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ABSTRACT
This article examines the role that amnesty and traditional practices play in fostering justice and reconciliation in northern Uganda.

RESUMO
Este artigo analisa o papel que a anistia e as práticas tradicionais assumem na promoção da justiça e da reconciliação no norte de Uganda.

RESUMEN
Este artículo analiza el papel que desempeñan la amnistía y las prácticas tradicionales en la promoción de la justicia y la reconciliación en el norte de Uganda.

Original in English.

KEY WORDS

Northern Uganda – Transitional justice – Truth commission – Reparations – Reintegration

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THE PURSUIT OF TRANSITIONAL JUSTICE AND AFRICAN TRADITIONAL VALUES: A CLASH OF CIVILIZATIONS – THE CASE OF UGANDA[1]

Cecily Rose and Francis M. Ssekandi

Introduction

After almost twenty years of violence in northern Uganda, movement toward reconciliation has begun even though the government of Uganda has not yet reached a peace deal with the Lord's Resistance Army. Although making peace with the Lord's Resistance Army (LRA) has been elusive, literature on the subject has already begun to discuss how Uganda might foster long-term reconciliation, in the face of a pending indictment by the International Criminal Court of five of the LRA commanders. As thousands of former members of the LRA have returned to their communities after taking advantage of the amnesty granted by the government of Uganda under the Amnesty Act of 2000, issues of reintegration and reconciliation have received more attention from government officials, non governmental organizations (NGOs) and academics. Furthermore, when the International Criminal Court (ICC) commenced its investigation of the senior leaders of the LRA in 2004, the international community began to examine how the ICC's role might conflict with peace negotiations and with the use of traditional conflict resolution through reconciliation mechanisms in northern Uganda. While negotiators still struggle to make peace and victims of the LRA are struggling to forgive and to reintegrate former LRA rebels who have returned from the bush, it is critical to consider to what extent a pursuit of justice through prosecution would advance or hinder true reconciliation. This paper therefore examines how the Amnesty Act and the traditional mechanisms structure aimed at aiding the process of reintegration and

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reconciliation in northern Uganda, is consistent with the goals pursued by the international community when instituting the ICC of attaining justice and deterring impunity.

Theoretically, reconciliation in a post-conflict context in northern Uganda would involve admittance of guilt by perpetrators and forgiveness by victims through some sort of dialogue. Communities would reintegrate former members of the LRA and victims would receive support to enable them to return to their homes and resume their lives. Communities would receive economic and social assistance so that the region as a whole could overcome a conflict that has left it impoverished and marginalized. Though methods of reconciliation necessarily differ according to the particular context, some tools foster it more successfully than others. This paper examines how effectively Uganda's Amnesty Act and traditional conflict resolution through reconciliation mechanisms could foster reconciliation both during and post-conflict.

This paper argues that justice and reconciliation in northern Uganda would require more than amnesty and the use of traditional mechanisms, which respectively work more towards ending the conflict and fostering reintegration of former combatants than towards justice. To address the interests of victims of the conflict, compensation for victims and communities as well as a truth telling process would be necessary. In addition, prosecution of the most notorious leaders of the LRA by the ICC would have been helpful as a tool for promoting the attainment of justice if it had occurred before the current peace talks. Part I of this paper provides background information on the conflict in northern Uganda. Part II outlines Uganda's Amnesty Act and describes the traditional conflict resolution through conciliation mechanisms of the Acholi people. Part III discusses the various mechanisms used in countries like South Africa, Sierra Leone and Rwanda to promote justice and reconciliation and argues that a truth-telling process and compensation system could help to promote reconciliation in northern Uganda, while ICC prosecutions of LRA leaders may now be of increasingly limited utility to Uganda.

Background on the conflict in Northern Uganda

The war in northern Uganda has persisted for nineteen years, since President Yoweri Museveni and the National Resistance Movement (NRM) took power in 1986. The Lord's Resistance Army emerged from Alice Auma Lakwena's Holy Spirit Movement (HSM) that aimed to overthrow the newly established NRM government and enjoyed popular support from 1986 to 1987. When Lakwena fled to Kenya in 1987, after her forces suffered heavy casualties in a battle with the NRM, her supposed cousin, Joseph Kony assumed leadership of the remnants of the HSM.[2]

Under Kony's command, the LRA purportedly aimed to overthrow Uganda's government based in the southern capital of Kampala and to rule Uganda according to the Ten Commandments. However, the LRA does not in fact have a "coherent ideology, rational political agenda, or popular support".[3] The LRA never crosses the Nile River which divides the northern and southern regions and instead attacks the civilian population in Northern Uganda, whom Kony claims to be punishing for their sins, particularly that of not supporting him.[4] Because the LRA lacks a popular base of support, it populates its forces almost exclusively through abduction and forced conscription of children, usually ages 11-15.[5]

The Government of Sudan had heavily supported the LRA until 2002 when Uganda and Sudan signed a treaty by which both countries agreed to stop supporting each other's insurgents.[6] With the permission of the Sudanese government, the Ugandan People's Defence Force (UPDF) launched a military offensive in March 2002 against the LRA, known as "Operation Iron Fist". Though the UPDF was supposedly aiming to eradicate the LRA by attacking its camps in southern Sudan, the LRA instead fled back into northern Uganda where fighting and abductions intensified.[7] The LRA also expanded the theatre of war into the eastern region of Uganda which had previously been less affected by the conflict.[8] As of the start of Operation Iron Fist, the number of internally displaced persons (IDPs) has grown from 450,000 to over 1.6 million.[9] Furthermore, since the mid-1990s, approximately three-fourths of the populations in the Gulu, Pader, and Kitgum districts of northern Uganda have been displaced.[10]

The LRA's atrocities include killings, beatings, mutilations, abductions, forced recruitment of children and adults, and sexual violence against girls who serve as "wives" or sex slaves for LRA commanders.[11] The LRA's members range between 1,000 to 3,000, with a core of 150 to 200 commanders and the rest consisting of abducted children (the LRA has abducted approximately 20,000 children during the nineteen year conflict).[12] During the course of the conflict the LRA has looted and burned houses, storage granaries, shops, and villages in northern Uganda.[13] In addition, the Ugandan People's Defence Force has also committed human rights violations against the civilians in northern Uganda, including extrajudicial execution, arbitrary detention, torture, rape and sexual assault, recruitment of children, and forcible relocation.[14] Altogether, this prolonged conflict has had a severe socio-economic and psychological impact on the entire Acholi population.[15]

In December 2003 President Museveni referred the problem of the LRA to the International Criminal Court. The government of Uganda reportedly conceived of the referral as a strategy for generally engaging the international community and specifically increasing international pressure on Sudan to stop

it from supporting the LRA.[16] In October 2005, the ICC issued indictments and arrest warrants for Kony and four other leaders, Vincent Otti, Okot Odhiambo, Dominic Ongwen, and Raska Lukwiya. Their alleged crimes include rape, murder, enslavement, sexual enslavement, and forced enlistment of children.[17] As of this writing, none of the indictees is in the custody of the Ugandan government or the ICC and Lukwiya was reportedly killed recently.[18]

In the spring of 2006, a significant shift in the conflict occurred as the LRA began portraying itself as a politically motivated movement with legitimate grievances about the marginalization of northern and eastern Uganda. In this vein, Kony appeared in May for the first time on a video in which he discussed peace and denied the LRA's involvement in the commission of war crimes.[19] Most importantly, in May and June, a series of meetings took place between Kony and Riek Machar, the vice president of southern Sudan and the second in command of the Sudan People's Liberation Movement. The SPLM reportedly took on the role of peace mediator because its leaders recognized that the LRA threatened the potential for stability and development in southern Sudan.[20]

In mid July the government of Uganda began actively negotiating for peace with the LRA.[21] Despite the ICC indictments, Museveni has offered amnesty to Kony should he surrender. Finally, on August 26, 2006, a cease-fire came into effect and peace talks in southern Sudan have been ongoing since that time.The LRA and the government of Uganda are currently negotiating issues of disarmament, reconciliation, and political change in northern Uganda. Museveni has promised that once the LRA and the government sign a peace deal, the government of Uganda will work to have the ICC drop its charges. The government has also announced that it will establish a $340 million fund to help northern Uganda.[22]

Mechanisms in Uganda

Amnesty

Even before the conflict in northern Uganda had no clear end in sight, literature on the subject had already begun to address issues of reintegration and reconciliation. This discussion merits attention because even though the LRA and the government of Uganda have not yet successfully negotiated a peace deal, thousands of former members of the LRA have sought amnesty and returned to their communities.[23] Even when the conflict was ongoing, communities in northern Uganda had begun reintegrating former LRA rebels and had begun to work towards reconciliation through traditional conflict resolution mechanisms. Parts (1) and (2) of this paper therefore explore the

features of Uganda's Amnesty Act and the Acholis' traditional ceremonies and examine how these two mechanisms alone may fall short of achieving reintegration and reconciliation both during and post-conflict.

The contours of the Amnesty Act

Religious and cultural leaders in northern Uganda have led the movement towards ending the conflict through amnesty.[24] Accordingly, the objective of the Amnesty Act of 2000 is to break the cycle of violence in northern Uganda by encouraging the combatants of various rebel groups to leave their insurgencies without fear of prosecution.[25] The Act thereby declares amnesty with respect to any Ugandan who has engaged in war or armed rebellion against the government of Uganda since January 20, 1986. Those granted amnesty under the act receive "a pardon, forgiveness, exemption or discharge from criminal prosecution or any other form of punishment by the State".[26] The following outlines the Act's provisions for granting amnesty as well as the institutions which it establishes for that purpose.

To qualify for amnesty, the applicant must have actually participated in combat, collaborated with the perpetrators of the war or armed rebellion, committed a crime in the furtherance of the war or armed rebellion, or assisted or aided the conduct or prosecution of the war or armed rebellion.[27] The government will not prosecute or punish such persons if he or she reports to the nearest local or central government authority, renounces and abandons involvement in the war or armed rebellion, and surrenders any weapons in his or her possession.[28] In renouncing involvement, the rebels' declarations need not be onerous or specify the crimes for which he or she seeks amnesty.[29] After a rebel has completed the above steps, he or she becomes a "reporter", whose file the Amnesty Commission reviews before a Certificate of Amnesty is issued and the process is complete.[30]

In addition, the Amnesty Act establishes the Amnesty Commission which consists of a Chairperson, who is a judge of the High Court (or a person qualified to be a judge of the High Court), and six other persons of high moral integrity.[31] The Commission's objectives are "to persuade reporters to take advantage of the amnesty and to encourage communities to reconcile with those who have committed the offenses".[32] The Commission's functions specifically require it to monitor programs of demobilization, reintegration, and resettlement of reporters and to coordinate a program to sensitize the general public regarding the Amnesty Act.[33] According to the *International Center for Transitional Justice*, the Commission appears to be efficient and well functioning despite challenging circumstances such as inadequate funding.[34] It also seems to maintain good relationships with northern Uganda's civil society.[35] Finally, the Act further

institutes a seven member Demobilization and Resettlement Team (DRT) which functions at a regional level to implement the amnesty by establishing programs for decommissioning arms, demobilization, resettlement, and reintegration of reporters.[36]

In 2005 the Commission began to run a disarmament, demobilization, and reintegration (DDR) program to support former combatants as they start new lives.[37] The program provides the reporters with resettlement packages which include 263,000 Uganda shillings (US $150) and a home kit with items such as a mattress, a blanket, saucepans, plates, cups, a hoe, maize flour, and seeds.[38] Funding of the resettlement packages has only been selective, leaving approximately 10,000 former rebels still without packages (out of a total of 15,000 reporters). However, the Multi-Country Demobilization and Reintegration Program (MDRP) of the World Bank released US $450,000 at the beginning of 2005 and the Commission anticipates that the MDRP will release more funds, as is needed, out of the $4.1 million budgeted for the purpose.[39] Lastly, while the DRT supposedly monitors reporters for up to two years, there are in fact few long term programs and reintegration is generally uncoordinated and poorly funded.

Shortcomings of the Amnesty Act

The Amnesty Act could fail to function as a mechanism for reconciliation because the resettlement packages have been so contentious, and because Commission has not expanded its functions to include a truth-telling process. First, while the DRT's reintegration measures are generally a main weakness of the current amnesty process, the resettlement packages have been particularly contentious in northern Uganda and may foster resentment and hinder reconciliation unless the government handles them with greater sensitivity.[40] Many former rebels view the government's untimely distribution of resettlement packages as a failure to honor their commitments to the reporters.[41] According to the *Refugee Law Project*, the issue of resettlement packages has "become the primary focus [...] of the Amnesty Law for the majority of ex-combatants interviewed, and is the major issue when considering the current potential for reintegration into the region".[42] In addition, resentment exists among some displaced, impoverished non combatants who perceive the packages as perversely rewarding the former rebels for having committed atrocities.[43] Communities sometimes fail to understand why the government offers assistance to the former rebels but not to the other community members whom they victimized.[44]

Furthermore, the issue of resettlement packages has created divisions not only between former rebels and their communities, but also between the former

rebels themselves.[45] The treatment of former high level rebels and average returnees is widely disparate. Usually former LRA rebels return to their homes or internally displaced persons camps with a delayed or nonexistent resettlement package and little further monitoring or follow-up by the government. Former high level rebels, however, receive 24-hour armed protection by the UPDF and live in UPDF barracks or in a renovated hotel in Guru.[46]

Second, the Amnesty Act could fail to reach its potential as a tool for reconciliation because the Commission has not fulfilled its broader functions which could include a truth-telling process. Under Article 9 of the Amnesty Act, the Commission "shall" also consider and promote appropriate reconciliation mechanisms in northern Uganda, promote dialogue and reconciliation within the spirit of the Amnesty Act, and "perform any other function that is associated or connected with the execution of the functions stipulated in the Act".[47] The Commission has in fact supported the integration of traditional cleansing ceremonies, thereby working to fulfill its mandate to promote appropriate reconciliation mechanisms. Yet, these provisions also suggest that the Commission could adopt a truth-seeking function or establish links with traditional conflict resolution mechanisms. A truth-telling process, perhaps in the shape of a truth and reconciliation commission, would foster a national dialogue and at least theoretically promote reconciliation in northern Uganda and between Northern Uganda and the rest of the country [...]. Instituting such a process would in fact be in keeping with the language of the provision as well as the act's goal of fostering reintegration. The merits of such a truth-telling process are explored in more detail below.

Traditional reconciliation mechanisms

Traditional Acholi leaders have also strongly advocated the use of traditional conflict resolution through reconciliation ceremonies as mechanisms for reintegration in the post-conflict context. Although traditional chiefs have not had any legal status for most of the last century, their legitimacy was never destroyed and many continued to operate informally. As of 1911, colonially appointed chiefs, known as Rwodi Kalam, replaced the traditional chiefs, known as Rwodi, and the 1965 Constitution abolished the system of traditional chiefs (Kings) altogether. The 1995 Constitution, however, led to the revival of traditional institutions and allowed traditional leaders to exist in any part of Uganda. Furthermore, a civil society initiative in 2000 reinstated many traditional leaders, including the Acholi Traditional Leaders Council and the head chief, known as the Lawi Rwodi, whom the other Rwodi elect. In general, the chiefs' political independence gives them enhanced credibility in mediation and reconciliation.[48]

According to Acholi customs, when an offender declares that he or she has committed a wrong, the traditional conflict management system is triggered. The dispute resolution process identifies certain behaviors as "kir", or taboo. "These behaviors may range from the criminal to the antisocial—violent acts, disputes over resources, and sexual misconduct – including behavior that would prevent the settlement of the dispute." Clans must then cleanse the "kir" through rituals which help to reaffirm communal values. Many argue that these traditional mechanisms in particular represent important channels for reintegration and reconciliation which can and should be widely adopted. The following section details "the stepping on the egg ceremony", *mato oput*, and "the bending of the spears" ceremony.[49]

Three ceremonies

First, cleansing ceremonies take place upon the return of an individual who has spent a significant amount of time away from the community. The ritual cleanses foreign elements to prevent them from entering the community and bringing it misfortune. The returnee steps on a raw egg which symbolizes innocence, or something pure or untouched. Its crushed shell represents how foreign elements crush the community's life. In addition, a twig from the opobo tree and the *layibi* also accompany the ceremony. The twig symbolizes cleansing because soap is traditionally made from the opobo tree and the *layibi* is the stick for opening the granary and thereby marks the individual's return to eat where he or she has eaten before.[50] These individual cleansing ceremonies routinely take place whenever former LRA members return to their communities. Most agencies which receive and reintegrate former combatants ensure that the somewhat bureaucratic process also incorporates traditional ceremonies, usually performed at the agencies.[51]

Second, the *mato oput* (meaning drinking of the bitter root) restores relationships within or between friendly clans after a wrongful killing or murder between them. Relatives of the offender or victim report the killing or murder and then the clans discuss the circumstances. The offender asks for forgiveness and then the parties decide upon compensation by the entire clan of the offender, usually in the form of cattle or money. Compensation must be affordable so as not to prevent restoration of relations. During this process, the parties consider their social relationship suspended, and they do not take any meals or drinks together. After the offender's clan has made compensation, the local chief presides over a ceremony at which the offender and representatives of the victim kneel together and drink the crushed roots of the oput tree. The root's bitterness symbolizes the nature of the crime and the loss of life. A meal follows this ceremony and the "elders remind everyone present not to promote antagonism".[52]

Third, "the bending of the spears" (*gomo tong*) ceremony marks the end of violent conflict between clans or tribes. The parties make vows that the killings will not be renewed. Each clan then bends a spear and gives it to the other, thereby signaling that renewed violence will "turn back on them".[53] The performance of the bending of the spears ceremonies is reportedly very rare.[54]

Application of traditional mechanisms may be problematic

Although traditional chiefs have advocated the use of traditional mechanisms, and the Amnesty Commission has supported their use, such mechanisms may fall short of significantly promoting justice. The application and relevance of such ceremonies to the atrocities committed by the LRA is questionable for a variety of reasons. First, while the *mato oput* ceremony is fairly well known in Uganda, the Acholi no longer widely practice it.[55] Because the ceremony has been in disuse, younger generations question its relevance and value. Also, those who are unfamiliar with the rituals do not gain exposure to them because they are typically held at reception centers in district centers where only small audiences bear witness.[56] Furthermore, non Acholis in northern Uganda and southern Sudan and in fact all Ugandans have also been greatly affected by the LRA conflict since 2002 but have relatively little knowledge of traditional justice ceremonies and might not consider them sufficient.[57] The conflict in Northern Uganda has claimed the lives of many soldiers from all over Uganda who were deployed to fight the Kony insurgency. In addition to the lost lives millions of dollars of Ugandan tax payers money has been used to attempt to quell the rebellion.

Second, such ceremonies may not have a significant impact because communities may not be genuinely willing to accept former LRA rebels. Academics, NGOs, human rights activists, and reporters have begun to challenge the widely accepted notion that the Acholi people have a special capacity to forgive.[58] A recent survey by the *International Center for Transitional Justice* shows that community leaders and victims are divided on the topics of justice, accountability, and reconciliation.[59] Victims interviewed by *Human Rights Watch* apparently "did not agree with the prospect of having the LRA leaders forgiven, however, but instead wanted justice, even retribution".[60] According to the *New York Times Magazine*, many former child soldiers have reportedly "returned from the bush to find themselves homeless. They cannot go back to villages where people recall the night they returned with the rebels and massacred their relatives and neighbors – and sometimes, even, their own parents".[61] Also, while Acholis "know that all but a few of the oldest commanders were themselves once abducted children, their pity for the rebels

as victims is overlaid with hatred and fear of them as victimizers".[62] *Human Rights Watch* asserts that even if the community has accepted perpetrators back into the community, individual victims might not want to forgive the perpetrators of serious crimes.[63]

Third, *mato oput*, in its traditional form, does not necessarily apply to the mass atrocities committed by the LRA. *Mato oput* traditionally applied only to minor cases of manslaughter not to wanton killing, rape or mutilation or a killing between enemies during a war. According to anthropologist Tim Allen, even those promoting the use of *mato oput* acknowledge that it was a mechanism used for individual cases, not for collective dispute settlement.[64] *Mato oput* ceremonies therefore may not be sufficient given the scale of the LRA atrocities. Also, the application of *mato oput* may be problematic because it applies only when the identity of the perpetrator and victim are known. Clans, however, may not be willing to accept responsibility for the acts of former LRA rebels. Finally, in a post-conflict context, traditional leaders may be so preoccupied with settling the disputes likely to arise when people return to their villages, that they will not be able to oversee the reconciliation ceremonies.

Altogether, these three problems suggest that traditional chiefs might have to educate the Acholi population about these ceremonies and adapt them to the circumstances presented by the current conflict. These challenges are not necessarily insurmountable, but they do indicate that other non-traditional mechanisms may have to play a prominent role in guiding the reconciliation process among the Acholi. In particular, the Government will have to re-examine its extension of the Amnesty Act to the most notorious leaders of the LRA. These leaders must be prosecuted under the Laws of Uganda for there to be justice. In fact, the prosecution of these LRA may be the only was of retiring the ICC indictments, which if executed would be a big embarrassment to the Government which will have granted them amnesty.

Mechanisms used by other post-conflict African countries to work towards reconciliation

This section looks to the experiences of other post-conflict African societies and thereby explores other justice and reconciliation mechanisms that the government of Uganda could examine in seeking to end the conflict in Northern Uganda and promote peace in the region. This paper proceeds under the assumption that other mechanisms are necessary in Uganda because the amnesty and the traditional conflict resolution through reconciliation mechanisms are insufficient by themselves. With only the amnesty and the traditional mechanisms in place, unrealistic demands of forgiveness may be placed on

victims who may never receive compensation or an acknowledgment of guilt from perpetrators. While the Amnesty Act currently does not offer reparations for victims or foster a dialogue or truth-telling process, the traditional mechanisms have not, as of yet, begun to foster those processes in a robust way.

This section examines Uganda's situation in light of the experiences of other post-conflict African countries and explains why mass criminal trials would not be appropriate for northern Uganda, but how compensation, truth-telling, and the International Criminal Court could play important roles in promoting reconciliation. This section discusses the South Africa's Truth and Reconciliation Commission, reparations in South Africa and Rwanda, and finally, Sierra Leone's Special Court.

Truth-telling processes

Truth and reconciliation commissions can play an important role in post conflict societies for the following reasons. First, truth and reconciliation commissions create comprehensive records of human rights abuses by recording the crimes and the victims' identities and fates. Such a record facilitates public awareness and acknowledgement of past human rights violations and the development of a culture of human rights and more generally, the rule of law. Second, truth and reconciliation commissions provide victims with a "credible and legitimate forum through which to reclaim their human worth and dignity", and they provide perpetrators with a "channel through which to expiate their guilt".[65] Finally, a post conflict society that fails to establish a truth-telling process may perpetuate anger and revenge, disregard the needs of victims, and preclude eventual forgiveness. In South Africa, after much debate, the government chose to establish a truth and reconciliation commission in order to record the past and work towards uniting a very divided population. The following discusses South Africa's experience with truth-telling and explores its application to northern Uganda.

South Africa's Truth and Reconciliation Commission

South Africa established its Truth and Reconciliation on July 19, 1995 when President Nelson Mandela signed into law the Promotion of National Unity and Reconciliation Act. The Commission's mandate was to hold hearings over the course of two years about human rights abuses spanning from March 1, 1960 through May 10, 1994. The Act established the Truth and Reconciliation Commission (TRC) for the purpose of fully investigating and documenting the gross human rights violations of South Africa's past. The TRC existed in order to restore victims' human rights and civil dignity by allowing them to

recount the violations they suffered, to recommend reparations, and to determine whether to grant amnesty to those who perpetrated abuses for political objectives and who provided the Commission with a full account of their actions. Archbishop Desmond Tutu chaired the TRC, which consisted of three separate committees: the Committee on Human Rights Violations (HRV), the Committee on Amnesty, and the Committee on Reparation and Rehabilitation.[66]

The hearings of the HRV Committee are of particular importance for our purposes. The Act specifically tasked the HRV Committee with hearing victims' stories and determining whether gross human rights violations had occurred. The enabling legislation defined gross violations as the "violation of human rights through the killing, abduction, torture, or severe ill treatment of any person [...] which emanated from conflicts of the past [...] and the commission of which was advised, planned, directed, commanded or ordered by any person acting with a political motive".[67] The HRV Committee ultimately processed approximately 22,000 victim statements and thousands told their stories.

The storytelling process was tremendously valuable but not without serious pitfalls. By recounting the abuses they had suffered, victims found some relief from the self-blame and guilt which they experienced because their political activity had caused suffering for themselves and their families. The HRV Committee acknowledged the sacrifices made by these individuals, and thereby created new, redeeming narratives. Collectively, the HRV Committee hearings created a new social memory for South Africa by legitimizing previously suppressed interpretations of the past. By creating a shared memory, these narratives ensured that South Africans could never deny the wrongs of apartheid. Many victims who testified, however, later experienced further trauma and despondency but did not receive much needed psychological support. Not only was the unavailability of psychological support problematic, but even where it was available, victims did not prioritize mental health care because the social problems and poverty of their daily lives was so overwhelming. These problems, as well as the many successes of South Africa's truth-telling experience may be of great relevance to other countries pursuing truth and reconciliation commissions.[68]

Truth-telling in Uganda

In northern Uganda, amnesty will not become a genuine tool for reconciliation unless it also includes a mechanism for dialogue and truth-telling. The admittance of guilt by former combatants would help to foster the conditions necessary for reconciliation to take place.[69] As Jeremy Sarkin asserts, "[f]acilitating an open and honest dialogue can effect a catharsis, and prevent collective amnesia which

is not only unhealthy for the body politic, but is also essentially an illusion—an unresolved past inevitably returns to haunt a society in transition".[70] Without dialogue and truth-telling, the amnesty process could place unrealistic demands on victims and unnecessarily sacrifice the truth for peace.[71]

Surveys by the *International Center for Transitional Justice* reveal that the population of northern Uganda would be overwhelmingly in favor of a truth-telling process. While only 28 percent had knowledge of the truth commissions in other countries such as Sierra Leone and South Africa, 92 percent said that Uganda needed a truth-telling process.[72] Furthermore, 84% said that the population of northern Uganda should remember the legacy of past abuses.[73] Although the population already desires a truth-telling process, a formalized process would be necessary because people fear openly discussing the war and experience shame in association with atrocities that have taken place.[74] A formal process could also ensure that the atrocities are sufficiently memorialized. South Africa's Truth and Reconciliation Commission could potentially serve as a model for Uganda's construction of a formal truth-telling process.

The Amnesty Commission could also encourage more dialogue at an informal level. The Acholis' traditional justice mechanisms, in their current form, do not sufficiently address the population's desire for truth-telling and reconciliation. As mentioned above, the ceremonies are not uniformly practiced and do not appear to allow for any particular process of dialogue.[75] The extent to which communities as a whole are involved in the traditional ceremonies is reportedly unclear. Though ceremonies appear to have taken place within the camps in a few instances, the "the stepping on the egg" cleansing ceremony is usually organized by the cultural leaders and performed at the reception centers for the reporters. The Amnesty Commission could strengthen such traditional reconciliation mechanisms to ensure that greater dialogue and participation takes place. Instead of holding the cleansing ceremonies at the reception centers, the Commission could facilitate meetings between the communities and the former combatants at which reporters formally return to their communities. This could provide an opportunity for combatants to express remorse and for the victims to hear the truth.

Compensation in South Africa and Rwanda

This section examines the compensation systems of South Africa and Rwanda and explores their application to Uganda's post conflict situation. South Africa provides an example of how compensation may be tied to a larger truth and reconciliation commission while Rwanda alternatively exemplifies how traditional justice and reconciliation mechanisms may be codified and expanded to include compensation.

South Africa's Committee on Reparation and Rehabilitation

South Africa's Truth and Reconciliation Commission included a Committee on Reparations and Rehabilitation that made recommendations for symbolic reparations as well as for substantial payments to victims of gross human rights violations. When the Committee began its work in 1996, many South Africans expected that compensation would be only symbolic because of the vast number of claims and the difficulties involved in adequately compensating victims. The Committee, however, shifted its emphasis from symbolic to substantial compensation after conducting workshops throughout South Africa over two years. While the Committee did propose symbolic reparations, including memorials, reburials, renaming of streets, and days of remembrance, the Committee also proposed individual reparation grants of 17,000 rand a minimum per year for each victim for six years. The recommended grant was 23,000 rand per year for victims with many dependents or living in rural areas and the average grant was 21,700 rand, based on the median income of black South African households. In addition, the Committee determined that certain victims required urgent interim relief, including those who had lost a wage-earner, who required psychological support after testifying, who required urgent medical attention, or who were terminally ill and not expected to live beyond the life of the Commission.[76]

Despite these substantial recommendations by the Committee, the reparations process in South Africa has generated significant dissatisfaction among victims. First, the government was very slow to respond to the TRC's recommendations about payments to the 22,000 victims. In 2003, five years after the recommendations, President Thabo Mbeki's administration announced that only 30,000 rand could be paid in total to each victim who wanted reparations.[77] Second, the Promotion of National Unity and Reconciliation Act included no requirements for reparations from perpetrators or beneficiaries of apartheid. The Act did not call for reparations directly from perpetrators to victims even though under traditional systems, *ubuntu* requires *ulihlawule* (paying the debt) by the one who violates community law. The Act thus broke this link between the violation and the obligation. In addition, discussions about a wealth tax on the beneficiaries of apartheid fell by the wayside when Mbeki came into office in the spring of 1999.[78]

Rwanda's compensation system

Rwanda, by contrast, developed a compensation system linked not to a truth and reconciliation commission, but to its court systems. Rwanda's Organic Law of 2000 establishes *gacaca* courts and organizes prosecutions for genocide

and crimes against humanity committed between October 1, 1990 and December 31, 1994. Following the 1994 Rwandan Genocide, the *gacaca* courts grew out of the government's struggle to detain and prosecute over 100,000 people charged with genocide, war crimes, and crimes against humanity. Rwanda's Organic Law codified a somewhat modified version of Rwanda's traditional law enforcement procedures whereby village elders would assemble all parties to a dispute in order to mediate a solution.

Within the Organic Law, Chapter 7 concerns damages and article 90 therein establishes a Compensation Fund for Victims of Genocide and Crimes Against Humanity. Under Article 90, both ordinary jurisdictions and *gacaca* jurisdictions were obliged to forward copies of rulings and judgments to the fund which shall indicate: (1) "the identity of persons who have suffered material losses and the inventory of damages to their property"; (2) "the list of victims and the inventory of suffered body damages"; and (3) "related damages fixed in conformity with the scale provided for by law". Based on the damages fixed by jurisdictions, the Fund then fixes the modalities for granting compensation.[79]

Compensation in Uganda

In post-conflict northern Uganda, a compensation system similar to that of Rwanda or South Africa could work towards adequately addressing victims' interests. Compensation could serve victims' interests by indirectly acknowledging their injuries and by supporting their efforts to overcome those injuries or to live in peace despite them. In an interview conducted by the *International Crisis Group*, President Museveni apparently acknowledged that benefits for former LRA members must be balanced by benefits for the LRA's victims, both as a matter of equity and to generate support for the DDR.[80]

According to the *International Center for Transitional Justice (ICTJ)*, a compensation system would be responding to relatively widespread opinion that victims of the conflict should receive some form of reparations. Of those surveyed by the *ICTJ*, 52 percent wanted victims to receive financial compensation and 58 percent thought that such compensation should be for the community as opposed to individual victims.[81] While a majority (63 percent) of respondents believed that the return of IDPs to their villages should be prioritized once peace is achieved, respondents also gave priority to rebuilding village infrastructure (29 percent), providing compensations to victims (22 percent), and providing education to children (21 percent).[82] The following therefore describes how the government of Uganda has not responded to the interests of victims in compensation and how the Amnesty Act could be expanded to include compensation for victims as well as communities.

Neither the Amnesty Act nor Acholi traditional mechanisms currently

provide victims with significant compensation. The Amnesty Act, in fact, provides no compensation for victims but instead provides the perpetrators with resettlement packages. Though *mato oput* is supposed to include compensation in the form of cattle or money, such payments may no longer be possible because the vast majority of the Acholi population now lives in an impoverished state in the IDP camps. In addition, former LRA rebels escape from the bush with no ability to offer any compensation themselves. This paper therefore argues that the government of Uganda could pay compensation to the victims of the LRA's atrocities by funding the compensation mechanism embodied in *mato oput*. Alternatively, if the government of Uganda were to establish a truth and reconciliation commission, then South Africa's experiences with reparations could provide a useful guidepost for Uganda. A compensation system for the victims of LRA atrocities could certainly be incorporated within a broader truth and reconciliation commission, as was done in South Africa. The following, however, focuses on how Uganda could model its compensation system on the one set forth in the Organic Law of 2000 for Rwanda's *gacaca* courts.

While Uganda will probably not implement the equivalent of Rwanda's *gacaca* courts, the compensation system set forth in the Organic Law of 2000 could still be of some relevance to the victims of the LRA in northern Uganda. Rwanda's Organic Law demonstrates how government-funded compensation can take place through traditional justice mechanisms, as opposed to a truth and reconciliation commission. Like Rwanda, the government of Uganda could strengthen its traditional mechanism, *mato oput*, by pledging to provide the funds for the compensation upon which the parties have agreed. The Amnesty Commission could establish a compensation fund under its power to "perform any other function that is associated or connected with the execution of the functions stipulated" in the Act.[83] Because the Commission's functions include promotion of reconciliation, a compensation fund would seemingly be a permissible expansion of the Commission's current operations. Parties performing *mato oput* could agree upon an appropriate level of compensation and then submit a claim to the compensation fund.[84] The Commission could issue guidelines for parties to use when determining appropriate levels of compensation.

Rwanda could also serve as a useful example of how broad poverty reduction, in addition to compensation for individual victims or clans, may contribute to reconciliation. Poverty reduction is in fact one of the priorities of the RPF (Rwandan Patriotic Front) led government, as President Kagame has reiterated in public statements. For Rwandans whose livelihood was destroyed during the genocide, economic assistance may lay the groundwork necessary for the process of forgiveness and reconciliation.[85] Similarly, in northern Uganda,

compensation for communities as a whole could also play an important role in helping the region to achieve reconciliation. The government could focus on providing the infrastructure necessary for the Acholi to achieve reintegration because northern Ugandans cannot truly reintegrate the former rebels until they have left the IDP camps and returned to their homes. Communal compensation could therefore concentrate on rebuilding infrastructure, resettlement packages for farming, and resources for education.

Measures aimed at broader poverty reduction beyond support for reintegration could also be an important tool for achieving national as well as regional reconciliation. The *International Crisis Group* writes of how the North-South divide in Uganda must be bridged so that the Acholi feel that they are a part of Ugandan society. Unifying the country would require "specific political, economic and social initiatives aimed at building the North's connections with the central government while enhancing autonomy and localized decision-making". Such initiatives could include post-conflict reconstruction assistance through support for agricultural production, affirmative action through scholarships and employment opportunities, social reform, settlement and reintegration of IDPs, and psychological and social support for former LRA rebels and victimized communities.[86]

Criminal prosecutions in Sierra Leone and at the ICC

The experience of the Special Court for Sierra Leone is highly relevant to the situation in northern Uganda because the Special Court narrowly focused on prosecuting only those bearing the greatest responsibility for the civil war in Sierra Leone. In June 2000 Sierra Leone's President Ahmad Tejan Kabbah requested the assistance of the international community in establishing a court to try high level Revolutionary United Front (RUF) officers. Having taken RUF leader Foday Sankoh into custody in May 2000, the government was apprehensive that a national trial of Sankoh and other RUF leaders would aggravate the conflict and produce further instability. By January 2002, the government of Sierra Leone and the United Nations had concluded the Agreement on the Special Court, thereby establishing a hybrid national and international tribunal based in Freetown, Sierra Leone.[87]

The Special Court's Statute limits the Court's prosecutorial scope to only "those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law" committed during the conflict.[88] The Court's limited prosecutorial discretion enabled the court to keep the Court's time frame relatively short and its costs relatively low, as compared with the ad hoc tribunals for Rwanda and the former Yugoslavia.

The Court only indicted thirteen persons, and eleven arrests resulted, including that of Charles Taylor in March 2006. While questions linger about whether such limited prosecutions will produce incomplete or unsatisfactory justice in Sierra Leone, the recent arrest of Charles Taylor will likely have a highly significant impact on the Court's ultimate credibility as well as Sierra Leonean perceptions of the Court.[89]

The Special Court for Sierra Leone is especially relevant to the situation in northern Uganda because limited prosecutions of the LRA by the International Criminal Court or a mixed-tribunal like that of Sierra Leone, are currently the only practicable and available, though questionably desirable, option for Uganda. In post-conflict northern Uganda, the widespread use of retributive justice would not be an effective tool for achieving reconciliation. This paper certainly acknowledges, however, that mass justice can play an important role in other post-conflict societies, such as Rwanda. Many argue that justice can theoretically deter similar acts in the future by ensuring respect for human rights and the rule of law. In fact, "[t]he basic argument in support of prosecution is that trials are necessary in order to bring violators of human rights to justice and to deter future repression".[90] Yet prolonged trials of all or most of the LRA perpetrators on the scale of those adopted in Rwanda (through the ordinary courts, the Gacaca and ICTR) would be inappropriate in northern Uganda for the following reasons.

First, on a pragmatic level, northern Uganda could not accommodate mass prosecutions of former LRA rebels. Northern Uganda currently lacks the infrastructure necessary to conduct trials for UPDF soldiers, let alone the thousands of former LRA rebels. The courts are grossly understaffed and little or no judicial presence exists in the Kitgum and Pader districts. As of March 2005, a large backlog of cases two to three years old existed in Gulu because no High Court judge had sat in Gulu for more than five months.[91] Thus the judiciary's capacity to guarantee fair trials is very limited and the resources necessary to rebuild the judiciary and to support mass justice in the Acholi region could perhaps be better spent on other initiatives geared more directly towards reconciliation.

Second, even a less expensive, mass justice system such as the *gacaca* courts in Rwanda would be inappropriate for northern Uganda because of the circumstances of this conflict and the cultural norms of the victims. Trials would not be suitable for most of the perpetrators of the atrocities in northern Uganda because the vast majority of the reporters were abducted as children into the LRA and carried out atrocities while essentially under duress.[92] Deterrence has a very limited role to play because most of the perpetrators would not have voluntarily joined the LRA or committed atrocities. Thus criminal justice is inappropriate given the identity of the perpetrators and

the circumstances surrounding their crimes. Additionally, the victims and perpetrators most probably belonged to the same families and neighborhoods and finding credible evidence against them would prove elusive, as most of the Acholi had mixed feelings about the LRA war, which they believed was imposed on them by the Museveni Government, which Kony was attempting to overthrow.

Furthermore, widespread use of retributive justice would conflict with Acholi traditions and with the current perspective of the population in northern Uganda. The Acholis' traditional mechanisms are geared towards reconciliation and reintegration rather than punishment. Interviews conducted by various NGOs note that interviewees generally wish to forgive the perpetrators for the sake of peace after so many years of conflict. Also, according to a survey conducted by the *International Center for Transitional Justice*, 58 percent of respondents did not want low ranking members of the LRA to be held accountable for their crimes.[93] However, 66 percent of respondents wanted to see the LRA leaders who are responsible for the violations held accountable through punishment such as trial and imprisonment. The following therefore discusses how the International Criminal Court or a similar Judicial alternative could play an important role in achieving justice by bringing the LRA leaders to trial.

Prior to Museveni's shift in attitude towards the International Criminal Court, the ICC had the potential to play an important role in national as well as regional justice.[94] In light of the historic distrust between Uganda's north and south, credible international trials could function as a depoliticized venue for justice, if and when the LRA's top leadership is arrested. As in Sierra Leone, prosecution by an international body could help to prevent the political instability that could result from national prosecutions. Some Acholis, however, have reportedly perceived the ICC referral as an anti-Acholi policy aimed at foiling peace negotiations and prolonging the war to keep northern Uganda weak.[95] The ICC has consequently made significant efforts to explain its mission to communities in northern Uganda that have been concerned about the implications of the ICC process and their right to continue to use traditional reconciliation procedures.[96] Because of increased contact between Acholi leaders and ICC officials, a spirit of cooperation in northern Uganda reportedly replaced suspicions about the Court's intentions.[97] Within this context of cooperation, Uganda's decision to relinquish jurisdiction to the ICC could allow the ICC to function as an instrument achieving justice and full closure of the conflict.

The ICC's prosecutions or similar judicial mechanism could also help to promote regional peace by ensuring that the Amnesty Act does not amount to total impunity. Through its referral to the ICC, Uganda essentially withdrew

its offer of amnesty to the top leadership of the LRA.[98] While prosecution of the lower ranking former LRA rebels would not be appropriate or possible, as discussed above, trials for the leaders might signify some degree of accountability and justice, however limited. Despite the very small number of prosecutions, the trials could nonetheless be significant if those most responsible for the atrocities were held accountable and brought to justice.

However, a very important caveat to the above analysis stems from Museveni's relatively recent change of position regarding the ICC indictments. If the ICC indictments will ultimately prevent the government of Uganda from successfully negotiating a peace deal with Kony and the other LRA leaders, then the ICC trials will in fact be exacerbating, rather than diminishing, northern Uganda's instability. It may thus be more appropriate to institute a mixed-tribunal on the lines of that adopted in Sierra Leone to ensure that Ugandans have a stake in achieving justice but also avoid viewing the trials as retribution by the Southern dominated Government against Northern Uganda.

Conclusion

This paper aims to contribute to the discussion of Uganda's approach to conflict resolution and reconciliation by examining the tension between the chosen mode of achieving it through traditional reconciliation mechanisms and amnesty and the international outcry for justice. With only the Amnesty Act and the traditional Acholi ceremonies in place, any reconciliation would be hindered by Uganda's failure to adequately address the interests of LRA victims. While the path to reconciliation in Uganda would be difficult and uncertain, at least the experiences of other African countries like Rwanda, South Africa, and Sierra Leone could offer useful examples upon which Uganda could draw. Rwanda's *gacaca* courts offer guidance as to how Uganda could have combined the use of its traditional conflict resolution mechanism through reconciliation and a search for justice with community participation. Uganda could conceivably promote compensation as well as dialogue through the Acholi traditional mechanisms while at the same time maintaining the integrity of those traditional customs. Alternatively, should Uganda formally establish a truth-telling process, it could look to the Truth and Reconciliation Commission of South African as an example of how another African country promoted dialogue and forgiveness. Although the circumstances of Rwanda's genocide and South Africa's apartheid regime differ greatly from northern Uganda's conflict with the LRA, the innovative legal approaches of Rwanda, South Africa, and Sierra Leone can serve as useful examples and as inspiration for Uganda.

NOTES

1. Paper presented by Cecily rose for African Law and Development class and revised with assistance of Professor Francis M. Ssekandi for presentation at IIJD seminar.

2. UN High Commissioner for Human Rights, *Report on the Mission Undertaken by Her Office, Pursuant to Commission Resolution 2000/60, to Assess the Situation on the Ground with Regard to the Abduction of Children from Northern Uganda*, UN Doc. E/CN.4/2002/86, 2001, paragraph 12.

3. A. Payam, "The Lord's Resistance Army Case: Uganda's Submission of the First State Referral to the International Criminal Court", *American Journal of International Law (AJIL)*, vol. 99, n. 2, Washington DC, American Society of International Law (ASIL), April/2005, pp. 403 and 407.

4. M. Thernstrom, "Charlotte, Grace, Janet and Caroline Come Home", *New York Times Magazine*, 8 May 2005, p. 37.

5. A. Payam, *supra* note 3, p. 407.

6. Human Rights First, *Background on the Conflict in Northern Uganda*. The Ugandan government had allegedly supported the Sudan Peoples' Liberation Movement/Army (SPLM/A). Human Rights Watch, *Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda*, vol. 17, n. 12(A), 9 September 2005. The unlikely alliance between the Islamist government of Sudan and the nominally Christian LRA grew out of the Sudanese government's fear that the NRM would threaten its control over the non-Islamic, non-Arab southern part of Sudan. Sudan perceived a link between the NRM and the SPLM/A and consequently supported the remnants of the forces of Idi Amin, General Tito Okello, and Milton Obote. Payam, *supra* note 3, p. 406.

7. Human Rights First, *supra* note 6.

8. Human Rights Watch, *supra* note 6, p. 9. The conflict expanded into "the Lira and Teso sub-region of eastern Uganda, dominated by the Langi and Iteso peoples, respectively".

9. Human Rights First, *supra* note 6; International Center for Transitional Justice, *Forgotten Voices: A Population-Based Survey of Attitudes About Peace and Justice in Northern Uganda*, July 2005.

10. Human Rights First, *supra* note 6.

11. Human Rights Watch, *supra* note 6, p. 15.

12. International Criminal Court, *Background Information on the Situation in Uganda*, 29 January 2004, *available at* <http://www.icc-cpi.int/cases/current_situations/Uganda.html>, accessed on 27 August 2007. International Center for Transitional Justice, *supra* note 9, p. 14.

13. Ibid.

14. Human Rights First, *supra* note 6.

15. UN High Commissioner for Human Rights, *supra* note 2, paragraph 14.

16. Payam, *supra* note 3, p. 410: "Despite various diplomatic initiatives aimed at improving relations between Uganda and Sudan, the LRA continued to receive support from Sudan and to operate out of bases in the southern part of that country [...]".

17. Statement by Chief Prosecutor Luis Moreno-Ocampo, 14 October 2005, *available at* < http://www.icc-cpi.int/library/organs/otp/Uganda-_LMO_Speech_14102005.pdf>, accessed on 27 August 2007.

18. H. Cobban, *Uganda: When International Justice and Internal Peace are at Odds*, The Christian Science Monitor, Boston, 24 August 2006.

19. T. McConnell, *Side Talks Could be Key to Northern Uganda Peace Process; Families of LRA Rebels and Traditional Leaders Will Meet This Week Before High-Level Talks Restart Next Week*, The Christian Science Monitor, Boston, 26 July 2006.

20. Idem, *Fresh Hope for Peace in Northern Uganda? Talks Between LRA Rebels and Uganda's Government Could Begin as Early as This Week*, The Christian Science Monitor, Boston, 26 June 2006.

21. H. Cobban, *op. cit*.

22. T. McConnell, *Uganda Sees Local Justice as Key to Peace; Talks Raise Hopes That a Central African Conflict Involving the Lord's Resistance Army is Winding Down*, The Christian Science Monitor, Boston, 8 September 2006.

23. At the end of January 2005, there were 14,695 reporters, according to the Ministry of Internal Affairs. Refugee Law Project, *Whose Justice? Perceptions of Uganda's Amnesty Act 2000: The Potential for Conflict Resolution and Long Term Reconciliation*, 7 February 2005.

24. Ibid., p. 6.

25. Amnesty Act 2000, Preamble and International Center for Transitional Justice, *supra* note 9, p. 46.

26. Amnesty Act 2000, art. 2.

27. Ibid., art. 3(1).

28. Ibid., art. 4(1).

29. International Center for Transitional Justice, *supra* note 9, p. 47.

30. International Center for Transitional Justice, *supra* note 9, p. 47 and Amnesty Act 2000, art. 2.

31. Amnesty Act 2000, arts. 7-8.

32. Refugee Law Project, *supra* note 23, p. 7, quoting Amnesty Commission Handbook, Section 3.11.

33. Amnesty Act 2000, art. 9(a), (b).

34. International Center for Transitional Justice, *supra* note 9, p. 47.

35. Ibid.

36. Amnesty Act 2000, arts. 11-13.

37. International Crisis Group, Policy Briefing, *Building a Comprehensive Peace Strategy for Northern Uganda*, Africa Briefing, n. 27, 23 June 2005.

38. Human Rights Watch, *supra* note 6, p. 38; Refugee Law Project, *supra* note 23, p. 8.

39. Human Rights Watch, *supra* note 6, p. 38 and International Crisis Group, *supra* note 38, p. 8.

40. International Center for Transitional Justice, *supra* note 8, p. 48.

41. Refugee Law Project, *supra* note 23, p. 16.

42. Ibid.

43. Human Rights Watch, *supra* note 6, pp. 38-39.

44. Refugee Law Project, *supra* note 23, pp. 14-15 and p.18.

45. Ibid., p.18.

46. Human Rights Watch, *supra* note 6, p. 39.

47. Amnesty Act 2000, art. 9(c)-(e).

48. International Center for Transitional Justice, *supra* note 9; Barney Afako. Reconciliation and Justice: 'Mato Oput' and the Amnesty Act. In: *Accord - Initiatives to End the Violence in Northern Uganda* Counciliation Resources, 2002, available at: <http://www.c-r.org/our-work/accord/northern-uganda/reconciliation-justice.php>, access on 29 August 2007.

49. The descriptions of the ceremonies rely on International Center for Transitional Justice, *supra* note 9, unless otherwise noted.

50. For another description of this cleansing ceremony *see* M. Lacey, *Victims of Uganda Atrocities Choose a Path of Forgiveness*, The New York Times, 18 April 2005, A1. Sometimes parents of a returning child follow this cleansing ceremony with a "washing away the tears" ceremony. The parents slaughter a goat and pour water on the roof of the home where the child will live to symbolize washing away the tears shed over the child. Because not many people can afford to slaughter a goat, this ceremony is less common. International Center for Transitional Justice, *supra* note 9.

51. Accord, *supra* note 48.

52. In early November 2001, a group *mato oput* ceremony held in Pajule involved about 20 recently returned LRA rebels and many others who had already settled in the community. NGOs, churches and Acholi in the diaspora supported the ceremony. "Government officials, the amnesty commissioners, senior army commanders in the region and several representatives of NGOs attended the function, demonstrating the support of the wider Ugandan community. Another ceremony has taken place in Pabbo, in Gulu district, and others are planned for different parts of Acholi." Accord, *supra* note 48.

53. T. Allen, *War and Justice in Northern Uganda: An Assessment of the International Criminal Court's Intervention (Draft)*, Crisis States Research Center, London School of Economics, London, February 2005, p.67, available at <http://www.crisisstates.com/download/others/AllenICCReport.pdf>, accessed on 27 August 2007.

54. Ibid., p. 86.

55. T. Allen, however, writes that "most local knowledge of both *mato oput* and 'the bending of the spears' (*gomo tong*) is second hand. Relatively few elders seem to have actually performed the former [...] 'The bending of the spears' has probably only happened once or twice in living memory. Is it appropriate or feasible to rehabilitate or reinvent it?". T. Allen, *op. cit.*

56. International Crisis Group, *supra* note 38, p. 10.

57. International Center for Transitional Justice, *supra* note 9, p. 40; Human Rights Watch, *supra* note 6, p. 56. "The Langi of Lira district and Teso in Soroti district to the south and southeast of Gulu respectively have been greatly affected by the LRA conflict since 2002, as have southern Sudanese, most of whom are non-Acholi." See also, T. Allen, *supra* note 53, p. 86.

58. T. Allen, *supra* note 53, pp. 65-66. Allen found that interviewees would often contradict their initial

statements concerning the need for forgiveness by later expressing "much greater enthusiasm for prosecution and punishment than other researchers have suggested". His "conclusion was that arguments about Acholi forgiveness need to be closely interrogated, and certainly not taken at face value. In the course of our fieldwork we become concerned that there was too ready an acceptance of the idea that the Acholi people have a special or even unique capacity to forgive those who abuse them".

59. International Center for Transitional Justice, *supra* note 9.

60. Human Rights Watch, *supra* note 6, p. 40.

61. Thernstrom, *supra* note 4, p. 38.

62. Ibid., p. 36.

63. Human Rights Watch, *supra* note 6, pp. 55-56.

64. T. Allen, *supra* note 53, p. 86.

65. J. Sarkin, *Carrots and Sticks: The TRC and the South African Amnesty Process*, Antwerpen, Intersentia, 2004, pp. 51-52.

66. Ibid., pp. 58-59 and Lyn S. Graybill, *Truth & Reconciliation in South Africa: Miracle or Model?*, Boulder, Colorado, Lynne Rienner Publishers, 2002, pp.5-6.

67. Republic of South Africa, Promotion of National Unity and Reconciliation Act, no. 34, 26 July 1995.

68. Graybill, *supra* note 66, pp. 81-92.

69. Refugee Law Project, *supra* note 23, p. 25.

70. Sarkin, *supra* note 65.

71. Refugee Law Project, *supra* note 23, p. 27.

72. International Center for Transitional Justice, *supra* note 9, p. 35. "Forty-three percent said that they would speak to anyone about their ordeals. Twenty-six percent specifically named the government, while 9 percent said religious leaders and 6 percent chose traditional leaders".

73. Ibid.:"The three top rationales for remembrance were to honor the victims (44 percent), prevent the violence from happening again (36 percent), and establish a historical record (22 percent)".

74. Refugee Law Project, *supra* note 23, p. 14.

75. Ibid., p. 26.

76. Graybill, *supra* note 66, pp. 149-150.

77. Sarkin, *supra* note 65, p.101 and pp.104-105.

78. Graybill, *supra* note 66, pp. 151-152.

79. By contrast, Rwanda's Organic Law of 2004 contains much narrower provisions for compensation. Chapter VII of the Law of 2004 concerns "Compensation for Damaged Property and Other Forms", rather than simply damages, as in the Law of 2000. Article 95 states that reparations require (1) "restitution of the property looted whenever possible" and (2) "repayment of the ransacked property or carrying out the work worth the property to be repaired". Under Article 96, "[o]ther forms of compensation the victims receive shall be determined by a particular law". The 2004 law therefore significantly reduces the scope of damages which victims may receive because the law covers only

property damages, not bodily harm. This paper focuses on the 2000 law because its broader compensation mechanism would address victims' interests more adequately than does the 2004 law.

80. International Crisis Group, *supra* note 38, p. 8.

81. International Center for Transitional Justice, *supra* note 9, p 36. "Fifty-two percent said victims should be provided with financial compensation. Forty percent mentioned foods, 26 percent wanted education, 26 percent chose counseling, and 17 percent mentioned cattle and goats. Eight percent of the respondents said justice, 9 percent chose apologies, and 6 percent mentioned reconciliation. When asked whether these measures should be done for the individual victim or the community as a whole, the majority (58 percent) of the respondents said that they could be taken in respect of the community as opposed to individual victims." Respondents could state more than one response.

82. International Center for Transitional Justice, *supra* note 9, p. 25.

83. Amnesty Act of 2000, art. 9(e).

84. Alternatively, the Commission could simply provide benefits to certain LRA victims who apply to receive compensation packages. Such benefits could be similar to the resettlement packages given to the reporters.

85. Eugenia Zorbas, "Reconciliation in Post-Genocide Rwanda", *African Journal of Legal Studies*, v. 1, n. 1,Otawa, 2004, p. 29 and pp.37-38.

86. International Crisis Group, *Understanding and Solving the Conflict*, 14 April 2004, p.23.

87. International Center for Transitional Justice, *Hybrid Courts Case Study: The Special Court for Sierra Leone Under Scrutiny*, 5 March 2006, pp. 10 and 14.

88. Government of Sierra Leone and the United Nations Organization, *Special Court Statute*, Art. 1(1), 1996.

89. International Center for Transitional Justice, *supra* note 87.

90. J. Sarkin, "The Tension Between Justice and Reconciliation in Rwanda: Politics, Human Rights, Due Process and the Role of the Gacaca Courts in Dealing with the Genocide", *Journal of African Law*, v. 45, issue 2, New York, Cambrigde University Press, October 2001, p. 147.

91. Human Rights Watch, *supra* note 6, p. 50.

92. Refugee Law Project, *supra* note 23, p. 12.

93. International Center for Transitional Justice, *supra* note 9, p. 26. The percentages of respondents who opposed accountability for lower ranking members of the LRA varied considerably by district. In Gulu, this number was as high as 72 percent, and in Lira, 62 percent. Conversely, in Soroti and Kitgum, many were also in favor of holding lower-ranking LRA members accountable (61 percent and 41 percent, respectively).

94. The compatibility of the ICC's prosecution with efforts to end the conflict is highly controversial and beyond the scope of this paper.

95. Payam, supra note 3, pp. 416 and 418.

96. International Crisis Group, supra note 38, p. 9.

97. International Crisis Group, Policy Briefing, Shock Therapy for Northern Uganda's Peace Process, 11 April 2005, p. 5.

98. Ibid., p. 410.