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CHILDREN, YOUTH AND TRANSITIONAL JUSTICE IN NORTHERN UGANDA

TOWARDS A COMPREHENSIVE TRANSITIONAL JUSTICE FRAMEWORK FOR YOUNG EX-COMBATANTS

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A minor dissertation submitted in partial fulfillment of the requirements for the award
of the degree of Master of Philosophy in Justice and Transformation

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University of Cape Town

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COMPULSORY DECLARATION

This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

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ABSTRACT

***CHILDREN, YOUTH AND TRANSITIONAL JUSTICE IN NORTHERN UGANDA:
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COMBATANTS***

ULRIKE LÜHE

With the end of the Lord's Resistance Army conflict in northern Uganda, efforts of dealing with the violent past and paving the way for a more just, peaceful future are now taking shape in Uganda and especially the northern region. Existing frameworks and proposals for transitional justice emphasize traditional justice, the option of establishing a truth commission, formal justice and reparations most prominently.

Despite the strong involvement of children and youths in the conflict – as victims and perpetrators – their inclusion in, needs for and expectations of transitional justice have barely been explored or acknowledged. This thesis thus aims at exploring ways in which formerly abducted children can be included in such processes in meaningful ways that accommodate for their needs and preferences.

Since the existing research and literature on the field of child soldiers and transitional justice is rather limited, field work has been conducted in northern Uganda in November and December of 2012. A total of 17 people were interviewed representing a variety of local, national and international organizations as well as government agencies specializing in the fields of transitional justice or child protection, and rehabilitation of former child soldiers. Semi-structured interviews with open-ended questions were conducted and the gathered qualitative data was used to substantiate, complement or fill gaps in the existing body of research on the topic.

The findings of this thesis conclude that there is a need for comprehensive, inclusive transitional justice mechanisms that acknowledge former abductees in their dual role as victims and perpetrators. A desire for active government involvement and participation in these processes has been emphasized strongly. The research has furthermore shown the need for transitional justice mechanisms to foster agency and the empowerment of formerly abducted children and youths in order to enable them to become active, resourceful members of their communities.

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LIST OF ABBREVIATIONS

ARLPI	Acholi Religious Leaders Peace Initiative Association for Volunteer Services
AVSI	International
CAR	Central African Republic
CSOPNU	Civil Society Organisations for Peace in Northern Uganda
DRC	Democratic Republic of the Congo
HSM	Holy Spirit Movement
ICC	International Criminal Court
ICD	International Crimes Division
ICTJ	International Center for Transitional Justice
IDP	Internally Displaced Person
IGF	Irene Gleeson Foundation Information for Youth Empowerment Program
IYEP	Program
JLOS	Justice, Law and Order Sector
JLOS	Justice Law and Order Sector
JRP	Justice and Reconciliation Project
KICWA	Kitgum Concerned Women's Association
KIWEPI	Kitgum Women's Peace Initiative
LRA	Lord's Resistance Army
NRA	National Resistance Army Office of the High Commissioner for Human Rights
OHCHR	Rights
RLP	Refugee Law Project
SGBV	Sexual and Gender Based Violence
SWAY	Survey of War Affected Youth
TRC	Truth and Reconciliation Commission
UNICEF	United Nations Children Fund
UNICEF IRC	UNICEF Innocenti Research Centre
UNLA	Uganda National Liberation Army
UNSC	United Nations Security Council
UPDA	Uganda People's Democratic Army
UPDF	Uganda People's Defence Forces
UPDLA	Uganda People's Democratic Liberation Army
WCD	War Crimes Division

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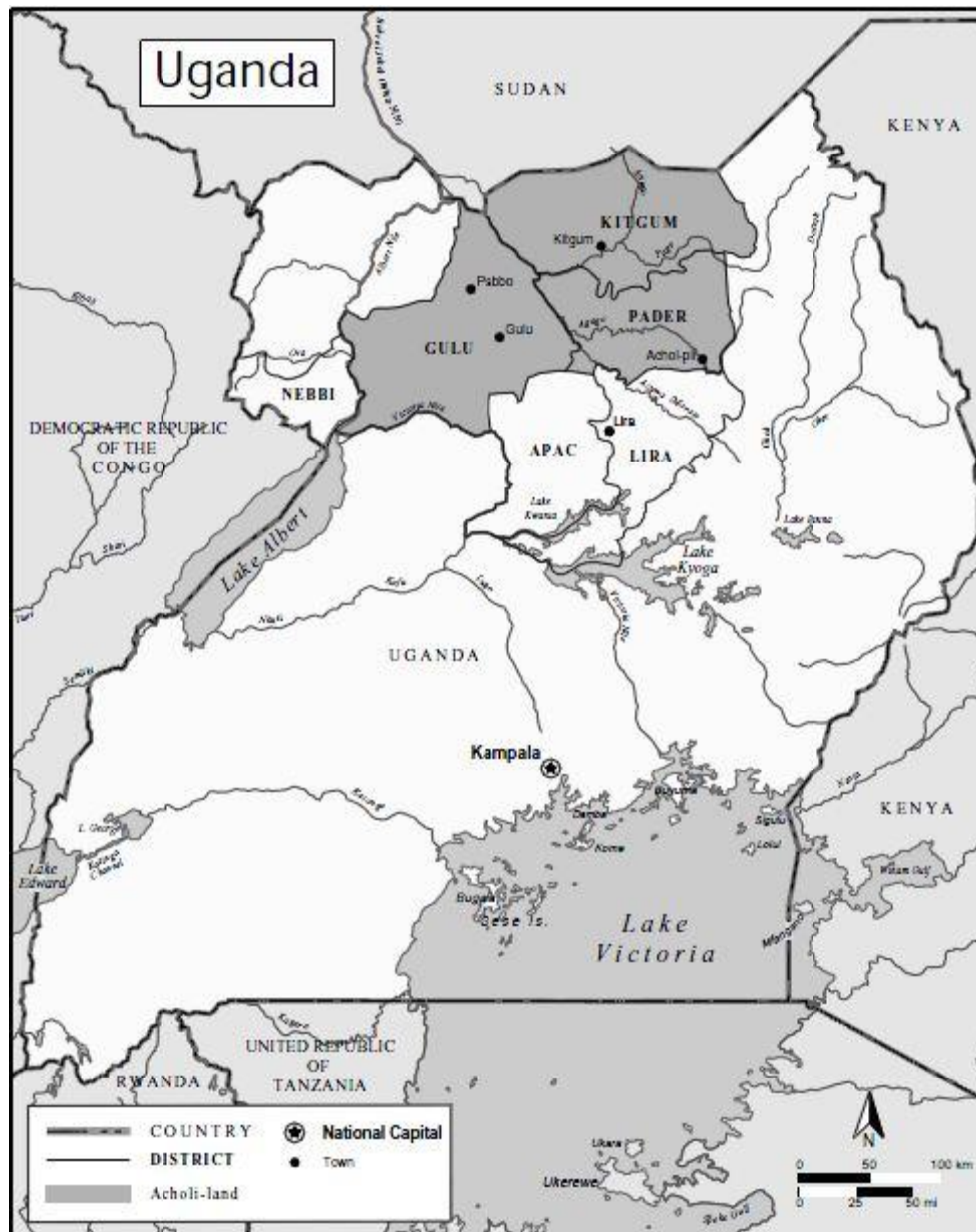
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MAP OF UGANDA



From: (Human Rights Watch, 2003, p. 1)

CHAPTER I: INTRODUCTION

INTRODUCTION

From 1986 until about 2007 the Lord's Resistance Army has ravaged northern Uganda and southern Sudan before being driven into the Central African Republic (CAR) and the Democratic Republic of Congo (DRC) by the Ugandan military and decreasing support from the Sudanese government. Although the conflict in northern Uganda has not been ended officially by means of either military defeat or a peace agreement, this retreat into neighboring countries has largely been interpreted as marking the end of the conflict in the region. Under the leadership of Joseph Rao Kony the LRA has claimed to be fighting with the objective of overthrowing the Government of Uganda and purifying the Acholi people from impure influences such as witchcraft or corruption (Titeca, 2010, p. 65). Whilst he has been described as a lunatic madman by Barack Obama (The White House, Office of the Press Secretary, 2012) and others (for example Green, 2008) in the "official heart-of-darkness discourse on the LRA/M" (Finnström, 2008, p. 130), his political objectives are stated in a number of manifestos distributed in northern Uganda and include multiparty politics, constitutional federalism, support for human rights, peace, security and national development and the like (Finnström, 2008, p. 122).

The political basis for the LRA's insurgency has largely been sidelined and overshadowed by the sheer brutality with which the rebel group fights its war. It has become notorious for its massacres, the mutilation of people, lootings and first and foremost the abduction, brutalization, indoctrination and abuse of tens of thousands of children that have been turned into soldiers. Having been abducted these children and youths are forced to commit crimes against civilians including their own communities and families, which has led to discussions about their dual identity as victims and perpetrators. Besides these children, there are, however, all those who suffered at the hands of the LRA as normal civilians. In northern Uganda decades of war have thus left the Acholi people divided as both victims and involuntary perpetrators.

Facing the challenge of reconstructing what has been destroyed in 20 years of insurgency, raids and military attacks by both the government forces (Uganda People's Defence Forces, UPDF) and the LRA, northern Uganda has to find ways to deal with its violent past.

METHODOLOGY

Building on the shortcomings of the existing literature (explored later in this chapter) the guiding question for the research presented in this thesis was ‘How can transitional justice consider former child soldiers in northern Uganda in meaningful ways?’

For the field research in northern Uganda a semi-structured interview guide has been designed in order to conduct key informant interviews. These built on the knowledge of the interviewees in the fields of children’s rights and transitional justice in the context of northern Uganda whilst trying to explore their opinions and expectations regarding future processes of transitional justice in the region. The focus, of course, was on how transitional justice can serve the needs of former child soldiers and youth in their dual roles as victims and perpetrators.

As a result of open-ended questions¹ the interview responses represent to a large degree what the interviewees deemed relevant in the context of children and youth in transitional justice in Northern Uganda.

In order to ensure voluntary participation and the interviewee’s informed consent to participate in the interview, all respondents signed a form stating their informed consent. All interviews were conducted individually.

During a time of three weeks a total of 17 interviews were conducted in the capital of Uganda, Kampala, and in Gulu and Kitgum in northern Uganda in sometimes more and sometimes less formal settings. Except for two respondents, all of them agreed to have the interviews recorded and subsequently transcribed. After transcription all interviewees were sent their interviews in order to confirm their agreement with the written representation of their words and asked for renewed consent to use and quote their responses for this research.

The organizations which were contacted and eventually represented by the interviewees included a mix of local, national and international organizations from the fields of children’s rights and transitional justice. Included were research institutions such as the Refugee Law Project (RLP) or the Justice and Reconciliation Project (JRP), but also organizations working on reintegrating and rehabilitating former abductees like World Vision. Furthermore branches of the Ugandan government were represented, including the Justice, Law and Order Sector (JLOS) at the Ministry of Justice and the Uganda People’s Defence Forces (UPDF). The International Center for Transitional Justice (ICTJ), Save the Children and Caritas International are some of

¹ See appendix I for the semi-structured interview guide that was used in all interviews.

the international organizations that participated in the interviews. Others included Care International and the Association for Volunteer Services International (AVSI). Local organizations included the Kitgum Concerned Women's Association (KICWA), the Kitgum Women's Peace Initiative (KIWEPI), the Acholi Religious Leaders Peace Initiative (ARLPI), the Information for Youth Empowerment Program (IYEP) and Kampala-based Give Me A Chance. The Irene Gleeson Foundation (IGF) is active only at the local level and only in Kitgum, Uganda, was, however founded by an Australian².

These organizations represent some of the most important actors actively involved in the rehabilitation and reintegration of former child soldiers so far and in the process of planning, advocating for and implementing transitional justice mechanisms in northern Uganda. Organisations like the JRP, ARLPI or Caritas have been highly involved in the Juba peace process which led to first attempts in establishing a framework for transitional justice in Uganda. Some of the interviewees were present at Juba in monitoring or supporting capacities. The very same organizations are now working closely with JLOS at the Ministry of Justice to develop a transitional justice policy that will provide the legal and institutional framework for future efforts in this regard.

All of the respondents are Ugandans, whilst not all of them were originally from the north of the country. Personally or professionally those had close links with the northern part of Uganda and its conflict though. It thus has to be recognized that the interviewees responded on behalf of formerly abducted children and child soldiers, which bears implications for the interpretation of the responses. They did so from an informed point of view though, which lends legitimacy to this approach, especially considering the dilemmas and ethical issues surrounding the approach of interviewing former child soldiers themselves. Nonetheless, two of the informants were themselves former child soldiers that spent a considerable amount of time with the LRA. They responded in their capacity as former abductees and active members of their community, but in parts also as members of the NGO sector.

² For a list of interviewees and organisations as well as short descriptions and biographies see appendix II.

CRITICAL CONCEPTS AND FRAMEWORKS

LEGAL DEFINITIONS OF CHILD SOLDIERS AND LOCAL CONCEPTS OF CHILDHOOD

The Constitution of the Republic of Uganda defines children as “persons under the age of sixteen years” (Government of the Republic of Uganda, 1995, Art. 34(5)). The Children Act, adopted in 1997, however, defines children as anybody under the age of 18 years (Government of the Republic of Uganda, 1997, Art. 2). The minimum age for military recruitment in Uganda is 18. Under specific circumstances people younger than 18 can be recruited, but “no person under the apparent age of 13 years shall be enrolled in the armed forces” (Central Intelligence Agency, 2013b).

The concept of child recruitment and child soldiering has been defined in a number of international child protection instruments. In 1949 the Geneva Conventions and their Additional Protocols from 1977 had set the minimum age for recruitment at 15 years (International Committee of the Red Cross, 1949, Art. 50). The United Nations Convention on the Rights of the Child³ (CRC) states that

States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest (UN General Assembly, 1989, p. 11).

This age threshold has been lifted with the 2002 Optional Protocol to the Convention on the Rights of the Child to 18 years (UN General Assembly, 2000, Art. 1). The African Charter on the Rights and Welfare of the Child has adopted the higher age limit in 1999 already. It defines children as any person under the age of 18 years and provides that all state parties should refrain from recruiting any child as per that definition (Organisation of African Unity, 1999, Art. 22). The Rome Statute which constitutes the legal basis of the International Criminal Court went a step back to previous increases of the minimum age and set it at 15 years (United Nations, 1998, Art. 8). Whilst these different definitions already indicate the contested nature of the issue, they do not include other aspects of the definition of child soldiers yet. For the purpose of this thesis, the definition used by UNICEF after the establishment of the Cape Town Principles will be adopted:

³ The implementation of the CRC is monitored by the Committee on the Rights of the Child, which is a United Nations (UN) body of independent experts.

“child soldier’ [...] is any person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage. It does not, therefore, only refer to a child who is carrying or has carried arms” (UNICEF, 1997, p. 12).

Whilst the legal threshold for becoming an adult in Uganda is thus 18 or 16 years, depending on the legal framework, practice and tradition on the ground in the war-affected regions differ. There, children and adults are defined by the responsibilities they take on, their maturity and their independence. Important markers of shifting into adulthood include taking on more responsibility in the household and family, moving out of the parental hut or house, showing maturity in terms of opinion and the ability to partake in adult discussions and independence in terms of being able to take care of oneself, earning and income and eventually being able to provide for one’s family either by earning the living (men) or by managing the household (women) (Mawson, 2004, p. 135). As will be shown later, many children are abducted at an age where they would be considered children but return when they could and would be considered youths or young adults. Whilst many of the returnees are said to be more mature than their age mates and thus living up to one aspect of adulthood, they are also highly dependent on support, especially financially, from their families and communities, which denies them one of the most important aspects of becoming an adult. Many of the returnees are thus maneuvering the grey area between being children, youths and young adults and will thus be considered here as one group, although more specific distinctions might be useful to draw in the actual design of transitional justice mechanisms for northern Uganda.

THE CONCEPT AND DEFINITION OF TRANSITIONAL JUSTICE

Responding to changes and regime transitions in Europe and Latin America, the concept of transitional justice emerged in the late 1980s and early 1990s in order to institutionalize ways that would help the affected societies deal with the abuses of the past and pave the way into a more peaceful and just future that is characterized by a respect for human rights and the rule of law (International Center for Transitional Justice, 2009, p. 1). In The Encyclopedia of Genocide and Crimes Against Humanity, Louis Bickford defines transitional justice as “a field of activity and inquiry focused on how societies address legacies of past human rights abuses, mass atrocity, or other forms of severe social trauma, including genocide or civil war, in order to build a more democratic, just, or peaceful future” (Bickford, 2004, p. 1045).

The International Center for Transitional Justice (ICTJ), a leading international think tank in the field, in 2009 defined transitional justice as:

a response to systematic or widespread violations of human rights. It seeks recognition for victims and promotion of possibilities for peace, reconciliation and democracy. Transitional justice is not a special form of justice but justice adapted to societies transforming themselves after a period of pervasive human rights abuse. In some cases, these transformations happen suddenly; in others, they may take place over many decades (International Center for Transitional Justice, 2009, p. 1).

It envisages a holistic approach that includes criminal prosecutions, truth commissions, reparations programs, gender justice, security sector reform and memorialisation efforts (International Center for Transitional Justice, 2009, p. 1).

In 2010 UN Secretary-General Ban Ki-Moon in a guidance note on the United Nations Approach to Transitional Justice stated that:

For the United Nations system, transitional justice is the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. Transitional justice processes and mechanisms are a critical component of the United Nations framework for strengthening the rule of law (UN Secretary-General, 2010, p. 3).

As these definitions show, there is a common understanding that transitional justice is considered a way for a society of dealing with its past whilst preparing its future. Being limited to a time of transition, the chosen mechanisms have to consider the needs and interests of victims, righting the wrongs of the past, fostering justice and accountability, initiating and enabling reconciliation and establishing the rule of law. For the purpose of this thesis, a comprehensive understanding of transitional justice will be adopted that includes as diverse mechanisms as traditional justice, criminal prosecutions, reparations and memorialisation as well as truth commissions.

EXISTING LEGAL AND POLICY FRAMEWORKS FOR TRANSITIONAL JUSTICE IN NORTHERN UGANDA

The framework for transitional justice for northern Uganda is given by a number of previous agreements and decisions by the government, the LRA and the International Criminal Court. Firstly, the Ugandan government approved an Amnesty Act in 2000 in an attempt to create an incentive for LRA rebels to surrender. The Amnesty Act states that

(1) 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

-actual participation in combat;

-collaborating with the perpetrators of the war or armed rebellion;

-committing any other crime in the furtherance of the war or armed rebellion; or

-assisting or aiding the conduct or prosecution of the war or armed rebellion.

(2) A person referred to under subsection (1) shall not be prosecuted or subjected to any form of punishment for the participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion. (Government of the Republic of Uganda, 2000, Art (3))

In order to implement the amnesty program, the Amnesty Act has been established as part of the Amnesty Act. It is mandated to monitor demobilization, reintegration and resettlement programs for reporters, i.e. those who have received amnesty, to coordinate sensitization programs on the amnesty law, to promote reconciliation mechanisms, and promote dialogue and reconciliation (Government of the Republic of Uganda, 2000, Art (9)). The Amnesty Act has – until its expiry due to non-renewal on May 23, 2012 – provided the basis for LRA rebels and especially children to escape or be captured by the UPDF without having to fear criminal charges. Since it is not specified that those with a great degree of responsibility for crimes committed during the war are excluded from the amnesty it has been argued that Kony and other top commanders would also be eligible for amnesty certificates provided by the Amnesty Commission (Blattman & Annan, 2008, p. 112).

In accordance with the provision of a blanket amnesty, which at the time was seen as a means to facilitate an end to the conflict rather than a part of the reconciliation process, and Acholi traditions of forgiveness and reconciliation as well as a lack of alternative means of establishing accountability, traditional justice mechanisms have so far taken a prominent role in attempts to deal with the LRA's crimes. Traditional justice processes have been especially prioritized in the case of former abductees as a way of providing accountability outside the criminal justice system. These processes will be discussed in greater detail in Chapter II.

Secondly, Uganda's referral of the situation concerning the Lord's Resistance Army to the International Criminal Court is of relevance as it contradicts the previously granted unconditional amnesty. In 2003 president Museveni called for the ICC to investigate the crimes of the LRA and press charges. In the referral the crimes of the LRA are qualified as war crimes and crimes against humanity, including murder, extermination, enslavement, deportation and forced transfer of the population, imprisonment, torture, rape, sexual slavery, forced pregnancy and other forms of sexual violence, persecution against the civilian population, enforced disappearance of persons and other inhumane acts (International Criminal Court, 2003, p. 18). After an investigation into the case, the ICC in 2005 unsealed the arrest warrants for the LRA's top five: Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen, and Raska Lukwiya⁴ (International Criminal Court, 2005). By implication, the top five LRA commanders would have to face an ICC trial if arrested. This has been described as an obstacle to peace as it made surrender on the basis of amnesty impossible for the LRA leadership (Brubacher, 2010, p. 270; Redress, 2006, p. 15f) (Ssenyonjo, 2007). The warrants of arrest have received additional national and international criticism for considering only one side of the conflict. The crimes committed by the UPDF have not been investigated by the ICC and thus no trials will follow for them. The impression that the ICC and its then chief prosecutor Luis Moreno Ocampo is biased was enforced early in the process when Ocampo and Yoweri Museveni, president of Uganda, held a joint press conference announcing the commencement of investigations in the LRA case (Redress, 2006, p. 15). The case of Dominic Ongwen, himself a former abductee and child soldiers, sheds light on the dilemma of responsibility and agency explored later in this chapter.

The third development with regards to transitional justice in northern Uganda came with the Juba peace talks in 2006 and the Agreement on Accountability and Reconciliation signed by both the Ugandan government and the LRA. The Agreement promotes traditional justice as a central way of establishing accountability and enabling reconciliation. It also assures that Uganda has the necessary institutions and mechanisms to deal with and address the crimes of the conflict (Government of the Republic of Uganda & Lord's Resistance Army, 2006, p. 6). This is in sharp contrast to the ICC referral in which jurisdiction over the LRA's top commanders was effectively directed to the International Criminal Court. In addition to formal justice, the Agreement envisages alternative justice mechanisms including traditional justice, alternative sentences, reparations and other mechanisms (Government of the Republic of Uganda & Lord's Resistance Army, 2006, p. 6). Regarding the possibility of prosecuting those with the greatest responsibility the Agreement states that "[f]ormal courts provided for under the Constitution

⁴ After a decision of Pre-Trial Chamber II Raska Lukwiya's warrant of arrest has been rendered without effect since he has been proven to have been deceased (International Criminal Court, 2007).

shall exercise jurisdiction over individuals who are alleged to bear particular responsibility for the most serious crimes, especially crimes amounting to international crimes, during the course of the conflict” (Government of the Republic of Uganda & Lord's Resistance Army, 2006, p. 6). However, “[l]egislation shall introduce a regime of alternative penalties and sanctions which shall apply, and replace existing penalties, with respect to serious crimes and human rights violations committed by non-state actors [...]” (Government of the Republic of Uganda & Lord's Resistance Army, 2006, p. 7). These alternative penalties are to promote individual and community reconciliation, and rehabilitation of perpetrators. Furthermore, the Agreement supports the implementation of truth-telling processes, the acknowledgement of victims’ suffering, and the ordering of reparations in different forms, including rehabilitation, restitution, compensation, guarantees of non-repetition and symbolic measures (Government of the Republic of Uganda & Lord's Resistance Army, 2006, p. 8). The document also acknowledges and emphasizes the need for gender- and child-sensitive approaches with the specification that children are not to be subjected to criminal justice proceedings (Government of the Republic of Uganda & Lord's Resistance Army, 2006, p. 9). Whilst both parties are obliged to enable the implementation of the agreement it is the government’s responsibility to make resources available for its implementation (Government of the Republic of Uganda & Lord's Resistance Army, 2006, p. 9). These traditional justice mechanisms have also been promoted by chiefs, religious and traditional leaders as the culture of the Acholi with regards to dealing with conflict (Allen, 2008, p. 47). This is despite the fact that the historic roots of these traditions are not proven and the meaning they had over the last few decades are far from clear (Allen, 2008, p. 49).

This Agreement thus provides a comprehensive basis for any transitional justice framework to be developed in Uganda after the end of the conflict. As a result of the ICC’s charges for war crimes, crimes against humanity and the parties’ stated preference for national criminal justice procedures as specified in the Agreement of Accountability and Reconciliation, an International Crimes Division (ICD) has been established at the High Court of Uganda. This was formerly known as the War Crimes Division (WCD). The Gulu-based ICD is mandated to try crimes against humanity, war crimes as well as genocide, terrorism, human trafficking, piracy and other international crimes specified in the 2010 International Criminal Court Act (Government of the Republic of Uganda, 2010, Art. 7-9). Whilst seen as a positive change to the domestic justice system as a consequence of the ICC intervention and the adoption of the ICC Act, the court has been criticized for being biased for of its first trial, against Thomas Kwoyelo, former LRA director of operations. The basis for its prosecutions in the light of the Amnesty Law has also been doubted.

Taking this into consideration, the Ministry of Justice's Justice Law and Order Sector has – after comprehensive, in-depth consultations with civil society – developed a transitional justice policy for northern Uganda. It has identified aspects of truth telling, traditional justice, prosecutions, reparations and amnesty as the most appropriate and consideration-worthy mechanisms⁵. These areas also reflect the most important aspects of transitional justice that are covered in the academic and public debate regarding the future of northern Uganda.

Due to the number of children that have been affected by and actively involved in this conflict⁶, the issue of integrating former abductees into transitional justice mechanisms is emerging as an important line of discussion. Mostly, though, those discussions focus on single aspects of transitional justice or the differentiation and confusion around child soldiers' identity as victims and perpetrators.

This thesis aims at reflecting on the various aspects of transitional justice that are currently under discussion in northern Uganda in order to explore their appropriateness and meaning for children and youths that have been fighting with the LRA.

⁵ Interview Margret Ajok, JLOS, Kampala, 18/12/2012

⁶ Based on their Survey of War Affected Youth in Northern Uganda, Blattman and Annan estimate that about 66,000 children might have been abducted, with thousands more affected by the conflict (Blattman & Annan, 2010, p. 135).

CONTEXT OF THE STUDY: THE WAR IN NORTHERN UGANDA

THE HISTORIC ROOTS OF THE LRA INSURGENCY

The conflict between the LRA and the government of Uganda has long roots in the turbulent history of the country that was often marked by violence, regional and ethnic divides. As in a number of other former colonies, the British colonialists ruled the Ugandan Protectorate according to divide and rule policies which enforced and fostered ethnic differences and ultimately led to ethnic divides (Allen & Vlassenroot, 2010, p. 4; Otunnu, 2002, p. 11). “The effect of the indirect protectorate administration was a division of the territory between the Bantu-speaking kingdoms of the south and the Nilotic- and Sudanic-speaking peoples of the north” (Allen & Vlassenroot, 2010, p. 4f). Gaining independence from Britain in 1962 Uganda was ruled by Milton Obote who soon united most of the state’s power under his persona. A large number of soldiers were conscribed from the northern part of the country, where the ethnic group of the Lwo, from which Obote himself originated (Otunnu, 2002, p. 12). The ethnic divides were continued and deepened when Idi Amin, army commander under Obote, overthrew him. Under his reign of terror Amin increasingly targeted Acholis soldiers. After invading Tanzania, Amin was overthrown by the Tanzanian military and his opponents. Obote came back into power, but in “the early 1980s, Museveni waged a guerilla campaign against the government with support from his own region in the south-west and from the central south of the country, where there was widespread antipathy to what was perceived as northern domination” (Allen & Vlassenroot, 2010, p. 6). Fighting in the notorious Luwero triangle, Acholi and Langi soldiers, who made for the majority of the fighting forces, installed Tito Okello as their president of Acholi power in Uganda (Otunnu, 2002, p. 12). Following this sequence of north-south divides, retaliation attacks, and ignoring a peace agreement signed between Museveni’s National Resistance Army (NRA) and the government, Museveni, upon overthrowing the ruling government, took revenge on the defeated Acholi soldiers that were retreating into the north of Uganda and southern Sudan (Otunnu, 2002, p. 13).

Feeling trapped and abused by the new Ugandan government, some of the former soldiers of the national Uganda National Liberation Army (UNLA) that had retreated into those areas started regrouping and recollecting their powers under the name Uganda People’s Democratic Army (UPDA) (Otunnu, 2002, p. 13; Refugee Law Project, 2004, p. 9). In the mid 1980s a woman called Alice Lakwena added to this force by promising healing for the Acholis fighting at the front of the rebellion but also for the Acholi as a people. Her Holy Spirit Movement (HSM), joined by many followers and UNLA and UPLA remnants, made it rather close to Kampala, but was then

overthrown (Branch, 2010, p. 36; Refugee Law Project, 2004, p. 5). As many rebels and soldiers retreated into the northern regions of Uganda, Joseph Kony, also possessed and instructed by a variety of spirits, formed a new group of resistance against the government under the name Uganda People's Democratic Liberation Army (UPDLA) (Otunnu, 2002, p. 13).

With other rebel and insurgency groups vanishing, Kony's now so-called Lord's Resistance Army gained strength and importance over the years. Its spirituality, alleged Christian fanaticism, and brutality against civilians have taken attention away from the already vague political objective of the LRA (Allen & Vlassenroot, 2010, p. 18). This has led many, including Yoweri Museveni, to argue that there is no negotiated solution with the LRA, only military defeat. Nonetheless, Betty Bigombe, minister of State for Pacification of Northern Uganda, made several attempts at negotiating peace with the LRA, often with little enthusiasm and support from the government. In 1994 and from 2006 to 2008 in the Juba peace talks, promising progress was made and a negotiated peace seemed possible. Both negotiations failed, however. The first one due to an ultimatum set by president Museveni and the second one due to Kony's not signing a final peace agreement.

As this history of conflict shows, the LRA insurgency continues much of the north-south divide that has marked Uganda's history during colonialism and since independence (Refugee Law Project, 2004, p. 8). The importance of acknowledging the resentment the Acholi people hold, even if they do not agree with the rebels' means and cause, becomes obvious in how a considerable number of informants link the current war to atrocities committed against the people in the north in the recent history of the country. These crimes include direct human rights abuses by the UPDF but also the politics of forced internal displacement. An estimated one million Acholi, in other word 90% of the Acholi population, have been forced to move into Internally Displaced Persons (IPD) camps (Branch, 2011, p. 4). Those camps have been described being in a "chronic emergency" (Finnström, 2008, p. 134) and constituting "social torture" (Dolan, 2005, p. 24). Adam Branch in his analysis of the complicity of humanitarianism with the government of Uganda in maintain these camps, said that "they were most accurately identified as internment or concentration camps, given their origins in forced displacement and the continued government violence used to keep civilians from leaving" (Branch, 2011, p. 92). The extend to which people were forced to move into camps implied that all of the Acholi population, including the children who were not directly involved with the LRA, were affected by mass displacement. Regarding the supposed purpose of the IDP camps to help protect the population from LRA attacks and abductions, Stephen Oola from Makerere University's Refugee Law Project in an interview explained how they "suddenly became a one-stop abduction

center”⁷. He furthermore described the crimes of Museveni’s troops in the past and present in the following terms:

“There was a widespread systematic targeting of Acholi men, Acholis who have been in the army. Many were raped, their women were raped, their children were killed, their cows were looted, their houses were destroyed. Many massacres were committed; many were buried alive [...]. Most of the politicians were arrested, in prison. There was that overwhelming sense of destruction”⁸.

These statements are representative of the persisting resentment against the policies of the Government of Uganda regarding the north and it has been very clear that when this war is over, there is need to address these past crimes in order to overcome differences between the northern and southern part of the country and to avoid the outbreak of new conflict in the future.

CHILDREN AND YOUTH IN THE LORD’S RESISTANCE ARMY

“On the one hand, abduction is seemingly more widespread, more focused on adolescents and (on average) less grotesquely violent than imagined. On the other hand, what is more common and broad based than previously supposed is the emphasis on political ideology in the group, as well as the level of cooperation and allegiance to the rebel cause reported by abductees [...].”

(Blattman & Annan, 2010, p. 133)

As mentioned above, the LRA became notorious for its use and abuse of children in its armed forces. This picture of an army of children has gained further prominence with the advocacy video “Kony 2012” by Invisible Children. Many have rightfully pointed out that the representation of the conflict in the video is one-sided and focuses only on the atrocities committed by the LRA. However the popularity of the video, which received more than 96 million views on YouTube to date, has helped attracting international attention to the LRA. Reacting to increasing pressure from an international civil society, it has led the US government to provide 150 troops in an advisory and assisting capacity to help Ugandan troops track down Kony. The video illustrated the atrocities committed by the LRA against abducted children to a world audience.

This chapter aims at describing certain patterns of abduction, the experiences children and youth make in the LRA, and the indoctrination, politicization and spirituality at work in the group. In order to find meaningful ways to include former abductees into processes of

⁷ Interview Stephen Oola, RLP, Gulu, 06/12/2012

⁸ Interview Stephen Oola, RLP, Gulu, 06/12/2012

transitional justice, it is important to understand their experiences as both victims and perpetrators.

PATTERNS OF ABDUCTION

Recent studies have shown that the LRA resembles a conventional and strategically thinking military much more than usually portrayed in the popular discourse of a “bizarre and mysterious” (Finnström, 2010, p. 74) rebel movement (Blattman & Annan, 2010, p. 132). Having conducted a large-scale survey of war affected youth in northern Uganda, Blattman and Annan conclude that there are three main motivators for the abduction of children and youth by the LRA. These include their overrepresentation in the general population⁹ and thus their easy availability; their efficiency as combatants and the ease with which they can be indoctrinated and disoriented (Blattman & Annan, 2010, p. 139ff). Their data indicates that close to 80 percent of the LRA rebels might be children, although it is difficult to put up exact numbers (Blattman & Annan, 2010, p. 135; Redress, 2006, p. 8). The United Nations (UN) in turn has estimated that the LRA has abducted up to 25,000 children during the course of its war (United Nations, 2007).

Age has been identified as the only significant and relevant criterion for abduction, with 12 to 16 year olds being the mostly targeted. “The rebel group’s emphasis on abduction of adolescents is consistent with evidence that adolescents provided the optimal combination of military effectiveness and longevity” (Blattman & Annan, 2010, p. 154). Many who were abducted but considered too young, too old or too weak to serve the LRA’s purposes were either killed or released (Blattman & Annan, 2010, p. 139).

THE ROLE OF INDOCTRINATION AND SPIRITUALITY

The spiritual order of the LRA has often been described as being of a Christian fundamentalist nature. In practice though, Kony has developed a spiritual aura around himself and as an integral part of the lives of his recruits that combines aspects of Islam, Christianity and local belief systems.

The importance of spirituality, belief, and spirits in the every-day lives of Acholi society makes his abductees and his volunteers alike susceptible to his spirituality. Many parallels between the

⁹ 77 percent of the population in Uganda is under the age of 30 (Population Action, 2010, p. 1), whilst the age group 0 to 14 already makes for 49% of the overall population (Central Intelligence Agency, 2013a). This age structure has been said to be caused by the high fertility rate of 6.7 children per woman (Daumerie & Madsen, 2010, p. 1)

LRA's spiritual world and that of the Acholi thus seem to make his spiritual indoctrination especially successful (Titeca, 2010, p. 61). As part of the every-day lives of his soldiers, Kony has prescribed prayers, rituals, anointments, and the like.

The purpose of this spirituality has been described as giving the new recruits as well as any other member a sense of belonging, but also helps to enforce morality and discipline internally. By means of fear and intimidation, spirituality and the threat of offending the spirits has the external effect of causing fear amongst and control over the population (Titeca, 2010, p. 61; Blattman & Annan, 2010, p. 141).

As Titeca states, "on a more general level, the LRA's belief system can be considered a radically 'new order' (Van Acker 2003) which provides members with a renewed identity, values and beliefs. After initiation, abductees live in a completely new environment, which sets them apart from the society in which they originate and strengthens internal cohesion and social boundaries" (Titeca, 2010, p. 65).

In addition to the spiritual indoctrination, strategies of misinformation and disorientation are successfully employed by the LRA command in order to minimize chances and likelihood of escape and complicate any possible future relations between abductees and their communities. Those strategies include being moved to far away places like the training camps in South Sudan in order to make return and escape more difficult since children do not have as elaborate a sense of orientation as adults. In terms of misinformation, the LRA has actively tried to cut off any ties between its soldiers and the outside world and provided false information. Children were told that their communities and families hate them and would kill them immediately if they return. Information about the amnesty law was kept from accessing by removing radios and the like. This made children even less likely to work up the courage and attempt escape (Blattman & Annan, 2010, p. 139; Titeca, 2010, p. 61).

The success of this indoctrination and emphasis on spirituality has been shown by Blattman and Annan who state that "[in] the end, a near-majority of youth abductees explained that there was a time when they felt loyal to (and important members of) the rebel forces" (Blattman & Annan, 2010, p. 139). This change in identity and beliefs, that are often anti-social and brutalized, clearly need to be taken into consideration in transitional justice efforts if these are to even the ground for lasting peace.

The experiences children and youths have in and with the LRA depend largely on their age at abduction, the length of captivity¹⁰, their role in the LRA and their gender. It has been reported that adolescents are mostly trained and used as fighters, whilst younger children are often released after abduction and older people are more likely used to carry loot and are released or killed after a short time (Blattman & Annan, 2010, p. 139).

Those who become fighters have to undergo a brutal, intense training, sometimes in training camps in South Sudan, other times in more irregular ways as their unit moves along. Whilst not all of the abductees are given a gun, many of them have reported to have been forced to commit crimes like murder, beating, mutilation or raiding against their fellow fighters in the LRA, their own families, communities and civilians in general (Blattman & Annan, 2010, p. 141).

Girls and young women were often abducted with the purpose of turning them into wives for higher-level commanders. Senior commanders could thus have several wives who bore children and formed family units to which the abducted children belonged as well. Girls were thus expected to serve as sex slaves, take care of children and their families, and be able to fight in battle (Redress, 2006, p. 15). Some of the informants have thus indicated that girls had to bear a double, or even triple, burden in the LRA. This is not to say that girls were only victims though. Some of the most brutal and ruthless commanders in the LRA are said to be women. Furthermore, informant has indicated that women had the rights to divorce their husbands if need be, and find themselves a new husband¹¹. Whilst not much research has been done on these aspects of women's lives in the LRA, it indicates that women were not only victims, but exercised active agency as much as men and boys.

Whilst it is true that most of the fighters in the LRA have been forcefully abducted, it also has to be taken into consideration that some, if not many, of them have started 'enjoying' the power given to them in the form of a gun, even if it only held symbolical power. As one former abductee states "[it] felt nice to have the gun. I felt safe" (Human Rights Watch, 2003, p. 4). Their 'growing into' their roles as rebels in the LRA has so far been largely ignored despite the fact that it has consequences for their future as civilians that are expected to overcome this transformation of identity in order to be fully accepted in their society.

¹⁰ It is to be noted here, that a large number of children are abducted, but released or manage to escape within hours or days of their abduction. Whilst they are still traumatized and might have been forced to commit crimes within this short period, their needs can differ fundamentally from those of the children that have stayed in captivity for months or years.

¹¹ Interview Stephen Oola, RLP, Gulu, 06/12/2012

CURRENT PRACTICES OF REINTEGRATION AND REHABILITATION

There are a number of ways in which children and youths have managed to leave the LRA. These include being rescued or captured by the UPDF, escape and in few cases release, which becomes less likely the longer one has been with the rebels though (Blattman & Annan, 2010, p. 135).

Those who have left in one way or another, have the opportunity to receive an Amnesty Certificate from the governmental Amnesty Commission, freeing them from potential prosecution for their crimes committed as rebels. Whilst this option is open to anybody, in practice not everybody has the opportunity to get to the Amnesty Commission in order to receive amnesty. Thus, by 2005, only about 15,000 returnees had received Amnesty Certificates (Jeffrey, 2011, p. 86).

Those who are rescued or captured by the army usually spend some time, between few hours and several weeks, with the UPDF for questioning about the rebel's activities and whereabouts (United Nations OCHA; IRIN, 2004, p. 16). According to UPDF Captain Patrick Charles Olira the children are also provided with counseling, shelter, food, clothing and medical care¹². Whilst there have been allegations of mistreatment and serious abuse of former abductees by the UPDF (Allen & Schomerus, 2006, p. 27), one returnee has indicated in an interview that the soldiers were also often the friendliest and most welcoming first contacts for the returnees.

Many, but by far not all, returnees then go through first rehabilitation¹³ at one of the several reception centers that have been established in northern Uganda in response to a widespread lack of support for children returning from the LRA in the late 1990s and early 2000s¹⁴. In those centers there seems to be a rather standardized procedure of providing individual psychosocial counseling and group therapy, shelter, food and medical care and eventually short-term skills training of two to three months. During this process the reception centers would start tracing and contacting the families or relatives of the returnees in order to prepare them for their return. Sensitization and awareness raising are the most frequently cited means by which the communities are prepared to accept back the children that have violently been taken from them, but which they also perceive as having committed a large range of the most brutal atrocities

¹² Interview Captain Patrick Charles Olira, UPDF, Gulu, 06/12/2012

¹³ Blattman and Annan estimate that only half of all male returnees pass through a reception center (Blattman & Annan, 2010, p. 135).

¹⁴ For a comprehensive list and evaluation of rehabilitation centers in northern Uganda see (Allen & Schomerus, 2006)

against them. Upon return into the communities, the returnees are often provided with a small reintegration package (MacMullin & Loughry, 2004, p. 462; Akello, et al., 2006, p. 233).

Since the rehabilitation and reintegration procedures are fairly standardized and resources limited, the process is short and does not always adequately meet the needs of the recipients. Interviewees incidences of returnees being denied support if they wish to return to formal education, for example, rather than going through a very limited skills training. Often the process is also perceived as being too short to really deal with years of rebel activity, victimization, brutalization and indoctrination.

LITERATURE REVIEW: CHILDREN, YOUTH AND TRANSITIONAL JUSTICE

“ When confronting human rights abuses, different actors – for example the civil authorities, the army, non-governmental organisations, elders, parents and family members, victims of atrocities and young people themselves – usually have different agendas [...]The issue of how to deal with children who have committed atrocities is a pressing concern highly relevant to the political process of trying to build peace. It involves negotiating a path through different agendas, through differing concepts of who is a child and differing concepts of what constitutes justice. “

(Mawson, 2004, p. 131)

In 1993 the Committee on the Rights of the Child, created as part of the Convention on the Rights of the Child to implement the Convention, monitor and facilitate progress in this regard, recommended to the General Assembly that a study should be conducted on the effects of armed conflict on children. Resolution 48/157 of the General Assembly then requested the UN Secretary-General to appoint an expert for this purpose. The appointed expert was Graça Machel and she presented her study to the Secretary-General in 1996. The report pointed out the many ways in which children and adolescent suffer from war, as combatants, victims, or so-called collateral damage, directly or indirectly. The report also pointed to the needs of children and youth after the end of conflict. Just like Mawson in the quote above, Machel emphasized that post-conflict justice will require a balancing of the perpetrator’s culpability (in this case children), the sense and expectation of justice in the affected communities and the best interest of the child (Machel, 1996). The results of her study were considered a groundbreaking step in bringing the suffering of children in armed conflict to international attention and in providing the necessary basis to justify and initiate action.

Subsequent resolutions of the United Nations Security Council (UNSC) emphasise the need to protect children from armed conflict and “to ensure that the protection, welfare and rights of children are taken into account during peace negotiations and throughout the process of consolidating peace in the aftermath of conflict” (UN Security Council, 1999, p. Art 7) This has

been reiterated in later resolutions as well (see for example S/Res/1612 (2005)). Only in the 2010 Guidance Note of the Secretary-General on the United Nations Approach to Transitional Justice, however, are the concerns of children and children associated with armed forces mentioned with regards to transitional justice:

[...] Transitional justice processes and mechanisms should investigate and prosecute international crimes against children, offer effective remedies to children, and strengthen government institutions to protect and promote the rights of children. Children associated with armed forces or armed groups who may have been involved in the commission of crimes under international law should be considered primarily as victims, not only as perpetrators. In principle, children should not be held criminally responsible under an international jurisdiction. When children are subject to judicial proceedings, they must be treated in accordance with the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, and the Guidelines on Justice Matters involving Child Victims and Witnesses of Crime. The UN approach to transitional justice should recognize that children have the right to express their views in matters and proceedings affecting them, in accordance with their evolving capacities, and that child-friendly policies and procedures must be put in place to protect the rights of child victims and witnesses of crime involved. The best interest of the child should guide the process. When children are supported and guided, their participation can help to build their capacity for active citizenship in post-conflict recovery, also laying the foundation for a more just and peaceful society. Transitional justice processes and mechanisms should strengthen the protective environment for children in their families and communities. (UN Secretary-General, 2010, p. 5f)

The underlying principles and guidelines were confirmed in the 2012 Guidance Note of the Secretary-General on the UN Approach to Justice for Children (UN Secretary-General, 2012, p. 5).

This only recent attention to the needs of children and former child soldiers in transitional justice mechanisms is a reflection of the fact that in academic research the issue has only been considered recently and to a limited extend as well. In contrast, the consequences of child soldiering and different rehabilitation processes have been studied extensively.

“A CHILD IS ABDUCTED, BUT A REBEL RETURNS”¹⁵: QUESTIONS OF VICTIMHOOD, GUILT AND AGENCY

As noted above, the minimum age for recruitment into armed forces in Uganda under normal circumstances is 18. The same threshold has been adopted in UNICEF’s definition of child soldiers, outlined previously. This age threshold has often been described as providing the

¹⁵ (Akello, et al., 2006, p. 241)

differentiation between guilty and not guilty, responsible and not responsible (Cheney, 2005, p. 35). This concept of childhood is based on theories and assumptions of children being innocent, and lacking any moral, physical or mental competence (Lee, 2009, p. 9). In practice however, the lines are much more blurry, with under 18 year olds joining armed groups voluntary, child soldiers exercising executions on their own behalf, and abducted adults being as coerced and brutalized unwilling perpetrators as children.

Another binary that is often made is of girls and women being victims and men and boys being perpetrators. Although both boys and girls in the LRA are theoretically considered children and thus victims without responsibility for their acts, boys are more often viewed as perpetrators than girls when they return from armed forces (Baines, 2011, p. 478).

A number of studies have dealt with these questions of agency and guilt in terms of child soldiers in different conflict settings. More often than not, children's committing crimes and their lack of responsibility for the same is explained through their limited maneuvering space in armed groups.

The concept of a grey zone is one of the concepts called on to explain the innocence of child soldiers. Whilst the original concept was originally developed by holocaust survivor Primo Levi, Erin Baines has, in the context of the war in northern Uganda, described it as "a space of coercion in which people are stripped of moral choices" (Baines, 2011, p. 480). According to Baines gender roles are a powerful source of constraint in the LRA that allow boys and girls to perform different acts legitimately. For boys these acts often include committing crimes, whilst girls are mostly expected to perform womanly duties in the 'household'. This assigning and enforcement of gender-roles contributes to the different victim-perpetrators perceptions along gendered lines after the end of combat or the end of the conflict (Baines, 2011, p. 479). More generally, the basic question is whether children in the LRA could have acted differently and whether there is a reasonable expectation, morally or otherwise, for them to do so. This indicates that the concept of a grey zone might be applicable to more than the LRA's gender role expectations.

Angela Veale and Aki Stavrou, in turn, have described the strategies and ways in which abducted children maintain a distance from their commanders in order to avoid internalization of a rebel identity. According to them, an internal distancing of 'me' versus 'them', a maintained connection to the values of home, and the maintenance of hope for escape, are strategies that allow children in the LRA to distance themselves from their abductors whilst at the same time acting as active participants of the rebel group (Veale & Stavrou, 2007, p. 284). If children "resisted incorporating an ingroup identity while participating in the daily activities of the LRA

as if they were fully engaged participants” (Veale & Stavrou, 2007, p. 286), their agency can again be assumed to be limited to a large degree since their performative participation was again a mere survival strategy. This study, whilst still pointing towards the victimhood of child soldiers, does acknowledge their agency in terms of them manoeuvring their environment actively in order to survive.

Some studies go another step further in that they acknowledge the active agency of child combatants in terms of taking voluntary decisions to go beyond their commanders’ orders and becoming “willing participants” (see for example Cheney, 2005; Akello, et al., 2006; Mergelsberg, 2010, p. 171).

In terms of identities and agencies in post-conflict situations studies have also shown the active ways in which children manoeuvre their options and actively use their victim-status. As Andrew Mawson has pointed out, labelling returnees children provides for a “specially constructed moral space” (Mawson, 2004, p. 140) and allows to deal with them as innocent victims. Thus, in order to protect them from legal responsibility, an agreement has emerged that most of the people returning from the LRA will be considered children, often even those that were abducted as adults (Mawson, 2004, p. 138). Knowing the discourse regarding children’s rights and their alleged innocence, many returnees have been found to utilise this concept through self-representation as children in order to avoid being held accountable and, in addition to that, to receive support from the numerous children’s rights and support organisations (Akello, et al., 2006, p. 232).

This exercising of agency goes even further in different contexts, as has been documented by Shepler for the case of child soldiers in Sierra Leone. She reports that

[among] their friends and fellow soldiers, they try to maintain the status that being part of the fighting gives them. They wear combat clothes and sunglasses and brag about firing rocket propelled grenade launchers. With NGOs they adopt the persona of the traumatized innocent, usually requesting aid in furthering their education. With community members and in school they act like normal kids, never mentioning the past. Thus, their “reintegration” is achieved in social practice across a variety of contexts using a variety of strategically adopted identities.” (Shepler, 2005, p. 199).

This shows that not only the victim identity can be of use to them, but also that of an active participant in rebel activity when interacting with their former comrades. This might serve to overcome or at least cover up the perceived loss of power and influence many report when they lose their gun upon return from the bush (Lee, 2009, p. 28).

Whilst transitional justice efforts have so far mostly considered child soldiers as victims and have dealt with them accordingly, they are in some cases also dealt with in their roles as active participants and perpetrators in their own right.

CHILDREN AND TRANSITIONAL JUSTICE

One of the earliest drivers of research and debate on children and transitional justice was the United Nations Children Fund's (UNICEF) Innocenti Research Center (IRC). After publishing *International Criminal Justice and Children* in 2005, the IRC took the lead in providing a network and platform for discussions on the topic. In 2009 a conference was held on *Children and Transitional Justice*, promoted by UNICEF IRC and Harvard Law School's Human Rights Program. As part of the conference Key Principles for Children and Transitional Justice were developed. These include the best interest of the child as the main guiding principle in transitional justice efforts. They furthermore emphasize the need to treat children with dignity and respect; to children's physical and psychological well-being; to protect children's privacy and identity; to enable children's participation in a voluntary manner and with their informed consent; to consider the different development stages and capacities of children of different ages; to consider the specific needs and experiences of girls; to ensure non-discrimination in all proceedings; and to facilitate children's civil, political, economic, social and cultural rights through a holistic and sustainable approach (UNICEF, 2010, p. 404ff).

CHILDREN AND CRIMINAL JUSTICE

In Uganda the minimum age for criminal responsibility is set by the Children Act at 12 years (Government of the Republic of Uganda, 1997, p. Art 88). However, the ICC does not have jurisdiction over anybody under the age of 18 years (United Nations, 1998, Art. 26). In addition, "There is emerging consensus that children associated with armed forces or armed groups who may have been involved in the commission of crimes under international law shall be considered primarily as victims, not only as perpetrators" (UNICEF, 2010, p. 408). Since there is agreement that children should not be held criminally responsible (UNICEF, 2010, p. 408) (Aptel, 2010, p. 98) the literature on children and criminal justice focuses largely on prosecuting the crime of recruiting children rather than child soldiers themselves. However, the Innocenti Research Center has developed a number of principles regarding accountability measures for child perpetrators. First and foremost it is pointed out that any legal proceedings against children accused of a crime have to comply the CRC and international standards on juvenile

justice. It furthermore emphasizes that the child's age is to be considered and his or her dignity is to be promoted. In consideration of the need to support reintegration alternatives should always be considered and exhausted before criminal proceedings are initiated. Death penalty and life imprisonment are under no circumstances to be imposed on children, whilst detention is allowed only as a last resort (UNICEF, 2010, p. 408). Cecile Aptel additionally states that the question remains "whether some forms of acknowledgment and contrition, in protective nonjudicial forums, might be beneficial. Perhaps such processes could facilitate their rehabilitation and reintegration into their families and communities" (Aptel, 2010, p. 111).

Instead, one of the increasingly important and pronounced ways of acknowledging the victimization of children in armed conflict and their role as child combatants is the prosecution of those who recruit them. The Special Court for Sierra Leone in 2004 made a benchmark step in this regard by ruling that the recruitment of children under the age of 15 years constitutes a war crime under customary international law (UNICEF, 2004). In addition to that the ICC has played its role in furthering the case against recruitment of children into armed forces.

The arrest warrants issued against Joseph Kony and four of the LRA top commanders, being the first ever issued warrants by the ICC, have included charges for the recruitment of children into the LRA. Furthermore, the sentencing of Congolese warlord Thomas Lubanga Dyilo to 14 years imprisonment was based on his recruitment of girls and boys into his rebel group.

The ICC's jurisdiction, which only encompasses crimes committed since 2002, over these and other cases related to child soldiering is granted by the Rome Statute which sets forward the following:

"Article 8 – War Crimes

(1) The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes

(2) For the purposes of this Statute, "war crimes" means:

(e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character...namely, any of the following acts:

(vii) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities" (United Nations, 1998).

Whilst the legal basis for the prosecution of child recruitment has thus been well established, the principles by which children are allowed to be presented as victim witnesses are far less clear but have received growing attention over the past few years. The principles outlined in the literature are often aimed at the proceedings of the International Criminal Court, which has established a Children and Gender Unit for this specific purpose, but are also applicable to national courts, which, if they are able and willing to prosecute war criminals, take priority over the ICC (Ssenyonjo, 2007, p. 367).

Cecile Aptel, in her contribution to *Children and Transitional Justice*, looks at the international legal framework that has developed regarding the prosecution of crimes against children. She points to the fact that there are three core crimes that specifically target children, including the conscription or enlistment of children and their used in hostilities, genocide for transferring children from one group to another, and the war crime of attacking education buildings like schools (Aptel, 2010, p. 84). In addition children can be the victims of abduction, hostage-taking, detention, torture, killing, trafficking, or rape (Aptel, 2010, p. 86). She concludes a further need to develop international law with regards to crimes against children and emphasizes the need for international criminal justice to identify the systematic patterns of crimes against children in order to advance law in theory and practice (Aptel, 2010, p. 112).

A number of other studies have largely focused on procedural mechanisms and necessities for the inclusion of children and especially former child soldiers in criminal justice processes as victims and witnesses (see for example Aptel & Ladisch, 2011; Redress, 2006)). The recommendations include the necessity for children to be enabled to give informed consent to their participation, which requires a child-friendly outreach program and efforts to manage children's expectations. In addition, the physical and psychological well-being of children has to be ensured. This can be achieved through psychosocial support throughout and after the process, confidential testimony, the inclusion of other child victims in order to avoid stigma and re-traumatisation and the involvement of a child's family in the process. Children should also find special attention in a court's reparations and recommendations (Redress, 2006, p. 54f). UNICEF IRC's Key Principles for Children and Transitional Justice furthermore include the need for child-sensitive training for all those involved in the criminal process, the need to protect child witnesses' identity and privacy and the recommendation to conduct the process in the child's language (UNICEF, 2010, p. 409).

As a consequence of agreement that children should not be held criminally responsible for their crimes during war, a number of alternative and especially restorative justice mechanisms have been advanced to include children in order to deal with their victimization as well as their accountability and responsibility. Some of the findings from existing studies of past experiences are reviewed in the following section.

Being able to build on several, diverse experiences, research on children and truth commissions is a bit more advanced than that on criminal justice and children.

In his analysis of the South African Truth and Reconciliation Commission, Piers Pigou establishes that children and other special interest groups were insufficiently considered in the process. This was largely due to the neglect to mention children explicitly in the mandate and the subsequent lack of including children and children's needs in the preparatory phase. As a consequence of those factors and the focus on gross human rights violations only, the experiences of children and especially the structural inequalities and violence they were exposed to were not sufficiently established. Findings and recommendations are thus not a comprehensive representation of children's realities during apartheid (Pigou, 2010, p. 155f).

Building on the failure of the South African TRC to include children in meaningful ways and based on the strong involvement of children in the conflict as victims and perpetrators, the Sierra Leonean Truth and Reconciliation Commission included children in its mandate right away. This enabled the more meaningful inclusion of children in the process. As a result of children's hearings and in acknowledgement of the crimes committed against children a special report for children was written as part of the TRC process (Cook & Heykoop, 2010, p. 164f). Despite them having been perpetrators in the sense of having committed crimes and human rights abuses in their capacity as child soldiers, the TRC only allowed them to give testimonies as victims (Lee, 2009, p. 31). Cook and Heykoop characterize the Sierra Leonean TRC as a landmark process with regards to the participation of children, which was confirmed by a number of children in their study who evaluated the experience of testifying in front of the TRC as a positive one. However, Cook and Heykoop also emphasize the need to provide a supportive environment for children without exception and indicate the need to explore and manage children's expectations before the actual process (Cook & Heykoop, 2010, p. 180). They describe the rights-based approach to children's participation as a positive characteristic as it allows for children's active participation and enabled them to help shape the process according to their needs and local particularities (Cook & Heykoop, 2010, p. 189). Their key lesson from the process is that children's participation and inclusion "are more effective and sustainable when concepts of participation are broadened to include children's agency and evolving capacities" (Cook & Heykoop, 2010, p. 189).

Another experience of children's participation in truth commissions is that of Liberia. In his examination of the TRC, Theo Sowa in *Children and Transitional Justice* finds that one of the main obstacles for children's effective, meaningful inclusion was the age threshold set. The TRC

only included young people of 18 years at the time of the Commission not of the crime as children. This excluded many people from the process that suffered as children during the conflict but were adults at the time of the TRC (Sowa, 2010, p. 198). As the result of a children's rights approach and close cooperation with child protection agencies such as UNICEF, children and their experiences were systematically included in the processes (Sowa, 2010, p. 200). Training in child-sensitivity and related issues was provided for the Commissioners and those who took statements and workshops were conducted with children to inform them about the process and to address misunderstandings and expectations regarding the mandate of the Commission (Sowa, 2010, p. 209ff). As a result children were included at various levels of the process. As an outcome of the TRC a Children's TRC Gallery was established, that provided a space where children's experience and voices were heard through creative arts. Drawings, music, poetry, dance, theatre pieces and other forms of expression were giving children a voice (Sowa, 2010, p. 223).

The existing literature on children and truth and reconciliation commissions focuses largely on past experiences and the lessons learnt from them. Little attention is paid to more theoretical discussions about children, truth-telling and TRCs. Whilst a truth commission has been suggested for northern Uganda for example by the Acholi Religious Leaders Peace Initiative or the Justice and Reconciliation Project, no research has been done on how children and especially former child soldiers can be included in such a process. For lack of alternatives in dealing with the atrocities committed and experienced by children, and based on the Acholi culture of forgiving and reconciliation, traditional justice mechanisms have been practiced over the last years in order to provide a basis for peaceful communities.

CHILDREN AND TRADITIONAL JUSTICE

In the existing literature on traditional justice as transitional justice the case of northern Uganda has received some attention as an example of community-based approaches and initiatives to deal with the crimes of the past (see for example Allen, 2008; Allen, 2010; Baines, 2007; Baines, 2010; Baines, 2011; Carlson & Mazurana, 2010; Huyse, 2008; Jeffrey, 2011; Justice and Reconciliation Project; Institute for Justice and Reconciliation, 2007; Latigo, 2008). However, little attention has been paid to the role of children and former child soldiers in these processes.

As Erin Baines has pointed out, youths in northern Uganda have rather limited knowledge about traditional justice processes. She ascribes this to the fact that traditional education has been disrupted by insecurity in the region as people were not able or allowed to stay out at night, when people used to sit around fires and tell stories about the past, their customs and beliefs

(Baines, 2007, p. 107). The disruption of community life and the breaking up of settlement structures based on kinship, have furthermore led to a breakdown of kinship networks, social trust, morality and the authority structures of the past (Baines, 2010, p. 410; Okello & Hovil, 2007, p. 442; Carlson & Mazurana, 2010, p. 253).

Prudence Acirokop in her 2010 study of traditional justice in northern Uganda from a perspective of international children's rights, points out that traditional justice mechanisms are not necessarily envisaged for children but more for adolescents, a distinction made in northern Uganda based on traditional perceptions of childhood outlined above (Acirokop, 2010, p. 276). Her analysis comes to the result that *mato oput*, one of the most prominent traditional mechanisms, does support the international standards of use of alternative justice mechanisms, the rights to life and liberty as it does not impose imprisonment or death penalties (Acirokop, 2010, p. 277ff). Standards that are not (always) met in traditional *mato oput* are the right to informed consent, to protection from discrimination, finality of the case and the principle of double jeopardy, the right to privacy, the right to participation (Acirokop, 2010, p. 277ff). Acirokop thus recommends to improve some of the procedures to serve the needs and interests of children, whilst cautioning that an "Excessive reliance on traditional approaches as a cure for this war-torn society could lead to devastating results" (Acirokop, 2010, p. 292).

Looking at the suitability and appropriateness of traditional justice mechanisms for dealing with sexual and gender-based violence (SGBV), Carlson and Mazurana point out women and girls' dissatisfaction with traditional justice mechanisms. They ascribe this to women's lack of involvement in the processes, the unsuitability of a public, community-involving process in dealing with SGBV, the forced participation of some girls and women and the lack of punishment and compensation for crimes like rape (Carlson & Mazurana, 2010, p. 256ff). These shortcomings might affect girls even more than women as they are in a more vulnerable position from the get-go.

Despite there being some considerations on children's involvement and participation in traditional justice mechanisms in the existing literature, no special attention has been paid to former child soldiers yet, who are manoeuvring a dual victim-perpetrator-identity in these processes.

In her contribution to *Children and Transitional Justice*, Sharanjeet Parmar studies the impact of conflict and mine working on children in Sierra Leone and how these can be addressed through reparations and socioeconomic justice efforts. One of her main findings is the severe threat that a loss of education poses for the future economic development of former child soldiers (Parmar, 2010, p. 381). Since children have the right to development and welfare as provided for in international law, reparations and economic justice are crucial parts of addressing past abuses. These should, however, not only aim at dealing with particular abuses and human rights violations, but also address cycles of abuse and exploitation that persisted before and during the conflict (Parmar, 2010, p. 382). Pointing out the link between the failure of socioeconomic justice for youths and root causes of political conflict and violence, she furthermore emphasizes the need to embed reparations in more general development efforts of a country (Parmar, 2010, p. 375).

Carlson and Mazurana in 2010 reviewed of eight different national legislations and truth commission reports on their inclusion of children as beneficiaries of reparations programs. The identified main areas in which children were acknowledged as direct beneficiaries, even if inconsistently and sometimes without consequences, include the following: children who were absent due to forced disappearance, abducted, born due to rape, born in detention, forced into prostitution or sexual slavery, forced into servility or marriage, removed from their parents, killed by acts of political violence, children who escaped genocidal acts, children who have been sexually mutilated, raped, recruited into fighting forces, suffered psychological damage, sexual violence or torture, or children who were fraudulently adopted (Mazurana & Carlson, 2010: p.12)

They conclude that “[i]t is important to look beyond the structure of past national reparation programmes and think more creatively and holistically about how to support community initiatives” (Mazurana & Carlson, 2010, p. 25). They emphasize the dire need to consult children in the design of reparation programs and to consider and ensure their rights to inheritance and property ownership in the process (Mazurana & Carlson, 2010, p. 26). In their words, “Reparation and transitional justice efforts need to explicitly recognize that the violence resulted from inequalities based on gender, ethnicity, race, class/caste or age that predated the conflict and political violence. There must be clear and overt efforts to transform socio-cultural injustices and political and structural inequalities, from the local level to the national level” (Mazurana & Carlson, 2010, p. 26f).

UNICEF in 2010 furthermore published a report on Children and Truth Commissions. This report highlights the purpose of reparations in rebuilding trust and equal citizenship. Whilst it points out that there are few examples of successful reparations programs for children some basic principles and questions that should be considered when designing such programs. These include child-friendly eligibility criteria, outreach programs and access to benefits, including language, literacy, infrastructure and transportation as important factors, and funding resources (UNICEF Innocenti Research Centre, 2010, p. 51f).

Considering memorialisation processes part of reparations programs, the report furthermore highlights the need to establish child-friendly memorial sites and processes. This requires children's active participation and a sense of ownership, and creative opportunities for children to express their experiences but also for other children to learn from them (UNICEF Innocenti Research Centre, 2010, p. 55f). Further emphasis is put on the need for interactive learning opportunities and for inclusion of a history of the conflict in the national curriculum in order for children to be part and parcel of memorialisation efforts in a post-conflict society (UNICEF Innocenti Research Centre, 2010, p. 57).

As with the other aspects of transitional justice and children's participation covered in this literature review, the special issues and needs of former child soldiers participating in these processes have not received academic attention yet.

CHAPTER II: RESTORATIVE JUSTICE

THE CURRENT FOCUS: TRADITIONAL JUSTICE

“THESE SPITIS HAVE TO BE CHASED AWAY, YOU HAVE TO BE REBORN”¹⁶: TRADITIONAL JUSTICE AS SPIRITUAL HEALING

Both life in captivity with the LRA and after returning home are marked by spiritual beliefs and an approach of cleansing the children from the evils and impurity of the other world respectively. As John Paul Kiffasi put it:

this war is a spiritual war [...]it's not just a political and military thing [...]. But if you listen to the interview of this man, if you talk to the former child soldiers, what they believed, the rites they performed, the witchcraft they practiced and so on, then you realize it's more than just military strategies¹⁷.

There is a strong belief amongst many Acholi that Joseph Kony has some kind of spiritual power (Titeca, 2010, p. 70). In the LRA spirituality is used to structure children's lives. It guarantees internal cohesion, control and motivation, and intimidation towards the outside (Titeca, 2010, p. 61). Upon return “these spirits [that children associate with in the LRA] need to be chased away, you have to be reborn”¹⁸. One of the main purposes of performing traditional ceremonies upon the return of a former child soldier from the bush is thus spiritual cleansing. One of the ceremonies performed immediately at return to the community is *nyono tong gweno*, stepping on an egg (Latigo, 2008, p. 105). It is a welcoming ceremony whereas someone who has been away from his or her family or community for an extended amount of time is assumed to have interacted with spirits other than those of the Acholi. These spirits need to be kept from entering the world of the Acholi upon return of that person. Stepping on an egg, a symbol of new life and cleansing, is thus a welcoming ceremony that serves to reintegrate the returning person and keep any alien or harmful spirits away (Latigo, 2008, p. 105f).

Traditional cleansing ceremonies have been explained to be expressions of agency as people have direct control over them. Furthermore being able to speak through the spirits might enable one to express things that he or she could not express otherwise (Baines, 2010, p. 428). Whilst

¹⁶ Interview Rose Nyakato, Care International, Gulu, 08/12/2012

¹⁷ Interview John Paul Kiffasi, IGF, Kitgum, 13/12/2012

¹⁸ Interview Margret Ajok, JLOS, Kampala, 18/12/2012

forgiveness is the most commonly emphasized aspect of traditional justice, they can also be used to impose punishment onto a wrongdoer. According to Baines, this provides an opportunity for the community to enforce accountability even if amnesty has officially been granted. The punishment in traditional justice mechanisms can go as far as expulsion from the community (Baines, 2010, p. 430).

A number of children returning from LRA captivity experience nightmares, epilepsy, and other harms that traditionally are ascribed to be the doing of *cen*. *Cen* is the spirit of a person that has died in a bad way, or not been buried properly, taking revenge for the wrongdoing. It is said to bring illness, death, accidents and to haunt the wrongdoer until the wrong has been “rightened” (Baines, 2007, p. 93). Being fearful of the presence of *cen* throughout, communities often take matters into their own hands by chasing the affected person out of their community. Burning or destroying the property of a person or family haunted by *cen* is not uncommon (Baines, 2007, p. 93). Furthermore, “[p]ersons accused of having *cen* are socially avoided or ostracized. [...] people fear catching the madness or misfortune and so place the person and extended clan in isolation” (Baines, 2010, p. 423). The rationale for this has been expressed by Michael Otim, to lie in people’s association of *cen* with behavior that is not in accordance with their communities’ norms:

*First of all, [they need to] learn to conform to the norms and practices of the communities. You know, and sometimes, many of them being young as they are, one, you’ll notice that there is just like any other ordinary child or person, young person, when exposed to certain situations, they exhibit some tendencies of extreme violence and it’s not by virtue that they were born violent but it’s just the experiences, and so people are like, oh, these people from the bush, this is how they are, you know. In Acholi they call it cen. Cen is like, something linked to some evil spirits. They are possessed.*¹⁹

In other words, “[w]hen the [LRA] soldiers come back. They look at, they look at them as a nuisance in the communities. [...]They’re looked at as a curse to the community”²⁰.

However, if *cen* persists and cannot be dealt with after several attempts of ritual, traditional cleansing, someone will cease to be considered an innocent victim (Akello, et al., 2006). Some of those returnees who are unable to get rid of their *cen*, and are therefore increasingly stigmatized and excluded from their communities, regard return into the bush as their only option. Reportedly, *cen* stops haunting them once they are back in the bush and in possession of a gun (Akello, et al., 2006, p. 238). Akello et al have thus indicated that the secondary victimization and traumatisation children experience upon return to their communities can be the cause of psychological problems that are being reinterpreted as bad spirits haunting the

¹⁹ Interview Michael Otim, ICTJ, Kampala, 04/12/2012

²⁰ Interview John Kyejjusa, Save the Children, Gulu, 06/12/2012

children from the bush (Akello, et al., 2006, p. 237). In that case it is not the trauma from the bush but the fear of revenge and the severely impeded interaction with their communities of origin that causes the much feared *cen*. Stigmatisation and pressure to perform traditional ceremonies paired with the threat of total social exclusion in the case of failure, can then be seen as causing the problem the traditional cleansing is supposed to solve.

If the social expectation to reintegrate into their families and communities without any problems as well as the pressure to obey to traditional ceremonies are the cause of communal tension, isolation and eventually exclusion, the value of performing traditional cleansing ceremonies has to be seriously reconsidered. Reportedly, traditional cleansing ceremonies do have a positive effect on some returnees:

It has been very, very useful for the children because, I mean, traditionally if I know that they have been cleansed with the ills that came along with being in captivity it's easier for me psychologically to start living with my community because after the traditional ceremony has been performed, I am cleansed, I am pure, I'm clear of all evil that might have been associated with me while in captivity.²¹

In other cases it seems possible to have the reverse effect. This problem is exacerbated if children are expected to go through a number of traditional ceremonies, which are often costly. The children themselves, having been deprived of any livelihood or source of income due to captivity, will in most cases be unable to raise the money necessary for the performance of those ceremonies. Then social pressure to undergo ceremonies and the inability to do so come together and can create further traumatising and isolation for the returnee.

Of course, there are two sides to this though, that of the community and that of the returnees. For the community the effects of attempting to repulse bad spirits and those elements of society that are seen as being associated with evil, might be positive as it gives them authority and agency in restoring and maintaining social order. For the children, however, ceremonies over which they have little control themselves and which, if unsuccessful, can lead to further stigmatization and exclusion can be rather negative. Instead of fostering and enabling reintegration they can have quite the opposite effect.

One more positive effect spirit possession can have for the affected communities, is that it is assumed that *cen* will compel a person to tell the truth (Justice and Reconciliation Project; Institute for Justice and Reconciliation, 2007, p. 16). Being able to get a truthful, comprehensive account of the crimes committed by a returnee can help to establish an account of the events and contribute to truth-telling efforts that aim at establishing a public or official account of the

²¹ Interview Margret Ajok, JLOS, Kampala, 18/12/2012

events and causes of the conflict. In how far this truth telling really is comprehensive though can be questioned as often it is perceived that children returning from captivity are expected to tell the truth, but feel restrained to do so (Veale & Stavrou, 2007, p. 286). Thus pressure might be exercised over returnees to disclose the full extent of their crimes whilst at the same time doing so can increase the levels of stigmatization, name-calling and traumatisation they are exposed to, because “even if the Acholi people are generally forgiving, there will still be a few elements of stigma, a few insults. We are just human beings”²². So whilst,

*[f]or some they say by doing that it helps them overcome the feeling of guilt, [...] of all these feelings, you remove a big baggage, so that you can feel free again, otherwise if you keep on, if you keep it within yourself and don't talk about it, then, you know, it can weigh heavily on you*²³

But, “[t]o some extent it would damage them, too. Because they wouldn't like to be victimized of the crimes they did”²⁴. This is especially the case when one considers that former child soldiers might have the desire to express their sense of guilt instead of slipping into the role of an innocent victim that is – despite its assumed and assigned innocence – expected to confess its wrongdoings. Instead of having to walk this fine line of admitting enough for the community to acknowledge that the full truth has been disclosed and little enough to avoid stigmatization and possible expulsion, children might have the desire to be able to speak freely about their experiences, in all their facets of being a victim but also in their role as perpetrators who possibly executed self-determined decisions when committing certain crimes. Doing so might, however, lead to revenge, if the communities are unable or unwilling to handle the full truth.

All in all it is clear that traditional ceremonies aimed at dealing with the spirits of a child soldier's past can have positive and negative effects on both the returnees and their communities and families to which they return. On the one hand truth telling and social reintegration might be enabled through the pressure of *cen* and the desire to repulse it. On the other hand a lack of success in dealing with *cen* can be interpreted as guilt on the side of the returnee and can lead to exclusion and isolation through communal rejection or even direct expulsion.

²² Interview John Paul Kiffasi, IGF, Kitgum, 13/12/2012

²³ Interview Michael Otim, ICTJ, Kampala, 04/12/2012

²⁴ Interview Jackie Awere, Give Me A Chance, Kampala, 05/12/2012

TRADITIONAL JUSTICE AS THE BASIS FOR FORGIVENESS AND RECONCILIATION

THE PROCESS OF MATO OPUT

Mato oput is a ceremony vastly used to reconcile clans after a crime has been committed. Historically, it was supposed to deal with minor crimes and murder, not with mass atrocities or sexual and gender-based violence (Allen, 2010). This process can take several months and starts with the admission of a wrongdoing by the offender or an accusation that someone has done wrong by a victim followed by the identification of the offender. Either way, one of the first steps is for the offender to admit its crimes and conceal their full extend. It is a process “where the accused or the person who you say is guilty, admit the guilt that they have done something wrong, that's the beginning of reconciliation”²⁵. As one Lino Owor Ogora from the JRP put it,

if you are dealing with a victim and a perpetrator, there [has] to be a truth, a truth seeking element. Everything must be revealed, the full extent of your atrocities must be revealed. You must express sincere apology [...] - for your actions. You must of course, compensate the victims, symbolically at least. For the loss they suffered”²⁶.

This already describes some of the next steps of *mato oput*. After revealing the truth to the clan elders and leaders of the affected clans between this dispute is to be settled, the clan leaders will come together and negotiate the compensation that is to be paid in order to righten the wrong. Once this has been decided, the clan of the offender has to provide the compensation. This is seen as a communal effort. Once the compensation is paid to the clan of the victim, the offender and his clan are to be forgiven. This process is concluded by the two clans drinking the bitter root, *oput* mixed with water. This also marks the official reconciliation between the two clans (Baines, 2007, p. 104). The compensation that has been paid is usually used for a marriage and a newborn child in the victim’s clan as the assumption is that the dead lives forth in the new child. Often inter-clan marriages are also encouraged as a way of encouraging peaceful coexistence of the two clans. This process is thought to establish accountability through truth telling, reconciliation through dialogue, and compensation through a payment from the clan of the offender to that of the offended (Latigo, 2008, p. 104).

²⁵ Interview John Bosco Aludi Komakech, Caritas International, Gulu, 11/12/2012

²⁶ Interview Lino Owor Ogora, JRP, Gulu, 07/12/2012

The process of *mato oput* and the forgiveness and reconciliation it promises to achieve are very much focused on the community rather than the individual. It has thus been argued that this process does not account adequately for the needs of the victim which are largely ignored for the sake of peace between communities and the reaffirmation of communal values (Pham, et al., 2005, p. 22).

From the existing literature and the interviews conducted in the course of this research it has not become clear whether the truth telling actually includes the victim of the crime or whether the truth is merely being told to elders. One of the main reasons for including mostly elders in the truth telling process is that they are seen as being widely experienced and thus better able to handle the truth than normal community members might be:

the elders, for a long time lived together. They lived together, they know each other, they are able to support one another, to correct each other, to discipline one another. Because they are, they belong to the same age category, same experiences. The older you grow, the wiser you become. That's what we say. We believe that these elderly people can listen to all this non-sense and will stay the same. They can bear it. [...] They can contain it"²⁸.

Irrespective of this possibly precautionary measure in a 2007 report the Justice and Reconciliation Project states that “[d]espite the fact that most former LRA rebels were once abducted, they tend to be viewed by the community as a homogenous, guilty group. Former commanders and foot soldiers of the LRA, abducted or not, stated they would be reluctant to voluntarily reveal the ‘truth’ about their crimes, for fear of revenge by the community. This fear is not entirely unfounded. Revenge killings have occurred, despite the remarkable restraint of most victims” (Justice and Reconciliation Project; Institute for Justice and Reconciliation, 2007, p. 10).

FORGIVENESS ON BEHALF OF OTHERS

The fact that revenge killings do take place, even though they are rather rare, points to the fact, that forgiveness as practiced and fostered through *mato oput* is mostly concerned with the community level and the well-being of the community. Whilst officially the elders can forgive on behalf of their whole clan, the individual may be unable or simply unwilling to do so. As

²⁷ Whilst community is a contentious concept, and in the case of Northern Uganda a strong sense of community cannot always be assumed due to mass displacement, rebel activities and the like, the priority of communal harmony and reintegration has frequently been emphasized in interviews and will thus be discussed here.

²⁸ Interview Rose Nyakato, Care International, Gulu, 08/12/2012

mentioned before, “even if the Acholi people are generally forgiving, there will still be a few elements of stigma, a few insults”²⁹. The question then emerges in how far forgiveness on the individual, community and state level are linked. As Jeffery points out, these levels of forgiveness are independent of one another (Jeffrey, 2011, p. 91). This is confirmed by the fact that an elder can forgive as a representative of his clan, whilst an individual clan member can still exercise self-justice and revenge. As a consequence, communal forgiveness does not necessarily lead to improved or easier reintegration. The fact that many former child soldiers still experience stigmatisation and isolation even after traditional reconciliation ceremonies bears witness to this problem. In that way, individuals can have forgiven each other without their communities having done the same; communities can forgive one another without their individual members doing the same; and communities and individuals can forgive one another without having forgiven the state or the rest of Uganda on the level of national forgiveness. For former abductees this can have the implication that their victim’s clan can have forgiven them, even if this coincides with their own clan, but that their neighbours or other community members have not. This can severely impede their sense of justice and feeling accepted and as part of their communities.

THE OTHER DIMENSIONS OF FORGIVENESS

Another aspect, closely linked to questions of who is forgiving whom, is the one-sidedness of *mato oput*. As far as the literature and the interviews indicate, former abductees ask their communities and their victim’s clan to forgive them in exchange for revealing the truth and showing sincere repentance. However, the same is not done the other way around. As Veale and Stavrou state returnees have often been described by their communities as having bitterness because they have not forgiven their communities or families for not protecting them from abduction (Veale & Stavrou, 2007, p. 287).

first of all they have a bitterness against the people. Now they come out and they think they should seek forgiveness from us. [...]I mean the perception of many, most in the community is that the former rebels should come out and apologise. But if you talk to these former abducted children, they have a bitterness in them, that they feel the people need to apologise to them first. Starting with the children I have talked to who look at their parents and the community, and some of them blame the community for not protecting them”³⁰

During several interviews it was pointed out that some abductees return from the bush with a feeling of having been abandoned by their communities or the government. There is resentment

²⁹ Interview John Paul Kiffasi, IGF, Kitgum, 13/12/2012

³⁰ Interview John Paul Kiffasi, IGF, Kitgum, 13/12/2012

for not having been protected from abduction by either of these actors. Whilst younger children tend to look to their parents and families for protection and thus blame them for the failure to protect, older children have been described as having an understanding for the fact that the violence and threat posed by the LRA was beyond the civilians' and communities' ability to protect. They thus tend to blame the government and especially the UPDF for the failure to protect them. The many crimes committed by the government forces add to this feeling of blame and resentment.

Nonetheless, neither the communities nor the government or its armed forces have thus far asked the former abductees to forgive them. This is not part of traditional reconciliation ceremonies. Neither has the government sought the forgiveness of the Acholi, the abducted children or former child soldiers in any official way. Whether this has happened on an individual basis is of course hard to trace, but since there seemed to be very little awareness for the fact that former child soldiers can also feel like a crime has been committed against them, it is rather unlikely.

In addition to that, concern has been expressed that the former abductees should forgive their abductors and those who have tortured and victimised them and turned them into perpetrators. One of the former abductees described his feelings towards the LRA after managing escape in the following words:

I was too much addicted in revenging back, at least do back on what they did on me, but I could not do it, because something that saved me from there was that I should not kill or the revenge are not good. Who knows why I'm alive, you know.³¹

However, of the things children are being told as part of mato oput is to forget: "there are a number of words that people talk, they talk encouraging words. Trying to tell the child to forget what has happened"³². The communities, in contrast, are not presumed to forget, but to receive acknowledgement for their victimization through admission of guilt and be asked forgiveness.

The assumption of practices of forgiveness in Acholiland thus seems to be that child soldiers do not have reason to expect that somebody will ask their forgiveness, or as Lee indicates, humility is expected, not self-expression (Lee, 2009, p. 30). This lack of awareness for the fact that their forgiveness cannot be taken for granted, might be linked to the role and identity they are being ascribed. The assumption for forgiving them in return for telling the truth and showing repentance is that they are innocent. At the same time, however, their guilt is assumed otherwise they would not have to be forgiven. As Hannah Arendt pointed out, agency as a

³¹ Interview Christopher Nyero, IGF, Kitgum, 13/12/2012

³² Interview Dickens Olwoch Kulis, AVSI, Kitgum, 14/12/2012

central aspect of humanness is the crucial in processes of forgiveness, since “one does not ‘forgive’ inanimate objects or natural disasters. Hence, how would one forgive a person who has surrendered his/her agency?” (Saunders, 2011, p. 138). The official discourse around transitional justice in northern Uganda, has over the past years very much been one that advocates forgiveness and the victim-identity of child soldiers. Their agency is largely being ignored. This can be seen as one of the reasons why asking them for forgiveness is not being promoted as part of a comprehensive reconciliation strategy: They are immature, innocent victims; children whose role in society is passive and dominated by their obedience to the rules, instructions and assumptions of adults and elders.

Another important aspect that is being neglected in the way mato oput is being performed is the issue of self-forgiveness. As Harris found in his case study of Sierra Leonean child soldiers, their agency is being avoided in favour of community rebuilding (Harris, 2010, p. 335). In an attempt to protect children from guilt and shame, communities often do not give them the space to re-learn empathy and self-respect. Not being enabled to acknowledge their agency in their wrongdoing can keep them from being able to accept other people’s forgiveness and from forgiving themselves (Harris, 2010, p. 335). Self-forgiveness is, however, crucial if former abductees are supposed to accept what happened and are to be enabled to perceive of themselves as valuable members of their community who are worth being forgiven.

SPOKEN AND PRACTICED FORGIVENESS

Linking the focus on the wellbeing of the community and the one-sidedness of forgiveness is the fact that saying one forgives an offender is very different from practicing forgiveness through true integration and inclusion. As John-Paul Kiffasi from IGF stated

there is a strong sense of guilt if they [former abductees] are embraced with love, and almost a sense of torture for them [...]. They feel like they don’t deserve it [...]. It is more for them [the victims that forgive] than for those people [...] It is more of a healing thing for them and releasing [the offender] from their hearts instead of holding him in there³³.

This, again, points to the fact that traditional ceremonies of forgiveness and reconciliation serve mostly the victims and their communities and not the former abductees. If these ceremonies are to contribute to the reintegration of former child soldiers, forgiveness has to go beyond the mere statement thereof. It has to be brought into practice and every-day life. The children themselves will also have to be enabled to forgive themselves through acknowledging their

³³ Interview John Paul Kiffasi, IGF, Kitgum, 13/12/2012

agency and to forgive those who they believe should have protected them from their victimisation.

DECISION-MAKING AND PARTICIPATION

The process of forgiveness that is largely dominated by a set of rules under the authority of elders and clan leaders, can be characterised almost as ‘orchestrated forgiveness’ which fulfils social norms and expectations. In how far these processes really do lead to forgiveness or even help the people involved is largely uncertain (Mawson, 2004, p. 140). Including former abductees in timing decisions regarding their reintegration process or even just asking their opinion about the successes and failures of those processes has largely been neglected:

One funny thing about my, our culture here is that there are lots of assumptions [...] I still believe that there are a lot of psychological battles in the mind of these child. They are still saying 'am I forgiven?' What happens after here? I believe those questions are still running in their minds. And we don't take them at their pace. It is us, let me say the psychosocial workers or the clan leaders, who now say 'I think they are ready for this.' We don't consult a lot with these children, we don't. We only feel now that they respond normally, I think what we need to do is this. In most cases that's what we do. We don't ask them. We don't take that opportunity really to understand, to ask, to find out.³⁴

The above statement from Rose Nyakato who works with children and former abductees is descriptive of many of the efforts being made to reintegrate and rehabilitate former child soldiers. The elders, community leaders and foreign or local NGOs take the lead in the design, timing and decision over what should be done with the returnees.

THE REINFORCEMENT OF PATRIARCHAL TRADITIONAL AUTHORITY

This exclusion of the child soldiers themselves from decision making processes affecting them directly is especially pronounced in traditional justice processes, that are advocated, performed, authorised and interpreted by elders, traditional or religious leaders whereas these processes might have little meaning to the children themselves and whose authority has been disputed repeatedly. This can reinforce power inequalities in a time of change and transition where power configurations are often renegotiated and adapted to the new realities. By dominating the social world of former abductees and having the authority over the possibilities of failure or success in their reintegration, elders are reinforcing their position as the leaders of their communities whilst children, youths and young adults are actively sidelined. After having been

³⁴ Interview Rose Nyakato, Care International, Gulu, 08/12/2012

disempowered and suppressed by the life conditions in IDP camps; after having lived through severe disempowerment through the victimisation in the LRA and the simultaneous empowerment that comes with the possession of a gun; they are again being disempowered. Others are speaking for them, defining their needs and desires. In the long run such disempowerment can prove dangerous for the social cohesion and peace in Acholi society since some returnees might share the perception that they will only be able to make their voice heard through violence and the power of a gun. Combined with economic and social hardship and exclusion this can become a dangerous development in and for the future.

“ARE WE ABLE TO COVER THESE WOUNDS?”³⁵ - A TRUTH COMMISSION FOR (NORTHERN) UGANDA?

The inclusion of children in a truth and reconciliation commission needs careful planning and preparation. Considering the number of children that have been affected by the war in northern Uganda and the generally high share of the population that children make for, they will have to be involved in any truth seeking process that is to be meaningful and provide a basis for reconciliation in the region.

FORMER ABDUCTEES AS WITNESSES

FORMER ABDUCTEES AS VICTIM WITNESSES: PROCEDURAL CONSIDERATIONS

The inclusion of children then has to start at the earliest stage possible. Children and children's issue have to be included in the mandate of a truth commission in order for them to find sufficient attention. The mandate should specify what role children are expected to play in the process; whether they are seen as victims and should only be allowed to testify as such or whether they should also be allowed to speak in their capacity as perpetrators. This, however, will require careful measures to ensure their safety and security. Michael Otim from the ICTJ, which has been actively involved in the development of JLOS's transitional justice policy sees the role of children in a Ugandan truth commission limited to that of victims:

Definitely, if former abductees and children are supposed to participate in any form of truth-seeking process, they would need to ensure that the mechanics of their participation

³⁵ Interview Rose Nyakato, Care International, Gulu, 08/12/2012

*are clearly defined. They can't be made to participate like other adult perpetrators for instance [...] And when they're brought to a truth commission I think, ideally they shouldn't be brought as perpetrators per se, they should be looked at as victims, because of their context and background.*³⁶

Besides the need to ensure child witnesses safety and security, some other organisational procedures need to be considered as well. Firstly, the expectations of children and especially child witnesses need to be explored. Some case studies have shown that participation in a truth commission is often motivated by a desire and expectation to benefit from doing so through reparations or compensations (Cook & Heykoop, 2010, p. 180). It is thus crucial to clarify in advance to child witnesses but also to the population, what it is that a truth commission wants to and is realistically able to achieve.

Considering the fact that in northern Uganda people know the nature of the atrocities that are being committed, an emphasis here should be on identifying specific victims and perpetrators and in gathering knowledge that can help in tracing those that have been disappeared, often through abduction by the LRA, but have not returned (yet). As one interviewee stated about his brother, "he has never come back home. Since 2003 [...] And we don't know if he's alive or if he's dead"³⁷. Being able to bring closure to the families who are still missing their sons, daughter and relatives, is an important step in order to start looking into the future instead of giving the past the focus.

CHILD SOLDIERS AS MORE THAN VICTIMS

In order to understand the many facets of the conflict in northern Uganda and the transformation and identity building that many of the child soldiers experienced, it is almost necessary to allow their testimony as perpetrators as well. Some of the interview respondents voiced concern over the consequences children's testimony might have, though:

*I have to answer yes and no, I don't know, but I can explain both. I would say yes, yes basically, because we need to know the truth [...] As the bible says when you know the truth, the truth will set you free. On the other hand I say no. Now I'm starting from where we've talked the truth. I don't know how this community would react to somebody who confesses 'I killed your mother'. It's a very big challenge for this community. I cannot allow to revenge or opening up wounds and then, and now revenging, bringing about another war.*³⁸

Rose Nyakato's statement summarises the dilemma traditional truth seeking and a truth commission are facing: Whilst there is a strong desire to learn about the past, its truth and the conflict, there is also uncertainty as to whether this truth might not lead to another war or at

³⁶ Interview Michael Otim, ICTJ, Kampala, 04/12/2012

³⁷ Interview Christopher Nyero, IGF, Kitgum, 13/12/2012

³⁸ Interview Rose Nyakato, Care International, Gulu, 08/12/2012

least community conflicts. So if a truth commission, like traditional truth telling, serves the purpose of uncovering the truth whilst at the same time restraining the child witnesses in what they can say without having to expect revenge, it will be a futile exercise.

In addition to that, it has been suggested that former child soldiers could act as peace ambassadors during a truth and reconciliation commission:

They could be peace ambassadors, offer themselves by say 'We caused you a lot of pain, but we are now offering ourselves to bring peace [...] They should be able to, maybe before the start of these sessions, talk about peace, talk about maybe poetry, they can come up with poems about peace, play about peace, drama about peace, so that's. Much as it is a short time, that we shall have these reconciliation, in comparison to the many years they spent in the bush, this time maybe they will see them as shiny people, they will see them, the child soldiers as people who want to heal their community, reconcile with everybody and to know that that is a past that they want to get rid of and then move on as people who want to live in harmony with everybody.³⁹

This not only encompasses the idea of former abductees actively seeking to change public perception of who they are and what they want, but it also indicates that they can be “shiny people”. A truth commission, if it involves former abductees as more than mere victim witnesses, can be an opportunity to learn from former abductees, learn about and from their experiences and show them that “the life [sic] of these children are valuable”⁴⁰ with the underlying idea that “we are looking at the future, we don’t repeat them same kind of, it will be a learning point for all of us”⁴¹. These statements indicate that there is a desire to learn from former abductees in an effort to avoid the outbreak of a new conflict. There is also an awareness for the fact that there are still many aspects of life in northern Uganda that can lead to renewed conflict, especially since their society and the younger generation has a lot of conflict potential if the issues they are dealing with now are not resolved in inclusive, comprehensive and a responsible manner

A TRUTH COMMISSION AS AN ACCOUNTABILITY AND RECONCILIATION MECHANISM

OVERCOMING REGIONAL DIVIDES – A LOCAL, REGIONAL OR NATIONAL TRC?

Above mentioned fear of new conflict exists firstly at the community and secondly at the national level. In traditional justice mechanisms truth telling involves largely the elders and traditional leaders, because

³⁹ Interview Rose Nyakato, Care International, Gulu, 08/12/2012

⁴⁰ Interview Dickens Olwoch Kulis, AVSI, Kitgum, 14/12/2012

⁴¹ Interview Dickens Olwoch Kulis, AVSI, Kitgum, 14/12/2012

*the elders, for a long time lived together. They lived together, they know each other, they are able to support one another, to correct each other, to discipline one another. Because they are, they belong to the same age category, same experiences. The older you grow, the wiser you become. That's what we say. We believe that these elderly people can listen to all this non-sense and will stay the same.*⁴²

Lifting this truth telling process beyond the elders or even onto the national level brings the risk of revenge though. As Rose Nyakato said, “[i]t would bring up those wounds, it would open up wounds and to me, I think people would want to revenge. [...]My biggest fear is the response after people share. Are we able to cover these wounds?”⁴³.

Similar doubts have been expressed with regards to lifting a truth seeking process to the national level, including the government and other ethnic groups in Uganda. As one respondent said, “we are very sceptical of one another. So if you, like, magnify it to be like at the country level, it will become a problem. It should be region-specific”⁴⁴. One of the main problems in this regard has been linked to the nature of the Acholi to seek the truth and value honesty⁴⁵. In other regions, however, it is assumed people would not know what truth seeking is:

*all of us have different cultural backgrounds. Like when you talk of the greater north, our cultural affiliations are almost similar. Now when you go to the South, now more in the South and then you say, 'ok, truth telling', people may not understand, because for us in the North here many people seem to say we like telling a spear a spear. If I say no, it is a no. Whereas when you go to the South, somebody may tell you something, he may not tell you the truth from his act.*⁴⁶

Whilst sensitivity was advocated with regards to a truth commission, the majority of people asked in northern Uganda were clearly in favour of a truth seeking process including the southern part of the country and the government as well. This perception is not shared by everybody in the other regions though. One respondent from the Kampala region indicated that

*we are not Northerners; we know that all the war started from the North. And it's their problem. [...] because for us here, we didn't experience any war, any Kony, any chopping of the lips, any cutting of the [...]Meanwhile the other side they are saying we are the ones who caused their suffering [...]think that thing is just, it's just covering up by itself, no? Now, like the Northerners start to pick up their lives, the lost live that they used to, they never used to get. They almost live like people in Kampala.*⁴⁷

GOVERNMENT ACCOUNTABILITY

⁴² Interview Rose Nyakato, Care International, Gulu, 08/12/2012

⁴³ Interview Rose Nyakato, Care International, Gulu, 08/12/2012

⁴⁴ Interview John Bosco Aludi Komakech, Caritas International, Gulu, 11/12/2012

⁴⁵ Interview John Bosco Aludi Komakech, Caritas International, Gulu, 11/12/2012

⁴⁶ Interview John Bosco Aludi Komakech, Caritas International, Gulu, 11/12/2012

⁴⁷ Interview Jackie Awere, Give Me A Chance, Kampala, 05/12/2012

This contradiction leads to the fact that there are very different understandings of this war in Uganda. During the interviews it has become clear that most people have their own history of the conflict, which starts around independence and follows through until today, as Patrick Loum from the ARLPI states, “Uganda was ruled as many, was not ruled as one country”⁴⁸. Whilst people in the north link the LRA war to atrocities and regional divides that marked the country since independence, people in other regions do not share that perception. They are quick to assign this war to the Acholi people only. It is their problem and thus their problem to solve.

Meanwhile, there is a very strong desire and need for the government to start playing an active role in the future of northern Uganda. People are expecting not only material help and development support from the government, but they also wish to hear the government acknowledge its role in the war and especially in the suffering of the people:

I think researchers and documentation work, a number of workshops and consultations have proven to the fact that majority of the people want some form of truth telling process. And recently from the study report on traditional justice, truth seeking and national reconciliation by the Justice, Law and Order Sector, there was an overwhelming demand to have a truth-seeking process both at community and probably at national level. But the challenge now is really the question of political will to implement it because, you see, there have been two sides to the conflict and, to what extent the government is willing and is going to subject itself to this kind of process, where it might have had a role, so there is being some kind of foot-dragging in putting in place this mechanism [...]of course government is quite keen to have a community truth-telling process, which is at the level of community, but of course once it becomes a community truth-telling process that means, you know, the culpability of the state, if any, is completely removed, you know. So it means like, you're saying ok communities here go reconcile among yourselves. What of the role of the state?⁴⁹

A public acknowledgment together with a sincere apology and a future commitment to the development of the north are what many people in northern Uganda and especially former abductees want.

⁴⁸ Interview Patrick Loum, ARLPI, Gulu, 11/12/2012

⁴⁹ Interview Michael Otim, ICTJ, Kampala, 04/12/2012

CHAPTER III: RETRIBUTIVE JUSTICE

FORMER ABDUCTEES AND CRIMINAL/LEGAL LIABILITY

Whilst the International Criminal Court does not have jurisdiction over any crimes somebody committed whilst being younger than 18 years of age (United Nations, 1998, p. Art. 26), the case against Dominic Ongwen sheds light on the dilemma of excusing war crimes with the fact that someone has been abducted. Ongwen himself is said to have been abducted by the LRA at a very young age, and is now facing charges for a number of crimes against humanity and war crimes. This defies the usual perception of innocence of former abductees outlined above and raises questions about where the line is to be drawn.

DILEMMAS OF NON-PROSECUTION

Whilst there is general agreement that former abductees should not be held criminally responsible for their crimes, it has been argued that that might have the side-effect of exposing them to increased brutality and pressure to commit crimes (Popovski & Arts, 2006, p. 3).

Another argument that might be seen as speaking in favor of holding former child soldiers accountable is that, according to Amnesty International, the objective of prosecuting children is not so much to punish them but to foster their reintegration (Amnesty International, 2000, p. 12): “Amnesty International’s basic position on the prosecution of child soldiers: that it is important that the young person realises the gravity of their act, acknowledges guilt and makes reparation through apology to the victim or their relatives. This reinforces the child’s respect for the human rights of others” (Amnesty International, 2000, p. 13). This indicates that under certain circumstances it might be in the long-term interest of a child to be held accountable for the crimes he or she committed, especially when some of these crimes were committed out of the child’s own motivation. An accountability process can then not only have a learning effect for the child, but it can also set a sign for the victims of that child, that he or she does not go entirely unpunished. This can possibly also contribute to counterweighing a culture of impunity.

As has been mentioned there is a general agreement former abductees should not be held criminally accountable. This has created a perception of these children enjoying impunity though. One of the consequences this has had, according to Mawson, is that government army soldiers have referred to the impunity of the majority of the LRA in order to justify their own

avoidance of criminal liability for their crimes. They started raising the question of why they should be punished, if the rebels can get away with human rights abuses and large-scale atrocities (Mawson, 2004, p. 138).

Another dilemma that has emerged as a consequence of child soldiers' legal impunity is that, theoretically speaking, supporters of the LRA could be punished. This implies that people who have provided shelter or food to the rebels, even if just in an attempt to ensure the survival of their own children and relatives, might be held accountable. The consequence of this could be that indirect supporters might be held legally responsible whilst those committing the crimes might get away (Mawson, 2004, p. 139).

THE CONSEQUENCES OF THE ABOLITION OF THE AMNESTY ACT

With the abolition of the Amnesty Act in May 2012 and the proposal to prosecute mid-level commanders of the LRA in domestic courts, the consensus between the Acholi population and the Ugandan government not to prosecute former child soldiers is being challenged. This has been interpreted as another broken promise by the government, a tendency that is often cited as one of the root causes of the conflict. After 13 000 returnees have been pardoned by the Amnesty Commission between 2000 and 2012, this implies that children and youths now returning from the bush, be it through desertion or after being captured by the UPDF, may now face charges for their crimes committed during the conflict. Even if children will not be prosecuted, those that return after reaching the age of 18 could be. The case of Thomas Kwoyelo is a case in point insofar as he returned as an adult who is now being tried for his crimes. Although Kwoyelo was already over 30 years old when he was indicted, theoretically young adults who barely turned 18 could be charged with war crimes as well. The question whether this will happen remains open for now, but the fear seems to exist in Acholi communities:

It [the decision to prosecute] is still political. You find someone who will come and say we are only looking at the top commanders. We are not going to harass the children. But now children are coming back and now going back to the community without any proper, nothing protecting them. But we had a law that protected them from any prosecution [...].⁵⁰

Any returnee will now have to go through the office of the prosecutor and the decision over amnesty will be made on an individual basis. This holds the opportunity to grant amnesty to low-level LRA rebels and opens the possibility to prosecute higher ranking members of the LRA. It does, however, also open the doors for an undifferentiated treatment of

⁵⁰ Interview Patrick Loum, ARLPI, Gulu, 11/12/2012

returnees if no due consideration is given to the fact that they were abducted, or to the violence they were subjected to when being forced to commit crimes. This would then be in the hands of the court presiding over the case. Due to a frequent lack of funding and sometimes the lack of political will, there is a realistic chance however, that these fine differentiations will not be made.

Much of the responsibility with regards to treating former abductees fairly is thus on the Government of Uganda. If it starts prosecuting LRA rebels that were formerly abducted, the impression might emerge that the government is punishing children for abduction from which they should have been protected by that very same government.

If the office of the prosecutor takes the decision to prosecute former child soldiers, there is a very fine line to walk. The majority of people in the north support amnesties and a safe return of these children: "We thought amnesty is the only way our children could come back from captivity"⁵¹, "[t]hey don't want to punish, they don't want the children from abduction to continue to suffer"⁵², "at least with child soldiers [...] they prefer that they are given amnesty"⁵³.

The children who are still with the LRA might be discouraged from defecting if they face the possibility of criminal charges. The questions the government will have to ask is whom it wants to punish, for what, and how.

CONSIDERATIONS ON PROSECUTING RETURNEES

With regards to the question of whom to punish, there are several possibilities of drawing lines. Firstly, age could serve as a differentiation. Then the question is though whether those abducted as children but who have turned 18, which is the legal age of maturity, are punishable. Secondly, rank in the LRA could be considered as a criterion. This differentiation could be used in addition to that of age in order to avoid charges against children and those who are adults but did not bear major responsibilities. Prosecutions then should, if at all, be limited to those who have shown a high degree of self-determination, and commitment in the crimes they committed. This is not, however, a very clear demarcation for assigning degrees of responsibility and deriving accountability. Especially not in circumstances where the question arises if a child that has spent most of its life in the LRA is to be fully considered responsible for the crimes it commits, even if there was a degree of self-determination involved.

⁵¹ Interview Gladys Canogura Faddy, KIWEPI, Kitgum, 14/12/2012

⁵² Interview Dickens Olwoch Kulis, AVSI, Kitgum, 14/12/2012

⁵³ Interview Michael Otim, ICTJ, Kampala, 04/12/2012

The next question to be answered considers the degree and kind of punishment that can and should be imposed by the War Crimes Division in domestic courts. Since most people in the Acholi communities consider the returnees their children, who have been the victim of severe crimes and violations already, care will have to be taken as to the nature of any punishment imposed. This decision should also pay attention to the fact that reintegration into communities is an already difficult endeavour that should not additionally be hampered by marking child soldiers as criminals through criminal charges and legal punishment. If a punishment is to be imposed, though, flexibility and special considerations should be applied in the process and decision. Such an approach has been supported by Lino Ogora from the JRP:

If you're looking at this perpetrator, who in light of his victimhood, it would be something like, fine, we give the benefit of doubt. Other than imprison you for life, for example. We'll maybe look, in this way, maybe look at your killings as murder, to maybe look at them as what - maybe something with a lesser degree or something like that. Even when sentencing, we are going to sentence you to these, but we are also going to promote reconciliation between you and your victims. And, we are also going to give the state, people who are charged with protection you from abduction, to apologize to you for having been abducted⁵⁴

As stated, punishments should then take into consideration ways in which reintegration can be supported.

During the interviews several of the informants explained that returnees can contribute to their own reintegration by being productive members of their community and adhering to the norms and practices of their social environment:

If they understand that this is now a community where people are supposed to socialise, interact, there is a respect, then, if they can show respect I think people will accept them⁵⁵

Because they need to be given an opportunity to support the community. In the circumstance where they do not have the opportunity to make better or to make use of themselves, or to make themselves useful to the community it's difficult it's just like telling me I just came back from the bush and then you expect me to live normally like all the other children are living⁵⁶

They require skills to adjust, to get and so on and so forth and then be once again, take part and be part of the community as responsible citizens⁵⁷

These statements show that there is a strong desire from the side of the communities to see former abductees make a positive contribution to their community and live by its norms. This is

⁵⁴ Interview Lino Owor Ogora, JRP, Gulu, 07/12/2012

⁵⁵ Interview Patrick Loum, ARLPI, Gulu, 11/12/2012

⁵⁶ Interview Margret Ajok, JLOS, Kampala, 18/12/2012

⁵⁷ Interview Michael Otim, ICTJ, Kampala, 04/12/2012

furthermore supported by Christopher, who described the desire to help his community as one of the driving reasons behind his escape from the LRA:

I used to tell my younger brother, saying this is not the right place for us to stay. We have left our family, we have left our parents, we have left everything. We need to go back and continue with studies. Aiming to do something for our country, for our people, for our future as well. So everything we are doing here, if it's not part of the [...] something that can profit our family, there's [...] about fighting, they want to see blood, we don't want to do anything wrong⁵⁸

In Rwanda, the desire to impose punishment and enforce accountability paired with the need for alternative sentences, led to the imposition of community services as a punishment. These were imposed by the community based gacaca courts in order to simultaneously acknowledge the need for reintegration. A similar model of community service as a form of accountability and reintegration for Uganda would also be in line with the Agreement on Accountability and Reconciliation that states support for alternative sentences.

Enforcing community and social services can serve the purpose of showing a degree of willingness to contribute to the well-being of the community in order to address the destruction one might have brought about as a rebel. It is thus a much more proactive and constructive way of punishment than a prison sentence. On the side of the community which might require a kind of reconciliatory, compensating gesture an offender's active contribution to the rebuilding and development of the community can provide exactly that. Community service can increase their legitimacy as community members and furthermore have a positive impact on the self-worth and self-esteem of the former abductees as they are given the opportunity to show that they care and that they are aware of the consequences of their activities as a rebel as well as their willingness to help overcoming those long-term effects of destruction. Prescribed community service opens an opportunity for them to contribute to their own reintegration whilst offering their communities a way of ensuring accountability and contribution that can enable them to accept what they have done more easily.

⁵⁸ Interview Christopher Nyero, IGF, Kitgum, 13/12/2012

PROSECUTING THE CRIME OF CHILD RECRUITMENT

Although the ICC has issued arrest warrants against the LRA leadership, the opinions amongst former abductees, civilians and other children concerning the way the LRA leadership should be dealt with vary widely.

Despite these diverse preferences, the Ugandan government seems to envisage a prosecution of the LRA top five by the ICC, as a representative from JLOS highly involved in the drafting process for the transitional justice and reconciliation policy for northern Uganda has indicated:

I mean the ICC has made it clear that if these guys are apprehended they would like to prosecute them. Now nationally we have a system as well. We have the International Crimes Division that is going to prosecute the mid-level [...]. So, you might remember that Kwoyelo who was a commander in the LRA, was arrested, was captured by the UPDF and then he was brought before this court, although his prosecution was challenged by his defence lawyers and is still for appeal at the Supreme Court. So that's the kind of category that our court will prosecute. So there seems to be a line between who is going to be prosecuted at the ICC and who is going to be prosecuted at the national court.⁵⁹

Since crimes against children and especially the illegal recruitment of children are amongst the charges against the top five LRA commanders indicted by the ICC, children and former abductees will play an important role as witnesses if these trials are to happen. The decision over whether trials will take place depends largely on the ability of the Government of Uganda and the international community to arrest Joseph Kony, Dominic Ongwen, Vincent Otti and Okot Odhiambo⁶⁰, as well as the guidelines of the transitional justice policy on how and whether trials are to take place. Thus the desirability of such trials will not be discussed here. The focus will rather be on how trials can be constructed in order to integrate former abductees into the process in a way that is in the “best interest of the child”.

If children – former abductees and others – are to be given a chance to participate in the ICC proceedings, a comprehensive information campaign leading up to the trial will be required. This information campaign has to ensure to be accessible and understandable for those people that were most affected by the war, i.e. the population of northern Uganda, where radios and newspapers might be the easiest accessible. The information furthermore needs to be child friendly, which implies a need for information availability in local languages and in simplified yet informative manners, as well as clarity on the fact that only the top five LRA commanders are being targeted and not lower-level soldiers. There is a need for legal safeguards that the

⁵⁹ Interview Margret Ajok, JLOS, Kampala, 18/12/2012

⁶⁰ Number five on the list, Raska Lukwiya has been acknowledged by the ICC as having deceased on 12 August 2006 (International Criminal Court, n.d.).

information obtained from children participating in ICC trials as witnesses will in no way be used to press charges against them. This is even more important if the Ugandan government decides to try some mid-level commanders in domestic courts.

Children and youths who decide to partake in ICC trials as witnesses, will require more in-depth information as to how the court operates, what risks there are with their participation and what they can expect. Especially the latter part is crucial if too high expectations and subsequent disillusion are to be avoided. The effects of giving public testimony and of a possible encounter with their abusers have to be taken into account.

When it comes to the trial itself, it is again crucial that children are enabled to follow the proceedings, receive psychological support and protective measures to ensure their security and safety.

It is furthermore worth considering whether the trial should take place in Uganda, which is possible as specified in the Rome Statute. This would ensure much more attention on the local level and contribute to the meaning and relevance this trial should have in bringing justice to the victims of the LRA. In the interviews, concern has frequently been voiced over trying the LRA commanders in The Hague where “millions of dollars [will be spent] to prosecute him, to look for evidence to compile against him. [...] That money could [...] save thousands of lives[...]⁶¹. Similarly, Godfrey Binaisa Lodik from Kitgum Concerned Women’s Association explained:

Because the impact of mato oput versus let's say the ICC. ICC is for us, that is not [...], well, we get it, Kony and his team has committed big crime and they need to pay for it, they need to answer for it. But will that heal us? Will the community really recover? After they have been prosecuted and then they are found guilty and then tried, or tried and found guilty. The answer lies in somebody who is asking that question. But what do the community want? They want something tangible⁶²

Others have expressed concern that justice will not prevail if Kony is tried in Uganda:

For what has happened I don't think it is viable for Kony to be prosecuted in Uganda. Kony even himself fear coming to be tried here. So we expect that Kony should be tried elsewhere. We have seen that one [the trial] of Kwoyelo where people went to attend, people had different mixed feeling, others began to regret, say no he did not go to captivity, he was abducted, he should not be punished, he should not be prosecuted. So after that most of these women are saying that justice will not prevail if Kony is supposed

⁶¹ Interview John Paul Kiffasi, IGF, Kitgum, 13/12/2012

⁶² Interview Godfrey Binaisa Lodik, KICWA, Kitgum, 14/12/2012

*to be prosecuted in Uganda. So Kony, when arrested, should be prosecuted outside Uganda*⁶³

Taking these two issues into consideration an ICC-led trial, being under the authority of the international community, placed in Uganda, closer to the people affected, seems a solution that is worth further exploration. This might also make the working environment of the ICC child-friendlier as it is more familiar to children.

In order to avoid stigmatization and social exclusion subsequent to a child's testimony at the ICC, it is advisable to ensure the participation of children and civilians who have not been abducted by the LRA but have severely suffered at their hands. Otherwise the impression will emerge that only the suffering of former abductees is being acknowledged, which would also affect the recommendations the court should give on reparations. The ICC's Victims Trust Fund has started a number of projects in northern Uganda; none, however, for children and youth specifically (The Trust Fund for Victims, 2009). Children's full participation in a range of capacities will ensure that reparations programs and recommendations can meet their needs and make a contribution to acknowledging their past whilst being a first step towards rebuilding the future. Some more specific considerations for reparations programs will be discussed in the following chapter, however.

During the trials due consideration needs to be given to the psychological well-being of the child witnesses. This will require staff educated and skilled in psychosocial counseling for children. As past experiences have shown there is frequently a lack of funding for such endeavors and a lack of cooperation between child-protection agencies and bodies of international criminal justice. A strong partnership between both actors can ensure that children's rights are protected and that the desire to prosecute offenders will not take precedence over the well-being of child witnesses. Measures to protect the identity of the child witness necessary in order to avoid post-trial revenge attacks. In addition, psychological monitoring, counseling and support are necessary in order to ensure that no negative effects, retraumatisation of stigmatization surface after having stood witness.

Another important aspect, especially for female former child soldiers, is the prosecution of sexual and gender based violence. As outlined in the literature review, the ICC does have jurisdiction over such crimes. Despite the widespread nature of SGBV in the LRA only Joseph Kony and Vincent Otti are being charged with such crimes. Whilst Kony is accused of sexual enslavement and rape, Otti is only being accused of rape. This implies that sexual crimes will not play any role in the trials against the other LRA leaders.

⁶³ Interview Gladys Canogura Faddy, KIWEPI, Kitgum, 14/12/2012

Hearing victim witnesses of SGBV will need further protective measures, beyond those that generally apply to child victims. Special hearings are needed for girls, and possibly boys, had have been the victim of SGBV. These need to provide a safe, confidential and supportive environment for a child or adolescent to give testimony about crimes like rape, sexual slavery, forced marriage and forced pregnancy. In prosecuting cases of SGBV the ICC can play a leading role in condemning gender based violence and setting a precedent in this regard.

One of the major obstacles in putting all of these measures for a safe and beneficial participation of children in the ICC into place, will be limited funds. It is the responsibility of the court and with it that of the international community to ensure appropriate funding if children are permitted as victim witnesses in trial.

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CHAPTER IV: DISTRIBUTIVE JUSTICE

REPARATIONS

As shown, reparations are a much more victim-focused approach to transitional justice than most of the other mechanisms discussed here. They are thus especially important in recognizing the nature and severity of crimes committed and the damage these crimes have brought about in the short, medium and long run, and addressing the systematic character of past and present inequalities. As such, reparations have two functions: They acknowledge past abuses and they pave the way for the future. Their design must thus consider what reparation is supposed to compensate for and how the future of those who receive reparations is envisaged and how reparations can help in realizing this potential future.

LESSONS FROM PAST EXPERIENCES

Regarding the issue of reparations of child soldiers, the numerous rehabilitation and reintegration centers established in northern Uganda have been perceived as a first step of reparation in the form of compensation and rehabilitation⁶⁴. Their services were designed in such a way that the returnees are enabled to deal with the abuses they have been exposed to and to enable them to start a new life and thus an orientation towards the future. In those centers it is mostly medical and psychological services that are ought to deal with the injuries suffered as a result of abduction. Counseling and educational and skills training as well as reintegration packages are future-oriented in that they are a first step towards building up a new source of livelihood. This perception of rehabilitation services and the packages that returnees at times received has been reflected in a number of interviews:

[The] community at the moment they have one problem that those who come back from the bush are compensated. They who are victims are not compensated. So that is bringing a problem. Like the commander so and so is now being treated well by government, while

⁶⁴ The UN Basic Principles and Guidelines on the Rights to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law specify reparations as including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition (UN General Assembly, 2005, Art. 9). In the field of transitional justice rehabilitation programs are not usually considered part of reparations. The Guidelines' specification, however, justify their classification as such. This was confirmed in the interviews: When asked about reparations programs, interviewees usually first referred to rehabilitation programs and the reintegration packages received as part thereof.

for us who suffered in his hand are here, continuing to suffer. Then that become a source of threat of violence.⁶⁵

Now when we look at the intervention of the government of Uganda and Amnesty International or the Amnesty Commission, they are giving amnesty to the perpetrators and they give them some packet to go home. So when they come to the community, the community are saying now, if the perpetrators are being rewarded for what they have done, and for us as the victim or the survivors, you know, we are not being recognised, what is going on here? So the whole thing is, we believe that if there is reparation that should really help the community to come out of the post-conflict situation.⁶⁶

And again people have accused many of the NGOs, many of the faith based organisations, even us Caritas, that this LRA have done the worst sort of thing within the Acholi, against many people, but at the same time they are the one benefitting out of these packages, they are going for skill training, they are being empowered, they are given money to maybe like start a business. Yet the people that have been offended are not benefitting.⁶⁷

The reparations received in the form of rehabilitation services and especially as reintegration packages also hold the first lessons to be learned for future reparations in northern Uganda. As a number of informants reported, there have been problems of resentment over the returnees receiving monetary and material support (see also Blattman & Annan, 2008, p. 114). The perception has been that they are being rewarded for the crimes they committed, whilst those that had to suffer under their terror did not receive acknowledgement or more practical compensations. This will have to be considered if future reparation programs are supposed to assist children in their reintegration efforts rather than widening the gap and exclusion between former abductees and the civilian population in their communities.

WHICH CRIMES TO COMPENSATE

All crimes need reparations. The only thing is that the forms of reparations will vary. Depending on the crimes. There are situations where people might just need symbolic apologies from, maybe from the government, maybe like for failing to protect them. There are situations where people might need monetary compensation. For property lost and damaged by the rebels and livelihood [...] there might be monetary compensation. There are people who are mutilated, there are people with bullet wounds for example, they are injured physically, they might need things like reconstructive surgery as a form of compensation. There are people who are still simply traumatised who need counselling and psychosocial support. There are people who are just failing to come to terms with what happened. They remember very painfully what happened. They might need memorialisation initiatives. So it's just different forms for different situations.⁶⁸

⁶⁵ Interview Patrick Loum, ARLPI, Gulu, 11/12/2012

⁶⁶ Interview Godfrey Binaisa Lodik, KICWA, Kitgum, 14/12/2012

⁶⁷ Interview John Bosco Aludi Komakech, Caritas International, Gulu, 11/12/2012

⁶⁸ Interview Lino Owor Ogora, JRP, Gulu, 07/12/2012

In order to acknowledge the different crimes and violations people and especially former child soldiers have suffered from, it is practically inevitable to create victim categories. Instead it might be useful to create categories of crimes for which victims receive reparations. Even if these will never represent the full scale and scope of violations and human rights abuses, processing every single case on an individual basis will be practically impossible and might in itself cause favoritism, prejudice and the like. Thus the following crime categories are based on the most frequently pointed out violations and eligibility criteria for reparation programmes. They provide guidelines on how reparations can be distributed in meaningful, inclusive ways.

Crime and violation categories that cover the abuses former child soldiers but also many other children have experienced should largely include the following: Physical and psychological injuries (of different kinds such as amputation, torture etc.), child soldiering, loss of parents and caretakers, loss of educational opportunities, loss of access to health care and basic services. In addition crimes of a sexual nature and gender-based violence including sexual slavery, rape, forced marriage, child birth out of rape and others, should be considered carefully in any reparation programmes.

For obvious reasons these categories are inclusive of crimes that were also suffered by children who were not abducted by the LRA which helps making these categories more inclusive and should help avoiding resentment or disadvantage of one group over another.

The distinction of sexual slavery and rape, although both constitute SGBV, is found in the longevity of sexual slavery. Whilst rape is an isolated incidence, even in cases of multiple rape, sexual slavery is a more lasting and repetitive abuse. Forced marriage in turn is differentiated by the emotional and personalized form of abuse occurring here. Since marriage is one of the most intimate links between two people and since it goes beyond sexual slavery in that it includes being considered a servant to the husband, it is to be differentiated from sexual slavery.

Physical injuries and psychological harm are to be compensated in forward-looking manners. Instead of giving monetary reparations, it is advisable to grant child victims access to free, accessible and high-quality health and psychological services. As Gladys Canogura from KIWEPI stated, to provide "Hospitals or medical treatment for those who have been affected with difficulties and also should be treated. And to be provided. Because you cannot give everybody, but those ones that are affected need some of those reparations"⁶⁹. This will require the establishment and upgrading of the current health infrastructure in northern Uganda which will

⁶⁹ Interview Gladys Canogura Faddy, KIWEPI, Kitgum, 14/12/2012

in turn benefit not only the beneficiaries of reparations programs but also the population more generally.

HOW TO COMPENSATE: BEYOND RECEIVING HELP

In terms of reparations, rape and sexual slavery might require psychological services for the victims as well as a symbolic acknowledgement of their violations. Helping to establish self-help groups can be one such symbolic measure where women's groups are supported to enhance exchange of experiences and the provision of a safe space. As Aptel and Ladisch pointed out, former abductees are not only victims but they are also young people and thus drivers of change and potential social leaders (Aptel & Ladisch, 2011, p. 35). A similar idea has been voiced by Caritas' John Komakech:

I think they should form like a group, a group, after the formation of the group, you know, they can apply for funds and begin their own programs or projects. For their own life and then also like, to educate other people [...]. Self-help group, that is what I was meaning. Self-help group, I know there is one CBO called IYEP. Yes, IYEP Program is mainly a combination of formerly abducted persons. Which for me is a good innovation [...]. They facilitate communication among themselves, they also like educate the public about their ongoing activities that they are doing. So that people don't see that they are a burden to the society.⁷⁰

Giving them a space to work on their ideas for change and a voice to express those ideas can be just as useful as reparations and satisfaction as education, or monetary or material benefits. This is especially so in the aftermath of a conflict in which children were voiceless and constantly disempowered.

Since the impacts of forced marriage and forced child-bearing go even further and also influence the ways a girl or woman is subsequently treated by her family and community, reparations for these sorts of crimes must be even more comprehensive. They should not only include free access to medical care and psychological support but also work towards reintegrating the victims into their communities. This is often especially difficult because of a rejection of the children they bring from the bush:

[W]e started sensitizing the parents, the community and the guardians of these women and children and girls that have come from captivity and they were not accepting. People, we were keeping these children because the community were not accepting them. They were a lot of stigma from the community, a lot of [disowning] them and when we came we

⁷⁰ Interview John Bosco Aludi Komakech, Caritas International, Gulu, 11/12/2012

*engaged seriously in the sensitization of this community to accept these people because they did not apply to go to captivity*⁷¹

*Now what about these children? What about these children that have been fathered outside the clan. Nobody will accept them most sincerely [...]. They are not going to be considered. They will be given names, discriminating names, negative names.*⁷²

It is thus necessary to include their families and communities in the effort.

*I would say if a child might actually might return home, the support should not only be given to the child, but should be given to the household. And should not just be given as a gift like ok, this is now your packet and you go on. There should be a process.*⁷³

*For me the best intervention is to handle them when they are within their families. Yes, within their families [...][So that they don't see us as NGOs as the ones responsible for them, they should also know their relatives, that they have a say in their life. Because there is this tendency, when children are growing up, and then there is somebody supporting them or an NGO supporting them, without going through the parents, they will neglect the parents, they become bigheaded, they don't follow instructions from home. Which is of course our cultural upbringing of children. So the best way which I would say for me a good strategy was, to trace for their relatives or their family, reunite them, after reuniting them with their families follow up. And then supporting them from their family, including their family members [...]so that they have, learn they social roots and also have a belonging*⁷⁴.

This can be done through sensitization and counseling programs that ensure the awareness to the fact that these women were forced into marriage, pregnancy and child birth. In order to ensure their livelihood, education and access to land are of particular importance. These will be discussed separately in the following chapters though.

In general the need to provide information and sensitization on compensation and reparation programs has been pointed out by John Bosco Komakech from Caritas:

*You see a returnee passing through a reception or rehabilitation centre going home with a mattress, with a good blanket, enough bed cover, bed sheet and then some small package. And yet where is going to be reunited, people there don't have such items. So people started feeling that, maybe if you stay in the bush its better because when you come back, instead of punishing you, you are rewarded. And that should not be the case. And that's why I say clarification to our people is much needed.*⁷⁵

Besides deciding which crimes and forms of victimization qualify for receiving reparations, the process of obtaining proof of victim-status also needs clear guidelines. In the case of former child soldiers it is advisable to allow unconventional proof that has a realistic chance of being obtained. As was done in Sierra Leone, allowing newspaper articles, pictures and recordings and

⁷¹ Interview Gladys Canogura Faddy, KIWEPI, Kitgum, 14/12/2012

⁷² Interview Rose Nyakato, Care International, Gulu, 08/12/2012

⁷³ Interview Godfrey Binaisa Lodik, KICWA, Kitgum, 14/12/2012

⁷⁴ Interview John Bosco Aludi Komakech, Caritas International, Gulu, 11/12/2012

⁷⁵ Interview John Bosco Aludi Komakech, Caritas International, Gulu, 11/12/2012

certificates for example from the amnesty commission or rehabilitation centers can serve as proof. Not every child has such documentation though. The problem then arises of walking a fine line between allowing less hard to obtain proof without opening the doors for abuse of the reparations. It is worth considering oral testimony as proof. Such testimony could be provided either by the child himself or by others who bore witness to his or her abduction or were in the bush with the respective child. However, then procedures of verifying these statements will be required which will make the process more complicated, time- and money-consuming. It is however clear that only allowing amnesty certificates or certificates obtained from attending a rehabilitation center is insufficient as it will give an advantage to those who have already received services upon return and will lead to those who have not benefitted yet to fall through the system again. As Gladys Canogura emphasized, “most of these people do not have [amnesty certificates]”⁷⁶.

RESPONSIBILITIES TO PROVIDE

Another question arises as to who should be responsible for providing reparations. As many interviewees indicated, there is a high expectation for the government to get involved in this process and provide funding. This is partly owed to the fact that the violators, in this case the LRA, does not have the resources required to provide reparations:

*Of course the general feeling here is that the state, ideally, should come up. Because the LRA don't really have any assets worth talking about that they can use to provide reparations. So it should be the state that should provide these reparations.*⁷⁷

The other reason is that this is seen as an opportunity for the government to make up for the failures of the past in protecting the population of northern Uganda from the LRA and for the abuses directly inflicted by the state and its agents, first and foremost in the military.

*And then it was the responsibility of government to protect those children. So government has the right also to compensate them.*⁷⁸

As Dickens Olwoch Kulis put it, “this is really the time, now that there is relative peace, this would be the right moment for government to come up with some programs which can really address psychosocial issues, which can address really even economic issues”⁷⁹. This also implies

⁷⁶ Interview Gladys Canogura Faddy, KIWEPI, Kitgum, 14/12/2012

⁷⁷ Interview Michael Otim, ICTJ, Kampala, 04/12/2012

⁷⁸ Interview Patrick Loum, ARLPI, Gulu, 11/12/2012

⁷⁹ Interview Dickens Olwoch Kulis, AVSI, Kitgum, 14/12/2012

that reparations are seen as an integral part of broader efforts at economic development, for which the government should provide.

Awareness has also been expressed over the ways the government has thus far handled its involvement in rehabilitation efforts and the shortcomings these have had: "There is need for us, for the government, and for the international community probably to rethink how they do their business. Otherwise it will be a long way"⁸⁰. Statements of this kind indicate a need for active government involvement and for the visibility thereof. This will also be a step towards overcoming the resentment and feeling of disadvantage the Acholi population has held towards the government. Making up for past failures and abuses through government-led reparations can thus be a step towards reconciliation between the northern part of Uganda and the government.

ACCESS TO EDUCATION

Besides physical and psychological damages as a result of the conflict and active combat, the loss of education has been frequently pointed out as one of the most impactful consequences of abduction. The meaning of gaining formal, quality education in the aftermath of abduction has furthermore been obvious in the interviews of both former abductees that were interviewed during the course of the research. Both their stories indicated that finishing their education was a turning point in their lives as it enabled them to obtain professional training and thus build a livelihood for themselves. The importance of educational programs has been underlined by other interviewees as well:

*Most of them have not gone to school, they were picked from school, they were picked when they were young and they have lost the chance to go to school [...] But what is something like schools for those children that came out and to be educated free [...] And if like a school is built or the government have come up to educate all the children of these people, I think that is what they should deserve*⁸¹

Also important to acknowledge is the fact that the school infrastructure in northern Uganda has been severely damaged during the course of the conflict which has effectively impeded the education for all children and youths in the region.

⁸⁰ Interview Godfrey Binaisa Lodik, KICWA, Kitgum, 14/12/2012

⁸¹ Interview Gladys Canogura Faddy, KIWEPI, Kitgum, 14/12/2012

Since every child has a right to free primary education, according to the Convention on the Rights of the Child (Office of the United Nations High Commissioner for Human Rights, 1989), reparations with the focus on education have to go beyond that.

One way of designing such reparations is a scholarship program. Full and partial scholarships can be designed and provided for the government in order to address the different needs and missed opportunities of children. It should be taken for granted then that even those who have missed out on most of their early formal education due to abduction, will have the opportunity to even finish their primary education for free:

If all of them would be given opportunity to study, any school where they are, they come and pay for them school fees. Any school where, and then if they are trained in the basic skills, then they need to be given some money to start a living. Maybe someone to start and income generation. So that would be a good thing.⁸²

This statement of Patrick Loum from the ARLPI also points to the need to go beyond primary education, for example by providing skills training, in order to earn a living.

Since the problem has been raised that they are often too old to be put into ordinary primary schools, an effort should be made to implement and advance adult education or specialized classes for those young adults. These could take the form of evening classes or specialized school. This special form of education should, however, end with the possibility to obtain a formal school certificate in order to qualify for secondary and tertiary education or professional skills training. Another option put forward to care for the special needs of returning children has been to introduce cultural programs, that build on the education a child acquired before abduction and aims at preparing the returnee for a reintegration into the formal schooling system:

But because of that the child's education is really, has been hampered. So there is need, there was real need to have kind of special program for such children so that their, what I would say, if they could begin some kind of cultural program [...] Now when they come right away they should be given some cultural program as I say, not basically giving them the formal subjects, but try to remind them, try to [teal] them to what they have been doing before. But then you're adding something little so that they are prepared for, into these mainstream, into the formal education. But I think this could be the best. Instead of, when the child is returned, when the child returns back from abduction and then goes straight away to the formal schools. There it would not be very good for them.⁸³

This also accommodates for the need to reintegrate former child soldiers into their society and avoid stigmatization that results from isolation and seclusion. This point has also been

⁸² Interview Patrick Loum, ARLPI, Gulu, 11/12/2012

⁸³ Interview Dickens Olwoch Kulis, AVSI, Kitgum, 14/12/2012

emphasized by Margret Ajok from the Justice Law and Order Sector and Dickens Olwoch from AVSI:

Because having schools that are specifically for the formerly abducted is also aware of stigmatizing them. Because everyone would say those are the children who are formerly abducted and also I remember when I was in Gulu that's what I knew. I knew that that school was only for the formerly abducted.⁸⁴

I think it is important to allow them to mix up with other children. Because if they are kept in that isolation, it makes no difference. Cause when they were in the bush, they were isolated. And again once they have come back and if we continue to isolate, it makes no difference. So it is better to let them mix up, but with special attention if they do. And this is the responsibility of the teacher. And the parents as well.⁸⁵

Special attention should be paid for girls, who are often excluded from education. It must be ensured that girls have the same opportunity to obtain a formal education as boys. Since many girls and young women return from the LRA with young children, support in child care will be required. Otherwise the widespread norms and practices regarding women's responsibility to take care of the children, which is augmented by the fact that the fathers of the children are often absent, will keep them from fetching up and making progress. These are very practical concerns that will make a difference on whether girls will be able to attend school or not.

An additional aspect in which education can be used as a way of reparation in the sense of guarantees of non-repetition is that of educational materials. These should include a record of the events of the war in northern Uganda. This will contribute to the public narrative of the conflict and the memorialisation thereof. Memory, in turn, has an educational effect for current and future generations and can contribute to spreading the lessons learned from the conflict. Creating and maintaining awareness over the causes, the suffering and the consequences of the conflict can then contribute to avoiding future conflict. It can also increase awareness of civilian children's experiences in the war in former abductees and vice versa. This can make a positive contribution to mutual understanding and subsequent integration.

In order for this to be successful it is also crucial that former child soldiers are not separated from other children in their endeavor to obtain formal education. As far as possible, schools should be inclusive, in order to foster and enhance every-day experiences of exchange, interdependence and integration.

⁸⁴ Interview Margret Ajok, JLOS, Kampala, 18/12/2012

⁸⁵ Interview Dickens Olwoch Kulis, AVSI, Kitgum, 14/12/2012

LAND RIGHTS

As soon as this war ends, the next one will begin. It will be a land war, and it will be between brothers in the same clan. (Adoko & Levine, 2004, p. 44)

According to Acholi custom land is inherited from the clan of one's father. With children returning who are fathered by commanders, the willingness to accept these children into the clan of the mother is minimal. So are the chances of knowing the exact identity of the father of these children. This often leads to women's and girls' rejection by their own parents as accepting bush children as their own children will imply that they have to be cared for and resources will have to be provided for them, including land. The problem is exacerbated by the potential loss of their own parents or the loss of the family's land due to two decades of displacement. It now becomes an even more contested issue though, since displacement and the return of children born in the bush have led to severe problems in the ways of how land is being distributed.

As interviewees explained, Acholi culture is partilinear and land is distributed along the father's or husband's lineage:

You know, African culture is always patrilineal. So we always look at men as the head of the family. And when it comes to issues that matters to the family, to the community, it is men who are dominant in everything; decision-making, deliberations."⁸⁶

"So as a married women your children get access to land, their father's land. If your marriage breaks up and you are hoping to return with your children home, they can still get access maybe through your fathers, something like that. But now it gets complicated if you return with children born in captivity who are considered commander's children. They are considered rebel children. So if the families or the clans recognise them and give them their identity, it means they also have to give them access to things like land and inheritance and livelihood. So it's just beyond really the children, but also looking at resources, looking at wellbeing and everything like that."⁸⁷

As a consequence of this inheritance system, children that are born to LRA commanders in the bush face discrimination in their right to access land:

There was a gap, which is with those that came with the children. In our culture, if you are not properly married to a clan then you are not recognized. The child has a problem, because the child will not be associated with any family and has no clan."⁸⁸

Dealing with issues of land distribution is thus not only critical in enabling returnees to rebuild their lives, but it is also crucial for maintaining the fragile peace in northern Uganda. With land

⁸⁶ Interview Godfrey Binaisa Lodik, KICWA, Kitgum, 14/12/2012

⁸⁷ Interview Lino Owor Ogora, JRP, Gulu, 07/12/2012

⁸⁸ Interview Gladys Canogura Faddy, KIWEPI, Kitgum, 14/12/2012

being one of the very few resources for earning an income or even just subsistence agriculture, it holds great potential for conflict over scarce resources.

In order to prevent future land conflicts Acholi communities and the Government of Uganda have a responsibility and an interest in managing land rights in a way that makes land accessible to everybody and ensures a fair distribution of land ownership. Gladys Canogura described how her organization KIWEPI works closely with local leaders and traditional authorities on this matter:

We had summoned the cultural institutions and the sub-county leadership to ensure that where issues of land arises these people should be provided with land. Especially their children. In case their own parents and guardians desert them. It is the sub-county government and cultural institutions to ensure that the issue of land should be given to these people to utilise so that they are not affected with land disputes, with for being away as squatters and what a few.⁸⁹

If the traditional, clan-based system fails to distribute land equally and fairly, the government and traditional leaders should take a leading role in institutionalizing mechanisms. This can include assurances for land access close to one's home. However, distributing land through governmental challenges might lead to resentment in the population as it might feel as if the government is depriving people of their ancestral land which belonged to them for a long time during the past. In order to legitimize the process and gain the support of the communities traditional leaders can be included in this process through extensive consultations. It does need to be ensured though that children returning from the bush, especially girls and women with their children born in captivity are provided with ways of gaining access to land if they wish to obtain such.

Another aspect in granting everybody in the community safe access to usable land is to clear the areas of landmines. If the land one inherits is a literal minefield, there is not much productive value in such land and the contribution of such land towards development, individual and collective, is minimal. Thus it is in the hands of the government to ensure the usability of land in northern Uganda for agricultural and farming purposes. Otherwise there is also the risk that land that is known to be mine-covered will be distributed to those people that are not considered to have a legitimate right to arable land.

⁸⁹ Interview Gladys Canogura Faddy, KIWEPI, Kitgum, 14/12/2012

MEMORIALISATION AND COMMEMORATION

“Acholi culture, our way of life and beliefs are not written down. We always either sing about it, dance about. We compose songs in the events that have taken place. We give names and all other sorts of things.”⁹⁰

In the transitional justice literature the focus of memorialisation is often on museums, the renaming of public places or monuments. These processes are important in the sense that they preserve memory in the long run. Museums and a written history of a conflict, for example in school books, help to keep a certain truth and memory of an event alive. By writing down the history of a conflict, it becomes fixed. If children and former child soldiers are considered in this process, it becomes clear that the process and the product of memorialisation have to be meaningful for them in order to make a difference. As Naidu pointed out, the process around memorialisation is just as important as the memory itself (Naidu, 2004, p. 5). It is thus crucial to include children and their views in the design of memorialisation processes. A memory should then include the experiences of former child soldiers. However, it is crucial to also include and consider the ways in which former abductees interpret their experiences. Their framework of understanding of their abduction as well as their lives before and after abduction is crucial if one wishes to understand abductees’ experiences the way they do.

One of the most memorable experiences many people, children and formerly abducted children have from the conflict is that of life in IDP camps. Many people link this memory to experiences of abuse by the government and the UPDF. Former IDP camps thus are an important piece of the public memory of that side of the conflict. However, the IDP camps have been completely demolished after people have been encouraged and at time forced to move out of them. With the destruction of those camps, an important part of this memory is in the process of being erased. Having preserved at least one of the IDP camps for people to remember what life was like in them and for future generations to be able to see, should have been an important step in remembering the government’s involvement and role in the conflict and the suffering of the people.

Since many abductees also grew up in IDP camps which often symbolize suffering, disease, encampment, dependency and abuse for them, this is an important memory in itself and a crucial aspect in how they interpret their time with the LRA and their return. By taking the symbolization of the physical structure of IDP camps away, an important part in the puzzle of memorialisation has also been taken away: “I was driving from Gulu the other day and I saw a

⁹⁰ Interview Godfrey Binaisa Lodik, KICWA, Kitgum, 14/12/2012

small minicamp. I thought I wish, like Pabor and Gulu are the biggest, over a hundred thousand people. I wish they had just kept that, even just a portion of it. For people to see in the future"⁹¹. Whether taking down former IDP camps as a part and parcel of very visible, public memory was a conscious step by the government can only be speculated. Since the Museveni government has started receiving a lot of public criticism from inside and outside Uganda for the camps and the living conditions in them, one can assume that their destruction was a welcome step in adapting its image internally and externally. For the people of northern Uganda the loss of these places of memory could lead to a one-sided reinterpretation of the conflict, although currently awareness and memory of the crimes committed against them by their own government and its soldiers are very vivid and pronounced.

ORAL MEMORIALISATION

Since the Acholi of northern Uganda put more emphasis on oral history and story-telling and since children might find it easier to express themselves through art, less fixed ways of memorialisation are of crucial importance. During the conflict many local artists have already written songs, poems, drama pieces and the like about their experiences of the war:

So many. In the community people have already composed song about the war, post-conflict, the impact of the war. We have the local artists who have composed various music, others are for advocacy for those who are still in captivity to come out. Others are for healing for those who have suffered from the war. You know there are so many songs now. So many music. Both in the community and then in the contemporary world. There are so many.⁹²

Music has been one of the main means with which messages were conveyed to people in the bush about their opportunities to escape and return to their communities⁹³. Songs and other oral pieces have been and are being used to foster forgiveness and reconciliation. Since music is locally rooted, it is a very powerful means of preserving memory, but also adapting memory to changing living conditions. Whilst it is desirable to have long-standing memories of and a generally accepted truth about the events of the conflict, it might also be desirable to enable people to change memory. Memory can then also be a way of tracing the ways in which people reinterpret their experiences as their life circumstances change. Oral memorialisation can thus serve as a grass-roots endeavor for people to maintain memories and the awareness of certain experiences whilst also providing the basis for adaptation when new, different experiences gain weight or even mix with the old ones.

⁹¹ Interview John Paul Kiffasi, IGF, Kitgum, 13/12/2012

⁹² Interview Godfrey Binaisa Lodik, KICWA, Kitgum, 14/12/2012

⁹³ Interview John Paul Kiffasi, IGF, Kitgum, 13/12/2012

Similarly to poems, songs and dancing, memorial services and commemorations can address the imminent situation of people whilst remembering the past. These forms of memorialisation have already been practiced widely, as Dickens Olwoch from AVSI reports:

There is a village where over 10 people were killed, were murdered and their bodies were chopped and cooked in a pot and people were forced to eat. So that place normally, the community organise together with the spiritual leaders, the local leaders, they organise a prayer, a community prayer, in memory of those who lost their lives and then also to encourage those who lost their dear ones. So I think it would be good if such monument could be organised. But basically for me, I would feel that this should be organised in the way of prayers. Yeah, they are more meaningful other than when we just organise, then we just give a talk of what had happened. In a way it would remind people and it would cause more trauma. But if we approach it in a spiritual way, I think it's more meaningful.⁹⁴

They can provide a link between the past and the present and therefore be used as an educational tool or at times possibly as a warning. Remembering what led to the recently ended LRA conflict whilst linking it to current situations can serve as a warning for the same not to happen again. Once more, the memory of former child soldiers is especially important then since their experiences can provide lessons on how to avoid future conflict.

FORMALISED MEMORIALISATION

Besides these tradition-based oral forms of memorialisation, museums with footage, pictures and recordings documenting the conflict and the experiences of former child soldiers have also been put forward as a necessity:

But just pictures of the war and what happened. I've taken pictures of people shot by rebels and there are some photos of ambushes, some photos of camps. People have a lot of such stuff, you know. Even recordings of Joseph Kony speaking. There is so much on YouTube that you want to sort of. And there are so many people who came out of the bush with cameras, having recorded actual fighting of the rebels [...]. So if we get those things and put them, in ten years time somebody may, people may want to learn. There are books people are writing about this war.⁹⁵

This statement also expresses the idea to preserve the memory of the conflict in the long term and for future generations. It is envisaged that materials such as footage or pictures from life with the LRA, that are provided directly by former abductees themselves, can be used to document their experiences. Godfrey Binaisa Lodik from KICWA indicated that a memorial center similar to the Kigali Genocide Memorial Center could be institutionalized:

⁹⁴ Interview Dickens Olwoch Kulis, AVSI, Kitgum, 14/12/2012

⁹⁵ Interview John Paul Kiffasi, IGF, Kitgum, 13/12/2012

Like there was another proposal that we need to have like a memorial centre. Maybe you have been to the, one similar to the genocide centre in Kigali whereby you walk in the path of Northern Uganda from the beginning of the war up to the realisation of peace, the peace process, the failure and all those kind of thing should be well documented and we should have [an archive] for it. Yeah, that's what we are trying to voice.⁹⁶

Another emphasis was put on the possibility to link memorialisation with an opportunity for public apologies:

So the government has to do what we call restocking and then take us to the community, build a monument where they were kind of like, like the atrocities. Where they took place. Build up a monument, we can have something there like a ceremony. So that we are able to go on public kind of apologies, both sides [...] Because the was not only us who did the wrong, it was also the government side.⁹⁷

Thereby also expressed is the hope to get the government getting involved in memorialisation processes and a need for a public apology from the government for crimes committed against the population and for the failure to protect children from abduction.

⁹⁶ Interview Godfrey Binaisa Lodik, KICWA, Kitgum, 14/12/2012

⁹⁷ Interview Godfrey Binaisa Lodik, KICWA, Kitgum, 14/12/2012

CHAPTER VI: CONCLUSIONS

The research presented in this thesis shows a clear need for much more in-depth research on the topic of child soldiers and transitional justice. The voices represented here do, however, permit some conclusions on the ways in which formerly abducted children, or child soldiers more specifically, can be included and participate in a number of transitional justice efforts in meaningful ways that take their needs and preferences into consideration.

With regards to traditional justice processes, first and foremost *mato oput*, there is a need to use these mechanisms more to the advantage of former child soldiers. As performed and promoted at the moment, traditional justice is a manifestation and continuation of patriarchy that dominates Acholi society. Making use of the flexibility in which these processes used to be applied and using their potential as community-based, grass-roots mechanisms, they could contribute to the empowerment of former child soldiers and youths instead of contributing to their current sidelining and frequent stigmatization.

The role of a truth and reconciliation commission for the inclusion of formerly abducted children seems to be envisaged mainly as a platform for them to acknowledge their crimes and provide a public apology to those they have wronged. It has, however, also been expressed that a TRC might provide an opportunity to change the public perception of former child soldiers from perpetrators to 'peace ambassadors' who wish to enhance peace in their communities.

Whilst there is no desire amongst the communities in northern Uganda to prosecute former child soldiers, the possibility of such prosecutions arises with the abolition of the Amnesty Act. If such prosecutions are to take place, they could work towards reintegration and reconciliation by taking the approach of alternative sentences and punishments as it was provided in the Agreement on Accountability and Reconciliation. This also accounts for former child soldiers' and their communities' desire to see them as productive, contributing members of their communities.

The question of prosecutions for the top leadership of the LRA has been contested. Whilst many people indicated to promote forgiveness for Kony and his top commanders, the wish to see them prosecuted has been expressed equally often, especially by former abductees themselves. If trials and prosecutions of the top LRA commanders are to be meaningful to the children and youths and their communities, they have to take local understandings into consideration though. Also important is the need to make the trials and their outcome accessible to the people most affected by the LRA conflict.

Another strongly promoted aspect of transitional justice have been reparations and their conceptualization as part of a larger development strategy for northern Uganda. With special emphasis on the importance of education programs for former abductees and assurances of land rights for them, the idea of reparations is one of addressing the crimes of the past whilst paving the way for a more prosperous, just and peaceful society. Many interviewees have also expressed the equal importance of personal, communal and regional development and justice.

Overall, the most important aspects brought forward by the interviewees and as a result of this research are the need for a comprehensive and inclusive transitional justice framework; the need to consult former abductees on their needs and preferences, and a strong desire to see the government actively involved in transitional justice programs and development efforts for northern Uganda. This should include the government's acknowledgements of its own wrongdoings and crimes in the past and particularly during the conflict as well as its engagement in addressing the destruction, devastation and suffering the conflict has brought about.

One of the most important aspects in transitional justice that has been brought forward is the need to use such mechanisms to enhance the reintegration of former abductees and their reconciliation with society, their victims, and their communities. Transitional justice also provides an opportunity to foster the agency and empowerment of former abductees and children and youths in northern Uganda more generally. By giving them a voice and providing a platform for them to be heard, transitional justice can help to end the disempowerment many of these children have experienced and that has followed them from life in the IDP camps, through LRA abduction to the rehabilitation centers. In all of these places decisions concerning them are taken for them, not by them. Transitional justice can thus strengthen their empowerment and ensure that their stories be told and their needs are acknowledged.

BIBLIOGRAPHY

PRIMARY SOURCES: INTERVIEWS

- Ajok, Margret. Justice Law and Order Sector, Kampala, 18 December 2012.
- Awere, Jackie. Give Me A Chance, Kampala, 05 December 2012.
- Blanch, Susan Alal. World Vision, Gulu, 12 December 2012.
- Canogura, Gladys Faddy. Kitgum Women's Peace Initiative, Kitgum, 14 December 2012.
- Kiffasi, John Paul. Irene Gleeson Foundation, Kitgum, 13 December 2012.
- Komakech, John Bosc Aludi. Caritas International, Gulu, 11 December 2012.
- Kyejjusa, John. Save the Children Uganda, Gulu, 06 December 2012.
- Lodik, Godfrey Binaiisa. Kitgum Concerned Women's Association, Kitgum, 14 December 2012.
- Loum, Patrick. Acholi Religious Leaders Peace Initiative, Gulu, 11 December 2012.
- Nyakato, Rose. Care International, Gulu, 08 December 2012.
- Nyero, Christopher. Irene Gleeson Foundation, Kitgum, 13 December 2012.
- Ogora, Lino Owor. Justice and Reconciliation Project, Gulu, 07 December 2012.
- Okello, Moses Rubangangayo. Information for Youth Empowerment Program, Gulu, 11 December 2012.
- Olira, Captain Patrick Charles. Uganda People's Defence Forces, Gulu, 06 December 2012.
- Olwoch Kulis, Dickens. Association for Volunteer Service International, Kitgum, 14 December 2012.
- Oola, Stephen. Refugee Law Project, Gulu, 06 December 2012.
- Otim, Michael. International Center for Transitional Justice, Kampala, 04 December 2012.

SECONDARY SOURCES

- Acirokop, P., 2010. The Potential and Limits of Mato Oput as a Tool for Reconciliation and Justice. In: S. Parmar, M. J. Roseman, S. Siegrist & T. Sowa, eds. *Children and Transitional Justice. Truth-Telling, Accountability and Reconciliation*. Cambridge: UNICEF, Harvard Law School, pp. 267-292.
- Adoko, J. & Levine, S., 2004. *Land Matters in Displacement. The Importance of Land Rights in Acholiland and What Threatens Them*, Kampala: CSOPNU.
- Afako, B., 2008. Country Study V: Uganda. In: *Unable or Unwilling? Case Studies on Domestic Implementation of the ICC Statute in Selected African Countries*, Institute for Security Studies Monograph Series No 141. Pretoria: ISS.
- Akello, G., Richters, A. & Reis, R., 2006. Reintegration of Former Child Soldiers in Northern Uganda: Coming to Terms with Children's Agency and Accountability. *Intervention: International Journal of Mental Health, Psychosocial Work & Counselling in Areas of Armed Conflict*, 4(3), pp. 229-243.
- Allen, T., 2008. Ritual (Ab)Use? Problems with Traditional Justice in Northern Uganda. In: *Courting Conflict? Justice, Peace and the ICC in Africa*. London: Royal African Society.
- Allen, T., 2010. Bitter Roots: The 'Invention' of Acholi Traditional Justice. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 242-261.
- Allen, T. & Schomerus, M., 2006. *A Hard Homecoming: Lessons Learned from the Reception Center Process in Northern Uganda. An Independent Study*, Washington: USAID, UNICEF.
- Allen, T. & Vlassenroot, K., 2010. Introduction. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 1-21.
- Allen, T. & Vlassenroot, K., 2010. *The Lord's Resistance Army. Myth and Reality*. London/New York: Zed Books.
- Amnesty International, 1997. *Breaking God's COmmands: Destruction of Childhood by the Lord's Resistance Army*, New York: Amnesty International.
- Amnesty International, 2000. *Child Soldiers. Criminals or Victims?*, London: Amnesty International.
- Annan, J., Blattman, C., Carlsn, K. & Mazurana, D., 2008. *Uganda: Survey of War Affected Youth [Electronic Data Set]*, Kampala: AVSI Uganda; UNICEF Uganda.
- Annan, J., Blattman, C., Mazurana, D. & Carlson, K., 2011. Civil War, Reintegration and Gender in Northern Uganda. *The Journal of Conflict Resolution*, 55(6), pp. 877-908.
- Aoláin, F. N., Cahn, N. & Haynes, D., 2010. Masculinities and Child Soldiers in Post-CONflict Societies. *Legal Research Paper Series, Paper No 10-57*.
- Aptel, C., 2010. International Criminal Justice and Child Protection. In: S. Parmar, M. J. Roseman, S. Siegrist & T. Sowa, eds. *Children and Transitional Justice. Truth-Telling, Accountability and Reconciliation*. Cambridge: UNICEF, Harvard Law School, pp. 67-114.

- Aptel, C. & Ladisch, V., 2011. *Through a New Lens: A Child-Sensitive Approach to Transitional Justice*, New York: International Center for Transitional Justice.
- Atkinson, R. R., 2010. The 'Realists' in Juba? An Analysis of the Juba Peace Talks. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 205-222.
- Atri, S. & Cusimano, S., 2012. *Perceptions of Children Involved in War and Transitional Justice in Northern Uganda*, Toronto: University of Toronto.
- Baines, E., 2007. The Haunting of Alice: Local Approaches to Justice and Reconciliation in Northern Uganda. *The International Journal of Transitional Justice*, 1(1), pp. 91-114.
- Baines, E., 2010. Spirits and Social Reconstruction after Mass Violence: Rethinking Transitional Justice. *African Affairs*, 109(436), pp. 409-430.
- Baines, E., 2011. Gender Responsibility and the Grey Zone: Considerations for Traditional Justice. *Journal of Human Rights*, 10(4), pp. 477-493.
- Bickford, L., 2004. Transitional Justice. *Encyclopedia of Genocide and Crimes Against Humanity*, Volume 3, pp. 1045-1047.
- Birchall, E., Francq, E. & Pijnenburg, A., 2011. *The International Criminal Court and Reparations for Child Victims of Armed Conflict, Briefing Paper No 4*, Essex: Transitional Justice Network, University of Essex.
- Blattman, C. & Annan, J., 2008. Child Combatants in Northern Uganda: Reintegration Myths and Realities. In: R. Muggah, ed. *Security and Post-Conflict Reconstruction: Dealing with Fighters in the Aftermath of War*. London/New York: Routledge, pp. 103-126.
- Blattman, C. & Annan, J., 2010. One the Nature and Causes of LRA Abduction: What the Abductees Say. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 132-155.
- Branch, A., 2010. Exploring the Roots of LRA Violence: Political Crisis and Ethnic Politics in Acholiland. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 25-44.
- Branch, A., 2011. *Displacing Human Rights. War and Intervention in Northern Uganda*. New York: Oxford University Press.
- Brubacher, M., 2010. The ICC Investigation of the Lord's Resistance Army: An Insider's View. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 262-278.
- Bryman, A., 2008. *Social Research Methods*. New York: Oxford University Press.
- Caffo, E., Forresi, B. & Livers, L. S., 2005. Impact, Psychological Sequelae and Management of Trauma Affecting Children and Adolescents. *Current Opinion in Psychiatry*, Volume 18, pp. 422-428.
- Carlson, K. & Mazurana, D., 2010. Accountability for Sexual and Gender-based Crimes by the Lord's Resistance Army. In: *Children and Transitional Justice: Truth Telling, Accountability and Reconciliation*. Cambridge: Harvard Law School.

Central Intelligence Agency, 2013a. *World Factbook. Age Structure*. [Online]
Available at: <https://www.cia.gov/library/publications/the-world-factbook/fields/2010.html>
[Accessed 25 01 2013].

Central Intelligence Agency, 2013b. *World Factbook. Military Service Age and Obligation*.
[Online]
Available at: <https://www.cia.gov/library/publications/the-world-factbook/fields/2024.html>
[Accessed 06 February 2013].

Cheney, K. E., 2005. 'Our Children Have only Known War': Children's Experiences and the Uses of Childhood in Northern Uganda. *Children's Geographies*, 3(1), pp. 23-45.

Cook, P. & Heykoop, C., 2010. Child Participation in the Sierra Leonean Truth and Reconciliation Commission. In: S. Parmar, M. J. Roseman, S. Siegrist & T. Sowa, eds. *Children and Transitional Justice. Truth-Telling, Accountability and Reconciliation*. Cambridge: UNICEF, Harvard Law School, pp. 159-192.

Daumerie, B. & Madsen, E. L., 2010. *The Effects of a Very Young Age Structure in Uganda. Country Case Study. The Shape of Things To Come Series*, Washington: Population Action International.

Dolan, C., 2002. Collapsing Masculinities and Weak States. A Case Study of Northern Uganda. In: F. Cleaver, ed. *Masculinities Matter! Men, Gender and Development*. New York: Zed Books.

Dolan, C., 2005. *Understanding War and Its Continuation: The Case of Northern Uganda, PhD Dissertation*, London: University of London.

Finnström, S., 2006. Wars of the Past and War in the Present. The Lord's Resistance Movement/Army in Uganda. *Africa: Journal of the International African Institute*, 76(2), pp. 200-220.

Finnström, S., 2008. *Living With Bad Surroundings. War, History, and Everyday Moments in Northern Uganda*. Durham/London: Duke University Press.

Finnström, S., 2010. An African Hell of Colonial Imagination? The Lord's Resistance Army in Uganda, Another Story. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 74-92.

Galtung, J., 1996. Cultural Peace: Some Characteristics. In: *From A Culture of Violence to A Culture of Peace, Peace and Conflict Issues Series*. Paris: UNESCO Publishing.

Government of the Republic of Uganda & Lord's Resistance Army, 2006. *Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord's Resistance Army, Juba, Sudan*, Juba: GoU.

Government of the Republic of Uganda, 1995. *Constitution of the Republic of Uganda*, Kampala: s.n.

Government of the Republic of Uganda, 1997. *Chapter 59. The Children Act*. [Online]
Available at: http://www.ugandaembassy.com/The_Children_Act.pdf
[Accessed 06 February 2012].

Government of the Republic of Uganda, 2000. *Amnesty Act*. [Online]
Available at: <http://www.ulii.org/ug/legislation/consolidated-act/294>
[Accessed 25 01 2013].

Government of the Republic of Uganda, 2010. *Acts Supplement No. 6. International Criminal Court Act.* s.l.:s.n.

Green, M., 2008. *The Wizard of the Nile. The Hunt for Africa's Most Wanted.* London: Portobello Books Ltd.

Harris, D. A., 2010. When Child Soldiers Reconcile: Accountability, Restorative Justice and the Renewal of Empathy. *Journal of Human Rights Practice*, 2(3), pp. 334-354.

Hill, M. L., 2009. Bringin back Sweet (and Not So Sweet) Memories: The Cultural Politics of Memory, Hip Hop, and Generational Identities. *International Journal of Qualitative Studies in Education*, 22(4), pp. 355-377.

Human Rights Watch, 2003. Stolen Children: Abduction and Recruitment in Northern Uganda. *Reports*, 15(7).

Huyse, L., 2008. Introduction: Tradition-based Approaches in Peacemaking, Transitional Justice and Reconciliation Policies. In: *Traditional Justice and Reconciliation after Violent Conflict. Learning from African Experiences.* Sweden: International Institute for Democracy and Electoral Assistance.

International Center for Transitional Justice, 2009. *What is Transitional Justice?*. [Online] Available at: <http://ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf> [Accessed 06 February 2013].

International Center for Transitional Justice, 2012. *Reparations for Northern Uganda. Addressing the Needs of Victims and Affected Communities*, New York: ICTJ.

International Committee of the Red Cross, 1949. *Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*. 75 UNTS 287. [Online] [Accessed 09 February 2012].

International Criminal Court, 2003. *Referral of the Situation Concerning the Lord's Resistance Army Submitted by the Republic of Uganda*, The Hague: ICC.

International Criminal Court, 2005. *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen. Case ICC-02/04-01/05*. [Online] Available at: http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/situation%20icc%200204/related%20cases/icc%200204%200105/Pages/uganda.aspx [Accessed 06 February 2013].

International Criminal Court, 2007. *Decision to Terminate the Proceedings Against Raska Lukwiya. The Case of The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya and Dominic Ongwen*. [Online] Available at: <http://www.icc-cpi.int/iccdocs/doc/doc297945.pdf> [Accessed 06 February 2013].

International Criminal Court, n.d. *Situation in Uganda*. [Online] Available at: http://www.icc-cpi.int/EN_Menus/ICC/Situations%20and%20Cases/Situations/Situation%20ICC%200204/Pages/situation%20index.aspx [Accessed 25 01 2013].

- Iya, R., 2010. Encountering Kony: A Madi Perspective. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 177-186.
- Jaspers, K., 1995. The Question of German Guilt (1947). In: N. J. Kritz, ed. *Transitional Justice: How Emerging Democracies Reckon with Former Regimes. Vol 1, General Considerations*. Washington DC: United States Institute of Peace Press, pp. 157-171.
- Jeffrey, R., 2011. Forgiveness, Amnesty and Justice: The Case of the Lord's Resistance Army in Northern Uganda. *Cooperation and Conflict*, 46(1), pp. 78-95.
- Justice and Reconciliation Project; Institute for Justice and Reconciliation, 2007. *'The Cooling of Hearts': Community Truth Telling in Acholi-land*, Gulu: JRP, IJR.
- Justice and Reconciliation Project; Institute for Justice and Reconciliation, 2011. *Enhancing Grassroots Involvement in Transitional Justice Debates: A Report on Consultations held with Victims and Civil Society Organisations in West Nile, Acholi, Lango, and Teso Sub-Regions in Northern Uganda, 24 November 2010 – 10 February 2011*, Cape Town: JRP, IJR.
- Justice Law and Order Sector, 2012. *The Status of Amnesty in Uganda (Part 2)*. [Online] Available at: <http://www.jlos.go.ug/page.php?p=curnews&id=89> [Accessed 31 01 2013].
- Latigo, J. O., 2008. Northern Uganda: Tradition-based Practices in the Acholi Region. In: *Traditional Justice and Reconciliation after Violent Conflict. Learning from African Experiences*. Sweden: International Institute for Democracy and Electoral Assistance.
- Lee, A.-J., 2009. Understanding and Addressing the Phenomenon of Child Soldiers: The Gap between Humanitarian Discourse and the Local Understandings and Experiences of Young People's Military Recruitment. *Working Paper Series No. 55*.
- Lekha, C. S., 2009. The International Criminal Court Africa Experiment. The Central African Republic, Darfur, Northern Uganda and the Democratic Republic of the Congo. In: *Peace versus Justice? The Dilemma of Transitional Justice in Africa*. Caape Town: University of Kwa-Zulu Natal Press.
- Machel, G., 1996. *The Impact of Armed Conflict on Children*, New York: UNESCO.
- MacMullin, C. & Loughry, M., 2004. Investigating Psychosocial Adjustment of Former Child Soldiers in Sierra Leone and Uganda. *Journal of Refugee Studies*, 17(4), pp. 460-472.
- Mawson, A., 2004. Children, Impunity and Justice: Some Dilemmas from Northern Uganda. In: J. Boyden & J. de Berry, eds. *Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement. Studies in Forced Migration, Vol 14*. New York: Berghahn Books, pp. 130-141.
- Mazurana, D. & Carlson, K., 2009. Reparations as a Means for Recognising and Addressing Crimes and Grave Rights Violations against Girls and Boys during Situations of Armed Conflict and under Authoritarian and Dictatorial Regimes. In: R. Rubio Marin, ed. *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations*. New York: Cambridge University Press, pp. 162-214.
- Mazurana, D. & Carlson, K., 2010. *Children and Reparation: Past Lessons and New Directions. Innocenti Working Paper No. 2010-08*, Florence: UNICEF Innocenti Research Centre.

Mergelsberg, B., 2010. Between Two Worlds: Former LRA Soldiers in Northern Uganda. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 156-176.

Morini, C., 2010. First Victims then Perpetrators: Child Soldiers and International Law. *ACDI: Anuario Colombiano de Derecho Internacional*, Volume 3, pp. 187-208.

Mwenda, A., 2010. Uganda's Politics of Foreign Aid and Violent Conflict: The Political Uses of the LRA Rebellion. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 45-58.

Naidu, E., 2004. *Symbolic Reparations: A Fractured Opportunity*, Cape Town: Center for the Study of Violence and Reconciliation.

Nylund, B. V. & Hyllested, I. M., 2010. Protecting Children Affected by Armed Conflict: Accountability for Monitoring, Reporting and Response. *Journal of Human Rights Practice*, 2(1), pp. 71-92.

Office of the United Nations High Commissioner for Human Rights, 1989. *Convention on the Rights of the Child*, Geneva: OHCHR.

Okello, M. C. & Hovil, L., 2007. Confronting the Reality of Gender-based Violence in Northern Uganda. *The International Journal of Transitional Justice*, Volume 1, pp. 433-443.

Olson, K. R., 2004. Children in Grey Spaces Between War and Peace: The Uncertain Truth of Memory Acts. In: J. Boyden & J. de Berry, eds. *Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement. Studies in Forced Migration, Vol 14*. New York: Berghahn Books, pp. 145-166.

Opinia, S. & Bubbenzer, F., 2011. Gender Justice and Reconciliation in Northern Uganda. *JRP-IJR Policy Brief No 4*, Kampala: JRP, IJR.

Organisation of African Unity, 1999. *African Charter on the Rights and Welfare of the Child*. [Online]
Available at: [http://www.africanunion.org/official_documents/Treaties %20Conventions %20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf](http://www.africanunion.org/official_documents/Treaties%20Conventions%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf)
[Accessed 06 February 2013].

Otunnu, O., 2002. *Causes and Consequences of the War in Acholiland*, Durban: Accord.

Parmar, S., 2010. Realizing Economic Justice for Children: The Role of Transitional Justice in Post-Conflict Societies. In: S. Parmar, M. J. Roseman, S. Siegrist & T. Sowa, eds. *Children and Transitional Justice. Truth-Telling, Accountability and Reconciliation*. Cambridge: UNICEF, Harvard Law School, pp. 365-402.

Perrot, S., 2010. Northern Uganda: A 'Forgotten Conflict', Again? The Impact of the Internationalisation of the Resolution Process. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 187-204.

Pham, P. N., Vinck, P., Wierda, M. & Stover, E., 2005. *Forgotten Voices. A Population-based Survey on Attitudes about Peace and Justice in Northern Uganda*, Berkeley: University of California Human Rights Center, ICT].

Pigou, P., 2010. Children and the South African Truth and Reconciliation Commission. In: S. Parmar, M. J. Roseman, S. Siegrist & T. Sowa, eds. *Children and Transitional Justice. Truth-Telling, Accountability and Reconciliation*. Cambridge: UNICEF, Harvard Law School, pp. 115-158.

Popovski, V. & Arts, K., 2006. *International Criminal Accountability and Children's Rights. Policy Brief No 4*, Tokyo: United Nations University.

Population Action, 2010. *The Effects of a Very Young Age Structure in Uganda. Executive Summary*. [Online]

Available at: http://www.populationaction.org/oldmedia/SOTC_Uganda.pdf

[Accessed 25 01 2013].

Prison Fellowship International; Center for Justice and Reconciliation, 1996. *Community Service*. [Online]

Available at: <http://www.restorativejustice.org/university-classroom/01introduction/tutorial-introduction-to-restorative-justice/outcomes/communityserv>

[Accessed 31 01 2013].

Quinn, J. R., 2004. Constraints: The Un-Doing of the Ugandan Truth Commission. *Human Rights Quarterly*, Volume 26, pp. 401-427.

Ranganathan, A. R. & Todorov, N., 2010. Personality and Self-Forgiveness: The Roles of Shame, Guilt, Empathy and Conciliatory Behaviour. *Journal of Social and Clinical Psychology*, 29(1), pp. 1-22.

Redress, 2006. *Victims, Perpetrators or Heroes? Child Soldiers before the International Criminal Court*, London: The Redress Trust.

Refugee Law Project, 2004. *Behind the Violence: Causes, Consequences and the Search for Solutions to the War in Northern Uganda*, Kampala: Refugee Law Project.

Ruudolff, H. & Timpson, A., 2005. Northern Uganda - From a Forgotten War to an Unforgivable Crisis - The War Against Children. *Institute for Security Studies Situation Report*.

Saunders, R., 2011. Questionable Associations: The Role of Forgiveness in Transitional Justice. *The International Journal of Transitional Justice*, Volume 5, pp. 119-141.

Schomerus, M., 2010. 'A Terrorist Is Not A Person Like Me': An Interview with Joseph Kony. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 113-131.

Schomerus, M., 2010. Chasing the Kony Story. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 93-112.

Shepler, S., 2005. The Rites of the Child: Global Discourses of Youth and Reintegrating Child Soldiers in Sierra Leone. *Journal of Human Rights*, Volume 4, pp. 197-211.

Siegrist, S., 2010. Child Rights and Transitional Justice. In: S. Parmar, M. J. Roseman, S. Siegrist & T. Sowa, eds. *Children and Transitional Justice*. Cambridge: UNICEF, Harvard University Human Rights Program.

Somasundaram, D., 2002. Child Soldiers: Understanding the Context. *BMJ*, Volume 324, pp. 1268-1271.

Sowa, T., 2010. Children and the Liberian Truth and Reconciliation Commission. In: S. Parmar, M. J. Roseman, S. Siegrist & T. Sowa, eds. *Children and Transitional Justice. Truth-Telling, Accountability and Reconciliation*. Cambridge: UNICEF, Harvard Law School, pp. 193-230.

Ssenyonjo, M., 2007. The International Criminal Court and the Lord's Resistance Army Leaders: Prosecution or Amnesty?. *International Criminal Law Review*, Volume 7, pp. 361-389.

The Trust Fund for Victims, 2009. *Projects*. [Online]
Available at: [http://www.trustfundforvictims.org/projects#Assistance to children and youth](http://www.trustfundforvictims.org/projects#Assistance%20to%20children%20and%20youth)
[Accessed 09 February 2013].

The White House, Office of the Press Secretary, 2012. *Remarks by the President at the United States Holocaust Memorial Museum*. [Online]
Available at: <http://www.whitehouse.gov/the-press-office/2012/04/23/remarks-president-united-states-holocaust-memorial-museum>
[Accessed 06 February 2013].

Titeca, K., 2010. The Spiritual Order of the LRA. In: T. Allen & K. Vlassenroot, eds. *The Lord's Resistance Army. Myth and Reality*. New York: Zed Books, pp. 59-73.

UN General Assembly, 1989. *Convention on the Rights of the Child. United Nations, Treaty Series, Vol. 1577*. [Online]
Available at: <http://www.unhcr.org/refworld/docid/3ae6b38f0.html>
[Accessed 06 February 2013].

UN General Assembly, 2000. *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. Entry into Force: 12 February 2002*. [Online]
Available at: <http://www.unhcr.org/refworld/docid/47fdfb180.html>
[Accessed 06 February 2013].

UN General Assembly, 2005. *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, Adopted and Proclaimed by General Assembly Resolution 60/147 of 16 December 2005: s.n.

UN Secretary-General, 2010. *Guidance Note of the Secretary-General. United Nations Approach to Transitional Justice*, New York: United Nations.

UN Secretary-General, 2012. *Guidance Note of the Secretary-General. UN Approach to Justice for Children*. [Online]
Available at:
http://www.unicef.org/protection/RoL_Guidance_Note_UN_Approach_Justice_for_Children_FIN_AL.pdf
[Accessed 07 February 2013].

UN Security Council, 1999. *Resolution 1261 (1999) [on the Protection of Children in Armed Conflicts] S/RES/1261 (1999)*. [Online]
Available at: [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1261%20\(1999\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1261%20(1999))
[Accessed 07 February 2013].

Un Security Council, 2005. *Resolution 1612 (2005) [on Children and Armed Conflict], S/Res/1612 (2005)*. [Online]
Available at: [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1612%20\(2005\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1612%20(2005))
[Accessed 07 February 2013].

Un Security Council, 1993. *Security Council Resolution 48/157 [on the Protection of Children Affected by Armed Conflict] A/RES/48/157, 20 December 1993*. [Online] Available at: <http://www.un.org/documents/ga/res/48/a48r157.htm> [Accessed 07 February 2013].

UNICEF Innocenti Research Centre, 2002. *International Criminal Justice and Children. No Peace Without Justice*, Florence: UNICEF IRC.

UNICEF Innocenti Research Centre, 2010. *Children and Truth Commissions*, Florence: UNICEF IRC.

UNICEF, 1997. *Cape Town Principles and Best Practices. Adopted at the Symposium on the Prevention of the Recruitment of Children in the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa, Cape Town, South Africa*. [Online] Available at: [http://www.unicef.org/emerg/files/Cape_Town_Principles\(1\).pdf](http://www.unicef.org/emerg/files/Cape_Town_Principles(1).pdf) [Accessed 06 February 2013].

UNICEF, 2004. *UNICEF Welcomes Special Court Ruling Establishing Child Recruitment a 'War Crime'*. [Online] Available at: http://www.unicef.org/media/media_21798.html [Accessed 29 01 2013].

UNICEF, 2010. Key Principles for Children and Transitional Justice: Involvement of Children and Consideration of Children's Rights in Truth, Justice and Reconciliation Processes. Outcome of Children and Transitional Justice Conference, Harvard Law School, 27-29 April 2009. In: S. Parmar, M. J. Roseman, S. Siegrist & T. Sowa, eds. *Children and Transitional Justice. Truth-Telling, Accountability and Reconciliation*. Cambridge: UNICEF, Harvard Law School, pp. 404-417.

United Nations OCHA; IRIN, 2004. *"When the Sun Sets We Start to Worry..." An Account of Life in Northern Uganda*, Nairobi: OCHA, IRIN.

United Nations, 1998. *Rome Statute of the International Criminal Court*. [Online] Available at: <http://untreaty.un.org/cod/icc/statute/romefra.htm> [Accessed 01 29 2013].

United Nations, 2007. *Uganda: Child soldiers at centre of mounting humanitarian crisis*. [Online] Available at: <http://www.un.org/events/tenstories/06/story.asp?storyID=100> [Accessed 25 01 2013].

Veale, A. & Stavrou, A., 2007. Former Lord's Resistance Army Child Soldier Abductees: Explorations of Identity in Reintegration and Reconciliation. *Peace and Conflict: Journal of Peace Psychology*, 13(3), pp. 273-292.

Williamson, J., 2006. The Disarmament, Demobilisation and Reintegration of Child Soldiers: Social And Psychological Transformation in Sierra Leone. *Intervention*, 4(3), pp. 185-205.

APPENDICES

APPENDIX I: SEMI-STRUCTURED INTERVIEW GUIDE



UNIVERSITY OF CAPE TOWN
DEPARTMENT FOR POLITICAL SCIENCE

Conceptions of childhood in northern Uganda

Up to what age are children considered children? Is there a difference between children and youths?
What marks a child's becoming an adult?
What are the responsibilities children are usually supposed to take within their families and communities?

Abduction patterns

In your experience, what is the average age at which children are abducted and how much time do they spend with the LRA? Why do you think the LRA prefers children of that age group?
What are the most common experiences of children that have been abducted, whilst they are with the LRA?
What do you think is the ratio of boys and girls that are abducted?
How do the experiences of girls and boys differ in the LRA?
What victim categories are there amongst former child soldiers? What perpetrator categories are there?

Post-conflict needs

Which of these experiences has the biggest impact on the children's lives after the conflict has ended?
How would you define the needs of former child soldiers in the short, medium and long run?
How can formerly abducted children contribute to their own reintegration process after the conflict?

Communities' involvement in reintegration

In your experience, what does the community think should be done with formerly abducted children in Northern Uganda?
How willing are communities and families to reintegrate former child soldiers? What seems to make it more difficult for them and what seems to help them in this process?
Do you think the community prefers to reintegrate formerly abducted children and give them amnesty or prosecute and punish them?

TJ Mechanisms

In how far do you think traditional justice mechanisms are suitable to deal with formerly abducted children? How do the children respond to these processes?
Have there been discussions of implementing a truth commission for Northern Uganda? If so, what do people think about that? How could children be included in that process in meaningful ways?
What is your opinion on prosecuting former child soldiers? Is there a way that prosecutions could accommodate their perpetrator as well as their victim status?
If reparations were to be handed to former child soldiers, which crimes should receive reparations? Who should pay for them? And what measures do you think would be most useful (symbolic/material/collective/individual)?

APPENDIX II: LIST OF INTERVIEWEES AND ORGANIZATIONS

Michael Otim, International Center for Transitional Justice, Kampala, 04/12/2012

The **ICTJ** is an international non-profit organization (NPO) engaged in research, reporting and advocacy work on issues of transitional justice. In Uganda, the ICTJ is working together with the government, civil society actors and other stakeholders to develop a comprehensive transitional justice strategy to deal with the atrocities of the conflict in northern Uganda. Considerations of former child soldiers in transitional justice is one of the envisaged future foci of the ICTJ in Uganda.

Michael Otim is the acting head of the Kampala office of the ICTJ. He has years of experience in research, human rights advocacy, peace-building and justice issues. During the Juba peace talks Michael Otim has been an accredited observer.

Jackie Awere, Give Me A Chance, Kampala, 05/12/2012

Give Me A Chance is a Kampala-based NGO that seeks to support children affected by conflict. Current programs include child protection, crime prevention, civil peace and community building. The organization also used to run a reintegration program for former child soldiers in the northern region of Uganda. Due to a lack of funding the reintegration program was not running anymore at the time of the interview.

As a staff member of Give Me A Chance, **Jackie Awere** has extensive experience in the area of former child soldiers' reintegration. She worked directly with male and female child-soldiers in this program.

Stephen Oola, Refugee Law Project, Gulu, 06/12/2012

The **Refugee Law Project** is affiliated with the School of Law at Makerere University. Its focus area are the human rights of IDPs, refugees and asylum seekers in Uganda. It engages in research and advocacy work as well as education and training on legal and psychological issues concerning abovementioned population groups.

Stephen Oola is the head of the research and advocacy department and coordinator of the RLP's Advisory Consortium on Conflict Sensitivity. He has previously worked as a lawyer for a number of transitional justice projects and monitored peace negotiations between the LRA and the Ugandan government.

Captain Patrick Charles Olira, UPDF Child Protection Unit, Gulu, 06/12/2012

The **Uganda People's Defence Forces** is the armed forces of Uganda. It has been engaged in a number of military operations against the LRA. The Child Protection Unit is the first station of reception for children rescued by the UPDF or escapees. It provides immediate psychological and medical services and shelter.

Captain Patrick Charles Olira is working with the CPU, receiving children upon their return from the LRA and conducts follow up activities with them after they have been reintegrated with their families and communities. Within this capacity he has also been stationed in Sudan, the DRC and the CAR.

John Kyejjusa, Save the Children Uganda, Gulu, 06/12/2012

Save the Children Uganda works to realise children's rights to survival, protection, development and participation in the country. Besides conducting advocacy work, the NGO runs various emergency, recovery and development programs in the areas of child rights governance, education, livelihood and food security, health and nutrition, child protection and HIV/AIDS.

After having worked with World Vision on the reintegration of former child soldiers, **John**

Kyejjusa now works with the Gulu office of Save the Children Uganda in its program on children and armed conflict.

Lino Owor Ogora, Justice and Reconciliation Project, Gulu, 07/12/2012

The **JRP** has been established in 2005 in order to consult with communities affected by the conflict and promote their interests, needs and concerns in transitional justice efforts. It furthermore conducts research and advocacy work to promote peace, justice, and reconciliation in northern Uganda.

Lino Owor Ogora is the documentation and transitional justice policy team leader at the JRP and has previously worked with the Norwegian Refugee Council.

Rose Nyakato, Care International, Gulu, 08/12/2012

Care International Uganda is working with vulnerable communities affected by armed conflict, natural disaster, and social and economic marginalisation. It also focuses on working with women and children in northern Uganda. Care International also conducts research and advocacy, capacity building and workshops in relation to the causes of the conflict in Uganda and the promotion of peace.

Rose Nyakato has been doing community work for more than 15 years and is currently the country director at Restoration of Family and Child Care Uganda. Her most recent project involves work with women who have been with the LRA.

John Bosco Aludi Komakech, Caritas, Gulu, 11/12/2012

Caritas Uganda is working on projects around HIV and AIDS prevention, peace-building, enhancement of livelihoods, access to water and sanitation and environmental stewardship, human rights, justice and good governance. It furthermore promotes community peace-building and reconciliation through mediation and conducts peace prayers, peace education, counselling and supports the reintegration of war-affected individuals.

John Bosco Aludi Komakech is the Executive Director of Caritas Gulu. During the Juba peace talks he was the team leader for Caritas Uganda present at the talks, in charge for directing and communicating deliveries to the LRA assembly areas.

Okello Moses Rubangangevo, Information for Youth Empowerment Program, Gulu, 11/12/2012

The **Information for Youth Empowerment Program** is seeking to build peaceful, self-reliant and prosperous communities in northern Uganda. Its work focuses on capacity building and skills training for women and youth and especially formerly abducted children. IYEP works mostly in the areas of peace-building and reconciliation, education, awareness raising on HIV/AIDS, peer counselling and vocational training. The organisation is run by former LRA abductees. IYEP has also established Peace Groups that use drama, dance and music for reconciliation among youths.

Okello Moses Rubangangevo has co-founded IYEP in 2004 and is working with the NGO to raise awareness in local communities about the situation of formerly abducted children. He is also engaged in their peace-building and reconciliation work.

Patrick Loum, Acholi Religious Leaders Peace Initiative, Gulu, 11/12/2012

The **Acholi Religious Leaders Peace Initiative** work for peace-building and reconciliation in northern Uganda. The interfaith organisation has promoted dialogue, negotiation, mediation and reconciliation in its peace efforts. It has played a leading role in initiating and supporting the Juba peace talks in 2006. The ARLPI has been conducting memorial prayers and supports the peaceful resolution of land conflicts in the aftermath of war.

Patrick Loum is the Project Coordinator of the ARLPI.

Susan Blanch Alal, World Vision, Gulu, 12/12/2012

World Vision has been running the Children of War Rehabilitation Center in Gulu since 1995. It has sheltered close to 11,000 former child soldiers and provided them with counseling, food, clothing and livelihood support as well as skills training. World Vision has furthermore provided support centers for night commuters, and adult centre and a child mothers' centre and conducted landmine education.

Susan Blanch Alal is the Programs Manager at World Vision Uganda Children of War Rehabilitation Center.

John Paul Kiffasi, Irene Gleeson Foundation, Kitgum, 13/12/2012

The **Irene Gleeson Foundation** was founded by the Australian Irene Gleeson in 1991. Since then it has supported over 10,000 war affected children and former abductees through providing education, medicine, food and skills training. The foundation runs a number of schools and vocational training institutions. It also runs a community center and the FM Radio station which has broadcasted messages and calls for children to return from the LRA during the height of the conflict.

John Paul Kiffasi is the Program Coordinator at IGF. Besides being the on-site director he is directly involved in working with the children supported by IGF and their communities.

Christopher Nyero, Irene Gleeson Foundation, Kitgum, 13/12/2012

Christopher Nyero has attended one of the IGF's high schools and finished his formal education there, after returning from LRA captivity. He has then entered the foundation's vocational training program and is now working to construct a new school building for IGF.

Faddy Gladys Canogura, Kitgum Women Peace Initiative, Kitgum, 14/12/2012

The **Kitgum Women Peace Initiative** is a women-focused NGO that promotes peace-building, conflict resolution and economic empowerment, and seeks to fight sexual and gender-based violence. Basing its work on UN Resolution 1325, Resolution 1820 and the Goma Declaration KIWEPI supports women's active involvement in peace-building and conflict resolution. The organisation works closely with women, formerly abducted girls and their children in the war-affected communities.

Faddy Gladys Canogura is the Coordinator of KIWEPI. She oversees project implementation and works directly with girls and women returning from the LRA.

Dickens Olwoch Kulis, Association for Volunteer Services International, Kitgum, 14/12/2012

The **Association for Volunteer Services International** is a global NGO. Seeing every person and every community as a resource, it seeks to support human development. In Uganda it has worked to improve the livelihood of vulnerable children, including formerly abducted children. Its program Stability, Peace and Reconciliation in Northern Uganda has affected 40,000 children and has provided support to the reconciliation of war-affected youth through sports, culture and peace-building opportunities.

Kulis Dickens Olwoch is currently an Assistant Program Manager at AVSI. He was closely involved with reintegration and support programs run by AVSI in order to support formerly abducted children. He was also the Program Officer for the Stability, Peace and Reconciliation in Northern Uganda Program.

Godfrey Binaisa Lodik, Kitgum Concerned Women's Association, Kitgum, 14/12/2012

Founded in 1998, **Kitgum Concerned Women's Association** soon started providing services to children returning from the LRA. It is now running one of the biggest rehabilitation centers in Kitgum district, providing psychosocial counselling, food, shelter, medical services and skills

training to former abductees. Since less children are returning from LRA captivity, it is shifting its work focus to include tracing children that are still missing and providing community support. KICWA also works to address sexual and gender-based violence and advance women's rights.

Godfrey Binaisa Lodik is the Program Officer at KICWA. He has worked directly with children returning from the LRA and is currently developing future strategies and focus areas for KICWA.

Margret Ajok, Justice Law and Order Sector, Ministry of Justice, Kampala, 18/12/2012

The **Justice Law and Order Sector** is a division of the Ugandan Ministry of Justice. It was created in an effort to reform the justice and law sectors in Uganda. Transitional justice is one of the working areas of JLOS. JLOS staff has been conducting civil society consultations and extensive research on transitional justice and has develop a transitional justice policy that is currently under review and is expected to be approved by parliament later this year.

Margret Ajok is JLOS's Technical Advisor on Transitional Justice. She has been actively involved in civil society and stakeholder consultations and the development of the Transitional Justice Policy for Uganda. Besides that she is a Board Member of the Justice and Reconciliation Project and the Executive Director of the Center for Reparation and Rehabilitation. She also used to work with the International Center for Transitional Justice.
