

Northern Uganda - Human Security Update

Pursuing Peace and Justice: International and Local Initiatives

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INTRODUCTION

The initiation of an investigation by the Office of the Prosecutor at the International Criminal Court (ICC) in Northern and Eastern Uganda has sparked intense debate on its impact on the prospects for peace in the region. On one side of the debate, it is argued that the Chief Prosecutor's timing negatively impacts the efforts of Betty Bigombe, chief mediator between the Government of Uganda and the Lord's Resistance Army (LRA), to re-initiate talks. The fear is that the LRA will have no incentive to dialogue with the Government if they face arrest and detention. Second, the investigation provides a disincentive for rebel commanders to come out under the provision of the Ugandan Amnesty Act (2000). Third, the investigation undermines the efforts of locally-based civil society groups to support the peaceful return and reintegration of combatants under the Amnesty. On the other side, the Chief Prosecutor, Luis Moreno Ocampo's investigation has had a positive impact, facilitating prospects for realizing sustainable peace, primarily by drawing greater international attention to the conflict and pressuring conflicting parties to resolve it.

This Human Security Update examines the origins and evolution of the two sides of the debate on 'peace vs. justice' and attempts to bring them into conversation. Recent efforts to exchange information and views on this topic may provide an entry point for finding a balanced approach between international and local initiatives. Both approaches have relative merits and limitations. Neither are a stand-alone solution, but a well-planned, long-term,

coordinated and transparent approach could stimulate both peace and justice in the region.

THE ORIGINS AND EVOLUTION OF THE DEBATE

The current debate surrounding the ICC's investigation does not revolve around the necessity of an international criminal justice system, nor the concept of the International Criminal Court; the issue is timing. As His Highness Rwtot David Onen Acana II, Paramount Chief of the Acholi, explains: "we all need justice. Peace and justice go together, but let's work on the peace first and the justice later on".¹ Bryn Higgs, Uganda Programme Development Officer for Conciliation Resources, further explains the position: "to start war crimes investigations for the sake of justice at a time when northern Uganda sees the most promising signs for a negotiated settlement of the violence risks having in the end neither justice nor peace delivered".² This view should not, however, be seen as the population's support for either LRA leader Joseph Kony or impunity.³ Nor is the ICC viewed as an irrelevant or anti-conflict resolution institution; its inception will have a tremendous impact on the future protection of human rights and justice of those committing genocide, crimes against humanity, war crimes and crimes of aggression. To reiterate, the issue is timing.

¹ BBC News, *Ugandans Ask ICC to Spare Rebels*, 16 March 2005.

² CNN, *ICC Under Fire Over Uganda Probe*, 23 February 2005.

³ Refugee Law Project, *Whose Justice?* February 2005, 24.

In December 2003, Ugandan President Yoweri Museveni referred the situation in Northern Uganda to the ICC. Museveni's referral was widely hailed by international human rights groups and states party to the Rome Statute as a ground-breaking move to end impunity. Locally, however, the referral was viewed as a public relations manoeuvre. International attention to the humanitarian crisis in Uganda increased in 2003, and the justification of a military strategy no longer held water. The referral, therefore, was perceived to be one way of improving the President's public image to the international community. Regardless of the motivation for the referral, it set in motion a process of investigation that ultimately could not be rescinded by any one person or group except the Chief Prosecutor. On July 29 2004, Ocampo announced that there was enough evidence to proceed with an investigation of the situation. In early 2005, Ocampo announced that he would be issuing indictments for fewer than ten of the top LRA commanders considered most responsible for the crimes committed since July 1, 2002.

A number of civil society actors in Uganda have argued that an indictment would be ill-timed at present, based on three concerns. The first concern is that an indictment would undermine existing efforts to end the conflict peacefully. Bigombe has repeatedly stated that she would have no option but to abandon the peace process and negotiations if the ICC's arrest warrants were issued. She believes that peace negotiations with the LRA would be futile since the top commanders would know that they would be arrested upon surrender.

Refugee Law Project (RLP) takes this argument a step further, finding that even the possibility of impending indictments "has [already] had a serious negative impact on the potential for resolution of the conflict in northern Uganda"⁴ by sending mixed messages to the LRA and war-affected populations who fear LRA reprisals. The apparent contradiction between the ICC and Amnesty Act urgently needs clarification, where "the ICC is seen as a potential mechanism for

seeking vengeance for the dead, the amnesty is perceived as an attempt to protect those who are living".⁵

A second, inter-related concern is that top LRA commanders, including Kony, will be deterred from taking advantage of the Amnesty Act⁶ if they think they will be arrested and face trial. Moreover, it is feared the LRA will 'go suicidal' if indictments are made, increasing attacks on the local population and the already grave vulnerability of the war-affected populations.

The Chief Prosecutor does have the authority to override the Amnesty Act and national judicial institutions.⁷ How Ocampo will compliment the existing amnesty and offer protection to the war-affected is therefore subject to question. The ICC does not have a police force to enforce arrest warrants. Therefore, since the ICC relies on state parties to detain accused individuals and the Government army, the Uganda People's Defence Forces (UPDF), has for several years been unsuccessful in finding Kony, some argue that there is little value in issuing indictments at this stage.

These concerns have prompted the Chief Prosecutor to more recently clarify that he is "mindful of traditional justice and reconciliation processes and sensitive to the leaders' efforts to promote dialogue between different actors in order to achieve peace."⁸ However, greater clarification is required for how, exactly, the initiatives of the Chief Prosecutor will

⁴ Refugee Law Project, *Whose Justice?* February 2005, 28.

⁵ Refugee Law Project, *Whose Justice?* February 2005, 28.

⁶ The Amnesty Act, 2000 provides the opportunity of a legal and social pardon within the community for those who surrender, abandon, and renounce their involvement in armed conflict or collaboration with those involved in armed conflict.

⁷ The Amnesty Act also contains various loopholes that could make prosecution of persons who received amnesty possible. Several Kampala based human rights lawyers have argued cases could soon emerge involving private prosecutions against individual LRA commanders. Interview, Gulu, 26 March 2005.

⁸ *Joint Statement by ICC Chief Prosecutor and the visiting Delegation of Acholi leaders from northern Uganda*, 18 March 2005 available at http://www.icc-cpi.int/pressrelease_details&id=96.html

minimize any negative impacts on the amnesty process.⁹ Should arrest warrants be issued, moreover, the protection of civilians begs urgent consideration and coordination by all involved stakeholders.

A third concern is that efforts by civil society groups to support the Amnesty Act and a peaceful resolution to the conflict may be set back. Civil society – including traditional leaders, religious leaders and non-governmental organizations (NGOs) working with formerly abducted children and adults such as the Concerned Parent’s Association (CPA) – have mobilized communities to support the principles of forgiveness and reconciliation. As Dr. Olyet, Chairperson of the CPA has argued, “if [the LRA] can come back tomorrow, so that all these atrocities can stop, then all that happened in the past will be [forgiven]”.¹⁰ Advocates have argued that these efforts need more time to take root, and that potentially, the ICC will divide war-affected communities rather than unite them, as it is based on a punitive, rather than the restorative approach supported by civil society. On this point, many have argued that traditional justice mechanisms should be supported.

On the other side of the debate, the spokesperson for the ICC Chief Prosecutor disagrees that there has been any “adverse developments in the peace process because of the ICC”.¹¹ A number of analysts take this claim further, suggesting that in fact, the ICC may have had a positive impact on the peace process by 1) drawing greater international attention to the conflict and crisis in Northern Uganda; 2) bearing greater pressure on the Government of Sudan to cooperate, and; 3) pressuring the Government of Uganda and the LRA to engage in dialogue to end the conflict peacefully. As the ICC Legal Officer Darryl Robinson stated in an interview with CNN: “These peace discussions have been going on for something like 18 years now....Perhaps the ICC interference presents an opportunity. What we can

do is to isolate the very, very top leadership. We can encourage the others to demobilize and we can help galvanize international attention to focus on the situation.”¹²

While the ICC may have contributed to renewed attempts at dialogue and possibly the mass return of LRA soldiers and commanders, although a direct co-relation between the ICC and these events is difficult to prove or disprove, not least because equally compelling interventions (the military campaign, peace in Southern Sudan, dialogues between conflicting parties, donor pressure and the amnesty and local initiatives to support it) have taken place simultaneously. Moreover, the local population and the LRA remaining in the bush continue to hold a negative view of the ICC. As the RLP report found, the local population has a great deal of anxiety for their own security. Regardless of the timing of indictments, LRA commanders will continue to view it as an impediment to returning home: whether they are arrested now or later is irrelevant.

The emergence of the debate can be attributed to the lack of an initial communication strategy on the role and functions of the ICC at the local level and the varying efforts of different stakeholders in making their roles known. Shortly after the Chief Prosecutor’s announcement in January 2004, he immediately consulted governmental, international and national non-governmental actors on the case. However, discussions between the ICC and some northern and eastern-based human rights groups, civil society leaders and international NGOs soon broke down when the ICC appeared to be working independently of local initiatives for peace and justice. This relationship deteriorated further after the ICC announced its intention to officially open an investigation into the situation in July 2004, with the possibility to issue indictments at any time.

Due to the highly insecure and sensitive nature of this investigation, the Office of the Prosecutor chose to pursue a ‘low profile’ approach to its investigations. While understandably wishing to

⁹ Refugee Law Project, *Whose Justice?* February 2005.

¹⁰ Interview with the Liu Institute, Lira, 8 October 2004.

¹¹ The Globe and Mail, *Peace First, Justice Later?* 7 May 2005, F9.

¹² Cited in CNN, *ICC Under Fire Over Uganda Probe*, 23 February 2005

protect the security of those giving testimony and to avoid LRA reprisals for their activities, the 'low profile' approach fuelled local and national rumours regarding the intentions of the international justice body. At least one of these rumours was that the ICC was working on the behest of the Government of Uganda, and was therefore synonymous with those who favour a military approach to resolving the conflict. Fear was generated within grass-roots communities in Northern and Eastern Uganda that the ICC would pursue a one-sided, 'victor's justice' approach to its work.¹³ The LRA negotiating team led by spokesperson Brigadier Sam Kolo in December 2004 identified the ICC as one of its three primary concerns in negotiating a settlement. This indicated that concerns had moved beyond the level of national and local debates to the rebels in the bush.¹⁴

Tensions and suspicions of the ICC's intentions in Northern Uganda heightened after the collapse of talks in January 2005. The fact that the ICC is subject to international and local pressure to act promptly must also be mentioned here. Northern Uganda is the ICC's first case. Postponing the investigation until peace is achieved may send a contradictory message about the ICC's purpose and its responsibility to bring justice for perpetrators of such grave crimes. Furthermore, the Ugandan Government's official position is that the perpetrators must be prosecuted, and are pushing the ICC to move forward. Member of Parliament (MP) Hillary Onok argues, "Our people definitely would wish that justice is done to the perpetrators of these crimes against humanity. You see what makes me not have faith in the peace process is that there is no indication from

the rebels that they are in for peace."¹⁵ In sum, given the perceived lack of progress in peace talks, and given the fact that the conflict has continued for nineteen years, the issue of timing begs the question, how long should the ICC wait? To answer this question, greater coordination with local processes to engender peace and justice is required. The question is therefore not only of timing of an announcement (how long they should wait) but also of coordinating local and international approaches so that they compliment each other.

PROSECUTORIAL DISCRETION

The Chief Prosecutor has sole discretion on whether or not it is in the best interests of justice to move forward with issuing indictments. He may base this decision by examining the current political, social and economic circumstances within a country in order to assess the implications of an indictment. In March and April 2005, therefore, the Chief Prosecutor invited leaders from Uganda to The Hague in order to exchange information and views. The following presents a snapshot of these initiatives to strengthen communication and the resulting new levels of understanding between local and international level actors:

- Traditional and religious Acholi leaders and government representatives travelled to The Hague on 16-18 March at Ocampo's invitation to learn more about the Court and share their views about the situation in Northern Uganda. Following the talks with the delegation, Ocampo stated that:

"Under the Rome Statute, the Prosecutor has the responsibility to investigate and prosecute serious international crimes, taking into account the interests of victims and justice. I am mindful of traditional justice and reconciliation processes and sensitive to the leaders' efforts to promote dialogue between different actors in order to achieve peace. The

¹³ Although the Government of Uganda referred the conflict in Northern Uganda to the ICC, the Government has no influence over what crimes the ICC can investigate. Traditional and religious leaders, NGOs, and civil society argue that the ICC should also investigate crimes committed by the UPDF. Reported UPDF abuses include torture, rape, sexual assault, exploitation, forced labour, and arbitrary detention. It is not clear whether these abuses will result in ICC arrest warrants for UPDF soldiers.

¹⁴ Communications with representative of civil society on the mediator's peace team, January 2005.

¹⁵ BBC News Online, *Ugandans Divided on Rebel Justice*, 14 April 2005.

Prosecutor has a clear policy to focus on those who bear the greatest responsibility for the atrocities committed. I also recognize the vital role played by national and local leaders to achieve peace, justice and reconciliation. We agreed on the importance of continuing this dialogue of the common goal of ending violence”¹⁶

- On 14-16 April, Lango, Acholi, Iteso and Madi leaders attended a meeting in The Hague at Ocampo’s invitation. This second delegation was widely hailed as a response to that of the first. Rumours that the first delegation of Acholi leaders failed to represent the wishes of neighbouring regions, indeed of the Acholi people, spurred largely pro-Government leaders to organize neighbouring leaders to meet the Chief Prosecutor. Nevertheless, the resulting joint statement issued on 16 April by the second delegation reiterated many of the concerns of the first delegation:

“The Lango, Acholi, Iteso and Madi community leaders and the Prosecutor of the International Criminal Court have agreed to work together as part of a common effort to achieve justice and reconciliation, the rebuilding of communities and an end to violence in Northern Uganda. The community leaders reach out to local communities, the Government of Uganda, national and international actors to join this common effort.... In working towards an end to violence, all parties agreed to continue to integrate the dialogue for peace, the ICC and traditional justice and reconciliation processes. We call upon national and international actors to enhance interventions to alleviate the grave humanitarian situation in the region.”¹⁷

¹⁶ *Statements by ICC Chief Prosecutor and the visiting Delegation of Acholi leaders from northern Uganda*, 18 March 2005 available at http://www.icc-cpi.int/pressrelease_details&id=96.html

¹⁷ *Joint Statement by ICC Chief Prosecutor and the visiting Delegation of Lango, Acholi, Iteso and Madi Community Leaders from Northern Uganda*, 16 April 2005

- Upon return to Uganda, the second delegation to The Hague agreed to pursue peace and justice simultaneously to end the war. “Our main focus is peace and justice because we cannot pursue justice alone. We want peace and resettlement. However, people masterminding this war must answer for their crimes”¹⁸ Despite similarity in the two delegations’ statements, a negative impact of the communication with the ICC was continued division within Acholi leadership which manifest in accusations that some Acholi delegates were motivated by political incentives. This later led the Paramount Chief to initiate a series of dialogues in all three districts to re-unify Acholi around the dual goals of pursuing peace and justice in the region¹⁹.

After the April meetings with the second delegation, ICC spokesperson Yves Sorokobi stated “if it is in the interest of justice to proceed with a peace agreement, the ICC is ready to suspend its investigation”,²⁰ indicating a greater sensitivity to local concerns. Ocampo elaborated on his spokesperson’s statement saying “as soon as there is a solution to end the violence and if the prosecution is not serving the interest of justice, then my duty is to stop investigation and prosecution. I will stop but I will not close. Timing is possible but immunity is not possible.”²¹ In this statement, the intentions of the Chief Prosecutor have been greatly clarified. While he may have sole discretion to move forward, he will also use all information available to make this decision.²²

That Kony and other top commanders will likely never agree to talks or to return under the amnesty if they face prosecution must be factored into the Chief Prosecutor’s decision. That is, apart from

¹⁸ *New Vision, North Leaders Want Justice for LRA, Kony*, 20 April 2005.

¹⁹ Transcripts of these dialogues were recorded and are currently being transcribed by the CDP at the Liu Institute for Global Issues.

²⁰ IRIN, *Uganda: ICC could suspend northern investigations – spokesman*, 18 April 2005.

²¹ *New Vision, Court Rules Out Kony Immunity*, 18 April 2005.

²² No arrest warrants or decisions have been made as of date of this report’s publication.

the issue of timing, LRA commanders will likely resist coming out until they have been reassured that they can return safely and reintegrate without threat of retribution or prosecution. On the other hand, it is not solely the ICC which prevents the LRA from engaging in talks or the amnesty. Many commanders have surrendered in the past year, despite the possibility of indictment later on. It is important to consider, therefore, the possibility that Kony and top commanders may never come out voluntarily, with or without the ICC.

TALKS

Discussions between Bigombe, LRA negotiators, and Government representatives in December 2004 and January 2005 about the potential to hold peace talks were seen as a positive development in the search for peace.²³ Despite the fact that the Memorandum of Understanding (MOU) was not signed by the LRA, Bigombe was able to illustrate talks were possible and could lead to a peaceful resolution to the conflict.

Bigombe continued to communicate between the LRA and the Government of Uganda into February and a partial ceasefire was called on February 4. This most recent ceasefire expired on February 22 with no agreement reached. The UPDF renewed a military offensive and LRA resumed violent attacks on the civilian population. During March and April, UPDF spokesperson Major Shaban Bantariza and Museveni repeatedly announced that they were not willing to entertain another ceasefire at that time. Major Bantariza argued that a ceasefire would only allow the LRA time and freedom to regroup, reorganize their equipment and revise tactics for new attacks.

However, ceasefires in November, December and February did result in marked reductions in LRA attacks, suggesting their potential progress towards talks and peace. Negotiations and communication with the LRA are plausible since the LRA have

recognized, and on the most part adhered to, the terms of the ceasefire. Arguments that it is not possible to negotiate with the LRA and that a military approach is therefore a necessary factor in resolving the conflict, can thus be misleading and detract from the possibility of a peaceful solution.

Fears that the talks would not resume were allayed when Bigombe returned from a three week trip to the United States on March 29th. After several briefings with Museveni and Government representatives, Bigombe returned to Gulu. She continues to speak with Kony and LRA negotiator Vincent Otti regularly, although no face-to-face talks have occurred since the last ceasefire. Nonetheless, she maintains that the continued communication with the LRA can lead to resumption of a dialogue. Bigombe recently appealed to the international community to continue to invest in her efforts, and to play a more assertive, transparent monitoring role in order to maintain pressure on relevant parties.²⁴

THE AMNESTY ACT

The Amnesty Act, 2000 provides the opportunity of a legal and social pardon within the community for those who surrender, abandon, and renounce their involvement in armed conflict or collaboration with those involved in armed conflict. Those given amnesty “shall not be prosecuted or subjected to any form of punishment for the participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion”.²⁵

The Amnesty Act is considered to be reflective of Acholi traditional culture, which in the most serious of crimes is said to be based on compensation, acceptance of guilt, and reconciliation. The introductory section of the Act, which states “it is the expressed desire of the people of Uganda to end armed hostilities, reconcile with those who have caused suffering

²³ For more discussion on the peace talks in late 2004 and early 2005, see the Conflict and Development Programme’s *Northern Uganda Human Security Update November 2004 - February 2005* available at www.human-security-africa.ca.

²⁴ The Globe and Mail, *Uganda Takes First Steps Toward Ending Civil War*, May 2, 2005, A1.

²⁵ Part II 3(2), Amnesty Act, 2000.

and rebuild their communities”²⁶ reflects the desire for, and significance of, the Amnesty Act in the local culture. Under Section 9 (c), the Amnesty Commission is required to compliment traditional justice and reconciliation mechanisms.

However to date, the capacity of the Amnesty Commission has been limited by the overwhelming scope of a national mandate and limited resources. The work of the Commission and corresponding Demobilisation and Resettlement Team (DRT), has largely been confined to the issuance of amnesty cards to returnees, and provision of material support. Yet even these roles have been limited: not all persons returning have enjoyed the material benefits of a resettlement kit. Those who have received kits are sometimes regarded with resentment from those who have not, let alone tensions created within indigent communities who resent that ex-combatants are ‘rewarded’ for their activities.

This later point highlights the importance of promoting the peaceful social reintegration of returnees. Under Section 9 (c), the Commission has been unable to quantifiably define what form of traditional justice and reconciliation mechanism is most appropriate for all parties affected by the current conflict in the north and neighbouring regions. While appreciative of the efforts of traditional Acholi leaders and other prominent actors such as the religious leaders to call rebels ‘back from the bush’ (in the form of ceremonies and radio programmes) and take advantage of the amnesty, the full scope and meaning of traditional justice and reconciliation in this context has yet to be clearly articulated. Yet as the Amnesty Commissioner, Honourable Justice Peter Onega, points out²⁷ “without such a thing in the end, courts like the ICC will not promote accountability or end impunity”, particularly for the many cases that fall outside the international court’s mandate.²⁸

²⁶ Introduction, Amnesty Act, 2000.

²⁷ Interview with the Liu Institute, Gulu, 1 April 2005.

²⁸ Even for the top commanders that may be indicted by the ICC, a number of leaders and community members, including some victims, have argued that the idea of punitive justice does not resonate with local worldviews and thus, will not be considered ‘justice’ to them. To this end, the

The Amnesty Commissioner recognizes the need to initiate a reconciliation process. In an interview with the Liu Institute in April 2005, the Amnesty Commissioner argued that reconciliation is necessary in at least four levels: within the communities; between the communities and the LRA; between the Acholi and neighbouring communities; and, between the Acholi and the Government of Uganda in cases where atrocities have been committed by the UPDF. This requires a long term strategic plan that coordinates different efforts to promote reconciliation. The first step in this process is already underway, that is, the priority of ending the conflict by encouraging LRA combatants to return home.

RETURN AND REINTEGRATION

The LRA doubts the sincerity of the Government of Uganda to uphold a general amnesty, or of the local population’s willingness to forgive them for the atrocities they have committed. In the Acholi language, the word ‘*kica*’ means both forgiveness and amnesty. This is thought to have angered some rebel commanders who maintain they have done nothing wrong in their plight, but have been wronged by the UPDF and populations that ‘turned against them’ in acting as informants to the Government. Recognizing this, civil society and the Government of Uganda have pursued a number of initiatives to build the confidence of those remaining ‘in the bush’ and call them back.

The Government strategy has largely been the use of radio programmes on *Mega FM*, featuring the testimonies of returnees who enjoy the benefits of the amnesty. The UPDF have also extended preferential treatment to former commanders such as former LRA Brigadier Kenneth Banya who was captured in August 2004. In return for support, Banya and others former LRA commanders have enjoyed access to special funds and privileges. Simultaneously, the UPDF continues to pursue a military campaign, and to recruit returnees to

forthcoming survey of victims in Acholi, Lira and Iteso by the International Commission for Transitional Justice should provide much needed insight into this question.

provide both technical military expertise and labour to this campaign. This sends mixed messages to LRA commanders, who in turn warn abducted children, youth and adults that the Government and communities will persecute them if they escape and return.

Apart from the efforts of the Government of Uganda, local civil society groups have employed their own strategies. For example, the religious leaders, rehabilitation centres and traditional leaders have held sensitization campaigns with communities, most taking place in internally displaced person's camps where the majority of rank and file ex-combatants return to. Using prayer and traditional ceremonies, dialogue and radio programmes, civil society not only reach out to those remaining in the bush, they also attempt to promote the acceptance of returnees in the communities receiving them.

The work of the traditional leaders under the institution of Ker Kwaro Acholi is worth particular attention here. Since the re-institutionalization of traditional chiefs²⁹ and under the leadership of Rwot Acana II, Ker Kwaro Acholi has begun to emerge as an important actor in the return and reintegration process. Over forty communal and thousands of familial cleansing ceremonies with returnees have taken place across Gulu, Pader and Kitgum districts. Traditional cleansing ceremonies welcomed a member of the community who had been away for a long period of time back into the family. Cleansing ceremonies have evolved to promote the principal of forgiveness of returnees by the family and community and as such, compliment the efforts of the Amnesty Commission and other leaders who seek to reassure LRA soldiers remaining in the bush that they can return and reintegrate peacefully.

The ceremonies involve a series of rituals based on Acholi cosmology of the natural and supernatural worlds. In its current manifestation, cleansing ceremonies welcome back the return of former LRA, involving the stepping of the egg ceremony.

As Rwot Acana explains, such ceremonies help reinforce that in most cases, former LRA were abducted children forced to commit crimes and atrocities against their will: "an egg symbolizes purity and innocence and yet, there is life in it. So we do this as a means of purification and indicating the innocence of these people because they were taken against their will."³⁰ In some cases, cleansing ceremonies also involve the sacrificial ritual of slaughtering goats to appease ancestors, and the practice of *goyo pii* – the washing of tears shed by the family and abductee while they were in the bush.

Trauma, high levels of poverty, insecurity, and tensions between returnees and persons within camps encumber this process of reintegration. Returnees encounter social stigma and name calling is common. Many continue to suffer from trauma and community members fear and ostracize them. Girls and young women bear the universal stigma of rape, and are often unable to marry. Orphaned returnees lack the protection of family structures. The lack of any livelihood means some young returnees end up joining the UPDF, a local militia or police force.

Communal cleansings are not the sole solution to return and reintegration, nor do they profess to address the need for justice. They are "... a peace-building measure to build confidence, to let them come back, let us have peace and then people are going to talk," explained Rwot Acana II of the communal cleansing ceremonies. As one observer argued, "Acholi forgiveness and President Museveni's decision to grant an amnesty to returning rebels may be the best way of achieving peace, but it still leaves a hunger for revenge among those who have suffered at their hands."³¹ The process of promoting forgiveness and amnesty does not replace justice or reconciliation. They are, however, potentially a means of achieving peace by promoting return and reintegration, elaborated in the sections below. It also sets a foundation for justice and reconciliation involving

²⁹ In 2000, Article 246 of the Ugandan Constitution of Uganda reinstated Ker Kwaro Acholi as a legal, cultural institution.

³⁰ Cited in Daniel Simpson, 'Africa's Forgotten War on Terrorism', unpublished article.

³¹ BBC News Online, *Revenge or reconciliation for Uganda?* 5 March 2005.

a process of truth telling, or confession, and compensation that could provide an important compliment to formal judicial process. The possibilities of truth telling and traditional justice are examined below.

TRUTH TELLING

In their report of the Ugandan Amnesty Act, the RLP observed that “dialogue is a vital precondition for any process of authentic reconciliation”. While cleansing ceremonies may be an important tradition to promote reintegration, “such practices...did not appear to allow for any specific process of dialogue”. According to RLP, reconciliation must involve a “dialogue between the victims and perpetrators that allows, specifically, for the acknowledgment of guilt, followed by some form of reparation.” To this end, some adaptation of a truth telling commission, in the form of previous country commissions or as an adaptation of local processes is required.

However, the process of ‘confession’ or ‘truth telling’ is complicated by the fact that, as one Acholi elder observed, “there have been so many killings, no one knows who killed who...so who would confess to who?”³² It is also complicated by the fact that the majority of the LRA were forced to commit atrocities against their will, and were children by legal definition at the time.

It is perhaps with this in mind that local leaders have encouraged confession within the private domain of the family, largely as part of a healing process for the abducted and their respective families. In recent research conducted by the Liu Institute, the majority of formerly abducted children and adults, ‘confessed’ (that is, told their experiences in the bush, of violence committed by them and against them) to either a friend, family member, or a trusted and respected member of their community, such as an elder, local councillor or religious or traditional leader.

At the same time, there is still a need for a public form of truth telling, particularly by those who gave orders in the case of massacres in addition to widespread violence committed. However, the process of confession by former rebel commanders appears to have become quickly politicized. While those commanders who have returned have publicly asked for forgiveness, none will admit to the specificities of the crimes they have committed. Instead, a pattern of identifying collaborators has become more common among former commanders. According to one elder, this possibly does more harm than good, as “the communities may turn against the former commanders”³³, jeopardizing not only the process of reconciliation but also the peace process. By way of example, in May 2005, fourteen to twenty people were hacked to death by the LRA in Koc-Goma, Gulu district. The newspapers reported that this brutal attack may have been a retaliation by the LRA for the arrest and detention of up to twenty collaborators by the UPDF days earlier. Although it hardly justifies the slaughter of innocent civilians, the arrest and violent retribution it provoked adds to the already high level of mutual distrust between the UPDF and LRA.

The positive and negative processes of truth telling currently underway at the informal level may well be institutionalized to promote a platform for reconciliation at the public, formal level. But what form should this take? And what is the best timing for introducing such a process given the conflict is on-going. To this end, the adaptation of traditional justice processes and *Mato Oput* rituals to address the crimes committed during the conflict by the LRA are one option that requires greater consideration.

³² Interview with Liu Institute, Gulu, May 2005.

³³ Interview with Liu Institute, Gulu, May 2005.

TRADITIONAL JUSTICE³⁴

Reports and articles analysing the debate of ICC intervention in Northern Uganda argue that Ocampo should allow traditional justice and the current peace process to do its work to end the violence. Since the Chief Prosecutor has stated his investigation is limited to issuing arrest warrants for the five to ten persons who have committed the gravest atrocities, and since the Ugandan judicial system would likely take decades to fully prosecute crimes committed by both parties to the conflict, traditional justice may be an important compliment. In addition, given that traditional justice is based on a restorative approach, involving a process of ‘truth telling’ or confession, it may be the most sustainable way of promoting a lasting resolution to conflict.

Informally, traditional justice continues to be practiced throughout Acholiland, albeit in ways that have had to adapt to the devastation of the conflict and subsequent mass displacement of villages into camps. Historically, crimes were handled in “open courts” organized at different levels and by different social groups according to the severity of the crime. Serious crimes involved elders and chiefs at the clan and inter-clan level, whereas less serious crimes such as petty theft and property damage could be handled by peers at the familial or clan level.

The voluntary admission of guilt was considered a necessary act for moving forward, and decisions regarding compensation and rituals for reconciliation were arrived at consensually among elders. The process and ritual of *Mato Oput* (drinking the bitter root) was only done in the case of killing, and thus according to elders, was a rare ritual given “few killings existed in pre-colonial times” due to the strong social fabric that guided Acholi behaviour. Notwithstanding, violence and criminal activity have skyrocketed in camps of internally displaced persons.

³⁴ This section is limited to traditional justice mechanisms and rituals in Acholi, the subject of a longer-term study by the Liu Institute for Global Issues into the potential to adapt traditional justice to crimes committed during the conflict. The first report is due in July 2005.

Ker Kwaro Acholi and councils of elders have made efforts to revive traditional justice mechanisms in camps, particularly *Mato Oput*.³⁵ However, to date, few to no traditional approaches to justice, notably *Mato Oput*, involve cases of returned child and youth LRA soldiers, or commanders.³⁶ The atrocities committed by formerly abducted children and youth, as well as commanders, are an unprecedented and complex issue to be addressed. In the case of formerly abducted persons, it is difficult to disentangle and distinguish victims from perpetrators. While *Mato Oput* involves the clear identification and consent of the two parties and clans involved, mass killings, rape, abducted and mutilation committed over the course of the nineteen-year conflict have sometimes been done anonymously. They also often involve multiple clans and families across not only Acholiland, but also Lira, Madi, Adjumani and Iteso districts where *Mato Oput* is not culturally practiced. These factors highlight the urgency for dialogue on how traditional justice and reconciliation mechanisms might work, particularly if the much awaited peace in Uganda is to be sustainable.

CONCLUSIONS/ RECOMMENDATIONS

This Update has argued that neither local nor international initiatives to engender peace and justice in Uganda are stand-alone, but require a well planned, long term, coordinated, and transparent approach. To move towards this approach, the following conclusions and recommendations are made:

Timing: The ultimate aim of the Chief Prosecutor and ICC is to end impunity. By indicting top LRA commanders, it is hoped that future atrocities and crimes against humanity will be prevented. However, this decision does not take place in a vacuum. While the Chief Prosecutor may have

³⁵ The Liu Institute documented twenty-six *Mato Oput* ceremonies between 2000-2005 in Pajule and Lapule, Pader district. All involved homicide or manslaughter within the general population.

³⁶ One case did involve an accidental killing of a civilian by a UPDF soldier which occurred during a LRA attack.

sole discretion about when to move forward, he will also use all information available to make this decision.

Recommendations:

Given on-going local level initiatives to end the conflict peacefully, it is argued here that the Chief Prosecutor would do well to delay indictments.

At the same time, he must continue to enjoin local stakeholders in the identification of appropriate circumstances in which he should intervene.

Security of the most vulnerable: The ICC does not have a police force to enforce arrest warrants. Therefore, since the ICC relies on state parties to detain accused individuals and the UPDF have for several years been unsuccessful in finding Kony, some argue that there is little value in issuing arrest warrants at this stage. What should be paramount in any decision is the security of the local population and to persons who remain hostages to the LRA.

Recommendation:

Until the security of the local population can be guaranteed, no arrest warrants should be issued.

Peace Talks: The continued efforts of Betty Bigombe must be seen as part of an on-going process that requires continued, sustained support. Lars Erik Skaansar, the UN envoy supporting the mediation process, and Bigombe have requested donor countries to continue to financially and logistically support the peace process and to encourage both parties to pursue dialogue.

Recommendations:

The international community should continue to provide financial and human resources to the mediators.

Use closed door diplomacy to convince the Government of Uganda to come to the negotiating table.

Apply pressure on the LRA and UPDF to desist in atrocities against civilians.

Monitor the Government of Sudan to ensure it continues to cooperate.

The Security Council: So far, Uganda has remained off the agenda of the UN Security Council. The UN Undersecretary-General for Humanitarian Affairs and Emergency Relief, Jan Egeland, is continuing to pressure the UN Security Council in a bid to bring international focus to crises in Africa. "I'm inviting the council, as I'm inviting all who have influence on the parties, to clearly say that there is no alternative to a peaceful resolution of the crisis. It is a very, very major crisis."³⁷

Recommendation:

The Security Council should pass a resolution acknowledging the human suffering engendered in this conflict, and to reaffirm the necessity of a peaceful solution.

Return and Reintegration: Civil society approaches to help facilitate the return and reintegration of former combatants are an important step towards building a foundation for sustainable peace. Traditional cleansing ceremonies, as well as prayer ceremonies, radio programmes, the work of rehabilitation centres and strategies to sensitize communities help build confidence among those remaining in the bush to return, and reduce tensions within communities that former combatants return to. However, the material needs of returning persons fall short of existing resettlement packages or livelihood programmes. In the RLP study on West Nile, it was argued that the failure to provide adequate packages to combatants jeopardizes sustainable peace.

Recommendations:

The Government of Uganda should fulfil its commitment to provide resettlement packages.

³⁷ United Nations, *It's a very, very major crisis*, 11 May 2005.

The international community should prepare to provide long term development assistance to the war-affected people.

The Amnesty Commission: While the Amnesty Commission has struggled to fulfil its role, and while it collaborates with local leaders, it must begin to play a leadership role in discussions of how traditional justice and reconciliation could be promoted. Traditional leaders are already beginning to assess the potential of adapting traditional approaches to justice for the remaining majority of offenders and victims.

Recommendations:

The international community should support dialogues started within Acholi, and that could be extended to different regions affected by the conflict.

The Amnesty Commission and other peace stakeholders must engage in dialogue to ready for a transition to peace.

A Complimentary Approach to Justice: Some mix of punitive and restorative justice should be pursued. Local leaders appear to be more and more willing to recognize the important contribution of the ICC to end impunity by indicting top LRA commanders - at the appropriate time. On the other hand, the ICC is more sensitive to on-going processes, stating it is mindful of traditional justice mechanisms. However, the process leading to *Mato Oput* leaves many unanswered questions. How will *Mato Oput* work in the context of war crimes committed against the Acholi by both the LRA and UPDF? How might *Mato Oput* be adopted to reach out to, and resonate with, neighbouring regions and the national community? How will it protect the rights of children and youth, as well as men and women who endured different forms of harm? Even if a consensus was reached on these questions, the question of timing again arises. Is it possible to begin to define and adopt *Mato Oput* in the midst

of the on-going conflict and efforts to engender dialogue and amnesty? Would traditional justice act as less of a deterrent to former combatants than international approaches to justice?

Recommendation:

International and national level actors should conduct research and hold dialogues to increase understanding of what role traditional justice can play.

Truth Telling: The principle of forgiveness that is embodied in the Amnesty Act and embraced by local leaders does not necessarily promote reconciliation. Reconciliation should involve a form of public truth telling, although the mechanics of who should confess still requires clarification. For instance, any truth commission would have to carefully consider the protection needs and rights of formerly abducted children and youth.

Recommendation:

National and local actors, with input from the international community, should study and hold dialogues to assess the degree to which private confessions satisfy some level of reconciliation within communities, and public confessions by commanders, that of neighbouring communities, and the country as a whole.

This Update was written by Heidi Rose, Irene Sattarzadeh and Erin Baines, CDP, Liu Institute for Global Issues, UBC, Vancouver Canada. We are grateful for feedback from Carla Suarez, Michael Byers and Robert Adamson. The report is based on preliminary findings of a Liu Institute research project on traditional justice in Acholi (to be released July, 2005), as well as recent news and NGO reports cited throughout the paper.

CHRONOLOGY OF EVENTS

- February 22 An eighteen-day truce called by the government expires. The Ugandan Government resumes military efforts to end the conflict but states that the possibility for future talks remains open.
- Lord's Resistance Army (LRA) rebels beat to death eleven civilians in Internally Displaced Person (IDP) camps.
- February 23 LRA rebels cut off the lips of eight women who are returning from a well in Ngomoromo village in Kitgum district. One woman is shot dead as she attempts to escape.
- February 24 The Ugandan Government launches a forty-page policy document that is to guide Uganda's IDP management as well as improve the quality of life of IDPs.
- February 27 The Uganda People's Defence Force (UPDF) kills Col. Opoka, the LRA's director of operations, as well as ten other LRA rebels in the Purongo sub-county of Nwoya County in Gulu district. Four captives are rescued during the battle.
- February 28 The Ugandan Government declines an offer from East African defence forces to help quell the conflict with the LRA. Government officials and army commanders state that the conflict is nearing its end and that there is no need for external assistance with the Southern Sudan ceasefire in place.
- March 3 An estimated fifty rebels attack the Aryek army detachment in Ngai sub-county, killing two soldiers and two civilians, injuring many others, and burning much of the detachment.
- March 4 Four civil society organizations in Uganda call on the Ugandan Government to withdraw the ICC case, which they see as jeopardizing the peace process.
- March 5 Chief Mediator Betty Bigombe leaves Uganda temporarily for the United States, where she lives.
- March 10 The LRA raid several villages in the north-western district of Adjumani at night, killing six, injuring sixteen, and burning grass huts.
- March 11 UPDF forces discover a store of LRA weapons near Gulu town. An army official states that the UPDF have found fifteen anti-tank mines, fifteen arm fuses, six bullets, and three pins of PK guns.
- March 16 The LRA attack and raid the Kamdini trading centre in Apac district, looting the shops and houses, abducting fifteen primary school children and eleven adults.

Traditional and religious Acholi leaders and Government representatives travel to The Hague to share their views about the situation in Northern Uganda with ICC Chief Prosecutor Luis Moreno-Ocampo.

- March 17 Minakulu village in Apac district is raided by ten LRA rebels who loot the village then abduct forty-nine people, including several teenagers.
- March 19 Rebels cut off the lips, ears, and breasts of a group of women gathering firewood in Kitgum district and abduct several others.
- March 24 LRA rebels kill five civilians, cut off the lips, ears, and nose of one woman, and shoot a man in Paicho sub-county.
- March 29 Bigombe returns to Uganda from the United States.
- March 31 The Minister of Disaster Preparedness, Christine Aporu, announces at the launch of the IDP policy at Gulu Support the Children Organization (GUSCO) centre in Gulu that IDP camps would not be dismantled nor the IDPs sent back to their homes. The Minister states that the camps are to be reorganized and fitted with walkways and firefighting equipment.
- The UPDF kill two women from Pajule IDP camp as the army pursues the rebels in the area outside of the camp.
- Civil Society Organizations for Peace in Northern Uganda (CSOPNU) lobbies the Government to re-establish a ceasefire with the LRA in order to revive the peace talks.
- Army spokesperson, Shaban Bantariza states that ceasefires only work in the favour of the LRA, allowing the rebels to reorganize and resume attacks. He states that the army is not ready to establish another ceasefire.
- April 7 A UPDF spokesperson announces that in the month of March, the UPDF rescued 110 civilians abducted by the LRA, killed fifty rebels and captured five, and recovered LRA weapons.
- April 10 The UPDF state that they have killed twenty-one rebels over the last two days during clashes with the LRA.
- Twelve LRA rebels attack the village of Negri in Bar-dege Division, abducting nine people. The UPDF rescue all the abductees.
- April 11 The leader of Otwal IDP camp states that in the last two months, six children and three adults have starved to death in the camp.
- UN officials announce that two people have died in IDP camps in Gulu district due to an outbreak of cholera in the camps and that twenty-five more cases have been recorded.

- April 14 A second delegation of Lango, Acholi, Iteso and Madi leaders attend meetings in The Hague at Ocampo's invitation to discuss the situation in Northern Uganda.
- April 15 Bantariza states that the Ugandan army will begin operations with Sudanese forces to boost the offensive against LRA leader Joseph Kony in Southern Sudan.
- April 16 Ugandan President Yoweri Museveni meets with army field commanders from Northern Uganda to discuss the final military phase against the LRA.
- Ocampo and the second Ugandan delegation to The Hague, issue a joint statement urging the LRA to end the violence and agreeing to work together to achieve reconciliation and justice in the region.
- April 17 Museveni states during a speech to Gulu University graduates at the Gulu Military Barracks that there will be no more ceasefires.
- April 19 Members of Parliament, Mr. Reagan Okumu (Aswa County) and Mr. Michael Nyeko Ocula (Kilak County), are charged with the February 2002 murder of Council Chairman of Pabbo sub-county, Alfred Bongomin, and are sent on remand to Luzira Prison.
- The Prime Minister of Uganda, Apollo Nsibambi orders an investigation into Ugandan soldiers who have allegedly raped women in IDP camps.
- April 20 Three UPDF soldiers of the 91st Battalion are arrested on charges of raping female IDP's in Kitgum district.
- April 25 The UPDF begins a heavy offensive in Southern Sudan in search of LRA rebels after Museveni orders them to vigorously search for top LRA commanders.
- April 27 LRA soldiers ambush and kill nine people in Southern Sudan as they travel in a convoy.
- April 28 LRA soldiers attack Ot-Kwac and Kamdini parishes, killing three members of one family with machetes and abducting ten people.
- The Ugandan Government peace team announces they have submitted a document to the LRA to study and respond in order for talks to resume.
- April 29 The Government of the United Kingdom withholds ten million British pounds of funding to Uganda due to concerns that multi-party politics have not been established in Uganda.
- April 30 During attacks in Gulu, Kitgum, and Pader districts, the UPDF kill ten rebels, capture three, rescue four captives and recover two guns, six magazines, and ninety bullets.

- May 1 The UPDF recover an assortment of drugs, including antibiotics, during a clash with LRA rebels in Gulu district.
- May 2 In response to the UK's cancelled funding, Museveni states that the Ugandan Government will compensate by reducing tax leaks in the country, removing the need for foreign donor funding which he believes is partly responsible for the prolongation of the war in Northern Uganda.
- May 5 The LRA kill at least ten IDPs and injure fifteen in Gulu district.
- A vehicle is ambushed in Kitgum district by suspected LRA rebels; the number of casualties is unconfirmed.
- The UN Food and Agriculture Organization announces a plan to aid 94,000 families affected by the conflict in Northern Uganda by supplying them with seeds, farming implements, and training.
- May 10 Oxfam urges the UN Security Council to intervene in the humanitarian situation in the North.
- Jan Egeland, UN Undersecretary-General for Humanitarian Affairs and Emergency Relief, urges the UN Security Council to take a strong stance in supporting a peaceful settlement to the conflict.
- The Security Council calls for a peaceful resolution to the conflict and condemns the atrocious actions of the LRA.
- May 13 The Office of the UN High Commissioner for Human Rights announces it will establish an office next month in Uganda to monitor conflict-related abuses in Northern and Eastern Uganda.
- May 14 Two civilians are killed and several wounded in an LRA ambush in Pader district.
- May 15 The Sudanese Government renews a protocol allowing the UPDF to search for LRA rebels in Southern Sudan.
- May 16 The Office of the UN High Commissioner for Refugees states that 5000 people from Southern Sudan have fled to north-western Uganda since January due mainly to food shortages as well as LRA attacks.
- May 17 The Organization for Economic Cooperation and Development (OECD), which includes most of Uganda's top donors, states that it may decrease its aid to Uganda if the Ugandan Government mismanages the transition to a multi party system.