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JUSTICE WITHOUT TRANSITION?

Actor Motivations for Transitional Justice Initiation During Ongoing Conflict,
Comparing the Democratic Republic of the Congo and Ukraine

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Abstract

Transitional justice (TJ) has traditionally been understood as a post-conflict or post-authoritarian endeavour, deployed once a political settlement creates space for accountability. Yet in the Democratic Republic of the Congo (DRC) and Ukraine, many mechanisms have been initiated while armed conflict remains ongoing. Existing literature has established that such early initiation is possible, but has not explained why particular actors choose to initiate specific measures at specific moments during a conflict, rather than waiting for its resolution. This thesis tries to address that gap through a qualitative, most-different comparative case study of the DRC and Ukraine, drawing on nine semi-structured interviews with practitioners, academics, journalists and international staff, analysed through inductive-deductive thematic coding. It develops an integrated framework combining the Cognitivist Theory of Action, Readiness Theory and a synthesis of structural conditions to explain why actors initiate TJ, why they do so now rather than later, and what determines whether this becomes possible. The findings show that initiation rests on three layers. Actors act for a combination of strategic, normative and mixed motivations, whose specific content varies by pillar and case but whose broad types recur across both. They act now because negativism, i.e. the perception that inaction has become untenable, and optimism, i.e. the belief that change is achievable, jointly cross a readiness threshold. Whether this threshold is reachable at all depends on the surrounding conflict, political and societal conditions. This logic is differentiated across pillars. Justice and reparations are triggered by the same underlying structural mechanisms and motivational combination in both cases, despite differing content, whereas truth-seeking and institutional reforms diverge from this pattern in ways only partially explained by the data. The thesis contributes to the literature on TJ during ongoing conflict by explaining why, when and through which mechanism-specific pathways TJ initiation occurs, with practical implications for how policymakers can target their interventions more efficiently.

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List of Tables

Table 2.1	Multi-Level Actor Framework	p. 20
Table 3.1	The Ontological and Epistemological Foundations of the Integrated Theoretical Framework	p. 34
Table 5.1	Comparison of Transitional Justice Measures by Pillar	p. 51
Table 5.2	Comparison of Actors Involved in Transitional Justice Measures	p. 52
Table 6.1	Analytical Layers, Patterns and Supporting Evidence	p. 79

List of Figures

Figure 2.1	The Pillars of Transitional Justice	p. 13
Figure 3.1	Theoretical Framework: Actor Motivations for Transitional Justice Initiation During Ongoing Conflict	p. 32
Figure 7.1	Patterns of Initiation - Justice	p. 83
Figure 7.2	Patterns of Initiation - Truth	p. 84
Figure 7.3	Patterns of Initiation - Reparations	p. 85
Figure 7.4	Patterns of Initiation - Institutional Reforms	p. 87

Table of Abbreviations

ACA	Atrocity Crimes Advisory Group
CCL	Center for Civil Liberties
CFJ	Clooney Foundation for Justice
CoE	Council of Europe
COI	Commission of Inquiry
CRSV	Conflict-related sexual violence
CSO	Civil society organisation
CTA	Cognitivist Theory of Action
DRC	Democratic Republic of the Congo
ECCHR	European Center for Constitutional and Human Rights
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
EUAM	European Union Advisory Mission Ukraine
FARDC	Armed Forces of the Democratic Republic of the Congo
FIDH	Fédération Internationale pour les Droits Humains
GIAI	Global Initiative Against Impunity
GSF	Global Survivors Fund
HRC	Human Rights Council
HRMMU	United Nations Human Rights Monitoring Mission in Ukraine
HRW	Human Rights Watch
ICC	International Criminal Court
ICC4U	International Claims Commission for Ukraine
ICD	Inter-Congolese Dialogue
ICJ	International Court of Justice
ICPA	International Center for the Prosecution of the Crime of Aggression against Ukraine
ICTJ	International Center for Transitional Justice
JIT	Joint Investigation Team
JOP	Joint Operational Platform
JRR	Justice Rapid Response
LAW	Legal Action Worldwide
M23	Mouvement du 23-Mars

MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
NATO	
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organisation for Security and Co-operation in Europe
PILPG	Public International Law and Policy Group
RCT	Rational Choice Theory
RD4U	Register of Damage for Ukraine
RDF	Rwandan Defence Force
RT	Readiness Theory
T4P	Tribunal for Putin
TFV	Trust Fund for Victims
TJ	Transitional Justice
TJET	Transitional Justice Evaluation Tools
TRC	Truth and Reconciliation Commission
FONAREV	Fonds National des Réparations des Victimes
FRIVAO	Fonds de Réparation et d'Indemnisation des Victimes des Activités Illicites de l'Ouganda en République Démocratique du Congo
ULAG	Ukrainian Legal Advisory Group
UN	United Nations
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
U.S./US	United States of America
UWA	Ukraine War Archive

Table of Contents

Abstract.....	2
Acknowledgements.....	3
List of Tables.....	4
List of Figures.....	4
Table of Abbreviations.....	5
Table of Contents.....	7
Chapter 1. Introduction.....	10
Chapter 2. Conceptualising Transitional Justice.....	12
2.1 Definition of Transitional Justice.....	12
2.2 Origins and Evolution of Transitional Justice.....	14
2.3 Mechanisms of Transitional Justice.....	14
2.4 Critiques of Transitional Justice.....	17
2.5 Debates and Contemporary Developments.....	18
2.6 Actors of Transitional Justice.....	19
2.7 Conclusion.....	20
Chapter 3. A Multi-Level Framework for Explaining Transitional Justice Initiation During Conflict.....	21
3.1 The Cognitivist Theory of Action.....	21
3.1.1 Theoretical Foundations.....	21
3.1.2 Applicability to Transitional Justice Initiation.....	23
3.2 Readiness Theory.....	24
3.2.1 Theoretical Foundations.....	24
3.2.2 Applicability to Transitional Justice Initiation.....	26
3.3 Structural Conditions.....	28
3.4 An Integrated Framework.....	30
3.5 Ontological and Epistemological Foundations.....	32
3.6 Conclusion.....	34
Chapter 4: Methodology.....	35
4.1 Operationalising an Actor-Centred Framework.....	35
4.2 Research Design: A Most-Different Comparative Case Study.....	35
4.3 Case Selection: the DRC and Ukraine.....	36
4.4 Data Collection: Semi-Structured Interviews in the DRC and Ukraine.....	37
4.4.1 Interview Sample and Actor Selection.....	37
4.4.2 Conducting Interviews Remotely: Opportunities and Limitations.....	38
4.5 Data Analysis: Inductive-Deductive Thematic Coding in MaxQDA.....	38
4.6 Ethics, Consent and Positionality.....	39
4.7 Conclusion.....	40
Chapter 5. Conflict Contexts and Transitional Justice in the DRC and Ukraine.....	41
5.1 The Democratic Republic of the Congo.....	41

5.1.1 The Conflict.....	41
5.1.2 Justice Measures.....	42
5.1.3 Truth-Seeking.....	43
5.1.4 Reparations.....	44
5.1.5 Guarantees of Non-Repetition and Memorialisation.....	45
5.1.6 Results.....	45
5.2 Ukraine.....	45
5.2.1 The Conflict.....	45
5.2.2 Justice Measures.....	46
5.2.3 Truth-Seeking.....	48
5.2.4 Reparations.....	48
5.2.5 Guarantees of Non-Repetition and Memorialisation.....	49
5.2.6 Overarching Strategy and Results.....	49
5.3 Comparative Synthesis of the DRC and Ukraine.....	50
5.4 Conclusion.....	53
Chapter 6. Empirical Patterns of Transitional Justice Initiation During Ongoing Conflict: Evidence from the DRC and Ukraine.....	54
6.1 Strategic Motivations for Initiating Transitional Justice.....	54
6.1.1 Deterrence and the Prevention of Renewed Violence.....	54
6.1.2 Strategic Instrumentalisation for Domestic and International Gain.....	57
6.1.3 Summary of Strategic Motivations.....	59
6.2 Normative Motivations for Initiating Transitional Justice.....	60
6.2.1 Victim-Centred Reasoning: TJ as Something Owed to Those Who Suffered....	60
6.2.2 Rights-Based Reasoning: TJ as a (Quasi-)Legal Entitlement.....	62
6.2.3 Anti-Impunity Reasoning.....	63
6.2.4 Summary of Normative Motivations.....	64
6.3 Transitional Justice as Indispensable to Peace, a Mixed Motivation.....	64
6.4 Why Now? The Temporal Logic of Initiation During Conflict.....	66
6.4.1 Pattern 1: The Perceived Cost of Waiting.....	66
6.4.2 Pattern 2: The Perceived Feasibility of TJ Mechanisms.....	68
6.4.3 Pattern 3: The Perceived Non-Feasibility of Certain Mechanisms.....	69
6.4.4 Summary of Temporality.....	70
6.5 The Structural Conditions that Enable or Constrain Initiation.....	70
6.5.1 The Conflict Environment.....	71
6.5.2 The Political Environment.....	73
6.5.3 The Societal Environment.....	76
6.5.4 Summary of the Structural Conditions.....	78
6.6 Summary of Empirical Patterns.....	78
6.7 Conclusion.....	81
Chapter 7. Explaining the Initiation of Transitional Justice During Conflict in the DRC and Ukraine.....	81

7.1 Introduction.....	81
7.2 Patterns of Initiation Across the Four Pillars.....	82
7.2.1 Justice.....	82
7.2.2 Truth.....	83
7.2.3 Reparations.....	85
7.2.4 Institutional Reforms.....	86
7.3 General Conclusions.....	87
7.3.1 Justice and Reparations: A Shared Underlying Logic.....	87
7.3.2 The Special Position of Institutional Reforms.....	88
7.3.3 The Distinct Case of Truth-Seeking.....	89
7.3.4 Evaluating the Explanatory Power of the Integrated Framework.....	90
7.4 Implications and Limitations.....	91
7.4.1 Theoretical Implications.....	91
7.4.2 Practical Implications.....	91
7.4.3 Limitations.....	92
7.4.4 Avenues for Further Research.....	92
7.5 Conclusion.....	93
Chapter 8. Conclusion.....	93
Bibliography.....	96
Interviews.....	96
Images.....	96
Primary Sources.....	96
Secondary Sources.....	98
Appendix.....	122
Appendix 1: List of Interview Participants.....	122
Appendix 2: Codebook (MaxQDA).....	123
Appendix 3: Informed Consent Form.....	133
Appendix 4: Interview Guide.....	135

Chapter 1. Introduction

In June 2025, while Russian missiles were still falling on Kharkiv and Kherson, European justice ministers gathered in Strasbourg to sign the founding treaty of the Special Tribunal for the Crime of Aggression Against Ukraine (STCA) (CoE, 2026). Eight hours away, in the Eastern Democratic Republic of the Congo (DRC), mobile courts had been trying local militia commanders for years despite fighting that never really stopped (OHCHR, 2024; Cirhigiri, 2025). Transitional justice (TJ), by definition, addresses violations of the past to prevent their recurrence in the future. Conventionally, this has meant waiting for violence to end before that work begins, or in other words, waiting for the transition (Alici, 2024; Lingaas, Sarkin & Jonsson, 2026; Mihr, 2026). Yet in both of these cases, accountability efforts were launched well before any resolution of the underlying conflict. This thesis examines why actors initiate TJ measures during ongoing conflicts.

TJ has traditionally been conceived as a post-conflict or post-authoritarian endeavour, a set of mechanisms deployed once a political settlement has created the space for accountability to unfold (van Nievelt, 2016; Sharp, 2015; Alici, 2024; Destrooper, 2025; Lingaas, Sarkin & Jonsson, 2026). Yet contemporary practice increasingly departs from this model. In the DRC, mobile courts, International Criminal Court (ICC) prosecutions and provincial truth commissions have operated for decades alongside recurring waves of violence in the East (Klosterboer & Hartmann-Mahmud, 2013; Arnould, 2016, 2021; Mubiala, 2021; Cirhigiri, 2025). In Ukraine, a dense architecture of prosecutions, documentation efforts and the STCA has been assembled within a few years of the 2022 invasion, long before any resolution of the war itself (Calvet-Martinez, 2023; Belgorodski, 2024; Busol, 2026). The TJ literature has extensively examined the design, sequencing and long-term effects of mechanisms introduced after conflict, but has paid comparatively little attention to why particular actors choose to initiate such measures while conflict is still ongoing, although emerging literature on TJ during ongoing conflicts has, by now, established that early TJ action is possible, as seen Colombia and Syria (van Nievelt, 2016; Sharp, 2015; Alici, 2024; Destrooper, 2025; Lingaas, Sarkin & Jonsson, 2026). However, why specific actors decide to initiate TJ measures at a specific moment during ongoing conflict, rather than waiting for the conflict to subside, has not yet been studied extensively.

This thesis addresses that gap by asking: Why do certain actors initiate TJ measures while armed conflict is still ongoing, in the cases of the DRC and Ukraine? Three sub-questions

structure the research: (1) Which actors initiate TJ measures during ongoing conflict?; (2) How do these actors justify their engagement with TJ?; and (3) Under what conditions do actors cross the threshold into initiation? The objective is not to assess whether these initiatives succeed, but to build an empirically grounded, actor-centred explanation of their initiation.

Theoretically, this research contributes to growing literature on TJ in non-transitional and ongoing-conflict settings, by moving the debate beyond establishing that early initiation occurs towards explaining why and through which mechanism-specific pathways it does (Sharp, 2015; van Nievelt, 2016; Alici, 2024; Destrooper, 2025; Lingaas, Sarkin & Jonsson, 2026). It does so by building an integrated multi-level framework that has not been applied jointly to this question before. Practically, understanding the conditions under which willing actors are structurally able, or unable, to translate motivation into action carries direct implications for policymakers, donors and international organisations (IOs) seeking to support accountability efforts in the DRC, Ukraine and comparable conflict-affected contexts, by clarifying where interventions should target political will, institutional capacity or funding structures specifically for example.

This paper builds on the established TJ literature's four-to-five pillar model and its multi-level actor framework (Skaar & Wiebelhaus-Brahm, 2013; Gready & Robins, 2017; Salvioli, 2020; Sarkin, 2021; European Parliament, 2024), while extending recent work on TJ during ongoing conflict and in non-transitional contexts (Alici, 2024; Lingaas, Sarkin & Jonsson, 2026; Mihr, 2026) towards a more systematic account of actor motivation and timing. It develops an integrated three-layer framework combining the Cognitivist Theory of Action (CTA) (Boudon, 2003), which explains the strategic and normative content of actors' reasoning; Readiness Theory (RT) (Pruitt, 2007, 2015), adapted here to explain the timing of initiation through the interplay of negativism and optimism; and a synthesis of structural conditions drawn from the wider literature, which explains whether motivation and readiness can be translated into action. The study adopts a qualitative, most-different comparative case-study design, built around nine semi-structured interviews with practitioners, academics, journalists and international staff working on or close to the DRC and Ukraine, analysed through inductive-deductive thematic coding in MaxQDA (Yin, 2018; Mortelmans, 2023).

Chapter 2 defines TJ and reviews its origins, mechanisms, critiques and actors. Chapter 3 develops the integrated theoretical framework whereas Chapter 4 sets out the methodology. Chapter 5 introduces the conflict contexts and TJ landscapes of the DRC and Ukraine.

Chapter 6 presents the empirical findings, and Chapter 7 interprets them through the integrated framework before discussing implications, limitations and avenues for further research. Finally, Chapter 8 concludes this thesis.

Chapter 2. Conceptualising Transitional Justice

The previous chapter identified the research gap and argued that TJ scholarship has paid limited attention to why actors initiate TJ measures during ongoing conflict. This chapter provides the conceptual foundation by defining TJ, tracing the field's evolution, outlining its main mechanisms and critiques and examining recent debates and evolutions, before discussing the actors who drive these processes.¹

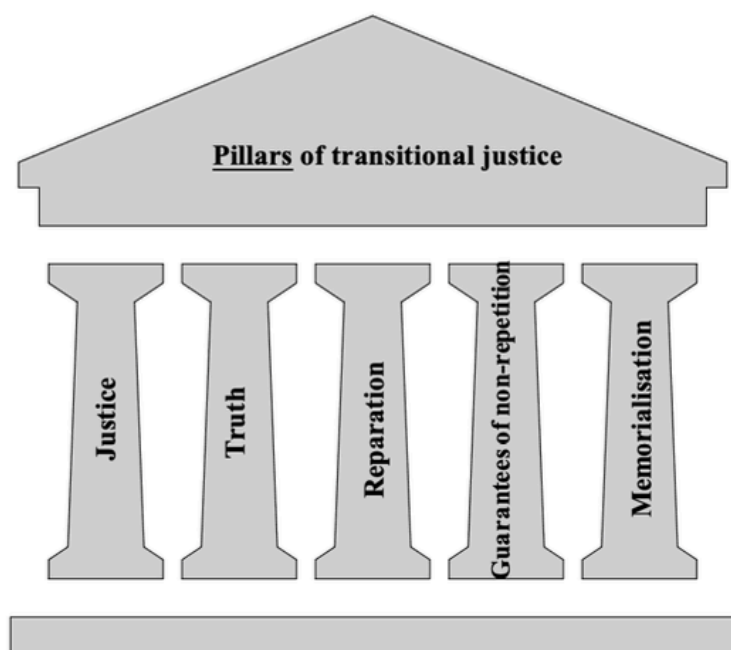
2.1 Definition of Transitional Justice

Transitional justice refers to the ways in which societies emerging from conflict or authoritarian rule address large-scale human rights violations of the past in order to prevent their recurrence in the future (Franke, 2006; Bell, 2009; Buckley-Zistel & Zolkos, 2012; Evans, 2016; Mihr, 2020; Destrooper, 2025; Lingaas, Sarkin & Jonsson, 2026). TJ encompasses a broad range of judicial and non-judicial processes, including criminal tribunals, truth commissions, reparations, institutional reforms and memory initiatives. These are aimed at fostering peace and reconciliation in deeply divided and traumatised societies (UN, 2004; Arthur, 2009; Bell, 2009; Buckley-Zistel & Zolkos, 2012; Mihr, 2020; Ferrara, 2026; Lingaas, Sarkin & Jonsson, 2026).

The literature generally identifies four core pillars of TJ: justice, truth, reparations and guarantees of non-repetition. More recently, memorialisation has increasingly been recognised as a fifth pillar, reflecting the growing importance of collective memory and symbolic recognition (Salvioli, 2020; Sarkin, 2021; European Parliament, 2024). Across these pillars, three overarching goals can be distinguished: accountability, justice and reconciliation, which are closely linked to the broader fight against impunity (Joinet, 1997; UN, 2004; Evans, 2016; Parmentier, 2016; European Parliament, 2024; Destrooper, 2025; Lingaas, Sarkin & Jonsson, 2026).

¹ Disclaimer: This section builds in part on earlier work conducted in my previous master's thesis (Vandervelden, 2025). Where relevant, some insights, particularly the working definition developed in that context, have been reused and are explicitly referenced. However, the present text has been fully reworked and reconstructed, integrating both previously used and newly consulted sources. The aim is not to reproduce earlier work, but to refine and expand it in line with the objectives of this thesis. Full transparency has been ensured through consistent referencing and no material has been reproduced without proper acknowledgment.

Figure 2.1 *The Pillars of Transitional Justice*²



Building on these elements, this thesis adopts the following working definition: “*Transitional justice encompasses the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale human rights violations from the past, in order to ensure accountability, deliver justice and achieve reconciliation. It includes both judicial and non-judicial mechanisms, focusing on justice, truth-seeking, reparations, institutional reforms and memorialisation initiatives, or a combination thereof, while placing victims at the centre*” (Vandervelden, 2025).

This definition integrates several key dimensions. First, it explicitly captures the dual temporal orientation of TJ, addressing both past violations and future prevention, as reflected in definitions by the UN (2004), the EU (2024) and the ICTJ (sd). Second, it applies to transitions following both conflict and authoritarianism. Third, it incorporates the three core goals of accountability, justice and reconciliation. Fourth, it brings together five pillars of TJ, thereby extending beyond most institutional definitions, which typically include only four. Finally, it places victims at the centre, an element only included in the definition of the ICTJ. For these reasons, this is the working definition used here.

² This figure was taken and translated to English from Vandervelden, 2025; p. 17.

2.2 Origins and Evolution of Transitional Justice

The precise origins of the term are difficult to pinpoint, although Ruti G. Teitel is widely credited with its early conceptualisation (Teitel, 2008; Sharp, 2015). The field itself emerged in the late 1980s and early 1990s in response to practical challenges faced by human rights activists in Latin America and Central and Eastern Europe. In countries such as Argentina and Chile, actors sought ways to address systematic abuses committed by outgoing regimes while simultaneously fostering a transition to democracy without destabilising the new regimes (Arthur, 2009; Bell, 2009; Parmentier, 2016; Hansen, 2023; Destrooper, 2025). The concept gained further prominence in the mid-1990s, particularly through Neil Kritz's influential three-volume work, which helped establish a canon of literature for the field (Kritz, 1995). At the international level, the field was formalised by the 2004 report of UN Secretary-General Kofi Annan, which provided a widely adopted policy definition (Arthur, 2009; Bell, 2009; Evans, 2016; Destrooper, 2025; Lingaas, Sarkin & Jonsson, 2026).

Initially associated primarily with democratic transitions, TJ has since expanded both conceptually and practically. Over time, additional mechanisms and pillars have been incorporated, its application has extended to post-conflict settings and increasing attention has been paid to victims and their needs (Orentlicher, 1991; Kritz, 1995; Arthur, 2009; Fischer, 2011; Teitel, 2014; Parmentier, 2016; Duthie, 2017; Salvioli, 2020; Sarkin, 2021; European Parliament, 2024). Today, TJ mechanisms have been employed across diverse contexts worldwide, including countries such as Colombia, South Africa and Rwanda, and a UN Special Rapporteur has been created (UN, 2004; Salvioli, 2020; Calvet-Martinez, 2023; ICTJ, sd; OHCHR, sd).

2.3 Mechanisms of Transitional Justice

TJ encompasses a variety of mechanisms, each addressing different dimensions of past abuses. First, criminal prosecutions aim to ensure legal accountability by investigating and trying perpetrators of serious human rights violations (UN, 2004; Orentlicher, 2007; Parmentier, 2016; Newman, 2019; McGonigle Leyh, 2023; Ferrara, 2026). Such trials can take place at different levels. National courts try perpetrators under domestic law and jurisdiction; international courts, such as the ICC, operate under treaty-based jurisdiction independent of any single state; hybrid tribunals combine national and international legal principles, personnel and procedures, and are typically used where the domestic system is considered too weak or compromised to proceed alone (Skinnider, 2007; Lowe, 2015;

Wouters, 2020). *Ad hoc* tribunals, by contrast, are created for a specific conflict or a specific crime such as a tribunal limited to the crime of aggression and require for example prior international consensus on the definition of the crime in question, which can itself be a significant obstacle (Lowe, 2015; Wouters, 2020).

These processes respond to societal demands for justice and can strengthen democracy by reinforcing the rule of law (Teitel, 2000). However, several limitations recur in the literature. Lengthy procedures can undermine public trust, since the gap between the demand for accountability and the slow pace of judicial proceedings tends to generate frustration and a sense that justice is being denied rather than delayed (Huyse, 1995; Teitel, 2000). Trials can also exacerbate polarisation, as the adversarial framing of guilt and innocence sharpens the opposition between victims and perpetrators rather than facilitating reconciliation (Parmentier, 2016; Mihr, 2020; Sarkin, 2021; McGonigle Leyh, 2023). Additionally, there are capacity problems since judicial systems are rarely equipped to try the large number of perpetrators a conflict can generate, meaning prosecutions are necessarily selective even where the demand for accountability is universal (Parmentier, 2016). Finally, the principle of non-retroactivity restricts the retrospective application of new criminal definitions, which can itself undermine confidence in the legal process even as it protects the rule of law (Huyse, 1995; Teitel, 2000; Parmentier, 2016). Critics also note that prosecutions tend to centre the perpetrator rather than the victim, leaving victims' needs comparatively underserved (Teitel, 2000; Parmentier, 2016; McGonigle Leyh, 2023).

Second, truth-seeking mechanisms, most notably truth commissions, seek to establish an authoritative account of past abuses. Hayner's (2011) widely used definition identifies five core characteristics: truth commissions (1) investigate past events, (2) which reflect a systematic pattern, (3) actively involve victims in the process, (4) operate temporarily and produce a final report, and (5) function with official state backing. The best-known example is South Africa's Truth and Reconciliation Commission (TRC), established after the end of apartheid to investigate human rights violations and offer victims a public platform, partly in exchange for conditional amnesty (Truth and Reconciliation Commission, 2003; Mihr, 2020). Colombia's truth commission, set up as part of the 2016 peace process, offers a more recent example of a commission operating in a context of incomplete conflict resolution (ICTJ, sd). In doing so, truth commissions can offer recognition and a form of justice to victims, although their design, mandate and impact vary considerably across contexts (Hayner, 2011; Parmentier, 2016; Kochanski, 2023).

Third, reparations are explicitly victim-centred measures intended to redress the harm victims suffered. The literature distinguishes four main forms. Restitution aims to restore the situation that existed before the violation occurred by returning property, for instance. Financial compensation is used where restitution is not possible. Rehabilitation covers medical, psychological, social and legal support to help victims recover. Satisfaction includes symbolic measures such as official apologies and acknowledgements of wrongdoing (Parmentier, 2016; Mihr, 2020; Salvioli, 2020; Calvet-Martinez, 2023; Moffett, 2023). Full restitution is rarely achievable, since people that passed away cannot be returned and much material and psychological harm cannot be fully undone (Belgorodski, 2024). In practice, this means reparations programmes lean heavily on financial compensation, rehabilitation and symbolic satisfaction. Despite these limits, reparations play a crucial role because they formally acknowledge victims as rights-holders rather than passive recipients and the act of recognition itself can carry significant restorative value even where material compensation remains partial (Waldorf, 2012; Arthur, 2016; Mihr, 2020; Moffett, 2023).

Fourth, guarantees of non-repetition aim to prevent future abuses by transforming the structures that enabled past violations. These measures include legal, constitutional and security sector reform, as well as vetting and lustration processes. The two are often conflated but differ in scope. Lustration refers to parliamentary laws that exclude former collaborators of repressive regimes from public office or influential positions in media and academic institutions; vetting is a broader evaluative process that assesses whether individuals meet standards of human rights compliance, professional ethics and financial integrity before they can hold (or continue to hold) a public office (Stan, 2017). Institutions such as the security services, the military and the judiciary are typically the primary targets of such reforms, since these are the institutions most often implicated in enabling past abuses (Stan, 2017; Horne, 2023). Such reforms signal a clear break with the past and are essential for rebuilding trust in state institutions, though they tend to require sustained political will and take considerably longer to bear fruit than judicial or reparatory measures (Teitel, 2000; Stan, 2017; Horne, 2023; Destrooper, 2025; Lingaas, Sarkin & Jonsson, 2026).

Finally, memorialisation focuses on collective memory and public recognition of past suffering through monuments, museums and commemorative practices that create space for reflection, dialogue and mourning. When pursued carefully and inclusively, it can contribute meaningfully to reconciliation, partly by helping to re-humanise former adversaries (Buckley-Zistel & Björkdahl, 2017). At the same time, memorialisation is frequently

politically contested. Where commemoration is instrumentalised to serve a particular political narrative, it risks reinforcing existing divisions rather than bridging them, particularly when it excludes groups that do not fit neatly into binary categories of victim and perpetrator (Buckley-Zistel & Björkdahl, 2017; Newman, 2019; UNGA, 2021; Vermassen, 2024; Destrooper, 2025; Lingaas, Sarkin & Jonsson, 2026). A balanced, participatory approach, i.e. one that engages younger generations and resists one-sided retellings of the past, is generally considered essential to memorialisation succeeding as a tool of reconciliation (Newman, 2019).

2.4 Critiques of Transitional Justice

Despite its prominence, TJ has been subject to several critiques. A recurring concern is the lack of a unified theoretical framework and conceptual clarity, particularly regarding core notions such as justice, peace and reconciliation (Arthur, 2009; Clark & Palmer, 2012; Winter, 2013; Parmentier, 2016; Newman, 2019). Another concern is the blurred boundary between analysis and advocacy, which fits in a wider trend within the human rights field (Clark & Palmer, 2012; Parmentier, 2016). Moreover, TJ is no universal ‘toolbox’ applicable to all contexts, a context-sensitive approach is essential (Arthur, 2009; Clark & Palmer, 2012; Parmentier, 2016; Newman, 2019; Hansen, 2023). Measuring the impact of TJ mechanisms also remains difficult due to limited data (Arthur, 2016). Critical scholarship further highlights global power asymmetries within the field. Actors from the Global North (often funders, researchers and policymakers) tend to dominate agenda-setting, while the Global South (where TJ is most frequently implemented) may be marginalised (Fletcher & Weinstein, 2018). Finally, TJ has been criticised for its limited scope in terms of actors (*ratione personae*), timeframes (*ratione temporis*) and subject matter (*ratione materiae*), particularly its traditional focus on civil and political rights at the expense of economic and social rights (Nagy, 2008).

These critiques carry direct implications for this research. If TJ lacks conceptual clarity and resists a single theoretical framework, then any inquiry into why actors initiate TJ measures must specify which understanding of TJ is in play, rather than treating the term as self-evident. Similarly, the documented imbalance between Global North and Global South actors in setting the TJ agenda (Fletcher & Weinstein, 2018) is very important since a comparative study of the DRC and Ukraine must remain attentive to whose motivations are being analysed and whose definitions of justice are assumed when measures are initiated during conflict.

2.5 Debates and Contemporary Developments

One of the central debates within the literature concerns the relationship between retributive and restorative justice. While the former emphasises punishment and accountability, the latter prioritises reconciliation and social cohesion. Although often presented as competing approaches, they are increasingly understood as mutually reinforcing because sustainable peace requires justice, yet justice must avoid devolving into revenge, which could undermine peace (Fischer, 2011; Teitel, 2014; Sarkin, 2021; Mihr, 2024).

The field has also evolved in several important ways. There is growing recognition of the need for gender-sensitive approaches (Franke, 2006; Campbell, 2007; Hamber, 2007; Fischer, 2011; Buckley-Zistel & Zolkos, 2012; Fineman & Zinsstag, 2013; Salvioli, 2020), as well as for longitudinal empirical research to better understand the long-term impacts of TJ mechanisms (Arthur, 2009; Olsen, Payne & Reiter, 2010; Clark & Palmer, 2012; Parmentier, 2016).

More recently, TJ has expanded beyond its original post-conflict focus to include applications in ongoing conflicts and even in stable democracies addressing historical injustices. This shift towards non-transitional contexts reflects a broader understanding of structural and historical harm, including the legacies of colonialism and slavery (UNGA, 2021; Destrooper, 2023; Alici, 2024; Moffett & Narayan, 2024; Lingaas, Sarkin & Jonsson, 2026). The application of TJ during ongoing conflict remains contested and the literature points in two directions. On one hand, early TJ efforts can facilitate dialogue between conflicting parties, transform social relations and support the collection of evidence before it is lost or compromised, while also battling impunity as the conflict unfolds. In Colombia, for instance, TJ mechanisms were integrated into the peace process before the conflict had fully ended (van Nievelt, 2016). Victims too, may prioritise immediate needs such as truth about a disappearance, or compensation for destroyed property, over a tidy sequencing in which justice waits for peace, prompting action well before any formal transition occurs (Price & Stremlau, 2012; Waldorf, 2012; Alici, 2024; Vermassen, 2024). On the other hand, such efforts can be constrained by ongoing repression, may risk reigniting violence by hardening positions between parties still actively fighting, or may simply be deprioritised where basic survival needs take precedence over commemorative or judicial processes. Political elites, moreover, may obstruct TJ initiatives that threaten their interests, or instrumentalise them for legitimacy or propaganda purposes, which can blunt their effectiveness (Hayner, 2011; Waldorf, 2012; Skaar & Wiebelhaus-Brahm, 2013; Alici, 2024). This thesis contributes to the literature on TJ during

ongoing conflicts. Although scholars increasingly recognize that TJ measures may emerge before conflict has ended, there is limited systematic explanation of why specific actors choose to initiate such measures at particular moments rather than waiting for hostilities to subside. This research addresses that gap.

2.6 Actors of Transitional Justice

Understanding why TJ initiatives emerge during ongoing conflicts requires careful attention to the actors involved in these processes. TJ processes are the result of decisions from different actors operating across multiple levels of governance. Consequently, to analyse why actors decide to initiate TJ measures, it is essential to first analyse who these actors are. To capture this dynamic, this thesis adopts a multi-level actor framework that categorises the actors by their proximity to the conflict and by their level of organisational structure. It distinguishes between actors operating at the local, national and international levels (Skaar & Wiebelhaus-Brahm, 2013; Gready & Robins, 2017; Manning et al., 2023).

At the local level, civil society actors constitute a key driver of TJ initiatives. They encompass a wide range of organisations and networks that advocate for accountability, document human rights violations and represent the interests of victims. This includes for example victims' organisations, religious groups, grassroots movements and human rights organisations (Gready & Robins, 2017). These actors often play a crucial role in maintaining demands for justice and accountability, particularly in contexts where state institutions are unwilling or unable to act since they serve as the bridge between the state and the citizens. Importantly, civil society's engagement in TJ may begin even during ongoing conflict, as organisations mobilise to document abuses, advocate for victims and push for early accountability measures (Skaar & Wiebelhaus-Brahm, 2013; Gready & Robins, 2017; Alici, 2024).

At the national level, political elites and governments often play a central role in initiating or blocking TJ measures. As holders of formal political authority, state actors possess the institutional capacity to establish mechanisms such as truth commissions, or institutional reforms (Skaar & Wiebelhaus-Brahm, 2013). In Turkey, when the government adopted a TJ discourse (even a superficial one), the idea also gained more traction among civil society actors, resulting in more initiatives at the grassroots level (Alici, 2024). However, their willingness to pursue such measures is frequently shaped by elements like political calculations and the broader dynamics of the conflict (Skaar & Wiebelhaus-Brahm, 2013).

Finally, international actors frequently influence TJ processes from the transnational level. IOs, foreign governments, international courts and donor institutions may support or encourage initiatives through political pressure or financial assistance. Examples include organisations such as the UN, the ICC and external donor agencies that promote justice and human rights norms within conflict-affected societies (Price & Stremlau, 2012; Skaar & Wiebelhaus-Brahm, 2013).

Taken together, these three levels illustrate the multi-layered nature of TJ processes. Initiatives often emerge through interactions between actors across these different levels, rather than being driven by a single actor alone. For instance, civil society advocacy may pressure governments to adopt accountability measures, while international actors may provide resources or legitimacy that facilitate their implementation (Skaar & Wiebelhaus-Brahm, 2013).

Table 2.1 *Multi-Level Actor Framework*

Level of actors	Explanation
Local	Civil society actors: wide range of organisations and networks
National	Political elites and governments
International	International organisations, foreign governments, international courts, donor institutions

At the same time, it is important to recognise that these actor categories are not homogeneous. Civil society organisations (CSOs), political elites and international actors may hold diverse and sometimes competing interests and priorities. Treating these groups as unified actors therefore inevitably involves a degree of analytical simplification. Any categorisation of actors into collective groups risks obscuring internal diversity and disagreement (Skaar & Wiebelhaus-Brahm, 2013; Gready & Robins, 2017; van der Merwe & Lykes, 2018; Manning et al., 2023). This thesis acknowledges this limitation and treats these categories primarily as analytical tools that help structure the analysis of actors involved in TJ initiatives. By applying this multi-level framework, the thesis seeks to identify which actors initiate TJ measures during ongoing conflicts and to analyse why they would do this.

2.7 Conclusion

This chapter has traced TJ from its conceptual foundations to its present-day contestations. The definitions reviewed above reveal a field still negotiating its own boundaries, while the

historical overview shows a steady widening of scope. The critiques discussed demonstrate that this widening has not resolved the field's conceptual tensions. The discussion of TJ during ongoing conflict shows that initiation during conflict is already occurring, often led by actors whose motivations remain underexamined. Building on this observation, the chapters that follow turn directly to the actors initiating TJ during conflict and to the motivations underpinning their choices.

Chapter 3. A Multi-Level Framework for Explaining Transitional Justice Initiation During Conflict

Chapter 2 situated TJ within the broader literature by defining the concept and tracing its evolution, highlighting the limited attention given to why actors initiate TJ during ongoing armed conflict. To address this gap, this chapter develops a three-level theoretical framework. At the micro-level, the Cognitivist Theory of Action (CTA) explains actors' strategic and normative reasoning. At the meso-level, Readiness Theory (RT) explains when actors perceive conditions as ripe for action. At the macro-level, structural conditions capture the broader conflict-related, political and societal factors that enable or constrain TJ initiation. Together, these three levels provide an integrated framework for explaining why TJ is initiated during ongoing armed conflict. First, this chapter introduces CTA, followed by RT and the structural conditions. Then, these components are brought together into an integrated theoretical framework. After that, the ontological and epistemological foundations are discussed before summarising the main points briefly.

3.1 The Cognitivist Theory of Action

3.1.1 Theoretical Foundations

Boudon (2003) developed the Cognitivist Theory of Action and defines an action as a decision, attitude or course of conduct grounded in reasons held in the mind of the actor, distinguishing it from behaviour explained purely as the product of external causal forces (Buchanan, 1999; Boudon, 2003; Wilkström, 2014, 2019). CTA stands in the tradition of interpretive sociology, according to which an action becomes understandable to an outside observer once that observer has sufficient insight into the actor's reasons, rather than explainable as the outcome of structural or environmental pressure (Buchanan, 1999; Scott, 2000; Boudon, 2003; Woll & Jacquot, 2010). The theory operates at the level of the individual actor (micro-level). It asks what reasons a given person, including a person

speaking on behalf of an institution, draws on to justify a specific course of action, rather than what structural forces produced an aggregate outcome (Buchanan, 1999; Scott, 2000; Woll & Jacquot, 2010; Doherty & Hayes, 2019).

What distinguishes CTA from narrower models of rational choice is its broader conception of rationality (Scott, 2000; Monroe, 2001; Boudon, 2003; Doherty & Hayes, 2019). Whereas standard rational choice theory (RCT) reduces rationality to the instrumental calculation of costs and benefits (Scott, 2000; Quackenbush, 2004; Oppenheimer, 2008). Boudon (2003) argues that this overlooks forms of reasoned action that are not driven by self-interest. Building on this distinction, this thesis adopts the terms strategic reasoning and normative reasoning instead of Boudon's instrumental and axiological rationality, aligning the framework with the conflict and TJ literature and the coding scheme; the underlying distinction and its theoretical debt to Boudon, remains unchanged (Uhlener, 1986; Monroe & Maher, 1995; Skillington, 1997; Boudon, 2003; Vis & van Kersbergen, 2007; Doherty & Hayes, 2019).

Strategic reasoning concerns action undertaken because the actor calculates that it will produce a desired outcome at an acceptable cost (Scott, 2000; Quackenbush, 2004). This corresponds to Boudon's (2003) instrumental rationality, the form of rationality long modelled in RCT, and it remains a necessary component of any account of motivated action, including the initiation of TJ, since actors plainly weigh political, reputational or material consequences when deciding whether to support a TJ mechanism (Weingast, 1996; Buchanan, 1999; Boudon, 2003; Oppenheimer, 2008; Bressanelli, Koop & Reh, 2020).

Normative reasoning concerns action grounded in a norm or principle the actor regards as binding, where the reason for acting follows from that principle rather than from a calculation of personal gain (Uhlener, 1986; Scott, 2000; Wilkström, 2014, 2019; Barton-Crosby, 2022). The actor proceeds because they judge it the right thing to do (Wilkström, 2019; Barton-Crosby, 2022). This corresponds to Boudon's (2003) axiological rationality and echoes Weber's distinction between instrumental rationality (*Zweckrationalität*) and value-rationality (*Wertrationalität*), as discussed by Boudon (2003). The category gives the theory room to register motivations that a strictly strategic account would dismiss as irrational, or simply fail to register at all (Monroe & Maher, 1995; Scott, 2000; Hopkins & Kahani-Hopkins, 2004).

Underlying both forms of reasoning is what Boudon terms cognitive rationality, which concerns why an actor comes to treat a particular claim about the world as credible in the first place (Monroe, 2001; Boudon, 2003; Woll & Jacquot, 2010; Barton-Crosby, 2022). A claim is endorsed not because it has been independently verified, but because it circulates as plausible within the actor's social or professional environment (Weingast, 1996; Monroe, 2001; Boudon, 2003; Woll & Jacquot, 2010; Barton-Crosby, 2022; Beliku, 2025). In this thesis, cognitive rationality is not treated as a third, freestanding category of reasoning alongside the strategic and the normative. Rather, it functions as the underlying layer that gives strategic and normative reasons their motivating force in the first place since a strategic reason only motivates if the actor believes the anticipated outcome is genuinely achievable and a normative reason only motivates if the actor believes the underlying principle genuinely applies to the situation at hand. Cognitive rationality is therefore addressed analytically wherever it bears on the credibility of a stated strategic or normative reason (Monroe, 2001; Boudon, 2003; Woll & Jacquot, 2010; Bressanelli, Koop & Reh, 2020; Barton-Crosby, 2022; Beliku, 2025).

CTA further assumes bounded rationality, i.e. actors have a limited capacity to process information and consequently rely on 'satisficing', settling for an option that is good enough rather than searching exhaustively for an optimal one (Weingast, 1996; Monroe & Maher, 1995; Monroe, 2001; Barton-Crosby, 2022). Finally, CTA rests on methodological individualism, the premise that institutions and collective outcomes are, in the final analysis, constituted through the reasoning of the individuals who act within them (Scott, 2000; Boudon, 2003; Hopkins & Kahani-Hopkins, 2004; Oppenheimer, 2008; Woll & Jacquot, 2010). Where this research draws conclusions about an institution's reasoning, those conclusions are treated as institutional-level claims grounded in an individual's account, not as claims about that individual's private psychology.

3.1.2 Applicability to Transitional Justice Initiation

Actors frequently present TJ engagement in terms that combine normative commitment, an obligation owed to victims regardless of cost, with strategic calculation tied to political survival or external pressure, without these registers being mutually exclusive, which is why CTA can be useful when applied to the initiation of TJ (Boudon, 2003; Parmentier, 2016; Alici, 2024). A government that proclaims commitment to accountability while shielding allies from scrutiny need not be read as either sincere or cynical; CTA allows this to be read

as the coexistence of multiple reasons sustaining a single, internally inconsistent pattern of motivation (Boudon, 2003; Alici, 2024; Lingaas, Sarkin & Jonsson, 2026).

Normative reasoning is especially relevant where engagement with TJ cannot be reduced to a calculable payoff, for instance, civil society actors who continue advocacy work that carries personal risk and no clear reward (Backer, 2003; Boudon, 2003; Gready & Robins, 2017; Alici, 2024). The underlying layer of cognitive belief, in turn, helps explain why claims linking TJ to sustainable peace persist across practitioner communities despite limited empirical confirmation in the literature itself (Boudon, 2003; Arthur, 2009; Kerr, 2016; Mihr, 2016; Parmentier, 2016; Alici, 2024; Sherpa & Van der Lugt, 2024).³ Because such claims circulate as professionally credible within TJ and peacebuilding circles, they shape how practitioners justify their own engagement independently of their empirical standing (Weingast, 1996; Monroe, 2001; Arthur, 2009; Manning et al., 2023; Alici, 2024).

CTA's main strength here is that it registers motivations a purely strategic account would miss, including moral conviction and a felt obligation towards victims, which corresponds to literature describing TJ engagement as rarely reducible to a single explanation of self-interest (Boudon, 2003; Arthur, 2016; Kerr, 2016; Mihr, 2016; Parmentier, 2016). This same flexibility, however, creates a genuine risk of tautology, since almost any stated reason can be retrofitted into one of CTA's categories after the fact, which would let the framework explain everything and therefore explain nothing if applied without discipline. This risk is addressed methodologically by starting with inductive coding of the interview material followed by deductive coding into strategic, normative or mixed categories, allowing for the necessary nuances (infra). CTA is therefore used in this thesis to interpret actors' stated reasoning at the individual and institutional level.

3.2 Readiness Theory

3.2.1 Theoretical Foundations

Readiness Theory, developed principally by Pruitt (2007, 2015), explains why parties in intractable conflicts become prepared to shift from conflict towards considering cooperative or transformative actions, including the initiation of TJ measures (Zartman, 2000, 2008; Bar-Tal, 2007; Kriesberg, 2007; Pruitt, 2007, 2015). In this framework, readiness does not refer to objective changes in the environment, but to actors' perceptions that the status quo

³ There is empirical evidence for the positive effect of TJ on peacemaking efforts, however, the comparative longitudinal studies remain limited, which prompts caution in claiming the unequivocal positive effect on long-standing peace.

has become increasingly untenable (negativism) and that meaningful change is possible (optimism) (Zartman, 2000, 2008; Coleman, 2003; Pruitt, 2007, 2015). Unlike CTA, RT does not focus on the individual actor's explicit reasoning for a specific decision. Instead, it operates at a meso-level by capturing how actors perceive their broader environment as becoming ripe for action, thereby shaping the timing conditions under which initiation becomes possible (Zartman, 1989, 2000; Bar-Tal, 2007; Pruitt, 2007, 2015). Readiness is therefore understood as a relational and perception-based condition that emerges from actors' interpretation of their context rather than from any single decision or stated motivation (Zartman, 2000; Coleman, 2003; Pruitt, 2007, 2015).

Its central claim is that readiness results from two variables that must both be present to some degree, since the relationship between them is multiplicative rather than additive (Pruitt, 2007, 2015). The first variable is a state of exhaustion, here termed negativism (infra) (Zartman, 2000, 2008; Coleman, 2003; Pruitt, 2007; Pruitt, 2015). The second is optimism about the prospects of a possible outcome (Pruitt, 2007; Cantekin, 2016; Schiff, 2021). If either variable collapses to zero, the party will not move towards cooperation, no matter how high the other variable runs (Pruitt, 2007; Schiff, 2021). Pruitt (2007) himself labels the first variable motivation, but this thesis sets that term aside in favour of negativism, to avoid confusion with the entirely different use of motivation within CTA, where it refers to the content of an actor's reasoning rather than to a state of exhaustion with an existing situation.

Negativism, in Pruitt's original formulation, refers to the perception that continuing along the current course has become increasingly untenable (Coleman, 2003; Bar-Tal, 2007; Pruitt, 2007, 2015; Schiff, 2021). It captures growing dissatisfaction with the status quo and the belief that existing strategies are no longer sustainable or capable of producing meaningful change (Zartman, 2000, 2008; Coleman, 2003; Bar-Tal, 2007; Pruitt, 2007, 2015). Optimism, by contrast, refers to the belief that meaningful change remains possible (Zartman, 2000; Pruitt, 2007, 2015). It emerges when actors perceive a viable path forward, shaped by what is considered realistically achievable and by what has become politically or institutionally possible within the broader conflict environment (Kriesberg, 2007; Zartman, 2008; Pruitt, 2015). Rather than implying certainty of success, optimism reflects the perception that sufficient opportunities for change exist to make engagement worthwhile (Zartman, 2000; Pruitt, 2007; Cantekin, 2016; Schiff, 2021).

A defining feature of RT is that its two variables are compensatory. A very high level of negativism can offset low optimism, so a party facing a clearly unsustainable situation may

move towards a more cooperative posture even with little confidence that the process will succeed (Zartman, 2000, 2008; Pruitt, 2007, 2015; Schiff, 2021). Unlike ripeness theory, which treats a ripe moment as a binary state that either obtains or does not, RT treats both variables as continuous (Zartman, 2000, 2008; Coleman, 2003; Pruitt, 2007). This allows it to track incremental movement, where low readiness produces at most a mild conciliatory gesture, while progressively higher thresholds trigger exploratory steps and eventually substantive commitments (Pruitt, 2007; Zartman, 2008; Pruitt, 2015; Cantekin, 2016; Schiff, 2021). Schwartz and Gilboa (2021, 2022) add a relevant *caveat* with their concept of false readiness, the observation that a party may enter a process resembling genuine readiness while in fact pursuing strategic advantage, a distinction that becomes visible only once the party consistently rejects proposals a genuinely ready counterpart would accept (Zartman, 2000; Coleman, 2003; Schwartz & Gilboa, 2021, 2022).

3.2.2 Applicability to Transitional Justice Initiation

RT was built to explain entry into negotiation between two clearly defined parties, and its own literature does not extend it to TJ mechanisms such as criminal prosecutions, truth commissions or reparations (Pruitt, 2015; Cantekin, 2016; Schiff, 2021). Importing it into the study of TJ initiation therefore requires carefulness, since negotiation presumes a bilateral counterpart in a way that TJ initiation does not (Skaar & Wiebelhaus-Brahm, 2013; Murphy, 2017a). A government can establish a truth commission, support criminal prosecutions, or commit to reparations entirely on its own initiative, without any accompanying negotiation with an adversary (Skaar & Wiebelhaus-Brahm, 2013; Mihr, 2016).

The adaptation developed here preserves RT's two core variables and its underlying temporal logic. However, rather than explaining a shift from unilateral conflict behaviour towards bilateral negotiation, RT is used here to capture the shift from a situation in which TJ measures are not being pursued to one in which their initiation becomes possible and is actively undertaken (Skaar & Wiebelhaus-Brahm, 2013; Murphy, 2017b). The two variables of readiness are thus understood as tracking changes in actors' perceptions that make this shift possible. Rising negativism reflects the growing perception that maintaining the status quo has become increasingly untenable, while rising optimism reflects the belief that meaningful change has become sufficiently achievable to justify action (Pruitt, 2007, 2015; Murphy, 2017b; Alici, 2024; Mihr, 2026). This movement does not require a negotiating counterpart in the way Pruitt's original model does. Instead, it requires that the actor in question crosses a threshold at which initiating TJ becomes perceived as both necessary and

possible (Murphy, 2017b; Stan & Nedelsky, 2023a). This threshold-crossing dynamic, and the temporal precision it provides, constitutes RT's central contribution to the present framework. Whereas CTA explains why actors decide to initiate TJ by examining the content of their reasoning, RT explains when such initiation becomes possible by identifying the conditions under which actors become ready to act (Boudon, 2003; Pruitt, 2007).

The content of negativism also requires adaptation for a TJ context, since the variable was originally built around the cost of continuing to fight, not the cost of inaction on TJ. In this thesis, negativism is understood as an actor's assessment that the cost of continued inaction on accountability (*sensu lato*) has become untenable, whether because of mounting reputational exposure, pressure from constituencies, victims or international partners, or simply because the political cost of inaction begins to outweigh the political cost of acting (Pruitt, 2007, 2015; Skaar & Wiebelhaus-Brahm, 2013; Lingaas, Sarkin & Jonsson, 2026; Mihr, 2026).

What RT offers, above all, is a way to periodise and explain timing with more precision than a purely structural account allows. It explains why TJ initiatives accelerate at particular junctures, rather than treating the whole span of a conflict as a flat backdrop against which TJ either occurs or does not (Pruitt, 2007, 2015; Skaar & Wiebelhaus-Brahm, 2013; Sarkin, 2021; Alici, 2024; Lingaas, Sarkin & Jonsson, 2026). This precision comes at a cost. Because negativism and optimism are compensatory, virtually any observed behaviour can be attributed, after the fact, to some combination of the two, which weakens the theory's falsifiability (Cantekin, 2016; Schiff, 2021). A further limitation concerns what RT is built to explain in the first place. Pruitt's model accounts for movement out of conflict, towards negotiation and eventual settlement. Here, it is used differently, namely to explain TJ initiation that takes place while conflict is still ongoing, often without any resolution of the conflict itself in view (Sarkin, 2021; Stan & Nedelsky, 2023a; Alici, 2024; Lingaas, Sarkin & Jonsson, 2026). A related limitation is that the theory was designed for a dyadic relationship between two well-defined parties, not for the multi-pillar and multi-actor character of TJ, where courts, reparations bodies and CSOs often act simultaneously and without coordination (Pruitt, 2007; Bell, 2009; Skaar & Wiebelhaus-Brahm, 2013; Destrooper, 2025). That limitation is addressed methodologically, by applying the two variables separately to each category of actor analysed, rather than collapsing them into a single readiness variable.

3.3 Structural Conditions

Neither the CTA nor RT, as originally developed, fully accounts for the structural setting in which actors form their motivations and perceptions. This results in a gap. An actor may have both a strong normative or strategic motivation, in CTA terms, and a high level of readiness, in RT terms, but still be unable to act if the surrounding environment does not provide the basic conditions needed to turn intention into action. Therefore, the structural conditions are treated as a separate analytical layer, linked to but distinct from readiness. Unlike CTA and RT, this section does not draw on a single bounded theory. It instead synthesizes conditions identified across the TJ literature, treating the broader societal, political and conflict structural environment as an empirically grounded analytical layer rather than a theoretical one.

The societal environment refers to the wider social context in which TJ measures are introduced (Skaar & Wiebelhaus-Brahm, 2013; Mihr, 2016). It includes public attitudes, dominant narratives and social divisions that can either support or block the introduction of such measures (Skaar & Wiebelhaus-Brahm, 2013; Mihr, 2016; Stan & Nedelsky, 2023a; Lingaas, Sarkin & Jonsson, 2026). This can include collective trauma, contested accounts of past violence or disagreement over what accountability should look like, but also situations where there is strong public demand for TJ initiatives (Kerr, 2016; Mihr, 2016; Stan & Nedelsky, 2023a; Alici, 2024; Destrooper, 2025; Lingaas, Sarkin & Jonsson, 2026). The societal environment also includes the role of CSOs, which can promote TJ through domestic advocacy and by building pressure through international networks (Backer, 2003; Gready & Robins, 2017; Reiter, 2020; Alici, 2024). Existing TJ research shows that the societal environment shapes how actors weigh the prospects of each mechanism before initiation (Arthur, 2009; Murphy, 2017c). It determines whether trials are viewed as legitimate instruments of justice or mere “victor’s justice”. In deeply divided societies, prosecutions can be perceived as ethnic or political attacks, potentially reigniting conflict (Kerr, 2016; Mihr, 2016; Murphy, 2017a; Reiter, 2020; Stan & Nedelsky, 2023a). Furthermore, effective truth-telling requires a common narrative (Kerr, 2016; Lingaas, Sarkin & Jonsson, 2026). When accounts of violence are highly contested, truth commissions may face silence or political instrumentalization, where the state attempts to “stage the truth” to avoid its own responsibility (Fijalkowski, 2016; Mihr, 2016; Stan & Nedelsky, 2023b; Destrooper, 2025; Ferrara, 2026; Lingaas, Sarkin & Jonsson, 2026). A final example concerns memorialisation, which interacts with the social environment by creating spaces for public contestation and the negotiation of the past. Bottom-up “sites of conscience” initiated by civil society serve to

counter official amnesia and engage the citizenry in dialogue to prevent non-recurrence (Gready & Robins, 2017; Stan & Nedelsky, 2023a, 2023b; Destrooper, 2025; Ferrara, 2026).

The political environment refers to the institutional and governance context that shapes whether TJ measures are practically and politically feasible (Backer, 2003; Skaar & Wiebelhaus-Brahm, 2013; Murphy, 2017c; Mihr, 2026). It includes the strength and reach of state institutions, available financial and administrative capacity and the coherence of political authority over territory and relevant actors (Backer, 2003; Ni Aolain & O'Rourke, 2010; Skaar & Wiebelhaus-Brahm, 2013; Murphy, 2017b; Mihr, 2026). It also includes the level of international support that can help enable or fund implementation (Skaar & Wiebelhaus-Brahm, 2013; Fijalkowski, 2016; Kerr, 2016; Mihr, 2016; Clark & Palmer, 2020). The literature on TJ frequently shows how institutional capacity determines what a state can or cannot provide. For example, effective trials require an independent judiciary and a specialized criminal investigative capacity that many lack (Parmentier, 2016; Murphy, 2017d; Stan & Nedelsky, 2023a, 2023b, 2023c). Regarding reparations, even if a state formally adopts a reparations law, a lack of financial capacity or a dedicated budget line often leaves victims without tangible redress (Waldorf, 2012; Arthur, 2016; Moffett, 2017; Stan & Nedelsky, 2023b). Finally, vetting and lustration processes can also be impacted by the political environment (Reiter, 2020). If the new leadership is drawn from the old nomenclature, vetting is often blocked to protect "skeletons in the closet" and lustration can be misused as a weapon of political competition to purge opposition members from the civil service or judiciary (Parmentier, 2016; Stan & Nedelsky, 2023a; Mihr, 2026).

The conflict environment captures the ongoing realities of violence that shape the practical space for TJ (Kerr, 2016; Stan & Nedelsky, 2023a; Alici, 2024; Lingaas, Sarkin & Jonsson, 2026). This includes the intensity and duration of armed conflict, the degree of territorial fragmentation and the presence of multiple armed actors controlling different areas (Ni Aolain & O'Rourke, 2010; Murphy, 2017b). These conditions directly affect whether key activities such as investigations, evidence collection or witness protection can realistically take place (Murphy, 2017a; Reiter, 2020; Stan & Nedelsky, 2023a, 2023c). Research on TJ has shown that active conflict can make prosecutions and investigations unsafe or impossible because active conflict creates severe safety risks for judicial personnel and witnesses, often rendering domestic trials impossible (Fijalkowski, 2016; Kerr, 2016; Murphy, 2017a). Furthermore, in fragmented territories, the state may lack the coercive power to apprehend suspects or gather evidence (Ni Aolain & O'Rourke, 2010; Skaar & Wiebelhaus-Brahm,

2013; Murphy, 2017b; Stan & Nedelsky, 2023b, 2023c). Also for reparations, the conflict environment can have a negative impact (Moffett, 2017). Implementation is frequently blocked because national resources are prioritized for military expenditure rather than victim redress and conflict-driven displacement further complicates the process, as victims may be unable to return to their homes to file claims or lack the necessary documentation from local administrative services that have collapsed due to the fighting (Waldorf, 2012; Fijalkowski, 2016; Kerr, 2016; Moffett, 2017; Murphy, 2017b; Stan & Nedelsky, 2023a, 2023c).

These structural conditions shape whether willingness can be translated into action. They influence both the level of negativism and optimism that actors hold regarding the initiation of TJ measures and help determine whether the readiness threshold can be crossed. Strong societal demand can for example increase the level of negativism, whereas weak state institutions can decrease the level of optimism (supra). This distinction between readiness and structural conditions allows the framework to separate three situations. First, actors who are both willing and able to act. Second, actors who are willing but blocked by structural constraints. Third, actors who have the capacity to act but do not reach the threshold of readiness needed to do so. This distinction is important for the empirical analysis, since it helps avoid interpreting the absence of TJ measures as lack of structural conditions, or vice versa.

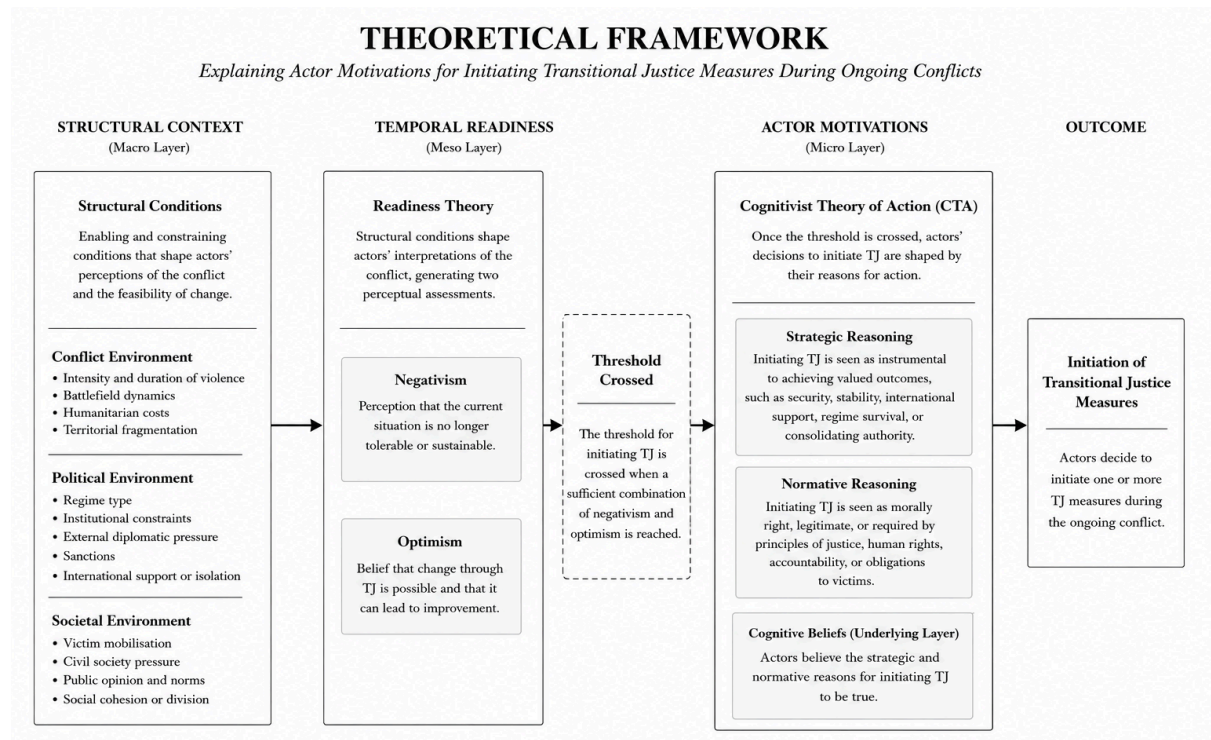
3.4 An Integrated Framework

The three layers developed above (CTA, RT and structural conditions), all address a different part of the question, and together they form a single explanatory integrated framework. Structural conditions form the starting point of this framework. The societal, political and conflict environment described in Section 3.3 does not itself determine whether an actor decides to act (Skaar & Wiebelhaus-Brahm, 2013; Mihr, 2016). Instead, it shapes how an actor perceives the situation and in particular how untenable the status quo appears and how achievable meaningful change through TJ seems (Pruitt, 2007; Cantekin, 2016; Schiff, 2021). A weak judicial system, for instance, can lower an actor's optimism that initiating prosecutions will produce a credible outcome, while sustained civil society pressure can raise an actor's negativism by making continued inaction politically costly (Backer, 2003; Parmentier, 2016; Gready & Robins, 2017; Murphy, 2017d; Reiter, 2020; Alici, 2024). Structural conditions thus operate on readiness indirectly, by feeding into the two perceptual variables rather than by determining action on their own.

RT, in turn, explains the timing of initiation (Pruitt, 2007, 2015). As negativism and optimism rise, whether independently or in combination given their compensatory relationship, an actor approaches a threshold at which initiating TJ becomes perceived as both necessary and possible (Pruitt, 2007, 2015; Cantekin, 2016; Schiff, 2021). Below this threshold, an actor may hold relevant motivations without acting on them. Once the threshold is crossed, initiation becomes plausible and the explanatory task shifts from when an actor becomes ready to why that actor chooses one course of action over another. This is where CTA enters the framework. Once readiness has produced a threshold-crossing, CTA explains the content of the actor's reasoning in initiating TJ, distinguishing between strategic reasoning, where initiation is pursued for its expected consequences, and normative reasoning, where initiation follows from a principle the actor regards as binding (Weingast, 1996; Boudon, 2003). Strategic and normative reasoning can operate at once, and the framework is built to register a single act of initiation as resting on more than one type of reason simultaneously (Boudon, 2003).

In short, structural conditions shape how an actor perceives its environment. These perceptions, formalised as negativism and optimism, determine when an actor becomes ready to act. Once that threshold is crossed, strategic and normative reasoning, grounded in the actor's underlying beliefs, explain why a particular act of TJ initiation takes the form it does. This sequence is illustrated in the visualisation below.

Figure 3.1 *Theoretical Framework: Actor Motivations for Transitional Justice Initiation During Ongoing Conflict⁴*



The structure of Figure 3.1 also clarifies why the three layers cannot simply be collapsed into one another. Each layer carries its own ontological and epistemological commitments (infra), and each is suited to a different kind of empirical material. Structural conditions are assessed through triangulated documentary and contextual data (Backer, 2003; Ni Aolain & O'Rourke, 2010; Skaar & Wiebelhaus-Brahm, 2013), readiness is inferred from how actors describe their changing perceptions of the conflict over time (Pruitt, 2007, 2015; Schiff, 2021) and CTA is applied directly to the reasons actors give for their own conduct (Boudon, 2003). The integration proposed here is therefore not a claim that one theory subsumes the others, but a claim that the three operate at compatible levels of analysis and, applied together, explain a fuller range of cases than any one of them could on its own.

3.5 Ontological and Epistemological Foundations

The theoretical framework in this chapter rests on a broadly constructivist understanding of social action. This follows directly from the ontological and epistemological assumptions underlying CTA and RT and it informs the methodological approach developed in the next

⁴ OpenAI. (2026, June 30). *Theoretical framework: explaining actor motivations for initiating transitional justice measures during ongoing conflicts* [image]. ChatGPT. https://chatgpt.com/s/m_6a43b892d10c81919e8e374767cda2b1

chapter. CTA adopts a constructivist ontology at the level of the individual actor. Action is understood as grounded in the reasons actors themselves hold and articulate. From this perspective, social reality is not external to actors' reasoning, but produced through the meanings they attach to their situation and their resulting choices. CTA is therefore paired with an interpretivist epistemology focused on understanding actors' reasons and interpretations, standing in the tradition of interpretive sociology (Boudon, 2003). RT shares this constructivist orientation, but in a relational form. Negativism and optimism are not treated as objective features, they exist only through actors' perceptions of their situation (Pruitt, 2007; Cantekin, 2016; Schiff, 2021). However, RT operates at a meso level, since these perceptions are not purely individual but emerge in relation to a shared environment and are often expressed in a way that reflects organisational or collective positions (Pruitt, 2007). Its epistemology is therefore interpretive, since readiness must be reconstructed from actors' accounts rather than directly observed (Pruitt, 2007, 2015). Structural conditions differ in their ontological starting point. They are treated as elements of the external environment, including societal, political and conflict-related constraints and opportunities (Skaar & Wiebelhaus-Brahm, 2013; Mihr, 2016). At the same time, knowledge of these conditions is necessarily partial and indirect, since the conflict, political and social environment can rarely be observed directly and must instead be assessed through available indicators (Backer, 2003; Ni Aolain & O'Rourke, 2010; Skaar & Wiebelhaus-Brahm, 2013). They are therefore approached from a post-positivist epistemological position, relying on triangulation and contextual inference rather than direct access.

These differences in level reflect the division within the framework. CTA explains individual reasoning, RT explains when actors become positioned to act and structural conditions define the external environment within which both operate (Boudon, 2003; Pruitt, 2007, 2015; Skaar & Wiebelhaus-Brahm, 2013; Murphy, 2017c). All three remain compatible because none assumes that social reality is independent of interpretation, even if they differ in how directly they treat interpretation as their object of analysis. This positioning has two implications. First, the framework relies on actors' accounts of their reasoning and perceptions, which means that self-presentation bias cannot be fully excluded. This is addressed through triangulation across interviews and supporting documentary evidence. Second, because interview data always reflects individual respondents, while RT requires meso-level claims, readiness is not taken from single accounts but reconstructed through patterns across multiple interviews linked to the context (Pruitt, 2007). The result is a layered epistemological

approach where individual reasonings are captured through CTA, shared perceptual conditions are inferred through RT and external constraints are assessed through contextual analysis of structural conditions. This approach directly informs the methodological design of the thesis which will be addressed in the next chapter.

Table 3.1 *The Ontological and Epistemological Foundations of the Integrated Theoretical Framework*

	Ontology	Epistemology	Level
CTA	Constructivist	Interpretivist	Micro
RT	Constructivist	Interpretivist	Meso
Structural conditions	Realist	Post-positivist	Macro

3.6 Conclusion

This chapter has developed the theoretical framework that guides the empirical analysis. It was built to answer the research question of why actors initiate TJ measures while armed conflict is still ongoing, and departed from the premise that no single theory, on its own, can answer that question in full. CTA supplied the micro-level component of the framework. Drawing on Boudon's (2003) broadened conception of rationality, the chapter distinguished strategic from normative reasoning and showed that the two often operate together. An underlying layer of cognitive belief was introduced as well as the condition that gives strategic and normative reasons their motivating force in the first place. Applied to TJ, CTA explained how actors justify their own engagement, while leaving open, by design, the separate question of when that engagement will likely occur. RT supplied the temporal dimension. Adapted from Pruitt's (2007, 2015) original model of entry into negotiation, the chapter showed that the same two variables, negativism and optimism, can be read as tracking a shift towards TJ initiation. This adaptation allows RT to explain why TJ initiatives accelerate at particular junctures in a conflict, rather than treating the conflict as a flat backdrop against which TJ simply occurs or does not. Structural conditions supplied the macro-level component by addressing the societal, political and conflict environment in which an actor operates which shapes the feasibility of action.

Brought together, the three layers form a single explanatory sequence. Structural conditions shape how an actor perceives its environment. These perceptions, formalised as negativism and optimism, determine when an actor becomes ready to act. Once that threshold is crossed,

strategic and normative reasoning, grounded in the actor's underlying beliefs, explain why a particular act of initiation takes the form it does. This sequence, illustrated in Figure 3.1, rests on a shared constructivist premise across CTA and RT, the view that the phenomenon under study is constituted through the meaning actors attach to their situation, while structural conditions are approached through a more realist, post-positivist lens suited to external constraints. The combination of these positions allows it to register a wider range of cases. The following chapter sets out the methodology built on this theoretical foundation.

Chapter 4: Methodology

4.1 Operationalising an Actor-Centred Framework

The preceding chapters established why the motivations of actors who initiate TJ measures during ongoing conflict deserve closer scrutiny and proposed an integrated framework combining CTA with RT against a backdrop of structural conditions. This chapter explains how that framework was operationalised empirically. It sets out the research design and case selection, the interview sample and procedure, the coding strategy and the ethical and positional considerations, before concluding with a summary.

4.2 Research Design: A Most-Different Comparative Case Study

This thesis adopts a qualitative comparative case study design, structured as a most-different-systems comparison between the DRC and Ukraine (Yin, 2018, p. 46; Mortelmans, 2023, pp. 130, 183). This choice follows from the research question itself why certain actors initiate TJ measures during ongoing conflict. Its object of inquiry is a set of reasons, justifications and perceptions that actors themselves hold, rather than an externally observable cost-benefit calculation. Motivations of this kind cannot be reliably inferred from documents or aggregate data; they must be elicited through direct engagement with the actors. Qualitative case study research is well suited to this kind of question, since it traces the reasoning behind a course of action within its own context (Mortelmans, 2023, pp. 130, 183, 239). Semi-structured interviewing follows as the appropriate technique because it is structured enough to allow comparison, yet open enough to capture certain nuances (Mortelmans, 2023, pp. 194, 221).

A most-different design selects cases that diverge sharply on structural conditions yet converge on a shared outcome, here, the initiation of TJ measures while conflict is ongoing. The logic is that when divergent cases nonetheless converge on the same outcome, the

explanation is more likely to lie in a mechanism common to both than in any contextual feature unique to one (Yin, 2018, p. 46; Mortelmans, 2023, p. 183). The DRC and Ukraine differ markedly in the nature of the conflict, the character of the state, the availability of international resources and the historical trajectory of violence (Klosterboer & Hartmann-Mahmud, 2013; Hellmüller, 2019; Freedman, 2020; Calvet-Martinez, 2023; Belgorodski, 2024; Kowalski & Misiuk, 2024; Kiyombo Makonga, 2024; Cirhigiri, 2025; Norwegian Refugee Council, 2025; Busol, 2026; EEAS, 2026; Marconato, 2026). If broadly similar motivational patterns emerge across such different settings, this strengthens the claim that those patterns reflect something generalisable about actor motivation during conflict; where motivations diverge instead, the contrast helps identify which contextual factors condition the different types of reasoning (Yin, 2018, p. 46; Mortelmans, 2023, p. 183). The design therefore serves both an analytical and a theory-building function. It tests whether the integrated CTA-RT framework travels across radically different cases, while remaining sensitive to context-specific variation.

This design has several important limitations. Because it relies on a most-different comparison of only two cases, it cannot establish whether the observed patterns are generalisable beyond the DRC and Ukraine. Instead, it is primarily suited to exploring whether a shared underlying mechanism may be present, rather than demonstrating its prevalence across a wider set of conflict-affected TJ processes (Mortelmans, 2023, p. 477). While the study examines structural conditions in both cases in detail, differences across these contexts mean that similar observed motivations may still be produced by distinct, case-specific mechanisms. The analysis therefore remains attentive to the possibility of multiple causal pathways leading to comparable surface-level justifications (Mortelmans, 2023, p. 367). Finally, the small number of cases, combined with a limited number of interviews, means that the study is best understood as theory-generating rather than theory-testing. It develops plausible, empirically grounded hypotheses regarding actor motivations, rather than evaluating them against a representative sample (Mortelmans, 2023, p. 159). These limitations are revisited in light of the empirical findings (*infra*)

4.3 Case Selection: the DRC and Ukraine

The DRC and Ukraine were selected because they represent two of the most prominent contemporary instances of protracted, internationally visible conflict in which TJ measures have nonetheless been initiated before the final resolution of hostilities. Both cases meet the thesis's central empirical criterion which is active TJ initiatives undertaken while armed

violence continues (Arnould, 2016, 2021; Mubiala, 2021; Busol, 2023; Calvet-Martinez, 2023). Beyond this shared feature, the two cases differ along almost every dimension relevant to TJ scholarship to suit the most-different logic set out above.

The DRC represents a case of prolonged, internally fragmented conflict spanning almost three decades, in which successive governments have themselves been implicated in the violence (Klosterboer & Hartmann-Mahmud, 2013; Hellmüller, 2019; Freedman, 2020; Kiyombo Makonga, 2024; Cirhigiri, 2025; Marconato, 2026). State capacity is severely constrained, justice institutions are chronically underfunded and TJ mechanisms depend on international actors for resources (Tunamsifu, 2015; Kambale, 2015; Arnould, 2016, 2021; Murhula, 2022; Cirhigiri, 2025; Rose, 2025). Ukraine, by contrast, represents a case of clearly identifiable interstate aggression, in which the state is broadly described as a willing participant in accountability efforts rather than an obstacle to them and in which international engagement has been rapid, well-resourced and politically prioritised by Western partners (Calvet-Martinez, 2023; Belgorodski, 2024; Busol, 2026; EEAS, 2026). Where the DRC's TJ landscape is shaped by institutional weakness and a layered, regionally uneven conflict, Ukraine's is shaped by a dense international architecture and a single identifiable aggressor. These contrasts make any convergence in the underlying logic of actor motivation difficult to attribute to shared institutional, geographic or geopolitical conditions, strengthening the inferential value of the comparison.

4.4 Data Collection: Semi-Structured Interviews in the DRC and Ukraine

4.4.1 Interview Sample and Actor Selection

The primary data source is nine semi-structured interviews: five with actors working on or close to the DRC and four with actors working on or close to Ukraine. An interview guide built around the thesis's sub-questions was used flexibly, allowing follow-up questions where interviewees raised unanticipated themes (Mortelmans, 2023, pp. 221, 232, 281; full guide in Appendix 4). Participants were selected to reflect the multi-level actor framework developed in Section 2.6, which distinguishes local, national and international actors. This sample deliberately spans practitioners, academics, journalists and representatives of IOs, on the conviction that motivations cannot be adequately captured through a single category of actor. Most interviewees spoke in a personal capacity, offering their own assessment of actor motivations and where they spoke in the name of their organisation, this is specifically mentioned.

It is important to be explicit about what a sample of this size and composition does, and does not, support. Nine interviews across two cases support an exploratory analysis of recurring patterns of justification among professionally engaged TJ actors. They do not support claims about how prevalent any given motivation is across the full population of actors involved in TJ in either country, nor about the views of actors this thesis did not reach, such as grassroots victims' associations, perpetrators or government officials speaking on the record. Relatedly, because interviewees were asked to reflect on their own motivations and, in places, on their assessment of other actors' likely motivations, the thesis treats statements about other actors' engagement as a further layer of interviewees' own interpretation and discourse rather than as direct evidence of those other actors' actual motivations. The sample is therefore read as indicative of how actors professionally close to TJ processes construct and justify engagement (their own and, more cautiously, others') rather than as a representative cross-section of all relevant actors. This *caveat* is carried through into the interpretation of findings in Chapters 6 and 7.

4.4.2 Conducting Interviews Remotely: Opportunities and Limitations

Interviews were conducted remotely via video call, in English or French depending on interviewee's preference, and lasted approximately one hour. Remote interviewing carried both advantages and disadvantages. On the one hand, it made it possible to reach interviewees based in active conflict zones, including Eastern DRC, without travel that would have been logistically difficult and, given the security situation and a concurrent Ebola outbreak in the region, potentially unsafe (Mortelmans, 2023, p. 259; Norwegian Refugee Council, 2025; Marconato, 2026). On the other hand, it limited the ability to read non-verbal cues, made it harder to build the rapport that can encourage candour on sensitive topics, and remained vulnerable to connectivity problems affecting parts of both countries (Mortelmans, 2023, p. 259). Where audio quality was poor or a connection temporarily dropped, this is noted in the transcript and treated with appropriate caution during coding. All interviews were recorded with participants' informed consent and subsequently transcribed for coding. Where interviewees responded in French, relevant excerpts are translated to English, but the original sentence can be found in a footnote, to preserve the original formulation.

4.5 Data Analysis: Inductive-Deductive Thematic Coding in MaxQDA

The transcribed interviews were analysed through thematic coding in MaxQDA, following the general two-phase logic for thematic analysis set out by Braun and Clarke (2006), adapted

here to a deductive-inductive combination (Mortelmans, 2023, p. 454). Coding proceeded in two stages. The first involved open, inductive coding of each transcript, generating codes that tracked the range of themes raised by interviewees. The second involved organising these codes deductively around the categories derived from the theoretical framework in Chapter 3, distinguishing strategic motivations from normative motivations. The full codebook can be found in Appendix 2. This inductive-deductive combination kept the analysis open to themes the framework had not anticipated, while still permitting systematic comparison along the dimensions specified by CTA and RT. Each interview was coded three times in successive rounds, as a safeguard against drawing conclusions too early and overlooking passages relevant to a given code in earlier rounds of coding (Braun & Clarke, 2006; Mortelmans, 2023, p. 385). The coded data was then examined both within and across cases. Within-case analysis traced how individual interviewees constructed their arguments for or against early TJ intervention, while cross-case analysis compared the prevalence, framing and interaction of strategic and normative motivations between the DRC and Ukraine.

4.6 Ethics, Consent and Positionality

All interviews were conducted on the basis of informed consent (Appendix 3). Participants received an informed consent form in advance and all were informed again orally at the start of the interview about the purpose of the research, the intended use of their statements, their right to withdraw or decline to answer specific questions and their opportunity to ask questions (Mortelmans, 2023, p. 146). Despite best efforts to obtain written consent in all cases, interview DRC002 did not return a signed consent form, however, they did give oral consent at the start of the interview, which justifies the use of their data. Throughout the thesis, interviews are referenced by code number rather than name; in Appendix 1, names and organisations are linked to the corresponding code only where the interviewees explicitly consented to this, to ensure transparency without exceeding the scope of consent given. Particular care was taken to ensure that quotations used do not expose participants to professional or personal risk. Wherever an interviewee indicated they were speaking on behalf of their organisation, this thesis makes that distinction explicit; where it was not specified, statements are treated as personal. All quotes from the UN COI should be attributed to the Commission (UA002).⁵

⁵ More information about the Commission's work: <https://www.ohchr.org/en/hr-bodies/hrc/iicihr-ukraine/index>

It is also necessary to reflect on my own position as the researcher. I am a white, female, Belgian, Western European graduate student researching TJ processes in two countries with which I have no lived connection and to whose conflicts I am not party. This position shaped the data collection in concrete and asymmetric ways across the two cases. My ability to speak French was a significant practical advantage in reaching DRC-based interviewees; for Ukraine, prior research I had conducted on the country gave me existing contacts and a degree of background familiarity that I lacked for the DRC. For the DRC, my position also carries a postcolonial dimension beyond mere distance from the conflict. Belgium's colonial history means that a Belgian researcher discussing justice and accountability with Congolese interviewees enters a relationship that is not neutral, potentially shaping what participants share, how they frame their responses, and how they interpret my interest in the topic. I have tried to remain attentive to this throughout, including by not presuming that interviewees' candour or reticence on particular themes was unrelated to who was asking. More broadly, my training within a largely Western TJ literature means I am attentive to the risk of importing assumptions about what TJ should look like into the analysis of contexts where those assumptions may not hold. I have tried throughout the analysis to let interviewees' own framings, rather than my prior expectations, drive the categories used, which is why I started with inductive coding first. This does not eliminate the influence of my position on the research, but naming it allows the findings to be weighed accordingly.

4.7 Conclusion

This chapter has set out how the theoretical framework is operationalised through a qualitative, comparative design built around semi-structured interviews with a deliberately wide-ranging set of actors. The most-different-systems logic underlying the choice of the DRC and Ukraine allows the thesis to probe whether the strategic and normative motivations theorised in the integrated CTA-RT framework operate similarly across radically different conflict environments, while the inductive-deductive thematic coding procedure in MaxQDA provides a systematic basis for comparing how these motivations are expressed and justified in practice. The chapter has also been explicit about the boundaries of what this design supports which is an exploratory account of how professionally engaged TJ actors construct and justify their motivations to engage with and initiate TJ measures, rather than a representative or generalisable claim about the population of actors in either case. These boundaries, i.e. restricting the sample to professionally engaged actors, the risk of social

desirability bias and asymmetries in case access, are integrated into the analysis, shaping how confidently the findings can be interpreted rather than serving as separate *caveats*.

Chapter 5. Conflict Contexts and Transitional Justice in the DRC and Ukraine

The previous chapter set out the methodological foundations of this study. This chapter gives now an overview of the two case studies to better understand the conflict dynamics and the existing landscape of TJ measures in DRC and Ukraine which will be addressed in the next chapter. The Chapter will first introduce the conflict and TJ measures in the DRC, then for Ukraine, to end with a comparative overview of the two cases. Both cases qualify as protracted conflicts in which violence and TJ initiatives unfold simultaneously.

5.1 The Democratic Republic of the Congo

5.1.1 The Conflict

The conflict in the DRC has its roots in the regional fallout of the 1994 Rwandan genocide and evolved into the First and Second Congo Wars, drawing in multiple neighbouring states and dozens of armed groups. The 1999 Lusaka Agreement required the organisation of a national dialogue, the Inter-Congolese Dialogue (ICD), which brought together the government of the DRC, five political groups that represented the interests of foreign or local militias, a local self-defence rebel movement and civil society organised as the “Group of Eight”. The ICD culminated in the Global and Inclusive Agreement on the Transition of December 2002 (often referred to as the Global Accord), signed in Sun City and consolidated in Pretoria, which created a transitional “1+4” power-sharing formula of one President and four Vice-Presidents drawn from the main warring factions (Borello, 2004; Reyntjens, 2007; Davis, 2013; Klosterboer & Hartmann-Mahmud, 2013; Hellmüller, 2019; Freedman, 2020; Kiyombo Makonga, 2024; ICTJ, sd).

This settlement ended large-scale interstate war but absorbed former belligerents into the new state rather than holding them accountable. Individuals who owed their political standing to violence were incorporated into transitional institutions, which weakened the prospects for meaningful redress from the outset (Reyntjens, 2007; Davis, 2013; Klosterboer & Hartmann-Mahmud, 2013; Freedman, 2020; Kiyombo Makonga, 2024). Conflict in the Eastern provinces, particularly North and South Kivu and Ituri, never fully ended. The

resurgence of the M23 rebellion from 2012 and again from 2022, together with the activity of dozens of other armed groups, has kept large parts of the east in a state of recurring violence, displacement and a 2022 declaration of a state of emergency (Cirhigiri, 2025). The DRC is therefore best described as a country that moved from interstate war to a protracted, geographically uneven internal conflict in which transitional and conflict dynamics coexist.

5.1.2 Justice Measures

Between 1999 and 2004, the Congolese government repeatedly called on the UN Security Council (UNSC) to create an *ad hoc* international criminal tribunal for crimes committed since 1960, arguing that only such a body could capture the regional dimension of the violence. The call gained little international traction, and the Global Accord's parallel promise of a TRC and a renewed tribunal request went largely unimplemented, not least because belligerents were guaranteed seats on the Commission from the outset. The idea resurfaced in February 2023, when President Félix Tshisekedi revived calls for an international or special criminal tribunal before the UN HRC (Reyntjens, 2007; Davis, 2013; Klosterboer & Hartmann-Mahmud, 2013; Tunamsifu, 2015; Arnould, 2016; Freedman, 2020; Kiyombo Makonga, 2024).

In April 2004, after the tribunal proposal failed, the DRC became the first state to self-refer its situation to the ICC, covering crimes since July 2002. The ensuing cases, including the convictions of Thomas Lubanga (2012) and Germain Katanga (2014) and the acquittal of Mathieu Ngudjolo Chui (2012), shaped Congolese expectations of international justice but were criticised for targeting secondary commanders while senior political and military figures escaped scrutiny (The Prosecutor v. Thomas Lubanga Dyilo, 2012; The Prosecutor v. Mathieu Ngudjolo Chui, 2012; The Prosecutor v. Germain Katanga, 2014; Vinck & Pham, 2008; Davis, 2013; Klosterboer & Hartmann-Mahmud, 2013; Tunamsifu, 2015; Kambale, 2015; Arnould, 2016). A second self-referral followed in May 2023 for crimes in North Kivu since January 2022, accompanied by a memorandum of understanding between Prosecutor Karim Khan and the Congolese government on “dynamic complementarity” linking ICC investigations with domestic capacity-building (ICC, 2023; FIDH, 2024; Situation in the Democratic Republic of the Congo II, 2024; Vignoli, 2024).

Domestic justice has relied heavily on military and mobile courts, which exercise jurisdiction over civilians as well as soldiers and have, in cases such as Kavumu (2017), convicted militia members and a sitting member of parliament for CRSV as crimes against humanity.

According to OHCHR figures, military courts convicted 599 people in 2023 alone (Davis, 2013; Klosterboer & Hartmann-Mahmud, 2013; Zongwe, 2013; OHCHR, 2024a, 2024b). Civilian courts, by contrast, remain underfunded and politically vulnerable (Davis, 2013; Klosterboer & Hartmann-Mahmud, 2013; Tunamsifu, 2015; Arnould, 2016). Repeated proposals for specialised mixed chambers combining national and international judges were rejected by the Senate in 2011 and 2014, although a steering committee towards a domestic Special Criminal Court was finally announced in October 2024 (Klosterboer & Hartmann-Mahmud, 2013; Tunamsifu, 2015; Arnould, 2016; ICC, 2024). Successive amnesty laws (2003, 2005, 2008, 2009 and after the 2013 Kampala Dialogue) excluded international crimes on paper but functioned as *de facto* blanket amnesties in the absence of prosecutions (Davis, 2013; Klosterboer & Hartmann-Mahmud, 2013; Tunamsifu, 2015; Candeias et al., 2015; Arnould, 2016). Most recently, the conviction in Paris of former warlord Roger Lumbala under French universal jurisdiction (November-December 2025) became the first conviction anywhere for atrocities of the Second Congo War, built on more than two decades of civil society documentation (Bruckner, 2025; Perissi, Greco & Baleynaud, 2026; TRIAL, 2026).

5.1.3 Truth-Seeking

The TRC created by Law No. 4/2004, operated from July 2003 to February 2007 but never opened a single investigation, held no public hearing and issued no final report. Control rested with former belligerents rather than independent commissioners and the body drifted from truth-seeking towards conflict mediation ahead of the 2006 elections (Davis, 2013; Klosterboer & Hartmann-Mahmud, 2013; Tunamsifu, 2015; Kambale, 2015; Arnould, 2016; Freedman, 2020). The UN Mapping Report, produced by OHCHR between 2007 and 2010 and covering violations from 1993 to 2003, documented 617 serious incidents on the basis of more than 1280 witness accounts and was endorsed by over 220 Congolese organisations, yet its recommendations for judicial and non-judicial measures remain largely unimplemented (UN, 2010; Arnould, 2016, 2021; Murhula, 2022; Cirhigiri, 2025).

More recent international fact-finding initiatives have filled part of this gap. Following the 2025 Human Rights Council resolution S-37/1 requested by the DRC government, an OHCHR Fact-Finding Mission investigated violations committed in North and South Kivu since January 2022 and it concluded in September 2025 that all parties to the Eastern conflict, including M23 and RDF, the FARDC and allied Wazalendo militias, had committed acts that could amount to war crimes and crimes against humanity; the Council converted the mission

into a full Commission of Inquiry in October 2025 (OHCHR, sd). At the sub-national level, the 2021 Kasai Provincial TRC, financed through the UN Peacebuilding Fund and implemented with UNDP, MONUSCO and Search for Common Ground, illustrates both the appeal and the limits of decentralised truth-seeking since it has provided no results for the victims yet (Radio Okapi, 2023; Kazadi, 2024).

5.1.4 Reparations

Reparations in the DRC have both an international and national dimension. The International Court of Justice (ICJ) found in 2005 that Uganda had violated Congolese sovereignty and, in February 2022, fixed the compensation at \$325 million, of which Uganda has paid roughly \$195 million by 2024 (Rose, 2025). The award relied on a contested “global sum” method rather than individualised claims, leaving open how affected persons would actually be identified and reached on the ground.

The ICC-linked reparations have progressed further in evidentiary and procedural terms. The Katanga case concluded in 2023 as the Court’s first fully completed reparations process, benefiting 297 individuals through individual awards alongside collective measures, including a victim-designed monument in Bogoro (Dixon, 2016; Arnould, 2021; ICC, 2024; Rose, 2025). This individualised approach stands in clear contrast to the ICJ’s global-sum method, illustrating two fundamentally different reparative logics operating in parallel in the same conflict. Beyond court-ordered awards directed against convicted persons, the Trust Fund for Victims (TFV) from the ICC also operates under a separate assistance mandate, which does not depend on a conviction or a specific reparations order. Rather than implementing an award against a convicted individual, the TFV uses its own resources (for which it is dependant on donor-states), in partnership with local organisations, to provide reparative value directly to the most vulnerable victims, their families and their communities, including mental health support, medical interventions and material assistance (TFV, sd).

Domestically, the national funds FONAREV (created by Law No. 22/065 in December 2022) and FRIVAO (created by decree in 2019) were intended to manage broader compensation but have been affected by allegations of mismanagement; the Minister of Justice froze FRIVAO’s accounts in August 2024 and in 2025 less than two percent of available funds had reached intended beneficiaries (Arnould, 2021; Kazadi, 2023, 2025; Rose, 2025).

5.1.5 Guarantees of Non-Repetition and Memorialisation

The 2006 constitution and presidential elections were presented as the institutional break with conflict, yet the settlement reconfirmed the authority of former belligerent leaders rather than displacing them (Reyntjens, 2007; Davis, 2013; Zongwe, 2013; Hellmüller, 2022; Kiyombo Makonga, 2024). Security sector reform through *brassage*⁶ and *mixage*⁷ integrated former combatants, including known perpetrators of war crimes and crimes against humanity, into the national army without meaningful vetting; a 2009 UN human rights conditionality policy requiring screening of supported units has been applied inconsistently (Davis, 2013; Arnould, 2016, 2021). Memorialisation has been almost entirely a civil society and local-community endeavour. The *Concertation Nationale* of October 2013 recommended state monuments and a national commemorative day, recommendations that remain unimplemented, while communities such as Kaniola have built their own memorials in the absence of state action (Tunamsifu, 2019).

5.1.6 Results

Measured against their stated objectives, most national-level TJ measures in the DRC have produced limited tangible results. The TRC and the specialised-chambers proposals failed; amnesty laws and unvetted security sector reform arguably entrenched impunity rather than reducing it. International justice has delivered convictions but only of a narrow set of mid-level perpetrators, and reparations, whether ordered by the ICJ or the ICC, have struggled with disbursement and victim identification. The most concrete recent developments, the second ICC referral, the Special Criminal Court Steering Committee and the Lumbala conviction in Paris, have all occurred since 2023-2025, suggesting a renewed but still fragile momentum that coexists while the conflict remains active in the East (Cirhigiri, 2025).

5.2 Ukraine

5.2.1 The Conflict

Ukraine's contemporary conflict began with the annexation of Crimea and the outbreak of war in the Donbas in 2014, following the Revolution of Dignity. Russia's full-scale invasion of February 2022 transformed a limited territorial conflict into a large-scale war affecting the

⁶ 'Brassage' refers to the merging or integration of various armed groups, militias, or former rebels into the official security structures of the state.

⁷ 'Mixage' refers to the joint training, leadership and collaboration of various units within the security sector, regardless of their original background.

entire country, displacing millions and triggering an unprecedented volume of documented violations (Onuch & Sasse, 2016; Burlyuk, 2017; Gready & Robins, 2020; Lebow, 2022; McCallion, 2023; Kowalski & Misiuk, 2024). Unlike the DRC, Ukraine entered the war with comparatively strong state institutions, a functioning judiciary and a pre-existing, internationally supported civil society sector, all of which shaped a far more institutionalised and internationally coordinated TJ response, mobilised within months rather than years of the escalation (Zhdankina, 2025; Clark, 2026; Jacobsen, 2026; Hronesova, sd).

5.2.2 Justice Measures

Ukraine has pursued accountability simultaneously at the national, European and international levels. At the national level, the Office of the Prosecutor General had, by March 2024, registered over 123,000 incidents, indicted more than 350 suspects and secured over 80 convictions, supported by nine regional war crimes units, specialised teams on conflict-related sexual violence and the crime of aggression, and a Victims and Witnesses Coordination Centre. Most trials proceed *in absentia*, raising fair-trial concerns under Article 6 ECHR, while gaps between domestic criminal law and the Rome Statute's definitions create uneven jurisprudence (OHCHR, 2022; Busol, 2023; Clapp, 2024; Dzidic, 2024; Hloviuk, 2024; Sherpa & Van der Lugt, 2024; ULAG, 2025). A dense but fragmented civil society documentation ecosystem, including the CCL, Truth Hounds and the Docket project of the CFJ, feeds these national efforts, however, they risk victim re-traumatisation and inconsistent repeated testimonies (CFJ, 2023, 2024, sd; Belgorodski, 2024; LAW, 2024, sd; Bolle, 2025; Rassamakhina, 2025; JRR, sd; Truth Hounds, sd; Vostok SOS, sd).

At the European level, Eurojust created a Joint Investigation Team in March 2022 and hosts the International Centre for the Prosecution of the Crime of Aggression against Ukraine (since July 2023), which relies on the Core International Crimes Evidence Database to avoid duplication of investigations (Caianiello, 2022; Yang & Tan, 2023; Eurojust, 2024, sd; Furger, 2024). Europol's Analytical Project on Core International Crimes and Open Source Intelligence Operational Taskforce provide complementary analytical and operational support (Europol, 2023, 2025). The Atrocity Crimes Advisory Group, established jointly by the EU, the US and the UK with the Ukrainian government, adds a further layer of expertise and evidence-database support for national prosecutions (ACA, sd). A Joint Operational Platform between Eurojust and Europol is planned to improve cross-checking of information but is not yet active (Eurojust, 2024).

The most significant European-level institutional innovation is the Special Tribunal for the Crime of Aggression against Ukraine (STCA), whose founding agreement was signed in Strasbourg on 25 June 2025. Anchored in the CoE rather than a UN treaty or a hybrid Ukrainian-international model, the STCA became the first dedicated international tribunal for the crime of aggression since Nuremberg and Tokyo. The choice of this institutional design reflected the practical and legal limitations of alternative tribunal models. First, a hybrid tribunal would have required a constitutional amendment, which is precluded as long as martial law remains in force; routing the tribunal through the CoE sidesteps this domestic legal obstacle, since Ukraine only voluntarily transfers part of its jurisdiction rather than amending its constitution. Second, a UN-based mechanism was politically foreclosed by the near-certainty of a Russian UNSC veto, reinforcing the case for a regional, CoE-anchored solution built instead on broad European political consensus (Lowe, 2015; Calvet-Martinez, 2022; Nekoliak, 2024; Sherpa & Van der Lugt, 2024; ULAG, 2025).

At the international level, the ICC moved from a preliminary examination opened in 2014 to a full investigation in March 2022, following referrals from 43 states parties. It issued six public arrest warrants by mid-2024, including against Vladimir Putin for the unlawful deportation of children, while Russia responded with its own arrest warrants against ICC officials (PILPG, 2022; ICC, 2023). Ukraine ratified the Rome Statute in August 2024, with entry into force on 1 January 2025, though it invoked Article 124 to exempt Ukrainian nationals from war crimes jurisdiction for seven years, which has been criticised by civil society (HRW, 2024; ICC, 2024). This international layer is further supported by a dense ecosystem of logistical and advocacy actors such as the War Crimes Accountability Team which provided direct operational assistance to Ukrainian prosecutors and investigators, though its activities were significantly scaled back under the Trump administration; the Global Initiative Against Impunity, founded in 2024 by nine CSOs, which channels legal support to victims and facilitates knowledge-sharing among CSOs; and the Tribunal for Putin (T4P) initiative which brings together the CCL, the Kharkiv Human Rights Protection Group and the Ukrainian Helsinki Human Rights Union and has submitted nine communications to the ICC since the invasion, covering crimes ranging from enforced disappearances to the deportation of children as evidence of genocide (U.S. Department of Justice, 2024; ECCHR, sd; Fornusek, 2025; T4P, sd). Universal jurisdiction cases in Germany and Austria and the European Court of Human Rights (ECtHR) judgment of July 2025 in Ukraine and the

Netherlands v. Russia complete the international judicial architecture regarding Ukraine (CFJ, 2023; Eurojust, 2023; Truth Hounds, 2023; Ukraine and the Netherlands v. Russia, 2025).

5.2.3 Truth-Seeking

Truth-seeking in Ukraine is dominated by civil society documentation rather than a single formal commission. Organisations such as Truth Hounds, the CCL, the CFJ, LAW, Vostok SOS and the JRR initiative feed a shared Ukraine War Archive, while Mnemonic alone collected more than three million digital records in the invasion's first year, supporting a wider open-source intelligence ecosystem (Calvet-Martinez, 2022; Busol, 2023; Sherpa & Van der Lugt, 2024; CCL, sd; CFJ, sd; LAW, sd; Mnemonic, sd; Truth Hounds, sd; Vostok SOS, sd; UWA, sd). The 5AM Coalition and the T4P initiative coordinate evidence collection and submissions to the ICC Prosecutor across this fragmented but extensive landscape (Busol & Hamilton, 2022; Ricci & Crawford, 2024). International bodies further strengthen the documentation landscape through mechanisms such as the OSCE's Moscow Mechanism fact-finding reports, the UN Human Rights Monitoring Mission in Ukraine (HRMMU), active since 2014, and the HRC's Independent International COI on Ukraine, have together produced an evidentiary record that other courts, including the ECtHR, now draw upon (Belgorodski, 2024; Nekoliak, 2024; OSCE, 2024; OHCHR, sd).

5.2.4 Reparations

Ukraine's reparations system is characterised by the gradual emergence of distinct and partially overlapping mechanisms. Since 2019, a government commission under the Ministry of Unity has compensated individuals deprived of liberty through Russian aggression with a one-time payment of roughly €2100 (100000 hryvnia) (Belgorodski, 2024; Government of Ukraine, 2024). The Bardina Law (Law No. 4067-IX, 2024) made Ukraine the first state to introduce urgent interim reparations for survivors of CRSV during an ongoing war, building on a pilot project with the GSF that had already compensated more than a thousand survivors (GSF, 2023, 2024; Kvitka, 2024; Moffett, 2024). A broader Bill No. 10256 on reparations for all victims of Russian aggression is being drafted to close the resulting gap, though funding remains undecided (Bereziuk, 2024; Ministry of Social Policy, 2024; Moffett, 2024). At the international level, the UN General Assembly's Resolution ES-11/5 (November 2022) led to the CoE's Register of Damage (RD4U), which had recorded more than 86,000 claims by the end of 2025, and to the International Claims Commission for Ukraine (ICC4U), established by convention in December 2025 to assess and quantify these claims pending a future

compensation fund financed partly through frozen Russian assets (Belgorodski, 2024; Moffett, 2024; Sherpa & Van der Lugt, 2024; Yaremko et al., 2026; RD4U, sd).

5.2.5 Guarantees of Non-Repetition and Memorialisation

Guarantees of non-repetition combine post-2014 lustration and decommunisation laws with wartime anti-collaboration legislation and the two strands have attracted different criticisms. The lustration and decommunisation framework has been criticised by the OSCE and the CoE for overly broad drafting, raising concerns about due process and proportionality. The wartime anti-collaboration laws risk punishing civilians who had little real choice under occupation, conflating coerced compliance with voluntary collaboration (HRW, 2024; TJET, sd). Institutional reform itself is pursued mainly through external conditionality rather than a dedicated domestic non-repetition agenda. The EU accession requirements and the CoE's Action Plan for Ukraine 2023-2026 set the broad reform agenda, while the EU Advisory Mission (EUAM) has provided more targeted support since 2022 for war crimes investigations, CRSV specialisation within the police and prosecution services and implementation of the Bardina Law (European Commission, 2023; Belgorodski, 2024; Holmboe, 2024; CoE, 2026; EUAM Ukraine, sd).

Memorialisation, by contrast, blends bottom-up and state-led activity. At the grassroots level, private family and community initiatives and the exhumation of mass graves in Bucha, Izium and Lyman provide immediate, localised forms of recognition and mourning. Alongside these, the state has pursued a more centralised and forward-looking memorial agenda with posthumous honours, the renaming of streets and the work of the Institute for National Remembrance under the Ministry of Culture, which is drafting commemorative legislation that has not yet entered into force (Glew & Smith, 2022; Sudyn, 2022; Babenko, 2024; Shovkopliash, 2024; Vlasenko, 2024; Vorobiov, 2024; Perrin, 2025).

5.2.6 Overarching Strategy and Results

Ukraine began drafting a holistic TJ framework in 2019, led by civil society together with the Office of the President and the Ministry of Justice; a 2021 draft was folded into the National Human Rights Strategy but never adopted as a standalone document and the 2022 invasion shifted priorities towards parallel, uncoordinated measures (Matola, 2025; ICTJ, sd). President Zelensky's ten-point Peace Formula, whose seventh point calls for restoration of justice, anchors Ukraine's diplomatic accountability agenda internationally (Tyushka & German, 2024; Government of Ukraine, sd). As explained above, the results to date show a

state that has mobilised an unusually dense international coalition of courts, agencies and civil society actors within a few years of full-scale war, producing concrete institutional innovations such as the STCA, the Bardina Law and the RD4U. At the same time, conviction numbers remain low relative to the volume of documented crimes, reparations cover only a narrow category of victims and the absence of a single guiding TJ strategy has produced overlap and fragmentation across this otherwise impressive institutional architecture.

5.3 Comparative Synthesis of the DRC and Ukraine

Table 5.1 summarises the TJ measures identified in each case across the five conventional pillars, and Table 5.2 maps the principal categories of actors involved. Three differences can be found. First, temporal structure: Congolese TJ measures have unfolded over more than two decades in successive waves tied to peace agreements and renewed only partially since 2023, whereas Ukraine's measures, although the framework dates to 2019, accelerated sharply within months of the 2022 invasion and produced a dedicated tribunal within three years. Second, institutional density: Ukraine benefits from a far thicker layer of European and international coordination mechanisms, including Eurojust, Europol, the STCA and the EU accession process, that has no direct Congolese equivalent, reflecting Ukraine's geopolitical position and pre-existing institutional capacity; the DRC's comparable initiatives, such as the proposed specialised mixed chambers or the African Union's involvement, have either failed outright or remain largely advisory. Third, the relationship between conflict and accountability: in the DRC, the incorporation of former belligerents into state institutions has repeatedly blocked accountability measures from within, a dynamic visible as much in the 2003 TRC as in the unvetted *brassage* and *mixage* processes, while in Ukraine the principal obstacle has been external, namely the difficulty of prosecuting an aggressor state that remains outside the reach of most mechanisms, evident in Russia's non-membership of the Rome Statute and its retaliatory arrest warrants against ICC officials. These differences, consistent with the most-different case design adopted in Chapter 4, provide the empirical variation against which the actor-centred motivations explored in Chapter 6 can be meaningfully compared.

Table 5.1 *Comparison of Transitional Justice Measures by Pillar*

Pillar	Democratic Republic of the Congo	Ukraine
Justice	ICC self-referral (2004) and second self-referral (2023) with “dynamic complementarity” framework; military and mobile courts (599 convictions in 2023 alone); failed specialised mixed chambers proposals (2011, 2014) but a Special Criminal Court steering committee announced October 2024; amnesty laws (2003-2014) functioning as <i>de facto</i> blanket amnesties; universal jurisdiction conviction of Roger Lumbala in Paris (2025), the first conviction anywhere for Second Congo War atrocities	Domestic war crimes units and in absentia trials (123,000+ registered incidents, 80+ convictions by March 2024); ICC investigation since 2022; Eurojust Joint Investigation Team and ICPA; Special Tribunal for the Crime of Aggression, founding agreement signed June 2025; universal jurisdiction cases in Germany and Austria; ECtHR judgment (2025)
Truth	Truth and Reconciliation Commission (2003-2007, defunct, no hearings or report); UN Mapping Report (2010); OHCHR Fact-Finding Mission (2023-2025); Kasai provincial commission (2021, no results to date)	CSO documentation coalitions (5AM Coalition, Tribunal for Putin); Mnemonic digital archive (3 million+ records in year one); UN Commission of Inquiry; HRMMU; OSCE Moscow Mechanism reports
Reparations	ICJ award against Uganda (\$325m, 2022; ~\$195m paid by 2024); ICC Trust Fund for Victims case-based reparations (Katanga, completed 2023) and separate donor-funded assistance mandate; national funds FONAREV (2022) and FRIVAO (2019), both affected by mismanagement allegations (FRIVAO accounts frozen August 2024; <2% of funds disbursed by 2025)	Reparations Commission (~€2,100 per claimant); Bardina Law on urgent interim reparations for CRSV survivors (2024); Register of Damage (RD4U, 86,000+ claims by end 2025) and International Claims Commission (ICC4U, established December 2025)
Guarantees of non-repetition	2006 constitution and elections reconfirming former belligerents’ authority; unvetted security sector reform (<i>brassage/mixage</i>); inconsistently applied 2009 UN human rights conditionality policy	Lustration and decommunisation laws (2014, criticised by OSCE/CoE for overbroad drafting); wartime anti-collaboration laws (criticised by HRMMU/HRW); EU accession conditionality; CoE Action Plan 2023-2026; EUAM Ukraine

Memorialisation	<i>Concertation Nationale</i> recommendations (2013, unimplemented); local community memorials (e.g. Kaniola)	Private/community initiatives and mass-grave exhumations (Bucha, Izium, Lyman); state-led posthumous honours and street renaming; Institute for National Remembrance (draft legislation pending); online archive Memorial
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Table 5.2 *Comparison of Actors Involved in Transitional Justice Measures*

Actor type	DRC	Ukraine
National government	Presidency (Tshisekedi); Ministry of Human Rights; Ministry of Justice; National Assembly	Office of the President; Ministry of Justice; Ministry of Social Policy; Office of the Prosecutor General
Judiciary	Military and mobile courts; proposed/steering committee Special Criminal Court	Regional war crimes units; specialised CRSV and aggression teams; Victims and Witnesses Coordination Centre
International courts/tribunals	ICC; ICJ	ICC; ECtHR; Special Tribunal for the Crime of Aggression
Foreign domestic courts (universal jurisdiction)	French courts (Lumbala conviction, 2025)	Mainly German and Austrian courts
UN bodies	OHCHR; MONUSCO; HRC Fact-Finding Mission/Commission of Inquiry; UN Peacebuilding Fund/UNDP (Kasaï commission)	HRMMU; HRC Commission of Inquiry
Regional organisations	African Union (TJ strategy expertise)	Council of Europe; European Union; Eurojust; Europol; OSCE
Civil society/NGOs	TRIAL International; JusticeInfo journalists; FIDH; Radio Okapi; local victims' associations	CCL; Truth Hounds; CFJ; LAW; Vostok SOS; JurFem; SEMA Ukraine; Mnemonic; 5AM Coalition; Tribunal for Putin; GIAI
Victims/communities	Kasaï and Ituri victims' groups; survivors of sexual violence (Panzi); Kaniola community	CRSV survivors; families of the fallen; communities

5.4 Conclusion

This chapter has introduced the two cases that are studied here, and traced, pillar by pillar, the TJ measures that have emerged in the DRC and in Ukraine despite ongoing conflict. In the DRC, three decades of fragmented and frequently undermined initiatives illustrate how the incorporation of former belligerents into the post-settlement state can hollow out accountability from within, even where successive peace agreements created moments that, in principle, might have allowed TJ to unfold along more conventional, post-settlement lines. That these moments repeatedly failed to deliver coordinated TJ is itself part of why measures have continued to emerge, piecemeal and largely externally driven, during renewed phases of conflict rather than after a definitive end to violence, a dynamic that recent insurgency from 2023 suggest may be entering a renewed, if still fragile, phase of momentum. In Ukraine, a comparatively dense and rapidly mobilised institutional architecture, spanning national courts, European agencies and a soon-to-be-operational Special Tribunal, shows a conflict involving a clearly identifiable external aggressor which can generate an unusually wide coalition of actors willing to act before the war has ended.

What both cases share, and what makes them suitable for the comparative design set out in Chapter 4, is that actors operating in very different institutional and geopolitical contexts have chosen to initiate truth-seeking, judicial, reparative and memorial measures while violence continues, rather than waiting for the kind of political settlement that conventional TJ scholarship has long treated as a precondition. The chapters that follow turn to the nine interviews conducted for this study to ask, against this background, who these actors are, how they justify acting now, and, drawing on the framework developed in Chapter 3, why they choose to do so.

Chapter 6. Empirical Patterns of Transitional Justice Initiation During Ongoing Conflict: Evidence from the DRC and Ukraine

This chapter presents the empirical findings of the study, analysing the motivations, the underlying conditions and the temporal dimensions of the initiation of TJ during ongoing conflicts, drawing from the nine interviews conducted with actors from the DRC and Ukraine. Building on the structure of the theoretical framework outlined in Chapter 3 and the case study context presented in Chapter 5, the analysis first examines strategic, normative and mixed motivations for TJ initiation. It then analyses the temporal dimension, assessing how urgency and feasibility influence actors' willingness to initiate TJ during ongoing conflict. Finally, it explores the structural conditions underlying the motivations.

6.1 Strategic Motivations for Initiating Transitional Justice

Strategic motivations, as explained in Chapter 3, are those in which an actor supports or initiates a TJ measure not because it is owed to victims as a matter of principle, but because the actor calculates that it will produce a desired beneficial outcome such as reduced violence, political legitimacy or donor support. This distinguishes strategic reasoning from normative reasoning, where TJ is pursued because it is judged right regardless of its effects (Scott, 2000; Boudon, 2003; Quackenbush, 2004; Oppenheimer, 2008; Wilkström, 2019; Barton-Crosby, 2022). Two strategic patterns recur consistently across both cases: deterrence and the prevention of renewed violence, and the strategic instrumentalisation of TJ mechanisms for domestic and institutional gain.

6.1.1 Deterrence and the Prevention of Renewed Violence

Deterrence reasoning is strategic since TJ is valued here not for its intrinsic moral content but for its expected effect on the future behaviour of others, specifically its capacity to reduce the likelihood of renewed violence. What makes an actor's reasoning deterrence-based is that the justification runs through an anticipated consequence, since they believe that prosecution changes what perpetrators expect will happen to them and will deter them from committing new crimes (Boudon, 2003; Oppenheimer, 2008).

In the DRC, deterrence reasoning is directed inward, towards domestic armed actors and is mentioned primarily in relation to prosecutions. One interviewee frames the absence of TJ

measures as itself a signal of permissiveness saying that *“not implementing transitional justice measures isn’t about reminding perpetrators that they can be prosecuted; it’s about slowing them down a bit. If we wait, they’ll say, ‘Well, people did this 5 years ago, 10 years ago, there were no measures, no one was arrested, so we’ll just continue’”*⁸ (DRC005). The logic here is explicitly strategic since it is not that prosecution is owed to past victims, but that its absence actively communicates impunity to future perpetrators. Sengenya mentions the example of the Paris conviction of Roger Lumbala which functioned as a signal received by other commanders still active in the region that they can be prosecuted and convicted too: *“When he was convicted, it was intended to send a strong signal, for example, to other warlords who continue to commit crimes in Congo today”*⁹ (DRC004). In both cases, the pillar in question is the justice pillar and the value of prosecution lies in the behavioural change it is expected to produce among actors who have not yet been prosecuted.

Interestingly, Sengenya extends this same deterrence logic to reparations. He argues that unrepaired victims constitute a recruitment pool for militias offering to avenge unaddressed loss and that repairing them removes this incentive for remobilisation: *“If victims receive reparations, they will no longer truly nurture a desire for revenge. Once they have been repaired [through reparations], they begin to rebuild themselves; they find fewer reasons to dwell on what happened and try to rebuild their lives. Little by little, they no longer sustain the intention of resorting to violence again”*¹⁰ (DRC004). This is different to the prosecution-based deterrence discussed above. Where prosecution deters by signalling consequences to potential perpetrators, reparations deter by removing the material and psychological grievance that drives victims themselves towards remobilisation (DRC002). Sengenya situates both dynamics within a wider political economy of violence, in which armed mobilisation has become a documented route to ministerial posts and financial reward, reinforcing why breaking this cycle is considered so important (DRC004). Across the DRC data, deterrence is consistently aimed inward, at domestic combatants and at the incentive structures, both punitive and material, that sustain their mobilisation. TJ is presented as a

⁸ *“ne pas mettre les mesures de justice transitionnelle, ce n’est pas rappeler aux bourreaux qu’ils peuvent être poursuivis, ça permet de freiner un peu les bourreaux. Si on veut attendre, ils vont dire ‘bon, les gens ont fait ça il y a 5 ans, il y a 10 ans, il n’y a pas eu de mesures, il n’y a pas eu de personnes qui ont été arrêtées, on va continuer’”*

⁹ *“lorsqu’il a été condamné, cela a essayé un peu de sonner comme un signal fort, par exemple, à d’autres seigneurs de guerre qui continuent à commettre des crimes aujourd’hui au Congo”*

¹⁰ *“Si on répare les victimes, elles vont plus vraiment nourrir l’esprit de vengeance. Si elles sont réparées, elles se reconstituent, elles trouvent moins de raisons, elles essaient de refaire leur vie. Petit à petit, elles ne vont plus nourrir l’intention de refaire la violence”*

mechanism for breaking a specific, recurring cycle of grievance, impunity, revenge and remobilisation.

In Ukraine, deterrence reasoning is mentioned in relation to the justice pillar as well, but its target shifts outward, from domestic combatants to interstate aggressors and the credibility of international law more broadly. One interviewee sees the absence of accountability for Russia's 2014 actions as a proximate condition for the 2022 escalation, arguing that *"there's been no accountability for the incursion into Crimea. There's no accountability for the incursion into Donbass. There's been war in Ukraine since 2014"* (UA004). The strategic structure of this claim mirrors the DRC's interviewee's reasoning above, seeing impunity as an active signal, except that here the audience is a state rather than an individual commander, and the consequence being deterred is interstate aggression. The interviewee extends the argument beyond Ukraine's borders, describing impunity as self-reinforcing at a global scale, stating that *"generalized impunity for violations of international law emboldens perpetrators [...] and creates competing narratives [...] that sets populations up for recurrent violence"* (UA004). Another interviewee pushes this further, arguing that failing to hold Russia accountable has cascading consequences for populations in conflict settings across the globe: *"When local warlords will feel that they are not accountable, that they can do whatever they want and Russia and US do not fight them, many people will end up in slavery, in torture chambers in the Global South"* (UA003). This argument sits close to the normative claim that international law deserves defending on principle (infra) but the reasoning here remains strategic because the justification is strategic. The international order is worth defending because failing to do so produces further violence, not because defending it is owed regardless of consequence. The Ukrainian data offers comparatively little evidence of deterrence reasoning attached to truth-seeking or reparations specifically; the strategic case for TJ in Ukraine, unlike in the DRC, concentrates almost entirely on justice and accountability rather than distributing across pillars (UA001).

In short, deterrence reasoning appears in both cases, but its target differs in a way that maps onto the underlying structure of each conflict. In the DRC, deterrence is domestic in orientation, aimed at armed actors operating within a fragmented internal conflict where the relevant audience for a deterrent signal is the next commander weighing whether to remobilise. In Ukraine, deterrence is international in orientation, aimed at a state actor and, beyond it, at the credibility of the interstate legal order that is expected to constrain future aggressors elsewhere. This difference plausibly tracks the difference in conflict structure

since the audience most relevant to deterrence naturally differs depending on who the potential future perpetrator is expected to be (Kerr, 2016; Kowalski & Misiuk, 2024). This explanation should be treated as plausible but not proven since the data cannot rule out that the selection of interviewees and the limited sample size also shapes which audience each set of actors has in view.

6.1.2 Strategic Instrumentalisation for Domestic and International Gain

A second strategic pattern concerns the deliberate use of TJ mechanisms to generate political benefits beyond accountability itself such as domestic legitimacy, narrative control, donor support, diplomatic leverage or geopolitical alignment (Boudon, 2003; Oppenheimer, 2008; Reiter, 2020). The data below shows actors pursuing genuine accountability goals that happen to coexist with, and sometimes are reinforced by, strategic incentive.

In the DRC, domestically, instrumentalisation is clearest in relation to the truth pillar. One interviewee describes a structural vulnerability specific to the early-2000s National TRC. Because parties in power bore some responsibility for past violence themselves, they had a direct incentive to redirect the Commission's work towards political opponents rather than towards a comprehensive truth-telling process: *"Those in power who come in also bear part of the responsibility in the country's history. There is a way of diverting the conflict, of diverting the Commissions to their own benefit, and of shifting the blame onto opposing parties"*¹¹ (DRC005). Truth-seeking is the pillar most exposed to this dynamic because a Commission's findings shape the historical narrative itself, control over which carries direct political value (Hayner, 2011). Selective prosecution represents a comparable risk within the justice pillar, where the same incentive of targeting rivals while shielding allies, can operate through criminal prosecutions (DRC002; DRC004).

Instrumentalisation is not limited to the national level, the data supports also an international dimension to it. Kazadi offers a two-sided reading of the DRC's self-referrals to the ICC in 2004 and 2023, in which genuine grievance and calculated diplomatic signalling coexist: *"I would say that Kinshasa also wanted to send a political message. It is both a sincere démarche and also a political one, in order to attract the attention of the international community"*¹² (DRC001). The message here is aimed specifically at Rwanda and Uganda, positioning the DRC internationally as the victim of external aggression. Mubiala adds a

¹¹ *"Les pouvoirs qui arrivent ont aussi une part de responsabilité dans l'histoire du pays. Il y a une manière de détourner le conflit, de détourner les commissions à leur profit, et de rejeter la pièce sur les parties adverses"*

¹² *"je dirais que Kinshasa voulait aussi passer un message politique. C'est à la fois une démarche sincère et une démarche politique aussi, pour attirer l'attention de la communauté internationale"*

further layer by saying that international donors, particularly European ones, condition support on visible movement against impunity, which means the DRC's engagement with TJ mechanisms is shaped in part by what donors are willing to fund rather than by domestic assessment of need alone: *"We also have to rely on external actors for this kind of projects"*¹³ (DRC003).

This donor dependence also influences which crimes are addressed within the TJ processes (DRC004). Donors mobilise more readily around sexual violence than around torture or other categories of harm (infra), for example, FONAREV's mandate is confined to CRSV specifically rather than war crimes in general (DRC001). Therefore, strategic engagement with TJ, pursued in part to secure donor funding shapes the internal architecture of that mechanism, determining which victims and which harms fall within its scope and which do not. Selective accountability, in other words, is partly a structural consequence of the strategic funding logic that made initiation possible in the first place (DRC004). Across both dimensions, the DRC's strategic use of TJ is shaped primarily by domestic elite competition, over who controls historical narrative and who is exposed to prosecution, and by dependence on international donors, whose funding priorities in turn shape which violations receive institutional attention.

In Ukraine, domestic instrumentalisation is clearest in the prosecution of collaborators. One interviewee argues that the government's policy of harsh punishment and no amnesty is shaped, at least in part, by the need to project anti-Russian credentials to a domestic electorate, even as those actually convicted are disproportionately low-level and often had limited choices: *"the majority of people detained and tried are Ukrainians who have no other options"* (UA003). He continues saying that *"they have short term goals, public and electoral support, and long term goals like justice, are very far away and maybe not available"* (UA003). This illustrates that accountability can also entail a political benefit of electoral gain for example.

Internationally, instrumentalisation runs in the opposite direction from the DRC case. Rather than the state managing domestic politics through a domestic mechanism, Ukraine's engagement with international accountability mechanisms functions as deliberate self-positioning aimed at securing continued Western support. Another interviewee states this directly, reading Ukraine's TJ posture as an act of self-positioning, saying that *"they're trying to set themselves up [...] because for them, that provides [...] protection and assistance and*

¹³ *"on doit aussi compter sur l'extérieur pour ce genre de projets"*

help” (UA004). Engagement with international accountability mechanisms signals commitment to the rule of law and to a European identity, which in turn helps secure military support, political backing and credibility towards EU accession, benefits that extend well beyond the accountability outcomes the mechanisms themselves deliver (UA001). Across both dimensions, Ukraine’s strategic use of TJ is tied to wartime legitimacy at home and to international alignment abroad, with the latter carrying particular weight given Ukraine’s dependence on sustained Western military and diplomatic support.

In short, both the DRC and Ukraine are understood to strategically engage TJ mechanisms, at least in part, to secure international support. This is unsurprising given that both are conflict-affected states dependent on external actors for funding, diplomatic backing, or both, which makes TJ engagement a natural vehicle for signalling to an international audience regardless of the conflict’s underlying structure. But there are also differences. In the DRC, TJ engagement is directed at attracting donor funding and gaining international attention. In Ukraine, TJ engagement is directed at reinforcing geopolitical alignment with the West, securing continued military and political support, and strengthening Ukraine’s positioning for eventual EU and NATO integration. This could possibly be explained by the different levels of attention both countries get from the international community; where the DRC still needs to grab its attention, Ukraine needs to consolidate it (Mihir, 2026; UA004).

6.1.3 Summary of Strategic Motivations

Two strategic patterns recur consistently across both cases. Deterrence appears in both, but with different targets. The DRC focuses on domestic armed actors, Ukraine on international aggressors and the broader legal order. This difference could be explained by the difference between a fragmented internal conflict and a more clearly delineated interstate war. Strategic instrumentalisation also appears in both cases, shaped in the DRC by domestic elite competition and donor dependence, and in Ukraine by wartime legitimacy and geopolitical alignment. The most significant comparative finding across this section is that both cases strategically engage TJ to secure international support, even though it manifests differently. In the DRC, the focus lies donor funding and attention, whereas in Ukraine, the focus is more on alliance-building and accession credibility. Conflict-affected states depend on external actors, and TJ mechanisms function, among their other purposes, as a channel for signalling to those actors. However, none of this should be read as suggesting that strategic motivations displace normative ones.

6.2 Normative Motivations for Initiating Transitional Justice

Normative motivations are reasons grounded in principles, obligations or moral commitments, regardless of the expected strategic gains. They explain why the actor being interviewed, whether a practitioner, an official or a civil society figure, believes they personally or institutionally ought to act (Scott, 2000; Boudon, 2003; Wilkström, 2019; Barton-Crosby, 2022). Four recurring patterns of normative reasoning emerge across the interviews: a victim-centred pattern in which TJ is owed because of what victims have suffered, a rights-based pattern in which TJ is owed because of a legal or quasi-legal entitlement and an anti-impunity pattern in which punishment is demanded because impunity is itself morally unacceptable.

6.2.1 Victim-Centred Reasoning: TJ as Something Owed to Those Who Suffered

The most consistently articulated normative pattern in the data is one in which actors ground their commitment to TJ in the concrete suffering of specific, often named or vividly described, victims. Holistic reparation, the argument that support must combine psychological, medical and socioeconomic assistance, recurs here as a subtheme, since actors frequently argue that victims deserve more than a narrow legal remedy.

In the DRC, this pattern is strongest in relation to reparations. The interviewee from the ICC TFV grounds the case for early reparation entirely in what happens to specific people when support does not arrive in time. He describes a gunshot wound left untreated because the victim did not have the financial means, saying *“it turned into gangrene, it turned into cancer, and the victim died. If reparations had been provided earlier, this victim would have received comprehensive care for the harm suffered”*¹⁴ (DRC005). He describes a second case of a father who lost his wife and two children in an armed attack and developed substance dependency to cope with the untreated psychological trauma before dying, concluding that *“if the issue of reparations had been addressed a year earlier, we could have acted to strengthen his resilience”*¹⁵ (DRC005). The same interviewee extends the logic to holistic reparation specifically, arguing that support combining psychological, medical and socioeconomic assistance is what makes reparation transformative rather than symbolic, and that addressing only one dimension leaves victims partially served (DRC005). Sengenya brings the same pattern into the justice pillar, where the moral claim is not about material

¹⁴ “ça s’est transformé en gangrène, ça s’est transformé en cancer, la victime est décédée. Si la réparation avait été faite plus tôt, cette victime-là aurait reçu une prise en charge complète de son préjudice”

¹⁵ “si le problème de réparation avait été mis un an plus tôt, on aurait pu agir pour renforcer sa résilience”

repair but about recognition. He describes how communities in Ituri do not experience the conviction of a commander such as Thomas Lubanga or Germain Katanga as justice for what happened to them personally, because the person who actually harmed them is someone they can still name and see, saying *“me, the person who raped me, his name is so-and-so, I still see him in such-and-such a village”*¹⁶ (DRC004). The moral weight of this observation lies in what it implies about what the victims are owed, which is accountability that touches the actual person who caused the harm to restore their dignity.

A further, more fundamental version of this pattern concerns harm that cannot be materially repaired at all, as became clear in the Ukrainian data. The COI-interviewees describe a category of loss for which no mechanism can offer more than acknowledgement, stating that *“if the harm is so big, let’s say a family was washed apart, someone was killed, there’s been violence, this cannot possibly be repaired. And then the victim, really the only thing that remains is this moral reparation that would be given for justice”* (UA002). Here, moral reparation is owed to the victim even when, and perhaps especially when, nothing else can be offered. Elsewhere in the Ukrainian data, the same interviewees describe the everyday texture of what victims say they need, adding that most do not ask for revenge but for formal acknowledgement: *“many are explicitly against [revenge] and many more just say that they want the perpetrators to be held accountable”* (UA002), and that in their own fieldwork they encountered no victim who preferred to wait: *“I never heard of a victim saying, oh, I would like to wait”* (UA002). Busol’s account of survivor consultations, drawing on the GSF’s mapping of needs among survivors of CRSV, adds the holistic dimension to this pattern in the Ukrainian context. Survivors did not ask only for prosecution but also for *“sustainable and affordable housing, good schooling opportunities for their children, and crucially, to make sure that their experience of sexual violence in occupation and detention would not repeat to their compatriots”* (UA001).

Across both cases, the victim-centred pattern is the strongest and most consistent normative motivation in the data, and it is carried by broadly the same category of actors, namely the practitioners, civil society figures and international staff who work in direct contact with victims. Where the two cases diverge is in institutional uptake. Normative motivation at the institutional level in the DRC is uneven, present among individuals but repeatedly constrained or overridden by the strategic political considerations most visibly in the protection extended to former belligerents now holding government office (infra). In Ukraine,

¹⁶ *“Moi, celui qui m’a violé, il s’appelle tel, je le vois encore dans tel village”*

by contrast, victim-centred reasoning appears with much closer alignment between civil society, state institutions and international actors, since these actors also have a stronger collaboration (infra).

6.2.2 Rights-Based Reasoning: TJ as a (Quasi-)Legal Entitlement

A second pattern treats justice, truth and reparation as things victims are entitled to as a matter of right, rather than as things they are owed out of moral sympathy for their suffering. This pattern is more legalistic in character than the victim-centred one. The claim is not that a particular person's pain generates an obligation, but that a category of person, the victim of a grave violation, holds an entitlement that exists independently of any individual case.

In the DRC, this pattern is present but less institutionally developed and tends to be expressed in moral rather than strictly legal language. One interviewee states the underlying principle directly with respect to the justice pillar: *"This right to justice is really something very important and fundamental for the entire population"*¹⁷ (DRC005). Mubiala frames the fight against impunity in similarly unconditional terms when describing the national TJ strategy he helped draft, treating it as the strategy's foundational purpose regardless of what effect it might have on shortening the conflict, which places the obligation prior to, rather than contingent on, any expected outcome (DRC003).

In Ukraine, the rights-based pattern takes a considerably more institutionalised and explicitly legal form. Several interviewees ground the imperative to act in binding obligations under international humanitarian and human rights law such as a duty to investigate, prosecute and repair that holds regardless of the state's convenience or the conflict's timeline. The clearest illustration concerns the right to truth specifically, which has moved, in the account of one interviewee, from an academic concept to an operational tool used by the General Prosecutor's Office, although it was *"previously [...] known only for university people who write a dissertation on it, but currently is highly important, highly available"* (UA003). The same interviewee closes with a statement that captures the rights-based pattern, treating the international legal order as something to be defended because it is owed respect, not because defending it produces a particular strategic payoff: *"international law is sacred. It's worth fighting for"* (UA003).

¹⁷ *"ce droit à la justice, c'est vraiment quelque chose de très important et de fondamental pour toute la population"*

Both cases contain rights-based reasoning, but the register differs. In Ukraine, the entitlement is expressed in institutional and legal language, tied to specific mechanisms such as documentation protocols and prosecutorial practice built around the rights to truth and justice. In the DRC, the same underlying conviction is present but is voiced as moral urgency rather than legal claim. One plausible explanation, though the interview data cannot confirm it directly, is that this reflects differences in legal institutionalisation since Ukraine's prosecutorial and civil society infrastructure has had the institutional capacity to initiate it, whereas the DRC's justice system, described in this thesis as chronically under-resourced, has not had comparable capacity to do the same, leaving the same underlying conviction expressed in less formalised terms (Davis, 2013; Tunamsifu, 2015; Arnould, 2016; UA001).

6.2.3 Anti-Impunity Reasoning

A third pattern concerns the conviction that grave crimes must not go unpunished, independent of whether punishment actually deters future violence. In the DRC, this pattern is anchored specifically in the justice pillar and is voiced with a degree of frustration that reflects how normalised impunity has become. Kazadi describing it as *“the most appropriate solution for these three decades of grave human rights violations”*¹⁸ (DRC001) is a statement about the moral unacceptability of three decades of unanswered violations. The everyday reality this reasoning responds to is described most concretely by Sengenya, who points to perpetrators who remain visible in the communities they harmed and, in some cases, in the government itself, as a standing demonstration that impunity has been institutionalised (DRC004). The normative force of the anti-impunity argument in the DRC data lies precisely in this proximity. The unpunished perpetrators are still living in the communities and are the neighbours of the victims, and, in the case of figures such as Jean-Pierre Bemba, government ministers.

In Ukraine, anti-impunity reasoning attaches to a different scale of actor. They focus on the aggression and war crimes committed by the Russian Federation rather than crimes committed by individual local perpetrators. The institutional landscape built around this conviction with the COI, the STCA, universal jurisdiction proceedings, and many other initiatives, reflects a shared premise that these violations cannot simply be left unanswered. One interviewee's statement that international law is *“sacred”* and *“worth fighting for”* (UA003) captures this same anti-impunity logic as much as it captures the rights-based

¹⁸ *“la solution la plus adaptée à ces trois décennies de violations graves des droits de l'homme”*

pattern discussed above, the two registers overlap here, since the claim is simultaneously that international law confers entitlements and that violating it is intolerable in itself.

Both cases show strong anti-impunity reasoning. The difference lies in the degree of consensus surrounding it. In Ukraine, there is little internal contestation over who bears responsibility. The aggressor is externally identifiable, which allows anti-impunity reasoning to operate with a certain clarity it cannot achieve in the DRC, where responsibility is distributed across multiple armed groups, some of which are now politically integrated into the very government expected to pursue accountability against them (Kiyombo Makonga, 2024; Kowalski & Misiuk, 2024; Cirhigiri, 2025). This difference plausibly explains why anti-impunity reasoning translates more smoothly into institutional consensus in one case than the other.

6.2.4 Summary of Normative Motivations

Taken as a whole, these three patterns show that normative motivation for TJ initiation during ongoing conflict focuses on justice, truth and reparations rather than spreading evenly across every pillar, and is consistently strongest wherever an actor's reasoning can be traced back to a specific victim or category of victims. Victim-centred reasoning is the most consistent pattern across both cases. Rights-based and anti-impunity reasoning are present in both cases as well, but the register in which they are expressed, i.e. legal-institutional in Ukraine, moral-communal in the DRC, differs in ways that appear tied to each country's differing legal and institutional capacity rather than to any difference in the underlying strength of conviction.

6.3 Transitional Justice as Indispensable to Peace, a Mixed Motivation

A third pattern of reasoning runs through the interviews, distinct from both the strategic and normative logics. Here, TJ is justified as necessary for peace itself, where peace is treated simultaneously as a strategic condition to be secured and a moral objective owed to the population. It is treated as a separate category here, since the interviewees themselves presented it as one argument, saying that TJ is needed for peace, full stop, and unpacking that claim into a strategic half and a normative half would misrepresent how actors actually reason about it. The strategic component overlaps with the deterrence logic already discussed as TJ is expected to reduce the likelihood of renewed violence by addressing the grievances and incentive structures that sustain armed mobilisation. The normative component addresses

the reasoning that a population that has lived through mass violence is owed a peace built on accountability, a peace that should be just and therefore should include TJ (Boudon, 2003).

This conviction appears in some form across every DRC interview, which is itself notable given how differently each interviewee is positioned within the country's TJ landscape. Mubiala places justice on the same level as diplomacy or the use of force, as one of the tools for achieving peace: *"Justice can be a factor, just like diplomacy, or even the use of weapons [...] that can be used to stop the war, or possibly to limit its effects"*¹⁹ (DRC003). He is not arguing that prosecutions produce a specific deterrent payoff, but that ending the war and doing justice to what happened are, in this framing, the same project. He is careful not to overstate this, describing the national TJ strategy he helped draft as *"one of the solutions in the current context"*²⁰ rather than a guaranteed remedy (DRC003). Sengenya expresses the same motivation describing continued cycles of violence as a condition the country cannot be allowed to remain in indefinitely: *"The future of Congo depends on it, because if we do not do it today, if we do not do it in 10 years, if we do not do it in 100 years, it means the cycles of violence will continue"*²¹ (DRC004). He states that TJ is needed to bring peace to the country and affected populations. Another interviewee grounds the same conviction in the mechanics of peace negotiations themselves, describing how some armed parties actively invoke unresolved past grievances to justify continued mobilisation (DRC002). The interviewees do not specify in this case which TJ mechanisms are needed, but they take a more holistic approach to TJ when talking about achieving peace (supra).

The same fused conviction appears in the Ukrainian data, though it is voiced by fewer interviewees than in the DRC, where all interviewees mentioned it. One interviewee describes accountability as something *"that's intractable from or inseparable from the peace, the political process going forward. And any peace process going forward or cessation of hostilities [...] will not be sustainable for a long time without justice and accountability"* (UA004). The word "sustainable" carries the strategic content, a peace without accountability is treated as structurally fragile and likely to collapse, while "inseparable" carries the normative content, that peace just cannot exist without accountability in the first place. Like the DRC interviews, this reasoning in the Ukrainian data is not attached to a specific pillar or sequence of mechanisms.

¹⁹ *"La justice peut être un élément, autant que la diplomatie, ou même l'utilisation des armes, [...] qu'on peut utiliser pour arrêter la guerre, ou éventuellement qu'on peut utiliser pour limiter les effets"*

²⁰ *"une des solutions dans le contexte actuel"*

²¹ *"L'avenir du Congo en dépend parce que si on ne le fait pas aujourd'hui, si on ne le fait pas dans 10 ans, si on ne le fait pas dans 100 ans, c'est-à-dire les cycles de violences vont continuer"*

The underlying logical structure is the same in both cases. Actors argue that peace requires TJ because unaddressed violence and unaddressed grievance are what sustain conflict, and simultaneously that a population which has suffered mass violence is owed a peace built on accountability and justice. Despite different conflict environments, both case studies mention the motivation for TJ to obtain peace. All DRC interviewees mention it, as do most Ukrainian interviewees.

6.4 Why Now? The Temporal Logic of Initiation During Conflict

Across both cases, interviewees do not defend TJ measures only on the grounds that they are desirable. They defend them on the grounds that delay carries a cost, although some mechanisms are already judged workable enough right now to justify acting rather than waiting for a moment of greater stability that may never arrive (Pruitt, 2007). The data reveal three empirical patterns that together explain why actors decide to cross from recognising TJ as desirable to actually initiating it while conflict is still underway: a perception that waiting itself generates additional, sometimes irreversible cost; a perception that specific mechanisms are already feasible enough to act on; and, running alongside both, a recognition of which mechanisms are not yet feasible and must be postponed.

6.4.1 Pattern 1: The Perceived Cost of Waiting

The first pattern concerns actors who initiate TJ measures not because conditions have become favourable, but because they judge that continued inaction is itself doing damage that cannot later be undone (Pruitt, 2007). This reasoning recurs across both cases, but it attaches to different pillars in different ways and the type of harm actors describe shifts depending on the mechanism in question.

In the DRC, the clearest and most detailed articulation of this pattern comes from the interviewee from the ICC TFV discussing reparations. He describes a case in which an untreated gunshot wound progressed to gangrene and then to a fatal cancer, framing the outcome explicitly as a consequence of the delay in reparations (*supra*) (DRC005). A second example follows the same logic in the psychological register mentioning a father who lost his wife and two children and consequently developed substance dependency in the absence of any intervention and subsequently died (*supra*) (DRC005). For survivors of CRSV specifically, he links years of unaddressed harm to chronic illness and infertility that no subsequent reparation can reverse, concluding simply that “*if we had intervened earlier, we*

could have improved something”²² (DRC005). What distinguishes this reasoning from a general claim that conflict harms victims is that in each case, the harm described is not attributed to the original violence alone but to the gap between the violence and the response to it. There is, for instance, a nineteen-year delay between the crimes and the reparations, which has caused unnecessary suffering (DRC005). For justice specifically, Kazadi ties the cost of waiting directly to the collapse of the evidentiary basis for prosecution: *“The more time passes, the more victims die. And the documentation becomes complicated and it becomes impossible”*²³ (DRC001). Here the harm is not primarily to the victim’s body or psyche but to the possibility of accountability itself; once witnesses have died and documentation has become impossible, no later intervention can recover what has been lost.

The Ukrainian data expresses a similar argument, though it is voiced less often in terms of physical deterioration and more in terms of testimonial and psychological cost. The interviewees from the UN COI frame the urgency of documentation in terms of a narrowing window for reliable testimony, noting that accounts gathered soon after an event are more reliable than accounts gathered once victims have had time to try to move on with their lives (UA002). This is a version of the same cost-of-waiting logic identified in the DRC’s justice pillar, but it also applies to truth-seeking. The longer documentation is deferred, the more victims who were initially willing to recount what happened would rather not revisit it, which degrades both the availability and the quality of testimony obtainable later. Insistence on avoiding duplicated interviews and unnecessary re-traumatisation reflects the same underlying concern from the opposite direction that each additional, poorly timed or poorly coordinated interview imposes a cost on the survivor that is only worsened by delay in action (UA002).

A parallel version of this argument attaches to reparations and to the right to truth for families of the disappeared, where the harm of waiting is not physical deterioration but the prolongation of an unresolved loss. Ukrainian interviewees discuss the operationalisation of the right to truth for the families of the disappeared and abducted as something that could not sensibly be deferred until after the war, precisely because the uncertainty itself, not knowing what happened to a missing relative, is a harm that compounds with every additional year it goes unanswered (UA001; UA002; UA003).

²² *“si on était intervenu plus tôt, on aurait pu améliorer quelque chose”*

²³ *“plus le temps passe, il y a des victimes qui meurent. Et il y a la documentation qui devient compliquée et ça devient impossible”*

In short, both cases confirm that the cost-of-waiting argument is present across the justice and truth pillars regarding the decreasing possibilities of collecting evidence for later procedures, as well as the reparations pillar, with accumulating individual-level harm caused by absence of any action. In both cases, interviewees mention that evidence and testimony have a finite shelf life, and past a certain point what is lost cannot be recovered by any later mechanism, however well-resourced. The cost of waiting is not a single, undifferentiated pressure but takes a different empirical form depending on which pillar is at stake and, to some extent, on which kind of harm a given conflict has produced in greater volume.

6.4.2 Pattern 2: The Perceived Feasibility of TJ Mechanisms

The second pattern addresses that actors also initiate TJ measures because they judge specific mechanisms to be workable under present conditions, not because delay is costly but because action is realistically possible right now (Pruitt, 2007). Actors rarely claim that TJ as a whole is achievable during conflict; instead they point to particular mechanisms and often particular locations or institutional arrangements, as evidence that something concrete can be done.

In the DRC, this confidence is expressed more in relation to what is geographically possible, given the variations in conflict intensity by province. Several interviewees point to Katanga, and to a more qualified extent to Kasai despite its own Commission's difficulties, as regions stable enough to support TJ work even while the Kivu regions and Ituri remain in active conflict (DRC002; DRC003). Feasibility is not assessed nationally but province by province, which means a mechanism can be judged workable in one part of the country while being judged entirely unworkable in another, without this being treated as a contradiction (DRC002). Mobile courts operating with UN logistical support, and ICC-linked reparations projects that are described by the ICC TFW interviewee as producing recovery rates of roughly eighty to eighty-five per cent on medical and psychological indicators, function as concrete, if partial, evidence that some form of action is already delivering results, even against a backdrop of national institutional failure (DRC002; DRC005).

In Ukraine, feasibility is established differently, through references to comparative precedents and to the sheer density of mechanisms already in motion. Busol draws directly on Colombia and Syria as evidence that substantial TJ work has proceeded elsewhere before any political resolution of the underlying conflict was reached: *"Colombia showed it is possible. Syria shows it is necessary. Ukraine can learn from both"* (UA001). Another interviewee grounds the same confidence in what already exists domestically and internationally, pointing to the

COI, the RD4U, and universal jurisdiction proceedings as evidence that the process does not need to be built from scratch: *“Look at what we already have. The process is happening.”* (UA003).

In short, both cases show that both case studies mention a level of feasibility. In the DRC, feasibility is geographic. A province can be treated as ready even while the national picture is not. In Ukraine, feasibility is institutional and comparative. Existing mechanisms and precedents from other conflicts substitute for the kind of relatively stable, demarcated territory the DRC can draw on. Justice and truth show the clearest evidence of perceived feasibility in both cases, mobile courts and ICC prosecutions in the DRC, the COI and universal jurisdiction proceedings in Ukraine, while reparations feasibility is more qualified in both, resting on partial, demonstrable results (the ICC TFV recovery rates; Ukraine’s still-developing RD4U). This suggests that actors do not require full confidence in a mechanism before initiating it; a demonstrable, bounded success, whether geographic or institutional, appears sufficient to justify continued or expanded action.

6.4.3 Pattern 3: The Perceived Non-Feasibility of Certain Mechanisms

The third pattern is the counterpart to the second. Interviewees are equally clear about which mechanisms they do not consider workable under current conditions, and this recognition does not lead them to abandon TJ altogether but to concentrate effort on what is judged feasible while explicitly deferring what is not. This selective postponement is itself an important part of the explanation for why initiation during conflict looks partial and mechanism-specific rather than comprehensive.

In the DRC, the Kasai Provincial TRC is the clearest example in the DRC data. After roughly five years and a renewed mandate, Kazadi estimates that it has completed less than five per cent of its founding purpose, a paralysis he attributes to an unresolved funding dispute between Kinshasa and the provincial government, the commission has commissioners and a building, but produces almost nothing (DRC001). This is a different kind of failure from the access problems (*infra*). It is not that violence prevents the commission from operating, but governance and funding failures leave this mechanism stalled indefinitely. Furthermore, the national reparations funds in DRC have lost some trust in their functioning due to mismanagement and corruption scandals (*infra*) (DRC001; DRC003; DRC004)

In Ukraine, non-feasibility clusters around access rather than governance. *In absentia* prosecutions are acknowledged by interviewees as a limitation rather than a full substitute for

the confrontational accountability many victims say they want, since perpetrators inside Russia or Russian-controlled territory cannot realistically be reached while the war continues (UA002; UA003). One interviewee identifies funding uncertainty as a further source of non-feasibility that is likely to affect the pace and scale of reparations architecture regardless of how well-designed the underlying mechanism is (UA004). Occupied territories present the same structural problem, as shown by the account from the members of the UN COI, who avoid contacting victims there altogether, because they cannot offer the security guarantees that would make documentation responsible rather than harmful (UA002).

In short, the source of non-feasibility differs between the two cases even where its practical effect is similar. In the DRC, mechanisms fail to function primarily because of internal governance failure, funding disputes, institutional capture and patronage appointment, even in provinces that are physically accessible. In Ukraine, mechanisms fail to function primarily because of inaccessibility problems, even where domestic institutional capacity and political will are strong. These dimensions will be addressed more thoroughly in Section 6.5. In both cases, however, actors respond to this by narrowing the scope of TJ. DRC actors shift attention towards provincial levels and mechanisms that do work; Ukrainian actors continue building documentation and infrastructure that can be used once the territory is accessible, rather than waiting for full territorial access before beginning at all. This selective initiation, i.e. acting where it is feasible while consciously deferring where it is not, appears in both cases as a deliberate strategy and could be explained by the perceived non-feasibility of certain mechanisms.

6.4.4 Summary of Temporality

Across all three patterns, the interviews consistently distinguish between two separate questions: whether waiting is costly and whether acting is currently possible. Initiation during conflict, as shown above, is neither automatic nor uniform across TJ as a whole. It results from a mechanism-specific weighing of these two considerations, undertaken separately for justice, truth, reparations and, more tentatively, institutional reform, rather than from a single overarching judgment that “the moment is right” for TJ in general.

6.5 The Structural Conditions that Enable or Constrain Initiation

Motivation explains why an actor wants to pursue TJ and the temporal dimension explains why an actor wants to pursue it now, during an ongoing conflict, however, it does not explain whether that demand for TJ can become a functioning mechanism. Several interviewees

describe wanting to act, while pointing to conditions entirely outside their control that determine whether that intention translates into TJ-initiation. Three sets of macro-level contextual factors are studied across the data: the conflict environment, the political environment and the societal environment. Each creates its own opportunities and/or constraints.

6.5.1 The Conflict Environment

Ongoing conflict shapes TJ feasibility through the intensity of violence, the degree of territorial control held by state versus non-state actors, the physical accessibility of crime scenes, suspects and witnesses, the security that can realistically be offered to those who testify and the displacement that scatters both victims and evidence (Fijalkowski, 2016; Kerr, 2016; Murphy, 2017). The DRC's conflict is a set of distinct and overlapping conflicts affecting different communities and regions in different ways (DRC002). Sengenya situates the present period within nearly three decades of mass crimes following successive rebellions (DRC004). This has direct consequences for justice. The intensity of violence varies sharply by province and in the Kivu regions and in Ituri, armed groups retain effective control over the territory in ways that make suspects physically unreachable and crime scenes unsecurable for investigators or mobile courts. Also witness protection can become more difficult since witnesses typically live in the same village, or a neighbouring one, as the person who harmed them, and these perpetrators might still be powerful (DRC004). Sengenya uses the example of Roger Lumbala's trial in Paris which was perceived by victims in Ituri, as justice happening for someone else, but not for them since the trial took place in a courtroom so far away from where the crimes were committed (DRC004). The representative of the ICC TFV, working directly on reparations programmes, frames it as a problem of physical inaccessibility running in both directions. Victim communities cannot safely reach service providers and service providers cannot safely reach victims (DRC005).

For truth-seeking, this fragmentation means there is no single conflict story to be told (DRC002). Mubiala traces some of the underlying causes back to the colonial period, while another interviewee's account of different conflicts affecting different regions means that a truth commission attempting a unified national narrative is working against the grain of the violence itself (DRC002; DRC003). For reparations, conflicts cause displacement, insecurity and delivery failure that can undo a well-designed mechanism after the fact. One interviewee is explicit that reparations cannot be treated as a one-off intervention timed for a post-conflict

moment that may never arrive: *“We cannot wait for the conflict to end”*²⁴ (DRC005). He reports that continued fighting has reversed reparation outcomes with ICC-linked reparations paid to villagers in Ituri who had their money looted by an active militia, or psychological recovery undone by renewed violence, though he is careful to note this affects fewer than ten percent of cases rather than being the norm (DRC005). Taken together, conflict in the DRC functions as a structural constraint. It produces fragmentation that undermines truth-seeking, inaccessibility that blocks justice and insecurity that can reverse reparations after delivery.

Ukraine’s conflict is described in very different terms. It is a more clearly attributable case of external aggression rather than an internal or fragmented struggle. This removes the dispute over responsibility that structurally complicates the DRC’s processes. But the conflict environment still imposes several limits. Occupied territories introduce an internal dimension that resembles, in miniature, some of the DRC’s access problems. For justice, occupied territory is simply unreachable. The UN COI explains that arrests of perpetrators while the conflict continues are rare (UA002). Because senior officials and commanders remain inside Russia or Russian-controlled territory, domestic prosecutions have concentrated on lower-level, locally accessible actors rather than those who ordered the violations, such as collaborators (UA003). Additionally, the UN COI mentions that it avoids contacting victims in occupied areas altogether, because it cannot offer them any security guarantee and the risk extends to retaliation against family members left behind and to the general instability of displacement (UA002). For truth-seeking efforts, the conflict constrains evidentiary access in a similar way as for the justice-pillar (supra).

However, in Ukraine, the conflict also created some possibilities for the initiation of TJ measures. It has generated genuine reform momentum, tied to Ukraine’s EU and NATO accession trajectory, that has incentivised reforms in rule of law, anti-corruption practice and institutional accountability (UA001; UA003; UA004). One interviewee’s account mentions the alignment between the government and civil society: *“our President, government and Parliament are on the same page with civil society”* (UA003). This alignment is itself partly a product of the war (infra). The imposition of a martial law illustrates the same duality at a more institutional level. Extraordinary executive powers have allowed faster decision-making and more rapid institutional reform than would be possible under ordinary peacetime procedure, but this also narrows the space for the kind of pluralistic, deliberative process that

²⁴ *“on ne peut pas attendre que le conflit finisse”*

TJ mechanisms typically depend on for legitimacy, and make some reforms even impossible from a constitutional point of view (UA001).

In both cases, the ongoing conflict limits TJ initiation due to inaccessibility to evidence, victims and perpetrators, regardless of how different the conflicts themselves are in type. However, in Ukraine, the conflict simultaneously generates reform momentum. A plausible explanation for this difference could lie in the conflicts' intensity and duration. The war in Ukraine has been going for a relatively short time, compared to the DRC, so there still is that chance of a hopeful momentum. However, in both cases, there is still TJ initiation despite the constraints imposed by the conflict, whether these initiatives end up being successful is not the main focus of the research.

6.5.2 *The Political Environment*

Political environment refers to political will, elite interests, governance capacity, institutional strength, donor influence and international attention (Ni Aolain & O'Rourke, 2010; Stan & Nedelsky, 2023). The question being whether political structures enable or block TJ. It would be a mistake to say there is no political will in the DRC; political will exists but is personalised rather than institutionalised (DRC005). Every DRC interviewee frames Félix Tshisekedi's 2019 arrival as a genuine turning point, precisely because he was not personally implicated in the country's armed conflicts. One interviewee mentioned that "*the moment Tshisekedi [arrived], things started to move*" (DRC002), while adding that before this, nothing could move at all. The president referenced the fight against impunity in his first speech, and by late 2020 had voiced open support for a coherent TJ agenda (DRC002). FONAREV, the national TJ policy, and the popular consultations across fourteen provinces are concrete products of this (DRC003). But the same dependence on one individual's commitment makes the whole structure fragile, and the clientelism, corruption and dependence on coalitions impacts what is actually politically possible (DRC001; DRC004). Sengenya mentioned that President Tshisekedi has to govern alongside former rebel leaders whose interests do not lie within accountability processes, to hold his parliamentary coalition together. When the French justice system sought to question Jean-Pierre Bemba, former deputy prime minister, in the Roger Lumbala case, the Congolese government did not cooperate (DRC004). This demonstrates that even a president with genuine, well-documented TJ commitment is bound by the coalition politics that put him in office and that this constraint operates independently of his personal will.

Institutional capacity compounds the problem. Mubiala describes the Congolese justice system, despite formally existing, as “*an empty shell*”²⁵ (DRC003). This reflects a pattern of patronage appointment over expertise that prevents genuine political action (DRC001; DRC003). The mobile courts function only because UN partners fund their transport and logistics, and the Kasai truth commission, after roughly five years, remains almost entirely non-operational pending a funding dispute between Kinshasa and the provincial government (DRC001; DRC002). Also reparations suffer from governance failure. Kazadi mentions that of \$195 million deposited by Uganda under the ICJ’s FRIVAO ruling, only 28 million had reached victims by mid-2026, some of it to fictitious beneficiaries, with commissions siphoned off along the way. He states that money exists, but that “*the money is used to illicitly enrich others*”²⁶ (DRC001). For truth seeking, the same dynamic threatens the commissions’ integrity. Where parties in power bear their own share of responsibility, there is a structural incentive to direct commission resources against opposition actors and select witnesses selectively (DRC001; DRC005).

Furthermore, the international community is also regarded responsible for parts of the failure as Kazadi situates the DRC’s roughly ten million conflict-related deaths against the absence of any tribunal comparable to those for Rwanda or the former Yugoslavia, attributing part of the gap to the economic interests of international companies tied to conflict-mineral extraction (DRC001). This selectivity from the international community decides not only which countries get more attention, but even which types of violence are addressed (supra). Many reparations mandates are confined to CRSV, reflecting how much more mobilisable international donor funding is for this category than for other war crimes (DRC004). Sengenya mentions the example of one sibling raped by a perpetrator whose conduct fell within ICC charges received reparation, while the sibling tortured by the same perpetrator on the same day received nothing, because torture was not among the charges brought (DRC004). This shows how donor-driven, category-specific funding shapes which mechanisms get initiated in the first place, and would matter far less if domestic budget allocation were adequate and uncorrupted, which is precisely what the FONAREV and FRIVAO cases show is not the case.

The Ukrainian political environment is, across every interview, the strongest enabling condition identified anywhere in the data. One interviewee mentions that their “*President,*

²⁵ “*une coquille vide*”

²⁶ “*l’argent sert à enrichir les autres de façon illicite*”

government and Parliament are on the same page with civil society” (UA003). This alignment across presidency, state institutions, civil society and international allies has translated into a comparatively dense set of TJ mechanisms assembled within the first years of the full-scale invasion such as the UN COI within seven days, the RD4U, universal jurisdiction investigations and a ministerial mandate to produce a national TJ roadmap by November 2026 (UA001; UA003). For criminal prosecutions, this alignment underwrites strong institutional support for accountability, even where *in absentia* proceedings limit its confrontational value for victims (UA003). For truth seeking, the General Prosecutor’s Office now trains staff on the Berkeley Protocol and ICC evidentiary standards, upgrading domestic capacity (UA001; UA003). For reparations, the RD4U and the broader European framework for reparation make an international architecture feasible far more quickly than in the DRC, though this could partly be explained because much of it is still being built rather than already tested against delivery failure (UA003; UA004).

However, Ukraine also faces (predominantly external) challenges. One interviewee identifies the volatility of the broader geopolitical moment, including the shift of US policy under the current administration, as disrupting funding streams and diplomatic support (UA004). Russia’s UNSC veto and the sanctions imposed on the ICC by the US represent a massive structural obstacle (UA003; UA004). International attention follows an inverse logic to the DRC’s. One interviewee stated bluntly that in some regions of the world, the international community is more *“accustomed to or more accepting of people’s suffering [and] that tends to be the African continent”* (UA004). This statement should not be read as suggesting Ukraine’s international support is entirely without its own selectivity, but that selectivity is far less severe than the DRC’s, and it has not prevented Ukraine from assembling, within a few years, an accountability architecture the DRC has been unable to build in three decades.

Corruption remains a documented governance concern in Ukraine as well and the interview data does not suggest it has completely disappeared. What differs from the DRC is that the EU-accession track appears to be helping Ukrainian institutions address these concerns, which makes that it does not affect the TJ policies yet. None of the interviewees describe a Ukrainian equivalent to the FRIVAO or FONAREV scandals. This gap could be caused by the limited data sample, or may simply reflect that Ukraine’s reparations architecture is still too new to have generated comparable delivery failures (UA001; UA003; UA004). Either reading supports the same structural point that national-level political constraints have not, so far, been shown to blunt TJ initiation in Ukraine the way they demonstrably have in the DRC.

Both cases confirm that political will alone is insufficient without institutions, capacity and international backing to act on it. In the DRC, political will is real as shown through the figure of President Tshisekedi, but it is personalised, dependent on which individual occupies which post and consistently undermined by a governance apparatus captured by patronage and coalition bargaining, as the Bemba case demonstrates. Even a genuinely willing president remains bound by the political realities of the coalition that sustains him. In Ukraine, political will is broadly institutionalised across branches of government and reinforced, rather than undermined, by an international integration project but very dependent on the volatility of the geopolitical reality. The DRC's constraints are structurally internal even where they are worsened by international dependency; Ukraine's constraints are more external, even where domestic capacity continues to improve.

6.5.3 The Societal Environment

Societal environment covers public attitudes, victim expectations, civil society mobilisation, trust, and the presence or absence of a shared narrative about the violence (Backer, 2003; Skaar & Wiebelhaus-Brahm, 2013; Gready & Robins, 2017; Stan & Nedelsky, 2023). The question being how society enables or complicates TJ initiation. In the DRC, demand for TJ from affected communities is strong and consistently documented (DRC002; DRC003). One interviewee describes popular consultations across the Kasaï and eight subsequent provinces that produced a clear, bottom-up demand for truth as the top priority, closely followed by justice and reparations at both individual and community levels (DRC002). Civil society is seen as the real driver behind the TJ agenda, with the state following under pressure rather than leading. Mubiala credits civil society with producing the foundational work that the government later used to adopt its own national policy (DRC003; DRC004). Therefore, without sustained civil society pressure, several mechanisms discussed above would very likely not exist.

But this demand coexists with deep fragmentation and distrust (DRC001). Communities in different parts of the country have lived through different conflicts and hold correspondingly different expectations of what accountability should look like (DRC002). This shows most sharply in how communities relate to international justice. Sengenya captures the disconnect between victims in Ituri who do not recognise the ICC's prosecution of commanders like Thomas Lubanga or Germain Katanga as justice for what happened to them personally, because they are still confronted daily with seeing their perpetrators around (*supra*) (DRC004). The person who actually harmed them is not the person on trial abroad. So,

prosecutions can be procedurally sound and still fail to register as justice at the community level. The same fragmentation undermines reparations as the FONAREV faces widespread mistrust. Civil society actors view it as politicised and disconnected from community realities, compounded by confusion over its narrow mandate, which many victims mistake for a general charitable fund rather than a rights-based mechanism specifically for survivors of CRSV (DRC001).

Ukrainian society shows a strong and broadly shared conviction that the invasion is illegal and that accountability must follow. Busol notes that civil society operates in close, genuinely complementary partnership with state institutions, filling documentation expertise the Prosecutor General's Office was not initially equipped to provide on for example sexual violence and cultural heritage crimes (UA001). In short, institutional capacity has expanded specifically because civil society supplied expertise that the state lacked. The divisions that do exist are of a different character than the DRC's. Rather than long-accumulated fragmentation across regions, Ukrainian societal complexity centres on collaboration and reintegration. One interviewee mentions that those actually reached by the no amnesty policy are overwhelmingly low-level Ukrainians who had limited choice, not the senior officials who fled (UA003). This bears directly on justice (where accountability boundaries are drawn) and truth (how wartime behaviour under occupation is interpreted and recorded). A further, distinctly Ukrainian complication is more conceptual. Busol recounts hostile domestic pushback on the very vocabulary of "transitional justice" with commentators asking whose transition, from what to where, given that Ukraine is not moving out of authoritarianism but through an active foreign war (UA001). This debate is not evidence of indifference; if anything it reflects how seriously the underlying issue is taken. But it does mean the societal environment complicates TJ initiation in Ukraine through contested framing rather than contested facts.

Both cases confirm that strong victim demand and strong civil society mobilisation support TJ initiation even while conflict is ongoing and in neither case is the absence of full societal unity a barrier to getting mechanisms started. Where the cases diverge is in the source of fragmentation. In the DRC, fragmentation is the product of decades of regionally distinct, historically layered conflict. In Ukraine, fragmentation is emergent, centred on the specific dilemmas of collaboration and reintegration, and compounded by a conceptual rather than institutional contestation of what "TJ" even means in a context of ongoing external aggression in Ukraine.

6.5.4 Summary of the Structural Conditions

Taken together, these three structural layers show why strong motivation for TJ does not automatically translate into equally strong initiation. Conflict constrains both cases through the same underlying mechanism of inaccessibility to evidence, victims and perpetrators, but in Ukraine the same conflict also generates reform momentum through EU/NATO-accession. The political environment is the sharpest point of divergence in the entire structural analysis. In the DRC it functions as the primary structural barrier. It is personalised, coalition-dependent and undermined by governance capture even where presidential will is genuine; in Ukraine it functions as the primary structural enabler, broadly institutionalised and reinforced by international integration, with its most serious constraints located externally rather than internally. The societal environment is broadly enabling in both cases. Victim demand and civil society mobilisation are strong on both sides, but fragmented in ways specific to each conflict's history rather than in any comparable form. The overall picture that emerges is that structural conditions determine whether TJ initiation happens completely, selectively or unevenly across pillars, and they explain why even the most committed actors, on either side of this comparison, cannot initiate TJ purely on the strength of wanting to.

6.6 Summary of Empirical Patterns

Table 6.1 summarises, by analytical layer and underlying pattern, the evidence presented in this chapter. The table records what each case contributes to each pattern identified above; it does not draw the comparative or theoretical conclusions that follow in Chapter 7, where the three layers of motivation, temporal logic and structural conditions, are read together through the integrated framework developed in Chapter 3.

Table 6.1 *Analytical Layers, Patterns and Supporting Evidence*

Layer	Pattern	DRC evidence	Ukraine evidence
Strategic motivation	Deterrence and prevention of renewed violence	Prosecutions as deterrent signal (Lumbala conviction); reparations as anti-recruitment tool, removing grievances that feed militia mobilisation	Absence of accountability for 2014 as a proximate condition for 2022 escalation; impunity as self-reinforcing at a global scale
Strategic motivation	Instrumentalisation for domestic and international gain	Truth commissions vulnerable to capture by power-holders; ICC self-referrals as diplomatic signalling towards Rwanda/Uganda; donor dependence shaping which harms (e.g. sexual violence) receive institutional attention	Collaborator prosecutions serving domestic legitimacy and anti-Russian signalling; international engagement as self-positioning towards EU/NATO integration and continued Western support
Normative motivation	Victim-centred reasoning	Reparations owed to specific, identifiable victims; recognition demanded at the level of the individual perpetrator, not the distant commander	Moral reparation owed even where material repair is impossible; survivor needs framed holistically beyond prosecution alone
Normative motivation	Rights-based reasoning	Fight against impunity framed as a fundamental entitlement, though expressed in moral rather than strictly legal terms	Right to truth operationalised for families of the disappeared; international law framed as a binding, “sacred” obligation
Normative motivation	Anti-impunity reasoning	Impunity as institutionalised through perpetrators’ continued visibility in communities and government	Impunity as intolerable at the level of the aggressor state, institutionalised through the Commission of Inquiry, the proposed special tribunal, and universal jurisdiction proceedings

Mixed motivation	TJ as indispensable to peace	TJ as one instrument among others for ending recurring cycles of war, voiced across every DRC interviewee	Accountability framed as inseparable from any sustainable peace process
Temporal logic	Cost of waiting	Untreated injury, chronic illness and death from delayed reparations; decaying evidence and dying witnesses threatening prosecutions	Degrading testimony and diminishing victim willingness to testify over time; unresolved loss for families of the disappeared
Temporal logic	Perceived feasibility	Province-specific feasibility (Katanga, parts of Kasai); mobile courts and ICC-linked reparations showing partial, demonstrable results	Comparative precedent (Colombia, Syria) and existing mechanisms (Commission of Inquiry, Register of Damage) as evidence action is already underway
Temporal logic	Perceived non-feasibility	Kasai truth commission stalled by funding disputes; FONAREV's credibility undermined by mistrust and mandate confusion	<i>In absentia</i> prosecutions; inaccessible occupied territory; funding uncertainty tied to shifting US policy
Structural conditions	Conflict environment	Fragmented, provincially variable conflict constraining justice, truth and reparations through inaccessibility and insecurity	Clearly attributable aggression, but occupied territory reproduces DRC-style access problems; martial law and accession pressure create some reform momentum
Structural conditions	Political environment	Personalised, coalition-dependent political will undermined by governance capture and donor-driven selectivity	Broadly institutionalised political will reinforced by international alignment; constraints located mainly externally (Russian veto, US policy shifts)

Structural conditions	Societal environment	Strong victim demand and civil society mobilisation coexisting with regionally rooted fragmentation and institutional distrust	Strong victim demand and close civil society-state collaboration, complicated by collaboration/reintegration dilemmas and contested TJ terminology
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6.7 Conclusion

Taken together, these patterns show that the initiation of TJ during ongoing conflict cannot be reduced to a single explanatory variable. Actors in both the DRC and Ukraine are driven by a genuine mixture of strategic calculation and normative conviction, and the need to establish peace. But whether that motivation translates into actual initiation depends on the two further, empirically distinct considerations of whether the cost of waiting is judged high enough to demand action now and whether the surrounding conflict, political and societal environment makes that action practically possible. The DRC and Ukraine converge repeatedly on the same underlying logics of deterrence, instrumentalisation, victim-centred obligation, the perceived cost of delay, but diverge sharply in how these logics are resolved in practice, the DRC is constrained primarily by internal governance failure and fragmentation, Ukraine is constrained primarily by external inaccessibility and geopolitical uncertainty even as its domestic institutions remain comparatively well-aligned.

Chapter 7. Explaining the Initiation of Transitional Justice During Conflict in the DRC and Ukraine

7.1 Introduction

Chapter 6 presented the empirical patterns underlying TJ initiation in the DRC and Ukraine. The first pattern identified actors' motivations for initiating TJ measures combining strategic, normative and mixed reasoning. Secondly, the timing of initiation is governed by a temporal logic in which actors weigh the cost of waiting against the perceived feasibility of specific mechanisms, rather than by any single judgment that "the moment is right" for TJ as a whole. Third, whether motivation and timing translate into actual initiation depends on structural conditions in the conflict, political and societal environments, which enable some pillars and constrain others, often simultaneously.

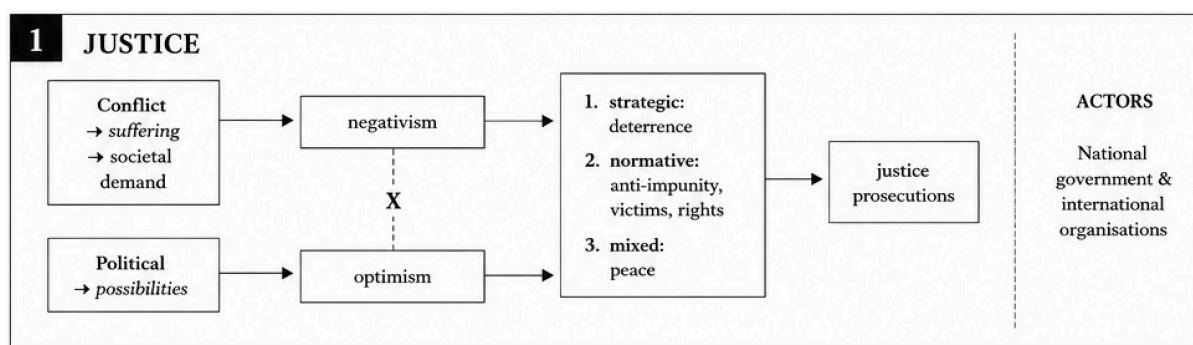
This chapter interprets those findings in light of the integrated theoretical framework developed in Chapter 3, which combines CTA, RT and structural conditions, and in light of the multi-level actor framework developed in Chapter 2. The chapter starts with offering a pillar-by-pillar overview of the patterns of initiation, the case-specific nuances and the actors involved. Memorialisation is not treated as a separate pillar in this chapter, since it did not emerge as a generalisable pattern across the two cases; where it surfaced in the data, it did so only in scattered, case-specific mentions that do not support comparative analysis. Then, general conclusions are drawn from this overview before discussing the theoretical and practical implications of the findings, the limitations of the study and avenues for further research.

7.2 Patterns of Initiation Across the Four Pillars

7.2.1 Justice

Across both cases, the initiation of criminal prosecutions follows the same underlying sequence identified in the integrated framework. Conflict produces suffering, which raises societal demand to address that suffering and, in RT terms, negativism, i.e. the perception that continued inaction on accountability has become untenable (Pruitt, 2007, 2015; Mihr, 2016; Lingaas, Sarkin & Jonsson, 2026). At the same time, the political environment generates possibilities that raise optimism, i.e. the belief that prosecutions are achievable. Once both variables are sufficiently present, given their compensatory relationship, the threshold for initiating prosecutions is crossed (Backer, 2003; Pruitt, 2007; Skaar & Wiebelhaus-Brahm, 2013; Clark, 2026). This is accompanied by all three motivations identified in Chapter 6 of strategic deterrence, normative conviction that victims have a right to justice and that impunity is unacceptable, and the mixed conviction that justice is part of a holistic path to peace (Boudon, 2003; Klosterboer & Hartmann-Mahmud, 2013; Tunamsifu, 2015; Kerr, 2016; Zhdankina, 2025). The main actors driving this pillar are consistently the national government and IOs, who have the institutional capacity to initiate and support the judicial proceedings, either through the national judiciary or through the enactment of an international tribunal, as is the case in Ukraine for example (Skaar & Wiebelhaus-Brahm, 2013; Mihr, 2016; Kiyombo Makonga, 2024). The figure below shows this sequence.

Figure 7.1 *Patterns of Initiation - Justice*²⁷



The case specificities lie almost entirely in what structural conditions generate optimism. In the DRC, optimism is sustained despite a judiciary that is, in Mubiala’s own words, hollow, because international actors substitute for missing domestic capacity. Mobile courts function only through UN logistical and security support (DRC002; DRC003). This matches the literature’s observation that weak state capacity negatively impacts which mechanisms are possible, or in other words, depresses optimism, but can be offset by external support, which is the political environment variable (Backer, 2003; Ni Aolain & O’Rourke, 2010; Skaar & Wiebelhaus-Brahm, 2013; Zongwe, 2013; Tunamsifu, 2015; Murphy, 2017d; Rose, 2025). In Ukraine, optimism instead rests on comparatively strong domestic institutional capacity, evident in a functioning Office of the Prosecutor and sustained governmental prioritisation of accountability, even though there are also limitations imposed by the conflict context, since perpetrators inside Russian-controlled territory can only be tried *in absentia* (UA002; UA003; Stan & Nedelsky, 2023a; Clark, 2026; Jacobsen, 2026; Mihr, 2026). The integrated framework therefore distinguishes between an actor being willing and an actor being structurally able to act (Skaar & Wiebelhaus-Brahm, 2013; Rose, 2025). In the DRC, the constraint is capacity; in Ukraine, it is territorial access despite capacity. That both paths nonetheless cross the readiness threshold illustrates that negativism and optimism can combine in different proportions but remarkably through the same overarching structural route, despite that structural route being fulfilled differently in each case.

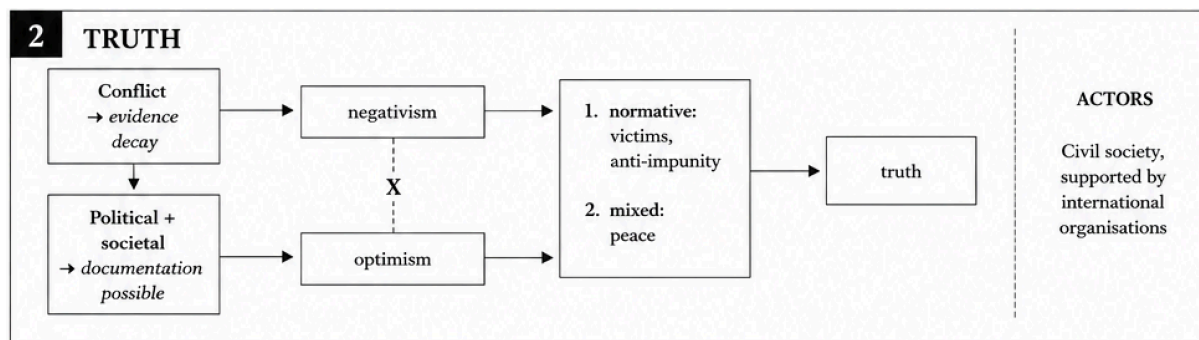
7.2.2 Truth

Truth-seeking follows a similar pattern but through different structural and motivational variables. Negativism here is not produced primarily by accumulated suffering but by the decay of evidence, an urgency Kazadi and the UN COI both describe in terms of witnesses

²⁷ OpenAI (2026, July 4). *Initiation of Transitional Justice Pillars: Patterns and Processes [image]*. ChatGPT. https://chatgpt.com/s/m_6a494f65a81c8191b15257d13217b9ad

dying and testimony becoming unreliable with time (DRC001; UA002; Backer, 2003; Pruitt, 2007, 2015; Tunamsifu, 2015; Moffett & Narayan, 2024; Rose, 2025; Jacobsen, 2026). Optimism, meanwhile, is generated jointly by the political and societal environments, international support for documentation on the one hand and active civil society mobilisation on the other (Pruitt, 2007; Skaar & Wiebelhaus-Brahm, 2013; Arnould, 2016; Jacobsen, 2026; Mihr, 2026). The motivations for the initiation of truth-seeking processes are the mixed reasoning that TJ processes are part of the path to peace, and the normative conviction that victims have a right to truth and that there is a moral obligation owed to them to provide them with a truthful account (Boudon, 2003; Tunamsifu, 2015; Arnould, 2016; Parmentier, 2016; Moffett & Narayan, 2024; Zhdankina, 2025). Truth-seeking is driven overwhelmingly by civil society and NGOs, supported by IOs, again consistent with the multi-level actor framework's account of civil society as the primary documentary actor closest to victims (Backer, 2003; Davis, 2013; Skaar & Wiebelhaus-Brahm, 2013; Gready & Robins, 2017; Alici, 2024; Jacobsen, 2026). The figure below shows this sequence.

Figure 7.2 *Patterns of Initiation - Truth*²⁸



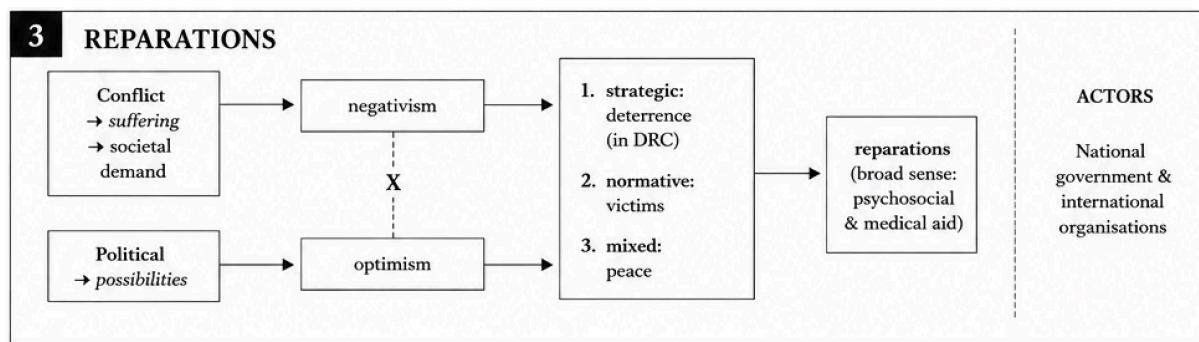
The clearest case-specific divergence is that the DRC has moved towards provincial TRCs, exemplified by the one in Kasai (Klosterboer & Hartmann-Mahmud, 2013; Tunamsifu, 2015), while Ukraine has not yet moved beyond documentation and evidence-gathering (Jacobsen, 2026). This divergence is plausibly explained, in part, by the societal-environment literature's emphasis on the need for a shared narrative before TRCs can function (Arnould, 2016; Kerr, 2016; Vlasenko, 2024; Mihr, 2026), and by the conflict environment's effect on feasibility since the DRC's geographically fragmented, three-decade conflict has allowed pockets of relative stability, such as in Kasai, in which a provincial commission became feasible (Ni Aolain & O'Rourke, 2010; Murphy, 2017b).

²⁸ Ibid [27]

7.2.3 Reparations

Reparations, understood here in the broad sense that includes psychosocial and medical support (Tunamsifu, 2015; Dixon, 2016; Hronesova, 2025), follow the same “conflict → suffering → demand → negativism” and “political possibility → optimism” sequence identified for justice (Backer, 2003; Pruitt, 2007, 2015; Lingaas, Sarkin & Jonsson, 2026). Also, all three motivations recur. Strategic deterrence, present in the DRC but structurally absent in Ukraine (infra), normative conviction that reparations are owed to the victims and the mixed conviction that reparations contribute to peace (Boudon, 2003; Dixon, 2016; Kerr, 2016; Parmentier, 2016; EUAM, 2024; Rose, 2025; Zhdankina, 2025). As with justice, the primary actors are national governments and IOs, reflecting their comparative capacity to mobilise and disburse funds (Klosterboer & Hartmann-Mahmud, 2013; Skaar & Wiebelhaus-Brahm, 2013; Dixon, 2016; Mihr, 2016; Clark, 2026).

Figure 7.3 *Patterns of Initiation - Reparations*²⁹



The clearest case specificity concerns funding. The DRC draws on a national funding stream, a tax on mining revenue, that Ukraine cannot replicate because domestic resources are absorbed by the war effort, illustrating directly how the conflict environment constrains the political environment’s capacity to generate optimism through domestic means (Waldorf, 2012; Moffett, 2017; Hotsuliak, 2025; Rose, 2025). Both cases instead rely on international funding, but with different consequences. In the DRC, comparatively limited international attention produces earmarked, selective funding, visible in restrictions to CRSV, which leaves other categories of harm, such as torture, without comparable redress (Waldorf, 2012; Skaar & Wiebelhaus-Brahm, 2013; Tunamsifu, 2015; Arthur, 2016; Dixon, 2016). In Ukraine, funding through mechanisms such as the RD4U is not yet operational, but European governments’ greater willingness to fund it suggests a different, if still untested, trajectory (EUAM, 2024; Hotsuliak, 2025; Clark, 2026; Mihr, 2026). Since this thesis is concerned with

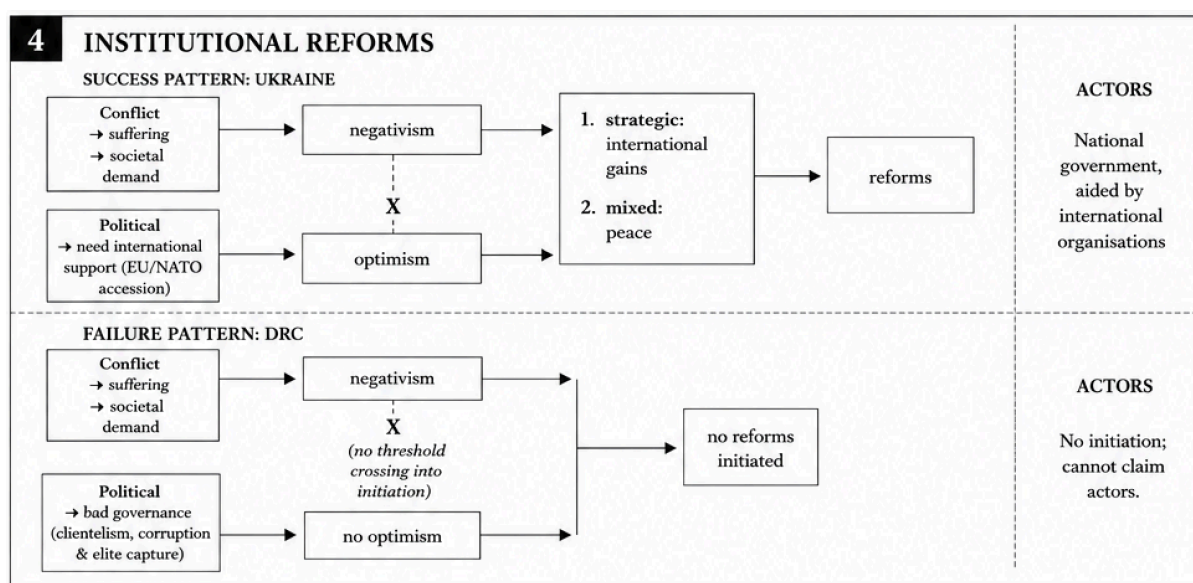
²⁹ Ibid [27]

the initiation, not the success, of TJ measures, the combination of national and international funding conditions is sufficient in both cases to enable initiation, even though delivery outcomes differ. The conflict environment further complicates reparations specifically in the DRC, where militias have looted compensation from victims, a dynamic without a clear Ukrainian equivalent in the data, consistent with the DRC's more fragmented, multi-actor conflict structure and the shorter timeframe of both conflicts (Ni Aolain & O'Rourke, 2010; Hellmüller, 2019; Jacobsen 2026).

7.2.4 Institutional Reforms

Institutional reforms present the sharpest case divergence in the data, to the point where only Ukraine shows actual initiation. In Ukraine, the same negativism/optimism logic applies, with the political environment generating optimism specifically through the prospect of EU and NATO accession, a form of political possibility that itself supplies the strategic motivation of gaining international legitimacy and support, in addition to the mixed motivation of achieving peace (Mihr, 2016, 2026; Zhdankina, 2025; Clark, 2026). In the DRC, by contrast, the conflict-driven negativism is present, but optimism does not materialise, because of what the political-environment literature identifies as clientelism, corruption and elite capture (Reyntjens, 2007; Davis, 2013; Zongwe, 2013; Tunamsifu, 2015; Arnould, 2016; Hellmüller, 2019; Reiter, 2020; Stan & Nedelsky, 2023a). Following RT's logic that both variables must be present to cross the threshold, the absence of optimism means the threshold is not crossed regardless of how strong negativism becomes (Pruitt, 2007, 2015). This is a case where the DRC may well need institutional reform more urgently than Ukraine, given its own governance failures documented throughout Chapter 6, yet the framework predicts, and the data confirms, that need alone does not generate initiation.

Figure 7.4 *Patterns of Initiation - Institutional Reforms*³⁰



Because only Ukraine offers empirical initiation to examine, any claims about actor type must be treated cautiously. National government and IOs are again the primary actors, but unlike justice and reparations, no comparable claim can be made for the DRC, since no initiation occurred there to examine (Reyntjens, 2007; Skaar & Wiebelhaus-Brahm, 2013; Arnould, 2016; Mihr, 2016; EUAM, 2024; Zhdankina, 2025; Clark, 2026).

7.3 General Conclusions

7.3.1 Justice and Reparations: A Shared Underlying Logic

Justice and reparations share the same structural pathway to initiation: conflict-driven suffering elevates societal demand which in its turn influences negativism (Pruitt, 2007, 2015; Tunamsifu, 2015; EUAM, 2024; Lingaas, Sarkin & Jonsson, 2026), while the political environment's possibilities elevate optimism and initiation follows once the combined threshold identified by the RT is crossed (Backer, 2003; Reyntjens, 2007; Pruitt, 2007, 2015; Skaar & Wiebelhaus-Brahm, 2013; Zongwe, 2013; Zhdankina, 2025; Clark, 2026). This is consistent with the integrated framework's central claim that structural conditions operate on initiation indirectly, by shaping the two perceptual variables, rather than determining action on their own. Importantly, this shared pattern survives even though the specific structural conditions differ markedly between cases. The DRC's optimism depends on international substitution for weak domestic capacity, while Ukraine's rests on stronger domestic capacity constrained by territorial access (Reyntjens, 2007; Zongwe, 2013; Tunamsifu, 2015; Stan &

³⁰ Ibid [27]

Nedelsky, 2023a; Jacobsen, 2026). This is the distinction between an actor's willingness and an actor's ability to act (Backer, 2003; Ni Aolain & O'Rourke, 2010; Skaar & Wiebelhaus-Brahm, 2013; Tunamsifu, 2015; Rose, 2025), and the data confirm that the same structural route, though interpreted differently in each case, can produce a convergent outcome, which is the analytical premise underlying this thesis's most-different case selection (Yin, 2018; Mortelmans, 2023).

Motivations, too, converge on the same three categories identified in CTA of strategic, normative and mixed reasoning, while diverging in content (Boudon, 2003). Justice's strategic content is deterrence aimed at future perpetrators in both cases; reparations' strategic content is deterrence aimed at preventing mobilisation of already-aggrieved populations, and the latter only holds in the DRC, not in Ukraine. This divergence maps onto a structural distinction in the nature of the two conflicts. The DRC's more internal, economically inflected conflict makes unaddressed economic grievance a plausible driver of remobilisation, whereas Ukraine's conflict, structured around an identifiable external aggressor, does not generate the same immediate deterrent logic from addressing economic grievance domestically (Davis, 2013; Tunamsifu, 2015; Kerr, 2016; Mihr, 2016; Freedman, 2020; Stan & Nedelsky, 2023a; Zhdankina, 2025). Normative content also shifts. Justice's normative core is explicitly anti-impunity, while reparations' normative core rests more directly on the conviction that redress is simply owed to victims, a difference consistent with the distinct rights-based and victim-centred registers (*supra*). So despite the same overarching types of motivations, the content itself differs depending on the pillars and sometimes also depending on the case (Davis, 2013; Arnould, 2016; Dixon, 2016; Kerr, 2016; Parmentier, 2016; EUAM, 2024; Moffett & Narayan, 2024; Rose, 2025; Zhdankina, 2025). Finally, both pillars are carried by the same actor combination of national governments and IOs, which follows directly from the multi-level actor framework's account of formal capacity. Establishing courts or disbursing funds requires institutional authority that only state and international actors typically possess (Klosterboer & Hartmann-Mahmud, 2013; Skaar & Wiebelhaus-Brahm, 2013; Arnould, 2016; Gready & Robins, 2017; Stan & Nedelsky, 2023a; EUAM, 2024; Clark, 2026).

7.3.2 The Special Position of Institutional Reforms

Institutional reforms occupy a distinct analytical position because only Ukraine provides empirical initiation, requiring particular caution in generalising any conclusion. With that *caveat* stated clearly, the structural-conditions logic still appears to hold, in that Ukraine's

optimism is generated by an identifiable political possibility, EU/NATO accession, functioning analogously to how international support functions for justice and reparations elsewhere in the data (Skaar & Wiebelhaus-Brahm, 2013; Zhdankina, 2025; Mihr, 2026).

Where institutional reforms diverge sharply is in the apparent absence of normative motivation, since interviewees framed reform in exclusively strategic (international legitimacy) and mixed (peace) terms. Institutional reforms target institutions such as the judiciary, the security services and the military, rather than individuals directly (Stan, 2017; Horne, 2023; Stan & Nedelsky, 2023a; Mihr, 2026). Because normative reasoning in this thesis's data is consistently anchored in a specific victim-centred approach, a mechanism with no direct, individually identifiable beneficiary may simply generate less of the sense that action is "owed" that drives normative reasoning elsewhere. This is already suggested provisionally in the empirical chapter and is consistent with the literature's framing of institutional reforms as structural rather than victim-facing measures (Mihr, 2016; Stan, 2017; Horne, 2023; Destrooper, 2025). However, because institutional reforms could only be examined through the Ukrainian data, the absence of normative motivation may reflect a feature specific to Ukraine's particular reform trajectory, in which the accession framework dominates how interviewees discussed reform, rather than a generalisable structural feature of the pillar itself. This explanation is consistent with the methodological limitations discussed in Chapter 4 regarding the small, two-case, theory-generating design (Mortelmans, 2023, p. 159).

Regarding actors, institutional reforms again involve national government and IOs, but with a different distribution of weight than justice and reparations. Here the national government appears to hold the primary role, with the international level acting in a subsidiary, supportive capacity (Skaar & Wiebelhaus-Brahm, 2013).

7.3.3 The Distinct Case of Truth-Seeking

Truth-seeking diverges from justice and reparations along all the three dimensions examined of structural conditions, motivations and actors. Truth-seeking's negativism is also generated differently than in the other pillars, less by accumulated societal demand and more by the practical urgency of evidence and testimony decaying over time (*supra*) (Hayner, 2011), and its optimism depends jointly on the political and societal environments rather than the political environment alone, likely reflecting the central role civil society plays in carrying out documentation itself (Gready & Robins, 2017; Alici, 2024). However, the data collected

for this thesis do not allow this divergence to be explained with confidence. One hypothesis could be that acknowledgment, unlike prosecution or reform, functions as a shared societal good from which no single strategic actor can easily claim credit, which could explain the comparative absence of strategic motivation in this pillar (Olsen, Payne & Reiter, 2010; Murphy, 2017); or that the smaller volume of data available on this pillar, and the absence of any interviewee discussing a Ukrainian TRC specifically, understates motivations or actors that a larger sample might reveal (Mortelmans, 2023). This divergence is therefore flagged as an open question rather than resolved, and Section 7.5 returns to it as a specific priority for further research.

7.3.4 Evaluating the Explanatory Power of the Integrated Framework

Read together, these four pillars offer a reasonably strong test of the integrated framework developed in Chapter 3. Its core sequence of structural conditions shaping negativism and optimism, negativism and optimism jointly determining when the readiness threshold is crossed, and CTA's strategic and normative reasoning explaining the content of the reasoning that follows, holds across all four pillars. Justice and reparations follow the same structural route with the conflict environment generating negativism and the political environment generating optimism, even though the specific conflict and political conditions that fill this route differ between the DRC and Ukraine. That the same underlying mechanism produces convergent initiation despite such different structural content is what gives the framework its explanatory power. Institutional reforms in the DRC confirm the framework's central claim from the opposite direction: negativism alone, however high, does not cross the threshold where the political environment collapses optimism to zero (*supra*).

The specific reasons why justice and reparations converge so closely while truth-seeking departs from that pattern, and why institutional reforms show no normative motivation, are questions this thesis's data cannot answer with confidence and are left for further research (*infra*). What the framework does explain, and what matters most for the research question, is why actors initiate TJ during ongoing conflict at all, and why they do so at a particular moment rather than waiting: because structural conditions generate a perceived urgency to act and a perceived possibility that action will succeed, and initiation follows once both are sufficiently present. This is confirmed consistently across the data, even where the finer-grained pattern of convergence and divergence between pillars is not yet fully explained.

One further point is worth a brief remark. Negativism tracks actors' perception that the status quo is untenable rather than the mere presence of active violence (Zartman, 2000; Pruitt, 2007), which suggests the same threshold-crossing logic could plausibly extend to post-conflict TJ initiation, provided a comparable perception of an untenable situation and sufficient optimism are both present. This paper, however, remains deliberately confined to initiation during ongoing conflict, and this possible extension is not tested here.

7.4 Implications and Limitations

7.4.1 Theoretical Implications

This thesis contributes to the literature on TJ during ongoing conflict by moving beyond the existing debate over whether TJ can occur before violence ends towards an account of why and through which mechanism-specific pathway such initiation occurs (van Nievelt, 2016; Waldorf, 2012; Alici, 2024). Where the literature has established that early TJ is empirically possible but also contested, this research adds a specific, actor-centred explanation. It argues that initiation results from the interaction of structural conditions, perceptual readiness and motivation, and this interaction generates different patterns for different pillars. It specifies that justice and reparations share one initiation logic, that institutional reform might depend heavily on an external political anchor and that truth-seeking may require a conceptually distinct account altogether. This also contributes to the literature on the relationship between TJ and peace (Fischer, 2011; Teitel, 2014; Sarkin, 2021; Mihr, 2024) by showing empirically that actors themselves see this as a live, mixed motivation that drives initiation decisions in contemporary conflicts, in both a fragmented internal conflict and a clearly delineated interstate war.

7.4.2 Practical Implications

For policymakers and practitioners seeking to support TJ initiation during conflict, the value of this framework lies in its diagnostic function. It allows them to identify what hinders the threshold crossing and therefore where intervention should be targeted. Where negativism is already high but optimism remains low, as with institutional reforms in the DRC, the binding constraint is the political environment, so further victim consultations or advocacy campaigns will not move the threshold, since the demand and urgency required are already present. Therefore the results suggest that actors should focus on supplying what optimism is lacking by for example giving external incentives to reform, or by directly investing in institutional capacity, or by keeping up sustained diplomatic pressure. Where, conversely, optimism

already exists but the resulting mechanism's design is distorted by how that optimism was generated, as with donor-driven earmarking of reparations in the DRC, the relevant intervention is not to generate more optimism but to correct its downstream effects, broadening mandates so that funding logic does not silently determine which victims and which harms receive redress. The broader implication is that policymakers should resist treating "supporting TJ" as a single, undifferentiated task. The same amount of resource or attention can produce initiation in one context and continued stalemate in another, depending entirely on which side of the readiness equation is deficient. Diagnosing that gap first, rather than defaulting to the same toolkit of documentation, advocacy, or funding regardless of context, would be more efficient.

7.4.3 Limitations

This study's limitations operate at three levels, each discussed with proposed mitigation in earlier chapters. Theoretically, RT was developed for dyadic negotiation rather than multi-pillar TJ initiation and remains vulnerable to a degree of unfalsifiability given the compensatory relationship between its two variables (Section 3.2.2); this is mitigated, though not eliminated, by applying the framework separately to each pillar rather than collapsing readiness into a single composite measure. Empirically, the reliance on nine interviews across a most-different two-case design means the findings are theory-generating rather than theory-testing and cannot establish prevalence beyond the professionally engaged actors interviewed (Section 4.2, 4.4.1); this is mitigated by triangulating across interviewees within each case and by treating claims about other actors' motivations as interviewees' own interpretations rather than direct evidence. Practically, remote interviewing limited rapport and non-verbal cues and remained vulnerable to connectivity disruption in active conflict areas (Section 4.4.2); this was mitigated by noting and treating cautiously any interview affected by audio or connection problems during coding.

7.4.4 Avenues for Further Research

Future research should extend this framework through a larger interview sample and additional case studies to test whether the patterns identified here, particularly the shared logic underlying justice and reparations and the distinctiveness of truth-seeking, hold beyond the DRC and Ukraine. Finally, because this thesis has deliberately restricted its scope to the initiation of TJ measures, a natural next step is to examine the success and downstream effects of the mechanisms whose initiation has been explained, connecting the actor-centred

initiation account developed here to the broader, longstanding literature on TJ during ongoing conflict (Bell, 2009; Olsen, Payne & Reiter, 2010; Arthur, 2016; Sarkin, 2016; Duthie, 2017; Ferrara, 2026).

7.5 Conclusion

This chapter has shown that the initiation of TJ during ongoing conflict follows a common underlying logic for justice and reparations, in which conflict-driven suffering and high societal demand combine with political possibility to jointly cross a readiness threshold that then activates strategic, normative and mixed reasoning, while institutional reforms and, especially, truth-seeking depart from this pattern in ways that the integrated framework can partially, but not yet fully, explain. What holds across all four pillars is the more fundamental claim that initiation is never simply a matter of actors wanting TJ enough, but the product of a specific interaction between why actors reason as they do, when they perceive the moment as ripe and what their surrounding environment will actually allow, an interaction that explains not only where and why transitional justice took hold during these two conflicts, but precisely where and why it did not.

Chapter 8. Conclusion

This thesis set out to explain why certain actors initiate TJ measures while armed conflict in the DRC and Ukraine remains ongoing. Three layers of explanation, taken together, answer this question. First, actors act for a combination of reasons: strategic reasoning oriented towards deterrence and political gain, normative reasoning grounded in obligations to victims and the conviction that impunity is intolerable, and a mixed conviction that TJ is inseparable from peace. The specific content of these motivations varies by pillar and case, but the same three broad types recur across both, explaining why actors act at all. Second, motivation becomes initiation only once actors perceive the moment as ripe. Following RT, this occurs where negativism, the perception that inaction has become untenable, combines with sufficient optimism that change is achievable. This explains why actors act now, during conflict, rather than waiting, because the accumulating cost of delay, decaying evidence, untreated harm, unresolved disappearances, makes waiting itself costly enough to prompt action once matched by sufficient optimism. Third, whether this threshold can be crossed depends on the surrounding conflict, political and societal conditions, which shape negativism and optimism respectively. Where these conditions are favourable, as with justice and reparations in both cases, initiation follows, even though the specific structural routes

differ markedly between the DRC and Ukraine. Where they are not, as with institutional reforms in the DRC, high negativism alone proves to be insufficient.

To answer the research question, actors initiate TJ during conflict because they hold strategic, normative and mixed reasons to do so, they act now because negativism and optimism jointly cross a readiness threshold and whether that threshold is reachable at all depends on structural conditions. Together, these layers explain the convergence found across two structurally different conflicts, while leaving the specific divergences in truth-seeking and institutional reforms as questions for further research. Theoretically, this thesis adds to the literature on TJ during ongoing conflict by specifying why and through which mechanism-specific logic initiation occurs, showing that the same integrated framework can explain both convergence across radically different conflict settings and the particular pattern of divergence between pillars, from an actor-centred perspective. Practically, the framework offers policymakers a more precise way of diagnosing why initiation stalls in a given context. By assessing whether negativism or optimism is the variable failing to reach the readiness threshold, it becomes possible to identify which structural condition actually requires intervention. Directing support towards the specific constraint holding back initiation allows resources to be used more efficiently than a uniform approach to promoting transitional justice would.

This study's conclusions rest on nine interviews across a two-case, most-different design, which makes the findings theory-generating rather than representative of the broader population of actors involved in either conflict, and the reliance on professionally engaged interviewees means the perspectives of grassroots victims, perpetrators and government officials speaking on the record are largely absent. Future research should test whether the patterns identified here, particularly the shared logic of justice and reparations and the distinctiveness of truth-seeking, extend to a larger sample and to other conflicts in which TJ has been initiated before violence has ended, and should connect this thesis's focus on initiation to the actual success of the initiated measures.

The Ukrainian Special Tribunal and the Congolese mobile courts, with which this paper opened, sit at opposite ends of what TJ can look like while a war is still being fought. One is backed by the full diplomatic weight of the CoE, the other stalled for years by a funding dispute. As Busol put it, reflecting on the human rights community's own shift away from a post-conflict model of justice: *"we have just matured as the human rights community [...] that we cannot sit and wait, that the action happens now"* (UA001). Or as Sengenya said: *"if it is not done today, in ten years, or in a hundred years, the cycles of violence will simply*

continue”³¹ (DRC004). Two actors, operating in conflicts that share almost nothing structurally, arrive at the same conclusion that waiting is a choice with its own consequences. Whether TJ scholarship continues to treat the post-conflict setting as its default will determine how well it can account for a practice that, in these two cases at least, no longer waits for one.

³¹ “*si on ne le fait pas aujourd’hui, si on ne le fait pas dans 10 ans, si on ne le fait pas dans 100 ans, c’est-à-dire les cycles de violences vont continuer*”

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Appendix

Appendix 1: List of Interview Participants

1. Ukraine

Code	Date	Interviewee	Role
UA001	11 May 2026	Kateryna Busol	Academic and principal transitional justice expert on Ukraine at the International Center for Transitional Justice (ICTJ); works closely with local, national and international actors.
UA002	12 May 2026	2 Members of the United Nations Independent International Commission of Inquiry on Ukraine ³²	International investigative body mandated to examine violations in the context of the Russian invasion of Ukraine; interview also drew on prior professional experience in African contexts.
UA003	13 May 2026	Analyst, Centre for Civil Liberties (CCL)	Ukrainian human rights NGO; analyst specialises in transitional justice and works across international, national, and local levels.
UA004	19 May 2026	Analyst, Global Centre for the Responsibility to Protect (GCR2P)	International advocacy organisation; analyst specialises in Ukraine and provides a macro-level, UN-oriented advocacy perspective on transitional justice.

2. Democratic Republic of the Congo

Code	Date	Interviewee	Role
DRC001	25 May 2026	Caleb Kazadi	Journalist for JusticeInfo specialising in transitional justice; previously worked in Kasaï, now based in Kinshasa covering national transitional justice mechanisms.
DRC002	1 June 2026	Head of the UN OHCHR mission to DRC	Head of the United Nations Joint Human Rights Office in the DRC, 2018-2022; worked closely with the Congolese government and local CSOs.

³² More information about the Commission's work: <https://www.ohchr.org/en/hr-bodies/hrc/iicir-ukraine/index>

DRC003	9 June 2026	Mutoy Mubiala	Academic and author of the substantial majority of the DRC's National Transitional Justice Strategy; former Senior UN Official.
DRC004	10 June 2026	Claude Senganya	Journalist for JusticeInfo based in Eastern DRC; specialises in transitional justice and has conducted extensive interviews with conflict-affected victims.
DRC005	12 June 2026	Representative, International Criminal Court Trust Fund for Victims (TFV)	Staff member of the TFV's local office in the DRC, working on victim assistance and reparations programming.

Appendix 2: Codebook (MaxQDA)

1. Person	Captures the capacity or identity in which the interviewee is speaking.
1.1 Person: local NGO	The interviewee speaks from the position of a local NGO, i.e., an organisation that operates within the country itself and is staffed predominantly by local personnel.
1.2 Person: IO/international	NGO The interviewee speaks from the position of an international organisation (e.g., a UN body) or an international NGO operating in the country.
1.3 Person: local expert	A local expert is someone who lives and works in the country on TJ, such as a journalist or academic with first-hand, in-country expertise.
1.4 Person: international expert	An international expert is someone not originally from the country, who may not reside or work there permanently, but who possesses extensive expertise on TJ and engages regularly with local or international actors on the matter.
2. Case study	Identifies which country context the interview excerpt relates to.

2.1 Other cases	References to TJ experiences outside Ukraine and DRC, used for comparison.
2.2 Ukraine	Statements pertaining to the Ukrainian case.
2.3 DRC	Statements pertaining to the Democratic Republic of the Congo case.
3. Absence of TJ	Instances where the interviewee discusses the absence, failure, or non-implementation of particular TJ measures.
4. ID	Statements regarding the specific role of the individual or their organisation.
4.1 ID: talk about own specific work	Captures moments where the interviewee describes the specific role and activities of their organisation, and what their organisation contributes that other actors may not.
4.2 ID: own work: challenges	Challenges that are specific to the interviewee's own organisation and its work.
5. TJ	Statements regarding the different transitional justice mechanisms
5.1 TJ: holistic approach	A holistic approach to TJ combines judicial and non-judicial measures, addressing most or all pillars of TJ (truth, justice, reparations, guarantees of non-recurrence, memorialisation) in an integrated manner.
5.1.1 TJ-H: challenges	Challenges that hinder the adoption of a holistic, multi-pillar approach to TJ.
5.2 TJ: accountability	Accountability refers to mechanisms and processes used to hold individuals, institutions, or states responsible for serious human rights violations, war crimes, crimes against humanity, or systemic injustices occurring during conflict, repression, or

	authoritarian rule. It extends beyond criminal justice to include truth commissions, reparations, and other holistic mechanisms.
5.3 TJ: justice	Justice measures aim to ensure legal accountability through criminal prosecutions, whether domestic, hybrid, or international.
5.3.1 TJ-J: challenges	Challenges encountered in pursuing criminal accountability (e.g., capacity, security, political interference).
5.4 TJ: truth	Truth-seeking mechanisms seek to establish an authoritative account of past abuses. They offer victims recognition and a form of justice and accountability, often through commissions of inquiry, documentation initiatives, or fact-finding missions.
5.4.1 TJ-T: challenges	Challenges encountered in establishing or sustaining truth-seeking initiatives (e.g., access, security, evidentiary constraints).
5.5 TJ: reparations	Reparations are victim-centred measures intended to redress harm suffered by victims. They may take the form of restitution, financial compensation, rehabilitation, or symbolic satisfaction such as apologies and commemorative initiatives. Full restitution is often unattainable in conflict or post-conflict settings, but reparations remain crucial for acknowledging victims and supporting their recovery.
5.5.1 TJ-R: challenges	Challenges encountered in designing, funding, or delivering reparations.
5.6 TJ: guarantees of non-recurrence	Guarantees of non-repetition aim to prevent future abuses by transforming the structures that enabled past violations. These include legal and constitutional reform, security sector reform, and vetting or lustration processes that remove implicated individuals from positions of power. Such reforms signal a break with the past and help rebuild institutional trust.

5.7 TJ: memorialisation	Memorialisation focuses on collective memory and public recognition of past suffering through monuments, museums, and commemorative practices, creating spaces for reflection, dialogue, and mourning that can contribute to reconciliation.
5.8 TJ: reconciliation	Reconciliation refers to processes aimed at rebuilding relationships between individuals, communities, or groups divided by conflict and past violations. It involves restoring trust, addressing grievances, and fostering a shared sense of coexistence, and is often treated as both a long-term goal and a guiding rationale for other TJ measures.
6. EVT: conflict	The physical and operational realities of the ongoing conflict that form the backdrop against which TJ measures are considered.
6.1 EVT-C: possibilities	Aspects of the conflict situation that create openings or windows of opportunity for initiating TJ measures.
6.2 EVT-C: challenges	Aspects of the conflict situation that obstruct, complicate, or limit the initiation of TJ measures.
7. EVT: society	The broader social context in which TJ measures are introduced, including public attitudes, narratives, and societal dynamics.
7.1 EVT-S: challenges	Social conditions that make it difficult to introduce or sustain TJ measures, such as division, trauma, or contested narratives.
7.2 EVT-S: civil society	The role and position of civil society organisations in relation to TJ processes during ongoing conflict.
7.2.1 EVT-S-CS: bad cooperation with other actors	Civil society experiences poor or dysfunctional collaboration with state or international actors in TJ processes.

7.2.2 EVT-S-CS: good cooperation with other actors	Civil society experiences productive and constructive collaboration with state or international actors in TJ processes.
7.2.3 EVT-S-CS: not engaged	Civil society is absent from or uninvolved in TJ processes, whether by choice or exclusion.
7.2.4 EVT-S-CS: engaged but not listened to	Civil society participates in TJ processes, but its input is disregarded or not meaningfully incorporated by decision-makers.
7.2.5 EVT-S-CS: engaged & allowed	Civil society is actively involved in TJ processes and its contributions are welcomed and incorporated by decision-makers.
7.3 EVT-S: no demand	The absence of societal pressure or public appetite for TJ measures among the affected population.
7.4 EVT-S: demand	The presence of societal pressure or public appetite for TJ measures among the affected population.
8. EVT: political	The institutional and political landscape that shapes the feasibility and framing of TJ measures, including state capacity and international dynamics.
8.1 EVT-P: possibilities	Political conditions that enable or facilitate the initiation of TJ measures.
8.1.1 EVT-P: possibilities: political will	The presence of sufficient political commitment among key actors to initiate or support TJ measures.
8.1.2 EVT-P: possibilities: cooperation with civil society	Political actors' willingness to collaborate with civil society creates enabling conditions for TJ measures.

8.1.3 EVT-P: possibilities: strong international support	Robust backing from international actors provides political legitimacy and resources that enable TJ initiatives.
8.1.4 EVT-P: possibilities: expertise and resources	The availability of technical expertise and material resources facilitates the design and implementation of TJ measures.
8.2 EVT-P: challenges	Political conditions that hinder, delay, or undermine the initiation of TJ measures.
8.2.1 EVT-P: challenges: weak international support	Limited or inconsistent backing from international actors constrains the feasibility or legitimacy of TJ measures.
8.2.2 EVT-P: challenges: mitigating expectations	Actors must manage inflated or unrealistic expectations about what TJ measures can achieve in a conflict context.
8.2.3 EVT-P: challenges: geopolitical context	Broader geopolitical dynamics create political obstacles to the initiation of TJ measures.
8.2.4 EVT-P: challenges: budget/resources	Insufficient financial resources constrain the design, scope, or implementation of TJ measures.
8.2.5 EVT-P: challenges: political will	The absence or insufficiency of political commitment among key actors limits the initiation of TJ measures.
8.2.6 EVT-P: challenges: governance	Weak, dysfunctional, or contested governance structures obstruct the institutional conditions necessary for TJ measures.
9. MOT-ST (Strategic motivations)	Actors initiate TJ measures in pursuit of concrete political, economic, security, or institutional advantages.
9.1 MOT-ST: prevent recurrence	TJ is pursued as a tool for addressing the root causes of conflict and reducing the risk of future violence.
9.2 MOT-ST: strategic use of TJ for own gains	Actors instrumentalise TJ measures to advance their own political or security interests.

9.2.1 MOT-ST: gains: legitimacy & support	Actors initiate TJ measures to enhance their domestic or international legitimacy and broaden their political support base.
9.2.2 MOT-ST: gains: security	Actors initiate TJ measures to protect their own security interests.
9.3 MOT-ST: TJ against revenge	TJ measures are pursued as a structured alternative to cycles of retaliatory violence, serving a conflict-management function.
10. MOT-NT (Normative motivations)	Actors initiate TJ measures out of a belief in their inherent rightness, reflecting axiological rather than purely instrumental rationality.
10.1 MOT-NT: send signal	TJ measures are initiated to communicate a normative commitment to accountability, rule of law, or victim recognition to domestic or international audiences.
10.2 MOT-NT: reconstruction & more holistic approach	TJ is pursued as part of a broader vision of societal healing and rebuilding that goes beyond legal accountability.
10.3 MOT-NT: accountability & justice	Actors are motivated by a principled commitment to ensuring that those responsible for violations are held to account.
10.4 MOT-NT: legal obligation	Actors initiate TJ measures because they perceive themselves as legally bound to do so under international or domestic law.
10.5 MOT-NT: political impact	Actors are motivated by a belief that TJ can produce meaningful political transformation, such as institutional reform or reconciliation.
11. MOT: mixed (Mixed motivations)	Actors are simultaneously driven by both strategic and normative considerations that are not easily disentangled.

11.1 MOT-MIX: no peace w/o TJ	Actors hold that durable peace cannot be achieved without addressing past violations, blending normative conviction with strategic necessity.
11.2 MOT-MIX: only solution	Actors perceive TJ as the sole viable path forward, a judgment that combines normative reasoning with a strategic assessment of available options.
12. TM (Timing): changes over time	Actors' motivations and assessments of TJ shift across the duration of a conflict in response to changing circumstances (e.g., escalation, stalemate, shifts in international attention).
13. RT (Readiness theory): motivation	A negative push derived from the perception that a situation is generating unacceptable costs, risks, or pressures, prompting actors toward action. (This code captures the "motivation" (in this thesis, called "negativism") component of Readiness Theory, distinct from the "optimism" component below.)
13.1 TM: need immediately	Actors consider it necessary or desirable to initiate TJ measures without delay, even during ongoing conflict.
13.1.1 TM-I: can't wait for an end that is not in sight	Actors argue that, given the unpredictable or indefinite duration of the conflict, TJ cannot be postponed until a hypothetical resolution.
13.1.2 TM-I: destruction of evidence/documentation	The risk that evidence will be lost, destroyed, or tampered with creates urgency for initiating TJ measures now; this also includes cases where documentation is already highly feasible and should be capitalised on.
13.1.3 TM-I: move on	The needs and preferences of victims, including their desire for acknowledgement and closure, create pressure for immediate action.

13.1.4 TM-I: waiting is painful	Delay itself inflicts harm on victims and affected communities, making postponement of TJ measures ethically untenable.
14. RT: optimism	Actors hold a sufficiently positive belief that TJ measures are viable and likely to produce acceptable outcomes. (This code captures the “readiness/optimism” component of Readiness Theory.)
14.1 RT-O: believe in positive effect	Actors anticipate that TJ measures will generate meaningful benefits, even where this has not yet been demonstrated in practice.
14.2 RT-O: positive effect already seen	Actors draw on observed evidence that TJ measures have already produced tangible positive outcomes, reinforcing their willingness to act.
15. RT: no optimism	Actors lack confidence that TJ measures will be viable or effective, reducing their readiness to initiate them.
15.1 TM: not immediately	Actors consider TJ measures premature at the current moment and opt to postpone initiation.
15.1.1 TM-NI: waiting for some sort of transition	Actors delay TJ until a political transition has occurred, such as a ceasefire, peace agreement, or change of government.
15.1.2 TM-NI: not possible yet	Actors judge that current conditions make TJ measures physically or institutionally unfeasible at this stage.
15.1.3 TM-NI: reconstruction first	Actors prioritise physical reconstruction over TJ.
15.2. TM: will take time	Actors acknowledge that TJ processes are inherently long-term and cannot be resolved quickly, regardless of when they are initiated.

15.3 RT: skepticism	Actors actively doubt the utility, feasibility, or likely impact of TJ measures, functioning as a brake on readiness even when motivation is present.
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Appendix 3: Informed Consent Form

Informed consent for master's thesis research

Provisionary title of the master's thesis: "The timing of transitional justice: why actors engage during ongoing conflict"

Name and contact details supervisor: Professor Dr. Timothy Williams,
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Name and contact details student researcher: Camille Vandervelden,
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Aim of the master's thesis research: The thesis examines why certain actors choose to implement transitional justice measures while a conflict is still ongoing, rather than waiting for a post-conflict moment. I am comparing the Democratic Republic of the Congo (DRC) and Ukraine as case studies and looking across the different transitional justice pillars. The central question is: what motivates actors to engage now, and what holds others back?

Methodology of the master's thesis research: qualitative comparative case study (DRC & Ukraine) combining qualitative content analysis of transitional justice initiatives and related documentation and semi-structured interviews with selected actors involved in or connected to these initiatives.

Deadline of the study: 9 July 2026

- I have received sufficient information about the purposes of the research.
- I understand what is expected of me in the study.
- I consent to the interview being audio recorded.
- I understand that my participation in this study is voluntary. I am aware that I can discontinue my participation at any time. I will not have to provide a reason for this and I will not suffer any disadvantages.
- I am aware that I can withdraw my participation until **25 June 2026** and all the gathered data will be permanently deleted and erased from the study.
- The findings may be used for research purposes and will be published.

- The following anonymity rules apply (indicate the right box):
 - ☐ The name of the organisation/ interviewee may be published.
 - ☐ The name of the organisation/ interviewee remains completely anonymous, only the student researcher can know the identity and should process the information completely anonymously.
- I understand that my personal data will be processed in accordance with applicable data protection legislation, including the General Data Protection Regulation (GDPR). I am aware that I have the right to access, rectify, and erase my personal data, and that I can exercise these rights by contacting the student researcher or supervisor at the details provided below.
- I understand that I will receive no payment for participating in the research.
- I would like to be informed of the results of this research. The student researcher may contact me at the following e-mail address: _____
- I understand that I can contact both the student researcher (Camille Vandervelden: camilleruthmartin.vandervelden@emahumanrights.org) and the supervisor (Prof. Dr. Timothy Williams: timothy.williams@unibw.de) for any questions or to exercise my rights after participating in the study.
- For any complaints or other concerns about ethical issues relating to this study, contact supervisor Professor Dr. Timothy Williams: timothy.williams@unibw.de.

I have read and understand the information above and have received answers to all my questions regarding this study. I agree to participate in the study.

Place and date:

Place and date:

Name and signature of the respondent:

Name and signature of the student researcher:

Appendix 4: Interview Guide

Semi-structured interview guide used for all nine interviews. The guide was adapted in wording and emphasis depending on the respondent's institutional position (international organisation, civil society, academic/expert, journalist, or judicial mechanism) and on the case (Ukraine or DRC), but followed the same five thematic blocks corresponding to the study's theoretical framework. Questions in brackets were used selectively depending on the respondent's specific expertise or institutional role.

Introduction

- Permission to record and use data.
- Confirmation of available time.
- Brief self-introduction.
- Invitation for the respondent to ask questions before starting.

Block A: Context and environment

- How would you describe the political environment around TJ in [country], is there genuine political will, mobilised resources, and a clear priority, or does it remain a marginal issue?
- How has the ongoing conflict shaped what your organisation/you can do? What does it make possible, and what does it make difficult or impossible?
- Is there an organised demand for TJ measures among affected communities and civil society? Is that demand heard or translated at the political level?
- How has the relationship between civil society and the government/authorities evolved with respect to TJ, particularly since the escalation of the conflict?

Block B: Motivations for pursuing TJ

- Why does TJ matter in [country]?
- What do you see as the balance between strategic motivations (e.g., building a record, deterrence, legitimacy) and normative motivations (a sense that some things must be done regardless of outcome)?
- What can TJ measures achieve in this context that other interventions cannot?
- [Where applicable] How do you interpret specific decisions (e.g., self-referrals to the ICC, the establishment of a Commission of Inquiry, specific laws or mobile courts) in terms of sincerity, political calculation, or external pressure?

Block C: Temporal aspect: why now?

- Why pursue it now, rather than waiting until the conflict ends?

- What made [a specific moment, e.g., February/March 2022, 2004, 2008, 2018] a moment of action rather than a reason to wait for greater stability?
- Do you think actors pursue TJ mainly because inaction has become unbearable (the cost of the status quo is too high), or because they believe the conditions are genuinely right for something to succeed? Or a combination of both?
- Were there turning points where TJ suddenly became more possible, or conversely more blocked?

Block D: Role identity

- How does your organisation understand its specific role in the TJ landscape in [country]? What can it contribute that other actors cannot?

Block E: Motivational dynamics over time

- Looking back to [a relevant starting point, e.g., 2019, 2022, 2008], how have the motivations of your organisation or of the government shifted over time? What changed, and what drove that change?
- Has the reasoning behind this work changed, motivations added, dropped, or reordered, as the conflict evolved?

Block F: Absence and failure of TJ measures (used primarily in DRC interviews)

- There is a recurring pattern of mechanisms being announced and created but remaining largely inoperative (commissions, reparations funds, strategies). How do you explain this pattern: incapacity, lack of resources, or a deliberate strategy of occupying symbolic space without committing to real action?

Closing

- Is there something about your organisation's/your own reasoning or experience that this conversation has not captured, something important for understanding why actors initiate TJ measures during an ongoing conflict, and why they do so when they do?
- Would you be willing to suggest other people or organisations whose perspective would add something meaningfully different to this picture?
- Thanks and closing remarks.