

War Child or Warlord? The Justice Paradox in Ongwen's ICC case

As recently-captured LRA commander Dominic Ongwen awaits his second hearing at The Hague, LSE's Donnas Ojok looks at whether the 34-year-old former child soldier will receive the right kind of justice from the International Criminal Court.

As someone who witnessed the gruesome conflict and who works on the rehabilitation and reconstruction phase in Northern Uganda, I not only have the personal insight into this situation, but feel compelled to contribute intellectually to the Ongwen case.

It is common knowledge that in 1986, incidentally that the year I was born, Joseph Kony claimed that he had been just by God, just like Moses in the Bible, to liberate the people of Northern Uganda from deprivation and all other forms of human indignity. Consequently, he started the Lord's Resistance Army (LRA). In doing this, he followed in the footsteps of his cousin, **Alice Lakwena**, a defiant and magical woman (*my mother told me legends of how she would throw a piece of stone and it would turn into a bomb upon landing*). Lakwena had founded and led a similarly inspired rebel group, the **Holy Spirit Movement**, which the Ugandan army had no trouble defeating in a relatively short period of time. Conversely, however, it would take the Ugandan army over 20 years to defeat the LRA, or at least push the rebels out of Ugandan territory. Even now the LRA leader and a couple of his commanders have still managed to evade defeat or capture despite being hunted by a combination of Ugandan and US forces, in the jungles of Central African Republic (CAR). Kony's group is not just in hiding, there are claims that **they attacked and killed eleven people in a village in South Sudan** in January 2015.



Over the last 30 years, millions were killed in the most horrendous of acts, properties worth billions have been lost, hundreds of women raped. An entire generation's hopes and dreams were completely wiped out. Another extremely painful problem that emerged during the 20-year insurgency was the abduction of children who were forced to become wives, slaves as well as child soldiers. **War Child**, a child rights international charity estimates that some 66,000 children were abducted during the war. One of such abductee was **Dominic Ongwen**, the recently captured

LRA commander who is currently facing seven charges of crimes against humanity and war crimes under the Hague-based International Criminal Court (ICC).

In his **first appearance** at The Hague, Ongwen told how he had been abducted one dreadful morning in 1988 at the age of 14 on his way to school. Although he went unwillingly, Dominic appeared to adapt to the movement. He rose within the military ranks to become a Major, Brigadier, military strategist, and finally Kony's second-in-command, a position he is believed to have held at the time of his surrender or **handover to US forces**. Ongwen did not take advantage of the Uganda amnesty plea of the 1990s and early 2000s to renounce his involvement in the LRA's armed rebellion. I vividly remember the late DJ Kakaba, a prominent journalist on a local radio station calling out the name of Ongwen and appealing to him to return home. His cousin even went on air one evening to plead in a soft-spoken voice: "My brother Dominic, please come back home. We are waiting for you with our hands open and hearts full of love. We, the people and the government, have already forgiven you".

Indeed many combatants denounced rebellion under the amnesty pact which lasted for close to 15 years but they did not include Ongwen. Instead, it took him 20 years to make his decision. On 6 Jan 2015, he willingly surrendered or was handed over to the American Special Forces in the CAR who later handed him over to the Uganda government. However, unlike the LRA fighters who surrendered during the days of amnesty, Ongwen was neither going to get a pardon nor face the traditional restorative justice system, locally known as **Mato Oput**.

The ICC had indicted Ongwen and seven other LRA commanders (including their chief, Kony) for war crimes and crimes against humanity in 2005. Therefore, once the commander was in their custody, Ugandan forces then passed Ongwen on to the Court. Since then, he has made his first appearance before the court in a pre-trial hearing. He will next appear in court on 24 August; that hearing will determine if he will face trial. No-one can predict how long the legal process will take. The complex bureaucracy of international justice will have to be prudently followed.

The Ongwen case encompasses the debate on conflict, human rights, justice, peace and security. At the core of this debate is the concern over the relationship between international conventions built on the western concept of justice and traditional mechanisms. As I observe above, African traditional justice is restorative and reconciliatory, far different from the western style of punitive justice. The situation is even more complicated for the 34-year-old, especially if one considers the child soldier victim-perpetrator synthesis. Since the ICC has taken on the case, it means that Ongwen has no chances of facing **Mato Oput**. The question, however, is whether the ICC can deliver the right kind of justice to Ongwen? How will the people in Northern Uganda perceive this? And what are the implications of this case to the return of absolute peace and security in the region. According to a recent random survey on a local radio station as well as the results from a high panel consultative meeting in Gulu (conducted by the Refugee Law Project), many people already think that Ongwen should be pardoned because he was a child at the time of his abduction. He was then forced to become a warlord. They further argue that the Ugandan government should also take responsibility for not protecting Ongwen and thousands of other children abducted by the LRA.

Whatever justice system is pursued, it is my considered view that the concerns raised by the local people in Northern Uganda should be taken seriously. We should also consider the possibility of using Ongwen as an asset in finding Kony as well as in providing other relevant intelligence and the so-called "*silent truth*" about LRA's collaborators. This could be a route to ending this insurgency and a new beginning for the people of northern Uganda and Uganda. As one panelist noted "*I think we need to take this opportunity, to mobilise ourselves to find the truth and we have Ongwen to help us do this*".

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