

**[Anna Macdonald](#)**

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**‘In the interests of justice?’ The International Criminal Court, peace talks and the failed quest for war crimes accountability in northern Uganda**

**Dr Anna Macdonald<sup>a</sup>**

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<sup>a</sup> Research Fellow, Department of International Development, London School of Economics and Political Science, Houghton Street, London WC2A 2AE ([a.macdonald1@lse.ac.uk](mailto:a.macdonald1@lse.ac.uk) / +442079556252).

## **Abstract**

This article analyses the first peace talks to take place against the backdrop of an International Criminal Court investigation: the Juba Talks between the Lord's Resistance Army and the Government of Uganda (2006-8). Drawing on field research and original source material, it departs from well-worn peace versus justice debates and provides new empirical material to explore how the presence of the court shaped domestic political dynamics at Juba. It argues that at the level of broad rhetoric, the presence of the court created significant discord between negotiating parties. On a practical level, however, it created space for consensus, but not the type envisaged by international justice promoters. The court came to be seen by both sides as an intervention that needed to be contained and controlled. This resulted in the politically expedient Agreement on Accountability and Reconciliation, which showcased a transitional justice 'tool-kit', but was based on a shared desire to evade the jurisdiction of international criminal justice. Given its practical complexity, the transitional justice agreement was ultimately rejected by Joseph Kony, who became increasingly distrustful of his own negotiating team at Juba. In findings relevant to other contexts, the article presents in-depth analyses of how domestic political dynamics around the ICC intervention produced a national transitional justice framework designed to protect both parties from war crimes accountability.

**Keywords:** Uganda, International Criminal Court, transitional justice, Lord's Resistance Army.

## Introduction

On 6 December 2016, Dominic Ongwen, a senior commander in Uganda's notorious rebel group, the Lord's Resistance Army (LRA) entered court room 3 at the International Criminal Court (ICC) in The Hague to sit through the first day of his trial. After a long "judicial stalemate"<sup>1</sup>, the Ongwen case has re-sparked interest in the court's first ever investigation, underscoring the fact that a large part of the ICC story in northern Uganda remains untold. While there is a significant literature on the power politics of international justice in Uganda<sup>2</sup>; the theoretical peace versus justice debate in that context<sup>3</sup>; the domestic legal implications of the ICC investigation<sup>4</sup>; and local perceptions and experiences of the court,<sup>5</sup> there is a lack of historicized, empirical analysis exploring how negotiating parties constructed the national transitional justice framework developed during the Juba Peace Talks between the Government of Uganda and the LRA/M (Movement).<sup>6</sup> These were the first peace talks ever to take place against the backdrop of charges brought by the ICC against key members of one of the negotiating sides. As Clark and Kersten note separately, the "empirical picture remains murky" and the domestic politics of ICC interventions during peace negotiations, despite a "rich array of theories", remains underexplored.<sup>7</sup>

In 2006, when the Juba talks began, the ongoing conflict in northern Uganda was at the heart of debates about 'peace versus justice'. The GoU referred 'the situation of the Lord's Resistance Army' to the Court in 2003 and arrest warrants for the LRA's five top commanders were unsealed in 2005. While some argued the warrants would marginalize the LRA and pressurise them to join talks, others believed the warrants closed down incentives for Joseph Kony and the high command to engage confidently in the process.<sup>8</sup> One scholar likened these "either/or" polemics to a competitive sports rivalry in which one felt they had to choose "sides".<sup>9</sup> Further, many northern Ugandans, particularly the Acholi, who had suffered at the hands of both the LRA *and* the national army, the Ugandan People's Defence Force (UPDF), were angry that only one side was being held to account. As it became clear the ICC would not withdraw its warrants, it came to be seen as the ultimate peace spoiler. It was roundly critiqued for holding millions of northern Ugandan's hostage to 'foreign'

concepts of retributive justice, incompatible with ‘traditional’ Acholi values of reconciliation and forgiveness.<sup>10</sup>

While debate was hyperactive during the talks, it petered out when they collapsed, in December 2008.<sup>11</sup> This is surprising because the Juba process left an important transitional justice legacy, an Agreement on Accountability and Reconciliation (AAR), signed by the GoU and the LRA/M in June 2007, and an implementing protocol signed in February 2008. These agreements proposed a national transitional justice framework for dealing with both LRA and UPDF war crimes, including a special international crimes division of the Ugandan High Court; support for traditional justice; a “body” to “inquire into the past”; and reparations for victims.<sup>12</sup> The GoU later committed itself to implementing the AAR framework regardless of the eventual failure of the talks.

Some argued the signing of the accords proved peace and justice *could* be negotiated simultaneously during peace talks. Others insisted the accords failed to overcome the fundamental impasse of the ICC arrest warrants. Both interpretations brought the ‘peace versus justice’ dilemma into sharp focus, while the broader domestic political context informing the AAR accords, including structural power dynamics between the GoU and LRA, historical understandings of conflict, and internal dynamics of the negotiating parties, were obscured. As the ICC’s first Uganda trial takes place there is scholarly consensus that debates about ‘peace versus justice’ in the northern Ugandan context are essentially “moot”.<sup>13</sup> Northern Uganda has experienced: “its longest period of stability in decades...*without* a successful conclusion to peace negotiations and *without* criminal accountability for the LRA’s top commanders”.<sup>14</sup> This article therefore departs from debates about peace versus justice *per se*, and instead analyses the interplay between the ICC and domestic politics that shaped the construction of the AAR accords at Juba.

In essence, the article argues that the role of the ICC warrants at Juba shaped political dynamics between negotiating parties in two key, sometimes contradictory ways. In broad-brush rhetoric, the warrants became a naturalized part of the power structures and war histories into which they were subsumed. This created severe discord between negotiating parties, entrenching power inequalities and reinforcing

political narratives that pre-existed the presence of the court. On the specific issue of accountability for war crimes however, both parties came to see the court as a perplexing intervention that needed to be contained. This allowed for a perverse form of short-term cooperation between GoU and LRA/M delegations, and shaped the politically expedient AAR accords, best characterized as a fragile “mafia type truce”.<sup>15</sup> While they superficially showcased the transitional justice ‘toolkit’, the agreements were not rooted in engagement with its normative axioms. The overarching purpose of the accords was not *justice* but rather the codification of a strategy to obstruct and evade jurisdiction of the ICC. This fragile consensus on war crimes accountability ultimately broke down because it was based on short-term political tactics rather than any enduring, high-level agreement about the how justice might be achieved in northern Uganda.

Findings are drawn from 14 months of fieldwork in Uganda between 2012-16. During this period, over 100 semi-structured interviews were conducted with GoU actors involved in the talks; LRA/M negotiators; mediation team advisors; donor staff members and civil society representatives. The article also draws upon newspaper reports and unpublished documentary evidence from the talks themselves.

### **Getting to Juba**

In 2006, Mareike Schomerus interviewed Kony and asked him to explain the background to the conflict: “Let me say it”, he replied, “Museveni he did not want Acholi to be in their land... He want Acholi to be out, to complete, to die all”.<sup>16</sup> Museveni’s National Resistance Army/Movement (NRM/A) seized power in 1986 after a five-year guerilla war against Milton Obote. The Acholi were well represented in Obote’s army and two Acholi generals led a successful coup just prior to Museveni’s victory. Because the NRA/M regarded the Acholi as a threat, they were systematically oppressed. The NRA did not discriminate: they killed fleeing troops and former politicians but also went “deep into the rural areas to harass, loot and kill ordinary people”.<sup>17</sup>

The severity of the NRA attack on the north gave rise to an enduring, seemingly preternatural form of armed resistance led by Joseph Kony. There was a

general lack of popular support amongst fellow Acholis and it is estimated that around 66,000 people were abducted by the LRA in northern Uganda, four fifths of whom were under the age of eighteen.<sup>18</sup> By 1996, the GoU began forcing people into camps, and within a decade more than 90% of the Acholi population had been displaced. While they were ostensibly ‘protected’ by groups of UPDF soldiers, attacks on camps were common, and abuses by both the UPDF and LRA were a regular occurrence.<sup>19</sup>

There have been several attempts at peace but Museveni’s default approach has been impatience with negotiations and determination to keep fighting. The war provided strong basis for appeals to donors for increased defence spending and it allowed the GoU to ignore legitimate Acholi grievances, equating them with support for the LRA.<sup>20</sup> The period after the 1996 elections in Uganda witnessed a successful Acholi civil society campaign to implement a blanket amnesty law to encourage an end to fighting. Despite parliamentary endorsement, Museveni preferred the idea of a limited amnesty for the “misled,” and rejected the possibility of pardons for “bandits like Kony and his deputy Otti”.<sup>21</sup> In May 1999 he changed his position to win popular support in the north on an upcoming constitutional referendum and the Amnesty Act was signed in 2000.<sup>22</sup>

In 2002, the UPDF launched a major offensive – Operation Iron Fist - against the LRA. The group was now mainly operating from South Sudan with the support of the Sudanese Government (GoS), who used them as a proxy force in its military campaign against the Sudan People’s Liberation Army (SPLA). Jan Egeland, the UN Humanitarian Coordinator, visited northern Uganda in November 2003 and delivered his oft-quoted summation that this was “the biggest forgotten, neglected humanitarian emergency in the world today”. A second Iron Fist offensive took place in 2004 and was more effective in its direct targeting of LRA leadership. Despite the active ICC investigation, the GoU declared a ceasefire in November 2004 in the hope that Kony and key commanders would surrender and accept an amnesty. According to Pax Christi Netherlands – an NGO engaged in the peace effort since the 1990s - the ICC warrants torpedoed government efforts.<sup>23</sup> This was frustrating for Museveni because various factors were now coalescing to make conflict resolution a high-stakes political issue, most notably: donor impatience, the first multi-party national elections under the NRM scheduled for 2006, and the hosting of the Commonwealth Heads of

Government Summit the following year.<sup>24</sup> By the mid-2000s things were closing in on the LRA too. In January 2005 the SPLA/M signed a Comprehensive Peace Agreement (CPA) with GoS, marking an end to the long-running north-south civil war. Soon after, John Garang, first President of semi-autonomous South Sudan (GoSS) was killed in a helicopter crash returning from a meeting with long-standing ally Museveni. Garang was replaced by his deputy Salva Kiir, and Riek Machar was appointed vice-president. Neither Kiir nor Machar had a close personal association with Museveni and this new dynamic in bi-lateral relations created a promising avenue through which to explore peace talks.

In February 2006 a small delegation of LRA/M and Pax Christi representatives travelled to Juba to meet Machar.<sup>25</sup> A “formal accord” was structured around three central points: GoSS would facilitate peace negotiations; the LRA would end all military activity in South Sudan and, if the LRA reneged on these provisions, they would be expelled from South Sudan.<sup>26</sup> In May, Machar travelled to remote Nabanaga on the Sudan-DRC border to meet Kony in person. The encounter was filmed and later broadcast by Reuters.<sup>27</sup> Kony looked “less relaxed” than his deputy, Vincent Otti, who had done a lot of the groundwork with Machar leading up to the meeting.<sup>28</sup> At this point the GoU was outwardly sceptical: “You can’t trust Kony,” insisted a UPDF spokesperson, “he always makes these moves when he is desperate... we will continue to hunt him”.<sup>29</sup> Nevertheless, in July 2006 the GoU sent a delegation to Juba, where the LRA/M team had been waiting since early June.<sup>30</sup> On 14 July, the two sides sat down with the mediation team: the talks had officially commenced. Months later, in October, a UN managed “Juba Initiative Fund”, was set up to co-ordinate and channel “basic” support from donors.<sup>31</sup> With the ICC Chief Prosecutor publicly trumpeting that the “best way to finally stop the conflict...is to arrest the top leaders”, the trust fund donors (all States parties to the court) were clear they would only tolerate an agreement that addressed the accountability issue.<sup>32</sup> With donor money also came pressure to ensure that agreements were drawn up and concluded quickly and decisively: the talks, said one analyst, were placed on “a short leash”.<sup>33</sup>

### **Approaches at Juba: internal incoherence, different ‘peaces’ and mistrust**



At the outset, the talks were hastily organized around five agenda items, with “justice and accountability” placed third on the list. Between July 2006 when the talks began, and December 2008 when Operation Lightning Thunder<sup>34</sup> was launched against the LRA, the Juba process was characterized by “a pattern of sputtering progress punctuated by frequent delays”.<sup>35</sup> Three dynamics shaped the process from the outset. Firstly, both delegations lacked internal coherence; secondly, the GoU and the LRA/M had different visions of the kind of ‘peace’ they were trying to achieve; and thirdly, there was profound distrust between both sides.

### *Lack of coherence within negotiating teams*

When the talks began there were a range of positions on the GoU side, reflected in the composition of the delegation. The head of the team, Minister of Internal Affairs, Dr Ruhakana Ruganda, was believed to be committed to negotiated settlement and supported an “expedited process with clear direction that addressed domestic political considerations, such as public opinion in the north”.<sup>36</sup> But alongside him sat Colonel Charles Otema, commander of the UPDF 4<sup>th</sup> Division. Otema, personally, and the military he represented, were intent on what one UPDF official called the “icing of an LRA surrender”.<sup>37</sup> The priority remained military victory rather than a negotiated settlement.

Before the talks began Machar tried to convince Kony’s deputy, Otti, to head the delegation, but he refused, citing uncertainty relating to the ICC warrants.<sup>38</sup> The delegation Kony sent to Juba had “weak” and “tenuous” links with the high command, and was made up primarily of members of the Acholi diaspora.<sup>39</sup> Father Carlos Rodriguez, a respected Spanish priest who lived and worked in Acholiland for years, said presciently in early July:

“I doubt the 16-member negotiating team Kony has named has any power to negotiate anything on behalf of the LRA, because these are ordinary people that have not been in the bush with the LRA”.<sup>40</sup>

In contrast to the “often amateurish demeanor” of the LRA/M, the GoU had a high-level delegation with far greater technical capacity but both sides shared a major structural weakness: the political wing was subordinated to the military high command, headed, respectively, by Museveni and Kony, neither of whom were present at the talks.<sup>41</sup> Martin Ojul, first Chair of the LRA/M delegation, gave

expression to this difficult situation: “no matter which side one belongs to, the real decision makers are not in Juba”.<sup>42</sup>

### *Different peaces*

Both sides had an interest in ending the war but arrived in Juba wanting different types of peace.<sup>43</sup> Until the last moment, the GoU relayed mixed messages about its willingness to engage in negotiations. From mid-June 2006 the government refused to offer Kony amnesty or to send a delegation to Juba.<sup>44</sup> In early July both positions were reversed.<sup>45</sup> Some observers interpreted this as tactical rather than chaotic, allowing the GoU to take control of the situation at Juba and insist on a “speedy, expeditious” set of talks, framed as a generous way of offering the LRA an “exit”.<sup>46</sup> Two months into the process, Museveni expressed impatience with having to address anything beyond a straightforward end to the fighting:

“Advise them to come out of the bush and stop talking about irrelevant things in Juba... We have elected leaders who can talk about rehabilitation but not them (LRA) who have been stopping development. This is childish”.<sup>47</sup>

The President and more hawkish members of his administration, wanted what Galtung describes as “negative peace”: a mere absence of war in the north.<sup>48</sup> Even Ruganda recalled reluctance to negotiate broader socio-economic and political issues with the LRA/M:

“it was not just the President and State house that was uncomfortable. I was uncomfortable. Kony and his people had no right to talk about these issues. They had no mandate”.<sup>49</sup>

The LRA/M delegations’ public statements, on the other hand, emphasized the potential of Juba to cement a more “positive peace”, a new political and social settlement “not limited to the idea of getting rid of something”, rather, involving “the idea of establishing something that is missing”.<sup>50</sup> This included “comprehensive solutions” to address the underlying causes of the conflict. Throughout the talks, however, it was not clear whether addressing underlying causes of conflict meant providing money, status and protection to senior LRA/M figures, or whether emphasis was on producing a more substantial peace settlement for northern Uganda: these two motivations largely coexisted and were seen, to varying degrees, as mutually supportive in the LRA/M. A related point is that accusations of individual delegates pursuing their own interests and/or being co-opted by the NRM were a continuous

feature of the talks. As Schomerus argues this narrative actually served a ‘distinct purpose’ for the LRA/M: it was the ‘glue’ that held the broader system together.<sup>51</sup> It bolstered the perception of the LRA/M as a marginalized group, subject to the vicissitudes of ‘hostile’ GoU structures that conspired to make internal unity unobtainable. If a consistent negotiating position was structurally impossible then how could peace ever be achieved? This kind of logic created a politics of grievance amongst the LRA/M which would be used as an excuse to avoid serious reflection about their own ‘role in the failure of the talks’.<sup>52</sup>

### ***Lack of trust between negotiating sides***

A profound lack of trust between the parties, rooted in the history of conflict, shaped the dynamic at Juba. There was a strong assumption within GoU ranks that Kony did not really ‘want’ peace. This is now a dominant post-Juba political narrative, designed to absolve the GoU from any role in the failure of the talks. During Juba it was the central justification for the government position on the need for negotiation deadlines and military preparedness. While there were important figures within government who had a more sympathetic view of Kony’s intentions - Rugunda, for example, argued that Kony “was looking for an opportunity where he could be rehabilitated but he was not sure about some of the issues, especially the ICC” – in general, the hawks had the President’s ear throughout the process.<sup>53</sup>

In October 2006, three weeks after the LRA failed, under the terms of a Cessation of Hostilities Agreement, to assemble at Owiny-Kibul in southern Sudan, military chiefs briefed the President that: “based on available intelligence the LRA is preparing for war...most likely the talks will not succeed; high chance of return to war”.<sup>54</sup> LRA/M representatives insisted failure to assemble was due to unauthorized UPDF troop movement near the area.<sup>55</sup> But just three months into the talks, the dominant GoU position was informed by military intelligence alleging the LRA was purchasing military and communication equipment, retrieving arms and ammunition and training new radio operators in DRC bases.<sup>56</sup> Stephen Kagoda, Permanent Secretary to the Ministry of Internal Affairs and a member of the GoU delegation explained that:

“honestly speaking, we went into the talks not expecting anything out of them. We did not expect Kony to come out...we knew that whenever Kony was under pressure, he would go for peace talks to re-organise”.<sup>57</sup>

While serious reservations about Kony’s motives existed within government and the military, the GoU public position at the talks was carefully choreographed. A senior ranking government official explained: “there were people who believed that the government was not interested in peace so how do you convince those people we are for peace? To *show* everybody that we are interested in peace.”<sup>58</sup> That, he argued, “was one of the major reasons” for agreeing to the process.<sup>59</sup> Another recalled a private conversation with the President during which she convinced him that commitment to the Juba process was a “legacy issue”.<sup>60</sup> Museveni’s advisers were aware that a government decision to withdraw from the process would be interpreted badly by the international community. Donor accusations of corruption, election fraud and failure to resolve the conflict in the North were already harming the President’s reputation as a solid leader and statesman.<sup>61</sup> Security and intelligence briefings given to Museveni stressed the need to “prepare for a resumption of hostilities...immediately after talks collapse” but also to “keep the Government mediation team intact to reassure the international community and population of government commitment to talks”.<sup>62</sup>

When Museveni travelled to Juba in October 2006 and met the LRA/M delegation, spokesperson Godfrey Ayoo, claimed the president called them “uninformed Ugandans who have been out of the country for twenty years” and said things which, “were all abusive – indicating that he is never interested in peace talks”.<sup>63</sup> Deputy head of the GoU delegation, Henry Okello Oryem, denied this, telling journalists that “to the contrary (Mr Museveni) used the opportunity to make it very clear that he had come all this way to support and encourage the peace process.”<sup>64</sup> In a candid assertion of government strategy, however, a senior government official explained that at Juba: “we were pretending! We knew he [Kony] would never sign any stupid peace document!”.<sup>65</sup> A mediation team adviser agreed. The president, he said, regularly complained that Kony was “fooling us” but was advised: “please do not attack, let the talks play out, we know he will not sign, then once and for all, the world will know who the spoiler is. And the President, he went to the very end”.<sup>66</sup>

## **Sowing discord: Understanding ICC narratives at Juba**

Barney Afako, chief legal adviser to the mediation team, recalled how the parties were “persuaded” to deal with accountability and reconciliation as the *third* agenda item:

“This placement of the issue allowed for a gentle build-up towards the negotiations on justice. More crucially it ensured criminal justice was located in a more appropriate context amongst the political, historical, social and economic justice issues that also needed to be addressed”.<sup>67</sup>

This presupposed there could be an “appropriate context”, agreed upon by all sides, when in fact, a shared narrative about the causes and events of war was elusory. The power asymmetries, deep distrust, and duplicity guiding the Juba process provided no firm foundation upon which justice and accountability agreements might be reached. It is against this backdrop that the ICC’s role at Juba should be understood. Certainly, the investigation and warrants shaped the debate on justice, and, more specifically, the AAR accords, but those debates were, in turn, informed by historical and political dynamics far wider and deeper than the controversial presence of the international court.

### ***‘The ICC can help us’: GOU approaches***

When the GoU ICC referral was made public in 2004, most observers assumed Uganda - a state party - had initiated the move. Over time, the sequence of events has been challenged and numerous sources concur the ICC arrived in Uganda, “having lobbied for a referral”.<sup>68</sup> Civil society leader, Zachary Lomo recalled a meeting with the Chief Prosecutor in New York in 2006: “he was asserting himself” and was “clear...that the court had taken the first steps with the Uganda case”.<sup>69</sup> The Ugandan government was easy to convince because they believed the referral would assist military efforts. Kagoda was unequivocal about this: “we thought only a military operation would get rid of Kony but our military did not have jurisdiction in Sudan. That is why we listened to the ICC: how else do we handle this? The ICC can help us.”<sup>70</sup> A senior adviser to Museveni concurred:

“when we briefly talked about transitional justice, we talked about it as an extension of military strategy; at first, we wanted the ICC but then it became clear that Kony might accept traditional mechanisms; after all, he is a weird guy, he changes his mind, so we needed the ICC to be flexible.”<sup>71</sup>

This highlighted a serious lack of knowledge about the statute and jurisdiction of the court. Government ministers and military officials had “no idea” what they had signed up to and, according to a senior UPDF official, “did not understand the impact of referral and did not think about an exit strategy”.<sup>72</sup>

At first it was presumed that the ICC *would* be flexible, and government officials casually undermined its jurisdiction when it proved politically expedient. Rugunda, for example, referred to the court as a “tool” the government was using.<sup>73</sup> In the run-up to the beginning of the talks, Museveni made public statements to the effect that the warrants could be withdrawn. Again, he offered Kony amnesty, conditional on whether he “responds positively” to the process and “abandons terrorism”.<sup>74</sup> Museveni, at this stage, was frustrated the warrants had not resulted in a regional military effort to “hunt” Kony. Conflating the powers and functions of the UN and the ICC, he complained: “the UN system has no moral authority now to demand for Kony’s trial after failing to arrest him for the nine months he has been in Congo.”<sup>75</sup>

In September 2006, Rugunda told reporters that the traditional Acholi reconciliation process, *mato oput* could provide the solution to the ICC impasse:

“the ICC supports the Juba talks and they would like to see an end to the conflict. The ICC also wants justice done and is opposed to impunity. In the *mato oput* system, we hope to have a win-win situation”.<sup>76</sup>

But this was misleading. The ICC never expressed public support for the Juba process, and prior to Rugunda’s statement the OTP requested the Registrar submit a report on progress made in the execution of the arrest warrants, and co-operation of relevant states. The ICC OTP: “stressed that the arrest of Kony and his deputies was vital for their effective prosecution and prevention of further crimes”.<sup>77</sup>

### ***‘It might be a trap’: LRA ICC narratives***

In September 2006, Vincent Otti said he would sign a peace deal but only if the ICC arrest warrants were lifted, “without that”, he said, “not even a single LRA soldier will go home...because it might be a trap”.<sup>78</sup> Museveni responded via radio announcement that a peace deal must be signed first:

“the removal of the indictments will be a reward for their signing of the agreement. Otherwise you (rebels) will die on our hands or the hands of the ICC.”<sup>79</sup>

This was “the impasse”, widely reported in the press, and antagonistically raised on both sides. But a closer interrogation of LRA/M narratives reveal a more nuanced attitude towards the court, formed of three main perspectives.

Firstly, similar to the GoU, there was a lack of understanding about the legal basis, jurisdiction and powers of the ICC. Kony, for example, referred to the ICC and the International Court of Justice interchangeably; LRA/M spokesperson Olweny, talked about the ICC as “part of the UN system that favours the strong”<sup>80</sup>; and both Kony and Otti assumed the court had the death penalty. Secondly, there was receptiveness to the idea of a court as a forum for political expression, narrative shaping, and testimony. Despite abjuration of the warrants, the LRA/M wanted to engage with the court because it might allow them to tell their side of the story. In January 2007, Otti told reporters:

“We were indicted without being questioned. We were not even investigated. That is why we decided to at least first of all send some of our delegates ... to the Hague and ... the court prosecutor to explain to them or we would like the prosecutor to send his staff to come here and hear from us whether we have really committed crimes”.<sup>81</sup>

Thirdly, while the concept of legal neutrality existed as a theoretical possibility in the minds of the LRA/M, it could not be realized in their political context. While accepting the idea of a court process, *per se*, they concluded the ICC could not be a neutral arbiter. The court’s perceived closeness to Museveni and decision not to investigate UPDF crimes would prevent an impartial historical record of events or a fair allocation of guilt and punishment. In June 2006, Schomerus asked Kony whether he had seen the warrants and his reply portrayed the complexity of LRA/M attitudes towards the ICC:

“We did not see any...but...as I am seeing you cannot hear the word from one side only...it is better if those people (the ICC), they hear, they come and talk to me as you are now talking (...) then they hear what I am saying and what Museveni is saying...They did not question me, they did not ask me, they did not interview me about the ICC”.<sup>82</sup>

The unequal political dynamics that shaped accountability decisions were deeply troubling to the LRA/M, and informed a position more complex than a straightforward desire to evade accountability. Indeed, the LRA/M also refused to accept the principle of the blanket amnesty, arguing that it was part of a GoU “ploy to indiscriminately criminalize all members of the LRA/M and hide its own role in the conflict under the carpet”.<sup>83</sup>

Important differences therefore divided negotiating parties on the ICC. The GoU initially saw the court as a military tool and later became frustrated by its combined ineffectiveness and rigidity. The warrants were still, however, a valuable bargaining chip that might deliver a decisive surrender of the LRA leadership. The LRA/M’s position was arguably more substantive and nuanced: it saw in the law both an expansive opportunity and a perilous threat. Could the presence of an international court provide the discursive space the LRA/M craved, or was the ICC just another inscrutable and hostile power structure poised to come crashing down on them? For the GoU, debates around the ICC were at times frustrating, but it was always able to maintain control over the political stakes of the justice issue. For the LRA/M, the ICC issue was existential: it was not the idea of accountability and reconciliation *per se* that was so troubling, but the power and knowledge asymmetry between the negotiating sides, a replication of the structural dynamics that had led to the conflict in the first place, and which was now foreclosing any opportunity for justice to be, in the eyes of powerful elements in the LRA/M, ‘fair’.

### **Catalysing cooperation: the ICC and shaping of the AAR**

It was against this difficult backdrop that the AAR accords were debated and drafted. At this stage, in early 2007, the talks had reached a standstill, so Pax Christi offered to facilitate a controversial series of “back-channel” meetings in Mombasa, more “conducive to mutual understanding than the prickly climate of Juba”.<sup>84</sup> Museveni put his half-brother General Salim Saleh in charge of the GoU four-person team. On the LRA/M side Otti sanctioned the meetings and team consisted of five people, including Ojul and LRA/M legal adviser Ayena Odongo.<sup>85</sup> Specific discussions on the justice and accountability agenda item had yet to be negotiated formally at Juba but were, according to civil society leader, Michael Otim, regularly



the subject of “tit for tat” and “attritional” exchanges.<sup>86</sup> Quite remarkably then, not long after the Mombasa meeting began, Pax Christi announced accountability and reconciliation issues had been resolved with a “refreshingly straightforward text” that recognized “traditional and alternative justice mechanisms as key elements in dealing with accountability for the offences committed during the war”.<sup>87</sup> Rugunda explained the implications for the ICC warrants: “our position on the court indictments is that the government will engage the ICC after a final peace agreement (is reached) and after the LRA have undergone the traditional system of *mato oput*”.<sup>88</sup>

Back in Juba things were less straightforward. The talks officially re-started on 1 June 2007, by which point both “international influence” and mediation team legal advisers were “instrumental in producing a fuller understanding of the need for robust accountability mechanisms”.<sup>89</sup> The International Center for Transitional Justice organized a seminar to encourage parties towards a “technical understanding” of the available accountability options, given the existence of the ICC warrants.<sup>90</sup> This must have had some impact because GoU negotiators soon distanced themselves from the Mombasa text and assured US embassy staff they had: “a new approach on the issues of justice and accountability, which will focus on teaching LRA leaders about their judicial options, rather than focus on traditional reconciliation mechanisms”.<sup>91</sup>

During this period, recalled Otim, “points of synergy” developed between the sides. Once it became clear the Mombasa approach would not suffice, the overwhelming priority for both delegations was to agree on a national legal solution that would satisfy ICC standards so that talks could progress.<sup>92</sup> On the LRA/M side the priority was to reach a deal that would reassure Kony he would not face international prosecution. On the NRM side there was a compatible logic at play: senior government elites wanted to marginalize the ICC and re-assert national political and legal jurisdiction over the issue of crimes committed during the conflict in northern Uganda. The mediations’ legal advisers took a hard-boiled and expedient approach. The general position, said one, “was that nobody wants justice, justice is coercive, it is inconvenient, you have to protect people from justice”.<sup>93</sup> Interestingly, Afako later noted that:

“if you go back to the text of Juba, you will hardly find the word justice... we never used the term transitional justice, we simply described the kinds of things we could do practically”.<sup>94</sup>

On 13 June, the parties reached a consensus on a set of “general principles” on justice and accountability, which prioritized a national legal and institutional framework for war crimes accountability.<sup>95</sup> Pax Christi noted wistfully, that the text agreed in Mombasa appeared “roughly hewn in contrast to the legal finesse of its Juba counterpart” but the AAR itself was drafted on the back of an envelope during a Eurostar journey between Paris and London.<sup>96</sup> The final version was polished back in Juba with relative speed and ease, with “not many people in the negotiating room”.<sup>97</sup> At one point UN officials requested a greater role in AAR discussions, but the mediation team refused. This was not a deliberative process; it was pragmatic, shaped by a diversionary logic that acknowledged the structural and symbolic power of international criminal justice, but also needed to find ways to contain and circumvent it. Regardless of the absolutely central role commentators gave to the ‘peace versus justice’ dilemma at Juba, mediation team advisers recalled that AAR discussions: “were not serious, they were not what torpedoed the talks...the AAR was signed in a record time of one month and it moved much faster than other Agenda items”.<sup>98</sup>

The LRA/M was reportedly unhappy that not all of the 20 issues it had recommended for discussion under the agenda item had been addressed, but did not push it and on 29 June 2007 both parties signed the AAR. It was made broad and shallow and provided the parties with plenty of room for maneuver. The agreement proposed almost the full set of transitional justice mechanisms and while it nodded towards principled compliance with international and transitional justice it was based on narrow political interests. The inventory approach was later ridiculed by Afako, who recalled people wandering around asking: “so, what is this vetting thing? Shall we have that too?”<sup>99</sup> Rugunda meanwhile admitted that: “on the AAR, we did not restrict ourselves...We might not use everything that is in the AAR, but that is our political framework”.<sup>100</sup> The government was relaxed about an agreement it was confident it could control. Nobody really expected to see UPDF prosecutions in the new court and senior civil servants tasked with exploring the feasibility of a truth commission and reparations complained that Uganda was now a “laboratory for external ideas about transitional justice” that were doomed to fail in that context.<sup>101</sup> In

the absence of a political transition, transitional justice processes would naturally become an extension of politics by other means.

For a short period, the AAR worked in the LRA/M delegation's favour too. In a position paper delivered just prior to the drafting of the accords, Ojul was candid about "the embarrassing situation" the parties found themselves in with regards the accountability issue at Juba.<sup>102</sup> He valorized the LRA/M preference for 'traditional' justice (included in the AAR), linking it with notions of Acholi identity and exceptionalism but framing this in the language of international criminal justice. "Acholi" processes, he argued, were potentially replicable: an exportable solution to tensions between peace and justice. Anything agreed at Juba, Ojul suggested, might be path-breaking, particularly if a new approach to the relationship between international and traditional methods of conflict justice could be developed: "We are laden", he pronounced, "with the task of setting up an international legal precedent".<sup>103</sup>

For both parties, the AAR accords were a set of reactive agreements, drafted and signed in order to deflect the ICC rather than to create a substantive, or sustainable new justice framework to deal with war crimes. The AAR was in essence, a well-crafted and politically chicane decoy: a box ticked to diffuse the actual and symbolic grip of the ICC and to allow the talks to continue. Yet the normative power of transitional justice at the international level was such that the AAR accords were potentially reputation enhancing for both sides.

### **The shallow roots of accountability promises at Juba**

As stipulated in the AAR, the Juba talks were put on hold from late August to late September 2007 to allow for donor funded popular consultations on justice and accountability. A meeting of legal experts, politicians and civil society also took place in Kampala. Both processes were to inform an implementing protocol to the AAR. As the government's popular consultations proceeded, US Secretary of State Jendayi Frazer met Museveni, who described Juba as a "circus" characterized by "foolery".<sup>104</sup> Three days later he and Congolese President Kabila signed an agreement in Tanzania

establishing a 90-day timetable after which Congolese armed forces would take action against the LRA in Garamba National Park.

The LRA/M's popular consultations eventually began in Gulu in November but were dominated by uncertainty about the death of Vincent Otti, thought by many to be the LRA's "force behind the peace talks".<sup>105</sup> African observers who travelled with the LRA/M delegation reported the team had "virtually no way of communicating with Kony."<sup>106</sup> In January 2008 they travelled to the Ri-Kwangba assembly area to present findings of the popular consultations but Kony did not show up.<sup>107</sup> Days later, Ojul was dismissed as delegation Chair, purportedly over growing links with the NRM and his involvement in the Mombasa meetings.<sup>108</sup> However, despite internal chaos in the LRA/M ranks, the period from the end of January to the beginning of March 2008 were, superficially at least, some of the most productive of the entire Juba process. Talks resumed on 30 January and the next six weeks witnessed developments at breakneck speed.<sup>109</sup>

On 19 February 2008 the parties signed the AAR implementing protocol, which included detail on the setting up of "special division of the High Court of Uganda...to try individuals who are alleged to have committed serious crimes during the conflict", as well as a truth-telling body, commitment to establishing the "necessary arrangements" for reparations and a clearer role for "traditional mechanisms" as part of the "alternative justice and reconciliation framework". The Agreement on Implementation and Monitoring Mechanisms, signed ten days later, also outlined a commitment by the GoU to approach the UNSC and request the ICC, "defer all investigations and prosecutions against the leaders of the LRA".<sup>110</sup> On 23 February a permanent ceasefire was signed, and a week later LRA/M delegates, now headed by James Obita, travelled to Ri-Kwangba to present all agreements to Kony. The following day, the final two documents, the agreement on Disarmament Demobilisation and Reintegration, and its implementation protocol, were signed by the delegations in Juba.

Throughout the talks and particularly after Otti's death in late 2007, both delegations adopted an approach at Juba marked by structural dissociation. Each side comprised a group of individuals responsible for day-to-day functioning of the talks

(when they were not in hiatus). They entered into negotiations - including those on accountability and reconciliation - drew up agreements and signed documents, willfully detached, for myriad reasons, from the entirety of their contexts. On the GoU side, agenda items, including the AAR, were signed in the knowledge that State House was busily preparing a military offensive. On the LRA/M side, the same agenda items were signed in the knowledge that Kony, the ultimate guarantor of any final peace agreement, was not being adequately consulted and remained concerned about several issues, not least the prospect of facing justice. These political realities were 'disassociated' from deliberations, so agreements were drawn up in bursts and progress often seemed notable.

This dissociation became severe in the LRA/M team in 2008 and particularly around the issue of war crimes accountability. Any form of justice, whether 'traditional', domestic or international, remained worrying to the LRA high command, regardless of what had been formally agreed on their behalf by the LRA/M delegation in the AAR. Despite this both parties settled upon 9 April 2008 to sign the Final Peace Agreement. One hundred and fifty people, including chief negotiator Riek Machar, journalists, UN workers and Acholi elders, assembled in a make-shift camp in Nabanga to witness the signing ceremony.<sup>111</sup> After five days there was no sign of Kony. On 18 April, he demanded a meeting with Ugandan leaders to discuss the implications of AAR and its annex, and particularly, "why he should face three forms of justice: *mato oput*; Special Division of the High Court; and the International Criminal Court". He had never even heard of *mato oput*.<sup>112</sup> Obita acknowledged that Kony's questions illustrated "his lack of understanding of the agreement".<sup>113</sup> They also illustrated his detachment from the Juba process and the speed with which a fragile, politically motivated 'consensus' on transitional justice might break down or create new power dynamics during the talks.

In response to Kony's request, Rugunda agreed to a meeting of legal experts, delegation teams and northern civil society in Kampala in May, to clarify issues relating to the AAR. Here, Obita stated the urgent need to:

"explain to the High Command all of their concerns on issues of accountability and reconciliation, and henceforth to reassure them that the Agreement in Juba is a good one...the final document should be as simple as possible, in layman's language".<sup>114</sup>

But the AAR and its annex raised a number of highly complex legal issues, jettisoning Afako's hope that "by the end [of the workshop], everyone should be able to give an outline of accountability in simple terms".<sup>115</sup> Nobody could actually explain how the AAR accords would work in practice. For the broad northern Ugandan constituency at the workshop this was palpably exigent and deeply consequential. The Acholi paramount chief pleaded for "simple interpretations...which will instill confidence in him (Kony) to sign the agreement".<sup>116</sup> In contrast, the GoU was on solid ground and conditions were ripe for it grasping both moral ownership and political direction of the transitional justice framework. The government's language was increasingly detached, programmatic, and donor-friendly, emphasizing the "mechanisms and procedures" needed to implement the AAR accords.<sup>117</sup> The internal combustion of the LRA/M now seemed inevitable and a solid military plan 'B' was in place. People in northern Uganda had started returning from the camps. The GoU, Oryem explained, would "go ahead and play its role...which would contrast starkly with the LRA's bad faith".<sup>118</sup>

Ayena Odongo, the LRA's legal adviser for a large part of the process said Kony lived in fear of non-acceptance: "he was aware of what he had done and could not believe he would be forgiven. The ICC just gave him an excuse".<sup>119</sup> Despite LRA/M signatures on both the AAR and its annex, Kony himself was never party to decisions or clear about the implications of what was being agreed. At a final meeting of northern Ugandan leaders and LRA/M delegates in Garamba at the end of November 2008, Kony would eventually accuse his delegation of being "thieves" on the NRM payroll and said specifically that he "could not accept the Protocol on Accountability and Reconciliation".<sup>120</sup>

When the talks completely spun off their axis in December 2008, the GoU took the moral high ground and promised to implement the AAR accords, regardless. Ten years on, given the domestic political calculations informing the construction of the accords it is hardly surprising that, despite donor investment and some cursory government engagement on transitional justice, accountability for war crimes in northern Uganda has yet to materialize. In the absence of a political transition there

was very little impetus amongst entrenched political elites for serious engagement with AAR implementation.

### **Concluding discussion**

As Ongwen's trial takes place at The Hague, we are reminded of the loudest debates that took place when the ICC first became involved in Uganda over a decade ago. There now exists a scholarly consensus that the role of the ICC at Juba was more complex than abstracted peace-versus-justice arguments at the time suggested. This article responds to the call for more empirical research focused on the impact of the court on domestic political dynamics during peace negotiations. The court played an important role in the talks, but mainly in that it "channeled contention" and became a symbol against which issues of domestic political concern were mediated and articulated: this was particularly significant in the framing of the AAR accords.<sup>121</sup>

As this article has demonstrated, the domestic political dynamics to be grappled with at Juba far exceeded the significance of the ICC warrants, yet the warrants came to symbolize the intractability of existing power asymmetries in Uganda. For the most part, this created severe discord. For the LRA leadership, still in the bush, the court represented an overwhelming feeling that any "political opportunity structure"<sup>122</sup> that may have existed at the beginning of the talks had, certainly by the first rejection of the FPA, been closed. Kony "never believed he would be given a fair trial" – but this notion of a fair trial was expansive – it was not just linked to legal proceedings in a courtroom but, more broadly, to the potential for the LRA high command to get what they wanted out the peace talks.<sup>123</sup> The court came to represent this barrier. An inscrutable international organization, the ICC was linked inextricably to the NRM and carried with it an apparent power to shape narratives and allocate blame and punishment. It represented, in extreme form, the spectre of absolute silencing and total renunciation.

As the article argues, however, during specific discussions on war crimes accountability, the presence of the ICC actually created space for fragile domestic consensus between delegations at Juba, based on a shared desire to manage the

jurisdiction and reach of international criminal justice. The result was the AAR accords. The procedural and substantive aspects of the accords masked the highly complex dynamics at play at Juba, and represented a simulation of what a set of accountability agreements perhaps, *might*, or *should*, look like. In reality, they comprised a pragmatic and self-interested bargain: a maze of protective possibilities and narrative shaping opportunities; and a means (ultimately unsuccessful) by which to overcome frustrating constraints imposed by warrants. Both delegations could ultimately agree on the importance of these objectives. For donors and activists, the agreements were presented as a game-changing commitment to transitional justice during peace talks. Outside of the Juba role-play, though, Museveni was plotting his military Plan B and Kony was increasingly distant from his delegation and concerned with self-preservation. By the end of 2008, the war was exported to neighboring regions of DRC and South Sudan, creating a fragile peace in northern Uganda. There is no justice in this peace and this deadlock should be understood as product of the political dynamics informing the parties' approaches to the AAR accords at Juba.

The domestic political dynamics around ICC involvement at Juba has some resonance in peace and mediation processes across the region. It is clearly the case that in neighboring Kenya, for example, the presence of the ICC has created distinctive political approaches, including 'passive marginalization' strategies designed to 'circumvent the court by working through other, more readily controllable institutions'.<sup>124</sup> Kenya is similar to Uganda in that both countries have adopted transitional justice mechanisms, against the backdrop of the ICC but without 'a meaningful political transition having taken place'.<sup>125</sup> When the ICC launched an investigation in Kenya in 2010, this catalyzed elite domestic cooperation around subverting international justice. Mueller, for example, identified a number of 'tactics' deployed by ICC indictees Uhuru Kenyatta and William Ruto in the run up to the Kenyan elections in 2013, in order to 'undercut the ICC'.<sup>126</sup> This included stated agreement on the need for broader transitional justice, but despite a raft of measures on the table, the government has "dragged its feet and delayed and undermined the process as much as it could".<sup>127</sup>

As has been demonstrated in the case of Uganda but is also relevant other contexts, the presence of the ICC during peace negotiations can create space for



opposing sides to come together and develop a programme of “transitional justice as subterfuge”.<sup>128</sup> In Uganda, it is impossible to understand the complex dynamics around justice for war crimes unless we engage with the domestic political priorities that emerged within and between negotiating parties at Juba in response to the ICC intervention. A key, enduring ICC legacy in northern Uganda is not justice, nor peace. It is something more modest but no less significant: a set of domestic transitional justice accords designed to ‘protect’ both government and rebel leaders from ICC style accountability.

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### **Notes**

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<sup>1</sup> Interview, ICC staffer, Kampala, April 23, 2012.

<sup>2</sup> Branch, *Displacing human rights*; Clark and Waddell, *Courting conflict?*

<sup>3</sup> Ibid; “False Dichotomy”.

<sup>4</sup> Nouwen, *Complementarity in the Line of Fire*. Otim and Wierda, “Impact of the Rome Statute”.

<sup>5</sup> Allen, *Trial Justice*. United Nations High Commissioner for Human Rights, “Making Peace Our Own”.

<sup>6</sup> Important exceptions include studies by Kersten, *Justice in Conflict* and Schomerus, *Even eating*, but while both give fascinating accounts of the Juba talks, neither goes into detail about the construction of the AAR accords.

<sup>7</sup> Kersten, *Justice in Conflict*, 47; Clark, “Taking stock”.

<sup>8</sup> Kersten, “International Justice”, 2; Hovil, and Quinn, “Peace First”; Branch, “International Justice, Local Injustice”; Akhavan, “The Lord’s Resistance Army”; Allen, *Trial Justice*.

<sup>9</sup> Clark, “Taking Stock of Transitional Justice”.

<sup>10</sup> See eg. Hovil and Quinn, “Peace First”.

<sup>11</sup> Macdonald, “Transitional Justice”, 291.

<sup>12</sup> Otim and Wierda, “Impact of the Rome Statute”.

<sup>13</sup> Kersten, “International Justice”, 5.

<sup>14</sup> Ibid.

<sup>15</sup> Kaldor, “How Peace Agreements”, 147-8.

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- <sup>16</sup> Schomerus, “ ‘A terrorist is not a person like me’ ”.
- <sup>17</sup> Finnstrom, *Living with Bad Surroundings*, 73.
- <sup>18</sup> Blattman and Annan, “On the nature and causes of LRA abduction”, 135.
- <sup>19</sup> Dolan, *Social Torture*.
- <sup>20</sup> Hendrickson, “Dealing with complexity”, 18; Tangri and Mwenda, “Politics of Elite Corruption”.
- <sup>21</sup> “Ugandan parliament approves long-awaited amnesty bill”, *Agence France Presse*, December 7 1999, <http://reliefweb.int/report/uganda/ugandan-parliament-approves-long-awaited-amnesty-bill>
- <sup>22</sup> Mallinder, “Uganda at a Crossroads”, 21-22.
- <sup>23</sup> Simonse, Verkoren and Junne, “NGO involvement”, 227.
- <sup>24</sup> Hendrickson, “Dealing with complexity”, 14.
- <sup>25</sup> Schomerus, “Even eating”, 69.
- <sup>26</sup> Atkinson, “Realists at Juba”, 210.
- <sup>27</sup> “South Sudan government gives Ugandan LRA rebels 20,000 dollars”. *Sudan Tribune*, May 26, 2006. [http://www.sudantribune.com/spip.php?page=imprimable&id\\_article=15834](http://www.sudantribune.com/spip.php?page=imprimable&id_article=15834); See also Schomerus ‘Even eating’, pp.71-72.
- <sup>28</sup> Ibid.
- <sup>29</sup> “Army doubts Kony Peace Offer”, *New Vision*, May 25, 2006. <http://www.newvision.co.ug/D/8/12/500473>
- <sup>30</sup> “LRA rebels arrive for Sudan talks”, *BBC News*, June 8, 2006. <http://news.bbc.co.uk/1/hi/world/africa/5060666.stm>.
- <sup>31</sup> “United Nations Launches Juba Initiative Fund”, *UN Press Release*, October 5, 2006.
- <sup>32</sup> “Kony will eventually face trial, says ICC Prosecutor”, *Irin News*, July 20, 2006.
- <sup>33</sup> ICG, “Peace in northern Uganda?”, 17; Hendrickson “Dealing with Complexity” and Schomerus, “Even eating” make a similar point.
- <sup>34</sup> Operation Lightning Thunder was a joint UPDF, DRC (FARDC) and Southern Sudan (SPLA) military operation against the LRA.
- <sup>35</sup> International Crisis Group, “Northern Uganda Peace Process”, 4.
- <sup>36</sup> US Embassy Kampala, “Northern Uganda: Peace Process Update”. Wikileaks. 20 September 2007 <[https://wikileaks.org/plusd/cables/07KAMPALA1467\\_a.html](https://wikileaks.org/plusd/cables/07KAMPALA1467_a.html)>
- <sup>37</sup> Interview, UPDF Major, Kampala, 17 June 2012.
- <sup>38</sup> Schomerus and Ogwaro, “Searching for Solutions in Juba”, 11.
- <sup>39</sup> Ibid.
- <sup>40</sup> “Uganda: Amnesty Offer Blow for Rebel Chief Arrest Plans”, *Institute for War and Peace Reporting*, July 6, 2006, <<https://iwpr.net/global-voices/uganda-amnesty-offer-blow-rebel-chief-arrest-plans>>
- <sup>41</sup> Schomerus and Ogwaro, “Searching for solutions”, 11; Hendrickson, “Dealing with complexity”, 17.
- <sup>42</sup> Martin Ojul, “Africa to Lead, Placing the Future in Our Hands: tackling the issues of Accountability and Reconciliation in the juba peace talks within the context of ICC indictments and other relevant provisions in the Rome Statute”, (n.d), (on file with author).
- <sup>43</sup> Atkinson, Kersten and Schomerus have all addressed the question about whether or not the GoU and/or LRA were truly committed to ‘peace’ during the Juba process. See Atkinson, “Realists at Juba”; Kersten “Peace from Juba” and Schomerus “Even eating”.
- <sup>44</sup> “No Amnesty for Kony says Amama”, *New Vision*, June 9, 2006. <[http://www.newvision.co.ug/new\\_vision/news/1146962/amnesty-kony-amama](http://www.newvision.co.ug/new_vision/news/1146962/amnesty-kony-amama)>. ‘Govt doubts Kony delegates’, *New Vision*, 22 June, 2006. <[http://www.newvision.co.ug/new\\_vision/news/1146124/govt-doubts-kony-delegates](http://www.newvision.co.ug/new_vision/news/1146124/govt-doubts-kony-delegates)>
- <sup>45</sup> “Museveni gives Kony amnesty”, *New Vision*, July 4, 2006. <[http://www.newvision.co.ug/new\\_vision/news/1145443/museveni-kony-amnesty](http://www.newvision.co.ug/new_vision/news/1145443/museveni-kony-amnesty)>
- <sup>46</sup> ICG, “Peace in northern Uganda”, 12.

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- <sup>47</sup> “Kony case stands, says President”, September 20, 2006.  
<[http://www.newvision.co.ug/new\\_vision/news/1140444/kony-stands-president](http://www.newvision.co.ug/new_vision/news/1140444/kony-stands-president)>
- <sup>48</sup> In “International justice”, p.3-5, Kersten argues that the outcome of Juba was a ‘negative’ peace.
- <sup>49</sup> Interview, Dr Rugunda, Kampala, May 4, 2012.
- <sup>50</sup> Cabezudo and Haavelsrud, “Rethinking Peace Education”, 280.
- <sup>51</sup> Schomerus, “Even eating”, p.257.
- <sup>52</sup> Ibid.
- <sup>53</sup> Interview, Dr Rugunda, Kampala, May 4, 2012.
- <sup>54</sup> Intelligence Briefing to military and security chiefs (n.d) October 2006, (on file with author).
- <sup>55</sup> Schomerus points to numerous GoU ceasefire violations during this period, see *Even Eating*, 83-127.
- <sup>56</sup> Intelligence briefing, October 2006.
- <sup>57</sup> Interview, Stephen Kagoda, Kampala, June 12, 2012.
- <sup>58</sup> Interview, senior government official, Kampala, 14 June 2012.
- <sup>59</sup> Ibid.
- <sup>60</sup> Bigombe, ‘Challenges of peace talks’.
- <sup>61</sup> ICG, “Peace in Northern Uganda?”, 11.
- <sup>62</sup> Intelligence Briefing, October 2006; Intelligence Briefing to Ministers and Security Chiefs, January 12, 2007 (on file with author).
- <sup>63</sup> “Museveni meets Ugandan LRA rebels”, *BBC News*, October 21, 2006.  
<<http://news.bbc.co.uk/1/hi/world/africa/6072994.stm>>, cf. Schomerus, “Even eating”, p.120.
- <sup>64</sup> Ibid.
- <sup>65</sup> Interview, Senior Government Official, Kampala, June 15, 2012.
- <sup>66</sup> Interview, Mediation Team Adviser, Kampala, June 8, 2012.
- <sup>67</sup> Afako, “Negotiating in the shadow of justice”.
- <sup>68</sup> Afako, “Experiencing Justice”.
- <sup>69</sup> Interview, Zachary Lomo, Cambridge, March 29, 2012; See also, 2008. Izama, “Secret Dealings that got LRA before world court”, *Daily Monitor*, May 18.  
<[http://publicinternationallawandpolicygroup.org/wp-content/uploads/2011/04/wcpw\\_vol03issue20.html#u1](http://publicinternationallawandpolicygroup.org/wp-content/uploads/2011/04/wcpw_vol03issue20.html#u1)>
- <sup>70</sup> Interview, Stephen Kagoda, Kampala, June 12, 2006.
- <sup>71</sup> Interview, Senior Presidential Adviser, Kampala, May 2, 2012.
- <sup>72</sup> Afako, “Experiencing justice”; Interview, Senior UPDF Official, Kampala, 5 May 2012.
- <sup>73</sup> Report, “Reconciliation Stakeholders Conference”, Gulu, December 9-10, 2004 (on file with author).
- <sup>74</sup> “Uganda: Amnesty Offer Blow”.
- <sup>75</sup> “Museveni gives Kony amnesty”, *New Vision*, July 4, 2006.
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- <sup>78</sup> “Uganda rebel deputy admits child abductions”, *APF*, September 20, 2006.<<http://www.iccnw.org/?mod=newsdetail&news=1926>>
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- <sup>80</sup> Obonyo Olweny, “Speech of the Leader of the LRM/A Peace Delegation on the Occasion of the Opening Ceremony of the Peace Negotiation Between the Government of Uganda and the Lord’s Resistance Movement/Army”, 14 July 2006 (on file with author).

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- <sup>82</sup> Schomerus, “A terrorist”, 12.
- <sup>83</sup> Ojul, “Africa to Lead”; see also Schomerus, “Even eating”, p.74.
- <sup>84</sup> Simonse *et. al*, “NGO involvement”, 233-4.
- <sup>85</sup> Schomerus, “Even eating”, 165-6.
- <sup>86</sup> Interview, Michael Otim, Kampala, May 8, 2012.
- <sup>87</sup> Simonse *et. al*, “NGO involvement”, 235; “Mombasa Consultations between Government of Uganda and Lord’s Resistance Army may unblock Juba negotiations”, *Pax Christi Netherlands Press Release*, April, 11 2007. <[http://africadata.no-ip.org/wiki/images/8/81/070411\\_LRA-Uganda\\_Mombassa\\_meeting\\_press\\_statement\\_FP.pdf](http://africadata.no-ip.org/wiki/images/8/81/070411_LRA-Uganda_Mombassa_meeting_press_statement_FP.pdf)>
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- <sup>89</sup> ICG, “Northern Uganda”, 4.
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- <sup>95</sup> US Embassy, Kampala. “Northern Uganda: Proposed statement to keep momentum in the peace process”. Wikileaks. August 3, 2007. <[https://wikileaks.org/plusd/cables/07KAMPALA1251\\_a.html](https://wikileaks.org/plusd/cables/07KAMPALA1251_a.html)>
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- <sup>100</sup> Interview, Dr Rugunda, May 4, 2012.
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- <sup>124</sup> Bosco, *Rough Justice*, 12.
- <sup>125</sup> Brown and Sriram “The big fish”, 246.
- <sup>126</sup> Mueller, “Kenya and the ICC”, 26. See also Lynch “Electing the alliance of the accused”, 107.
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