

The Impact of the Rome Statute System on Victims and Affected Communities

The coming into force of the ICC has been declared a welcome development in the fight against impunity. Considering the number of petitions the ICC receives from communities across the globe, one can conveniently say that the ICC's existence has helped to give voice to the expectations of victims for justice. However, the court faces important challenges to implementing its mandate successfully. These include challenges in conducting court operations, such as obtaining adequate support to engage in outreach to affected populations. They also include external attacks on the institution – such as those advanced by some African leaders following the ICC arrest warrant for Sudanese President Omar al-Bashir in March 2009. The distance of the court from venue of the crimes and location of the victims poses another important challenge. Also the court is still at an early point in its development, and has not as yet completed the first judicial proceedings.

The court has several innovative tools at its disposal, including the right of victims to participate in proceedings before the ICC and the delivery of reparations and other assistance through the Trust Fund for Victims. The court has made significant progress in this respect but a lot remains to be done by the court and the States Parties in meeting the rights and expectations of victims for justice. This can be done through the amplification and strengthening of its outreach and communications efforts, deepening of the court's field presence and the provision of additional resources to support these efforts. Furthermore, there is need to stress the importance of the prosecutor's selection of cases and charges that have resonance with affected communities.

State parties need to do more to support the court in the execution of its arrest warrants, as this is critical in meeting the expectations of justice in affected communities. Finally, a tool to periodically assess the court's impact and to improve on that impact as needed through revision of relevant court strategies should be developed.

The review conference comes at a critical time in the development of the ICC. The court has made important progress since the Rome Statute entered into force in 2002 and is already providing a measure of justice for victims of genocide, war crimes, and crimes against humanity.

The adoption of the draft resolution of the Assembly of States Parties (ASP) on the impact of the Rome Statute System on victims and affected communities at the review conference will send a powerful message as to the priority the Rome Statute community places on victims' rights and interests. This is because it highlights the importance of delivering effective justice to victims in the context of fair and impartial proceedings. We call on the States Parties to make pledges that could help to enhance the ICC's impact on affected communities.

Peace and Justice

The call to suspend or "sequence" justice in exchange for a possible end to a conflict has arisen in conjunction with the court's work in a number of country situations. From the perspective of many victims of atrocities as well as human rights and international law standards, justice for the most serious crimes is a meaningful objective in its own right. Retributive justice through criminal trials is one means of respecting those who have suffered egregiously.

Several researches have shown that ignoring atrocities in the interest of peace reinforces a culture of impunity and fails to bring the desired objective of peace. In places where alleged war criminals have been incorporated into the government rather than being held to account for their crimes, the price has been high: repeated cycles of violence and an undermining of respect for the rule of law. All too often a peace that is conditioned on impunity for the most serious crimes is not sustainable. Even worse, it sets a precedent of impunity for atrocities that encourages future abuses.

To the contrary, remaining firm on the importance of justice can yield short- and long-term benefits for peace, and does not necessarily impede peace negotiations. Indeed, indictments of abusive leaders and their resulting stigmatization can marginalize a suspected war criminal and may ultimately facilitate peace and stability. Affirming the integral relationship between peace and justice and the careful management of the tension between the two is key to achieving an outcome that respects both the importance of justice and contributes to a sustainable peace.

Before I close I would like to refer to the developments in Africa following the arrest warrant against President Al Bashir of Sudan. While some African leaders have tried to paint Africa as against the ICC, the voices of civil society have shown that Africa needs the ICC and supports the court. The Kampala conference offers an exceptional occasion therefore for African governments to help advance the global fight against impunity. Our leaders in Africa should use the conference to restate their commitment to justice for victims and pledge to take steps to assist the ICC.