Professor Jalloh awarded $246,000 grant by Open Society Foundation

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The Open Society Initiative for West Africa (OSIWA), the regional branch of the Open Society Foundation based in New York, has just awarded Professor Charles Jalloh (FIU Law) and Professor Kamari Clarke (Global and International Studies at Carleton University, Canada) a USD $246,000 to carry out a one-year research project related to analyzing the limits and potential of the African Court of Justice and Human and Peoples' Rights. The proposed court, which would be the first permanent international criminal tribunal to be embedded in a regional human rights court, has a number of exciting legal innovations in its founding treaty which hold significant ramifications for international law's development in Africa and around the world.

Under the name, The African Court Research Initiative (ACRI) based here at FIU Law, and with the collaborative support from the Pan African Lawyer's Union, based in Arusha, Tanzania, the research project seeks to explore the limits and impact of international law as a mechanism for enhancing accountability and human rights during and after conflict. It will also seek to contribute to the building of an expert network of scholars engaged in the analysis of the new Court, the African regional criminal justice system, and related international justice mechanisms.

The grant, which builds on the first phase of the research carried out between 2014 and 2015 also funded by the OSIWA, will enable a group of scholars from around the world to bring academic rigor to the discussion concerning one of the most controversial arenas of international criminal law in our time. The controversy surrounding the African Court's jurisdiction has emerged in the shadow of the tensions between the African Union, which is comprised of all countries in the world's second largest continent, and the permanent International Criminal Court (ICC) based in The Hague. It has also been fueled by the decision of African States to create an exemption from prosecution for sitting heads of state, and the fear that the regional court may undermine the global system of criminal justice anchored around the ICC.

The ACRI project, which hosted a first conference on the theme at FIU in March 2015 in which several FIU Law and other faculty participated, will examine critical questions that to date have not been systematically examined by scholars. For instance, how will the new regional court interact with national courts in African States? What legal and practical relationship, if any, will it have with the ICC in The Hague? Does the newly adopted legal framework of the African Court make it likely to play an effective role to fight against gross violations in Africa? Might the criminal chamber help advance the development of international criminal law for the international community as a whole given its corporate criminal liability and other important innovations? How can pro-human rights African States reconcile their pronouncements against impunity with their support for the immunity clause in the July 2014 treaty?

Professor Jalloh, a renowned international criminal lawyer who practiced law in several international criminal tribunals before joining FIU Law observed that: "It is probably the first research study comprised of scholars from around the world convened specifically with the goal of untangling how the new regional court will interact with and complement the permanent ICC in The Hague. What we will be doing is important in a variety of ways because we are working in the real world, where we will seek to identify not just the key challenges that this court will likely face in its operations, but also offer key solutions based on the lessons learned from the international criminal tribunals that preceded it. Indeed, as history teaches us, the international community makes better progress in the fight against impunity only if we do not keep reinventing the wheel."

Professor Clarke, a well-known scholar on issues of globalization theory, international law, and justice in Africa commented that, "This project will produce the first major academic study dedicated exclusively to evaluating this African Court. With the involvement of Professor Dr. Vincent Nmehielle – the African Union's Legal Counsel – this study is bound to make a direct impact on future policy in Africa and beyond. We hope to set a high bar for future academic studies of the new AU court and its contributions to international law and justice".

Dr. Nmehielle praised the conveners of the ACRI: "The research initiative led by Professors Jalloh and Clarke, two leading academic experts on these issues, constitute the first independent academic study to rigorously engage with the Malabo Protocol. Their goal of studying the instrument with the view to understanding its full potential, as well as likely limits, for Africa's and the international community's modern quest for greater accountability for serious international and transnational crimes is highly laudable. I could not imagine a better academic team to convene the African Court Research Initiative."

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