

To Pardon or to Punish?

Current Perceptions and Opinions on Uganda's Amnesty in Acholi-land

Although Uganda's Amnesty Act entered into force in 2000, it has recently been subjected to a renewed discussion, questioning its relevance in the current context of the conflict. Even in the war-affected northern region of Uganda, it appears that mixed reactions prevail among the local population. Against this background, this brief situational analysis projects people's opinions and perceptions on amnesty and provides recommendations for the Amnesty Commission as well as stakeholders concerned.

Introduction

Uganda's Amnesty Act of 2000 offers pardon to "any Ugandan who has at any time since the 26th day of January, 1986, engaged in or is engaging in war or armed rebellion against the government of the Republic of Uganda."¹ In northern Uganda, amnesty has been instrumental in fostering and encouraging the return of thousands of ex-combatants and abductees. The Amnesty Commission's database indicates that, as of the 22nd August 2008, 22,520 former rebels have reported and been granted amnesty since the entering into force of the Amnesty Act (AA) in 2000.² Approximately 48% of the reporters have been former members of the Lord's Resistance Army (LRA).

Recently, on the 22nd September 2011, Uganda's Constitutional Court ruled that ex-LRA commander Colonel Thomas Kwoyelo – charged with 12 substantive counts and 53 alternative counts of war crimes and crimes against humanity – was entitled to amnesty in line with Uganda's 2000 Amnesty Act. The court ordered his trial to be halted forthwith. However, this court ruling attracted mixed reactions from national and international actors. While some applauded the court ruling and amnesty alike, others condemned both. At a national workshop on amnesty in Kampala on the 18th November 2011, this divide was evident with some parties calling for the amendment of the amnesty law. Even in the war-affected regions, where the amnesty law has been instrumental in fostering the return of thousands of ex-combatants, mixed reactions prevail among the local population. Although research on amnesty in northern Uganda has been carried out previously,³ there is no topical prospect concerning the current situation. Pending review and possible extension and/or amendment,

Uganda's current Amnesty Act is slated to expire in May 2012.

Against this background, the Justice and Reconciliation Project (JRP) carried out a rapid situational analysis between the 28th November and 06th December 2011 in the sub-counties of Bobbi and Unyama (Gulu district) and Koch Goma (Nwoya district), and Gulu and Kitgum towns to gauge the perceptions and opinions on amnesty and whether it is still relevant today in post-conflict northern Uganda. In this research, we spoke to 44 respondents – with a gender ratio of 26 male to 18 female – including local leaders, religious leaders, victims, formerly-abducted persons, and other community members, along with representatives of civil society organizations in Gulu town.

The analysis revealed that an overwhelming majority of our sample group still strongly support amnesty and consider it as vitally important for sustainability of the prevailing peace, reconciliation and rehabilitation. From this survey, a resounding 98% of respondents thought that the amnesty law was still relevant and that it should not be abolished. This situational analysis presents these perceptions concerning the relevance and role of amnesty and provides recommendations to policy-makers, organizations operating in these areas, as well as institutions working with victims and formerly-abducted persons.

Reactions and Perceptions on the Ground

"Amnesty is emphasizing forgiveness."⁴

For most of the respondents in the indicated regions of research, amnesty still continues to be important and essential. **Most self-identified victims, formerly-abducted persons and ordinary community members we spoke to highlighted amnesty's ongoing relevance as it is seen to encourage children forcefully abducted by the LRA to return home and reconcile with their communities.** As one respondent noted, "When those who have been abducted and are still with the rebels know that

⁴ Interview with a 22-year-old male respondent in Bobbi sub-county, 28th November 2011.

¹ Uganda Amnesty Act of 2000, Part II (1).

² Bean, James. 2008. *Preliminary Analysis: Reporter Profiling from the Amnesty Commission of Uganda*. ICRS Database. Available at http://reliefweb.int/sites/reliefweb.int/files/resources/DB6D36C252A6579C4925767100235728-Full_Report.pdf.

³ See Hovil, Lucy and Zachary Lomo. 2005. *Whose Justice?: Perceptions of Uganda's Amnesty Act 2000: The Potential for Conflict Resolution and Long-Term Reconciliation*. Refugee Law Project Working Paper No. 15. Available at http://beyonduba.org/working_papers/RLP.WP15.pdf.

others were able to return and now live peacefully, they are encouraged to come home as well.⁵ Beyond that, some of the civilians in these conflict-affected communities – whom were either directly or indirectly affected by the conflict – expressed that the establishment of the Amnesty Act is responsible for the current peace northern Uganda is experiencing following the 2006-2008 peace negotiations in Juba. As said by one elderly respondent, “Due to amnesty, there is no more armed conflict or war going on here. Instead, we finally have peace.”⁶ Another respondent credited amnesty for enabling northern Uganda’s population to leave the internally displaced persons (IDP) camps and return to ancestral homesteads. Additionally, various formerly-abducted persons who returned home appear to benefit from amnesty in terms of experiencing limited stigmatization or harassment, other than they would have had without amnesty in place. Due to the existing amnesty, communities are partially aware of issues surrounding formerly-abducted persons as well as their reintegration into the communities and therefore tend to understand and accept them, rather than stigmatizing those ex-combatants.

Furthermore, **our findings reveal that many respondents generally appreciate the blanket character of the current amnesty**, excluding the five top LRA-commanders indicted by the International Criminal Court (ICC).⁷ Rather, most of the people we spoke to advocate for an even **broader coverage of blanket amnesty which would only exclude the LRA’s first-in-command Joseph Kony, while offering amnesty for anyone else in the ranks of the rebels**. A majority of those interviewed consistently stated that most LRA senior and junior commanders are abductees themselves who didn’t join the rebel group voluntarily and should therefore be eligible for amnesty instead of facing prosecution at the International Crimes Division (ICD) of the High Court. Respondents cited examples such as the ICC-indicted Dominic Ongwen and Thomas Kwoyelo. According to one respondent, “Those who need to be excluded from amnesty are those who joined the LRA voluntarily and willingly like the top leader of the LRA [Joseph Kony]. He knows exactly what he does and he especially wants to do what he does.”⁸

However, **some directly-affected victims, including formerly-abducted and non-abducted persons, mutually agree that the Amnesty Commission needs to extend its scope of work and provide assistance not only for ex-combatants but also for other victims of conflict**. So far, the Amnesty Commission concentrates on supporting and rehabilitating former rebels while paying no attention to victims who suffered as a result of LRA attacks. As one

⁵ Interview with a 19-year-old male respondent in Koch Goma sub-county, 29th November 2011.

⁶ Interview with an elderly female respondent in Koch Goma sub-county, 29th November 2011.

⁷ According to the ICC indictments, those five include: Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen and Raska Lukwiya. Raska Lukwiya and Vincent Otti are reportedly dead, leaving only three LRA commanders wanted by the ICC and presumably excluded from Uganda’s amnesty.

⁸ Interview with a 19-year-old male respondent in Koch Goma sub-county, 29th November 2011.

respondent stated, “This unequal treatment creates a lot of problems within the communities. Some victims look at their former perpetrator as someone who is now enjoying life and receiving support whereas nothing is given to him or her. Once you start supporting victims it creates an avenue for them to forget.”⁹ Another respondent even adds a stronger voice to this, expressing that “Rehabilitating only ex-combatants is a very wrong approach. It is doing more harm than good... If this is not looked into critically, it can lead to another conflict because the victims have nothing to rely on.”¹⁰ **For the majority of those we interviewed, any kind of victims’ assistance would symbolize acknowledgement of their suffering and contribute to easing the trauma which continues to persist among war-affected people in northern Uganda**. Beyond that, a mutual agreement prevails which emphasizes the necessity of income-generating items to ensure sustainable development and economic independence of those affected by the conflict. Nonetheless, respondents on the ground are largely aware of the huge difficulty of meeting the needs of each and every victim as almost everyone in the northern region has been affected. Rather, victims as well as formerly-abducted persons emphasize that the Amnesty Commission alone cannot meet all these needs.

Additionally, **respondents we spoke to generally shared the opinion that the Amnesty Commission should engage in promoting reconciliation between former rebels and the wider community – including directly-affected victims**. Amnesty should be viewed as the beginning of the reconciliation process, and not the end of it. For this to be successful, careful and comprehensive community mobilization appears to be an unavoidable requirement. Therefore, besides giving the emphasized material support, the Amnesty Commission should “appease and sensitize the community and ex-combatants and explain to anyone why amnesty is given.”¹¹ Moreover, the need for traditional leaders to become involved in any rehabilitation or reconciliation process has been emphasized frequently. “For amnesty to work it is important to cooperate with the traditional leaders. They are able to encourage formerly-abducted persons to start a new life and can help them reintegrate in the community since most of things they committed were outside their wish.”¹² It was recommended that local leaders receive training and capacity-building by the Amnesty Commission in conflict indicators and mitigation approaches to be able to contribute to any attempt for reconciliation between ex-rebels and victims in the community.

While mainly attempting to study and highlight the grassroots voices and perceptions regarding amnesty, this largely victim-centred situational analysis also aims to add another dimension by gathering the opinions of local

⁹ Interview with a representative of civil society in Gulu town, 05th December 2011.

¹⁰ Interview with a male respondent in Gulu town, 06th December 2011.

¹¹ Interview with a 27-year-old male respondent in Unyama sub-county, 30th November 2011.

¹² Interview with a local leader in Unyama sub-county, 30th November 2011.

government representatives and staff and executive members of civil society organizations (CSOs) in Gulu town. **Similar to voices articulated in the communities, civil society representatives and local government leaders unanimously highlighted the persistent importance and relevance of amnesty in the current context of the conflict.** As one female respondent said, *“I personally like amnesty and love the work amnesty has done so far... It helped the victims to regain their status as civilian community members.”*¹³ Furthermore, civil society leaders stressed the need for the Amnesty Commission to continue its work as children still remain in captivity and have not returned home yet. Nevertheless, like among community members, **opinions in Gulu town varied as to whether Kony could justifiably be granted amnesty or not.** Whereas some emphasized that only those who have been abducted forcefully should receive amnesty, not Joseph Kony himself, others argued that *“For the sake of peace, let all of them benefit.”*¹⁴

Recommendations

Based on grassroots perceptions concerning amnesty and its current relevance, the report intends to provide recommendations on how to proceed and what should happen next. We therefore urge the following recommendations:

- a) **The Amnesty Commission clearly needs to continue its current work.** Although the situation on the ground in northern Uganda has changed since the Amnesty Act entered into force in 2000, war-affected communities identified a persistent need for amnesty to remain in place. Many children and abductees are still in captivity with the LRA and may be encouraged to come home and apply for amnesty. If amnesty should be removed, those forcefully abducted may have no motivation or hope of returning to their families or communities.
- b) **The Amnesty Act must consider the needs of formerly-abducted persons and affected victims alike.** While currently only concentrating on rehabilitating and assisting former rebels and perpetrators, amnesty should extend its support to conflict-affected victims, as well. Therefore, the Amnesty Act requires an amendment which includes a provision for focusing on the needs and requirements of victims who suffered from LRA attacks and violence. This is particularly important to ensure equal treatment of everyone affected by the war and prevent any disharmony or tension within the communities among ex-rebels and suffering civilians.
- c) **The Amnesty Commission needs to monitor its reintegration activities throughout the greater northern region.** For reintegration and rehabilitation of

former combatants to be successful, the delivery of an official Amnesty Certificate as well as a rehabilitation package is simply not enough. Rather, the Amnesty Commission should be engaged in promoting reconciliation, while at the same time monitoring and evaluating its activities. Therefore, the implementation of an *Amnesty Monitoring Team* is recommended to ensure a sensitive and less-problematic reunification and reintegration of formerly-abducted persons with their respective families and the wider community. Preferably, such a Monitoring Team would have at least one representative in each sub-county to accompany and follow individual reintegration processes over time and provide help, assistance or mediation if necessary.

- d) **Comprehensive community sensitization is needed to provide greater understanding of what happened and why amnesty has been granted.** Before releasing formerly-abducted persons into their home communities, ex-combatants and victims who are part of the reintegration process require to be sensitized and informed comprehensively. Without sensitizing the community as a whole, potential misunderstanding of what happened and why and tensions are likely to arise among the local population. In a majority of the cases, the returning rebels were abducted against their will and were forced to commit the horrific atrocities against their own communities. Accordingly, the civilian residents need to be aware of the circumstances surrounding the atrocities and that many abductees were victimized and suffered themselves, as well.
- e) **The Government of Uganda (GoU) and other stakeholders should continue to support the Amnesty Commission's rehabilitation and reconciliation activities.** Given the large scale and duration of the conflict, almost everyone in northern Uganda has been affected to a certain extent. Therefore, it is literally impossible for the Amnesty Commission to meet the needs and demands of all formerly-abducted persons or provide support for every affected victim throughout the region. Nevertheless, to ensure efficient and sustainable reintegration and rehabilitation between ex-rebels and victims' communities, it is necessary for the Government of Uganda as well as stakeholders to enhance cooperate and support of the work of the Amnesty Commission.

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¹³ Interview with a female respondent in Gulu town, 05th December 2011.

¹⁴ Interview with an elderly male respondent in Gulu town, 06th December 2011.