

# Navigating the Crisis of Transitional Justice in Post-Conflict Arab Regions: Challenges and Pathways to Reconciliation

**Adel Dashela\***

Postdoctoral Fellow, Columbia Global Center (CGC), Amman, Columbia University, USA

\*Corresponding author: Adel Dashela, Postdoctoral Fellow, Columbia Global Center (CGC), Amman, Columbia University, New York, USA

## ARTICLE INFO

**Received:** 📅 December 16, 2024

**Published:** 📅 December 26, 2024

**Citation:** Adel Dashela. Navigating the Crisis of Transitional Justice in Post-Conflict Arab Regions: Challenges and Pathways to Reconciliation. Biomed J Sci & Tech Res 60(1)-2024. BJSTR. MS.ID.009395.

## ABSTRACT

This article discusses the transitional justice crisis in the Arab regions in the post-conflict phase and studies the implementation challenges and transitional justice mechanisms in areas suffering from conflict. It also explores the social and political factors that justice and reconciliation address and identifies the main difficulties determining transitional justice's achievement. Focusing on case studies from Yemen, Morocco, and Mauritania, it attempts to provide a realistic view of the challenges to achieving transitional justice in post-conflict Arab regions.

**Keywords:** Transitional Justice; Arab World; Yemen; Morocco; Mauritania

## Introduction

The primary objectives of this article are to examine diverse perspectives on transitional justice within the Arab context, identify obstacles hindering the implementation of effective justice mechanisms, recommend strategies for integrating social and political reconciliation to foster lasting peace and provide practical recommendations for post-conflict transitional justice in the Arab world. Key study questions include: Why have political and social components failed to achieve transitional justice in Arab conflict areas and countries affected by the Arab Spring? How can transitional justice be realized to address political and social challenges in the Arab region effectively? What strategies can be implemented to promote transitional justice and facilitate national reconciliation, ultimately leading to lasting peace? This article's scope is limited to "Navigating the Crisis of Transitional Justice in Post-Conflict Arab Regions: Challenges and Pathways to Reconciliation," focusing exclusively on the Arab experience and excluding broader theoretical frameworks or transitional justice

practices in non-Arab contexts. Post-conflict transitional justice investigates the repercussions of punishment, aiming to transition from conflict to a new era of peace, justice, and democracy. (Ndary [1]) The transitional justice framework, particularly in its criminal justice aspect, embodies a jurisprudence that breaks with the past, where punishments are neither commuted nor pardoned. In this transitional period, restorative justice emphasizes compensating those whose rights have been violated, fostering forgiveness, tolerance, and pardon, ultimately mitigating penalties. The concept of justice is a relatively new field of study in the Arab region, despite the development of transitional justice in late twentieth-century Latin America, particularly in countries like Chile, Argentina, and Peru, as well as in South Africa, Rwanda, and Bosnia and Herzegovina.

While South Africa's experience did not lead to the complete dissolution of state institutions or the prosecution of all leaders involved in apartheid, it facilitated a significant democratic transition, marking it as one of the most noteworthy examples of transitional justice.

(Balkush [2]). President Paul Kagame emphasized unity over tribalism in Rwanda, establishing laws supporting transitional justice, including reviving traditional gacaca courts. (Ghanem [3]). At the Arab level, there are three prevailing trends regarding transitional justice and reconciliation. The first trend, championed by human rights defenders, aims to achieve criminal justice. The second trend, represented by political forces, armed groups, and ruling regimes, focuses on political reconciliation. The last trend seeks transitional justice and reconciliation but lacks a clear vision or strategy for achieving this goal. Although the Mauritanian experience has made some progress in addressing issues of slavery and servitude—aiming to compensate victims of human rights violations and rectify the harm they endured—this alone is insufficient for establishing a comprehensive transitional justice system.

(Ndary [4]). Similarly, Morocco's approach, summarized by the slogan "justice as much as possible,"(Zegaoui [5]), ultimately failed to address the root causes of conflicts and focused instead on limited humanitarian reparations. In the Yemeni case, despite adopting the justice and reconciliation project in the Yemeni National Dialogue Conference under regional and international sponsorship in 2013-2014. The conference resulted in a draft of the transitional justice law and the constitution of the new Yemeni state, which led to the division of Yemen into six regions, but these outcomes were not implemented. Instead, the Houthi group, which was negotiating these outcomes, was simultaneously carrying weapons and falling the governorates one after the other. At that time, the Houthi group felt that implementing these outcomes would affect its political and military future; it pounced on the outcomes of the national dialogue, seized the capital, Sanaa, and plunged the country into a war from which the Yemenis could not get out quickly. Therefore, it is challenging to implement transitional justice in areas where armed groups and weapons are widespread, such as in the Yemeni case, or weak judicial institutions, such as in the Mauritanian case. The Moroccan experience remains somewhat okay, as it addressed some grievances and issues, but it remains limited and specific and cannot be built upon.

### Challenges to Achieving Transitional Justice in Post-Conflict Arab Regions

Achieving transitional justice in Arab conflict areas faces many challenges, including: political instability and ongoing conflicts between local parties, such as Somalia, Yemen, Syria, Lebanon, and Iraq. It is clear that the forces controlling the political, social, military, and security landscape in these countries, whether they are sub-state military groups or fragile political regimes, resist achieving transitional justice due to their fears of accountability for their past actions or the possibility of losing the power they seized illegally. Also, limited resources and external interventions in some Arab conflict areas, such as Yemen, Syria, Lebanon, Somalia, and Sudan, hinder the establishment and operation of transitional justice institutions. In addition, there is no strong societal culture of the importance of transitional

justice, and there is a severe weakness in the importance of justice. Even opposition parties prioritize revenge over restorative justice. This makes the ruling parties and some armed groups resist transitional justice. In the case of the judiciary, no independent judiciary in these countries can apply transitional justice to all parties. This certainly has negative repercussions on any attempt to achieve transitional justice. With a weak judiciary in Arab conflict zones, implementing comprehensive transitional justice issues is complex and unpredictable based on existing indicators. Moreover, the ethnic and sectarian movements that exist in these regions are consistent with consensus, as well as transitional justice processes that are also difficult.

Even the conflicting parties, if they want to reach a settlement, even a political one, ignore the participation of the victims and their rights, which are ignored even in many political agreements and sham reconciliations. The legacy of tyranny that rejects necessary reforms and attempts to escape punishment, as armed groups that have violated human rights, as well as repressive regimes alike, evade accountability for their actions and attempt to conclude fragile political agreements that could collapse at any moment instead increased the complexity of implementing transitional justice. From establishing true transitional justice that addresses the roots of political and military conflicts, human rights violations, reparations, and preservation of national memory...etc. For example, the late Yemeni President Ali Abdullah Saleh and his entourage were granted diplomatic, judicial, and political immunity from future prosecutions under the 2011 Gulf Initiative, but he did not accept it. In addition to this, the international community cannot bring peace and achieve transitional justice in these areas. For example, "the UN Secretaries-General have sent (four) special envoys for Yemen, yet, they could not convince regional powers or local parties to the conflict of the need for a political settlement that would preserve the interests of all local and regional parties." (Dashela [6]).

### Pathways to Reconciliation in Post-Conflict Arab Regions

The path to achieving transitional justice in the Arab world requires political dialogues and stopping violence and civil wars, as is happening in Syria, Yemen, Iraq, and other regions. The post-conflict areas of the Arab world need to find new mechanisms that suit the local social culture, leading to redressing grievances. The experiences of some Arab regions, such as Mauritania, Morocco, and Tunisia, cannot be built upon due to their inability to address grievances. However, the door can be opened to finding a mechanism for addressing these grievances. Based on the data present in the volatile Arab conflict areas, it is not possible to talk about criminal justice. Instead, we need to implement restorative justice practices, which focus on repairing harm and resolving grievances through dialogue, acknowledging mistakes, and compensating victims as a first stage. To do this, traditional tribal laws, local culture, and customs can be used to build trust. With

regard to criminal justice, it is clear that implementing transitional criminal justice by international law requires a robust judicial system and authority on the ground to ensure the implementation of these mechanisms, and this is not available.

## Conclusion

Dealing with the complexities of transitional justice in Arab conflict zones in the post-conflict phase is extremely important. It is a thorny and complex issue given the social and political differences and complex local dynamics, not to mention the history of these regions, which is full of past conflicts and in which some grievances have accumulated for decades, specifically such as political assassinations, forced kidnapping, enforced disappearance, and violations against human rights. The continuation of authoritarian regimes in power, not to mention the legacy of previous and ongoing military conflicts and their victims, which cannot be quickly addressed without natural transitional justice. This article discussed the multifaceted challenges that hinder the implementation of effective transitional justice mechanisms, including political instability, the continuation of military conflicts and civil wars, as in Yemen, the absence of a societal culture of the importance of transitional justice, and the lack of solid judicial institutions. The article found that societal forces, including marginalized communities, women, youth, and tribes, need to be involved in Arab conflict areas to achieve restorative justice, leading to transitional justice that would lead to reparation and address human rights violations and grievances. The article also has found that punitive justice cannot be achieved due to the current complexities due to the lack of strong judicial authorities and the continuation of armed groups and repressive regimes in power. Therefore, the article has suggested that restorative justice can now be prioritized in the post-conflict areas of the Arab World.

Based on the findings, the article suggested the following for achieving transitional justice in the Arab conflict areas need the fol-

lowing to achieve transitional justice:

- Involving all local groups in any future reconciliation and transitional justice.
- The existence of a robust judicial system to rule between disputes.
- The presence of a strong government authority that can enforce the rule of law.
- Opening dialogue between all societal forces without excluding any social component.
- Striving to achieve social and political justice and reconciliation that addresses the grievances of all parties instead of political reconciliation that preserves the interests of the parties responsible for these crimes.
- Benefiting from international experiences in transitional justice to enhance the culture of transitional justice in the Arab world.

## References

1. Ndary A (2021) Mauritania between the enormity of the humanitarian legacy and the intractability of transitional justice. [Arabic]. *Siyasat Arabiya* (48): 57.
2. Balkush A (2016) Transitional justice and democratic transition in the Arab context [Arabic]. *Siyasat Arabiya* 18: 80.
3. Ghanem N (2022) Rwanda: A new inspiration in the world of war [Arabic]. Lecture delivered at Mokha Center for Strategic Studies.
4. Ndary A (2021) Ibid.
5. Zegaoui N (2020) Faltering steps of transitional justice and the fragility of democratic transition in Morocco [Arabic]. *Siyasat Arabiya* 8(47): 57-72.
6. Dashela A (2021) UN Special Envoys and the Crisis in Yemen (2011-2021). Washington Center for Yemeni Studies Washington, p. 1-54.

ISSN: 2574-1241

DOI: 10.26717/BJSTR.2024.60.009395

Adel Dashela. Biomed J Sci & Tech Res



This work is licensed under Creative Commons Attribution 4.0 License

Submission Link: <https://biomedres.us/submit-manuscript.php>



### Assets of Publishing with us

- Global archiving of articles
- Immediate, unrestricted online access
- Rigorous Peer Review Process
- Authors Retain Copyrights
- Unique DOI for all articles

<https://biomedres.us/>