

**Sophisticated Discourse:
Why and how the Acholi of Northern Uganda are
talking about international criminal law¹**

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Introduction

The war in northern Uganda began in earnest in 1986, between the rebel Lord's Resistance Army (LRA) and the Government of Uganda. Since that time, the situation in northern Uganda has deteriorated significantly. The people in that region have witnessed extreme violence and brutality. Nonetheless, they are actively engaged in helping to bring the conflict to an end.

The Acholi people, and, to a lesser extent, the Langi, Madi, Iteso and other ethnic groups, are both victims and perpetrators in the current conflict. The LRA rebels are members of these very ethnic groups, whether they are volunteers or abductees forcibly conscripted into the conflict, and are responsible for the large numbers of abuses and abductions that have been perpetrated on their own communities. They are also the victims of this violence. At the same time, however, these rebel soldiers are also the sons, daughters, brothers and sisters belonging to these ethnic groups. In many cases, their families simply want them to come home safely—without the threat of prosecution. As such, the people of Northern Uganda are deeply engaged in these issues, and are trying to decide what is best for their families and their community.

This paper provides a discussion of three mechanisms that have been utilized in Uganda, in part to bring about societal acknowledgement and social rebuilding: amnesty, the International Criminal Court, and customary mechanisms, and of the on-going dialogue that is taking place in northern Uganda about how each of these mechanisms should be used. It is based, in part, on interviews that I conducted in Uganda in June, July and August 2001 and in November and December 2004, and on 67 interviews conducted by the Refugee Law Project for use in an earlier joint project.³ And it is written in the context of the on-going civil war.

Background and History

Extolled as the “pearl of Africa” by explorer Henry Stanley, Uganda's beauty belies a modern history filled with conflict and violence. The country's relatively peaceful colonization by the British in 1894 was soon followed by bloodshed and war among the 56 different ethnic groups that co-exist within the country's boundaries. The on-going conflict in Northern Uganda is yet another in a series of conflicts drawn loosely along ethnic and geographic lines.

The country declared Independence from the British in 1962, under newly-minted Prime Minister Milton Obote, an ethnic Langi. Obote's first term in power was characterized by

¹ A paper prepared for presentation on the panel, “Social Effects of Political Transitions,” at the Canadian Political Science Association Annual Meeting, 3 June 2006.

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³ Many thanks to Lucy Hovil, Winnie Agabo, Joseph Okumu and Katinka Riderboos for their help in this regard. See Lucy Hovil and Joanna R. Quinn, “Peace First. Justice Later: Traditional Justice in Northern Uganda,” *Refugee Law Project Working Paper Series*, Working Paper No. 17, 8 July 2005.

significant numbers of riots and armed attacks.⁴ Much of this violence was in protest of his consolidation of power throughout the country.

In 1971, his army commander, General Idi Amin Dada, from the small ethnic Kakwa group in the northwest of the country, overthrew Obote and seized power. He then began a reign of terror, systematically murdering and torturing those he considered to stand in his way.⁵ He targeted those who were seen to have supported Obote, especially people of Acholi and Langi descent, many of whom had tended to dominate the military. In 1972, Amin expelled more than 70,000 Asians who living in Uganda, confiscating their property and businesses. During this time, soldiers and police conducted brutal campaigns of torture.⁶ The number of people who were killed during this period is estimated at between 300,000⁷ and 500,000,⁸ earning Amin the nickname “the butcher.”

After a bitter conflict involving Tanzanian government forces, Amin’s forces were defeated in 1979. Interim governments were appointed in 1979 and 1980. As the result of rigged elections in 1980, Obote returned to power. The country was once again the target of extreme violence and abuse, this time far worse than anything experienced during Obote’s first term in office. The paramilitary apparatus of the state again began its practice of routinely violating human rights, by means of rape, torture, looting and destruction of property.⁹ The scale of repression and abuse was roughly the same as it had been under Amin, only this time with a heightened and reinvigorated fury. Conservative estimates again place the number of those killed during this period at approximately 300,000¹⁰ to 500,000.¹¹ Obote remained in office until July 1985 when he was overthrown, again by a faction of the Ugandan military. From July 1985, a military council governed for six months, until it, too, was overthrown.

At the head of the victorious National Resistance Movement (NRM, formerly the National Resistance Army – NRA) was Yoweri Museveni, an ethnic Ankole from southwest Uganda. When he seized power in 1986, he abolished all political parties except his own. He and his troops had been fighting against the regimes of Amin and Obote, as well as the transitional regimes, in Uganda since 1971. In 2006, Museveni remained in power after several controversial changes of the country’s constitution, and contentious elections.¹²

As with his predecessors, Museveni has continued to face considerable opposition from many of the 56 different ethnic groups throughout the country. Between 1986 and 2006, Museveni faced more than 20 armed insurgencies.¹³ One of the longest-lasting, and most

⁴ Dirk Berg-Schlosser and Rainer Siegler, *Political Stability and Development: A Comparative Analysis of Kenya, Tanzania and Uganda* (Boulder: Lynne Rienner Publishers, 1990), 196.

⁵ Nancy G. Wright, “Uganda: History From 1971,” *Encyclopedia of Africa South of the Sahara*, ed. John Middleton (New York: Charles Scribner’s Sons, 1996) 306.

⁶ Berg-Schlosser and Siegler 199; Edward Khiddu-Makubuya, “Paramilitarism and Human Rights,” in *Conflict Resolution in Uganda*, ed. Kumar Rupesinghe (Oslo: International Peace Research Institute, 1989) 141-157.

⁷ Philip Briggs, *Uganda* (Old Saybrook, CT: The Globe Pequot Press, 1998) 23.

⁸ Yoweri Kaguta Museveni, *Sowing the Mustard Seed* (London: Macmillan, 1997) 41.

⁹ Berg-Schlosser and Siegler 199, Khiddu-Makubuya, “Paramilitarism” 153.

¹⁰ *Uganda* (Brooklyn: Interlink Books, 1998) 53; Thomas P. Ofcansky, *Uganda: Tarnished Pearl of Africa*. (Boulder: Westview, 1996), 55.

¹¹ Abdul Nadduli, LC5 District Chairman, interview with author, 17 Nov. 2004, Luweero town, Uganda.

¹² Museveni was returned to power in the first multi-party elections since his accession to power on 23 February 2006, reportedly with 59% of the vote. At the time of writing, the results of the election are being officially contested by Museveni’s chief political rival, Kizze Besigye.

¹³ These include rebellions by the Action Restore Peace, Allied Democratic Forces, Apac rebellion, Citizen Army for Multiparty Politics, Force Obote Back, Former Uganda National Army, Holy Spirit Movement, the Lord’s

devastating is the conflict in northern Uganda. “The conflict in Acholiland began soon after Uganda's last regime change in January 1986. It was triggered [in part] by the NRM's methods for consolidating control over the northern parts of the country.”¹⁴ Joseph Kony, reportedly of Acholi and Langi descent,¹⁵ leader of the Lord's Resistance Army (LRA), continues to abduct children to conscript into his rebel forces, the boys act as soldiers, and the girls to be used by him and his fellow rebels as their wives, as well as carriers of supplies and even soldiers. He and his troops perpetrate brutal abuses on the people of northern Uganda. Abducted child-soldiers themselves are often forced to commit the most heinous of acts, and often against their own families.¹⁶ In one community, 79% of people reported having witnessed torture, 40% had witnessed killing, and 5% had been forced to physically harm another.¹⁷

Northern Uganda has been decimated by this conflict, which “has over the years spread across the entire northern region and parts of the east.”¹⁸ It is worth noting here that that part of the population which is now twenty years old and younger has never known anything but the conditions of war and insecurity. Between 30,000 and 45,000 children have been abducted by the LRA,¹⁹ which has resulted in the phenomenon of “night commuting” wherein an estimated 25,000 children living in these areas walk for miles each night to sleep in the relative safety of centres guarded by the Ugandan military, to avoid being abducted.²⁰

At the time of writing, it is estimated that 1.8 million²¹ people are internally displaced (IDP) within the region and living in ostensibly protected camps for the internally displaced, a figure which represents more than 80% of the region's population. These camps are an “integral part of the Ugandan government's anti-insurgency policy. In some places, anyone who refused to move from their rural homes was forcibly displaced.”²² Effectively, the people were “herded into camps where they [are forced to] survive on relief aid.”²³ Recent reports estimate that 1000

Army, Lord's Resistance Army, National Federal Army, National Union for the Liberation of Uganda, Ninth October Movement, People's Redemption Army, Uganda Christian Democratic Army, Uganda Federal Democratic Front, Uganda Freedom Movement, Ugandan National Democratic Army, Uganda National Federal Army, Ugandan National Liberation Front, Ugandan National Rescue Fronts I and II, Ugandan People's Army, Ugandan People's Democratic Army, Uganda Salvation Army, and the West Nile Bank Front. Compiled from Lucy Hovil and Zachary Lomo, *Working Paper 11: Behind the Violence: Causes, Consequences and the Search for Solutions to the War in Northern Uganda*, (Kampala: Refugee Law Project, Feb. 2004), 4; and Lucy Hovil and Zachary Lomo, *Working Paper 15: Whose Justice? Perceptions of Uganda's Amnesty Act 2000: The Potential for Conflict Resolution and Long-Term Reconciliation* (Kampala: Refugee Law Project, Feb. 2005), 6.

¹⁴ Catherine Barnes and Okello Lucima, “Introduction,” *Accord* (2002) 11: 1.

¹⁵ Cecilia Ogwal, MP Lira Municipality, interview with author, 3 Nov. 2004, Kampala, Uganda.

¹⁶ Hovil and Quinn, *Peace First. Justice Later*, 3.

¹⁷ Tim Allen, *War and Justice in Northern Uganda: An Assessment of the International Criminal Court's Intervention* (London: Crisis States Research Centre, Development Studies Institute, London School of Economics, Feb. 2005), 24.

¹⁸ UN Office for the Coordination of Humanitarian Affairs, “Uganda: War-ravaged north rues Museveni win,” IRINnews.org (1 March 2006); available from www.irinnews.org/print.asp?ReportID=51960; accessed 10 March 2006.

¹⁹ Tim Allen points out that “the scale of abduction is a matter of speculation” due to insufficient monitoring. See Allen, *War and Justice in Northern Uganda*, iii.

²⁰ “When the sun sets, we start to worry...”: *An Account of life in Northern Uganda*, OCHA/IRIN, November 2003, 8.

²¹ Geresome Latim, Secretary to the Paramount Chief of Acholi, interview by author, 22 Nov. 2004, Gulu town, Uganda; also World Vision, *Pawns of Politics: Children, Conflict and Peace in Northern Uganda* (Kampala: World Vision, 2004), 4.

²² Allen, *War and Justice in Northern Uganda*, 23.

²³ Moses Odokonyero, “Acholi's political ‘Elephant breed’ fails,” *The Monitor* (Kampala), 10 March 2006.

people die each week as a result of the deplorable conditions within the camps.²⁴ A clear disconnect exists between northern Uganda and the rest of the country. As one human rights activist said, “We... have two countries in one—the north and the south. This is true politically and economically.”²⁵

Yet Museveni has recently begun to claim that “the LRA have been defeated,”²⁶ that “[t]he conflict in the north has been finished. We have defeated Kony,”²⁷ and that “security in northern Uganda ha[s] been restored.”²⁸ He “has urged the people of Lango and Teso to go back to their homes... Museveni said he would give resettlement kits like iron sheets, food for six months, oxen, and ox ploughs to the people as they go home...”²⁹ It has become increasingly apparent, however, that the people of northern Uganda now living in camps may never be able to return to their homes.³⁰

In this case, enforced ‘communities’ that have sprung up within the IDP camps may be formalised, and the camps themselves will become permanent. If this happens, the forcible dislocation of people from their traditional homes and *gemeinschaft*³¹ communities could further hamper the process of attaining freedom from war. Furthermore, the situation of permanent displacement is likely to have a direct impact on the economic sustainability of the region: as urban centres grow and the needs of a population unable to grow its own food or provide for other basic requirements multiply, the need for skilled workers is likely to increase. Meanwhile, the majority of those living in the camps at present possess none of the knowledge required, and thus it is likely, at least for this generation, that those living in IDP camps will be reliant on additional assistance from others.³²

In reality, however, the war is far from over. It is not known precisely how many rebel soldiers remain “in the bush”—a local colloquialism that refers to the theatre of war—with the LRA; estimates range from 200 to 20,000. But a succession of peace talks held over the years have broken down, and none have been undertaken since early 2005, when the latest talks broke off and the chief negotiator, Betty Bigombe, was forced to discontinue negotiations.

Election results from the last three Presidential elections reflect the north’s despair and dissatisfaction with Museveni. In 1996, in the northern districts of Gulu and Kitgum, Museveni

²⁴ Betty Bigombe and John Prendergast, “Stop the Crisis in Northern Uganda,” *The Philadelphia Inquirer*, 21 February 2006.

²⁵ James Otto quoted in UN Office for the Coordination of Humanitarian Affairs, “Uganda: War-ravaged north rues Museveni win.”

²⁶ Hudson Apunyo, “Abia IDP Camp Marks 2nd Anniversary of Massacre,” *The Monitor* (Kampala), 14 Feb. 2006.

²⁷ “Uganda: Museveni sets priorities after re-election,” IRINnews.org, 27 Feb. 2006; available from www.irinnews.org/report.asp?ReportID=51938; accessed 9 March 2006.

²⁸ Agness Nandutu, “Museveni blames donors over funds,” *The Monitor* (Kampala), 10 March 2006.

²⁹ Apunyo, “Abia IDP Camp Marks 2nd Anniversary of Massacre.”

³⁰ “UNDMT Technical Group Status Report: Preparatory Planning for Displaced Persons” as cited in Chris Dolan, “Understanding War and Its Continuation: The Case of Northern Uganda,” (Ph.D. diss., University of London, 2005), 167.

³¹ Ferdinand Tönnies divided societies into two distinct groups: “*Gemeinschaft* society is one in which people live together in primary groups, tightly wound around the institutions of kin, community and church... In *gesellschaft* society, by contrast, people frequently leave their primary groups for association with people who may be strangers. One chooses one’s occupation, place of residence, and marriage partner. Ties to primary kin, place of origin, and church are loose and may be cut off entirely.” See Rhoda E. Howard, *Human Rights and the Search for Community* (Boulder: Westview, 1995) 25-26.

³² Hovil and Quinn, *Peace First. Justice Later*, 9.

won only 8.5% and 10.5% of the vote, respectively; his opponent, Paul Semwogerere won 90.5% and 88.4% in comparison. In the 2001 elections, this figure was slightly lower: in Gulu, Museveni won 11.5% while Kizze Besigye won 81.8%, and in Kitgum, Museveni won 21.3% while Besigye won 72.4%.³³ In 2006, Besigye again trounced the President, earning 82.3% to the President's 13.2% in Gulu, and 75.4% to Museveni's 18.8% in Kitgum.³⁴ One analysis reads as follows:

Significantly, the voting [is] not based on ethnic or religious politics. It [is] a remarkably widespread protest vote against the NRM... Acholi generally perceive the continuation of the war for their refusal to endorse Museveni's leadership. The LRA insurgency provides an ideal opportunity for the NRM to keep Northerners in general at the periphery and the North-South divide out of the national political debate. As long as the situation of the north is dominated by security matters, the sharing of national resources, the general cohesion of the social and political fabric and the monopolisation of power and wealth by Southerners are not questioned.³⁵

³³ *Northern Uganda: Understanding and Solving the Conflict*, ICG Africa Report No. 77, 14 April 2004, 10.

³⁴ Figures from "Uganda Decides 2006," *The Monitor* (Kampala) 27 Feb. 2006.

³⁵ *Northern Uganda: Understanding and Solving the Conflict*, 10.

Layers of Justice and the Issues Being Raised

A number of different solutions to the problem of ending the war and helping the people of northern Uganda transition back into some semblance of “normal” life—that is to say, life without the constant conditions of war—have been undertaken. These efforts to bring the conflict to an end have been made both by the Government of Uganda, and by the international community. These include a Government of Uganda military offensive, called “Operation Iron Fist,” begun in 2003 and continuing at the time of writing, peace talks held in late 2004 and early 2005, the Amnesty Act (2000), the investigations of the International Criminal Court and subsequent indictment of top rebel commanders in 2004, as well as a number of grass-roots initiatives.

All of this has led to a frank and open discussion by the people of northern Uganda, who display a remarkable familiarity with what are often considered to be complex theoretical and practical manifestations of international criminal law and justice. This is of particular importance because in places like the United States, it is commonly believed that justice “just happens ‘out there,’ among academics and activists,” and matters of international law are therefore not discussed among the majority of the general population.³⁶ In Rwanda, for example, 87.2% of people surveyed claimed little or no knowledge of the International Criminal Tribunal, a similar yet different initiative being held to deal with people charged with involvement in the genocide there.³⁷ Rwandans also reportedly “tend to see [the ICTY] as an activity of the international community conducted primarily for its own benefit, with little relevance to processes of reconciliation in Rwanda.”³⁸

Yet in northern Uganda, this kind of familiarity has been strongly encouraged. Recently, the Senior Legal Officer in the ICC Registry in Uganda, for example, said,

I would hope that the Ugandan people first try to understand what the court is, what it's doing, what it can do and what it cannot do. Now that the court's office is functional in Uganda, I would encourage people to go to this office to seek information and clarity about its operation. I hope the court and the people of Uganda can work together to end impunity and to make sure that those responsible for the atrocities in Uganda are brought to justice in the interest of peace and reconciliation.³⁹

Indeed, the people of northern Uganda are actively engaged in this discussion. A number of conferences and workshops have been held to determine an appropriate plan for peacebuilding⁴⁰ and reconciliation. A small sample of these includes the following:

³⁶ John R. Bolton, “The risks and weaknesses of the International Criminal Court from America's perspective,” *Law and Contemporary Problems*, 64 (Winter 2001): 167.

³⁷ Timothy Longman, Phuong Pham, and Harvey Weinstein, “Rwandan Attitudes Toward the International Criminal Tribunal for Rwanda,” cited in Alison Des Forges and Timothy Longman, “Legal responses to genocide in Rwanda,” in *My Neighbour, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, eds. Eric Stover and Harvey M. Weinstein (New York: Cambridge University Press, 2004), 56.

³⁸ Alison Des Forges and Timothy Longman, “Legal responses to genocide in Rwanda,” in *My Neighbour, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, eds. Eric Stover and Harvey M. Weinstein (New York: Cambridge University Press, 2004), 57.

³⁹ Stephen Opiyo, “Interview: Justice in Uganda,” *Institute for War and Peace Reporting*, AR No.53, 7 Feb. 2006; available from http://www.iwpr.net/?p=acr&s=f&o=259435&apc_state=henpacr; accessed 12 March 2006.

⁴⁰ Here, I use the word “peacebuilding” in the manner in which it is used by John Paul Lederach: “[P]eacebuilding is understood as a comprehensive concept that encompasses, generates, and sustains the full array of processes, approaches, and stages needed to transform conflict toward more sustainable, peaceful relationships.” See John Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington: USIP Press, 2004) 20.

- “Peace Research and the Reconciliation Agenda,” organized by ACORD and the Acholi Religious Leaders Peace Initiative, 27-29 September 1999;
- “Youth Partnership for Peace and Reconciliation Conference: Reconciliation: Rising up Against the Challenge,” organized by the Northern Uganda Peace Initiative, 14-16 March 2005;
- “Historical Memories of Cooperation, Conflict, and Reconciliation in Uganda,” organized by the Centre for Basic Research and the Institute for Historical Justice and Reconciliation (Salzburg), Uganda, 8-9 July 2004;
- “Reconciliation: The Way Forward,” conference organized by Ministry of Internal Affairs, Cultural Leaders of the Acholi Sub-Region, Religious Leaders of the Acholi Sub-Region, and Northern Uganda Peace Initiative, 9-10 December 2004.

What follows is a discussion of three of the mechanisms that have been utilized to try to contain the situation and begin the process of social rebuilding, and the varied responses of the people of northern Uganda to them.

Amnesty

In November 1999, the Government of Uganda passed the Amnesty Act, which was enacted in January 2000. The Act reads as follows:

An amnesty is declared in respect of any Ugandan who has at any time since the 26th day of January, 1986 engaged in or is engaging in war or armed rebellion against the government of the Republic of Uganda by:

- (a) actual participation in combat;
- (b) collaborating with the perpetrators of the war or armed rebellion;
- (c) committing any other crime in the furtherance of war or armed rebellion; or
- (d) assisting or aiding the conduct or prosecution of the war or armed rebellion.⁴¹

The amnesty “was conceived as a tool for ending conflict... a significant step towards ending the conflict in the north and working towards a process of national reconciliation.”⁴² The Government of Uganda, however, is largely seen to have, at the very best, ambiguous support for the amnesty process: numerous informants questioned whether or not the government was really serious about the Amnesty. Indeed, since its enactment, the government has never presented a consistent position on the Amnesty. One elderly man in Kitgum articulated a commonly held view: ‘Parliament said [the Amnesty Act] was ok, but the president himself didn’t want it. This is no secret.’⁴³

The Amnesty Act came about “after a great deal of activism from civil society groups, NGOs and concerned politicians.”⁴⁴ In fact, such groups hotly debated the merits of each element of the Amnesty in the months leading up to its enactment, and provided considerable

⁴¹ The Republic of Uganda, *Amnesty Act 2000*, Part II, 3(1).

⁴² Hovil and Lomo, *Whose Justice? Perceptions of Uganda’s Amnesty Act 2000*, 6.

⁴³ *Ibid.*, 18.

⁴⁴ Allen, *War and Justice in Northern Uganda*, 31.

feedback to the Government of Uganda.⁴⁵ At that time, one group of conference participants emphasized in particular the need to “give all people in the North opportunity to feedback and to prepare for effective implementation.”⁴⁶

It is clear that there is wide-spread support for the amnesty as a tool to end the war in the north.⁴⁷ However, it is also true to say that there is widespread support for Kony and senior commanders to either be tried in a court of law, or simply killed—or both. Both opinions, while seemingly contradictory, were often expressed by the same person in interviews we conducted. Indeed, there is currently much confusion on the ground, and within the wider discourse surrounding the war, over the role that should be played by different mechanisms of justice, and over who should dictate the process.

As one former combatant said, “In one corner there is amnesty, in one corner there is prosecution. So it means everything is mixed together, there is no transparency in the amnesty...”⁴⁸ The consequent polarization of the debate is creating an environment in which people are effectively being forced to choose between the two alternatives of amnesty and prosecution, neither of which, on its own, is likely to adequately encapsulate the demands of justice in the long-term. However, it is also an impossible choice to make while the conflict is on-going.

There is widespread support for the amnesty, stemming not only from a recognition that the majority of combatants are former abductees, but also from a desire to end the conflict. In other words, the amnesty as a mechanism to end violence is seen, in and of itself, as a form of justice: it has the potential to save lives and allow people’s children to return home. As one elderly man currently living in an IDP camp said, “We are now desperate. These people should be forgiven, and if this process of forgiveness continues, then maybe one day the government will let us go home again.”⁴⁹

To be sure, people’s responses appear to vary depending on their own situation, as can be expected: The amnesty has served a valuable purpose in helping to bring the conflict to an end. More than 14,695 ex-combatants had reported to the Amnesty Commission by early 2005,⁵⁰ many of them having agreed to leave the conflict expressly because of the guaranteed amnesty that awaited them.

There is a willingness to accept back into the communities those who were unwillingly abducted into the conflict, although for many this is not an easy thing to do. Many of those interviewed gave responses that stemmed from a recognition of the depth to which the conflict has penetrated within the society. Given the number of those abducted and returning on a daily basis, allowing for the acceptance of former combatants has become vital to the process of societal rebuilding, and goes a long way to building social trust and social cohesion, as discussed above. As one young woman said, “The fact that everyone’s child was abducted in one way or another and may have committed atrocities at the moment makes it important for the whole community to now say, ‘we want total reconciliation.’”⁵¹

⁴⁵ “Report on the Conference, ‘Peace Research and the Reconciliation Agenda,’” ACORD and the Acholi Religious Leaders Peace Initiative, Gulu, Uganda 27-29 September 1999, 12-13.

⁴⁶ *Ibid.*, 13.

⁴⁷ See Hovil and Lomo, *Whose Justice? Uganda’s Amnesty Act 2000*, RLP Working Paper #15.

⁴⁸ Group discussion with 3 returnees by RLP interviewer in Acholi language, Gulu town, 8 March 2005.

⁴⁹ Interview with elderly man by RLP researcher in Acholi language, Palenga IDP camp, Gulu, 9 March 2005

⁵⁰ *Whose Justice? Perceptions of Uganda’s Amnesty Act 2000*, RLP Working Paper #15, 7.

⁵¹ Interview with young woman by RLP researcher in Acholi language, Gulu town, 6 March 2005

Many, however, spoke of the need to avert tensions and future conflict from arising. In other words, the long-term implications of amnesty—of having former combatants returning to the areas in which they operated as combatants—needs to be given serious consideration. The levels of acceptance and forgiveness that exist must not be taken for granted. As one man living in an IDP camp in Gulu said,

The amnesty says you are forgiven, but for us, they still have to come and talk to the parents and compensation will have to be done. Even if the amnesty has done its work the ceremony of *mato oput* [a customary mechanism discussed below] has to be done and compensation paid... But when they come back, they will not be rushed into paying compensation. But when the people go back to their homes, that is when they will slowly begin to deal with these issues and with the compensation.⁵²

One young woman in an IDP camp in Kitgum gave an example of how tough it is to accept someone back who has killed an individual known to them:

People in the community, especially the ones who know that it was this returnee who killed their people, they feel the bitterness... There is an old man here, two of his children were going for a visit. The rebels killed them. Recently these rebels returned, they reported to the primary school here. Then when the old man saw them and saw that they were wearing his sons' clothes, he went to them, he was very angry and wanted revenge – he was like a madman. People were holding him. He demanded that the rebels show him where they had buried the two sons, so they went and collected the remains.⁵³

A few of those interviewed admitted that they are unwilling to accept former combatants back regardless of whether or not they were abducted. As one elderly woman said, “Even those who were abducted, they are no longer our children. They are now with Kony and they take instructions from Kony to kill us. They should also be killed.”⁵⁴ Or in the words of an elderly woman, “People are bitter, like me, I am so bitter. I feel they should kill that person who killed my son.”⁵⁵

Thus, while support for the amnesty as a means of getting the rebels out of the bush was widely shared, with most interviewees able to explain their reasons for supporting the amnesty in terms of achieving an end to conflict, the views of what should happen next were much more divergent and less well thought out. The majority of civilians see the amnesty process as being the surest way to absorb the thousands of abductees/ex-combatants back into society. However, there was also a recognition that further processes will need to be put in place to facilitate a genuine reintegration process in the long term. In addition, and not surprisingly, there was considerable divergence of opinion relating to the issue of what should happen to the LRA's senior commanders, in particular Kony.

International Criminal Court

In what was largely considered to be an extreme measure, but clearly an indication of Museveni's unhappiness with the Amnesty process, Museveni formally requested that the International Criminal Court (ICC) investigate the actions of the Lord's Resistance Army in

⁵² Interview with man by RLP researcher in Acholi language, Unyama IDP camp, Gulu, 10 March 2005.

⁵³ Interview with young woman by RLP researcher in Acholi language, Labuje IDP camp, Kitgum, 12 March 2005.

⁵⁴ Interview with woman, Amida IDP camp by RLP researcher in Acholi language, Kitgum, 13 March 2005.

⁵⁵ Interview with elderly woman by RLP researcher in Acholi language, Amida IDP camp, Kitgum, 13 March 2005.

northern Uganda December 2003, an act made public by the Prosecutor in January 2004. This meant that the future of the Amnesty process was put in doubt.

The ICC has since opened an investigation, and the Chief Prosecutor has issued warrants for the arrest of Joseph Kony and four other senior members of the LRA.⁵⁶ Individually, each of the five warrants details the atrocities attributed to the LRA, and to each of the five men, including more than 2,200 killings and 3,200 abductions in over 820 attacks. Kony, for example, is charged with 12 counts of crimes against humanity and 21 counts of war crimes, including “rape, murder, enslavement, sexual enslavement, [and] forced enlistment of children.”⁵⁷

All of this has garnered much debate in Uganda, as it has around the world. (Uganda effectively represents the first “test” case of the newly-constituted ICC.) Nevertheless, while aid agencies and human rights groups were enthusiastic about the ICC announcements, “Ugandan organizations tended to be rather more assertive, even openly hostile. Those promoting the Amnesty and negotiating a ceasefire made it plain that they viewed the ICC as a liability, and argued that prosecution could well make circumstances even worse.”⁵⁸ This position was reiterated as such:

The issuing of... international arrest warrants would practically close once and for all the path to peaceful negotiation as a means to end this long war, crushing whatever little progress has been made during these years... Obviously, nobody can convince the leaders of a rebel movement to come to the negotiating table and at the same time tell them that they will appear in courts to be prosecuted.⁵⁹

Delegations of concerned northern Ugandans have traveled to the International Criminal Court in The Hague on at least three occasions.⁶⁰ In discussions held during these visits, the people of northern Uganda have revealed grave concerns including the potential bias of the ICC, the spoiling of the peace process, and disempowering local justice mechanisms, along with the guarantee of security for Ugandans, and for particularly exposed people, like those witnesses who will be called to testify.

The other main concern, of course, is the interaction of the work of the Court with the Amnesty process that is already underway. Understandably, many who have already been granted amnesty are scared that the ICC investigations will jeopardize their own status. This appears to be a minor concern, since the Court has only issued warrants for the top five LRA leaders, and has shown no interest in prosecuting those lower down in the chain of command. But for others, including Brigadier Sam Kolo, the alleged “second-in-command” of the LRA

⁵⁶ At the time of writing, none of these warrants has been executed, and these men remain at large.

⁵⁷ Chief Prosecutor Louis Moreno-Ocampo, “The Investigation in Northern Uganda,” International Criminal Court, 14 October 2005 ; available from http://www.icc-cpi.int/library/organs/otp/Uganda_PPpresentation.pdf; accessed 22 February 2006.

⁵⁸ Allen, “War and Justice in Northern Uganda,” 43.

⁵⁹ Father Carols Rodriguez, “Public Statement,” in Adam Branch, “International Justice, Local Injustice: The International Criminal Court in Northern Uganda,” *Dissent Magazine*, Summer 2004.

⁶⁰ “Delegation from Uganda holds talks with the Registrar of the ICC,” International Criminal Court, 18 March 2005 (ICC-20050318-94-En); available from http://www.icc-cpi.int/pressrelease_details&id=97&l=en.html; accessed 22 February 2006; “Joint Statement by ICC Chief Prosecutor and the visiting Delegation of Lango, Acholi, Iteso and Madi Community Leaders from Northern Uganda,” International Criminal Court, 16 April 2005 (ICC-OTP-20050416-99-En); available from http://www.icc-cpi.int/pressrelease_details&id=102&l=en.html; accessed 22 February 2006.

who left the LRA, and then sought and received amnesty in March 2005,⁶¹ the ICC process has major implications. And which process, if any, is to receive precedence has yet to be decided.

Those living in northern Uganda are, to a large extent, baffled by the international legal process that Museveni has chosen to use, and why. And, while it is becoming apparent that Museveni did not himself understand the procedural and substantive legal implications of inviting the ICC to become involved,⁶² to the people of northern Uganda, the international legal process is almost completely foreign. They are used to resolving conflict through centuries-old mechanisms; this is recognized by some working in international law as a real problem.⁶³

One elderly Acholi man described his own understanding of “justice”:

There are many different problems. There are domestic problems. For a husband to throw a crumb of bread at his wife, that is already a crime, that cannot be tolerated. Something must be done. To pick a fight, to walk out of the house, swearing never to come back, that is already a crime. Incest cannot be tolerated; justice needs to be done, not only to the person wronged, but also to the family, to the whole clan. If my wife refuses to have sex with me and she puts ash near her private parts, that is a crime, and the elders will know how to deal with it. To kill someone: the crime is at two levels, intentional and unintentional. These are handled in different ways. Stealing? I don't know how we have been dealing with it, it has been very rare. There is no ceremony for someone who has stolen, unless it was stealing grain. The elders would handle these things. If I had quarreled with my wife, my parents—my father—and my brothers would come in. If it is a big problem, the elders of the community would come in.⁶⁴

People also tend to connote accountability with punishment, which is mostly seen as capital punishment, or the death penalty:

In our community, the question of punishment was not there. I have heard it only once, [when] the death penalty was passed. If you play with the Chief, if you commit a crime against the Chief, your life is in real danger. If you create insecurity for the chief, you can easily die. There is this story about a woman called Latiina. She started brewing *kwete*, the local brew. The Acholi did not have it then, she started it. Culturally, anything new must never be consumed before it is taken to the Chief. He tasted it and he found it was very good and he drank it and then he got very drunk. When the chief was drunk, you know, you lie down, and people thought that he had died. You never kill anyone in the compound, so the woman was taken out of the compound and stoned with *keno* until she died. That was punishment, because she played with the life of a Chief. We have a saying today, *yom yic oneko Latiina* (“happiness has killed Latiina”).⁶⁵

Many would be happy to prosecute only those at the top of the LRA command. One young Acholi man said, “For these people who have come back from the bush, they should all be

⁶¹ Jenny Cuffe, “Uganda torn over price of peace,” BBC News, 31 March 2005; available from <http://news.bbc.co.uk/2/hi/africa/4394923.stm>; accessed 24 February 2006.

⁶² Allen, *War and Justice in Northern Uganda*, 42.

⁶³ Harvey M. Weinstein and Eric Stover, “Introduction: conflict, justice and reclamation,” in *My Neighbour, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (New York: Cambridge University Press, 2004), 12.

⁶⁴ Interview with elderly man by RLP interviewer in Acholi language, Gulu town by RLP interviewer in English, 3 March 2005.

⁶⁵ Interview with elderly man by RLP interviewer in English, Gulu town, 3 March 2005.

forgiven because most of them were just abducted... But for Kony, if he does not come out through the peace process then they should get away of arresting him and government can do anything they think fits him.”⁶⁶ Said another, “Kony should be arrested and taken to court because of the many crimes he has committed like killing, maiming and displacing. His crimes are too big for amnesty the Acholi way.”⁶⁷ These sentiments were also echoed by those in the structure of government. “Kony should be arrested and prosecuted for all the atrocities he was committed. Amnesty has been our attempt to bring peace.”⁶⁸

Other informants, however, disagreed. One elderly man said,

The worst killers are the low people [that is, of lower ranks]. Because as you compare what has been happening here, most of the bad things have been done by government fighters. So Kony will be forgiven. If the government insists on punishing Kony, I think that the Acholi will in chorus say, “no, if you wanted to kill him, why did you encourage us to bring him home?” No Acholi elder will accept this. “You will involve us in persuading Kony to come home. Why do you now want to kill him?” I think there would be many reasons for the Acholi leaders to complain world wide. It must be made known to the world that we Acholi people do not want, from the bottom of our heart, for Kony to be punished. The conditions given now should be maintained. We want blanket amnesty.⁶⁹

Another said, “Kony is like a magnet and arresting him is going to jeopardise the amnesty process and it will affect the reconciliation process in the community. There is going to be no peace without forgiveness. For there to be peace we should be forgiving and accommodating. The ICC is in sharp contrast with the culture of the Acholi people.”⁷⁰

Customary Mechanisms

As in many parts of the world, ethnic groups throughout Uganda have a rich history of traditional ceremonies that are used to resolve conflict and bring about social healing. Such ceremonies have been widely practiced in different areas of the country. But they are of particular value in the Acholi culture. Customary mechanisms have long addressed questions of peace, justice and accountability. These matters were traditionally managed by the traditional structural leaders of the community.⁷¹

The traditional leaders oversee the general peace of their subjects. These institutions used to work with the community to reconcile the conflicts in the community, and also murder. If someone has done these things, he needs to accept the guilt. [‘Accepting the guilt’ is seen as acknowledgement in Acholi culture.] If someone does not accept the guilt, he is left free and remains outside the community. The fundamental thing is for the criminal to be alive and contribute to strengthening society.⁷²

⁶⁶ Interview with young man by RLP interviewer in Acholi language, Labuje IDP camp, 12 March 2005.

⁶⁷ Interview with man by RLP interviewer in Acholi language, Acholi Bur, Pader, 15 March 2005.

⁶⁸ Interview with Walter Ochora, LC5 District Chairman by RLP interviewer in Acholi language, Kitgum, 14 March 2005.

⁶⁹ Interview with retired teacher by RLP interviewer in Acholi language, Gulu town, 4 March 2005.

⁷⁰ Interview with middle-aged professional man by RLP interviewer in Acholi language, Gulu town, 5 March 2005.

⁷¹ Sverker Finnstrom, *Living With Bad Surroundings: War and Existential Uncertainty in Acholiland in Northern Uganda* (Uppsala: Acta Universitatis Upsaliensis, Uppsala Studies in Cultural Anthropology No. 35, 2003), 292.

⁷² Geresome Latim, Executive Secretary, *Ker Kwaro Acholi*, interview with author, 22 Nov. 2004, Gulu, Uganda.

And these customs were traditionally passed on through strong social and cultural education, passed on from one generation to the next. Acholi children were traditionally taught a representative proverb, *te okono pe kiputu* (“the stump of the pumpkin should not be uprooted”). This proverb was symbolic of two basic principles: first, that they should not destroy Acholi traditions; and second, that they should respect their “clan, relations, elders, ancestors and holy shrines.”⁷³

The Acholi carry out a ceremony called *mato oput* (drinking the bitter herb), and another called *nyouo tong gweno* (a welcoming ceremony in which an egg is stepped on over an *opobo* twig). *Nyouo tong gweno* is used to welcome back anyone who has been away from his home for an extended period of time. These ceremonies allow the Acholi to acknowledge that this person has been accepted back into the community, and that the community is pleased to have them back.

For the Acholi, for one to stay away from his home for a long time, that is never acceptable, that is always something bad, something associated with bitterness. So these words always are part of the ceremony for returnees. *Wa ojoli paco*, these are also words spoken at the ceremony. It means, “we welcome you home.” It is to say that, “the people have forgiven you everything, the Acholi people welcome you back and they now want you to take responsibilities in the community.” Immediately you are welcomed in the community, the community is beginning to extend its services and responsibilities to you. People will come and talk to you. Once a child is born in Acholi culture, that child becomes part and parcel of that particular family, and the clan, and then the community. So the whole community would also expect some responsibility from you.⁷⁴

Another interviewee described a ceremony held after someone has been killed accidentally: “If one killed another unknowingly, there is compensation and this is referred to as *too-bong*. This is a death that occurs without one’s intention; it is an “accident”. Here they do not drink the *oput*. In these days, the person would have to pay 8 cows [head of cattle], plus one for the Rwot and two goats. And there it ends.”⁷⁵

Presently, elements of these ceremonies are being used to welcome ex-combatant child soldiers home after they have left the rebel army.⁷⁶ And in 1985, *gomo tong* (the bending of spears), an inter-tribal reconciliation ceremony, was held to signify that “from that time there would be no war or fighting between [the following ethnic groups:] Acholi and Madi, Kakwa, Lugbara or Alur of West Nile.”⁷⁷

One interviewee said,

Traditionally, different problems were solved differently. If two people fought, their case would be taken in front of elders, who would hear the reasons why they fought. Each of the parties would be requested to make a statement. Then the witnesses could also be summoned to testify, just to get who of the two was wrong. When the person who was in the wrong was identified, the elders would give him a fine. Say a chicken, or a bottle of *warragi* [local gin]. Then the person would be reprimanded, and told not to repeat his

⁷³ Finnstrom, *Living With Bad Surroundings*, 274.

⁷⁴ Interview with middle-aged man with RLP interviewer in Acholi language, 5 March 2005, Gulu town.

⁷⁵ Interview with elderly man, Labuje IDP camp, 12 March 2005, interview in Acholi (no translation)

⁷⁶ For an excellent description of *mato oput* see Finnstrom, *Living With Bad Surroundings*, 297-299.

⁷⁷ *Ibid.*, 299.

wrongdoing. Because the problem could arise for example because someone is drinking, so he would be warned not to repeat.⁷⁸

As indicated above, the Acholi are intimately familiar with these and other kinds of ceremonies. In the interviews I conducted with Acholi people, to a person, each interviewee was able to give me a coherent account of these ceremonies and their utility within the Acholi culture. As Finnstrom notes, “[th]ese practices, far from being dislocated in a past that no longer exists, have always continued to be situated socially. They are called upon to address present concerns.”⁷⁹

Others disagree. In part because of the dislocation of the community into IDP camps, and in part because the ceremonies themselves are being changed to some extent to deal with the present and formerly unknown circumstances, they feel that it is not proper to carry out these ceremonies. The *Rwot* (Chief) of Atiak reiterated these concerns:

[The performing of *mato oput* and other healing ceremonies] has to be done by the elders of each clan (*kaka*) [and not by government officials, as is being done now]. This thing they have been conducting in Gulu is not good. But what can I do? They accepted to do it there. They must do it separately [and not in groups as it is currently being done]. If they do it in the town it will make things worse. It will bring *cen* [evil spirits] there...⁸⁰

Others are concerned because of the changing spiritual nature of these ceremonies, even as they themselves have converted to Christianity. They are also concerned that some groups, including religious leaders, are coopting the process. One woman said,

It is no use performing healing rituals in town. The thing they are doing now is a big mistake. It will take all the *cen* to the place where it is done. Those rituals will have to be done by clan elders. The Acholi are losing their culture. Culture was created by God. I am very Christian. Jesus goes with my culture. I love God so much. I respect Catholics. They brought Jesus to us. But they must correct their mistake. I helped set up the Acholi Traditional Ritual and Prayer Committee. We collected information and messages from old elders and summarised them. Instead of listening, the *rwodi mo* (the annointed traditional chiefs) are fighting those people. It is because the religious leaders are mobilising the *rwodi mo*. They are saying the old ways are Satanic... They are fighting against the real rituals. We need to mobilise the elders for prayers and rituals. I don't want *rwodi mo* interfering.⁸¹

Conclusions

The people of northern Uganda have been dealt a cruel hand. The war has raged for two decades. Their involvement in this conflict is complicated, due to their participation as both perpetrators as soldiers in the rebel LRA, and as victims of both the LRA and blatant neglect and mismanagement of the crisis by the Government of Uganda.

⁷⁸ Interview with middle-aged man, Gulu town, 3 March 2005, interview in Acholi (no translation)

⁷⁹ Finnstrom, *Living With Bad Surroundings*, 299.

⁸⁰ Cited in Allen, *War and Justice in Northern Uganda*, 79.

⁸¹ *Ibid.*, 80.

How to fix these problems is an enormous task, not least of which because the physical infrastructure of the north has been almost completely destroyed. Roads, schools and hospitals are either running at very low capacity, or have simply ceased operations altogether. The IDP camps themselves have very little in the way of this kind of infrastructure. As a result, children are unable to go to school. And disease runs rampant.

The social infrastructure, too, has been weakened. Yet the people of northern Uganda have demonstrated an astonishing resilience. And they have become increasingly involved in trying to understand and influence the future of their region, and of the people who have been and will be demobilized from the conflict.