

Institution: SOAS
Unit of Assessment: 21 Politics and International Studies
Title of case study: Informing the Approaches of International Actors to Post-conflict Justice and Reconciliation in Central Africa (Phil Clark)
<p>1. Summary of the impact (indicative maximum 100 words)</p> <p>A key challenge for Western policy makers and legal practitioners in formulating justice and security responses to mass atrocity in the African Great Lakes region is to understand the political, social and cultural causes of conflict, and the manner in which past conflicts can be resolved and potential future conflicts prevented. Phil Clark's research sheds much-needed light on these issues, and assesses the nature and impact of both local and international transitional justice responses. This research has prompted his active engagement with international judicial processes and debates on aid policy, encouraging international actors to be more aware of local dynamics around conflict and justice, with the wider aim of maintaining the vulnerable stability of post-conflict nations in Africa.</p>
<p>2. Underpinning research (indicative maximum 500 words)</p> <p>Dr Phil Clark is Reader in Comparative and International Politics at SOAS, where he has researched conflict and post-conflict issues in Africa, specifically questions of peace, truth, justice and reconciliation in the African Great Lakes region, since 2010.</p> <p>Clark publishes widely on political, social and legal responses to genocide and mass crimes in Central Africa, particularly community-based approaches to accountability and reconciliation, themes widely explored in <i>The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers</i> of 2011 (output a). This monograph examines how the model of traditional Rwandan conflict resolution, the gacaca community justice system, was mobilised in 2001 to prosecute suspected perpetrators of the 1994 genocide. The system allowed respected individuals elected by local populations to prosecute cases heard in open-air before community members. The majority of adult Rwandans participated in gacaca, yet the prohibition of lawyers from proceedings generated widespread international criticism of the courts' legitimacy. Employing original empirical evidence and interviews with hundreds of international, national and community stakeholders, Clark counters this scepticism, arguing that, while not without problems, mass participation in 'truth-telling' and accountability has greatly facilitated reconciliation. The book offers invaluable insights into a unique approach to post-genocide justice and raises the important question of whether Rwanda's experience might provide a model for other African nations seeking post-conflict resolution.</p> <p>Clark's work, drawing heavily on extensive fieldwork, also investigates international approaches to post-atrocity accountability and reconciliation in Central Africa. In output b, Clark argues that the International Criminal Court's (ICC) top-down approach is ill-suited to address conflicts in which non-state actors, including tens of thousands of everyday citizens, played a significant role. He proposes that traditional justice systems implemented in Rwanda and in post-civil war Uganda, in contrast, promote forgiveness and heal communities riven by violence by holding lower-level, local actors accountable. Similarly, output c critiques ICC practices in the Democratic Republic of Congo (DRC) and Uganda, asserting that the need to achieve results in the short-term has seen it fail to prosecute serving members of government responsible for atrocities, while also overlooking the capacity of local forms of justice to address such crimes. This approach, Clark contends, has made local populations suspicious of the ICC's legitimacy and has serious implications for the rule of law in countries where, rather than being punished, political actors guilty of serious crimes are ignored or even empowered by the ICC's operations.</p> <p>Clark's work also controversially questions the practices of human rights groups and UN agencies</p>

Impact case study (REF3b)

(Amnesty International, Human Rights Watch (HRW), and UN Groups of Experts) in Central African post-conflict resolution. In output d, Clark argues that, with their narrow conception of justice and accountability, and questionable evidence-gathering biased by political agendas, such groups fail to consider specific transitional contexts and customary practices in African countries, and thus undermine the execution of justice therein. Ultimately, Clark's research proposes that, for genuine, long-term reconciliation to occur, international actors must develop a nuanced, country-specific understanding of how conflict plays out and is resolved.

3. References to the research (indicative maximum of six references)

- a. *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice Without Lawyers*. Cambridge: Cambridge University Press, 2011.
- b. "Addressing Atrocity at the Local Level: Community-Based Approaches to Transitional Justice in Central Africa." In *Morality, Jus Post Bellum and International Law*, edited by L. May, 45-77. Cambridge: Cambridge University Press, 2012.
- c. "Chasing Cases: The ICC and the Politics of State Referral in the Democratic Republic of Congo and Uganda." In *The International Criminal Court and Complementarity: From Theory to Practice*, edited by C. Stahn & M. El Zeidy, 1180-1203. Cambridge: Cambridge University Press, 2011.
- d. "Creeks of Justice: Debating Post-Atrocity Accountability and Amnesty in Rwanda and Uganda." In *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives*, edited by Francesca Lessa and Leigh A. Payne, 210-37. New York, Cambridge: Cambridge University Press, 2012.
- e. "Rwanda" and "Gacaca Courts." In *The Encyclopaedia of Transitional Justice*, edited by Lavinia Stan and Nadia Nedelsky. Cambridge: Cambridge University Press, 2012.
- f. "Transitional Justice after Atrocity." In *Routledge Handbook of African Politics*, edited by Nic Cheeseman, David M. Anderson and Andrea Scheibler, 147-68. London: Routledge, 2013.

4. Details of the impact (indicative maximum 750 words)

Clark's expertise has been widely solicited by international governments and organisations, enabling his significant contribution to international judicial processes and debates. Notably, Clark provided legal advice to an ICC trial, at which he successfully challenged the Prosecution's weak evidence base against Callixte Mbarushimana, the executive secretary of the Forces Démocratiques de Libération du Rwanda (FDLR), a DRC-based rebel group (1, below). In 2010, Mbarushimana had been indicted by the ICC for crimes against humanity and war crimes committed in the DRC. In September 2011, Clark wrote an expert report for the Defence. Drawing on the publications discussed in Section 2, Clark's report noted the Prosecution's heavy reliance on second-hand evidence published by human rights observers, including HRW and the UN Group of Experts on the DRC, and challenged the Prosecution's attribution of criminal responsibility to the FDLR (and Mbarushimana) on the basis of witnesses' claims that their attackers spoke Kinyarwanda, the national language of Rwanda, the FDLR's alleged home. The report was central to defence evidence in Mbarushimana's pre-trial hearing in The Hague, and was debated at great length. In December 2011, the ICC dismissed charges against Mbarushimana on the grounds of insufficient evidence. Clark's support of the Defence was motivated not by criticism of the ICC, but by the poor quality of the evidence brought by the Prosecution, which Clark considered indicative of a wider problem: the fallibility of evidence gathered without specific understanding of the nature of conflict in the Great Lakes. For Clark, the use of such evidence in this case would have further undermined the legitimacy of the ICC, thereby undermining post-conflict justice and reconciliation in the region (2).

Clark is also an expert in an on-going case with the UK Crown Prosecution Service (CPS), which seeks the extradition to Rwanda of five genocide suspects living in the UK. Using Clark's monograph as the primary source for information on fair trial standards in Rwanda, senior CPS lawyers agreed that there were sufficient grounds to pursue the extradition cases, having lost similar cases on appeal in the High Court in 2009. They were particularly convinced by Clark's demonstration that genocide suspects routinely receive fair trials in Rwanda's gacaca system, and that significant shortcomings exist in the methodologies of organisations such as HRW (upon whose testimony the 2009 High Court judgements hinged). Clark has since conducted further research and compiled an expert report for a second set of extradition hearings in March 2014. The CPS is now considering actions against other genocide suspects in the UK on the basis of Clark's publications and his report, the latter of which was shared with prosecutors pursuing extraditions in Norway and the International Criminal Tribunal for Rwanda in Tanzania. These extraditions would mean that genocide suspects will be prosecuted in Rwanda by Rwandans, the outcome of which will have important implications for strengthening domestic law in Rwanda, itself fundamental to maintaining stability in the Great Lakes region.

Additionally, Clark has provided substantial expert advice to the UK government. In 2011, he submitted written and oral evidence to the House of Commons Select Committee on International Development which was re-evaluating donor policy to Rwanda, Burundi and the DRC. Clark's invitation arose from his publications and previous appointments to brief the Foreign and Commonwealth Office, DFID and UK ambassadors and High Commissioners to Rwanda, Uganda and the DRC. Clark's evidence criticised the government's proposed withdrawal of aid to Burundi, especially in light of planned substantial aid increases to Rwanda and the DRC, and advocated regional rather than state-based donor assistance in order to advance post-conflict re-building and maintain stability in the Great Lakes as a whole. This stance was eventually adopted by the Select Committee, whose report to Parliament called for a regional approach (as proposed by Clark) and exercised pressure on senior FCO and DFID policy makers (3, 4 and 5).

Similarly, in November 2012, Clark provided written evidence to the House of Commons International Development Committee on aid to Rwanda (6). Clark questioned the decisions of the UK, US, Germany, the Netherlands and Sweden to withdraw or partially withhold aid to Rwanda, decisions based primarily on a UN Group of Experts on the DRC report accusing the Rwandan government of supporting the M23 rebel group in eastern DRC. Clark highlighted the significant methodological problems with this and similar reports, and questioned whether a single source should be relied upon so extensively in determining policy. Clark's work prompted questions from two MPs to the Development Secretary, Justine Greening, during the Committee meeting, and was further discussed in a May 2013 briefing paper to the House of Commons on political and security developments in Rwanda.

Internationally, Clark has advised the US State Department, the Danish, Australian, Norwegian, Sudanese, Swedish, and Ugandan governments, the ICC, International Criminal Tribunal for Rwanda, UN Group of Experts on the DRC, HRW and Crisis Group on conflict-related issues in Rwanda, facilitating important policy and legal discussions with practitioners.

Clark has had a clear influence on international discussion and debate on conflict and reconciliation in Africa. This is corroborated by his frequent engagement with the media: Since 2010, he has written nine op-eds for the *Guardian*, *New York Times* (7), *International Herald Tribune*, *Huffington Post* (10), *The Australian* and the BBC (9) and CNN (8) websites, and has been quoted no fewer than 85 times in broadcasts and articles by a wide range of international agencies (11, 12).

5. Sources to corroborate the impact (indicative maximum of 10 references)

1. Institute of War Reporting article on Callixte Mbarushimana trial, citing Phil Clark: <http://iwpr.net/report-news/defence-challenge-case-against-mbarushimana> [Most recently

accessed 21.11.13].

2. International Criminal Court transcripts:
ICC-01/04-01/10-T-6-Red 2-ENG CT WT 16-09-2011 1/93 SZ PT
ICC-01/04-01/10-T-7-Red-ENG WT 19-09-2011 1-86 NB PT
ICC-01/04-01/10-T-9-ENG CT WT 21-09-2011 1-30 NB PT
ICC-01/04-01/10-T-8-Red2-ENG CT WT 20-09-2011 1-99 SZ PT
3. Select Committee report to Parliament advocating a regional approach to aid to the Great Lakes: <http://reliefweb.int/report/burundi/closure-dfids-bilateral-aid-programme-burundi> [Most recently accessed 21.11.13].
4. Written evidence submitted by Phil Clark to the International Development Committee on UK Aid to Rwanda:
<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmintdev/726/726vw11.htm>
[Most recently accessed 21.11.13].
5. Clark's evidence discussed in the International Development Committee meeting:
<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmintdev/726/121113.htm>
[Most recently accessed 21.11.13].
6. Clark cited in research briefing to the House of Commons on political and security development in Rwanda: <http://www.parliament.uk/briefing-papers/SN06636> [Most recently accessed 21.11.13].
7. Phil Clark *New York Times* article:
http://www.nytimes.com/2012/04/02/opinion/02iht-edclark.html?_r=0 [Most recently accessed 21.11.13].
8. Phil Clark CNN article:
<http://edition.cnn.com/2012/04/26/opinion/charles-taylor-victims/index.html> [Most recently accessed 21.11.13].
9. Phil Clark BBC article:
<http://www.bbc.co.uk/news/world-africa-12985617> [Most recently accessed 21.11.13].
10. Phil Clark *Huffington Post* article:
http://www.huffingtonpost.co.uk/dr-phil-clark/rethinking-the-internatio_b_1824289.html
[Most recently accessed 21.11.13].
11. Phil Clark cited in an *IRIN News*/UN OCHA article on ICC trials in the DRC:
<http://www.irinnews.org/printreport.aspx?ReportID=91672> [Most recently accessed 21.11.13].
12. Phil Clark cited in an *LA Times* article on Rwanda's gacaca court system:
<http://articles.latimes.com/2011/aug/19/world/la-fg-rwanda-trials-20110820> [Most recently accessed 21.11.13].