



House of Commons  
International Development  
Committee

---

**Prospects for  
Sustainable Peace in  
Uganda**

---

**Ninth Report of Session 2006–07**

*Report, together with formal minutes and oral  
and written evidence*

*Ordered by The House of Commons  
to be printed 17 July 2007*

**HC 853**

Published on 24 July 2007  
by authority of the House of Commons  
London: The Stationery Office Limited  
£14.50

## International Development Committee

The International Development Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for International Development and its associated public bodies.

### Current membership

Malcolm Bruce MP (*Liberal Democrat, Gordon*) (Chairman)  
John Battle MP (*Labour, Leeds West*)  
Hugh Bayley MP (*Labour, City of York*)  
John Bercow MP (*Conservative, Buckingham*)  
Richard Burden MP (*Labour, Birmingham Northfield*)  
Mr Quentin Davies MP (*Labour, Grantham and Stamford*)  
James Duddridge MP (*Conservative, Rochford and Southend East*)  
Ann McKechin MP (*Labour, Glasgow North*)  
Joan Ruddock MP (*Labour, Lewisham Deptford*)  
Mr Marsha Singh MP (*Labour, Bradford West*)  
Sir Robert Smith MP (*Liberal Democrat, West Aberdeenshire and Kincardine*)

### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/indcom](http://www.parliament.uk/indcom)

### Committee staff

The staff of the Committee are Carol Oxborough (Clerk), Matthew Hedges (Second Clerk), Anna Dickson (Committee Specialist), Chlöe Challender (Committee Specialist), Ian Hook (Committee Assistant), Jennifer Steele (Secretary), Alex Paterson (Media Officer) and James Bowman (Senior Office Clerk).

### Contacts

All correspondence should be addressed to the Clerk of the International Development Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 1223; the Committee's email address is [indcom@parliament.uk](mailto:indcom@parliament.uk)

### Footnotes

In the footnotes for this Report, references to oral evidence are indicated by 'Q' followed by the question number. References to written evidence are indicated by the page number as in 'Ev 12'.

# Contents

---

<b>Report</b>	<i>Page</i>
<b>Summary</b>	<b>7</b>
<b>1 Introduction</b>	<b>9</b>
<b>2 Peace negotiations</b>	<b>11</b>
The role of the International Criminal Court	11
The Juba Peace Talks	13
The Amnesty Commission	15
<b>3 Towards a sustainable peace</b>	<b>16</b>
Meeting humanitarian needs	16
Security in northern Uganda	16
Protecting children	17
Resettlement and development	18
Donor coordination	18
<b>4 Conclusion</b>	<b>19</b>
<b>Recommendations</b>	<b>20</b>
<b>Formal minutes</b>	<b>22</b>
<b>Witnesses</b>	<b>23</b>
<b>List of written evidence</b>	<b>23</b>
<b>Reports from the International Development Committee since July 2005</b>	<b>24</b>

## Summary

---

In 2006 we visited Uganda as part of our inquiry into *Conflict and Development: peacebuilding and post-conflict reconstruction*. A 20 year conflict between the Government of Uganda and the Lord's Resistance Army (LRA) in the north had resulted in a severe humanitarian crisis—25,000 children had been abducted by the LRA during the course of the conflict and 1.7 million people at the time of our visit were living in camps for Internally Displaced Persons (IDP) where crude and infant mortality levels were well above expected emergency rates.

Since our visit the Juba peace process has begun. This is seen by many as the best chance yet to achieve peace. We welcome these talks and encourage both parties to approach them in good faith. We also welcome the international community's financial and moral support for the talks.

Arrest warrants, sought by the Government of Uganda and issued by the newly established International Criminal Court (ICC), for the LRA leadership have helped to bring the parties to the negotiating table. We support the ICC and encourage it to use existing statutes to determine the most appropriate international standards of justice while recognising the implications of its decisions for the peace process.

We have particular concerns about the impact of the conflict on children and recommend that their needs become a focus of the Department for International Development's post-conflict programme.

Northern Uganda has been economically devastated. The prospects for sustainable development in Uganda are dependent on significant resources being channelled to the region. The Government of Uganda's Peace, Recovery and Development Plan is welcome. The final plan must reflect the views of northern Ugandan elected representatives, civil society and the wider population if it is to be effective. Donors have a role to play in monitoring the implementation of the plan and in ensuring that, along with the UN, they put forward a coordinated strategy for the transition from humanitarian to development assistance.

# 1 Introduction

---

1. In February 2006 some members of the International Development Committee visited Uganda as part of our inquiry into *Conflict and Development: peacebuilding and post-conflict reconstruction*.<sup>1</sup> We went to Uganda because its Government had been engaged in a conflict with the Lord's Resistance Army (LRA) in the north for the last 20 years, but was making good progress in its poverty reduction programmes in the rest of the country. We met officials and Government ministers in Kampala and visited two Internally Displaced Person (IDP) camps in Gulu district. At the time there was an improvement in the security situation as a result of the Comprehensive Peace Agreement in Sudan which formally ended the civil conflict in the south and deprived the LRA of their safe haven there. We were told that the LRA had moved recently to eastern Democratic Republic of Congo, itself a conflict-affected area.

2. In our report we noted poor conditions in the IDP camps, where 1.7 million Ugandans lived, including high rates of infant mortality, and a general unwillingness to return to villages despite some improvement in the security situation. We commented on the cost, borne largely by the international donor community, of running the IDP camps—US\$200 million a year—and questioned whether the Government of Uganda should be doing more in this regard. We also questioned whether, in providing this level of ongoing funding, the international community was providing a disincentive for the Government of Uganda to seek an urgent resolution to the conflict.

3. Throughout the 20 years of the conflict there have been many attempts at ending it through negotiation and by military means. None has been successful. However, soon after our visit the Juba Peace Talks, brokered by the Government of Southern Sudan, began. These talks have been seen by many as the best chance for a number of years to achieve peace. In the context of these Peace Talks we decided to return to this issue and to assess the prospects for sustainable peace in Uganda.

4. This report is structured as follows: Chapter 2 looks at the peace negotiation process beginning with the Government of Uganda's referral to the International Criminal Court and then assesses the Juba Peace Talks. Chapter 3 focuses on how best to build and sustain peace and development across Uganda in the aftermath of the conflict. Because this is a Ugandan conflict it is important that the solutions and the post-conflict reconstruction process should be Ugandan-owned. However the international community also has a role to play, working alongside Ugandans, in helping to ensure that the peace negotiations succeed and that sufficient resources—human, technical and financial—are directed at re-development of the north so that the conflict does not recur. Our recommendations are therefore directed primarily at what the UK Government and the wider donor community should do in delivering their shared responsibilities for development.

5. We are grateful to those who gave oral evidence to the Committee: Gareth Thomas MP, Parliamentary Under-Secretary of State, Department for International Development (DFID), Meg Munn MP, Parliamentary Under-Secretary of State, Foreign and

---

<sup>1</sup> International Development Committee, Sixth Report of Session 2005-06, *Conflict and Development: peacebuilding and post-conflict reconstruction*, HC 923.

Commonwealth Office (FCO), Eric Hawthorn, Head of DFID Uganda, Robin Gwynn, Head of Africa Department (Equatorial), FCO, Barney Afako, a human rights lawyer, Marieke Wierda, of the International Centre for Transitional Justice and Nick Grono from the International Crisis Group. We also held informal discussions with a group of visiting northern Ugandan representatives: Rwot David Onen Acana II, Rebecca Amuge MP, and Michael Otim and Geoffrey Okello from the Gulu District NGO Forum. We are grateful to them for the opportunity to exchange views. In addition we would like to thank the individuals and organisations who sent us written submissions, all of which contributed to the inquiry.

## 2 Peace negotiations

---

### The role of the International Criminal Court

6. In 2003 the Government of Uganda referred “the situation concerning the Lords Resistance Army (LRA)” to the International Criminal Court (ICC) leading in October 2005 to the issuing of arrest warrants for five leaders of the LRA for war crimes and crimes against humanity.<sup>2</sup> These, the first such warrants of the newly established ICC, have generated much debate in Uganda and more widely.<sup>3</sup> The UK Government remains a strong supporter of the ICC as a key part of the international community’s efforts to combat impunity for war crimes and crimes against humanity.<sup>4</sup> DFID told us:

“the principles behind the ICC and the Rome Statute [which established the ICC] have to be upheld. There cannot be impunity for the four who are still alive for whom the warrants are being committed. The scale of their crimes is such that the principles of the ICC cannot just be set aside, but obviously there does need to be a recognition and an understanding about what the implications are for the peace process and moving forward.”<sup>5</sup>

7. It is widely accepted that the ICC warrants influenced the LRA’s decision to come to the negotiating table when the Government of Southern Sudan offered to host peace negotiations in Juba in July 2006.<sup>6</sup> Yet the ICC arrest warrants may prove to be an obstacle to peace because senior LRA commanders have stated that they will not accept a negotiated settlement committing them to trial in the Hague.<sup>7</sup> On the other hand, the publicity related to the ICC warrants has triggered a greater level of international attention in the conflict and this may make a resolution more likely. The International Crisis Group’s view is that the difficulties in executing the warrants have shown both the limited capacity of the Government of Uganda and a lack of international readiness to support the ICC by pursuing those whose crimes are well documented.<sup>8</sup> If the ICC warrants have played a role in deterring future human rights violators, stronger international support for the ICC would go some way to ensuring that this prevention role, consistent with the Responsibility to Protect norm, is strengthened.<sup>9</sup>

---

<sup>2</sup> ICC, *Facts and procedure regarding the situation in Uganda*, October 2005. It is believed that one of the five, Raska Lukwiya, was subsequently killed in battle.

<sup>3</sup> For example, Human Rights Watch, *Benchmarks for assessing possible national alternatives to ICC court cases against LRA leaders*; Tim Allen, *Defending the ICC*, *Prospect*, May 2007; Richard Dowden, *ICC in the dock*, *Prospect*, May 2007; P. Clarke & N. Waddell, *Dilemmas of justice*, *Prospect*, May 2007; and, A. Branch, *Uganda’s civil war and the politics of ICC intervention*, *Ethics and International Affairs*, Vol 21.2, Summer 2007.

<sup>4</sup> Ev 19 [DFID]

<sup>5</sup> Q 14 [Mr Thomas]. The International Criminal Court (ICC) officially came into existence in July 2002 following the 60th ratification of the Rome Statute. Its mission is the effective prosecution and punishment of serious violations of international humanitarian law - genocide, war crimes and crimes against humanity.

<sup>6</sup> Q 12 [Meg Munn], Ev 28 [International Centre for Transitional Justice]

<sup>7</sup> Ev 33 [CAFOD et al]

<sup>8</sup> Ev 22 [International Crisis Group]

<sup>9</sup> Ev 24 [International Crisis Group]. Of the five permanent UN Security Council members, the US, China and Russia all have reservations about the ICC and only the UK and France have ratified the Rome Statute.

8. Most significantly the ICC warrants have generated an intense debate about accountability in Uganda although, as the International Centre for Transitional Justice points out, there is no agreement between the stakeholders about what should happen with the ICC warrants if and when the peace process is concluded.<sup>10</sup> For example, in May 2007 there were reports that the LRA had threatened to resume fighting if the ICC indictments were not lifted by the end of the negotiations.<sup>11</sup>

9. The ICC has within its statutes the ability to defer to national courts should these be capable of meeting international legal standards and the view of witnesses was that this would not affect the credibility of the ICC.<sup>12</sup> Marieke Wierda from the ICTJ informed us:

“if Uganda comes into the situation where its inability to exercise jurisdiction changed, which was the ground on which it originally asked the ICC to intervene, if there is a factual change in circumstances to its ability to exercise jurisdiction, then we would believe that it is within the spirit of complementarity to allow them to attempt to do so.”<sup>13</sup>

However Nick Grono from the International Crisis Group cautioned that:

“I think what you are going to find is that the parties to a conflict will often be prepared to excuse each other of past atrocities, so you will get to a stage where the Government of Uganda and perhaps the LRA are prepared to say, “We will accept a certain degree of accountability that might not meet international standards”, and the ICC will then have to decide and judge whether that meets their standards, and there are a number of provisions in the Act which allow for a balancing of that [...]”<sup>14</sup>

**10. We agree that the International Criminal Court warrants have helped to bring the parties to the negotiating table, and have engendered a greater level of international awareness of the conflict. We believe that this is a positive step. The way in which the warrants are dealt with, at the end of the peace process, will have implications for the future credibility of the ICC. We see the capacity of the Court to defer to national processes which meet international justice standards as part of its strength and not as something which should be seen as damaging the credibility of the Court. However the ICC is on a sharp learning curve and must be given the necessary support by the international community to carry out its mandate according to international law. In this way the ICC, and its potential contribution to the Responsibility to Protect, will be strengthened.**

---

<sup>10</sup> Ev 29 [ICTJ]

<sup>11</sup> Lord's Army threatens war over court charges, *The Times*, 24 May 2007.

<sup>12</sup> Q 45 [Mr Afako]

<sup>13</sup> Q 41 [Ms Wierda]

<sup>14</sup> Q 44 [Mr Grono]

## The Juba Peace Talks

11. The Juba process has been characterised by a series of highs and lows with a near collapse between December 2006 and March 2007.<sup>15</sup> The success of these talks is dependent on the commitment of the parties, primarily the Government of Uganda and the Lord's Resistance Army, to completing them. In the past this has been questionable,<sup>16</sup> and as yet the LRA has not assembled in the designated area at Ri Kwangba.<sup>17</sup> While the forthcoming Commonwealth Heads of Government Meeting in Kampala in November 2007 may help to ensure continued commitment, in the meantime donors such as the UK can play a role in encouraging the Government of Uganda to continue to participate in good faith. The LRA, which stands to lose the most, should also be made aware of the consequences of not fulfilling its obligations. As a way of achieving this Nick Grono suggested:

“We can do things like look at the funding sources for the LRA, perhaps a UN expert panel can be looking at those issues, and some planning around what will happen if the peace process falls apart and you have to have the disincentives to pulling out of the process, and I think it is a critically important role for this [the UK] Government to play.”<sup>18</sup>

12. Other participants to the talks include the UN Special Envoy, Joaquim Chissano, as well as observers from Kenya and Tanzania, and the Chief Mediator, Lt Gen Dr Riek Machar of the Government of South Sudan. There is an international fund, the Juba Initiative Fund, managed by the UN Office for the Coordination of Humanitarian Affairs (OCHA), which is responsible for the operational costs of the Cessation of Hostilities Monitoring Team as well as the hire of the venue, food and accommodation for the participants. The UK Government has contributed US\$480,000 to this US\$4.8 million Fund.<sup>19</sup>

**13. We are pleased that the Juba peace process is continuing and has made progress, despite setbacks. The international community must continue to support this fragile process through the Juba Initiative Fund and by encouraging all parties to remain committed to a non-military solution.**

14. The agenda at the Juba peace talks covers five items:

- cessation of hostilities,
- comprehensive solutions,
- accountability and reconciliation,
- disarmament, demobilisation, reintegration (DDR), and,
- formal ceasefire.

---

<sup>15</sup> Ev 18 [DFID]

<sup>16</sup> Q 46 [Mr Grono]

<sup>17</sup> Ev 28 [ICTJ]

<sup>18</sup> Q 46 [Mr Grono]

<sup>19</sup> Ev 19 [DFID]

An outline agreement has now been reached on the third stage—accountability and reconciliation. The nature of the conflict is such that this is an area of great concern with atrocities and grave human rights abuses committed by both sides. Approximately 25,000 children have been abducted by the LRA since 1986 and many have been forced to commit atrocities, even against their own communities. In addition to widespread abduction there has been disfigurement and mutilation, forced marriage and sexual slavery.<sup>20</sup> Added to the violence committed by the LRA, the Government of Uganda's decision to move 1.7 million people into IDP camps has also had severe humanitarian consequences which we outlined in our previous report.<sup>21</sup> Moreover, concerns have been raised about the conduct of the Uganda People's Defence Force (UPDF) in and around the camps.<sup>22</sup> These factors, combined with the disruption to normal life, mean that the choice of accountability mechanisms will be crucial in ensuring grievances are properly dealt with and a real reconciliation is possible.

15. As part of accountability and reconciliation a discussion about whether and how best to combine traditional and national justice mechanisms is currently taking place in Uganda. It is likely that there will be a strong element of traditional justice mechanisms, such as, but not restricted to, *Mato Oput*—the Acholi reconciliation process whereby the victims ask forgiveness in a traditional healing ceremony after full accountability has been established. However those individuals who are alleged to bear particular responsibility for the most serious crimes will be dealt with by the formal courts.

16. It is important that these discussions take account of the wishes of the victims of the conflict who should be the primary beneficiaries of any settlement or reparations. And, where traditional or alternative justice mechanisms are used these should include women and children. There is evidence to suggest that some form of punishment, rather than simply forgiveness, reconciliation and reintegration will be requested.<sup>23</sup> The UK can give support to such processes by ensuring that local leaders tasked with consulting people across the north are given the necessary support. Furthermore, we have been made aware of concerns about the lack of independence and accessibility of the justice institutions in Uganda which would have the potential to fuel alienation and perceptions of impunity.<sup>24</sup>

**17. Justice and accountability are crucial elements for any lasting peace. The victims of the conflict, and especially women and children, must be included in discussions about accountability and in any traditional justice mechanisms adopted. The UK Government, along with other donors, can help to ensure that a wide consultation takes place on these matters so that grievances are fully dealt with at an early stage. The Ugandan legal system must demonstrate the capacity to process and fairly adjudicate on allegations of gross human rights violations arising from the conflict. We recommend that the UK Government raise concerns about the independence and accessibility of the Ugandan judiciary with the Government of Uganda.**

---

<sup>20</sup> Ev 30 [ICTJ]

<sup>21</sup> International Development Committee, Sixth Report of Session 2005-06, *Conflict and Development: peacebuilding and post-conflict reconstruction*, HC 923, paras 16-20.

<sup>22</sup> Ev 34 [CAFOD et al], Q 8 [Mr Hawthorn]

<sup>23</sup> Ev 26 [International Crisis Group]

<sup>24</sup> Phil Clark, *Sharing the burden: a comprehensive accountability and reconciliation strategy in Uganda*.

### **The Amnesty Commission**

18. In our report on *Conflict and Development* we commented on the positive contribution being made by the Amnesty Commission to helping abducted children and returning soldiers to reintegrate into society.<sup>25</sup> To date the Commission has helped bring some 5,000 LRA combatants out of the bush.<sup>26</sup> If the peace process is successful there will be increased numbers of combatants who will need the assistance of the Amnesty Commission. The International Centre for Transitional Justice reports that the Commission is already struggling in its current role:

“The Amnesty Commission currently lacks the logistical capacity to play a broader social role, and in fact struggles even with the role it has been assigned in terms of reintegration.”<sup>27</sup>

DFID told us it was willing to look at further financial support for the Amnesty Commission.<sup>28</sup> **We would support a decision by DFID to assist in the reintegration of more combatants into their communities through additional funding for the Amnesty Commission.**

19. Under the Amnesty Act passed in 2000, many of those returning have gone through traditional justice mechanisms such as *Mato Oput* as a way of helping them to be accepted back into the community. Such ceremonies have been helpful in allowing victims to come to terms with those who might have committed atrocities and have a greater potential for truth-telling than the Amnesty Commission.<sup>29</sup> We have been assured that the Amnesty Act would not cover the four indicted people for whom there are ICC warrants outstanding.<sup>30</sup>

---

<sup>25</sup> International Development Committee, *Conflict and Development*, paras 82-83.

<sup>26</sup> Q 19 [DFID]

<sup>27</sup> Ev 31 [ICTJ]

<sup>28</sup> Q 19 [Mr Thomas]

<sup>29</sup> Phil Clark, *Sharing the burden: a comprehensive accountability and reconciliation strategy in Uganda*.

<sup>30</sup> Q 20 [Mr Thomas]

### 3 Towards a sustainable peace

---

#### Meeting humanitarian needs

20. DFID told us that conditions in the camps have improved since our visit. The Government of Uganda has directed more resources to the north, and has invested in an Emergency Humanitarian Action Plan (EHAP).<sup>31</sup> This is monitored by the donor Joint Monitoring Committee (JMC).<sup>32</sup> DFID reports that the high rates of mortality in the camps described in the World Health Organisation 2005 survey have declined and that recent World Food Programme surveys indicate that malnutrition is well below emergency levels.<sup>33</sup> However the UN Consolidated Humanitarian Appeal for 2007 was still high at US\$296 million, covering areas affected by the LRA conflict, refugees and the Karamoja region.<sup>34</sup> The UK Government is one of the largest humanitarian donors in Uganda. The table below sets out the UK humanitarian assistance to northern Uganda since 2004-05.<sup>35</sup>

**Table 1: UK humanitarian assistance to Uganda 2004-2008**

2004-05	£11 million
2005-06	£20 million
2006-07	£18 million
2007-08	£7 million (to date)

*Data source: Ev 20 [DFID]*

**21. Despite the cessation of hostilities brought about by the Juba peace process, northern Uganda still faces a humanitarian crisis. Donors must undertake to continue to provide humanitarian assistance, at the level outlined by the UN Consolidated Humanitarian Appeal, as long as is necessary to ensure that conditions in the IDP camps do not deteriorate again.**

#### Security in northern Uganda

22. The security situation, in areas outside the IDP camps, while improving, remains unpredictable.<sup>36</sup> It is estimated that, at the end of 2005, approximately 400,000 of the 1.7 million people in IDP camps had returned home and a similar number had moved to satellite camps leaving some 900,000 in the IDP camps.<sup>37</sup> While farming and food production outside the camps has increased, with consequent reductions in World Food Programme rations,<sup>38</sup> uncertainty about the peace process continues to be an obstacle to

---

<sup>31</sup> Q 29 [Mr Thomas]

<sup>32</sup> Q 4 [Mr Hawthorn]

<sup>33</sup> Q 4 [Mr Hawthorn]

<sup>34</sup> Ev 22 [DFID]

<sup>35</sup> Ev 20 [DFID]

<sup>36</sup> Ev 41 [Norwegian Refugee Council]

<sup>37</sup> Ev 22 [DFID]

<sup>38</sup> Q 5 [Mr Hawthorn]

return. The Norwegian Refugee Council has expressed concerns that any return must be voluntary and in an environment which guarantees security.<sup>39</sup> One area where some progress has been made is in the training and provision of Special Police Constables under the Emergency Humanitarian Action Plan. This is a welcome development which should enable the UPDF presence, which has at times been counter-productive, to be reduced.<sup>40</sup>

**23. Fears about the security situation outside the camps must be taken seriously. Measures to increase and improve the police presence in the camps and in rural areas are a step in the right direction. We believe that funding for police training should become a priority for donors in northern Uganda and that an appropriate exit strategy for the Uganda People's Defence Force should be developed as the civilian police presence increases.**

24. We have also received evidence that the current situation in the Karamoja region in north-east Uganda is fuelled by the same root causes as the conflict in Acholi, including lack of access to natural resources and easy availability of small arms and light weapons, and that the Government of Uganda's attempts forcibly to disarm these communities, including the excessive use of force by the UPDF, is increasing tension in the area.<sup>41</sup> Saferworld warns that efforts to address security challenges need to be linked to the broad development agenda and that the Peace, Recovery and Development Plan (see paragraph 26) should cover all of the north including the west Nile and Karamoja region to prevent spillovers of violence into neighbouring regions.<sup>42</sup> **We note that the UN Consolidated Humanitarian Appeal includes the Karamoja region and share the concerns raised by NGOs about security there. We urge donors to adopt a comprehensive approach to peacebuilding in the region and not to exclude security in the Karamoja region from their discussions with the Government of Uganda.**

### **Protecting children**

25. During the conflict many children became night commuters, sleeping in centrally located refuges which offered more protection than their homes or the camps. We are pleased to learn that the phenomenon of night commuting has decreased significantly since our visit.<sup>43</sup> However, in addition to the abduction of children by the LRA, World Vision reports that over a third of the children in IDP camps have been forced to have sex in return for basic services.<sup>44</sup> DFID is beginning to think about a social protection scheme based on cash transfers for the most vulnerable people. The idea is that if the poorest families have some cash, there will be less need for children to sell themselves.<sup>45</sup> **The protection of conflict-affected children is an area of great concern and we consider that the welfare of children, including psycho-social needs, should be treated as a priority. We recommend that the needs of children affected by the conflict become a focus of**

---

<sup>39</sup> Ev 43 [Norwegian Refugee Council]

<sup>40</sup> Ev 33 [CAFOD et al]

<sup>41</sup> Ev 46 [Saferworld]

<sup>42</sup> Ev 46 [Saferworld]

<sup>43</sup> Q 8 [Mr Hawthorn]

<sup>44</sup> World Vision, *Supporting Peace in Northern Uganda*, October 2006.

<sup>45</sup> Q 6 [Mr Thomas]

DFID's post-conflict programmes. We expect to be kept informed about progress on the social protection and cash transfer schemes which DFID is considering.

### Resettlement and development

26. We agree with the International Crisis Group that “as part of any peace deal, there is a need for very comprehensive re-development in the north.”<sup>46</sup> While the responsibility to build economic progress must be widely shared if the peace negotiations succeed, the primary responsibility lies with the Government of Uganda. To this end the Government has developed a Peace, Recovery and Development Programme (PRDP) for the north. The PRDP will be a three-year programme and the Ugandan Government estimate that it will require US\$180 million per year.<sup>47</sup> Concerns have been raised about the lack of civil society consultation on the PRDP. We have been told that the Government of Uganda has now started a consultation process but that this is probably still not sufficiently comprehensive.<sup>48</sup> **The international donor community must work alongside the Government of Uganda to ensure that sufficient resources continue to be directed at the north and that the priorities for re-development are those identified by people in the north, including women and civil society groups. We recommend that a greater level of consultation should be a condition of DFID's and other donors' contributions to the Peace, Recovery and Development Plan.**

### Donor coordination

27. The coordination of early recovery programmes to assist in the smooth transition from humanitarian assistance to development is essential. Worryingly, while we have been assured that discussions are taking place about that transition,<sup>49</sup> the Norwegian Refugee Council point out that as yet there is no Early Recovery Cluster to coordinate this transition.<sup>50</sup> The idea of an Early Recovery Cluster, for linking immediate humanitarian responses with medium and long-term recovery efforts, was tried for the first time in response to the Pakistan earthquake in 2006. We commented on problems with the implementation of the cluster approach in our report on *Humanitarian Response to Natural Disasters* and recommended a review.<sup>51</sup> In northern Uganda limited access to basic services, for example water and health care, are already proving to be obstacles to return. A coordinated early recovery cluster would help in this regard. **The UN Development Programme and the Government of Uganda should work together to ensure that an Early Recovery Cluster is established as soon as possible. All too frequently when conflicts end there is a time lag before development projects get underway with severe consequences for sustaining the peace. We recommend that DFID takes all possible steps to ensure this does not happen in Uganda.**

---

<sup>46</sup> Ev 27 [International Crisis Group]

<sup>47</sup> Ev 19 [DFID]

<sup>48</sup> Q 10, 25 [Mr Thomas]

<sup>49</sup> Q 27-28 [Mr Thomas]

<sup>50</sup> Ev 43 [Norwegian Refugee Council]

<sup>51</sup> International Development Committee, Seventh Report of Session 2005-06, *Humanitarian Response to Natural Disasters*, HC 1188.

## 4 Conclusion

---

28. The conflict in northern Uganda has continued for 20 years and has severely set back development and the achievement of the Millennium Development Goals, especially in the north. The current peace process, brokered by the Government of South Sudan, and with other regional participants, is a welcome development which must be supported by the international community.

29. Decisions about the ICC arrest warrants for the four indicted leaders will have to be made at the end of the peace process. We consider that the ICC warrants should not be viewed as an obstacle to peace. Moreover it is possible that the principle of complementarity will allow the Ugandan courts to deal with these leaders in a way that meets international standards. We do not believe that this should be seen as detrimental to the credibility of the ICC.

30. If the peace process is successful, the north of Uganda will require a large amount of funding to enable it to achieve the same levels of development as other parts of the country. This may also help to prevent a return to conflict. The international community has an important role to play here. We are cautiously optimistic that an end to the conflict is within reach and encourage all Ugandans to work with the international community towards this.

## Recommendations

---

1. We agree that the International Criminal Court warrants have helped to bring the parties to the negotiating table, and have engendered a greater level of international awareness of the conflict. We believe that this is a positive step. The way in which the warrants are dealt with, at the end of the peace process, will have implications for the future credibility of the ICC. We see the capacity of the Court to defer to national processes which meet international justice standards as part of its strength and not as something which should be seen as damaging the credibility of the Court. However the ICC is on a sharp learning curve and must be given the necessary support by the international community to carry out its mandate according to international law. In this way the ICC, and its potential contribution to the Responsibility to Protect, will be strengthened. (Paragraph 10)
2. We are pleased that the Juba peace process is continuing and has made progress, despite setbacks. The international community must continue to support this fragile process through the Juba Initiative Fund and by encouraging all parties to remain committed to a non-military solution. (Paragraph 13)
3. Justice and accountability are crucial elements for any lasting peace. The victims of the conflict, and especially women and children, must be included in discussions about accountability and in any traditional justice mechanisms adopted. The UK Government, along with other donors, can help to ensure that a wide consultation takes place on these matters so that grievances are fully dealt with at an early stage. The Ugandan legal system must demonstrate the capacity to process and fairly adjudicate on allegations of gross human rights violations arising from the conflict. We recommend that the UK Government raise concerns about the independence and accessibility of the Ugandan judiciary with the Government of Uganda. (Paragraph 17)
4. We would support a decision by DFID to assist in the reintegration of more combatants into their communities through additional funding for the Amnesty Commission. (Paragraph 18)
5. Despite the cessation of hostilities brought about by the Juba peace process, northern Uganda still faces a humanitarian crisis. Donors must undertake to continue to provide humanitarian assistance, at the level outlined by the UN Consolidated Humanitarian Appeal, as long as is necessary to ensure that conditions in the IDP camps do not deteriorate again. (Paragraph 21)
6. Fears about the security situation outside the camps must be taken seriously. Measures to increase and improve the police presence in the camps and in rural areas are a step in the right direction. We believe that funding for police training should become a priority for donors in northern Uganda and that an appropriate exit strategy for the Uganda People's Defence Force should be developed as the civilian police presence increases. (Paragraph 23)

7. We note that the UN Consolidated Humanitarian Appeal includes the Karamoja region and share the concerns raised by NGOs about security there. We urge donors to adopt a comprehensive approach to peacebuilding in the region and not to exclude security in the Karamoja region from their discussions with the Government of Uganda. (Paragraph 24)
8. The protection of conflict-affected children is an area of great concern and we consider that the welfare of children, including psycho-social needs, should be treated as a priority. We recommend that the needs of children affected by the conflict become a focus of DFID's post-conflict programmes. We expect to be kept informed about progress on the social protection and cash transfer schemes which DFID is considering. (Paragraph 25)
9. The international donor community must work alongside the Government of Uganda to ensure that sufficient resources continue to be directed at the north and that the priorities for re-development are those identified by people in the north, including women and civil society groups. We recommend that a greater level of consultation should be a condition of DFID's and other donors' contributions to the Peace, Recovery and Development Plan. (Paragraph 26)
10. The UN Development Programme and the Government of Uganda should work together to ensure that an Early Recovery Cluster is established as soon as possible. All too frequently when conflicts end there is a time lag before development projects get underway with severe consequences for sustaining the peace. We recommend that DFID takes all possible steps to ensure this does not happen in Uganda. (Paragraph 27)

## Formal minutes

---

**Tuesday 17 July 2007**

Members present:

Malcolm Bruce, in the Chair

John Battle  
Hugh Bayley  
John Bercow  
Richard Burden

Ann McKechin  
Mr Marsha Singh  
Sir Robert Smith

The Committee considered this matter.

Draft Report (Prospects for Sustainable Peace in Uganda), proposed by the Chairman, brought up and read.

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 30 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Ninth Report of the Committee to the House.

*Ordered*, That the Chairman make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Several Memoranda were ordered to be reported to the House for printing with the report, together with certain Memoranda reported and ordered to be published on 4 July 2007.

[Adjourned till Wednesday 18 July at 10.00 am

## Witnesses

---

### Wednesday 4 July 2007

Page

**Mr Gareth Thomas, MP**, Parliamentary Under-Secretary of State, Department for International Development, **Meg Munn, MP**, Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, **Mr Eric Hawthorn**, Head of DFID Uganda, and **Mr Robin Gwynn**, Head of Africa Department (Equatorial), Foreign and Commonwealth Office Ev 1

**Ms Marieke Wierda**, International Center for Transitional Justice; **Mr Nick Grono**, International Crisis Group; and **Mr Barney Afako**, Human Rights Lawyer Ev10

## List of written evidence

---

*Written evidence submitted by witnesses who also gave oral evidence:*

- |  |       |
|--|-------|
| 1. Department for International Development      | Ev 17 |
| 2. International Crisis Group                    | Ev 22 |
| 3. International Center for Transitional Justice | Ev 28 |

*Other written evidence:*

- |   |       |
|---|-------|
| 4. CAFOD, Christian Aid, Conciliation Resources, Quakers and World Vision | Ev 33 |
| 5. Friends of Northern Uganda   | Ev 36 |
| 6. Human Rights Watch   | Ev 38 |
| 7. Norwegian Refugee Council  | Ev 41 |
| 8. Saferworld   | Ev 44 |

## Reports from the International Development Committee since July 2005

---

The Government Responses to International Development Committee reports are listed here in brackets by the HC (or Cm) No. after the report they relate to.

### Session 2006–07

First Report	DFID Departmental Report 2006	HC 71 (HC 328)
Second Report	HIV/AIDS: Marginalised groups and emerging epidemics	HC 46-I & II (HC 329)
Third Report	Work of the Committee in 2005-06	HC 228
Fourth Report	Development Assistance and the Occupied Palestinian Territories	HC 114 (HC 430)
Fifth Report	EU Development and Trade Policies: An update	HC 271 (HC 622)
Sixth Report	Sanitation and Water	HC 126-I & II (HC 854)
Seventh Report	Fair Trade and Development	HC 356-I & II

### Session 2005–06

First Report	Delivering the Goods: HIV/AIDS and the Provision of Anti-Retrovirals	HC 708-I&II (HC 922)
Second Report	Darfur: The killing continues	HC 657 (HC 1017)
Third Report	The WTO Hong Kong Ministerial and the Doha Development Agenda	HC 730-I&II (HC 1425)
Fourth Report	Private Sector Development	HC 921-I&II (HC 1629)
Fifth Report	Strategic Export Controls: Annual Report for 2004, Quarterly Reports for 2005, Licensing Policy and Parliamentary Scrutiny	HC 873 (Cm 6954)
Sixth Report	Conflict and Development: Peacebuilding and post-conflict reconstruction	HC 923 (HC 172)
Seventh Report	Humanitarian response to natural disasters	HC 1188 (HC 229)

# Oral evidence

---

## Taken before the International Development Committee

on Wednesday 4 July 2007

Members present

Malcolm Bruce, Chairman

John Battle  
Hugh Bayley  
John Bercow  
Mr Quentin Davies

James Duddridge  
Ann McKechin  
Mr Marsha Singh  
Sir Robert Smith

*Witnesses:* **Mr Gareth Thomas**, MP, Parliamentary Under-Secretary of State, Department for International Development (DFID), **Meg Munn MP**, Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, **Mr Eric Hawthorn**, Head of DFID Uganda, and **Mr Robin Gwynn**, Head of Africa Department (Equatorial), Foreign and Commonwealth Office, gave evidence.

**Q1 Chairman:** Thank you for coming in. Perhaps, first, you could introduce your team before we start.

**Meg Munn:** As you know, Mr Bruce, I have not been in place very long so I think it is safest if I let Robin Gwynn just explain his role.

**Mr Gwynn:** I am head of the Africa Equatorial Department in the Foreign Office. That is the Department which covers east to west Africa.

**Mr Thomas:** It is a pleasure to be back before the Committee. Eric Hawthorn on my left is head of DFID Uganda.

**Q2 Chairman:** It is nice to see you all. You will appreciate that the Committee visited northern Uganda a year or so ago when we were doing our report on conflict—and I personally happened to make a subsequent visit in September but not on behalf of the Committee and we thought it was an appropriate moment to try and get some kind of update on how conflict resolution in Uganda was proceeding, particularly in the light of peace talks having been started and stalled and started again, so we are very grateful to you for coming in and I appreciate that sometimes the timings are not perfect but we are where we are.<sup>1</sup> The first thing I think we noticed when we were there was the problems that have been faced in the camps, the substantial amount of money going in from the international community but the appalling death rates and even since we were there, there have been outbreaks of cholera, poor provision of education, of healthcare, of policing. So perhaps, firstly, has that situation improved and has it required increased contributions from the international community to cope?

**Mr Thomas:** What I should say is that we, too, have been concerned about the situation in the camps and in the north generally, and obviously have been pressing the Government of Uganda to provide more resources to the north. Since the Committee visited we have started to see an increase in the

transfer of resources from the Government to northern Uganda. I would not want to give the Committee the sense that everything now has completely changed since the Committee visited but I think there has been a noticeable sense of resources starting to flow to the north. You mentioned the policing situation. The fact that the security situation has improved is in part because there are more police being deployed. Given some of the concerns there have been about the security services in Uganda in the past, one of the things that the donor community is doing is to watch extremely closely the behaviour and the training programmes, et cetera, for policing the country. So I think it would be right of me to say that the situation is beginning to improve but it is not obviously a situation that we are willing to relax about or think we can be in any way complacent about. Perhaps, Mr Bruce, to give you some sense of numbers, to try to give you some confidence about the improvement in the security situation, I should say that about two years ago roughly 1.7 million people were in camps; about 800,000 have now moved out of the camps, 400,000 having returned home and another 400,000 having moved out of the camps that you are referring to—

**Q3 Chairman:** Does that include Gulu and Kitgum, that seem to be the worst affected areas?

**Mr Thomas:** It includes those areas. As I say, the last 400,000 I was referring to are moving out of the camps you were mentioning into transitional resettlement and camps, en route, we hope, to returning home.

**Q4 Chairman:** How has that affected the situation? The camps we observed were extremely crowded; the sanitary conditions were not good, they had had outbreaks of cholera, but later on there was access to more land to produce more of their own food from their own resources, because people were moving further into camps. Has that made a contribution to reduction in those kinds of health problems and, in particular, child mortality rates, which were pretty severe? People, and I do not want to make any

<sup>1</sup> Sixth Report of Session 2005–06, *Conflict and Development: Peacebuilding and Post-conflict Reconstruction*, HC 923.

---

4 July 2007 Mr Gareth Thomas MP, Meg Munn MP, Mr Eric Hawthorn and Mr Robin Gwynn

---

invidious comparisons, constantly report on the situation in Darfur but some of the statistics in relation to Uganda were pretty bad, if not as bad.

**Mr Thomas:** We have been very conscious of the situation for people living in those camps. Let me bring Mr Hawthorn in, given he would know better the specific camps you went to see.

**Mr Hawthorn:** When the Committee visited that was shortly after there had been a mortality survey that had been produced by WHO which highlighted very high rates of mortality in the camps. Since then, as the Minister has been saying, the situation has improved significantly. People are moving out of the camps; the humanitarian effort has increased substantially as a result of what government is doing through its own emergency humanitarian action plan and the Joint Monitoring Committee which, with donors, is monitoring the implementation of that emergency action plan. There has not been a re-run of the mortality survey—we are planning on helping government do something like that at the end of this year—but what we do know is that the regular nutritional surveys which are carried out by WFP<sup>2</sup> to inform what they are doing through their own food aid programmes show that malnutrition is well below emergency levels now, so there is a significant improvement there.

**Q5 Chairman:** On that particular point, on my second visit at a time in which DFID had diverted funds from budget support towards supporting direct aid in the north. Ironically one of the consequences of that was that the WFP actually cut the rations on the grounds that the camps were now reaching more of their own land; certainly people in the camps were pretty upset about that. From what you say, was that a legitimate analysis of the situation? In other words, they were getting better food and did not require the same rations?

**Mr Hawthorn:** Slowly over time WFP have reduced their rations responding to these food needs analyses which highlight the fact that nutritional status is significantly improving and responding to the fact that people are getting increasing access to their own land and able to grow their own food, and always getting the balance right between making sure that people have enough to eat but not discouraging them from producing.

**Q6 James Duddridge:** World Vision at the end of last year produced a very good report into displaced children within camps across the whole of the Great Lakes region, and particularly identified that over a third of the children in camps in northern Uganda were forced to have sex in return for basic services. How has that situation changed with the transitional camps, and has DFID focused any particular money on that problem in northern Uganda?

**Mr Thomas:** World Vision were right to highlight the terrible atrocities that have been inflicted on many of the children in northern Uganda. It is one of the reasons why we have a programme supported through UNICEF and Save the Children to work

with children not only in the camps but in northern Uganda and more generally to try and provide in a sense spaces of protection, to use the jargon, so that those young people not only are free from the threat of being kidnapped again by the LRA<sup>3</sup> but also within the camps have the sense of security that they need to go to school and to be able in a sense to begin to recover from the traumas that have been visited on them. So we do have funding programmes through UNICEF and Save the Children. More generally I should say that we are beginning to think through a social protection scheme, a cash transfer scheme, to look at the needs of the most vulnerable people in Uganda as a whole, and obviously those very poor people with children who perhaps have been most vulnerable in the past to seeing their children kidnapped or children selling themselves as you describe. Hopefully the cash transfer programme will help to ameliorate those economic pressures on them as well.

**Q7 James Duddridge:** Do you have an assessment as to the current situation, because a third of boys or girls entering into sexual relations in return for basic goods seems immensely high even compared to other African countries in similar conflicts. Has DFID made any assessment of the numbers affected?

**Mr Thomas:** The numbers affected in the sense that they are still having to live with that trauma will be the same.

**Q8 James Duddridge:** I was referring to acts taking place now and in the future.

**Mr Thomas:** Let me come to that point in a second, if I may. Because the security situation has improved, albeit it is a very fragile security situation, and because people are beginning to be able to return to the areas that they originally came from, because people are being moved out of the camps, I think it is safe to say that the situation is improving. Eric, have there been any further surveys of numbers of children affected in the last two years or so?

**Mr Hawthorn:** DFID has done no work of our own in terms of measuring the kind of thing you are talking about. I would like to emphasise the role increased civilian policing is now playing in the camps in providing protection. A lot of the problems in the past were felt to be associated with the UPDF<sup>4</sup> providing security and protection; civilian policing is certainly improving the position. I guess one indication that children feel considerably more comfortable about the situation in northern Uganda now is that there are virtually no night commuters any more. A lot of those children who commuted into towns at night came from the camps and that is not happening, and a lot of that was not just about protection from the LRA but also about protection from the environment in which they were, so in that sense we have that indication that things are considerably better, but we have done no additional analysis on top of the World Vision report you have mentioned.

<sup>2</sup> The UN World Food Programme (WFP).

<sup>3</sup> Lord's Resistance Army (LRA).

<sup>4</sup> Ugandan People's Defence Force (UPDF).

---

4 July 2007 Mr Gareth Thomas MP, Meg Munn MP, Mr Eric Hawthorn and Mr Robin Gwynn

---

**Q9 James Duddridge:** On a completely different subject, for peace to remain and be stable the Lord's Resistance Army need to know that they can't pull in neighbouring countries at points in the future. To what extent has the Government involved the whole region and taken into consideration the full regional implications of the peace settlement in trying to form a deal?

**Mr Thomas:** As you will know, Mr Duddridge, there is a peace process in train which has a series of observer countries from the African Union supporting that process and they are part of the mix of countries around the borders of Uganda, including crucially the DRC.<sup>5</sup> You will also be familiar with the role, no doubt, of Riek Machar, the Vice-President of Sudan, and the crucial role he has played. You will obviously also be aware of the excellent role that Joachim Chissano, the former President of Mozambique, has played in mediating between the LRA and the Government of Uganda. So there is very active engagement by the other players in the region. I think we need to recognise that the peace process is not at an end by any stretch of the imagination, but let me give reassurance to you that we continue to engage with the other countries in the region so that we are aware of their concerns and, as I say, we continue to encourage them to play an active role in their work as observers through the African Union to the peace process.

**Meg Munn:** I have nothing particularly to add on that.

**Q10 John Bercow:** What is DFID doing to ensure that in the Juba peace talks there is an active involvement by women?

**Meg Munn:** I was, in my previous role, in Uganda and Kampala for the Commonwealth Women's Affairs Ministers Meeting, and obviously a big focus of that meeting was to look at the role of women in many situations. There were some processes and discussions about the role of women in conflict resolution and in post-conflict situation, and we did have an excellent presentation from a Ugandan woman who is very involved in the north of Uganda looking at the issues there, and the Women's Minister, the Honourable Saida Bumba, who chaired the Women's Affairs Ministers Meeting, was very clear that ensuring the role of women in the future and in the processes is really important. Now, the Ugandan Parliament achieved 30% of women in parliament at the last elections which they feel very positive about, and therefore there is quite a big push in ensuring that the issues in relation to women are central to what is happening.

**Mr Thomas:** Can I add to what has just been said by my colleague? The Peace and Recovery Development Plan is going to be crucial to supporting a peace process that is completed, and we are encouraged by the fact that it is being developed. One of the things we are also clear about is that there needs to be substantial consultation on the components of that plan with the communities that are going to be affected. Now, the Government is

beginning to show and demonstrate an appetite for that type of consultation but I think it would be wrong to say that the consultation thus far has been perfect, and one of the things we are clear about is the need to involve women as key stakeholders in whether or not that plan meets the needs of those in affected areas.

**Q11 John Bercow:** First, I was not aware of the Minister's previous involvement in her earlier capacity, and I welcome that and I think that is helpful. But the United Kingdom was after all a very significant mover behind the United Nations Security Council Resolution 1325 on Women, Peace and Security, and the reason I press the point is that we have encountered, as I think Gareth knows from earlier evidence sessions on different subjects, a phenomenon in a variety of different countries of ostensible lip-service being paid to the notion of women's involvement, on the one hand, with a manifest absence of evidence of it, to put it no more strongly, on the other. So that we have gone to meetings which are about women, or even to women's organisations, and we have found the speeches—eloquent but usually long—being delivered by men, and women—in some cases graduates with master's degrees and all the rest of it—serving the tea. So although you obviously cannot monitor every minute of the day, what confidence do you have and what specific steps short of an imperious domineering interference are you taking to try to ensure that effect is given to the rhetoric?

**Meg Munn:** I entirely understand the point you are making and certainly one of the issues which the United Kingdom Government were keen to raise, with the support of people from DFID, was that in terms of the UN Resolution very little has happened in other places so we were able to demonstrate the take-ups of the Action Plan that the United Kingdom Government has done, and that was distributed and discussed. So in terms of this and, again, perhaps Gareth wants to talk more about the detail because I only saw what was happening in Kampala, I was very reassured by the programmes of work which DFID have there which have a focus on women's involvement and which are about women's empowerment, and clearly there is a lot of work going on within Kampala. I am not familiar with the plans or processes in northern Uganda but I certainly saw some excellent work which the United Kingdom Government is doing, supporting women in the prevention of domestic violence, an example where those women have gone out and trained imams so that the imams within the Muslim community were talking on how to prevent domestic violence within their own communities and were doing a really excellent job, so that is certainly one of the United Kingdom government's priorities and I have seen it in action there. In terms of the north, however, that would clearly be more appropriate for Gareth to cover.

**Mr Thomas:** Mr Bercow, what is required, as you know, is a revolution in attitudes and we are not even close to that yet, and that is not just reflective of the

<sup>5</sup> Democratic Republic of Congo (DRC).

situation in northern Uganda—it is the situation more generally across a whole range of developing countries. Obviously we cannot even relax about our own situation. So in terms of northern Uganda we continue to press through the discussions that we have around both the humanitarian package of assistance and the Peace, Recovery and Development Plan for the voice of women to be heard much more actively than has been heard up to now. There are all sorts of conversations that our staff are able to participate in, both in the north and crucially with other donors, with different players within the Government of Uganda machinery, and then through international fora such as the UN resolution process that you are talking about.

**Q12 John Battle:** Could I ask you about the role of the International Criminal Court? About six years ago to the month in a room along the corridor I led for the Government introducing the signing up of our Government to the International Criminal Court. At the time it was opposed by the Americans, who insisted on universal exemption from its provisions and are still not signed up to it; the Conservative Opposition voted against it and then the general election was called. But I think a more serious criticism at the time was that it was a western inspired universalist idea of justice which would actually clash with local customs and local laws which would jeopardise processes of reconciliation. In the evidence we have had, the NGO memorandum cites statements by senior LRA commanders that they would not accept a negotiated settlement committing them to a trial at the Hague. The African commentator and specialist Richard Dowden says: “if the ICC cannot bring peace and reconciliation to the victims of war, what is the point of justice?”<sup>6</sup> Yet in DFID’s evidence we read: “We judge the ICC arrest Warrants have contributed to bringing increased international attention to the conflict”—well, yes—” reduced logistical support for the LRA, exposed its activities and helped to bring the LRA to the negotiating table.<sup>7</sup> “I sense a kind of conflict between those views. Given that after six years this is going to be the first test case for the ICC I think it is vital that it is not a failure. I just wonder, what is the Government’s view of the impact of those ICC warrants on the prospects for peace?”

**Meg Munn:** If I can answer that in terms of the ICC, and it is a Government view—you set out the DFID evidence but it is also the cross-Government view that ICC arrest warrants have helped to bring the LRA to the negotiating table. The important thing here is that it was the decision of the Ugandan government to go to the ICC. I am aware that there are different views from the evidence that has been submitted to the Committee as to whether this is helpful or not. It is the Government view that it is, and it is also the Government view that it does not preclude within that details of how issues are dealt

with within the local context and within the country, because obviously these arrest warrants have been issued for a small number of people at the top but there are a whole range of issues here. This is a long-running conflict.

**Q13 John Battle:** How do you answer, then, the question that if it is a government view obviously the government is against the LRA, therefore the whole system is biased against them.

**Meg Munn:** Sorry?

**Q14 John Battle:** If it is the government’s view that it is a one-way system, because they are obviously against the LRA, they say they are in favour of it and it is the system’s bias against the LRA, and not independent, how would you answer that?

**Mr Thomas:** As you will know from your time looking at bringing into force the International Criminal Court, the ICC is designed in a sense to support national systems. It is supposed to be complementary to national systems of justice in-country, so it comes into play where national jurisdictions, for whatever reason, are unwilling or unable to deal with the investigation and prosecution that is required. Now, there is work ongoing, as the Committee may be aware, to look at the issue of the concern of the LRA, and of some of the international community more generally, that the ICC warrants, important as they are in creating the pressure on the LRA to come to the negotiating table, could be a blockage down the line. But what is clear is that the principles behind the ICC and the Rome Statute have to be upheld. There cannot be impunity for the four who are still alive for whom the warrants are being committed. The scale of their crimes is such that the principles of the ICC cannot just be set aside, but obviously there does need to be a recognition and an understanding about what the implications are for the peace process and moving forward. So there are discussions that are taking place in-country. I understand as recently as Friday that some general principles for looking at a possible mechanism to resolve this issue have been agreed, but I simply say to the Committee what the Government’s position is, that the principles of the Rome Statute of no impunity have to be adhered to. We also have to recognise that essentially it is for the Government of Uganda, in conversation with the ICC, to take forward the resolution of the conundrum you have described.

**Q15 Hugh Bayley:** The agreement signed last Friday says, amongst other things: “Formal courts provided for under the Constitution shall exercise jurisdiction over individuals who are alleged to bear particular responsibility for the most serious crimes, especially crimes amounting to international crimes”.<sup>8</sup> In other words, there appears to be agreement between the Government of Uganda and the LRA witnessed by the three other governments, Sudan, Kenya, and Tanzania, which suggests that

<sup>6</sup> Richard Dowden, “ICC in the dock”, *Prospect Magazine*, Issue 134, May 2007.

<sup>7</sup> Ev17.

<sup>8</sup> Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord’s Resistance Army/Movement, Juba, Sudan, June 2007.

---

4 July 2007 Mr Gareth Thomas MP, Meg Munn MP, Mr Eric Hawthorn and Mr Robin Gwynn

---

even for the most serious international crimes the court system in Uganda should be used to try those who are accused of those crimes. And if trials take place in Ugandan courts, and if convictions follow the trials, penalties are imposed by the Ugandan courts. Surely it would amount to double jeopardy if an international body said these people must now stand trial again for the same offences in different courts and face a second series of penalties. Gareth, you said the ICC comes into play when the national system of justice is not available, or words to that effect. If there is a competent process of justice under the Ugandan justice system, would it be necessary for the cases to go on to the ICC?

**Meg Munn:** I think it is important at this point to be clear about just where we are in the process. There are five agenda items for the Juba peace talks, and this is the third. Where we are now is that there has been an agreement on the third item, the reconciliation and accountability, about the broad framework within which that should take place. The details have not been worked out and are not nailed down.

**Q16 Hugh Bayley:** There is a great deal of detail in the document they signed. It is obviously not a law but it is a ten-page document.

**Meg Munn:** Of course, and this is part of the process, but it is not the final stage so it would not be appropriate at this point to be saying whether that means that the ICC process would not proceed or not. The ICC warrants are there; at this point in time it is not a situation where the Ugandan government would be entering into a discussion about whether those should proceed or not. They are there; they are proceeding; and that is the position at the moment.

**Q17 Hugh Bayley:** The Government of Uganda asked quite some time ago that the warrants be withdrawn. If the Government of Uganda maintained that view—I can see your officials shaking their heads—

**Mr Gwynn:** As far as we are aware the Government of Uganda have not withdrawn their request, nor even discussed that with the ICC.

**Q18 Hugh Bayley:** I do not know whether Meg wants to answer or whether the officials should answer but you were saying, Meg, that the peace process is not finalised so the outcome as a whole is not clear and it would be premature to judge that the ICC process should be set aside. But it appears to me that our Government accepts that, if a peace agreement was made which provided for those alleged to have committed serious crimes to be tried by a formal court process within the country, and the Government of Uganda were to ask the International Criminal Court to set aside its arrest warrants because it was dealing with the matter in its own courts, it would certainly be a matter the Government would consider whether we as part of the international community would agree to the ICC process being set aside in this particular case?

**Meg Munn:** This is a complex area in terms of the process of the International Criminal Court and I do not want at all to mislead the Committee on this given my relative newness to post, so perhaps I can ask the official to clarify that because the messages on this are really important, and it is important we get this clear.

**Mr Gwynn:** Thank you. I think the scenario you have suggested is a possible future scenario which we would need to consider at the time. I think in line with what the Minister has said what we are saying at the moment is that there is this complicated on-going peace process; there are at least three items to the talks that have not really been addressed yet. In a sense nothing is agreed until everything is agreed, there is a package there. As members of the Committee have said and our Ministers have said, this emphasises the point that the ICC warrants are focusing the LRA's minds, if I can put it that way, and bringing them to talk, not as an equal party but as a group of people who need to account for what they have done. In that sense it is very helpful to have the warrants on the table as part of an on-going process, and that, we believe, is helping to put pressure on all of the parties to take this process forward.

**Mr Thomas:** I have one thing to add to that, perhaps related to a point Mr Bercow made, which is that we are not an imperialist power any more so this is a conversation that inevitably the Government of Uganda has to lead on in terms of discussions with the ICC as things move forward. Obviously we watch very closely and we are very supportive of the peace process, but we need to recognise our role and our responsibility.

**Q19 Hugh Bayley:** The Amnesty Commission could be faced with dealing with a large increase in the number of combatants if the peace process is successful. Is it adequately funded to do that? If it needed more resources to deal with greater numbers of combatants laying down their arms and coming across and seeking reintegration, would the United Kingdom Government provide funding to enable the Commission to fulfil that role?

**Mr Thomas:** The straight answer to your question is yes, we would consider it; indeed we are considering it at the moment. The Amnesty Commission has so far, since its establishment in 2000, helped to bring out of the bush about 5,000 LRA combatants. We estimate there are, very roughly, about 3,000 combatants still with the LRA leadership with whom, if there were a completed process, the Amnesty Commission would then have to work. As I say, we would be willing to look at further financial support to the Amnesty Commission for that purpose.

**Q20 Hugh Bayley:** What is the role of traditional justice in promoting reconciliation and reintegration of LRA combatants?

**Mr Thomas:** Traditional justice has a role. I do not think it has a role in relation to the leadership of the LRA—I think the scale of the crimes that they have committed must be outwith the traditional justice

---

4 July 2007 Mr Gareth Thomas MP, Meg Munn MP, Mr Eric Hawthorn and Mr Robin Gwynn

---

mechanisms. But for those combatants who are Acholi particularly, then the Mato Oput form of traditional justice has had a positive impact already in helping people face up to the atrocities perhaps that in some cases they have been forced to commit, and has helped the communities from which they came who would otherwise perhaps not be willing to receive them back to come to terms with what has been done against them by particular combatants. So it has played an important role in reconciliation efforts to date, and I do think it has a role to play in further reconciliation attempts, albeit I have to say with the caveat of the leadership, those against whom the ICC warrants have been levied, being outwith that process. I should perhaps just say, too, that the Amnesty Act was specifically amended to exclude the five, now the four, people against whom the warrants have been imposed by the ICC, from being covered under the terms of that Act.

**Meg Munn:** Again, just for the avoidance of doubt it should be clear that it would be the ICC judges who would consider whether any domestic prosecutions altered the basis on which they had issued the warrants, and our view is it seems unlikely but obviously that is a much longer process.

**Q21 Hugh Bayley:** Can I come back to this issue of double jeopardy? Is it really for judges thousands of miles away in the Hague, working in a situation that the victims of these crimes have no understanding of whatsoever, in effect to judge the Ugandan judges, if the four leaders or others responsible for serious crimes were brought before the Ugandan courts?

**Meg Munn:** The situation, to go back to it, is that it was the Government of Uganda who approached the International Criminal Court, and having done so the International Criminal Court has come into play; they oversee the process now; and it is therefore for them to judge whether a credible prosecution conforming to international norms, wherever that happened, could take place. That is the process. So it is not about double jeopardy: it is about whether what has been set in train is the appropriate place, and that is now with the International Criminal Court judges.

**Q22 Chairman:** On that point, and this is a delicate issue, is there any indication what Joseph Kony and his three colleagues are expecting or looking for? What worries me is you can dance around on the head of a pin here, but are they expecting some kind of minor punishment and release, or are they accepting that there will be a serious issue which they will have to face up to? Secondly, will they have confidence that they would then get whatever was the expectation properly delivered by the courts of Uganda, given some of the issues that have arisen around the question of independence of those courts?

**Mr Thomas:** The LRA leadership need to be in no doubt that we as a Government support the International Criminal Court having levied those warrants and, as I said in answer to earlier questions, there can be no question in our judgment about any

sense of impunity being allowed to carry on in terms of the crimes those five—now four—people have committed.

**Q23 Chairman:** Are we confident that, given the history of the difficulties of dealing with them at all, they are engaged in this process with a clear understanding of that?

**Mr Thomas:** Well, the agreement in terms of principles that was negotiated on Friday which Mr Bayley referred to had, in terms of the negotiations, an LRA delegation at the table. There is now a month's break in which we expect that LRA delegation to be talking to their leadership about how the process moves forward, which is also one of the reasons why we cannot give more information to the Committee about how the principles can be translated into a reality moving forward. But they are aware of the international pressure on them; they are aware certainly of the United Kingdom's Government view that they have to take responsibility for the crimes that they have committed personally and which have been committed in their name; and it is clear that they are aware of the discussions that have been taking place. There has been an LRA team in the negotiations and that team we expect over the next month to be consulting with their leadership.

**Q24 Sir Robert Smith:** Obviously this conflict has devastated the region and the Peace Recovery and Development Programme must be a crucial part of rebuilding some kind of normality. What is the United Kingdom Government doing to promote and support the implementation of the Government's programme in Uganda?

**Mr Thomas:** One of the things that we have been doing is directly advocating for such a plan. The former Secretary of State for International Development sent me to Geneva back in March 2006 to be part of a discussion with the then core group of countries with the Government of Uganda about, firstly, the humanitarian situation in northern Uganda, how we can begin to address the humanitarian needs which the Committee were aware of from their visit and which have been described here, but also for a process moving forward once a peace process really began to take hold. What we have worked on with the Government of Uganda since that time is in a sense a set of principles for moving beyond the humanitarian assistance phase into the recovery and reconciliation phase, because the last thing we want to see is humanitarian assistance being cancelled and the whole focus being on recovery. So we are continuing to provide humanitarian assistance, and we are trying it to do it in a more flexible way than perhaps we would do in other circumstances. For example, as well as providing funding to enable healthcare to be improved in the camps we are also looking at the healthcare needs in areas that people are returning to, and in the resettlement camps that are developing as people move out of the IDP camps, so we are working very closely on it, still providing the substantial humanitarian support

---

4 July 2007 Mr Gareth Thomas MP, Meg Munn MP, Mr Eric Hawthorn and Mr Robin Gwynn

---

necessary but trying also to address the needs of those returning. Because if the returnees are going to continue to have confidence in the peace process they have to see a tangible benefit for their lives in their areas, and that is why I think it is important that the international community as well as the Government of Uganda to provide resources to enable facilities to begin to start being improved in those areas.

**Q25 Sir Robert Smith:** In an earlier answer I think you shared a concern that the Norwegian Refugee Council has that, whilst this has gone through the Ugandan Parliament it has not necessarily engaged with civil society to see that the programme meets their understanding of what is needed, or is engaging civil society in its development? Is that a concern you share? You have mentioned trying to involve more women. Do you share that need to engage civil society, and what sort of action can be taken to improve that?

**Mr Thomas:** The Government has started some consultations. I think it would be wrong of me to say that we thought they were anything like as comprehensive as we would like to see, and one of the things that Eric and his team are doing from our office in Kampala is working with the Government to look at how a more comprehensive consultation exercise can take place. The Committee may be aware from its visit that we also fund a number of civil society groups who also can have a role in making sure that communities are consulted and feel part of that process to understand how the Peace Recovery and Development Plan can be taken forward for their area.

**Q26 Sir Robert Smith:** The other concern is maybe if you are drawn too narrowly into the region, because the neighbouring regions also need assistance to recover because obviously the conflict destabilises those areas around it.

**Mr Thomas:** I agree that it would be a disastrous outcome if funding for one particular part of Uganda was at the expense of surrounding areas, and in a sense you just displace the anger that is one of the underlying causes. We are obviously factoring that consideration into the dialogue we have with government about how they put that plan together.

**Q27 Mr Singh:** Gareth, you stated that the humanitarian assistance programme will continue and I think that is quite right and proper, but what we do know is that conflicts can recur and that the effects of conflict can last a very long time, and that any peace process really needs to be linked to development goals as well so that people can see positive benefits as you mentioned. Now, have there been any international commitments to fund this Peace Recovery and Development Plan?

**Mr Hawthorn:** The Government has talked about plans to have a consultative group meeting with donors once they get to the point where they have a final version of the Peace, Recovery and Development Plan, but at the moment we are talking about putting in place the financing. Large numbers

of development partners have indicated availability of financing for the PRDP and other elements which have been very important such as demobilisation and disarmament. PRDP will provide a framework for managing those resources.

**Mr Thomas:** With respect, Mr Singh, and I hope you will forgive me for saying this, in a sense we have been trying to run before we can walk, in that we have not in a sense completed the peace process, so yes, there absolutely does need to be donor financing of the Peace Recovery and Development Plan, and we are working on support to the roll-out of that and the consultation on that. The broader donor conference that would be appropriate to take place to get behind that plan in a sense we recognise has got to happen but we want to make sure that the broader peace process is continuing to move in the right direction, and that is where I think the bulk of the international community's focus has been, making sure that continues to move forward at the same time as we look at these initial steps that we need to take as people begin to feel the security situation is allowing them to return home.

**Meg Munn:** Also there is a real focus on making sure that these talks continue; there is a real focus on continuing to work with the Ugandan government on that; and obviously the eyes of the Commonwealth are going to be focused on Uganda in November with the Commonwealth Heads of Government Meeting. The President of Uganda will be the head of the Commonwealth for two years beyond that, so there is a good international focus on what Uganda is doing and the role the Ugandan government is playing, which I think is enormously important. So supporting that process, supporting the work the Ugandan government are doing, working with them and continuing to give important messages about the whole of the issues of governance in Uganda is crucial at this point in time, and I think that is well understood by the President of the Ugandan Government.

**Q28 Mr Singh:** I can see your position and where you are coming from but I cannot hide a little disappointment in that approach because this Committee knows how hard it is to mobilise international donors. We know how hard it is to get them to co-ordinate their donor effort, and it would appear to me to be more logical to be putting in the effort to mobilise international donors now, concurrently, with the peace process, rather than waiting for one phase to end and then another phase to begin, because we might lose quite a lot of valuable time in beginning that development process.

**Mr Thomas:** If I have inadvertently given you the impression that there is no conversation taking place within the international community about exactly that then I apologise. One of the things set up in March 2006 as a result of this meeting in Geneva was a Joint Monitoring Committee which has the key members of the international community based in Uganda sitting down with the Government on a regular basis to talk about their resources and about the political needs around the peace process as well,

---

4 July 2007 Mr Gareth Thomas MP, Meg Munn MP, Mr Eric Hawthorn and Mr Robin Gwynn

---

so there is a substantial conversation taking place about the finances for the longer term. What there has not been, as Eric has described, is the formal donor conference consultative and group meeting taking place as yet, and that is simply a reflection of where we are in the peace process. So we have not forgotten about that; there are conversations taking place; we just have not had that formal meeting at this point in time.

**Meg Munn:** Really what is important to say is that the international community has come together in terms of providing support for these peace talks. Financial support to the talks is channelled through a fund, the Juba Initiative Fund, managed by the UN OCHA,<sup>9</sup> and therefore that commitment is already there. I think what Gareth is saying is that the international community has come forward, has recognised the importance of this and is making sure the talks are taking place. I do not think anybody is walking away saying "Oh, it has finished." It is not in place but the understanding that it will need to be in place is there.

**Q29 Mr Singh:** So how is the United Kingdom Government linking the Peace, Recovery and Development Plan to the Ugandan Poverty Eradication Plan and the Ugandan Joint Assistance Strategy? Are there explicit linkages we are working on?

**Mr Thomas:** One of the things we are doing is saying to the Government "You have to put more resources into the north and to think about the development needs of northern Uganda as a peace process moves forward", so the different document processes you describe have to be together, and increasingly they are. What we are seeing is a steady increase in government resources going to the north. Figures I have seen suggest an increase from US \$97 million a couple of years ago to about US \$114 million in this financial year going into the north, so there is a significant increase, and that is from the Government. Then there is the resource coming in from the international community. So we are working to link all those processes together in the way you describe should happen. What I do not want to give you, Mr Singh, is the impression that everything is perfect as yet. By definition, because the peace process has not been locked down, it is not, but we are very conscious of the need to develop those links between the different processes you describe.

**Q30 Mr Singh:** In terms of DFID's approach, are we at the moment doing any budget support or considering budget support in the future?

**Mr Thomas:** We have given some £35 million of budget support to the Government last year. You will be familiar, Mr Singh and the Committee more generally, with the decision that the former Secretary of State took not to increase budget support in the wake of our concerns about the lack of a level playing field in the run-up to the elections,

and we switched the planned increase in budget support to provide further humanitarian assistance in the north. We have not made a decision about levels of budget support, whether there should be an increase in budget support for this year; that is obviously something that the new Secretary of State will have to look at.

**Q31 Chairman:** Given that we are in a transitional phase and, Gareth, you said that people are beginning to go back, although the numbers that have actually gone back to their original land seem relatively small and there are interim camps, that presents both local government and the national Government with a real challenge as to just how much money they put behind those settlements, whether they are temporary or whether they will get them back on to their own land. What measures are being put in place to try and assist that process to resolve things like land disputes? Also, President Museveni had a rather different idea as to how this would happen from the local communities' view. When we asked people, "Would you go back to your land?", they said yes, although when you talked a little more, some of the people said not quite in the way they used to, they would have different types of settlements and some of the younger men in particular wanted to come into the towns. That is all going to take a lot of resources. Some of it presumably can go on before peace is concluded because, with greater security, people are moving back. So are you satisfied that the right kind of resources are being put behind that and the right kind of co-operation between the local government and the local representatives in the Government of Uganda is actually taking place to ensure that it is actually delivering what we might call a "long-term solution?"

**Mr Thomas:** If I may dispute your description of the numbers that are moving out of the camps as being minor—

**Q32 Chairman:** No, no, I said moving back to their actual land, not moving out of the settlements.

**Mr Thomas:** I think, nevertheless, they are still significant. We estimate that about 400,000 people out of the 1.7 million a couple of years ago have returned and, as you say, there are another 400,000 who have gone into transitional resettlement camps. What we have discussed in the session so far, about the importance of the Peace, Recovery and Development Plan having genuine ownership by not just the Government but by the people in the communities affected themselves, is going to be key to in a sense the point you make about how we help people who do want to move back to their lands but perhaps not in the way that they used to. As I have described, is it a perfect process? No, it is not a perfect process. The Government we are starting to see being willing to have more comprehensive consultations and part of our responsibility, we think, is to work alongside the Government to try and make sure that the consultation that is taking place is more effective and wide-ranging than it has been to date. The reverse of that as well is to provide

<sup>9</sup> Office for the Co-ordination of Humanitarian Affairs (OCHA).

---

4 July 2007 Mr Gareth Thomas MP, Meg Munn MP, Mr Eric Hawthorn and Mr Robin Gwynn

---

support in a sense from the bottom up by supporting a range of civil society organisations, as we do, so that they can help communities and organisations with whom they work have a direct input into the Government's plans moving forward.

**Mr Hawthorn:** The JMC now includes, and this was a suggestion made earlier by development partners that the JMC included, local government, so all the chairmen of district councils attend the JMC and actually a lot of the discussion in the JMC is between those people and central government ministers and permanent secretaries about what they need in order to improve the situation for the people living within their districts, so that is a very important way in which consultation is taking place. At the more local level in terms of what people do on the ground and the programmes that are implemented on the ground, there is something called the District Disaster Management Committee which is the focus for making sure that districts are involved at that level where specific investments go. The challenge you identified of getting the balance right between where you put things and not standing in the way is a very difficult one, but it is being managed through that kind of consultation.

**Q33 Chairman:** There is a Commonwealth Heads of Government Meeting in Kampala in November, is it?

**Meg Munn:** November, yes.

**Q34 Chairman:** Is this likely to be on the agenda? Indeed, does it not have to be on the agenda, given where it is taking place?

**Meg Munn:** No, it is not, not that I am aware. Clearly, as I said earlier, the fact that the meeting is taking place within Uganda puts a spotlight on it and on what is happening there, but, as I understand it, it is not actually on the agenda of the Commonwealth Heads of Government Meeting.

**Mr Thomas:** Just to add to that, I think that is absolutely right, but inevitably in the margins of an event as massive as CHOGM there are the opportunities then for a series of conversations to take place. Given that the peace process is, if you like, a dynamic process, and that is perhaps the wrong phrase to use, but it is continuing to move forward, where we are in November may well lead to a series of conversations, et cetera, but I think we need to recognise that the core players within the international community, such as the Dutch and the Americans, are not members of CHOGM and, therefore, that is one of the reasons why it is not formally on the agenda at this stage.

**Meg Munn:** Also, the general theme for the meeting is transforming Commonwealth societies to achieve development, so broadly within that, as within the

legal affairs meeting that I was at where there was discussion about conflict resolution and development following the peace process and clearly there was a focus on what was happening locally, then there is room for those discussions, but I think the process is very much as Gareth describes.

**Q35 Chairman:** The point I am making is that the Government of Uganda and President Museveni have until fairly recently taken the attitude that, "It is not a problem, it is just contained in the north, there are historical reasons for it, there are just a few guys in the bush and we can deal with them", and that is the reason for it. But please can we have your reassurance that you believe that that has fundamentally changed now and the Government in Uganda recognise that this is a process that is in their interests to resolve and, accepting that the LRA are difficult people to deal with, nevertheless, they have a recognition that it is a national problem that needs a national solution.

**Meg Munn:** I think that is absolutely the case. As I said, I think that focus on the Commonwealth Heads of Government Meeting is important. For two years following that, President Museveni will be chair of the Commonwealth, so the focus will continue to be there. Our discussions with the Ugandan Government are not just about northern Uganda, they are also about the process of governance within Uganda itself and the continuing representation and position of opposition politicians, and the importance of a multi-party system and democracy there are also ongoing. But, as I know from my own contacts with the High Commissioner when I was there just three weeks ago, those are discussions which are continually ongoing and are important in terms of the whole issue of Uganda and I think the fact that the heads of the Commonwealth are there means they will continue to be important.

**Q36 Chairman:** Mr Thomas, on the basis that DFID is recognising that this is a long-term commitment both to secure peace and to secure development after peace, is there a recognition that those kinds of levels of funding are likely to have to continue for quite a long time?

**Mr Thomas:** Certainly we would not want to walk away from Uganda just at this moment not only because of the peace process, but because of the substantial poverty people are experiencing still within Uganda as a whole, so we have no plans to withdraw.

**Chairman:** Thank you very much indeed for giving us your time. This is just a single session, but I hope that it is one that will focus attention on the peace process progress and our Government's engagement in it. Thank you.

---

*Witnesses:* **Ms Marieke Wierda**, International Centre for Transitional Justice; **Mr Nick Grono**, International Crisis Group; and **Mr Barney Afako**, Ugandan Human Rights Lawyer, gave evidence.

**Q37 Chairman:** Thank you very much for coming. You have heard the evidence we have had from our own government representatives and you will be aware of the Committee's interest in this particular issue. We are grateful to you for sharing your more up-to-date, first-hand, day-to-day knowledge with the Committee. I would be grateful if you could perhaps give us an indication, from your perspective, of how you perceive the talks are going—we obviously know where they are at—but what you feel generally. On a slightly delicate note, people are being funded to go to Juba for the talks and people are looking for an outcome, so what kind of pressures are there to deliver, not by a given date, but within a reasonable timescale? We have had experience of talks in the past that go on and on and on and the impression one gets is that there is some degree of progress, but it would be helpful if you could give us your own experience.

**Mr Afako:** On the specific issue of the pressures to deliver an outcome, it has to be recalled that a year ago when the Government of southern Sudan decided to mediate between the LRA and the Government of Uganda, the LRA did not have a functioning political wing to speak about, it did not yet have for itself a roadmap for a negotiated political solution, so a lot of the time has been spent by the LRA attempting to put together a delegation that represented its interests. The LRA felt that its key leaders, for the reasons that they were wanted by the International Criminal Court, could not attend the negotiations in Juba, so they had to find people who were willing and able to represent their interests. That has taken time to build a functioning negotiating team and I think they have a much better team today than they did a year ago and part of that is being reflected in the improvement and the pace at which we are seeing matters concluded in Juba.

**Q38 Chairman:** And that team has the confidence of the indicted leaders?

**Mr Afako:** Absolutely, it does have the confidence of the leaders. They are certainly in daily contact with the leaders and often during sessions they will break to make contact via telephone, so they are following the talks basically on a daily, and sometimes hourly, basis.

**Ms Wierda:** Just to add from our observations, I think the role that internationals have come to play in the process, particularly Special Envoy Chissano, but also the other representatives from other African governments, is very helpful. Our sense when we were at Juba four weeks ago was that there is more of a sense, I think, that the eyes of the world are upon them now, which I think will be helpful to keep the discussions on track.

**Mr Grono:** On the point about the timescale of these talks, these talks are taking a long time, but I think we need to put them in the context of, one, it is a conflict that has gone on for a long time and, two, there are real benefits that we are seeing just by reason of the talks themselves going on. You have heard evidence of the camps now, that some 800,000 people have left the IDP camps for transitional

camps or returned to their homes, down from 1.7 million. A couple of years ago we had an excess mortality rate, I think, of about 1,000 per week, this was the UN study and you have heard evidence of that, so these things take time. From the perspective of my organisation, the International Crisis Group, we are watching this with very close interest because there is perhaps not a rhythm but a process that one sees where some issues look very intractable and by taking the time and teasing away at them we see movement. We are seeing the LRA give real attention to the issues of accountability that we might not have expected a year ago and part of this, I think, is the process of participating in these talks and being exposed to different views and understanding that the situation is not what they might have expected it to be when they first entered the talks, and I think it is a very welcome process. We still obviously have very difficult issues to resolve, but there has been a significant advance on what we might have expected perhaps a year ago.

**Chairman:** I would make it plain that I do not question that. My only concern is that when you actually talk to people in the camps and the communities, they say that until they are absolutely sure they have peace, many of them are not confident to be resettled or re-established, so there has to be a point at which people are sure that things will not flare up again, but I appreciate that in the present climate there has been a huge improvement on the ground.

**Q39 Mr Davies:** This is a fairly basic question, but I think it runs through all of this. What possible motive do the indicted leaders have for accepting any kind of settlement which will result in them spending the rest of their lives in jail? Are there not really just three plausible scenarios: one, that the LRA somehow manage to decouple themselves from these indicted leaders and even connive their arrest and committal; secondly, that some form of immunity is negotiated which of course would be a terrible blow to the credibility of the International Criminal Court; and, thirdly, we just carry on without any settlement at all? Are those not three plausible and possible scenarios?

**Mr Afako:** I think what the parties are trying to achieve in Juba, first of all with the agreement last Friday and the second part to come on the mechanisms, is to find a formula which delivers accountability and addresses the justice question, but at the same time approaches the issue of punishment in a way that reflects that the crimes are serious, but also has a bash at achieving the aims of peace and conciliation at the same time. The mechanism for that is far more difficult and I think we will start to thrash that out in the second part of the agreement and, beyond that, in legislation, so the choice is not quite as stark as it has been pur and it is not a choice between spending the rest of your life in prison and war. I think we are trying to find if there is a middle position, so to speak.

---

4 July 2007 Ms Marieke Wierda, Mr Nick Grono and Mr Barney Afako

---

**Q40 Mr Davies:** That is my second scenario, but that does involve retreat by the ICC.

**Mr Afako:** No, it does not involve retreat by the ICC because I think that the Rome Statute, properly conceived, is actually a much more subtle document. I think that the current emphasis on the arrest warrants *per se* has prevented a much closer examination of what justice and the fight against impunity actually entails. The judges will have to come to a conclusion as to whether Uganda's exercise of criminal jurisdiction satisfies international standards and that is not just a standard on the basis of penalties, but the entire criminal justice process. Indeed, the context of that process is not irrelevant and I do not believe that the Court will ignore the fact that this peace process, which has been embarked on, is taking place in a conflict resolution setting and, if it delivers the peace dividends that we all hope for, that will be a factor in determining what action the Court will take. The point really is that it is a more nuanced approach that we expect.

**Q41 Mr Davies:** It is certainly a more nuanced approach, but I put it to you again that the penalty of that, the price of that is to blunt the credibility of the ICC which is based on the assumption of some form of international justice on a single standard throughout the world for a particular type of crime, and that will go and be replaced by the idea that the ICC may initially issue indictments which in practice will be different in different contexts depending on the political pressures involved and depending on the negotiating and bargaining strengths of those who have been indicted and depending on the judicial and legal systems in the country in which the atrocities or the alleged atrocities took place. That is a very different picture from the one of a single standard of justice delivered by an objective international court.

**Ms Wierda:** Just to speak to that, I come from an organisation that strongly supports the International Criminal Court and the system it represents, but I think we would say that the innovation of this Court really is its ability to take into account genuine efforts at accountability on the national level and that it is indeed able to adapt to some extent. Now, we would take the view, much as the Government, that the role of the arrest warrants until now has been quite crucial and that the ICC maintains a very useful source of pressure, one that it would be far too early to remove. Apart from that, if Uganda comes into the situation where its inability to exercise jurisdiction changed, which was the ground on which it originally asked the ICC to intervene, if there is a factual change in circumstances to its ability to exercise jurisdiction, then we would believe that it is within the spirit of complementarity to allow them to attempt to do so.

**Q42 Mr Davies:** I think you ignore a very important point. As you rightly say, up until now the ICC indictments have been a very potent weapon in this, they have had some force, they have had some effect and the reason is because the ICC up until now has

been credible. If, as a result of this, what you do is you compromise the ICC's principles and develop the scenario set out by your colleague, next time around when there is an atrocity, the ICC warrants will not be so credible because next time around they will say, "This is not absolutely terrifying—it does not mean that I'm going to spend the rest of my life in jail. This just means that we will be made to enter a negotiation and it depends upon my bargaining power what kind of legal process we shall ultimately end up with".

**Ms Wierda:** I should have clarified that we believe that the ICC judges are the ones that are, after all, making these decisions. We do not believe that they will be applying political principles in their decision-making. They will look at legal principles, they will apply legal standards, they will evaluate the processes that are taking place in Uganda and match them with those international legal standards, so we do not believe that that undermines the ICC's credibility. Obviously it creates certain difficulties in terms of timing in these discussions because we do not believe that the time to make an admissibility challenge would be now or even on the basis of the document, so it does not resolve the difficulty, but I believe their ability to decide in accordance with those international standards is not an attack on their credibility.

**Q43 Chairman:** Can I ask you a question about the Government of Uganda. In the past, the Government of Uganda's approach, and you heard my question to our two Ministers, has been somewhat inconsistent. On the one hand, they have said, "It's a little bit of a problem, we can deal with it", the talks have happened and then they have escalated the pursuit. Are you confident that the Government of Uganda is engaging in this process in a different spirit from the past and it is also under the same kind of international pressure to act in good faith to try and secure a settlement through these talks and not resort to any kind of actions that would bring them to a premature end?

**Mr Afako:** It would probably be foolish to attempt to speak for the Government of Uganda.

**Q44 Chairman:** I am not asking you to do that.

**Mr Afako:** What can be said is that this is the first time that you have had a set of talks mediated by a third country between the Government and the LRA. The Juba talks are very highly observed, as has been noted here this morning, and all of that puts pressure on the Government to keep faith. That does not mean that you rule out attempts to take shortcuts with the process, but it makes that much less likely. So in that regard the African observers, the role of former President Chissano and the participation of many other international development partners in the Juba Initiative Fund are all very important pressure points. Of course the communities, the populations in the affected areas, especially in northern Uganda, are fairly solidly behind any negotiated settlement for the reasons

---

4 July 2007 Ms Marieke Wierda, Mr Nick Grono and Mr Barney Afako

---

that were already discussed earlier to do with the settlement of the humanitarian situation in that part of the country.

**Mr Grono:** I think you have seen that the Government of Uganda is taking seriously this peace process and it has advanced further than any we have seen. I think though that the real challenge is when we get to the crux of the issue that Mr Davies was talking about, which is that you will get to a stage where a decision has to be made on what is the settlement that is going to be arrived at, particularly in terms of dealing with those indicted leaders. I think that will be the challenging part of this process where you will see the true motivations of the parties being examined. The Government presumably wants to preference a peace process, it wants an end to the conflict that is devastating the north, the LRA perhaps too, but the question that will have to be settled is: if you have the International Criminal Court warrants in place, what kind of punishment would satisfy the requirements of the ICC statute? I may not be putting this very clearly, but I think what you are going to find is that the parties to a conflict will often be prepared to excuse each other of past atrocities, so you will get to a stage where the Government of Uganda and perhaps the LRA are prepared to say, "We will accept a certain degree of accountability that might not meet international standards", and the ICC will then have to decide and judge whether that meets their standards, and there are a number of provisions in the Act which allow for a balancing of that which we can go into, but I do think we have got a way to go before we can face that issue.

**Ms Wierda:** I think it is useful to maintain pressure on the Government of Uganda, but an indicator of its seriousness, if you will, will also be its own willingness to submit to scrutiny or accountability for its role in the conflict in some shape or form.

**Q45 Hugh Bayley:** What kind of penalty imposed by the courts of Uganda would satisfy the people in northern Uganda that justice was being done in respect of the four indicted leaders and what kind of penalty would satisfy the International Criminal Court that justice had been done?

**Mr Afako:** That is a difficult call to make. In relation to the population of northern Uganda, one of the things that you will find in the agreement is the commitment to consult widely on various aspects of the agreement. That is important because people say different things depending on the point of the conflict, depending on whether they are in camps and desperate to get back home; if they get back home, they might take a different view on these matters. The starting point under the law of Uganda is that these sorts of crimes ordinarily attract the death penalty, so the first thing to be said is: we will move away from that approach. Where the pendulum will hang is not certain at this stage and it would be premature to guess because a lot of these consultations have not taken place. With respect to the ICC, one of the principles of the Rome Statute is actually deference to national penal approaches, and that is Article 80. That is significant because you will

know that some states find life imprisonment inhuman and degrading and, therefore, would not apply it in their own jurisdictions, whereas under the Rome Statute that is perhaps acceptable. So there is some margin of appreciation, there is some latitude that states enjoy on the issue of punishment and I think that balance would have to be struck somewhere, and once it is struck, then, in making its judgment, the Court will take into account all sorts of other factors and not merely focus on the punishment.

**Ms Wierda:** It is sometimes said that the Rome Statute is silent on the issue of punishment because it refers to effective investigation and/or prosecution, but of course we must presume that the Court is interested in penalties, although of course there is a lack of practice now. I would just point to developments in Colombia under the peace and justice law which are somewhat analogous with what is happening in Uganda. There, the Government has proposed penalties of five to eight years for its paramilitaries and for involvement in very serious international offences. It is quite possible that at some point we will be able to gauge how the Court might react to that, but it is too early to say as we are lacking practice in this area.

**Q46 John Battle:** I would like to ask a general question about what, in your view, is the responsibility of the international community for ensuring that the conflict ends? Should they just leave it to the legal processes and step back or should they be more engaged and do you think the donors are doing enough to give practical financial support to the peace talks?

**Mr Afako:** I would say regarding the international community that, because the talks have now started and the parties have agreed the framework for settling or attempting to settle the conflict peacefully, at this stage the effort should be to keep pressure up on both parties to keep the process going and to come to the earliest possible resolution of that matter and then go on to implementation. Of course there are issues within northern Uganda to do with the humanitarian situation, the return of civilians and so forth, and that needs to be well resourced and I think there is no lack of political will in that direction. In terms of practical support, yes, at home in Uganda, but also in the neighbouring countries that have been affected by the conflict, we need to make sure that once the insurgency is over, then people can return home. The legal aspect has been a bit of a paralysis because people do not know how to engage with the International Criminal Court because the Court is not meant to be political and states do not want to appear to be political. Indeed, the Juba Initiative Fund created a lot of angst amongst donors, I think, before they finally agreed to engage. I recall that when the Government of southern Sudan made its overtures to the LRA, a lot of the legal opinion, emerging even from some of the states now supportive, was that it was against international law to talk to a group that had members who were indicted, so to speak, by the ICC, and it took calm discussion of the objects of

---

4 July 2007 Ms Marieke Wierda, Mr Nick Grono and Mr Barney Afako

---

international law and the promotion of peace and so forth to come to this point where there is now support. However, I think we are going in the right direction and I think that states are beginning to find space even within a tricky, legal environment to operate and be supportive.

**Ms Wierda:** I think also the issues that are addressed in the recent document, the agreement on principles, are really very complex. They call for an establishment of a range of mechanisms potentially; it is not just going to be about the International Criminal Court and engaging there. We think this range of mechanisms and indeed the consultation leading up to those mechanisms will all need support, and that there will be a very important role for the United Kingdom there.

**Mr Grono:** It is critically important. These parties do not trust each other at all; they have been in conflict for more than 20 years. There is a real issue about whether or not they are both genuinely committed to a peaceful outcome. Now, the talks have been going on for a year, there has not been a significant assembly by the LRA at the assembly points, and the UPDF has not always behaved as it should have, and I think it is critically important that the international community maintain pressure on both sides. Britain has a role to play in maintaining, and using, its strong bilateral relationship with Uganda and maintaining pressure on the Government of Uganda to participate in good faith and to make it clear that, if the Government of Uganda does not support peaceful outcome, then it will be of concern. Likewise, pressure has to be maintained on the LRA. We can do things like look at the funding sources for the LRA, perhaps a UN expert panel can be looking at those issues, and some planning around what will happen if the peace process falls apart. You have to have disincentives for those considering pulling out of the process, and I think it is a critically important role for this Government to play.

**Q47 Hugh Bayley:** Is the international community giving the ICC sufficient support in relation to these four indictees and in relation to the other cases that are before the Court and, if not, what more should it be doing?

**Mr Afako:** I think the Court might feel that it has not been as strongly supported as it would have hoped. The reason for this is that the international community is grappling with a genuine dilemma and it is not straightforward to effect these arrests. If that had been the case, we would not be having this discussion—these people would be facing trial by now and the people of northern Uganda would have returned to their homes. The reality of the matter is that for 20 long years the LRA and the Government have been battling away within Uganda and the south of Sudan, and you are very familiar with the impacts of that. It is an untenable situation and I think the international community recognises that and that is where the tension arises. Should the international community now turn away from the process in Juba, for argument's sake, and begin to press for a military solution? Is there the political will

to marshal what it would take, which has not been marshalled for the last 20 years? There is a difficulty, there is a real dilemma posed by the humanitarian impacts of the LRA's activities and I think that is what has given cause to pause and to give the process in Juba an opportunity to work something out. It is a more convoluted type of approach because it is a complex issue. What the international community can do is to keep faith with that process and trust the judgment of the ICC on the outcome and not, so to speak, talk out of turn, but let the judges decide this matter and allow the Government of Uganda its sovereign latitude to engage directly with the Court on this issue and we can sit back and wait for the judgment of the Court.

**Ms Wierda:** The Court itself has been quite clear that it sees these dilemmas of peace and justice as dilemmas that it can approach, advancing on parallel track to any negotiation that is ongoing. The only thing that we would say, I think, about that is that its track also has to proceed and not be entirely contingent on, or interrupted by, the negotiation track. From that point of view, I think the Court not just in Uganda but across the board at the moment is concerned with state co-operation and what it can expect in these situations. I think it would be important for the international community at large to keep thinking of concrete ways and mechanisms to put in place adequate state co-operation so that the Court's gestures do not appear completely empty.

**Mr Grono:** Your question was a little broader than Uganda, but I think Uganda is a difficult situation and the level of support is perhaps appropriate at this stage. I think it is much clearer when you get to a case like Sudan where you have arrest warrants issued, a clear statement on behalf of the Government of Sudan that they are not going to hand over the indicted individuals and it is a much easier case for the international community to respond appropriately, which we have not seen yet. The Prosecutor has come out and said that the international community should rally behind the Court. I think that is a much more important test case for cooperation at this stage and I trust again that the British Government will be in the forefront of efforts to support the process there.

**Q48 Hugh Bayley:** To go back to northern Uganda specifically, when we were in northern Uganda we had a conversation with, I think it was, the Permanent Secretary of the Interior Ministry, whichever ministry is in charge of the police, about whether logistical help was needed to effect arrests. I came away with the conclusion that it was not logistically possible, that the failure to arrest the indictees was not because of logistical difficulties, but because of practical difficulties of identifying where they were and having a sufficient force of arms to capture them. Is it the case that the Government of Uganda has asked the international community for technical assistance of some kind to effect arrests and is there evidence that the governments of neighbouring countries have been willing to co-operate in an international community arrest

4 July 2007 Ms Marieke Wierda, Mr Nick Grono and Mr Barney Afako

process because, if that is not the case, then looking for some negotiated solution could just be the only way out?

**Chairman:** As a supplementary to that, you have said that the LRA need to know what the consequences are of the talks failing. We have international engagement in the DRC, we have international engagement with bells on in Sudan, and obviously the international community is supporting Uganda, so in that context is part of the point that, "If these talks break down, do not be so confident that you would not actually be seized, arrested and dealt with"?

**Mr Grono:** That is certainly the message that we would like to see out there. Of course it is complex because, for a start, the LRA leadership is located in Congo, so, as far as the Ugandan military forces go, there is a real issue there and we would be extremely concerned if they sought to cross over into Congo, particularly with the history of Uganda and Congo. There have been talks with the Congolese authorities and with MONUC, the UN mission in Congo. I think MONUC is unwilling to take a lead role right now because it does not see it as part of its peace-keeping role, but I think that is something that we should explore and we have certainly called for MONUC to provide support if the peace process falls apart. We also have a UN mission in southern Sudan which also is displaying a degree of reluctance to get involved in this because they say their mission is peace-keeping in south Sudan. The ICC at some stage signed a memorandum of understanding with the Government of Sudan pursuant to which the Government was supposed to provide some support, but it has, I think, since resiled from that agreement following the indictments against the Sudanese minister and the Janjaweed leader, so there is a very strong role for greater co-operation and I think some of the planning and thinking should be proceeding apace on that. There are talks, I do not know how far they have gone, but it is certainly the position that the British Government has played a facilitative role in encouraging talks on those issues. As far as the UPDF goes too, our reporting has said that we have seen a significant improvement in their capabilities over the last few years with assistance from other governments. I suspect that part of the reason you see the LRA in Congo right now is because of the greater abilities of the UPDF, but that does not go very far if they are not even in Uganda.

**Q49 Hugh Bayley:** Should we expect the AU<sup>10</sup> to put in place an arrest strategy when you have people sought by the International Criminal Court who have been moving between three countries? It would be a military operation, would it not, let us be perfectly blunt about it, and it would be quite a challenging military operation? If the international community wants to leave the impression that a failure to do a deal on peace will lead to military

intervention which will arrest the leaders of the LRA, then who should be responsible for constructing that military plan?

**Mr Grono:** It is one of the great dilemmas of the ICC of course, that it has no power to execute its own warrants. So the problem that we see in Uganda, in Sudan, we will see, I am sure, in the Central African Republic and, if others are indicted, in Congo is this lack of ability to execute warrants. The AU may well have a role, but I think the AU would have more of a role in convening the respective governments to co-ordinate their efforts. We have to be careful about throwing too much responsibility on this fledgling African Union. We are also asking it to lead the peace-keeping force in one of the world's most difficult conflicts in Darfur and we have asked it to lead a peace-keeping force in Somalia, so you have got two of the world's most difficult conflicts and it is too easy too often to say, "Well, the AU is the body with responsibility". So if you are talking about some kind of military intervention force, I think that would pose some difficult challenges, but certainly it could play a lead role in helping the Governments of Congo and Uganda and Sudan and South Sudan and talking about co-operating with their own military forces, in the event that the peace processes fall apart, to effectively respond.

**Mr Afako:** I was going to say that for many people military options are not attractive and it is the case that you are not going to have a policing operation in effecting arrests and that it is going to be a military operation. We must always bear in mind that the LRA is not a volunteer force, but there are a lot of forcibly conscripted people there and many of them very young and we, therefore, must pause long before we inflict battle on them in the name of effecting arrests. If the international community has to protect civilians, then it has to do what it has to do, but in a context where there is dialogue and there is the possibility of exploring a peaceful outcome, then it would seem that it is morally dubious to inflict battle on children.

**Q50 Ann McKechin:** I had the opportunity to meet with the Amnesty Commission a few years ago and, whilst certainly we would not doubt their commitment to the job in hand, to say that their resources were scarce would be, I think, a real understatement. I wonder to what extent you would agree that there are limitations currently to the Amnesty Commission fulfilling its present role in the reintegration of combatants. I was told that they only have a six-month running mandate and I wonder whether or not that is going to be extended for granting amnesties. And do you consider that there are any possibilities for expanding its function to take on a wider reconciliation programme and for negotiations to be successful at Juba?

**Mr Afako:** On the resource issue, I think the World Bank has supported the Amnesty Commission in the last two years and they have carried out some resettlement, so they have paid out the backlog of resettlement packages for a number of people up to, I think, 10,000. So the machinery is up and running and it just needs to be topped up as and when you

<sup>10</sup> African Union (AU).

---

4 July 2007 Ms Marieke Wierda, Mr Nick Grono and Mr Barney Afako

---

have numbers ready to be resettled. It is a simple package, as you know. It is merely meant to introduce people back to the community. The longer-term reintegration issues are perhaps not for the Amnesty Commission itself, but it would be for the Government to devise a strategy for that, so I am not worried about the capacity to carry out DDR<sup>11</sup> for the LRA or indeed the ADF,<sup>12</sup> which is still in western Uganda and Congo. As to the brief on reconciliation, that has come up quite heavily in the talks in Juba and parties are now exploring what the most appropriate mechanisms would be for that. Some of it could be done by the Amnesty Commission, but I suspect that they will be looking to see other bodies taking a more active role in promoting community as well as national reconciliation.

**Ms Wierda:** I think a range of mechanisms would be appropriate also in the sense that often, I think, in post-conflict societies what happens is that reintegration benefits or packages for ex-combatants can raise tensions in the communities and can make victims feel ignored. I think again a range of mechanisms, including reparations, could help to balance some of those tensions and provide more community-oriented results.

**Q51 Ann McKechin:** And they should be working in tandem presumably rather than as the Amnesty Commission on its own as at the present time?

**Ms Wierda:** Yes, one would need a comprehensive strategy to deal with the range, including also of course the local level and traditional structures.

**Q52 Sir Robert Smith:** In your evidence, Mr Grono, you said that, as part of a peace deal, there is a need for a very comprehensive redevelopment in the north, given the devastation it has gone through. What are the witnesses' views of the Government of Uganda's plans for peace, recovery and development in northern Uganda?

**Mr Grono:** I am no expert on the plans that the Government has, but I do know that we have been doing some research into the needs that will be there in the north if there is a peace process and certainly my understanding is that there are two primary concerns. One is the resettlement and reintegration process, but another very closely related issue which has not received much attention so far is the land issue. You have a younger generation of people who have lived off the land in camps returning to their land and it is often very, very unclear as to who owns the land, and the boundaries of the land. If you add on to that the issue of returnees, I think you will have a very volatile mix in a lot of the north together with a lot of suspicion and mistrust sometimes of the intentions of those in the south regarding land in the north. I trust that one of the key objectives of any development effort will be dealing with a lot of the tensions that will arise throughout this process.

**Ms Wierda:** I think there has not been a lack of plans on behalf of the Government, but with the PDRP I think we as an organisation are quite concerned that it keeps moving to implementation, and we would also echo the concerns voiced earlier this morning about consultation and about ownership and participation at the grassroots levels. We think that other areas that are in urgent need of attention are the situation of youth and children more generally, opportunities both in terms of education and in terms of vocational training, and also I think civil society and human rights organisations and such will need continued and urgent support to provide the counterweight to the Government in implementing the PDRP and various other strategies.

**Mr Afako:** I am not very pessimistic about the outlook. I think that once the guns fall silent, you will find that the communities are very resilient indeed. We have had a lot of people displaced out of Uganda to neighbouring countries, to West Nile, for example, and most of the population was in Congo and Sudan and when they came back, there were no elaborate programmes for long-term reintegration and resettlement and it has picked up, so you will find that the communities are willing to go back and to rebuild their lives. I think we need to look at some of the more subtle impacts of the conflict, and the whole area of the psychosocial and psychological impact on young people and so forth needs to be addressed.

**Q53 Sir Robert Smith:** But on the land issue, do you see that—

**Mr Afako:** I do not see it being that volatile. Across Uganda, where there is population pressure, you will have problems of land and you particularly have problems of land where you have outside communities coming into the area and we have that in western Uganda at the moment. I have heard and read a lot about potential difficulties with land, but I think if you have a functioning dispute resolution system, local courts and a functioning formal judiciary, I think these problems will be contained because there is a strong insistence in northern Uganda that it should not go back into chaos.

**Q54 Chairman:** Do you think people will mostly go back to their traditional land? We have had some suggestions that perhaps some of the returnees and others may be looking for more urban resettlements, but there is not necessarily more work in the towns. Do you think that will be a problem or will people tend to revert to their more traditional rural lives?

**Mr Afako:** I think to some extent the opportunities will determine where people end up. A lot of communities across Uganda are subsistence, agricultural communities; they need the land, that is their livelihood. If there are jobs to be had in the towns, they will gravitate towards the towns, the unemployed youth and so forth. So you have that kind of problem, which is not unique to the north, but what we suggest should not happen is the kind of enforced middle way, settlements in the north between returning to communities and the current

<sup>11</sup> Disarmament, demobilization and reintegration (DDR).

<sup>12</sup> Allied Democratic Forces (ADF).

---

4 July 2007 Ms Marieke Wierda, Mr Nick Grono and Mr Barney Afako

---

situation. I think people should be encouraged to go back to communities or remain where they are, which is their entitlement as long as they do not trespass on anybody's rights.

**Ms Wierda:** I think the point on access to justice is a vital one. I think that is another area in which there would be need for quick improvement of how people can access systems to regulate their disputes.

**Q55 Hugh Bayley:** Let us assume that the peace process brings the conflict to an end. What needs to be done to ensure that the views and aspirations of northern Ugandans are properly represented within the Government in Kampala so that this feeling of exclusion and resentment against the south is no longer a feature of Ugandan politics?

**Mr Afako:** Part of the reason for the apparent polarisation in Uganda is the failure of the Government to end the conflict there. If you look at the situation in West Nile, which is now reasonably peaceful, you will not as often have the discourse of the north/south divide there and it is because people are going back home and they are doing politics in the good, old-fashioned way, so it will be for the electorate in the north to decide which government it wants to support. In the past, it has voted with the conflict in mind. That voting pattern might well change once the conflict is over and then political parties will have to pitch on issues of policy and delivery with the communities. The nature of the north/south divide will be interrogated and the parties in Juba have agreed to a process of analysis of the conflict which will bring out some of these issues. The Government contests that there is a north/south issue and is quite happy to have this whole business examined and publicly debated. I

think that debate will be interesting and it will certainly have political implications in terms of how voters choose.

**Ms Wierda:** We too see, I think, room for debate on national reconciliation. We would not like to see that whole debate squeezed into the Juba process because we think it is really a wider issue and that not all people who have a stake in that debate are able to participate very directly in Juba. We are encouraged by the suggestion to have this consultation now as part of the Juba process, but even that is very limited. In the aftermath of Juba I think that, through this process of historical analysis and through wider debates, Uganda can perhaps start to address this issue of a national reconciliation.

**Chairman:** Can I thank you very much indeed. Obviously the situation in many ways has improved from when we visited in February last year, people are returning to their land, it is more secure and the levels of violence have dropped, but there is not a final solution and there is that uncertainty that things could degenerate. I think we all have to hope that the process will continue in a positive direction and normality will be restored and that ultimately the peace process will reach a conclusion which will give people real confidence to get back to normality and away from the camps. It has certainly been very helpful from our point of view to have your up-to-date views both on what you think is happening and the tensions around the ICC and the role of the Government of Uganda and the international community on which in some small way, this Committee hopes, it has helped to keep the spotlight. I think, from what you have said and from what the Ministers have said, clearly if the parties are aware that the eyes of the world are on them, it does appear to have a degree of concentrating minds to try and achieve results and, if we take our eyes away, then the danger increases. Thank you very much indeed; it has been extremely valuable to us.

---

# Written evidence

---

## Memorandum submitted by the Department for International Development

### PROSPECTS FOR SUSTAINABLE PEACE IN NORTHERN UGANDA

#### A. BACKGROUND TO THE JUBA PEACE PROCESS

##### *Brief history of the conflict*

1. The Lord's Resistance Army (LRA), under the leadership of Joseph Kony, has been active since late 1987, operating until recently out of bases in southern Sudan. The LRA emerged out of the remnants of Alice Lakwena's Holy Spirit Movement, which attracted substantial popular support in Acholi parts of northern Uganda in 1986 and 1987. Lakwena herself and a group known as the Uganda Peoples Defence Army emerged following the overthrow in 1986 of the regime of Tito Okello (an ethnic Acholi) by President Museveni's National Resistance Army. At its peak in 1998/1999 the LRA's strength was probably in the region of 6000. Following the loss of its permanent bases in southern Sudan, and intense military pressure since 2002, it probably now numbers not more than 3000 (including women and children), almost all of whom are currently located in southern Sudan or north eastern DRC.

2. The LRA is often characterised as a cult rather than a recognisable political movement. Joseph Kony is seen by his senior commanders as a powerful spirit medium who can foretell the future and control physical events from a distance. This could in part explain the group's resilience as it enables Kony and his commanders to exercise a degree of control over their subordinates that goes beyond normal military command structures.

3. The LRA's adoption of increasingly appalling methods, (including child abduction and brutalisation, and the mutilation, rape and murder of civilians) quickly reduced any support it might have expected to enjoy amongst the Acholi. Kony has complained bitterly that some Acholi elders who he claims "gave him their blessing" to wage war against Museveni abandoned him. The relationship between the LRA and the population has long been fraught with tensions and very practical dilemmas. The LRA is predominantly, though not exclusively, made up of Acholi people. Family and clan links with abducted combatants, and fears for their safety, exist within the community. This, combined with a lack of confidence in the government, means that while the vast majority of people do not support the LRA, and indeed greatly fear them, they may be reluctant to report LRA movements or presence to the Ugandan People's Defence Force (national army). Abuses of human rights by government troops and security agents during the conflict have helped undermine confidence in the government, especially in some rural communities. Although many observers accept that military pressure against the LRA is essential, and has played a part in bringing them to the negotiating table, they also doubt whether it can in itself bring about a lasting resolution to the conflict.

##### *Mediation and the current peace process in Juba*

4. In the 20 years the LRA insurgency has affected northern Uganda there have been a number of attempts to broker a peace deal. The current initiative is led by the Government of South Sudan (GoSS) with a strong lead from Vice President Dr Riek Machar, who is acting as mediator and hosting the talks in Juba. Negotiations began in July 2006 after a period in which Machar took time to develop direct contact with the LRA leaders including Joseph Kony himself. The LRA delegation is comprised of people largely drawn from Acholi living overseas. LRA leaders are not present in Juba but they are consulted regularly and there have been a number of meetings between the LRA leadership and the Government of Uganda (GoU) delegation. The GoU delegation is led by the Minister of Internal Affairs Dr Ruhakana Rugunda. The UN and civil society are present as observers. The process is largely financed through a fund established by the UN Office for the Coordination of Humanitarian Affairs (OCHA).

5. The talks are proceeding through a structured agenda which has five items. These are:

- (i) Cessation of Hostilities;
- (ii) Comprehensive solutions;
- (iii) Reconciliation and Accountability;
- (iv) Final Ceasefire Agreement; and
- (v) Disarmament, Demobilisation and Re-integration.

6. The first key landmark was the signing of a Cessation of Hostilities Agreement (Agenda Item 1) at the end of August 2006. This has since been renewed three times and currently runs to the end of June 2007. The LRA has currently agreed to assemble in one location at Rwi Kwamba, west of the River Nile in

southern Sudan (very close to the DRC border). A Cessation of Hostilities Monitoring Team has been established which is currently comprised of representatives of the GoU, LRA, GoSS, African Union, Denmark and Canada.

7. The Juba process has so far been characterised by a series of highs and lows. The process stalled and nearly collapsed between Christmas and the end of March when the LRA delegation moved to Nairobi and demanded a change of venue and mediator. Following the intervention of UN Special Envoy Joaquim Chissano a deal was struck whereby it was agreed that the talks would reconvene in Juba and would be strengthened by the presence of observers from several African countries (Kenya, DRC, South Africa, Mozambique and Tanzania). Agreements were also reached on a number of other issues raised by the LRA delegation including the payment of allowances and concerns about their personal security. A major breakthrough was achieved when Joseph Kony and Minister Rugunda met in the bush in early March at Chissano's instigation.

8. The talks in Juba recommenced on 26 March, and on 2 May the parties reached agreement on Agenda Item 2, *Comprehensive Solutions*. This covers issues associated with national politics and governance, the security forces, the return and resettlement of internally displaced persons, the economic and social development of northern Uganda and transitional security arrangements. Most of the articles of the agreement draw on existing policies and the provisions of the Constitution. There is provision to return to some issues later in the process. The talks have now moved on to Agenda Item 3, *Reconciliation and Accountability*. Many feel that this item is the one on which it will be most difficult to reach agreement.

9. The peace process is very fragile but it represents the most significant attempt in recent years to end the conflict through dialogue. The Cessation of Hostilities Agreement has been associated with a major improvement in security in northern Uganda. Should the Juba process fail an alternative approach might involve greater regional security co-operation to tackle the LRA combined with a determined effort to encourage middle-ranking commanders and foot soldiers to come out of the bush. But these are much longer-term strategies and they would almost certainly involve further fighting that would prolong both the humanitarian crisis in northern Uganda and the problems faced by abducted children. There would also be implications for the people of southern Sudan and possibly the DRC.

## B. JUSTICE AND PEACE

### *Traditional justice processes in northern Uganda*

10. The Acholi people of northern Uganda have a traditional process of reconciliation and conflict resolution known as "Mato Oput". In the local Luo language this literally means "to drink a bitter potion made from the leaves of the Oput tree". The ceremony of "Mato Oput" involves the person accepting responsibility for their actions then asking for the forgiveness of the community. The ceremony is conducted by a council of elders.

11. Mato Oput ceremonies have already played an important part in helping to reintegrate some LRA combatants who have returned from the bush. The process resonates with the LRA's own strong belief in traditional systems. It undoubtedly has an important part to play in fostering reconciliation and enabling the reintegration of people back into their communities. However the process also has its limitations. For example not all of the victims of the conflict are Acholi and some may not be willing to subscribe to a process that is not part of their tradition.

### *The Amnesty Act 2000*

12. In January 2000 President Museveni signed into law an Amnesty for those involved in armed rebellion after 1986. The law began its passage as an offer of limited amnesty excluding certain offences deemed to be particularly severe. But as a result of concerted lobbying by the Acholi community, led by the Religious Leaders, and following a process of national consultation, the scope of the Act was widened to create a comprehensive amnesty managed by an Amnesty Commission. The Act provides a mechanism for receiving, demobilising and resettling insurgents. Under its provisions over 5000 former LRA members have already claimed amnesty. While a number of these have been people who were only abducted for a short period, middle and senior ranking LRA commanders have also claimed Amnesty. Importantly Amnesty provides an exit strategy for LRA combatants. The LRA leadership has recently requested the presence of Amnesty Commission Chairman, Justice Peter Onega at the Juba talks.

### *The International Criminal Court Warrants*

13. The International Criminal Court (ICC) commenced a formal investigation in northern Uganda in February 2004 following a referral by the Government of Uganda. On 13 October 2005 the ICC unsealed warrants for the arrest of five LRA Commanders including Joseph Kony and his second-in-command Vincent Otti. One of those indicted, Raska Lukwiya, is believed to have been killed during fighting in August 2006.

14. The UK Government is a strong supporter of the ICC, which is a key part of the international community's efforts to combat impunity for genocide, crimes against humanity and war crimes. The arrest warrants in northern Uganda were the first to be issued, and ensuring the arrest and transfer of the LRA indictees is a priority for the Court. There is also important read-across to the Court's other investigations in DRC, CAR and Darfur. In Darfur the Court has recently issued arrest warrants for two individuals, including a Government of Sudan Minister.

15. The UK view is that justice is an essential part of a sustainable peace. In the case of northern Uganda it is imperative to tackle impunity, to deter others taking up arms and terrorising civilians. We judge that the ICC arrest warrants have contributed to bringing increased international attention to the conflict, reduced logistical support for the LRA, exposed its activities, and helped bring the LRA to the negotiating table.

#### *Reconciliation and Accountability*

16. The search for conflict resolution has on occasions created some tension between the needs for peace and for justice. As the parties discuss Agenda Item 3, *Reconciliation and Accountability*, the ICC warrants will be an important subject. The LRA leadership has said that they will not sign a peace agreement unless the warrants are lifted. It is our understanding that work is ongoing within the Juba mediation team to construct a mechanism of reconciliation and accountability that would incorporate elements of traditional justice, the existing Amnesty Act and a national judicial process. This would involve the indictees accepting responsibility for their actions and might provide grounds for the GoU to request the ICC to re-examine the warrants on the basis that a credible alternative form of justice is available.

17. However, it is likely to be a very difficult task to deliver a process which is both acceptable to the indictees and genuinely credible in the eyes of the ICC and the international community.

18. The ICC warrants are a question for the ICC rather than a UK/Uganda issue. It is welcome that the Ugandan government is maintaining a close dialogue with the Court. In the final analysis it is important that a way forward is found that is compatible with the Rome Statute of the ICC, national laws and the wishes of those affected by the conflict.

### C. THE ROLE OF THE INTERNATIONAL COMMUNITY

#### *The Juba Talks process*

19. Arguably one of the reasons that the Juba process has made progress is that it is locally owned and led and has a high degree of wider African engagement through the involvement of UN Special Envoy Chissano and observers from Kenya, Tanzania, South Africa, Mozambique and the DRC. The role of the wider international community has been, and should remain at this stage, to support the process financially and diplomatically.

20. Financial support to the talks is channeled through a fund, known as the Juba Initiative Fund (JIF), managed by UN OCHA. This pays for the hire of the venue, food and accommodation for the participants, the operational costs of the Cessation of Hostilities Monitoring Team and technical advice on specialist issues. The JIF had an initial operational budget of US\$ 4.2 million. This has been fully funded by donors, with the UK making a contribution of approximately US\$ 480,000. A request for further support is expected soon.

#### *Work within the UN Security Council and EU Council*

21. Work at the international level has been important in helping to create space for the current process and support to the efforts of individuals such as Special Envoy Chissano. The UK worked hard to secure EU Council Conclusions in November 2006 and UN Security Council Presidential statements in November 2006 and March 2007. These welcomed the progress made in the Juba talks and called on both sides to fully commit to the mediation process.

22. Further work in multilateral settings may be important to respond to emerging needs on the ground and, in the event of talks failing, to consider what next steps the international community should take.

#### *Support to Peace Recovery and Development Efforts*

23. The conflict has over the years led to strong feelings of alienation and marginalisation in the affected districts. It is important that the peace process is underpinned by transition and recovery programmes that bring tangible benefits to the population, particularly as they return to their homes.

24. The GoU is developing a Peace Recovery and Development Programme (PRDP) which is intended to provide a framework for co-ordinated action. The government currently estimates that the PRDP's costs will be about \$180 million per year over three years. The programme requires careful prioritisation. Donors in Uganda are now engaged in discussions on its detailed content. Already, as the security situation in the North has improved, people in some areas have started to return to their home areas and existing

programmes are responding to changing needs. For example DFID funding to water activities is being used to both maintain water supplies to those in camps but also to rehabilitate water points in areas where people are returning to their homes. The international community is also responding to efforts to re-establish justice, law and order in the return areas, with programmes in support of the Police and Judiciary already under way.

25. During what is likely to be a period of uncertainty it is important that the international community ensures that its support is flexible enough to meet both continuing humanitarian needs and to support recovery where this is possible. The government's engagement is essential to address issues of sustainability and to demonstrate that it is firmly committed to the challenge of tackling the problems of the North.

#### *Disarmament, Demobilisation and Reintegration of Combatants*

26. Sustainable peace will require the successful return and reintegration of LRA combatants. The Amnesty Commission has developed contingency arrangements to help deal with an upsurge in caseload. The numbers of people involved will be relatively small (up to 3,000) and final arrangements will be determined by what emerges from the peace process (Agenda Item 5). Nonetheless donors in Kampala, including DFID, are already involved in discussions with the Amnesty Commission about resource requirements.

27. The GoU has identified the need to demobilise some of the auxiliary forces that were recruited to help fight the LRA. Discussions about donor support for this process are also under way.

June 2007

## ANNEX A: DFID'S PROGRAMME IN NORTHERN UGANDA

### HUMANITARIAN ASSISTANCE

1. The conflict has had severe humanitarian consequences for people living in areas affected by LRA activity: the provision of normal social services has been severely disrupted by insecurity and a large international humanitarian programme has been required in response. Approximately 1.7 million people were estimated to be living in camps for the internally displaced at the beginning of 2006. In recent months improvements in security associated with the peace process in Juba have allowed some people to return home and the number of displaced currently stands at just over 1.4 million.

2. In the last few years the UK has been one of the largest humanitarian donors in Uganda. In 2004-05 we provided £11 million mainly through UNICEF, the World Food Programme and the Red Cross. In 2005/06 we provided £20 million and in 2006/2007 we provided almost £18 million. So far this financial year we have provided £7 million and we expect to make further commitments as events unfold.

3. We have sought to ensure that our humanitarian assistance is both targeted at meeting priority humanitarian needs and is helping to build more effective coordination in support of the UN reform agenda (including the implementation of the Cluster Approach). For example; in health we have helped the UN agencies (WHO, UNAIDS, UNFPA and UNICEF) develop an important new joint programme to address high crude mortality and HIV prevalence. Our support to UNICEF has helped to establish better water and sanitation provision in the camps and enabled them to provide non-food relief items to vulnerable families. As the situation changes we will seek to channel more of our resources towards recovery and development efforts while continuing to help meet urgent humanitarian needs.

### CONFLICT RESOLUTION

4. A joint UK conflict analysis and response strategy was drawn up in 1999 and updated in June 2003. Its main elements were:

- development of better co-ordination arrangements, common understandings and approaches, for example through participation in the Donor Technical Co-ordination Group on the North;
- promotion of human rights, international humanitarian law, accurate information and civil society;
- targeted support to reconciliation and peace processes, as appropriate, with an emphasis on locally driven initiatives; and
- Co-ordinated action at the political level to press the Government of Uganda to consider all avenues to resolve the conflict.

5. We have provided practical and financial support to peace initiatives. We have supported organisations involved in dialogue and advocacy such as the Acholi Religious Leaders (an interfaith grouping), Kacoke Madit (a Diaspora group) and the Civil Society Organisations for Peace in Northern Uganda. We have supported the Amnesty Commission and financed the development of MEGA FM in northern Uganda. We have financed work by UNICEF and Save the Children aimed at the reintegration

and rehabilitation of former child combatants. We have provided support to the Juba process through UN OCHA. In total, we have spent just over £3.8 million on these initiatives, most of which has been financed through the Africa Conflict Prevention Pool.

6. An independent review of our conflict programme was carried out by the University of Bradford in July 2005. Its overall conclusion was that DFID- supported conflict interventions have made a positive impact. For example there is strong evidence that MEGA FM has played an instrumental role in encouraging many combatants to come out of the bush. Our support to the Acholi Religious Leaders in the aftermath of a major massacre in 2004 enabled them to quickly intervene and diffuse tensions between the Langi and Acholi communities which threatened to ignite wider ethnic conflict. Our work with the Diaspora group, Kacoke Madit, has helped change perceptions towards the conflict within the influential Acholi Diaspora and strengthened relations between them and communities in the North.

## ANNEX B

Response to follow up questions from the International Development Committee, Sixth Report of Session 2005–06, Conflict and Development: Peacebuilding and Post-conflict reconstruction, HC923 and the Government response, First Special Report of the Session 2006–07, HC 172.

### CONFLICT ASSESSMENT

1. *The Government response to the Committee's report discusses the creation of a new mandatory governance assessment tool, the Country Governance Analysis, which will be carried out in partnership with other Government Departments. Has this tool as yet been used in any conflict prone or conflict affected state?*

DFID introduced a new governance assessment tool, the Country Governance Analysis (CGA) in 2007. The CGA is mandatory for all countries where DFID is preparing 3 to 5 year Country Assistance Plans. Between 17 and 21 countries are likely to prepare CGAs in 2007. To date, none have reached the final approval stage but several are near to finalisation, including Sierra Leone, Malawi, Mozambique and Ghana.

DFID has established a Quality Assurance Mechanism for CGAs which aims to strengthen and refine areas of the analysis. This process includes a specific review of the extent to which the White Paper commitment that CGAs include an analysis of the causes of conflict and insecurity has been met. Through this process, and other work, we will refine both the guidance materials and the types of support offered to countries undertaking CGAs in the second year of implementation.

### MANAGING NATURAL RESOURCE WEALTH

2. *What progress has been made in discussions within the Government about a definition of conflict resources?*

A Whitehall working group (DFID, FCO, DTI, DEFRA and MOD) has been established to identify and take forward actions to tackle the trade in conflict resources. As part of this effort, we are looking at the scope for an internationally agreed definition of "conflict resources". We will need to weigh carefully whether there is sufficient international consensus to agree such a definition.

3. *What progress has been made in discussions within the Government about the creation of an Expert Panel in the UN to monitor the links between natural resources and conflict?*

The composition, role and process for establishing an Expert Panel in the UN is being discussed by the Whitehall working group alongside other possible mechanisms. We will be meeting with NGOs and international partners to discuss this later in the year.

### WOMEN AND PEACEBUILDING

4. *What has been the outcome of the MOD audit of training provision in relation to the national Action Plan for the implementation of UNSCR 1325?*

The audit concludes that British military personnel generally receive sufficient training in relevant subjects to be assured that they are compliant with the intent of UNSCR 1325. The MOD is, nevertheless, following up two specific recommendations from the audit: to ensure coverage of gender issues within cultural awareness training; and to include reference to UNSCR 1325 within relevant doctrine publications.

## UGANDA

5. *What difference has the creation of the Joint Monitoring Commission for the North made to the activities of a) donors b) the Government of Uganda?*

The Joint Monitoring Committee (JMC) has helped focus attention on northern Uganda and co-ordinate action to improve the situation on the ground. The Government has used the JMC to provide feedback on the peace process in Juba and to give donors the opportunity to discuss issues arising. The JMC also oversees the implementation of the emergency humanitarian action plan helping to focus donors' humanitarian response. Feedback on progress is provided at each meeting by line Ministries. Increasingly the JMC is discussing issues associated with the resettlement of the internally displaced as the security situation has improved. The involvement of the districts has helped improve communication between central and local government and increased central government's accountability for delivering agreed actions.

6. Donors were providing US\$200 million annually for the IDP camps in the North of Uganda. Has there been a change since our visit in February 2006? Is the Government of Uganda now providing more resources, commensurate with needs, to the North?

The United Nations Consolidated Appeal for Uganda for 2007 is just under US\$ 296 million which covers areas affected by the LRA conflict, refugees and Karamoja. US\$ 142 million has been provided by donors so far. In the areas affected by the LRA conflict the most recent information from the UN suggest that of the 1.7 million people in camps at the end of 2005 400,000 have now returned home. A further 400,000 have moved to new satellite sites, hopefully in transition to returning home. Both those returning home and those in transit have continuing humanitarian needs which the UN Appeal seeks to cover.

Since the IDC visit in February 2006 the Government of Uganda has increased its financing to the North. It is estimated that regular central government transfers to northern districts affected by the conflict with the LRA increased from about US\$ 97 million in 2005–06 to about US\$ 114 million in 2006–07. In addition a special allocation of US\$ 12 million was set aside for priorities identified within the Joint Monitoring Committee's Emergency Humanitarian Action Plan. A large proportion of this money was provided to the Uganda Police Force to enable them to increase their presence in both the IDP Camps and in areas where people have begun to return home. Donors agreed that this should be a high priority.

The 2007–08 budget is now being finalised. Line Ministries have again been asked to set aside additional resources for the North from their normal allocations. In addition US\$ 14 million has been initially allocated for JMC priorities. Donors have asked the Ministry of Finance for further information about these plans.

---

**Memorandum submitted by the International Crisis Group**

**CONFLICT AND DEVELOPMENT: PROSPECTS FOR SUSTAINABLE PEACE IN UGANDA**

**1. WHAT THE IMPACT HAS BEEN OF THE INTERNATIONAL CRIMINAL COURT WARRANTS ON THE PROSPECTS FOR PEACE**

The ICC unsealed warrants against five LRA commanders on 13 October 2005.<sup>1</sup> These rattled the indicted commanders, reduced their opportunity to emerge from the conflict with impunity and put pressure on Khartoum to cut its aid to the LRA. They gave the rebels an incentive to start talking about a peace agreement that might bring them immunity from prosecution. As the Ugandan Government's frustration grew at the seeming unwillingness or inability of others to execute the arrest warrants or otherwise help it resolve the LRA problem, it became more willing to consider diplomatic alternatives. But the warrants have also had costs. Difficulties in executing them showed the limitations of Uganda's capabilities and international readiness to support it in pursuing those whose crimes are well documented. And they have complicated the peace talks.

All states party to the Rome Statute have a binding treaty obligation to "cooperate fully" with the Court.<sup>2</sup> Thus, Uganda has an international legal duty to arrest any indicted individuals it can. The Sudan government has signed a memorandum of understanding with the ICC pledging cooperation in the Uganda investigation, including execution of the arrest warrants in Sudan—though it has apparently now suspended cooperation under that MOU. The Congolese government is also a signatory to the Rome Statute, and the UN Mission in the Congo (MONUC) has signed a memorandum of understanding with the Office of the ICC Prosecutor to help assist DRC in arrest efforts.

The LRA is clearly aware of these obligations. When Riek Machar, Vice-President of the Government of Southern Sudan, and chief mediator at the Juba talks, urged that it boost the delegation's authority by sending at least one indicted commander to Juba, the LRA's deputy leader, Vincent Otti, refused. "It's easy

<sup>1</sup> The five commanders are: Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen and Raska Lukwiya. Raska Lukwiya was killed in fighting with the UPDF in August 2006.

<sup>2</sup> Article 86 of the Rome Statute.

for you to ask”, he told Machar, “you’re not indicted”.<sup>3</sup> As long as arrest warrants hover over their heads, the indicted commanders are unlikely to risk immediate detention by appearing in Juba, though there are ways around this, including shuttle diplomacy by intermediaries. The warrants also give the government something of an additional advantage at the negotiating table, since the LRA knows that if the talks fail, the ICC threat will still be there.

Consequently, the rebels have demanded that the ICC cancel the warrants and terminate the prosecutions.<sup>4</sup> Museveni has, in the past, promised a blanket amnesty against domestic prosecution and a guarantee that no indicted LRA will be turned over to the ICC, despite Uganda’s international obligations.<sup>5</sup> Riek has taken a middle position. “We are not telling the ICC to stop what they are doing”, he told Crisis Group. “We are just asking them to give the peace process a chance”.<sup>6</sup>

## 2. WHETHER THERE IS A TENSION BETWEEN THE NEED FOR PEACE AND THE REQUIREMENT FOR JUSTICE. (AND IF SO, HOW BEST THIS CAN BE ADDRESSED.)

### *Tension between peace and justice*

There is a real tension between the need for peace and the requirement for justice. Clearly both peace and justice are of fundamental importance. But the fact is that when it comes to ending conflicts they can’t always be reconciled in full, at least in the short term.

Where the tension is most apparent is usually during peace talks, as it is often at this stage that the parties find their thoughts turning to justice and accountability issues. The reason for this is simple, if distasteful—namely that they don’t want their hard won peace to result in them being tried and imprisoned for atrocities they may have committed during the conflict.

This is why, in such situations, it is often necessary to make hard decisions about trading off justice for peace. However much we like to think otherwise, in such situations the cost of getting a peace deal is often a degree of impunity for the perpetrators. The impunity is sometimes, though increasingly rarely, explicit but more often these days it is implicit.

It should not be surprising that such trade-offs are made. One party or another to a conflict, and usually all parties, will have committed widespread atrocities—that, unfortunately, is the real world of conflict these days.

Such atrocities include massacres of civilians, mass rape, torture, and the recruitment of child soldiers and sex slaves—the whole gamut of human depravity.

Unless one party has been utterly vanquished, peace negotiations will usually bring together the parties responsible for such abuses, and a deal will depend on them agreeing to end their conflict.

The crux of the whole peace versus justice debate is what should be done in that situation—ie when a prospective peace deal is made conditional on a halt to international criminal prosecutions.

In these circumstances the overriding policy issue is often whether the important but uncertain prospect of deterring future perpetrators and reducing future conflicts takes precedence over more certain benefits of an immediate end to an ongoing conflict.

The first point that needs to be acknowledged is such deals often fail to produce peace. Failed amnesty agreements brokered with the likes of Foday Sankoh in Sierra Leone and Jonas Savimbi in Angola, and their violent aftermath, demonstrate the potential costs of impunity.

But deals have been done in the past that have offered limited or full immunity from prosecution, and have helped bring an end to conflict and instability. One obvious example is the one made with Charles Taylor to get him out of Liberia and bring an end to the conflict there. In mid-2003, rebel groups were advancing on Monrovia, shelling the city and attempting to starve it into submission. Taylor declared his intention to stay and fight the rebels—but Nigeria’s offer of asylum ensured Taylor fled Liberia in July. His departure enabled the deployment of West African peacekeepers, bringing a degree of peace to the country, and saving many lives. Certainly that was the view of Nigeria’s President Obasanjo, who claimed, ‘By giving this one man asylum I have saved thousands of lives. What more does the international community want?’

<sup>3</sup> Crisis Group interview, eyewitness to meeting, 17 July 2006.

<sup>4</sup> For example, “Ugandan rebels in amnesty demand: Deputy Ugandan rebel leader Vincent Otti has warned there will be no peace deal unless international indictments for the top rebels are dropped”, BBC, 6 September 2006.

<sup>5</sup> Museveni’s options are limited. His offer of domestic amnesty cannot provide immunity from prosecution by an international tribunal. Nor is there any mechanism in the Rome Statute enabling a state unilaterally to revoke a referral or force the Court to close a case. Since the ICC is dependent on state cooperation, Uganda could in effect terminate the investigation by refusing to cooperate with the Court, though this could result in a judicial ruling of non-compliance and referral of the matter to the Assembly of State Parties, and is an unlikely scenario given the more than three year relationship between the Office of the Prosecution (OTP) and the Government of Uganda (GoU). With no access to witnesses, evidence, or indictees, the ICC would have difficulty proceeding.

<sup>6</sup> Crisis Group interview in Juba, 4 July 2006.

In a different context, in South Africa, outgoing leaders were given amnesty as part of a truth and reconciliation process in an effort to bring 34 years of apartheid to an end. The likely alternative was many more years of conflict.

In Mozambique, after 16 years of civil war ended in 1992, the Parliament adopted a general amnesty for all fighters pursuant to which reconciliation processes took clear precedence over accountability. Since then Mozambique has become one of Africa's more successful states.

For recent examples of deals to which serial abusers are party, look at recent peace agreements—backed by the US and EU—such as the Sun-City and related agreements that formally ended the Congo conflict in 2003; the Comprehensive Peace Agreement in Sudan in 2005 and the Darfur Peace Agreement last year; and the 2001 Bonn Agreement setting up a new government for Afghanistan. None of these agreements have blanket amnesties, unlike the Lome Agreement in Sierra Leone. Some of them have token transitional justice provisions, but for the most part they are silent on accountability for past atrocities, despite the fact that some of the biggest rights abusers are party to these agreements, or were put into power by them.

### *The importance of deterrence*

Of course, any decision that is made with regard to balancing peace and justice in northern Uganda will resonate elsewhere. So if a deal is made to preference peace over immediate accountability in northern Uganda, will this promote impunity elsewhere, and undercut the deterrent impact of the ICC? The answer is—not necessarily so.

First, it is necessary to understand that the interests and motivations of parties to a conflict are different, and this may impact on how effective deterrence may be. A credible threat of prosecution may be less effective against rebels, at least until the late stages of their rebellion—by which time it is too late for them to ameliorate their conduct to escape prosecution. Most rebellions fail, and most rebels embarking on their challenge to the central government will not be concerned that in future years they may be held accountable for their likely future atrocities. Survival and success are much more immediate concerns.

In contrast, when it comes to the calculations of those in power, deterrence may have greater immediacy, and hence impact. If a credible threat of prosecution for future atrocities exists in the minds of a regime's leadership, then those leaders have something tangible to lose and arguably will weigh that risk when deciding on how to respond to a challenge to their authority.

Second, deterrence will be effective only if the threat of prosecution is—as suggested above—sufficiently immediate and credible. The mere possibility of future prosecution is unlikely to have that impact, particularly weighed against other goals and interests such as the threat posed by a rebellion or the desire to overthrow a repressive regime. Until recently, prosecution was more theoretical than real, as the only vehicles for prosecution were ad hoc international tribunals, or domestic courts. The former were exceedingly rare, and reserved for crimes on the scale of genocide.<sup>7</sup> The latter could be defeated by amnesties in peace agreements, or exile.

The advent of the ICC—a permanent tribunal, with the power to initiate its own prosecution—together with growing recognition of universal jurisdiction,<sup>8</sup> increase the odds of prosecution, and hence the potential impact of deterrence. In the past, most perpetrators were safe in the knowledge that they could safely outlast any international outrage at their actions. Absent a permanent court to try them, their greatest risk of prosecution came from being overthrown and put on trial by their usurpers. That in turn encouraged brutal measures to ensure that such a fate did not befall them. But such an approach will not work against a permanent tribunal or vigilant foreign courts. They can outlast any dictator, unless he dies in office.<sup>9</sup>

So the ICC and universal jurisdiction have the potential to give deterrence a credibility and validity it has not had before. In this they will support, and be supported by, the emerging Responsibility to Protect norm.<sup>10</sup> A key component of Responsibility to Protect is the responsibility to prevent serious harm from eventuating—and strengthening the impact of deterrence is perhaps one of the most effective ways give meaning to this component.<sup>11</sup>

<sup>7</sup> For example, the Nuremberg tribunals, ICTR, and ICTY.

<sup>8</sup> The doctrine of “universal jurisdiction” gives national courts the competence to try persons suspected of a serious international crime—such as genocide, war crimes, crimes against humanity or torture—even if neither the suspect nor the victim are nationals of the country where the court is located.

<sup>9</sup> But cf. President Mugabe in Zimbabwe.

<sup>10</sup> In 2005 world leaders, convening as the General Assembly of the UN, recognised an international collective responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This doctrine, known as “Responsibility to Protect” was subsequently endorsed by the Security Council, marking its emergence as a nascent international norm.

<sup>11</sup> While deterrence may give substance to the responsibility to prevent where atrocities have yet to occur, fear of prosecution may impact on the international community's responsibility to react where they have taken place. Such a fear may result in those responsible seeking to entrench themselves to avoid being held accountable.

But in the case of the ICC this will only happen if the Court can successfully pursue those in power most responsible for atrocities. That in turn will require stronger international support for the ICC than we have seen to date.<sup>12</sup>

### *Balancing the ICC's justice role with peace*

The Rome Statute gives the Prosecutor of the ICC the power effectively to ignore amnesties granted to those most responsible for atrocity crimes, and to prosecute perpetrators if domestic prosecutions lack credibility.<sup>13</sup>

Without more however, the ICC's strong focus on prosecution could well present a very significant obstacle to peace agreements, even in situations where ICC prosecutions have little deterrent benefit, and where other objectives of accountability are unlikely to be achieved.

Of course, this only becomes an issue if the national jurisdiction, in this case Uganda, is itself not willing or able to prosecute the alleged perpetrators, under the principle of complementarity.<sup>14</sup> I will set out what this might require of Uganda in section 3 below.

The Rome Statute, however, anticipates that there will be situations where a balancing of peace and justice has to be made. Accordingly it sets up its own mechanisms to allow a balancing to be made. Article 16 of the statute allows the UN Security Council to defer ICC prosecutions and investigations for twelve months, renewable indefinitely. And article 53 gives the Prosecutor the power to decide not to proceed with an investigation or prosecution if it is not in the interests of justice.

Article 16 delimits the appropriate responsibilities of the Security Council and the Prosecutor. The Prosecutor has a justice mandate and should not be required to make the essentially political judgement of whether the prospects of an uncertain peace should take precedence over accountability. He should proceed with prosecutions where the situation warrants them, and if a balancing has to be made—and it should only be considered if major peace benefits are very likely to result—then it should be made by the Security Council.

The Security Council has a peace and security mandate. But, while it can put a prosecution on hold temporarily to allow a peace deal to be implemented,<sup>15</sup> it should be acutely conscious that indiscriminate exercise of this power in purported pursuit of peace will emasculate the ICC, and undermine efforts to institutionalise deterrence and human rights norms.<sup>16</sup>

It should therefore only intervene exceptionally, in those cases where its intervention will not significantly undercut the deterrent impact of the Court. It should insist on credible and sustainable peace agreements being in place before it acts, and its willingness to renew its deferral be conditioned on whole hearted implementation of such agreements. It should be more willing to act in situations such as that of northern Uganda, where ICC prosecution of the rebels is unlikely to greatly advance the deterrent impact of the Court—while significantly impeding reconciliation efforts—than in a case such as Darfur, where prosecution of those in the regime responsible for the state-sponsored campaign of atrocity crimes will send a very significant message to others contemplating such deliberate actions in the future that they will be held accountable. In so doing it will reinforce the lessons of the Milosevic, Taylor and Habre prosecutions, and potentially contribute significantly to the prevention of such state sponsored atrocities.

### *Balancing peace with justice in northern Uganda*

The LRA's vicious guerrilla warfare has resulted in the utter devastation of much of northern Uganda. The LRA has unleashed a reign of terror over the past two decades, abducting more than 25,000 boys and girls, and turning them into rebel soldiers, porters and sex slaves.

<sup>12</sup> 104 countries have ratified the Rome Statute as of 9 June 2007. Of the P5, only France and UK have ratified it. The US, China and Russia all have strong objections to the ICC, although the outright hostility of the US to the ICC in the first term of President George W Bush appears to have softened more recently into wary agnosticism. The US and China abstained from the Security Council resolution 1593 (31 March 2005) referring the situation in Darfur to the ICC, allowing the referral to proceed.

<sup>13</sup> While the Rome Statute does not have specific provisions on amnesty, giving amnesty to those most responsible for atrocity crimes would amount to an unwillingness to prosecute by the national jurisdiction under the complementarity principle. Likewise, it could hardly be argued that amnesty of top leaders would be in the interests of justice (as opposed to peace).

<sup>14</sup> Article 17 of the Rome Statute.

<sup>15</sup> If an ICC prosecution is put on hold, and such measures are implemented, then it may well be that in time it will be appropriate for the prosecutor to exercise his power to stop the prosecutions in "the interests of justice". While the interests of justice don't necessarily equate with the interests of peace, if a society has achieved significant reconciliation, and is largely at peace and dealing appropriately with the legacy of past abuses, then the interests of justice may well be broad enough, and intended, to allow the Prosecutor to end his prosecutions.

<sup>16</sup> It would also be contrary to efforts to operationalise the responsibility to prevent component of R2P.

The Ugandan government has responded to the LRA's campaign by unleashing its own campaign on the north, forcing over a million of the North's inhabitants (predominantly Acholi) to live in camps—condemning them to a life removed from their fertile land, with little hope for a productive future. The result, according to the government's own statistics, was that at the height of the conflict in 2004 and 2005 a thousand people a week on average were dying from conflict-related disease and malnutrition.

The LRA bears overwhelming responsibility for the atrocities in northern Uganda, and the suffering inflicted on its inhabitants. However, ICC prosecutions of Kony and LRA commanders—however meritorious—are unlikely to have much of a deterrent effect on future rebel leaders, particularly those possessed by spirits, or whose calculations are based on factors that it is very difficult to influence rationally.

In this case the immediate problem we now face is that Kony and his commanders say that they will not do a deal unless and until the ICC prosecutions are dropped. In fact, they won't even come to Juba for negotiations for fear of arrest. They continue to hide out in the Congo, issuing instructions by satellite phone.

So to get a peace deal to end this horrific conflict, and the ongoing suffering of a couple of million northern Ugandans, we need to consider whether to trade off a degree of accountability for peace. How can we best meet the objectives of both?

The best option is for peace deal which commits Uganda to conduct credible national prosecutions of the alleged perpetrators. However, if that does not happen, then the way forward is for the Prosecutor of the ICC to proceed with his prosecutions. He has a justice mandate and should not be required to make the essentially political judgement of whether the prospects of an uncertain peace should take precedence over accountability.

If a balancing has to be made—and it should only be considered if major peace benefits are very likely to result, and genuine accountability and reconciliation mechanisms are put in place—then the Security Council may have to intervene. Any deal to end a conflict that spans not only northern Uganda, but also Southern Sudan and the Congo will require a degree of UN endorsement and support. The talks have a long way to go before peace is imminent, but if they reach that stage, the Security Council should consider putting the ICC prosecutions on hold pursuant to article 16 to give peace a chance.

Such an approach is problematic for all parties. It may not be acceptable for Kony, because there is always the future prospect of the prosecutions being reinstated. It's not ideal for the ICC because it won't be able to proceed against some of the world's very worst war criminals while the cases are suspended, though it will be able to claim a role in bringing peace to the region. And, if there is a peace, and it does hold, then over time the Prosecutor will probably be under pressure to drop the cases in the interests of justice.

But what such an approach will do is give the millions in northern Uganda a chance to enjoy the peace they have thirsted after for twenty years.

These are not easy decisions, and often the choices we have to make are distasteful ones—but we don't do any favours to the causes of peace or justice by pretending that such choices don't have to be made when it come to ending a conflict.

### 3. HOW, IF AT ALL, CAN THE ICC, NATIONAL AND TRADITIONAL MEASURES COMBINE TO TACKLE IMPUNITY AND FURTHER JUSTICE AND RECONCILIATION

Any peace agreement for northern Uganda must include adequate reconciliation and accountability mechanisms, or set out a process for such mechanisms to be devised and implemented. The need for accountability mechanisms in any peace deal is not an external burden imposed by the ICC but something victims genuinely want.

Although bringing an immediate end to the conflict and the IDP camps is a priority, there is evidence that the people of northern Uganda want both peace and punishment of the LRA's leadership. A 2005 survey conducted in IDP camps throughout the north by the International Centre for Transitional Justice found that 76% of the population believed that individuals who committed abuses during the conflict should be held accountable, and 66% favoured some form of punishment (trial and imprisonment or execution) as the accountability mechanism, while only 22% opted for forgiveness, reconciliation, and reintegration.<sup>17</sup>

---

<sup>17</sup> "Forgotten Voices", International Centre for Transitional Justice (ICTJ) and the Human Rights Centre, University of California (Berkeley), July 2005. The ICTJ questioned 2,585 Acholi in 32 IDP camps. While this study is the most extensive and systematic survey of public opinion among Acholi IDPs, other research indicates that people may be willing to forgive senior LRA leaders. For example, the February 2005 Refugee Law Project report "Whose Justice? Perceptions of Uganda's Amnesty Act 2000" interviewed 409 people and found strong support for giving a blanket amnesty to all LRA, including Kony. For more detailed discussion of Acholi support for forgiveness and amnesty, see "Peace First, Justice Later", Refugee Law Project, July 2005.

Traditional reconciliation ceremonies receive tepid support in part because they are insufficient to the scale and nature of the conflict.<sup>18</sup> The most commonly advocated ceremony is *mato oput*, which requires a perpetrator to admit guilt voluntarily, ask for forgiveness and pay compensation to the clan of an identifiable individual who has been wrongfully killed. The victim's clan must accept the plea for forgiveness for the reconciliation to be complete. However, although Kony asked for forgiveness from southern Sudanese cultural leaders, he has consistently denied attacking Acholi in northern Uganda.<sup>19</sup>

*Mato oput* has never been applied to the types of crimes the LRA has perpetrated, such as abduction, mutilation, use of child soldiers and sexual slavery. There is no clear consensus about the elements of a ceremony among Acholi clans; the minor role for women marginalises female victims while reinforcing rigid male hierarchies.<sup>20</sup> The LRA's deputy leader, Vincent Otti told Crisis Group in November last year: "*Mato oput* would not be a good thing. When the paramount chief came to us we asked him about the *mato oput* and tried to correct him but he is very young . . . and he doesn't know anything . . . I know very well what is *mato oput*, even more than the paramount chief and the other chiefs. What they are doing is very wrong".<sup>21</sup> Finally, *mato oput*, as an Acholi cultural practice, is of little relevance to the many other affected groups, such as the Langi and Iteso.

So if such processes are to form part of the accountability and reconciliation processes, they should also be combined with more formal legal mechanisms, such as truth commissions and prosecutions under Ugandan law. Whether or not they met the Rome Statute's standards would be assessed under Article 17, which requires the ICC, under the principle of complementarity, to defer to a genuine investigation or prosecution by the state concerned.<sup>22</sup>

If we get a peace deal, and if the Ugandan government does not conduct credible prosecutions, then the UN Security Council will have to consider whether to put the ICC warrants on hold under article 16 to enable the deal to be implemented. For this to happen the peace deal would need to include robust accountability mechanisms. Such mechanisms should aim to combine traditional reconciliation ceremonies and formal legal processes in a way that satisfies both the victims' need for justice and meets the Rome Statute's standards for accountability.

#### 4. HOW BEST GRIEVANCES, AGAINST THE LORD'S RESISTANCE ARMY AND THE GOVERNMENT OF UGANDA, CAN BE ADDRESSED

*Grievances against the LRA can best be addressed through the mechanisms outlined above*

As for grievances against the GoU, including the UPDF, there is currently a national legal system in place in Uganda that, in theory, can address such grievances. Of course, holding the government and armed forces accountable in practice may be difficult, if not impossible.

The peace talks will consider accountability and reconciliation processes, and the talks should also consider mechanisms that could be used to address grievances against the Government. For example, if the talks agree on the need for a truth commission, such a commission should be empowered to hear grievances against all parties—in the same way that the South African Truth and Reconciliation Commission considered abuses by all parties to the conflict in South Africa.

Further, as part of any peace deal, there is a need for very comprehensive redevelopment in the north, as this region has been utterly devastated by many years of conflict. Such a program would form an important part of any reconciliation effort, and would go some way to addressing some of the grievances of the local population.

<sup>18</sup> For a description of *mato oput* and a general overview of traditional reconciliation ceremonies in Acholi culture, see Liu Institute for Global Issues, "Restoring Relationships in Acholi-land: Traditional Approaches to Justice and Reconciliation", September 2005. In particular, pp 66–72 provide an excellent discussion of the difficulties with adopting *mato oput* to the current conflict. It should be distinguished from other ceremonies, particularly the *nyono tong gweno* (stepping of the egg) ceremony. While this practice has become increasingly common, it is a cleansing ritual that has been adapted for the reintegration of returnees. It is not a reconciliation ceremony that involves any measure of accountability or admission of guilt.

<sup>19</sup> When asked about alleged abuses, Kony responded, "[T]hat is not true. It's just propaganda. Museveni went into the villages and cut off the ears of the people, telling the people that it was the work of the LRA. I cannot cut the ear of my brother, I cannot kill the eye of my brother". See "I will use the Ten Commandments to liberate Uganda", *The Times*, 28 June 2006. Similarly, when asked in a 1 August press conference if he was willing to stand trial before the ICC, Kony answered, "[n]o, no, no, because I have not done anything". "In the presence of Joseph Kony", *Daily Monitor*, 6 August 2006.

<sup>20</sup> As noted in "Restoring Relationships", *op cit*, pp 64–65, women are allowed to participate in *mato oput*, but it is a male dominated process because women may not play the central role of mediator, and women's voices are too often ignored during the evidence-collecting phase.

<sup>21</sup> Crisis Group interview, Vincent Otti, November 2006.

<sup>22</sup> Article 17 requires the Court to determine that a case is inadmissible where it "is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution". Article 19 allows such a state to lodge an admissibility challenge once prior to trial, though second or later challenges may be permitted in "exceptional circumstances", and requires the prosecutor to suspend an investigation as soon as a challenge is made. It could resume only if the Court found the state to be unwilling or unable.

5. HOW THE INTERNATIONAL COMMUNITY CAN HELP TO CREATE THE CONDITIONS FOR SUSTAINABLE PEACE AND RE-DEVELOPMENT IN THE NORTH IF THE PEACE TALKS ARE SUCCESSFUL

Donors, who finance 40% of Uganda's budget, must use this leverage to encourage the Ugandan government to genuinely seek peace and—if and when it eventuates—to engage in comprehensive and consultative re-development in the north to address decades of conflict. Donors should be prepared to use their economic leverage, including by redirecting funds from the government to direct support for humanitarian relief operations and capacity building in the north.

Donors should declare that they want to be Museveni's partner in building peace in the north and will support redevelopment but also that comprehensive solutions require active participation of northerners and that the Ugandan government will be held to its commitments.

The UN Special Envoy for the LRA-affected areas, Joaquim Chissano, should use his good relationship with Museveni to ensure the government follows through on rebuilding the north, promoting national reconciliation and bridging the north-south divide by creating a broad-based, follow-up forum led by northerners. A senior U.S. diplomat assigned to support the process could help him by drawing on Washington's strong bilateral relationship. The November Commonwealth summit (CHOGM) can apply added pressure, while the Great Lakes Security Pact and the East African Community are additional forums in which to focus regional attention on building a sustainable peace.

15 June 2007

---

**Memorandum submitted by the International Center for Transitional Justice**

**REMARKS ON PROSPECTS FOR PEACE IN NORTHERN UGANDA: 21 JUNE 2007**

*A. What the impact has been of the International Criminal Court warrants on the prospects for peace*

1. The Peace Talks currently ongoing between the Government of Uganda and the Lord's Resistance Army (LRA), hosted by the Government of South Sudan in Juba, may be the most significant opportunity to date for a peaceful settlement to the conflict in Northern Uganda. The negotiation, as may be expected, is fragile and has suffered several challenges and setbacks. Particularly, the Lord's Resistance Army has not yet assembled in the designated area at Ri Kwangba. On the other hand, there has been considerable progress, and it may be unrealistic to expect a quick and smooth process. The process is delicate but seems to have momentum, and is bolstered by the considerable personal efforts on behalf of a variety of participants, including the Chief Mediator, Vice President of the Government of South Sudan Riek Machar, and UN Special Envoy Joaquim Chissano. At the same time, evidence is still needed that both the Government of Uganda and the LRA are fully committed to the process. The die is not yet cast.

2. The agenda at the Juba peace talks covers five items, including (1) Cessation of Hostilities; (2) Comprehensive Solutions; (3) Accountability and Reconciliation; (4) DDR; and (5) A Formal Ceasefire. On occasion, the discussions have suffered from a difference in vision. At the outset, the Government of Uganda perceived the negotiations mainly as an opportunity to demobilize and reintegrate the LRA back into Ugandan society, thus eliminating the security threat currently posed. The LRA, on the other hand, sought to resolve issues that it claims to be to the root causes of the conflict in the North. The LRA has therefore tabled a broader political agenda at the talks.

3. There is much controversy about the balance between peace and justice in the context of Northern Uganda. The main debate is about the role of the International Criminal Court (ICC), which opened an investigation into events in Northern Uganda in January 2005, and unveiled arrest warrants against senior LRA leaders in Oct. 2005. The LRA, and particularly second-in-command Vincent Otti, has repeatedly stated that the arrest warrants must be lifted as a pre-condition to the signing of a final agreement at Juba.

4. In practical terms, the impact of the ICC on the Peace Talks has been at least three-fold:

- (a) Proponents and opponents of the ICC alike credit the arrest warrants for putting pressure on the Lords Resistance Army to agree to the Peace Talks. The ICC itself would argue that it has assisted to disrupt supply chains or other forms of support to the LRA. In general, it has become more difficult for the LRA to operate from Southern Sudan, prompting a change in their political strategy, including their move to Garamba National Park in the Democratic Republic of Congo (DRC), and a willingness to accept the offer of the Government of South Sudan to mediate. Other events, such as the clash with MONUC (the UN Mission in DRC) in January 2006, may have further contributed to the pressure, which is reflected in the extensive references to the ICC in LRA interviews. The arrest warrants have given impetus not only to commencing the talks but also to sustaining them, as the LRA wishes to resolve the issue of the warrants through the talks.
- (b) The senior military leadership of the LRA has not attended the talks in person because the four senior leaders fear arrest in Juba. As a result, the LRA delegation is composed largely of Acholi diaspora. While combatants sometimes join the delegation, the senior leadership is physically

absent. Some would consider this a significant complication. Throughout the process, there have been questions about divergences in the interests of delegates at the talks and senior LRA leaders in Garamba. The diaspora element has introduced additional political issues into the talks. The absence of the military leadership also prevents the building of trust and personal rapport. On the other hand, in some circumstances the delegation acts as a buffer between the government and the senior command, allowing for time to pass for consultation on sensitive issues. It should also be noted that the arrest warrants have not prevented direct contact between the senior military leadership and the Government of Uganda, as well as other senior officials such as former Head of the UN Office for Coordination of Humanitarian Affairs, Jan Egeland, and subsequently UN Special Envoy Chissano.

- (c) Finally, and most significantly, if it were not for the ICC arrest warrants, the debates around accountability in and around Juba may never have reached current levels of intensity. Uganda will benefit for years to come from having a national debate on what forms of accountability are necessary. (This can be contrasted with the Comprehensive Peace Agreement between North and South Sudan in 2005, which concluded without the influence of the ICC. As a result, debates on accountability were cursory, and an agreement was quickly reached by both sides not to include the issue the agreement.)

5. At the same time, there is no agreement between significant stakeholders on what should happen with the ICC arrest warrants going forward. Technically, the issue of the arrest warrants is a matter for the ICC and entirely outside the scope of what the negotiations at Juba are able to decide. Therefore it would be disingenuous for anyone at Juba to make promises in this regard. (At the most, the Government could extend a guarantee not to enforce the arrest warrants should the LRA come into Ugandan territory.)

6. It is also worth noting the impact of the Juba Peace Talks on the ICC. Considerable pressure has built up throughout the process on the Court, which may fear being designated as a “spoiler” if the talks are not successful. This pressure comes mostly from the interviews given by the LRA, which in turn have impacted on general public opinion in the North. Also, the climate for enforcement of arrest warrants has become increasingly complex, with many States wishing to see what Juba will bring rather than taking steps towards enforcement.

*B. Whether there is a tension between the need for peace and the requirement for justice. (And if so, how best this can be addressed)*

7. The urgency of resolving the conflict in Northern Uganda cannot be overstated, in terms of the need to improve conditions on the ground. The humanitarian cost of the conflict in Northern Uganda, ongoing since 1987, has been enormous, with 1.5 million people languishing in IDP camps in some of the worst conditions anywhere in the world. The impact on women and children has been particularly severe.

8. On the other hand, the tensions between peace and justice are real. The pressure to please perpetrators should not outweigh the need for regard to the needs and desires of victims. If impunity prevails, victims may take measures into their own hands (and indeed there have already been some attacks on senior LRA leaders that have passed through the amnesty process). In listing accountability and reconciliation as an Agenda Item in the talks, both delegations have recognized the relevance of the concept for finding a peaceful solution to the conflict, as well as the need to seek a balance between the two concepts.

9. Part of this question is one of process. Juba is not a forum to which many of the stakeholders have access. The range of actors at the table in Juba remains fairly narrow. For instance, there are very few female delegates, and civil society, as well as religious and traditional leaders, have observer status only. There will need to be other for genuine consultation, and for giving victims a voice in deciding which measures may be most appropriate. Indications at the time of writing are that such a consultation may be mandated directly by the Peace Talks. This would be very helpful in devising solutions that are seen as inclusive and sustainable over time.

10. It is important that the Peace Talks should endorse certain principles to govern the issue of accountability and reconciliation, and the balance between the two concepts. These principles should reiterate a commitment that there should be no impunity for grave violations and a commitment to heeding the interests of victims, including their demands for truth, justice and reparations. The concept of mutual accountability will be important. Also, ideally the principles should commit to measures for non-repetition or the prevention of future conflict.

11. At the same time, the Peace Talks will need to address the issue of mechanisms, and which mechanisms will be the most suitable. This will be an area of great sensitivity. While experiences from other contexts struggling with issues of peace and justice such as Colombia may be instructive, Uganda will have to devise its own approach to these issues, and cannot simply apply a model from elsewhere. Consultation will be particularly helpful on the issue of mechanisms.

*C. How, if at all, can the ICC, national and traditional measures combine to tackle impunity and further justice and reconciliation/How best grievances against the LRA and the Government of Uganda can be addressed*

12. The debate on accountability in Northern Uganda has often been framed as one of stark alternatives. The LRA has advocated for traditional justice measures in combination with a Truth and Reconciliation Commission. The Government of Uganda on the other hand has referred to its obligations under the Rome Statute, while it has also supported the use of traditional mechanisms. (Early on in the process President Museveni said he would issue an amnesty but this statement has since been withdrawn.) But many in the North, including traditional and religious leaders, civil society and humanitarian organizations, have voiced views that the ICC poses a threat to traditional mechanisms. These groups have shown a strong support for such local mechanisms, arguing that they are more attuned to African culture in demanding “restorative”, rather than “retributive” justice.

13. However, legacies of human rights violations such as those committed in Northern Uganda are complex in their nature. Different kinds of crimes may have been committed over time both by the LRA and the Government. No single mechanism can encompass all different forms of victimization and perpetration. A comprehensive approach to justice is therefore necessary take into account all of these factors. During our general population-based survey in the North, conducted in April- July 2005 in Gulu, Kitgum, Lira, and Soroti, respondents indicated that they held views on justice that encompassed a range of mechanisms, including assistance to victims; traditional justice; trials; reconciliation; compensation; and truth.<sup>23</sup>

14. A comprehensive approach will require multiple mechanisms, dealing with localized and national dimensions of the conflict. These multiple mechanisms should seek to fulfil the goals of (a) accountability for perpetrators; (b) truth-seeking on both a local and national level, including gathering information on the whereabouts of missing individuals; (c) reparations for victims (ie measures that seek to repair them for the harms they have suffered, rather than measures that seek to meet their needs in their current dire situation); (d) the effective reintegration of former combatants, and security sector reform. Ultimately, it is hoped that the combination of mechanisms would result in a measure of reconciliation. The question then becomes one of evaluation of existing (or proposed) mechanisms and how they should combine.

15. There has been much discussion of Acholi traditional justice ceremonies, including Mato Oput (also known as the “bitter root” ceremony, used for inter-clan reconciliation).<sup>24</sup> While these ceremonies were not widely practiced in the recent past, many would argue that they have a role to play in assisting the social reintegration of former LRA. There are many complex social issues that can be foreseen in the aftermath of the conflict. This is particularly the case in Acholi, where the society is generally portrayed as traditional and cohesive (although extensive displacement has had a negative impact). Many issues will need resolving, in the aftermath of crimes such as widespread abduction, disfigurement and mutilation, forced marriage and sexual slavery. It is important that community-level approaches and structures are put in place to meet these challenges.

16. Traditional ceremonies, such as Mato Oput, may also be capable of addressing certain transitional justice goals on the community level, such as truth-seeking and reparations by perpetrators or their clans. But at the same time, traditional justice mechanisms have certain limitations which are generally recognized by delegates at Juba:

- (a) It is not clear how ceremonies that are commonly between clans within one tribal group would deal with inter-tribal conflict between Acholi, Langi, Iteso, Madi, and also possible victim populations in South Sudan.
- (b) It is not clear how situations will be dealt with where the perpetrator is unknown, or which traditional justice ceremonies can apply to crimes other than killing such as abductions or sexual offences. (Mato Oput generally requires the perpetrator to be known).
- (c) Many questions remain relating to capacity and the practicalities ie how much can traditional structures handle; are the traditional leaders currently in a position to implement; are traditional structures sufficiently representative; and so forth.
- (d) There is a question whether the system can remain voluntary with all the resulting implications, such as the timeframe required to elicit a confession.
- (e) Traditional justice, by itself, would isolate the issue of accountability to the North and does not address the responsibility of the Government.
- (f) Traditional justice should be seen as complementary to other accountability options, but not as an alternative. In other words, it should be part of an overall approach.

17. The LRA has also, on multiple occasions, stated that it wants to see the establishment of a Truth and Reconciliation Commission to examine the root causes of conflict in Uganda. The Government has yet to give its public position on this. Uganda has a history with truth commissions. In 1974, President Idi Amin

<sup>23</sup> “Forgotten Voices: A Population-Based Survey on Attitudes about Peace and Justice in Northern Uganda”, International Center for Transitional Justice and the Human Rights Center, University of California at Berkeley, July 2005.

<sup>24</sup> The Acholi are the tribe most affected by the conflict, as the vast majority of LRA hail from Acholi, as do many of the victims, particularly from before 2003.

Dada established a Commission of Inquiry into the Disappearance of People in Uganda since 25 January, 1971. However, despite critical findings, including reform of the police and security forces, the Commission lacked sufficient backing by the President to play a role in mitigating the crimes soon to be committed by his own regime. In 1986, President Museveni established the Ugandan Commission of Inquiry into Violations of Human Rights (also known as the Oder Commission after the Supreme Court Justice Arthur Oder), with a mandate to look into abuses of human rights between independence (1962) and 1986. Due to lack of funding the commission was stalled in its findings, and by the time it issued a report in 1995, so much time had passed that public interest had waned.

18. While in the long term, a truth commission designed to examine the period of NRM rule, including violations as well as the role of the military could be beneficial to Uganda, the overall political climate would have to be conducive. There would need to be confidence that a commission would be able to avoid political manipulation by the government. The concept would also require the support of civil society in different parts of the country. Discussions have only recently started among civil society at the national level, under the leadership of the Refugee Law Project. While a truth commission should be considered, the question will need to be asked whether the political climate in Uganda is optimum for a serious, introspective exercise at this time.

19. Uganda's Amnesty Commission, created in 2000 pursuant to the Amnesty Act, also remains in effect. The Act grants a so-called blanket amnesty for conduct, although it requires individualized applications. It has long provided a legal valve through which those who have taken part in insurgency escape legal consequences for their actions through denouncing rebellion and demobilizing. The Amnesty Act is unique because it (1) was initiated by affected groups and was supported by a countrywide consultation prior to coming into force; and (2) the amnesty has enjoyed a level of support among affected populations. The latter can be explained by the fact that many LRA recruits are abductees, many of them children or youth. This creates an inherent ambivalence, particularly among Acholi communities, as the LRA is basically composed of their own children.

20. Some have suggested an expanded role for the Amnesty Commission, to allow it to become more active on trying to contribute to reconciliation. In research we conducted in Northern Uganda together with UC Berkeley, many respondents expressed hope that LRA would be required to confess (34%) or apologize (56%) as part of the amnesty process. The Amnesty Act may allow for this, in specifying that the Commission has the mandate to "consider and promote appropriate reconciliation mechanisms in the affected areas" and "to promote dialogue and reconciliation within the spirit of this Act." However, two potential limitations emerge: (1) there is currently no vehicle for "truth-telling" in the Amnesty Commission's process; and (2) the Amnesty Commission currently lacks the logistical capacity to play a broader social role, and in fact struggles even with the role it has been assigned in terms of reintegration. At the same time, the work of the Amnesty Commission as a reintegration mechanism is vital and needs continued support. It will be important to reassure combatants that there is an alternative to fighting, and that they will be assisted in reintegration. It is also important that it is understood that there will not be a reversal to this situation for those who have already gone through the amnesty process.

21. The institutions mentioned above do not resolve the essential issue of the ICC arrest warrants. Lifting the warrants, as demanded by the LRA, is not possible from a legal perspective. While there is a mechanism in the Rome Statute to halt an investigation or prosecution "in the interest of justice" (Art 53.2.c), this may not necessarily result in a withdrawal of the indictment, which would constitute a step backwards in the judicial process. In any case, it currently seems unlikely that the Prosecutor would apply to halt the prosecution of senior LRA under Art. 53, ie in the "interests of justice". The Office of the Prosecutor has issued a policy paper to give further definition to this phrase. Its general policy will be to proceed with investigations or prosecutions, unless there are highly exceptional circumstances. The paper states that the interests of justice and peace cannot simply be equated. Even if the Prosecutor would apply to halt the proceedings, the Pre-Trial Chamber would still have to make a decision and the judges may take a conservative view.

22. There are some, including International Crisis Group, who advocate for the Security Council acting to defer the proceedings for one year at a time (Art 16). There are distinct disadvantages in the premature use of this Article. If it is used to promote a solution that condones impunity, it may undercut the legal framework of the Rome Statute and may in fact relieve the LRA from pressure even to continue the Peace Talks. It may also set a negative precedent for situations elsewhere, including for Sudan in Darfur, as the lesson may be that the best way to avoid trial by the ICC is to apply political pressure to force the Security Council to defer the case, in the face of threats of violence or an escalation of conflict. Art 16 will not provide the LRA with long-term legal certainty. It only offers a short-term reprieve. To date, Art 16 has only been used for overtly political purposes, in a US-instigated bid to provide immunity to peacekeepers. On the other hand, Art 16 was inserted into the Rome Statute as a mechanism to resolve conflicts between peace and justice, and therefore remains a possibility if no other solution can be found. Moreover, it may be possible to think of utilizing Art. 16 to implement a peace deal that includes accountability- but for that to be possible, the debate on accountability has to be held first.

23. Finally, some suggest that Uganda should challenge admissibility under the complementarity principle (Art 17/ 19). In this scenario, Uganda would argue that it is able or willing to exercise jurisdiction. Exploring complementarity in the context of Uganda has certain advantages. We know from our experience

around the world that national justice options, if compliant with certain standards, are able to have more impact on the societies in which they take place. Another real advantage of exploring complementarity is that it may serve to clarify the accountability debate at Juba. So far, much of the debate has been about the threat posed by the ICC. The LRA has stated that it does not favour impunity but that it opposes the ICC's involvement in this situation. If national accountability is explored, the ICC may be released from the pressure of being seen as a potential spoiler, as it makes an agreement theoretically possible, unless the LRA's real position is that it will not subject to any robust accountability mechanism. If that is the case, and if they want impunity, this is likely to be resisted.

24. An admissibility challenge would however require Uganda to demonstrate what has changed, ie that it is now genuinely willing and able to exercise its own jurisdiction. This is in part a legal but also a factual question. For instance, if it is willing to exercise jurisdiction through a new arrangement included at Juba, but it has no ability to do so, because the LRA remains out of reach, an admissibility challenge may not be possible. Whatever the approach to accountability taken at Juba, it will require a complete commitment by both sides, and concrete steps to show willingness to move towards implementation, rather than just an agreement on paper, with no guarantees of implementation. In other words, the LRA would need to return to the territory of Uganda to show their willingness to take part on a national arrangement. These would be the preconditions for a successful complementarity challenge.

25. What else would be required to succeed in an admissibility challenge? Art. 17 of the Statute refers to a State Party's "ability or willingness genuinely to carry out the investigation or prosecution". There is some debate amongst scholars about whether this requires criminal investigation. The Preamble of the Rome Statute expresses a clear preference for criminal jurisdiction, but is not part of the Statute as such. Some have argued that an investigation by a truth commission would suffice, but this seems unlikely, as non-use of criminal jurisdiction may show unwillingness. In any case, it is fairly clear that traditional justice mechanisms by themselves would not constitute an adequate basis for such a challenge. If a legal mechanism is established, complementarity will give rise to a number of complex questions about Ugandan law. The Lubanga case before the ICC held that for the purposes of complementarity, national authorities should charge the same accused for the same conduct. To date, the Rome Statute has not been domesticated in Uganda, so that certain of its crimes do not exist in Ugandan law. While there is a Geneva Conventions Act that covers grave breaches (requiring proof of international armed conflict), war crimes in internal armed conflict and crimes against humanity are currently not domestic crimes.

26. All of this is complicated by the fact that apart from the ICC, there currently exists no investigation against senior LRA leaders, so that the threat of domestic prosecution may seem remote. Another difficult question is what constitutes suitable punishment. It is clear that a de facto or de jure absence of punishment may give rise to impunity. At the same time, people in Northern Uganda have said to us that for them, a prison term in a Western-style prison in The Hague, with all its facilities, does not necessarily constitute punishment, and that they would emphasize confrontation with victims or communities which have been harmed. However, international human rights groups argue that non-custodial options would not be proportionate to the crimes committed. In any case, penalties are case-specific and must take into account all the relevant circumstances.

27. Early in the debates, there was some suggestion that punishment as such was not an important cultural norm in Northern Uganda, and that Acholi in particular preferred forgiveness and reconciliation. However, our research among general populations in the North, including two Acholi and two non-Acholi districts, indicated that 66% felt that the LRA should face a form of punishment, including trial, imprisonment, or death, whereas 22% emphasized forgiveness, reintegration and reconciliation.. It may be opportune to include issues of what constitutes adequate punishment and its forms in another consultation.

28. The question of incentives will also need to be addressed. Senior LRA leaders will be keen to avoid outright humiliation and will not sign an agreement that requires them to spend the rest of their lives in prison. In Colombia, paramilitaries have agreed to subject themselves to a government scheme where they can benefit from reduced sentences if they agree to contribute to disclosure about the crimes, and reparations. Their original sentences are suspended but may revive if certain conditions are breached. It is unclear whether such a similar scheme may also be acceptable in the context of Uganda. For instance, one approach could entail the appearance of senior LRA leaders before a special panel of judges, perceived as independent, with the option to participate in disclosure and / or participation in direct reparations for the sake of a reduced penalty. This scheme should go beyond just those leaders that have been subject to the arrest warrants (which admittedly raises complex questions of a cut-off point). (It should be noted that traditional justice emphasizes disclosure and reparations, and that a role for traditional leaders in facilitating social reintegration in cases that do not require penalties could be devised.)

29. While none of this poses concrete answers about the way forward, it is suggested that these are the matters that should be explored in the further negotiations. For instance, it is not clear whether the Ugandan Government will allow the UPDF (Uganda People's Defence Forces) to go through the same accountability mechanism as the LRA, as they are already subject to courts-martial (although these proceedings are far more likely to be implemented against ordinary soldiers than senior commanders).

30. Reparations too will be an important topic and perhaps both a realistic and a meaningful way to achieve a measure of government accountability for policies that have inflicted harm on the civilian population, including policies of neglect (such as the conditions in the camps or the absence of adequate

protection). This could include establishment of a reparations fund for the North, with awards that can be made to communities or groups on account of their suffering, with an acknowledgement of that suffering. (Our general population research indicated that a majority of respondents (58%) favoured community reparations.)

31. Inevitably, there may be those who argue that if Juba opts for a national approach to accountability, this may undermine the ICC in one of its first cases, and that the focus should be on effecting arrest warrants. However, if a robust accountability option is found, ie one that complies with the Rome Statute, it can be argued that this is exactly the way in which the Rome Statute was intended to function in terms of complementarity. The Rome Statute is, after all, about a system rather than just about a Court. If Juba adopts a robust approach on accountability, this constitutes a success for the Court, rather than a failure, even if it does not result in trials in The Hague. If no such robust approach is taken, the arrest warrants are likely to remain in place and the system will require the Court to exercise its jurisdiction.

*D. How the international community can help to create the conditions for sustainable peace and re-development in the north if the peace talks are successful*

32. This last question is outside the scope of our expertise, but I have a few observations on this topic:

- (a) In late 2005 we carried out an assessment in Northern Uganda on humanitarian assistance issues, for the MacArthur Foundation. Our recommendation to them was to focus on children and youth in the North. Education, for instance, has been a heavily neglected area- including particularly secondary education.<sup>25</sup>
- (b) Likewise, the development of access to justice and rule of law in the North should be a strategic area of involvement, but is often neglected in post-conflict contexts.
- (c) Programs such as the National Peace, Recovery and Development Plan for the North (PRDP), should not be mistaken for reparations programs. Victims need and deserve both but these serve different objectives. The PRDP should move towards implementation as quickly as possible, to allow for the benefits of a peace dividend.
- (d) One should be careful to balance the benefits made available to ex-combatants under Disarmament, Demobilization and Reintegration with benefits to the communities or victims, or else this may give rise to further tensions. This has already been a source of conflict in regard to the Amnesty Commission's reintegration packages.

---

### **Memorandum submitted by CAFOD, Christian Aid, Conciliation Resources, Quakers and World Vision**

#### **1. WHAT HAS BEEN THE IMPACT OF THE ICC ARREST WARRANTS ON THE PROSPECTS FOR PEACE?**

1.1 The immediate priority for those affected by the armed conflict in Northern Uganda is peace,<sup>26</sup> defined as the "absence of violence, war, and/or conflict."<sup>27</sup> The Refugee Law Project survey demonstrated a strong consensus that, "war had to end first and only then, can decisions be made as to what mechanisms of justice should be implemented".<sup>28</sup>

1.2 The issuing of arrest warrants by the International Criminal Court (ICC) has been credited, although the evidence for this is unclear, with allegedly jump-starting the Juba peace process. However, substantial evidence does exist to support the fact that the ICC arrest warrants serve as an obstacle to peace. This evidence includes, local radio broadcasts on Mega FM, in which senior Lord's Resistance Army (LRA) commanders have participated and have stated that the LRA will not accept a negotiated settlement committing them to trial at The Hague.<sup>29</sup> In the last round of peace talks it seems the parties, with the support of GoSS mediation and African Union observers, have accepted that the legal challenges are serious and have begun to negotiate a process that does not resolve the issue of surrendering the four members of the LRA high command but does construct agreed strategies that might move the process forward

---

<sup>25</sup> "War-Affected Children and Youth in Northern Uganda: Toward a Brighter Future", John D and Catherine T MacArthur Foundation and the Government of Canada. An Assessment Report, May 2006.

<sup>26</sup> Forgotten Voices, A Population-Based Survey on Attitudes About Peace and Justice in Northern Uganda, P Pham, P Vinck, M Wierda, E Stover, A di Giovanni (International Centre for Transitional Justice, Human Rights Centre, University of California, Berkley, July 2005) (ICTJ Report), p 23 31% of respondents to the ICTJ survey specified peace as their immediate priority. 34% cited food (p 25). This is arguably referring to IDPs wish to regain their livelihoods, such as farming and employment. The Government's strategy of "protected villages" forced 80% of the region's population into overcrowded IDP camps, where they have been dependent upon external humanitarian relief to support their basic needs. For IDPs to resume their livelihood strategies, sustainable peace is a prerequisite. *Peace First, Justice Later: Traditional Justice in Northern Uganda*, Dr L Hovil, Dr J R Quinn, Refugee Law Project Working Paper No. 17 (Refugee Law Project, July 2005) (RLP Report), pp 17-19.

<sup>27</sup> Page 23, ICTJ Report, *ibid*.

<sup>28</sup> Page 17, RLP Report, *supra* n. 1.

<sup>29</sup> Such broadcasts have played a significant role in creating uncertainty about the chance for peace among the affected population.

1.3 The Cessation of Hostilities Agreement and the Juba peace process has contributed to hundreds of thousands of internally displaced people beginning the process of return. However, even since the peace process commenced, return to the northern districts of the Acholi sub-region still remains extremely limited. Only one per cent of the internally displaced population have returned to their village of origin and seventy per cent, more than 780,000 people, remain in camps.<sup>30</sup> Uncertainty over the prospects for peace and concerns for security stop many people from leaving the camps. Lack of basic services and restrictions on freedom of movement are also contributing factors.

1.4 The failure of the Ugandan People's Defence Force (UPDF) to resolve the conflict through a military solution arguably proves that any attempt to execute the warrants by force, will only lead to insecurity for the civilian population, displacement and further human rights violations in Uganda, South Sudan and DRC. It could also prompt the LRA to retaliate against civilians and humanitarian workers as has happened in the past, including immediately after the arrest warrants were announced.<sup>31</sup>

1.5 The arrest warrants have had an impact on the work of the Amnesty Commission to encourage soldiers out of the bush. The Amnesty Commission has a crucial role in securing peace by ensuring that LRA soldiers, many of whom were abducted as children, feel there is a process for them to leave the LRA, to demobilise and to begin a process which will enable them to return to their families. The relationship between amnesty and the ICC is awesomely complex

## 2. IS THERE A TENSION BETWEEN THE NEEDS FOR PEACE AND THE REQUIREMENTS FOR JUSTICE AND IF SO HOW CAN IT BE BEST ADDRESSED?

2.1 While peace is the priority for the conflict-affected community, justice is important in ensuring that peace is sustainable. It is regrettable that this debate has become characterized by the counterproductive language of justice versus peace. The question that needs addressed is not; "what is the tension between justice and peace", but what types of justice would best serve a sustainable and just peace?

2.2 Analysts argue that the lack of accountability and impunity following previous regime change, and deep seated regional divisions within the country, are the root causes of the conflict in northern Uganda.<sup>32</sup> Therefore, the crimes committed by all parties to the conflict must be addressed. Perceived impunity for members of the Ugandan security forces involved in war crimes is no less damaging than perceived impunity for members of the LRA. Any process, which only addresses the actions of one side is likely to harbour problems for the future and would undermine the likelihood of securing a just and sustainable peace. Human Rights Watch's "*Uprooted and Forgotten, Impunity and Human Rights Abuses in Northern Uganda*",<sup>33</sup> documents crimes committed by the LRA and the UPDF in Northern Uganda. According to this report, the UPDF are allegedly guilty of wilfully killing civilians, torture, summary executions, rape and sexual violence.<sup>34</sup> Abuses by the LRA include the killing of civilians, child abductions, torture, mutilations, rape and other forms of sexual violence.<sup>35</sup> Justice has to be impartial to build a sustainable peace.

## 3. HOW, IF AT ALL, CAN THE ICC, NATIONAL AND TRADITIONAL MEASURES COMBINE TO TACKLE IMPUNITY AND FURTHER JUSTICE AND RECONCILIATION?

3.1 The conflict in Northern Uganda is highly complex; children have been forcibly abducted into the LRA whereupon they have become perpetrators of human rights violations. Indeed Dominic Ongwen, now indicted by the ICC, was himself abducted. Thousands of parents wait anxiously for a peace agreement, hoping that their child will emerge from Garamba to be demobilized, disarmed and reintegrated. However, many formerly abducted people remain marginalized by society, and isolated revenge killings for past atrocities have started to be reported in northern Uganda. Traditional and unofficial Ugandan approaches to justice appear to offer a model for tackling this unique dilemma, helping to promote truth telling and accountability whilst being committed to incorporating the confessor into society again. There are significant lessons that the Development Committee might learn from the remarkable resilience and generous capacity of the Acholi and other African peoples to reintegrate into communion those who have been guilty of serious wrongdoing.

<sup>30</sup> IDP Population Movement, April 2007, Inter Agency Standing Committee Working Group in Uganda.

<sup>31</sup> After the arrest warrants were announced in October 2005, the LRA apparently began a new and deliberate tactic of targeting humanitarian aid workers, four were murdered in October and the same month, a handwritten letter apparently from the LRA was passed to local people threatening to kill any white person moving in the region. It blamed the ICC for the change in tactics. In October 2005 suspected LRA rebels shot and killed Caritas Gulu staff member, Okot Stalin. In November 2005 two British and two New Zealand tourists travelling in Murchison Falls National Park were ambushed by suspected LRA rebels, one member was killed.

<sup>32</sup> See for example, *Behind the Violence*, Hovil and Lomo, Refugee Law project Working Paper No 11 (Refugee Law Project, February 2004).

<sup>33</sup> *Uprooted and Forgotten, Impunity and Human Rights Abuses in Northern Uganda*, Human Rights Watch, September 2005 Vol 17, No 12(A) (Human Rights Watch, September 2005)(HRW Report).

<sup>34</sup> PP 24-35, HRW Report, *ibid*.

<sup>35</sup> PP 14-22, *ibid*.

3.2 It is important to acknowledge that this question is being addressed from within Uganda. Civil society organisations, the Government of Uganda and other stakeholders are currently developing a framework by which national and traditional processes will combine to challenge impunity and to further justice and reconciliation. Therefore, the key role of the international community should be to support the local actors in the development of such processes by providing the necessary funding and expertise and allowing the space to examine how best to proceed.

3.3 Local principles of justice and reconciliation that could contribute to a sustainable peace could include:

- Public acts and statements of apology and contrition to communities affected by the conflict by both the Ugandan Government and the LRA;
- Reparations paid to affected communities by the Government of Uganda in the form of improved services, clearly identified as compensation;
- Traditional ceremonies of reconciliation held between communities where tension and collective guilt have been created or exacerbated by the conflict, eg the Acholi and Langi peoples, possibly as part of a national truth-telling and reconciliation process;
- Extensive oral history and truth telling programmes made available to victims/perpetrators. These would need to take into account the protection of confessors from mob justice;
- Programmes that facilitate the creation of monuments to and commemorative ceremonies and events for the dead by their communities;
- Voluntary community service programmes for former LRA fighters, in which they would make reparation for their crimes but also be recognized as victims.

3.4 In bringing closure to the conflict in northern Uganda victims need to be recognised as the primary beneficiaries of any judicial processes. Punishment is only one aspect of the judicial process, careful listening to individual victims of atrocities may be more significant. We hope that the ICC, and those involved in national and traditional justice will be able to learn from the experience of truth and reconciliation commissions in both Africa and Latin America.

3.5 In both Northern Ireland and South Africa many serious crimes remained unpunished. In both situations a more rigorously judicial disposal of cases might have threatened re-igniting conflicts or endangering civil peace. We hope that the UK Government will be able to share the lessons of the Good Friday Agreement as regards the ending of acute armed conflict. Even from a judicial perspective there are occasions where accountability for terrible atrocities has to be attenuated in the interests of preventing such atrocities in the future.

#### 4. HOW BEST CAN THE GRIEVANCES, AGAINST THE LORD'S RESISTANCE ARMY AND THE GOVERNMENT OF UGANDA, BE ADDRESSED?

4.1 It is crucial that the people affected by the armed conflict have a voice in defining how grievances should be addressed. This requires effective consultation with the affected populations and will demand financial resources, time and space. Faith based communities and civil society have a crucial role to play in facilitating such processes, giving voice to the voiceless.

4.2 The Juba peace process has reached a critical stage. With the conclusion of Agenda Item II, Comprehensive Solutions, discussions are now focused on Accountability and Reconciliation. The very fact the parties are discussing this at all is a significant step forward in the prospects for peace. Initial reports from the peace negotiations suggest they have almost reached agreement on a set of shared principles. Substantial progress has been made in acknowledging that violations have been committed on both sides.

4.3 The text of the submission by the LRA/M peace delegation in Juba on the occasion of the launching of Agenda Item III—Accountability and Reconciliation, offers some hope that the LRA may accept an accountability mechanism. We therefore hope that national and traditional measures can combine to meet international standards of justice, which will satisfy the ICC. For the affected communities evidence demonstrates that national judicial processes are regarded as the most appropriate judicial system to address human rights violations committed in Northern Uganda<sup>36</sup>.

#### 5. HOW CAN THE INTERNATIONAL COMMUNITY HELP CREATE THE CONDITIONS FOR SUSTAINABLE PEACE AND REDEVELOPMENT IN THE NORTH?

5.1. The International community must ensure that the processes, mechanisms and Good Offices supporting the peace process are well resourced—including support for the processes involving the war-affected population. Support for the process must continue to be expressed at the highest level and the importance of confidence building measures should not be underestimated. The international community

<sup>36</sup> More than one third of those surveyed by the ICTJ held this opinion. Page 33, ICTJ Report, supra n. 1

must not be tempted to encourage a policy of deadline diplomacy; especially in view of the Commonwealth Heads of Government Meeting to be held in Uganda, which will inevitably focus international attention on the crisis in Northern Uganda.

5.2 The international community, including the British Government, must use its influence to ensure the Ugandan Government remains committed to the peace process. Long term peace and development in the country as a whole requires increased commitment to fulfilling international human rights standards and principles of good governance. 5.2 Within Uganda, inequality between North and South has fed this conflict, and this imbalance must be overcome to build future national stability. The international community must engage the Government of Uganda on the Peace Recovery and Development Plan (PRDP) and make clear commitment to resource the PRDP as the peace process progresses. SMART benchmarks for the implementation of the PRDP should be developed in consultation with civil society and an independent monitoring mechanism should be established. The UK government should promote consultation, inclusive of civil society.

5.3 It is a frequently acknowledged observation that it takes as long for a society to emerge from a conflict as it has been in the conflict in the first place. In Northern Uganda this is 21 years. A peace agreement would mark only the first step of a sustainable peace. Concerted effort will be needed to support the long process of building a just and sustainable peace.

---

#### **Memorandum by the Friends of Northern Uganda**

The Friends of Northern Uganda (FONU) was established in 2004 by a group of concerned Acholi and British friends who were appalled by the ongoing rebellion in northern Uganda and the bloodshed and violence being perpetrated there, especially against women and children.

#### **FONU SEEKS**

- (a) To promote reconciliation as the basis of a permanent settlement of the crisis.
- (b) To offer bursary support to young returnees from the Lord's Resistance Army and to children in the atrociously inadequate Internally Displaced People's (IDP) camps for either skills training or secondary school education through the programme of the Acholi Religious Leaders Peace Initiative (ARLPI).
- (c) To support other projects and initiatives being run by local community and other groups.
- (d) To create links and to encourage other Non-Governmental Organizations to seek ways of helping people in the war-affected areas.
- (e) To lobby the United Nations and concerned Governments to play a more active and balanced role in the search for reconciliation and peace.
- (f) To encourage the British media to give a higher profile to the crisis.

Turning to the issues of especial concern to the Committee, as laid out in its press release of Wednesday 4 June.

#### *What the impact has been of the International Criminal Court warrants on the prospects for peace*

We are of the view that a major error was made by the ICC Chief Prosecutor when he accepted the invitation of the Government of Uganda to investigate the allegations that the leadership of the Lord's Resistance Army (LRA) were guilty of war crimes and crimes against humanity. By looking only at the behaviour of the Lord's Resistance Army and not also that of elements of the Uganda People's Defence Forces (UPDF) stationed in the war zone, many Acholi and other civilians, who knew that there were a continuing number of grave abuses being perpetrated by Ugandan soldiers, including rape, theft at gunpoint, physical violence et al, were very fearful that the Ugandan army had been given impunity. That is not in the least to say that the Lord's Resistance Army has not perpetrated the gravest of crimes; it is to say that justice has been seen by many victims as partial and thus less than satisfactory.

When speaking in Geneva last year to a staff member of the UN Office for the Co-ordination of Humanitarian Affairs (OCHA), who had, earlier that day, discussed northern Uganda with a member of the ICC investigation team, FONU's Malcolm Harper was told that the ICC investigator had admitted that the evidence showed that, almost certainly, there was more frequent abuse by the Ugandan military than by members of the LRA.

This situation has made it harder for many victims of the rebellion to understand the even-handedness which they had earlier attributed to the ICC and it has, in our view, made it more difficult for the leadership of the LRA to participate in the Juba peace talks, albeit through intermediaries, due to the indictments hanging over their heads.

Additionally, the amnesty offered periodically to the LRA, including the leadership, would appear to be in conflict with the ICC indictments. The LRA leaders fear that, if they present themselves at the talks, the indictments will hold sway over the amnesty and they will be arrested.

There is much speculation that President Museveni would really like to see the indictments either withdrawn or suspended for the duration of the peace talks. We cannot say whether this is so but it may be that the Government of Uganda should criminal proceedings against those indicted in order to be able to request the UN Security Council to suspend the arrest warrants either permanently or for an initial six or twelve month period pending the outcome of the talks.

One problem with an approach to the Security Council could be the determination of Governments like the British, which are members of the Council and which worked hard to get the ICC established, not to allow the Court's first-ever case not to come to fruition. We fear lest such an attitude may end up hampering the prospects for a negotiated peaceful settlement of the crisis.

*Whether there is a tension between the need for peace and the requirement for justice: (And, if so, how best this can be addressed)*

There appears to be a real tension between the need for peace and the requirement for justice.

Opinions vary—sometimes quite markedly—between those who say that they want peace to be achieved after 21 years of violence, disruption and uncertainty as quickly as possible and those who say that the LRA leaders should be arrested and put on trial. This is bound to be the case. The Acholi Religious Leaders Peace Initiative believe that the traditional Acholi (and others') methods of seeking admission of wrongdoing, apology, forgiveness, reconciliation and reintegration into the community should form the basis of the way ahead. Here again, opinions vary considerably on how many people share the ARLPI view. FONU's evidence is that it is widespread but not universal.

Malcolm Harper, on a visit to Gulu in January, 2006 met Brigadier Sam Kolo, previously No 3 in the LRA hierarchy, who had defected to the Government side and who had, apparently, been through the traditional Mato Oput cleansing ceremony and was running a programme seeking educational bursaries. When they met at the Acholi Inn Hotel, Mr Kolo appeared to have no bodyguard and did not look at all apprehensive at being in a public place.

He also met Brigadier Kenneth Banya (another former LRA Commander) in Gulu who showed no such apprehension either.

What appears to be very sad is the lack of understanding in wide areas of the international community towards national/local traditions and a reliance on the more punitive approach of the ICC process. FONU believes that national and local mechanisms should be given priority (comparable with the Truth and Reconciliation Commission of South Africa where terrible and heinous crimes against humanity had been committed). If this was to happen, the relationship between the need for peace and the requirement of (redemptive rather than punitive) justice would almost certainly be enhanced—even if the international (and, especially, the western) mind found it hard to understand this.

*How International Criminal Court and national processes, including traditional forms of justice, can combine to combat impunity and foster justice and reconciliation*

If this process was entered into at the national level, it could then be fed into the ICC and decisions be sought on any subsequent role of the ICC. FONU accepts that the incorporation of traditional justice methods into national law is complicated but not impossible. We would urge the international community to encourage such a process in Uganda, initially looking at the local mechanisms available in northern Uganda and, subsequently, in other areas of the country.

FONU believes that, when it was established, the ICC was seen as a court of last resort. In Uganda, it would seem that the last resort has not yet been reached and that the referral of the crisis to the Court was premature.

*How best grievances, against the Lord's Resistance Army and the Government of Uganda, can be addressed*

If the ICC process has been allowed to remain one-sided in its investigation, it would appear that it has limited its role in terms of addressing grievances against the Government of Uganda. Many people question how far the Government of Uganda would tolerate an investigation into UPDF behaviour.

There have been reports by Amnesty International and Human Rights Watch which have highlighted Ugandan army abuses and which could form the basis of a wider review of this issue. The United Nations Human Rights Council could seek to investigate allegations, both updating those against the LRA and looking at the UPDF.

FONU has a number of lurking fears that a number of Governments, which have seen aspects of the African Renaissance being led from Kampala may have been rather too willing to turn a blind eye to some of the other things which have been happening—and which are carrying on to this day—in the country. The time for a more balanced and honest approach seems to be overdue.

As already stated, if traditional methods of justice and reconciliation could be accepted and utilized, grievances against both the Government and the LRA could be addressed and, hopefully, resolved.

*How the international community can help to create the conditions for sustainable peace and re-development in the north*

The international community has an enormously important role to play in helping to create the conditions for sustainable peace. We have outlined above some of the actions which need to be taken, often in co-operation with the Government of Uganda. Additionally, people need to be willing to “sup with the devil”, as Vice-President Riek Machar of the Government of South Sudan, President Joachim Chissano of Moçambique (the United Nations Special Representative) and those representatives of a number of African Governments are doing.

Difficult as it may be, the LRA has to be seen as a genuine partner in the negotiations and the whole Juba process and must be encouraged to act responsibly in them. President Museveni, quite frankly, has a credibility gap, both within and outside Uganda, with a large number of people who have yet to be convinced that he genuinely wants the peace process to succeed and is not, in reality, more interested in keeping the Acholi and other peoples of the north politically emasculated as his foes.

Much work needs to be done now to start to plan for the longer-term future of northern Uganda, both during and after the peace process. There is a wide range of reconstruction which will be needed, including the effective implementation of the UN Millennium Development Goals as people are enabled to come out of the wretched IDP camps and the rebuilding of wide areas of the infrastructure of effective local governance.

The international community should be encouraging the Government of Uganda, the World Bank, UN Agencies, Programmes and Funds, Non-Governmental Organizations (both international, national and local), community based groups, including women and young people to sit down together in order to devise a 5-10 year plan and to respond generously to the appeal which would follow.

If such planning was undertaken comprehensively now, it would also be a massive encouragement for the victims of the conflict to know that plans were being made and that they were being consulted as to what the priorities should be and how their local communities would be involved in their achievement.

#### CONCLUSION

FONU would be more than happy to come and give oral evidence to the Committee. The crisis in northern Uganda is long overdue for a permanent settlement. Until recently it was, as Jan Egeland, the former UN Under-Secretary-General for the Co-ordination of Humanitarian Affairs, said, the world’s longest running and most ignored and forgotten conflict. Now it is getting an higher profile and FONU welcomes that development greatly.

*Malcolm Harper*

*15 June 2007*

---

#### **Memorandum submitted by Human Rights Watch**

Human Rights Watch thanks the International Development Committee for the opportunity to submit comment towards the ongoing inquiry, titled “Prospects for Sustainable Peace in Uganda”.

Human Rights Watch monitors human rights in more than 70 countries around the world and has investigated violations of human rights and international humanitarian law in northern Uganda for more than a decade, issuing reports based on in-depth fact-finding. In March 2007, Human Rights Watch conducted a mission to Kampala and several locations in northern Uganda to assess the work of the International Criminal Court and the developments in the peace talks taking place in Juba, southern Sudan.

#### OVERVIEW

The current peace talks between the Ugandan government and the Lord’s Resistance Army (LRA) create prospects for ending the devastating 21-year conflict in northern Uganda. Since the conflict began in 1986, serious crimes in violation of international law and other human rights abuses committed by the LRA and, to a lesser extent, by government forces have been documented by Human Rights Watch and other human rights organizations.

Human Rights Watch firmly believes that any outcome for northern Uganda must include both a peace agreement and fair, credible prosecutions of those responsible for the most serious crimes committed by both sides during the conflict, together with broader accountability measures. As discussed below, we believe that such prosecutions are essential not only to accountability, but also to establishing a durable peace.

Arrest warrants issued by the International Criminal Court (ICC) for four LRA leaders for war crimes and crimes against humanity provide a major opportunity to ensure justice is done for at least some of the serious crimes committed. The June 29 agreement between the parties on accountability and reconciliation looks to possible national trials of those who “are alleged to bear particular responsibility for the most serious crimes.” The ICC allows and favors national trials of its cases where possible. However, consistent with the ICC’s Rome Statute and international standards, any national alternative to ICC trials should satisfy the following substantial benchmarks as detailed in a May 2007 memorandum by Human Rights Watch:

- Credible, impartial, and independent investigation and prosecution;
- Rigorous adherence in principle and practice to international fair trial standards; and
- Penalties that are appropriate and that reflect the gravity of the crimes.

Key governments such as the United Kingdom, UN representatives, and the Uganda peace talks mediation team have a crucial role to play in ensuring both peace and justice are achieved in northern Uganda. We urge the United Kingdom to use all appropriate influence toward this end, including calling on the Ugandan government to ensure that any proposed national trials for serious international crimes and other human rights abuses meet these critical benchmarks.

The determination of the sufficiency of national trials of ICC cases is ultimately in the hands of the ICC judges. In the event that the above benchmarks are not met, the ICC should remain the appropriate forum to try all persons for whom the ICC has issued arrest warrants.

#### THE IMPORTANCE OF CREDIBLE PROSECUTIONS IN ACCORDANCE WITH INTERNATIONAL STANDARDS

The conflict in northern Uganda has been characterized by serious human rights abuses and by violations of international humanitarian law. These include willful killings, large-scale abductions, forced recruitment of adults and children, sexual violence against girls assigned as “wives” or sex slaves, and large-scale looting and destruction of civilian property by the LRA. These also include extrajudicial executions, rape, torture and cruel, inhuman and degrading treatment, arbitrary detention, and forced displacement by government armed forces.

International law mandates prosecutions and appropriate punishment for serious violations of human rights and humanitarian law. But the importance of justice goes beyond legal obligations. Prosecutions send the message, especially to would-be perpetrators, that no one is above the law. This can help consolidate respect for the rule of law and contribute to deterring future abuses, thereby helping to cement peace and stability. As indicated in the UN secretary-general’s 2004 report on transitional justice: “[E]xperience. . . has demonstrated clearly that the consolidation of peace in the immediate post-conflict period, as well as the maintenance of peace in the long term, cannot be achieved unless the population is confident that redress for grievances can be obtained through legitimate structures for the peaceful settlement of disputes and the fair administration of justice.”

Human Rights Watch researchers spoke with displaced persons in northern Uganda in March 2007. Nearly all expressed an intense desire to return home and a number conveyed real concern that ICC prosecutions could be an obstacle to peace in light of LRA demands that the ICC arrest warrants be dropped. At the same time, members of civil society suggested that a peace agreement based on impunity is unlikely to be sustainable after victims settle back home and realize that the crimes against them and their loved ones have been excused. A distinct vocal minority of displaced persons also declared a strong desire to see alleged perpetrators tried.

In other countries, communities have experienced how measures conferring immunity from prosecution for serious offenses have had devastating consequences. In Sierra Leone, the rebel leader Foday Sankoh, who had been implicated with his Revolutionary United Front (RUF) in many war crimes, received an amnesty in exchange for signing the Lomé Peace Accord in 1999. Only months later, Sankoh’s RUF went on to attack government forces and UN peacekeepers and continued to commit war crimes by taking hundreds hostage and by committing rampant sexual assault. The collapse of the accord also brought about a marked increase in human rights abuses by government forces and a return to peace only occurred two years later. Meanwhile, the Special Court for Sierra Leone pursued prosecutions, including of government officials, which helped to marginalize abusive leaders of the warring parties.

#### POSSIBLE NATIONAL ALTERNATIVES TO ICC CASES, AND THE CRUCIAL ISSUE OF ADEQUATE PENALTIES

The ICC’s arrest warrants for LRA leaders are an important step forward to seeing justice done for some of the most serious crimes committed during the conflict. It is with this in mind that we examine the June 29 agreement on accountability and reconciliation between the LRA and the government of Uganda. The agreement, which will be further elaborated through implementing protocols developed by the parties in the

coming weeks, includes important elements with respect to justice for serious crimes committed in northern Uganda. In Articles 6.1 and 6.2 the agreement provides for national trials to address international crimes and other serious violations of human rights, including by members of both the Ugandan armed forces and LRA. In addition, the agreement recognizes a role for broader accountability measures, including truth-telling and traditional justice, which Human Rights Watch believes are important for rebuilding societies affected by conflicts.

The ICC's Rome Statute allows national trials in lieu of ICC trials, but consistent with the Rome Statute and international human rights standards, this option is only possible if substantial benchmarks are met. In this regard, the new agreement raises crucial questions on the issue of penalties. The agreement provides for the introduction of "a regime of *alternative* penalties" in Article 6.3 which will "apply, and *replace* existing penalties, with respect to serious crimes and human rights violations committed by non-state actors in the course of the conflict." It is unclear from the agreement and public statements what "alternative penalties" may be implemented and what "existing penalties" will be replaced.

The Rome Statute's requirements for any national alternative to its cases as detailed in Article 17 relate to whether a state is able and willing to investigate and prosecute a case. Article 17 does not explicitly discuss penalties. However, we believe that the need for adequate penalties goes directly to a state's unwillingness to investigate and prosecute, including, as set out in Article 17(2)(c), when "proceedings. . . were or are being conducted in a manner which. . . is inconsistent with an intent to bring the person concerned to justice." The Rome Statute's object and purposes as detailed in its preamble and which include "affirming that the most serious crimes...must not go unpunished" reinforce this assessment.

The jurisprudence and statutes of current international and hybrid criminal tribunals have made clear the appropriate penalty for serious international crimes: the ICC, the ad hoc tribunals for Rwanda (ICTR) and the former Yugoslavia (ICTY), and the Special Court for Sierra Leone (SCSL) all provide imprisonment as the principal form of punishment. The ICC's primary penalty under Article 77 is a specified number of years up to thirty years or life imprisonment.

The statutes of these international and hybrid criminal tribunals also indicate that penalties imposed should be commensurate with the gravity of the offense, while also taking into account individual circumstances, such as possible mitigating factors. Case law from the Rwanda and Yugoslav tribunals further supports the basic concept. Moreover, in assessing the gravity of the offense, case law from these tribunals suggests that the degree of an individual's participation and the role in perpetrating an offense are significant. Specifically, an offender who plans or acts in a leadership role has been viewed as committing a graver offense than a subordinate.

Without addressing particular crimes or counts on conviction, a 2002 study of sentencing practice at the Yugoslav and Rwandan tribunals found that the mean sentence was 16 years at the ICTY while the majority of individuals convicted by the ICTR were sentenced to life imprisonment.

The Ugandan penal code likewise provides substantial imprisonment as a penalty for serious domestic offenses. Ugandan case law further reinforces the principle that penalties should reflect the gravity of the crime and that imprisonment is an appropriate penalty for serious crimes. A selection of relevant Ugandan criminal appeals judgments available to Human Rights Watch indicates, for example, that given the seriousness of the crime and the particular circumstances involved, sentences from eight years to life imprisonment were deemed appropriate in cases involving rape and defilement.

The Ugandan penal code also includes the death penalty for serious domestic offenses, which is not permitted by international and hybrid criminal tribunals and which Human Rights Watch opposes in all circumstances as a cruel and inhuman punishment.

Within this context, Human Rights Watch believes imprisonment should be the primary penalty for the most serious crimes committed during the conflict. We further believe that any national proceeding allowing a "slap on the wrist sentence" in the event of conviction for serious crimes would be wholly inconsistent with the ICC requirement of "intent to bring a person to justice."

#### THE ICC AS THE ARBITER OF THE ADEQUACY OF NATIONAL ALTERNATIVES TO ITS CASES

Under Article 19 of the Rome Statute, the ICC judges decide whether a trial in domestic courts is an adequate alternative to its cases. Article 19(10) of the Rome Statute also suggests that if a national alternative does not meet the Rome Statute's requirements, it can be brought back to the ICC for trial. As such, national trials must be adequate not only in principle, but in practice.

## SUPPORT FOR JUSTICE, SUSTAINABLE PEACE, AND RE-DEVELOPMENT IN NORTHERN UGANDA

Human Rights Watch appreciates the ongoing engagement by the United Kingdom in regard to northern Uganda. We expect that your government will take every opportunity to insist on an outcome that is consistent with international standards, including the Rome Statute.

In addition, we call on the United Kingdom to continue to support the government of Uganda in translating plans for relief and reconstruction, including through the Joint Monitoring Committee and the Peace, Recovery, and Development Plan, into concrete improvements in the protection of human rights in northern Uganda. Notwithstanding gains in improved security and humanitarian access in the past 12 months, we note that more than one million persons remain confined to camps and settlement sites for the internally displaced in northern Uganda.

We thank the committee for their interest in these important issues.

*Richard Dicker*  
International Justice Director, Human Rights Watch

*Tom Porteous*  
London Director, Human Rights Watch

10 July 2007

---

**Memorandum submitted by the Norwegian Refugee Council**

## INTRODUCTION

1. A peaceful resolution, which addresses the underlying causes of Uganda's conflict, offers a final solution to the displacement, deprivation and violence that communities have faced for the last twenty-one years. Enthusiasm for a resolution to this conflict has never been stronger, the international and national climate encourages action and the current opportunities must be taken.

2. While we must invest as much as possible in the Juba talks, humanitarian needs will remain paramount for the foreseeable future and the need for effective and appropriate humanitarian interventions must form part of any transition process.

3. With the hope that peace will be reached, twenty-one years of infrastructural and economic neglect will need to be addressed. Families will need support to return, rebuild their homes and become self-sustaining. The process of transforming northern Uganda from a conflict zone to a peaceful environment will require adequate resources in order to address northern perceptions of marginalisation from the rest of the country. Security will continue to be a major concern across northern Uganda. Investment and support for the transition to a post-conflict environment must be balanced in a manner which ensures protection and assistance to IDPs throughout the region, regardless of their location.

4. At this critical time the Norwegian Refugee Council (NRC) and the Internal Displacement Monitoring Centre, with its ten years of experience in northern Uganda, calls on all institutions, including the government of Uganda (GoU), regional mechanisms and the international community, to ensure that the 1.7 million people<sup>37</sup> displaced by the conflict are given choices for their future—choices which they are able to make in an informed manner, free of coercion, in an environment which guarantees their security.

*The journey home*

5. Despite the positive nature of the Juba talks the humanitarian crisis has not ended, nor will it end overnight. Fears regarding return must be acknowledged and taken seriously. We are only just beginning to understand what the movement towards return will look like. The security situation across northern Uganda remains unpredictable. For the duration of this conflict violence has been cyclical. There is a strong history of attacks on communities who have returned in the past and for many this unpredictability is a very serious reason for remaining in the camps now. Fears regarding return must be acknowledged and taken into account as transition planning develops.

6. Responsible measures that foster a sense of safety and security are needed for these fears to subside, such as increased de-mining and information campaigns that make it clear to IDPs when and where it is safe to return. Local authorities, supported by the UN, should take an active role in these initiatives.

7. It is likely that a significant number of IDPs will remain in camps for the foreseeable future, and thus the humanitarian community will have to address the need for basic services in camps. Continued maintenance and restructuring of existing camp and site infrastructure is important, as many camps and sites will one day likely be transformed into villages.

---

<sup>37</sup> [http://idmc.nrc.ch/8025708F004CE90B/\(httpDocuments\)/1138A18CCFFD77B6C125727C004EAAC0/\\$file/CAP+2007.pdf](http://idmc.nrc.ch/8025708F004CE90B/(httpDocuments)/1138A18CCFFD77B6C125727C004EAAC0/$file/CAP+2007.pdf), United Nations, Consolidated Appeals Process 2007.

8. The challenge of planning and responding to three complex phases—continued encampment, partial population movement and eventual return—will require flexibility across the humanitarian community and we must guard against an exclusive focus on any one phase. Agencies working in northern Uganda will continue to require appropriate, reliable and timely funding to effectively respond to the needs on the ground.

9. For those families who are choosing to take advantage of increased freedom of movement, a replication of camp-style living is unfolding as communities move closer to their land. The strain of twenty-one years of conflict will take time to deal with, and many families will feel safer together rather than in lone homesteads on their land. This may be interpreted as dependency and a reluctance to return, but the coping mechanisms of communities must be respected and supported.

10. The humanitarian community together with the GoU should carefully and systematically assess the intentions of IDPs with regard to their future and the end of their displacement. Such an assessment would help the relevant actors to plan the rehabilitation of return or resettlement areas according to the population movements expected. It would also enable them to identify how many displaced are likely to stay in camps and sites in the mid and long-term and ensure that these locations have adequate conditions for their sustainable settlement and integration.

#### *Co-ordinated planning for recovery*

11. As a possible transition from humanitarian to development needs takes place, the coordination of early recovery interventions is vital. Actions in these areas should address issues related to land and property rights, the need for consistent and sustained provision of basic services by the GoU, and the phasing out of humanitarian interventions, all of which are of vital importance to ensuring a sustainable future.

12. The Early Recovery Cluster is currently operationally absent in northern Uganda. This is a major gap. With its designated role under the Humanitarian Reform—Cluster Approach, UNDP must take leadership and responsibility for establishing and coordinating the Early Recovery Cluster together with GoU. Donor governments should monitor the development of the Early Recovery Cluster and ensure its activity produces results on the ground.

13. Once established, the Early Recovery Cluster should as a matter of priority achieve a gradual and smooth transition from humanitarian aid to long-term development assistance. In addition, the cluster should address how district governments can be supported to more effectively ensure the delivery of basic services throughout northern Uganda. While the GoU has primary responsibility to ensure that humanitarian and protection needs are met, and to coordinate and support these interventions, the Early Recovery Cluster remains a necessary requirement.

14. The government's recently-revised Peace Recovery and Development Plan (PRDP)<sup>38</sup> is a demonstration and recognition of the need to take action on the development of northern Uganda. It is a welcome initiative taken by the GoU to address the marginalisation and particular needs of northern Uganda, and now needs to be followed up with concrete action which allows IDPs to exercise their fundamental rights. NRC recommends.

15. It is important for the GoU and donor governments to take stock of the EHAP and to ensure that lessons learned from the EHAP contribute to effective implementation of the PRDP. In addition, the PRDP should also take into account lessons from the implementation of the IDP Policy, which remains largely non-functional at the sub-county level.

16. The continuing process of developing the PRDP is as important as the strategy itself. However, district governments and communities have not been adequately consulted and as a result do not feel ownership of what will soon be their framework for response. While the deadline for consultation was extended, the need for dissemination with local governments and communities remains.

17. It is imperative that the launch of the PRDP at the end of June 2007 is not seen as an end to humanitarian response. The international community, through the UN Consolidated Appeals (CAP) process, must continue to ensure that humanitarian issues are addressed.

18. The PRDP offers a strong framework for intervention across the regions of northern Uganda. It is important that the interventions of all humanitarian and development actors complement the PRDP.

19. Restoring effective governance across northern Uganda will be vital to long-term peace, security and development, and also to the effective implementation of the PRDP. To effectively fulfil the commitments in the plan, serious government presence is needed at all levels of district administration. The response to return will be determined at the sub-county level, support to which needs to be strengthened in order to ensure effective service delivery

---

<sup>38</sup> The PRDP builds on the foundations laid by the GoU's Emergency Humanitarian Action Plan (EHAP), which was launched in June 2006. However the EHAP has been slow to materialise on the ground, especially in terms of allocation and distribution of funds.

*Security and safety for communities*

20. The recently begun, transition from military to civilian security across the region is welcomed. The GoU's deployment of Special Police Constables (SPCs), part of the implementation of the Emergency Humanitarian Action Plan (EHAP), governed by the Joint Monitoring Committee (JMC), is one step forward in the long process of restoring law and order across the region. In this regard NRC recommends:

21. SPCs must be adequately and continually supported with training, equipment and logistics, and remunerated on a regular basis.

22. Close monitoring of SPCs is required to ensure cases of individual abuse are addressed and followed up.

23. The deployment of SPCs must be managed by a strong command structure and

complemented by an effective judicial system which covers all the functions of justice, law and order, such as arrest, prosecution, incarceration and probation.

24. The SPC deployment is in accordance with Uganda's IDP Policy, which mandates that the police are responsible for protection in camps. Yet it must be remembered that armed members of the UPDF still maintain a presence in many camps.

25. In light of developments towards ending this conflict an appropriate exit strategy for ending military security and transferring to full civilian security must be developed. Any such strategy must incorporate lessons learned from the deployment of SPCs.

*A sustainable future through access to land*

26. For many people across northern Uganda, land is the basis for increased self-reliance and long-term security. As population movement continues, disputes over land are expected to increase, with land rights likely to be one of the major issues affecting people's ability to obtain a lasting solution. Given the localised nature of most disputes, programmes which focus on dispute resolution and prevention would be a good way to support people to overcome such problems. Further to this NRC recommends:

27. District and national government officials need to ensure consistent messaging and information on land issues.

28. Dispute resolution mechanisms under the Land Act are currently lacking, resulting in abuse of rights in relation to land. Further resources need to be allocated through the GoU to ensure these are effectively operational.

29. The conflict has reduced the authority and reach of traditional dispute mechanisms. There is great misunderstanding of what the customary laws are and therefore rights under this system are being abused especially at the family level. The rules of customary law need to be clarified and publicised and the authority of traditional systems re-invigorated, further to this the links between these mechanisms and statutory provisions and bodies must be determined.

30. In conclusion, the situation in northern Uganda is one ripe with opportunity but equally uncertain. The situation continues to demand a humanitarian response, but one which is mindful of opportunities for the future. Ultimately it will be the communities, displaced for almost a quarter of a century that will realise the right to make informed, voluntary and secure choices about their future. The GoU, international and humanitarian community must ensure these rights are both supported and respected.

## ENDNOTES

The Norwegian Refugee Council has been active in Uganda since 1997, implementing projects in Gulu, Kitgum, Pader, Lira, Arua and Moyo, distributing food and non-food items, supporting food security initiatives, improving and providing education for children and youth, managing camps, monitoring return, and providing information counselling and legal assistance to both IDPs and refugees.

The Internal Displacement Monitoring Centre, established in 1998 by the Norwegian Refugee Council, is the leading international body monitoring conflict-induced internal displacement worldwide. Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

## Memorandum submitted by Saferworld

### PROSPECTS FOR SUSTAINABLE PEACE IN UGANDA

#### A. SUMMARY

1. Saferworld works with a range of civil society, government and international partners to respond to security and development challenges arising from conflict and armed violence in the Horn of Africa region. This briefing is informed by our ongoing work to address the proliferation of small arms and promote conflict-sensitive development assistance in Uganda.

2. Conflict, insecurity and high levels of armed violence, fuelled by decades of political, social and economic marginalisation, have had a devastating impact on communities across northern Uganda. The ongoing peace talks in Juba between the Lord's Resistance Army (LRA) and the Government of Uganda (GoU) represent a window of opportunity to return peace to a region scarred by twenty years of brutal conflict. However, the Juba talks represent only one component of what should be a wider peace-building framework. The long-term sustainability of any future peace agreement will largely depend upon whether the GoU and the international community can create the conditions that support and protect peace and reconciliation efforts already being undertaken by local communities. This requires efforts to be made in addressing the structural causes of conflict in the North and elsewhere in the country.

3. This briefing identifies key priorities for the international community in relation to security provision, Disarmament, Demobilisation and Reintegration (DDR) and small arms control to support peace, recovery and development in the North (1). In addition, this briefing paper outlines challenges for securing peace and recovery of the North in relation to ongoing insecurity in the Karamoja region and the marginalisation and under-development of communities across the districts of northern Uganda. The briefing concludes by offering some concrete guidelines for the international community to ensure that all future aid—development, humanitarian and transition programmes—is delivered in a way that both responds to and has a positive impact upon conflict.

#### B. KEY QUESTIONS

- *How is the UK Government working to promote restructuring of security provision and strengthening of non-military approaches to security in Northern Uganda?*
- *How is the international community seeking to encourage the GoU to continue the process of downsizing the military and undertake overall reform of the security sector in line with GoU policy on Defence Transformation?*
- *What plans does the UK Government have to support the implementation of a comprehensive programme of Disarmament, Demobilisation and Reintegration (DDR) in the North?*
- *What representations has the UK Government been made to the GoU on insecurity in the Karamoja region to ensure it does not undermine the Juba peace process?*
- *What is the UK Government doing to promote the implementation of the GoU's draft National Plan for Recovery and Development of Northern Uganda (PRDP)?*
- *Is the UK government confident that the PRDP will contribute to peacebuilding in the North and will not inadvertently exacerbate future conflict?*
- *How is the Government seeking to ensure that the potential gains made through the PRDP process feed into longer-term development strategies in Uganda, such as Uganda Poverty Eradication Action Plan (PEAP)?*
- *What mechanisms are in place to ensure that the UK's programmes in Uganda address the linkages between conflict, armed violence and development?*
- *Are the UK Government's decisions about budget support to Uganda informed by an analysis of its impact on conflict in the country?*

#### C. TOWARDS A COMPREHENSIVE AND INCLUSIVE PEACE

4. Over the past two decades, the conflict between the LRA and the GoU has had devastating consequences for the Acholi population and, in recent times, has affected communities living in neighbouring districts and across the border in South Sudan. A future peace agreement between the two primary actors in the conflict must address the root causes of the conflict in a comprehensive manner, as well as responding to the immediate impact of conflict and the challenges of post-conflict recovery. In addition, efforts must be made to secure an inclusive peace that responds to the grievances of those communities who have been affected by the violence primarily in Acholi but also in neighbouring districts in Uganda and South Sudan.

5. There is currently no fixed date for the Juba peace process to produce a peace agreement and no guarantees that the final agreement will form the basis for a lasting resolution of the conflict between the LRA and the GoU. The international community should extend its full support to securing a sustainable and inclusive peace by supporting all parties to reach an agreement that addresses the root causes of the conflict.

#### CREATING AN ENVIRONMENT FOR PEACE IN NORTHERN UGANDA

##### *Security provision*

6. In the interim period, the international community, including the UK Government, can take a number of steps to build the foundations for a future peace agreement to take hold. The international community should ensure through dialogue and development assistance that the GoU can effectively deliver upon its responsibility to provide security to all its citizens. Without a foundation of security other efforts to secure peace and development risk being undermined. Key issues that the international community should therefore seek to address in this regard include: the strengthening of civilian security provision by the police and reduced military intervention; and an effective DDR process that is consciously linked to efforts to address civilian gun possession and longer-term small arms control. The international community should also ensure that insecurity in neighbouring regions threatening a successful transition to peace, mostly significantly the Karamoja region, is addressed as part of the post-conflict recovery process and that these initiatives are placed within a national development strategy.

7. The international community should support the GoU to uphold its commitment to make the transition from military to civilian security provision and should channel assistance to the restructuring of the Uganda Police Force (UPF). It is imperative that the GoU and the international community address the immediate insecurity challenges for communities in the north. However, immediate responses must not undermine long-term processes of security sector reform. For example, the recruitment of former militia to the police force, while strengthening the state's ability to provide security in the short term, must be carefully monitored to ensure that it doesn't become a cause of future insecurity and conflict. A related issue, in this regard, is the sustainability of longer-term funding through the GoU budget, rather than bilateral assistance, for increased numbers of security personnel and for their effective training.

8. Closely linked to the establishment of more effective, civilian-led security provision by the Uganda Police Force is the issue of Defence Transformation, and a decreased role for the military. The objectives outlined in the GoU's White Paper on Defence Transformation 2004, setting out the steps towards transformation of the Defence Sector, were welcome commitments. There are concerns however that progress on the implementation of these objectives has not been forthcoming. The ongoing peace talks present a good opportunity for the international community to push the GoU to begin to implement its own plans on national defence transformation.

9. The international community should urge the GoU to continue the Defence Review process and fully implement the recommendations outlined in the White Paper on Defence Transformation, offering appropriate assistance where necessary. In addition, the GoU should be encouraged to disclose expenditure in the Classified Budget to respond to concerns that budget support is being channelled into military expenditure.

##### *Disarmament, Demobilisation and Reintegration and the control of small arms and light weapons*

10. The presence of arms within communities in the North and in neighbouring regions also presents a significant challenge to securing peace and development, as the presence of small arms can feed feelings of fear, insecurity and mistrust and speed the resort to violence. Disarmament, Demobilisation and Reintegration (DDR) programmes for ex-combatants are therefore a key component of the terms of a future peace agreement and the process through which to support the transition from conflict to peace.

11. In a post-conflict context it is crucial, however, to address weapons possession not just by ex-combatants but also by civilians and other groups that fall outside of the formal DDR process. To support the DDR process and to contribute to overall peace and security, the international community must ensure that due consideration is given to longer-term small arms control, including the wider issue of uncontrolled civilian ownership of small arms, in the North and in neighbouring regions. DDR programmes should be designed with a clear vision of how they will link to other immediate and longer term arms control initiatives.

12. Recognition must also be made that arms possession and misuse are a symptom of deeper root causes of conflict and insecurity. As such, measures to address these root causes should accompany technical disarmament and arms management responses. The international community should, therefore, promote a DDR process that consciously links with efforts to improve security by the Uganda Police Force and with broader long-term small arms initiatives, such as Uganda National Action Plan for Arms Management and Disarmament.

*Conflict in Karamoja*

13. The international community should support efforts to bring peace, security and development to districts across the north of Uganda, including in West Nile and Karamoja. The current situation in Karamoja, fuelled by many of the same root causes as the conflict in Acholi, threatens to spill over into other districts, derailing prospects for peace and recovery of the North. Insecurity in the Karamoja region, fuelled by a lack of access to natural resources and exacerbated by the easy availability of illegal SALW, has led to the death of hundreds of people and has generated a large numbers of internally displaced people (IDP) in north-eastern Uganda. The GoU's attempts to forcibly disarm these communities, the use of excessive force by some members of the UPDF and lack of effective measures to guarantee security of pastoralist communities, in the absence of civilian security structures, has increased tensions between local communities and the GoU.

14. The international community should support the GoU to address the underlying causes of the conflict in the Karamoja, as part of its efforts to promote and secure peace in the North. In this regard it will be crucial to adopt voluntary, rather than forcible, approaches to disarmament, as well as to address the development needs and grievances of the Karamojong community.

15. Efforts to address security challenges through DDR, small arms controls and reform of the security sector need to be linked to the broader development agenda. A key part of such an approach should include supporting the National Plan for the Development and Recovery of Northern Uganda (PRDP) that covers not only the North (Acholi), but also West Nile and Karamoja regions. Moreover, ensuring that the security and development efforts that are focused on the North quickly become part of a national, all-of-Uganda process will be equally important for the longer-term peace and prosperity of Uganda.

## D. DELIVERING PEACE AND DEVELOPMENT—MAKING AID CONFLICT-SENSITIVE

16. The international community can contribute to peace, recovery and development in the northern Acholi, West Nile and Karamoja regions by basing all future assistance—humanitarian, development and transition programmes—upon solid analysis of the structural causes of conflict and by acknowledging parallels between the LRA conflict and conflicts in other parts of Uganda.

17. The PRDP (see paragraph 15 above) is an important first step to address both the consequences of conflict in the North and the broader, long-term development challenges that still lie ahead for the region. As such, the PRDP provides an opportunity for catalysing support to the North and its effective implementation should be supported. The modalities for this are yet to be decided, and it appears that the Juba peace talks include discussion on the extent of involvement of the LRA in managing this. It is crucial that the PRDP implementation is much more than a bargaining chip in the peace talks—the GoU continues to have the primary responsibility for ensuring the recovery and development of the North, and should therefore maintain ownership in the effective implementation of the PRDP. The international community can play an important role in ensuring that this happens.

18. For long-term peace and stability in the North, however, it is important to remember that the PRDP is currently envisaged as a three-year intervention. It is therefore crucial that the momentum created by the PRDP is carried forward into existing development frameworks such as the Uganda Poverty Eradication Action Plan (PEAP) and the donor assistance strategy supporting this, the Uganda Joint Assistance Strategy (UJAS). Equally, specific aspects of the PRDP will have to be taken forward in specific sectoral strategies, all of which benefit from active donor involvement. There is therefore an opportunity for the international community—in particular the UK Government—to ensure that gains made through the PRDP process feed into longer-term development in Uganda through the more 'permanent' strategies and frameworks.

19. As a country that has suffered from many conflicts in the past, the North is not the only part of Uganda that has the potential for renewed future conflict. As one civil society leader put it: "The conflict in the North can just as easily happen elsewhere in the country." All future development assistance to Uganda (in the North and elsewhere) therefore needs to be based on a thorough understanding of the existing structural causes of conflict, relating to issues such as marginalisation and perceived (or real) favouritism in the political system, and the remnants of past conflicts that have never undergone comprehensive reconciliation processes.

20. Assistance to the North should also be done in parallel with programmes addressing the needs of other communities in Uganda (particularly those still recovering from past conflicts), in order to avoid further tension between the North and other communities. The UK Government, drawing on its own experience of conducting conflict analysis, can play a lead role in ensuring that the international community in Uganda base their support on joint analysis of these issues. Macro frameworks such as the PEAP and the UJAS, as well as sector-wide strategies (e.g. water, health, education), can then be designed and

implemented in a conflict-sensitive way, contributing to addressing the root causes of conflict and preventing future conflict. A recent Saferworld report suggests a set of recommendations to the Government, donors and civil society of ways they can support and help implement the PEAP (2).

- (1) Throughout this briefing we have used a limited definition of the North to refer to the Acholi region—the area most directly affected by the LRA conflict. Other northern areas, such as West Nile and Karamoja, are referred to by name.
  - (2) *Aid and Conflict in Uganda*, Saferworld March 2007
-