

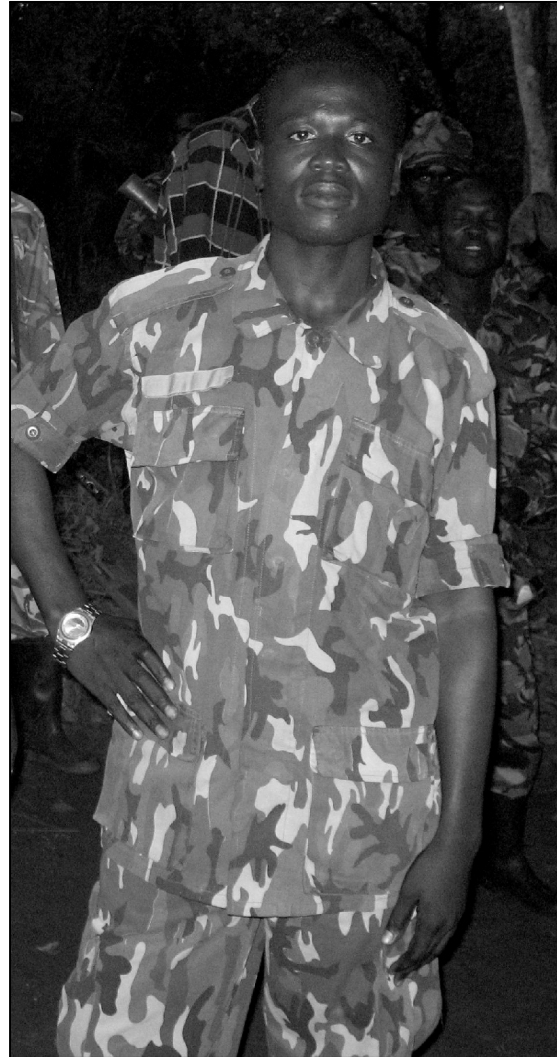
Complicating Victims and Perpetrators in Uganda: On Dominic Ongwen

INTRODUCTION

Dominic Ongwen was around ten years old when he was abducted on his way to school by the notorious Lord's Resistance Army (LRA). He was trained as a 'child soldier' to fight against the Government of Uganda and forced to kill, mutilate, loot from and rape civilians. He became so efficient and fearlessly loyal to his superiors that he was eventually 'promoted' to the 'inner circle' of the LRA. In October 2005, the International Criminal Court (ICC) issued arrest warrants for Ongwen for crimes against humanity, including massacres and the abduction and enslavement of children. As such, Ongwen is the first known person to be charged with the same war crimes of which he is also victim.

Ongwen's case raises vexing justice questions. How should individual responsibility be addressed in the context of collective victimization? What agency is available to individuals who are raised within a setting of extreme brutality? How can justice be achieved for Ongwen and for the victims of the crimes he committed?

This *Field Note* considers these questions in three parts. First, it presents the concept of *complex political victims*. Ongwen represents the complex status of many other persons like him in Uganda: young boys and girls who grew up in the LRA and assumed command positions, perpetuating the same crimes of which they are victims. Some have since returned, others are still in the 'bush,' some are dead. None of their unique statuses are recognized in current justice debates. Yet they represent precisely the kind of



Dominic Ongwen, Garamba, DRC 2008. All photos by JRP.

complex political victims who, if excluded from justice pursuits, could give birth to the next generation of perpetrators in Uganda; generations marginalized by the judicial sector and who have nothing to gain from citizenship and nothing to lose from war.

In the second section, this *Field Note* briefly examines the experiences of abducted children in the war in northern Uganda. It provides evidence that Ongwen grew up in one of the most brutal environments known to humanity, with little room for moral development that would enable him to later take decisions independent of the LRA. Furthermore, it examines the process through which Ongwen ascended to higher and higher levels of command. It argues that one of the most tragic crimes was that Ongwen become the very image of his oppressors.

Given this history, the final section challenges Ongwen's presumed culpability. **This is not to exonerate Ongwen.** We have no reason to doubt the allegations against him. Our point is not to prove his innocence or guilt, but to place his life into historical context and to complicate his status, urging current justice pursuits in Uganda to do likewise. We argue a legal approach is limited in this regard, and that the ICC may have been incorrect in identifying Ongwen as one of the 'most responsible' given his ambiguous political status. To be clear, this does not deny that Ongwen committed heinous crimes, but to complicate his status as a perpetrator, as well as a victim.

A note on methodology

The JRP team first learned that Dominic Ongwen was an abducted child in an IRIN news report in October 2007.¹ We pondered the moral basis of indicting someone who had himself been a victim of LRA brutality, and the degree to which Ongwen could be held morally responsible for his acts even as an adult. We asked these questions against a background of researching the lives of once abducted children and youth for the past three years. We began to informally consult

¹ IRIN. "Uganda, Picking up the pieces". 7 October 2007. Website: <http://www.irinnews.org/Report.aspx?ReportId=74572>, accessed on 13 June 2008.

our colleagues around the globe. Reactions drew such different – often heated – responses that we immediately felt it was important to establish whether or not Ongwen was in fact abducted and if so, how he rose from foot soldier to high command. This began a seven month (November 2007-May 2008) process of conducting field research with key informants who knew Ongwen in some capacity, either in the bush or as a civilian.

There are a number of revealing challenges to collecting this kind of bio-data. Informants, living in some of the displaced persons camps or town centres, generally live in a state of real or perceived vulnerability. They fear speaking to strangers about the LRA in general and Ongwen in particular, for several reasons.

The first reason involves past intimidation by some members of the Ugandan Peoples Defence Forces (UPDF) and other intelligence units that have, on more than one occasion, pressured them to reveal Ongwen's possible motivations and whereabouts. Ongwen, like other commanders, is believed to rely on a network of civilian collaborators and have close relations with some civilians. Second, people live in constant fear that anything they say may be overheard by LRA collaborators and reported to the LRA whom, in the event of any dissatisfaction, could retaliate. Although relative calm and security has been enjoyed in northern Uganda since the start of the Juba Peace Talks in South Sudan two years ago (August 2006), people believe that the LRA remains active and a real threat. One respondent half-jokingly stated that if anything negative happened to her that she would know it was the result of the interview, warning us that her clan "knows where to find you." This was our first indication of the degree to which the LRA controls not only people within its ranks, but civilians as well. To counter this fear, we guaranteed each of our informants' total anonymity.

A second major challenge was to establish a fluid narrative regarding Ongwen's rank and activities during his 18 years in the bush. The LRA continuously changes the composition of battalions and the assignments of escorts to commanders. Battalion names are changed and each commander is often referred to only as *lapwony*, meaning teacher. The state of continual re-organization means no one subordinate stays for very long with any one commander. Moreover, information is centralized within the 'inner circle' and amongst senior commanders. Subordinates are not only excluded from decision making and information pertaining to their strategic plans, but they do not want to know. The less you know, one respondent argued, the better it is for you – that is, the less vigilant the LRA are about guarding you from escape. A person with knowledge is considered a threat to the LRA; on escape most former combatants are debriefed by the Ugandan military and this information is used to wage counter-insurgency offensives. While this was a challenge to gathering a narrative on Ongwen, it was also an important insight. The more important a person in Kony's army, the more he or she is likely to be vigilantly monitored and the less likely he or she will contemplate escape.

To counter this challenge, we spoke to informants who knew Ongwen from different time periods. We asked them general questions on the following themes: whether Ongwen had been abducted and if so when; his indoctrination, training and ascension through the ranks of the LRA; his character and the roles he played in the bush; if he ever contemplated escape; and, if he should be held accountable for his actions. We supplement gaps in information on Ongwen with studies that document typical circumstances surrounding life in the LRA for both youth and young commanders, including qualitative life histories of former combatants collected by our team over the last three years of our

project and by colleagues working in the field.²

A third major challenge faced by the team was establishing a timeline of events. Dates, including the year, are not something that is typically remembered well by our respondents and official records (such as date of birth, baptism certificates and death certificates) were destroyed during the conflict. We developed an approximate outline of major events and turning points that served as markers for developments in Ongwen's life and then asked respondents to comment on his whereabouts during these times. For instance, we interviewed a range of respondents about events that occurred around the time of Ongwen's birth to verify his date of birth as August, 1980. Thus, throughout this overview of Ongwen's life we present critical events, such as failed peace talks or the launch of an offensive, wherein we situate stories about Ongwen. Given the remarkable silence and the lack of detail about any of the senior LRA commanders, we felt it important to present such a history to the reader, to contextualize Ongwen's life and to begin a public debate on complex political victims and justice.

Present Context

Since the start of peace talks between the Government of Uganda and the LRA in July 2006, relative calm has come to the North. However, the war is not yet over. Kony and his senior commanders remain at large, and are said to be rearming and abducting new

² These studies include Phong Pham, Patrick Vinck and Eric Stover, *Abducted: The LRA and Forced Conscription in Northern Uganda*. Berkeley-Tulane Initiative on Vulnerable Populations. June 2007, P. 19. Chris Blattman and Jeannie Anan. "On the Nature and Causes of LRA Abduction: What the Abductees have to Say", 2007. Unpublished manuscript; a series of unpublished testimonies used with the permission of VIVO (2006); and, our own set of interviews with formerly abducted persons and LRA commanders (2003-present).

children, training them for some new offensive.³ A negative peace exists in which the structural roots of the war have yet to be addressed. People still linger with one foot in displaced persons camps, not yet fully convinced if they should come home. Thus the indoctrination strategies described are on-going, as the next generation of child soldiers are trained. In April and then May of 2008, Kony failed to sign the final peace agreements and discontinued contact with both negotiating teams and the Chief Mediator. As we write, the international community – Sudan, DRC, CAR, UN and Uganda – is debating whether to resume a military offensive or to stay the course with talks.

This uncertainty illustrates an even more pressing need to re-examine assumptions that guide current justice pursuits in Uganda. We argue that how we think about victims and perpetrators can shape policy and have positive or negative affects, as illustrated in the section below.

I. COMPLICATING VICTIMS AND PERPETRATORS

Erica Bouris argues that transitional justice scholarship and policies tend to reproduce simplistic categories of ‘victim’ and ‘perpetrator’ as if both were discrete and homogenous groups.⁴ Moreover, each group is assigned a moral value; ‘victims’ are frequently associated with the words ‘pure’ and ‘innocent’, and perpetrators with ‘evil’ and ‘guilt.’ The ideal victim is one that is helpless, vulnerable and in need of rescue. It is far easier to deliver humanitarian aid, development or justice when clear parameters around ‘victims’ and ‘perpetrators’ are drawn. This has significant effects in the volatile aftermath of violent

conflict, where truth commissions or trials define who is a victim and excludes persons that do not meet the ‘ideal’ type. This often determines who is entitled to reparations and other forms of victim’s assistance.

In contrast, complex political victims are victims who also participate or engage in acts and discourses that victimize others, even themselves. Bouris is concerned that by failing to recognize and address complex political victims in justice pursuits after conflict, new space is created in which “mass victimization, particularly genocide” can take place. That is, their exclusion from access to justice potentially fuels the social construction of the ‘other.’ This construction is the first step towards dehumanizing a sub-group, which often leads to violence.

The concept of a complex political victim makes it possible to recognize victims as holding some degree of agency and thus responsibility: one can engage in the victimization of others, but one’s victim status itself is not diminished by these acts. This is not to say all victims are equally responsible, but rather that there are degrees of responsibility as well as victimhood.

To date, justice interventions in Uganda reify the idea that Ongwen is a heinous perpetrator, and reproduce the idea that responsibility for this war can be placed in the hands of a few individuals often characterized as mad. Ongwen’s case illustrates first that he is an ordinary man in extraordinary circumstances and second that he is a complex political victim, albeit one of the most gruesome kinds. Before turning to his case, we consider the absence of references to complex victimhood in current justice debates.

Relevance to Justice Debates in Northern Uganda

Debates on ‘peace versus justice’ or the ‘retributive versus restorative’ have

³ Stephanie Nolen. “Rebel army resumes campaign of abducting child fighters in Africa.” *The Globe and Mail*. 25 April 2008.

⁴ Erica Bouris. *Complex Political Victims*. CT: Kumarian Press. 2007. P. 20.

dominated the Juba Peace Talks.⁵ Which mechanism is more appropriate is not our concern here. How these mechanisms reproduce ideas about ‘victims’ and ‘perpetrators’ is.

International trials, proponents argue, contribute to sustainable peace and rule of law after mass atrocities by individualizing responsibility, punishing wrong-doers and preventing the desire of victims to seek vengeance.⁶ The jurisdiction of the ICC is limited to “the most serious crimes of concern to the international community as a whole.”⁷ Perpetrators, then, are persons that commit acts that offend a body of international laws, grouped within the Rome Statute as: (a) The crime of genocide; (b) Crimes against humanity; (c) War crimes; and, (d) The crime of aggression.⁸ The definition of a victim is understood as any person or organization that suffers harm under the jurisdiction of the Court.⁹

⁵ See Zachary Lomo. “Why the International Criminal Court must withdraw Indictments against the top LRA leaders: A Legal Perspective.” *Refugee Law Project*, August 2006; Adam Branch. “Uganda’s Civil War and the Politics of ICC Intervention.” *Ethics & International Affairs*, Volume 21.2 (Summer 2007); Human Rights Watch. *Benchmarks for Assessing Possible National Alternatives to International Criminal Court Cases Against LRA Leaders.: A Human Rights Watch Memorandum*. Accessed 3 May 2008; Tim Allen. “The International Criminal Court and the Invention of Traditional Justice in Northern Uganda.” *Politique Africaine*. N° 107 - octobre 2007.

⁶ For an overview see Oskar Thoms, James Ron, Roland Paris, “The Effects of Transitional Justice Mechanisms”. University of Ottawa, 2008. Pp. 21-22.

⁷ Rome Statute of the International Criminal Court, 2001.

⁸ The Rome Statute, Articles 5-8.

⁹ Rule 85 states that: “For the purposes of the State and the Rules of Procedure and Evidence: (a) “Victims” means natural persons who have suffered harm as a result of the commission of any crime; within the jurisdiction of the Court;

In 2000 the Government of Uganda passed the Amnesty Act, granting blanket amnesty to anyone who renounced rebellion. The Act is a strategy to cull fighters from the bush and resolve the conflict peacefully. It received widespread popular support in northern Uganda, particularly among cultural and religious leaders.¹⁰ These leaders argue the Amnesty is in keeping with cultural norms reflected in traditional justice practices that are restorative in nature. *Mato oput* (drinking the bitter root, a restorative justice approach) is often touted as a complementary process to the Amnesty, one that will deliver justice more in line with local ideas.

Neither the proponents of the ICC or the Government Amnesty recognize complex political victims. Debates about the appropriateness of ‘international’ versus ‘local’ approaches reduce the justice question to a simple dichotomy and pin responsibility onto an easily identifiable wrong doer – one individualistic, the other collective. Both reproduce the idea that victims and perpetrators are homogenous groups, separate and distinct from one another. Proponents of the ICC, for example, argue that those most responsible must be punished; proponents of local approaches treat all perpetrators as an undifferentiated collective group – they are all considered in need of forgiveness by virtue of a shared experience (being in the bush).

Even when the diversity of victim opinions is recognized and a ‘mix’ of international and local approaches is suggested, victims and perpetrators remain simple, exclusive

(b) Victims may include organizations or institutions that have sustained direct harm to any of their property which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes.”

¹⁰ For an overview see Tim Allen, *Trial Justice: The ICC and the LRA*. London: Zed Books. 2006; p. 74.

categories. For example, in the population based qualitative study, *Making Peace Their Own*, the authors argue that:

There is no universal “northern Ugandan” view of who is accountable for causing harm to civilians nor of what form accountability should take, although certain trends do emerge in perspectives on these themes. Most notably, this research study shows that *the population* broadly believes that both *the LRA* and *the Government* – and *specifically their leaders* – should be held accountable for the harms they have caused during the conflict [emphasis added].¹¹

In this statement, ‘the population’ is assumed to be comprised only of innocent victims, ‘the LRA’ and ‘the Government’, a unitary troupe of perpetrators. Degrees of victimhood are not examined.

Dominic Ongwen, along with up to 66,000 other children and youth, were all victims.¹² They were afforded no protection, taken forcibly from their homes and, physically and psychologically pressed into performing a range of dehumanizing work. But they were not all the same. At some point,

¹¹ UNHCHR. *Making Peace their Own: Victims Perceptions of Accountability, Reconciliation and Transitional Justice in Uganda*. 14 August 2007, accessed on IRIN web on June 21 2008. <http://www.reliefweb.int/rw/rwb.nsf/db900sid/AMMF-763G7T?OpenDocument&Click=>

¹² The number of abducted youth is contested. This number is taken from the Survey of War Affected Youth (SWAY). Research Brief 1: The Abduction and Return Experience of Youth. April 2006. the Brief is based on a random survey sample of 1,000 households, and includes youth abducted from ages 13-30. The Berkley Tulane Initiative on Vulnerable Populations, *Abducted: the LRA and Forced Conscription*, used data from reception centres and by triangulating the data, projected the number of youth abducted to be between 24,000-38,000, and adults at 28,000-27,000. Note that the Berkley Tulane numbers do not include persons who did not pass through reception centres, died or are still missing – something the SWAY survey captures.

Ongwen embraced the ideology of the LRA and picked up a *panga* (a machete), a gun, a stick, and brutally carried out their genocidal wishes. At some point, he also became a perpetrator.

The fact that Ongwen is guilty of some of the worst crimes against humanity is not being disputed here. Ongwen is not the same as children abducted and forced to kill against their will, children with no rank or standing who remained in the LRA for a shorter time period. Rather, Ongwen mimicked his oppressors with great vigour and was given status and benefits for doing so. This does not diminish the fact he was once abducted and thus, a victim. Ongwen represents dozens, perhaps hundreds of others like him – persons abducted at a young age who have stayed for more than 10 or 15 years and been ‘given’ command positions. Recognizing their complex status opens up room for identification of others. For example, children born of rape have been raised in the LRA and are now fighters who carry out gruesome attacks on civilians. So Ongwen is not a case of one person in one exceptional circumstance, but rather an illustration of the moral complexities imbued in LRA ‘victimhood.’

II. ON DOMINIC ONGWEN

Abduction and Indoctrination

Dominic Ongwen was one of eight children born to two school teachers around August of 1980 in Gulu District. When he was around 10 years old he was abducted on his way to Koro Abili Primary School. His parents had transferred him there months earlier in order to improve his educational opportunities. It was reported that he was ‘too little to walk’ and he was carried by other captives all the way up to the LRA’s main military bases.¹³

¹³ This was claimed by at least three different respondents in separate interviews. In our research, we have identified others who, because

Ongwen, like most other boys and girls his age in Acholi-land (the Districts of Gulu, Amuru, Kitgum and Pader), gave a false name (in this case Ongwen) to those who abducted him and reported that he was from a village the opposite side of the district to where he was actually born.¹⁴ This kind of misinformation is a common 'survival' strategy Acholi parents teach their children. The LRA keep records of the names, clans and village of birth of those they abduct. This intimidates new 'okuruts' (recruits, a term used by the LRA), who know that the LRA will often retaliate against their clan if they escape and report to the UPDF. For example, the 2002 massacre of over 50 persons in Mucwini was a purposeful retaliation by the LRA against an abducted man who escaped.¹⁵

Due to his young age, Ongwen was at first forced to join the home of Vincent Otti who was at the time a commander with the LRA, but not yet the second in command. It is common for the LRA commanders to bring boys and girls too young to fight into their homes, to train them, and to inculcate a sense of loyalty. As one respondent reminded us, this training is very harsh from the start in order to mould the children into fearless fighters. All senior commanders are called *lapwony*, meaning teacher. Children are immediately told to forget about their old lives, that escape is impossible and are lectured for hours about the virtues of the LRA. Coupled with tactics to exhaust and intimidate the children, such as hard physical labour, long marches, disorientation, frequent beatings and rituals involving cleansings, many children have

of their young age, were also carried by other abducted persons to Sudan.

¹⁴ The LRA commander known as Dominic 'Ongwen' or Odomi (a nick name for Dominic) claims he is from an area called Lamogi. We were able to verify that this is a false name and area, but withhold the sources of this information and the correct name and village for confidentiality purposes.

¹⁵ See forthcoming JRP. *Mucwini*. Field Note VIII. 2008.

reported to us that they soon "forgot" about home altogether.

Children are "initiated" into the LRA by their commander through a series of cruel beatings¹⁶ and are then left to recuperate. These beatings are often done with canes or sticks and can range from 10-250 strokes:

When new people are brought they have to make 'soldiers'.... There was a boy right next to me. He was still young, may be ten years old. He was dark, skinny and short. 250 strokes had been too much for him. He was crying right next to me: "I am going to die." I had much sympathy for him, but I couldn't help him. I was in so much pain myself. After some time he was quiet. [The commander] came past and tried to wake him, but in vain. He shouted: "get up." His eyes were closed and his body had already gone stiff. He was only three meters from me. At that moment, when [the commander] said that the boy was dead, I started to fear for my own life.¹⁷

Like the children above, Ongwen most certainly witnessed the beating to death of other abducted people who attempted to escape or who broke one of the many rules that dictated social relations and roles in the bush. Respondents argued Ongwen himself would beat new abductees, or anyone who failed to do their work quickly and without question. As a child, it is most likely that Ongwen participated in any number of violent beatings, including the purposeful killing of persons that failed to perform.

Many children report that persons were killed for losing a gun, losing bullets, dropping luggage, eating more than their portion of food, or breaking some of the commandments regarding sexual and social relations. Taboos against having sex during menstruation, or cooking and preparing food during menstruation, eating certain foods at

¹⁶ In a survey with once abducted persons, 67 percent reported being beaten at the time of abduction. See Pham, Vinck and Stover, 2007, p. 19.

¹⁷ Abducted at 17, VIVO transcripts.

certain times (such as pork, tamarind, honey) are a few amongst a long list of behaviour regulating dos and don'ts in the LRA. Combatants were often assembled in large groups for hours and lectured on the laws and virtues of the LRA. Ongwen himself later became an effective speech giver on the importance of loyalty to the LRA, often referring to his own experience of abduction as an indicator that life could be good in the bush if children closely followed the rules.

Disorientation methods – such as confusing abductees about their whereabouts, using violence to terrorize them, and telling them misinformation (such as, they would be rejected by their families should they attempt to return home, or that the Government or community would kill them if they returned home), are other techniques employed to indoctrinate new 'recruits.' Once disoriented and 'initiated,' new abductees are provided military training, which involves long drills in using a gun and conducting raids. Children as young as 14 could be put in command of small groups of children and sent on raids, such as looting goods from trading centres, or food from gardens and stores.

Spiritual indoctrination is also a means of controlling the behaviour of children and dissuading them from attempting to escape. Former child soldiers and commanders report that Kony has omnipresent powers: he can predict the future and uses this power to defeat his enemies. Most former LRA are convinced that Kony can read minds and take the form of animals with which to spy on those who are contemplating escape.¹⁸ As suspicion of escape could lead to a severe beating or death, and where such suspicion needs little to no direct evidence, abductees tended to self-police. For instance, displays of emotion, such as keeping to oneself, or

being quiet or remorseful, could be construed as longing for home (and thinking of escape). These emotions are therefore suspect and punishable. This is one reason that formerly abducted youth warn other children that should they be abducted, they should never cry, no matter the circumstances.¹⁹ Threats are also employed to deter escape:

One day [a commander] accused me of planning to escape: "You want to escape, so we shall kill you!" He made me lie down on my stomach. "You want to escape?" I said: "No." All I had in mind was: they will kill me. My heart felt so frightened. Then they said: "Get up!" I felt relieved because that way I figured out that they can also just threaten people. They didn't kill me after all.²⁰

Some youth are forced to kill persons who attempt to escape using logs and branches. In other cases, some are forced to witness the killing of a person who tries to escape. Some groups also forced their combatants to participate in 'rituals' involving tasting blood, rolling in a person's blood, or eating with bloodied hands or while sitting on top of the bodies of persons who were just killed. The following testimony of a youth illustrates the severe impact of witnessing or participating in such an event:

[An] abducted man ... had tried to escape, but he was caught.... I was so frightened. I knew that he would be killed soon. There was the rule that everybody who tries to escape gets killed.... [A senior commander] told another man of about the same age to fight with the one who had tried to escape. He ordered: "Box him until he dies!" The other man went immediately and started punching. People ... started shouting in support of the one who didn't try to escape. They were shouting: "Punch him until you kill him!" My heart was pumping very fast

¹⁸ QPSW and JRP, 2008. More likely, an intricate system of spies and counter-spies existed in each sub-group of the LRA, reporting back to commanders and to Kony.

¹⁹ Erin K. Baines. 'The Haunting of Alice: Local Approaches to Justice and Reconciliation in Northern Uganda,' *International Journal of Transitional Justice*, Vol. 1, No. 1, March 2007.

²⁰ Abducted at 12 years old, VIVO transcripts.

while I was watching that scene. I thought of that other rule our rebel-group had that you had to roll in the blood of every killed one. I feared that, I feared the blood. After about four minutes of fighting the one ordered to beat overpowered the other.... There was blood everywhere over and around the man's body.... When I looked at the dead body I imagined that I might be killed as well. I was so scared. I started calming down slowly by slowly....I felt relieved that this time nobody had to roll in the blood of that man.²¹

While its tactics are extreme, the LRA is not without a political ideology. As Blattman and Annan join others in observing, the LRA also articulates a political ideology that appeals to its soldiers and leads to retention.²² This includes a list of historical grievances against the current Government and belief that the Acholi people are purposively being exterminated by this same government, with the assistance of international actors.²³ In their study, many children argued they believed their senior commanders when they promised that they would soon overthrow the Government, liberating the North and leading to government positions and material benefits to those who were loyal. Children were often informed that their village and parents no longer existed and that the Government had forced all Acholi into internment camps to eliminate them. "While spiritual messages and initiation were commonly received, former abductees were at least as likely to report political propaganda and the promise of material rewards as spiritual dogma," observe Blattman and Annan.²⁴ Loyalty to Kony and stated beliefs in his promises and powers increased among those children who stayed longer than a year. Similarly, the

younger the recruit when abducted, the more probable he or she would be indoctrinated easily and thus remain with the LRA.²⁵ In other words, the LRA is both a political and spiritual project that re-imagines the child as one that can be purified and made into the image of a superior being, with the objective of delivering Uganda from evil. Fighters often used the word 'Holies' to describe themselves, believing they are persons who fought with the Holy Spirit on their side.

Several studies of the LRA have argued these processes of brutal indoctrination and surveillance are intended to break the identity of the child with his former life and usher him into the life of a soldier.²⁶ Some children reported the tremendous fear they felt when they were first forced to kill, which disappeared afterwards: "...after I had killed [for the first time], I gained courage and wasn't afraid," remarked one former child soldier.²⁷ Another recalled making a conscious decision to not think of home anymore, following the advice of an uncle who was also abducted:

He stayed with me and advised me not to think about home too much because those who think about home too much are the ones who die in the bush. I thought about this and found it is true and was happy with the advice.²⁸

Blattman and Annan found that these techniques are most effective with younger adolescents, who on average have stayed longer in the LRA than other age groups. The literature on child soldiers points out that not all children 'get used' to killing and

²¹ Abducted at 7 years old. VIVO transcripts.

²² Sverker Finnström. *Living with Bad Surroundings: War and Existential Uncertainty in Acholiland, Northern Uganda*. Uppsala University Press, 2003.

²³ JRP has obtained numerous documents (letters, statements, transcripts) that articulates this view.

²⁴ Blattman and Annan., P. 10.

²⁵ *Ibid.*, P. 11-12; also 17.

QPSW and JRP, *Sharing the Burden of the Past: Peer support and self help amongst former Lord's Resistance Army youth*. May 2008. This view is consistent with studies on the process of indoctrination of child soldiers in other conflicts, such as Graca Machel. *The Impact of Armed Conflict on Children*. Expert of the Secretary General of the United Nations. 1996.

²⁷ Abducted ND, VIVO Transcripts.

²⁸ Abducted ND, VIVO Transcripts.

bush life. Michael Wessells reminds us that even in the strictest of environments, children find ways to resist, albeit in ways conditioned by the environment itself.²⁹

For example, children may ‘play stupid’ to avoid being forced to kill, or ‘play smart’ - including demonstrating a willingness to kill – in order to secure a better life, such as access to better food or security. As the uncle stated, some chose to adopt the ‘bush mentality’ to survive. This does not mean all children completely or irrevocably lose their identities or moral sensibilities, but that they might chose to, or simply involuntarily suppressed their identity in order to survive.

It is impossible to determine exactly what path Ongwen decided to chose or that which chose him. Our respondents indicated he was reportedly keen in character and eager to please the high command, repeatedly demonstrating his natural ability as a fighter from a young age. Respondents relayed numerous stories of Ongwen as a child soldier successfully conducting raids on military attaches, capturing soldiers and weaponry. He was also sent to abduct children and often delivered the exact number he abducted to Kony—none would escape. According to some respondents, Kony praised Ongwen’s character, calling him a role model for other abducted children.

Regardless of whether Ongwen chose to do the acts he did out of personal desire, fear,

loss of identity, trauma or psychosis, he was a victim of circumstances, and these circumstances shaped his choices significantly. His motivations are a product of the context he lived in as a victim.

At some point in 1993-4, by the time Ongwen was 13-14 years old, Kony formed an alliance with Khartoum and moved LRA bases to South Sudan where they were supplied with new military hardware, bases and protection. It was from these bases that they fought the Sudanese People’s



Liberation Army (SPLA) and made forays into northern Uganda, looting, abducting and killing. As a result, over 400,000 persons were displaced in Acholi-land in the late 1990s while up to 12,000 children were abducted and trained. Ongwen participated in all this as a young commander, indoctrinating others and conducting raids as well as his own abductions. By the age of 18 - the legal age the ICC can investigate a person according to Article

26 of the Rome Statute – he was reportedly a Lieutenant, a field commander.

Renewal and Spread of the Conflict

The war in northern Uganda took a deadly turn in 2001 following the launch of Operation Iron Fist I, a military offensive into South Sudan to flush the rebels out of their strongholds. In 2000, Sudan and Uganda signed the Nairobi agreement, ceasing support to proxy rebel groups, the LRA and the Sudanese People’s Defence Army (SPLA). The war intensified further

²⁹ Michael Wessells. *Child Soldiers: From Violence to Protection*. Cambridge, Mass. Harvard University Press, 2006.

when the United States placed the LRA on a terrorist watch list in 2001 and Sudan hastened its cooperation with Uganda, seeking to end its diplomatic isolation with the Americans. Having lost sanctuary and military support from Khartoum, the LRA withdrew to the Imatong Mountains in Sudan. While evading the UPDF,³⁰ they launched new attacks against villages in Southern Sudan, abducting people and looting foodstuffs. By June 2002, the LRA was receiving new equipment and supplies, and was poised to invade northern and eastern Uganda. The LRA abducted 8,400 new 'recruits' between June 2002 and May 2003 alone, forcing them to carry supplies between Sudan and Uganda, and training them for battle.³¹ Then second in command Vincent Otti instructed his commanders to "kill everything that breathed" in Uganda. "He [Otti] would say, 'I do not want to see a single civilian or living thing in Uganda,'" recalled one respondent.

In response, the UPDF stepped up its policy of forcing civilians into displaced persons camps. In early 2002, an estimated 500,000 persons had been displaced; by the end of 2002 an additional 300,000 were displaced. By 2003, as the LRA moved eastward and the UPDF launched a second offensive, Operation Iron Fist II (OIF II), this number jumped to 1.7 million persons.

As the LRA moved into Teso, more than 300,000 people were displaced by the violence, and hundreds more were murdered. Children were abducted by the hundreds; in one case a school was raided and over 100 girls were taken by the LRA. In another, 40 children drowned after they had been abducted and forced to cross a river. The population in Teso fought back by forming bands of young men and some women known as the Arrow Groups and by

January 2004 Ongwen and the LRA had retreated. Spontaneous and organized formation of militias followed suit in Lango, Kitgum and Adjumani, and some 30,000 persons joined the UPDF to repel the rebels. The LRA suffered significant losses and many of them were abducted children. Former combatants describe long and intense battles in which UPDF gunships would arrive, dropping bombs on children who had no defence. Horrific, long and embittered battles left soldiers dead, captured and mutilated, and created a deep resentment and hatred of either side.

In response to the organization of civilians into militias, the LRA launched one of its deadliest and most gruesome attacks against the civilian population. On 21 February 2004, a number of LRA commanders, under the reported leadership of Okot Odhiambo came together to attack Barlonyo in Lira, where over 300 civilians were hacked to death or burned alive.³² This massacre, while the largest in this period of the war, was by no means singular: large groups of 100 to 300 rebels would attack camps, killing dozens of civilians and abducting hundreds of children. Upwards of 40,000 children marched into town centres each night in an attempt to avoid LRA abduction, while at the height of the offensive, attacks and shelling on town centres in Kitgum, Pader and Gulu were commonplace. Some camps swelled into the tens of thousands. Packed into the centre, civilians lay belly flat with their hands over their heads as bullets and shells whistled overhead. Young abducted boys were sent ahead of the LRA battalions to scope out UPDF positions and WFP food convoys. Humanitarian workers were singled out and attacked; food, medical supplies and radios raided from their vehicles.³³

³⁰ Some analysts surmise the UPDF, although 10,000 strong under OIF I, were corrupt and demoralized by the long war in the Congo, unable to aggressively attack the LRA.

³¹ HRW et. al. *Abused and Abducted*. 2003.

³² JRP. Barlonyo Massacre. Field Note, Forthcoming 2008.

³³ See UNOCHA. Humanitarian Updates: Uganda, 2003-2004. accessed on 3 May 2008 <http://www.reliefweb.int/rw/dbc.nsf/doc100?OpenForm>

It was during this period that Ongwen was rapidly promoted to a senior rank while he effectively launched attack after attack, massacring and abducting unknown numbers of persons and winning a succession of military battles. It was for crimes committed during this period that he now stands charged with seven counts war crimes and crimes against humanity.³⁴

The 'Promotion' of Ongwen

In a few short years, Ongwen was promoted from a field commander to a senior rank within Control Alter, the high command of the LRA. Respondents argued that Ongwen was promoted at such a rapid pace for three reasons: 1. he was a killer; 2. he was a loyal fighter; and, 3. he managed to outlive his superiors.

In the first instance, Ongwen is reportedly an unwavering fighter and brilliant strategist. "He was so brave and inspirational that even if you were a coward, that cowardice would go straight back to your mother's womb if [he] was leading the attack," one former combatant told us.³⁵ Killing soldiers and civilians enhances one's status in the LRA:

The LRA would promote you when you attack enemies, acquire guns and uniforms. Or when you attack a camp and defeat the UPDF you also earn a promotion. It might be bad on the population but good on the

LRA side as they will be promoted, and that is how Ongwen rose up through the ranks.

"Good on the LRA side" means that with each promotion, one's security within the LRA is improved. Ascending to a higher rank improves access to food and shelter, knowledge and information, escorts and spies for protection, *ting ting* (girls who are immature, such as those who have not yet menstruated) for domestic service and forced 'wives' for domestic service, sexual gratification and the production of children for status. "Bad on the population" implies the level of civilian death, looting or abduction that would have to take place prior to ascension in the ranks.

Second, loyalty is considered a critical factor for promotion. When we asked our respondents to describe Ongwen's character, they used the following adjectives: 'killer,' 'fearless,' 'devoted,' 'courageous,' 'a good fighter, who never loses,' 'a staunch supporter of the LRA,' 'without mercy,' 'a very hard fighter,' 'patient and committed,' 'tough,' 'a good soldier,' 'a role model in the bush,' 'a very respectful and loyal man who would obey orders,' 'not a coward,' 'a harsh person with no forgiveness in his heart,' 'skilful and intelligent,' and 'brilliant.' All are attributes of a loyal, disciplined LRA fighter.

As a sign of his trust in Ongwen, Kony reportedly relied on him to execute difficult missions, such as military offensives during their 2002-2003 incursions into Lira and Teso Districts. There, the LRA engaged the UPDF in large scale battles during which many LRA commanders were killed. Ongwen gained the reputation of being able to emerge from the bloodiest of battles with the majority of his fighters alive. Many of our respondents reported that when they went into battle with Ongwen they felt confident because they "knew they would succeed." Kony would often praise Ongwen in front of new recruits for his loyalty, encouraging them to follow his example.

³⁴ Ongwen is accused of seven counts of individual criminal responsibility (Article 25(3)(b) of the Rome Statute) including: Three counts of crimes against humanity (murder - Article 7(1)(a); enslavement - Article 7(1)(c); inhumane acts of inflicting serious bodily injury and suffering - Article 7(1)(k)), and; Four counts of war crimes (murder - Article 8(2)(c)(i)); cruel treatment of civilians - Article 8(2)(c)(i); intentionally directing an attack against a civilian population - Article 8(2)(e)(i); pillaging - Article 8(2)(e)(v)).

³⁵ Former combatant with the LRA 2000-2004, interviewed by JRP.

Being a killer and being loyal are intertwined. The more someone kills with the LRA, the more they are considered loyal and unlikely to attempt escape: “Kony used to promote those who do a lot of bad things because he knows that they will never go back home.”³⁶ One commander once put it this way, “the gun is now my parents.”

Third, we posit that Ongwen simply outlived a number of his superiors who were killed in large numbers during the fighting in northern and eastern Uganda between 2002 and 2005. For instance, Ongwen’s immediate commanding officers, Brig. Charles Tabuley, Brig. Tolbert Yardin Nyeko, Brig. Acel Calo Apar and Brig. John Matata were all killed, resulting in a vacuum in field operations. Relying on his loyalty, Kony promoted Ongwen *in absentia* simply because so many others had been killed.³⁷ Today, Ongwen has reportedly been appointed to fourth in command. He along with other young commanders, many of whom were also abducted, has been rapidly

promoted following the execution of Vincent Otti (2nd in command) in October 2007. Kony reportedly lost trust in his older commanders over the process of the peace talks, and has reshuffled Control Alter to surround himself with those he considers more loyal.

As one respondent summarized, Ongwen “was promoted because of his fighting skills and the atrocities he used to commit, and also because so many senior commanders had died.”³⁸ The process in which Ongwen rose from a young fighter to within the high ranks of the LRA sheds some doubt on whether or not he was one of the most responsible indicted by the ICC in October 2005. Whether or not he had any choice in ascending in the ranks, and whether or not he can be held morally responsible for his crimes, we will discuss in the final section. For now, we consider one final piece of information provided by respondents that gives insight into Ongwen’s mental state: that is, whether or not he ever tried to escape.

³⁶ Former combatant with the LRA 1996-2001, interviewed by JRP.

³⁷ Commander John Matata died in January 2003, Brig. General Charles Tabuley was killed in Teso on 19 January 2004, Brigadier Tolbert Yardin Nyeko was killed in battle on 18 May 2005, Brig. Acel Calo Apar was killed and in December of the same year and, Brig. John Kapere was killed reportedly while trying to surrender in December 2005. Others, under pressure of battle or facing imminent defeat surrendered and accepted the offer of amnesty. Col. Onen Kamdulu, (another once abducted person who had the same rank as Ongwen around the time he returned) returned to Gulu and was paraded around town, welcomed and cheered as a hero in 2005; Colonel Francis Oyet Lapaicho, commander of Gilva Brigade, was captured in July 2006. Brig. Sam Kolo fled after attempts at peace talks failed with Madame Betty Bigombe in 2005 and Brig. Kenneth Banya was caught in 2005. Ongwen himself narrowly escaped death – it was reported by UPDF that he had been killed in battle in September 2005, although later it was revealed the body thought to be Ongwen’s was in fact that of his most senior officer.

No Escape?

As we have just discussed, the fact that Ongwen was fearless, loyal and brutal attracted the attention of the high command and most likely built their confidence in his capacity to command. It also made him far more valuable to the senior command and thus, under stricter surveillance and ‘protection.’ In general, the more information and knowledge a person has, the more his or her movements and mood are monitored. Should a senior ranking LRA be captured or escape, the information he or she possesses could be devastating if conveyed to the UPDF.³⁹ Thus, those with greater

³⁸ Former combatants, with the LRA 1995-1999, interviewed by JRP.

³⁹ This appeared to be one reason UPDF began to gain significant group post-2003: they effectively (although likely often illegally) ‘debriefed’ LRA ex-combatants, often recruiting

knowledge and information were often even more strictly spied upon than the average foot soldier or junior commander. Kony often took steps to discourage the escape of mid or high level commanders he thought were wavering, such as removing their 'wives' and children from their homesteads and keeping them under personal guard. After 2002, Ongwen was injured in battle and taken to 'the Bay,' an area for surgery and convalescence. Any low ranking LRA 'recruit' who worked in the Bay was subsequently executed to protect Ongwen's whereabouts from falling into UPDF hands should he or she escape.⁴⁰ One respondent recalled a personal conversation with Ongwen, "he felt very bad because the rebels threatened to kill him if he escapes; they also [told him] ...his homestead would be burnt down."⁴¹

In 2005, Vincent Otti crossed into the Democratic Republic of the Congo with hundreds of fighters, reportedly to assess its potential as a new base. Four months later, UPDF officials announced that LRA leader Joseph Kony had joined his deputy. Large battalions were isolated from the main group, roaming northern Uganda. They retreated from Lira and Teso and broke into smaller groups, silencing their guns and attacks on the population. The LRA high command entered into peace talks under the mediation of the Government of South Sudan in May 2006.

Ongwen was one of the commanders left behind. Reported sightings of LRA by UN officials describe bedraggled groups of LRA, hungry and hunted, wandering throughout northern Uganda, waiting for orders. It was shortly after the

them into the UPDF to serve as counter-intelligence.

⁴⁰ The fear was these soldiers would escape or be captured, revealing Ongwen's whereabouts to UPDF.

⁴¹ Former LRA commander, reportedly close to Ongwen, with the LRA 1993-2007, JRP interview.

announcement he was wanted for war crimes, that Ongwen began to contact civilians and local leaders to discuss the possibilities of return.

According to civilian witnesses, Ongwen sent some of his escorts to round up a group of 30 civilians and bring them to him one night in Gulu District. Once they arrived, he quizzed them on the public's perception of him, and what they believed would happen to him if he returned. He asked them about the indictments and whether or not they thought the Government would hand him over to the foreign court. He asked about his parents and family, as he was known to do when around the area of his former village. They told him of a recent radio programme in which the Resident District Commissioner Walter Ochora had stated there was no escape from the ICC. Once the discussion was finished, Ongwen let them go.

Consulting civilians is not an uncommon practice for LRA members contemplating return.⁴² Many have approached IDP camp residents in their gardens, asking to speak to local traditional or political leaders to verify what they have heard about the Amnesty. For example, Ongwen met local traditional leaders in Pajule,⁴³ the same leaders who facilitated the return of other senior rebels such as Philip Oneko-mon-kikoko.

Most of Ongwen's 'wives' and children have now returned to civilian life in Uganda. This may have been a pull factor tempting him to return, especially when he was temporarily isolated from the high command. One escaped 'wife' was reunited

⁴² Quaker Peace & Social Witness and Conciliation Resources *Coming Home – Understanding why commanders of the Lord's Resistance Army chose to return to civilian life*, (2006). [http://www.c-r.org/ourwork/uganda/documents/CR_Coming_Home_May06.pdf]

⁴³ Traditional and religious leaders in Pajule, have helped over 100 LRA to leave rebellion in the past.

with a co-wife's son who had been separated from his mother in battle. The escaped 'wife' was asked to speak on the radio to appeal to Ongwen to release the boy's mother, which he did. The newly returned co-wife told her that Ongwen was excited when he heard the voice of his missing 'wife' on radio, as he thought she had died. He woke up the rest of his group to listen to her. He told them that if he had known she was alive, he would have returned by now.

Another 'wife' reported that Ongwen frequently contacted her in 2006, sending modest support to her and the children. At one point, he arranged to return with the help of his 'wife' and local officials. On an agreed-upon date, his 'wife', local officials, UPDF and former LRA commanders such as Kenneth Banya met with Ongwen at a meeting point in Gulu District. He changed into civilian clothing and prepared himself, when he suddenly began to beat his wife, asking her if she had forgotten about the ICC. He returned to the bush and she has not seen him since.

Finally, in September 2006, Ongwen met with the Government Army Brigade commander and some religious leaders in Barayomo, Pader District. During the four hour meeting, he and his men were offered food and clothing by the civilian population. He requested safe passage to the assembly area at Owiny Kibul in Sudan.⁴⁴ Sometime late in 2007, he made it across the border into the Congo to rejoin Kony, bypassing the agreed-to assembly point for his forces in Eastern Equatoria.

III. JUSTICE AND COMPLEX POLITICAL VICTIMS

What will the ICC do with a person like me? I was abducted as a very young boy from Primary 4. Why do they want to cut off my head, me, a person *who cannot own this rebellion?*⁴⁵

Studies of child soldiers argue that a child's moral development is stunted in settings of collective victimization.⁴⁶ They recognize children are purposively selected because they are "amenable to indoctrination, more loyal, and less questioning of commands that present moral difficulties."⁴⁷ A number of children we have interviewed report that after a while, they stopped thinking about home and went into 'auto-pilot;' some describe 'going outside of their bodies' when forced to kill. Others talked about mutilating civilians out of curiosity, having heard it would appease the spirit world and bring them protection. Some reported killing other unpopular LRA members to bring them respect and prestige among the group. This suggests some agency amongst children.

In her study of rebel groups in Angola and Mozambique, Alcinda Howana argues that in such an environment, children and youth have little power to act counter to orders given to them.⁴⁸ However, they do display some room for 'tactical' agency, that is, they make choices day to day, including moral and immoral choices about the lives of others, within the highly regulated confines of a rebel army. Motivations behind such choices vary; however, what matters most is

⁴⁴ Chris Ocowun and Charles Mukiibi. 'Top LRA meets UPDF,' The New Vision Online. 4 September 2006. <http://www.newvision.co.ug/D/8/13/519202>, accessed 25 April 2008.

⁴⁵ Dominic Ongwen. Paraphrased by Rwot Otinga, Deputy Paramount Chief of Acholi, in a one-on-one meeting with Ongwen in Garamba, September 2007; relayed to our research team in Gulu.

⁴⁶ See, for example, Annan et al. *Making Reintegration Work*. Alcinda Honwana. *Child Soldiers in Africa*. Penn: University of Pennsylvania Press, 2007. Wessells, 2006.

⁴⁷ Boyden, 347.

⁴⁸ Howana, Chapter 3.

that they are choices that are highly regulated and restricted. Moreover, the degree to which children and youth are psychologically affected must also be considered.

Most psychological analyses of child soldiers argue that the longer children are within an armed group, the longer they are exposed to events inducing trauma.⁴⁹ This can and does lead to developmental dysfunction in some cases. Jeff McMahan argues that child soldiers can be understood “as people who have a diminished capacity for morally responsible agency and who act in conditions that further diminish their personal responsibility for their actions in war.”⁵⁰

According to this view, Ongwen was not yet fully formed as a human and was thus moulded by adults to carry out the gross human rights violations he did. Morally ill-equipped, according to this psychological analysis Ongwen cannot judge wrong from right or, in the event that he can, is unable to refuse orders to carry out heinous acts, lest he be beaten or killed. In either case, his actions were not considered his own. “I know that just like any other person would do, Ongwen fought to defend himself,” reasoned one of our informants.⁵¹ Expert Jo Boyden acknowledges that little is known about the longer term impacts of soldiering on a child’s moral development. The literature is also relatively silent on what happens to children when they grow (for example, when they stay for more than 18 years, as Ongwen has). However, we can assume dysfunction exhibited in a child does

⁴⁹ Jo Boyden. ‘The Moral Development of Child Soldiers: What do Adults have to fear?’ *Peace and Conflict: Journal of Peace Psychology*, 9 (4): 2003, P. 343-362.

⁵⁰ Jeff McMahan, “Child Soldiers: The Ethical Perspective”, in Gates, S. & Reich, S. (eds.) *Building Knowledge about Children in Armed Conflict*. Forthcoming. Ridgway-Ford Security Series from University of Pittsburgh Press.

⁵¹ Former commander with the LRA from 1994-1999 interviewed by JRP.

not disappear the day after his or her 18th birthday.

Howana considers a more nuanced interpretation of the impact of war on child soldiers. She argues that “although these boy soldiers cannot be considered fully responsible for their actions, they cannot be seen as entirely deprived of agency either.”⁵² Because of this ambiguous status, conventional legal approaches can only be applied to such cases with grave difficulty. This is even truer regarding the case of Ongwen, given that he reached the legal age for criminal responsibility while still within the rebel forces. Howana reflects:

We might say that, having started out as victims, many of them were converted into perpetrators of the most violent and atrocious deeds. Yet such a linear progress does not fully represent the complex, intertwined, and mutually reinforcing acts of violence of which they were both victim and perpetrators. Some boy soldiers were most victimized in the very act of murdering others...their identification with those they mercilessly killed was not redemptive; rather, it wed them more irrevocably to the identity of soldier.⁵³

We informally queried some of the respondents what their view of Ongwen was. A common view was that he has little to no control or ability to refuse orders, as expressed by two former commanders below:

Ongwen is like a dog sent to get meat. They made him fight against his own people so that he is not able to return home and live with the people he hurt. He just worked on order and became a leader because of his discipline in following orders. We are like dogs because as the dog grows it follows what it sees.⁵⁴

⁵² Howana, P. 69.

⁵³ *Ibid.*, P.73,

⁵⁴ Former commander with the LRA 1993-2005 interviewed by JRP.

Another argued that:

Ongwen was just an executioner of commands, because he would do what he was commanded to do. His only problem is that he would look too eager to do it. He [Ongwen] should not be prosecuted because in the bush if you are told to do something and you do not do it then you would be killed. That is why if you are told to kill 100, you would kill a thousand so that you leave no doubt about your loyalty and so that you could be thanked.⁵⁵

“His only problem was that he would look too eager to do it,” could refer to the fact Ongwen never displayed signs of reluctance or remorse, something that might have given indications to others in the bush that he was only obeying orders, or that he had retained some moral grounding. At the same time, the respondent recognized there was little room for acting any other way than eager; “if you are told to kill 100, you would kill a thousand.” In that sense, Ongwen’s eagerness could be a strategy of self-preservation.

In Ongwen’s case, the morally superior concept of ‘child soldier as a victim’ collapses. But so to does the personification of evil into the image of a perpetrator. Ongwen himself questions where he ‘fits in.’ He does not “own this rebellion,” he said, but nor can he return to Uganda. He has killed too many people and so he must act according to what people expect of him. As respondent recalled his dilemma:

He would start saying that he is not the one who brought anybody to the bush; even he was abducted so no one should give him headache. Even their own home is dead, he has no where to return. The Government sees him as bad so he is only waiting for his day to die. He will not forgive anybody because where ever he

⁵⁵ Former combatant with LRA from 1994-2004 interviewed by JRP.

goes people know he is a killer so he has to act accordingly.⁵⁶

Ongwen became the image of his oppressors, perhaps outperforming some of his commanders. His motivations for doing so (greed, fear, psychosis, reason) may shed light on whether or not he carried out the atrocities he stands accused of by the ICC on his own free will, or by force. Certainly there exists a growing body of literature that contemplates the culpability of child soldiers. Consider that persons like Ongwen, who exhibit extreme behaviour, are in fact the minority and so not the norm.⁵⁷ However, few also spend their entire formative years in captivity, or within the ranks of a rebel group.

Regardless, Ongwen is no less a victim. He may be responsible, even indictable, but this does not erase the fact he was once a child who was unprotected, abducted, indoctrinated, brutalized and forced to commit heinous acts. Legal approaches do not uncover much about the complexity of such victims. Focused on a list of actions committed, the ICC arrest warrants, although redacted, seek justice only for acts of mass crime and not for the broader collective victimization of children abducted by the LRA. Andrew Mawson explains this limitation in Uganda:

...a narrow, punishment-oriented definition of justice is deeply problematic. It does not take into account the political and social dynamics of the conflict or of building peace.... It seems to ignore the pattern of abduction and use of extreme violence within the LRA to enforce the will of commanders. It does not take into account a fairly widely held Acholi view that their

⁵⁶ Former combatant with the LRA from 1993-2007 interviewed by JRP.

⁵⁷ No known studies examine the culpability of child soldiers who commit atrocities as adults. See Nienke Grossman, “Rehabilitation or revenge: Prosecuting Child Soldiers for Human Rights Violations”, *Georgetown Journal for International Law*. Winter 2007.

society as a whole is the collective victim of monstrous injustice: longstanding injustice on the part of the government and now the additional injustice of LRA terror.⁵⁸

We suggest that a punitive approach will not deliver justice to Ongwen, nor to his victims. The Chief Prosecutor's investigation into crimes committed in northern Uganda is limited by the Rome Statute to investigate crimes committed after 2001. The culpability of Ongwen in the wider context of mass, collective victimization of children in northern Uganda was likely not factored into the decision to issue warrants for his arrest. Should Ongwen be arrested and face trial in The Hague, his defence lawyers may draw on Article 31, (section c or d) which stipulates that anyone under duress or threat of death in the commission of war crimes is exempt. But such a defence is hardly an acknowledgement of Ongwen's ambiguous status of a complex political victim.

Failing to address atrocities committed by persons who return from the bush – as the current Amnesty does – is equally problematic. “Individuals – including children – who return are often feared”⁵⁹ and yet even local approaches such as *Mato Oput* (reconciliation process and ceremony) or cleansing ceremonies such as *Nyono Tong Gweno* (‘stepping on the egg,’ a welcome home ceremony) or *Moyo Kom* (cleansing of the body ceremony) do not differentiate between levels of culpability and degrees of victimhood.⁶⁰ Everyone is treated the same.

Recognizing Ongwen as a complex political victim does a service to Ongwen's victims

because it ensures a political dialogue that could prevent further violence and victimization. A number of studies on violence have indicated that impoverished, emasculated male youth are more likely to resort to violence when excluded from formal decision-making and power.⁶¹ Some argue that veterans themselves are the largest source of insecurity when their needs are not addressed, although this has yet to be empirically proven. Ongwen symbolizes a generation stolen and yet responsible for wars that ‘are not their own.’

To be clear, this does not absolve Ongwen or others like him of all wrong doing; it simply recognizes his unique status. As Bouris' states, a space for dialogue about complex political victims is necessary in order “to illuminate the difficult areas that must be crossed in order to successfully develop a discourse of the gray victim that helps victims instead of tarnishing them.”⁶² To tarnish Ongwen without recognition of his own victim status is to further exclude him and others like him from the Ugandan polity, leaving few incentives to lay down arms. Ongwen's case is not singular or unique. He is typical of a wider group of children who “grew from the bush” or were “born in the bush.” Elsewhere we have argued that reintegration processes in the North still leave much to be desired, including the need to integrate a justice strategy into DDR processes to ensure those most responsible are held accountable. His case then, is a wider justice problem facing all Ugandans, and indeed even outside Uganda in other countries where complex political victims exist.

⁵⁸ Andrew Mawson. “Children, Impunity and Justice: Some Dilemmas from Northern Uganda”. In Jo Boyden, ed. *Youth and Armed Conflict on the Front Line*. Studies in Forced Migration, 2004. P. 136.

⁵⁹ *Ibid.*

⁶⁰ See Liu Institute for Global Issues and Gulu District NGO Forum. *Roco Wat I Acoli: Restoring Relationships in Northern Uganda*, 2006.

⁶¹ Chris Dolan, ‘Collapsing Masculinities and Weak States - a case study of northern Uganda.’ 2001. Website www.acord.org.uk/r-pubs-CollapsingMasculinities.doc accessed 18 June 2008.

⁶² Erica Bouris, p.10.

RECOMMENDATIONS

To the Government of Uganda

Recognize the particular situation of perpetrators born into or who have been abducted and grown up in the LRA and other rebel groups in Uganda and devise a justice strategy appropriate to their complex political status.

To Local Leaders

Hold community based dialogues and discussions that sensitize concerned populations regarding complex political victims, and propose appropriate justice strategies based on consultation with affected persons.

To Child Rights Advocates

Recognize and address the challenge of complex political victims.

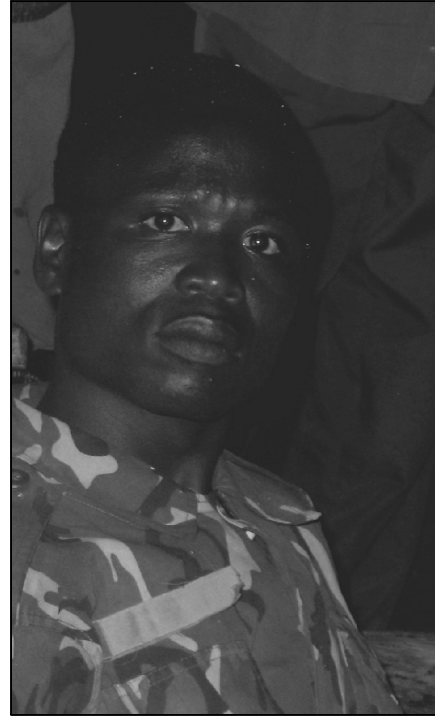
To ICC

Future investigations should consider the historical context in which crimes are committed in order to identify complex political victims.

To Donors and UN Organizations

Support the creation of a public debate on complex political victims such as popular media (radio, television, papers), community based dialogues and regional and national discussion forums.

Support initiatives and programmes that will assist complex political victims in attaining justice, reconciliation and reintegration



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