

**Tradition?!**  
**Traditional cultural institutions on**  
**Customary Practices in Uganda<sup>1</sup>**

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Transitional justice is concerned with how societies move from conflict to peace or from authoritarian regimes to democracy—by dealing with the resulting questions of justice and social healing. Among the “tools” that theorists and practitioners of transitional justice have at their disposal in restoring social cohesion after conflict are customary methods of acknowledgement. While such practices have not yet become part of the mainstream, in as much as truth commissions and tribunals have, evidence of their utility in several societies is beginning to appear. The use of these traditional practices of acknowledgement in Uganda is widespread. Each of the 56 different ethnic groups across the country has at some point relied on such practices. This paper explores the attitudes of the leaders of the newly-restored traditional cultural institutions toward these practices. It further assesses the agency of traditional cultural institutions in their use. This analysis is carried out in the context of the ever-turbulent political situation in Uganda, and of the sordid legacy of conflict in that country.

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<sup>1</sup> A paper prepared for presentation at the Annual Convention of the International Studies Association, 16 Feb. 2009, New York, USA. Research for this project was carried out with assistance from the United States Institute of Peace (SG-135-05F), with research assistance from Stéphanie Anne-Gaëlle Vieille.

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## Methodology

As part of a larger, on-going study, I have been engaged since 2004 in an examination and analysis of the use of traditional practices of acknowledgement in Uganda. I am specifically interested in the role that these processes play in a society's acknowledgement of past crimes and abuses. And how they are able to succeed where other "Western" approaches, like the truth commission, have failed.<sup>3</sup>

The "wave" of research that focuses on traditional cultural leaders is the fifth of eight distinct inquiries into traditional mechanisms in Uganda. Each is a qualitative survey of the manner in which customary practices could be and are being used, and focuses on a different aspect of these instruments, and particularly on the opinions of various stakeholder groups in their use. Some of the data that supports the arguments made in this paper has been collected in interviews with members of other stakeholder groups, including conflict-affected women, government officials, and religious leaders. This particular wave focuses on the attitudes of traditional cultural institutions (TCIs) and their leaders toward traditional practices, and the difficulties that the use of such practices face.

In total, 34 interviews were conducted in June and July 2008, with 24 leaders of traditional cultural institutions and 10 government officials involved in the regulation of traditional cultural institutions.<sup>4</sup> I also interviewed three leaders of traditional cultural institutions earlier, in 2004, and one later, in October 2008. These TCI leaders represented 12 of Uganda's 56 different ethnic groups: Acholi, Adhola, Alur, Ankole, Bukanjo, Bufumbira, Bugisu, Buganda, Busoga, Karamoja, Teso, and Tooro—some of which are recognized by the

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<sup>3</sup> See Joanna R. Quinn, "The Politics of Acknowledgement: Truth Commissions in Uganda and Haiti," (Ph.D. diss., McMaster University 2003).

<sup>4</sup> Unless specified, direct quotations are those of people who wished their interviews by the author to remain anonymous.

Government of Uganda, and some of which are not. The interviewees themselves held a number of roles, including Prime Minister, Head of the Royal Clan, Crown Prince, and Ministers of Cultural Affairs or Youth, within the governments of the various kingdoms and Traditional cultural institutions.

### Background and History of Conflict

Since the time of Independence in 1962, Uganda has been wracked by conflict. Under both Idi Amin and Milton Obote, many thousands of Ugandans were wounded and killed. It is estimated that between 300,000<sup>5</sup> and 500,000<sup>6</sup> Ugandans were killed during the time of Idi Amin, from 1971 to 1979. Under the rule of Obote, between 1980-1985, approximately 300,000<sup>7</sup> to 500,000<sup>8</sup> were killed. The current President, Yoweri Museveni, seized power by means of military force in 1986. As with his predecessors, Museveni has faced considerable opposition from many of the 56 different ethnic groups throughout the country. Between 1986 and 2008, Museveni faced more than 27 armed insurgencies.<sup>9</sup>

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<sup>5</sup> Philip Briggs, *Uganda* (Old Saybrook, CT: The Globe Pequot Press, 1998), 23.

<sup>6</sup> Yoweri Kaguta Museveni, *Sowing the Mustard Seed* (London: Macmillan, 1997), 41.

<sup>7</sup> *Uganda* (Brooklyn: Interlink Books, 1998) 53; Thomas P. Ofcansky, *Uganda: Tarnished Pearl of Africa*. (Boulder: Westview, 1996), 55.

<sup>8</sup> Abdul Nadduli, LC5 District Chairman, interview with author, 17 Nov. 2004, Luweero Town, Uganda.

<sup>9</sup> These include rebellions by the Action Restore Peace, Allied Democratic Forces, Apac rebellion, Citizen Army for Multiparty Politics, Force Obote Back, Former Uganda National Army, Holy Spirit Movement, the Lord's Army, Lord's Resistance Army, National Federal Army, National Union for the Liberation of Uganda, Ninth October Movement, People's Redemption Army, Uganda Christian Democratic Army, Uganda Federal Democratic Front, Uganda Freedom Movement, Ugandan National Democratic Army, Uganda National Federal Army, Ugandan National Liberation Front, Ugandan National Rescue Fronts I and II, Ugandan People's Army, Ugandan People's Democratic Army, Uganda Salvation Army, and the West Nile Bank Front. Compiled from Lucy Hovil and Zachary Lomo, *Working Paper 11: Behind the Violence: Causes, Consequences and the Search for Solutions to the War in Northern Uganda*, (Kampala: Refugee Law Project, Feb. 2004), 4; and Lucy Hovil and Zachary Lomo, *Working Paper 15: Whose Justice? Perceptions of Uganda's Amnesty Act 2000: The Potential for Conflict Resolution and Long-Term Reconciliation* (Kampala: Refugee Law Project, Feb. 2005), 6.

Added to this is the complex web of transitional justice instruments that have been employed (often frivolously) to deal with the millions of criminal acts committed in Uganda.<sup>10</sup> Two truth commissions have been appointed to deal, in turn, with the disappearances committed specifically under Idi Amin<sup>11</sup> and all of the abuses committed between 1962 and 1986.<sup>12</sup> Subsequently, an Amnesty Act was promulgated, under which 22,107 ex-combatants had received amnesty by July 2008.<sup>13</sup> And the International Criminal Court began an investigation into the crimes perpetrated by Kony and other senior LRA members in 2004.<sup>14</sup> Aside from this, national courts and traditional practices of acknowledgement are also entitled to hear evidence in such cases.

These conflicts have devastated the country. Throughout the country, and especially in the north, although also in Luweero Triangle and elsewhere, people continue to suffer the effects of conflict. The physical scars are easy to see: women in Luweero Triangle have been ostracized from their communities because of gynaecological fistulae; many former abductees in Northern Uganda have only scar tissue where once there were noses and lips; and hospitals and schools are in a state of disrepair. Yet the emotional and social costs, though harder to spot at first glance, remain too. And these “scars” are more difficult to fix. I posit that customary practices of acknowledgement might be able to assist in coming to terms with the social and emotional scars caused by conflict.

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<sup>10</sup> Joanna R. Quinn, “Chicken and Egg? Sequencing in Transitional Justice: The Case of Uganda” *International Journal of Peace Studies*, (2009) *forthcoming*.

<sup>11</sup> See Richard Carver, “Called to Account: How African Governments Investigate Human Rights Violations,” *African Affairs* 89.356 (July 1990): 391-415.

<sup>12</sup> See Joanna R. Quinn, “The Politics of Acknowledgement: Truth Commissions in Uganda and Haiti,” Ph.D. diss., McMaster University, 2003.

<sup>13</sup> Moses Draku, Principal Public Relations Officer, Amnesty Commission, interview by author, 07 July 2008, Kampala, Uganda.

<sup>14</sup> Joanna R. Quinn, “Accountability and Reconciliation: Traditional Mechanisms of Acknowledgement and the Implications of the Juba Peace Process,” *Reconstructing Northern Uganda* (invited presenter), Nationalism and Ethnic Conflict Research Group, The University of Western Ontario, London, ON: April 5, 2008.

### Traditional practices of acknowledgement

As I have written elsewhere, traditionally, cultures and societies around the world had highly complex, highly developed systems for dealing with conflict and conflict resolution—and for dealing with the social deficits brought about by conflict. In traditional times, these systems carried out a number of functions, including mediation, arbitration, adjudication, restitution, and punishment—the same retributive elements included in the kinds of systems familiar in “modern” justice. They often also included elements of restoration and reconciliation.<sup>15</sup> And these elements typically functioned in tandem.

In many parts of the world, these practices were shoved aside to make way for modern, Western ideas and practices. Colonial rulers disparaged such traditional customs, and allowed only “natives” within the colonies to utilize them, setting up separate mechanisms for use by “non-natives,” effectively creating a dual system.<sup>16</sup> In Uganda, traditional practices were officially prohibited in 1962, at the time of Independence, in favour of a harmonized court system modeled on the British system.<sup>17</sup> The 1967 Constitution, promulgated by Obote, outlawed the many Kingdoms and traditional cultural institutions across the country. Yet the kingdoms and other traditional cultural institutions remain, and traditional practices have continued to be used in different parts of the country.<sup>18</sup> Traditional cultural institutions themselves have special status under Article 246 of the Constitution.<sup>19</sup> Traditional practices are now legally provided for under legislation including Article 129 of the 1995 Constitution, which

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<sup>15</sup> Joanna R. Quinn, “Tried and True: The Role of Informal Mechanisms in Transitional Justice,” a paper presented at the International Society of Political Psychology Annual Meeting, Toronto, 6 July 2005.

<sup>16</sup> Mahmood Mamdani, *Citizen and Subject* (Kampala: Fountain Publishers, 1996), 109-110.

<sup>17</sup> The British Colonial Office, *Report of the Uganda Relationship Committee*, 1961.

<sup>18</sup> Briggs, *Uganda*, 22.

<sup>19</sup> Government of Uganda, *Constitution*, 1995.

provides for Local Council Courts<sup>20</sup> to operate at the sub-county, parish and village levels;<sup>21</sup> and the Children Statute 1996, which grants these courts the authority to mandate any number of things including reconciliation, compensation, restitution, and apology.<sup>22</sup> And the Government of Uganda has subsequently included these practices in the recent Agreement on Accountability and Reconciliation and the subsequent Annexure, which emerged out of the Juba Peace Talks.<sup>23</sup> Although these mechanisms broadly fit within very different approaches to justice, whether retributive or restorative, and fulfill different roles within their respective societies, from cleansing and welcoming estranged persons back home to prosecution and punishment, what they have in common is that they draw upon traditional customs and ideas in the administration of justice in modern times.

These institutions are still widely used throughout the country by many of the 56 different ethnic groups.<sup>24</sup> Among the Karamojong, the *akiriket* councils of elders adjudicate disputes according to traditional custom<sup>25</sup> which include cultural teaching and ritual cleansing

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<sup>20</sup> The LC Courts were formerly known as Resistance Council Courts and “were first introduced in Luweero in 1983 during the struggle for liberation. In 1987 they were legally recognized throughout the country.” See John Mary Waliggo, “The Human Right to Peace for Every Person and Every Society,” a paper presented at Public Dialogue organized by Faculty of Arts, Makerere University in conjunction with Uganda Human Rights Commission and NORAD, Kampala, Uganda, 4 Dec. 2003, author’s collection, 7.

<sup>21</sup> “Uganda: Constitution, Government & Legislation,” [article on-line]; available from <http://jurist.law.pitt.edu/world/uganda.htm>, accessed 30 April 2005.

<sup>22</sup> Government of Uganda, *The Children’s Statute*, 1996.

<sup>23</sup> These documents form one part of a five-part agreement that was signed in June 2007 and February 2008, respectively. Although the agreements were signed, at the time of writing, the final agreement has not been signed and both parties have walked away from the talks. See Joanna R. Quinn, “Accountability and Reconciliation: Traditional Mechanisms of Acknowledgement and the Implications of the Juba Peace Process,” a paper presented at the conference, “Reconstructing Northern Uganda,” held by the Nationalism and Ethnic Conflict Research Group, The University of Western Ontario, London, ON: 9 April, 2008. The Government of Uganda, through its Justice, Law and Order Sector Transitional Justice Working Group, is, at the time of writing, trying to determine the modalities of the inclusion of these practices within the War Crimes Division of the High Court and elsewhere. Christopher Gashirabake, Ministry of Justice and Constitutional Affairs, interview by author, 04 July 2008, Kampala, Uganda and Hon. Jus. James Ogoola, Principal Justice, High Court and Chairman, Transitional Justice Working Group, interview by author, 25 Sep. 2008, Kampala, Uganda.

<sup>24</sup> For a more in-depth discussion of the use of traditional mechanisms in Uganda, see Joanna R. Quinn, “What of Reconciliation? Traditional Mechanisms of Acknowledgement in Uganda,” in *Reconciliation(s)*, ed. Joanna R. Quinn (Montreal: McGill-Queen’s University Press, 2009), forthcoming.

<sup>25</sup> Bruno Novelli, *Karimojong Traditional Religion* (Kampala: Comboni Missionaries, 1999), 169-172, 333-340.

ceremonies.<sup>26</sup> The Acholi use a complex system of ceremonies in adjudicating everything from petty theft to murder;<sup>27</sup> in the current context, at least two ceremonies have been adapted to welcome ex-combatant child soldiers home after they have been decommissioned: *mato oput* (drinking the bitter herb), and *nyouo tong gweno* (a welcome ceremony in which an egg is stepped on over an *opobo* twig).<sup>28</sup> These ceremonies are similar to those used by the Langi, called *kayo cuk*, the Iteso, called *ailuc*, and the Madi, called *tonu ci koka*.<sup>29</sup> The Lugbara, in the northwest of the country, maintain a system of elder mediation in family, clan and inter-clan conflict.<sup>30</sup> And in 1985, an inter-tribal reconciliation ceremony, *gomo tong* (bending the spear) was held to signify that “from that time there would be no war or fighting between Acholi and Madi, Kakwa, Lugbara or Alur of West Nile.”<sup>31</sup> A similar ceremony, *amelokwit*, took place between the Iteso and the Karamojong in 2004.<sup>32</sup>

In some areas, however, these practices are no longer used regularly. I posit that traditional practices are, in fact, used far less widely in the “greater south” and among Ugandans of Bantu origin.<sup>33</sup> From time to time, however, the Baganda use the traditional *kitewuliza*, a juridical process with a strong element of reconciliation, to bring about justice.<sup>34</sup> Among the

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<sup>26</sup> Peter Lokeris, Minister of State for Karamoja, interview by author, 18 Nov. 2004, Kampala, Uganda.

<sup>27</sup> See Thomas Harlacher, Francis Xavier Okot, Caroline Aloyo Obonyo, Mychelle Balthazard, and Ronald Atkinson, *Traditional Ways of Coping in Acholi: Cultural provisions for reconciliation and healing from war* (Kampala: Thomas Harlacher and Caritas Gulu Archdiocese, 2006).

<sup>28</sup> For an excellent description of *mato oput* see Sverker Finnstrom, *Living With Bad Surroundings: War and Existential Uncertainty in Acholiland in Northern Uganda* (Uppsala: Acta Universitatis Upsaliensis, Uppsala Studies in Cultural Anthropology no. 35, 2003), 297-299.

<sup>29</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Annexure to the Agreement on Accountability and Reconciliation” (Juba, 19 Feb. 2008), Art.21.1.

<sup>30</sup> Joseph Ndrua, “A Christian Study of the African Concept of Authority and the Administration of Justice among the Lugbari of North Western Uganda,” (M.A. diss., Catholic Higher Institute of Eastern Africa, 1988), 42-56.

<sup>31</sup> Finnstrom, *Living With Bad Surroundings*, 299.

<sup>32</sup> Iteso focus group, conducted by author, 31 Aug. 2006, Kampala, Uganda.

<sup>33</sup> See Joanna R. Quinn, “Here, Not There: Theorizing about why traditional mechanisms work in some communities, not others,” a paper presented at the Canadian Political Science Association Annual Meeting, 06 June, 2007.

<sup>34</sup> Waliggo, “The Human Right to Peace for Every Person and Every Society,” 7. Also, idem, “On Kitewuliza in Buganda, 3 May 2005,” author’s collection, 1.

Bafumbira, land disputes, in particular, are settled through traditional practices, with Local Council officials adjudicating.<sup>35</sup> The “Annexure to the Agreement on Accountability and Reconciliation” also lists those mechanisms used by the Ankole, called *okurakaba*<sup>36</sup>—although I have uncovered only weak anecdotal evidence of their continued use.<sup>37</sup>

People from nearly every one of the 56 ethnic groups in Uganda have reported to me that “everyone respects these traditions,”<sup>38</sup> and that reconciliation continues to be an “essential and final part of peaceful settlement of conflict.”<sup>39</sup> But many, particularly young, educated Ugandans who live in the city, have also reported to me that they have never participated in such ceremonies.<sup>40</sup> Even still, a common understanding of these symbols, ceremonies, and institutions, and their meanings remains throughout Uganda—even in those areas where such practices are no longer carried out.

### Traditional Cultural Institutions

Prior to Western contact in the late 1800s, the area which is now Uganda was divided into a series of indigenous kingdoms and chieftaincies, each of which had its own ruler and leadership system.<sup>41</sup> In 1900 the Buganda Agreement, a treaty between the British protectorate and the kingdom of Buganda, was signed, an attempt to establish indirect British rule in the protectorate. Britain had colonized the Kingdoms of Bunyoro, Tooro, Ankole and Busoga in 1896—although

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<sup>35</sup> Hon. Jus. Patrick Tabaro, High Court Justice, interview by author, 14 July 2008, Kampala, Uganda.

<sup>36</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Annexure,” Art.21.1.

<sup>37</sup> G. William Katatumba, *Enganzi* (Prime Minister), Ankole Kingdom, and Chairman, Nkore Cultural Trust, interview by author, 24 June 2008, Kampala, Uganda.

<sup>38</sup> Confidential interview by author with Sabiny man studying at Makerere University, 7 Nov. 2004, Kampala, Uganda.

<sup>39</sup> Waliggo, “The Human Right to Peace for Every Person and Every Society,” 9.

<sup>40</sup> Northern Uganda focus group, conducted by author, 23 Aug. 2006, Kampala, Uganda.

<sup>41</sup> Dirk Berg-Schlosser and Rainer Siegler, *Political Stability and Development: A Comparative Analysis of Kenya, Tanzania and Uganda* (Boulder: Lynne Rienner Publishers, 1990) 97.

formal agreements between the kingdoms and the British were not signed until as late as 1933.<sup>42</sup> Other regions of the country were not colonized for several years afterward. The British protectorate was extended to include the “north” in 1911 (Kigezi, Lango), and 1913 (Acholi, Karamoja). West Nile, previously “leased” to the Congo, became part of Uganda in 1914.<sup>43</sup> In these areas, “governance was highly decentralized, and power lay in the hands of elders who practised [*sic*] a form of democratic government.”<sup>44</sup> Governance of the kingdoms and other traditional cultural institutions continued in this manner for nearly half a century.

As outlined above, in 1967, Milton Obote abolished the kingdoms in an attempt to gain sole control of the country.<sup>45</sup> Those ethnic groups that were stratified horizontally, in a system of equal clans, were unaffected by this decision, as their structures of governance were allowed to remain in place. Conversely, those ethnic groups whose heads were effectively banished were stripped of their decision-making apparatus. Until that point, Buganda had been “recognised as having full federal status, [and] the other kingdoms were granted semi-federal status.”<sup>46</sup> From that time forward, many of the leaders of many of the ethnic groups across the country were forced into exile. Even so, the people secretly continued to look to their cultural leaders for advice and support.

The kingdoms were restored in 1993<sup>47</sup> but without any political powers.<sup>48</sup> The briefly worded Statute read as follows:

Whereas the National Resistance Army sitting in Gulu on the 3rd day of April, 1992 after discussing the return of traditional sites to the traditional groups concerned resolved as follows—

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<sup>42</sup> Philip Briggs, *Uganda* (Old Saybrook, CT: The Globe Pequot Press, 1998), 15.

<sup>43</sup> Briggs, *Uganda*, 17.

<sup>44</sup> *Spectrum Guide*, 46.

<sup>45</sup> Briggs, *Uganda*, 25.

<sup>46</sup> *Ibid.*, 20-21.

<sup>47</sup> Government of Uganda, *The Traditional Rulers (Restitution of Assets and Properties) Statute*, 1993.

<sup>48</sup> *Uganda* (Brooklyn: Interlink Books, 1998) 298-299.

“It has no objection to the relevant national authority entering into discussions with the concerned traditional groups with a view to their eventual return or any other mutually acceptable, appropriate arrangement concerning those sites;

Provided that this does not interfere with the security of the country.”

Then, in 1996, these traditional cultural institutions were reinstated under Article 246 of the Constitution (1995):

246. (1) Subject to the provisions of this Constitution, the institution of traditional leader or cultural leader may exist in any area of Uganda in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.

(2) In any community, where the issue of traditional or cultural leader has not been resolved, the issue shall be resolved by the community concerned using a method prescribed by Parliament.

(3) The following provisions shall apply in relation to traditional leaders or cultural leaders—

(a) the institution of traditional leader or cultural leader shall be a corporation sole with perpetual succession and with capacity to sue and be sued and to hold assets or properties in trust for itself and the people concerned;

(b) nothing in paragraph (a) shall be taken to prohibit a traditional leader or cultural leader from holding any asset or property acquired in a personal capacity;

(c) a traditional leader or cultural leader shall enjoy such privileges and benefits as may be conferred by the Government and local government or as that leader may be entitled to under culture, custom and tradition;

(d) subject to paragraph (c) of this clause, no person shall be compelled to pay allegiance or contribute to the cost of maintaining a traditional leader or cultural leader;

(e) a person shall not, while remaining a traditional leader or cultural leader, join or participate in partisan politics;

(f) a traditional leader or cultural leader shall not have or exercise any administrative, legislative or executive powers of Government or local government.

(4) The allegiance and privileges accorded to a traditional leader or cultural leader by virtue of that office shall not be regarded as a discriminatory practice prohibited under article 21 of this Constitution; but any custom, practice, usage or tradition relating to a traditional leader or cultural leader which detracts from the rights of any person as guaranteed by this Constitution, shall be taken as prohibited under that article.

(5) For the avoidance of doubt, the institution of traditional leader or cultural leader existing immediately before the coming into force of this Constitution shall be taken to exist in accordance with the provisions of this Constitution.

(6) For the purposes of this article, “traditional leader or cultural leader” means a king or similar traditional leader or cultural leader by whatever name called, who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that traditional or cultural leader.<sup>49</sup>

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<sup>49</sup> Government of Uganda, *Constitution*, 1995, Chapter Sixteen: Institution of Traditional or Cultural Leaders, Art. 246.

By February 2009, 11 traditional cultural institutions had been restored: Acholi Chiefdom, Tieng Adhola Chiefdom, Alur Kingdom, Buganda Kingdom, Bunyoro Kingdom, Buruuli Chiefdom, Busoga Kingdom, Kooki Chiefdom, Lango Chiefdom, Teso Chiefdom, Tooro Kingdom.<sup>50</sup> Subsequent legislation established a system of Regional Assemblies to handle cultural matters relating to the traditional or cultural leader, clan and sub clan leadership, cultural and traditional practices (listed as cultural funeral rites, although there is no mention as to whether there could be others) and cultural institutions.<sup>51</sup> Those 11 Traditional cultural institutions that have been restored can operate legally. Each has a legal mandate, a council or parliament with officers and ministers parallel to official State institutions, and a slate of activities for which they are responsible.<sup>52</sup>

Yet there has been some controversy about the reinstatement of others. In particular, the Ankole Kingdom has met with resistance from the Government of Uganda in reinstating the *Omugabe* (King). Prince John Barigye, heir to the throne, was crowned *Omugabe* on 20 November 1993, but his coronation was “nullified” by the President, who is himself an ethnic Ankole and has a vested interest in the outcome of affairs in his home district.<sup>53</sup> “The President himself decided to stop it.”<sup>54</sup> “Museveni calls himself the kingmaker, and uses the Paramount Chiefs and gets some benefit from them.”<sup>55</sup> The President claimed that “the people had to first

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<sup>50</sup> Ministry of Gender, Labour and Social Development, “List of Recognized Traditional Cultural Leaders in Uganda 2008,” (Ministry of Gender, Labour and Social Development internal document, 25 June 2008), author’s collection.

<sup>51</sup> Government of Uganda, *The Constitution (Amendment) (No.2) Act, 2005*, Art.3 & Art.8.

<sup>52</sup> European Commission to Uganda, “Mandate and Activities of the Cultural Institutions,” *EU-Uganda News: A quarterly newsletter of the delegation of the European Commission to Uganda* (May 2008): 8-12.

<sup>53</sup> “Biography: John Patrick Barigye,” Boston University School of Theology Anna Howard Shaw Center, [article on-line]; available from [http://sthweb.bu.edu/shaw/anna-howard-shaw-center/biography?view=mediawiki&article=John\\_Patrick\\_Barigye](http://sthweb.bu.edu/shaw/anna-howard-shaw-center/biography?view=mediawiki&article=John_Patrick_Barigye); accessed 01 Feb. 2009.

<sup>54</sup> Confidential interview by author with Ministry of Gender, Labour and Social Development official, 20 June 2008, Kampala, Uganda.

<sup>55</sup> Confidential interview by author with Mutooro man working for faith-based NGO, 24 June 2008, Kampala, Uganda.

decide whether they wanted the kingdom.”<sup>56</sup> Yet Barigye still inhabits the royal Ankole palace.<sup>57</sup> And he heads the Nkore Cultural Trust, an organization dedicated to the reinstatement of the Ankole Kingdom; the Banyankore Trust Foundation has since been established to oppose the kingship of Barigye.<sup>58</sup>

It is the case that many of the traditional cultural institutions that have been recognized did not exist prior to the abolition of kingdoms in 1967. For example, the position of *Kwar Adhola* (Chief of Chiefs) was conceived only after the 1993 Statute that restored the kingdoms. No such position had ever existed before. “No *Kwar Adhola* had existed previously, but the clans had divided, and so it was decided that someone was needed to reunite the Jopadhola.”<sup>59</sup> “The last cultural leader, many, many years ago, was a military leader called Majanga. He emerged to deal with war, out of his own prowess. He was generally acknowledged and accepted. When your leadership ends, you merge into society without special anything. If the next big issue is pestilence, a different leader would come.”<sup>60</sup> Yet the *Kwar Adhola* and his Cabinet, the *Tieng Adhola* are recognized by the Government.

“In some communities, there is more than one claimant,” and the Ministry of Gender, Labour and Social Development is “checking out [others] to see the authenticity of each.”<sup>61</sup> In September 2008, for example, when the *Isebantu Kyabazinga* (King) of Busoga died, a vacancy was left in the top spot in the kingdom. Although a quorum of Busoga Chiefs elected a new

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<sup>56</sup> Benon Herbert Oluka, “King in all but name,” *Weekly Observer*, 20 Jan. 2005.

<sup>57</sup> *Ibid.*

<sup>58</sup> G. William Katatumba, *Enganzi* (Prime Minister), Ankole Kingdom, and Chairman, Nkore Cultural Trust, interview by author, 24 June 2008, Kampala, Uganda.

<sup>59</sup> Dominic Oburu, Minister of General Duties, *Tieng Adhola*, interview by author, 08 July 2008, Tororo, Uganda.

<sup>60</sup> Jane Frances Alowo, Minister for Tertiary Institutions and Scholarships, *Tieng Adhola*, interview by author, 23 June 2008, Kampala, Uganda.

<sup>61</sup> Bernard Bakaye Lubega, Principle Culture Officer, Ministry of Gender, Labour and Social Development, interview by author, 25 June 2008, Kampala, Uganda.

*Isebantu Kyabazinga*, the Government of Uganda issued a constitutional challenge to block the election.<sup>62</sup> At the time of writing, the *Kyabazinga* issue had not been resolved.

In other cases, there is interference from inside and outside. When King Patrick Kaboyo Olini VII of Tooro died in 1996, for example, and his infant son was crowned king, a power vacuum developed, wherein a Council of Regents competed for influence with the young King's mother. To complicate matters further, the guardianship of the King was, in fact, shared with President Museveni.<sup>63</sup> The Kingdom of Tooro is still grappling with how the system of governance should proceed, and high-profile people have been deposed from the Council of Regents over disagreements with the Queen Mother, among others.<sup>64</sup> "The Kingdom is somehow sort of stuck after the late king."<sup>65</sup>

#### Traditional Leaders' Role and Objectives

Although they had been restored for more than a decade at the time of writing, the principle concern of all the traditional cultural institutions to whom I spoke is building up their institutions. In the course of my research, for example, I was given several tours through palaces and burial grounds. "Abolishment [*sic*] was a kind of dark ages for traditional leaders."<sup>66</sup> Throughout the decades when traditional and cultural leaders and institutions were forbidden, the Government put in place a parallel system—the traditional leaders to whom I spoke claim that

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<sup>62</sup> Solomon Muyita and Abubaker Kirunda, "Muloki's son elected new Busoga Kyabazinga despite court injunction," *Daily Monitor*, 2 Feb. 2009.

<sup>63</sup> The Batebe of Toro Foundation, "King Oyo Nyimba Kabamba Iguru Rukidi IV," *Kingdom of Toro* [web-site]; available from <http://www.torokingdom.org/Oyo.htm>; accessed 2 Feb. 2009.

<sup>64</sup> Professor Oswald Ndoleriire, Makerere Institute of Linguistics, interview by author, 25 June 2008, Kampala, Uganda.

<sup>65</sup> Confidential interview by author with Mutooro man working for faith-based NGO, 24 June 2008, Kampala, Uganda.

<sup>66</sup> Watsuna Khamalwa, Makerere Institute of Languages, Coordinator for Social Anthropology, interview by author, 27 June 2008, Kampala, Uganda.

these systems never replaced the traditional systems that had long been in place, but, rather, co-existed with them.<sup>67</sup>

And so the traditional and cultural leaders have embarked on a programme of revival. “They find their justification very much in the past, and so struggle to reinvent themselves.”<sup>68</sup> In fact, all of the traditional cultural institutions and leaders to whom I spoke are working toward the same goals: first, preservation of culture; second, promotion of unity within their ethnic groups; third, promotion of development; and, fourth, promotion of education.<sup>69</sup>

The promotion of culture and cultural practices, including traditional practices of acknowledgement, in some cases, has been especially important for the traditional cultural institutions in Uganda, and so many have focused on this aspect almost exclusively. Busoga, for example, has established a Cultural Research Centre dedicated to the study and documentation of traditional practices.<sup>70</sup> Others have seized upon a pilot project offered by the Government to implement “mother tongue training” in various districts to students in Primary 1 through Primary 3, and have begun to study the effects of this kind of education.<sup>71</sup>

In other respects, traditional cultural institutions have held themselves out as cultural service providers,<sup>72</sup> able to perform marriage ceremonies and funeral rites.<sup>73</sup> The Kingdom of

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<sup>67</sup> Professor Waswa Balunywa, Former Prime Minister, Busoga, interview by author, 14 July 2008, Kampala, Uganda.

<sup>68</sup> John De Coninck, Cross-Cultural Foundation of Uganda, interview by author, 15 July 2008, Kampala, Uganda.

<sup>69</sup> Several Traditional cultural institutions spelled out their priorities in exactly this manner: HRH Prince Charles Kayondo Keith Kamorasi, *Omujuwera Musuuga* (Head of Babiito Royal Clan), interview by author, 10 July 2008, Fort Portal, Uganda. Also Frances Akello, Deputy Minister for Finance, Planning and Economic Development, Iteso Cultural Union, interview by author, 05 July 2008, Soroti, Uganda. And Dominic Oburu, Minister of General Duties, *Tieng Adhola*, interview by author, 08 July 2008, Tororo, Uganda. Others had a slightly different configuration, although all the elements were included.

<sup>70</sup> See <http://www.mindphiles.com/CRC/index.htm>. Fr. Richard Kayaga, Director, Cultural Research Centre, interview by author, 23 Sep. 2008, Jinja, Uganda.

<sup>71</sup> See for example, the work among the Baruuli of Julia Becker, Ph.D. Cand., Linguistic Anthropology, Frankfurt University, interview by author, 30 June 2008, Kampala Uganda. See also *Reclaiming Our Language Through Education* (Jinja: Cultural Research Centre, 2007).

<sup>72</sup> John De Coninck, Cross-Cultural Foundation of Uganda, interview by author, 15 July 2008, Kampala, Uganda.

Buganda, for example, has established a youth leadership club and youth councils like *abana bakintu* to help Baganda youth learn about their culture;<sup>74</sup> similarly, the Iteso Cultural Union has begun to open cultural clubs in schools.<sup>75</sup> In some cases, they have gone further than simply reinstating old programmes, by implementing “neo-traditional” customs. In Tooro, for example, a programme has been established to teach the social values of the Batooro to young girls, in much the same way that grandmothers and “aunties” would have done fifty years ago—modeled on a beautiful and intelligent princess called “Kogeri”.<sup>76</sup> In this way, girls are learning social values and learning to appreciate Batooro history at the same time. “What you see in cultural revival is from civil society.”<sup>77</sup>

This focus on values is another aspect shared by all of the leaders of traditional cultural institutions to whom I spoke. The idea of social teaching, through processes including circumcision in areas like Sebei, and the *wang oo* throughout Northern Uganda have traditionally been instruments through which the values and important knowledge about the community were conveyed. This included traditional practices of acknowledgement. Yet, particularly in Northern Uganda, because of the protracted civil conflict there, this has been destroyed.<sup>78</sup> “Conditions have forced the people to forget traditions, although these practices are still existing.”<sup>79</sup> There is a real sense that these values have been lost, for a variety of reasons, to the

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<sup>73</sup> Frances Akello, Deputy Minister for Finance, Planning and Economic Development, Iteso Cultural Union, interview by author, 05 July 2008, Soroti, Uganda.

<sup>74</sup> Kabuza Mukasa, Minister of State for Kabaka’s Tours and Clans Homage, Kingdom of Buganda, interview by author, 01 July 2008, Mengo, Uganda.

<sup>75</sup> Frances Akello, Deputy Minister for Finance, Planning and Economic Development, Iteso Cultural Union, interview by author, 05 July 2008, Soroti, Uganda.

<sup>76</sup> Professor Edward Rugumayo, Chancellor, Mountains of the Moon University, interview by author, 10 July 2008, Fort Portal, Uganda.

<sup>77</sup> Ibid.

<sup>78</sup> See Lucy Hovil and Joanna R. Quinn, “Peace First. Justice Later: Traditional Justice in Northern Uganda,” *Refugee Law Project Working Paper Series*, Working Paper No. 17, 8 July 2005. This is also the case, as noted above, throughout Bantu Uganda. See Quinn, “Here, Not There?”

<sup>79</sup> Frances Akello, Deputy Minister for Finance, Planning and Economic Development, Iteso Cultural Union, interview by author, 05 July 2008, Soroti, Uganda.

present generation.<sup>80</sup> “We are scared because the youth seem to be adding things that are not from our culture. There is also some concern that “adults may no longer have the moral and traditional role to arbitrate. Young people know more about the world than adults... so their moral authority is being undermined because they may not understand, all because things are moving too fast for them.”<sup>81</sup> “They borrow what they admire from elsewhere.”<sup>82</sup> Today, “the traditional and cultural institutions are the last vestige of those most cherished values.”<sup>83</sup> And Traditional cultural institutions are committed to furthering these practices because “when people are reminded of their social responsibilities (e.g. confronting [their] own actions) there will be unity.”<sup>84</sup>

Yet a number of interviewees reported that, particularly with reference to traditional practices of acknowledgement—which remain a valued mechanism through which justice is sought in many parts of the country—the presence of elected or appointed Government officials has somehow tainted these processes. “Politically-elected leaders play more to the gallery than to justice, and are often held hostage by the electorate. So when the Local Council Chief arbitrates, justice can be compromised.”<sup>85</sup> Many traditional cultural institutions, therefore, have resolved to work alongside Government-appointed or –elected officials in carrying out these functions.<sup>86</sup> To be sure, the Government has relegated these tasks to traditional and cultural

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<sup>80</sup> Professor Edward Rugumayo, Chancellor, Mountains of the Moon University, interview by author, 10 July 2008, Fort Portal, Uganda; and G. William Katatumba, *Enganzi* (Prime Minister), Ankole Kingdom, and Chairman, Nkore Cultural Trust, interview by author, 24 June 2008, Kampala, Uganda.

<sup>81</sup> Professor Edward Rugumayo, Chancellor, Mountains of the Moon University, interview by author, 10 July 2008, Fort Portal, Uganda.

<sup>82</sup> Frances Akello, Deputy Minister for Finance, Planning and Economic Development, Iteso Cultural Union, interview by author, 05 July 2008, Soroti, Uganda.

<sup>83</sup> John De Coninck, Cross-Cultural Foundation of Uganda, interview by author, 15 July 2008, Kampala, Uganda.

<sup>84</sup> Dominic Oburu, Minister of General Duties, *Tieng Adhola*, interview by author, 08 July 2008, Tororo, Uganda.

<sup>85</sup> Professor Edward Rugumayo, Chancellor, Mountains of the Moon University, interview by author, 10 July 2008, Fort Portal, Uganda.

<sup>86</sup> HRH Prince Charles Kayondo Keith Kamorasi, *Omujuwera Musuuga* (Head of Babiito Royal Clan), interview by author, 10 July 2008, Fort Portal, Uganda.

leaders because “traditional mechanisms would be difficult to regulate,”<sup>87</sup> the codification of such rituals “sets up an expectation of rules, through more ceremonies, and rules to follow.”<sup>88</sup>

The traditional and cultural institutions have taken an interest, too, in development, as recognized by the Ministry of Gender, Labour and Social Development.<sup>89</sup> “If we want to own our development, culture is a must.”<sup>90</sup> And so attention is being paid, and resources directed to, fields including traditional medicine<sup>91</sup> and other aspects of development including gender, the environment, governance, and artisanal creations.<sup>92</sup>

All of the traditional and cultural leaders also remain committed to pursuing “peace”. “Traditional leaders need to be involved in the peacebuilding process. The Kingdoms could do so much to bring lasting peace.”<sup>93</sup> As such, they regularly lobby MPs for peace. For example, traditional cultural institutions from Teso and Karamoja negotiated the Magoro Peace Accord.<sup>94</sup> Indeed, the officially-recognized traditional cultural institutions see themselves as specially-equipped to lead national efforts at reconciliation. The Acholi held a *wang oo*<sup>95</sup> in March 2007, “organized by the Acholi cultural leader, Rwot David Onen Acana”<sup>96</sup> as a buffer between the Ugandan and LRA delegations at the peace talks in Juba, South Sudan. Delegations from the

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<sup>87</sup> Billy Kainamura, Acting Director, Legal Advisory Services, Ministry of Justice, interview by author, 04 July 2008, Kampala, Uganda.

<sup>88</sup> Lyandro Komakech, Research and Advocacy Officer, Refugee Law Project, interview by author, 25 June 2008, Kampala, Uganda.

<sup>89</sup> Rukia Nakadama, Minister of State for Gender, Labour, and Social Development, “Opening Address,” *Cultural Development: A Must for Sustainable and Equitable Transformation*, National Theatre, 03 July 2008, Kampala, Uganda.

<sup>90</sup> John De Coninck, Cross-Cultural Foundation of Uganda, interview by author, 15 July 2008, Kampala, Uganda.

<sup>91</sup> “Promoting Herbal Medicine in Uganda,” *Culture in Development Series: HIV/AIDS* (Kampala: Cross-Cultural Foundation of Uganda, 2008).

<sup>92</sup> *Culture in Development in Uganda: Experiences and Prospects* (Kampala: Cross-Cultural Foundation of Uganda, 2008).

<sup>93</sup> Dominic Oburu, Minister of General Duties, *Tieng Adhola*, interview by author, 08 July 2008, Tororo, Uganda.

<sup>94</sup> Frances Akello, Deputy Minister for Finance, Planning and Economic Development, Iteso Cultural Union, interview by author, 05 July 2008, Soroti, Uganda.

<sup>95</sup> The *wang oo* is a traditional talk held in a communal fire place. The *wang oo* held in March 2007 was organized as a larger peace conference.

<sup>96</sup> Gloria Laker, “LRA shun Acholi meeting in Juba,” *New Vision (Uganda)*, 4 March 2007.

office of the Acholi Paramount Chief,<sup>97</sup> were present in Juba throughout the talks, acting almost as shock absorbers between the two parties. In May 2008, the Acholi Paramount chief and the other traditional cultural institutions came together with the Government of Uganda to promulgate the Lira Declaration, a document that commits the traditional cultural institutions to efforts aimed at the betterment of their peoples through the promotion of peace, social justice and development, and in which the Government committed to support Traditional cultural institutions.<sup>98</sup>

One of the most significant outcomes of the Juba Agreements in this regard is the inclusion of customary justice practices—included because the traditional cultural leaders of Acholi were present throughout the talks and persuaded LRA/M and Government negotiators to include them. The Agreement commits the Government to “examine the practices of traditional justice mechanisms in affected areas, with a view to identifying the most appropriate roles for such mechanisms...”<sup>99</sup> The “Principal Agreement” recognizes that the legal framework must be substantially altered to incorporate these mechanisms.<sup>100</sup> The difficulty lies in the fact that codification of these rituals poses significant problems. Formalizing the existing mechanisms could force changes to the ways in which they operate.<sup>101</sup> As is evident in the inclusion of *okukaraba* (a traditional judicial practice used by the Ankole in South-Western Uganda, far removed from the conflict in Northern Uganda) in the Agreement, it “was added to ensure

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<sup>97</sup> Paul Harera, Richard Linga and Frank Nyakairu, “Juba talks resume this week, says Dr. Machar,” *The Monitor (Kampala)*, 04 Mar. 2007.

<sup>98</sup> Uganda Traditional cultural institutions and Leaders and Government of Uganda, *The Lira Declaration*, 05 May 2008.

<sup>99</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Annexure to the Agreement on Accountability and Reconciliation” (Juba, 19 Feb. 2008), Art.20.0.

<sup>100</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Agreement on Accountability and Reconciliation,” (Juba, 29 June 2007), Art.4.4, 5.1.

<sup>101</sup> *Ibid.*, Art.3.1.

national reconciliation, so all Ugandans could be reconciled. There was a lot of debate about it.”<sup>102</sup> The voices of the traditional leaders present in Juba were heard, at least on this point.

### Coopting Traditional Cultural Institutions

The Government of Uganda is playing a significant role in the workings of traditional cultural institutions. The Minister of State for Gender, Labour, and Social Development, under which Traditional cultural institutions are regulated, called on traditional cultural institutions to “continue with [their] positive values. Traditional and cultural institutions are helping us so much.”<sup>103</sup> But far from being arm’s-length regulators, the Government of Uganda has actually inserted itself in the day-to-day workings of the traditional cultural institutions themselves. As a result, “cultural leaders have learned to do [their work] within the divisions of the state.”<sup>104</sup>

For example, “traditional leaders and institutions [are] financially provided for”<sup>105</sup> by the Government of Uganda. According to one official, “the Government financially supports the cultural leaders at 5,000,000/= per month. The support is limited to the leader. The President didn’t want [the cultural leaders] to start begging, so gave them a stipend to make them comfortable so they can get respect.”<sup>106</sup> In addition, the Government has pledged to support institutional programming originating within the traditional cultural institutions, including community mobilization for health improvement, language, education, sports, and music. Yet

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<sup>102</sup> Christopher Gashirabake, Ministry of Justice and Constitutional Affairs, interview by author, 04 July 2008, Kampala, Uganda.

<sup>103</sup> Rukia Nakadama, Minister of State for Gender, Labour, and Social Development, “Opening Address,” *Cultural Development: A Must for Sustainable and Equitable Transformation*, National Theatre, 03 July 2008, Kampala, Uganda.

<sup>104</sup> Watsuna Khamalwa, Makerere Institute of Languages, Coordinator for Social Anthropology, interview by author, 27 June 2008, Kampala, Uganda.

<sup>105</sup> President Yoweri Museveni, *News Release: A FEDERO Statement*, State House: The Republic of Uganda, 10 Sep. 2004.

<sup>106</sup> Confidential interview by author with Ministry of Gender, Labour and Social Development official, 20 June 2008, Kampala, Uganda.

this funding has been divisive within the traditional cultural institutions, in large part because it is merely a “tokenistic” amount.<sup>107</sup>

In return, the Government works with the traditional cultural institutions on issues of common interest. “Some activities [the traditional cultural institutions] are carrying out on behalf of Government and donors.”<sup>108</sup> “The Amnesty process [for example] began by advocacy from the traditional cultural institutions and the Acholi Religious Leaders’ Peace Initiative in the Acholi sub-region,”<sup>109</sup> the Chairman of the Amnesty Commission has revealed. “We rely on customary chiefs to help us.”<sup>110</sup>

In other instances, Government officials rely on traditional cultural institutions to assist in implementing their policies. “Museveni knows the kings have a great deal of influence on people.”<sup>111</sup> Indeed, traditional cultural institutions give authority to the Government of Uganda, which many see as having been somehow grafted on to traditional power structures. The former Minister of State for Karamoja, for example, emphasized that “must know how to call the elders... because they give government officers the authority to talk.”<sup>112</sup> His successor reiterated that “as Minister, you have to go through the system of blessing and initiating you into their culture. The *akiriket* (council of elders) has to bless any project originating in the Office of the Prime Minister so it could be taken over. So now it is their own because you have the blessing of the elders.”<sup>113</sup> The Amnesty Commission, too, relies on traditional cultural institutions to forward its agenda: “While persuading the rebels to abandon conflict in the community, the

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<sup>107</sup> John De Coninck, Cross-Cultural Foundation of Uganda, interview by author, 15 July 2008, Kampala, Uganda.

<sup>108</sup> HRH Prince Charles Kayondo Keith Kamorasi, *Omujuwera Musuuga* (Head of Babiito Royal Clan), interview by author, 10 July 2008, Fort Portal, Uganda.

<sup>109</sup> Jus. P.K.K. Onega, Chairman, Amnesty Commission, interview by author, 03 July 2008, Kampala, Uganda.

<sup>110</sup> Jus. P.K.K. Onega, Chairma, Amnesty Commission, interview by author, 28 Oct. 2004, Kampala, Uganda.

<sup>111</sup> Confidential interview by author with Mutooro man working for faith-based NGO, 24 June 2008, Kampala, Uganda.

<sup>112</sup> Hon. Peter Lokeris, Minister of State for Primary Education, interview by author, 02 July 2008, Kampala, Uganda.

<sup>113</sup> Hon. Aston P. Kajara, Minister of State for Karamoja, interview by author 30 June 2008, Kampala, Uganda.

traditional leaders have been persuading the community to accept the rebels back in, after amnesty. We use them to prepare the community.”<sup>114</sup> The policy of the Amnesty Commission is that “the traditional cultural institutions are very strong organizations in their areas, so we say ‘We would like you to help us know how to bring peace in your own area, because your people are going to obey and respect what you tell them. If we come through you, we are likely to get peace in this area.’”<sup>115</sup>

Certainly, this is the case with the traditional justice practices promised in the Agreement on Accountability and Reconciliation between the Government and the Lord’s Resistance Army, signed in Juba. It is the position of the Ministry of Justice and Constitutional Affairs that “traditional leaders will need to handle traditional mechanisms. A perpetrator may be acquitted by the court, but must still appear before the *mato oput*. He may be punished legally, but must still have culture applied.”<sup>116</sup>

Far from being a secret, the Government officials to whom I spoke were very open about this involvement. This could, in fact, simply be the case that people respect the traditional cultural institutions, and so the Government respects them too. “The word of the [traditional] leaders is final, and the people will respect them.”<sup>117</sup> Yet it seems, somehow, to go deeper: “Museveni is anti-culture. He has got his own reasons”<sup>118</sup>—a sentiment echoed by many.

And the leaders of the traditional cultural institutions seem comfortable with this arrangement. For now. But one can only imagine the turmoil that will be created if and when the GOU asks Traditional cultural institutions to support policies that it does not want to

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<sup>114</sup> Jus. P.K.K. Onega, Chairman, Amnesty Commission, interview by author 03 July 2008, Kampala, Uganda.

<sup>115</sup> Moses Draku, Principal Public Relations Officer, Amnesty Commission, interview by author 07 July 2008, Kampala, Uganda.

<sup>116</sup> Christopher Gashirabake, Ministry of Justice and Constitutional Affairs, interview by author, 04 July 2008, Kampala, Uganda.

<sup>117</sup> John De Coninck, Cross-Cultural Foundation of Uganda, interview by author, 15 July 2008, Kampala, Uganda.

<sup>118</sup> Confidential interview by author with TCI official, 25 June 2008, Kampala, Uganda.

support—even as the GOU continues to pay the monthly stipend on which the leaders of traditional cultural institutions have come to depend. This is, seemingly, another open secret: “Museveni brought the kingdoms on, but he had certain aims in doing so. He says, ‘If you don’t cooperate, we can always reverse you’ and that kind of thing.”<sup>119</sup>

### Implications for Transitional Justice

This paper has spent considerable effort outlining the situation as it existed at the time of writing for traditional cultural institutions in Uganda. But I have also attempted to demonstrate their attitudes and objectives, in light of the considerable pressure that they face from “being in bed” with the Government of Uganda. I believe that these circumstances have exerted considerable force on the political situation surrounding the use of traditional practices of acknowledgement in that country.

Beyond that, however, there are a number of implications for transitional justice in Uganda—and more broadly—that must be explored:

First, it is clear that the traditional cultural institutions—those that are officially recognized—have only a tenuous grasp on the use of these practices. Although Government officials have repeatedly said that such practices are within the purview of the traditional cultural institutions, the Government is now set to attempt to codify and/or formalize the use of such traditional practices of acknowledgement without much, if any, input from the traditional cultural institutions themselves. Traditional cultural leaders have been left out of the JLOS Transitional Justice Working Group altogether.<sup>120</sup>

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<sup>119</sup> Confidential interview by author with Mutooro man working for faith-based NGO, 24 June 2008, Kampala, Uganda.

<sup>120</sup> Hon. Jus. James Ogoola, Principal Justice, High Court and Chairman, Transitional Justice Working Group, interview by author, 25 Sep. 2008, Kampala, Uganda.

Second, traditional cultural institutions themselves wield enormous influence. Or at least that is the widely-held perception. It is commonly understood that even Joseph Kony, before embarking on his rebel crusade, sought (and received) the blessing of the Acholi elders in his attempt to oust Museveni from government.<sup>121</sup> It is certainly the case that the Government of Uganda needs traditional cultural institutions to make any of a number of moves, from the implementation of policy to “selling” its various ideas among the populace. Paradoxically, given the first assertion, above, the implications of this are enormous, in that traditional cultural institutions and their leaders could, at least in theory, capitalize on this influence with the Government in promoting their own agendas.

Third, traditional practices are set to be included in an official strategy of transitional justice. Although there is some debate as to how Uganda’s traditional practices are different from, for example, Rwanda’s *gacaca* courts,<sup>122</sup> this marks the first time that the International Criminal Court will be asked to rule on the use of such courts. Within the International Criminal Court framework, it remains to be seen whether these traditional practices of acknowledgement will meet the Complementarity Principle after all.

Fourth, the Report of the Secretary-General in 2004<sup>123</sup> called for “local” solutions to issues of transitional justice. To be sure, the inclusion of traditional practices at all stems directly from the involvement of the traditional cultural institutions and their leaders in the Juba talks. And from their influence on both parties. This very “local” solution will test the Secretary-General’s foundational principle.

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<sup>121</sup> Lyandro Komakech, Research and Advocacy Officer, Refugee Law Project, interview by author, 25 June 2008, Kampala, Uganda.

<sup>122</sup> Joanna R. Quinn, “Here, Not There: Theorizing about why traditional mechanisms work in some communities, not others,” a paper presented at the Canadian Political Science Association Annual Meeting, 06 June, 2007.

<sup>123</sup> United Nations Secretary General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, 23 Aug. 2004, S/2004/616.

Fifth, and finally, Uganda is a test case in many ways. Of course, Uganda marks a pre-transitional case of transitional justice—or it may simply be that Uganda’s transition has lasted for more than 40 years! But it is ultimately a test case for the International Criminal Court, which is trying to find its feet and establish critically-needed sound precedents. And so it is entirely possible that the International Criminal Court may reject the very notion of Ugandan institutions meeting the Complementarity requirements at all, and the arrangements being put in place under the War Crimes Division (including provision for traditional practices of acknowledgement) may be shelved. It remains to be seen whether the Government of Uganda will deign to honour the agreements in made in Juba if the International Criminal Court removes the power of prosecution—at least for Kony and the other LRA leaders indicted by the Court. The fact that the Government of Uganda did little to end this conflict or to prosecute its perpetrators prior to the interest of the International Criminal Court<sup>124</sup> speaks volumes.

But all of this has, at the very least, sparked an interesting debate...

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<sup>124</sup> Museveni officially referred the situation to the ICC in December 2003. It has been commonly assumed that Museveni approached the Court first. Information has recently surfaced that the Chief Prosecutor actually approached Museveni to ask him to refer the situation. See Nicholas Waddell and Phil Clark, eds., *Courting Conflict? Justice, Peace and the ICC in Africa* (London: Royal African Society, March 2008), 43. There is a great deal of debate about what this discrepancy means, and what impact it may have on the prosecutions and beyond.