



INSTITUTE FOR INTEGRATED TRANSITIONS

Between Revulsion and Realism

POLICIES AND DILEMMAS IN RESPONDING TO THE LRA



ABOUT THE PROJECT

The [Institute for Integrated Transitions \(IFIT\)](#) is an international think tank that brings together under one roof the best of theory and practice in relation to successful negotiations and transitions out of conflict or authoritarian rule.

This paper is part of a project that aims to fill a major gap in policy making: the failure to integrate lessons learnt and best practices from the field of transitional justice in relation to conflict resolution strategies with two kinds of unconventional armed actors: 1) “violent extremist” groups, such as jihadists; and 2) organised crime groups, such as mafia, gang networks and drug cartels. IFIT’s work on the former began in 2017 with the UN University Centre for Policy Research (UNU-CPR). The project was concerned with the fact that, to date, what has reigned is an overwhelmingly punitive and dragnet approach which, rather than helping address root causes and break cycles of resentment and violence, instead risks renewing or reinforcing them. This resulted in [three jointly-published](#) case studies ([ISIS in Iraq](#), [Al-Shabaab in Somalia](#), and [Boko Haram in Nigeria](#)) and an initial [policy framework](#).

Building on this initial work, IFIT launched a second phase of research in 2019 on the same broad topic, drawing on lessons from a wider range of country situations where comparable challenges have been grappled with, in order to provide expanded guidance for policymakers. This involved fieldwork-based reports covering Libya (focused on the LIFG), Uganda (focused on the LRA), and Afghanistan (focused on the Taliban), all of which examine the intersection of negotiation and transitional justice goals. IFIT commissioned additional taxonomy research to plot identifiable similarities and differences of motivation, structure, and context along a wide spectrum of different archetypes of non-state or unconventional armed groups. All of this informed a final framework that aims to help policymakers tailor more effective negotiation and transitional justice strategies to address root causes, break cycles of violence, and strengthen the rule of law in settings affected by violent extremism.

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Acronyms

AAR	Agreement on Accountability and Reconciliation (2007/8)
ADF	Allied Democratic Forces
AIMM	Agreement on Implementation and Monitoring Mechanisms
ARLPI	Acholi Religious Leaders' Peace Initiative
AU	African Union
AU-RTF	African Union-Regional Task Force (on the LRA)
CAR	Central African Republic
CPA	Comprehensive Peace Agreement
DRC	Democratic Republic of Congo
FEDEMU	Federal Democratic Movement of Uganda
FRONASA	Front for the National Salvation
HSMF	Holy Spirit Mobile Forces
ICC	International Criminal Court
ICD	International Crimes Division
ICGLR	International Conference on the Great Lakes Region
IGAD	Intergovernmental Authority on Development
LRA/M	Lord's Resistance Army/Movement
NRA	National Resistance Army
NRM	National Resistance Movement
SPLM/A	Sudan Peoples' Liberation Movement/Army
TJWG	Transitional Justice Working Group
UCDM/A	Uganda Christian Democratic Movement/Army
UNLA	Uganda National Liberation Army
UNRF (II)	Uganda National Rescue Front
UPA	Uganda Peoples' Army
UPDA	Uganda Peoples' Democratic Army
UPDF	Uganda Peoples' Defence Forces
UPM	Uganda Patriotic Movement
WCC	War Crimes Court

Table of Contents

Introduction	5
Revulsion and Reality	7
Origins and Context	7
Resort to Amnesty	16
The Road to Juba – Dialogue and Politics	25
After Juba	39
Navigating Complexity	46
Concluding Reflections and Recommendations	54
The Amnesty Act – Alternatives to Prosecution	54
International and Domestic Criminal Justice	55
Pedagogical Needs and Negotiation Design	56
Political Framing	56
The Contribution of Consultations	57
The Shadow of Arrest Warrants	58
Insulating Gains of Peace Agreements against Setbacks	58
Beyond Boundaries: Transnational Transitional Justice	59
The African Union LRA Task Force	60
Developing Uganda’s Transitional Justice Policy	61
Adapting Policy to Unconventional Groups	62
Annex 1: Chronology of Events	63

Introduction

For more than thirty years, Joseph Kony's Lord's Resistance Army (LRA) has evaded defeat. Defying concerted national, regional and international military efforts, LRA forces continue to operate in several countries, including the Central African Republic and the Democratic Republic of Congo (DRC) – in the process, committing serious abuses against civilians. Kony is said to be hiding in Kafia Kingi, a disputed region lying between Sudan and South Sudan.

But how did a young man from a small village in northern Uganda mobilise one of the most notorious and brutal armed groups, and become the first person to be indicted by the International Criminal Court (ICC)? After more than thirty years of operations across four countries, what have been the social and political impacts of the LRA and what explains the group's longevity? And more to the point, what can be done to bring groups like the LRA in from the cold?

While the government of Uganda has long favoured a military solution to the LRA, under strong internal pressure from affected communities it has conceded the need to provide incentives for defections and dialogue. The country introduced a comprehensive amnesty law in 2000, but within three years it referred the LRA to the ICC, which later issued its first arrest warrants against LRA leaders. Three years after the ICC referral, Uganda accepted the invitation of the government of Southern Sudan to negotiate with the LRA in Juba. During those negotiations, the government's approach to questions of justice was profoundly tested, and by 2008, it had agreed to exclusively domestic processes for the LRA, seemingly abandoning the ICC process. Although it established a special division of the High Court to facilitate domestic trials, Uganda did not object to former LRA commander, Dominic Ongwen, being tried by the ICC, after being surrendered to the court by the Central African Republic in 2015. In 2019, after more than a decade in development, Uganda adopted a national transitional justice policy. Its implementation is yet to begin.

Violent extremist groups do not emerge from a vacuum. They are formed and influenced by a range of political, social and economic forces, including grievances. Spiritual visions and existential calculations sustain them. And when old influences fade, new alliances and motivations emerge. Similarly, the policies and strategies of societies in response to violent extremist groups are also shaped by political, economic and social factors, including their (in)capacity to deal decisively with such groups. These multiple and changing motivations and influences are to be studied for the light they shed on why certain strategies for preventing and addressing the impacts of violent extremist groups succeed or flounder.

Drawing heavily on the author's direct experience and participation in some of the key events and initiatives described, this study focuses on how policy in response to the LRA

was made, sustained and adjusted over the years. It puts this in a historical context, charting the key events and actors, and examining the processes by which amnesty, dialogue, recourse to international criminal justice and transitional justice policies were adopted and implemented. Since they provide a unique opportunity for competing political and justice visions to be interrogated – including the dilemma of the ICC – the Juba peace process and its outcome are discussed in particular detail.

Because they must search for durable solutions to the actions of groups like the LRA, societies and states will normally pursue and contest a range of divergent, domestic, regional and geopolitical goals. In systematically using brutality and coercion to achieve political aims, while appropriating Christian and traditional practices, the LRA has posed challenges similar to those posed by radical Islamist groups. But the story of why and how groups like this emerge, endure and are confronted, is more complex than a paper of limited aims and length can honour. As such, the observations and potential lessons with which the paper concludes are intended to catalyse further reflection rather than provide any definitive answers to what are often case-specific issues. Uganda's policy changes and hesitations reflect the complexity of maintaining strategies that are both principled and effective in containing, if not eradicating entirely, the actions and impacts of groups like the LRA. Therein lies the abiding dilemma in pursuing transitional justice goals in the face of violent extremism.

Revulsion and Reality

In November 1997, President Yoweri Museveni of Uganda wrote to the Lord's Resistance Movement (the political wing of the LRA). Some ten years after the start of the conflict, the group had requested another round of talks with the government, even as it continued to attack northern Ugandan villages from bases in Sudan. After reciting the group's crimes, Museveni conceded that reasonable numbers of Ugandans nevertheless considered it appropriate to negotiate with the LRA. He was therefore prepared to extend an amnesty to the group – except for Joseph Kony and senior commanders, whom he considered to be “the authors of these heinous crimes against humanity”. The President then offered to send a government delegation to negotiate with the LRA, “our revulsion at your methods notwithstanding”.¹

Years before, Major General Salim Saleh, a senior officer in the national army – who is also President Museveni's sibling – had been tasked to engage the LRA, but had become exasperated by what he considered to be the group's prevarications and unusual demands: “they should come back to reality first before they talk to us.”² But the LRA did not go away. For northern Ugandan communities, realism about the improbability of an outright government victory ending the increasingly costly and damaging war, fuelled their insistence that dialogue, supported by leniency incentives, were the keys to resolving the LRA problem. Thus General Saleh and others would keep returning to northern Uganda, sometimes exploring new dialogue opportunities.

Origins and Context

This story must begin with a survey of Uganda's past for the light history sheds on the political and social context in which the Lord's Resistance Army emerged to become a notoriously violent group. The country's political divides and grievances, its repressive regimes, its socio-economic structures, its coups and conflicts, and, of course, its neighbourhood; all have shaped the trajectory of the LRA. Such historical perspective deepens understanding of the multiplicity of factors that influenced the attitudes, motivations, calculations and choices of the national and regional actors in instigating, sustaining, impeding or facilitating the resolution of the conflict; one in which relations between Uganda and Sudan added a complicating geo-political dimension, transforming a domestic conflict into a proxy war between neighbours.

Long before independence in October 1962, the seeds of instability in Uganda had already been sown.³ In an ethnically diverse polity, in which over forty languages are spoken, colonial rule had left behind a country with unequal social and economic development, where

the north lagged behind the south in all key social and economic indicators. Under colonial policies, northerners had also been recruited in large numbers into the army, police and prisons services, and thus dominated senior as well as rank-and-file positions in these institutions. Invariably, northerners came to be associated with the actions of successive repressive regimes, although this association with political power did not translate into social and economic advantages for the north. All this fuelled mutual resentments and grievances. As such, instead of delivering a much-needed nation and state building project to address these emerging imbalances, the years after independence saw instead an accentuation of north-south divides, which still shape national politics to this day.

In the new federal system, Sir Edward Muteesa, king of the (southern) Baganda, became president and head of state, while Milton Obote, a northerner, was the first Prime Minister and head of government. Tensions quickly mounted. Within four years, Obote ordered the army commander, Major General Idi Amin (from the West Nile region in the north), to attack Muteesa's Kampala palace. The king narrowly escaped, dying in exile in London; and that was the end of federalism. Obote installed himself as the new president and head of state. Under his reign, resistance by perceived royalists was crushed and political opponents detained. However, in January 1971, the Major General toppled Obote (who was abroad at the time) in a coup that brought jubilation onto the streets of Kampala.

Brutal reprisals ensued against mainly Acholi and Langi military personnel whom Amin regarded as Obote loyalists. Soon after taking power, the Amin government ordered all Acholi and Langi soldiers to report to barracks. Many who did were subsequently murdered. Others, instead, fled across Uganda's northern border into Sudan. They initially set up camp in Owiny Kibul, in Eastern Equatoria, and later made their way to Tanzania where Obote had settled under the protection of President Julius Nyerere.

The notorious Amin years wreaked considerable havoc on all aspects of Ugandan national life and institutionalised brutality even further. Acholi and Langi were particularly targeted for their perceived connection with Obote, who remained in neighbouring Tanzania. Thousands fled into exile, where some joined the resistance. In 1972, all Asian-origin Ugandans were expelled from the country, gutting the economy in which they were key players. In Tanzania, Acholi and Langi soldiers formed the nucleus of the Uganda National Liberation Army (UNLA), an umbrella army of Ugandan groups, which included Yoweri Museveni's Front for National Salvation. Ultimately, in 1979, a combined Tanzanian and Ugandan force drove Idi Amin from Kampala.

With its significant number of Acholi and Langi senior officers, the UNLA paved the way for Obote's return to Uganda. He arrived in 1980 to lead his Uganda People's Congress (UPC) into national elections mired by irregularities, which the UPC controversially won. Once again, Obote was President of Uganda. Others, including Yoweri Museveni, whose Uganda Patriotic Movement (UPM) had contested and lost the elections, took up arms anew accusing the regime of rigging the elections in favour of the UPC. Museveni re-formed a group that eventually became known as the National Resistance Movement/Army (NRM/A) operating mainly in Luwero, in central Uganda. As the counter-insurgency unfolded, the area became known as the "Luwero Triangle". It was the epicentre of serious atrocities and

tens of thousands of deaths, particularly from 1983 when the UNLA launched Operation Bonanza, a major military operation to push the NRA out of the area. Estimates of civilian deaths in Luwero Triangle have reached 300,000, including women and children. Thousands were the victims of a scorched earth policy and deliberate starvation.

Acholi soldiers, who had continued to be recruited into the army in high numbers and assigned to the front, were widely held to be responsible for the atrocities, certainly by the local Baganda communities. This was problematic as many army personnel, including officers, were from other parts of Uganda, yet were able to avoid similar scrutiny. Making matters worse was the fact that the war took an especially big toll on Acholi foot soldiers. All of this contributed to differences and rivalries between Acholi and Langi officers, deepening the fissures within the army.

In July 1985, the army fractured. Acholi Generals, Bazilio Okello and Tito Okello (not related), mobilised a force and drove from Kitgum and Gulu into Kampala. Once again, Milton Obote was toppled, but this time by another set of northerners: the Acholi. The new generals in charge immediately sued for peace with all armed groups that had been fighting Obote, as they attempted to broaden the government. While some like the Uganda Freedom Movement of Andrew Kayiira, and the Federal Democratic Movement of Uganda (FEDEMU), heeded the call and took part in the military government, Yoweri Museveni's NRM rejected the junta's power-sharing overtures, insisting instead on a new, negotiated political dispensation.

But while it engaged the junta in acrimonious dialogue in Nairobi, from August 1985 onward, the NRM/A continued to consolidate both militarily and politically, readying itself for a decisive push on Kampala. At this time, many Rwandese exiles also joined the NRA; they already had an eye on future military intervention in Rwanda. In December 1985, the junta and the NRM/A signed a peace agreement. Almost immediately afterwards, Museveni denounced the agreement, accusing the regime of continuing to violate human rights. His forces ratcheted up the fighting and, the following month, marched on Kampala.

The National Resistance Movement

On 26 January 1986, Yoweri Museveni was sworn in as president of Uganda, even as columns of (the now former) regime forces were still retreating northwards. Thousands of soldiers ended up back in Acholi towns and villages, melting into communities with their arms. A period of intense uncertainty and instability descended upon the Acholi. In their sense of humiliation and resentment at being defeated, and what they saw as southern perfidy, many ex-soldiers started to prepare to resist the southerners. This was prescient, as by March 1986, the victorious NRA had advanced into northern Uganda.

At first, the NRA continued to display the discipline for which they had been contrasted with the former army, the UNLA and other armed groups. Although regarded with deep suspicion, the NRA was not immediately attacked, and there were indeed signs that many former soldiers were beginning to resign themselves to a new life as civilians. Unfortunately, this uneasy probationary period did not last. Due to a combination of inexperience, poor judgement and perhaps hubris, the new authorities mismanaged their entry into Acholi areas.

In one ill-judged intervention, Radio Uganda ordered all former UNLA soldiers to report to the military barracks within 10 days. Inevitably, the echoes of Idi Amin's summons in 1971 reverberated in the countryside. Many former soldiers went into hiding, while others fled across the Sudanese border or joined groups that had taken up arms. Some of the former UNLA soldiers were rounded up and ill-treated in re-politicisation camps. The NRA also deployed its 67th Battalion to the home area of General Tito Okello, who had led the brief military government. The battalion was largely drawn from the Federal Democratic Movement of Uganda (FEDEMU), which lacked the discipline of the NRA and was intent on reprisals against Acholi civilians. Because of its conduct, the battalion was eventually withdrawn from northern Uganda.

But serious damage had already been done. Other incidents of the time included not only the confiscation of livestock and the destruction of granaries, but also mistreatment of former UNLA soldiers by the NRA, torture of perceived opponents of the government, and atrocities including systemic male rape.⁴ Karimojong cattle raiders, apparently with the connivance of elements of the military, made forays deep into Acholi lands, making off with even more cattle.

These emerging violations were fuel for insurgency in the north and cemented deep resentment and grievances that would resurface twenty years later in the Juba peace talks. By mismanaging the early phase of the disarmament and reintegration of the thousands of Acholi soldiers, and in its reaction to the first incidents of insurgency by the Uganda People's Democratic Movement/Army (UPDM/A) – which had been formed in Juba with Sudan's support – the Museveni government contributed to re-emergence of conflict. Yet conflict in the north was never simply a local or national rebellion; the structural causes and drivers ran much deeper and transcended territorial boundaries.

Alice Lakwena's Holy Spirit Movement

The Acholi region of 1986 was a place of intense social dislocation and uncertainty. Thousands of soldiers, displaced from the south by Museveni's forces, had arrived back into rural communities, while others had fled into yet another round of exile in Sudan. For answers and reassurance amidst this deep unsettling, many, including ex-soldiers, turned to the diviners and spirit mediums who had long been a part of Acholi society. In their ministrations, the diviners and mediums were increasingly combining traditional beliefs and practices with Christian and Islamic influences. Of particular note, in January 1985, a 30-year-old woman from Opit in Gulu district named Alice Auma had received a calling to follow in the footsteps of her father, Severino Lukoya, a medium. Alice became possessed by spirits, rendering her deaf and mute. Disappearing from home, she returned from her 40-day sojourn to the nearby national park, having found her voice. She had communed with the animals and the elements and brought back a new message from the Lakwena (Luo for Messenger – the spirit of a dead Italian from the First World War) that she should start working as a healer (*nebi*).

Setting up her practice in Opit, Alice's influence grew beyond her village as her reputation for healing spread. In the Acholi belief system, when a person kills another, the malevolent

spirit of the deceased (cen) will haunt the killer until it is exorcised. Many former soldiers believed they were being haunted by the spirits of those whose deaths they had caused, including in Luwero. Alice could cast out cen and therefore many now turned to her for help. Alice also provided an anxious society with spiritual explanations and remedies for those uncertain and troubled times. In her message, the defeat of the UNLA and the crisis in the land were direct consequences of the sins and atrocities committed in the Luwero Triangle.

Alice's work soon took a new turn. In August 1986, the spirits instructed her to stop working as a healer and instead to raise a force with a two-fold mission: to purify the Acholi and their lands and, thereafter, to turn her attention to Uganda as a whole. For this, she needed to seize control of the levers of power in Kampala, and thus as a first step she set up camp in Kilak (in the present Pader District), where she established the Holy Spirit Movement, also known as the Holy Spirit Mobile Forces (HSMF). With an initial force of about 10,000, Alice began her long southward march towards Kampala, along the way picking up fresh recruits and winning some stunning, if unorthodox, battles.

Within the Holy Spirit Movement, strict rules reinforced Alice Lakwena's message: witchcraft and sorcery were forbidden, as were sex and alcohol. Combatants were not to take cover or retreat in the heat of battle; instead, they were to trust in the protection that the *shea* butter smeared on their bodies would provide against enemy bullets. Stones dipped in holy water should be trusted to explode like bombs when hurled at the enemy. Her undoubted charisma and the evidence of battlefield successes served only to fan the faith of her adherents and to attract new believers. But by the time her forces reached the outskirts of Jinja, less than 100 kilometres from Kampala, they had over-extended themselves. Operating in increasingly hostile territory, and prepared to attack fortified military camps, the HSMF ran into a massive NRA offensive and was defeated and scattered. A follower took Alice to safety and exile in Kenya, on the back of a bicycle.

Explanations for the unexpected and spectacular rise of Alice Lakwena must include the fact that she provided answers that were both spiritual and political, at a time of both great angst and anger in northern Uganda. Combining a message of hope and agency, she addressed the fears that had settled over Acholi society while catalysing new forms of political aspiration. Moreover, the close affinity of parts of her teachings and rituals to known Catholic practices, gave a greater familiarity and currency to her message, helping to extend her appeal to Christian adherents. Peasants, former UNLA soldiers and officers, and even a former minister in the Obote government, Professor Isaac Newton Ojok, heeded her call. They were all drawn in by her undoubted charisma. Such a breadth of following reflected dislocation and social trauma, but also a collective urge within the society to resist and correct real and perceived southern intrusions and injustices.

Despite her eventual defeat, Alice Lakwena's Holy Spirit Movement struck a telling psychological blow, with undeniable political ramifications: a spirit medium with limited military skills had burst the aura of invincibility of the government forces and had even managed to evade capture. Alice was proof that a peasant movement – if mobilised with the combination of a corrective political message, a spiritualist vision and just a modicum of military expertise – could become a potent force, capable of inflicting serious political, if not

military, damage on a secular and resented government. Far from restraining their appetite for resistance, HSMF stragglers who made it back to northern Uganda after the Jinja debacle promptly joined Alice's father, Severino Lukoya, who had also started to raise a force but lacked his daughter's charisma. He was unable to match her success. Instead, when government forces later captured Lukoya, the HSMF remnants were absorbed by the next rising phenomenon: a young relative of Alice had started to raise his own force. It was Joseph Kony's turn to lead the resistance.

Joseph Kony and the Legacy of Alice Lakwena

Born in 1961, Joseph Kony came from a family of mediums. In his twenties, he too became possessed by several spirits and became a spirit medium. He is said to have spent a brief period as a "spiritual mobiliser" in a unit of the anti-Museveni Uganda People's Democratic Army (UPDA) before striking out on his own with some fighters. At different times, Kony has claimed to be possessed by different spirits originating from Uganda, America, and China, among others; although there has been some dispute about whether the Lakwena had also possessed him. On the military front, apart from absorbing some remnants of Alice Lakwena's force, Kony's major break came in 1988, after the UPDA signed a peace agreement with the government when some of the UPDA refused to go along with the deal, choosing to fight on. They now turned to Joseph Kony, which greatly boosted his numbers and enhanced his military capabilities.

Another Spiritual Force

Joseph Kony's group took different names in the early years, including Holy Spirit Movement II, United Holy Salvation Army, then the Uganda Democratic Christian Movement/Army (UDCM/A). By 1993, the group had settled for the "Lord's Resistance Army". In that name, Kony had shrewdly managed to combine a reference to spirituality (Lord's), politics (Resistance), and military means (Army), while at the same time alluding – and subtly suggesting an equivalence – to Yoweri Museveni's National Resistance Army. Even as his military capabilities grew, Kony continued with his teaching, spiritual practices, divinations and cleansing rituals. In his self-portrayal as the heir of Alice Lakwena, Kony maintained the message of the need for Acholi redemption through moral renewal and purification. His message resonated in northern Uganda at a time of continuing flux and uncertainty when no rapprochement had been reached with the new power in Kampala. Where Alice had inspired with a message of repentance and a promise of power, Kony's message and methods, perhaps because he was guaranteed Sudanese support, evolved to rely more on compulsion and reprisals.

Throughout the time that it was active in northern Uganda, the LRA maintained complex rituals, rules and hierarchies. Kony gave teachings and led prayers thrice a day; Fridays and Sundays were days of rest. Fasting was practiced and, perhaps in deference to his supporters in Khartoum, this included the month of Ramadan. But all through these spiritual practices there was an unmistakable political thread: the LRA promoted its mission as ridding northern Uganda of what it saw as an occupying force. LRA manifestos were and remain decidedly political; indistinguishable from what one would expect to find in

conventional political parties. Among other things, the LRA has cited the lack of northerners in government, the need to promote national unity, and formation of an ethnically balanced national army as some of the goals for which it was fighting.

Overtly spiritual goals included the pledge to establish a ministry of religious affairs to promote the Ten Commandments and the fight against “moral degeneration”, including the practice of witchcraft. Combatants were trained and indoctrinated to go into battle with the firm assurance of victory through God’s guidance and protection. Another indicator of spiritual inspiration is the LRA’s organisational structure: the apex military brigade is called Control Altar; Joseph Kony is regarded as the Holy Messenger (*Laor*) or Prophet. Military orders originate from the Spirit and are channelled to the field units for implementation. Spirits often predict attacks and battle outcomes.

Early LRA Methods and Violations

Unlike Alice Lakwena, the LRA took a decidedly harsher approach towards civilians. After the government sought to mobilise a militia (“Arrow Boys”) in the early 1990s to fight the rebels or report on LRA movements, the group started to target civilians perceived to be sympathetic to the government. Maiming and mutilations, such as the cutting of limbs and the slicing of the lips of presumed informers, were among the particularly gruesome punishments meted out by the LRA. Perhaps the practice that the LRA became most notorious for, and that drew international notoriety and condemnation, was the abduction of children and young people. The abduction of the girls of St Mary’s College Aboke in 1996 captured news headlines and mobilised international attention in an age before social media, similar to Boko Haram’s abduction of the Chibok Girls in April 2014. Then too, high-profile interventions, including an appeal by the Pope, failed to secure the girls’ release.

Over the years, the LRA has systematically used abduction of both adults and children. The estimates of abductions exceed 70,000, and the pattern has continued outside Uganda, including the DRC and the Central African Republic. While Kony initially claimed that the children were to form the nucleus of the new Acholi nation of the future, other more sinister rationales soon emerged: the LRA understood that children forced to commit crimes at a young age, often against their own relatives, friends or communities, were likely to become alienated from their communities and thus cemented to the LRA. The impact of such intimate brutality on the families and communities would be devastating and underline the failure of state protection. The children would become ruthless and efficient fighters. And, with the passage of time, loyal adults to the organisation; some inevitably becoming senior LRA commanders.

Having built upon the beliefs that had propelled Alice Lakwena before her star was extinguished, Joseph Kony added much more calculation to his approach. For example, in its early years, the LRA absorbed some well-trained officers from the Uganda People’s Army, which operated in eastern Uganda, and from other armed groups. In this way he added to the conventional military capabilities of his force. Arguably, Kony ended up building one of the most resilient violent millenarian movements of recent times. Drawing upon, and mixing, mainstream Christian theologies with other beliefs, the LRA, like many other

violent extremist groups, has deployed terror systematically and almost ritualistically, not only as a form of indoctrination of new conscripts, but also as a means of sowing total fear in communities. Whether publicised by the group itself or by others, the use of spectacular violence is also designed to destroy the morale and reputation of the states and entities responsible for protecting the targeted communities. In turn, the fear engendered by the egregiousness of the violence acts as a force multiplier, furthering the survival of the group.⁵

In this regard, some have drawn attention to the similarities between the LRA and the Islamic State of Iraq and al-Sham (ISIS), both of which employ coercive radicalisation characterised by violent induction into the group; assimilation through learning religious rules; and the propagation of millenarian narratives framing violence as purification (in the case of the LRA, the building of a new Acholi community, hence its abduction of young people).⁶ This sustaining logic of violence, when added to the deliberate elevation of the spiritual leader, is a potent combination. In the case of the LRA, Kony's proximity to and communion with the spirits, has added to his charismatic authority, cultivating and reinforcing the allegiance of coerced inductees.

While its emphases and projections might have evolved over the years, the LRA has always maintained a dual spiritual and political identity. In its earlier interactions with the government and communities, particularly in the 1990s, it emphasised its spiritual credentials and made those an element of its negotiations. However, in the Juba talks from 2006, its political identity was on full display. Although the LRA did not emphasise spiritual themes as a core part of its negotiating strategy, spirituality remained very much a part of the group identity.

Crossing Boundaries

In line with its policy of engaging armed groups, the NRM government, through Ms. Betty Bigombe, the minister responsible for northern Uganda, made attempts to engage the LRA between 1992 and 1994. These overtures appear to have arisen as much from Bigombe's personal commitment to addressing the conflict as from any official obligation. After several interactions in the field, and talks held in Gulu town, Bigombe's team, which included Ugandan army officers, managed to secure the LRA's signature to the Gulu Ceasefire Agreement on 2 February 1994. Unfortunately, this important text was never implemented: the LRA declined to return to Gulu, stating that it had lost faith in the government's intentions. Although Bigombe brought a considerable degree of empathy to the process, the political and military odds were stacked very heavily in the government's favour. Under any agreement, only the LRA would be expected to disarm and there would be no fundamental changes in the political facts on the ground in the north.

During the negotiations, the LRA's spiritual practices and priorities were very much in evidence. The text of the agreement even included a provision under which the LRA, upon demobilising, would "meet nominated elders and draw a program for cleansing rituals" to be performed in line with the agreed schedule.⁷ But tensions remained at quite high levels throughout the process. Kony requested more time in order to gather his forces in

preparation for demobilisation and the implementation of the ceasefire. While allowing time for preparation was not unreasonable, during the delay that ensued the peace process was scuppered.

In February 1994, President Museveni gave a seven-day ultimatum to the LRA to reach a full peace settlement with the government or face military defeat on the battlefield. Many have subsequently speculated about why Museveni became impatient with the dialogue process, which seemingly undercut Bigombe's efforts. At a minimum, it is clear that (over) confidence in the capacity of the Ugandan army to defeat Kony played a part, fuelling the impatience of some elements within the military with the peace process. Yet the LRA's tactics at this time were already quite different to those employed by Alice Lakwena. Kony did not over-expose his forces by attempting substantial battles with the army or straying too far outside familiar territory. The government has also claimed that it received credible intelligence that Kony had made contact with the Sudanese government and was preparing to relocate to southern Sudan. In any event, the Bigombe process effectively came to an end. Eventually, the LRA did move to southern Sudan, where it received sanctuary. Thus, a Ugandan group with Christian and traditional inspirations became the proxy for an Islamist regime intent on destabilising its neighbours.

Apart from the obvious military benefits of having rear bases beyond the reach of the Ugandan forces, accepting Sudanese support inevitably affected the political priorities and ideological moorings of the LRA. At the political level, Sudanese support relieved the LRA of any serious need to invest in cultivating a political or spiritual support base within Uganda or to develop and propagate a political agenda and structures for the movement within the country. In fact, only a few individuals, most of whom were northern Uganda exiles, were said to be part of the political wing of the LRA. Joseph Kony effectively held all the reins of the LRA primarily as a military organisation, additionally providing spiritual oversight. Because its brutal methods have overshadowed its political credentials, which it failed to promote consistently, the LRA has been portrayed as little more than a criminal organisation.

As a condition of its support to the LRA, Sudan expected the group to fight the Sudan People's Liberation Army within Sudan, and to carry out attacks on Ugandan territory. The LRA accomplished this with notable effectiveness, carrying out some of the most vicious attacks against communities in northern Uganda – the Acholi, Lango and Madi communities. LRA attacks extended to (southern) Sudanese refugees in Uganda; the large settlement at Acholi-Pii in Pader District had to be closed after an LRA attack in August 2002. Although the LRA continued to frame its war as a rebellion against Museveni's government, with the guarantee of external support from Sudan, it could afford to alienate the Acholi communities without paying a political price for doing so. Reliance on Sudanese support thus allowed the LRA to mete out violence without political constraints. It did not need to cultivate and invest in conventional political methods of winning hearts and minds.

In any event, the brutal methods employed by Kony ensured that there could be little support for the LRA within the communities that suffered the brunt of the group's violence. This was not because northern grievances against the government had disappeared; in

fact, the failure to end the war and mismanagement of the socio-economic conditions in northern Uganda had generated new grievances, particularly owing to the deprived conditions in the displacement camps. Many considered that military and political leaders were deliberately prolonging the war effort for political and financial gain. Because most LRA members had been forcibly taken from among them, communities understood that the majority of the LRA were unwilling combatants. Having lost family members or friends to abduction, many in the community also saw peaceful settlement as the best way of ensuring the safe return of loved ones. As such, there were high levels of personal investment in a resolution. Moreover, given the reprisals that the LRA would visit upon communities perceived to be collaborating with the government, people were careful not to voice open criticism of the group. All these considerations, including the realisation that military methods were unlikely to bring a swift end to the conflict, generated strong support both for an amnesty and for dialogue with the LRA.

Resort to Amnesty

As already noted, the LRA was neither the first nor the only insurgency against the Museveni regime. In fact, almost immediately after it took power in 1986, the NRM faced rebellion across the country, not just in the north. Most notably, the Uganda People's Army (some of whose officers later joined the LRA) took up arms in the Teso Region, to the east of the country; and in western Uganda, the Allied Democratic Forces (ADF) (which continues to operate in the DRC) emerged. In the West Nile region (which borders the DRC and South Sudan), elements of some groups that had been formed from the remnants of Idi Amin's troops remained under arms and continued their fight against the new government.

Recognising that rebellions would sap its political energies, deplete national resources and undermine credentials for stabilisation, the NRM invested in bringing on board the different political formations in Uganda as well as the new armed groups and their political wings. In pursuit of this "broad-based government" approach, the NRM used a combination of political and military co-optation as incentives in its engagements and negotiations with opponents. Whereas in the 1985 Nairobi Peace Talks with the military government, the NRM had pursued a strong accountability line – and had insisted on the vetting and exclusion of individuals responsible for serious crimes – when in office the NRM turned pragmatic. It regularly employed amnesties and pardons in its peace-making strategy.

With many former politicians fomenting rebellion from exile, the government introduced the Amnesty Statute in 1987, which was designed to encourage the return of leaders of the various armed groups that had rebelled against the NRM, particularly individuals who had fled Uganda and feared to return for fear of prosecution. It was nevertheless a limited amnesty: a person responsible for the crimes of genocide, murder, kidnapping or rape would not be pardoned. But its main purpose was to offer reassurance and confidence to political opponents and other individuals to return home, and thus no political or military leader was denied the amnesty on these grounds. In addition, armed groups that sued for peace were often incorporated into the army *en masse*, thus obviating the need to carry out demobilisation programs. But the amnesty, which expired after three months, was not

extended beyond 1987. Thereafter, the government used presidential pardons to buttress its negotiations with opponents, always insisting that it would not seek retribution against those who were prepared to make peace.

Despite the 1987 amnesty law, northern Uganda remained restive. Following the failure of the first Bigombe talks in 1994, the years that followed witnessed several other contacts and attempts to engage the LRA, including through groups like Sant'Egidio, the Carter Center, and the (southern) Sudanese NGO Equatoria Civic Fund, headed by a Sudanese Acholi, Dr Leonzio Onek. However, none of these yielded sustained or high-level talks.

Persistence of Conflict and Calls for another Amnesty

As armed conflict persisted in northern Uganda, its economic and social costs rose quite dramatically. At its height, up to two million Ugandans were displaced across northern Uganda due to LRA activities, including most of the Acholi population.⁸ Across all social and economic indicators, including poverty, HIV/AIDS infection rates, and mortality rates, northern Uganda lagged behind the rest of the country, and was often worsening while other parts were registering improvements. Some commentators even described the situation as a genocide or social torture.⁹ Without the prospects of a quick military victory, the affected communities realised that their suffering was likely to continue indefinitely.

Across northern Uganda, and in the diaspora, the Acholi community started to organise itself to advocate for an end to war. For example, in 1996, the Acholi diaspora formed the *Kacoke Madit* (“the large meeting”), an organisation that periodically brought together northern Ugandans to advocate for peaceful resolution of the conflict; and in 1997, faith leaders in Acholi launched the Acholi Religious Leaders’ Peace Initiative (ARLPI). Through these fora, the Acholi community started to call for a “blanket amnesty”. It was understood, first, that military options were insufficient and thus dialogue was necessary; and second, that dialogue required the incentive of an amnesty. However, if leaders were excluded from the amnesty, there would be no one with whom to dialogue and make peace.

It was well understood in the community that the LRA was composed largely of the forcibly conscripted; with even the senior commanders having been taken unwillingly from Acholi villages and schools, often as children. Many carried a sense of responsibility for the failure of society to protect these unwilling combatants, whom they referred to as “our children”, but who were nevertheless inflicting immense damage on the community. These understandings of the complexity of the LRA phenomenon, and the complicity of society, were bound to clash with retributive policies. Local and diaspora advocates for dialogue and amnesty were propelled into this policy terrain by the need to end the slow-motion tragedy that was unfolding in northern Uganda.

Although in practice the government rarely pursued the prosecution of individuals associated with insurgency, in 1998, it unveiled proposals for a limited amnesty along the lines of the 1987 Amnesty Statute. But while the principle was accepted in the north, the scope of the proposals was not. Acholi civic, cultural, religious and political leaders continued to press for a more comprehensive approach. The ARLPI produced alternative written proposals for a blanket amnesty to be accompanied by a commitment to pursue

dialogue. Alongside the call for amnesty, others also advocated for alternative forms of accountability to address the impacts of the LRA's crimes, and to lay the foundations for healing and social reintegration.

Although the sophistication of the above approach was often diminished by references to a “blanket amnesty”, it nevertheless prompted calls for traditional justice to be applied to the LRA situation, with political, legislative and other facilitation by the state. An early elaboration of this approach was by Dennis Pain in a 1997 consultancy report co-commissioned by Kacoke Madit.¹⁰ Meanwhile, others argued, controversially, for the formal codification of traditional justice to facilitate the process. This vibrant debate ensued across northern Uganda, interrogating the contours of justice, accountability, reconciliation and the role of communities and local traditions in dealing with the past.¹¹ It translated into strong community support for the ARLPI proposals. These were views that the government could not afford to ignore.

Enacting a Second Amnesty: The 2000 Amnesty Act

In addition to internal pressures, another impetus for re-enacting an amnesty law came from an external source: thawing relations between Uganda and Sudan. In December 1999, President Jimmy Carter, whose Carter Center had been involved in efforts to heal the rift between Uganda and Sudan, convened the two sides in Nairobi for talks. With Carter shuttling between Presidents Bashir and Museveni, they eventually reached an agreement which was to have a significant impact on Uganda's domestic policy response to the LRA. Under the Nairobi Agreement,¹² each country pledged to disband and disarm terrorist groups and to prevent cross-border acts of terrorism originating in their territories (a clause clearly referencing the LRA). The parties also foreswore any further support to hostile elements against the other side (a clear allusion to the SPLM/A). And in addition to the return of all prisoners of war to their respective countries (Uganda was holding Sudanese prisoners of war), each side was to “offer amnesty and reintegration assistance to all former combatants who renounce the use of force”.¹³

By the time the Carter-brokered deal was signed, a strong headwind had built up for an amnesty in Uganda: the Acholi Religious Leaders' Peace Initiative and other civic and political leaders from the north had led an effective campaign for an amnesty that would encompass the leaders of the LRA. Their objections to the 1998 Amnesty Bill were accepted by the government, which also carried out its own consultations and found solid support across the country for a fulsome amnesty.¹⁴ The new legislation was now based on the ARLPI's written proposals. This is how the amnesty came to be viewed as a document “for the people and by the people” as one man put it.¹⁵

Content of the Amnesty Law

When it was finally enacted, the Amnesty Act was framed as an expression of the government's “policy of reconciliation”. Unusual for an Act of Parliament, the law set out in a detailed preamble the rationale for the amnesty. It noted that hostilities directed at the government of Uganda continued to persist in parts of the country, “causing unnecessary

suffering to the people of those areas”. This important acknowledgement of the impacts of conflict was matched by recognition of the “expressed desire of the people of Uganda to end armed hostilities, reconcile with those who have caused suffering and rebuild their communities”. The government also professed its determination to “genuinely implement its policy of reconciliation in order to establish peace, security and tranquillity throughout the whole country”. This language was deliberately broad so it could apply not only to the LRA but to other groups as well. Read through a domestic lens, the law sought to address a perception that the government had not been taking seriously or giving equal priority to the suffering of the people of northern Uganda. No specific mention was made of the 1999 Nairobi Agreement.

In substance, four features of the Amnesty Act stand out. First, it sought, as the preamble demonstrates, to serve broader social goals of resolving armed conflict while also promoting recovery and reconciliation at both community and political levels. Second, while the goals were broad, the formal mechanisms were limited: there was a process for individual, but not group, amnesty. The intention was to catalyse individual defections while also sending a more general signal that the government was open to dialogue with insurgent groups. A third notable feature of the Act was its procedural simplicity: as under the old 1987 Amnesty Statute, the processes for the grant of individual amnesty were relatively straightforward. It was enough to report and formally declare interest in the amnesty. Fourth, unlike the 1987 law, the new Act was more elaborate: it established an oversight and implementation architecture in the form of an Amnesty Commission. The Commission’s mandate was to promote the objectives of the Act, promote dialogue and reconciliation initiatives, and oversee programs of demobilisation, reintegration and resettlement (a task for which a dedicated Demobilisation and Resettlement Team was established).

Criteria for Receiving the Amnesty

Although its failure to end the LRA war inflicted domestic and international reputational damage, the Ugandan government did not regard the LRA conflict as an existential or political threat. The group’s activities were largely limited to northern Uganda. It was incapable of toppling or inflicting significant political damage on the government, which considered the LRA to be a proxy of Sudan, unable to survive without Khartoum’s support. However, the government also recognised that the LRA was a destabilising force that could, among other things, impede the self-determination aspirations of Uganda’s SPLA allies in southern Sudan. These varied perceptions of the LRA informed Uganda’s approach to the adoption and maintenance of the amnesty scheme.

Under the Amnesty Act, any Ugandan committing a crime in the cause of war or armed rebellion against the government after 26 January 1986 (the date that the NRM government took power) could qualify for amnesty. Although the law apparently excluded foreign nationals, Uganda in fact formally and informally extended leniency to foreign nationals as well. Notably, the 1999 Nairobi Agreement provided for the mutual release of prisoners of war by Uganda and Sudan. At the time that the Amnesty Act was enacted, regional (multi-state) security responses to armed groups, such as the ADF and LRA,¹⁶ had not yet been adopted.

In terms of process, a person seeking to be granted the amnesty (a “reporter”) could present themselves to “the nearest army or police unit, a chief, a member of the executive committee of a local Government unit, a magistrate or a religious leader”.¹⁷ A person could also make an application at a Ugandan diplomatic mission outside the country. In addition to geographical ease of access, procedurally, any applicant who “renounces and abandons involvement in the war or armed rebellion”¹⁸ and surrenders any weapon in his or her possession¹⁹ is deemed eligible to receive amnesty. In practice, the individual is then referred to the Amnesty Commission for the formal processing of his or her application; but the issuance of a certificate by the Commission is merely a confirmation of the grant of the amnesty.²⁰

Formally involving civilians like chiefs and religious leaders in the initial stages of the amnesty procedures might seem unusual, but this was to recognise and harness the social capital and credibility of these leaders who had championed the amnesty and dialogue initiatives and who were often present and trusted within all communities, even when officials were absent. The effect was to underscore the community-centredness of the process and to enhance local ownership, which was essential, particularly at the inception stages.

Promoting Reconciliation through Amnesty

Building on its preamble, the Amnesty Act tasked the Amnesty Commission with promoting individual and community reconciliation as processes to achieve social recovery and healing in the conflict-affected areas. While political reconciliation was to be pursued through dialogue processes, the various mechanisms of social repair found within the affected communities would be used to promote individual and community reconciliation. And in its pursuit of a simplified process, the Amnesty Act left to the Amnesty Commission the responsibility of identifying and promoting the most appropriate mechanisms for reconciliation and accountability through which community-based accountability processes could be promoted.²¹

Because of resource and capacity limitations, the Commission in turn left it to the affected communities to determine the processes to be applied in specific cases. Consequently, the application of reconciliation measures has been neither systematic nor consistent. Whereas preliminary rituals of reception such as the *Nyono tong gweno* (the ritual stepping on eggs to welcome back the estranged) were regularly carried out, other processes that involved more preparation and content, such as truth-telling or *mato oput* (a more elaborate process involving acknowledgement, reparation and reconciliation, symbolised by the ingestion of a bitter drink), were not routinely pursued. Many high-ranking LRA officers, whose conduct might have been expected to warrant greater scrutiny, were simply allowed to resettle in society.

One explanation for this apparent lack of investment in reconciliation processes is that, for different reasons, both the government and communities favoured the least onerous and complex solutions, as these afforded maximum incentives and flexibility. Within communities, there was little appetite for imposing additional and burdensome requirements that might act as disincentives to defections. For the military, a simpler amnesty process

would allow it to draw easily from the combat and intelligence contributions that former LRA combatants could make to the war effort.

Despite this, communities have continued informally to promote reconciliation and other social processes. To this day, communities continue to resort to traditional rituals and confession to deliver healing for individuals suffering hauntings, including from *cen*. In this way, their social reintegration is promoted.²²

Impacts of the Amnesty Act

Since the Amnesty Act was enacted in 2000, about 28,500 Ugandans have taken advantage of the offer; just under half of them from the LRA.²³ These figures confirm that although the strongest impetus for introducing the amnesty might have come from northern Uganda (and had in mind the LRA situation), the law was also applied to other conflicts in Uganda. Indeed, the language the Act employed needed to clarify that the amnesty applied to other groups like the ADF (another arguably extremist group) as well as the West Nile Bank Front (a more conventional insurgent group). The number of former LRA granted the amnesty also confirms that many individuals have re-joined society without any significant procedural formalities. This is another indication that during the height of the conflict there was indeed little official or community inclination to pursue individual accountability.

The Amnesty Act nevertheless generated tensions during its implementation. One abiding area of contention was the perceived unfairness in the fact that former insurgents were provided with some resettlement support while the needs and rights of the communities and individuals who had been targeted by such groups remained unfulfilled. Some have condemned the generosity of the Amnesty Commission's standard package – which consists of basic personal effects and a lump sum of about 60 U.S. dollars – while others have criticised the package as insufficient to induce defection or achieve effective reintegration. Both these criticisms reflect the underlying tensions that accompany efforts to pursue incentive-based strategies.

On several occasions, the government sought to limit the scope of the amnesty – including in 2002, in order to prevent those who returned to insurgency from benefiting from the amnesty a second time. Subsequently, after the government referred the LRA situation to the International Criminal Court, it also sought further amendments to allow individuals to be excluded from the amnesty. In 2006, it pushed through an amendment giving the minister of internal affairs the power, with the approval of Parliament, to declare a person ineligible for the amnesty. This amendment also allowed the minister to revoke the Part II of the Act, which contains the provisions granting the amnesty.

In fact, the scope of the amnesty scheme was already limited in important ways. First, the Act required that the applicant should renounce armed rebellion and associated crimes, and hand over any weapons, as a condition of amnesty eligibility. This entailed that the renunciation should be genuine. Furthermore, if an applicant failed to disclose the whereabouts of hidden weapons, he or she could not be said to have renounced rebellion. Moreover, based on its obligation to promote reconciliation and perform other functions associated with its mandate,²⁴ the Amnesty Commission could require an individual applicant to

undertake more detailed disclosures or engagements with communities in order to satisfy itself of the person's good faith.

Perhaps owing to the preference for procedural simplicity, the full implication of this underlying good faith condition has not been explored or brought to bear on the processes of the Amnesty Act. Even when, in 2006, the government successfully amended the law to permit the minister to exclude unsuitable persons from receiving amnesty, it neither took the opportunity to refine the criteria for exclusion, nor did it impose additional conditions for benefiting from the amnesty. Although crafted in general language, the 2006 amendment was promoted as a response to ICC arrest warrants, with the government insisting to Parliament that it remained open to dialogue with the LRA. A few months after the adoption of the amendment, the government commenced the 2006-2008 Juba peace talks (discussed in the next section of this paper).

Revoking and Reinstating the Amnesty

Following the inconclusive outcome of the Juba peace talks, fresh challenges to the amnesty process emerged. In May 2012, the Minister for Internal Affairs yielded to pressure from the judiciary, its Justice Law and Order Sector (JLOS) actors, the United Nations and others, and declared the lapse of Part II of the Act, and with it the amnesty.²⁵ These actors perceived the Amnesty Act as an impediment to domestic criminal justice initiatives, particularly the operation of the International Crimes Division (ICD) of the Uganda High Court, which was heavily funded by external donors through the JLOS. The effect of lapsing Part II of the Act was to remove from the statute book the power to grant amnesty while preserving other aspects of the Amnesty Act, such as the responsibility of the Amnesty Commission to reintegrate individuals and to promote reconciliation. In justifying his decision, the minister declared that the conflicts in Uganda had ended and there was no longer any need for the amnesty.

This decision inevitably attracted dissent from the same constituency that had campaigned for the amnesty more than a decade before; they demanded the reinstatement of the amnesty law, arguing that with remnants of the LRA still operating outside the country, and the jihadist ADF causing havoc in the DRC, the reasons for introducing the amnesty had not yet lapsed.²⁶ Among those who supported the reinstatement of the amnesty were the Ugandan military and some of the international NGOs which had continued to follow the activities of the LRA outside Uganda, such as the U.S.-based Enough Project, whose findings indicated that the removal of the amnesty was driven by donors pursuing an anti-impunity agenda and was causing significant upheaval in LRA-affected communities and discouraging future defections and escapes from the group.²⁷ U.S.-based organisations might also have been influenced by the fact that, through their campaigning, in October 2011, the Obama administration had announced the deployment of around 100 American Special Forces to pursue Joseph Kony. Along with the African Union's LRA Task Force, these forces made full use of the existence of the amnesty in Uganda, tailoring messages, including radio broadcasts, and leaflet drops, to encourage defections based on the prospect of amnesty.

In May 2013, having been petitioned by northern Ugandans, Parliament debated the lapsing of the amnesty and decided, unanimously, that the law should be reinstated. On the advice of the attorney general, the minister of internal affairs subsequently issued another instrument revoking the May 2012 instrument that had repealed the amnesty. The full Amnesty Act has since remained on the statute books. Even among former LRA who had already been granted the amnesty, the lapsing of the Act heightened a sense of legal insecurity. Since 2013, a trickle of fighters from the much-depleted LRA has been emerging from the bushes of Central Africa and the DRC to take up the offer of amnesty.²⁸

The revocation of the amnesty in 2012 illustrates the tensions in transitional justice policymaking within the government of Uganda. All three arms of government (executive, legislative and judicial) have time and again taken differing positions on the value and validity of the amnesty. Although the executive at times hesitated over retaining the amnesty, Parliament's active interventions have kept the law on the statute books. Without its interventions, its unanimity and the strong lead from the Deputy Speaker, the amnesty would almost certainly have succumbed to external donor pressure and been allowed to lapse.²⁹ Even if the amnesty had not been reinstated, it is unlikely that the government would have systematically pursued criminal proceedings against insurgents. Indeed, in the period between 2012 and 2013, when the amnesty provisions had lapsed, there was no discernible increase in criminal proceedings targeting insurgents.

In political terms, the amnesty has allowed the government, which had come under criticism for its handling of the conflict, to appear responsive to northern Ugandan concerns. Although the Act initially expired every six months and, subsequently, after every two years, the government unfailingly extended its duration and never allowed it to lapse naturally, as it had done with the 1987 Statute. With the extensions and the 2013 reinstatement of the law, the government could signal flexibility without abandoning its preferred military options. In terms of dialogue, the Act also provided a ready framework for conflict resolution and the engagement of various armed groups other than the LRA.³⁰ Yet despite retaining the amnesty on the statute books, the government also pursued international justice options against the LRA.

Judicial Challenges to Amnesty

Legal contestation over the Amnesty Act continued in the Ugandan courts, pushed behind the scenes by international donors and legal technocrats. Debates about the appropriate role of amnesty in Uganda were not new. Without much participation in the earlier phase of adopting the amnesty, the Ugandan judiciary now played an active role in the fate of the amnesty. Following the initial challenges by the attorney general's representative in the case of Thomas Kwoyelo, a mid-level LRA commander captured in the DRC in 2009, the Constitutional Court accepted in September 2011 that Kwoyelo was indeed entitled to the amnesty. However, this position was reversed by the Supreme Court in 2015 in a final decision that allowed his trial at the ICD to be reinstated. Nevertheless, owing to various impediments, including lack of resources, the trial has continued to suffer delays as of the time of writing. Apart from the Kwoyelo case, the ICD has dealt with other individuals

who might otherwise have benefited from the amnesty, including Jamil Mukulu, the leader of the ADF, who was indicted in 2015 on various charges including terrorism and crimes against humanity.

International Criminal Justice and Amnesty

The domestic challenge to the amnesty was partly a consequence of the increasing emphasis on transitional justice and international criminal justice, particularly the intervention of the International Criminal Court (ICC). Like many other African states, Uganda participated in the 1998 process to adopt the Rome Statute of the ICC. Even as it introduced the Amnesty Act, Uganda had already signed the Rome Statute (ultimately ratifying it in June 2002). In December 2003, at the covert behest of Moreno Ocampo, the ICC prosecutor, and with intense lobbying from representatives of international organisations, including United Nations agencies, Uganda referred the LRA situation in northern Uganda to the ICC prosecutor for investigation.

Uganda's motivations in making this referral were complex, and certainly involved calculations that this move would mobilise international support and deflect growing criticism of the situation in northern Uganda. But regional dynamics were also at play.³¹ A key supporter of the southern Sudanese SPLM cause, Kampala was keen to apply pressure on Khartoum, the prime backer of the LRA, particularly at a time when the SPLM was locked in critical negotiations with the government of Sudan in Kenya. In Uganda's calculations, ICC interest in the LRA would ultimately point the finger at the group's backer, Khartoum, thereby also assisting the SPLM in its negotiation positions with the Sudanese government. Without direct prior experience of international criminal justice, Ugandan officials simply failed to anticipate how intrusive and complicating the obligations triggered by a referral would become.

In northern Uganda, where the conflict continued to rage, news of the referral predictably provoked immediate and passionate opposition, as many saw the introduction of the ICC as a major setback for the prospects of a peaceful settlement. But even in resorting to the ICC, the Ugandan government was still expecting to keep all its options open. As we have already noted, it did not revoke the Amnesty Act (although it later amended it to enable exclusion of certain individuals). Neither did the government scale back on dialogue initiatives with the LRA; through the Bigombe-led processes, from 2004 to 2005, it continued to seek a settlement with the LRA.

To be sure, Kampala had become quite adept at identifying opportunities for cultivating and sustaining international support – particularly by providing backing to initiatives in the area of security policies in Africa and beyond, including such initiatives as the war against terror – while at the same time deftly fending off more intrusive political demands. In referring the LRA situation to the ICC, Uganda assumed the prosecutor would defer to its domestic priorities on the LRA conflict, should the issue arise in the future. But that assumption was soon to be tested, and the response indeed played out strongly in the process and outcomes of the Juba peace talks.

The Road to Juba – Dialogue and Politics

Since independence in 1962, successive Ugandan governments have supported the southern Sudanese struggle against the Khartoum regime; a posture that the NRM intensified through its multi-level backing for the Sudan Peoples' Liberation Movement/Army (SPLM/A) led by Dr John Garang, a Dar-es-Salaam University friend of President Museveni. Progress in the intra-Sudanese peace talks between the SPLM and the Sudanese government – held in Kenya and facilitated by the Intergovernmental Authority on Development (IGAD)³² – enabled Sudan to continue loosening its links with the LRA, although it did not sever them completely. An ardent supporter of southern Sudanese self-determination, Uganda participated at the talks as a key observer. After the Comprehensive Peace Agreement (CPA) was signed in Nairobi in January 2005, it then became one of the guarantors of the deal. Under the CPA, a six-year interim period ensued, with semi-autonomy for Southern Sudan.³³ This period would be followed by a referendum in which the people of South Sudan would exercise their right to self-determination by voting on whether to secede or remain part of Sudan.

The CPA thus heightened the political and security stakes in Southern Sudan, making it urgent to address the continuing presence of the LRA there. Under the deal, the Sudanese army would withdraw from Southern Sudan, leaving responsibility for security to the SPLM/A. Because it was a Khartoum proxy, which had already carried out attacks on SPLA forces, there were realistic fears within the SPLM/A that the LRA would be used to undermine the transition and southern aspirations for self-determination. With good cause, Uganda shared these fears. By 2005, LRA forces remained active in northern Uganda and Southern Sudan, continuing to attack and displace Sudanese civilians close to Juba, often in raids for food, even after its leadership had relocated to Garamba National Park in the DRC.

By late 2005, the new Southern Sudanese leaders began to send overtures to the LRA, offering mediation for a negotiated settlement of its conflict with the Ugandan government. In May 2006, on a visit to Kampala, President Salva Kiir – who succeeded Garang after the latter's untimely death in a crash involving a Ugandan presidential helicopter – formally offered his government's mediation. Through contacts led by Vice President Dr Riek Machar, the SPLM had received indications that the LRA was prepared to engage in talks. Despite his government's continuing doubts about the seriousness of the LRA, President Museveni could not spurn the offer. As such, he announced Uganda's readiness to negotiate with the LRA and extend the amnesty to Joseph Kony, indicating that he would intercede with the ICC on behalf of the indicted LRA leaders. Against this background, preparations began in earnest for the negotiations to be held in Juba.

Positioning for Negotiations

As Uganda's engagement with the LRA has demonstrated, for as long as states fail to remove violent extremists from the theatre of conflict, a "calculus of pain" encourages the exploration of non-military and non-retributive ways of securing an end to the destructive

activities of such groups. Particularly when the prospect of a swift settlement becomes unrealistic, and as the damage to the society mounts, states often find they can no longer avoid the obligation to explore other avenues for ending or reducing the activities and adverse impacts of such groups. In such circumstances, states have often resorted to alternative incentives, including leniency and amnesty options.

Converging on Juba, the Museveni government, the LRA and other Ugandans were not the only stakeholders. The mediators were also invested in the outcomes of the negotiations, as were many others who wanted to see peace in northern Uganda and political progress in Southern Sudan. Because the LRA leaders were the subject of ICC arrest warrants, the Court – still in its infancy – and its supporters also considered that a lot was at stake.

Well before LRA negotiators sat across from the government of Uganda's delegation in Juba to determine the agenda for the negotiations, Kampala had already made two seemingly contradictory policy choices. On one hand, it had successfully introduced an unconditional amnesty process that led to the defection of about 10,000 persons from the LRA; on the other hand, it came to the table as a state party to the Rome Statute, its territory now the subject of the first investigation by the ICC prosecutor. As such, the government needed to reconcile these realities with its pressing domestic and regional imperatives to bring an end to the LRA conflict. It could neither defer nor gloss over the acute tension between these realities, knowing that, unless resolved, the demobilisation of the LRA would not occur. At the same time, many in the Ugandan establishment were sceptical of the Juba process and preferred to press the military advantage against Kony.

By the time the talks began in July 2006, the bulk of the LRA, including its leadership, had already relocated to Garamba National Park, although others remained in Uganda and Southern Sudan. Through its engagements with the two Bigombe processes, and in other interactions with the Ugandan government, the LRA had already demonstrated that it was capable of negotiating with the national authorities. Moreover, in the government of Southern Sudan, the LRA had a third-party mediator and an opportunity to burnish its political credentials and secure guarantees about the implementation of the outcome of the agreement. Particularly for some of its diaspora supporters, these negotiations provided a long-awaited opportunity to present a corrected version of Uganda's political history that they considered had been ignored. The talks also represented a venue to answer the claims that the LRA was devoid of an intelligible political agenda.

While there is a global trend away from the invested mediator, the SPLM was extremely self-interested in its offer of mediation. Although it could have used other methods to remove the LRA from its territory, Southern Sudan's leaders, drawing on their more recent political experiences and security challenges, favoured dialogue options. Indeed, this stance went back to their leader, John Garang, who, well before the CPA was signed, had engaged northern Ugandan leaders to explore the prospects of a settlement of the LRA conflict.

Fresh from their own CPA negotiations with the Khartoum government, the SPLM mediators brought a decidedly political lens to their mediation. For them, the need for the talks to address the underlying political issues was a given. Dr Riek Machar's team was also supported both politically and logistically from the beginning by the United Nations office in

Juba. Pax Christi (Netherlands) undertook some of the early groundwork and facilitation support. Later, after the talks were underway, the UN Secretary General's Special Envoy, Joaquim Chissano, made critical contributions, including by helping to put the talks back on track at a time when LRA confidence in the process had virtually collapsed. But while the Southern Sudan mediation was highly invested in the outcome of the talks, and desperately needed a resolution to the LRA presence on its territory and environs, as a new entity, it lacked the political and military capacity to impose its will on either party and thus could not employ the methods of a high-powered mediator.

Informed by its political approach, the mediation invested considerable effort to understand in granular detail the politics of the conflict, the Ugandan political and legal architecture, as well as the room for manoeuvre within the Rome Statute. Drawing on Ugandan experts (as well as from the international experts who had assisted in the CPA negotiations, and from its partnership with the Pax Christi), the Southern Sudanese managed to assemble and develop a support team to assist with the technical aspects of preparations. Not being an independent entity, Southern Sudan could not exert decisive influence on the international plane, as it had to operate through Sudan, which was not a party to the Rome Statute but was actively under the scrutiny of the ICC prosecutor. However, Southern Sudan had the benefit of flexibility, since it did not have any obligations in relation to the LRA arrest warrants.

There was yet another influential constituency in the Juba process: the representatives of northern Ugandan communities. They included cultural and religious leaders as well as local and national politicians, civil society actors and others. Going back to its establishment in 1997, the Acholi Religious Leaders' Peace Initiative (ARLPI) had worked alongside cultural and political leaders to advocate for a negotiated solution to the northern Ugandan conflict. In addition to taking up the amnesty legislation as their flagship activity, these faith-based stakeholders were also strong supporters of a truth and reconciliation commission. They were critical of the ICC's intervention and extremely anxious that the arrest warrants could risk destroying the prospect of peace. In Juba, they pushed instead for non-retributive transitional justice options and for alternative reconciliation-based processes anchored within the community. Special arrangements were made for many of these representatives to accompany the process, acting as observers and advisers; they were, in reality, co-mediators. They spent time with the LRA leaders at their bases in Garamba and in meetings at the border village of Ri-Kwangba, pushing for progress in the Juba sessions. All were anxious to play their part in helping to resolve the conflict, although this occasionally sparked tensions with the LRA's negotiating team about political priorities.

The LRA case was crucial for the ICC. It was the first country situation handled by the Court; the first self-referral by a state party; and the subject of the prosecutor's first arrest warrants. As such, the Juba process came under a relentless spotlight. It was presented by ICC supporters as a huge test of the credibility of the Court, and senior personnel of the Court, particularly the prosecutor, frequently commented negatively on the talks in Juba. Yet, the "peace versus justice" framing of the process turned out not to be quite so stark. Once the negotiators had agreed that international justice should be replaced by national accountability, the real contestation around Juba lay in the meaning of the Rome Statute

principle of complementarity under which the ICC was envisioned as a “court of last resort” established not to supplant but rather to enable and yield to bona fide domestic efforts to address the most serious crimes. Everything turned on this: for it was understood in Juba that there would be no LRA demobilisation unless international justice yielded. And without LRA demobilisation, there would be no settlement.

Regional and International Engagement

Former Mozambican President, Joaquim Chissano, served as the UN Secretary General’s special envoy to the LRA-affected areas, with responsibility for supporting the Juba peace process. Chissano was respected by all sides, particularly for his role in the Mozambican peace process; and the LRA trusted him even when, periodically, its relationship with the Chief Mediator became strained. Supported by an active office, Chissano became the main conduit between Juba and the international community, regularly briefing the UN Security Council, the Secretary General and other regional leaders on the status of the talks, while also maintaining close contact with the LRA. His excellent relations with President Museveni went back many years, and now provided reassurance to the Uganda government, which remained wary of Dr Riek Machar due to his previous links with the Khartoum government and the LRA.

In November 2006, just before President Chissano’s appointment as the UN Special Envoy, Jan Egeland (then the UN Under-Secretary-General for Humanitarian Affairs) had made a high-profile visit to meet with Joseph Kony on the border between Sudan and the DRC. Egeland was careful not to discuss the ICC with Kony, and took as his starting point humanitarian considerations, though he was unsuccessful in securing the release of any of the children held by the LRA. Nevertheless, his visit raised the profile of the talks and made it difficult for other international interlocutors still harbouring misgivings about Juba to contest the legitimacy of engagement with the LRA.

As he assumed his role in December 2006, President Chissano persuaded the African Union (AU) to send a strong team of high-level observers to the talks, drawn from neighbouring and other countries, including, Kenya, Tanzania, Mozambique, South Africa and the DRC. This marked the start of the AU’s formal engagement with the LRA issue. Not only did the observers’ participation lend added legitimacy to the talks, it ensured the full support of their national governments, which also sent senior military personnel to serve as the foreign component of the cessation of hostilities monitoring team. These measures were meant to dissuade the LRA from seeking alternative fora and facilitators for the negotiations.

Designing and Framing the Negotiations

If both the government and the LRA brought to the table clear positions, the mediation now had the challenge, under intense scrutiny, of designing a process that would deliver durable outcomes. Its first task was to ensure that the LRA could participate effectively in the talks. Despite the assurances of Southern Sudanese authorities, Kony would not come to Juba, but later nominated senior LRA officers to the cessation of hostilities monitoring

team. An early attempt by Dr Riek Machar to stampede Vincent Otti, deputy leader of the LRA, into travelling to Juba failed and instead caused ructions between the LRA delegation and the Chief Mediator.

Without the presence of senior LRA leaders, the mediation needed to ensure the LRA would not be disadvantaged by a format that invariably favoured the government delegation, which was more accustomed to negotiations. Already, the LRA's organisational structure had left the group without a functional political wing that could have assumed the negotiating role. As such, the mediation facilitated the assembling of the LRA's delegation. Several individuals, mostly drawn from the Ugandan diaspora, and some with very weak historical links with the LRA, agreed to participate in the delegation. Before the talks began, the new delegation met the LRA leadership in Garamba, and Kony endorsed and fully mandated them. Although LRA leaders remained in Garamba, the mediation facilitated the delegation with communication capabilities. For at least one year into the talks, Vincent Otti kept in close contact with the delegation, mediators and the government of Uganda.

In promoting the participation of northern Ugandan community representatives, the mediation understood that such broader engagement would enhance the credibility of the process and its outcomes. Meanwhile, national support for the process remained solid across Uganda, as seen from the local media coverage at the time. Importantly, the Ugandan government also sent emissaries, including some of Kony's relatives, to Garamba in its own parallel efforts to enhance the confidence of the LRA in the process. These overtures and interactions helped create meaningful interactions with the LRA outside of the combative environment of the negotiations. They were confidence-building measures – opportunities for the prospect of eventual social, political and even spiritual reintegration into Ugandan society to take root in the group's thinking.

In that regard, all sides understood that for the peace process to succeed, the LRA would need to re-imagine itself and its relationship with Ugandan society. An added challenge for the talks was how to achieve such a change in political posture from the same LRA leaders who were also under the cloud of ICC arrest warrants. From the outset, therefore, Juba was faced with two daunting and linked tasks: firstly, to assist LRA leaders to cultivate and imagine a different, non-conflictual relationship with the Uganda government and with the communities of northern Uganda, in particular; and secondly, to find a credible accountability alternative to the ICC. Thus, the LRA required from the Juba process more than just assurances about the personal and legal security of its leaders; it also needed the talks to deliver some tangible political gains, including wider social and economic dividends for northern Uganda.

The Agenda in the Negotiations

Shortly after they convened in Juba in July 2006, the parties debated and eventually adopted a five-point agenda for the talks, with the mediation guiding the process. On 26 August 2006, the parties reached the first agreement: the cessation of hostilities under which the LRA would be allowed safe passage out of Uganda, to reach assembly areas inside Southern Sudan. One of the areas chosen for the LRA to assemble was Owiny Kibul, in Eastern

Equatoria; the same place where Acholi and Langi soldiers fleeing Idi Amin in 1971 had regrouped. Among LRA commanders to surface from northern Uganda and head towards Sudan was Dominic Ongwen. That Ugandan authorities made no attempt to intercept or arrest him was an early signal that they were indeed rethinking Uganda's cooperation with the ICC. The cessation of hostilities agreement and the departure of LRA forces marked the end of the group's activities in northern Uganda. Negotiations had produced an early security dividend for northern Uganda.

Political Discourses – Agenda Item II

Agenda Item II – on Comprehensive Solutions – was significant and controversial. It formed the rubric under which the parties would discuss the key political issues, such as equitable participation in national politics and institutions; economic and social development of northern and eastern regions of Uganda; and the resettlement of internally displaced persons. The Ugandan delegation was clearly taken aback by the mediation's proposal to accept this agenda item, as they did not consider that issues of domestic politics should be debated in Juba. President Museveni's position was that these were matters to be debated within Uganda. Throughout the talks, the government delegation sought to limit the claims and commitments that could be sustained under this agenda item. A sign the government did not expect to be drawn into intensive political discussion, or to be detained in Juba for long, was that senior military and security personnel constituted a significant part of its delegation.³⁴

Eventually, the negotiations focused on the socio-economic recovery of the conflict-affected areas; protection of land rights; a commitment to addressing developmental imbalances; and the promotion of inclusiveness in governance, including through equal opportunity policies. Transitional justice themes also entered into the discussions, including strengthening the judiciary and providing remedial social interventions such as educational arrangements for children associated with the LRA. Other provisions under discussion included a commitment to implement re-stocking programs to replace livestock confiscated by government agents during the conflict. An important provision, agreed only late in the process, was the establishment of a special fund for victims.³⁵

For the LRA delegation, commencing the discussion with these issues allowed them to engage and challenge the government delegation about its record. With Acholi and other northern Ugandan diaspora within its delegation, many of whom had retained strong memories of the failed Nairobi peace talks of 1985, the sessions on Agenda Item II became heated affairs. This was exacerbated by the fact that some local leaders grew impatient with the political debates, desperate to see the swiftest conclusion of the negotiations and the demobilisation of the LRA. The issues being raised, including the question of compensation, reparations and effective oversight of the reconstruction of northern Uganda resonated with local leaders, although some questioned the legitimacy of the LRA delegation in representing these concerns. By corollary, the presence of observers on the margins of the talks, particularly northern Ugandan politicians, sometimes irritated the LRA delegation. But their presence also ensured that the government delegation could not be

seen to resist these topics or dismiss them as irrelevant or detached from the concerns of key stakeholders.

The framing and discussion of these transitional justice-related issues as political matters also allowed negotiators greater freedom to ventilate grievances and advance alternative narratives about the origins and consequences of the conflict. Instead of deferring, and confining, such debate to future truth-telling bodies, LRA negotiators could use the arena and licence of the negotiations to attack the government's policies and record more robustly. Indeed negotiations are often charged political spaces in which grandstanding, accusation and counter accusations are permitted forms of discourse and expression, unconstrained by formalities. Juba thus afforded the LRA their full rights of political expression: having complained that their narrative had long been ignored, these sessions were politically invaluable for LRA negotiators. And members of the LRA delegation would have understood that such opportunities were unlikely to be replicated in any future fora or formal processes back in Uganda.

Negotiating Accountability and Reconciliation – Agenda Item III

In a signal that the talks intended to strike a different balance on issues of justice, the third issue for negotiation was framed as Reconciliation and Accountability; with “reconciliation” deliberately coming first in the title. Owing in particular to the arrest warrants, Agenda Item III was always going to be a difficult discussion for the LRA; and sequencing the negotiations so that the political issues preceded the more sensitive justice question avoided placing a spotlight on the LRA's conduct at too early a stage of the talks. Discussing justice first would have disadvantaged the LRA and accentuated the political asymmetries between the government and the LRA.

When the parties first elaborated the detail of Agenda Item III in 2006, they identified just three issues: *mato oput* (Acholi traditional mechanisms of accountability), amnesty, and others. This rather sparse list gives an indication of the direction of the parties' thinking at the time – they were intent on finding domestic solutions rather than international justice. One benefit of the length of time that Agenda Item II took to negotiate is that the parties had time to develop their thinking on the transitional justice issues. Through workshops presented by experts and other engagements, the mediation facilitated technical discussions, which helped the parties and the mediators themselves to unpack the issues including the ICC question, complementarity, and the role of traditional justice, among others.

A lingering, and speculative, narrative about the talks credits the threat of ICC prosecution as being responsible for bringing the LRA to the negotiating table. While the LRA was of course concerned about the arrest warrants, justice was much less a dilemma for the group than for others: the mediation, the government of Uganda, the northern Uganda communities and the additional supporters of the negotiations. From the outset, Joseph Kony's position on the justice question was as simple as it was emphatic: if the ICC warrants were not replaced with suitable alternative domestic processes, the LRA would not demobilise. Thus, rather than bringing LRA leaders to the table, the warrants ensured that Kony and senior commanders stayed away from Juba and were even more determined to

retain complete control of their security arrangements. This deprived the key LRA leaders, and the Juba process, of the opportunities that negotiation contexts normally provide for the parties to build trust in each other and the process, to envision new futures, and re-orient their politics to contemporary and emerging realities.

Neither did the way the LRA approached the negotiations indicate the group felt under siege by the ICC arrest warrants. By prioritising political topics for discussion, the LRA intended to communicate that it was not solely fixated on the warrants. Yet it also had a decidedly political view of the ICC. Often in his interactions with mediators and other interlocutors, Joseph Kony cited the experiences of Thomas Lubanga and Charles Taylor, both of whom, in Kony's view, had become vulnerable to international arrest precisely because they had become politically weakened. Kony considered that the Ugandan government had only introduced the ICC into the equation to undermine the LRA politically, and that the Court had colluded in this political enterprise, pursuing only one side in the conflict. Each of these claims could of course be countered, but they were the strongly held views of one of the parties to the negotiations and could not be wished away.

While others might legitimately assume the role of countering or stigmatising conflict actors, the mediator must relate to each conflict party as a political actor pursuing political ends and often using particular narratives. The mediator acts on the basis of consent and should not appear to de-politicise a party's positions or motivations even where, as in the LRA case, the party or its leaders are subject to proscription or justice processes. Since LRA leaders regarded the ICC as a partial institution instrumentalised by those in power, and were averse to cooperating with the Court, the mediation could not ignore that and insist upon international justice as a viable element of the negotiation.

Juba did not frame the issues under Agenda Item III as "transitional justice". In part, this was because the concept was not widely understood, and unpacking its meanings would have increased the already heavy pedagogical burdens on the process without adding significant value. Instead, a more organic approach was adopted, allowing each party to put on the table all the issues with which it was most concerned. This meant that the government, which would be responsible for engaging its Rome Statute obligations, needed to grapple more closely with the legal implications of any agreement, while LRA negotiators focused on domestic accountability options, including traditional justice, reparations and dealing with historical injustices. Because they were not shoehorned into a transitional justice negotiating framework, many of these issues were addressed and concluded in the discussions on Comprehensive Solutions under Agenda Item II.

The LRA leaders were not alone in their concerns about international trials. Every key stakeholder, including the government of Uganda, recognised from the outset that a negotiated settlement of the LRA conflict would not co-exist with ICC trials. But the government and the supporters of the Court – many of whom had long supported the resolution of the northern Uganda conflict – also craved a peace outcome that avoided undermining the Court or the international criminal justice project more widely. Striking the right balance was therefore crucial; and the key lay in securing a Rome Statute-compliant agreement, anchored in the ICC principle of complementarity, which would allow Uganda to reassert

its right to exercise criminal jurisdiction over the crimes committed by the LRA. The first pillar of the Agreement on Accountability and Reconciliation (AAR) therefore became the re-assertion of a national justice and reconciliation agenda.³⁶ This implied the need to elaborate domestic justice solutions in the form of an alternative legal framework combining conditional amnesty, traditional mechanisms and formal justice.

Although there could be no ironclad guarantees about the future stance of the ICC towards the domestic options Juba adopted, for the mediators, the objective in the talks was not to secure the endorsement of the ICC judges, but to facilitate a peace agreement that no serious policymaker could reasonably reject. In this regard, it helped to have President Museveni's early interventions on the question of amnesty, which showed that it had already decided on domestic rather than international accountability solutions should the LRA choose a political settlement. This freed the mediation to focus on the task of facilitating the adoption of a framework of domestic solutions that would best command and sustain national, regional and broader deference.

An effective agreement would be one that not only ended the war definitively (thus preventing further crimes) but also 1) paved the way for rebuilding northern Uganda, by repairing its economic and social fabric and fostering deep reconciliation; and 2) achieved credible accountability through proceedings endorsed and embraced by victims and communities. If the key stakeholders (at the time, primarily, the northern Uganda communities) did not endorse the outcome of Juba, it was unlikely that external interlocutors would do so. In that regard, it was not Agenda Item III alone that was critical; the whole Juba package was essential.

The Alternative Justice Framework

To provide a credible domestic answer to the justice and reconciliation challenge, the AAR adopted an overarching and holistic framework. This would combine formal mechanisms, notably a special criminal division of the High Court; and an official truth-telling mechanism with complementary alternative justice mechanisms, including traditional justice processes. The latter were necessary because existing laws, procedures, the amnesty and severe sentences were either a disincentive to the LRA or were legally unsustainable as a basis for resolving the conflict. Given the range of potentially applicable mechanisms, the choice of forum for the consideration of any issue would depend on a range of factors, including the gravity of the conduct in question.

Adjusting the Amnesty

Although at the beginning of the talks both sides had advocated for the use of the amnesty and traditional justice measures, they soon accepted that to stand a chance of putting to rest the ICC issue, formal accountability through criminal justice was necessary. Because it was already an established feature of the Ugandan legal system, the question for Juba was not whether an amnesty should be granted, but what to do with the existing one. Arguably, this was an easier task than introducing a new amnesty; especially since, owing

to the amendments introduced by the government, it was already possible to exclude individuals from the amnesty.

The Juba Agreement nevertheless required adjustments (in the form of further amendments) to be made to the amnesty law in order to promote the new processes of accountability. For example, future applicants might be required to make disclosures, provide certain relevant information or be subjected to other appropriate conditions that promote reconciliation and accountability. However, the Agreement ensured that children would not be subjected to criminal justice processes,³⁷ effectively retaining the amnesty for them. Overall, the amnesty would continue to apply, unchanged, to the vast majority of those within the LRA; in part because most were coerced into joining and remaining in the group and were not the most responsible for the most serious violations.

Role for Formal Criminal Justice

After securing the commitment that the LRA would not be subjected to trials outside Uganda, LRA negotiators accepted the need for a special division of the High Court of Uganda as the forum for domestic trials. The trials would be based on the highest standards of investigations, prosecutions, defence and adjudication. An alternative sentencing and sanctioning regime would exclude the death penalty and introduce offsets and tariffs on imprisonment. It would also require, at sentencing, that an individual's cooperation with the proceedings be taken into account.³⁸

This concept of cooperation within formal proceedings was an innovation aimed at giving the opportunity to individuals to secure reduced sentences without prejudicing their legal rights: a person could, for example, make formal admissions, acknowledge any wrongdoing, and contribute to other relevant proceedings or processes. Procedures would enable an individual facing formal criminal charges to participate in traditional reconciliation and accountability mechanisms as well, and to have that participation credited within a formal prosecution. In this way, the goals of eliciting the truth and achieving reconciliation would be facilitated without compromising the procedural integrity of criminal proceedings or violating the fair trial rights of accused persons, including the protection against self-incrimination.

Accountability for State Actors

One point of constant contention during the negotiations was how state actors would be treated. The government argued strongly, and successfully, that state actors should not be subjected to alternative justice mechanisms – by which it meant alternatives to ordinary prosecutions. However, the LRA delegation understood this as an attempt by the government to exempt its personnel and record during the conflict from judicial scrutiny. LRA negotiators cited a consistent absence of criminal trials for violations by military personnel during the conflict, arguing that the government could not be trusted to ensure that its military court system would indeed prosecute government soldiers responsible for serious crimes. Their concerns are reflected in a widely-held view in the country that if state actors are not consistently held accountable, this negatively affects attitudes to

reconciliation.³⁹ Ultimately, the Agreement maintained the criminal justice status quo for state actors, while permitting state actors to participate in other mechanisms, including truth-telling processes.

Complementary Accountability Mechanisms

In addition to formal criminal justice, other processes would also contribute to accountability and reconciliation. A truth commission-like body was to be established, whose procedures and rules would be adapted to enable it to be a forum for receiving admissions and other relevant information. This proposal, strongly pushed by the LRA, but holding much wider resonance, had a distinctly political edge. In May 1986, shortly after it came to power, the NRM Government established the Commission of Inquiry into Violations of Human Rights, which had looked into a range of past violations and highlighted the events in the Luwero Triangle, where the NRA forces had operated.⁴⁰ The LRA now demanded an inquiry that would also investigate violations in northern Uganda.

While both sides acknowledged the need to examine the root causes of the conflict, the government saw the LRA's demands for a truth commission as potentially politically damaging; as such, it was more comfortable with advocating for community reconciliation and truth-telling initiatives. It might nevertheless seem odd that the LRA would be championing a truth commission and reparations while the government was reluctant to offer wholehearted support. Yet the LRA knew it had no political ambitions and would cease to exist; thus it had nothing to lose but something to gain in supporting a truth-seeking mechanism that applied to LRA and state actors alike.

Traditional Justice

In their search for alternatives to retributive justice, both parties initially came to the negotiations with a preference for applying traditional justice. In their campaigning for the adoption of the amnesty law and in supporting the processes of its implementation, Acholi communities periodically promoted rituals and processes of welcome and cleansing. When the Juba negotiations with the LRA were contemplated, the government cited traditional mechanisms of justice as acceptable alternatives to formal prosecution even as it declared that it would grant amnesty to Joseph Kony. In its Agenda Item III background paper, the LRA likewise emphasised the role of traditional justice mechanisms. Both parties thus agreed to place *mato oput* on the agenda of the talks.

Negotiators and mediators were already familiar with some of the traditional justice principles and processes, especially their reliance on trust, individual volition, truth-telling, compensation and restoration of relationships. But the need for further consultations to identify specific mechanisms for inter-communal reconciliation was also apparent, as there are a range of such processes across the various communities.

It is important to note that the appeals to tradition reflected deeper social and political understandings of the conflict. Firstly, local communities felt a sense of responsibility to contribute to the resolution of a conflict that had, at least in part, drawn some of its initial inspiration from grievances and aspirations within the society. Secondly, formal justice

mechanisms were widely considered to suffer from serious limitations; in particular, they were perceived as unable to recognise the victimhood of perpetrators or to promote goals of reconciliation and healing.

But the appeal to traditional justice also played a more political role: it became the strongest vehicle by which conflict-affected communities could assert their agency with respect to the choices for ending the war. Those most affected by violence are often viewed as victims or even collaborators and relegated to being spectators or passive recipients of policy prescriptions that are often mediated by “experts”. In traditional justice, communities discovered terrain from which others could not easily dislodge them, and in which, for a change, they were the experts.

The political significance of this recourse to traditional justice has been insufficiently appreciated, with some criticising the “reinvention” of tradition. This gets things wrong. Across the world, social, cultural and traditional practices, even rituals, are dynamic; they are continually adapting and responsive to new influences. As such, it should present no surprise if northern Ugandans were adapting elements of the past. As demonstrated in the practices of Joseph Kony and Alice Lakwena, Acholi mediums had also responded to the appeal of Christianity by appropriating its rituals and symbols.

Faced with protracted conflict and what they saw as ineffective or potentially damaging policies, northern Ugandan communities in fact exhibited resourcefulness in re-imagining their traditions and institutions to make them responsive to what were extraordinary circumstances. Through their appeals and recourse to tradition, they occupied and defended political and juridical territory, transforming themselves from passive spectators to more central actors in the efforts to end a long and profoundly damaging war.

Reparations

While the negotiations recognised the necessity for a range of collective and individual reparations, the government, wary of over-commitment, was resistant to attempts to introduce a fund for reparations. In the end, it committed to such a fund, but only after the consultations in Uganda; albeit not until after the negotiations on accountability and reconciliation had been closed, preferring to include the matter in the Protocol to Agenda Item II.

Although the government undertook to implement all its obligations under the Juba Agreements unilaterally, it is not surprising that a fund it had resisted during the negotiations, ostensibly because of the perceived cost to the public purse, has never been set up. Another reason for the government’s attitude might also be that all of Uganda’s historical conflicts, particularly since 1979, have caused immense damage, including of infrastructure, and the government was thus afraid of opening a political Pandora’s box of similar demands. Whatever the case, following the collapse of the Juba negotiations, the government never prioritised reparations. Yet it is indisputable that individuals and communities have suffered specific, and sometimes structural, harm at the hands of the LRA and also government actors, and that some have suffered more than others. Increasingly, individuals and communities are demanding recognition and reparation for these disparate harms.⁴¹

Gender Issues

The Agreement provided for a gender-sensitive approach in which the special needs of women and girls would be recognised and addressed. Their experiences, views and concerns would need to be at the centre of all considerations; and their participation in relevant processes would be facilitated, while their dignity, privacy and security would be protected.⁴² In addition, under the Annexure to the AAR, the truth-seeking and criminal investigation mechanisms were to prioritise gender-related violations and crimes.⁴³

Throughout its years of operation, the LRA has carried out thousands of abductions: young boys and girls have been taken away from families and conscripted. Girls have been forced to become wives of LRA commanders, or their domestic servants. These violations, which scarred so many lives, needed to be addressed in a manner that could facilitate acknowledgement and the identification of appropriate reparations. This required an appreciation of how to address the gender dimensions within negotiations and a peace agreement. But due to limited expertise on these issues, the Agreement confined itself to identifying the broad principles of a gender-sensitive approach and left the elaboration to future implementers.

In fact, the gendered nature of the LRA conflict and the policies for responding to it, were typically under-recognised. For example, the Amnesty Act did not refer specifically to gender aspects. In addition, mostly male LRA commanders had always been absorbed into the army, with the attendant benefits, while female former captives were left outside, often with children, and without any form of support.⁴⁴ Despite the efforts to promote reconciliation, many women formerly associated with the LRA continued to experience stigma and sometimes rejection by families and society.⁴⁵

Conceptualising Reconciliation

Although reconciliation was a key pillar of the negotiations, it proved to be a challenging concept on which to find consensus. The parties could agree that collective as well as individual acts of reconciliation were required at all levels of society but disagreed on whether it was necessary to identify in the Agreement the issues on which reconciliation was required (the LRA's preference).

In what the government took to be a political stance, the LRA pressed for a truth commission with a mandate to analyse and inquire into the past. For its part, the government was more comfortable with the social and individual concepts of reconciliation, which could be mediated at the community level and would not entail criticism of government policies. The parties were thus most at variance on the need for a national reconciliation exercise and how, if at all, it would be conceptualised and implemented.

Closure Provision

One of the key principles of the Agreement on Accountability and Reconciliation (AAR) was the need to achieve finality in the relevant accountability and reconciliation mechanisms. The idea was to ensure that an individual would not have to face repeated processes of accountability or reconciliation and that, as far as possible, the full extent of their conduct

would be addressed in one process. The same consideration would also apply to the affected societies and the country; there was consensus that the adopted processes should aim for healing and that the conversation in the country should be allowed to progress to other future challenges rather than remain locked in unending examinations of the past. Other transitional justice processes, such as commemorations and memorialisation, were not affected by this provision.

Finalising and Promoting the Deal

In Juba, the mediation encouraged the negotiators to include sufficient detail in the agreement to lock down the key elements of the approach on the basis of which implementation could commence, while acknowledging that some details could only be worked out later. Clarity on key principles such as the exclusivity of domestic processes, and the need for truth-telling, reparations and leniency were essential. For the LRA leaders, the agreements needed to spell out as far as possible what the alternative to ICC prosecutions would look like. Detail was also necessary in order to dispel some of the speculation and concerns that Juba would seek to extend an unconditional amnesty to the LRA.

Elaborating some of the specifics also served to lock all sides, including the government of Uganda, into a definite framework, and to mitigate the risk that some elements might be de-emphasised or otherwise lost in the implementation. For this reason, the LRA negotiators insisted on certain matters to be captured fully. The text was thus sending multiple signals calibrated towards the needs of different stakeholders. It needed to serve not only as a roadmap for implementers, but also as a tool for mobilising wider political and practical support for the post-conflict consolidation.

In line with the commitment to ensure that the affected communities were fully engaged in the process, the AAR required the parties to undertake consultations in Uganda, including with the guidance of the mediator.⁴⁶ On the day of signature of the Principal Agreement, the mediator provided detailed guidance on the consultations. These became the basis for the government and the LRA separately to undertake countrywide consultations in Uganda in an effort to explain the process and the already agreed principles, and to enhance national ownership. The consultation would also address any concerns that the Juba process was delinked from affected communities or a domestic consensus. Following their consultations, the parties were to return to Juba with their findings, which would inform the elaboration of the detailed mechanisms.

The Burdens of Juba

Although the Juba talks were a classical negotiation between the LRA and the government of Uganda, the outcome needed to address different goals and interests, going beyond the positions of the two parties. These included the demands of the Rome Statute, the needs of Southern Sudan and, most crucially, the need for the northern Uganda conflict to end. To the extent that a principal objective of the process, and the AAR in particular, was to provide sufficient incentive for the LRA to demobilise voluntarily, the agreement did not succeed.

Impeding the attainment of this goal was the LRA's concern that its leaders might nevertheless be subjected to inappropriate international or domestic criminal trials. This was not simply a fear of justice; the mediation's interactions with the group revealed that the LRA resisted the political implications of the spectacle of a trial. For many armed groups, a criminal trial is not a politically neutral process: it symbolises defeat of the arraigned party and political victory to their (state) adversary. Through the principles and processes of the Alternative Justice System, Agenda Item III attempted to ensure credible processes of accountability while attenuating elements of formal justice that would serve as disincentives to cooperation.

Faced with ICC arrest warrants, the outcome of Agenda Item III was inevitably and intensely personal to the leaders of the LRA. Yet those warrants also meant that Juba's daily negotiations took place in the absence of the key individuals whose personal interests were most affected and whose political assent was indispensable. It became clear by the end that a group so dependent on its talismanic leader could not negotiate a satisfactory outcome to these difficult justice matters without Joseph Kony. And there were no easy answers to the questions; everything that could work required a high level of trust in an erstwhile adversary, namely the government of Uganda. For equally complex reasons, Juba's solutions needed to be couched in procedurally complex terms including caveats and staggered implementation. In addition, some issues and explanations could not be addressed in the text and required direct and verbal assurances – a process that required time, calm and faith in the process. But even before the formal talks had staggered to an anti-climactic close in 2008, the government had lost patience, believing that Kony was no longer serious about the talks. War drums were sounding and military preparations and activity had resumed. Any chance of a more deliberative and careful re-exploration of the justice issues was squandered.

After Juba

Failure of LRA Signature

On 10 April 2008, Joseph Kony and Yoweri Museveni were supposed to sign the peace agreement; Museveni was due to sign in Juba, and Kony in Ri-Kwangba by the Congolese border. When Kony did not appear, it was agreed to leave the Final Peace Agreement open for his signature as efforts were made to address his lingering concerns. Kony later agreed to meet with the Acholi Paramount Chief, Rwot Achana II, and other Acholi leaders to explain why he was not prepared to sign the Agreement. He told them that he did not fully understand how the relationship between the traditional justice mechanisms (*mato oput*) and the proposed Special Division of the High Court would work and wanted more clarification. Upon the team's return, the mediators, delegations and other stakeholders discussed the matter and agreed that no further progress could be made on this matter in Juba. Instead, the key stakeholders were to be convened by the traditional leaders in Kampala, where they would reflect and identify potential answers to the matters that Joseph Kony had raised.

Rwot Achana convened a workshop in early May 2008 at the Fairway Hotel in Kampala with the expectation that its outcomes would clarify answers to the questions the LRA had posed. It was also an opportunity to identify the immediate steps for implementing the Agreement, including the preparation of necessary legislation for adopting the Alternative Justice System. Members of the LRA negotiation team also participated in the workshop and accepted that they had not had enough opportunity to explain to the field commanders the full details of the Agreements. They confirmed that Joseph Kony apparently still harboured fears that the talks were an elaborate ruse to trap and arrest him.

Nevertheless, the workshop sought to clarify the steps and processes that would be undertaken in the process of any LRA returns. Traditional leaders explained the various preparations that had already been undertaken in order to be able to deal with a range of offences and profiles of individuals who would undergo these processes. Judicial officers, Uganda Human Rights Commission officials and Uganda Amnesty Commission members explained the kind of adjustments and legal amendments that would be required to enable their respective institutions to implement their part of the Juba Agreement. Meanwhile, the government delegation took the opportunity to re-confirm its commitment, first made in Juba after the failure of Joseph Kony to sign the agreement, that it would unilaterally implement the Agreements. It pledged to immediately put in place the mechanisms and procedures necessary for the implementation of the Juba Agreement while the LRA signatures were awaited.

But even before these events, the peace process had in fact started to unravel. Towards the end of 2007, rumours started to circulate that Joseph Kony had ordered Vincent Otti's death, apparently because Kony had become concerned about Otti's role in the talks, which he perceived as too friendly to the government. This was a grim reminder of the risks associated with parallel initiatives and the difficulty in managing information, suspicions and the lack of cohesion of groups like the LRA. As the Vice Chairman of the LRA, Otti had indeed been the key link between the LRA and the mediation; as such, he regularly gave instructions to the negotiators. Otti also undertook the main interactions with external interlocutors; he was a regular figure on domestic and international media.

With Otti dead, some of the negotiators peeled away, forcing Kony to make changes to the LRA negotiating team, which was a serious setback. Although the talks still proceeded in 2008, it became more difficult to access Kony. External donors also became impatient with the expensive talks and demanded faster progress. After missing the April 2008 signing ceremony, Kony did not have further meaningful interactions with the mediation, and the prospects of the LRA signing and implementing the Juba Agreement receded. These challenges illustrate the complexity and unpredictability of engaging violent extremist groups and demonstrate that the substance of the process cannot be separated from the range of its weaknesses.

Resumption of Military Operations

In December 2008, with U.S. support, a Ugandan-led military initiative with the cooperation of other regional armies attacked LRA positions in Garamba. Code-named Operation Lightning and Thunder, the official purpose was to ensure that the LRA signed the Final

Peace Agreement, which, even then, remained open for signature. Kony escaped and the operation failed to capture the critical LRA leaders.

Predictably, the LRA splintered into small groups and then swung into vengeful action, attacking villages in the DRC, including the Christmas Day massacres in Faradje in 2008. The renewed military action caused new waves of displacement in Southern Sudan as well. Once again, in an echo of Operation Iron Fist in 2002, serious crimes followed an unsuccessful military campaign against the LRA. With continuing U.S. financial backing and military support – through a contingent of U.S. Special Forces – an African Union-Regional Task Force (AU-RTF) was established in 2011 under the leadership of the AU and with the endorsement of the Security Council. Its task was to eliminate the LRA.

In December 2014, while the AU-RTF was still active, Dominic Ongwen, one of the LRA commanders indicted by the ICC, offered to surrender to the Ugandan army in the Central African Republic. He was later taken into custody by U.S. forces, who facilitated his transfer to the ICC. The AU signed off on his handover through the Central African authorities. In this way, Kampala spared itself the tricky dilemma of what to do with Ongwen in the light of its professed commitment in the Juba Agreement to try the LRA leaders in Uganda. By this time, Uganda, like several African countries, had also become an increasingly vocal critic of the strategies of the ICC in Africa.

The AU-RTF continued to pursue principally military objectives, operating largely independently of any effective political oversight from the region. As the amnesty remained in force in Uganda, the AU-RTF used this to encourage LRA combatants to surrender so that they could be repatriated to Uganda without fear of reprisals. For its part, the Uganda Amnesty Commission maintained offices in the DRC and continued to support repatriation of combatants who had defected. Many years later, after U.S. President Donald Trump came to office and rolled back American involvement in foreign military engagements, the U.S. Special Forces were ordered out of the hunt for Joseph Kony and left in 2017. Without U.S. resources, Uganda also withdrew its forces, effectively putting an end to the pursuit of Kony.

Loss of Implementation Momentum after Juba

Despite the inconclusive outcomes of Juba, the LRA had left northern Uganda as a result of the cessation of hostilities agreement. Displaced civilians began to leave the camps and return to their original homes to begin rebuilding their lives. Although it had undertaken to implement the Agreements unilaterally, without the LRA's participation the government lacked incentive to adopt the complex mechanisms and measures for accountability that required high levels of political and material investment. Perhaps it balked at the political cost of transitional justice, including the uncomfortable scrutiny truth-telling processes would entail. With some opposition politicians and other activists advocating for a truth commission, the government was unsurprisingly wary of such a process.

Given the legal difficulties and the political capital it would need to expend to disentangle itself from ICC obligations, the government was also clearly unwilling to take any steps to remove the threat of international prosecutions before the LRA had demobilised. During

the talks, Ugandan officials had continually presented the removal of ICC arrest warrants as a quid pro quo for the LRA's demobilisation. In the end, the Agreement on Implementation and Monitoring Mechanisms (AIMM) provided for a series of steps in which the government would urgently establish the accountability and reconciliation mechanisms agreed in the AAR, with priority accorded to the Special Division of the High Court.⁴⁷

On the basis of those mechanisms, the government would approach the UN Security Council requesting a deferral of the LRA cases (pursuant to Article 16 of the Rome Statute).⁴⁸ For its part, the LRA was to complete assembling in Ri-Kwangba within one month, and any of its forces in Uganda were to surface.⁴⁹ These provisions were the closest form of assurance that the government was willing to give that it would pursue the removal of the arrest warrants. By this point, however, there were already large question marks about whether Kony would in fact sign the final agreement.

Uganda thus continued to maintain its relationship with the ICC throughout the Juba talks. In fact, in 2007, right in the middle of the talks, the government rather surprisingly volunteered (and was quickly selected) to host the Review Conference of the Rome Statute, which indeed took place in Kampala in 2010. In preparation for that hosting, and in order to burnish its international justice credentials, the government ensured that Parliament passed the International Criminal Court Bill, to facilitate its cooperation with the ICC and enable the prosecution of international crimes in Uganda. However, the government did not take advantage of that legislative opportunity to introduce many of the other principles and measures contemplated by the Accountability and Reconciliation provisions of the Juba Agreement.

New Trajectories in Transitional Justice Policy

Even though Joseph Kony declined to sign the Final Peace Agreement, the Uganda government, with the encouragement of the mediation, undertook that it would nevertheless implement the Juba Agreement. That decision, which was endorsed by the Cabinet of Uganda, sent a positive signal to conflict-affected communities that the Juba process, which had achieved the withdrawal of the LRA from Uganda, had not been in vain and would be consolidated. Without the LRA's presence or proximity, northern Ugandan began to experience peace and communities started to return home to reestablish their lives.

Concerning the transitional justice components of the deal, it is important to note that the Agreement did not employ the term. When the talks started in 2006, transitional justice had not yet gained wide currency in policy and political cycles. Only in 2008, after the Juba Agreement had been completed, did the Justice Law and Order Sector (JLOS)⁵⁰ set up a Transitional Justice Working Group (TJWG), with the stated aim of implementing the deal. The technical work of the TJWG was supported and coordinated by a specialised JLOS Secretariat.

Framing the JLOS initiative as the promotion of "transitional justice", and giving it a national rather than a localised (northern Uganda) focus, had several effects. First, it became possible to delink the development of transitional justice from the implementation of the Agreement, including the oversight of its envisaged implementation architecture.⁵¹ This

led to a high degree of selectivity in the implementation of the Agreement: for example, only the establishment of the International Crimes Division was advanced, but without the leniency or broader reparative provisions expected under the Juba Agreement.

A second effect of a delinked implementation was that the negotiation history of the justice provisions, particularly some of the political understandings that underpinned the leniency and alternative mechanisms, were lost. And with only one of the parties to the talks (the government) remaining part of the implementation process, transitional justice technocrats and donors now drove the project which had by this point evolved into the development of a transitional justice policy for Uganda; an important but quite different process from the implementation of an Agreement. Unsurprisingly, that process became protracted and contested, particularly around questions of truth-telling, reparations and amnesty.

Delay and Selectivity

That it took more than a decade after the conclusion of the Juba talks for a national transitional justice policy to be adopted is significant at several levels: it reveals the ambivalence the government has had towards the more intrusive and costly aspects of transitional justice. But the loss of momentum was also inevitable, because without the demobilisation of the LRA, the government was less inclined to invest political and other capital in promoting alternative justice mechanisms.

It was not always thus: during the Juba talks, and in response to the AAR, the Principal Judge, Justice Ogoola, took immediate steps to establish the War Crimes Court (WCC), and in July 2008, the creation of the WCC as a division of the High Court was announced. Owing perhaps to the absence of formal implementation processes of the Agreement, the WCC – later renamed the International Crimes Division (ICD) – was established without the range of amendments envisaged by the Juba deal. However, proponents of international criminal justice seized the opportunity to shape the development of the Court into a “mini ICC”.⁵² In this emulation of the ICC, it was inevitable that some of the nuance of the Juba Agreement, including the tempering of the most retributive aspects of the criminal justice process, would be lost. As already noted, the co-existence of the ICD with the Amnesty Act generated legal tensions, as illustrated by the chequered history of the *Kwoyelo litigation*.

The process also became susceptible to more direct donor influence. Uganda’s international donors, mostly European countries and the European Union, championed the transitional justice project for their own policy reasons, and contributed to the selectivity of the implementation of the Juba Agreement. Referred to as “development partners”, international donors participate actively in the various sectors of government (such as JLOS) where they have considerable leverage in reviewing, proposing and approving funding for government programs. However, this apparently intrusive latitude has limits: the security and political sector and their budgets are off limits; and, whenever the government considers that it needs to protect its core interests, it will often find a way to ensure that donor priorities do not prejudice those interests.⁵³

While the implementation of the Juba Agreement principles and mechanisms suffered from delay and revision, the Agreement was undoubtedly responsible for triggering the development of a transitional justice policy for Uganda. Whether the implementation will suffer selectivity remains to be seen; but for the many who have been waiting for the gains of Juba to be realised, the policy, adopted in June 2019, has been widely welcomed.⁵⁴ There is an expectation that a serious program of reparations will now be implemented in northern Uganda. Overall, the need and desire for reckoning with Uganda’s past also remains strong. All these were key elements of the Juba Agreement.

Architecture of the Transitional Justice Policy

The June 2019 transitional justice policy aims to address the key accountability and reconciliation needs of post-conflict Uganda and includes the usual options of prosecution, truth-telling, reconciliation, reparations, memorialisation and other initiatives. Building on Juba, it emphasises traditional justice mechanisms in recognition of the contribution these make to the resilience and cohesion of Ugandan communities. Legislation will be introduced in the form of a Transitional Justice Act to implement the policy. Other laws will also be enacted to facilitate, among other things, traditional mechanisms, reparations, and witness and victim protection. The lead implementation role will be with the Ministry of Internal Affairs, which has administratively and politically overseen the amnesty and dialogue processes in Uganda.

This is, in fact, the first time that Uganda has adopted a comprehensive policy to deal with the past. Its adoption was widely welcomed, following years of campaigning by many Ugandan organisations and stakeholders.⁵⁵ But the policy will require legislation. Moreover, it is ambitious in scope and is consequently resource-intensive. As with many Ugandan policies, its effective implementation will depend, to a significant degree, on the vagaries of external funding. This leaves a real prospect that the implementation of transitional justice processes will not only be inadequate but also selectively weighted towards the preferences of the key donors.

In northern Uganda, one interviewee considered the policy as bringing “an added intelligence to how to provide justice beyond the legalistic template”, while noting that “we must not wait for another crisis to start rethinking traditional justice”.⁵⁶ That seems a fair assessment. Properly interpreted and applied, the policy has the potential to achieve an elaboration of transitional justice processes that respond effectively to the complex aftermath of conflict in northern Uganda.

The Future of the Amnesty

Given the controversy over efforts to abolish the amnesty, the 2019 transitional justice policy approaches the matter more carefully. It aims to address perceived gaps in the amnesty process and is committed to amending (not removing) the Amnesty Act in order to introduce a clearer conditionality. In particular, future applicants would need to make relevant disclosures before they could receive the amnesty. They would also be encouraged to participate in mechanisms of reconciliation and accountability.

With the passage of time since the Juba talks, however, the pool of potential amnesty claimants has markedly reduced. The number of applicants has already dropped to a mere trickle emerging from the Central African Republic and the DRC. Nevertheless, even in relation to previous amnesty recipients there are still outstanding social processes of reconciliation as well as individual and collective reparations to be addressed.

Challenging Perpetrators: Thomas Kwoyelo and Dominic Ongwen

After he was injured and captured by Ugandan forces in the jungles of the DRC in March 2009, Thomas Kwoyelo was brought back to Uganda, where the government decided to put him on trial. He challenged the decision, claiming he was entitled to the amnesty. Like Ongwen, it is said that Kwoyelo was abducted as a child while on his way to school. In a demonstration of the policy dilemmas and tensions surrounding the amnesty, the Constitutional Court ruled that he was entitled to the amnesty, but its decision was later overturned by the Supreme Court of Uganda in 2015.⁵⁷

Meanwhile, Kwoyelo was on pre-trial detention for nearly a decade before charges against him were confirmed in the ICD in August 2018. But the trial was adjourned yet again, with Kwoyelo remaining in detention, denied bail. Frustrated by the delays and treatment, in March 2019, he even requested to be transferred to the ICC for trial.⁵⁸

Both the Ongwen and Kwoyelo cases have brought mixed feelings in northern Uganda about these formal processes. As the two men sit in docks and cells, others who were more senior than them in the LRA walk the streets of Gulu freely, creating the impression that justice is a lottery. Although the ICD has adopted identical procedures to the ICC, it lacks the resources to implement these in full, which is resulting in further delays. As such, when challenged about the Kwoyelo case, judges of the Division have openly blamed these adopted procedures for the delays.⁵⁹ Lengthy delay in the Kwoyelo trial has another pernicious and unintended consequence: it risks normalising the already widespread and inordinately lengthy pre-trial detention of defendants in Uganda's criminal justice system. It is deeply ironic that Kwoyelo's case is already failing to set higher justice standards in a country where thousands languish for years in overcrowded prisons, awaiting trial.

Unlike Kwoyelo's lawyers, Ongwen's legal team has already made its closing statements (in March 2020), at the end of a trial in which he pleaded not guilty to all charges. His defence team has focused on the claim that Ongwen was abducted at a young age and brutalised into becoming the LRA's fighting machine. The question of the impact of coercion, particularly in relation to persons abducted as children, is central to these two cases. It cuts to the heart of some of the most pressing justice dilemmas generated by the routine use of coercive methods by violent extremist groups. It also illustrates starkly the moral quandary in applying unmodified criminal justice processes in response to groups like the LRA. Although this challenge of the dual identity of individuals as both perpetrators and victims has not yet been satisfactorily addressed in the jurisprudence of domestic or international criminal courts, for years, this has agonised communities of northern Uganda and has informed their choices for leniency options, including amnesty. The concept in the Juba

Agreement of an alternative justice system that provided for multiple fora and methods for pursuing accountability was intended, among others, to address this particular dilemma.

It is noteworthy that after Ongwen was transferred to The Hague for trial, the ICC increased its outreach in the north, later also streaming the proceedings for communities to watch. Hearings of Kwoyelo’s long-running case have also been periodically scheduled in Gulu and are streamed. With greater exposure, there has been heightened interest and expectation in these cases; indeed some of the communities associated with Ongwen’s alleged crimes are now under the impression that a successful conviction will bring them financial reparations.⁶⁰ This is already generating some contention and debate, including unfavourable comparisons between the ICC framework and the absence of an effective reparation regime under the national system.⁶¹ Regardless of their final outcomes, these two emblematic cases have already had far-reaching and complex ramifications, and their significance at the domestic and international level will continue to unfold.

Navigating Complexity

Responding effectively to violent extremist groups inevitably engages several aspects of policy and the participation of key state institutions, including the military and security agencies, as well as a range of non-state stakeholders. Coherence is therefore essential in terms of the identification and implementation of strategies, including in ensuring that the contributions of the different policy actors and stakeholders are valued. As Uganda’s experience shows, national priorities, style of governance, resourcing, and other internal and external influences will have a strong bearing on policy choices and their implementation. Responsiveness to the political and other identities of the armed groups is also critical.

Conceding Political Dimensions and Durability

Citing the heinous crimes of the LRA and the nebulousness of the group’s spiritual goals and practices, national and international actors have often struggled to concede a political identity to the LRA. Assertions that the group has “no political agenda” or is “out of touch with reality”, have been commonplace. President Museveni’s professed revulsion at the LRA’s conduct was not contrived; but the government understood that revulsion was not enough. It also acknowledged that the failure to end the LRA conflict had wrought severe consequences, including the appalling economic and social conditions of displaced persons in northern Uganda.⁶²

Fearing to confer legitimacy on violent extremist groups – which, admittedly, often crave recognition – governments often fail to concede that whenever a group takes up arms to resist the state or the established order the group embarks on an essentially political enterprise even though its methods might be undoubtedly criminal. Instead, governments are often preoccupied with denying such groups any political capital, including “the oxygen of publicity”, and invest inordinately in efforts to depoliticise the groups. Focusing on the criminal aspects of their enterprise is often part of a multi-pronged strategy to deny a political rationale to a group’s violence, while also prioritising and justifying increased investment in securitised responses to such groups.

A political framing avoids the pitfalls of caricature, and provides a rationale and framework for identifying durable solutions as well as immediate incentives, including adjustments and alternatives to retributive justice. It also enables the principled and transparent exploration of processes for dealing with the past and the full range of grievances, including those that instigated the conflict. However, a political framing is also more likely to expose the conduct of the state to greater scrutiny, including in its choice of policies to address the violence of extremist groups.

A political lens is important for another reason: it facilitates a deeper appreciation of the endurance of such violent groups. Although they might begin with one set of political goals or spiritual motivations, with the passage of time, change of circumstances, or interaction with other actors, these groups often change strategies or tactics. This is certainly the case for the LRA which, in three decades of existence, has proved to be highly adaptive.⁶³ Starting off with a strong millenarian identity located within Acholi society in northern Uganda, it then morphed into a proxy force for the Khartoum regime.⁶⁴ Gradually drifting farther and farther away from its Ugandan political and spiritual moorings, it now operates hundreds of miles from Uganda, across several territories. Other groups, such as Al Qaeda, have also evolved towards more existential motivations. Such an appreciation of the evolution of these groups allows policymakers to tailor appropriate responses, including incentives, to facilitate their demobilisation.

While its capacities have been degraded by concerted military and other campaigns – in which more than a billion dollars has been spent by several actors, with a considerable outlay of U.S. military resources – the LRA has not been removed from the theatre of conflict.⁶⁵ That the group has continued to survive in environments that others would find most inhospitable is a remarkable feat and reminds us that such groups are not readily susceptible to quick military defeat. Strategies of impatience, such as the pressures brought to bear on the Juba negotiations when the Ugandan and U.S. governments pressed mediators to wrap up negotiations speedily, in anticipation of military action, can close off the door to peaceful options without delivering decisive security gains, as the failure of Operation Lightning and Thunder demonstrated.

Recognition of a group's true characteristics, including its endurance and adaptability, can also have implications for the way in which processes of engagement are designed. Dialogue processes are normally designed with an expected sequence of: pre-talks, dialogue, settlement and implementation. However, this assumption of linear progression is often at variance with the realities associated with such groups. The Juba process was also hamstrung by this conventional linearity, which was compounded by the domestic and external political pressures on the mediators and negotiators to reach a deal (or abandon the talks) within specified timelines as the government and others lost patience with the process.

Unconventional and highly adaptive violent groups challenge conflict resolution practice, particularly the dominant approach where the singular pursuit of comprehensive agreement is the main goal. Shifting the emphasis towards a more gradual and incremental approach might yield greater progress. Such an approach would not press relentlessly

for signatures but would allow issues on which consensus emerges to be implemented – perhaps with joint or consensual oversight. For example, in the Juba process, the implementation of some elements of the Comprehensive Solutions Agreement and of the AAR could conceivably have begun with LRA participation, even as the exploration of other issues continued in Juba.

Such an approach would require a complete reorientation and the buy-in of all parties. In 2006, however, the Juba parties, stakeholders and mediation were not of this mindset. Instead, the process was (inadvertently) allowed to become hostage to a single, climactic signature by Joseph Kony. When that failed to materialise, support for the process dissipated; the opportunity to try another approach had already been lost, even though the government undertook that it would unilaterally implement the Agreement.

Adapting Policy for Unconventional Groups

Taking seriously the characteristics and proclivities of violent extremist groups is essential for developing appropriate strategies of engagement, including in the framing of the issues and the design of any negotiation process. In this regard, Betty Bigombe’s facilitation of the early negotiations (1992-94) between the LRA and the government is an example of good craft in dealing with a violent group as one finds it and not as one wishes it to be. By approaching the LRA with the benefit of local knowledge and empathy towards its spiritual beliefs – although without subscribing to the values of the group – Bigombe was able to win the trust and secure the engagement of the LRA’s leaders sufficiently to advance the negotiations towards a ceasefire.

In the Juba process, although the mediation could not benefit from the same degree of local expertise, it nevertheless enlisted and facilitated others – cultural, community, religious and political leaders and representatives, who were more familiar with the group’s worldview – to come to Juba and visit Ri-Kwangba and Garamba to engage the LRA. Being a third party, the mediation had little control over these interactions; but neither did it desire or seek to exert control. Like Bigombe, the Juba mediation recognised the value of taking seriously the LRA’s projections of itself, and of understanding and accommodating the ideological, spiritual and other belief systems of the group. Doing so also had the benefit of sending an important signal of recognition.

Promoting Local Engagement and Agency

Groups like the LRA often leave a wide trail of damage in their wake, blighting communities across national boundaries. Yet, those who most bear the brunt of the violence are rarely involved in adopting the policies and processes for engaging such groups, even though they invariably become key stakeholders in any efforts to address the groups’ actions.

As the Acholi experience has demonstrated, members of affected communities do not lose their social and other connections with groups like the LRA, even if they might repudiate its actions, or indeed be their primary victims. Such groups will often appropriate ethnic or religious identity for political reasons, as this provides a reference for making broader demands. Communities within which these groups emerge often understand

more than outsiders the origins, operations and motivations of the group. They can thus assist in identifying viable dialogue, accountability or rehabilitation options. Where they are allowed to make positive contributions to the development or implementation of a policy responding to such groups, this enhances the legitimacy of the policy. It also helps to prevent or mitigate the stigmas and simplistic characterisations of host communities as either victims or collaborators.

Even though today's violent extremists operate across national boundaries, this enhances, rather than diminishes, the need to ensure that the most affected communities – and there will be several – are part of the search for solutions, rather than merely passive recipients of the policy choices that others have made. As witnessed in the development of amnesty and transitional justice processes, and in the Juba peace talks, when communities are afforded real opportunities to participate in the diverse policy development processes and in their implementation, this leads to better policymaking and enhances a sense of community ownership of the outcomes. Engaging citizens genuinely, respectfully, and candidly will signal that their views and circumstances are taken seriously and help to reinforce civic trust. Citizens who have been consulted or actively engaged are also more likely to be mobilised and positioned to contribute to transitional justice processes, particularly where, as in Uganda, the policies seek to rely upon the communities' contribution.

Traditional Justice

Northern Ugandan communities have been particularly active and influential in promoting traditional justice mechanisms as a tool for social reintegration, going back to their advocacy for amnesty and for dialogue during the late 1990s. In the Juba talks, the thread of traditional justice thus ran strongly, and it has now been knitted into the national transitional justice policy, which will increase the prospects of its application. The emphasis on traditional justice reflects the continuing relevance of social and spiritual meanings of justice within Acholi society, where traditional reconciliation processes are regarded as an important vehicle for the recovery of truth and fostering personal and collective healing.⁶⁶

A deepened appreciation of the contribution that local systems of knowledge and practice can make is crucial, and across African societies some patterns are discernible. Concepts of guilt and responsibility are not approached in exclusively individualistic terms, but are understood to have social and spiritual dimensions, to be mediated through ritual and other social processes. Societies might also differ in how they remember: many African communities commemorate not through the construction of monuments but through celebration, where narratives of the past are woven into the music and performance. As one interviewee opined: “the [construction of] physical structures or memorial structures does not make sense [to us]; it instead traumatises the returnees even more”.⁶⁷

At their best, traditional mechanisms enrich understandings and practices of transitional justice, including reparations, memorialisation and acknowledgements. For example, in addition to promoting reconciliation between the living, many traditional societies also emphasise propitiation and atonement – including the making of solemn commitments – to the departed. These belief systems and practices enrich transitional justice with

their vibrant and socialised avenues for promoting accountability, renewing and healing relationships, and promoting reconciliation and reparation through mechanisms that have deep resonance in practising societies, but might not be accessible through formal systems. Each society and community will need to consider how best its traditional and customary practices can contribute to the goals of accountability, reconciliation and social recovery.

The experience from northern Uganda demonstrates that the impetus for exploring traditional systems grows when the formal systems of justice are perceived to be inadequate or obstructive towards the attainment of durable peace. In this regard, the resort to traditional justice can also serve as a vehicle for communities to assert political agency, by assuming responsibility for implementing critical accountability and social interventions.

Harnessing these often local systems of knowledge and practice is a complex undertaking that requires careful and empathetic adaptation. While these systems might not have the capacity to respond to all the heightened demands of addressing large-scale violations, alongside formal mechanisms, they are capable of making important contributions towards the recovery of societies. Securing this outcome also requires the adoption of criteria and procedures by which formal institutions can systematically and predictably defer to these complementary alternatives. The recognition and adoption of traditional justice as a pillar of Uganda's transitional justice policy is an important affirmation, which is in harmony with the aspirations of Ugandan society. The policy should therefore serve as the basis for more rigorous and systematic adaptation of traditional justice in order to secure the full benefit of these crucial local systems of social repair.

The Challenge of Resourcing Transitional Justice

Seeking to address the impacts of groups like the LRA is resource-intensive at several levels. Where the administration of justice faces immense resource constraints – as reflected in a horrendous backlog of cases before the criminal and civil courts – the national capacity to meet the costs associated with transitional justice is a highly relevant consideration and policy and implementation can flounder in the face of inadequate resources. For this reason, the Juba Agreement obliged the Government to avail and solicit resources for the implementation of the Accountability and Reconciliation Agreement.⁶⁸

But reliance on external resources raises questions about the long-term sustainability of transitional justice processes and potential distortion of implementation patterns. Policy-makers must decide whether to design processes that are beyond their existing resources – with the risk that they might not be implemented – or to remain cautious and realistic, and therefore avoid transitional justice processes that might prove to be beyond the means of the state and society. Lack of resources is a reality that cannot be avoided; its impacts can be immediate and limiting. Strategies employed by Uganda to mitigate resource constraints have included its minimalist approach to the amnesty process. Furthermore, the government has simply scaled back, or failed to progress, resource-intensive interventions, including formal criminal justice processes. Although transitional justice must seek to transform a society and transcend its weaknesses, its planners and implementers must also operate within that society's constraints.

Managing Legislation and Policymaking

If groups like the LRA present challenges because they are dynamic, then the strategies for responding to them should also be adaptable and nimble. Uganda has changed tack often in its responses to the LRA; even when it has introduced legislation, as in the case of the Anti-Terrorism Act or the ICC Statute, it has not allowed those laws to prevent efforts to engage in dialogue or to promote defections through formal leniency. Although it amended the Amnesty Act to introduce provisions for excluding unsuitable claimants, the government showed restraint by not aggressively using these powers of exclusion. Since enacting the law in 2000, the government has, almost constantly, ensured that the amnesty was available to nearly all claimants.

Both the exceptions to the grant of amnesty and to the application of anti-terrorism rules have sought to enshrine formal flexibility. Likewise, in the implementation of these laws, the government has generally leaned towards maintaining its options for leniency. Within the Juba negotiations, however, the government accepted the need to develop a more comprehensive domestic transitional justice package, with clearer criteria for the application of the different mechanisms. Moreover, it was prepared to move away from both blanket amnesty and international prosecutions. To achieve this, it was necessary to elaborate the relevant principles and mechanisms in sufficient detail in the Juba texts, with further elaboration contemplated at the implementation stage. But when the process did not deliver the LRA's demobilisation, the government lost its main incentive to implementing those obligations, and reverted to its previous ad hoc approach.

Since the enactment of the amnesty, and particularly in the period after Juba, the Ugandan parliament has emerged as the more consistent policy actor, protecting the values and goals of the amnesty process and peace-making agenda even when the executive branch sought to change policy directions. Legislatures are sometimes less susceptible to the external pressures that the executive might come under; and legislative debate can provide important opportunities for building consensus, political scrutiny and validation, adding legitimacy to adopted policies. But this requires legislators to be well-informed and well-attuned to the complexity of the issues at stake, otherwise they might fail to act as a corrective to the executive branch or, worse, obstruct viable policies out of political expediency or an incomplete grasp of the issues.

Etching transitional justice policies into legislation does carry the risk of cementing delicate matters whose implementation often requires contextual application and flexibility. At its best, legislation in response to such challenging phenomena will confer broad discretion on the implementers to tailor responses, thereby allowing for adjustments to be made in circumstances for which law cannot provide full answers in advance. In addition to clarity of purpose, transitional justice legislation must be accompanied by sufficient detail and guidance to facilitate the most effective implementation that contributes to the attainment of its goals. As an example, one of the stated objectives of the Amnesty Act – to “promote appropriate mechanisms of reconciliation” – was insufficiently elaborated and, consequently, has arguably been inadequately implemented for lack of such guidance.

Role of the Military

Like the military and security sector in many countries, Uganda's military has been a key domestic player on shaping policy and other responses to insurgencies and violent extremism. Because of its origins in Museveni's bush war, the views of the military on the conflict and dialogue efforts, and its support for the amnesty, have been highly influential. Even after the transformation of the National Resistance Army (NRA) into the Uganda People's Defence Forces (UPDF) following the adoption of a new constitution in 1995, the army has remained a dominant policy influence, with the UPDF having reserved seats in the Parliament.⁶⁹

Since 1986, the army has often been the main face of the state in northern Uganda – and its violations since its earliest entry into the north have not been forgotten by the affected communities. As was illustrated in the Juba discourses, debate about accountability for the LRA invariably implicates questions of the responsibility of the army for past violations. The population still awaits justice and reparations. Over the years, in order to improve relations with the civil population, army divisions in the north have established and maintained civil military committees to engage with the community. The army has also recruited heavily from the community, with the result that Acholi have often been highly represented (and thus taking casualties) on both sides of the fighting, adding to the societal dilemmas about the conflict.

As seen during the Bigombe and Juba talks, the military has been a key player in all peace processes, with military and security officials always part of the delegations of the government. Moreover, the military's decisions and actions in the field often have direct and immediate effects on the direction of dialogue processes. Because of the combination of its role in the proxy war with Sudan, particularly its support for the SPLA, and the fact that it was allowed to operate on the territory of Sudan and other neighbouring states, the army's understanding of the regional dynamics of the conflict has often been deeper than that of many civilian actors, including some policymakers.

Recognising the potential of the law for achieving defections from the LRA, the army has been a consistent supporter of the amnesty process. As the first institution potential defectors will encounter in the field, the army has established centres and modalities for receiving former LRA combatants. Over the years, it has also absorbed former LRA combatants, including by constituting a special battalion (105th Battalion) of former LRA combatants, which it has deployed back into the fight against the group. This has been controversial: recruitment is supported by some as preventing the temptation for individuals to return to the bush owing to hardships in reintegration, but opposed by others in the community for continuing the militarisation of vulnerable former combatants.⁷⁰ Another criticism is that the army's practice has privileged male former combatants and not the women who tended to be left to fend for themselves.⁷¹

Although it has its own formal justice system, the military has not systematically investigated or held to account its members who were responsible for violations. This imbalance in accountability has created grievances and political tensions over the years, and

the issue featured heavily in the Juba negotiations. Moreover, key figures in the military establishment have benefitted from the war, including through corruption as manifested in the phenomenon of “ghost soldiers” in northern army divisions. But the military, and other security agencies, have brought understandings of context, as well as of the changing methods and motivations of the LRA, which are not always available to other interlocutors. Uganda’s military has also been involved in the adoption and implementation of key policy decisions in response to the LRA, including the amnesty, dialogue, accountability and even international justice.⁷² Their greater inclusion in the development and management of holistic strategies would add to the coherence and effectiveness of the response to unconventional groups.

Concluding Reflections and Recommendations

This section revisits some of the key policy interventions that have sought to address accountability, reconciliation or leniency in relation to the LRA, and considers possible actions for the future. Since the LRA conflict and its impacts are still unresolved, Uganda's engagement with transitional justice issues over the years provides insights that might assist in the further development and application of interventions towards the group and hold lessons for addressing comparable challenges posed by other groups.

The Amnesty Act – Alternatives to Prosecution

For a period before the start of the new millennium, Uganda conferred ad hoc amnesties, including presidential pardons, to encourage insurgents and political opponents to abandon their activities. When under domestic and regional pressures Uganda adopted the Amnesty Act in 2000, this became the government's chief conflict resolution and management instrument. The Act aimed to incentivise defection by exempting individual members of armed group from the formal, retributive justice system, towards other, more appropriate, reintegration strategies.

Although in practice Uganda had not been systematically prosecuting former insurgents, particularly formerly abducted persons, the amnesty process provided a formal reassurance to beneficiaries and formally facilitated their resettlement into society. The simplicity and accessibility of its processes have been key hallmarks that should be preserved. However, severe under-resourcing has left the Amnesty Commission cash-strapped and heavily reliant on inconsistent donor funding or partnerships with other organisations. Among other consequences, the Commission has been unable to fulfil certain aspects of its mandate, such as the systematic promotion of social reconciliation processes in conflict-affected communities.

Faced with the scale, motivations and characteristics of groups like the LRA, societies might understandably conclude that widespread prosecutions are not only unviable but undesirable, focusing instead on a few emblematic cases. While a Ugandan debate continues about how best to adjust the amnesty process so that it strikes the right balance between conflict resolution and the promotion of accountability, and between reconciliation and healing, the fact that approximately 28,500 individuals (about half of whom are from the LRA) have taken up the amnesty and reintegrated in society is a clear sign of its success as an inducement for defections.

In terms of the future, the national transitional justice policy now envisages amendments to the amnesty law to make it more explicitly conditional. Although the number of potential claimants has markedly decreased, any future amnesty regime will still need to be well resourced, particularly if new procedures will require greater administrative oversight. By creating a presumption in favour of amnesty and decentralising the application process, the current model has been able to convey an unambiguous message that provides incentives for defection and demobilisation. This combination of clarity of scope and simplified procedures should be retained. Any criteria for excluding individuals from the amnesty will need to be framed in the clearest terms, so as to avoid damaging uncertainty and confusion. And the process for excluding claimants should provide sufficient rights and procedures for an individual to challenge any adverse findings. In lieu of exclusion, certain individuals could be required to participate in alternative accountability processes as a condition for exemption from formal prosecution. In this connection, social reintegration, truth-telling and appropriate reparations could be systematically promoted, by making use of community mechanisms, including traditional justice, as an integral part of the amnesty process.

International and Domestic Criminal Justice

Informed by a range of political calculations, the Ugandan government referred the LRA situation to the ICC in December 2003. But in making that referral, Uganda kept its political and legal options open; neither revoking its amnesty law nor abandoning the exploration of dialogue initiatives.

The Ugandan experience of engaging transitional justice issues, including in the Juba process, encapsulates the challenges entailed in the concurrent pursuit of international and domestic justice interventions alongside peace processes and dialogue efforts. Because they symbolise and accentuate the power and domination of the status quo, while at the same time stigmatising and delegitimising individuals and groups, public trials represent a strong negotiation disincentive for those who fear they might become targets of criminal prosecution in the future. Moreover, in the case of the LRA, the group already had low trust in the ICC, which it considered had not been even-handed in its handling of the northern Uganda case, and had allowed the Ugandan government to insulate itself from the scrutiny of the Court. This political objection to international justice, which was based on the perceived flaws of the Court, could not to be dismissed as mere evasion.

At the domestic level, the delays and handling of Thomas Kwoyelo's trial, and the failure of the government to adopt and promote alternative proceedings, including the cooperation and sentencing regimes identified in the Juba Agreement, have undoubtedly hampered the contribution of the International Crimes Division of the Ugandan High Court to both accountability and reconciliation.

Another lesson the Ugandan case teaches is that while armed groups will often resist judicial stigmatisation, they might be willing to accept the necessity or inevitability of other forms of accountability that they perceive to be less stigmatising. A combination of

alternative approaches that seek to mitigate political damage, but without sacrificing the rigour or fairness of investigations or adjudication, is more likely to strike the right balance. Adjustments to formal procedures, and the adoption of other adjudicatory processes with which individuals and communities might identify more closely – such as traditional justice – can assist in attenuating the stigma associated with criminal proceedings. But in any mixed model, it is imperative to ensure that the various transitional justice measures operate compatibly with each other. This might require additional legislation and the support of key stakeholders, including affected non-state implementers and communities.

Pedagogical Needs and Negotiation Design

All of the transitional justice questions under discussion in Juba were complex: the implications of the ICC arrest warrants, including the application of the principle of complementarity; the scope of reparations; the rationale and workings of a truth commission; the meanings of political and social reconciliation; the efficacy of traditional justice mechanisms, particularly the relationship between *mato oput* and criminal justice; and more. Each side, and indeed individuals within each side, brought different understandings, experiences, prejudices and preconceptions of these questions. Matters were further complicated by the fact that the key interlocutors (Joseph Kony and senior LRA commanders) remained far away in Garamba Park while others were grappling with these involved issues in Juba.

For all the key agenda items, the mediation encouraged an iterative approach whereby each party developed, exchanged and presented position papers before embarking on detailed negotiations. Only after these were debated would the mediation assume any role in harmonising the positions. This approach ensured that each party grappled for itself with the difficult issues. For Agenda Item III, in particular, the mediation also organised workshops and presentations on a range of transitional justice issues, including on the Rome Statute and traditional justice. In addition, lawyers attached to the mediation spent considerable time with the parties, including the LRA and government leaders, explaining proposals and listening to concerns.

Allowing them time to settle into a rhythm of negotiations prior to tackling Agenda Item III was considered to have enabled the parties to deepen their understandings and to reach consensus on a strategy to prioritise credible domestic proceedings. What had started as a sparse agenda on “Amnesty, Mato Oput and Reconciliation”, became a much richer and more coherent text, with the name of the agreement also changing to reference accountability before reconciliation. While transitional justice has become a highly legalised field, it remains essential that negotiations and mediated processes allow the parties to reach their own genuine and informed agreements after grappling with the issues. It is important, but insufficient, to enhance the parties’ understanding of the technical issues.

Political Framing

Defining violent groups like the LRA exclusively in terms of their criminal conduct risks obscuring their political characteristics and motivations. Despite the government’s evident discomfiture with this approach, under the rubric of Comprehensive Solutions a range of

thorny political issues, such as the marginalisation of northern Uganda and the question of reparations, were placed on the agenda. This implied balancing politics with the more procedural aspects of justice discussed under Agenda Item III.

Juba teaches that processes of engagement should not de-emphasise political questions in favour of justice issues exclusively. Instead, they should recognise that even justice issues have political dimensions. In the design and management of engagements, mediators and facilitators should allow each party its due rights as a core participant and avoid creating an environment hostile to, or disadvantageous for, any party's self-understanding.

The Contribution of Consultations

Through the formal consultations, for which the negotiations were adjourned between June 2007 and February the following year, the parties engaged Ugandans on questions of accountability and reconciliation. This process was intended to secure a high degree of societal buy-in for the Juba proposals, and to insulate the legitimacy of the outcomes.

The process provided the LRA delegation with an opportunity to engage with citizens and to anchor their future discussions in the realities on the ground in Uganda. It was, significantly, the first time for some of its representatives to return to Uganda since the NRM took power. That they were well-received, including by President Museveni, helped build confidence. Their ability to conduct meetings and rallies in northern Uganda without interference also exposed them to citizens' views, some of which were critical of the way that the consultations, including apologies, were being handled.⁷³ That more senior leaders of the LRA could not be part of the delegation that travelled to Uganda was a missed opportunity to build confidence.

As for the government's consultations, led by Dr Ruhakana Rugunda, its negotiating team systematically engaged a cross-section of citizens to discuss the war and its impacts and to hear views about questions of justice and reconciliation. The exchanges were frank; the views varied. The quality and intensity of those discussions – taking place while the conflict was ongoing – are unlikely to be re-captured. Moreover, the inputs directly shaped the positions of the government delegation, particularly on the issues of truth-telling, reparations and traditional justice. The process and outcome stand as an important record and significant contribution to methods and virtues of citizen engagement.

Of course, consultations are not a substitute for negotiation and agreement: even inclusive models of mediation need the core parties to reach agreements which they will own and honour. As such, a balance needs to be maintained between the right of the parties to reach agreements that they will honour, and the entitlement of citizens to shape outcomes that will affect their core interests. Juba sought to achieve this balance by ensuring that the parties negotiated the transitional justice elements in two freestanding parts, producing an agreement on key principles and some mechanisms (prior to the consultations) and a further agreement on the implementation mechanisms (after the consultations). The consultations thus bridged the two agreements, validating the decision to break off negotiations to carry them out. The act stands out as a powerful example of innovation to strengthen national ownership and the buy-in of the parties to home-grown transitional justice.

The Shadow of Arrest Warrants

When leaders of violent armed groups like the LRA are the subjects of arrest warrants, sanctions and other justice threats, their need for personal legal security grows, requiring tailored solutions. This introduces an added personal dimension to the process, which might affect the psychology and security demands of key individuals. Moreover, arrest warrants bring added scrutiny as well as interventions from justice and human rights actors, which can be to the detriment of the process.

During the Juba negotiations, judges of the ICC Pre-Trial Chamber dealing with the LRA case often scheduled status conferences, demanding updates and comment from the ICC prosecutor and from the Ugandan government. As the negotiations continued, Moreno Ocampo, the ICC prosecutor, became more explicit in his criticism of the Juba process. Such interventions complicated the task of nurturing the confidence of the parties in the process and its outcomes. In March 2018, after the conclusion of the main texts, and ahead of scheduling any signing, an LRA delegation travelled to the seat of the ICC in The Hague, in order to enhance its understanding of the court's process and the prospects of deference to the Juba Agreement. There, it held meetings with registry officials; by contrast, the prosecutor declined to meet with the delegation.

As a consequence of the lack of clarity about judicial outcomes, a serious political search for solutions to a very damaging conflict was ultimately determined by the uncertainty over procedural rather than substantive questions. The sticking point boiled down to whether the ICC would defer to national proceedings agreed in Juba. This raises some troubling questions about the capacity of international justice (both substantively and procedurally) to respond effectively to the need for predictability in conflict resolution contexts, particularly where, as in Juba, there was a real prospect that a peace deal would in fact promote domestic accountability for serious violations while also preventing the commission of new ones.⁷⁴

Because the question of the most appropriate fora and form for the delivery of justice will continue to arise in settings where domestic and international justice are in competition, a refinement of the principles and procedures for facilitating deference of international justice processes to domestic systems, would assist in managing these tensions and avoid damage to prospects of both peace and justice. In the meantime, the states or institutions concerned with a case can confidentially provide or reinforce – outside of the text – legal and political assurances that will engender confidence about the implementation of any negotiated outcomes.⁷⁵

Insulating Gains of Peace Agreements against Setbacks

Although they might fail to deliver the immediate goal of demobilising an armed group, where detailed agreements have been reached – particularly on elements that address broader grievances and issues of transitional justice, and where the process has been inclusive – more consideration should be given to implementing those outcomes. This

includes recognition that the outcomes of peace processes do not belong exclusively to the belligerents.

Although the Juba talks did not formally proceed on the basis that “nothing is agreed until everything is agreed”, each agreement, though potentially freestanding, was instead collated with others to serve the single goal of achieving the demobilisation of the LRA in accordance with the specified time table. This made all the broader gains of the process hostage to a single final signature, which became an impediment to the implementation of the agreements. Instead, negotiations involving groups like the LRA should be designed to enable the agreements that emerge to be freestanding and implementable even when full implementation, or a complete end to violence, is not immediately achieved. This would allow for some early implementation in areas on which there has been agreement, particularly if these confer broader social, economic or other benefits and obligations upon other actors. Because they apply to a wide range of stakeholders and entities beyond the negotiating parties, many aspects of transitional justice are particularly amenable to such prioritised implementation.

Beyond Boundaries: Transnational Transitional Justice

Once the LRA started to operate in Sudan from the mid-1990s, it was inevitable that its violations would affect individuals and communities outside Uganda. After the group relocated to the DRC and then to the Central African Republic, it soon became clear that it would be necessary to address the LRA’s conduct in those countries in addition to the long history of violations in northern Uganda. In the text of the Juba talks, this issue was addressed by ensuring accountability and reconciliation processes would be promoted with respect to “the conflict between the Parties in Northern and North Eastern Uganda, including its impacts in the neighbouring countries”.⁷⁶ As regards reconciliation, the agreement also provided for “appropriate reconciliation mechanisms to address issues arising from within or outside Uganda with respect to the conflict”.⁷⁷

All countries and territories affected by the conflict were present at the talks as observers, facilitators, or as part of the Cessation of Hostilities Monitoring Team.⁷⁸ As such, it was understood that on accountability issues, those countries would defer to Uganda, with the details of future collaboration to be worked out later. However, due to the non-implementation of the agreement, these informal understandings on accountability and reconciliation cooperation were never acted upon either legislatively or administratively.

Many northern Ugandan leaders, including the Acholi Religious Leaders’ Peace Initiative (ARLPI), see transitional justice as contributing to addressing the impacts of the conflict beyond Uganda’s borders. For them, the answer is in a regional strategy whereby the DRC, Sudan and the Central African Republic would also adopt responses to the LRA along the lines of the Ugandan transitional justice policy and amnesty process.⁷⁹ Indeed, the ARLPI has engaged with communities in neighbouring countries including Faradje in the DRC, where attacks have taken place.

But at least three ingredients are critical for effective transnational transitional justice responses: 1) domestic architecture in each country for dealing with members of the group and with the social impacts of their violations, ideally combining formal and community-based processes; 2) common standards for promoting accountability, reconciliation and social repair; and 3) institutions for coordinating the different transitional justice initiatives. In this regard, the African Union’s new Transitional Justice Policy, adopted by the Assembly of the AU in February 2019, offers an important common framework to support the development of appropriate transnational interventions.⁸⁰

The African Union LRA Task Force

Even when their activities might be confined to the territory of one country, responding effectively to violent extremist groups is rarely a matter exclusively for the state of origin. Today, these groups routinely attract membership from beyond boundaries, making them the concern of neighbouring states, regional bodies and the international community. In 2011, in order to address the trans-boundary challenge of the LRA, the African Union Peace and Security Council established a Regional Task Force (AU-RTF) for the elimination of the LRA, drawing troops from Uganda, the DRC, the Central African Republic and South Sudan. But from the outset, the AU-RTF was plagued by the severe domestic challenges faced by the contributing states.

While the AU-RTF achieved some notable military successes, Joseph Kony is still at large in Kafia Kingi, and the group, now operating in small itinerant units, is still active in the Central African Republic and the DRC continuing with attacks and violations into 2020.⁸¹ Since it was designed principally as a military mission, the AU-RTF did not have a prominent mandate to engage on other political questions such as addressing the violations of the LRA or its impacts on communities. After the LRA scattered from Garamba in 2008, there has been little opportunity to engage the group directly, although the AU-RTF invested in catalysing individual or small group defections to take advantage of Uganda’s well-known amnesty law.

Because groups like the LRA will often operate in spaces where the state is either absent or dysfunctional, national authorities are often unable to protect their citizens. On the African continent, in the Sahel, north Africa, the Horn of Africa and elsewhere, the transnational reach of violent extremist groups poses a challenge not only in terms of the adequacy of security and military responses but also in terms of the need to identify appropriate transitional justice architectures at multiple levels and across boundaries. By reason of its longer history of addressing the LRA issues, including the policy architecture it has developed, Uganda still enjoys certain comparative advantages in addressing the remnant of the LRA. Ultimately, military initiatives, such as the AU-RTF, are only part of the answer to violent extremist groups. The limitations of militaristic responses can, however, be partly mitigated by allowing the military to develop and manage initiatives for peaceful engagement as an extension of promoting defections. This could be undertaken by dedicated personnel trained for these tasks, and might include the development of initial dialogue

tracks. Such a broader approach to the role of the military would ensure that viable opportunities for securing peaceful demobilisation of violent groups are not lost.

Developing Uganda's Transitional Justice Policy

After more than 10 years in development, Uganda's 2019 Transitional Justice Policy seeks to offer a comprehensive framework for delivering a range of transitional justice goals. It is an important starting point upon which advocacy and expectations for transformative transitional justice should focus. A Transitional Justice Act will give the policy formal legal standing, and may include some of the elements of the alternative justice system identified in the Juba Agreements, such as the promotion of traditional justice mechanisms, alternative sentences, reparations, and incentives and procedures for cooperation by defendants. In addition to broad citizen support, its effective implementation will require significant political and financial investment by the state, as well as external support.

Over the years, particularly under the NRM government, Uganda has adopted several ad hoc policies and mechanisms to address specific aspects of its violent history and politics, perhaps most significantly the 1986 Commission of Inquiry into the Violation of Human Rights, which informed the drafting of the 1995 Constitution, including the establishment of the Uganda Human Rights Commission as a constitutional body. Despite imperfections, these interventions are invaluable antecedents of transitional justice in Uganda, providing a range of lessons for the implementation of the new policy. Other significant interventions include the ongoing work of the Amnesty Commission and the Uganda Human Rights Commission, which promote reconciliation and complementary accountability processes. The outcomes of the national consultations conducted by the government of Uganda and the LRA as part of the Juba peace talks will also provide rich material.

Any process that mobilises citizens to reflect on their society's past, and to identify transformative changes, is unavoidably political and that dimension should not be ignored. At its most transformative, a transitional justice policy should bring tangible and positive difference to the lives and relationships of citizens and communities and the way that they are governed at all levels. But without consistent political investment, such outcomes cannot be achieved. Instead, the implementation of the policy may become selective, pivoting towards safer options, focusing on a few individuals' conduct without tackling systemic and structural injustices. While the adoption of the 2019 policy has re-ignited hope and expectation that the impacts of the conflicts will now be systematically addressed, there is also lingering scepticism to be overcome. In the words of one interviewee, "The reason [transitional justice] worked in South Africa was because it was a post-apartheid government; a new regime had come in. We can't do that here because the system is still the same [and] the actors are still the same".⁸² A bold implementation of the policy should dispel these doubts.

Adapting Policy to Unconventional Groups

Although the heinous actions of violent groups cause revulsion, their resilience and complexity – and the immense damage they inflict across boundaries and diverse communities – drive governments and societies toward realism about the limitations of securitised responses. Difficult and fundamental questions regarding the goals and expressions of justice, reconciliation and societal healing arise and must be faced.

During its search for a durable solution to the LRA challenge, Uganda has invested in an amnesty process; peace talks, especially the Juba process; international justice through the ICC; domestic criminal justice responses; and traditional justice mechanisms. In navigating these policy options, the country has sought to maintain the greatest room for manoeuvre and flexibility, even as its concurrent recourse to international justice and amnesty has attracted criticism for inconsistency. However, its experience of engaging in dialogue, and involving conflict-affected communities in the identification and implementation of key policies, reflects the value of people-centred approaches to transitional justice design and policymaking.

A further complexity, also epitomised in the LRA situation, is the transnational character of many violent extremist groups, which often operate with ease across national boundaries. While a great deal has been invested in developing multilateral strategies and institutions for security and military cooperation, much less has been done to adopt transitional justice responses with effective transnational impacts.

The mixed experience of addressing the LRA phenomenon holds insights on how to deal with other unconventional violent groups. It demonstrates the potential for harnessing contributions from the community, national, regional and global levels to identify and refine the values, architectures and methodologies for engaging such groups and delivering both accountability and peace in complex situations. It also shows the limits of what can be accomplished through negotiating with such groups in the absence of leadership participation and buy-in, especially when, like the proverbial Sword of Damocles, the threat of international justice cannot be wished away.

Annex 1: Chronology of Events

Oct 1992	Uganda gains independence from Great Britain
Jan 1971	General Idi Amin deposes President Milton Obote in a coup
Aug 1972	Amin expels Asians from Uganda, giving 90 days for them to leave
Apr 1979	Idi Amin is driven from power
Dec 1980	Milton Obote's Uganda People's Congress declared winner of national elections
Feb 1981	Yoweri Museveni launches bush war to topple Obote government
Jul 1985	Army ousts Milton Obote, who flees to Kenya
Dec 1985	Uganda government and National Resistance Movement (NRM) sign peace agreement in Nairobi, brokered by Kenyan government
Jan 1986	Museveni's NRA seizes Kampala, NRM takes power
May 1986	NRM establishes the Uganda Commission of Inquiry into Violations of Human Rights 1962–1986
Sep 1986	Alice Lakwena forms the Holy Spirit Mobile Forces (HSMF) and launches her insurgency
Jan 1987	Joseph Kony forms a fighting group aligned to the HSMF; by 1993, it evolves into the Lord's Resistance Army
May 1987	Uganda introduces the Amnesty Statute to facilitate negotiations with insurgents; the Statute lapses after three months
Nov 1987	Alice Lakwena's Holy Spirit Mobile Forces defeated near Jinja; she flees to Kenya
Feb 1994	Betty Bigombe and government delegation meet Joseph Kony; ceasefire is agreed but not implemented; LRA later relocates to Sudan
Oct 1995	New Constitution of Uganda
Dec 1999	Uganda and Sudan sign Nairobi Agreement, brokered by President Jimmy Carter; it includes amnesty provisions
Jan 2000	Amnesty Act is enacted
Mar 2002	Launch of Operation Iron Fist; Sudan permits Ugandan forces to attack LRA bases inside Sudan
Dec 2003	Uganda refers the LRA to the ICC, which later opens investigations into situation in northern Uganda
2004–2005	Bigombe resumes dialogue initiatives engaging the LRA in northern Uganda

Jan 2005	SPLM and Sudan government sign Comprehensive Peace Agreement in Nairobi; Government of Southern Sudan is formed
Oct 2005	ICC unveils arrest warrants for Joseph Kony and other LRA leaders, including Dominic Ongwen
Jul 2006	Juba peace talks open between government and LRA, with Southern Sudanese mediation
Aug 2006	Cessation of Hostilities Agreement signed, followed by withdrawal of LRA forces from Uganda
Dec 2006	UN appoints President Joaquim Chissano to be Special Envoy for LRA-affected areas and to support Juba process
Jun 2007	Agreement on Accountability and Reconciliation signed in Juba
Apr 2008	Kony fails to appear in Ri-Kwangba to sign the Final Peace Agreement
May 2008	Judiciary establishes War Crimes Court, later renamed International Crimes Division
Dec 2008	Uganda launches Operation Lightning and Thunder; LRA positions in Garamba Park attacked, but Kony escapes and LRA disperses
Mar 2009	LRA commander, Thomas Kwoyelo captured in DRC, is refused amnesty in Uganda and put on trial; he challenges amnesty decision
May-Jun 2010	Review Conference of the Rome Statute of the ICC is held in Kampala
Jun 2010	Uganda enacts International Criminal Court Act
Oct 2011	United States sends Special Forces to help the hunt for the LRA
Nov 2011	African Union establishes Regional Task Force to support hunt for LRA
May 2012	Minister of Internal Affairs withdraws amnesty law
May 2013	Government of Uganda reinstates amnesty law after resolution by Parliament
Jan 2015	Dominic Ongwen surrenders and is transferred by the Central African Republic to the ICC
Apr 2015	Uganda Supreme Court upholds denial of amnesty to Kwoyelo
Feb 2019	African Union adopts continental Transitional Justice Policy
Jun 2019	Uganda adopts its national Transitional Justice Policy

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21. Ibid. sections 9 (c), (d) & (e).
22. Interview, Catholic Priest, Gulu, December 2019.
23. About 3,000 applicants associated with the Allied Democratic Forces have also been granted amnesty: Information from Amnesty Commission, April 2020.
24. "The Amnesty Act, 2000", Government of Uganda, section 9 (e).
25. This was achieved by a statutory instrument declaring the lapse of Part II of the Amnesty Act, under which the amnesty is defined and granted.
26. "Communiqué of Traditional and Religious Leaders, Civil Society and other Organisations Concerning the Declaration of Lapse of the Operation of Part II of the Amnesty Act", In possession of author.
27. "The End of Amnesty in Uganda: Implications for LRA Defections", Enough Project (www.enoughproject.org), August 2012.
28. Estimates – though notoriously unreliable – put the LRA's current strength at about 300 fighters, mostly operating out of Kafia and CAR.
29. The Deputy Speaker, the Rt Hon Jacob Oulanyah, was one of the legal advisors to the Juba peace talks and earlier LRA dialogue initiatives.
30. The government's negotiations with groups such as the Uganda National Rescue Front II (2002), and overtures to the ADC (2009 onwards) were also based on the Amnesty Act framework.
31. For detailed discussion, see: Phil Clark, *Distant Justice: The Impact of the International Criminal Court on African Politics* (Cambridge, 2018), Chapter 3; and Sarah Nouwen, *Complementarity in the Line of Fire* (Cambridge, 2012), Chapter 3.
32. IGAD is an eight-state regional cooperation bloc, encompassing eastern Africa and Horn of Africa countries. It has played a lead role in facilitating peace processes in Sudan and South Sudan.
33. Under the CPA, Southern Sudan would be a semi-autonomous region within the Republic of Sudan, with its own government. In July 2011, Southern Sudan became the new state of South Sudan, following its secession from Sudan.

34. In addition to Dr Ruhakana Rugunda, then the Minister of Internal Affairs and a senior member of the Government, and Mr Henry Okello, the Minister of State for Foreign Affairs, Uganda's delegation included the Director General of External Service Organisation, the Director General of the Internal Service Organisation and the Chief of Military Intelligence.
35. "Implementation Protocol to the Agreement on Comprehensive Solutions", Government of Uganda and LRA, 2 May 2007, clause 28.
36. "Agreement on Accountability and Reconciliation", Government of Uganda, 29 June 2007, clause 4.4.
37. *Ibid.* clause 12 (iv).
38. *Ibid.* clause 6.4.
39. Interview, Gulu, September 2019.
40. "The Report of the Commission of Inquiry into the Violations of Human Rights: Findings, Conclusions and Recommendations", Uganda Commission of Inquiry into Violations of Human Rights, December 1994. However, the Commission's report and its summary have never been widely circulated or publicly debated.
41. One person suggested that the kind of (individual) reparations being promoted through the ICC process had no direct parallels in Acholi Society. Interview, GO, Gulu, August 2019. Another questioned the concept of the victim: "I do not remember an Acholi word for 'victim'. Nobody would like to be called a victim and to parade it around". Interview, Gulu, December 2019.
42. "Agreement on Accountability and Reconciliation", Government of Uganda, 29 June 2007, clause 10.
43. "Annexure to Agreement on Accountability and Reconciliation", Government of Uganda, 2008, clauses 4 & 13.
44. Interview, Gulu, September 2019.
45. Interview, GA, Gulu, September 2019.
46. "Agreement on Accountability and Reconciliation", Government of Uganda, 29 June 2007, clause 15.
47. "Agreement on Implementation and Monitoring Mechanisms", clause 36.
48. *Ibid.* clause 37.
49. *Ibid.* clauses 40 & 42.
50. An ad hoc Government body for coordinating the agencies within the justice sector, including courts, the police and others.
51. An Oversight Forum would include international actors, a Joint Liaison Group of the parties, and a role for the Chief Mediator (see Agreement on Implementation and Monitoring Mechanisms).
52. Phil Clark (2018), Sarah Nouwen (2013).
53. Donors generally do not oversee the budgets of the Ministry of Defence or the President's Office under which a wide range of programs are overseen or implemented.
54. Stephen Oola and Francis Nono, "Uganda's Transitional Justice Policy 2019: Better Late than Never!", *New Vision* (www.newvision.co.ug/new_vision/news/1502988/uganda-transitional-justice-policy-2019-late), 5 July 2019.
55. The Refugee Law Project and others have long promoted the policy and emphasised the need for a truth commission.
56. Interview, AO, Gulu, December 2019
57. *Uganda v Kwoyelo* (CONSTITUTIONAL APPEAL NO. 01 OF 2012) [2015] UGSC 5 (8 April 2015); at: <https://ulii.org/ug/judgment/supreme-court/2015/5/>
58. His lawyers had earlier brought a challenge before the African Commission of Peoples and Human Rights in Banjul, which ruled on account of the delays (up to 2013) in his case, Kwoyelo had been denied the right to be tried within a reasonable time as guaranteed under Article 7(1)(d) of the African Charter on Human and People's Rights. *Kwoyelo v Uganda* (Communication 431/12) ACHPR 129 (17 October 2018).
59. Julius Ocungi, "Kwoyelo Trial too Slow, Acholi Leaders Cry Out", *Daily Monitor* (<https://www.monitor.co.ug/News/National/Kwoyelo-trial-too-slow-Acholi-leaders-cry-out/688334-5160924-xwobki/index.html>), 18 June 2019.
60. Interview, key informant, Gulu, December 2019.
61. Lino Ogora, "Why Victims Feel Abandoned by the Ugandan Government", *International Justice Monitor* (www.ijmonitor.org/2017/05/why-victims-feel-abandoned-by-the-ugandan-Government/). March 2017
62. In November 2003, Jan Egeland famously, and to the discomfort of the Government, referred to northern Uganda as the "worst forgotten crisis".
63. Ledio Caca, *When the Walking Defeats You: One man's Journey as Joseph Kony's Bodyguard* (London, 2016).
64. Anthony Vinci, "Existential Motivations in the Lord's Resistance Army's Continuing Conflict", *Studies in Conflict & Terrorism*, vol. 30, no. 4 (2007), pp. 337-352.
65. David Gauvey Herbert, "Billions of dollars later, Joseph Kony remains at large and the first world has lost interest in bringing him to justice", *Quartz*

- (<https://qz.com/960220/billions-of-dollars-later-joseph-kony-remains-at-large-and-the-first-world-has-lost-interest-in-bringing-him-to-justice/>) 27 April 2017.
66. Interview, JO, Gulu, December 2019. One interviewee emphasised that traditional justice's power resides in "bringing people together to tell their stories". Interview, KO, Gulu, September 2019.
67. Interview, FO, Gulu, September 2019.
68. The government also has relied on external funding for the International Crimes Division and the further development and implementation of the 2019 transitional justice policy: "Agreement on Accountability and Reconciliation", Government of Uganda, 29 June 2007, clause 13.
69. Pursuant to Chapter 12 of the 1995 Constitution, the NRA became the Uganda People's Defence Forces.
70. Interview, FO, Gulu, September 2019.
71. Interview, JA, Gulu, September 2019.
72. See Phil Clark (2018) for the role of the Ministry of Defence in pushing for ICC referral.
73. IWPR, *Doubts Raised Over LRA Peace Tour: Sincerity of LRA delegation seeking forgiveness in the north questioned* (<https://iwpr.net/global-voices/doubts-raised-over-lra-peace-tour>) 27 November 2007.
74. For critiques of the ICC role, see Phil Clark (2018); and Sarah Nouwen (2013).
75. For illustration and discussion of dilemmas and mediation techniques: Priscilla Hayner, *The Peacemaker's Paradox: Pursuing Justice in the Shadow of Conflict* (New York, 2018).
76. "Agreement on Accountability and Reconciliation", Government of Uganda, 29 June 2007, clause 1.
77. Ibid. clause 7.1.
78. These included Southern Sudan and the Democratic Republic of Congo, but not the Central African Republic, as the LRA had not yet relocated to that country.
79. Interview, Sheikh Musa Khelil, Gulu, December 2019.
80. African Union, *Transitional Justice Policy* (https://au.int/sites/default/files/documents/36541-doc-au_tj_policy_eng_web.pdf) Addis Ababa, February 2019
81. For an account of LRA attacks into May 2020: <https://reliefweb.int/report/democratic-republic-congo/special-alert-escalation-lra-attacks-causes-displacement>
82. Interview, Gulu, November 2019.



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COVER PHOTO

Lord's Resistance Army's (LRA) Lt. Colonial Smart (L), General David Oneng, (3rd R), Major General Joseph Kony, (2nd R) and LRA delegate Doctor David Matsanga (R), in this exclusive image, meet at peace negotiations between the LRA and Ugandan religious and cultural leaders in Ri-Kwangba, southern Sudan, November 30, 2008. Uganda's fugitive rebel leader Kony told traditional elders he will not sign a final peace deal until an international arrest warrant for him is scrapped, the chief mediator said on Sunday. Riek Machar, the vice president of south Sudan, said Kony met about 20 religious and cultural dignitaries from Uganda who trekked deep into the Congolese forest to try to convince him to lay down his arms after two decades of war. Picture taken November 30, 2008. REUTERS/Africa24 Media.

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