The ICC and Conflict Resolution

an ‘agenda for peace’ in the ‘peace versus justice’ debate
International criminal justice and the International Criminal Court (ICC)

brief history and background

peace versus justice debate

the current debate

a way forward

new analytical framework that problematizes peace

• northern Uganda
idea: hold individuals, not states, accountable

Nuremberg and Tokyo Cold War ‘deep freeze’ not entirely accurate

End of Cold War opportunity + energy + guilt

ICTY, ICTR, hybrid tribunals, ICC
Treaty-based court, jurisdiction (personal, territorial, and temporal)

23 member-states

Organs - Registry, Chambers, OTP

Crimes (and one!)

Trigger mechanisms

Official Investigations

n. Uganda, DRC, CAR (2), Darfur, Libya, Mali, Ivory Coast, Kenya

Preliminary Examinations
• ICC as ‘first responder’ to crises - built for conflict (3 reasons)

• ICC becomes active in ongoing conflicts (look at the record of interventions!)

• Result: Peace vs Justice Debate
Peace vs Justice Debate

Peace without justice vs no justice without peace

- Increased Impunity
- General obligation
- Resistance
- Marginalization
- Ethics
- Legacies
- Corrupt
- Right
- Wrong
- Forbidden
- Duty
- Good
- "Seen to be done"
- Increases Violence
- Effect on negotiations
- Divorced from local realities
- Cost
an agenda for peace

ICC Intervention into Ongoing and Active Conflict

Conflict Narrative ↔ Attitudes & Incentives

Pre-Negotiation
- Timing of Negotiations
- Location of Negotiations
- Mediation Strategies to get Parties to the Negotiation Table

Negotiation
- Composition of Delegations at Peace Talks
- Agenda of Negotiations

Post-Negotiation
causes and dynamics

humanitarianism

limitations on temporal jurisdiction

individualization

demonization - (‘good’ versus ‘evil’)

greed and grievance

causes, whether greed or grievance made irrelevant

only the manner of conflict is relevant - atrocities / humanitarianism
Threat to their security

Respond to indictment with violence

humiliation / embarrassment

show of power (e.g. Bashir)

Rescue reputation, engage in peace process

But… what if non-indicted party commits to military victory?

e.g. GoU, Libyan opposition
1. pre-negotiation phase

Timing/Ripe Moments

- mutually hurting stalemate
- complicated by one-sided interventions

Location of talks

- where they take place (e.g. Juba)

Mediation strategies to get the parties to the negotiation table

- who mediates?
Delegation composition
implications of who is part of negotiations?
• e.g. LRA delegation, Kony

Agenda of negotiations
confront justice head-on or not?
evade justice?
was it about peace?

assumption: peace negotiations always about peace?

• motivations

• e.g. northern Uganda

Post-conflict justice and accountability

how does ICC affect decision-making here?

extension of conflict
conclusions

Empirical record is still weak

Need to ask the right questions

Move beyond ‘peace versus justice’

ICC has real effects but we need better tools for how to study effects of ICC on conflict and peace processes

Accept the fact that effects are mixed and causal claims are problematic

Don’t be too close to the trees to miss the forest
thank you!
In the Dark