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Balancing Retributive and Restorative Justice in Post-Conflict Somalia: Implications for Social Cohesion and Peacebuilding

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Abstract

This study investigates how Somalia can effectively balance retributive and restorative justice in its post-conflict transition to foster national reconciliation, uphold accountability, and build sustainable peace. Somalia's plural legal system rooted in customary law (xeer), Islamic principles, and a weak formal judiciary presents both opportunities and challenges for designing a viable transitional justice framework. Using a comparative approach, the paper examines the experiences of Rwanda, South Africa, and Colombia, each of which adopted hybrid mechanisms that combined formal accountability with community-based reconciliation and truth-telling. The findings show that

inclusive victim participation, consistent political support, and culturally grounded practices were critical to legitimacy and impact, while selective justice and weak follow-through undermined trust and long-term cohesion. Drawing from these lessons, the study concludes that Somalia should pursue a context-specific model that integrates traditional Somali practices with formal structures such as a national Truth and Reconciliation Commission, a Special Court for high-level perpetrators, and decentralized reconciliation committees. Such a model holds the potential to address past atrocities, rebuild inter-clan trust, and contribute meaningfully to long-term peace and social cohesion in Somalia.

Key words: Transitional justice; retributive justice; restorative justice; post-conflict reconciliation; hybrid justice models; comparative justice systems, Somalia

Introduction

Transitional justice refers to the set of judicial and non-judicial processes employed by societies to address the legacy of widespread human rights violations, typically in the aftermath of conflict or authoritarian rule. The two main paradigms within transitional justice are retributive justice and restorative justice. Retributive justice emphasizes accountability and punishment for perpetrators of serious crimes, upholding the rule of law and providing a sense of justice to victims through formal legal processes. This approach, exemplified by the Nuremberg trials following World War II, asserts that justice is achieved when perpetrators "pay" for their crimes (Bell, 2020). On the other hand, restorative justice focuses on repairing the harm caused by crimes, emphasizing reconciliation, community healing, and the restoration of relationships. Rather than prioritizing punishment, restorative justice seeks to address the needs of victims and foster forgiveness and reintegration of offenders, often through processes like truth commissions, amnesties, and community-based reconciliation programs (Teitel, 2021).

The global perspective on transitional justice reflects a growing shift toward balancing retributive and restorative elements, particularly since the 1990s. In post-conflict societies, the need to address past atrocities while promoting long-term peace has led to the adoption of hybrid justice models that incorporate both approaches. For example, the Nuremberg Trials (1945–1949), following World War II, set a precedent for retributive justice by prosecuting high-ranking Nazi officials for war crimes. This trial, widely regarded as the beginning of modern international criminal law, focused on bringing perpetrators to justice as a means of deterrence and ensuring accountability for atrocities (Bell, 2020). In contrast, the Truth and Reconciliation Commission (TRC) in

Chile in the 1990s took a restorative approach, prioritizing truth-telling and public acknowledgment of the crimes committed during the military dictatorship under Augusto Pinochet. This was designed to heal national wounds and build a democratic foundation for the future (Hernández, 2022). Similarly, in Germany, after the fall of the Berlin Wall, efforts were made to address the injustices of the East German regime through public dialogue, restitution, and the promotion of a reconciliatory process without solely relying on punitive measures (Schreiber, 2021). These examples from developed economies illustrate different approaches to post-conflict justice, with each country attempting to strike a balance between retribution and restoration depending on its historical and socio-political context.

In the Sub-Saharan African context, the application of transitional justice has evolved to reflect the region's unique social, cultural, and political landscapes. Many African countries transitioning from conflict or authoritarian rule have adopted hybrid justice systems that combine formal judicial measures with indigenous mechanisms for dispute resolution. In Rwanda, for example, the gacaca courts addressed mass violence and atrocities by involving local communities in the justice process, blending restorative principles of community dialogue with punitive actions for those guilty of genocide-related crimes (Rwanda Government, 2022). Similarly, Uganda's use of traditional justice systems such as the Mato Oput ceremony, a community-led reconciliation ritual, highlights the role of indigenous practices in fostering peace and healing (Zuin, 2023). However, the use of these hybrid models has been met with mixed success, as questions surrounding the effectiveness of restorative justice and the adequacy of punitive measures to address grave violations persist. In South Africa, while the TRC helped to heal the nation after apartheid, critics argue that the process left certain crimes unaddressed, contributing to lingering

social and economic inequalities (Gibson, 2020). As a result, African countries often grapple with the challenge of reconciling their traditional conflict resolution mechanisms with the demands of international human rights law and the need for state-building in post-conflict environments.

Somalia represents a particularly complex case in the broader context of Sub-Saharan Africa, as it faces a unique combination of legal pluralism, weak state institutions, and an ongoing struggle for political stability. The collapse of the Siad Barre regime in 1991 led to decades of civil war, with clan militias, warlords, and extremist groups like Al-Shabaab committing widespread human rights violations and leaving a fractured society. In the absence of a consistently functioning national judiciary, Somalis have relied on customary law (xeer) and Islamic law (Shari'a) to resolve disputes and address wrongs, creating a plural legal system where traditional and religious mechanisms operate in parallel with the formal legal system (Deng & Mukhtar, 2022). Xeer, an indigenous clan-based dispute resolution system, remains the dominant justice mechanism, resolving an estimated 80–90% of legal cases, particularly in rural areas. This system, which emphasizes mediation and compensation (such as diya, or blood money), reflects a restorative approach that prioritizes reconciliation and communal harmony over punishment (Felbab-Brown, 2020). Shari'a courts, which operate within the framework of Islamic principles, also play a key role, particularly in addressing issues of personal justice when xeer is not applicable. However, the formal judicial sector in Somalia remains weak, with limited reach and legitimacy, particularly in rural areas. Years of conflict decimated Somalia's courts and legal personnel, leaving the country with a fragmented legal infrastructure where war crimes and human rights abuses have largely gone unpunished (Somalia Stability Fund, 2021).

Despite the significant role of traditional justice mechanisms, Somalia's transitional justice efforts have been slow to materialize. The Provisional Federal Constitution of 2012 mandates the creation of a national Truth and Reconciliation Commission (TRC) to address historical injustices and foster reconciliation (Article 111I, Somali Provisional Constitution, 2012). However, this commission has yet to be formed, leaving a significant gap in Somalia's peace process (Somalia Stability Fund, 2021). The Federal Government launched a National Reconciliation Framework in 2019 that outlined "acknowledging and dealing with the past" as one of its peacebuilding pillars, but this framework has largely remained at the policy level, without concrete action. As a result, Somalia continues to experience a "post-conflict" transition without a formal truth-seeking or justice process, while localized conflicts and clan-based violence persist. The country's peacebuilding efforts have relied on ad hoc clan conferences and elite power-sharing deals that prioritize stability over justice, sidelining victims' demands and entrenching perceptions that perpetrators can secure positions of power with impunity (Felbab-Brown, 2020). The challenge for Somalia, therefore, lies in striking a balance between retributive justice and restorative justice, ensuring that accountability for grave crimes is achieved without undermining the fragile peace and reconciliation efforts underway.

Literature Review

The application of transitional justice in post-conflict societies is fundamentally shaped by theoretical frameworks that guide how justice is perceived, pursued, and implemented. Two primary theoretical models frequently explored in the literature are retributive justice and restorative justice. Retributive justice, with its roots in legal theory, demands punishment for wrongdoers as a means to re-establish social order and

prevent future violations. By emphasizing accountability, retributive justice aligns with a legalistic approach, which focuses on the legal aspects of justice, primarily through courts and formal proceedings. This theory holds that offenders must pay for their crimes in a proportional manner to their actions, serving as both deterrence and a form of societal correction (Herman, 2021). The Social Contract Theory (Hobbes, 1651) underpins this model, proposing that individuals consent to obey laws in exchange for protection and justice within the societal framework. When violations occur, society must enforce legal consequences to restore the moral order.

In contrast, restorative justice emphasizes healing, reconciliation, and the restoration of relationships over punishment. Restorative justice, which emerged prominently in the late 20th century, stems from the belief that justice should serve the collective good by prioritizing victim-centered approaches and community healing. It looks beyond the individual perpetrators to the broader societal impacts of crime, with a focus on repairing harm and rebuilding trust within communities (Zehr, 2002). This theory draws heavily on communitarianism, which stresses the importance of social ties and collective responsibility in maintaining peace and cohesion. Scholars like John Braithwaite (2002) have argued that restorative justice offers a more sustainable solution for post-conflict societies, as it aims to transform social dynamics rather than simply punish offenders. It is particularly useful in post-conflict settings where traditional community structures are damaged and the focus shifts from retribution to the reintegration of offenders into society.

Both retributive and restorative justice frameworks provide different yet complementary lenses through which post-conflict justice can be understood. The tension between these two models forms the transitional justice dilemma: how to balance punishment for past wrongs with the

necessity of community healing. According to the Theory of Transitional Justice (Teitel, 2000), transitional justice mechanisms, including tribunals and truth commissions, must negotiate this tension by integrating aspects of both retribution and restoration to ensure long-term peace. The theory suggests that societies emerging from conflict require not only legal accountability but also mechanisms to heal collective wounds and foster societal reconciliation. This dual necessity forms the core of many transitional justice frameworks, especially in societies like Somalia, where both retributive and restorative practices must be integrated to ensure effective reconciliation.

The Preston Curve theory (Preston, 1975), while primarily focused on economic development, also plays a relevant role in understanding how justice systems can influence post-conflict recovery. The Preston Curve suggests that higher income levels are associated with better health and social outcomes, which can be extrapolated to argue that effective justice systems—whether retributive or restorative directly affect societal well-being. In post-conflict societies like Somalia, the establishment of justice mechanisms whether they focus on punishment or reconciliation—contributes to the broader social fabric, influencing both economic stability and social cohesion. Thus, the theory provides a lens through which to view the societal effects of justice, emphasizing that both punishment and healing impact not only individuals but also community-wide development.

Lastly, the Theory of Social Reconciliation (Lederach, 1997) ties directly into both retributive and restorative justice, focusing on the importance of rebuilding relationships at the societal level. This theory suggests that justice should not only address individual wrongs but also restore the collective social bonds that underpin peaceful societies. In the context of post-conflict Somalia, where clan-based conflicts and

historical grievances shape societal dynamics, reconciliation is not simply about addressing legal violations but rebuilding social capital. The social reconciliation framework reinforces the need for a dual approach—one that combines elements of both retributive and restorative justice to facilitate long-term peace, making it especially relevant to transitional justice efforts in Somalia.

Transitional justice plays a critical role in post-conflict societies by addressing past human rights violations while promoting reconciliation and long-term peace. The integration of retributive and restorative justice mechanisms is essential to achieve both legal accountability and community healing. This literature review explores recent studies on transitional justice, focusing on hybrid justice models that combine formal legal processes with community-based approaches. By examining key studies, we highlight the complexities and challenges of implementing effective justice systems in fragile states like Somalia, where both traditional and formal justice mechanisms must be integrated to address the unique social and legal context. A study by Mendeloff (2020) examines the role of truth commissions in post-conflict societies and how they balance restorative and retributive justice. Mendeloff argues that truth commissions play a crucial role in post-conflict reconciliation by enabling victims to share their experiences, while also promoting justice through the documentation of violations. The study undertook analysis of the truth commissions in various regions suggests that when properly designed, truth commissions can facilitate the healing of societal wounds without undermining the pursuit of legal accountability. This finding is particularly relevant for Somalia, where the absence of formal judicial processes highlights the potential of a truth commission to address historical injustices while promoting social healing. However, Mendeloff's study lacks a focus on the integration of indigenous justice mechanisms, such as Xeer, within truth-seeking

processes, which is crucial for Somalia where traditional practices play a significant role in justice and reconciliation.

In their study, Skaar and Thoms (2021) critically analyze the impact of transitional justice on social cohesion in countries that have adopted a hybrid approach. They argue that transitional justice systems combining formal legal proceedings with community-based practices have a more significant and lasting impact on peacebuilding. Their case study of Nepal demonstrates that hybrid systems help address both the need for justice and the necessity of societal reintegration. This research contributes valuable insights into how Somalia could integrate its traditional justice systems, such as Xeer, alongside formal mechanisms to improve long-term social cohesion and foster a collective commitment to peace. However, Skaar and Thoms' analysis does not fully address the specific challenges of implementing hybrid justice systems in fragile states like Somalia, where the capacity of both formal and informal justice mechanisms is often limited, and traditional systems might not align directly with international justice standards.

Laplante (2023) focused on the challenges of implementing hybrid transitional justice systems in countries with limited state capacity, such as Somalia. The research highlighted the complexities of combining retributive and restorative justice when the state's legal infrastructure is weak or non-functional. The researcher used Afghanistan as a case study, showing how a lack of central authority often leads to the prioritization of community-based justice systems that may not align with international human rights standards. This study directly informs the Somali context, where traditional justice mechanisms like Xeer and Shari'a are relied upon in the absence of a strong national judicial system, necessitating a careful balance between these systems and international standards of justice. However, Laplante's study does not delve deeply into how

Somalia's clan-based structures could be effectively integrated into a hybrid justice model, particularly in regions where customary law dominates and formal legal frameworks are barely functional.

Bohlander (2024) examined the effectiveness of international criminal tribunals in post-conflict justice processes, specifically focusing on the International Criminal Tribunal for the former Yugoslavia (ICTY). The study concluded that while these tribunals are essential for holding high-level perpetrators accountable, they can create a sense of alienation among local populations who may see them as disconnected from their everyday experiences of justice. This study highlights the need for hybrid models that combine international criminal justice with local forms of justice, such as those found in Somalia, where community reconciliation efforts might complement international legal accountability. However, Bohlander's research primarily focuses on the impact of international tribunals, neglecting the importance of integrating international justice with local justice mechanisms in fragile states like Somalia, where local systems such as Xeer could play a central role in the justice process.

In order to build a strong, peaceful society, transitional justice frameworks must also consider economic justice, alongside social and legal justice, to ensure comprehensive recovery. Fitzduff and Hurst (2022) explored the connection between economic development and transitional justice, arguing that sustainable peace in post-conflict societies is not only achieved through legal measures but also through economic stability. Their study found that countries implementing transitional justice frameworks saw an improvement in economic outcomes when justice mechanisms also focused on addressing the material needs of victims. However, their study do not specifically explore the intersection of economic and hybrid justice frameworks, especially in the context of Somalia's economic challenges, where

economic justice is crucial for ensuring that both victims and offenders can participate in the peacebuilding process.

Methodology

This study adopted a comparative research methodology to examine the integration of retributive and restorative justice mechanisms in post-conflict societies, focusing on Somalia. The methodology was chosen to provide an in-depth understanding of the justice systems in countries that had undergone transitional justice processes, specifically focusing on hybrid models that combined formal legal frameworks with community-based approaches. The comparative analysis allowed for the examination of how transitional justice mechanisms were implemented in Rwanda, South Africa, and Colombia, and these lessons were applied to Somalia's unique context.

The comparative approach enabled the study to analyze the similarities and differences in how each country navigated the balance between accountability and reconciliation. This approach was particularly useful in exploring how transitional justice mechanisms could be tailored to the specific needs of each society, especially when dealing with issues such as clan-based justice systems, limited state capacity, and socio-political challenges. Rwanda's gacaca courts, South Africa's Truth and Reconciliation Commission (TRC), and Colombia's Special Jurisdiction for Peace served as key case studies that offered valuable insights into the integration of retributive and restorative justice elements. By examining these case studies, the study identified best practices and challenges faced by each country, which were then applied to Somalia's transitional justice process.

Document analysis served as the primary method of data collection. Key primary sources included official government documents, peace

agreements, and legal frameworks from the countries under study, as well as international reports from organizations such as the United Nations, the International Criminal Court, and Amnesty International. These documents provided essential insights into how each country structured its transitional justice mechanisms, the effectiveness of those mechanisms, and the challenges encountered in their implementation. The analysis focused on the official reports and policy papers detailing the processes of truth commissions, community-based justice initiatives, and trials for war crimes, all of which offered a comparative lens for assessing Somalia's potential approaches. In addition to government documents, academic literature on transitional justice, including peer-reviewed articles and case study analyses, was used to support the comparative approach. This secondary data proved crucial in understanding the theoretical frameworks behind hybrid justice systems and how these frameworks were applied in different post-conflict settings. The literature also helped identify gaps in existing research, particularly in how hybrid systems might be adapted to Somalia's context.

The analysis employed thematic content analysis, which involved coding and categorizing data from the comparative case studies to identify recurring patterns and themes. This method allowed the study to systematically compare the integration of retributive and restorative justice mechanisms in the selected countries and assess their relevance for Somalia. The thematic analysis focused on the following areas: accountability measures (e.g., trials, truth commissions), restorative practices (e.g., community-based reconciliation, truth-telling), challenges to implementation, and social outcomes (e.g., societal healing, long-term peacebuilding). This comparative analysis provided insights into the effectiveness of various justice mechanisms and highlighted the advantages and disadvantages of each approach in post-conflict recovery.

The limitations of the study were recognized, particularly in terms of the indirect nature of the data collected, as the research did not involve primary fieldwork or direct stakeholder engagement. However, the use of documentary and secondary data from reliable sources ensured that the findings were grounded in established research and practical case studies. The study also acknowledged the contextual differences between the countries under study and Somalia, and efforts were made to apply lessons learned in a way that respected Somalia's unique cultural and political dynamics.

Results

Transitional justice experiences in Rwanda, South Africa, and Colombia reveal diverse mechanisms and outcomes across key dimensions. Table 1 provides a comparative summary of these cases, highlighting both commonalities and differences. Each country's approach reflects its unique context – from Rwanda's post-genocide blend of international and grassroots justice to South Africa's negotiated truth-and-reconciliation model and Colombia's innovative peace accord framework. These comparisons offer insight into how different choices (in participation, accountability, restorative focus, and political support) shape justice outcomes, providing a reference point for informing Somalia's transitional justice strategies.

The comparative analysis (Table 1) indicated that each country implemented a hybrid model that blended formal legal proceedings with restorative mechanisms. However, the emphasis on different justice components varied considerably, reflecting each society's unique history, political structure, and sociocultural context. Rwanda prioritized mass accountability and community involvement through the *Gacaca* courts, which allowed for extensive public participation and rapid processing of genocide cases. Despite its outreach and grassroots orientation, Rwanda's

model faced criticisms of partiality due to its exclusion of crimes committed by the ruling party. South Africa, by contrast, adopted a restorative truth commission that placed emphasis on disclosure and forgiveness but largely failed to ensure legal follow-through, leaving many victims without a sense of closure.

Colombia introduced a more comprehensive and formalized transitional justice system, combining legal accountability with restorative practices through the JEP and Truth Commission. The Colombian model is notable for institutionalizing victim participation and creating space for direct acknowledgment between perpetrators and survivors. While it has faced political resistance, recent improvements in state support have made it a more promising example of integrated justice.

Across all three cases, key determinants of success included the degree of victim inclusion, the consistency of political support, and the willingness to balance retribution with reconciliation. These comparative insights are especially relevant for Somalia, which must navigate the legacy of prolonged conflict, weak institutions, and plural legal traditions. Drawing from these examples, Somalia can consider a hybrid model that integrates culturally resonant practices like *Xeer* and *Shari'a* with formal mechanisms to promote both justice and sustainable peace.

Table 1: Comparative Transitional Justice Mechanisms in Rwanda, South Africa, and Colombia

Justice Component	Rwanda	South Africa	Colombia
Type of Mechanism	Rwanda adopted a hybrid model with the International Criminal Tribunal for Rwanda (ICTR) handling top officials, while over 12,000 community-based Gacaca courts were operationalized nationwide to process low-level genocide perpetrators. Gacaca blended traditional dispute resolution with formal justice (Clark, 2020).	South Africa established the Truth and Reconciliation Commission (TRC) through the 1995 Promotion of National Unity and Reconciliation Act. The TRC offered conditional amnesty for full disclosure of political crimes and functioned in three committees: Amnesty, Human Rights Violations, and Reparations (Gibson, 2021).	Colombia implemented an integrated system under the 2016 Peace Accord, consisting of the Special Jurisdiction for Peace (JEP), a Truth Commission, and a unit for missing persons. JEP functions as a restorative tribunal with jurisdiction over FARC members and state actors (Sosa, 2023; Uprimny, 2022).
Victim Participation	Victim participation was central to Gacaca, with over 1.5 million citizens taking part in testimonies, adjudication, and community deliberations. Victims voiced grievances publicly and participated in sentencing (Clark, 2020). ICTR had limited victim roles beyond witness testimonies (Eltringham, 2022).	The TRC collected over 22,000 victim and witness statements, with about 2,000 individuals testifying in televised public hearings. Victims' stories were published in the TRC's final report, giving national recognition to their suffering (Gibson, 2021).	Victims in Colombia submitted over 30,000 reports to the JEP and Truth Commission. They also participated in landmark public hearings, including the 2022 session where FARC leaders admitted guilt in front of survivors of kidnappings and killings (Sosa, 2023). Victims had formal rights to representation and reparative claims.
Accountability	ICTR indicted 93 persons and convicted 62, including former prime minister Jean Kambanda. Gacaca tried over 1.9 million cases (2002–2012), resulting in community service, restitution, or prison. However, RPF crimes were largely excluded, raising critiques of partial justice (Eltringham, 2022).	The TRC processed 7,115 amnesty applications, of which 1,210 were granted. Although the TRC recommended prosecution of 300+ cases, nearly all were ignored by state prosecutors post-TRC (Villa-Vicencio, 2020). No high-profile prosecutions followed despite credible evidence.	The JEP offers alternative sentences for full confessions, including 5–8 years of restricted liberty, while non-cooperative offenders face ordinary criminal courts. As of 2023, the JEP had admitted 13,000+ participants, including ex-FARC and military officers. Public acknowledgment is mandatory for leniency (Uprimny, 2022).
Restorative Justice Elements	Gacaca focused on truth-telling, public apology, forgiveness, and restitution. Confession reduced penalties, and reconciliation ceremonies restored community ties. The process also included symbolic reburial of genocide victims and family compensation (Clark, 2020).	The TRC promoted national unity through acknowledgment, healing, and moral accountability. The philosophy of Ubuntu emphasized forgiveness over vengeance. Victim reparations were recommended, though implementation lagged (Gibson, 2021).	JEP incorporates symbolic and material reparations, including community service projects, public acknowledgment, and reintegration programs. The Truth Commission emphasized collective memory, coexistence, and civic dialogue (Sosa, 2023). Restorative logic underpins all components.

Justice Component	Rwanda	South Africa	Colombia
Political Support	Strong executive support under the Rwandan Patriotic Front enabled the fast rollout and legal support for Gacaca. However, justice was politicized, excluding scrutiny of RPF abuses (Clark, 2020; Eltringham, 2022). The government used Gacaca to reinforce state legitimacy.	Initial support from the ANC and post-apartheid leaders enabled the TRC's creation. Yet, later administrations deprioritized prosecutions, and secret pardons were controversially issued in the 2000s. This eroded trust in post-TRC justice (Villa-Vicencio, 2020).	Initial support under President Santos enabled creation of the JEP and Truth Commission. From 2018–2022, support declined due to political opposition. However, under President Petro (elected 2022), support for peace and transitional justice was reaffirmed, improving implementation (Uprimny, 2022).

Discussions

The comparative findings affirm that transitional justice in post-conflict societies is not a one-size-fits-all model but a context-specific balancing act between accountability, truth-telling, and societal healing. As reflected in the literature and supported by the theoretical frameworks of retributive and restorative justice, achieving both justice and reconciliation requires integrating mechanisms that address individual culpability while restoring broken community relationships (Skaar & Thoms, 2021; Laplante, 2023).

Rwanda's approach, with its mass-based *Gacaca* courts, echoes the restorative justice theory in practice emphasizing apology, compensation, and reintegration. However, consistent with critiques in previous studies (Clark, 2020; Eltringham, 2022), the exclusion of crimes committed by the Rwandan Patriotic Front highlights the risk of "victor's justice," where selective retribution undermines trust in the process. The findings also align with Bohlander (2024), who questioned the impartiality and legitimacy of justice systems that are not inclusive of all perpetrators. This underscores a key theoretical tension: while retributive justice seeks to uphold rule of law through punishment, political limitations can blunt its effectiveness.

South Africa's TRC emphasized truth-telling and forgiveness hallmarks of restorative justice. The philosophical grounding in *Ubuntu*, as noted by Gibson (2021), aimed to rebuild national unity without focusing on retribution. However, the empirical outcomes, including minimal prosecutions and weak follow-through on reparations, reflect concerns raised in Mendeloff's (2020) review about the potential of truth commissions to marginalize victim expectations if not accompanied by enforceable accountability. This highlights a weakness in purely restorative approaches while they promote healing, they may fail to satisfy demands for justice, particularly when state institutions lack the political will for enforcement.

Colombia's model represents an evolution in transitional justice by integrating formal trials and restorative obligations through the Special Jurisdiction for Peace (JEP). The JEP's approach of conditional sentencing mirrors what Sosa (2023) identified as an emerging standard in hybrid justice systems where perpetrators' cooperation results in reduced sanctions, but refusal can trigger traditional prosecution. This supports Laplante's (2023) argument that meaningful accountability can coexist with restorative outcomes if carefully structured. Moreover, Colombia's formal recognition of victim participation operationalizes what Fitzduff and Hurst (2022) emphasized: that justice is more likely to succeed when victims are actively involved in both process and outcome.

The findings resonate with the two foundational theories. Retributive justice theory is most evident in Rwanda's formal ICTR prosecutions and Colombia's conditional sentencing regime. These mechanisms uphold norms of legal accountability but require impartial enforcement to gain legitimacy. Meanwhile, restorative justice central to South Africa's TRC and Rwanda's *Gacaca*—illustrates the power of community-centered healing, though risks undermining justice if not paired with legal

remedies. The hybrid nature of Colombia's model most closely reflects theoretical integration, offering a roadmap for Somalia.

For Somalia, the challenge lies in adapting these lessons to a unique legal landscape shaped by plural systems: *Xeer* (customary), Shari'a, and a weakened statutory judiciary. The case comparisons suggest that a Somali model should not rely solely on international or elite-driven mechanisms. Instead, drawing on culturally embedded systems as was done with Gacaca in Rwanda can foster legitimacy and local ownership. However, as in South Africa and Rwanda, selective justice or elite impunity can breed disillusionment. Thus, Somalia must carefully calibrate the balance, ensuring community-based reconciliation is matched with credible, impartial accountability structures, possibly supported by international or regional oversight.

Conclusions

This study explored how post-conflict societies specifically Rwanda, South Africa, and Colombia have navigated the tension between retributive and restorative justice. The comparative analysis showed that while all three countries employed hybrid justice mechanisms, their approaches differed significantly in design, emphasis, and effectiveness. Rwanda's *Gacaca* courts provided an accessible and participatory model rooted in traditional customs, yet the process was limited by its exclusion of crimes committed by government actors. South Africa's Truth and Reconciliation Commission offered a deeply symbolic avenue for national healing, though the absence of robust accountability mechanisms undermined victims' calls for justice. Colombia's Special Jurisdiction for Peace represented a more structured blend of restorative and retributive components, emphasizing conditional accountability and sustained victim participation, albeit with varying political support.

The findings highlight that successful transitional justice systems require more than symbolic gestures or legal retribution. They must be contextually grounded, inclusive of victims and communities, and supported by credible institutions and political commitment. As demonstrated in Colombia and, to some extent, Rwanda, meaningful participation and culturally resonant practices contribute to public trust and reconciliation. However, selective justice, weak enforcement, or elite impunity as seen in South Africa and Rwanda can diminish long-term legitimacy and social cohesion.

For Somalia, the comparative insights offer clear guidance. A viable transitional justice framework should draw from the strengths of existing customary (*Xeer*) and religious (Shari'a) systems while incorporating formal mechanisms that uphold international human rights norms. This hybrid approach must include clearly defined avenues for victim participation, public truth-telling, and reparative measures both symbolic and material. Somalia's historical reliance on community-based resolution offers a unique advantage, but without impartial accountability structures and strong political backing, such systems may replicate cycles of impunity rather than resolve them.

Ultimately, transitional justice in Somalia should not be approached as a one-time event but as a sustained national process of reckoning, healing, and institution-building. Integrating culturally legitimate restorative practices with targeted retributive measures can help address past atrocities while strengthening prospects for long-term peace. Political will, civil society engagement, and international support will be essential to ensuring that justice efforts are not only symbolic but transformative.

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