Introduction

1. The General Assembly and the Security Council made clear, through their twin resolutions 70/262 (2016) and 2282 (2016), that sustaining peace before, during and after conflicts is of crucial importance for the United Nations system going forward. The Secretary-General, through his Prevention agenda and the Action for Peacekeeping (A4P) initiative, has reiterated this message and called for strengthening the impact of peacekeeping operations on sustaining peace. This paper will address how nationally-led criminal accountability mechanisms, as supported by OROLSI and its partners, can support efforts to sustain peace and prevent conflict, both in post-conflict and pre-conflict settings.¹

2. United Nations support to criminal accountability mechanisms directly advances the broader peacebuilding and sustaining peace agenda and activities of the Peacebuilding Commission (PBC) and the Peacebuilding Support Office (PBSO), specifically in the critical area of rule of law. The accountability efforts of United Nations peacekeeping operations and special political missions form part of the Secretary-General’s broader sustaining peace initiative, within the context of PBC and PBSO rule of law initiatives worldwide.

3. Addressing serious crimes that fuel conflict has proven to be an effective prevention tool by combatting impunity, weakening criminal networks, holding security forces accountable and deterring the reoccurrence of violence. In the context of transitional justice processes, accountability initiatives enable national authorities to negotiate more comprehensive and victim-centred political agreements as well as advance lasting political solutions, key priorities of the A4P agenda. The 2019 Secretary-General’s report on Strengthening and Coordinating United Nations Rule of Law Activities (A/74/139), recognizes that criminal accountability and other transitional justice processes are critical in addressing deficits in justice and the rule of law in the aftermath of serious or massive human rights violations.

4. In recent years, the United Nations Security Council has increasingly mandated peace operations to assist host authorities in developing national capacities to investigate and prosecute international and other serious crimes, including conflict-related sexual violence, crimes against peacekeepers, and other crimes that fuel conflict, such as transnational organized crime. Currently, five United Nations peace operations, in cooperation with partners, are mandated to support national accountability processes for serious crimes, including in the Democratic Republic of the Congo, the Central African Republic, Mali, Darfur and South Sudan.²

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¹ UNDP, OHCHR and UNODC provided comments on the first draft of this article; we thank them for their helpful insights and suggestions.
² The term ‘pre-conflict’ in this paper is meant to denote settings in which it seems plausible that widespread violence or social disintegration may occur in the foreseeable future.
³ Other Security Council mandated initiatives related to criminal accountability that can be mentioned are the United Nations Investigative Team for Accountability of Da’esh (UNITAD) and the United Nations Team of Experts
5. In Security Council resolution 2447 (2018), the Council recognizes that United Nations police, justice and corrections components can contribute to building and sustaining peace by supporting host-State police, justice and corrections institutions, and underscores the importance of integrating United Nations support to police, justice and corrections areas into the mandates of peacekeeping operations and special political missions to address the root causes of conflict, including through strengthening the rule of law at national and international levels. The same resolution stressed “the need for host countries to promote accountability for crimes within their domestic justice systems, [...] and encourages host countries to exercise their jurisdiction in addressing impunity through strengthening their police, justice and corrections institutions”. It further stressed “the importance of United Nations support to strengthen police, justice and corrections institutions, including to provide, as appropriate, a recourse to victims through redress for past violations and abuses.”

6. Office of Rule of Law and Security Institutions (OROLSI) components have consistently supported and strengthened prevention efforts in the countries in which it is active. OROLSI has therefore welcomed the new peacebuilding and A4P agendas, with their focus on prevention. A significant part of OROLSI’s prevention efforts has been in the form of support provided to nationally-led criminal accountability mechanisms. This paper will outline how United Nations support to these national accountability mechanisms significantly contributes to the Secretary-General’s prevention agenda; in this context, the paper will discuss initiatives designed to address serious (international) crimes that have been committed in the past and current support to mechanisms aimed at addressing potentially destabilizing crimes that may be committed in the future.4

7. It should be noted at the outset that OROLSI acts in close collaboration with numerous United Nations and non-United Nations partners in the area of criminal accountability. The Office of the High Commissioner of Human Rights (OHCHR), the United Nations Development Programme (UNDP), the United Nations Office on Drugs and Crime, the International Criminal Court (ICC) and other organizations all contribute in important ways towards the design, development and implementation of key programmes in the area of criminal accountability, both in the context of peace operations and special political missions as well as through regular United Nations country team activities. Much of this work is done through the framework of the Global Focal Point on Rule of Law (discussed below). While the main focus of this paper is on accountability work performed by OROLSI components in peace operations (including Special Political Missions), it is clear that this work can only be successful to the extent it relies on strong partnerships with these other United Nations entities, and is embedded within a coordinated and comprehensive approach towards (transitional) justice.

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*on Rule of Law and Sexual Violence in Conflict; other United Nations-mandated bodies that must be mentioned are the Independent Investigative Mechanism for Myanmar (IIMM) and the International Independent and Impartial Mechanism for Syria (IIIM).*

4 As will be explained later, from a prevention perspective it is important to not only focus on serious crimes committed in the past in the context of a conflict, but rather to also look at other crimes that may have a destabilizing (or ‘conflict-fuelling’) effect on society. These may or may not be ‘serious’ (international) crimes. For example, cattle theft will not amount to an international crime in and of itself but may have clear conflict-fuelling effects. The latter category of crimes is usually addressed by regular domestic courts and prosecution services. OROLSI and its partners provide support to both regular domestic justice institutions and more specialized initiatives, as outlined below.
Criminal Accountability and Prevention

8. It is widely accepted that ‘prevention of conflict’ is a highly complex concept. Violent conflict is caused by an array of underlying causes such as political exclusion, economic inequalities, religious tensions, natural disasters and human rights violations, in addition to regional and global power dynamics. Not one type of intervention will suffice to tackle these causes, rather, a broad variety of intervention measures will be needed to address these sources of conflict and prevent violence moving forward. Possible effective interventions may be political, economic, rule of law, human rights, scientific/technological or security sector based. There is not one model that works for each setting, and these work streams often overlap or are interlinked; for each situation an optimal mix of interventions will accordingly need to be designed. Past experience as well as research has shown, however, that rule of law interventions, and specifically interventions to strengthen criminal accountability, are an effective way to address and resolve certain conflict drivers.

9. The peace dividends of strengthened or new criminal accountability mechanisms are manifold. Enhanced criminal accountability can contribute to societal healing by effectively prosecuting and punishing past crimes and providing some measure of justice to victims; it can promote the prevention of future crimes through deterrence; it can ‘take out’ powerful active spoilers and thereby contribute to conflict prevention in a very direct way; it can re-establish societal norms by prosecuting wrongs committed and punishing perpetrators; and it can give victims a voice and bring them closure for past wrongs, thus strengthening the social fabric.

10. In addition, effective prosecutions of crimes can restore confidence in the state and re-affirm the social contract, resulting in increased (and more legitimate) state authority. Capacity building performed in the area of criminal accountability can result in stronger and more accountable state institutions, thus leading to a further strengthening of state authority, especially when combined with technical, logistical and strategic support to institutions in remote areas; and judicial

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5 See for a brief discussion of this topic: The Prevention Agenda: Mapping out Member States’ Concerns, Center on International Cooperation (2019)
7 Pathways for Peace (2018), p. 169
8 Impunity for crimes committed in the past is widely recognized as a powerful conflict driver. The Framework of Analysis for Atrocity Crimes of the Office of the Special Adviser on Genocide (2014) identifies a “[h]istory of atrocity crimes committed with impunity against protected groups” as a relevant circumstance when assessing the risk of atrocity crimes in a society. (The weakness of state structures, particularly of judicial, law enforcement and human rights institutions, is recognized as another risk factor.)
9 It is important to note that ‘strengthening of state authority’ here should be understood in a normative way in the sense that the state should also serve and protect the most marginalized populations, and not just the political elites that may rely on state institutions to protect their own interests. State authority needs to be legitimate and state institutions need to be accountable to their population.
10 The United Nations through its peace operations and special political missions has directly supported the establishment or renovation of judicial and corrections institutions in remote locations (or the deployment of mobile courts) in numerous countries, including in Mali, Central African Republic, Democratic Republic of the Congo, South Sudan, and Sudan.
systems thus strengthened\textsuperscript{11} can henceforth deliver broader ‘non-criminal’ justice as well, such as in the areas of property, land and other social, economic and cultural rights.\textsuperscript{12} In short, support to criminal accountability mechanisms can be a powerful prevention tool, and in numerous ways contributes directly to the protection of civilians and the extension of state authority. Importantly, this is true both in post-conflict as well as pre-conflict settings.\textsuperscript{13}

11. It is moreover important to note that while there is a ‘common sense’ expectation that criminal accountability can promote conflict prevention, empirical evidence for the effectiveness of criminal accountability mechanisms towards conflict prevention exists. The recent UN-World Bank Study Pathways for Peace quotes research stating that, “implementing domestic criminal prosecutions for past human rights violations has a significant relationship with nonrecurrence of intra-state conflict.”\textsuperscript{14} The same research also found “that the rate of recurrence decreases by approximately 70 percent when trials are pursued of middle- and low-level actors.”\textsuperscript{15} Most of the accountability work conducted by the United Nations in peacekeeping operations and Special Political Missions contributes to precisely these areas of intervention.\textsuperscript{16}

Five United Nations peace operations are mandated to provide support to national accountability mechanisms. Highlights of the work conducted by these missions include the following initiatives. MONUSCO provides support to the Prosecution Support Cells (PSC), a United Nations-supported mechanism for criminal accountability in the DRC. Since 2011, this initiative primarily supports military justice authorities in the investigation and prosecution of crimes against humanity and

\textsuperscript{11} “Strengthened” in this context refers to improved quality in rendering justice for the population and enhanced infrastructural conditions but also to improved systemic guarantees relating to judicial independence, separation of powers, etc.

\textsuperscript{12} An interesting example of direct support to national institutions that work on the dividing line between criminal and civil judicial work is the support provided by UNAMID to the rural courts in Darfur. These courts, which constitute the first and often the only justice institution available in many remote localities, play a pivotal role in mitigating and resolving internal communal conflicts, including those related to land. UNAMID has been instrumental in enhancing the capacity of rural courts to peacefully manage land disputes and other conflict drivers in priority IDP and voluntary return areas of Darfur. Some 100 rural courts are currently functioning throughout Darfur, adjudicating more than 2000 cases.

\textsuperscript{13} Properly functioning criminal accountability mechanisms can effectively address conflict drivers before violence erupts while strengthening the capacity and legitimacy of the state.

\textsuperscript{14} Pathways for Peace (2018), p. 169: “The Transitional Justice Research Collaborative examines the relationships between five variables—trials, truth commissions, amnesties, reparations, and vetting—that have been implemented following 119 transitions from authoritarian rule or civil war in 86 countries since 1970 (Payne et al. 2017). It finds that implementing domestic criminal prosecutions for past human rights violations has a significant relationship with nonrecurrence of intrastate conflict.”

\textsuperscript{15} \emph{Ibid.}

\textsuperscript{16} In peacekeeping settings, the United Nations mostly provides support to national accountability mechanisms that, in practice, focus on the prosecution of lower to mid-level perpetrators. (It should be noted that there is no principled reason why peacekeeping and special political missions would not also support the prosecution of high-level perpetrators in the countries in which they are active, and indeed the mandates of several of the accountability institutions they support would allow for this. For example, in several of the countries where the United Nations supports national accountability efforts, the International Criminal Court (ICC) is likewise conducting investigations (or has in the past) such as in: the DRC, CAR, Darfur and Mali. An argument could be made that the ICC, for now, is better equipped to go after the ‘big fish’ in these settings, leaving the mid- and lower-level perpetrators to the national justice systems (which -in the countries were peace operations are active- are usually weak, as well as technically and politically not always capable of pursuing politically powerful suspects).
war crimes.\textsuperscript{17} MINUSCA provides support to the Special Criminal Court, a hybrid court mandated to prosecute international crimes and serious human rights violations committed in CAR since 2003 (operational since October 2018 and currently conducting 10 complex investigations). UNMISS provides support to the national system of mobile courts, \textit{inter alia} regarding the investigation and prosecution of sexual and gender-based violence as well as other serious violations.\textsuperscript{18} MINUSMA supports the Pôle Judiciaire Spécialisé en matière de lutte contre le terrorisme et la criminalité transnationale organisée (PJS), established in 2015 and operational since 2017, with its Brigade d’investigations spécialisées (BIS) that are mandated to investigate and prosecute crimes related to terrorism and transnational organized crime as well as, since July 2019, international crimes.\textsuperscript{19} Finally UNAMID, in the absence of political commitment for the operationalization of the Special Court for Darfur Crimes, has been providing support to the Office of the Special Prosecutor (OSP), that established itself as a mechanism in the fight against impunity through the regular court system.\textsuperscript{20} Note: in addition to the support to these ‘specialized’ and tailored mechanisms, the United Nations provides important support to the regular court system in these countries as well, which will be discussed below.\textsuperscript{21}

\textbf{Political support to Rule of Law and Criminal Accountability initiatives}

12. In light of the ‘primacy of politics’ approach to conflict prevention, it should be noted that any international support in the rule of law sphere, and especially criminal accountability work, is strongly political at its core, in the sense that it inevitably touches upon political interests of a broad number of stakeholders. Rule of Law development work requires high-level engagement and buy-in by domestic political actors and invariably touches upon delicate questions of distribution of power and resources, minority rights, state corruption, broader functioning of the state apparatus, including possibly criminal actions

\textsuperscript{17} Close to 800 case files have been processed involving more than 1320 accused person, resulting in the conviction of over 1,090 perpetrators, including senior-level officers for crimes against humanity and war crimes (including sexual violence). The programme incorporates support to the Congolese authorities for community-level investigations, mobile hearings and trials conducted in remote and insecure areas where atrocities have been committed and where courts barely function or exist. The work has strengthened accountability for the army, police and armed groups.

\textsuperscript{18} 157 individuals suspected of serious violations committed within UNMISS Protection of Civilians (PoC) sites have been handed over to national authorities, resulting in 54 convictions and 39 acquittals (the remainder of the cases is still under investigation). The initiative was welcomed by the Security Council in March 2019, and in September 2019 it was expanded to include cases committed outside PoC sites (until now relating to 164 individuals, with 82 convictions and 69 acquittals). The mobile courts supported by UNMISS and other United Nations partners marked the return of national justice authorities in Bentiu, Malakal and other conflict-affected areas.

\textsuperscript{19} As of December 2019, 60 individuals charged for terrorism-related crimes have been brought to trial, leading to 51 convictions. The PJS saw its jurisdiction extended in July 2019 to crimes against humanity, war crimes and crime of genocide. More attention is also being given to cases of conflict related sexual violence, including through the sensitization of magistrates.

\textsuperscript{20} Although the role of the Special Prosecutor may need to be clarified in the context of ongoing peace negotiations and the political transition in Sudan, the Special Prosecutor has shown an increased willingness and ability to prosecute some types of serious crimes, including armed men in uniform and intercommunal violence. The Office of the Special Prosecutor (OSP) has tripled its capacity to 16 prosecutors, resulting in an increased number of prosecutions that have led to several convictions including for rape, inter-communal violence and for crimes committed against peacekeepers.

\textsuperscript{21} For more information regarding OROLSI support to criminal accountability mechanisms, see https://peacekeeping.un.org/en/office-of-rule-of-law-and-security-institutions
by state actors, constitutional considerations, historical instances of exclusion and discrimination, and (increasingly) cross-border and regional phenomena such as immigration, human trafficking, refugees, terrorist and organized crime groups as well as instances of transhumance. In a post-conflict setting, this type of work will often be even more politicized, as criminal accountability work in such a setting is bound to touch upon questions of guilt, punishment and reparations for conflict-related crimes. As a result, effective support in the criminal accountability sphere requires sustained political engagement at the highest levels, relying on skilled and experienced United Nations actors and using the Good Offices of the Secretary-General whenever possible.22

A good example of such political engagement can be found in the case of the Special Criminal Court (SCC) in the Central African Republic. This hybrid Court, mandated to prosecute international crimes and serious human rights violations committed in the Central African Republic since 2003, was established in 2015 after high-level discussions between the United Nations and the interim-government of President Samba Panza. Currently, it still relies on significant support from within the national political system, including by the President of the Republic. The Minister of Justice and the MINUSCA Deputy Representative of the Secretary-General jointly chair the steering committee of the United Nations project in support of the SCC.

**Peace v. Justice: The importance of nationally-driven and tailored criminal accountability initiatives**

13. While the potential peace dividends of criminal accountability measures, as described above, seem straightforward, there is a longstanding debate as to the benefits and risks of criminal accountability mechanisms in post-conflict settings, usually labelled the Peace vs. Justice debate. Defenders of the ‘peace’ school of thought argue that overwhelming and aggressive accountability mechanisms for crimes committed during conflict will impede peace negotiations, as leaders of the warring factions will fear being prosecuted by such mechanisms and thus be reluctant to come to the negotiating table; justice (i.e. accountability) will therefore impede peace. Supporters of the ‘justice’ school of thought claim that there can be no peace without a proper reckoning with past atrocities; victims expect and need some form of accountability for past crimes to find closure and move on, and actual or perceived impunity for past atrocities is often cited as a potent conflict driver for future conflict. In other words, in this view, peace without justice (accountability) is not possible.23

14. However, there is a growing recognition that the classic dichotomy of ‘Peace vs. Justice’ is too simplistic and that, in fact, well-tailored and nationally-owned criminal accountability initiatives can contribute to effective peace-making and peacebuilding efforts.24 In many if not most settings,

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22 In peacekeeping settings and Special Political Missions, this political engagement is facilitated by clear Security Council mandates in the area of rule of law.

23 See for an introduction to this debate: ‘Rethinking Peace and Justice,’ Institute for Integrated Transitions

24 Ibid. See also the SG Guidance Note on the UN Approach to Transitional Justice (2010, currently under revision): “In line with the Charter, the UN supports accountability, justice and reconciliation at all times. Peace and justice should be promoted as mutually reinforcing imperatives and the perception that they are at odds should be countered. The question for the UN is never whether to pursue accountability and justice, but rather when and how. The nature and timing of such measures should be framed first of all in the context of international legal obligations and taking due account of the national context and the views of the national stakeholders, particularly victims. In
it is better to design and apply a ‘continuum’ of prevention interventions which include nationally driven criminal accountability mechanisms alongside activities such as the actual negotiation of peace agreements, broader transitional justice interventions, other reconciliation initiatives, political and institutional reforms, DDR and SSR initiatives, and economic development – with due consideration of the question as to how such policy areas are interrelated.25 This means that in each setting supporting entities need to encourage and assist in the development of comprehensive conflict, risk and political analyses to determine what measures are most likely to achieve positive results in this particular situation, and what the optimal sequencing of these measures is.26 In this process, it is important to ensure that inherently ‘thorny’ issues such as security sector reform, DDR and criminal accountability for serious crimes are not delayed indefinitely.

15. This need for an integrated approach also means that effective work in the areas of sustaining peace and conflict prevention requires strong partnerships, and for the United Nations system to work across pillars (development, humanitarian, human rights and security.) But even within the smaller area of rule of law and accountability support, it is crucial to develop and maintain partnerships with both United Nations and external entities as different organizations can rely on different competitive advantages and bring different viewpoints to the table.

A key entity for rule of law and criminal accountability work is the Global Focal Point for Rule of Law (the ‘GFP’), which brings together relevant actors in the area of rule of law such as DPO, UNDP, OHCHR, UNODC and UN Women, both at headquarters and in mission locations. The GFP supports key accountability initiatives such as the Special Criminal Court (SCC) in CAR (through a joint project between MINUSCA, UNDP and UN Women, executed in close coordination with OHCHR)

situations in which national conditions do not allow for or limit the effectiveness of transitional justice measures, the UN supports activities that encourage and lay the foundation for effective mechanisms and processes. These could include dialogue to assist national stakeholders to promote interest in and understanding of transitional justice measures. The UN cannot endorse provisions in peace agreements that preclude accountability for genocide, war crimes, crimes against humanity, and gross violations of human rights, and should seek to promote peace agreements that safeguard room for accountability and transitional justice measures in the post-conflict and transitional periods.” Article 38 of the newly developed Transitional Justice Policy (2019) of the African Union, titled Synergizing, Sequencing and Balancing TJ Elements, is also informative in this regard. Note: this particular provision of the policy has been criticized as allowing too much room for future amnesties, at the expense of promoting accountability.

25See: From the normative to the transformative: defining and promoting Justice and Human Rights as Part of Violent Conflict Prevention and Peacebuilding; Graema Simpson, Journal of Human rights Practice, 9, 2017, 379-400. In the same vein, criminal accountability mechanisms can be developed alongside less repressive transitional justice measures such as truth and reconciliation commissions, with the different mechanisms working in concert to strengthen one another. In CAR, for example, a Truth and Reconciliation Commission is being developed alongside the already established Special Criminal Court.

26 Put differently, an integrated approach towards dealing with past and potential wrongs is needed; this means that criminal accountability measures should be combined with other transitional justice initiatives and mechanisms such as truth seeking, institutional reform, memorialization initiatives and customary justice, while underlying causes in the social, economic and cultural spheres should receive adequate attention as well. Ibid. p 383; see, also, ‘Pathways for Peace,’ and ‘Unpacking Prevention: Member State Perspectives,’ Center on International Cooperation (2019) It is important that conflict resolution measures also address root causes of conflict, and moreover are forward-looking. Peacebuilding requires more than ensuring a simple end to hostilities, it also requires addressing longer-running societal realities that historically led to the conflict. Again, this shows the inherently political nature of accountability work.
and UNODC) and the Pôle Judiciaire Spécialisé (initially through a joint MINUSMA-UNDP-UNMAS-UNODC-HCHD-CTITF-CTED project, currently through a MINUSMA-UNODC project.) This partnership approach is fully in line with the Secretary-General’s vision as reflected in the A4P declaration.

16. Approached in this integrated manner, the dichotomy between peace and justice falls away, and justice measures - including criminal accountability mechanisms—will be building blocks towards lasting peace, rather than obstacles. However, it is clear that criminal accountability measures need to be properly sequenced in order to achieve the desired results and be effective from a conflict prevention perspective, especially in contexts where pervasive impunity for serious crimes has been identified as a key cause and contributing factor to the recurrence of such crimes.  

This means that certain measures, for example the prosecution of still-powerful warlords by a newly strengthened national tribunal, may be better conducted after some time has passed and the country has achieved a certain measure of stability; while in some cases, quite the opposite approach may be indicated. It is the task of the supporting entities, including OROLSI, to support the design of such comprehensive and strategic interventions on the basis of the conflict and political analysis that they undertake – a ‘one size fits all’ approach cannot be used when it comes to criminal accountability. A short overview of some of the actual initiatives that OROLSI supports in the countries in which it is active reveals the diversity of approaches for each country:

A good example of United Nations support that is tailored to the national setting can be found in the Central African Republic, where the United Nations supports the regular national court system, as well as the hybrid Special Criminal Court which was established in 2015 to prosecute international crimes and serious human rights violations committed since 2003, as well as a planned Truth, Justice, Reconciliation and Reparation Commission which is provided for in the Peace Agreement of February 2019 to address conflict related grievances. In total, these mechanisms are designed to bring an end to a widely-perceived lack of accountability that has plagued the country for decades. Crucially, these mechanisms are all based on stated desires of the Central African Republic population itself, as expressed during a national reconciliation conference in 2015 (the Bangui Forum) which brought together government representatives, civil society and religious leaders.

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28 E.g. it may conversely be deemed advantageous from a conflict prevention perspective to ‘take out’ a powerful spoiler to change the power dynamics in a civil war. Also, the collection of evidence and the identification, protection and hearing of witnesses will often be best conducted shortly after the end of hostilities, and if done properly may have limited negative impact on ongoing mediation processes; if there is political space to do so, and the security situation allows for it, this is an exercise that international actors should consider supporting. Another exercise that can bring clear benefits at relatively little cost/risk is the development of national prosecution strategies, both for conflict-related and regular crimes, including a prioritization of cases to be investigated. This allows for effective use of underdeveloped and overstretched national investigative and judicial systems, and may have clear stabilization and prevention benefits.

29 Supporting entities should always realize that sometimes still powerful national actors have a keen interest in delaying accountability mechanisms indefinitely; this is a sentiment that is rarely, if ever, shared, by victims of atrocities. In other words, supporting entities should always be cognizant of the variety of interests in a post-conflict society when designing a transitional justice strategy, including when deciding on questions of prioritization.
society, religious leaders and political parties in an attempt to find a common approach to address many years of violence and political instability.\textsuperscript{30} 
In Mali, the United Nations support to the Pôle Judiciaire Spécialisé en matière de lutte contre le terrorisme et la criminalité transnationale organisée (PJS) which is mandated to investigate and prosecute crimes related to terrorism and transnational organized crime flows from the understanding that terrorism and transnational crime, including international crimes committed by terrorist groups, are of particular concern in Mali and the broader Sahel region. 
In the Democratic Republic of the Congo, the United Nations support for the Prosecution Support Cells (PSC) has allowed for community-level investigations, mobile hearings and trials conducted in remote and insecure areas where atrocities have been committed and where courts barely function or exist. The PSC work has strengthened accountability for the army, police and armed groups.\textsuperscript{31} The design of the programme, with its heavy focus on remote regions and mobile hearings, accounted for the particular geographical and political challenges in the Democratic Republic of the Congo where state authority is minimal in large parts of the country. 
A further example of a United Nations-supported mechanism adjusted to the specific national setting (and its political, systemic and infrastructural limitations) can be found in South Sudan, where the United Nations provides support to the system of national mobile courts, \textit{inter alia} on the investigation and prosecution of sexual and gender-based violence and other serious violations. This initiative came in response to the absence of courts in large parts of the country. The UNMISS-supported mobile courts marked the return of national justice authorities in Bentiu, Malakal and other conflict-affected areas.\textsuperscript{32} 

\textbf{Forward-looking approach (Categories of crimes, temporal jurisdiction)}

17. The crimes that get the most attention in discussions of criminal accountability and prevention are conflict-related crimes, and especially serious international crimes. In order to achieve or sustain peace, effectively prosecuting those past crimes is often perceived as the top priority by both national and international actors. From a conflict prevention perspective, however, a forward-looking perspective is equally important: effectively addressing destabilizing crimes that will or may be committed in the near future is key for conflict prevention. In that context it is

\textsuperscript{30} Two of the recommendations that came out of the Bangui Forum were the establishment of a special tribunal to prosecute war crimes and crimes against humanity committed in the Central African Republic (the Special Criminal Court), and the establishment of a Justice, Truth, Reparations and Reconciliation Commission. 
\textsuperscript{31} Since 2011, this initiative supports military justice authorities in the investigation and prosecution of crimes against humanity and war crimes. Close to 800 case files have been processed involving more than 1320 accused person, resulting in the conviction of over 1,090 perpetrators, including senior-level officers for crimes against humanity and war crimes (including sexual violence). The programme incorporates support to the Congolese authorities. Important cases in 2019 included the conviction of armed group leader Kokodikoko, and 55 other individuals for murder, rape, torture, and sexual slavery in South Kivu in 2018. Several landmark cases were adjudicated in 2017 and 2018: The \textit{Kavumu} trial in 2017 led to the conviction of 12 local militia members sentenced to life in prison for crimes against humanity for the kidnapping and sexual violence on children in Kavumu in 2013; In April 2018, Lt-Col Maro Ntumwa was convicted for war crimes and crime against humanity and sentenced to 20 years in prison in the \textit{Marocain} case; In September 2018, two FDLR commanders were convicted of war crimes and crimes against humanity (\textit{Kamananga} case); In November 2018, FARDC Major Mabiala Ngoma was found guilty of crimes against humanity and sentenced to life imprisonment in the \textit{Mirenzo} case. The trial for war crimes and crimes against humanity against Ntabo Ntaberi Sheka, a case highlighted as a priority by the Security Council, commenced in November 2018. 
\textsuperscript{32} In this context, UNMISS together with other United Nations partners has supported the deployment of personnel and mobile courts outside the PoC sites, to regions where access to justice is limited and the absence of criminal accountability for serious violations undermines efforts to defuse the conflict.
useful to note that when the United Nations supports national systems in peacekeeping contexts and special political missions, it strives to move beyond purely retributive and backward-looking criminal accountability measures for crimes that have taken place in the past. Instead, the accountability institutions that the United Nations supports in the field ‘look forward,’ with a clear prevention lens. The criminal accountability institutions and initiatives that are discussed in this paper (developed in the Democratic Republic of the Congo, Central African Republic, South Sudan, Sudan and Mali) have temporal jurisdiction provisions that allow for the prosecution of crimes which are occurring in the present day or which may occur in the future. This characteristic arguably enhances these institutions’ contributions towards prevention of future conflict.\(^{33}\)

The temporal jurisdiction of the Office of the Special Prosecutor in Darfur covers crimes committed since 2003. Similarly, there is no limitation to the temporal jurisdiction of the Pôle Judiciaire Spécialisé in Mali, it can investigate crimes that predate its existence as well as future crimes. Lastly, the temporal jurisdiction of the Special Criminal Court in CAR extends to crimes committed in the Central African Republic since 1 January 2003. Unlike other international criminal tribunals, they do not have a ‘cut-off date’ as to the acts that are the subject of their investigations. Crimes that are committed today, or those which will be committed in the future, can be prosecuted by these institutions.\(^{34}\) This is valuable from a conflict prevention perspective.

18. Moreover, from a conflict prevention perspective, it is not just international crimes (such as war crimes and crimes against humanity) that are important to consider: ostensibly less serious crimes can be equally significant. Crimes relating to illegal resource extraction, corruption, money laundering and other economic crimes, discrimination, religious intolerance, gender-based violence, illegal drug trade, dispossession, human trafficking, election fraud and forced displacement can all have significant destabilizing effects and can function as powerful conflict drivers, especially if perpetrated in organized fashion.\(^{35}\) Ideally, then, international support to national criminal accountability systems should ensure that these systems also address and target these ‘common’ but potentially destabilizing crimes.\(^{36}\)

19. Given that context, it is important to note that United Nations operations in peacekeeping operations and Special Political Missions, in addition to the support they provide to specialized institutions such as the PSC, the PJS and the SCC, also provide support to the regular national

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\(^{33}\) This is not to say that accountability mechanisms that deal with past crimes are not also ‘forward-looking;’ these, after all, can help prevent the recurrence of crimes including those that fuel conflict, can contribute to societal healing and reconciliation, remove perpetrators from positions of power, etc.

\(^{34}\) Provided that these crimes fall within the subject matter jurisdiction of each institution.

\(^{35}\) This consideration is particularly relevant in ‘pre-conflict’ non-mission settings, where international crimes have not yet been committed.

\(^{36}\) Cf. Simpson, p.390. These ‘lesser’ crimes are relevant from a prevention perspective in the sense that these crimes can be conflict drivers in and of themselves, but also in the sense that a more in-depth study of the background of these crimes (i.e. why they were committed, when and by whom) can likely reveal relevant information about original sources of conflict and societal fault lines. (Note that some of the mentioned crimes, such as forced displacement, can amount to international crimes if certain conditions are met.)
criminal justice systems (prosecution services and national courts).\textsuperscript{37} These regular national institutions have broad subject matter jurisdiction which allows them to target and prosecute also those crimes that do not meet the definition of international crimes but that are still destabilizing for a society, which is advantageous from a conflict prevention perspective.

For example, MINUSCA provides mandated technical assistance to support prosecutions before the national CAR courts of individuals who are suspected to have committed serious crimes. This support results in the resumption of criminal sessions in several courts, leading to the conviction of more than one hundred suspects for crimes such as homicide, participation in a criminal group and illegal possession of weapons. In 2019 alone, 40 serious criminal cases were adjudicated by the national court system.\textsuperscript{38} In the Democratic Republic of the Congo, MONUSCO strengthened accountability within the national criminal justice system by supporting the operationalization of 111 peace tribunals and four new Courts of Appeal. In Mali, MINUSMA has supported the return of judicial authorities and the re-opening of courts in Gao, Mopti and Timbuktu regions, with 16 of the 19 tribunals in the North and Centre regions now partially operational despite the deteriorating security situation; where judicial authorities have not taken office or have been relocated for security reasons, mobile hearings are being conducted. UNAMID support to national authorities in Darfur has led to increased presence and capacity of rule of law institutions, thereby resulting in improved delivery of criminal justice services, enhanced coordination among criminal justice actors and community-based engagement, accountability and oversight, including in locations where justice institutions were previously absent. In addition to the reopening of 22 out of 25 district courts and over 27 prosecution offices, and deployment of more than 80 judges and 50 prosecutors over the years, in 2019 alone, UNAMID and partners supported the training of over 3500 criminal justice professionals. These are all examples of support to national criminal justice systems in peacekeeping contexts which support accountability for non-international crimes.\textsuperscript{39}

\textit{Looking ahead}

20. As a result of the recent United Nations reforms, OROLSI is expected to act as a system-wide service provider, which can provide support also outside the classic setting of peacekeeping operations and special political missions, in support of the Secretary-General’s broader

\textsuperscript{37} Some United Nations-supported ‘specialist’ national accountability mechanisms such as the Special Criminal Court in CAR (with a mandate to prosecute international crimes and serious violations of international human rights law) have a more limited subject matter jurisdiction, but these institutions all operate within the framework of broader national judicial systems which likewise receive support from the United Nations.

\textsuperscript{38} In addition, hundreds of suspects have been arrested under Urgent Temporary Measures by MINUSCA forces, transferred to Bangui and handed over to national judicial authorities in accordance with the Mission’s mandate to arrest and detain persons suspected of engaging in criminal acts which undermine peace, stability or security in the Central African Republic.

\textsuperscript{39} Other examples of support for accountability for ‘common’ crimes are the following: UNMISS has supported accountability mechanisms for cattle-related crimes, as it recognized that cattle-raiding and migration continue to be major sources of conflict. The subject matter jurisdiction of the UN-supported Pôle Judiciaire Spécialisé in Mali provides for a system of ‘connected’ crimes: if a crime is committed that triggers the ‘primary’ subject matter jurisdiction of the PSJ (i.e. related to terrorism, transnational crimes including money laundering, drug trade and human trafficking and, since 2019, international crimes), other (common) crimes committed by the suspect can form the subject of prosecution. UNAMA provides support to the Afghan government in the area of anti-corruption, having assisted the development of the national anti-corruption strategy.
prevention strategy. Considering this new role, it should be noted that OROLSI’s experience in providing support to national accountability mechanisms has allowed it to build a comprehensive accountability toolkit that can also be used to support prevention efforts in non-mission settings.\(^{40}\)

21. As stated before, criminal accountability work will always be political and accordingly requires keen political acumen on behalf of the international entities supporting national accountability mechanisms, and an ability to engage in political and conflict analysis. Through its past work, OROLSI has developed such expertise, including an understanding of best practices for different types of conflicts and crimes.

22. Lastly, it should be stressed that criminal accountability work cannot be performed in isolation. As stated before, criminal accountability should form part of a broader continuum of interventions, and requires bringing together a multitude of actors in an integrated approach; this approach is very much in line with the Secretary-General’s insistence on the importance of partnerships in prevention and sustaining peace.\(^{41}\) OROLSI can rely on a solid track record in that regard.

**Conclusion**

23. Research and experience have shown that criminal accountability mechanisms can contribute significantly to sustaining peace and conflict prevention. In the past decades, the United Nations has developed significant expertise in supporting national accountability mechanisms and is constantly fine-tuning its approaches. Going forward, it is clear that criminal accountability mechanisms deserve to be included in the design of any intervention strategy. This is true both in post-conflict settings, where addressing past crimes initiates societal healing and prevents recurrence,\(^{42}\) as well as in pre-conflict settings, where effective accountability mechanisms can assist in effective conflict resolution, address concerns of impunity, and improve the legitimacy and authority of the state, before lingering sentiments boil over into active conflict.

24. Criminal accountability mechanisms by themselves will not ensure the prevention of conflict: they will always need to form part of a continuum of interventions provided by numerous international and national partners in a broad range of areas. However, as the United Nations experience described in this paper shows, well-designed, tailored and sequenced accountability mechanisms can be solid building blocks for peace.

\(^{40}\) As stated before, effective criminal accountability interventions do not have to be limited to addressing grave crimes committed in the past, but can and should target a broad range of crimes that fuel conflict that take place in the present day or may occur in the near future.

\(^{41}\) Cf. A4P Declaration. In developing accountability mechanisms in the past, OROLSI has followed an integrated approach, working closely with partners such as OHCHR, UNDP, UNODC, Civil Affairs, and DDR. For example, in the DRC, the PSC are supported through a programme that brings together OHCHR, UNDP and MONUSCO. In Mali, MINUSMA supports the PJS through a joint project with UNODC. In CAR, the SCC is supported through a programme that includes UNDP, UNODC and MINUSCA, including strong support from the OHCHR component within the mission.

\(^{42}\) As stated before, criminal accountability initiatives need to be employed in conjunction with other transitional justice initiatives, including institutional strengthening, in order to achieve these goals.