

Comparing Formal and Informal Mechanisms of Acknowledgement in Uganda¹

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Introduction

Protracted war devastates societies. In order to rebuild the social infrastructure, and to help the people within these communities grapple with the consequences of the wrongs that have been perpetrated, “acknowledgement” has been identified as a necessary condition for peacebuilding, reconciliation and the development of the democratic process. Acknowledgement is a process whereby society as a whole, including victims and perpetrators, actively admits the crimes that have been committed. Acknowledgement can lead to the generation of social capital, the social currency which allows any of a variety of outcomes to develop. These outcomes might include reconciliation, restitution, apology, democracy and justice.

This paper provides a discussion of four mechanisms that have been utilized in Uganda to bring about this kind of acknowledgement: a truth commission, an amnesty, the International Criminal Court, and customary mechanisms. It is based, in part, on interviews that I conducted in Uganda in June, July and August 2001 and in November and December 2004, and on 67 interviews conducted by the Refugee Law Project for use in an earlier joint project.³ And it is written in the context of the civil war that has been on-going in northern Uganda since 1986.

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³ Many thanks to Lucy Hovil, Winnie Agabo, Joseph Okumu and Katinka Riderboos for their help in this regard. 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.

Background and Current Ugandan Conflict

In October, 1962, Uganda declared Independence from Britain. Its first President, Milton Obote, held office from 1962-1971. Life under Obote and his successors turned out to be very different than it had been under the British. From 1962 until 1986, Uganda underwent a series of coups, culminating in a great concentration of power in the hands of the head of state. Obote's first term in power was characterized by significant numbers of riots and armed attacks.⁴ As it turned out, Obote's term in office merely foreshadowed the violence which would ensue in only a few short years. In 1969, the political system underwent tremendous change when Obote banned all political parties other than his own in order to prolong the state of emergency that had been declared in 1966.⁵ Obote's term in office, however, soon drew to an abrupt halt.

In 1971 General Idi Amin Dada overthrew Obote, suspended the constitution and ruled under a provisional government structure until 1979. To sustain his authority, Amin, who came to be known as "the butcher," carried out a reign of terror, systematically and brutally murdering and torturing those he considered to stand in his way.⁶ In 1972, Amin expelled the more than 70,000 ethnic Asians living in Uganda and confiscated their property. Violence was rampant during this period, and the military and paramilitary mechanisms of the state conducted brutal campaigns of torture.⁷ "The butcher's" lasting legacy is one of heinous torture and brutal killings.⁸ It is estimated that approximately 500,000 Ugandans were killed by Amin and his

⁴ Dirk Berg-Schlosser and Rainer Siegler, *Political Stability and Development: A Comparative Analysis of Kenya, Tanzania and Uganda* (Boulder: Lynne Rienner Publishers, 1990), 196.

⁵ Berg-Schlosser and Siegler, 100.

⁶ Nancy G. Wright, "History From 1971," *Encyclopedia of Africa South of the Sahara*, ed. John Middleton (New York: Charles Scribner's Sons, 1996), 306.

⁷ Berg-Schlosser and Siegler 199; Edward Khiddu-Makubuya, "Paramilitarism and Human Rights," *Conflict Resolution in Uganda*, ed. Kumar Rupesinghe (Oslo: International Peace Research Institute, 1989), 141-157.

⁸ Khiddu-Makubuya, "Paramilitarism", 147-154.

supporters.⁹ Amin was defeated in 1979 with the assistance of Tanzanian intervention. Interim governments were appointed in 1979 and 1980.

From 1980-1985, Obote returned to power. The country was once again beleaguered by “rampant human rights abuses,”¹⁰ this time far worse than anything they had experienced during his first term in office. The paramilitary apparatus of the state again began its practice of routinely violating human rights by means of rape, torture, murder, looting and destruction of property.¹¹ The scale of repression and abuse was roughly the same as it had been under Amin. The only difference for many Ugandans was that their former leader (Amin) had been substituted for another (Obote) with a heightened and reinvigorated fury. It is now estimated that between 320,000¹² and 500,000¹³ people were killed during Obote’s second term in office. Obote was overthrown in July, 1985.

Yoweri Museveni, leader of the coup that overthrew Obote, came to power in January, 1986, abolishing all political parties except the National Resistance Movement (NRM – formerly National Resistance Army) that had made his victory possible.¹⁴ Conditions began to improve in Uganda after Museveni took power. The human rights abuses abated somewhat and Ugandans now enjoy a relative degree of freedom unknown to them under the three post-independence regimes of Obote and Amin.

But not everyone supports Museveni. There have been more than twenty insurgencies since the NRM came to power in 1986.¹⁵ One of the most deadly and longest-lasting has been

⁹ Yoweri Kaguta Museveni, *Sowing the Mustard Seed* (London: Macmillan, 1997), 41.

¹⁰ “Uganda,” *The World Almanac and Book of Facts 1999*, ed. Robert Famighetti (Mahwah, NJ: Primedia Reference, 1998), 852.

¹¹ Berg-Schlosser and Siegler, 199, Khiddu-Makubuya, “Paramilitarism”, 153.

¹² Thomas P. Ofcansky, *Uganda: Tarnished Pearl of Africa* (Boulder: Westview, 1996), 55.

¹³ Abdul Nadduli, LCV District Chairman, Luweero Triangle, interview by author, 17 Nov. 2004, Luweero, Uganda.

¹⁴ For a much more complete account of Uganda’s history from 1962, see Berg-Schlosser and Siegler, 97-132.

¹⁵ 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

the nineteen-year rebellion of The Lord's Resistance Army (LRA)¹⁶ in the Acholi sub-region of Northern Uganda. The LRA is fighting against Museveni's control of the north.¹⁷ It is widely estimated that 30,000¹⁸ children from that region have been abducted by the rebels, the boys to act as soldiers, and kidnapped girls to be used by rebels as sex slaves and as carriers of supplies. More than 1.8 million people from the region have been forced to flee their homes and currently live in several internally displaced persons (IDP) camps throughout the region;¹⁹ it is estimated that approximately 1000 people die each week as a result of the squalid and dangerous conditions in the camps.²⁰ Fighting and abduction continue, although various cease-fires have been declared.

This is just one of the conflicts that continues in the country. Another conflict, between government forces and the Karamojong in the northeast, also persists. On top of these, Ugandans are still living with the legacy of the one million people who were killed between 1962 and 1986, and real rebuilding has never really begun. The Ministry of State for Luweero Triangle, for example, is only just now attending to rebuilding the houses and schools destroyed

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 Hovil and 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.

¹⁶ The LRA is led by Joseph Kony, whose campaign follows that of the Holy Spirit Movement, led by a woman called Alice Lakwena who claimed to receive visions from God that told her to carry out vicious attacks. In 1986, Lakwena claimed to have up to 18,000 soldiers, although others estimate the number at 7,000-10,000. Lakwena is now in exile in Kenya. See 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), 14; and Heike Behrend, *Alice Lakwena and the Holy Spirits* (Oxford: James Currey, 1999), 67.

¹⁷ Catherine Barnes and Okello Lucima, "Introduction," *Accord* (2002) 11: 1.

¹⁸ Tim Allen points out that "the scale of abduction is a matter of speculation" due to insufficient monitoring. See *War and Justice in Northern Uganda*, iii.

¹⁹ Geresome Latim, Secretary to the Paramount Chief of Acholi, interview by author, 22 Nov. 2004, Gulu, Uganda.

²⁰ Betty Bigombe and John Prendergast, "Stop the Crisis in Northern Uganda," *The Philadelphia Inquirer*, 21 February 2006.

between 1980 and 1985.²¹ Uganda itself is a country much in need of healing, both physically and socially. It is one of the states in the world most badly affected by the HIV and AIDS.²² NGOs have been forced to assume much of the encumbrance of the provision and contribution of support,²³ as the state itself has failed to provide much of what is needed, due in part to its inability to afford financial assistance.²⁴ And although its government boasts of the country as a “forged union of many peoples... [who] live and work together as one people, all proud to be Ugandans, while each cherishes their history and traditions,”²⁵ the reality is far different.²⁶

Formal vs. Informal Mechanisms

For purposes of clarification, both here and elsewhere, I have sometimes found the categorization of mechanisms of transitional justice as “formal” or “informal” to be a convenient tool. This taxonomy has the virtue of affording a quickly-accessible conception of the various kinds of mechanisms that are available to be used. Mechanisms are considered to be “formal” by virtue of their connection to the governing body (or an international body) and because of the codified practices that assure both procedural fairness and standards of accountability, based upon a collection of cultural norms. “Informal” mechanisms, by contrast, are required to meet none of these standards, and are not formally codified.

Societies around the world are by now familiar with “formal” mechanisms of justice. In the West, the trial is the most recognizable of these. Although mostly used to prosecute a citizen

²¹ Semakula Kiwanuka, Minister of State for Luweero Triangle, interview by author, 01 Nov. 2004, Kampala, Uganda.

²² “Mariandina AIDS Research Foundation,” *National Information Centre*, <http://www.mariandina.or.ug>, accessed Sep. 11, 1999.

²³ Hansen and Twaddle, 15.

²⁴ Susan Dicklich, “Indigenous NGOs and political participation,” *Developing Uganda*, eds. Holger Bernt Hansen and Michael Twaddle (Oxford: James Currey, 1998), 145.

²⁵ “Uganda Arts and Culture,” *National Information Centre*, <http://www.nic.ug/Arts>, Sep. 11, 1999.

²⁶ *Listen to the People*, 56-60.

of a particular state at the national level within that state, permutations of this form have begun to arise. Among these are efforts by a national court in one state to prosecute a citizen of another state for crimes committed elsewhere, such as in Belgium, where *génocidaires* from Rwanda have been successfully tried for war crimes and crimes against humanity committed by foreigners outside its territory under Belgium's universal jurisdiction laws.²⁷ Other efforts in this direction have taken the form of international tribunals, modeled in part after the post-war Nuremberg trials and Tokyo tribunal; these include the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), and the recent initiation of the International Criminal Court (ICC).

At other times, states have opted to implement other mechanisms to affect this kind of social rebuilding. Broadly, these may take the form of official apologies or financial restitution. Again, states have implemented many variations of these two different methods of reparation. Beginning 26 May 1998, the Australian government annually holds National Sorry Day to "participate and be involved in activities to acknowledge the impact of the policies of forcible removal on Australia's indigenous populations."²⁸ The restitutive example most often cited, and which is frequently touted as a success, is of the Canadians and Americans of Japanese descent who were interned during the Second World War. In 1988, the American government gave those Japanese who had been interned USD \$20,000 per survivor as a form of compensation under the Civil Liberties Act, while in the same year, the Canadian government awarded CAD \$21,000 under the Japanese Canadian Redress Agreement.²⁹

²⁷ "Belgium Trials 'Good Thing for Rwanda' Says Top Prosecutor," Hirondele News Agency, 27 April 2005; available from <http://www.globalpolicy.org/intljustice/tribunals/rwanda/2005/0427belgtrials.htm>; accessed 21 February 2006.

²⁸ "Sorry Day," [article on-line]; available from <http://www.cultureandrecreation.gov.au/articles/sorry/>; accessed 9 Dec. 2004.

²⁹ *Final Report on the Implementation of the Japanese Canadian Redress Agreement, 1988* (Ottawa: Japanese Canadian Redress Secretariat and Canadian Heritage, Nov. 1997) 5.

Another of the formal mechanisms that has been implemented in the modern era is the truth commission. The first-ever truth commission was convoked in Uganda in 1974, although the first-ever truth commission to fulfill its mandate and complete its work was not begun until 1982 in Bolivia. Since that time, more than 20 truth commissions have been appointed by national governments, among them highly successful commissions in Argentina, Chile, and South Africa.

Informal mechanisms, however, are often much less familiar to those who live in the West. In many cases, these mechanisms follow “traditional” practices that were used to keep order within societies and to provide socialization into the accepted norms of the community. These are found in societies around the globe, and include a type of traditional psychological healing called *conselho*, practiced by war-affected people in Angola.”³⁰ Holistic purification and cleansing rituals, attended by the family and broader community, are carried out in welcoming ex-combatant child soldiers back into the community in both Angola and Mozambique.³¹ In Western Kenya, traditional conflict resolution mechanisms are used by the Pokot, Turkana, Samburu and Marakwet tribes.³² And ceremonies to “cool the heart[s]” of child ex-combatants upon their return to their home communities in Sierra Leone are carried out by the broader community.³³

Yet this distinction between “formal” and “informal” is problematic for a number of reasons. First, it is often the case that customary mechanisms are recognized and adopted by the

³⁰ Carola Eyber and Alastair Ager, “Conselho: psychological healing in displaced communities in Angola,” *The Lancet* 360 (Sep. 14, 2002) 871.

³¹ Alcinda Honwana, “Children of War: Understanding War and War Cleansing in Mozambique and Angola,” in *Civilians in War*, ed. Simon Chesterman (Boulder: Lynne Rienner, 2001) 1137-140, and Carolyn Nordstrom, *A Different Kind of War Story* (Philadelphia: University of Pennsylvania Press, 1997) 142-152.

³² Ruto Pkalya, Mohamud Adan, Isabella Masinde, *Indigenous Democracy: Traditional Conflict Resolution Mechanisms*, eds. Betty Rabar and Martin Karimi (Kenya: Intermediate Technology Development Group – Eastern Africa, Jan. 2004).

³³ Rosalind Shaw, *Rethinking Truth and Reconciliation Commissions: Lessons from Sierra Leone*, United States Institute of Peace, Special Report 130 (Feb. 2005): 9

state apparatus, thereby becoming “formalized”. For example, Rwanda has chosen to utilize its tradition of *gacaca*, a form of traditional dispute resolution mediated by chiefs and tribal elders, now re-vamped and codified into state law, to deal with those who perpetrated crimes of genocide.³⁴

Second, many customary mechanisms already operate at a level that is highly respected by the community in which they take place. In many parts of Uganda, such practices, in fact, have more *de facto* authority than comparative Western models. Particularly among the Sabiny³⁵ and the Karamojong,³⁶ this is the case. It was frequently reported to me that councils of elders hold more sway within the community than do government-appointed law enforcement officers, and that such councils have the authority to override police sentences: “For example, a clan may come to the police to demand a prisoner’s release because conditions in prison are too good. So they will go to the prison and pull him out. And the police don’t dare say no because they will have to deal with 500 armed warriors!”³⁷

Third, many of these mechanisms are utilized by different groups at different times. And so they do not remain static in their categorization as formal or informal. The truth commission provides an apt example. In South Africa, truth commissions have been both formal and informal. In 1992 and in 1993, two truth commissions were carried out during the era of *apartheid* by members of the African National Congress (ANC);³⁸ by my own “formality” criteria laid out above, these two truth commissions were “informal”. Then, when the ANC came

³⁴ See, for example, Peter E. Harrell, *Rwanda’s Gamble: Gacaca and a New Model of Transitional Justice* (New York: Writers Club Press, 2003).

³⁵ Confidential interview by author with Sabiny man studying at Makerere University, 7 Nov. 2004, Kampala, Uganda.

³⁶ Peter Otim, Inter-Governmental Authority on Development, interview with author, 23 Nov. 2004, Kampala, Uganda.

³⁷ *Idem*.

³⁸ Priscilla Hayner, “Fifteen Truth Commissions—1974-1994: A Comparative Study,” *Human Rights Quarterly* 16 (1994): 597-655.

to power in 1995, it convoked the much-publicized Truth and Reconciliation Commission, a formal body.

Fourth, it is often the case that mechanisms that are considered “informal” at first glance may actually have codified procedures. Customary mechanisms are built on ceremonies and traditions that have evolved over time into precise instruments that are carried out in an almost “formulaic” manner at times, much as ceremonies of liturgy or eucharist are carried out within Christian religious observances. As such, these traditional mechanisms are strictly organized. This is true among the majority of traditional ceremonies practiced among the different ethnic groups within Uganda; among the Karimojong, for example, the *akiriket* meetings are very stratified, and “everyone knows his position and where to sit.”³⁹ Likewise, Acholi mechanisms are carried out in a clearly defined manner.⁴⁰ “The actual reconciliation ritual [for example] to redress the wrongs of a killing between clans is complex and sophisticated. The ritual involves many people and takes a full day. Before the actual ritual, however, many things must be arranged, discussed and decided upon. The ritual can be preceded by weeks, months or even years of careful negotiations.”⁴¹

The fifth problematic element of this distinction between formal and informal is that the lens that is often used to decide between formal and informal presents a kind of cultural bias. So-called international standards – as stated above, a collection of cultural norms from a select group of nations – are being used as benchmarks. Indeed, the inverse might actually be ideal. That is, some of the questions arising from the on-going conflict in northern Uganda and other transitional situations should inform current international law, rather than constantly having to fit

³⁹ Middle-aged professional Karimojong man working in Kampala, interview with author, 13 Nov. 2004, Kampala.

⁴⁰ Geresome Latim, Executive Secretary, *Ker Kwaro Acholi*, interview with author, 22 Nov. 2004, Gulu, Uganda.

⁴¹ 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), 291.

these complex situations to fit “international standards”. Indeed, traditional mechanisms provide a strong system of governance and jurisprudence, outside of the formal mechanisms imposed by the Western world. And, while the more formalized Western models often allow for only one form of justice – retributive, restorative, or reparative – these traditional institutions seek to combine various of these and other elements in keeping with the values of the community.

Competing Efforts at Social Rebuilding in Uganda

There have been a number of efforts to deal with the fractured Ugandan society, both relating to the ongoing conflict and to the many conflicts of the past. Museveni’s NRM government has famously appointed many different commissions to look into various aspects of Ugandan politics. At the same time as the appointment of the truth commission, for example, Museveni was appointing Commissions in many other fields. In 1986, the Commission of Inquiry into Local Government was established, followed in 1988, by the Interim Electoral Commission and the Constitutional Commission. Ugandans were overwhelmed with commissions since 1986 to the point where, when I asked anyone about the Commission of Inquiry into Violations of Human Rights, I was invariably asked, “Which one?”

It is certainly the case that the Government of Uganda has paid a lot of lip service to the idea of social rebuilding. In an statement released in October, 2005, for example, a government official spoke of the success of Museveni’s government in “achiev[ing] peace, reconciliation and security,... and reiterate[d] its commitment to national reconciliation.”⁴² Yet government spending in the area of social and physical reconstruction does not bear this out. In the 2004-2005 budget, the government allocated only \$164,239 CAD, which represents a scant 0.01% of

⁴² “State funeral for Uganda’s Obote,” BBC News, 12 October 2005; available from <http://news.bbc.co.uk/2/hi/africa/4333618.stm>; accessed 12 October 2005.

the national budget, to reconstruction efforts in Northern Uganda, and only \$87,075 to resolve the conflict in Karamoja, just 0.00015% of the total national budget.⁴³

As an example, the government points to the monuments that have been built to the fallen comrades of President Museveni in Luweero district, as somehow representative of its efforts at “national” reconciliation.⁴⁴ In truth, the people of Luweero have erected 26 memorials in 22 sub-counties, each containing between 1,000 and 80,000 skulls⁴⁵ from the victims of the war that was waged between 1980-1985, during which time an estimated 500,000 people were killed. Museveni claims that this is “national” reconciliation, even though these monuments honour the heroes of a few ethnic groups, and castigate others, out of the 56 ethnic groups that co-exist within the country.

Moreover, the one-party system that had been implemented by Museveni, when he seized power in 1986, remained until late 2005. The one-party “Movement” system, as it is called, is an indication of Museveni’s lack of any real commitment to efforts at reconciliation; only his party, the National Resistance Movement (formerly the National Resistance Army—NRA), has been allowed to exist, and parties supported by other ethnic and regional groups, including the Uganda People’s Congress and the Democratic Party, were not. Some have dismissed the one-party system as “a unique political system to try and prevent the chaos and ethnic conflicts that plagued Uganda throughout the 1970s and early 1980s. Although political parties were allowed to exist, they were severely restricted and could not participate in elections. But in a 2005 referendum, Ugandans voted to return to full multi-party politics.”⁴⁶ However, it is more likely

⁴³ Confidential interview by author with Office of the Prime Minister official, 30 October 2004, Kampala, Uganda.

⁴⁴ Natalie Clancey, “Uganda’s Haunted Children: The Hard Road Home,” *Correspondent*, (CBC Television Documentary), 23 February 2006.

⁴⁵ Abdul Nadduli, Luweero LC5 District Chairman, interview with author, 17 November 2004, Luweero, Uganda.

⁴⁶ “Q&A: Uganda votes,” BBC News, 22 February 2006; available from <http://news.bbc.co.uk/2/hi/africa/4721242.stm>; accessed 22 February 2006.

to have been a ploy by Museveni to disadvantage other ethnic groups. His main opposition, Kizza Besigye of the Forum for Democratic Change returned from exile and announced that he would run in the 23 February 2006 election, whereupon he was promptly arrested and charged with rape and treason in an effort to keep him from running. Museveni won the election with 59% of the vote, although these results are being contested by Besigye at the time of writing.

To be sure, the international community has demonstrated its displeasure with Museveni's behaviour in this regard. In April 2005, the UK government announced that it would cut £5 million in funding to Uganda, a figure which represents approximately 2.1% of the total Ugandan budget. "This cut in funding is a reminder that Uganda stands to lose a great deal more if donor countries are not seeing good governance and a level playing field."⁴⁷

As such, the following section highlights four of the competing efforts that have been put in place in Uganda in the vein of transitional justice,⁴⁸ the overall aim of which is social rebuilding.

Uganda's truth commission (1986-1994)

The Commission of Inquiry into Violations of Human Rights (CIVHR) was appointed on 16 May 1986, three months after Museveni took office. The Commission was inaugurated one month later, on 13 June 1986.⁴⁹ Until the tabling of the Report on 10 October 1994, the Commission worked to gather evidence and testimony relating to the events of 1962 to 1986.

⁴⁷ "UK aid cut pressures Uganda," BBC News, 29 April 2005; available from <http://news.bbc.co.uk/2/hi/africa/4498381.stm>; accessed 1 May 2005.

⁴⁸ Transitional justice is engaged in helping societies move either from war to peace, or from a repressive or authoritarian regime to democracy, while dealing with resulting questions of justice, and what to do with social, political and economic institutions. Taken from Hovil and Quinn, "Peace First. Justice Later," 10.

⁴⁹ Although the CIVHR was named and appointed in May, it was not until June that its work officially began. This is common for truth commissions, who must first design a mandate for themselves, find office space and furniture, and hire staff. For a more in-depth discussion, see Joanna Quinn and Mark Freeman, "Lessons Learned: Practical Lessons Gleaned from Inside the Truth Commissions of Guatemala and South Africa," accepted for publication in *Human Rights Quarterly*, (Nov. 2003).

Thousands of people completed questionnaires with regard to their recollection of particular events, many of which were then investigated in the field with the thought that they could be recommended for prosecution. From these, particularly strong and representative cases were chosen to appear before the Commission. In all, 608 witnesses appeared before the CIVHR, from 11 December 1986 to 7 April 1993.⁵⁰ The Commission travelled to many regions of the country, holding hearings and collecting testimony in seventeen districts.⁵¹ This testimony was gathered and bound into eighteen volumes. Today, one set of these volumes is housed at the Uganda Human Rights Commission. Each of the commissioners displays his or her set proudly in their homes and offices. Two complete sets reside in a locked closet at Makerere University wherein almost all of the material remaining from the Commission has been discarded. The final report is more than 720 pages long, and contains testimony, analysis, and recommendations, along with lists of names of those who were subjected to torture and abuse.

In 1986, Museveni outlined a ten-point programme in which he emphasized democracy, security, national unity, independence, restoring and rehabilitating social services, ending corruption and misuse of power, dealing with the plight of displaced people, pan-African cooperation and pursuing a mixed economy as the basic tenets of his philosophy.⁵²

In seeking to understand this process much more clearly, I spent nearly three months in Uganda in the summer of 2001. While there, I carried out archival research and conducted a series of open-ended elite interviews that focused specifically upon the Ugandan experience of coming to terms with its past, and which looked for evidence of acknowledgement, and the social trust which might be expected to result from the process. I spoke with truth commissioners, government and opposition officials, members of the NGO community, and

⁵⁰ The Republic of Uganda, *The Report of the CIVHR*, Appendix 10: xxx.

⁵¹ *Ibid.*, Table Three: V-VI.

⁵² Museveni, *Sowing the Mustard Seed*, 217.

representatives of civil society. In the end, I was able to interview nearly forty people. To date, this represents the only study that has ever been undertaken of the Ugandan Commission of Inquiry into Violations of Human Rights.

But like so many institutions implemented by regimes facing deficits in virtually all areas, the path of the truth commission was not easy. The Commission faced a number of significant impediments throughout its difficult existence. Although it had been scheduled to complete its work within a couple of years, it did not actually finish until eight years later. Despite the best efforts of those who saw the work of the commissions through to their final conclusion, ultimately the commission faced political and practical limitations that would prove to be its un-doing.

One of the biggest institutional constraints that beleaguered the Commission was adequate funding. The government, which appointed the Commission, was not willing or able to contribute the monies required to employ staff, acquire office space, or conduct investigations. As a result, the Commission was chronically short of staff. Even the basics, such as stationery, were in short supply. And the printing of the findings of the Commission was significantly delayed until money could be found. In the end, it was the international donor community, both governmental and NGO, that came to the rescue. It was only after several large infusions of cash, along with supplies and expertise, were dispatched, that the work was able to continue.

Similarly, the overall capacity of the Commission was extremely limited. The commissioners themselves had left professional, prominent and often well-paying jobs, and had set aside family and other social obligations in order to carry out the work of the Commission. Moreover, their work was not easy. They faced significant opposition by those both within and outside of the very governments that had appointed them, which often translated into death

threats and the disappearance of key evidence. Other agencies which should have been able to provide support were themselves in disarray, and unable to provide the institutional safeguards that are necessary to ensure the success of such commissions. And the public at large, which had for so long been disenfranchised, seemed reluctant to talk about what had happened, and sensed that their participation in the work of the commissions could lead to renewed retribution.

Time itself proved to be an insurmountable difficulty. Particularly where the abuses under consideration were sometimes more than twenty years old, details had become blurry and evidence which might once have existed in support of the testimony given had disappeared. And the various delays faced by the commission contributed substantially to this.

Additionally, a lack of political will and commitment to the mandate of the Commission severely limited its success. The Commission quickly realized that the government, under whose auspices the commission had, in fact, been created, had merely been paying lip service to the idea of a commission. And the Commission found it extremely difficult to investigate the former political elites, and were mostly unable to do so.⁵³

Ultimately, the Commission's legacy is small. The majority of Ugandans appear to be unaware of the Commission and its work. And those who do know of it are critical of its findings, which they see as inherently biased toward the NRM. It seems that there has been little, if any, acknowledgement, either in influencing the outcome of the commission or in the subsequent rebuilding undertaken in its wake. In fact, the Commission is seen by many to have been a bureaucratic panacea that turned out to be almost universally unsuccessful for a variety of reasons, including those listed above. The modest and still-growing civil society indicates that

⁵³ These limitations are discussed in greater detail in Joanna R. Quinn, "Constraints: The Un-Doing of the Ugandan Truth Commission," *Human Rights Quarterly*, 26.2 (May 2004), 401-427 and in Joanna R. Quinn, "The Politics of Acknowledgement: Truth Commissions in Uganda and Haiti," (Ph.D. diss., McMaster University, 2003).

some acknowledgement had taken place. But democracy was not firmly entrenched, and Museveni shows no sign of allowing it to take hold. As a result, growth of civil society in the country remains stunted. It seems that the Commission was unable to affect real and lasting political stability, let alone foster social trust and social capital.

Amnesty Act (2000)

In November 1999, the Government of Uganda passed the Amnesty Act, which was subsequently enacted in January 2000. Under the terms of the Act,

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.⁵⁴

By January 2005, the Amnesty Commission had received 14,695 applications for amnesty.⁵⁵

The Amnesty Act was enacted within the ongoing context of violent armed conflict in Uganda, “after a great deal of activism from civil society groups, NGOs and concerned politicians.”⁵⁶ It is applied equally to all regions of the country, to all combatants and ex-combatants involved in any of the more than 22 armed insurgencies that have risen up against Museveni’s NRM government since it came to power in 1986.⁵⁷ And it “was conceived as a tool

⁵⁴ The Republic of Uganda, *Amnesty Act 2000*, Part II, 3(1).

⁵⁵ Amnesty Commission internal statistics cited in Lucy Hovil and Zachary Lomo, “Whose Justice? Perceptions of Uganda’s Amnesty Act 2000: The potential for peace and long-term reconciliation,” *Refugee Law Project Working Paper Series*, Working Paper No. 15, February 2005, 7.

⁵⁶ 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), 31.

⁵⁷ 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

for ending conflict... a significant step towards ending the conflict in the north and working towards a process of national reconciliation.”⁵⁸ The Amnesty Act claims to address “the expressed desire of the people of Uganda to end armed hostilities, reconcile with those who have caused suffering and rebuild their communities.”⁵⁹ As the Chairman of the Amnesty Commission expressed to me, “national reconciliation is especially important and must be promoted.”⁶⁰

Effectively, the Act allows rebels to receive amnesty if they voluntarily come “out of the bush”—a local colloquialism for the theatre of war—and renounce rebellion. Much more practically, however, the Amnesty Act provides for the material needs of those who are given amnesty—colloquially known as “reporters”:

Reporters denounce their activities by signing an affidavit, after which they are registered, receive an Amnesty Certificate, and then, in theory, a package. A standard package contains 263 000 [Ugandan shillings]⁶¹ in cash (equivalent to 3 months salary of a policeman or teacher at the time the Commission began plus 20 000 [Ugandan shillings] transport money), and a home kit, which includes a mattress, saucepans, blankets, plates, cups, maize flour and seeds. Each package costs the equivalent of 600 000 [Ugandan shillings].⁶²

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

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, “Behind the Violence: Causes, Consequences and the Search for Solutions to the War in Northern Uganda,” *Refugee Law Project Working Paper Series*, Working Paper No. 11, February 2004, 4; and Hovil and Lomo, “Whose Justice? Perceptions of Uganda’s Amnesty Act 2000,” 6.

⁵⁸ Hovil and Lomo, “Whose Justice? Perceptions of Uganda’s Amnesty Act 2000,” 6.

⁵⁹ The Republic of Uganda, *Amnesty Act 2000*, Preamble.

⁶⁰ P.K.K. Onega, Chairman of The Amnesty Commission, interview by author, 28 Oct. 2004, Kampala, Uganda.

⁶¹ At the time of writing, 100 Ugandan shillings are worth approximately 5¢ USD.

⁶² Hovil and Lomo, “Whose Justice? Perceptions of Uganda’s Amnesty Act 2000,” 7.

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.

Yet, as one study reported early in 2005, “Amnesty was seen to be a mechanism that formalised a process that was already taking place. Many informants [in an RLP study] referred to the fact that they had been “doing” Amnesty before it had become law, as it was a culturally recognised approach to carrying out justice within the specific context.”⁶³ Consequently, many Ugandans appear to support the process of amnesty, and “there is passionate support for the Amnesty amongst political activists, churches, NGOs and an influential group of ‘traditional’ leaders.”⁶⁴

One of the greatest supporters of the Amnesty has been a radio station located in Gulu, northern Uganda. Originally established with the help of a grant from the British Department of International Development, MEGA FM was constructed to play a key role in solving the current LRA conflict. One of its most effective programmes, *Dwog Paco* (literally “come back home” in the Acholi language), is broadcast three times each week. Its programming is specifically tailored to be heard by the rebels; it broadcasts former LRA fighters, abductees, and “wives” who give live testimonies about living in the bush and how they escaped from the LRA. Especially important in each broadcast is an appeal to those still in the bush to come home. Between December 2003 and November 2004, more than 1200 children had come out of the bush as a result of these broadcasts—thanks, in large part, to the Amnesty available to them.⁶⁵

⁶³ Ibid., 10.

⁶⁴ Allen, *War and Justice in Northern Uganda*, 33.

⁶⁵ Confidential interview with MEGA FM producer by author, 20 November 2004, Gulu, Uganda.

Nonetheless, others are reluctant to embrace the Amnesty. As one Christian NGO official said, “The Amnesty Commission must try to redefine its mandate because there are too many loopholes in the system. And there is no element of confession, which is important to add. But at least people will admit to taking part in atrocity. After that, though, they must then confess. Only then will they have healing. The way it is, when they are absolved by the Amnesty, the healing process is destroyed.”⁶⁶ Another reported that “the Amnesty Commission is returning kids on an Amnesty ticket, but then they are being charged with treason and put into jail.”⁶⁷

Others are more forceful in their objection to the Amnesty Act. Some have argued that the Amnesty is simply a means of “buying peace.” “Since coming to power, the government has had a policy of buying rebels out of the bush in order to end conflict, creating a culture of entitlement that has only been reinforced by attaching a package to the Amnesty process.”⁶⁸ However, “[t]he President[’s]... attitude to the Amnesty is more equivocal. Museveni was always rather reluctant to accept it for the LRA, and he has stated that he wants the Act to be amended... He, like his military officers, continues to assert the need for a military solution.”⁶⁹ And, although it has been clear from the outset of the Amnesty that Museveni intended the programme to end the conflict, he is not at all pleased with the process, nor the speed with which the conflict in northern Uganda is ending. As an indication of this unhappiness, government funding for the “packages” promised to reporters has been slow in coming, and many have received nothing at all.⁷⁰

⁶⁶ Confidential interview with Christian NGO worker by author, 28 October 2004, Kampala, Uganda.

⁶⁷ Confidential interview with Christian NGO worker by author, 10 November 2004, Kampala, Uganda.

⁶⁸ Hovil and Lomo, “Whose Justice? Perceptions of Uganda’s Amnesty Act 2000,” 24.

⁶⁹ Allen, *War and Justice in Northern Uganda*, 34.

⁷⁰ Clancey, “Uganda’s Haunted Children”.

International Criminal Court (2003 to present)

The ultimate expression of Museveni's displeasure with the Amnesty process, however, came in December 2003. At that time, Museveni formally requested that the International Criminal Court investigate the actions of the Lord's Resistance Army in northern Uganda, an act made public by the Prosecutor in January 2004. This meant that the future of the Amnesty process was put in doubt. It also effectively meant that "the ICC is in [a] sense acting on behalf of the Ugandan state, even though the Ugandan government is itself involved in the conflict... [This] has certainly created an awkward impression."⁷¹

The ICC process moved along quickly. The Chief Prosecutor of the ICC determined that there was a reasonable basis to open an investigation, and did so in July of 2004. In that same month, the Chief Prosecutor issued warrants for the arrest of Joseph Kony and four other senior members of the LRA.⁷² These warrants, as well as several others, however, remained sealed until October 2005. Individually, each of the five warrants details the atrocities attributed to the LRA, and to each of the five men, including more than 2,200 killings and 3,200 abductions in over 820 attacks. Kony, for example, is charged with 12 counts of crimes against humanity and 21 counts of war crimes, including "rape, murder, enslavement, sexual enslavement, [and] forced enlistment of children."⁷³

The Republic of Uganda had become a signatory to the Rome Statute on 17 March 1999, and deposited its instrument of ratification of the Rome Statute on 14 June 2002. Uganda has since signed the Declaration on Temporal Jurisdiction, allowing the ICC jurisdiction retroactive to 1 July 2002, the date on which the ICC came into force—even though the investigation of the

⁷¹ Allen, "War and Justice in Northern Uganda," 39.

⁷² At the time of writing, none of these warrants has been executed.

⁷³ Chief Prosecutor Louis Moreno-Ocampo, "The Investigation in Northern Uganda," International Criminal Court, 14 October 2005 ; available from http://www.icc-cpi.int/library/organs/otp/Uganda_PPpresentation.pdf; accessed 22 February 2006.

Chief Prosecutor did not begin until July 2004. As such, Uganda and the other 99 States Parties to The Rome Statute⁷⁴ have agreed to a slate of actions that will be punishable if committed. These include “the most serious crimes of concern to the international community.: (a) the crime of genocide; (b) crimes against humanity; (c) war crimes.”⁷⁵ And yet the Rome Statute and ICC have not yet been tested in any way. No precedents exist. The Ugandan case is the first to “test” the process.

All of this has garnered much debate in Uganda, as it has around the world. While aid agencies and human rights groups were enthusiastic about the ICC announcements, “Ugandan organizations tended to be rather more assertive, even openly hostile. Those promoting the Amnesty and negotiating a ceasefire made it plain that they viewed the ICC as a liability, and argued that prosecution could well make circumstances even worse.”⁷⁶ This position was reiterated as such:

The issuing of... international arrest warrants would practically close once and for all the path to peaceful negotiation as a means to end this long war, crushing whatever little progress has been made during these years... Obviously, nobody can convince the leaders of a rebel movement to come to the negotiating table and at the same time tell them that they will appear in courts to be prosecuted.⁷⁷

⁷⁴ As at 14 November 2005, 100 countries are States Parties to the Rome Statute of the International Criminal Court. See “The States Parties to the Rome Statute,” International Criminal Court, 14 November 2005; available from <http://www.icc-cpi.int/asp/statesparties.html>; accessed 22 February 2006.

⁷⁵ Rome Statute of the International Criminal Court, Article 5.1. Aggression presently stands as a fourth listed crime, but is undefined. Accordingly, individuals cannot yet be investigated and prosecuted by the ICC for the Crime of Aggression. As per section 5(2) of the Rome Statute, the ICC will have jurisdiction over Aggression if and when a definitional provision is adopted in accordance with the Rome Statute’s amendment provisions. Pursuant to section 123, in 2009 there will be a major Review Conference of the Assembly of States Parties at which time any amendments to the Rome Statute may be made, including the definition of crimes. Meanwhile, a special working group within the Assembly of States Parties has been charged with formulating draft proposals. Aggression will likely remain undefined for some time to come. Many thanks to Adrian Jones of McMaster University for this clarification.

⁷⁶ Allen, “War and Justice in Northern Uganda,” 43.

⁷⁷ Father Carols Rodriguez, “Public Statement,” in Adam Branch, “International Justice, Local Injustice: The International Criminal Court in Northern Uganda,” *Dissent Magazine*, Summer 2004.

A conference was held in The Hague, the seat of the Court, to help frame the discussion.⁷⁸ And delegations of Ugandans have gone to The Hague to discuss the implications of the investigations and eventual prosecutions. In March 2005, ICC officials held invited talks with leaders of the Acholi community in northern Uganda. During the meeting, the delegation and Court representatives “exchanged views on matters of mutual concern in regard to the interests of victims and justice, building on previous discussions in Uganda between officials of the Court’s Victim sections and the local communities in northern Uganda. Strategies for communicating information about the Court to the communities in northern Uganda were also discussed.”⁷⁹ A subsequent delegation of leaders from northern Uganda met with Court officials in April 2005, and “agreed to work together as part of a common effort to achieve justice and reconciliation, the rebuilding of communities and an end to violence in Northern Uganda... and to integrate the dialogue for peace, the ICC and traditional justice and reconciliation processes.”⁸⁰

These talks revealed grave concerns on the part of those from northern Uganda. Some of the concerns include the potential bias of the ICC, the spoiling of the peace process, and disempowering local justice mechanisms.⁸¹ However, since the complications of war are still a reality, one major concern is the guarantee of security for Ugandans, and for particularly exposed people, like those witnesses who will be called to testify. The situation on the ground is already violent, and they want to ensure that the investigations and ensuing testimony will not cause an

⁷⁸ John Mary Waliggo, “Analysis of the Human Rights Situation in Northern Uganda and Position of the Main Actors,” a paper presented at the Round-table on Northern Uganda and the International Criminal Court at the Centre for Justice and Reconciliation, The Hague, Netherlands, 25 May 2004.

⁷⁹ “Delegation from Uganda holds talks with the Registrar of the ICC,” International Criminal Court, 18 March 2005 (ICC-20050318-94-En); available from http://www.icc-cpi.int/pressrelease_details&id=97&l=en.html; accessed 22 February 2006.

⁸⁰ “Joint Statement by ICC Chief Prosecutor and the visiting Delegation of Lango, Acholi, Iteso and Madi Community Leaders from Northern Uganda,” International Criminal Court, 16 April 2005 (ICC-OTP-20050416-99-En); available from http://www.icc-cpi.int/pressrelease_details&id=102&l=en.html; accessed 22 February 2006.

⁸¹ Allen, “War and Justice in Northern Uganda,” 44.

escalation in violence. The Court has attempted to address such concerns at several points to date. In December 2005 and January 2006, the Court held status conferences to determine whether or not to proceed based on the underlying concerns for insecurity. Ultimately, on both occasions, the Court ruled that it “intends to continue the process of gathering and analysis of information in relation to the cluster of alleged crimes in the coming months.”⁸²

The other main concern, of course, is the interaction of the work of the Court with the Amnesty process that is already underway. Understandably, many who have already been granted amnesty are scared that the ICC investigations jeopardize their own status. This appears to be a minor concern, since the Court has only issued warrants for the top five LRA leaders, and has shown no interest in prosecuting those lower down in the chain of command. But for others, including Brigadier Sam Kolo, the alleged “second-in-command” of the LRA who left the LRA, and then sought and received amnesty in March 2005,⁸³ the ICC process has major implications. And which process, if any, is to receive precedence has yet to be decided.

Customary Mechanisms

As in many parts of the world, ethnic groups throughout Uganda have a rich history of traditional ceremonies that are used to resolve conflict and bring about social healing. Such ceremonies have been widely practiced in different areas of the country. For example, the Karamojong rely on the *akiriket* councils of elders to adjudicate disputes according to traditional custom,⁸⁴ which

⁸² “OTP Submission Providing Information On Status of the Investigation In Anticipation of the Status Conference To Be Held on 13 January 2006,” International Criminal Court, 11 January 2006 (ICC-02/04-01/05-76); available from http://www.icc-cpi.int/library/cases/ICC-02-04-01-05-76_En.pdf; accessed 24 February 2006.

⁸³ Jenny Cuffe, “Uganda torn over price of peace,” BBC News, 31 March 2005; available from <http://news.bbc.co.uk/2/hi/africa/4394923.stm>; accessed 24 February 2006.

⁸⁴ Bruno Novelli, *Karimojong Traditional Religion* (Kampala: Comboni Missionaries, 1999) 169-172, 333-340.

includes various forms of cultural teaching and ritual cleansing ceremonies.⁸⁵ *Kitewuliza*, a juridical process with a strong element of reconciliation, was traditionally used by the Baganda to bring about justice.⁸⁶ The Lugbara utilize a system of elder mediation in family, clan and inter-clan conflict.⁸⁷

The Acholi carry out a ceremony called *mato oput* (drinking the bitter herb), and another called *nyouo tong gweno* (a welcoming ceremony in which an egg is stepped on over an *opobo* twig). *Nyouo tong gweno* is used to welcome back anyone who has been away from his home for an extended period of time. These ceremonies allow the Acholi to acknowledge that this person has been accepted back into the community, and that the community is pleased to have them back.

For the Acholi, for one to stay away from his home for a long time, that is never acceptable, that is always something bad, something associated with bitterness. So these words always are part of the ceremony for returnees. *Wa ojoli paco*, these are also words spoken at the ceremony. It means, “we welcome you home.” It is to say that, “the people have forgiven you everything, the Acholi people welcome you back and they now want you to take responsibilities in the community.” Immediately you are welcomed in the community, the community is beginning to extend its services and responsibilities to you. People will come and talk to you. Once a child is born in Acholi culture, that child becomes part and parcel of that particular family, and the clan, and then the community. So the whole community would also expect some responsibility from you.⁸⁸

Presently, both ceremonies are being used to welcome ex-combatant child soldiers home after they have left the rebel army.⁸⁹ And in 1985, *gomo tong* (the bending of spears), an inter-tribal reconciliation ceremony, was held to signify that “from that time there would be no war or

⁸⁵ Peter Lokeris, Minister of State for Karamoja, interview with author, 18 Nov. 2004, Kampala, Uganda.

⁸⁶ Waliggo, “The Human Right to Peace,” 7. Also, idem, “On Kitewuliza in Buganda, 3 May 2005” author’s collection, 1.

⁸⁷ 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 East Africa, 1988), 42-56.

⁸⁸ Middle-aged man, interview in Acholi language with RLP interviewer, 5 March 2005, Gulu town.

⁸⁹ 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.

fighting between [the following ethnic groups:] Acholi and Madi, Kakwa, Lugbara or Alur of West Nile.”⁹⁰

Certainly, and not surprisingly, the role played by traditional mechanisms of justice has changed. For instance, several interviewees acknowledged the fact that external influences, such as colonialism and now the country’s central government, have altered the way in which justice is administered. In addition, there was frequent reference to the fact that ‘the youth’ do not recognize or understand such mechanisms any longer, a complaint that is not uncommon in societies around the world. The introduction of other religions, and in particular Christianity, appears to have led many to reject traditional mechanisms – although a number of people referred to the level of compatibility between their religious beliefs and Acholi traditional mechanisms, and saw no contradiction.

There is, however, some evidence of their decline.⁹¹ “The traditional values, cultural knowledge and social institutions of everyday life are threatened.”⁹² And the social meanings of the ceremonies that are still practiced appear, in some cases, to be shifting⁹³ as people move farther away from their *gemeinschaft* communities. This is especially true in regions where large numbers of people have been forced out of their homes and into IDP camps.⁹⁴ Among the Karamojong⁹⁵ and also among the Acholi,⁹⁶ cultural education through practice and social education, is beginning to decline.

⁹⁰ Ibid., 299.

⁹¹ Allen reports that a study funded by the Belgian government revealed that young people no longer automatically respect the elders. Allen, *War and Justice in Northern Uganda*, 76.

⁹² Finnstrom, *Living With Bad Surroundings*, 201.

⁹³ Ibid., 298.

⁹⁴ Ibid., 201.

⁹⁵ Novelli, *Karimojong Traditional Religion*, 201-225.

⁹⁶ Finnstrom, *Living With Bad Surroundings*, 76, 219. See also E.E. Evans Pritchard, *Witchcraft, Oracles and Magic Among the Azande* (Oxford: Clarendon Press, 1937) 154.

It seems clear, however, that these traditional mechanisms have a great deal to offer. It was variously reported to me that “everyone respects these traditions,”⁹⁷ and that reconciliation continues to be an “essential and final part of peaceful settlement of conflict.”⁹⁸ A common understanding of these symbols, ceremonies, and institutions, and their meanings remains throughout Uganda.

Others argue:

It would be wrong to imagine that everything traditional has been changed or forgotten so much that no traces of it are to be found. If anything, the changes are generally on the surface, affecting the material side of life, and only beginning to reach the deeper levels of the thinking pattern, language content, mental images, emotions, beliefs and response in situations of need. Traditional concepts still form the essential background of many African peoples, though obviously this differs from individual to individual and from place to place. I believe ... that the majority of our people with little or no formal education still hold on to their traditional corpus of beliefs.⁹⁹

Finnstrom and others also take this into account: “These practices, far from being dislocated in a past that no longer exists, have always continued to be situated socially. They are called upon to address present concerns. Of course, like any culturally informed practice, with time they shift in meaning and appearance.”¹⁰⁰ “Ideas about old models are often used to help shape new ones.”¹⁰¹

There is some evidence of these customary practices having been formalized to an extent. For example, Article 129 of the 1995 Constitution provides for Local Council (LC) Courts¹⁰² to

⁹⁷ Confidential interview by author with Sabiny man studying at Makerere University, 7 Nov. 2004, Kampala, Uganda.

⁹⁸ Waliggo, “The Human Right to Respect,” 9.

⁹⁹ John S. Mbiti, *African religions and philosophy* (Kampala: East African Educational Publishers, 1969, 2002), xi.

¹⁰⁰ Finnstrom, *Living With Bad Surroundings*, 299.

¹⁰¹ Allen, *War and Justice in Northern Uganda*, 84.

¹⁰² 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.” John Mary Waliggo, “The Human Right to Peace for Every Person and Every Society,” (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.

operate at the sub-county, parish and village levels.¹⁰³ And under the subsequent Children Statute 1996, these courts have the authority to mandate any number of things including reconciliation, compensation, restitution, and apology.¹⁰⁴

Conclusions

Clearly, the mechanisms that have been employed do not go far enough. There have been calls for more rigorous solutions to the conflict in northern Uganda. Among these is a solution outlined by the Chief Negotiator in the conflict, Betty Bigombe, which includes increased diplomatic and financial support; enhanced and redeployed military activity by the Ugandan army or the armed forces of a third country; United Nations Security Council involvement; and enticements to the LRA commanders not indicted by the ICC.¹⁰⁵

This solution is of particular interest because it clearly recognizes the various attempts that have been made in northern Uganda, and the problems that arise as a result, and nonetheless calls for further action. Bigombe's statement mirrors a number of concerns that arise from the discussion, above. The first of these concerns is the interaction between the mechanisms themselves. The expected outcomes of each of these mechanisms differs considerably, and the implications of each are worrying. The amnesty, for example, conveys a very different message and outcome than the International Criminal Court's potential prosecutions. This proliferation of approaches is representative of the pattern of non-coordination of Uganda's programmes that has been demonstrated repeatedly since Museveni's accession to power in 1986. However, the importance of this is that it may undermine the confidence of those who are involved in the

¹⁰³ "Uganda: Constitution, Government & Legislation," [article on-line]; available from <http://jurist.law.pitt.edu/world/uganda.htm>, accessed 30 April 2005.

¹⁰⁴ Government of Uganda, *The Children's Statute 1996*.

¹⁰⁵ Bigombe and Prendergast, "Stop the Crisis in Northern Uganda."

conflict to lay down their weapons, particularly since they cannot be assured of what will happen upon their surrender.

This gives rise to a pressing question of transitional justice, and the second concern: sequencing. Scholars and practitioners are still trying to determine the order in which the various elements of social rebuilding ought, ideally, to occur. For example, should trials come before some kind of judicial overhaul in the months and years following the cessation of conflict? There is an inherent tension in having both the Amnesty and ICC processes run concurrently, as has been mentioned above. More than that, however, many have questioned whether any of the above mechanisms ought to be operating at all before the conflict is ended. As one report said, “Peace first. Justice later.”¹⁰⁶

The third concern relates to Museveni’s own understandings of the implications of calling in the International Criminal Court. Although Museveni is a shrewd and clever man, it is not clear whether he fully appreciated the contradictions that would arise.¹⁰⁷ Or, conversely, whether he did understand, and the resulting quandry is just what he had hoped for. As one opposition politician who represents a riding in northern Uganda:

Museveni knows that the north/Gulu/Acholi is full of opposition. If they were pacified, they would mount serious opposition [to him, politically], so it is much better to keep them disconnected and devastated politically/socially/economically. He will be looked at as a saviour when he makes a show of trying to fix the situation. Meanwhile, the opposition is made impotent. He is promoting a scorched earth policy. Ideologically, people believe that an impoverished society is easier to manage, so it is better to keep the situation in the north in turmoil – that way, Museveni can come with a master serving spoon and everyone has to come to him. To look for anything at all, they must come to him.¹⁰⁸

¹⁰⁶ Hovil and Quinn, “Peace First. Justice Later.”

¹⁰⁷ Allen, “War and Justice in Northern Uganda,” 42.

¹⁰⁸ Confidential interview with opposition politician, 3 November 2004, Kampala, Uganda.

As such, the organizations, both formal and informal (if such a distinction is to be made) are multi-faceted and many-layered. The response of the Government of Uganda is disjointed, at best. And the conflict continues.