

# Mass Deforestation as an Alarming Form of Ecocide: Adopting Transitional Justice Measures to Complement Criminalization

By Mutoy Mubiala

Policy Brief Series No. 139 (2022)

## 1. Introduction

Human activity causing climate change includes lawful and wrongful acts. Mass deforestation is to be ranked among the latter. In fact, it can be considered as one of the main causes of climate change. However, because of weak or non-existent ecocide laws in the most concerned countries, particularly in rainforest areas of the Amazon, the Congo and Borneo, there is expanded impunity of individuals and corporations involved. In its present state, international law is unable to address mass deforestation, as illustrated by the 2019 Amazon fire crisis in Brazil.<sup>1</sup> The legal *vacuum* leads to an accountability gap. So far, academic initiatives and efforts toward the criminalization of ecocide have failed due to the resistance of States. The internationalization of ecocide would be a relevant framework to address mass deforestation as one of its *alarming* and *aggravated* forms. Pending this and taking into consideration the delay in international law norm-setting, this paper explores ways to use existing instruments outside of international criminal law. As outlined by this author in a previous policy brief,<sup>2</sup> the international human rights regime provides windows of opportunity for the adoption of alternative ways to address the challenges we face.

Against this background, this paper argues that transitional justice, which encompasses international human rights law principles and mechanisms dealing with past human rights abuses and mass atrocity crimes (including genocide, war crimes and crimes against humanity), has the potential to respond to serious and widespread human rights abuses and violations caused by alarming or aggravated forms of ecocide, such as mass deforestation. The brief, therefore, suggests the development of a 'transitional climate change justice' agenda to close the prevailing accountability gap in the field of ecocide.

Before proceeding to this analysis, it is important to provide a brief overview on the academic or doctrinal discussions on the international criminalization of ecocide.

## 2. The Debate on the Criminalization of Ecocide in International Law

The concept of ecocide originally emerged from the sphere of international humanitarian law.<sup>3</sup> Over decades, there have been doctrinal efforts towards developing a legal definition of ecocide. In this regard, according to the Independent Expert Panel for the Legal Definition of

Ecocide ('Independent Expert Panel'), "the word ecocide combines the Greek 'oikos' meaning house/home (and the later understood to mean habitat/environment), with 'cide', meaning to kill".<sup>4</sup> In addition to defining the concept of ecocide in a legal context, the Independent Expert Panel and other relevant academic bodies and authors have taken initiatives to advocate for its inclusion as an international crime in the Rome Statute of the International Criminal Court ('ICC') amongst United Nations ('UN') Member States. Despite some supportive indications from ICC insiders,<sup>5</sup> those initiatives were not further considered. More recently, the UN International Law Commission, while discussing its Draft Articles on Crimes Against Humanity, has negatively responded to the doctrinal call for the inclusion of ecocide in the latter. This reluctance to the criminalization of ecocide in international law proceeds from the lack of political support from UN Member States. Apart from the lack of political support, the proposed progressive development of international criminal law would face procedural constraints. According to an author, these issues include the standard of proof, admissibility gravity and interests of justice as well as the admission of guilt.<sup>6</sup>

Perhaps the inclusion in-principle of ecocide in a new Article 5(2) of the ICC Statute (similar to the old Article 5(2) on the crime of aggression) may be the quickest way, as first suggested by Morten Bergsmo. This makes it possible for concerned actors at the national level to say that ecocide is already recognized as an international crime and that it should be included in the domestic criminal law of that country, drawing on the example of France, where the 2017 law relating to the duty of care for parent companies and ordering enterprises (*Loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordres*) requires the latter to prevent or denounce the occurrence of serious abuses, including on human rights and the environment, in the spheres of their influence. Unfortunately, according to a report, no progress has been made in the effective implementation of this national innovative legislation.<sup>7</sup>

<sup>4</sup> Ecocide Foundation, "Independent Expert Panel for the Legal Definition of Ecocide: Commentary and Core Text", June 2021 (<https://www.legal-tools.org/doc/pb375e/>).

<sup>5</sup> See Ricardo Pereira, "After the ICC Office of the Prosecutor's 2016 Policy Paper on Case Selection and Prioritisation: Towards an International Crime of Ecocide?", in *Criminal Law Forum*, 2020, vol. 31, pp. 179–224.

<sup>6</sup> Giovanni Chiarini, "From the Vietnam War to International Criminal Jurisdiction? Procedural Issues in-between Environmental Science, Climate Change, and Law", in *Cork Online Law Review*, 2022, vol. 21, pp. 25–27. See also, Joseph de Hemptinne, "Ecocide: an Ambiguous Crime?", in *EJIL:Talk!*, 29 August 2022.

<sup>7</sup> See Anne Duthilleul and Matthias de Jouvenel, "Evaluation de la mise en oeuvre de la loi du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordres", Conseil général de l'économie, de l'industrie, de l'énergie et des technologies, Paris, January 2020, p. 68.

<sup>1</sup> See Sara Kaufhardt, "Impunity for Burning the Earth's Lungs: The Legality of Deforestation under International Law and the Quest to Preserve the World's Biodiversity", in *Columbia Journal of Transnational Law*, 2020, vol. 58, no. 2, pp. 469–514.

<sup>2</sup> Mutoy Mubiala, "Climate Change and Mass Deforestation in the Congo Basin", Policy Brief Series No. 127 (2022), Torkel Opsahl Academic EPublisher ('TOAEP'), Florence, 2022 (<https://www.legal-tools.org/doc/6i8h8w/>).

<sup>3</sup> See Richard Falk, "Environmental Warfare and Ecocide", in *Belgian Review of International Law*, 1973, vol. 9, pp. 1–27.

As far as Africa is concerned, at the regional level, mass deforestation as an alarming form of ecocide should fall within the meaning of illegal exploitation of natural resources, as prohibited in Article 28A(13) of the 2014 Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights ('Malabo Protocol').<sup>8</sup> It is also interesting to note that the Malabo Protocol includes provisions recognizing criminal liability of companies (that is, Article 46C). This is an important normative step for the prosecution of the presumed authors of mass deforestation, mostly transnational companies. In the African context, it will be possible to prosecute those companies and individuals responsible for mass deforestation once this Protocol enters into force. So far, however, none of the signatory States of this Protocol have ratified it, thus delaying the implementation of such prosecutions. African States should accelerate the ratification process of this Protocol, and the international community must discharge a catalytic role in facilitating such ratifications.

The continuing efforts for the criminalization of ecocide at national, regional and international levels do not exclude the need to look at alternative ways to address the prevailing impunity for its alarming or aggravated forms, including mass deforestation. In this regard, I am of the view that scholars and decision-makers should pay more attention to the existing instruments and mechanisms under international human rights law and regime. The human rights implications of ecocide have been subjected to considerable discussion the past decades.

### 3. Ecocide and International Human Rights

Ecocide has been discussed by UN human rights bodies, in particular the then UN Commission on Human Rights (replaced by the Human Rights Council since 2006) and its Sub-Commission on Prevention of Discrimination and Protection of Minorities (actually, the Advisory Sub-Commission on Human Rights). In the 1970s and 1980s, special rapporteurs of the UN Commission on Human Rights have undertaken studies in which they positively considered the inclusion of ecocide in the 1948 UN Convention on the Prevention and Punishment of Genocide.<sup>9</sup>

Climate change has led to further discussion on the question of the relationship between environment and human rights. Since the beginning of the 2000s, climate change has emerged as a global human rights challenge, leading to more attention from the UN human rights special procedures mandate-holders. Based on their reporting, the UN Human Rights Council has adopted an increased number of resolutions calling for the application of the human-rights-based approach to the international community's response to climate change. As the Office of the High Commissioner for Human Rights ('OHCHR') points out, "Climate change has profound impacts on a wide variety of human rights, including the rights to life, self-determination, development, food, health, water and sanitation and housing".<sup>10</sup>

To address the adverse impacts of climate change on human rights, the OHCHR has been advocating for the strengthening of businesses' accountability, in accordance with the UN Guiding Principles on Business and Human Rights and the Global Compact.<sup>11</sup> However, the non-binding character of these Principles, the Global Compact's voluntary compliance as well as the Glasgow Pact or Declaration are not enough to prevent or address businesses' mass deforestation activities. As illustrated by the 2019 fire in the Amazon rainforest in Brazil, transnational corporations at the origins of the fire crisis were backed by the Bolsonaro administration, who claimed to exercise its sovereignty and rejected the international community's call for stopping the fire, caused

for agriculture projects.<sup>12</sup>

More recently, late July 2022, the Democratic Republic of the Congo's ('DRC') government auctioned land to oil companies in protected rainforest areas of the Congo basin. In this context, a Congolese senior official stated: "our priority is not to save the planet". As the *New York Times* reported: "Peatlands and rainforests in the Congo Basin protect the planet by storing carbon. Now, in a giant leap backward for the climate, they're being auctioned off for drilling".<sup>13</sup> As expected, international and local non-governmental organizations ('NGOs') have promptly reacted to these developments, which have contradicted the recent doctrine of 'country solution' to climate change proclaimed by the Congolese President Félix-Antoine Tshisekedi in the margins of the COP26 at Glasgow in November 2021.<sup>14</sup> NGOs and civil society organizations have called transnational oil companies to boycott the call for interest made by the Congolese government on 28 July 2022.<sup>15</sup> In the context of the COP27 Prep-Com, held in Kinshasa (in DRC) from 3 to 5 October 2022, this Congolese initiative was highly debated. Local NGOs issued a joint report sharing the position of the local communities, who denounced the lack of prior consultations before the launching of such an initiative. They requested the Congolese government to "take its dollars but to keep their forests".<sup>16</sup>

If implemented, the above-mentioned measures initiated by the Congolese government would cause similar harms to those that have occurred in the Amazon, in general, and in Brazil, in particular. They would violate not only the rights of the concerned local communities and indigenous people in the Congo basin, but also those of the world's population as a whole. The involved Congolese rulers and the eventual respondent transnational oil companies' leaders should be held accountable for the consequences of the expected mass deforestation in the Congo basin.

The climate change–mass deforestation nexus provides a unique opportunity to examine the ways and means to adopt a human rights-based approach to responses to ecocide, in general, and its alarming form of mass deforestation, in particular.<sup>17</sup> The large-scale number of victims of these harmful and wrongful acts calls for justice, reparation or restoration and guarantees of non-recurrence, goals which have been achieved by transitional justice at national and international level.

### 4. Responding to Widespread Human Rights Abuses of 'Local' and 'Global' Victims of Mass Deforestation

Over the past three decades, the UN has developed transitional justice principles to guide Member States and the international community on the ways and means to address impunity of the authors of serious past human rights abuses mainly caused by authoritarian or repressive regimes as well as armed conflicts. So far, transitional justice has extended its subject-matter to mass atrocity crimes and colonial abuses or crimes. At a normative level, transitional justice principles were codified and adopted by relevant UN bodies, including the General Assembly, in two main instruments, namely the 'Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity'<sup>18</sup> ('Joinet Principles') and the 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of

<sup>8</sup> On the Malabo Protocol, see, among others, Mutoy Mubiala, "L'élargissement du mandat de la Cour africaine des droits de l'homme et des peuples aux affaires de droit international pénal", in *International Review of Penal Law*, 2014, vol. 85, pp. 133–146.

<sup>9</sup> Chiarini, 2022, pp. 6–8, see above note 5 (emphasis added).

<sup>10</sup> United Nations Office of the High Commissioner for Human Rights, "OHCHR and Climate Change", Geneva, June 2021.

<sup>11</sup> United Nations Office of the High Commissioner for Human Rights, "Understanding Human Rights and Climate Change", Geneva, 2021, p. 4.

<sup>12</sup> Sean Patrick O'Reilly, "International Law's Role in the Prevention of Mass Deforestation", Policy Brief Series No. 99 (2020), TOAEP, Brussels, 2020, p. 2 (<http://www.toaep.org/pbs-pdf/99-deforestation/>).

<sup>13</sup> Ruth Maclean and Dionne Searcey, "Congo to Auction Land to Oil Companies: 'Our Priority is Not to Save the Planet'", *New York Times*, 25 July 2022.

<sup>14</sup> Mubiala, 2022, p. 3, see above note 1.

<sup>15</sup> Hubert Leclercq, "RDC: la vente aux enchères des blocs pétroliers et gaziers est un danger pour l'humanité", *Libre Afrique*, 27 July 2022.

<sup>16</sup> See Greenpeace Africa *et al.*, "Nous garderons nos forêts, vous gardez vos dollars!", September 2022.

<sup>17</sup> Mubiala, 2022, pp. 3–4, see above note 1.

<sup>18</sup> United Nations Commission on Human Rights, Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, UN Doc. E/CN.4/2005/102/Add.1, 8 February 2005 (<https://www.legal-tools.org/doc/639fa9/>).

Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law<sup>19</sup> ('Van Boven Principles').

Moreover, innovative mechanisms different from the classical courts have been experienced in this field. These include, *inter alia*, judicial mechanisms, such as *ad hoc* international criminal tribunals (Former Yugoslavia and Rwanda); hybrid courts (Sierra Leone); internationalized special courts (Central African Republic); extraordinary chambers in national judicial systems (Cambodia, Senegal); as well as non-judicial bodies (truth and reconciliation commissions and revived traditional justice mechanisms). A key distinguishing factor between such mechanisms and the classical adjudicatory model is that the former places victims at the centre of its operations.

The victim-centred approach of transitional justice is, in my view, an appropriate way to address serious human rights abuses caused by the alarming or aggravated forms of ecocide. It therefore provides a window of opportunity to deal with widespread and serious human rights abuses caused by mass deforestation. On the basis of the above, I would like to recommend to the newly appointed Special Rapporteur on the Protection and Promotion of Human Rights in the context of Climate Change, Ian Fry (Vanuatu), to examine the linkage between climate change and mass deforestation-related ecocide as a matter of priority in his agenda. I recommend that he work closely with the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence on a *set of guiding principles on the right to a remedy, reparation and restoration for victims of climate change-related ecocide*. As far as mass deforestation is concerned, these principles should apply to both *local* (communities and indigenous peoples) and *global* victims of mass deforestation (elsewhere on Earth, beyond the countries of its occurrence).

It is widely recognized that mass deforestation has a direct negative impact on the life of local communities and indigenous people living in or around rainforest areas. As mentioned in several reports, there is an immediate impact on the right to life of the latter. This explains the reference of the 2021 Glasgow Leaders' Pact to the right of the latter to be included in the design and implementation of rainforest conservation programmes. Pending the effective implementation of the Glasgow Pact, these communities continue to face serious violations of their rights, including their right to life, in a context of total impunity of those individuals and companies involved in mass deforestation activities. In addition to losing their habitat, they are physically threatened and sometimes killed. For example, in the rainforest area of the Amazon, killings of several local community leaders of indigenous people and of their local and foreign supporters were reported.<sup>20</sup> If such crimes could be addressed by criminal justice, the tragic killing of men, women and children through deforestation or related climate change could end or be reduced.

Moreover, beyond local communities and indigenous peoples, mankind as a whole has been negatively impacted by the climate change and mass deforestation nexus. This has enlarged the scale of the affected people, who have to be recognized as *global* victims. As the above-mentioned local victims, global victims are entitled to claim justice, reparation and restoration for the violation or abuse of their rights, including the right to life and/or to *survive*. The lack of international normative instruments punishing ecocide and the inability of existing international criminal justice to address its large-scale human rights abuses, as well as the urgency to address harms caused to local and global victims of its consequences justify developing a transitional climate justice machinery, inspired by the model of transitional justice

<sup>19</sup> United Nations General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN Doc. A/RES/60/147, 21 March 2006, Annex (<https://www.legal-tools.org/doc/bcf508/>).

<sup>20</sup> Vanessa Romo Espinoza and Gloria Alvitres, "Crime and no punishment: Impunity shrouds killings of Indigenous Amazonian defenders", *Mongabay*, 17 August 2022; Shanna Hanbury, "Murders of indigenous leaders in Brazilian Amazon hits highest level in two decades", *Mongabay*, 14 December 2019.

for past human rights violations or abuses and mass atrocity crimes.

## 5. Towards a Global Transitional Climate Justice

According to the UN, transitional justice includes "the full range of processes and mechanisms associated with a society's attempts to come with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation".<sup>21</sup> As far as alarming or aggravated forms of ecocide, including mass deforestation, are concerned, they deserve to be dealt with by a new form of transitional justice to close the prevailing accountability gap at national and global levels. This could be done with recourse to international human rights instruments, which guarantee a right to remedy for all victims of gross violations of human rights. In this regard, there is room for the establishment of both judicial and non-judicial mechanisms to address human rights abuses caused by those individuals and companies at the origins of mass deforestation and other aggravated forms of ecocide. The proposed judicial mechanisms could include special hybrid or national human rights courts, as well as *ad hoc* international criminal tribunals. In the last case, there is room for the UN Security Council to establish such tribunals with the objective to prosecute the planners and organizers of aggravated forms of ecocide, including mass deforestation. Regarding the applicable law, these tribunals would apply the relevant regional instruments (for example, the Malabo Protocol for a possible *ad hoc* tribunal for the Congo basin), as well as national ecocide laws, where they exist.

However, national, hybrid or international criminal prosecutions should be complemented by the establishment of 'truth, reparation and restoration commissions' ('TRRCs') in the concerned areas of the occurrence of these acts of ecocide, particularly mass deforestation. The proposed TRRCs should involve victims of this alarming form of ecocide, including local communities and indigenous peoples.<sup>22</sup> They should be empowered to proceed to hearings of the presumed authors of mass deforestation, particularly the leaders of transnational companies, relevant national and local authorities, victim associations, international governmental and NGOs, as well as climate change national and foreign experts. The proposed TRRCs should be entitled to allocate reparation, but most importantly, to adopt restorative measures (reforestation and agroforestry) to be implemented by those held accountable for acts of aggravated mass deforestation.

From the above analysis, academic and research fellows interested in ecocide should move from a *perpetrator-centric* to a *victim-centric* approach to address the large-scale human rights abuses caused by its alarming or aggravated forms. In this context, research on responses to mass deforestation-related ecocide as well as the proposed transitional climate justice should be considered as a matter of priority and urgency, through the realization of dedicated multidisciplinary studies.

For their part, the donor community, which has been so far involved in aid support to countries in rainforest areas,<sup>23</sup> should put pressure on the latter to adopt the above-mentioned measures and provide funding and technical assistance for their operation. However, such pressures should not override indigenous desires for reparation and restoration with interests of voter or shareholder appeasement. Such involvement, while useful in terms of achieving quick establishment and operation, ultimately impact the effectiveness of methodologies employed by, for instance, limiting truth-telling.<sup>24</sup> Attention should also be directed to-

<sup>21</sup> United Nations Secretary-General, "Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice", March 2010, p. 3.

<sup>22</sup> See Joshua Castellino, "Colonial Crime, Environmental Destruction and Indigenous Peoples: A Roadmap to Accountability and Protection", in Morten Bergsmo, Wolfgang Kaleck and Kyaw Yin Hlaing (eds.), *Colonial Wrongs and Access to International Law*, TOAEP, Brussels, 2020, pp. 577 ff. (<https://www.legal-tools.org/doc/2rkerx/>) (explaining, in great detail, the effect of environmental colonial crimes upon indigenous communities and the central role the latter must play in addressing such crimes).

<sup>23</sup> Mubiala, 2022, pp. 3–4, see above note 1.

<sup>24</sup> See Hugo van der Merwe and Annah Moyo, "Transitional Justice for

wards the manner in which active or passive sponsorship affect the identity and perception of transitional justice mechanisms.<sup>25</sup> Finally, the international community's leadership should include the adoption of the proposed transitional climate justice on the top of the global agenda for climate change mitigation and adaptation, both of which together form the adequate spectrum upon which climate restoration can be achieved.

As far as Africa is concerned, the issue of addressing climate change impacts through transitional justice was recently discussed at the sixth African Forum on Transitional Justice held in Lomé (Togo), from 7 to 9 September 2022, in which I participated by video-conference. Participants of the Lomé Forum focused their discussions on the application of transitional justice as a tool and lens for securing responses to climate change. Participants in the third training session of the African Youth for Transitional Justice, held in Malabo (Equatorial Guinea) on 2 and 3 November 2022, also discussed this issue, taking advantage of the *Supplementary Note to the African Union Transitional Justice Policy on Environment and Natural Resources in Transitional Justice Processes and Mechanisms*. This document, drafted under the leadership of Munini Mutuku, provides a set of principles promoting the integration or mainstreaming of environment and natural resource governance in transitional justice processes and mechanisms in Africa, including, *inter alia*, to (i) consider human victims of natural abuses and crimes as 'environmental victims'; (ii) prioritize the rehabilitation, restoration, remediation, and conservation of the environment and its natural resources within transitional justice; and (iii) take into account environment and natural resource atrocities that violate economic, social and cultural rights.<sup>26</sup> It is time, now, to commence serious discussions on demonstrating the practicalities of these principles and to convert transitional climate justice into reality.

## 6. Conclusion

The above analysis provides the grounds for three conclusions. First, the failure to criminalize ecocide at international level and the weakness of national ecocide laws have led to a global accountability gap for alarming and aggravated forms of ecocide, including mass deforestation. In the meantime, mass deforestation caused in the rainforest areas has continued to worsen climate change and to negatively impact human and peoples' rights worldwide. As far as local and global victims of this alarming form of ecocide are concerned, they have a right to remedy, reparation and restoration, in accordance with international human rights law. Contrary to the victims of large-scale past human rights abuses and mass atrocity crimes, which have been dealt with

by transitional justice mechanisms, harms caused by alarming or aggravated forms of ecocide, including mass deforestation, remain unaddressed. This paper, therefore, suggests to extend and adapt the application of transitional justice principles to the latter and to establish relevant transitional climate justice mechanisms for their enforcement.

Second, in addition to academic efforts to influence States to adopt an international instrument on ecocide or the inclusion of the latter in the existing legal instruments such the Rome Statute of the ICC, there is need to consider adopting transitional measures to address the lingering consequences of ecocide, in general, and of its alarming forms, in particular mass deforestation. Transitional justice processes and mechanisms to address ecocide could be based on the existing norms and principles of international human rights law. They are easier to put in place than the adoption, ratification and entry into force of classical treaties. In addition, they can become an accelerating factor for the adoption of the long-awaited treaty provisions on ecocide. That said, such transitional measures should be considered as supplementing the doctrinal efforts to fill the normative gap in the criminalization of ecocide.

Finally, third, academic and research fellows interested in ecocide should complement the perpetrator-centric approach by one which is victim-centric to address the large-scale human rights abuses caused by its alarming or aggravated forms. In this context, research on responses to mass deforestation-related ecocide as well as the proposed transitional climate justice should be considered as a matter of priority and urgency, through the realization of dedicated multidisciplinary studies.

The above advocacy can contribute to push forward the inclusion by the international community's leadership of an instrument criminalizing ecocide or to include it in the existing normative international framework, in particular the Rome Statute of the ICC.

*Mutoy Mubiala holds a Ph.D. in international relations (specializing in international law) from the Graduate Institute of International and Development Studies of the University of Geneva, in Switzerland. He is currently an Associate Professor of international law and human rights law at the University of Kinshasa (DRC). Prior to his current positions, he worked as a Human Rights Officer with the Office of the United Nations High Commissioner for Human Rights (OHCHR) from 1994 to 2019 and as a Research Associate for the UNEP/UNITAR Training Programme on International Environmental Law and Policy from 1993 to 1994. This brief draws on a paper prepared and submitted by the author for the 2022 Oslo Conference on International Environmental Law on 'The Transformative Power of the Law: Addressing Global Environmental Challenges' (3-6 October 2022).*

**ISBN:** 978-82-8348-217-1.

**PURL:** <https://www.toaep.org/pbs-pdf/139-mubiala/>.

**LTD-PURL:** <https://www.legal-tools.org/doc/pk01q2/>.

---

Colonial Era Abuses and Legacies: African versus European Policy Priorities", in Bergsmo, Kaleck and Hlaing, 2020, p. 49, see above note 22 (<https://www.legal-tools.org/doc/16d06r/>):

Where transitional justice was imposed by external actors, and funded almost exclusively by foreign donors, it often took on a minimalist form, a tick-box set of steps needed to be done to keep international donors and trading partners satisfied.

<sup>25</sup> See questions in this respect alluded to by Rohit Gupta, "Voicing and Addressing Colonial Grievances under International Law", Policy Brief Series No. 134 (2022), TOAEP, Brussels, 2022, p. 4 (<https://www.legal-tools.org/doc/5bhfr7/>).

<sup>26</sup> Munini Mutuku, "Supplementary Note to the African Union Transitional Justice Policy on Environment and Natural Resources in Transitional Justice Processes and Mechanisms", Bosch Alumni Network and Environmental Building, Nairobi, January 2022, p. 6.



**Torkel Opsahl Academic EPublisher (TOAEP)**

Via San Gallo 135r, 50129 Florence, Italy

URL: [www.toaep.org](http://www.toaep.org)

TOAEP reserves all rights to this publication. You may read, print or download the publication from [www.toaep.org](http://www.toaep.org) for personal use. You may not charge for its use by others, directly or indirectly. Please inquire ([info@toaep.org](mailto:info@toaep.org)) if in doubt. TOAEP's responsible Editor-in-Chief is Morten Bergsmo.

