

'Negotiating with Ghosts': Religion, Conflict and Peace in Northern Uganda

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**'Negotiating with ghosts':
Religion, conflict and peace in Northern Uganda**

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Abstract

This article outlines the current situation with regard to the Lord's Resistance Army and the possibilities for peace in Northern Uganda. It seeks to add to the discourse on rethinking Africa's international relations in the context of a specific conflict and with regard to a specific tool of the international community: the International Criminal Court (ICC) and its involvement in issuing warrants for insurgency leaders in October 2005. The article discusses the role of traditional justice systems and the ICC in ending the war, concluding that justice in Northern Uganda requires an end to the false dichotomy of 'traditional' and ICC approaches and that the two must complement each other in order to address the different groups within the LRA and the Acholi population.

Key Words

Uganda, Joseph Kony, African Conflict, ICC, Liberal peace

'The bullets whine on the last afternoon.

The wind is up and full of ashes,
dispersing the day and the formless
war, and the victory belongs to them,
to the barbarians...'¹

Introduction

This article outlines the current situation with regard to the Lord's Resistance Army (LRA) and the possibilities for peace in Northern Uganda. It seeks to add to the discourse on rethinking Africa's international relations in the context of a specific conflict and with regard to a specific tool of the international community: the International Criminal Court (ICC) and its involvement in issuing warrants for insurgency leaders in October 2005.

It is argued that the ICC represents a particular expression of the 'English School' or 'International Society' approach to International Relations (IR) whereby a particular view of what constitutes international law and, by extension what constitute human rights, can be enshrined in a world society.² Furthermore, the ICC, through independent action and the appointment of an Independent Prosecutor, is theoretically capable of transcending states.³ The article contends that external actors operate within a standard, or at least coherent idea of how to resolve conflict based around the idea of the liberal peace. Furthermore, the liberal peace can be characterised as a key part of the relationship between the international community and Africa.

The implication of the current state of the peace talks and the approach to peace taken by Uganda and international actors is that peace is likely to fail. This is not entirely down to the failure of the ICC, and is as much down to the involvement of other states in the conflict, including Sudan, the DRC and Central African Republic, divisions within the LRA itself and also the inability of the ICC to fulfil its mandate.

The article does not argue against the idea of the ICC and certainly does not see 'traditional justice' as an obvious way out, as has been suggested in Uganda, or even for a complete withdrawal of the ICC. Rather it argues that due to the history of the conflict the ICC approach is unlikely to achieve peace since there may be a significant group of rebels who will reject the involvement of the ICC, and also the

ICC's inability to act beyond the purview of the Ugandan state, which has an interest in the outcome of any public hearing. Consequently the people of northern Uganda are left excluded from any form of justice system since they are left with a form of traditional justice that implies a lack of external involvement, particularly from the Ugandan Government. The only possible answer, therefore, is that justice in Northern Uganda requires an end to the false dichotomy of 'traditional' and ICC approaches and that the two must complement each other in order to address the different groups within the LRA and the Acholi population.

This article begins by outlining the involvement of the ICC and the assumptions underlying its approach. It takes a long-term view of the conflict in northern Uganda, seeing Kony's current violence as part of a long-term cycle of violence¹. The article briefly outlines the nature of the conflict and then moves on to look in more detail at the intervention of the ICC and the accompanying rebranding of the LRA as 'terrorists'. The politics of this approach have specific implications for any outcomes from a peace process in the region and also the future of ICC intervention in support of liberal approaches to peacebuilding based around global ideas of human rights and rule of law.

The ICC and the liberal peace

The background to the formation of the ICC and its link to international relations more broadly is most clearly seen through the link to international society, as outlined by IR scholars to mean universal individual rights in the Grotian tradition, that are constituted by individuals and non-state groups and recognised by them, rather than through rights as defined by states.⁴ The Rome Statute itself in many ways represents an expression of liberal views of universal human rights that seek to protect the individual from justice that is the sole preserve of the state. This expression of human rights is at the very core of liberal peace theories of post-conflict reconstruction.

A comprehensive discussion of the liberal peace is beyond the scope of this paper, but essentially the core argument is very simple. Following John Gray (1986), the liberal ideology can be reduced to four core themes: individualism (assertion of individuals over social collectivities); egalitarianism (moral equivalence of

¹ Joseph Kony is the leader of the Lord's resistance Army (LRA) in northern Uganda. He is a notoriously difficult and enigmatic figure, claiming magical powers and ruling the LRA severely through internal pogroms and a cult of personality. He claims to be possessed by a series of spirit advisers. These include Silly Silindi (a strategist), Ing Chu (who turns tanks into toys), Juma Osiris (Amin's former minister and once leader of the West Nile Front) and Major Bianca (his American head of intelligence).

individuals); universalism (moral unity having primacy over historical association or cultural forms); and meliorism (belief in the ability to improve all political and social institutions). All of these elements surround the core principle of individual freedom.

Given the above, a liberal peace exists when all of the above constitute normal social relations. For peace to exist, justice and liberty are required, and the liberal political arrangements that make this possible are seen as inherently peaceful. Critically, democracy and capitalism are seen as the vehicles for peaceful competition underlying liberal structures where even loser groups can have faith in a system that does not oppress their beliefs (Doyle, 1997). Michael Doyle goes on to add that the normative foundations of liberalism are encompassed in the liberal notion of human rights. At their highest level these are the right to freedom from arbitrary authority, the social rights necessary to protect and promote freedom and the right to democratic participation to protect the first two (Doyle, 1997). Consequently when international intervention is undertaken in the name of human rights it is entirely coherent to initiate a process of democratisation as a means of developing social rights, including juridical equity (Liden, 2005). Clearly it is the transfer of the political architecture of the liberal state from western liberal countries to non-liberal states in the form of state-building that leads to a tension between the pacific nature of liberalism and the issue of whether those structures really are the political manifestation of the moral freedom of the local populations (Liden, 2005).

This has led to a number of important developments in terms of peacebuilding, not least the idea that a post-Westphalian international liberal peace requires non-liberal states to be liberalised in order for that peace to become sustainable. Consequently, the chief aim of peace operations changes from creating negotiated solutions between states to actively contributing to the construction of liberal states, economies and social structures intended to spread liberal-democratic political structures (Bellamy and Williams, 2004). It is this idea that Mark Duffield claims lies behind the merger of security and development policy and the reproblematisation of security as both the result of, and precondition of, development more broadly (Duffield, 2001).

A further expression of the pacific and international nature of the liberal peace is the idea that human rights are universal and that they should be enforced as such, regardless of the wishes of states. The Rome Statute not only developed this idea further by outlining a consensus on universal human values, but also created an international legal mechanism for independent enforcement of those values – the ICC.

The Rome Statute itself was signed by 120 countries with only 7 countries in opposition, although these included the US and Sudan. The Rome Conference itself also included around 250 non-governmental organisations in order to represent voices outside the fraternity of states. This is clearly reflected in the outcome which was a document that reaches beyond the conventional view of international law. In particular, the Statute was not ratified by a conventional multilateral agreement between consenting states but by the 'supranationalism of a non-unanimous vote' (Ralph 2005: 36).⁵ An influential effect of this move is to widen the process of referral to international justice mechanisms beyond the community of states and particularly the permanent members of the UN Security Council. By establishing the office of an Independent Prosecutor, the Statute provides an avenue for individuals and non-governmental actors, not necessarily represented by states, to pursue formal, international justice.

Whilst theoretically empowered to investigate acts of genocide, war crimes, crimes against humanity and 'aggression', there are significant brakes on the powers of the ICC.⁶ Apart from pressure from the US as a non-signatory, the ICC has no powers of enforcement, but has to rely on ICC member states to cooperate. When president Museveni referred the case of the LRA to the ICC in December 2003 it became the first major case taken up by the court and so became a critical test case. However, because of the lack of enforcement mechanisms, the situation is somewhat precarious. For example, the statute has not been implemented into Ugandan law and stands in potential opposition to the Amnesty Act, until this is repealed or lapses.

Inevitably this means that the ICC in Uganda is dependent upon the Ugandan state, which is, of course, a protagonist in the conflict. It also means that effectively the ICC has been asked to deal with criminal activity that is outside the control and capacity of the Ugandan judicial system. This not only means that the ICC is effectively acting on behalf of the Ugandan state, but also implies that if the peace process requires the withdrawal of the ICC arrest warrants on Kony and others, it is incumbent on the Ugandan state to supply evidence that any justice approach adopted is now within the capacity and jurisdiction of the Ugandan authorities. At a minimum this puts the ICC into an extremely difficult situation since the use of international human rights legislation appears to have been utilised to the benefit of one side in a conflict – and one that is partly complicit in similar activities to those being investigated.

Indeed, Allen (2005), amongst others, suggests that a move to re-examine traditional justice as an alternative to the ICC warrants is partly due to a realisation on the part of the Ugandan Government that the LRA, if accused, will be able to prepare a

defence as part of any trial and this could prove to be extremely embarrassing for the Ugandan Government. Furthermore, there is clearly an advantage to using traditional systems since it implies that the Acholi are somehow 'primitive' and not ready for modern judicial systems, in addition to the treatment of the insurgency as an internal Northern Ugandan conflict not involving outsiders, rather than the regional conflict that it became. The traditional justice systems discussed to date will not include the Government of Uganda as an active protagonist in the war and are designed to facilitate forgiveness and reconciliation within communities.

Kony himself is subject to an ICC warrant and divining his intentions have proved extremely difficult. He is clearly the spiritual leader of the LRA as well as the heart of the insurgency. However he is unlikely to submit to a transitional justice system that he sees as externally imposed and does not provide a platform for an adequate defence. Clearly several local Acholi leaders had confidence in local amnesties and traditional justice processes that were being discussed with the LRA, but they have been greatly unsettled by the idea that this could be undermined by western ideas of justice that make Kony and others individually responsible for LRA atrocities. By 2005 this had reached such a stage that the ICC Prosecutor, Luis Moreno Ocampo, discussed these issues with several Acholi leaders and reassured them that the ICC warrants would not undermine local efforts (ICC, 2005). However, it is difficult to see how Kony himself could submit to local justice approaches and at the same time escape the ICC. For him, therefore, giving himself up is an unlikely outcome and he is likely to stay in the bush. The only question remains how far he is likely to take up violence.

The LRA, the Acholi and the marginalisation of Northern Uganda

Both Acholi leaders Alice Lawkena and Joseph Kony blamed the sins of the Acholi themselves for almost destroying their group². They both believed that the Acholi were about to be wiped out in massacres and reprisals driving them to look for a spiritual escape. Whilst it would be an obvious conclusion to draw that the religious

² Alice Lawkena is a pivotal figure within Uganda as the leader of the then Holy Spirit Mobile Force, which later partly changed into the LRA. Alice herself is a complicated story. The Holy Spirit Lakwena is the spirit of an Italian who died during the First World War and this spirit took possession of Alice on May 25th 1985. First, Lakwena directed Alice towards healing, but then redefined her purpose as the head of the HSM. Some former soldiers joined Alice and won a small skirmish at Kilak Corner in November 1986. This victory convinced several others that Alice did indeed have 'the power'. She persuaded her followers to wear oil and amulets as protection from bullets and controlled her force through a series of bizarre 'commandments' including banning taking cover behind anthills. The HSMF was remarkably successful in the short term, partly since Uganda troops, faced with hymn-singing in response to bullets must have found it unnerving. The HSM was finally defeated just outside Jinja in 1987

cover was just that: a cover to disguise a deeper political motive, it is difficult to sustain this in the face of the evidence. Clearly one of the key drivers of such a long conflict is fear (See Jackson, 2002, Vinci, 2005). When the National Resistance Army (NRA) took power in 1986, the remaining Ugandan National Liberation Army (UNLA) forces, most of which were led by Acholi, fled north, fearing reprisals. Civilians in Acholi-land also feared the worst. The history of political takeovers in Uganda had not been a happy one and the Acholi had been involved in several massacres as either perpetrators or victims. Their fears were partially confirmed in several clumsy actions by the Government and in the actions of some NRA soldiers.

These events fed the paranoia already rampant amongst the Acholi. Eventually, fear led to despair at the lack of development and vast numbers of people became susceptible to the belief that the end was near for the Acholi. Despair led to desperation and Alice offered them a way out: redemption. Her argument was that the Acholi have found themselves near economic destruction and need to reject past failures. Alice's solution was a rejection of modernity and a retreat to spiritualism based on the traditional cosmology of the Acholi with added Biblical elements. This was carried forward by Kony and the events of 1994 and his 'betrayal' by Acholi elders appears to have hardened his outlook. His desperation in the face of Acholi indifference in many cases, led to his turning violent on his own people. The young were abducted, because not only were they easier to indoctrinate, but also because Kony had effectively given up on the adults (Jackson, 2002; Vinci, 2005). This left the majority of the population stranded between the LRA on one hand and a hostile army on the other, leading to widespread marginalisation that feeds into current demands for justice and rehabilitation.

The civilian population is both the key and the victim. The widespread internment of civilians in camps and the abduction of children effectively leaves the population in a constant state of fear and insecurity. Abduction of children and their incorporation into the LRA creates a negative support network amongst the Acholi. Virtually every extended family in Acholi-land has had someone abducted. Families of the abducted are less likely to support the Government against their own family and so '... your own child is living as a rebel. So if the rebels come through and demand food or information, it is not only your fear for yourself, you think also of your child, and hope that your own child is not hungry' (Human Rights Watch, 1997).

How can a combatant with a malevolent *ce/* (spirit) go back to the community he/she has committed violence against? One of the core features of this war has been that

violence has been committed primarily against their own ethnicity in a nihilistic path of self-destruction.

Paranoia is primarily about perceptions. In particular, it matters little what is actually happening, if there is an alternate perception of what is happening. The Acholi have a number of collective beliefs about the motivations of the Government that are based mainly on rumour but that greatly contribute to their marginalisation within Uganda. Firstly, there is land. Under colonial rule, settlers could effectively grab any land not currently under cultivation and claim it as 'unused' or not effectively owned. The current Gulu District Plan identifies only around 10% of land as being currently cultivated, leaving 90% not 'effectively' owned. This situation has led many Acholi to believe and openly state that the Government is engaged in a vast resettlement plan to push out the Acholi and replace them with southerners. Perhaps more far-fetched, but equally powerful, is the view that Tutsis from Rwanda will be settled in the north by Museveni, a reference to the widespread use of Rwandan Tutsi troops by the NRA and the close links between Uganda and Rwandan Tutsis, not least the personal links between Paul Kagame and Museveni. The resettlement argument, of course, also provides a convenient explanation for Museveni's failure to win the war. After all, since the majority of the victims are Acholi, how better to depopulate the region?

A third strand of marginalisation concerns the nature of the Acholi economy and particularly the Government de-stocking of the Acholi cattle population. Between 1986 and 1987, when the cattle exodus happened, Westbrook (2000) estimates that the cattle population of Kitgum fell from 156,667 to 3,239, whilst the national cattle stock rose from 3 to 5.6 million. The Acholi certainly believe that the Government and the army were implicated in the theft of their cattle (Finnstrom, 1999). It is difficult to over-estimate the importance of cattle to the peoples of northern Uganda. Cattle represent the bedrock of the economy and the main way of accumulating capital. Cattle provided a significant source of draught animals, food, wedding dowries, and acted as a means to settle disputes. Removing cattle from Acholi-land effectively removed one of the main roots of Acholi society.

Lastly, perceptions have not been helped by the view of many southerners, particularly in the armed forces, who see their service in the north as being virtually in another country. The Ugandan People's Defence Force (UPDF) –the former NRA - have been guilty of a series of violations of human rights that fuel bitterness amongst the Acholi, including systematic rape of both men and women, usually in the presence of their families, the murder of civilians, and the burying alive of civilians by

soldiers (Human Rights Watch, 1997). Whilst many southerners are, at best, in denial about these issues, many also blame the Acholi themselves. Lt. General Kazini of the UPDF attributes the abuses of the Acholi by the UPDF to the nature of Acholi society itself, stating 'If anything, it is the local Acholi soldiers causing the problems. It's the cultural background of the people here; they are very violent. It's genetic.' (Van Acker, 2003).

Consequently the marginalisation of the Acholi has been partly mental and partly material. There is a lot of evidence that the rebellion is fairly clearly based on quite rational, historically-grounded, material grievances and security fears in northern Uganda. However, this goes along with a mystic/religious/cult character of the LRA and its predecessors. Where the balance lies is important for how a peace might be negotiated – if it's the former then Government deals (power sharing, redistributive deals for example) and security arrangements might be sufficient for peace. However, the combination of a lack of trust of the Government and a paranoid ideology adds a significant variable into an already fragmenting LRA. On a pragmatic level it is not actually clear, beyond Kony himself, who has any authority to negotiate on behalf of the LRA in any peace process. It is against this background that the Ugandan Government invited the intervention of the ICC.

Ceasefire, amnesty, the ICC and a liberal peace

A liberal peace relies on the twin pillars of individual rights and economic freedom backed up by democratic representation producing peace in itself, without of course recognising that there is evidence to suggest that they can be sources of further conflict (Sriram, 2007). In addition, the idea of a liberal peace representing a global hegemony in a Gramscian sense relies in part on the existence of a local hegemony that is lacking in the African state (Taylor, 2007). In the Ugandan context, the state became a vehicle through which various competing groups tried to access resources and power – the Acholi amongst them. The root of the current insurgency can, in fact, be seen in the replacement of an Acholi elite by an alternative led by Museveni. However, it is part of the premise of this paper that the LRA has diverged considerably from this original root, and that conventional peace negotiations along the lines of power-sharing, are likely to lead to dysfunctional outcomes.

There are echoes of earlier peace negotiations and rifts in the Acholi approaches to the peace negotiations that are on-going at the time of writing. Kony and his core supporters are currently in northern DRC where there is effectively no military solution to their presence. A significant portion of the LRA is also being pursued

within Equatoria Province of southern Sudan where the Comprehensive Peace Agreement has led to some stability and an agreement with the UPDF. At the same time, there are thought to be no active LRA cells remaining in northern Uganda and currently there is peace. Within the peace negotiations, however, the old rift of 1993 between those who are in the Acholi diaspora, and those led by Kony, is effectively stalling the negotiations. There is little agreement between them as to the aims of the negotiations and more specifically, what Kony wants out of any peace agreement, particularly given the existence of warrants from the International Court on him and his close associates. It seems doubtful that he will just hand himself over to the UPDF in order to stand trial.

At the same time, the Acholi diaspora group appear to have little or no idea of what Kony seeks from the negotiations themselves and there is a real question of legitimacy hanging over this group. Several members of the group are from radically different backgrounds and disagree openly on a number of key issues. There are questions over how far their set of demands from the Ugandan Government, actually tally with Acholi wishes given that several members of this group have not lived in Acholi-land in several years⁷. Some are refugees from previous regimes and retain some of that bias, whereas several are younger and have a different emphasis, without the perceived right to resources of the prior military, for example. The relationship between the LRA and the political group, the Lord's Resistance Movement (LRM) mirrors the NRA/M dichotomy of Museveni's original group, but is an unstable one. Kony himself describes the LRA as the LRA/M in several documents, but before the Juba talks began in 2007 the LRA did not have any clear political strategy and the LRM itself is split without a single clear direction.

Kony's tactics have been deliberately pitched at misdirection throughout the talks, with the aim, seemingly, of trying to discover what options are open to him. Whatever can be levelled at Kony, he has certainly proved himself to be astute when it comes to the management of information, personal images and intelligence, and so the idea that he may be assessing his options is a very real possibility. At the same time, there can obviously be no peace without Kony, and certainly no peace if he cannot be brought to a negotiating table. This has been clearly recognised by the Government that regards a deal with Kony as paramount since he is the leader of the LRA.

There are a number of key factors affecting the current peace talks. Firstly, the nature of the LRA group itself is problematic. Several of the fighters have been in the bush for some time and have no experience of negotiations. Furthermore, many of

them have never known peace, having been abducted young and then brutalised over several years. Most have been comprehensively indoctrinated into Kony's vision and the use of terror as a control mechanism. They are woefully equipped to deal with peace negotiations of any type without significant external support.

Secondly, the LRA has a rigidly hierarchical structure with Kony as its undisputed head. With the LRM leadership in internal dispute and with no real links into Kony and the LRA, its relevance as a representative group with which to negotiate is open to question. At the same time there have been reports that Kony's leadership may be compromised and from February to April 2008 we saw several instances of fighting between LRA groups, which suggests that there may be a prospect of less fanatical groups coming in from the bush leaving only the hardcore of the LRA with Kony.

Thirdly, Kony's legitimacy as being representative of the northern Uganda people, who have borne the brunt of the conflict, must also be questioned. Kony himself holds the key to peace – a cult cannot function without its high priest. Remove the high priest and the structure falls apart. This raises the critical question of the nature of justice and the warrants issued by the ICC on Kony and others. In particular, in northern Uganda there is a fundamental tension between a number of different factors affecting the participation of Kony in the peace process. At a formal level, there is a tension between the Amnesty Act of 2000, which appears to give amnesty to all those combatants who voluntarily come out of the bush, and the ICC that seeks to prosecute those held responsible for the war. Museveni himself has been playing a double game of supporting the Amnesty Act, but requesting the ICC to intervene in 2003.⁸ This also puts the ICC in an awkward position in acting on behalf of the Ugandan state, which is involved in the war. Certainly the perception of some observers is that the ICC has allowed itself to be subject to the political needs of the Ugandan state and consequently has come to be seen on the ground as a potential obstacle to a successful outcome of the Juba peace talks. The existence of the warrants have certainly mitigated against direct talks with the leadership of the LRA.

The Government itself has gone on record as saying that they will withdraw their referral to the ICC if Kony and others will accept traditional forms of justice. However, the Government can only withdraw the warrants if they can prove to the ICC that traditional justice systems are now part of the capability of the Ugandan judicial system. This double standard of maintaining a general call for an Amnesty and a specific demand for individual accountability for Kony, was reinforced by an additional Bill in 2003 granting the Government the right to exclude specific LRA individuals from the right to Amnesty. However, the real issue is how to persuade

Kony to come in from a position where there is no military solution and where Kony does not need to win – he just needs to not lose.

Among all of these discussions the people of northern Uganda wait for an improvement in their position. Caught between an army that they do not trust because of an unfortunate history, and the LRA, which has been peculiarly vicious in its pursuit of the Acholi, northern Ugandans hold deeply fissured views of the LRA. On the one hand they are 'the enemy' but on the other the LRA largely consist of abducted children from these communities. Dolan (2005) puts forward the view that the war is just a mask for perpetrating mass social torture on the population with all sides and other actors keeping the war going for this purpose. For the peace process, this means that a wider range of actors have to be drawn in to recognise that the war is about more than the LRA versus the Government. Consequently, the people of northern Uganda tend to be very much in favour of any approach that will end the violence.

Many northern Ugandans see the intervention of the ICC as being biased and as undermining the flawed, but ultimately effective local justice mechanisms for amnesty, that involve an element of confession, but also allow for the reconstruction of core narratives that conflict tends to break down. The stories of individuals and what happened to them after abduction are an important part of the healing process for the community as a whole. The ICC's approach has been to receive the concerns of a variety of Acholi groups. The idea of transitional justice – a key element of constructing a liberal peace – may itself lead to further destabilisation of northern Uganda. In particular, the formal justice system has never been part of the core access to justice for most local people and what formal justice system existed before the war has largely collapsed. The ideas of human rights and individual accountability represented by the ICC warrants represent an external imposition to many Acholi that could make the behaviour of the LRA even worse (Sriram, 2007).

What are the likely outcomes of current approaches?

This is clearly a complex situation on the ground. However, the approach to peace followed by Uganda is in danger of failing on a number of levels, not least at the level of the ICC and the international community. A close association with the Ugandan state in terms of the enactment of the warrants has tainted the approach in the eyes of many Acholi. However, there is a danger of turning down a route to justice that relies solely on traditional justice mechanisms, even if it could be decided what those mechanisms might be.⁹ In particular, a change in stance of the Government towards

the acceptance of traditional justice mechanisms can be viewed as an attempt to avoid its own complicity in the conflict coming to light in a formal court, which would undoubtedly happen if the ICC were to prosecute the case.

For the Government of Uganda the advantage is in containing the war within the Acholi and of branding it as an internal war with which they have had very little contact, which is clearly untrue. This would lead to a situation where the Acholi were forgiving their own kind using traditional mechanisms because they were not viewed as being sophisticated enough to use modern judicial systems (Allen, 2005).

An important question is whether the ICC's perception (and practice) of justice could be effective in bringing in the LRA and Kony in particular. This remains a difficult question and is not helped by the dichotomy constructed between traditional justice systems on the one hand and formal systems on the other. It is clear that Kony will not come in merely in response to the warrants although it is also clear that the involvement of the ICC has moved the peace process to a position of more promise.¹⁰ However the LRA view the ICC warrants as being an instrument of state blame for the violence placed squarely on them, whereas the LRA see themselves as fighting state oppression, which is not recognised by the ICC.

Similarly, the traditional justice approach is not without difficulty and it is doubtful whether anyone, including many Acholi, would allow Kony to be 'forgiven' and then just to carry on living in Gulu. However, the two approaches are not mutually exclusive and it is by no means clear whether Kony would give himself up even if the Acholi were running a traditional process.

A key question is why current approaches may be less effective than initially predicted. This is closely related to the causes of the conflict and the nature of the LRA itself. Fundamentally the LRA is a conventional rebellion with an added cosmological dimension. Many of the reasons for the fighting are related to material and historical grievances as well as issues related to social exclusion from economic networks. At the same time, there is also an element of mysticism surrounding the LRA, which may affect the balance of any peace process. Clearly if the material issues are important then conventional approaches to peace will provide an incentive to end the fighting, but these are likely to be less effective if the mystical effects of Kony's ideology are more important. It is the contention of this article that no single approach will work because different elements of the LRA have different balances. In particular, there may be a good case for assuming that Kony is likely to want to keep the LRA going no matter what, either because he doesn't wish to go to jail but also

because he is effectively a cult leader. In this case, one could make a good case for an illiberal solution of eliminating Kony himself and destroying the mystical elements of the LRA.

Although much can be made of the religious/mystical element of the LRA it is not clear how many members of the LRA would just return to their homes if given the chance. Clearly elements of the LRA/M are negotiating, although their various constituencies are not always clear. The position of the Acholi Diaspora Group, for example, may not represent the position of Kony himself, although as always this is also unclear. What is possible is that different elements of the LRA will respond to conventional negotiations, material settlements and security guarantees, but that these groups would effectively split from Kony's core group. The question remains just how isolated would he become and how small a group would be left.

All of the above analysis begs questions about the likely outcomes of pursuing a liberal approach to peace. The history of the conflict leads to three likely consequences of these actions: continued action by Kony; conflicts within the LRA; and an escalation of violence but on a smaller scale.

Questions remain over how many of the LRA are likely to remain loyal to Kony. Given that no-one actually knows how many members of the LRA there are, it is difficult to put numbers on this. What is clear is that there have clearly been strong disagreements within the LRA leadership itself, leading to telephone calls to the local press denying any splits, but then strong rumours of Otti being killed by Kony. The defection of several key individuals along with around one hundred combatants in 2007 has raised further doubts.

The LRA is clearly divided. The history of the peace talks has been, on the LRA side, distinctly opaque. There are a number of different groups who claim to be negotiating on the part of the LRA, but it is certainly not clear who is actually negotiating on behalf of Kony himself.

Finally, the question remains of what is likely to happen if Kony and some members of the LRA stay in the bush. One outcome is that they could effectively live in exile, however, given the gradual escalation of the conflict, one possible outcome is that a smaller LRA carries on its campaign of extreme violence and begins kidnapping children again. This is clearly the fear of several Acholi elders, and in their view is made more likely by taking a very western approach to constructing a liberal peace through using liberal methods of transitional justice and setting in train a number of approaches – free markets, democracy through political parties - based on

competition without the underlying institutional development ensuring well-being. The approach of the ICC in seeking a rather narrow type of corrective justice has cast the Acholi people as victims, the Ugandan state as legitimately pursuing terrorists, and senior individuals within the LRA as perpetrators. This model may have some advantages, but it is a politically sensitive model and closes the opportunity for the Acholi themselves to take an active role in reconstructing a locally acceptable view of what 'justice' actually means in northern Uganda. For the international community and the ICC in particular, it may lead to the lesson that justice may not mean exactly the same thing in all contexts and one size does not fit all.

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¹ From Jorge Luis Borges, *Conjectural Poem*.

² For the use of the term 'international society', see Makinda (2000).

³ See, for example, Ralph (2005).

⁴ See Ralph for a fuller explanation of this argument. Grotius is said to have provided the first justification for international intervention based on a solidarist tradition which views states as being bound by universal laws of nature, including an obligation to enforce those laws.

⁵ Indeed this so-called lack of legitimacy is why the US refused to sign.

⁶ The crime of ‘aggression’ has yet to be clearly defined within the ICC.

⁷ This is immediately obvious from the fractious nature of much of the internal documents and discussions within this group.

⁸ This was not publicly known until 2004. In total there are five warrants detailing around 2,200 killings. Kony himself is charged with 12 counts of crimes against humanity and 21 counts of war crimes.

⁹ A full discussion of traditional justice systems in northern Uganda is beyond the scope of this paper, but the most common mechanism cited is known as *mato oput* (bitter root). An influential report by Dennis Pain called *The Bending of the Spears* cites this as a way forward in building peace but then adds another ceremony, *gomo tong* (bending of the spears) which symbolises the end of clan conflict in Acholi tradition. This would be carried out by Acholi elders and involves admission of responsibility, forgiveness and compensation. See Allen (2005) for the clearest explanation of these ceremonies.

¹⁰ There has been a steady flow of former combatants turning themselves in and a reduction in violence since the introduction of the warrants.