



International Justice, Reconciliation and Peace in Africa: the ICC and Beyond

CODESRIA and SSRC/APN Program

Introduction

The Council for the Development of Social Science Research in Africa (CODESRIA) and the Social Science Research Council's (SSRC) African Peacebuilding Network (APN) with contributions from CDD West Africa and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law are undertaking a joint two-phase program titled *International Justice, Reconciliation and Peace in Africa: the ICC and Beyond*. This programme is founded on the observation that the ICC has captured the imagination of many on the continent and come to represent for various parties either the epitome of many of the things that are wrong with the international justice system or a key instrument in the prevention gross human rights violations in Africa and the insurance of justice for its victims.

The program builds on the reflections and recommendations from a brainstorming and planning meeting organized by CODESRIA in collaboration with the SSRC that was held in Dakar from 10-11 September, 2013. This meeting underscored the importance of understanding the broad ramifications and impact of relations between continental bodies like the AU and international justice institutions, particularly as they relate to the rights and wellbeing of ordinary Africans. Leading scholars and practitioners at that meeting reflected on the ICC, international justice and the prospects for peacemaking in Africa. Participants emphasized the need for international and transitional justice issues to be clearly understood and properly addressed for Africa to achieve sustainable peace and security for its people. The deliberations also recognized the need for synergy and coordination between the various international, regional and national initiatives on justice, reconciliation and peace that are currently going on in Africa. These include the multi-donor fund for international justice (involving OSF, TrustAfrica and other institutions), and studies being carried out by a number of scholars and research institutions across the continent as well as efforts at national and local levels. The African Union itself has established institutions and adopted protocols that are aimed at addressing international and transitional justice issues on the continent in ways that speak to both universal values and principles, and to African realities.

The research and policy dialogue program will be in two phases. The first phase, which is ongoing involves wide consultations with experts, activists policymakers and stakeholders, the commissioning of background studies and the organization and holding of a three-day conference on *International Justice, Reconciliation and Peace in Africa: the ICC and Beyond* in April 2014. A second phase involving a much broader three-year research and policy engagement project is expected to follow from these phase 1 activities.

This initiative builds on the proven track record of CODESRIA as the leading independent Pan-African social science research organization and the SSRC's long and distinguished record of work on peace and security issues in Africa. The SSRC's African Peacebuilding Network's deep commitment to the promotion and dissemination on a global scale of independent high quality research within Africa's

scholarly and policy communities makes it a natural partner of CODESRIA in the effort to address the existing knowledge gaps in the interactions between international and transitional justice systems and African states and organizations, and the challenges these pose to the prevention of, as well as redress for gross human rights abuses on the continent. It is expected that this joint program will provide high quality evidence-based knowledge that is necessary to explain some of the tensions between international and African efforts towards promoting transitional justice, reconciliation and peace, and providing an informed basis for constructive engagement and dialogue between all the parties involved in the quest to promote peace in post-conflict Africa.

Critical issues

Africa has the largest number of signatories to the ICC's founding Rome Statute in the world, thus, it is fitting that debates for and against the role of the institution in dealing with past atrocities, especially genocide, war crimes and crimes against humanity have been most heated on the continent. While the African Union has continued its trenchant criticism of the ICC and some countries have threatened to withdraw from the Rome Statute, a few African states have declared their intention to remain as signatories to the Statute. Unfortunately, the content of these debates continue to reflect significant empirical, theoretical and conceptual misconceptions and gaps that call for significant research interventions on international and transitional justice systems, the ICC and prospects for peace and post-conflict reconstruction on the continent.

The program on *International Justice, Reconciliation and Peace in Africa: the ICC and Beyond* seeks to significantly raise the level of the discourse on international justice and peace in Africa and fill existing knowledge gaps by supporting evidence-based studies and disseminating the results of such high quality research-based knowledge to regional and global policy and scholarly audiences. It will also support constructive dialogue and networking in ways that engage important questions arising from the linkages between the ICC, the international justice system, peace and human rights in Africa. The program is also directed towards increasing the quality and capacity to carry out research and analysis that will likely impact on actions geared towards improving justice and human rights in Africa. In this regard it will organize training workshops/seminars for practitioners and academics and engage policy makers on this subject. A series of questions concerning African perceptions of, and conversations about the impact of ICC's activities on justice and peace in the continent will be at the heart of this research, capacity building and policy engagement effort.

- *African Perceptions of the ICC*: How is the ICC perceived by African states that are signatories to the Rome statute as opposed to the African Union, which represents all the states on the continent? What is the extent of homogeneity or heterogeneity of such perceptions, and how can we explain such perceptions and their changing dynamics over time? How can the challenge of coherence between the ICC and African justice, human rights and reconciliation institutions be best addressed in the interest of African people?
- *Pitting justice against peace and reconciliation*: Does the ICC's insistence on indicting leaders in 'conflict-affected/post-conflict' African countries privilege justice and the subversion of impunity against the pursuit of peace or is it in fact integral to long-term peacebuilding? Are there ways of sequencing prosecutions and other peacemaking efforts that ensure long-term peace and guarantee justice without encouraging abusive leaders to continue to hold on to power?
- *Selectivity*: Does the ICC's exclusive indictment of Africans and seemingly partisan indictments in situation countries demonstrate the Court's non-adherence to the basic principle of equality

before the law in judicial processes and jeopardize long-term peacebuilding and reconciliation? Is the court's exclusive indictment of Africans another demonstration of the West's historical paternalism towards Africa that was once widely referred to as the *White Man's Burden*?

- *Partisan peacemaking*: Has the ICC become an instrument used by powerful Western powers to impose versions of justice and peace that fit their interests and ideas? Will such use of the ICC by Western powers still be consistent with a view of the ICC as making valuable contributions towards ending impunity, bringing justice to victims of war crimes, crimes against humanity and genocide?
- *De-politicization and de-historicization*: Does the ICC, in its approach to justice, deliberately de-historicize and de-politicize conflicts and abuses in Africa and is this detrimental to the achievement of long-term peace and reconciliation in troubled countries in Africa? What is the ICC's perception of Africa? Can this be changed and under what conditions?
- *The pathologies of global inequality*: To what extent are the actions of the ICC in Africa the result of its manipulation by powerful countries, and a reflection of global inequalities, which have historically resulted in the instrumentalization of many other international institutions like the WTO, World Bank and IMF by powerful countries?
- *Alternative conceptions of international and transitional justice*: Has the focus on, and investment in the ICC starved alternative justice institutions and paradigms of much needed support and attention? What other alternative justice and political institutions exist? In what ways, and at what levels can such institutions represent viable alternatives to the ICC as a modality for ending impunity and ensuring justice for victims of gross human rights violations?

Rationale of the program

The goal of the project is to address existing knowledge gaps in the field of international justice and peace in Africa through a multi-disciplinary approach that will provide much-needed evidence-based knowledge that would be of great relevance to scholarly, legal, and policy communities in Africa and beyond. It also seeks to raise the level of understanding that underpins debates on the role of the ICC, and provide evidence-based knowledge that will inform viable options for policy-making on transitional justice and peace and reconciliation processes in Africa. The project will also support a set of activities such as capacity building for scholars, activists and practitioners, commissioned studies, conferences and the facilitation of high-level forums for debate among leading policymakers and scholars, as well as the generation and dissemination of high quality research-based knowledge products. More specifically, the project will:

- Facilitate the sharing of perspectives and experiences on relations between peace and reconciliation processes and the key local, national, regional and sub-regional transitional justice systems on the continent. These will be enriched by comparative perspectives and experiences from Asia, Latin America, Europe and beyond
- Enable the generation of empirically grounded but theoretically and conceptually sophisticated knowledge on relations between the ICC and various constituencies in situation countries while recognizing the multiplicity and often conflicting views that exist in these countries and across the continent on the question of transitional justice, the ICC and peace and reconciliation processes.
- Enhance the capacity of scholars, activists and policy makers to meaningfully engage in discussions about, and policy making on the question(s) of transitional justice and peace in Africa

- Promote synergies and facilitate the meaningful contribution of a broad section of scholars, researchers and activists to the work of policy makers working on transitional justice and peace and security processes in Africa

Two phases of the program

CODESRIA and the SSRC/APN, together with representatives of OSF and TrustAfrica, hope to follow up the conference, commissioned studies, post-conference planning meeting and public forums of the first phase with a second phase that will constitute a three-year project encompassing research, publication and dissemination of work, capacity building for scholars, civil society activists/practitioners, and policymakers and policy engagement. This phase of the program will reinforce the task of projecting African perspectives and voices in regional and global discourses and debates on international justice and peace commenced in the second phase of the program.

Both CODESRIA and the SSRC/APN believe that the research-based knowledge on international justice institutions (including the ICC) and peace and reconciliation processes in Africa will have a positive impact on peacebuilding on the continent. The conference, research outputs and public forums will stimulate wider engagement by key scholars, thought leaders and practitioners and institutions and make knowledge on international justice, the ICC and Africa available to policy makers, academics, jurists and legal practitioners, civil society and social movements on the continent and beyond. Increasing public participation in discussions concerning international justice and peace making in Africa has to be understood as a boost to the process of democratizing important processes on the continent. Since African countries constitute the largest number of signatories to the Rome Statute, perceptions of ICC on the continent are important for instituting justice and peace, in a context marked by post-conflict transitions and democratization.