

Conference on International Criminal Justice, Reconciliation and Peace in Africa: The ICC and Beyond

From 10-12 July 2014, CODESRIA, in collaboration with the Social Science Research Council and the Centre for Democracy and Development in West Africa, Abuja, Nigeria, organised an international conference on “International Criminal Justice, Reconciliation and Peace in Africa”. The conference, which was held in Dakar, was opened by Senegal’s Minister of Justice, Hon. Sidiki Kaba. It brought together around one hundred researchers and practitioners including representatives of the ICC, the African Court on Human and Peoples Rights, and the International Criminal Tribunal for Rwanda for discussions on a range of issues touching on redress for mass atrocities and the worst human rights abuses as well as the way toward building reconciliation and sustained peace in African countries. Below is the conference report.

Introduction

Overview

The indictment of President Uhuru Kenyatta and his deputy William Ruto by the International Criminal Court (ICC) in 2010, amplified criticism of the ICC by African leaders and citizens while heightening debates on the relevance of international justice mechanisms such as the ICC on the African continent. It is in this regard that the Council for the Development of Social Science Research in Africa (CODESRIA) and the Social Science Research Council’s (SSRC’s) African Peace building Network (APN) organised a three day conference in Dakar, 10-12 July 2014 to discuss and build on current debates on the African continent on the role of the international justice system in advancing Africa’s peace, reconciliation and justice agenda. The conference was organised in collaboration with the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, the Centre for Democracy and Development in West Africa (CDD West Africa), Open Society Foundations (OSF), and TrustAfrica. It was the result of recommendations from a brainstorming and planning meeting organised by CODESRIA and SSRC in September 2013. The conference was opened by the Senegalese Minister of Justice, Mr Sidiki Kaba, who has since been elected President of the Assembly of State Parties to the Rome Statute, and it brought together scholars, activists, practitioners and policy makers in the field of transitional justice and international criminal justice (including representatives of major regional and international organisations, such as the Prosecutor of the International Criminal Tribunal for Rwanda, the newly elected President of

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the East African Court of Justice, The Prosecutor of the Ministry of Justice in Cote d’Ivoire, the Deputy Co-Prosecutor of the Extra Ordinary Chambers in the Courts of Cambodia (ECCC), representatives of the African Court of Justice, and Human and Peoples’ Rights, the International Criminal Court, the Open Society Justice Initiative, the Extraordinary African Chambers for the Trial of Hissene Habre, and the Pan African Lawyers’ Union (PALU). Participants reflected on dilemmas in the international justice system while exploring prospects for sustainable peace through accountability and partnerships between national, regional and international human rights accountability systems. Important issues discussed and debated at the conference included: realities and perceptions of ICC justice, the peace and reconciliation versus justice dichotomy, issues of selectivity and sequencing by the ICC, peace building and justice dilemmas, building capacities of regional and national human rights systems using the principles of complementarity, pathologies of global inequality and resulting affective reattribution and traditional conceptions of transitional justice by communities

Opening Remarks and Background to the Conference

The opening ceremony provided a background to the issues that were discussed at the conference. The

Executive Secretary of CODESRIA, Ebrima Sall reminded participants to draw from the rich African perspectives on justice and international justice, which have often been ignored while discussing the complex relationship between peace and justice in the African continent. Abdul Tejan Cole praised CODESRIA for this initiative. He emphasised the need for Africans to interrogate peace and justice at a conceptual and empirical level. He called for partnerships between the various stakeholders involved on the continent. Cole argued that the false peace versus justice binary was deceiving since peace and justice are complementary. Ron Kassimir hoped that the conference would not limit itself to the perceived tension that surrounds transitional justice scholarship on whether peace and justice should be pursued simultaneously but more importantly interrogate why peace or justice is considered more important. Akwasi Aidoo emphasised the need for champions for justice, credible institutions for justice and movements to hold these institutions accountable. There is also need for funding institutions on the continent such as TrustAfrica to facilitate change. He promised TrustAfrica’s commitment to funding African justice initiatives and institutions while stressing the need to end impunity in the world even for past crimes such as slavery and colonialism. Hon. Sidika Kaba, Senegal’s Minister of Justice provided the global transitional justice background by tracing the history of transitional justice globally, while including the contributions Africa has made towards these efforts. He extolled the role of the French revolution in creating a legacy for human rights and the Nuremberg and Tokyo trials which

were the first transitional justice processes after gross human rights violations on a massive scale. In 1985, a number of Latin American countries made progress in establishing trials for military dictators from the 1970s. Later the International Criminal Tribunal for Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) were established as ad hoc courts for accountability for crimes against humanity. The end of apartheid also provided another form of transitional experiences through truth telling in the 1990s when the South African Truth and Reconciliation Commission was formed and finally in 1998, the Rome statute was adopted by many African states.

Issues in International Criminal Justice Processes In Africa

Selectivity Bias

Various scholars considered the ICC's charges against Africans as selectivity bias. Siba Grovogui argued that the prosecution choices by the ICC and the instrumentalisation by non-signatories had led to this charge against the ICC. Tim Murithi also noted that the ICC system needed to address selectivity issues to ensure that International criminal justice is not scarified on the altar of global geopolitics. Professor Jean-Pierre Fofe agreed that ICC should address the issues raised against them on selectivity and politicisation of justice.

On the contrary, Makau Mutua argued that justice is inevitably selective. 'On the question of selectivity, justice is always selective; it is never free or fair even where systems work even in the United States (US). Can you interdict a judicial system purely on selectivity?' Mutua asked. He noted double standards and hypocrisy exist in the Kenyan case, since current selectivity debates at the African Union (AU) level only focused on the prosecution of elites ignoring Sang, an ordinary Kenyan who was a radio journalist.

Makau Mutua cautioned participants against believing the political elites rhetoric on the ICC. He recommended that discussions should be informed by the realities in Africa, noting that 'the widespread atrocities in Africa scream out for action by accountability and an end to impunity. Democratic Republic of Congo (DRC) has lost 5 million people in the last decade. In Kenya, where a functional legal system is in existence,

nobody has been convicted since the 2007/8 violence'. Additionally, Charles Chernor Jalloh argued that the pan-Africanism rhetoric has been appropriated by African elites based on perceived selectivity by the ICC.

Universality and Asymmetry of Global Power

Siba Grovogui argued that the meanings of justice are not universal but contextually formed. Among the supporters of African-led solutions, he faulted the ICC for finding judicial solutions to political problems saying that preponderance of evidence required proof, yet in political situations this was difficult. Grovogui cited cases such as the stadium massacre in Guinea in 2009, and Cote d'Ivoire where justice had to be about addressing structural inequalities as opposed to trial justice. Justice and reconciliation are not mutually exclusive but structural issues should be addressed as a priority based on the context.

Since the ICC lacks universality of membership, Grovogui argued that it is unfair for the ICC to demand cooperation from African states. 'How can the ICC claim to dispense universal justice when some powerful states like the United States are not members? We must see the link between peace and promotion of justice through the prism of universal membership. Contrary to Grovogui, Makau argued that asymmetry and geopolitics of power are not enough to delegitimise the ICC. The asymmetry argument against the ICC has not been used against other cases apart from where African presidents were involved, he noted. Jean-Pierre Fofe in his presentation: "Perceptions of 'Winners' justice: ICC engagements, peace and reconciliation processes in Uganda, DRC and Cote d'Ivoire" argued for a focus on statehood and power. By rearranging how people amass power, he contends that peace and reconciliation can be made possible at the national level.

Sequencing

Tim Murithi made a presentation on the dilemmas of ensuring peace and reconciliation while holding leaders accountable using the ICC cases in Kenya and Sudan. He emphasised the need for sequencing drawing from the Kenyan and Sudan cases at the ICC. He argues that if proper sequencing had been done by the

ICC, President Uhuru Kenyatta and his deputy could not have managed to pan-Africanise their own struggles within the AU to win the March 2013 elections. The AU and the ICC have parallel prisms and there is need for harmonisation. He identified three prisms: the legal prisms, the political prisms and the peace and reconciliation prisms since the perpetrators are usually the same people who are needed for peace building.

Unrealistic Mandates

Charles Chernor Jalloh argued that criminal tribunals set unrealistic goals when they are established with reconciliation as an objective. Every tribunal proposes to attend to peace and reconciliation but at the statute level, it is limited to only creating a mechanism for prosecution. After examining the ICC, the ICTR and Special Court for Sierra Leone (SCSL), Jalloh observed that criminal courts are only useful in prosecution and other benefits like peace and reconciliation are additional benefits which may not occur. He cited Res 1315(2000) which authorised the SCSL as too ambitious in its mandate, 'a credible court that will contribute to peace, justice and reconciliation'.

Victims

A number of sessions discussed the situation of victims within the peace, justice and reconciliation debates. Ato Kwamena Onoma called for a nuanced view, noting that victims were not homogenous groups. This was supported by Betty Okero from the civil society organisations network who demonstrated that there were different types of victims in Kenya: visible ones who live in internal displacement camps and invisible ones that are integrated among their families who are often ignored by policy makers. Onoma argued that victims had competing interests and could be aspiring for a different kind of justice compared to what other players may desire for them, especially political elites and civil society actors. Victor Ochen reported that many African victims in a conference in Kampala reported to have lost hope in the ICC. Onoma also warned the ICC against becoming a channel for the pursuit of politics by other means by paraphrasing the famous war scholar, Carl von Clausewitz who had warned, 'War is the continuation of politics by other means'. Understanding the context of

operations to ensure proper sequencing can strengthen peace building processes. In conclusion there is need to focus on the victims. 'The invisibility of victims in conversations about the ICC even among intellectuals is concerning,' Makau Mutua warned.

The Tension between Justice, Peace and Reconciliation

This section is a summary of sessions moderated by Pascal Kambala and Girma Menelik focusing on the challenges of transitional justice initiatives in Africa and the need for intricate solutions that can accommodate the pursuit of both peace and justice. Djacoba Tehindranarivela defended AU's commitment to peace, reconciliation and ending impunity despite its recent experiences with the ICC. He cited a number of legal articles which showed AU's commitment to both justice and peace, while ending impunity which include: the Constitutive Act: Article 4(a) and the respect for human life, and the sanctity of human life. He argued that the AU needed to translate its ideals into concrete political action to end impunity. He provided three ways of reconciling AU's humanitarian objectives to fight impunity with its political objectives: enhancement of AU's criminal justice capacity; ensuring that the vetting of justice officials is done and, finally, clarification of the concept of justice and determination of those who should be reconciled. According to Djacoba, the essence and functions of justice include: establishment of truth, the determination of culpable persons, the denial of collective responsibility, the dismantling of institutions and sanctioning of individuals responsible for gross human rights abuses and consequently victims' catharsis. Any reconciliation that goes against these fundamentals of justice cannot be true reconciliation and would fuel future violence and conflict.

Benson Olugbo argued that the concept of justice should include alternative forms of justice in addition to criminal justice at the ICC. Olugbo criticised the office of the prosecutor (OTP) for preferring a restrictive interpretation of the concept in its Article 53 of the Rome Statute which assumes that ICC responsibility is exclusively criminal 'in the interests of justice'. The OTP argues that criminal justice leads to reconciliation and reconciliation leads to peace. Drawing

from two case studies from Nigeria, Boko Haram and Movement for the Emancipation of the Niger Delta (MEND) he argued that amnesty had brought peace in Nigeria after MEND was given amnesty. Nigeria has lessons that can be learnt from, but the national justice system, which provided amnesty for the insurgents is in tension with the 'interests of justice' concept advanced by the ICC. Yeo Aly from the Court of Appeal in Abidjan said that justice should lead to peace and reconciliation because the two are inseparable. There is need for proper sequencing for sustainable peace to be achieved.

ICC and Peace-building

Moderated by Cyril Obi, the session explored the role the ICC can play in peace building and the tensions that exist between the objectives of criminal justice prosecutions and peace building objectives in the short-term which may include reconciliation though amnesties. Obi presented the different types of justice that communities aspire for in a peace building context: criminal/trial justice and socio-economic justice. Drawing from the Sierra Leone and Cote d'Ivoire case, Mohammed Suma from the International Centre for Transitional Justice (ICTJ) argued that there is need for a holistic peace building programme that includes elements of criminal accountability because justice and peace don't contradict each other but rather promote each other. He observed that the ICC process also impacted other processes that contributed to peace building such as Truth, Justice and Reconciliation (TJRC) processes. The truth telling process in Sierra Leone was conducted in isolation as opposed to partnering with the special courts which is a challenge to reconciliation.

Reflecting on the Sudan case, Dismas Nkunda argued that ICC should understand the context before issuing a warrant of arrest to ensure that peace building initiatives on the ground are not undermined. Using the Sudan and Kenyan cases he illustrated how the ICC warrant strengthened El-Bashir to remain the president of Sudan while in Kenya the ICC played the role of matchmaker for Uhuru Kenyatta and William Ruto who are alleged perpetrators leading to their victory. Otilia Maunganidze warned against prescribing similar peace building

programmes to different contexts using an analogy of how a tailor makes clothes based on individual measurements. She also presented the different policy documents on peace building at the United Nations and African Union which African states can draw from. ICC was lauded for its role as a deterrent factor in Kenyan elections thereby contributing to peace building.

International Justice and Global Politics

Politics of Affective Reattribution

This session's reflections were based on the ICC in the context of international relations and politics. Kamari Clarke sought to explain the apathy behind the ICC by African leaders and citizens. She argued that the framing of the justice issues with neoliberal legal concepts based on the Rome statute failed to acknowledge the social, political and historical concerns of the conflicts that underlie justice processes. This hegemonic legal encapsulation has led to what Clarke calls 'affective reattribution.'

She further explained that this affective reattribution has led to affirmative reaffirmation of imperialism which is seen as a continuity of the sentimentalisms of the past: slavery and colonialism. Emotional externalities and individual internalities then contribute to how individuals and collectives understand justice which leads to rejection of the ICC, seen as a neo-colonial form masquerading as a project of justice. There is need to think of new alternatives to the ICC such as the proposed African Court of Justice and understand how affective attachments are held and how they mobilise social action against hegemonic international legal domains.

Sovereignty and Complementarity

In her presentation Henrietta Mensa-Bonsu, addressed several concepts and issues which influence Africa within the international politics of justice. The first issue is the concept of sovereignty. Mensa-Bonsu argued that the ICC's actions of indicting African leaders is based on sovereignty contrary to the sentiments of the political elite, since they are parties to the Rome statute and working under the principles of complementarity. On complementarity, she noted that given the externalities of

global politics, by its very nature perceptions of a lopsided justice are inevitable. Limited funding from the global south, the lack of universal jurisdiction and the categories of those who can make referrals put Africa at a disadvantage since no African countries belong to the permanent five members of the Security Council. Since prosecution by the ICC is only done when national institutions are unwilling or unable to properly investigate and prosecute crimes, the subjection of many African cases to ICC prosecution is due to lack of capacity. Several issues have influenced how the ICC is perceived including: perceptions of selective justice, perception of victors justice and perception that ICC is insensitive to national and cultural realities in Sudan and Kenya, perceived ineffectiveness of the pre-trial chamber and inadequacy of the witness protection programme especially in the Kenyan cases. On the future of the ICC, Mensa-Bonsu hoped that the court will address issues such as selectivity and also obtain universal membership for its credibility.

A Case for Regionalism

In her presentation on the benefits of regionalism compared to internationalism, Matiangai demonstrated why she supports regionalism. Regionalism should be supported by building the capacity of African institutions to administer justice. There is need to build regional institutions such as the African Court of justice. She argues for support of the court based on its proximity to the people and their cultures. Using the imagery of proximate violence on the African body politic she illustrated why strengthening a regional court was important. Obiora Okafor also called for strengthening of African regional alternatives for justice while working with the ICC in ending impunity.

Roland Adjovi also explored alternatives to international criminal justice at the national level by proposing for strengthening national justice systems, integrating traditional justice systems and special hybrid courts such as the Hissene Habre extraordinary justice process located in Senegal. The challenge is to focus on the competencies of these regional courts while drawing on the competencies of international courts without being subordinated.

Responding to Charges against the ICC

Amady Ba, ICC Spokesperson and Head of the Public Affairs Unit

Abdul Tejan Cole started the discussion by challenging Amady Ba to defend ICC's record in case selection in the light of the recent policy paper on the interests of justice from the Office of the Prosecutor (OTP). Amady Ba urged scholars and policy makers to understand the ICC process of investigation before making claims of bias. He defended the ICC against allegations of bias in case selection, which has led to a majority of cases from Africa, by explaining how the process of investigation works and the challenges the ICC faces. On the method of case selection, Ba argued that prosecuting cases is based on the admissibility of the evidence which is voted for by a committee and not politics. The members of this panel are drawn from member states.

The ICC is guided by various principles which include independence, objectivity, cooperation, complementarity and personal responsibility of an individual among others. Amady Ba explained the process of investigations which includes: checking facts for admissibility and in the interest of justice for victims. The challenges the ICC is facing include: lack of universal membership and cooperation (only 122 member states are members), perceived tensions between peace and justice interests, complementarity and wrong perceptions. So far the ICC has 26 mandates, 8 arrests have been made, and 10 have been detained. Concerns were raised after the presentation about the ICC's failure to acknowledge the global inequalities in legal encapsulation which ultimately lead to selectivity in the prosecutions of cases. Cases cited included the Cote d'Ivoire case where warlords like Guillaume Soro were not prosecuted and the Kenyan case where the police were not indicted despite overwhelming evidence on their role in the 2007 post-election violence.

Lessons from Other Justice Initiatives

This section will focus on lessons the AU can draw from other justice processes on the continent. These include: the African Court on Human and Peoples' Rights

(ACHPR), the International Criminal Tribunal for Rwanda (ICTR), the Extraordinary African Chambers for the Hissene Habre Case, the Extraordinary Chambers in the Courts of Cambodia and the East African Court of Justice.

Hon. El Hadj Guisse', African Court of Human and Peoples' Rights

Justice El Hadj Guisse, argued that justice should be relevant to the context and the community where the injustice was committed. He hoped this would inform the proposed African Court of Justice and reported that plans are underway to merge the existing African Court on Human and Peoples Rights with the proposed African Court of Justice to enable criminal prosecutions to be done on the continent. The existing African Court on Human and Peoples Rights has been lauded for providing for individual and non-governmental organisations (NGOs) participation in the judicial process as observers who can provide advice to the court.

In a recent heads of states meeting in July 2014 in Malabo, Equatorial Guinea, the summit introduced an immunity article (27:2) in the proposed African Court of Justice constitutive act. The immunity clause drew equal condemnation and support from African citizens and participants in the meeting. Those in favour of the clause argued that it was a compromise which hopefully would ensure ownership and political will from heads of states for the African Court of Justice. Those against the inclusion of the clause such as Makau Mutua argued that inclusion of article 17 on admissibility and article 27(2) on immunity of heads states threatened to derail progress made on addressing impunity in the African continent. There were concerns from some participants about how the court will work with the ICC given the immunity clause that heads of state had introduced.

Justice Hassan Jallow: Prosecutor, International Criminal Tribunal for Rwanda (ICTR)

The ICTR is set to conclude its operations in September 2015. ICTR is prosecuting those who played a leading role in committing of mass atrocities in the Rwandan genocide. Justice Jallow provided a few lessons learnt from ICTR which include: there is need to address

structural issues in a county and build capacity of national justice administration systems to prevent a Rwanda-like situation happening again while ensuring legal reforms which includes domestication of human rights laws and other best practices. The Rwandan case has provided other important advancements in international human rights law by providing a new perspective on rape in the Akayesu case¹ when they said rape can be constitutive of genocide and inclusion of customary law to assist in justice such as the Gacaca courts. A compendium on the lessons learnt from the ICTR process has been compiled.

Moustapha Ka, Prosecutor to the Extraordinary African Chambers: Hissene Habre Case

The Extraordinary African Chambers in the courts of Senegal were inaugurated by the Senegalese government and the African Union in February 2013 to prosecute the person(s) most responsible for international crimes committed in Chad between 1982 and 1990. The former president of Chad, Hissene Habré, was arrested in June 2013 by the Senegalese police. He has been charged with genocide, crimes against humanity, war crimes and torture. The Chambers' investigating judges are now carrying out their investigation to begin trial in the first half of 2015. Ka, the prosecutor of the Chamber reported they have had funding challenges but this has not deterred them from this process showing that African states are committed to ending impunity. He observed that through this process it was clear that the AU is committed to accountability by heads of states.

Extraordinary Chambers in the Courts of Cambodia: William Smith, Deputy Prosecutor in Cambodia

The hybrid tribunal known as the Extraordinary Chambers in the Courts of Cambodia (ECCC) has learnt lessons that can be shared to international justice processes in the African continent. The court has made progress in raising awareness on the human rights violations committed by the Khmer Rouge through the 390,000 cases and 70,000 public hearings held. This has created a culture that demands for justice in Cambodia. The ECCC has faced similar challenges to processes on the continent such as lack of adequate funding and the 27 year delay has obliterated some evidence.

Proposed African Court of Justice and the East African Court of Justice

Donald Deya from the pan-African Lawyers Union (PALU) argued that building the African human rights and justice system was important to end the confrontations between the ICC and AU. He illustrated how the available courts such as the East African Court of Justice have been effective in the administration of justice so far, having resolved 27 out of the 28 cases presented to the court since its formation. Deya called on participants to look at the other 57 articles of the African Court of Justice instead of focusing on the immunity clauses.

The Role of National Human Rights Institutions in Transitional Justice

Aliro Omara shared his experiences as a member of the Ugandan Human Rights Commission on the role of national human rights institutions (NHRIs) in addressing impunity and ensuing accountability for human rights violations. Florence Jaoko, a former chairperson of the Kenya National Human Rights Commission also contributed in this vein. Human rights institutions seek to ensure accountability and as a result combat impunity by monitoring and reporting violations, establishing human rights policies such as the IDP policy in Uganda, investigating human rights by establishing patterns of root causes and information gathering. There is need to strengthen NHRIs because they play an important role in the pursuit of peace and justice.

Alternative Justice Approaches

Michael Otim from Uganda provided the Mato Oput² alternative justice system in northern Uganda as a process and ritual for traditional justice that was a form of restorative justice. Mato Oput has been influential at restoring broken relationships in the community in Northern Uganda. There is a need to explore traditional justice systems for reconciliation among community members in African countries and develop policy towards facilitating their greater exploitation. In these systems it is sometimes victims who determine the acceptable solution as opposed to criminal trials.

Anne Kubai from the Faculty of Theology, University of Uppsala argued that punishment needed to be interrogated as a form of justice because it does not seem

to enhance deterrence. Drawing from the Rwandan case study she provided evidence to show that punishment does not often lead to deterrence and there is need to focus on restorative methods of accountability at the community and national level that are more reconciliatory.

Protection of Rights beyond Litigation

This session moderated by Kudakwashe Chitsike. Jolly Kemigabo discussed how minority groups are often ignored in justice, peace and reconciliation processes. For instance, she reported that in Rwanda 10,000 minorities from the Batwa ethnic group were wiped out during the 1994 genocide. Victims should not be treated as a homogenous group. Indigenous communities have a right to participate to bring peace in their communities. Nadia Ahidjo focused on women as minorities in the justice systems in Africa. She recommended the strengthening of African human rights systems to ensure justice for women. The Akayesu case is a progressive case which strengthened protection of women rights. Betty Okero from Kenya presented the case of victims as minorities in justice systems by drawing on the Kenya case where post-election violence victims were treated as traitors by their ethnic communities and national elites for their alleged role in providing evidence to the ICC.

Endnote Speech by Chidi Odinkalu

Focus on Statehood and Citizenship in Africa: The Way Forward

Chidi Odinkalu's core argument was that the crisis of statehood and citizenship is the main challenge behind ensuring justice and sustainable peace in Africa. He recommended research directed towards the state and citizenship in Africa to inform the causes of gross human rights violations and resulting solutions. Odinkalu challenged participants to desist from the dichotomy that places the discussions about the ICC as either in support of imperialism for those that support and against imperialism for those against. 'We need a framing that retains memory that is methodical, that retains these experiences of the ICC history while never losing hope ...' Odinkalu argued.

Chidi argued that ICC had been failed by civil society organisations and there was

need for the ICC to partner with heads of state instead of having an antagonist relationship with them. Due to the acrimonious relationship, ICC has inadvertently contributed to the election of indicted persons in Kenya and Sudan while victims and human rights defenders in these countries continue to be victimised and killed in some cases. On the peace and justice relationship, Odinkalu argued that peace can exist without justice sometimes as evidenced by the colonial peace and the post-apartheid peace in South Africa. There is need for further research in such nuances. There is need to find a means of preserving evidence of crimes of humanity.

He provided several research recommendations as a way forward for this conference which include: documenting the role of African states in ending impunity such as the role of Nyerere in Uganda and other contemporary cases; research on statehood and citizenship in Africa, which is the source of most transitional justice challenges being discussed in the conference; training of forensic pathologists, research on Africa's diplomatic history among others. A full list of research recommendations is included in the recommendations section below.

Recommendations for Research to Codesria And APN/SSRC

There is need:

- i) to invest in research and document taxonomy of African states and leaders in Africa who have been instrumental in ending impunity. For instance, the role of Nyerere in ending Amin's brutal regime in 1979. The role of Museveni in ending impunity by ensuring Amin was not remembered as a hero through a state burial in 2003.
- ii) for a political science convention on statehood and citizenship in Africa. This would lead to research into statehood in Africa and the nationhood projects as a way to understand justice, peace and reconciliation.
- iii) to invest in a memory project on an African atrocities archive after investing in training forensic pathologists.

- iv) to invest in research and publications on the diplomatic history in Africa to produce anthropologies with interdisciplinary conversations.
- v) for more research on Sexual and Gender Based Violence (SGBV) issues on the continent. The role of peacekeepers in SGBV and the victims of such actions are under-researched.
- vi) for further research about the complexity of victims on the continent as victims are not homogenous, but complex.
- vii) to identify and research African states that went through gross human rights violations that have reconciled by singling out the foundations of their reconciliation.
- viii) for different African communities to identify what justice means to them and the meaning of peace.
- ix) to deepen research by understanding what can be the Africa Union's role in enhancing the national capacity of member states to prevent impunity and what challenges exist in implementing AU policies.
- x) to address the lack of credibility of the ICC. A concrete policy reflection should be held with the ICC and AU to address the issues raised such as selectivity.

Recommendations for Policy Makers

There is need to:

- i) invest more resources in the ICC: ICC budget is 150 million dollar/year with over 700 staff. This reduces its effectiveness and contributes to bias in selectivity (member states)
- ii) encourage membership of all states and in the Rome Statute.
- iii) invest in training forensic pathologists to investigate atrocities on the continent (AU)
- iv) punish peacekeepers for sexual based crimes committed during peacekeeping. Ensure reparations for those violated by peacekeepers (UN, AU)
- v) focus on structural inequalities as a way to begin reconciling communities in addition to trial justice (ICC,

UN, national governments, development partners)

- vi) for the ICC to take into account a historical consciousness that can begin to understand the global inequalities and traumas of slavery, colonialisms and the Cold War (ICC, UNSC)
- vii) reform the United Nations Security Council (UNSC) by expanding the permanent membership to include African countries and removing veto powers. UNSC should introduce rules of procedure. The office of the prosecutor needs to issue a policy paper (UNSC, ICC, and AU).
- viii) ensure justice and reconciliation processes such as ICC, special courts and TRC, work together at the national level (national governments).
- ix) For AU and development partners to commit funding to the Extraordinary Chambers for Hissene Habre (AU, development partners)

Notes

1. Jean-Paul Akayesu, was the mayor of Taba, Rwanda before the genocide in 1994. On 2 September 1998, Trial Chamber I of the Tribunal found him guilty of nine out of fifteen counts charging him with genocide, crimes against humanity and violations of the Geneva Conventions in the first ever trial before the Tribunal. His was the first conviction ever for genocide and it was the first time that an international tribunal ruled that rape and other forms of sexual violence could constitute genocide. It was also the first conviction of an individual for rape as a crime against humanity (International Crimes Data Base, 2013).
2. Mato oput is an Acholi ceremony undertaken only in the case of intentional or accidental killing of an individual. The ceremony involves two clans bringing together the perpetrator and the victim in a quest for restoring social harmony. Mato oput begins by separating the affected clans, mediation to establish the 'truth' and payment of compensation according to by-laws. The final ritual, 'drinking the bitter root' is a day-long ceremony involving symbolic acts designed to reunite the clans. The drinking of this bitter herb means that the two conflicting parties accept the bitterness of the past and promise never to taste such bitterness again (Pambazuka, Issue 271).