

# **The Supposed Accountability/Peacebuilding Dilemma: The Case of Uganda<sup>1</sup>**

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The literature on transitional justice and peacebuilding has tended to assert two competing claims: either that attempting to promote accountability would undermine peacebuilding efforts, or that accountability is essential to peacebuilding. Yet in Uganda, transitional justice and peacebuilding have been intricately linked—largely, to the detriment of both. The Government of Uganda does not appear to distinguish between peacebuilding and transitional justice, and these goals are not distinguished from other development and poverty eradication plans. This paper examines the policies and programmes of the Government of Uganda (GOU), looking specifically at a number of activities that are carried out ostensibly in support of both sets of objectives.

In Uganda, a number of circumstances exacerbate problems with the peacebuilding and transitional justice policies of the GOU. All of these serve to make these policies much less effective. The first is the necessity of and presence of international donors and NGOs, which do a lot of the “heavy lifting” in the country. That is, the Government of Uganda has abdicated much of the responsibility for programming in these areas—and it has been more or less allowed to do so because other agencies have stepped in to provide such services. For example, the international donor community provided 36% of the budget of the Uganda Human Rights

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Commission in 2008, which was used to fund “core activities” of the UHRC.<sup>3</sup> The *Peace Recovery and Development Plan for Northern Uganda* (PRDP) acknowledges that “Northern Uganda has a large number of national and international actors providing humanitarian, recovery and development support to war-affected communities.”<sup>4</sup> And the document further specifies that humanitarian agencies have been responsible for “life-saving support and relief.”<sup>5</sup>

The second exacerbating condition is the uncoordinated approach being pursued by the GOU. Indeed, this is common in nearly every sector, but seems particularly striking in policies surrounding transitional justice and peacebuilding. In this instance, even the Government of Uganda admits that

[a] major shortcoming in the current institutional arrangements has been the lack of an agreed framework, strategy and targets for coordinating interventions in the North by the various stakeholders. This has made it difficult for Government to assess the amount of resources that have been utilized to address humanitarian and development needs and the impact derived thereof. The situation has been further complicated by the plethora of initiatives and implementation committees that are operating simultaneously but in parallel within the same region organized along geographical, sectoral and functional lines.<sup>6</sup>

Various agencies at both the national and local levels have taken up portions of the work, including the Ministry of Disaster Preparedness, Uganda People’s Defence Force (UPDF), and National Security Council.<sup>7</sup>

The third condition exacerbating efforts at peacebuilding and transitional justice is that the GOU is trying to serve many masters. The International Monetary Fund (IMF), for example, holds the GOU captive to its Poverty Reduction and Growth Facility—pushing for particular

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<sup>3</sup> Uganda Human Rights Commission, *11th Annual Report of the Uganda Human Rights Commission to the Parliament of the Republic of Uganda* (Kampala: UHRC, 2008), 148-151.

<sup>4</sup> Republic of Uganda, *Peace, Recovery and Development Plan for Northern Uganda (PRDP) 2007-2010* (Kampala: Government of Uganda, September 2007), 28.

<sup>5</sup> *Ibid.*, 20.

<sup>6</sup> *Ibid.*, 103.

<sup>7</sup> *Ibid.*, 103-105.

goals and objectives to be sought and reached.<sup>8</sup> Uganda's complex relationship with the International Criminal Court, too, has caused it to pursue accountability in ways that clearly contradict those previously enacted, such as the referral of the situation in Northern Uganda to the ICC in December 2003, which contravened the Amnesty Act proclaimed in 2000.<sup>9</sup>

Fourth, for several reasons, the GOU's strategies have been largely ineffective. This is in part because development needs are astounding; indeed, the problems in Northern Uganda have been disaggregated from development policies in the rest of the country.<sup>10</sup> Conflict in Northern Uganda has not yet technically stopped and agreements on cessation of hostilities have not been signed, although at the time of writing, the Lord's Resistance Army is now waging war and committing abuses in the Democratic Republic of Congo and Central African Republic. And the GOU continues to exaggerate some problems, while underestimating others to its political advantage; for example, the *Poverty Eradication Action Plan* (PEAP) says that "5% of the population has been displaced,"<sup>11</sup> while that number in Northern Uganda alone represents 1.8 million or more than 80% of the population of that region.<sup>12</sup>

Fifth, and perhaps most obvious, is the serious nature of under-development as it intersects with long-standing conflicts that have taken place throughout the country. It is the case that Uganda is not yet technically a country in transition; as Robinson has suggested, it is a

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<sup>8</sup> International Monetary Fund, "Press Release No. 06/14: IMF Executive Board Completes Final Review of Uganda's PRGF Arrangement and Approves 16-month Policy Support Instrument," 24 Jan., 2006 [press release online]; available from [www.imf.org/external/np/sec/pr/2006/pr0614.htm](http://www.imf.org/external/np/sec/pr/2006/pr0614.htm); accessed 6 Feb. 2010.

<sup>9</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 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.

<sup>10</sup> Republic of Uganda, *PRDP*, 103.

<sup>11</sup> Ministry of Finance, Planning and Economic Development, Government of Uganda, *Poverty Eradication Action Plan (2004/5-2007/8)*, IMF Country Report No. 05/307 (Washington, D.C.: IMF, Aug. 2005), 99.

<sup>12</sup> Geresome Latim, Secretary to the Paramount Chief of Acholi, interview by author, 22 Nov. 2004, Gulu town, Uganda; also World Vision, *Pawns of Politics: Children, Conflict and Peace in Northern Uganda* (Kampala: World Vision, 2004), 4.

country in the “pre-transition” phase.<sup>13</sup> And so it is likely that the conditions that exist surrounding transitional justice efforts have caused myriad difficulties.

These factors serve to aggravate and intensify the problems with peacebuilding and transitional justice strategies in Uganda. As mitigating explanations, they are important. They are, however, equally important as a lens through which to look when considering how the GOU has responded to these goals and objectives.

### **Background and History of Conflict in Uganda**

Extolled as the “pearl of Africa” by explorer Henry Stanley, Uganda’s beauty belies a modern history filled with conflict and violence. The country’s relatively peaceful colonization by the British in 1894 was soon followed by bloodshed and war among the 56 different ethnic groups that co-exist within the country’s boundaries. The on-going conflict in Northern Uganda is yet another in a series of conflicts drawn loosely along ethnic and geographic lines.

The country declared Independence from the British in 1962, under newly-minted Prime Minister Milton Obote. Obote’s first term in power was characterized by significant numbers of riots and armed attacks.<sup>14</sup> Much of this violence was in protest of his consolidation of power throughout the country.

In 1971, his army commander, General Idi Amin Dada, overthrew Obote and seized power. He then began a reign of terror, systematically murdering and torturing those he considered to stand in his way.<sup>15</sup> He targeted those who were seen to have supported Obote,

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<sup>13</sup> Darryl Robinson, presentation at the conference, “Cross-Purposes? International Law and Political Settlements,” held by the Nationalism and Ethnic Conflict Research Group, The University of Western Ontario, 9 June, 2007.

<sup>14</sup> Dirk Berg-Schlosser and Rainer Siegler, *Political Stability and Development: A Comparative Analysis of Kenya, Tanzania and Uganda* (Boulder: Lynne Rienner Publishers, 1990), 196.

<sup>15</sup> Nancy G. Wright, “Uganda: History From 1971,” *Encyclopedia of Africa South of the Sahara*, ed. John Middleton (New York: Charles Scribner’s Sons, 1996) 306.

especially people of Acholi and Langi descent, many of whom had tended to dominate the military. In 1972, Amin expelled more than 70,000 Asians who living in Uganda, confiscating their property and businesses. During this time, soldiers and police conducted brutal campaigns of torture.<sup>16</sup> The number of people who were killed during this period is estimated at between 300,000<sup>17</sup> and 500,000,<sup>18</sup> earning Amin the nickname “the butcher.”

After a bitter conflict involving Tanzanian government forces, Amin’s forces were defeated in 1979. Interim governments were appointed in 1979 and 1980. As the result of rigged elections in 1980, Obote returned to power. The country was once again the target of extreme violence and abuse, this time far worse than anything experienced during Obote’s first term in office. The paramilitary apparatus of the state again began its practice of routinely violating human rights, by means of rape, torture, looting and destruction of property.<sup>19</sup> The scale of repression and abuse was roughly the same as it had been under Amin, only this time with a heightened and reinvigorated fury. Conservative estimates again place the number of those killed during this period at approximately 300,000<sup>20</sup> to 500,000.<sup>21</sup> Obote remained in office until July 1985 when he was overthrown, again by a faction of the Ugandan military. From July 1985, a military council governed for six months, until it, too, was overthrown.

At the head of the victorious National Resistance Movement (NRM, formerly the National Resistance Army – NRA) was Yoweri Museveni. When he seized power in 1986, he abolished all political parties except his own. He and his troops had been fighting against the regimes of Amin and Obote, as well as the transitional regimes, in Uganda since 1971. In 2006,

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<sup>16</sup> Berg-Schlosser and Siegler, 199; Edward Khiddu-Makubuya, “Paramilitarism and Human Rights,” in *Conflict Resolution in Uganda*, ed. Kumar Rupesinghe (Oslo: International Peace Research Institute, 1989) 141-157.

<sup>17</sup> Philip Briggs, *Uganda* (Old Saybrook, CT: The Globe Pequot Press, 1998) 23.

<sup>18</sup> Yoweri Kaguta Museveni, *Sowing the Mustard Seed* (London: Macmillan, 1997) 41.

<sup>19</sup> Berg-Schlosser and Siegler, 199; Khiddu-Makubuya, “Paramilitarism,” 153.

<sup>20</sup> *Uganda* (Brooklyn: Interlink Books, 1998) 53; Thomas P. Ofcansky, *Uganda: Tarnished Pearl of Africa*. (Boulder: Westview, 1996), 55.

<sup>21</sup> Abdul Nadduli, LC5 District Chairman, interview with author, 17 Nov. 2004, Luweero town, Uganda.

Museveni remained in power after several controversial changes of the country's constitution, and contentious elections.<sup>22</sup>

As with his predecessors, Museveni has continued to face considerable opposition from many of the 56 different ethnic groups throughout the country. Between 1986 and 2006, Museveni faced more than 20 armed insurgencies.<sup>23</sup> One of the longest-lasting, and most devastating is the conflict in northern Uganda. "The conflict in Acholiland began soon after Uganda's last regime change in January 1986. It was triggered [in part] by the NRM's methods for consolidating control over the northern parts of the country."<sup>24</sup> Joseph Kony, leader of the Lord's Resistance Army (LRA), abducted children to conscript into his rebel forces, the boys act as soldiers, and the girls to be used by him and his fellow rebels as their wives, as well as carriers of supplies and even soldiers. He and his troops perpetrated brutal abuses on the people of northern Uganda. Abducted child-soldiers themselves are often forced to commit the most heinous of acts, and often against their own families.<sup>25</sup> In one community, for example, 79% of

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<sup>22</sup> Museveni was returned to power in the first multi-party elections since his accession to power on 23 February 2006, reportedly with 59% of the vote. At the time of writing, the results of the election are being officially contested by Museveni's chief political rival, Kizze Besigye.

<sup>23</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.

<sup>24</sup> Catherine Barnes and Okello Lucima, "Introduction," *Accord* (2002) 11: 1.

<sup>25</sup> Lucy Hovil and Joanna Quinn, *Working Paper 17: Peace First, Justice Later* (Kampala: Refugee Law Project, July 2005), 3.

people reported having witnessed torture, 40% had witnessed killing, and 5% had been forced to physically harm another.<sup>26</sup>

Northern Uganda has been decimated by this conflict, which “has over the years spread across the entire northern region and parts of the east.”<sup>27</sup> It is worth noting here that that part of the population which is now more than twenty years old and younger has never known anything but the conditions of war and insecurity. Between 30,000 and 45,000 children have been abducted by the LRA,<sup>28</sup> which resulted in the phenomenon of “night commuting” wherein an estimated 25,000 children living in these areas walked for miles each night to sleep in the relative safety of centres guarded by the Ugandan military, to avoid being abducted.<sup>29</sup>

At the height of the conflict, it was estimated that 1.8 million<sup>30</sup> people were internally displaced (IDP) within the region and living in ostensibly protected camps for the internally displaced, a figure which represented more than 80% of the region’s population. These camps are an “integral part of the Ugandan government’s anti-insurgency policy. In some places, anyone who refused to move from their rural homes was forcibly displaced.”<sup>31</sup> Effectively, the people were “herded into camps where they [were forced to] survive on relief aid.”<sup>32</sup> Reports estimated that 1000 people died each week as a result of the deplorable conditions within the

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<sup>26</sup> Tim Allen, *War and Justice in Northern Uganda: An Assessment of the International Criminal Court’s Intervention* (London: Crisis States Research Centre, Development Studies Institute, London School of Economics, Feb. 2005), 24.

<sup>27</sup> UN Office for the Coordination of Humanitarian Affairs, “Uganda: War-ravaged north rues Museveni win,” IRINnews.org (1 March 2006); available from [www.irinnews.org/print.asp?ReportID=51960](http://www.irinnews.org/print.asp?ReportID=51960); accessed 10 March 2006.

<sup>28</sup> Tim Allen points out that “the scale of abduction is a matter of speculation” due to insufficient monitoring. See Allen, *War and Justice in Northern Uganda*, iii.

<sup>29</sup> “When the sun sets, we start to worry...”: *An Account of life in Northern Uganda*, OCHA/IRIN, November 2003, 8.

<sup>30</sup> Geresome Latim, Secretary to the Paramount Chief of Acholi, interview by author, 22 Nov. 2004, Gulu town, Uganda; also World Vision, *Pawns of Politics: Children, Conflict and Peace in Northern Uganda* (Kampala: World Vision, 2004), 4.

<sup>31</sup> Allen, *War and Justice in Northern Uganda*, 23.

<sup>32</sup> Moses Odokonyero, “Acholi’s political ‘Elephant breed’ fails,” *The Monitor* (Kampala), 10 March 2006.

camps.<sup>33</sup> A clear disconnect continues to exist between northern Uganda and the rest of the country. As one human rights activist said, “We... have two countries in one—the north and the south. This is true politically and economically.”<sup>34</sup> It has become increasingly apparent that the people of northern Uganda now living in camps may never be able to return to their homes.<sup>35</sup>

In this case, enforced ‘communities’ that have sprung up within the IDP camps may be formalised, and the camps themselves will become permanent. If this happens, the forcible dislocation of people from their traditional homes and *gemeinschaft*<sup>36</sup> communities could further hamper the process of attaining freedom from war. Furthermore, the situation of permanent displacement is likely to have a direct impact on the economic sustainability of the region: as urban centres grow and the needs of a population unable to grow its own food or provide for other basic requirements multiply, the need for skilled workers is likely to increase. Meanwhile, the majority of those living in the camps at present possess none of the knowledge required, and thus it is likely, at least for this generation, that those living in IDP camps will be reliant on additional assistance from others.<sup>37</sup>

Although Kony and the LRA have moved on to DRC and CAR, in reality, however, the war is far from over. It is not known precisely how many rebel soldiers remain “in the bush”—a local colloquialism that refers to the theatre of war—with the LRA; estimates range from 200 to 20,000. But a succession of peace talks held over the years have broken down, including those begun in 2006 between the LRA and the Government of Uganda and held in Juba, South Sudan. Although five separate agreements were signed during those talks, no comprehensive peace agreement was ever reached.

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<sup>33</sup> Betty Bigombe and John Prendergast, “Stop the Crisis in Northern Uganda,” *The Philadelphia Inquirer*, 21 February 2006.

<sup>34</sup> James Otto quoted in UN Office for the Coordination of Humanitarian Affairs, “Uganda: War-ravaged north rues Museveni win.”

<sup>35</sup> “UNDMT Technical Group Status Report: Preparatory Planning for Displaced Persons” as cited in Chris Dolan, “Understanding War and Its Continuation: The Case of Northern Uganda,” (Ph.D. diss., University of London, 2005), 167.

<sup>36</sup> Ferdinand Tönnies divided societies into two distinct groups: “*Gemeinschaft* society is one in which people live together in primary groups, tightly wound around the institutions of kin, community and church... In *gesellschaft* society, by contrast, people frequently leave their primary groups for association with people who may be strangers. One chooses one’s occupation, place of residence, and marriage partner. Ties to primary kin, place of origin, and church are loose and may be cut off entirely.” See Rhoda E. Howard, *Human Rights and the Search for Community* (Boulder: Westview, 1995) 25-26.

<sup>37</sup> Hovil and Quinn, *Peace First. Justice Later*, 9.

## Strategies and Programmes of GOU

The Government of Uganda has implemented a number of policies and procedures to deal with peacebuilding and transitional justice. These are sometimes presented as part of larger policies that deal with overall development and poverty eradication—although the GOU does acknowledge the inappropriateness of a development framework for dealing with conflict-related problems.<sup>38</sup> For example, a considerable number of the detailed policies surrounding peacebuilding and transitional justice are contained in the *Poverty Eradication Action Plan* and the *Peace, Recovery and Development Plan for Northern Uganda*. Beyond that, peacebuilding and transitional justice policies are presented in a sometimes random array of documents that have been implemented on an *ad hoc* and often-contradictory basis over a period of years. These policies are discussed below.

### *Peace, Recovery and Development Plan for Northern Uganda*

“The PRDP has been prepared on the basis of lessons that have been learnt [*sic*] from the implementation of a plethora of programmes in the North by various actors. In light of these lessons the PRDP has been launched to address a number of key issues [including] conflict, growth and prosperity... [and] political, security and development links.”<sup>39</sup> These are attributed to “a 14-point strategy set out by H.E. President for the recovery of the North.”<sup>40</sup> The document is intended to be in force from 2007-2010.

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<sup>38</sup> Republic of Uganda, *PRDP*, 20.

<sup>39</sup> *Ibid.*, vi.

<sup>40</sup> Museveni’s fourteen points include the following: 1. elimination of the terrorist threat to stability; 2. building of security and access roads; 3. provision of water; 4. revival and re-enhancement of education; 5. provision of emergency relief; 6. health, immunisation and educational outreach including an all-out war against HIV/AIDS; 7. farming with oxen and ploughs for food security and income generation among the poor; 8. provision of light processing facilities such as rice hurlers and maize millers; 9. enhanced micro-finance for micro-business by ex-LRA; 10. re-education and re-orientation of the minds and hearts of the population towards peace and development rather than war and psychosocial counselling for children and others rescued from LRA fighting ranks; 11.

The PRDP lays out four strategic objectives, including the following:

- consolidation of state authority,
- rebuilding and empowering communities,
- revitalization of the economy,
- and peace building [*sic*] and reconciliation<sup>41</sup>

Each of these objectives has responsibility for some of the many elements of peacebuilding and transitional justice being carried out. Sometimes, a number of these are addressed by more than one of the strategic objectives. For the purposes of this paper, two of the strategic objectives have the most relevance: consolidation of state authority, and peacebuilding and reconciliation.

The first of these, the consolidation of state authority, seeks to expand police, judicial and prison services, and strengthening local administration. As related to the kinds of activities normally found within initiatives of peacebuilding and transitional justice, this includes the facilitation of peace agreement initiatives, and the enhancement of police, judicial services, prisons, auxiliary forces, and local government. This includes gradual demilitarization and greater or lesser deployment of the Uganda People's Defence Force in various sub-regions.

The second, peacebuilding and reconciliation, seeks to address conflicts and build trust and reconciliation in the community through the improvement of local governance. Peacebuilding and transitional justice activities include public information, education and communication and counselling programmes, and demobilization and re-integration of ex-combatants programmes. There is an intended special focus on what the *PRDP* calls conflict management capacity, rebuilding social capital, and post-conflict stabilization.

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vocational/skills training especially for young people; 12. outreach to the local population; 13. beginning with industrialisation in Northern Uganda by, for instance, helping the sugar industry... and a biofuel industry... and a fruit processing factory...; 14. hydro-power development...; Republic of Uganda, *PRDP*, 18-19.

<sup>41</sup> *Ibid.*, vii-viii.

## *Poverty Eradication Action Plan*

The *Poverty Eradication Action Plan* is Uganda’s Poverty Reduction Strategy Paper, and was prepared “in broad consultation with stakeholders and development partners, including the staffs of the World Bank and the IMF. Updated every three years with annual progress reports, [it] describe[s] the country’s macroeconomic, structural, and social policies in support of growth and poverty reduction, as well as associated external financing needs and major sources of financing.”<sup>42</sup>

President Museveni states that the remaining challenges facing Uganda include the consolidation of national security, dealing with the consequences of conflict, and improving regional equity; restoring sustainable growth in the incomes of the poor; building strong social and economic infrastructure; enhancing human development; and using public resources more efficiently.<sup>43</sup> It is important, here, to note the IMF and World Bank-friendly language as different from the language regularly used by Museveni and others in articulating the challenges faced by the country. Indeed, the *PRDP* explicitly addresses the “multiple-track GoU strategy” being pursued through both the *PRDP* and the *PEAP*—which is mandated by the IMF and World Bank—simultaneously.<sup>44</sup>

The goals of the *PEAP* are arranged in five pillars:

- economic management,
- production, competitiveness and incomes,
- security, conflict-resolution and disaster-management,
- good governance,
- and human development<sup>45</sup>

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<sup>42</sup> Ministry of Finance, *PEAP*, i.

<sup>43</sup> *Ibid.*, ii.

<sup>44</sup> Republic of Uganda, *PRDP*, 16-17.

<sup>45</sup> Ministry of Finance, *PEAP*, xv.

As with the PRDP, many of the objectives and goals seem to flow from one pillar to another. For the purposes of this paper, two of the strategic objectives have the most relevance: security, conflict-resolution and disaster-management; and good governance.

The first of these, security, conflict-resolution and disaster-management, takes an “everything but the kitchen sink” kind of approach, including rebel insurgency, cattle rustling, and prostitution<sup>46</sup>—a real indication that the GOU (or its master, the IMF), has no clear understanding of the complexities of the problems. The pillar aims to address rebel insurgency, future security threats and defence transformation, cattle rustling and disarmament, and disaster preparedness and management—including both prostitution and HIV infection, internal displacement, psycho-social support, and refugee management. These aims are clearly disparate and must surely be addressed by different strategies and under different arms of government, yet are lumped in together.

The second, good governance, includes democracy, human rights, and what is called “Political governance,” as well as justice, law and order, and public accountability and transparency. Its key areas of focus include democratization, constitutional review, electoral politics, political governance, international conventions and national governance, and only scant attention is paid to access to justice, its quality, efficiency, and effectiveness.

### *Amnesty Act*

In November 1999, the Government of Uganda passed the Amnesty Act, which was enacted in January 2000. The Act reads as follows:

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<sup>46</sup> As discussed below, extensive cattle rustling has affected many parts of Northern and North-Eastern Uganda, particularly in areas including Karamoja, but also across the Greater North. It is symptomatic of endemic problems including widespread famine, the proliferation of small arms, modernization, and the disappearance of traditional modes of livelihood.

An amnesty is declared in respect of any Ugandan who has at any time since the 26th day of January, 1986 engaged in or is engaging in war or armed rebellion against the government of the Republic of Uganda by:

- (a) actual participation in combat;
- (b) collaborating with the perpetrators of the war or armed rebellion;
- (c) committing any other crime in the furtherance of war or armed rebellion; or
- (d) assisting or aiding the conduct or prosecution of the war or armed rebellion.<sup>47</sup>

By July 2008, the Amnesty Commission had granted amnesty to 22,107 ex-combatants, called “reporters”.<sup>48</sup>

The amnesty “was conceived as a tool for ending conflict... a significant step towards ending the conflict in the north and working towards a process of national reconciliation.”<sup>49</sup> The Government of Uganda, however, is largely seen to have, at the very best,

ambiguous support for the amnesty process: numerous informants questioned whether or not the government was really serious about the Amnesty. Indeed, since its enactment, the government has never presented a consistent position on the Amnesty... One elderly man in Kitgum articulated a commonly held view: ‘Parliament said [the Amnesty Act] was ok, but the president himself didn’t want it. This is no secret.’<sup>50</sup>

This conception of amnesty is substantially different than amnesties that have been implemented in other situations of transitional justice. The amnesty granted in Chile, for example, was granted to military personnel *after* the conflict was finished, and in *blanket* form, to keep them from being prosecuted in the trials that would come after. The amnesty granted in South Africa as part of the Truth and Reconciliation Commission process was granted on an *ad hoc* basis in exchange for testimony. The amnesty in Uganda has been declared *before* the end of the conflict. While people in Uganda appear to perceive of the amnesty as having been very much a tool to end the war, there is less clarity over the consequences it might have afterward.

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<sup>47</sup> The Republic of Uganda, *Amnesty Act 2000*, Part II.3(1).

<sup>48</sup> Moses Draku, Principal Public Relations Officer, Amnesty Commission, interview by author, 07 July 2008, Kampala, Uganda.

<sup>49</sup> Hovil and Lomo, *Working Paper 15: Whose Justice? Perceptions of Uganda’s Amnesty Act 2000*, 6.

<sup>50</sup> *Ibid.*, 18.

### *Juba Agreements*

The Government of Uganda and the Lord's Resistance Army have met several times in a series of failed peace talks including the Pece Stadium Accord (1988) the Addis Ababa Accord (1990) a series of peace talks (1994)<sup>51</sup> and another set negotiated by Betty Bigombe (2005). The latest round of peace talks began in August, 2006 and petered out by May 2008. These were held in Juba, South Sudan. The Juba talks were brokered by the new Government of South Sudan (GOSS), which "ha[d] a clear interest in ending the threat to regional security the northern Uganda conflict poses."<sup>52</sup> The involvement of GOSS began in May, 2006, when the LRA approached South Sudanese Vice President Riek Machar and asked him to approach the GOU about commencing peace talks.

The GOU and LRA were able to come to some agreement on five agenda items that would need to be brokered at the talks: cessation of hostilities; comprehensive solutions to conflict; accountability and reconciliation; ceasefire; and demobilization, disarmament, reintegration, and resettlement. The first agreement produced by the talks was the "Agreement on Cessation of Hostilities," on 26 August 2006. The second agenda item was agreed upon in the "Agreement on Comprehensive Solutions," signed 2 May 2007. The third agenda item was made manifest in the "Agreement on Accountability and Reconciliation," signed 29 June 2007. Subsequent to that agreement, the parties signed the "Annexure to the Agreement on Accountability and Reconciliation" on 19 February 2008. The fourth agenda item was an "Agreement on a Permanent Ceasefire" on 23 February 2008. The fifth was an "Agreement on Disarmament, Demobilisation and Reintegration," and was signed on 29 February 2008. A sixth

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<sup>51</sup> *Listen to the People: Peace and Reconciliation in Northern Uganda* (Kampala: HURIPPEC, 03 May 2004), 92-93.

<sup>52</sup> Refugees International, *Bulletin: Uganda: Challenges of Peace and Justice* (Washington: Refugees International, 19 Feb. 2008), 1.

agreement was also signed, the “Agreement on Implementing and Monitoring Mechanisms,” on 29 February 2008.

The “Agreement on Accountability and Reconciliation” and the subsequent “Annexure to the Agreement on Accountability and Reconciliation”<sup>53</sup> are reasonably broad in their commitments to justice. For example, none of the references to traditional justice in any way define (nor, contrarily, do they limit) the form that such mechanisms might take, how they would be implemented, or who would have ultimate jurisdiction over them. At the same time, however, they are also specific with regard to the kinds of institutions that are to be established to bring about this kind of justice. The following section attempts to break these down into component parts for a more detailed analysis.

The “Agreement on Accountability and Reconciliation” and the “Annexure” address traditional transitional justice concerns. They lay out Governmental responsibility for bringing various aspects of the system of accountability and reconciliation to fruition. The “Annexure” commits the Government to “expeditiously prepare and develop the necessary legislation and modalities for implementing” all that the two “Accountability Agreements” contain.<sup>54</sup> Indeed, the Government is now obligated to make arrangements for all activities related to justice. These include the enactment of required legislation to provide for the institutions to be created,<sup>55</sup> the adaptation of the existing legal framework to incorporate the terms of the agreements,<sup>56</sup> the designation of an investigations unit,<sup>57</sup> the provision of fair, speedy, and public hearings,<sup>58</sup> and

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<sup>53</sup> In this paper, these two agreements are hereafter referred to as the “Principal Agreement” and the “Annexure,” respectively. Together, they are referred to as the “Accountability Agreements.”

<sup>54</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Annexure to the Agreement on Accountability and Reconciliation” (Juba, 19 Feb. 2008), Art.2.0.

<sup>55</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Annexure,” Art.4.0.

<sup>56</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Agreement on Accountability and Reconciliation,” (Juba, 29 June 2007), Art.4.4.

<sup>57</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Annexure,” Art.10.0.

the amendment of the Uganda Human Rights Commission or the Amnesty Act.<sup>59</sup> On top of these, the Government has guaranteed that it will make arrangements for reparations,<sup>60</sup> and determine the appropriate roles of traditional mechanisms<sup>61</sup> and “promote” them.<sup>62</sup>

The other four agreements conform closely with the kinds of activities normally sought through peacebuilding processes. These include cessation of hostilities, and a permanent ceasefire. They also include, under the heading “comprehensive solutions,” some preliminary power-sharing arrangements, as well as DDR, economic development needs, the recognition of vulnerable groups, and important references to property rights and compensation including land and cattle. The fifth agreement specifically addresses the further specifications of DDR with particular reference to children, youth, women and those with special needs.

#### *International Criminal Court Bill, 2006*

Subsequent to the referral of the situation in Northern Uganda to the Prosecutor of the International Criminal Court, Uganda began the process of amending its national legislation to allow its own national courts to proceed with genocide, crimes against humanity, and war crimes prosecutions and to allow Uganda to fully cooperate with the International Criminal Court. The Court will be eligible to try any crimes committed from 1987, which the GOU considers the beginning of the conflict with the LRA.

The Minister of Justice tabled the 2006 ICC Bill in Parliament in December 2006. The draft bill was given its first hearing by Parliament and then referred to the Legal and Parliamentary Affairs Committee for further consideration. During initial consideration of the bill, the Legal and Parliamentary Affairs Committee found that there were several

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<sup>58</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Principal Agreement,” Art.3.2.

<sup>59</sup> Ibid., Art.14.4.

<sup>60</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Annexure,” Art.16.0.

<sup>61</sup> Ibid., Art.20.0.

<sup>62</sup> Government of Uganda and Lord’s Resistance Army/Movement, “Principal Agreement,” Art.3.1.

key issues that were incompatible with Uganda's municipal law. The Committee therefore referred the Bill to the Uganda Law Reform Commission for further analysis and review. The Uganda Law Reform Commission prepared a report with recommendations to be incorporated into the bill by the Legal and Parliamentary Affairs Committee. However, after being impeded by the elections in 2006, the implementation process is currently being delayed further by the peace negotiations between the government of Uganda and the Lord's Resistance Army (LRA).<sup>63</sup>

Although the Bill has not yet passed into law, the GOU has established a War Crimes Division of the High Court that will be suitable for these kinds of cases. Justices of international stature and with experience in international criminal courts have been appointed.<sup>64</sup> And a roster of staff, including a registry office with a Grade I Magistrate installed as Registrar, an office of the prosecutor, and office of the defence counsel, awaits a case to try.<sup>65</sup> 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 customary law within the War Crimes Division of the High Court and elsewhere, as well as financial and workload considerations.<sup>66</sup>

The policies laid out above are important because, collectively, they detail the GOU's course of action on peacebuilding and transitional justice. As noted at the outset of this paper, far from presenting any kind of dilemma, the inclusion of both peacebuilding and transitional justice in Uganda has been seamless. In fact, both form a central part of Uganda's plan for development.

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<sup>63</sup> Coalition for the International Criminal Court, "Uganda," [summary on-line]; available from <http://www.iccnw.org/?mod=country&iduct=181>; accessed 07 February 2010.

<sup>64</sup> Appointed by Principal Jus. James Ogoola, these are Jus. Dan Akiiki-Kiiza, Head Justice, who served at Sierra Leone's Special Court for Sierra Leone (2004-2006), Jus. Eldad Mwangusya, Deputy Head, and Justice Faith Ibanda Nahamya, who also served at Sierra Leone's SCSL.

<sup>65</sup> Hillary Nsamba, "Ogoola Names Judges on Anti- Corruption, War Crimes Court," *The New Vision*, 1 Oct. 2008; available from <http://www.newvision.co.ug/D/8/12/629897/war%20crimes%20court%20Akiiki-%20kiiza>; accessed 30 Sep. 2008.

<sup>66</sup> 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.

## Peacebuilding and Transitional Justice Activities

Yet the activities carried out by the GOU tell a slightly different story. That is, while the policies tell a story of goodwill and institutional practices intent on remedying the situation in Uganda—and in Northern Uganda, in particular—the Government’s actions are far less promising. On issues including accountability, security-sector reform, DDR, development of the rule of law, land claims, displacement, and cattle-rustling, the Government’s record is far less rosy-looking. Each of these activities is explored below.

### *Accountability*

While the GOU has laid what appears to be a strong foundation for accountability in the country, it is the case that its record of holding to account those who are alleged to have committed criminal acts is, in fact, abysmal. Little or nothing has been done in this regard.

The Lord’s Resistance Army has fought against Museveni almost from the moment that he assumed power. For the most part, however, he has done little to quash their rebellion. One M.P. speculated openly about the reasons why Museveni has done little to end the conflict:

First, he wants to leave the door open for the inflow of international funds, and so fuels the conflict. Second, Museveni knows that the North is full of opposition; if they were pacified, they would mount serious political opposition, so it’s better to keep them disconnected and devastated politically, socially, and economically. Third, ideologically, Museveni believes that an impoverished society is easier to manage, so it’s better to keep the situation in the north in turmoil.<sup>67</sup>

Aside from brutal campaigns waged by the UPDF, such as Operation Iron Fist (2002), Museveni seems to have been reluctant to do anything to halt the conflict with the LRA, or to bring them to justice. Throughout all of their interactions, the UPDF has failed to capture the members of the

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<sup>67</sup> Confidential interview by author with unnamed M.P. from northern municipality, 03 Nov. 2004, Kampala, Uganda.

LRA against whom warrants have been issued. There is wide speculation that Museveni simply lacks the heart for their capture.

In fact, Museveni has backed away from at least two mechanisms of justice and accountability which he put into place. The first is the Amnesty Act (2000), discussed above. As an indication of his unhappiness with the Amnesty process, Museveni formally requested that the ICC investigate the actions of the LRA in December 2003.<sup>68</sup> This meant that the future of the Amnesty process was put in doubt. Yet his subsequent indecision regarding the ICC, the establishment of the War Crimes Division of the High Court, and the mounting speculation that Uganda will appeal to the Pre-Trial Chamber of the Court under the “complementarity” clause of the Rome Statute, or the “admissibility” clause, seem to indicate that Museveni has backed away from the ICC referral as well.

It should be noted that other courts exist for the hearing of lesser cases in this regard—although these are rather dismally understaffed, “inadequate, vandalised and in some places non-existent.”<sup>69</sup> Very few of those cases have, however, ever been heard. Indeed, the Amnesty has removed much of the need for this, since ex-combatants, once granted amnesty, may not be tried for the same crimes.

While it is the case that during the height of the conflict, the community in Northern Uganda claimed to want “Peace First, Justice Later,”<sup>70</sup> this has now changed. The people of Northern Uganda *do* want justice. But they are sensitive to the extreme needs of their community, including what to do with ex-combatants who were abducted; how to deal with those who aided and abetted LRA soldiers—their own young children; and how best they can resume their lives after conflict.

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<sup>68</sup> See footnote 9, above.

<sup>69</sup> Republic of Uganda, *PRDP*, 45.

<sup>70</sup> See Hovil and Quinn, *Working Paper 17: Peace First, Justice Later*.

### *Security-Sector Reform*

Security-Sector Reform (SSR) is pledged in any number of ways in the documents examined above. For example, the *PRDP* discusses military operations by the UPDF, demobilization of rebel forces, and disarmament of the Karamojong and others<sup>71</sup> and pledges to address these and other issues through its “consolidation of state authority” objective.<sup>72</sup> It speaks more specifically to reform of the Uganda Police Force (UPF),<sup>73</sup> Uganda Prisons Service,<sup>74</sup> and UPDF.<sup>75</sup> The *PEAP*, too, notes the critical nature of security needs.<sup>76</sup>

Yet SSR remains hung up on development-related problems. Further, in 2008, several security force and local defence unit members were involved in killings and extreme torture. Prison conditions were severe. And “the UPF continued to be constrained by limited resources, including low pay and lack of vehicles, equipment, and training.”<sup>77</sup>

### *DDR*

Although there is “no formal demobilization process for captured, escaped or rescued LRA child soldiers,”<sup>78</sup> the Amnesty Commission is involved in a limited fashion in demobilization and resettlement through a series of satellite teams, called Demobilization and Resettlement Teams (DRT), that operate in districts around Uganda. These teams are responsible to “decommission arms, demobilize, resettle and reintegrate reporters.”<sup>79</sup> Yet these responsibilities are largely left

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<sup>71</sup> Republic of Uganda, *PRDP*, 27.

<sup>72</sup> *Ibid.*, 38.

<sup>73</sup> *Ibid.*, 42.

<sup>74</sup> *Ibid.*, 48.

<sup>75</sup> *Ibid.*, 51.

<sup>76</sup> Ministry of Finance, *PEAP*, 113.

<sup>77</sup> U.S. Department of State, “Uganda: Country Report on Human Rights Practices 2008,” 25 Feb. 2009; available from <http://www.state.gov/g/drl/rls/hrrpt/2008/af/119030.htm>; accessed 07 Feb. 2010.

<sup>78</sup> The Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2004* [report on-line]; available from [www.child-soldiers.org/document\\_get.php?id=801](http://www.child-soldiers.org/document_get.php?id=801); accessed 28 April 2007

<sup>79</sup> *Amnesty Act 2000*, S.12.

to other agencies to carry out. “There are six DRT offices around the country... all of which rely heavily on other government agencies, civil society organizations, the community and donors for successful implementation.”<sup>80</sup>

The other main means of DDR is child recruitment by the Uganda People’s Defence Force (UPDF). When ex-combatant children are captured by the UPDF, they are typically handed over to Child Protection Units for debriefing and medical care, and then transferred to reception centres, discussed further below. There is some indication that some children are being absorbed directly into the UPDF without being sent into the rehabilitation programmes.<sup>81</sup> There is a long record of ex-combatants being absorbed directly into the ranks of the UPDF; many ex-combatants report being strongly coerced to join.<sup>82</sup> Some children, further, report harassment, beatings, and other forms of mistreatment there.<sup>83</sup>

[T]here is a policy of actively recruiting younger men into local defence forces or into the UPDF, allegedly with a degree of compulsion. A special battalion of the UPDF, the 105th, has been established specifically for this purpose. By the end of 2004, almost eight hundred had been integrated in this way (to the considerable unease of UNICEF and other agencies, because many had participated in atrocities and some were thought to be under-age for recruitment).<sup>84</sup>

This recruitment or absorption is seen as something of a third option for viable DDR in Uganda, along with giving ex-combatants the opportunity to pursue further education, and offering vocational training.<sup>85</sup>

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<sup>80</sup> Hovil and Lomo, *Working Paper 15: Whose Justice? Perceptions of Uganda’s Amnesty Act 2000*, 7.

<sup>81</sup> Stephen Charchuk, “An Assessment of the Current Community-Wide System for Rehabilitation and Reintegration of Child Soldiers in Northern Uganda,” (M.A. thesis, Royal Roads University, 2007), 39.

<sup>82</sup> Refugees International, “Northern Uganda: Child Mothers and Returnees Require Special Care,” 7 Nov. 2002 [article on-line]; available from <http://www.refugeesinternational.org/content/article/detail/827>; accessed 22 April 2007.

<sup>83</sup> Ibid.

<sup>84</sup> Tim Allen, *Trial Justice* (London: Zed Books, 2006), 77-78.

<sup>85</sup> United Nations High Commission on Human Rights, *Report of the United Nations High Commissioner for Human Rights 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*, 9 November 2001, E/CN.4/2002/86.

### *Rule of Law*

The GOU recognizes the “[d]eterioration of law and order... certain districts, particularly in North Eastern Uganda, are affected by continued lawlessness, weak state authority and inter-ethnic clashes...”<sup>86</sup> “Law and order... remains weak.”<sup>87</sup> As such, the *PRDP* proposes to establish law and order and enhance the functionality of judicial and legal services under its objective to “consolidate state authority”.

While the GOU has pledged to spend approximately \$6,894,030 on judicial reform,<sup>88</sup> this amounts to just more than 1% of the total *PRDP* spending—and is roughly one-tenth of what will be spent on areas such as “Woodcover and Community Forestry.” The balance of spending in this sector is expected to be picked up, presumably, by international donors.

### *Other Activities*

In addition, the GOU has indicated a commitment to carrying out needed activities in sectors including land ownership/reform, displacement, and cattle rustling. These are explored below.

#### *- Land Ownership*

The long-term displacement of such a large portion of the population in Northern Uganda has caused many and significant concerns surrounding land ownership. Much of the population was displaced from their traditional lands, which were communally-owned. Returning from the camps to their gardens, a number of conflicts have erupted over boundaries and ownership. Adding to this conflict has been the presence of people like Salim Saleh, Museveni’s half-brother, who has reportedly purchased thousands of acres of land throughout the North for use in

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<sup>86</sup> Republic of Uganda, *PRDP*, 23.

<sup>87</sup> *Ibid.*, 24.

<sup>88</sup> *Ibid.*, 137.

a private farming venture.<sup>89</sup> Although the GOU speaks of addressing this through the Land Act in the *PRDP*, little has been done to attend to the escalating tensions that surround this question.

- *Displacement*

As noted above, at one point, nearly 80% of the population of Northern Uganda was displaced, and living in camps for the internally displaced. While many have begun to return to their homes, they face significant issues upon their return. And, as further noted above, those who choose to remain in the camps face other difficulties. The *PRDP* calls for the provision of basic services such as water, shelter, sanitation, food and clothing, as well as protection.<sup>90</sup> The return and resettlement programme proposed is weak and requires significantly more consideration on the part of the GOU.

- *Cattle Rustling*

The GOU has created the Anti-Stock Theft Unit (ASTU) to “curtail and contain the cattle rustling in the Karamoja region.”<sup>91</sup> It has also established “National Focal Point... bringing together government departments and civil society to help coordinate remedial actions on this problem and also facilitate interaction with international and regional agencies.”<sup>92</sup> The *PEAP* begins to make links between the availability of small arms and light weapons as a contributing factor<sup>93</sup> but neither document clarifies the underlying conditions that have led to this extreme trend among the Karamojong and elsewhere.<sup>94</sup>

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<sup>89</sup> Robert Lukwiya Ochola, “The Acholi Religious Leaders’ Peace Initiative in the Battlefield of Northern Uganda: An Example of an integral, inculturated and ecumenical Approach to Pastoral Work in a War Situation,” Ph.D. diss., Leopold-Franzens-Universität Innsbruck, June 2006), 98.

<sup>90</sup> Republic of Uganda, *PRDP*, 67-69.

<sup>91</sup> *Ibid.*, 52.

<sup>92</sup> Ministry of Finance, *PEAP*, 104.

<sup>93</sup> *Ibid.*, 103.

<sup>94</sup> See footnote 46, above.

### **Combining Peacebuilding and Transitional Justice: Still, not so much**

As demonstrated above, the GOU's intertwining of peacebuilding and transitional justice with broader development goals has not managed to improve the conditions of either one. The peacebuilding and transitional justice activities that are spoken of in the documents outlined above have met with limited success. Many have failed outright, or have never been given the chance to succeed.

According to the two competing claims prominent in the literature, that attempting to promote accountability would undermine peacebuilding efforts, or that accountability is essential to peacebuilding, one might have thought that the intricate linkages between the two would result in stronger programmes on both sides of the equation. In fact, quite the opposite is true. One finds instead that accountability and peacebuilding programming throughout the country, and particularly in Northern Uganda, is weak. Coupled as it is with development plans and policies, peacebuilding and transitional justice appears to get lost in the jumble of other ideas that are thrown into the mix.

Indeed, it is not much of a stretch to proclaim strongly that transitional justice has failed in Uganda, and that peacebuilding has not succeeded either. Perhaps programming and policy goals need to be highlighted further. It is certainly the case that they need to be funded to a much higher degree. And that the GOU needs to take them more seriously, in any event. As well, the coordination of actors and programmes in both peacebuilding and transitional justice needs to be undertaken with a significant level of care that is missing at the present time.

There is a dilemma, to be sure, but it's not between peacebuilding and transitional justice. It's between what qualifies as legitimate programming and must be taken seriously: development or peacebuilding/transitional justice.