-economic or distributive justice can be mediated beyond a reparative or restitutive justice for past injustices.[106]

Furthermore, designing efficient political structures and systems of accountability should be premised on local ownership and local conditions, including relevant cultural symbolism, toward enhancing capacity building and societal transformation. Hence, structural, and institutional reforms and meaningful transformation of relationships would create the necessary conditions and framework conducive for constructive reconciliation and peacebuilding beyond transition. The comprehensive and holistic approach of transformative justice requires unalloyed commitments, at all levels of governance, to legal justice and accountability. This should embrace retribution, and psychosocial justice and facilitates restoration of relationships.[107] It also includes political justice, premised on qualitative leadership, inclusiveness, and strong democratic institutions; as well as socio-economic justice that guarantees fair allocation of burdens and resources (distributive justice). In this way, transformative justice overcomes the narrow attribution

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[105] Teitel R G *Globalizing Transitional Justice* (2014).
[106] Lambourne (2009) 46.
[107] Sandoval C 'Reflections on the Transformative Potential of Transitional Justice and the Nature of Social Change in Times of Transition' in *Justice Mosaics* ed. Roger Duthie and Paul Seils (New York: International Center for Transitional Justice, 2017).

of transitional justice only to the formal legal justice process and enhances sustainable peacebuilding. [108]

A remarkable advancement of transformative justice to the theoretical framework and practice of transitional justice is the paradigm shift toward traditional and informal justice mechanisms. Accordingly, Gready & Robins maintained that" "for transitional justice to be more transformative ... a reframing of both the problem it seeks to address, and related responses and interventions are required." [109] Thus, opinions to localise transitional justice via informal or traditional mechanisms, as the new techniques for peace, justice, truth, and reconciliation, have gained impetus. In endorsing the integration of traditional justice mechanisms, the AU's Transitional Justice Policy (AUTJP) states that:

> Traditional and complementary justice mechanisms, such as the local processes, rituals etc. used by communities for adjudicating disputes and restoration in post-conflict... in line with established community-based norms and practices, are transformative. These include traditional adjudicative processes such as clan or customary courts and community-based dialogue. [110]

Although these culturally significant mechanisms may not be global models, they provide new opportunities to challenge unequal power relations and exclusions. Their importance, according to the AU, transcends the acknowledgement of guilt, reparation,

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[108] Lambourne (2009) 47.

[109] Gready & Robins 'From Transitional to Transformative Justice' (2014) 355.

[110] African Union 'Transitional Justice Policy' (2019) 4.

forgiveness, remorsefulness, and reconciliation.[111] Thus, they are more restorative than retributive, and capable of healing instead of pursuing individual accountability.[112] Beyond the fact that remote, poor, or disadvantaged communities rely on this method of justice, they relieve some pressure from the state's under-resourced formal justice mechanisms. Their level of attentiveness to local yearnings and accountability against lower-level perpetrators are second to none.[113] Rwanda's Gacaca courts and Sierra Leone's TRC are relevant examples.

2.2.3 Criticisms of Transformative Justice

Like other theories of transitional justice, transformative justice has stimulated controversies and is often criticised for its limitations, and ambiguities in terms of practical realities. The theory's major emphasis on the need to challenge power relations, and ensure socio-economic transformation, has been characterized as vague and risks becoming an empty signifier, or mere reconciliation.[114] Gready advances scepticisms about the vagueness of how the theory exactly seeks to transform everything including the political institutions, social relations, economic structures, or individual self-efficacy, plus the neo-liberal world order.[115] Similarly, determining how holistic and progressive approaches to transformative justice will produce the required institutional reforms and redistribution of power and resources also appears ambiguous. This, according to Sharp,

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[111] African Union 'Transitional Justice Policy' (2019) 4.
[112] African Union 'Transitional Justice Policy' (2019) 4.
[113] Shaw and Waldorf 'Introduction' *Localising Transitional Justice* (2010) 16.
[114] Urban Walker 'Transformative Reparations? A Critical Look at a Current Trend in Thinking about Gender Just Reparations' (2016) 109; Evans 'Addressing Historical Wrongs in Post-Transition South Africa: What Role for Transformative Justice?' in Evans M (ed) *Transitional and Transformative Justice: Critical and International Perspectives (*2019) 45.
[115] Gready 'Introduction' in Gready and Robins (eds) *From Transitional to Transformative Justice* (2019) 58.

becomes more difficult to achieve, given the nature of entrenched physical, structural, economic, and cultural violence. [116]

The wide gap between the theory's ambitious approaches and practical realities creates a potential source of the unwarranted feeling of delusion, pessimism, and failure of transitional justice projects.[115] McAuliffe criticises the theory for mainly discrediting the norms, values, and institutions of the traditional transitional justice process without its actual focus on the applicable contexts.[116] This includes, he argues, its failure to depict the complexity of post-conflict environments, and importantly political economy dynamics that often impede economic justice such as elite retrenchment, spoilers, neopatrimonialism, and state fragilities in developing countries. [117] In this regard, practical considerations are very crucial beyond the theory's normative designs.

Another criticism is the theory's hypothetical privileges for process over outcomes. While scholars contend that participatory processes may stimulate transformative outcomes, participatory processes involving victims may essentially promote or reinforce exclusion, a similar outcome in Bosnia.[118] The theory's victim-centred approach, as observed, may also hinder perpetrator and combatant participation, as shown in Peru.[119] Hence, the challenges of its narrow conclusion on inclusive or progressive participatory processes towards structural transformation.

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[116] Sharp 'What Would Satisfy Us? Taking Stock of Critical Approaches to Transitional Justice' (2019) 571. [115] Sharp 'What Would Satisfy Us? Taking Stock of Critical Approaches to Transitional Justice' (2019) 571. [116] McAuliffe *Transformative Justice and the Malleability of Post-Conflict States* (2017) 5.

[117] McAuliffe *Transformative Justice and the Malleability of Post-Conflict States* (2017) 5.

[118] Lai and Bonora 'The Transformative Potential of Post-War Justice Initiatives in Bosnia and Herzegovina' in Evans M (ed) *Transitional and Transformative Justice: Critical and International Perspectives* (2019) 62.

[119] Waldorf 'Expanding Transitional Justice' (2021) 323.

It is remarkable to note that transitional states often fail to achieve real transformation irrespective of a promising theoretical approach. Thus, political will, in terms of the state's ability and sincere willingness, is an essential element in the practical implementation of transitional justice mechanisms. For example, the state's refusal to allocate adequate financial and human resources, or its reluctance to fully implement socio-economic transformation may hinder the transitional justice processes. [120] Regrettably, post-conflict leaders, in many circumstances turn against implementing any transformation that threatens their authority, especially as parts of the pre-transitional elites. Political leaders are often apprehensive that bottom-up approaches and distributive justice may empower citizens to challenge unequal power relations.[121] McAuliffe further supports the need to ponder the malleability of the post-conflict environment when formulating transformative justice mechanisms.[122] Hence, achieving real socio-economic transformation may be difficult without a sincere political will.

Contemporary transitional justice policy and scholarship have generally embraced the idea of transformation in its application to several socio-economic abuse, and the concerns of non-state actors, including in post-transitions. Nevertheless, Roht-Arriaza cautions on 'the risk of expanding the transitional justice agenda too far, to become undifferentiated from the general demand for social change, which then generates the anxiety of how to make such demand effective.[123] Yet transformative justice is not devoid of controversies, which remain ongoing. One of the controversies is its relationship with

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[120] Duri 'Deploying Transitional Justice Mechanisms as Anti-Corruption Tools in Africa'
(2020) 65.
[121] McAuliffe *Transformative Justice and the Malleability of Post-Conflict States* (2017) 5.
[122] McAuliffe *Transformative Justice and the Malleability of Post-Conflict States* (2017) 5.
[123] Roht-Arriaza 'Measures of Non-Repetition in Transitional Justice: The Missing Link?' in Gready & Robins (eds) *From Transitional to Transformative Justice* (2019) 32.

49

transitional justice. Gready and Robins maintain it is a prism for critiquing transitional justice, thus, making it more transformative. [124] While also characterising it as a separate endeavour, the authors posit that it can supplement transitional justice, or both run concurrently, and should they be sequenced transitional justice should take precedence.[125]

The transformative justice theory is appraised more as a useful analytical lens, than an explicit approach to shaping policy and practice.[126] In eliciting its lack of evidence, Sandoval emphasises the need to commit time and resources to enhance the transformative potential of current transitional justice mechanisms, particularly, the guarantees of non-recurrence that can engender structural change.[127]

2.3 Chapter Synopsis

The dominant conception of transitional justice has critically followed the implementation of the neo-liberal script, preferencing the civil and political and civil rights, the influence of actors (particularly external), and support for state-building. However, its de-emphasis of socioeconomic justice has negative implications for transitional justice, including increased violence amidst the flaws of unsustainable peacebuilding processes and injustice against the majority populations in transition states. Notwithstanding its recent expansion toward uncovering the factor of economic actors, expanding the length of transitions, broadening the measure or guarantees of non-

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[124] Gready & Robins 'From Transitional to Transformative Justice: A New Agenda for Practice' (2014) 355.

[125] Gready & Robins 'From Transitional to Transformative Justice: A New Agenda for Practice' (2014) 355.

[126] Balasco 'Locating Transformative Justice: Prism or Schism in Transitional Justice?' (2018) 377; Waldorf 'Expanding Transitional Justice' (2021) 323.

[127] Sandoval 'Reflections on the Transformative Potential of Transitional Justice and the Nature of Social Change in Times of Transition' in Duthie & Seils (eds) *Justice Mosaics: How Context Shapes Transitional Justice in Fractured Societies* (2017) 192-93.

recurrence, etc., salient questions remain on how successful transitional justice has achieved its initial goals.[128] Thus, the goals of truth, reparations, and justice are still to be attained, let alone of prevention (non-recurrence) and transformation.

The significance of the more ambitious processes and goals of transformative justice, in incorporating the "voices from below" through a "bottom-up approach," has been promoted by practitioners, policymakers, and scholars, as the best way to address the root causes of violence and violations of rights in sustainable ways. Consequently, the domain of transformative justice is gravitating towards integrating socio-economic issues in transitional justice models. However, there is a lack of consensus on its methodology, and how best transitional states can undertake its elements and principles. Because of this, its significance is prominently underscored in the AUTJP framework and the SDGs. Hence its application in this thesis as a constructive approach, to ponder peacebuilding and justice in conflict processes in post-war Chad, provides a coherent analytical lens to shape policy and practice. Its transformative potential for current transitional justice mechanisms also enhances the discourse's guarantees of non-recurrence, sustainable peacebuilding, and structural change in post-war reconstruction. The subsequent chapters of this thesis will examine transformative justice in the context of post-Habré Chad, with a concrete analysis of peacebuilding, justice, democratisation, and the problems of transitional justice in Chad.

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[128] Waldorf 'Expanding Transitional Justice' (2021) 327.

Chapter 3
Peacebuilding and the challenges of Transformative Justice in post-Habré Chad

3.1 Introduction

Transitional justice is often conceived as an intrinsic element of peacebuilding. Indeed, achieving justice, peace and democracy have been treated as mutually reinforcing necessities in most transitions, including its incorporation into the mandates of several United Nations (UN) peacekeeping operations and other third parties' interventions. Hence, transitional justice is often mediated in consonance with human rights, the rule of law, democratisation and good governance as important components of peacebuilding, intervention, and reconstruction in post-conflict societies. This section begins with an overview of the Chadian crisis (1965-1990) and its aftermath. It critically assesses the peacebuilding processes in post-Habré Chad (1982-1990), its justice in conflict, and democratisation processes. A review of the challenges and implications of the lack of transformative justice in Chad's peacebuilding, amidst the deplorable socio-economic conditions of the population, and its complex political environment are also undertaken.

3.2 Overview of the Chadian crisis (1965-1990) and its aftermath

Chad is a landlocked state in west-central Africa and the Sahel, whose most northern areas are in the Sahara Desert. The national capital is N'Djamena (formerly Fort-Lamy). Chad is bounded on the north by Libya, on the south by the Central African Republic, on the east by Sudan, and on the west by Niger, Nigeria, and Cameroon. Following the partition of Africa among the European powers in the late 19th century and the ensuing conquest battles between colonial and local forces, Chad became part of the federation of French Equatorial Africa in 1910. From being an overseas territory of France in 1946, it

52

was proclaimed an autonomous republic within the French Community in November 1958 and attained complete independence on 11 August 1960.[129] It was led by a southern trade union leader, N'Garta (François) Tombalbaye, the first president of the republic under the *Parti Progressiste Tchadien* (PPT) - Chadian Progressive Party.

A brief alliance of the PPT with the main opposition, the National African Party (PNA), into a new Union for the Progress of Chad in March 1961. However, an alleged conspiracy by northern Muslim elements, occasioned the dissolution of the National Assembly, a state of emergency, and the arrest of key ministers linked with the PNA, in 1963. With only the PPT candidates running in the December 1963 elections, Chad became a one-party state. [130] Tombalbaye's mismanagement and autocratic rule exacerbated the tensions between its conservative non-black Muslim warlords of the old feudal northern territories and the Black (mostly Christian) and more economically progressive populations of the southwest. The interethnic tensions exacerbated, as a result, pitched the Christian Sora peoples of the south against the northern Toubous and the Islamic Sahelians of the central region.[131] Hence, five years after independence, Chad descended into a full-blown civil war in 1965, a crisis further complicated by Libya's involvement. [132]

In the civil war, two guerrilla groups emerged, the Front for the National Liberation of Chad (*Front de libération Nationale du Tchad*, FROLINAT) formed in 1966 and mainly operated from northern Chad, with training bases from the contiguous

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[129] Jones DH and Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad* (accessed 15 November 2021).

[130] Collelo T *Chad: A Country Study* Second edition (1990) 5.

[131] Kieh GK 'Resolving African Conflicts' (1993) 5: 4 *Peace Review* 447–54.

[132] Jones DH & Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad* (accessed 15 November 2021).

Libyan oasis of AlKufrah. The second was the Chad National Front (FNT) effective in Chad's East-central region. Both groups, led by Goukouni Weddeye (Oueddei) and Hissène Habré respectively, aimed to overthrow the new government, reduce the French influence in Chad, and maintain a closer link with the Arab countries in North Africa. The ensuing warfare in 1969-1970, was initially suppressed by the French military interventions.[133]

Moreover, hostilities and attacks against the centre continued despite Tombalbaye's overthrow and assassination in a military coup, and General Félix Malloum N'Gakoutou's (another southerner) rise to power in 1975.[134] Hissène Habré faction's takeover of N'Djamena in 1979, eventually collapsed central authority in Chad.[135] Furthermore, (mostly northern) armed militia's contest for power weakened central control in Chad. The president of Chad's new transitional coalition government, 1979-1982 (by the terms of the Lagos Accord) Goukouni Oueddei, was overthrown in 1982 by his defence minister, Hissène Habré (Chad's de facto ruler, 1982-1990). However, Libya's involvement evoked the French support for Habré and a united resistance from Chadians against Libya's army, hence sounding a disastrous end to Libya's adventure in 1987.[136]

Habré's dictatorship reflected a power consolidation fixated on corruption and violence. In his attempts to defeat Gaddafi, secure Chad and consolidate his reign, Habré's newly created *Direction de la Documentation et de la Sécurité* - Directorate of

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[133] Jones DH & Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad* (accessed 15 November 2021).
[134] Kieh GK 'Resolving African Conflicts' (1993) 5: 4 *Peace Review* 447–54.
[135] Nolutshungu SC *Limits of Anarchy: Intervention and State Formation in Chad* (1996) 268.
[136] Nolutshungu SC (1996) 150, 230.

Documentation and Security (DDS) – a secret security agency, cracked down on local oppositions. The DDS, under Habré's order, was reported to have killed 40,000 Chadians and tortured some 50,000 prisoners. [137] Hicks further noted that:

> In the 1980s, the DDS allegedly arrested, tortured, illegally detained, and killed tens of thousands of Chadians. The DDS's horrifying methods included secret prisons... Also, prisoners were hanged by their testicles, their hands and feet were behind their backs, and were forced to drink water, with tightened sticks around their skulls. The rape of women and children was pervasive as hundreds of them died from malnourishment or succumbed to preventable diseases e.g., malaria and dysentery. Hundreds more also disappeared without traces and were not found to date. Similarly, the army, police, and security forces used brutal means to suppress dissent across Chad, massacred civilians and rebel fighters and destroyed entire villages. Prisoners of war (POWs) were exposed to inhumane treatments for years without access to the caregivers including the Red Cross. Indeed, large numbers of erstwhile combatants were sometimes tied together, either shot or burnt to death. [138]

His misrule also included allegations of widespread favouritism for his own *Toubou* ethnic groups above former allies - the *Zaghawa* ethnic, among others. These precipitated a new cycle of warfare and rebellion, leading to his eventual overthrow in 1990. In April 1989, Brahim Mahamat Itno (the interior minister), Hassan Djamouss (military adviser) and Idriss Déby (an army general) were accused of plotting Habré's

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[137] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 79-105.
[138] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 79-105.

overthrow. The arrest of Itno and the assassination of Djamouss forced Déby to escape and resume attacks in 1990. By late 1990, Habré fled the country as Déby's Movement for Chadian National Salvation forces captured Abéché and overran N'Djamena. Subsequently, Déby suspended the constitution and declared himself as head of the new government. [139] Unfortunately, Déby's reign, 1990 to 2021, was marred by internal opposition, abortive coups, civil strife (mostly in Eastern Chad) and exacerbated political tension with Sudan.[140] While measures were undertaken to promote peace, reconciliation, and prosecution of violators, including cessation of hostilities between Chad and Sudan in 2011, Déby was assassinated in April 2021, in his attempt to foil a rebellion in northern Chad.

3.3 Peacebuilding process in post-Habré Chad (1990-2021)

Peacebuilding is regarded as the constructive processes, relationships, and institutional mechanisms aimed at resolving conflicts and promoting sustainable peace. It encompasses conflict prevention; conflict management; conflict resolution, and post-conflict reconciliation and transformation.[141] The UN defines peacebuilding as "a wide range of political, humanitarian, developmental, and human rights mechanisms and programmes designed to prevent the outbreak, continuation or recurrence of armed conflict." [142] Bruch et al., argue that peacebuilding measures incorporate multiple agencies or institutions' efforts towards reestablishing security, governance, and political

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[139] Nolutshungu (1996) 234–237.

[140] Marchal (2016) 2.

[141] KROC Institute for International Peace Studies 'What is Strategic Peacebuilding?' available at _https://kroc.nd.edu/about-us/what-is-peace-studies/what-is-strategic-peacebuilding/_ (accessed 22 August 2021).

[142] UN Security Council "Statement by the President of the Security Council, UN Doc. S/PRST/2001/5 (20 February 2001)" date accessed: 20 November 2021.

56

processes, restoring basic services, and rebuilding livelihoods and the economy. [143] Accordingly, peacebuilding endeavours must comprehend and address the structural conditions that produce conflicts to achieve sustainable peace in the post-conflict era after cessation of hostilities, military victory or peace agreement(s).

At the macro level, peacebuilding illustrates a multifaceted operation by multilateral organisations, such as the United Nations (UN) agencies and the African Union (AU) etc., nongovernmental organisations (NGOs) and the government of the concerned state. [144] Amidst the complexity of the Chadian conflicts and the enormity of abuses perpetrated, the country has witnessed flawed peacebuilding and justice in conflict processes, and democratic *faux pas,* particularly since the post-Habré era (1982-1990). Its intractable civil strife and foreign

intervention present fundamental challenges to her political stability and nation-building processes amid protracted armed intervention. Hence the need to further interrogate the components of its peacebuilding processes.

3.3.1 Conflict resolution, management, and peacebuilding in Chad

From OAU peace initiatives to AU mediation in Chad

The quandary of protracted conflicts and foreign interventions in Chad illustrate the country's fragility, amidst political manipulations and armed intervention. Hence, Chad's drift into near anarchy and gradual disintegration upset its effort on state construction.

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[143] Bruch et al. 'The Changing Nature of Conflict, Peacebuilding, and Environmental Cooperation' (2019) 49: 2 *Environmental Law Reporter, News and Analysis* 10134–10154; Lambourne (2009) 34.

Chad's predicament according to Kieh Jr.,[144] was typical of the two major forms of post-independent crises that engulfed several African states—interstate and domestic.

Indeed, the defunct Organisation of African Unity (OAU) — now the African Union (since 2002) employed both the traditional peaceful settlement methods — negotiation, mediation, and conciliation, and peacekeeping operations in resolving the Chadian conflicts. Remarkably, OAU's conflict resolution efforts were predominantly towards interstate conflicts, with fewer commitments to resolving domestic or intrastate conflicts. Thus, OAU's interventions, in most cases, were in support of the status quo or to defend the existing governments.[145] Nonetheless, an ad-hoc commission was first initiated to peacefully resolve the Chadian-Libyan territorial conflicts. A similar effort came from the OAU's support of thirdparty negotiation i.e., Nigeria's mediation with the Chadian warring factions, through the Kano (I&II) and the Lagos (I&II) accords.[146] The Malloum regime's complaint against Libya's support for the FROLINAT in the civil war, and the bigger threats of its ambition to annex Aouzou Strip from Chad, necessitated the OAU's interventions, between 1977 to 1982. The OAU's Libreville (Gabon) Summit in 1977 appointed an Ad Hoc Committee, comprising Algeria, Cameron, Mozambique, Nigeria, and Senegal, to mediate between Chad and Libya. This facilitated the first ceasefire agreement, signed on 27 March 1978 between the Chadian government and the FROLINAT, at Benghazi, Libya, although with limited or no effect.[147]

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[144] Kieh (1993) 447–54.

[145] Kieh (1993) 447–54.

[146] Amoo SG "Frustrations of Regional Peacekeeping: The OAU in Chad, 1977-1982" (1990) *Conflict Resolution Program's Working Paper Series* 1-35.

[147] Amoo SG (1990) 1-35.

The OAU's second effort was through Nigeria's leadership in the regional mediation efforts to resolve the conflict. From 1979 onward, the OAU keenly pursued Nigeria's mediation as a legitimate course because it was undertaken within the OAU mediation framework. Hence, a national reconciliation conference was convened in Kano, Nigeria, on 11 March 1979, followed by a second Kano peace conference (3 April 1979), as well as a national reconciliation conference in Lagos (Nigeria), 26-27 May 1979. Unfortunately, Kano II and Lagos I conferences ended inconclusively. Consequently, the second reconciliation conference in Lagos (Lagos II), 14 August 1979, despite the OAU's support and participation by all the eleven Chadian factions including Weddeye and Habré also failed to concretely achieve a peaceful resolution of the conflicts.[148] The failure of these efforts and Chad's slippage into anarchy due to the escalation of conflicts propelled the OAU's peacekeeping measures (1 and 2) in Chad, in 1980 and 1982. The two peacekeeping efforts failed due to extra-continental actors' influence, inadequate finance, personnel, and logistics commitments from the contributing countries. Other reasons include the warring factions' refusal to cooperate with the peacekeeping force, and the latter's alleged violation of the neutrality clause provided for in the peacekeeping Terms of Reference (ToR).[149]

African Union was much concerned about the Darfur conflict's consequences for both regional stability and Chad's crisis. The AU concurs with Déby's rhetoric that Chad's "internal conflicts" were mere attempts by armed rebels to overthrow a constitutionally elected government.[150] Hence, the organisation conceives any

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[148] Amoo SG (1990) 1-35.
[149] May R and Massey S 'The OAU Interventions in Chad: Mission Impossible or Mission Evaded?' (1998) 5:1 International Peacekeeping 46–65.
[150] May R and Massey S (1998).

interventions as a contravention of the AU Charter. Hence, the final communiqué of the 138th AU Peace and Security Council (PSC) meeting condemned the "armed groups' attacks on Chad territory" and reaffirmed its total rejection of any unconstitutional attempts to take power in Chad, as a violation of the AU's Constitutive Act. [151] However, Sudan's debacle and the February 2008 rebellion in Chad compelled the AU to mandate the leaders of Libya and Congo, Muammar Gaddafi and Dennis Sassou Nguesso respectively, as permanent mediators in the Chad conflict. The worsened relations between Sudan and Chad also led to the AU's mediation, to prevent any confrontations, between the two neighbours. This includes several diplomatic shuttles between Khartoum and N'Djamena by the AU's Chairperson to convince both countries' leaders against supporting their respective rebels to undo one other. While most of these were unsuccessful, the AU managed to broker the Dakar (Senegal) Agreement in March 2008 between El-Bashir and Déby, after it mandated (Abdoulaye Wade) the Senegalese president's mediation. [152]

National peacebuilding measures in the Déby era (1990-2021)

The foremost local peacebuilding measure in post-Habré Chad was the *Conférence Nationale*

Souveraine (CNS) - National Sovereign Conference, convened by the Déby's regime from January to April 1993 towards drafting a new constitution and conducting parliamentary elections in 1996. The CNS drew some 800 representatives from the government, political parties, civil society, and religious and traditional authorities.[153]

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[151] International Crisis Group "Chad: A New Conflict Resolution Framework" (2008): 144 *Africa Report 1-49*.

[152] International Crisis Group "Chad: A New Conflict Resolution Framework" (2008).

[153] Berg P 'The Dynamics of Conflict in the Tri-Border Region of the Sudan, Chad and the Central African Republic' (2008) 14.

However, its failure to facilitate genuine democratic transformation and conflict resolution, further escalate tensions among contending groups and warring factions in Chad. This was due, among other reasons, to Déby's manipulations and undermining of the CNS resolutions as mere non-binding recommendations. The new draft constitution (completed from 1993 to 1996) was promulgated without consultations. It created a strong presidential system in which the president could appoint and replace both the prime minister (head of government) and the judiciary. The 1996/97 parliamentary elections were allegedly rigged by Déby, with his party winning the majority seats.[154] These further deepen tensions and hostilities in Chad, particularly from oppositions and militias, violently contesting for power at the centre and control of resources across parts of the country.

Déby's regime was responsible for the deterioration of Chad, notably the disappearance of the ideal of a national army, the disintegration of the national fabric, and the decay of public service and state apparatus. [155] At the same time, the regime profited from prolonged relative stability (1990-2002), external support (especially from France, the United States, Libya, and Sudan until 2003) and a huge rise in financial resources since Chad's oil production in 2004.[156] Despite the August 2007 political agreement reached between the government and political opposition (narrowly focusing on electoral reform), the required fundamental reforms and rebuilding of political and social institutions could not be achieved. The continuous major rebel attacks on N'Djamena

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[154] Berg P 'The Dynamics of Conflict in the Tri-Border Region of the Sudan, Chad and the Central African Republic' (2008) p.14

[155] International Crisis Group "Chad: A New Conflict Resolution Framework" (2008): 144 *Africa Report 1-49*.

[156] International Crisis Group "Chad: A New Conflict Resolution Framework" (2008).

reveal the deep-seated political crisis in Chad. Its internal political and security crises were exacerbated by the confrontation with its neighbour, Sudan, who both exploited and supported rebels in their respective countries. Sudan's repeated attacks against Darfur rebels and refugee camps in Chad complicated the crisis in Chad. Déby's consequent backing of Darfur's Sudanese rebels, as a political survival strategy, also found a vital asset in the West's containment of Omar El-Bashir's regime in Khartoum.[157]

The dialogue between Déby's government and armed groups often produced short-term agreements, which include amnesty, demobilisation, co-optation, and allocation of posts. [158] In several cases, most rebel fighters have refused to disarm and preferred to resume hostilities while their leaders are bribed with positions in the government. Most of the oppositions' struggles against the regime were towards redressing their marginalisation. Hence, the comprehensive dialogue allows them to include their demands in the negotiation agenda. Given the opposition's preferences for short-term political gains and personal ambitions instead of more far-reaching goals, Déby's regime exploited the loopholes to reassert its legitimacy and foothold. Amid these loopholes, more attacks continue to wrack the country, particularly from June 2008, while the regime expended a lot on defence and arms procurements.[159] The rebellion often failed due to French interventions, and poor coordination instead of a military defeat by the forces loyal to the regime.[160] With such a debacle, Déby's regime was enmeshed in continuous alliances, having only a fragile political base, externally supported by

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[157] International Crisis Group "Chad: A New Conflict Resolution Framework" (2008).
[158] International Crisis Group "Chad: A New Conflict Resolution Framework" (2008).
[159] International Crisis Group "Chad: A New Conflict Resolution Framework" (2008).
[160] International Crisis Group (2008) 37.

Sudanese rebels and the French military, and arresting or co-opting opponents.[161] Hence, Déby's concessions to both armed and unarmed opponents and commitment to peace agreements that only guarantee his perpetuation in government proved counter-productive to Chad's reconstruction, stability, and democratic process.

The United Nations and other multilateral interventions in Chad

The scale of violence inherent in the politics of the region and the wanton destruction of lives and properties and other humanitarian consequences heighten the dilemmas and challenges of peacebuilding in Chad, the Central African Republic (CAR), and Darfur (Sudan). Since 2003, approximately 180,000 Chadians have been displaced by the civil war in eastern Chad. These were joined by over 240,000 Sudanese refugees fleeing from the Darfur conflict to eastern Chad, and another 45,000 refugees from the CAR. [162] Such menace exacerbated tensions across the region's communities. In addressing these threats, including cross-border attacks and the armed groups proliferation in eastern Chad and Darfur, the United Nations Mission in the Central African Republic and Chad (MINURCAT) was established by UN *Security Council resolution 1778* on 25 September 2007, in consultation with Chad's and the CAR authorities.[163] Hence, the deployment of a UN civilian and police operation, MINURCAT, and a European Union military force (EUFOR) were authorised.

At inception, MINURCAT included 300 police, 50 military liaison officers, and considerable size of civilian personnel. Their mandates were to protect civilians; promote

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[161] Berg P 'The Dynamics of Conflict in the Tri-Border Region of the Sudan, Chad and the Central African Republic' (2008).

[162] United Nations 'MINURCAT: United Nations Mission in the Central African Republic and Chad' 2012.

[163] United Nations 'MINURCAT 2012.

human rights and the rule of law and enhance regional peace. [164] The special representative of the Secretary-General (SRSG) coordinated the mission across parts of the two countries. The SRSG integrated mission was pivotal to the operational coherence and strategic direction across the political, governance, economic, development, and security facets of the peacebuilding process. It was able to muster and coordinate multi-level agencies' resources involving donors, and countries toward the peacebuilding process, instead of a top-down, dictatorial, military, or directly controlled approach.[165]

A military component was added to the MINURCAT, with the adoption of resolution 1861, on 14 January 2009. This was conceived when the UN Security Council maintained that the armed conflicts and banditry in the three countries were threatening the civilian population's security, humanitarian operations, and regional stability, amid serious violations of human rights and international humanitarian law. In effect, the deployment of MINURCAT's military component follows the winding up of EUFOR in Chad and the CAR, with an eventual transfer of power from EUFOR to MINURCAT on 15 March 2009. This comprised some 5,200 military personnel, 300 police officers, and 25 military liaison officers, among other considerable numbers of civilian personnel. [165]

Expectedly, there were mixed reactions concerning the influence of MINURCAT and EUFOR in the Chadian conflicts, particularly the sovereignty question. Both missions were unable to directly confront the problem of cross-border movement by armed groups, and the associated breakdown of law and order including the threats of banditry, robbery, and criminality. The constant clashes among armed forces escalated the region's

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[164] United Nations 'MINURCAT: United Nations Mission in the Central African Republic and Chad' 2012. [165] de Coning (2010) 297-298.
[165] United Nations 'MINURCAT: United Nations Mission in the Central African Republic and Chad' 2012.

insecurity, as the two missions only dealt with the consequences and not the root causes.[166] Consequently, Chad's government, on 15 January 2010, wrote to the UN Secretary-General, for the MINURCAT's withdrawal from its territory as of 15 March 2010. The ensuing rounds of consultations between the UN Secretariat and the Government of Chad led to an agreement to extend the MINURCAT, with a revised mandate, until December 2010.[168] Thus, the Security Council by its *resolution 1923* (2010), of 25 May 2010, revised MINURCAT's mandate. The new mandate granted the Chadian Government the full responsibility to protect civilians under international norms, amid the gradual withdrawal of MINURCAT's military component, from 27 May 2010. The initial withdrawal of military personnel, reduced to 2,200 military personnel (1,900 in Chad and 300 in the CAR) and 25 military liaison officers, was set for 15 July 2010. The final withdrawal of all troops began on 15 October 2010 till the Mission's final liquidation in December 2010.[167]

Meanwhile, the Mission's civilian component, reduced to 300 police officers and a few civilian personnel, was allowed to work with the Chadian Government toward consolidating the progress made and assisted in developing sustainable plans after the eventual MINURCAT withdrawal by 31 December 2010. After its withdrawal, MINURCAT's programmes were handed to the Chadian Government and the UN agencies in Chad. These programmes included human rights, child protection, rule of law and good governance, the campaign against gender-based violence, HIV/AIDS projects,

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[166] International Crisis Group 'Chad: A New Conflict Resolution Framework' (2008): 144 *Africa Report 1-49*. [168] United Nations 'MINURCAT: United Nations Mission in the Central African Republic and Chad' 2012.
[167] United Nations 'MINURCAT: United Nations Mission in the Central African Republic and Chad' 2012.

and resettlement of internally displaced persons. The UN Integrated Peacebuilding Office in the Central African Republic (BINUCA) remained in the CAR and continued to benefit the Chadians. Also, Chad's Integrated Security Unit - *Détachement intégré de sécurité* (DIS), trained and equipped by the UN, assumes further protection of civilians upon MINURCAT's departure. [168]

Also remarkable is the UN Secretary-General's approval of the Peacebuilding Fund (PBF) to Chad in 2017 sequel to the government's initial request. [169] The fund was requested for enhancing good governance, strengthening the rule of law, reinforcing state and non-state actors' relations, and building the resilience of vulnerable communities, in line with Chad's national strategies and development plans. The PBF represents the UN's financial instrument of first resort initiated to support peace in high-risk situations or countries affected by violent conflicts. Following the Chadian government's demand, a total sum of $23.885 Million (USD) was approved to enable nine UN agencies to augment the government's efforts in addressing the root causes of instability.[170] The key priority areas include innovative peacebuilding endeavours and integrated programmatic measures through partnerships among peacebuilding, development and humanitarian actors in the country's interior and cross-border spaces. These are facilitated in collaboration with the United Nations Office for West Africa and the Sahel (UNOWAS) and the United Nations Regional Office for Central Africa (UNOCA). [171]

The PBF's investment capacities in Chad include collaborations with UN entities, regional organizations, multilateral finance institutions, governments, national multi-

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[168] United Nations 'MINURCAT: United Nations Mission in the Central African Republic and Chad' 2012.
[169] United Nations 'MINURCAT 2012.
[170] United Nations "The Secretary-General' s Peacebuilding Fund in Chad" (2020).
[171] United Nations "The Secretary-General's Peacebuilding Fund in Chad" (2020).

donor trust funds or civil society organisations. Hence, its effort is a critical step toward achieving the Sahel's "Priority Investment Plan" (*Plan d'Investissment Prioritaire*)—a regional integrated approach against its structural challenges and vulnerability to conflict. The PBF priorities propose inclusive measures to build regional resilience to climate change, enhanced transhumance management, improved local governance, and early warning mechanisms for the prevention of conflict and violent extremism. These and its support for women and youths' participation in decision-making processes are strategic to conflict prevention and building social cohesion in Chad. [172]

3.3.2 Justice in conflict

The prospect of justice for victims of the 1980s -1990 atrocities, was first manifested in the Chadian Truth Commission (TC). Having seized power, one of Déby's first actions was the release of prisoners and dismantling of the cluster of secret jails across Chad. On 29 December 1990, his presidential decree created the 'Commission of Enquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories' (named the 'Truth Commission'). Chaired by Judge Mahamat Hassan Abakar, the TC comprised 12 members, including judges, policemen, and Chad's chief prosecutor. It was mandated with the responsibility to gather testimonies and evidence from victims, purposely toward investigating 'illegal detentions, disappearances, assassinations, mistreatment, torture, and other attacks on the physical and mental integrity of persons; including all human rights violations, illicit narcotics trafficking, and embezzlement of state funds perpetrated between 1982 and 1990'. With a total budget of 4.8 million CFCA, the Commission commenced work in 1991. [173]

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[172] United Nations "The Secretary-General's Peacebuilding Fund in Chad" (2020).
[173] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 48.

The Commission finally reported on May 7, 1992, that approximately 40,000 killings and 200,000 cases of torture including 50,000 prisoners were committed by the DDS, *Direction de la Documentation et de la Sécurité* - Habré's notorious secret service (the Directorate of Documentation and Security) used for suppressing oppositions. It also detailed the foreign governments' involvement, funding, and training of the DDS. Following the report, the N'Djamena (Chad) court, in 1992, found Habré guilty of serious crimes and sentenced him in absentia. Meanwhile, the Déby regime ignored most of the recommendations, however, the report and its published photographs and names of key perpetrators significantly armed the victim's families' demands for justice.[174]

For almost three decades since Habré fled Chad to Senegal, victims' rights groups, including Chadian civil society, legal and accountability representatives, and international criminal justice activists pushed for his prosecution and justice for the victims of his repression. Efforts to bring Habré to justice led to his confinement to house arrest in Senegal in 2005, and further prosecution in 2013, where he was formally charged with war crimes committed during his rule (1982-1990).[175] Hence, the Extraordinary African Chambers (EAC) in Dakar, Senegal, on Monday 30 May 2016 convicted and sentenced Habré to life imprisonment, 26 years after fleeing Chad for Senegal. The trial lasted from July 2015 to 11 February 2016, 93 witnesses were called to testify. He was also charged with war crimes and crimes against humanity, including sexual slavery, rape and torture.[176] However, the court did not convict him of war crimes having ruled that no

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[174] Berg P 'The Dynamics of Conflict in the Tri-Border Region of the Sudan, Chad and the Central African Republic' (2008) 13.

[175] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 13.

[176] Maunganidze OA 'Habré Guilty as Charged' (2016) *Institute for Security Studies available at* https://issafrica.org/iss-today/habre-guilty-as-charged (accessed 30 November 2021).

armed conflict existed in Chad when the crime was committed.[177] The trial compared the evidence, including the uncovered mass graves and ex-victims testimonies, with those revealed by Amnesty International, the Truth Commission (TC) and authentic documents from the Human Rights Watch (HRW). The films presentations provided by the TC on the sites of mass graves, and the testimony of former DDS director Saleh Younouss to the defunct TC's president, Abakar, verified Habré's direct involvement in the atrocities, particularly, his transformation of DDS into an 'instrument of terror', with direct orders to execute victims.[178]

The formal Appeal hearing, scheduled for 9 January 2017, lasted four days. While Habré's defence lawyers appealed his conviction and life sentence, the civil parties also appealed those reparations should be reviewed for being insufficient, and the award of collective reparations. However, the Appeals Chamber of the EAC, comprised of three judges, presided by Wafi Ouagadeye (a Malian) appointed by the AU, rejected all appeals of the defence team on technical and procedural errors. It upheld most guilty verdicts against Habré, overturned his conviction for personal rape against Khadidja Zidane, and ruled against a reduction in sentence. [179] Meanwhile, on 25 March 2015, twenty DDS agents were convicted on charges of arbitrary detention, torture, kidnapping, and murder, by a Chadian court in N'Djamena. A reparation of 75 billion Central African francs (US$127 million) was awarded by the court in favour of 7 000 victims, to be paid (50

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[177] Maunganidze OA 'Habré Guilty as Charged' (2016) *available at https://issafrica.org/iss-today/habre-guiltyas-charged* (accessed 30 November 2021).
[178] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 94-97.
[179] Hicks C (2017) 101-103.

percent each) by the Chad government and the convicted persons.[180] The government was also ordered to construct a monument to commemorate the victims and to convert the erstwhile DDS headquarters into a museum, as symbolic gestures. Hence, Habré's conviction by the EAC was a foregone conclusion because of his earlier implication by the Chadian court. How have these provided justice for the victims of repression and rights violations during Habre's era?

Significantly, the EAC was the first African Court that prosecuted and convicted a former leader of an African state. It also represented the first 'regional' and hybrid court, i.e., a Senegalese court with an international outlook—led by a presiding judge from Burkina Faso Gberdao Gustave Kam and supported by AU and the Economic Community of West African States (ECOWAS). Thirdly, the trial occurred on the insistence and demand for justice and closure by the victims of gross human rights violations by Habré and the DDS. The victims were also independent parties to the trial's proceedings. [181] Moreover, Habré was also the first ex-president convicted of personally raping. [182] Khadidja Hassan Zidane testified to the sexual violence against her while in DDS detention, including four times she was raped by Habré. [183] In addition, reparations to victims, spelt out in Article 27 of the EAC statute, were to be directly paid from the seized funds, 3.5 billion Central African *francs,* allegedly stolen by Habré from Chad's treasury.[184]

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[180] Maunganidze OA 'Habré Guilty as Charged' (2016) *available at* https://issafrica.org/iss-today/habre-guiltyas-charged (accessed 30 November 2021).
[181] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 13.
[182] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 13.
[183] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 88.
[184] Maunganidze OA 'Habré Guilty as Charged' (2016) *available at* https://issafrica.org/iss-today/habre-guiltyas-charged (accessed 30 November 2021).

Despite the long delay and the huge cost of the trial estimated at €8.6 million (Euro),[185] justice was not denied, and survivors, led by the victims' counsel, Jacqueline Moudeïna (another victim of Habré's repression), celebrated their victory. Even though, the EAC's 'guilty smear' might have denied Habré and others the full right of presumed innocence. Unlike Rwanda, Sierra Leone, and Burundi cases etc., where 'victors' justice' was alleged, the EAC trial symbolises 'victims' justice', amid their defiance and determination against resistance from powerful individuals. Nevertheless, the EAC trial did not occur in a void. Even though victims championed the demand for justice, the EAC was the first universal jurisdiction case that progressed to trial in Africa (with states prosecuting crimes perpetrated outside their territories).[186] Given the confrontational relationship between African states and the International Criminal Court (ICC), the trial elicits interest in Africa's efforts to deliver speedy and cost-effective justice for victims of abuses against powerful leaders.

Contrariwise, given the EAC's difficulty to successfully trace Habré's assets, the victim's Trust Fund mandated by the court's statute, to date remained unfulfilled. No significant progress is made to secure the $127 million compensations to victims, as ordered by the court. The Chadian government has continuously failed to honour its commitment amid a severe financial crisis (wrought by the fall in crude oil prices) since 2014. Hence, delaying the restitution, as expressed by most victims, indicates that justice cannot be complete without compensation to the victims.

Similarly, several questions remained unanswered amid the supposed 'closure' of the EAC verdict. The failure to extradite Habré's five DDS accomplices (Saleh Younouss,

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[185] Maunganidze OA 'Habré Guilty as Charged' (2016).
[186] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 14.

Mahamat Djibrine, Guihini Korei, Abakar Torbo Rahama, and Zakaria Berdei) to stand trial at Dakar created a sense of concealing the truth, particularly of the personal liability of the perpetrators of torture and killing. The conviction and life sentences of Younouss and Djibrine by the N'Djamena court and the Chad government's refusal to extradite them to Dakar, and the purported disappearance of the other three perpetrators, impinged on the true revelations.[187] The second controversy is Idriss Déby's alleged involvement in human rights abuses while he loyally served Habré' in the 1970s and 1980s. This includes his leading role in Habré's (National Armed Forces of Chad) FANT alongside Hassan Djamous, and as commander in chief of the army from February 1983 to November 1985.[188]

The third controversy is the absence of clarity over the complicit of the army and its top hierarchy in the execution of ninety *Codos* rebels and the disappearance of fifty-one civilians in Southern Chad during Black September in 1984.[189] Indeed, the Chadian authorities were uncomfortable with the EAC's investigations to uncover evidence against Habré's former fighters and accomplices, most of whom were reintegrated into Déby's regime security apparatus.[190] Similarly, the EAC failed to reveal the extent and implications of external power's encouragement of Habré and the DDS. The HRW ground-breaking revelations, published after the verdict in June 2016, unearthed the financial and military support of the Reagan administration in the United States (1981-

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[187] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 110-15.

[188] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 110-15.

[189] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 110-15.

[190] Berg P 'The Dynamics of Conflict in the Tri-Border Region of the Sudan, Chad and the Central African Republic' (2008) 13.

89) and the French government. The documents gathered by the Commission of Enquiry (1992) exposed how US 'special advisors' were present at the DDS headquarters. Such evidence was not entertained by the EAC and outrightly avoided in its 680-page written judgment. [191] Therefore, striking a balance between the demand for peace and justice in post-conflict society can be sought through the lens of the historic concerns and critiques with the end goals of building peace, and supports for justice in conflict against past atrocities.[192] Going forward, this requires strengthening the justice processes and rule of law to combat impunities and abuse of power, which are major factors of Chad's fragility.

3.3.3 Politics, governance, and democratic process in post-Habré Chad

Power and governance in Chad, since 1990, have been centralised and dominated by the Zaghawa military clan led by President Idris Déby (Itno).[193] Following his death, on 20 April 2021, his son General Mahamat Idriss Déby emerged as the interim president and commander of Chad's armed forces through an unchallenged military power grab.[194] This arrangement predicated on the distribution of the spoils of government based on clan favouritism, cooptation and compromise have exacerbated violence in Chad's political and social relations, and ethnic tensions. Neither its return to a multi-party system in the 1990s, increased government revenues from crude oil since 2004, nor Western-backed elections have enhanced a smooth democratic process or good governance in Chad. Hence, the need to unpack how reconciliation and multiparty politics were sacrificed for sit-tight rulership, the factor of oil politics on power monopoly and prebendalism, the

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[191] Hicks C *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (2017) 110-15.
[192] Sharp (2013) 165–96.
[193] International Crisis Group, "Chad: A New Conflict Resolution Framework."
[194] Jones DH & Grove AT 'Chad' (2021) (accessed 15 November 2021).

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anti-terrorism manoeuvres as a ruse for the repression of oppositions, and the faux pas of a constitutional amendment for a militarised democratic space in Chad.

Firstly, Déby's grip on both government and country implies the expediency of substituting reconciliation and multiparty politics for sit-tight rulership. Despite the resistance, attacks and coup attempts by opposition forces in 1990-92, a national conference in 1993 established a transitional government, with Déby as interim president. A new constitution in 1996, approved by referendum, and Chad's first multiparty presidential elections, which elected Déby as president, represent the earlier steps towards democratisation in post-Habré Chad.[195] However, these were eroded by Déby's continuous and controversial electoral victories, and the abolition of the constitutional two-term limit on the presidency, first at the expiration of his second term in 2006 and subsequent alterations up till 2018.[196]

Following his 2001 re-election, amid allegations of fraud by oppositions, Déby's government was confronted with major rebel offensives, intermittently halted by the 2002 and 2003 peace accords. The 2011 presidential election was postponed for a few weeks due to flaws in the voter registration, yet Déby's re-election, by almost 89 percent votes, was eventually boycotted by oppositions for irregularities.[197] Massive protests against his regime, including general strikes and demonstrations, brought businesses to a standstill in several areas in the run-up to the 10 April 2016 election. Despite allegations of voting fraud and criticism over communications blackout during and after the election, Déby

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[195] Jones DH & Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad* (accessed 15 November 2021).

[196] Marchal 'An Emerging Military Power in Central Africa? Chad under Idriss Déby' (2016).

[197] Jones DH & Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad* (accessed 15 November 2021).

won the vote with a 62 percent lead. Similarly, amid rebel attacks from northern Chad, the April 2021 presidential election was held, and Déby was declared the winner a day before the military announced his assassination in a battle with rebels.[198] These manipulations were successful through the regime's grip on the military, the civil service and inducement of the national assembly. The pauperisation of the citizens and incessant conflicts were also weapons of his sit-tight rule, while international observers, in most cases, approve of Chad's electoral processes as largely valid.

Secondly, oil politics significantly aids power monopoly and prebendalism in Chad. The discovery of oil in commercial quantities in Chad and its exploration in 2003, after difficult years of planning and rebuilding, the accrued revenues provided opportunities to transform its economic and political space. However, such purpose was shattered by the mismanagement of oil revenues, nepotism, clientelism and misplaced priorities.[199] Indeed, oil revenue was central to Déby's power retention, to serve the greed of the president's family and the ruling elites. Thus, the negative consequences of Chad's rentier economy, according to Marchal, further weakens the regime's legitimacy among the marginalised Chadians.[200] Therefore, the illusion of Déby's economic prosperity and progress in peace and reconciliations were overshadowed by the regime's corruption and brutal repression of people's freedoms, and human rights abuses by Chadian security forces. Amid the escalated rebellion, enormous resources were committed to Déby's re-election and power retention. The promise of economic prosperity continues to dissipate, except for a handful of infrastructure projects. It appeared that most oil revenues were

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[198] Jones DH & Grove AT 'Chad' (2021) (accessed 15 November 2021).
[199] Marchal (2016) 2.
[200] Marchal (2016) 2.

channelled to combating rebellions at the expense of the much-needed socio-economic and development programmes.[201]

Thirdly, Déby's anti-terrorism manoeuvre, a ruse for suppressing the oppositions and retaining power, was aided by western powers, particularly France and the United States. Since taking power, Déby's rule was not devoid of resistance, rebellion and coup attempts from opposition forces. The fragile peace and periodic skirmishes by opposition groups escalated into full-scale rebellion in 1998, by the *Mouvement pour la Démocratie et la Justice au Tchad* (MDJT) in northern Chad. The offensive, joined by other opposition forces, continued till the Twenty-first Century.[202] Similarly, the rise of jihadist militancy in the Sahel, particularly including surrounding territories affects Chad's security and political stability. Chad, under Déby, was at the forefront of antiterrorism, sending troops where needed, to Mali in 2013, supporting the French-led *Operation Barkhane* and the Group of 5 Sahel (G5S) forces combatting jihadist militants in the Sahel. Since its escalation beyond Nigeria's borders in 2013, across the Lake Chad Basin communities, Chad has taken a major role in the combat against Boko Haram. It aided Nigeria with mercenaries in 2015 and headquartered the regional Multinational Joint Task Force (MNJTF), despite Boko Haram's increasing attacks in its territory.[203] Amidst its volatility, Chad's counter-terrorism efforts brought foreign accolades and western nations' support for Déby, despite the repression of political adversaries at home, and the detention of trade unionists, activists, and journalists etc. [204]

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[201] Jones DH & Grove AT 'Chad' (2021) (accessed 15 November 2021).

[202] Jones DH & Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad* (accessed 15 November 2021).

[203] Badewa AS 'Dynamics of Human Security and Regional Social and Economic Development: A Case Study of the Lake Chad Basin' (2020) *University of the Western Cape available at http://etd.uwc.ac.za/handle/11394/7336* (accessed 15 January 2022).

[204] Jones DH & Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad*

Exorcising internal oppositions and diverting the country's hard-earned oil revenues for military adventures that only serve Déby, his family and cronies, creates more dissent against the regime. Unfortunately, the country's impressive military machinery and Déby's image as the West's principal anti-terrorism ally in the Sahel region was inhibited by the crash in international oil price in 2014. The growing dissent and the socio-economic crises further eroded the regime's legitimacy, particularly among the marginalised Chadians. While developing new international and regional partnerships to earn alternative financial and political support to maintain its military machine, these twin crises undermined the peacebuilding processes and further destabilised Chad.[205]

The fourth factor is the fluidity of Chad's political situation since Idriss Déby's power grab in 1990, amidst democratic *faux pas*, incessant constitutional amendments, and militarisation of the political space. Déby's leadership (1990 – 2021) was a mere democratic façade, representing everything but a true democracy. Despite the plethora of political parties formed across Chad, violence and personal connections primarily dictated political influence and economic privileges. In this regard, militant groups and those closer or instrumental to the Déby family for more than three decades were the major beneficiaries. Remarkably, Chad, under the 2018 constitution, is a republic with 23 administrative regions (since 2012). The executive branch is embodied by the president, serving as both the head of state and government. The president is elected to a six-year term, limited to two terms, by universal suffrage. The previous constitutional limit of only two five-year terms for the president was abolished by Déby in 2005, in a 2004 constitutional amendment via a national referendum. A similar modification made in the

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(accessed 15 November 2021).
[205] Marchal (2016) 2.

2018 constitution, increased the president's term to six years while restoring the two-term limit.[206]

Elections since democracy in 1996 till 2018 have the ruling party as the only one running in every electoral district, while other presidential candidates and parties face a range of technical obstacles. Since the 2000s, a failed coup and insurgent warfare have resulted from a disagreement over oil income distribution and Déby's elimination of the two-term presidential limit. Thus, corrupt politics corroded the country's political and security institutions so much that true political reforms appear highly unlikely. The ruling cabals (particularly Déby's family) were entrenched in government, security, and key state enterprises. Indeed, the ruling party, the Patriotic Salvation Movement (PSM), became a vessel for clientelism linking elites to the regime, including senior leaders of security agencies, loyal to the regime instead of the state. Hence, state revenues, particularly royalties from oil production and government exports bankrolled the network at the expense of the masses, threatened by excruciating levels of poverty. [207]

The legislative branch, the National Assembly, comprises members directly elected to four-year terms, (modified to five years from the 2021 election) as specified in the 2018 Constitution, and Articles 146 and 147 vested Chad's judicial power in the Supreme Court, the Courts of Appeal, the High Military Court, the tribunals and the justices of the peace.[208] A Constitutional Council and a High Court of Justice - made up of National Assembly members elected by its members to handle cases of treason

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[206] Jones DH & Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad* (accessed 15 November 2021).

[207] Henningsen (2021) available at *https://theconversation.com/chad-has-a-new-roadmap-why-it-may-leadto-more-of-the-same-and-not-democracy-167229/* (assessed on 25 October 2021).

[208] The Constitution of Chad 2018. https://www.constituteproject.org/constitution/Chad_2018

involving any government official, were also abolished by the 2018 constitution.[209]

Déby's unexpected death on 20 April 2021, ushered in a Transitional Military Council (TMC), led by his son General Mahamat Idriss Déby. Hence, a new decree was promulgated to replace the Constitution, and the government and National Assembly were dissolved, to allow the TMC's rule for 18 months.[210] The clause provides that a National Inclusive and Sovereign Dialogue (DNIS) is facilitated in a short transition period toward democratic restoration, however, today President Mahamat Idriss Déby is consolidating power, including through violent crackdowns on protests, ahead of elections planned for October 2024.[211] Consequently, doubt and anxiety over a coup or civil war persist along with high expectations for real democratic transformation and reconciliation. Therefore, the prospects of simulated political reforms, closer ties with France toward defending the status quo, ad hoc co-option, and preserving the family's interest and the ruling network, while keeping the Libyan-based insurgents at bay loom high.

3.4 Challenges and implications of lack of transformative justice in the peacebuilding process in Chad

Chad since 1990 is confronted with multifaceted problems, inhibiting its nation-building, development, and peacebuilding processes. The first ten years of Déby's regime were a period of lost opportunities, despite the birth of a Commission to investigate the crimes perpetrated during the Hissène Habré era. The 1990-92 "honeymoon period" would have

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[209] Jones DH & Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad* (accessed 15 November 2021).

[210] Henningsen (2021) available at *https://theconversation.com/chad-has-a-new-roadmap-why-it-may-leadto-more-of-the-same-and-not-democracy-167229/* (assessed on 25 October 2021).

[211] The United States Institute of Peace (2023) 'Chad's Political Transition Might Be Its Last Shot for Democracy and Peace' https://www.usip.org/publications/2023/07/chads-political-transition-might-be-its-last-shot-democracy-and-peace (accessed 25 October 2023).

allowed a true reconciliation process, however, the 16 February 1992 assassination of Joseph Behidi, lawyer, and vice-president of Chad's Human Rights League (LTDH), in N'Djamena, and the August 1992 Doba massacres, made reconciliation unachievable.[212] As Nolushungu revealed, entrenched corruption, nepotism, clientelism, and large-scale violence, worsened by self-serving foreign military interventions have become Chad's albatross in the post-Habré era.[213] Altogether, abysmal democratic experiment and Déby's sit-tight rule plunges Chad deeply into further rebellion, insurgent attacks, and geo-political tribulation.

Given the ambiguity of violence in Chad, the peacebuilding processes remain complex, messy, and multifaceted. The nature of political transition, violence among militia groups against the ruling class who controls the national security, co-option, clientelism and corruption in different forms. The absence of political co-existence between the regime and some militia groups who reject Déby's political control and persuasion to lay down arms towards peaceful coexistence inhibit peacebuilding in Chad. Disarmament, demobilisation and the reintegration of militia or rebels into society or integration of those suitable into formal security units have proven to be cumbersome or carried out in good faith. Challenges of ungoverned spaces, the state's inability to monopolise the use of force, Chad's tensions with neighbouring states e.g., Libya and Sudan and their proxy conflicts against each other remained an albatross. As de Coning writes, such trends forced peacekeepers to operate under limited consent from key parties

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[212] International Crisis Group "Chad: A New Conflict Resolution Framework" (2008): 144 *Africa Report 1-49*. [213] Nolutshungu (1996) 300.
[213] Nolutshungu (1996) 300.

to the conflicts.[214] It also drains the state's resources and tests the endurance and political commitment of actors engaged in the peacebuilding processes.

The second challenge is the organised non-state armed groups' exploitation of their armed status and weak state structures to bargain for concessions in Chad. While this heightens the prospect of Chad's relapse into violence, the country's situations are peculiar to the Sahel region's multiple challenges of pervasive inter-ethnic and inter-generational strife; natural resource conflicts including access to land and water, arising from transhumance/herder-farmer crisis. The latter is exacerbated by climate change; violent extremism including the *Boko Haram* menace; armed banditry and border security challenges caused by migratory flows and trafficking.[215] Thus, the high risk of conflicts, exacerbated by enduring grievances undermines the state's legitimacy and institutions of the rule of law.

The third challenge to peacebuilding in Chad is the inadequacy of the government to address issues of socio-economic justice. Towards sustainable peacebuilding, peace agreements and elections, guaranteed by political rights (a form of equality) of all citizens must be matched with significant access to social and economic rights. While this is missing in post-1990 Chad, vexing questions such as land tenure, wealth redistribution, devolution of power and resource control remained unresolved. Likewise, gross violations of human rights and the failure to bring justice against notable past violator and

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[214] de Coning C 'Mediation and Peacebuilding: SRSGs and DSRSGs in Integrated Missions' (2010) 16:2 *Global Governance* 281–300; Murphy R 'Post-UN Withdrawal: An Assessment of Peacekeeping in Chad' (2010) 4:3 *Irish Yearbook of International Law* 3–28.

[215] Badewa (2020) *available at* http://etd.uwc.ac.za/handle/11394/7336 (accessed 15 January 2022).

the effect of victor's justice, where supporters of Déby remained protected, have impeded true reconciliation in Chad.

The fourth challenge is the varied and asymmetrical threats of humanitarian crisis and the political economy of vested interests inhibiting the peacebuilding process, as rebellions escalate. The impact of rebels, armed insurgents, and extremists' activities on civilian lives and livelihoods - deaths, destructions, displacement, and disruption of communal life - creates an enormous humanitarian burden in Chad. Indeed, above 7.5 million or half of its population are in acute vulnerability.[216] Acknowledging that this form of violence has its political economy (involving arms proliferation, money laundering, human and drug trafficking, smuggling of essential commodities, external powers' exploitation, and corrupt practices in the state and corporations),[217] the extent of vested interests escalating the violence is apparent and disturbing.

Furthermore, the lack of coordination among differing interests including multiple external stakeholders has impeded peacebuilding in Chad. Given that peacebuilding processes, in most Third World countries, are often shaped and largely dependent on external funding from global actors and benefactors, the individual countries' interests impact multilateral organisations' decisions. Development assistance in Chad, like other African countries, is dictated by interests and conditions. The benefactors, most particularly China, the United States, France, and other western powers, often manipulate or subject the authorities in recipient countries to pressures strategic to their interest at the expense of the local actors' priorities and innovative practices. Hence, lack of

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[216] United Nations "The Secretary-General' s Peacebuilding Fund in Chad" (2020).
[217] Africa S 'Challenges of Peacebuilding in Africa' (2020) *ACCORD available at https://www.accord.org.za/conflict-trends/challenges-of-peacebuilding-in-africa/ (accessed 15 March 2022)*.

coordination among differing external stakeholders' interests and failure to incorporate local initiatives have been detrimental to sustainable peace.[218] The foregoing challenges amplify the call for a genuine conflict resolution, endurable peace and democratic processes and guarantee for human rights to underpin extensive reforms and meaningful post-war reconstruction in Chad.[219]

3.5   Chapter Synopsis

The patterns and outcomes of the peacebuilding process in post-Habré Chad require an understanding of the causes and effects of the Chadian crisis (1965-1990). Thus, the complex political, security and socio-economic environment beyond Chad and the shifting roles of the dramatis personae and external influence are also perceived in the narratives. Remarkably, the peacebuilding process in post-Habré Chad (1990-2021) is in three critical trajectories - conflict resolution and peace processes; Justice in Conflict; and the Politics, governance, and democratic process in post-Habré Chad. The first trajectory includes the AU led initiatives, national measures facilitated by the Déby regime, and the UN-led interventions. The Justice in Conflict trajectory provides a measure for accountability and retributions for past atrocities and rights violations through the Chadian Truth Commission, administration of national justice and the Extraordinary African Chambers (EAC) Dakar, Senegal, although not devoid of their inadequacies. However, these strides are undermined by the factors inherent in the third trajectory. This illustrates how Déby's sit-tight rule, oil politics and power monopoly, antiterrorism

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[218] Africa S (2020) *available at https://www.accord.org.za/conflict-trends/challenges-of-peacebuilding-inafrica/ (accessed 15 March 2022)*.
[219] Nolutshungu (1996) 301.

manoeuvres and the militarisation of the political space affect governance, democratisation, reconciliation, peace, and development in Chad.

Altogether, the peacebuilding process and post-war reconstruction in Chad lack the essentials of transformative justice, hence, the growing consensus on its expansion to promote justice towards long-term peace and sustainable development. Accordingly, the existing tension between the goals of peacebuilding and transitional justice complicates the idea of justice and peace as mutually reinforcing. This also critiques the liberal peacebuilding approach (intrinsic to Chad's trajectories) and the externally devised or imposed interventions as obstacles against local priorities and innovative peacebuilding strategies. Consequently, its implications for the legitimacy and sustainability of peace and transitional justice remain ominous across post-conflict societies in the developing world. Hence, suggestions on how peacebuilding and transitional justice can be mutually conceived to achieve transformative goals.

Prospects of transformative justice in the post-war reconstruction of Chad

4.1 Introduction

Transformative justice underscores the essence of incorporating social and economic matters into peacebuilding and transitional justice processes, without jeopardising its civil and political rights concerns. [220] This, according to Gready and Robins, encompasses the goal of promoting local agency and resources; pluralist process; creating a better and inclusive future; and combatting unequal power relationships or structural exclusion through strategic local, national (the state), and global mechanisms and partnerships.[221] The previous section illustrates the inadequacies of peacebuilding, justice in conflict, and post-war reconstruction in Chad since 1990. The absence of transformative justice in these processes emphasises the dominance of peace and conflict resolution efforts amid the democracy faux pas in Déby's Chad, which relegates the multiple justice needs and aspirations of the population. Unfortunately, the dominant liberal approach and its externally devised or imposed interventions negatively impact the legitimacy and sustainability of peace and transitional justice in Chad. Like other post-conflict societies in the developing world, this hinders local priorities and innovative strategies in peacebuilding. Hence, the consensus on its expansion towards a long-term peace, justice, and sustainable development.

This section expounds on the prospects of incorporating the elements and principles of transformative justice in the post-war reconstruction of Chad. It also

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[220] Sharp DN 'Interrogating the Peripheries: The Preoccupation of Fourth Generation Transitional Justice' *(2013) 26:1 Harvard Human Rights Journal* 157.
[221] Gready and Robins (2019) 51.

considers the essence of implementing the SDGs amid the challenges of the political economy of conflicts in Chad. By articulating transformative justice ideas, the mutual links between peacebuilding and justice in achieving transformative goals are further buttressed.

4.2 Incorporating transformative justice into the post-war reconstruction in Chad

Peacebuilding and transitional justice interventions have had their footprints in most developing countries, due to their vulnerability to civil wars and repressive rule. The aftermaths have been charaterised by post-conflict reconstruction and justice mechanisms predicated on the neo-liberal models of market-oriented economy and democratic processes as the exclusive pathway to peace and progress. The externally imposed intervention and its accompanied democratic, electoral, and free markets checklists of post-conflict peacebuilding, often implemented as a form of modernisation and reforms, can be complicated, corrupting and destabilising. [222] These major concerns have been highlighted by critics, because of how hasty the processes of political and economic liberalisation induce grievances and political rivalries with which shattered or fragile institutions in post-conflict states often find hard to cope.

Similarly, rationalising the potential strategies of complementing both retributive and restorative justice, has emphasised support for war crimes tribunals and truth commissions in most post-conflict countries. Such a pluralist approach, advanced by western countries and multilateral institutions, has engendered many problems than addressed. Thus, its failure to break free of the dominant western conception of justice,

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[222] Sharp (2013) 165–196.

and externally imposed peacebuilding or transitional justice and interventions often relegate the people-oriented justice and local aspirations. [223] With these challenges applicable to peacebuilding and transitional justice in Chad, incorporating the elements and principles of transformative justice into the post-war reconstruction of Chad can be further contemplated. The elements include accountability and legal justice, truth-seeking (knowledge and acknowledgement), socio-economic justice, and political justice.

4.2.1 Promoting Accountability and Legal Justice in Chad

Chad's history of gross violations of human rights, and its failure to prosecute most perpetrators undermine transitional justice, with effects hanging like a cloud over the entire country. Accountability underscores the significance of retributive justice, in the punishment of violators of human rights law and perpetrators of crimes against humanity in the Chadian crisis of the 1980s till date. Such punishment reinforces the rules of international law, denies criminals/violators any unfair advantages, and satisfies the society's desire for justice instead of vengeance. Together with restorative justice, retribution endeavours to restore both victims and violators to their rightful position. Beyond punishing the former and compensating the latter, it promotes deterrence against future violations and strengthens the rule of law. Hence, justice as part of peacebuilding should be conceived as more than transitional, to establish enduring structures, institutions, and sustaining relationships.

Undoubtedly, accountability measures toward justice for victims of the 1980s - 1990 atrocities in Chad commenced with the Truth Commission (TC) created on 29

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[223] Lambourne (2009) 33.

December 1990. Others include the conviction of twenty Directorate of Documentation and Security (DDS) agents by the Chadian Court in N'Djamena on 25 March 2015, and the trial and conviction of Hissène Habré to life imprisonment, on 30 May 2016 by the Dakar (Senegal) based Extraordinary African Chambers (EAC). These measures are milestones of Chad's justice in conflict, having boosted the victims/survivors' demand for justice against violators. However, this symbolism of 'victims' justice' were eroded by the inability to prosecute and convict Idriss Déby and his fighters, accused of similar crimes during the conflict, and gives the impression of victor's justice, as obtained in Rwanda, Sierra Leone, and Burundi. [224] Similarly, justice is incomplete without adequate compensation for victims. The reparations of 75 billion Central African francs (US$127 million) awarded by the N'Djamena Court in favour of 7 000 victims, (50 percent each payable by the Chad government and the convicted persons) remained unfulfilled. This is due to the EAC's difficulty to trace Habré's assets and the Chadian government's failure to fulfil the Victim's Trust Fund - $127 million compensations ordered by the court.[225] The lack of restitution, absence of rule of law, impunity, and human rights violations of the Déby regime undermined peacebuilding in Chad. Hence, mechanisms for accountability should be institutionalised, starting with the current transition.

Respect for the rule of law, and the institutionalisation of human rights protection are conditions for peace and security in Chad. While the rule of law should be upheld in the administration of justice against violators and other conflict participants, the entrenchment of rule of law, justice and accountability must be committed to right the

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[224] Hicks (2017) 101-103.

[225] Maunganidze (2016) *available at* _https://issafrica.org/iss-today/habre-guilty-as-charged_ (accessed 30 November 2021).

past wrongs and create a just social order. This requires an improvement of the legal-judicial system to be victim centred, human rights-based and gender-sensitive in the administration of justice. Amid the ongoing transition in Chad, a new Constitution that guarantees equality before the law, checks and balances among organs of government, independence of the judiciary, freedom of speech, freedom of association, guarantee for rights of the accused and access to justice etc., must emanate from the people instead of the political elites. The law to reform the National Human Rights Commission (NHRC), was adopted by the Chad National Assembly on 29 October 2018.[226] The NHRC should be implemented in accordance with the UN Human Rights pillars - Enhancing international human rights mechanisms' outcomes; Integrating human rights in sustainable development; Promoting equality and countering discrimination; Strengthening rule of law and accountability for human rights violations. [227]

Going forward, the development and execution of human rights and gender policies, strategies, programmes, and measures by the Chadian government should be facilitated with interventions from key stakeholders. These include the Office of the High Commissioner for Human Rights (OHCHR) and the Human Rights Advisor Unit (UN Country Team in Chad),

AU, international and national human rights NGOs, the European Union, International Organization of the Francophone (OIF) etc. Their interventions are critical for technical support for the implementation of regional and international human rights standards, training and capacity-building for government officials and stakeholders, advocacy for

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[226] United Nations 'UN Human Rights in Chad' Office of the High Commissioner (2022) available at *https://www.ohchr.org/en/countries/chad/our-presence* (accessed 10 February 2022).
[227] United Nations "UN Human Rights in Chad" 2022.

the promotion and protection of human rights, and conducting human rights monitoring activities in Chad. The government's commitment to the ratification and implementation of international standards, such as the Convention against Torture (CAT), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the African Charter on Human and Peoples' Rights (ACHPR), is thus expedient. Similarly, implementing the Maputo protocol (a provision that guarantees extensive rights to African women and girls) and the African children's charter (which commits States Parties' maximum assurance to the survival, protection and development of the child) are also in order.[228] Therefore, the limitation of this element is that a high-profile trial, despite the applaud, may have little impact if the victims feel that justice was not served. Likewise, reparations programmes may appear good externally but would be condemned from within if it fails to improve the lives of individual victims. These illustrate whether this element is transformative. Hence, individual experiences of the victims, violators/oppressors, and members of society should be examined to ascertain their perceptions of the events and the efficacy of the transitional justice pursued.

4.2.2 Rethinking "Truth" (Knowledge and Acknowledgement) in post-conflict Chad

Truth as transitional justice model focuses on 'historical record' as a crucial and indispensable aspect of knowledge and acknowledgement of the violation or repression of the past rights, involving participants - both perpetrators and victims. It establishes

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[228] The Maputo Protocol: Protecting African Women's Rights. available at https://www.equalitynow.org/promoting_african_womens_rights/; African Union The the African Charter on the Rights and Welfare of the Child available at https://au.int/sites/default/files/treaties/36804-treaty-african_charter_on_rights_welfare_of_the_child.pdf (accessed 20 October 2023).

records and acknowledges the roles of perpetrators and the extent of damage caused to the victims, through factual or forensic truth and personal or narrative truth. [229] This element underscores the significance of the restorative justice approach in post-conflict transformation and sustainable peacebuilding. Restorative justice involves parties to the conflict, (victims, violators, families, or communities concerned) and other stakeholders in their collective efforts to identify the harms, needs and obligations through acknowledgement of past violations, restitution, and preventive measures against recurrence and reconciliation. Indeed, it perceives crime as an act against the victim, focuses on repairing the harm and identifies the necessary measures to prevent future relapse violations.[230]

A significant aspect of transitional justice in the post-Habré Chad was the inauguration of the Truth Commission (TC) on 29 December 1990. Similarly, the N'djamena Court's order for the construction of a monument to commemorate the victims of the Habré era conflict, and the conversion of the DDS headquarters to a museum, are symbolic "truth" and acknowledgement efforts in Chad.[231] However, this can be taken and expanded further, as Lambourne advocates for "a syncretic approach that reconciles restorative and retributive justices towards transformative and sustainable peacebuilding."[232] Such an approach must be cognisant of the needs, expectations, and experiences of survivors, victims, and members of the society directly affected by Habré

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[229] Lambourne (2009) 28–48.

[230] Department of Justice and Constitutional Development Republic of South Africa 'Restorative Justice' available at *https://www.justice.gov.za/rj/rj.html* (accessed 20 April 2022).

[231] Maunganidze (2016) *available at https://issafrica.org/iss-today/habre-guilty-as-charged* (accessed 30 November 2021).

[232] Lambourne (2009) 28–48.

and Déby's misrule. Involving these groups is significant for rebuilding relationships and sustainable peacebuilding.

Justice should be objective and not vindictive. Without truth, there may not be justice, a Documentation Centre for Chad, of the past atrocities should preserve the factual/forensic evidence as well as survivors' stories, court proceedings and testimonies (personal/narrative truth) about the war crimes, rapes, brutality, and torture etc., previously gathered. These would provide a sense of acknowledgement of the miseries of the 1980s to date, which young and future generations of Chadians as well as researchers can learn from. Due to limited opportunities for pursuing social truth, dialogue, healing or restorative truth in Chad, independent bodies, such as international NGOs, human rights activists and civil society organisations can be engineered to drive this cause. This includes disarmament, demobilisation, and reintegration (DDR) programmes, as an alternative pathway for post-conflict reconstruction and development process, where militants, insurgents, ex-combatants, and others associated with armed groups are integrated into conflict resolution and peacebuilding.[233] By providing reinsertion packages, vocational training, and psychological and psychosocial therapy, ex-fighters (state and non-state) would be relieved from predation and profiteering and conflicts.

As observed, not all truth processes provide the opportunity for survivors to tell their stories or the accused to acknowledge violations, this was exemplified in Rwanda's Gacaca trials.[234] Similarly, the truth was less significant toward providing a sense of

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[233] Nitzschke (2003) 1-22.
[234] Karan Lahiri "Rwanda's 'Gacaca' Courts: A Possible Model for Local Justice in International Crime?," *International Criminal Law Review* 9:2 (2009) 321–32.

justice or peace in post-conflict Sierra Leone.[235] Rwanda's rhetoric of national unity and reconciliation, and Sierra Leone's TRC's setbacks in providing a sense of healing or restorative truth have revealed some inadequacies in this regard. Nevertheless, knowledge sharing, and expressions of acknowledgement are critical steps in reconciliation and peacebuilding. Its potential for healing/restorative truth was indicative of East Timor's *nahe biti* community reconciliation processes which incorporated a combination of factual, narrative, and social truth through dialogue/debates. [236] Therefore, restorative justice provides long-term benefits to post-conflict societies by enhancing community involvement in the dispute resolution process. Criminal justice agencies can enhance the victim and offenders' dignity by preventing domination and discrimination as part of the post-truth reintegration process. Hence, this further empowers victims and prevents the recurrence of violations or deep-seated conflicts.

The limitation of this element is the outcome of the truth/acknowledgement's restorative measures to atone or heal individual victims and perpetrators, and how it changes societal attitudes over time. Accordingly, the capacity to monitor and evaluate levels of reconciliation, and track societal relationships over time is central to its transformative outcome among groups within the society.

4.2.3 Achieving Socio-Economic Justice in Chad

Socioeconomic issues in transitional and post-conflict settings refer to transformative change with emphasis on local agency and resources, priority for the process instead of preconceived outcomes, and alteration of unequal and intersecting power relationships and structures of exclusion locally and globally. A critical challenge to peacebuilding in

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[235] Park 'Community-Based Restorative Transitional Justice in Sierra Leone' (2010) 95–119.
[236] Lambourne (2009) 40.

Chad, reigniting conflict includes the failure of the political rulership to attend to socio-economic justice issues. The several peace agreements and elections, typically extending the political rights (a formal aspect of equality) have been unmatched by the provision of basic access to socio-economic rights.[237] Similarly, cases of alienation, poverty, and marginalisation are drivers attracting particularly youths, to violent extremism and rebellion, especially in remote border areas or under-governed spaces, where state authorities have neglected services. Confronted with extremely limited opportunities, alienation, or repression by the state for whatever reasons, many Chadians in this category distrust the state authorities. Thus, attaching their sense of self to ethnicity, religion, resources, or something else important.[238] Without addressing the underlying socioeconomic structures that birthed violence, sustainable peace in Chad will remain elusive.

One of the most corrupt and poorest countries in the world, Chad's Human Development Index (HDI) - 0.401 - (the bottom third), ranks 187 out of 189 countries in the world. Most of its population (17,413,580 total estimates) are impoverished, living as herders and farmers. With pervasive violence against women, life expectancy is just 47 years in Chad.[239] The country largely suffers deficits in basic public amenities and social services such as roads, water, and electricity, including education, and health. Beyond N'Djamena, the national capital, most of Chad's outlying or remote areas are neglected. Lack of transparency and openness in government, absence of industries, endemic

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[237] Africa S (2020) *available at* *https://www.accord.org.za/conflict-trends/challenges-of-peacebuilding-inafrica/* *(accessed 15 March 2022)*.

[238] Africa S (2020) *available at* *https://www.accord.org.za/conflict-trends/challenges-of-peacebuilding-inafrica/* *(accessed 15 March 2022)*.

[239] United Nations 'Human Development Index (HDI) by Country' 2022.

poverty and resource curse have enhanced the people's resentments against Chad's political elites.[240] The population's extremely limited access to public goods leaves the informal sector dominant.

Socio-economic justice should not be reduced to a narrowed discussion of reparations, as exclusion, inequality and marginalisation enhance patterns of structural violence. While transition often foreshadows economic liberalisation, as Miller argues, the reality of institutional construction often neglects past economic injustice(s), the role of resource inequality and multinational corporations in conflict, and the alteration of present or future inequality through redistribution.[241] Towards a transformative justice, the economic roots and consequences of the conflicts must be prosecuted and overcome. Second, a structural socioeconomic transformation that prioritises redistribution of resources and bridges the inequality gap must accompany the economic liberalisation process. Third, a national development plan that addresses human insecurity in both present and the future. Hence, advocates of socioeconomic justice support the development-security paradigm, advanced by the UN peacebuilding initiatives, to orient national political efforts in addressing poverty and structural inequalities and promoting sustainable development.[242] Socio-economic transformation as a distributive justice supports inclusion and fair allocation of burdens and resources, including access to education, healthcare, employment, shelter, and poverty alleviation.[243]

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[240] Badewa (2020) *available at http://etd.uwc.ac.za/handle/11394/7336* (accessed 15 January 2022).

[241] Miller Z 'Effects of Invisibility: In Search of the 'Economic' in Transitional Justice' (2008) 2:3 *International Journal of Transitional Justice* 266–91.

[242] Laplante L J 'Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework' (2008) 2:3 *International Journal of Transitional Justice* 331–55.

[243] Muvingi I *(2009)* 163–82.

A post-conflict reparations model of Peru, dealt with aspects of the 'reproduction of violence cycle, including socio-economic exclusions, inequalities, political violence, and abysmal living conditions to promote sustainable democracy, peace, and development. [244] Socio-economic reforms, premised on justice and reconciliation, extended to victims of human rights or humanitarian violations resulting from political violence will enhance conflict prevention in Chad. Socio-economic agreements including equitable resource-sharing, restoration of legally protected property rights, resource management and restitution programmes, monitored and supported by donor commitments can be formalised into peace accords under the current National Transition Council. Its transformative lies in its usefulness as a standard for governance and resource management with which multilateral institutions, donors and civil society can hold government accountable. This allows the dis-configuration and transformation of the 'war economies' sustaining conflicts in Chad, from a political economy viewpoint, to create opportunities for conflict resolution, and enhance strategies for policymakers in peacebuilding. [245]

Some proponents of transformative justice reflect on structural injustices emanating from how vulnerability to climate change exacerbates the exclusion of marginalised groups from climate-resilient livelihoods and decision-making. Suggesting that climate action must explicitly tackle structural power imbalances, they believe such action provides an opportunity to reinforce democratic governance to promote gender equality and social inclusion. Indeed, preventing the repeat or escalation of existing

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[244] Miller (2008) 266–91.
[245] Nitzschke (2003) 1-22.

injustices through climate change responses has both distributive and procedural justice dimensions. [246] Potentials of the environment can be channelled to secure Chad's communities and its production systems along these priority areas: (i) Support for producers and strengthening value chains; (ii) Securing access to natural resources and conflict prevention/resolution; (iii) Improving the standard of living through public investments; (iv) Enabling an effective transport and trade; (v) Preserving the environmental capital of Lake Chad and improving water resources management; and (vi) Disseminating information, knowledge improvement, and capacity-building. [247] Since Chad is largely agrarian, transformative justice requires adequate support for household agriculture and small-scale investments in small or medium-sized projects with huge local impacts. This would enhance the population's livelihoods, stimulate local governance, and improve management, and access to natural resources. By implication, overexploitation of natural resources, sociopolitical tensions, poverty and structural inequality and deprivation would be reduced.

Chad's National Development Plan (NPD) 2017-2021 has four thrusts: (i) strengthening national unity; (ii) strengthening good governance and the rule of law; (iii) developing a diversified and competitive economy; and (iv) improving quality of life for the Chadian people. It aims to propel Chad towards an economic emerging trend, enhance human development factors, and strengthen governance. [248] To achieve the NDP, inclusive development through effective resource management, and economic security

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[246] Cameron E. Shine T. and Bevins W 'Climate Justice: Equity and Justice Informing a New Climate Agreement' (2013) 1-28. *http://www.climatejusticedialogue.org* (Accessed on 10 May 2022).

[247] Badewa (2020) *available at http://etd.uwc.ac.za/handle/11394/7336* (accessed 15 January 2022).

[248] Ministry of the Economy and Development Planning: Chad 'Vision 2030: The Chad We Want' 2017 available at https://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/2019/07/8879.pdf (accessed 25 March March 2022).

97

that prioritises Disarmament, Demobilisation and Reintegration of ex-combatants/fighters, should be advanced. First, the mining sector in Chad is yet to develop to its full potential. In Some ways, exploitation of mineral resources such as petroleum, gold, natron, uranium, limestone, sand, gravel, kaolin, and salt including arable lands has been central to conflict dynamics. Efficient management of these resources requires an adequate regulatory framework imbued with transparency and accountability, in which civil society plays a significant role in transparent and equitable economic governance. Similarly, private sector operations in Chad's extractive industries and commodity trade will not only guarantee private investments but serves the public interest and prevent large revenue inflow from rent-seekers in Chad.

According to Nitzschke, incorporating DDR programmes into national post-conflict reconstruction and development strategies enhances conflict resolution and peacebuilding. Security has physical and economic dimensions, the latter is a function of inclusive development and poverty reduction. By expanding economic opportunities to former militants DDR programmes will succeed in detracting the temptations for perpetual involvement in the war economy. Hence, DDR priorities should include the withdrawal of the incentives for conflicts instead of just confiscating the guns. Hence, specific humanitarian and development support programmes, and training should be facilitated in the early DDR process.[249] In addition, a range of income-generating programmes and employment opportunities and growth monitoring for the DDR beneficiaries should be enhanced with support from development partners. The above submission underscores transformative justice's deviation from the liberal model and

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[249] Nitzschke (2003) 1-22.

supports the need to devise new mechanisms that accommodate socio-economic challenges confronting citizens in transitional states.[250]

4.2.4 Enhancing Political Justice in Chad

Political justice reflects the will and the capacity of governments at all levels to provide qualitative, responsive, and responsible leadership to the citizens. It embraces an unalloyed commitment to good governance, provision of essential services and combatting corruption. Government must be unbiased and exude commitment to a "just society" in a manner driven by strong and effective institutions instead of a strong man's rule or rule of men that is doomed to be unjust, oppressive, or protecting some vested interests against the collective will of the masses. Transformative justice is incomplete without political justice, yet civil and political rights and socio-economic justice are mutually reinforcing.[251] Commitment to these rights can enhance the justice process in fragile countries, such as Chad, and aid in tackling the root causes of conflict. Hence, their absence makes any peacebuilding progress unsustainable. The foregoing affirms the indivisibility and interdependence of rights as critical elements for the pursuit of comprehensive and integrated transformative responses to past injustices.[252]

Political justice is deep-rooted in the supremacy of the Constitution, liberal democracy, the entrenchment of the rule of law and the promotion and protection of human rights, as a guarantee for good governance, inclusiveness, and justice.[253] Socio-political and economic marginalisation, impunity, and unresolved political divisions

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[250] Sharp (2013) 165–196.

[251] Sharp DN *Justice and Economic Violence in Transition (2014) 3.*

[252] Gready and Robins *From Transitional to Transformative Justice (2014) 355.*

[253] Teitel RG 'Transitional Justice and the Transformation of Constitutionalism' in Teitel RG (ed.) *Globalizing Transitional Justice: Contemporary Essays* (2014) 181–208; Lambourne 'Transitional Justice and Peacebuilding after Mass Violence' 45.

disrupt peacebuilding and democratic processes in post-Habré Chad. The major failure of Idriss Déby in rebuilding Chad was his regime's inability to unite Chad and reform its political and social institutions. The Fund for Peace categorises Chad as a failed state. A weak rentier state, wracked by rebellion and violent conflicts, lacking adequate control often compromise with powerful non-state elements including religious and traditional leaders to administer its vast interior and porous border areas.[254] Déby's death on the battlefront, immediately after his electoral victory in April 2021, while repelling the incursion of the Chadian insurgent group *Front for Change and Concord in Chad* (FACT) from its Libyan sanctuary, underscores this fact.

The tensions emanated from Déby's illiberal or false democracy and sit-tight rulership, and the regime's failure to address the underlying factors that ignited the pre-1990 civil war/rebellion, set the country back politically, with escalating armed struggles between rebels and government forces (including ethnic militias). On 29 July 2021, the Transitional Military Committee (TMC), led by Mahamat Idriss Déby (who grabbed power with the support of his father's loyalists), presented a roadmap for the reintroduction of democracy in Chad. With promises of an inclusive national dialogue in November and December 2021, and parliamentary and presidential polls between June and September 2022, the Council's roadmap endeavours to improve security, and promote the rule of law and good governance and national unity.[255] Despite its fragility and uncertainties of the transition, political justice in Chad requires a sustainable

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[254] Badewa (2020) *available at http://etd.uwc.ac.za/handle/11394/7336* (accessed 15 January 2022).
[255] Henningsen (2021) available at *https://theconversation.com/chad-has-a-new-roadmap-why-it-may-lead-tomore-of-the-same-and-not-democracy-167229/* (accessed on 25 October 2021).

constitutional democracy, strengthened by a "just society" against the current "illiberal democracy" practiced since 1990.

Toward a political justice, the transition process should embrace a national dialogue among the representatives of all interest groups on a newly agreed constitution, governance structure and leadership. The diverse ethnic, political, religious, socio-economic organisations, civil societies, donors, and multilateral institutions should participate in the dialogue. The process should guarantee political fairness, citizens' liberties regarding government interaction, and political participation in Chad. Constitutional democracy in Chad would thrive with a de-politicised military system backed by the consent of the governed. Its cornerstone should include respect for people's freedom - freedom of association, assembly, freedom of speech, respect for property rights, voting rights, citizenship, equality and inclusiveness, and freedom from unjustified governmental deprivation of the right to life and liberty, including minority rights.

Moreover, to sustain political justice, the supremacy of the constitution, separation of (executive, legislative and judicial) powers, an independent judiciary, and institutional reforms, must be promulgated. A clear-cut electoral timetable that guarantees periodic, free, and fair elections, terms limit for political office holders and multiparty democracy, that is, non-ethnic and non-religious based would further enhance accountability. These can gradually evolve with significant contributions from the civil societies and multilateral institutions, through monitoring, mass mobilisation and sensitisation. The relative stability of the Déby era was achieved through a self-serving militarised and authoritarian governance. The regime's exorbitant defence budget, which helped secure its power through regional military diplomacy, overtly neglected state-

building, and efforts to diversify the economy and reduce inequality in Chad. This must not return to the detriment of democracy and good governance, as the TMC's subversion of the constitution, on the grounds of FACT's rebellion and security challenges across the Sahel, is not a justification for an unconstitutional change of government.

Altogether, transformative justice in Chad is contingent on a strong democratic institution, instead of a strong man rule. This would enhance checks and balances among government agencies/arms, citizens' participation in governance, and confidence in the electoral processes. Overconcentration of power in the centre incentivises corruption, sit-tight rulership, and struggle over political control at all costs. Alternatively, devolution of power in the form of a True/Fiscal Federalism arrangement would enhance efficiency, viability, and healthy competition across Chad's 23 regions, through which governance can trickle down to the grassroots - prefectures. Therefore, the international community should step up not only to restore democracy but to engender political justice in Chad, to prevent her relapse into a new cycle of violence.

4.3 Expanding the Development Agenda in the post-war reconstruction of Chad

The nexus between socio-economic factors and security dynamics is indicative of the multidimensional facets of development. Chad's socio-economic and governance challenges exacerbate the human security and development crises. Addressing these requires holistic policies and programmes toward reconstruction and sustainable peacebuilding processes. The inability of the well-resourced peacebuilding programmes by multitudes of actors and international partners to improve the conditions of local populations, but the interests of the elites, in Africa's post-conflict societies continue to elicit concerns. Given how security and development issues have been institutionally

102

compartmentalised, the UN's "sustaining peace" framework for peacebuilding adopted in 2015, calls for better linkages and implementation capacities across sets of prevention, peacekeeping, peacebuilding, and humanitarian action, and development responses.[256] The Sustainable Development Goals and its 16 goals also present an avenue to mainstream inclusive socio-economic development and governance into peacebuilding and post-war reconstruction.

Yet, a lot is still required for a well-calibrated peacebuilding process or post-war reconstruction across all levels - international, regional, and national - in Africa. Against the trend of military assistance or intervention to the detriment of longer-term inclusive economic development, social investment, hard infrastructure, and foreign direct investment are now often promised at the international level in Africa. Additionally, the AU's Agenda 2063 encapsulate mechanisms for Africa's prosperity, based on inclusive growth and sustainable development.[257] However, the Agenda 2063 and other AU frameworks, including relevant protocols to the African Charter on Human and Peoples' Rights, the African Policy Framework on Security Sector Reform and African Continental Free Trade Union (ACFTU), launched in 2019, have not been given adequate support.

Nevertheless, the linkages between post-conflict environmental peacebuilding and SDGs, particularly its SDGs 13 - Target 1.5 (reducing vulnerability to climate-related extremes... and other economic, social, and environmental shocks, and disasters), illustrate the need to address the challenges of unsustainable exploitation of natural

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[256] Africa S (2020) *available at https://www.accord.org.za/conflict-trends/challenges-of-peacebuilding-inafrica/ (accessed 15 March 2022).*
[257] Africa S (2020) *available at https://www.accord.org.za/conflict-trends/challenges-of-peacebuilding-inafrica/ (accessed 15 March 2022).*

resources as coping mechanisms and survival strategies in Chad's conflict. Considerably, the UN system, donors and development partners need to proactively identify critical tensions and devise mechanisms to address vulnerability to environmental-related security risks before escalation. Thus, robust capacities for mapping, monitoring and evaluation of the interventions and their impacts on local conflicts, community resilience and peacebuilding can be prioritised.[258]

In Chad, partnerships between government and the global community, the private sector, and community-based organisations should be embraced in setting the agenda and delivering Sustainable Development Goals (SDGs). Addressing the root causes of fragility, conflict, and violence in Chad should be underpinned by a strategic priority to end extreme poverty and promote shared prosperity (SDG-1).[259] Likewise, reconstruction and sustainable peacebuilding processes in Chad should be premised on SDG-16 strategies to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels".[260] A new National Development Plan in Chad, replacing the 2017-2021 plan should be engineered toward inclusive development, resource management, and economic security. The outcomes should be monitored and evaluated based on their impact on the citizen's well-being and human security.

Thus, a reconstruction process that fails to integrate local aspirations or priorities is a missed opportunity for sustainable peace. This is especially noteworthy as women,

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[258] Bruch et al. (2019) 10134–10154.

[259] UN 'Open Working Group Proposal for the Sustainable Development Goals and Targets' available at *https://sustainabledevelopment.un.org/owg.html* (accessed 15 January 2022).

[260] UN 'Open Working Group Proposal for the Sustainable Development Goals and Targets' available at *https://sustainabledevelopment.un.org/owg.html* (accessed 15 January 2022).

youth, the victims of rights violations and the remote communities are often excluded in the formal reconstruction processes, and their values are underrated in peacebuilding. Hence, security, humanitarian, and development measures in Chad can be predicated on the four elements of transformative justice (discussed in section 4.2) toward sustaining the goals of peace restoration, strengthening governance and basic services, and rebuilding livelihoods and the economy.[261] Its transformation lies in the development of constructive processes, relationships, and institutions to resolve conflicts among diverse interest groups in Chad, an ingredient of strategic peacebuilding i.e., conflict prevention; conflict management; conflict resolution, postconflict reconciliation; and transformation.[262] If underpinned by the six fundamental principles of transformative justice (illustrated in section 2.2.2) viz.: Symbolic and substantive justice; Prospective justices; Local ownership, and capacity building; Structural transformation and institutional reform; Reconciliation and relationship transformation; and Comprehensive, holistic, and integrated approach, a "just society" can be achieved in Chad.

4.4   Chapter Synopsis

This section discussed the imperative for transformative justice in the post-conflict reconstruction of Chad, amid the fragility and uncertainty of the current transition. It underscores the significance of incorporating social and economic matters into peacebuilding and reconstruction processes in Chad, without jeopardising its civil and

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[261] Bruch et al. 'The Changing Nature of Conflict, Peacebuilding, and Environmental Cooperation' (2019) 49: 2 *Environmental Law Reporter, News and Analysis* 10134–10154.
[262] KROC Institute for International Peace Studies 'What is Strategic Peacebuilding?' available at *https://kroc.nd.edu/about-us/what-is-peace-studies/what-is-strategic-peacebuilding/* (accessed 22 August 2021).

105

political rights concerns. Thus, its objective is towards promoting local agency and resources; pluralism; inclusiveness; and combatting unequal power relationships or structural exclusion through strategic local, national (the state), and global mechanisms and partnerships for good governance, and socioeconomic development in Chad. By incorporating the liberal approach to traditional African mechanisms and principles, it advances four basic elements of transformative justice, that are underpinned by six principles to achieve sustainable peacebuilding and development in the post-Déby Chad, with additional emphasis on the significance of integrating SDGs, AU's Agenda 2063, and future National Development Plan in Chad.

Articulating transformative justice ideas, further buttressed the mutual links between peacebuilding and justice in achieving transformative goals. Therefore, rethinking transformative justice mechanisms with peacebuilding and post-conflict reconstruction processes is critical to the transformation of socio-political and economic structures and relationships in Chad. More importantly, it also provides strategic priorities for policymakers and researchers in peacebuilding and transitional justice spheres. [263]

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[263] Teitel R G *Globalizing Transitional Justice* (2014) 185.

Chapter 5

Conclusion and Recommendations

5.1 Introduction

The complex nature of Chad's intermittent conflicts, human rights violations and bad governance have undermined nation-building as well as peace, security, and development beyond the country. However, the involvement of external actors both in the complication of the security problems, justice in conflict processes and democratic *faux pas* in Chad have negative implications for its peacebuilding and transitional justice processes. The escalation of armed rebellion, human rights violations, poverty, and economic crisis, amid huge oil revenues (since 2003), reflect the manifestation of social injustice, corruption and misgovernance in Chad, particularly in the post-Habré era. Hence, the foregoing efforts on the imperative of transformative justice as a model for peacebuilding and post-conflict reconstruction in Chad. The death of Idriss Déby (Itno), Chad's leader (1990 - 2021), and the imposition of a Transitional Military Council induce fragility and uncertainties, yet again provide a window of opportunity to reform and recalibrate these principles towards sustainable peace, development, and nation-building in Chad. The section extrapolates the study's conclusion and recommendations on the subject matter.

5.2 Main conclusions of the study

The patterns and outcomes of the peacebuilding process in post-Habré Chad require an understanding of the cause-effects of the Chadian crisis (1965-1990). A full-scale civil war (1965-75) with ethnoreligious colouration, a military takeover (1975-79) beclouded with an escalated warfare among rebel factions and a near state of anarchy preceded the

brutal dictatorship of Hissène Habré (1982-1990) in Chad.[264] This chain of conflicts was complicated by geopolitical adventures involving Libya, and French military interventions, at a time of EastWest cold-war rivalry. This narrative fully captures the complex political, security and socioeconomic environment and the shifting roles of the dramatis personae and external influence in the Chadian crisis. Hence, the challenges of peacebuilding and justice in conflict processes from the Idriss Déby era (1990-2021) to the current Transitional Military Council, create an uncertain political-security atmosphere in Chad.

Second, the study concludes that the three trajectories of peacebuilding processes in post-Habré Chad (1990-2021) - conflict resolution and peace processes; Justice in Conflict; and governance and democratic process have produced mixed results, thus, escalating tensions in Chad. The first trajectory - the OAU/AU led initiatives, national measures facilitated by the Déby regime, and the UN-led interventions were less constructive and sustainable to promote cessation of hostilities, peace and just society. In the second trajectory, the Justice in Conflict measures is remarkable for accountability and retributions for past atrocities and rights violations. These include the Chadian Truth Commission, administration of national justice through court pronouncements and the Extraordinary African Chambers (EAC) Dakar, Senegal, etc. Although they remain symbolic and still not devoid of inadequacies. These include their inability to promote restorative justice, advance the socio-economic needs of the masses, and fulfilling the terms of compensation to victims beyond mere promises. The third trajectory,

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[264] Jones DH & Grove AT 'Chad' (2021) *Britannica* available at *https://www.britannica.com/place/Chad* (accessed 15 November 2021).

democratisation *faux pas*, no doubt, undermined the other two and deepened Chad's fragility. Thus, Déby's sit-tight rule, oil politics and power monopoly, anti-terrorism manoeuvres and the militarisation of the political space created a mere centralised regime with negative effects on nation-building, reconciliation, and democratisation, governance, peace, and development in Chad.

The third conclusion emanating from the study is that the peacebuilding process and post-conflict reconstruction in Chad lack the essentials of transformative justice, to guarantee long-term peace, sustainable socio-economic development, good governance and a "just society". The peacebuilding and reconstruction processes in post-conflict societies have been constrained by how local and external actors or benefactors influence the processes to their advantage. Accordingly, some of the external actors transcend the traditional Organisation for Economic Cooperation and Development (OECD) countries to include other emerging powers such as China, India, Saudi Arabia etc. and the multilateral finance institutions such as the World Bank, The International Monetary Fund (IMF), and the Islamic Development Bank, etc.[265] These actors, in some ways, exert pressure on countries, with tenuous political structures and a weak economy, promoting their priorities, expectations, or strategies. In some cases, local elite or well-resourced actors that are easily pliable, drive the reconstruction process for these actors, instead of grassroots level actors with innovative and more sustainable contributions. This is the reality in Chad.

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[265] Africa S (2020) *available at https://www.accord.org.za/conflict-trends/challenges-of-peacebuilding-inafrica/* (accessed 15 March 2022).

Fourth, the extent of the vested interests including small arms proliferation, human and drug trafficking, diamond smuggling, money laundering and corrupt practices in the state and private sector, illustrate the apparent factors of the political economy that sustain violence in Chad. Conflict and power struggle also escalate due to multiple non-state actors' (ethnic militias, religious extremists, organized criminals etc.) non-amenability to formal resolution processes (including peace agreements).[266] The financing of conflict heightens fragility in Chad, as mineral resources, hydrocarbons, arable lands, forests, and agricultural products remain sources of revenue for both government and rebel/militant forces. Hence, the collapse of governance and rule of law induce resource looting, displacement of population and unsustainable exploitation of natural resources as coping mechanisms and survival strategies in Chad, thus undermining its post-conflict reconstruction. Given these conclusions, the imperative of transformative justice for the reconstruction of Chad is proposed in the following recommendations.

5.3 Recommendations

There is a need to factor the cause-effects of the Chadian crisis - civil wars, ethnoreligious hatred, and protracted rebellion - into policies and programmes in Chad for strategic peacebuilding. This should begin with an inclusive national dialogue featuring all stakeholders - interest groups, trade unionists, religious and traditional institutions, political parties, civil societies, student, and youth movements, and IGOs towards navigating a genuine path for the country's future and adequate reforms. The complex political, security and socio-economic environment in Chad, complicated by the shifting

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[266] Africa S (2020) *available at* *https://www.accord.org.za/conflict-trends/challenges-of-peacebuilding-inafrica/ (accessed 15 March 2022)*.

roles of external actors and local dramatis personae also calls for the need to build the state's capability to promote joint actions with nonstate actors, NGOs, and development partners. Any attempt by the Transitional Military Council to perpetuate the past practices of illegal political manipulation, co-optation and persecution of opposition would further heighten tension in Chad. This must be condemned and efforts towards a successful transition and restoration of liberal democracy must be supported by the international community and the development partners.

Peacebuilding initiatives in Chad should be more constructive and sustainable to promote conflict resolution, where accountability, restorative justice, and compensation for victims of past atrocities are implemented. Similarly, political justice in Chad should be deeprooted in the supremacy of the constitution, liberal democracy, enthronement of the rule of law and promotion and protection of human rights, as ingredients of good governance, inclusiveness, and justice in Chad. Hence, fiscal federalism and devolution of power should be engendered toward bringing governance to the grassroots and solving the problems of the rentier state. Strong institution in-lieu of a strong man rule and capacity-building towards effective policy formulation and implementation would enhance active citizens' participation in democracy and good governance in Chad.

Third, the study also recommends that the essentials of transformative justice should be incorporated into policy formulation and implementations to galvanise lasting peace, socioeconomic development, good governance and a "just society" in Chad. This must be people-oriented as against promoting or protecting the interests of local elites and external actors or benefactors who influence the processes for selfish advantages. Emphasis on socio-economic justice should not be reduced to reparations but extended

111

to guarantees for basic access to socio-economic rights, addressing inequality, exclusion, and marginalisation. Accordingly, distributive justice, inclusion and fair allocation of burdens and resources must be encapsulated as constitutional rights for citizens to access education, healthcare, employment, food, and shelter. Therefore, a structural socio-economic transformation that prioritises redistribution of resources, bridges the inequality gap and alleviates poverty must accompany Chad's economic liberalisation process.

Fourth, there is the need to address the array of human security challenges against the protection of vested interests in Chad. The apparent factors of the political economy sustaining violence in Chad e.g., small arms proliferation, human and drug trafficking, diamond smuggling, money laundering and corrupt practices in the state and private sector must be tackled headlong. Hence, sustainable exploitation and inclusive utilisation of revenues accruing from mineral resources, hydrocarbons, arable lands, forests, and agricultural products must be facilitated and backed with effective government policies and support from the international actors, to prevent their exploitations for financing conflicts or undermining peacebuilding and reconstruction in Chad. Significantly, the SDGs should be mainstreamed into socio-economic development and governance in Chad to enhance inclusiveness, peacebuilding, and post-war reconstruction in Chad, based on the elements and principles of transformative justice.

5.4   Chapter Synopsis

The foregoing draws the curtain on the analysis of peacebuilding and justice in conflict trajectories and the need for transformative justice in the post-war reconstruction of Chad. The section extrapolates the study's conclusion and recommendations on the subject

matter. Four major conclusions are elicited in the study. These include a consciousness of the cause-effects of the Chad crisis (1965-1990), the mixed results of peacebuilding; Justice in Conflict; and governance process in Chad. Others are the absence of essential components of transformative justice in Chad's peacebuilding process, and the implications of vested interests in the Chad crisis. Nevertheless, these provide the basis for recalibrating the patterns of peacebuilding and reconstruction in Chad toward positive outcomes.

Consequently, recommendations for addressing these challenges include the need for an inclusive national dialogue among critical stakeholders toward the restoration of democracy. The case for constructive and strategic peacebuilding through restorative justice, accountability, liberal democracy, and strong institutions toward active citizens' participation and good governance in Chad. The third recommendation centres on transformative justice to accelerate socio-economic development, peace and "just society" in Chad. The final broad recommendation identifies the significance of sustainable exploitation and inclusive utilisation of revenues from mineral resources and mainstreaming the SDGs to socio-economic development and governance in Chad. These amplify the voices to broaden the transitional justice mandate to integrate transformative justice and strategic peacebuilding to address the root causes and consequences of conflicts, and injustice in fragile societies. Altogether, the study offers significant insights into how peacebuilding and transitional justice can be mutually conceived to achieve transformative goals.

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