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*Conference Theme: “Resilient Africa’s Roadmap for Sustainable Development: Addressing and Strengthening
Issues of Military, Security and Economic Stability”*

**THE BANALITY OF EVIL IN A WORLD WHERE MIGHT IS
RIGHT**

Justice as the Load-Bearing Foundation of Africa’s Military, Security and Economic Stability

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Abstract

The United States and Cameroon recently concluded economic discussions at a conference in Yaoundé. The US announced a US\$7 billion pipeline of trade and investment opportunities across several sectors in Cameroon: critical minerals, energy, infrastructure, technology, forestry, and logistics (US Embassy in Cameroon, August 28, 2026). Seven years earlier, in October 2019, the same government terminated Cameroon's designation under the African Growth and Opportunity Act, citing extrajudicial killings, arbitrary and unlawful detention, and torture by Cameroonian security forces (Message to the Congress, October 31, 2019, 165 Cong Rec H8709). In the intervening years, experts have said the frozen conflict and the conditions that led to the decision to cut aid and remove Cameroon from AGOA have not improved (Committee to Protect Journalists, June 30, 2025; Global Center for the Responsibility to Protect, March 2026). In December 2025, a leading opposition figure died in military custody (Human Rights Watch, December 3, 2025). Recent reports state that millions of people in the two affected Anglophone regions need humanitarian assistance (European Commission (DG ECHO), April 25, 2026). No senior civilian or military leader has been convicted of an atrocity crime. Cameroon remains outside AGOA (Ecofin Agency, August 31, 2026).

This paper addresses a question that extends beyond any single country or conflict: Can an infusion of capital produce durable military or economic stability in states where justice and accountability mechanisms are weak, state-captured, or absent? In the following non-exhaustive list of countries embroiled in conflict, briefly referenced as the Republic of Cameroon, the Sahel, Sudan, Libya, and The Gambia, this paper argues that the conventional development and trade sequences are inverted. Stability on the continent, as elsewhere, does not begin with economic stability; it is not the foundation of peace; rather, it is the apex of a structure whose base is credible and actionable justice. Actionable justice is seen as much as it is codified. In countries where that base of justice is absent, the author argues that any large infusion of foreign capital does not build up; rather, it extracts, with the benefits mainly flowing outward and, in some situations, purchasing silence often mistaken for peace.

The paper situates this argument within a decaying international world order, the new normal dubbed "Might is right": eleven International Criminal Court judges, prosecutors, and civil society organizations under debilitating United States sanctions (Executive Order 14203; OHCHR,

January 26, 2026); the review of the crime of aggression, an obvious mother of all crimes, deferred to 2029 (ICC-ASP/S-1/Res.1, July 9, 2025); a January 2026 United States withdrawal from sixty-six international organizations (Memorandum of January 7, 2026, 91 Fed Reg 2281); a smaller number of African states, particularly the Sahel states, with intentions to withdraw from the ICC (Human Rights Watch, July 2, 2026; Amnesty International, July 2026); armed drones killing civilians across six African conflicts (Drone Wars UK, 2025); children in Iran in the US/Israeli/Iran war with no meaningful remedy and no accountability (Washington Post/Associated Press, July 1, 2026; HRANA, 2026). This paper briefly touches on instruments for security and economic progress currently available, such as the African Union Transitional Justice Policy (African Union, February 12, 2019), the Malabo Protocol with zero ratifications (Georgetown Law Library, August 7, 2026), and the ECOWAS-backed Special Tribunal for The Gambia (International Commission of Jurists, December 17, 2024), instruments Africa already possesses but does not use. Finally, this paper lays out several open questions for the African Bar Association to adopt during its 2026 Sal, Carpo Verde Annual Conference as the Sal Declaration, in a world of transactional military, security, and economic bargains.

Keywords: Accountability mechanism; Africa, conflicts, CRSV, conflict-related sexual violence; frozen conflict; Aid; investment due diligence; Malabo Protocol; reparations; rule of law; global order; transitional justice; victim-centered justice.

I. Introduction: Two Announcements, One Country, Seven Years Apart

Following several petitions to the United States Congress and a military hearing on the situation in Cameroon, on October 31, 2019, the US cited persistent human rights violations by the Cameroonian armed forces: extrajudicial killings, arbitrary and unlawful detention, torture, and arbitrary arrests. The US reduced military assistance and subsequently removed Cameroon as a beneficiary of the African Growth and Opportunity Act (AGOA) (Message to the Congress, October 31, 2019, 165 Cong Rec H8709). That ruling would take effect on January 1, 2020. Cameroon has benefited from AGOA duty-free access to US markets. The determination was grounded in a statutory eligibility standard: AGOA conditions duty-free access on a beneficiary state establishing, or making continual progress toward establishing, the rule of law, political pluralism, due process, and equal protection under the law (African Growth and Opportunity Act,

19 USC § 2466a; Human Rights Watch, November 5, 2019). The 2019 sanctions were intended to impose durable consequences for impunity and atrocity crimes.

This past August, the same two countries, Cameroon and the United States government, met in Yaoundé for their first Bilateral Economic and Commercial Dialogue. At the conclusion, both announced approximately US\$7 billion, nearly 4 trillion CFA francs, in American investments and trade opportunities across the technology, critical minerals, infrastructure, energy, forestry, and logistics sectors. Despite the significant transformative potential of this bilateral engagement, press releases from both sides were silent on the 2019 determination, the underlying factors that led to its removal from AGOA, or any references to the country's current jurisprudence or the elimination of the offending conduct that produced those conditions.

The intervening years have seen little progress. In January 2023, journalist Martinez Zogo was abducted, tortured, and killed, and a handful of members of the external intelligence service were arrested and jailed in connection with his death (Committee to Protect Journalists, June 30, 2025; Amnesty International, AFR 01/1352/2020). Following the disputed October 2025 presidential election, in which 92-year-old President Paul Biya sought an 8th term and was declared the winner with 53.66 percent of the vote, security forces used lethal force against civilian protesters and made mass arrests (Human Rights Watch, November 12, 2025; International Crisis Group, October 29, 2025). Anicet Ekane, an opposition party leader, was detained on insurrection charges and later died in military custody at the State Defense Secretariat in Yaoundé in 2025. His lawyers claim he was denied adequate medical care (Human Rights Watch, December 3, 2025). The conflict, now widely described as a frozen war in the Northwest and Southwest regions, will soon enter its 10th year. Since the start of the crisis in 2016, more than half a million people have been displaced, over 76,000 have been driven across the border into Nigeria, and more than 1.5 million are in need of humanitarian assistance (Global Center for the Responsibility to Protect, March 2026; European Commission (DG ECHO), April 25, 2026). The crisis in Cameroon has been named the world's most neglected crisis (European Commission (DG ECHO), April 25, 2026, citing the Norwegian Refugee Council).

The situation in Cameroon is more of a case for this paper and a point of departure than an exception. The argument here is simple: atrocity is laced with impunity, sanctions, and non- to lax implementation, re-engagement that favors states' interests, transactions, and purely commercial

terms. The Jamal Khashoggi case: first, Saudi Arabia's denials; lack of accountability; suspension of fighter jet sales; subsequent re-engagement on purely commercial terms; and normalization of ties and military pacts (Office of the Director of National Intelligence, February 26, 2021). This pattern is repeated across the continent and elsewhere globally. It poses a question that the theme of this conference obliges us to confront directly:

Can peace, security, and economic development be achieved under conditions of frozen war and unreformed impunity? If billions of dollars flow into states with no legal framework, whose criminal law has not been amended, whose courts are not independent, cannot compel the security services, and where victims do not have a clear pathway to seek remedy for crimes, what exactly is being purchased?

Billion-dollar bilateral arrangements increasingly follow a flawed deployment sequence, one that is inverted. We are accustomed to being told that economic growth will, in time, produce the institutions that deliver justice. Evidence from the last decade points the other way. Economic stability sits at the apex of a structure, like Maslow's pyramid. Security serves as the scaffolding at the midpoint, mediating between the bottom and the top. Credible and actionable justice is the load-bearing foundation, the base upon which all else stands. This sequence comes to the continent from the top down, and it cannot hold. The capital infusion does not develop if, in its current transactional form, it mainly extracts resources and buys silence in its wake. That, and not the presence of villains, is the banality of evil in our moment: not monstrous intent, but the routine processing of atrocity into an agenda item that no working group is mandated to raise (Arendt, 1963).

II. The Standpoint of This Paper

I write as a human rights advocate and the founder of the Adhocracy Network for Justice & Peace, not as a legal practitioner. That is a limitation, and I state it plainly: what follows is not doctrinal analysis, and where questions of jurisdiction, admissibility, or standard of proof arise, I identify them and leave their resolution to the members of this Association who are qualified to undertake it. My standpoint is also a contribution. Advocacy organizations sit where the frameworks meet the people they were built for. They work to uphold a world order that has increasingly been eroded by brute force. Today, many human rights groups have been caught up in recent US sanctions

intended to silence them when the rules are enforced (Human Rights Watch, August 11, 2026). The capital investment announcement did not mention the following: a survivor who cannot obtain medical care because the clinic in his village was burned down, or a family that cannot file a wrongful death complaint because the complaint must be filed with the same entity that took possession of the body; the displaced trader whose loss appears in no reconstruction plan.

The African Bar Association describes itself as the foremost association of lawyers in Africa and a critical platform for the rule of law, good governance, participatory democracy, and human and peoples' rights. This paper takes that self-description seriously and asks what it requires of the Association in practice, not as an aspiration but as a work program with owners, deadlines, and a budget line.

III. The Inverted Pyramid: Why Justice Is Base

The pyramid under discussion has three tiers. At the base is justice. This means a functioning legal environment accessible to the powerful and the weak alike. A court system independent of the executive, insisting on due process and providing a path for anyone to remedy a wrong or cure an injury. The base has a legislature whose laws, once enacted, mean what they say on paper. In the middle tier of the pyramid is security, the scaffolding, that is, a state's legitimate force, constrained by its own duly enacted national laws, binding treaties, and universal conventions; the absence of terror at the hands of the state's own armed forces or armed groups; human safety that allows the woman in the hinterlands to access her farm and a child to go to school; and urban settlements free from large deployments of state armed forces. At the apex of the pyramid is economic growth and stability. Non-coercive foreign investment, jobs, infrastructure, enabling economic rules, and the ability to absorb and sustain growth.

None of the three tiers can be independent. A large amount of security, infrastructure, or otherwise is tantamount to repression. Repressive states produce a generalized sense of insecurity, and economies do not emerge where people fear repression or insecurity. Case in point, Cameroon experienced a cumulative GND drop of nearly 421.3 billion XAF at the height of the "Anglophone" crisis, with cash crop exports, including palm oil, bananas, and cocoa, falling significantly between 2017 and 2020, and public projects worth XAF 16.4 billion left unexecuted (Business in Cameroon, November 26, 2021). These numbers show that Anglophone regions, which account

for roughly a fifth of national output, were effectively removed from the national economy (World Bank, 2021).

The questions raised cannot be addressed at the level of any single tier described above: justice, security, or economic. The world has seen billions of dollars in military aid go to Ukraine and Israel. Yet, despite the doubling, perhaps tripling, of defense budgets, these countries are less secure. They are mired in years of deadly war. Countries have attracted record amounts of foreign direct assistance, grants, and economic aid packages, not including large amounts borrowed for development, and remain highly indebted, impoverished, and poorer relative to their resource potential. Aid comes in, but natural and human capital leave the economy. Leakage that impoverishes. Some sources have reported that as much as \$88.6 billion, 3.7% of the continent's GNP, leaves Africa in illicit financial flows (UNCTAD, 2020). A high-level panel chaired by Thabo Mbeki put the figure at no less than US\$50 billion annually, about 65 percent of which came from underreporting outputs (AU/UNECA High Level Panel, 2015). This phenomenon has been reported in some Central African states, making Africa a net creditor to the rest of the world (UNECA, cited in The Reporter, August 30 2025). The base of the pyramid is wobbly, the top unstable. Piling more at the top is not a sound strategy.

IV. Cameroon: Seven Billion Dollars and a Frozen War

A. The \$7 billion Opportunity?

The jump from US\$704.6 million in bilateral trade in 2025 to billions in the pipeline today represents more than a thousand percent increase (Ecofin Agency, August 31, 2026). The US\$7 billion figure reflects opportunities at various stages of development, not committed capital. The largest single item is a proposed hydropower scheme on the Sanaga River valued at around US\$3.5 billion, along with a proposed US\$2 billion airport project in Douala. A rutile project is at the exploration stage; a cobalt-nickel-manganese project at Nkamouna is under discussion, with an initial figure of approximately US\$85 million and no new mining permit yet secured (US Embassy in Cameroon, August 28, 2026; Ecofin Agency, August 31, 2026).

But the announcement's significance does not depend on the billions. The significance lies in re-establishing a relationship on purely commercial terms with a government they claim in their own 2019 assessment grossly violated human rights, and doing so without requiring, or apparently

requesting, any change in that conduct (Message to the Congress, October 31 2019, 165 Cong Rec H8709).

B. A frozen-war fallacy and the fallacy of silence as peace

There has been no foreseeable end to the conflict. The reduction in hostilities and skirmishes is being read as peace. Deadly attacks by both government forces and armed separatist groups have declined in recent years. Investors, diplomats, and the government increasingly interpret this relative quiet as ideal conditions to kick-start development. The oxygen in the diplomatic rooms at the UN and in the embattled ICC and ICJ has been sucked out by more immediate wars: Iran/US, Ukraine/Russia, Sudan, etc. Rather than reading this as an unresolved, frozen conflict, it is read as "move on." In May 2025, former South African President Thabo Mbeki disclosed that President Biya had rejected a mediation attempt by former African heads of state (Global Center for the Responsibility to Protect, March 2026). Similar mediation efforts by Switzerland and Canada have either been blocked or denied.

In March 2026, Cameroon's Supreme Court annulled the life sentences imposed on the Nera Ten, the Ambazonian leaders refoiled from Nigeria, including Sisiku Julius Ayuk Tabe. The Court ordered a retrial, nearly seven years after a military court sentenced them in the early morning hours without their lawyers present (US Department of State, 2019 Country Reports on Human Rights Practices: Cameroon; on the March 2026 annulment, [citation to be confirmed]). For nearly a decade, civilians have continued to be killed by both government forces and armed separatists; attacks on Mbororo herder communities in December 2025 and January 2026 killed at least 23 people, mostly women and children (Global Center for the Responsibility to Protect, March 2026). The UN Security Council has met on Cameroon once, in an informal Arria-formula session, in 2019 (Global Center for the Responsibility to Protect, March 2026).

In a frozen-conflict situation, capital will flow into sectors it can secure: a dam site, an airport perimeter, a mine with its own access road. That capital will not reach areas where small farmers live or where children attend school under life-threatening conditions, with little or no infrastructure. Where government forces can be deployed easily and swaths of land can be secured with confidence, development can proceed. That is not peace. The conflict remains unresolved. Such investments only confirm that development can occur amid unresolved conflict. The

beneficiaries, who are not the vast majority of the population, continue to enjoy selective justice, security, and economic opportunities.

C. Questions worth asking.

As a justice advocate, four questions determine whether a capital infusion into a conflict-affected state serves as a development vehicle or as the continuation of Africa's transaction model:

- Has the criminal law been amended? Has the state domesticated the international crimes of torture, enforced disappearance, crimes against humanity, and conflict-related sexual violence as distinct offenses, so its own courts can try them, and removed limitation periods and immunities that would bar prosecution?
- Can the courts be truly independent and reach the security services? Are deaths in custody independently investigated by a body outside the chain of command that holds the detainee? Are military courts trying civilians, and if so, under what safeguards?
- Does any part of the investment finance provide access to justice or reparations? Is there a line item, however small, set aside for legal aid, victim-centered or survivor services, documentation, or a reparations fund?
- State's transparency: Is the state's own revenue from the transaction traceable? Are the contracts, beneficial ownership, and payment flows published or otherwise accessible, so that the resource does not simply re-enter the illicit outflow described above or is held or controlled by an elite group close to power?

Based on the available information, the answer in the Cameroonian case is no to all four. Because Cameroon is not an exception, this paper invites the Association to test, publish, and repeat for every comparable transaction on the continent.

V. The Sahel: What a Top-down Bargain Costs

The US\$7 billion trade and investment pipeline of opportunities in Cameroon shows what re-engagement without accountability looks like; the Sahel states' usurpation of power and the nationalization of extractive industries show what happens when transactional security arrangements go awry.

Between 2020 and 2023, military governments took power in Mali, Burkina Faso, and Niger. In the wake of the takeovers, the respective states moved to expel foreign forces and their corporate

conglomerates from their soil. Many Global North states had been operating in the region for years to conduct regional counterterrorism operations. France withdrew from Mali, Burkina Faso, and Niger. The United States completed its withdrawal from Air Base 201 at Agadez, a drone facility built for roughly US\$100 million and operational since 2019, on August 5, 2024; German forces followed (United States Air Forces in Europe – Air Forces Africa, August 5, 2024; defenceWeb, August 6, 2024). During and after the withdrawal of foreign military presence in the Sahel, groups linked to al-Qaeda, the Islamic State, and Boko Haram remained active across the region (Foreign Policy Research Institute, April 11, 2024).

Since post-independence security and economic arrangements with the West, the engagement rules have remained the same: military training and funding in exchange for access to extractive industries. By some estimates, Niger accounts for roughly 7 percent of world uranium production (Foreign Policy Research Institute, April 11, 2024). A growing sentiment emerged that these security arrangements, fighting ISIS and Boko Haram, and mining contracts—were not separate. The countries remained poor and lacked electricity, while their partners saw cities lit by uranium-powered nuclear energy facilities. They blamed those partners for maintaining leaders who could not access a credible legal system to seek redress for harm caused by a counter-terrorism operation conducted by his own army or by a partner force.

Today, those same partnerships are offered to the ECOWAS states, Ghana, Benin, Ivory Coast, and Nigeria—with the soil of some of these countries serving as sites for drone technologies, surveillance, reconnaissance, and security in the Gulf of Guinea. With European or American forces gone, Russian state-linked forces have moved into the space they left (DefenceWeb, August 6, 2024). For the AfBA, the key question is whether this change in military and security transactional bargains that failed in the Sahel region, now being offered in the ECOWAS and elsewhere, works in a global climate of impunity that is best for Africa. Should the AfBA champion a different arrangement: transparency, due process, do no harm, and access to independent domestic courts? Absent the former, the cycle will repeat on the coast within a decade.

VI. The Shattering of Rules-Based Order

African advocates are often told that the answer to national impunity is the international system. That system has been shattered into a thousand pieces.

A. Sanctioning the judges

In the aftermath of the Ukraine/Russia and Gaza/Israel wars, the ICC issued arrest warrants for President Putin and Prime Minister Netanyahu. In February 2025, the US followed by imposing sanctions on International Criminal Court officials, claiming their actions targeted the United States and Israel (Executive Order 14203 of February 6, 2025). Since then, several independent judges, the UN Special Rapporteur, lawyers, and countless civil society organizations have called for withdrawal of the order, warning that the sanctions send a chilling message to victims and to those who represent them (OHCHR, January 26, 2026; Satterthwaite, 2025–2026). To date, the sanctions remain in place.

Human Rights Watch, along with several other civil society organizations, has filed suit in the US to challenge the US order, arguing that it prevents them from carrying out their work representing victims before the ICC. They also argue that it prevents collaboration with organizations that have also been sanctioned (Human Rights Watch, August 11, 2026; Reed, 2026). This is of professional interest to AfBA, particularly those involved in human rights and humanitarian work.

B. The crime of aggression, a work in progress deferred

On July 9, 2025, after a three-day special session at United Nations Headquarters convened under the mandate agreed at Kampala in 2010, the Assembly of States Parties (ASP) adopted, by consensus, a resolution reviewing the aggression amendments. The proposal by Costa Rica, Germany, Sierra Leone, Slovenia, and Vanuatu to harmonize the Court's jurisdiction over aggression with its jurisdiction over genocide, crimes against humanity, and war crimes was not adopted; rather, it was deferred to a further special session in 2029, with an intersessional meeting in 2027 (ICC-ASP/S-1/Res.1, July 9, 2025; International Criminal Court, July 9, 2025). At the conclusion of the session, it was noted that fewer than half of the States Parties have ratified the Kampala amendments and that no investigation into the crime of aggression has been conducted since jurisdiction was activated in July 2018 (ICC-ASP/S-1/Res.1, July 9, 2025; Bardelle, *Opinio Juris*, July 25, 2025).

This paper does not enter the substantive debate about the standard of proof, complementarity, or the Kampala compromise; those are questions for the international criminal lawyers at this conference. The writer's observation is political. Aggression is the one crime whose definition necessarily indicts the leadership of powerful states and does so beyond war. Leadership that

refuses to hand over power. Leaders who, despite large loans taken in their citizens' names, end up with private bank accounts offshore, while their people still subsist on less than \$2/day. It is also the one crime for which, eight years after activation, no investigation has been launched. The postponement to 2029 is not a scheduling matter. It is simply the delay of justice. It states which states can be reached and which cannot, and every

C. withdrawal as policy position

During Donald Trump's second presidency, several presidential memoranda have directed United States departments and agencies to withdraw from sixty-six international organizations, thirty-one United Nations entities, and thirty-five others deemed contrary to United States stated interests (Memorandum of January 7, 2026, 91 Fed. Reg. 2281).

The US has already withdrawn from the UN Human Rights Council (Executive Order 14199 of February 4, 2025). Together with the ICC sanctions, the postponement of core crimes under the Rome Statute, and the unilateral declaration of war, these patterns signal a wholesale obliteration of the global guarantees of the post-1945 architecture of collective peace and security, a promise that the stronger states would not be free to annihilate weaker ones.

The consequences for weaker states are clear; the protections established after Nuremberg were not designed for the strong. As the guarantors withdraw and the promises inherent in those protections are thwarted, what takes their place threatens not only weaker states. It threatens everyone, perhaps disproportionately. This is what is meant by a world in which might is right: a world where the powerful or the aggrieved violates the very laws it helped put in place.

D. Art of Trading Votes

It may be called diplomacy, but another system operates within the multilateral system that is not "might makes right." It is softer. States trade positions in the General Assembly and in specialized bodies for concessional finance, debt relief, diplomatic backing in their own regional disputes, or favored status in the competition for critical minerals. This is not new; in international relations, it's often believed there are no permanent friends, only interests, and African states are neither uniquely subject to it nor uniquely guilty of it. The UN is a diplomatic market. There are no reputational consequences for looking the other way when doing otherwise might jeopardize your interests if the tables are turned. The African Group's voting bloc is one of the few sources of

leverage the continent holds in these forums; piecemeal, it returns very little and forecloses collective bargaining on issues such as reparations, debt, militarization, the maritime economy, and more.

VIII. The Survivors and the Balance Sheet

A. Conflict-related sexual violence

The UN Secretary-General's 2026 report on conflict-related sexual violence (CRSV) stated that verified cases documented by the United Nations in 2025 more than doubled the 2024 record. The report noted that for every one verified case, ten others go unreported (UNSC, UN Doc S/2026/321, April 21, 2026; UNSC Press Release SC/16406, July 7, 2026).

In Sudan, the UN Human Rights Office reported more verified incidents from 2023 to mid-2026. Most verified incidents involved men in the armed forces, militias, and other armed actors (OHCHR, June 23, 2026; OHCHR and UN Support Mission in the Sudan, *Three Years Too Long*, 2026; UNSC, UN Doc S/2026/321, para 21).

Similar patterns have been documented in the Anglophone crisis regions in Cameroon: sexual and gender-based violence, targeted killings, and abductions. Many likely reporting entities, including health and education facilities, have been attacked and, in some cases, completely destroyed (European Commission (DG ECHO), April 25, 2026; Global Center for the Responsibility to Protect, March 2026).

The widely reported communique does not mention what survivors need most: health care when it is most needed, documentation, and reparations. None of these needs appeared in the billion-dollar announcement.

B. Justice for migrants: crimes in transit

Violence against migrants, asylum-seekers, and refugees has been described as systematic, exploitative, and prevalent in Libya. The UN Support Mission in Libya and the UN Human Rights Office reported several incidents of human trafficking, arbitrary detention, sale of persons, torture, and extortion from families during the period from January 2024 to December 2025 (OHCHR, February 17 2026; UN News, February 17 2026). Incidents of mass graves and forced deportation to desert borders have also been reported in both Libya and Tunisia, with the latter across the

Sahara (International Commission of Jurists, April 4 2025). A Human Rights Watch report found that more than 150 African migrants from at least sixteen nationalities, including ten West African states, were stranded in a militarized border zone, prompting the African Commission's Special Rapporteur to remind Tunisia of its obligations under the African Charter (African Commission on Human and Peoples' Rights, July 11 2023; Human Rights Watch, July 2023).

These are, overwhelmingly, African citizens harmed on African soil by actors operating under arrangements financed from outside the continent. They are nationals of ECOWAS and CEMAC states, as well as of the Horn. Their governments have standing to act on their behalf but have not. Their bar associations have standing to litigate but have not. The ECOWAS Community Court of Justice has jurisdiction over human rights violations against Community citizens and accepts individual applications without requiring exhaustion of local remedies — an unusual and underexploited feature. There is no doctrinal obstacle here. There is an organizational one.

C. The missing line item

Return, then, to the question this paper posed in its introduction. Amid bilateral agreements, economic partnerships, and billion-dollar investment schemes, does any portion of the money address the justice deficit that the same schemes rely on remaining unaddressed?

The answer is no. No reparations design, legal-aid facility, or survivor fund is mentioned. No mechanism, independent or otherwise, addresses the harms done to civilians connected to the security relationships described above and likely occurring bilaterally elsewhere on the continent. The justice cost is entirely externalized onto humanitarian appeals, which are themselves collapsing: Cameroon's 2025 humanitarian response was funded at 17 percent of assessed need for 3.3 million people requiring assistance (International Organization for Migration, Cameroon Crisis Response Plan 2025–2026). We are, in other words, financing the extraction and asking donors to finance the consequences, but the donors have stopped.

Even perceptions of injustice can simmer, metastasize, and eventually destabilize fragile economies. Grievance suppresses the informal cross-border trade that constitutes most African economic activity. Discontent raises the security tax on every contract or transaction. As thousands risk the scorching heat of the Sahara or the Darién Gap, it drives skilled young people abroad,

worse, into insurgency. States with a justice deficit are not a moral nicety for any grand investment opportunity. It is a missing line item. Unbudgeted, and the risks increase.

IX. What Africa Already Has and Does Not Use

Africa already has a legal architecture that is up to par with most of the areas of challenge described in this paper. It is unratified, unfunded, and worse, unused.

A. The African Union Transitional Justice Policy

The African Union adopted the African Union Transitional Justice Policy (AUTJP) in 2019, after nearly a decade of drafting. The AUTJP is a continental guideline for Member States to develop context-specific policies on justice, reconciliation, reparation, and non-recurrence, anchored in Article 4(o) of the Constitutive Act and its repudiation of impunity (African Union, February 12, 2019; African Union, Transitional Justice Policy, 2019). Seven years later, its principal weakness is that it is a policy addressed to States, and the States with the greatest need for it are the least likely to invoke it. It has no independent trigger and no civil-society entry point.

B. The Malabo Protocol: Fifteen ratifications required, zero budget

Earlier, the AU Assembly adopted the Protocol on the Statute of the African Court of Justice and Human Rights on June 27, 2014. If it entered into force, it would create the first regional court in the world with jurisdiction over fourteen international and transnational crimes, including unconstitutional change of government, mercenaryism, corruption, money laundering, trafficking in persons and drugs, and illicit exploitation of natural resources, and, uniquely, criminal jurisdiction over corporations (Malabo Protocol, art. 28A; Jalloh, Clarke and Nmehielle, 2019).

As of 2026, no State has ratified it (Georgetown Law Library, August 7, 2026). The reasons are known, and some are serious. The most prominent is Article 46A bis, which grants immunity from prosecution to serving Heads of State and Government and an undefined class of senior officials; Amnesty International and others have consistently opposed this provision (Amnesty International, AFR 01/3063/2016). The second obstacle is lamentable; the AU has never allocated a budget line for the Court's criminal chamber.

C. The Gambia: proof that the hybrid model is available

The Gambia demonstrates what is possible at the regional level. Following the report of the Truth, Reconciliation and Reparations Commission, The Gambia shows that accountability can be achieved at the local level. 392 witnesses gave testimony over more than 870 days, and the Commission recommended prosecuting Yahya Jammeh and 68 others. The Gambian National Assembly passed a special accountability mechanism in April 2024. On December 15, 2024, the Authority of ECOWAS Heads of State and Government approved the Statute of a Special Tribunal for The Gambia, a hybrid court with Gambian and international character, capable of trying international crimes and with jurisdiction over crimes against humanity, torture, extrajudicial killings, and enforced disappearances (Statute of the Special Tribunal for The Gambia, December 15, 2024; International Commission of Jurists, December 17, 2024; OHCHR, January 10, 2025).

A Special Prosecutor was appointed in April 2026 (Africanews, April 9 2026).

C. The missing line item

Return, then, to the question this paper posed in its introduction. Amid bilateral agreements, economic partnerships, and billion-dollar investment arrangements, does any portion of the money address the justice deficit that the same schemes rely on remaining unaddressed?

The answer is no. No reparations, legal-aid facilities, victim/survivor funds, or funding for an independent civilian-harm investigation mechanism are attached to any of the security relationships described above. Justice delivered at scale appears largely relegated to humanitarian appeals and watchdog organizations, which are themselves strained by sanctions, reduced funding, or collapse at the country level (Human Rights Watch, August 11, 2026). Cameroon's 2025 humanitarian response was funded at 17 percent of assessed need for 3.3 million people requiring assistance (International Organization for Migration, Cameroon Crisis Response Plan 2025–2026). We are, in other words, financing extraction and asking donors to finance the consequences, and donors have since stopped, in some cases wholesale.

F. A note on the venue

Dubbed the darling of the last Soccer World Cup, having played on par with the defending world champions, Argentina, and losing in a 2-1 final, Cabo Verde is not an accidental choice for AfBA's 2026 conference (FIFA, Argentina v Cabo Verde, Round of 32, July 3 2026). The host state ranks third among fifty-four in the Ibrahim Index of African Governance, is rated Free with a score of

92 out of 100 by Freedom House, and is the only African country to have graduated from the United Nations least-developed country category in the modern era (Mo Ibrahim Foundation, 2024; Freedom House, 2024; African Development Bank, 2025). It has no significant mineral endowment and no armed conflict. Its economy rests on tourism, remittances, services, and institutional credibility. It is the clearest example that resource wealth and deleterious security arrangements or guarantees are not the route to stability, and a demonstration of what the base of the pyramid produces when it is built first. Cabo Verde is what a small African state looks like when justice is not deferred until the money arrives.

VII. Call to Action: A Roadmap for the African Bar Association

The Association has previously passed resolutions. This paper instead proposes a program with owners, sequence, and cost, and invites the 2026 Annual Conference to adopt it as the Sal Declaration on Justice, Security and Investment in Africa.

The following recommendations are offered. They are ordered so that the first three can begin before delegates leave Cabo Verde.

1. Establish a Standing Commission on Justice, Security and Investment. A permanent AfBA organ that meets quarterly rather than annually, maintains a rolling docket of country situations, and convenes thematic roundtables between conferences. The Association's current model, an annual gathering of a thousand lawyers followed by eleven months of silence (at least from the outside world), is structurally incapable of responding to events that unfold monthly.
2. Adopt an Accountability Due Diligence Standard for major foreign investment in conflict-affected African states. A published legal checklist, applied by the Association to every bilateral economic dialogue on the continent, should ask the four diagnostic questions set out in Part IV.C (The diagnostic questions): has the criminal law been domesticated; can courts reach the security services; does any part of the transaction finance access to justice or reparation; and are contracts, beneficial ownership, and payment flows published? The Association should publish a country assessment before each announced dialogue and a follow-up assessment twelve months later. The output is a document, not a demand, and its power lies in its regularity.

3. Consider building an AfBA documentation and investigation capability, with evidence collected to meet admissibility standards: chain of custody, witness protection, forensic and open-source verification, and secure archiving, in case a forum exists that needs it. Build this capability in partnership with national bars and survivor-led organizations, and default to a victim orientation rather than submitting to or deferring to sovereignty. Where states will not investigate, the profession should preserve the record to ensure that, even when justice is delayed, it may still be delivered.
4. Adopt a continent-wide protocol on conflict-related sexual violence. CRSV should be defined at the domestic level as a distinct offense, with evidentiary rules that do not require corroboration or a medical certificate obtainable only in a functioning clinic; the removal of limitation periods; guarantees of in camera proceedings modeled on those used in the Central African Republic's appellate sessions; and an administrative reparations pathway that does not await conviction (UNSC, UN Doc S/2026/321, April 21, 2026). Survivors in Sudan, the Kivus, the Anglophone regions, and Tigray require resources for recovery now, not a judgment in a decade.
5. Open a legal aid corridor for African migrants in transit states. Establish a standing panel of counsel, coordinated across national bars, to litigate collective expulsions, arbitrary detention, and trafficking before the ECOWAS Community Court of Justice, the African Commission, and the African Court, and to pursue states of origin to exercise diplomatic protection for their nationals. The ECOWAS Court's acceptance of individual applications without exhausting domestic remedies makes this immediately actionable.
6. Draft model civilian-harm accountability clauses for security cooperation agreements. As Western basing and training relationships shift to coastal West Africa and the Gulf of Guinea, the Association should publish model status-of-forces provisions that require the investigation of civilian harm, a transparent ex gratia claims procedure, disclosure of strike records to a competent domestic authority, and the non-exclusion of local remedies. Offer these to Ghana, Côte d'Ivoire, Benin, Nigeria, and Senegal now, while the agreements are being negotiated, rather than litigating their absence in 2035.
7. Adopt a professional solidarity protocol to counter coercion of lawyers and judges. The sanctioning of eleven ICC judges and prosecutors, as well as counsel and organizations working with the Court, establishes a template (Executive Order 14203; OHCHR, January 26, 2026). The Association should adopt a standing position on the designation of legal professionals performing their professional functions; establish practical contingency

arrangements for affected members, including banking, communications, and secure practice; and coordinate with the International Bar Association, the Pan African Lawyers Union, and national bars to develop a common position. This is not a foreign policy question. It is a question about the conditions under which our members may practice.

8. Take a single, defensible position on double standards and apply it to ourselves. The Association cannot credibly demand consistency from others while staying silent about Africa's frozen conflicts. If we cite the absence of accountability for Gaza, we must cite it equally for Sudan, the Anglophone regions, Tigray, and the states in this room. A standard applied selectively is not a standard; it is a negotiating position, and the world we have described will treat it as such.

VII. On definition

Who is a terrorist? This question can be resolved, and this conference is the right place to start. First, how does the Association define a terrorist, given that the designation now routinely determines who may receive humanitarian assistance, who may be tried in a military court, and whose death requires no investigation? Second, what does the Association mean by victim orientation when the victim and the perpetrator are members of the same community? When can states be both a party and an arbiter? These are not academic considerations. They determine whether the recommendations above carry gravitas.

IX. Conclusion

The rules-based order is not broken in the sense that its texts have been repealed or replaced. The Geneva Conventions remain in force. The African Charter remains in force. The Rome Statute remains in force and has 125 States Parties (Rome Statute of the International Criminal Court, 1998; Africanews, July 3, 2026). The legal framework that holds our collective humanity intact has been broken by the might-is-right doctrine; the expectation that any party strong enough to object, to fight, to destabilize can rule the day has been broken, as has the expectation that no text exists to stop them if they choose.

For Africa, this creates a specific and dangerous moment. Africa comprises 54 'smaller' countries, some acting forcefully as regional blocs, others not so much. Capital flows to the continent on lopsided, transactional terms into states with repressive regimes, some of which violate the rules, whose justice institutions do not deliver justice for all, and which today receive development

packages without ever answering for violations. Nothing in that sequence produces judicial or economic stability. Enclaves inside such states would eventually benefit, but the resources will leave even faster, populations will not benefit, and the grievance that sparks conflict will soon return. The same global actors will express surprise.

The banality of evil lies in the rinse-and-repeat cycles that treat funding for economic stability as unrelated to the man who died in custody without due process, or to reparations for the survivor of state violence (Arendt, 1963).

The law cannot be late. The reasons offered—mistaking silence for peace, insufficient ratifications, insufficient funding, lack of political will, and an unfavorable international climate—are forms of delay. These excuses are well within the reach of the AfBa's thousand lawyers. The Malabo Protocol needs fifteen signatures (Georgetown Law Library, August 7, 2026). The Gambian tribunal needs a budget (JusticeInfo.net, March 25, 2025). The migrant in the Libyan warehouse needs counsel before a Court that already exists (OHCHR, February 17, 2026). The survivor in Bamenda needs a documented file on when their villages were burned out (World Bank, 2021).

None of this requires the permission of a great power. This paper argues that Africa's resilience has existed for millennia, offered in hope rather than as an indictment. Africa's resilience wanes in decisions, instruments, forums, professional obligations, and failures to use them.

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