

AMICC

THE CURRENT INVESTIGATION BY THE ICC OF THE SITUATION IN NORTHERN UGANDA

SUMMARY

For the past two decades, Uganda has been plagued by internal violence. The bulk of the turmoil has taken place in the northern region of the country. Luis Moreno Ocampo, Prosecutor of the International Criminal Court (ICC), is conducting an investigation of atrocities in the region that purportedly include murder, rape, torture, kidnapping and forced military recruitment of children. In the coming months, the Prosecutor will identify persons under investigation. He has already gone to the Pre-Trial Chamber of the Court to request issuance of arrest warrants. On July 8, 2005, sealed arrest warrants were issued for five senior members of the Lord's Resistance Army: Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen. They are accused of committing crimes against humanity and war crimes. The warrants were unsealed on October 13, 2005. The warrants have been served on the governments of Uganda, the Democratic Republic of Congo and Sudan. When the persons surrender or are arrested and brought before the Court, the Pre-Trial Chamber will conduct a confirmation of charges hearing and then transfer the case to the Trial Division. If certain persons cannot be located and arrested, the Court may confirm their charges in absentia.

BACKGROUND

Uganda's northern region has been engulfed in a violent conflict for 19 years. On one side is the Lord's Resistance Army (LRA), a rebel group led by self-proclaimed "prophet" Joseph Kony, who seeks to overthrow the government and install a system based on the Biblical Ten Commandments. On the other side is the government of President Yoweri Museveni and his army, the Ugandan People's Defense Forces (UPDF).

According to human rights groups, the LRA rebels are responsible for murdering, raping, maiming, torturing and displacing civilians. They are also accused of abducting, indoctrinating and physically and sexually abusing young children. Children make up 85-90% of LRA fighters, most of whom are kidnapped between the ages of 11-15 and forced to join the LRA. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), approximately 20,000 children have been abducted by the LRA and forced to become combatants.¹ The United Nations Children's Fund (UNICEF) also reports that approximately 40,000 children are "night commuters," children who leave their rural homes at night to sleep in more populated urban areas.² The war has caused thousands of deaths and the displacement of over one million people in northern Uganda.³

¹ OCHA, IRINnews.org: Uganda, *Waiting for elusive peace in the war-ravaged north*, June 9, 2005, available at www.irinnews.org/report.asp?ReportID=47568&SelectRegion=East_Africa.

² Jihun Sohn, *UNICEF Executive Director, Ann M. Veneman, highlights the plight of children caught in Uganda's conflict*. The United Nations Children's Fund, *At a glance: Uganda: Newslines*, July 25, 2005, available at http://www.unicef.org/infobycountry/uganda_27744.html.

³ International Crisis Group, *Reports: Uganda, Conflict history*, September 22, 2004, available at http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=111.

The primary targets of LRA attacks are members of the Acholi tribe, which occupies the northern districts of Gulu, Kitgum and Pader in the region of Acholiland. Since the mid 1990s, LRA attacks have forced approximately three-quarters of the Acholi population to flee their homes.⁴ Members of the Langi and Teso tribes are the other major LRA targets. Acholi tribal members also make up the majority of the LRA, including Kony himself. Tensions have existed between the Acholi and tribes from Uganda's southern region since the British established the protectorate of Uganda in 1894. President Museveni is a member of a southern tribal group. Kony claims that his attempts to overthrow the government are intended to bring the Acholi back into power.

The UPDF and government agencies fighting the LRA have also been accused of committing atrocities against civilians. These accusations include extrajudicial executions, torture, rape, sexual exploitation and assault, arbitrary detention, forced relocation and child military recruitment.

Since 1999, the Ugandan government has sought to undermine the rebels by negotiating with Sudan, which has long provided the LRA with territory, training and supplies. Uganda and Sudan have restored diplomatic relations and mutually promised to stop supporting rebel activity in each other's territory. In March 2002, the UPDF launched "Operation Iron Fist" in an attempt to defeat the LRA through military force. The UPDF was able to cut off much of the LRA's lifeline in Sudan and force LRA leadership to release over 7000 prisoners. However, the operation was followed by a dramatic increase in kidnappings and attacks by the LRA.

Previous attempts by local and international civil society organizations to establish a peace process have repeatedly failed. In March 2003, the LRA unilaterally declared a ceasefire and sought to meet with government representatives. However, neither party honored the ceasefire and negotiations never took place. In June 2003, the United States launched the Northern Ugandan Peace Initiative (NUPI) to mediate talks with President Museveni and the LRA, but this project ultimately produced little or no positive effect.

Both within and outside Uganda, many groups have expressed increased skepticism of President Museveni's leadership, as the violence and disorder continue unabated. This distrust has been exacerbated by a November 2004 Supreme Court decision, ruling 5-0 that President Museveni's re-election in 2001 included major violations of election laws, and deeming the election only "partially in accordance with the principles of a free and fair election."⁵ President Museveni had to amend the constitution to run in the upcoming election for a third term, a change he claimed had popular support.⁶ President Museveni is also currently pushing a bill in Parliament to remove presidential term limits. Furthermore, Human Rights Watch reports that the UPDF has developed a policy of detaining and torturing all political opposition, not just the LRA.

A presidential election is scheduled to take place on February 24, 2006. While in office, Museveni has taken measures that give electoral advantages to the incumbent. One is the Movement Act,

⁴ The International Criminal Court, *Situation in Uganda: Background Information*, January 29, 2004, available at http://www.icc-cpi.int/library/press/pressreleases/Uganda_200401_EN.doc.

⁵ Amnesty International, *Amnesty International Report 2002: Uganda*, available at <http://web.amnesty.org/web/ar2002.nsf/afr/uganda?Open>.

⁶ *Uganda: Campaigning with Uganda's President*, BBCNEWS, January 11, 2006, <http://news.bbc.co.uk/2/hi/africa/4602256.stm>.

which ties to government's ruling party to unfair resources, including the military.⁷ Dr. Kizza Besigye, head of the Forum for Democratic Change Party, is currently Museveni's strongest competitor in polls. Besigye lived in exile in South Africa after running against Museveni five years ago.⁸ Upon his return, he was detained for accusations of treason and rape, which he claimed were politically motivated charges.⁹

Some steps have been taken toward potential abatement of the conflict and the initiation of communication channels between the Government of Uganda and the LRA. From September to December 2004, a group of several hundred former LRA soldiers completed a "reorganization and political education course" organized by the UPDF, as part of an effort to rehabilitate and reintegrate former rebels. In November 2004, Betty Bigombe, former Minister of State for Pacification of the North, began discussions with top LRA commanders and brokered a pledge by the UN to provide food for the LRA, a condition of their participation in settlement talks. The LRA has expressed some willingness to conduct direct talks between Kony and Museveni in a neutral country. Kony did not participate in these negotiations and instead sent senior LRA negotiators, including Brigadier Sam Kolo. On November 14, 2004, President Museveni declared a seven-day ceasefire with the LRA, valid in the Patiko, Atyak, Atanga and Palabek regions, which was subsequently extended several times until the end of December.¹⁰ He instructed LRA soldiers to assemble in these areas to begin peace discussions with the Government.

LRA soldiers continued to commit murder and other crimes against civilians despite the ceasefire. While President Museveni suspended the bounty on Kony's head within the peace zone, UPDF forces retain instructions to kill Kony and other LRA soldiers on sight if they are found outside the zone. Kony has reportedly retreated into Sudan, away from the peace zone. On November 22, 2004, UPDF forces attacked Kony's camp in southern Sudan and killed ten of his fighters. A team of Security Council ambassadors met with President Museveni on November 25, 2004 and informed him that the northern conflict was on the Security Council agenda. However, many Ugandans saw the meeting as a disappointment because it did not result in any concrete recommendations or plans of action. From December 13th to 15th, 2004, the ceasefire area was widened to include portions of southern Sudan. Both parties agreed to sign a draft document of a general ceasefire by the end of December, but the LRA asked for more time to look over the document.¹¹ On December 31, 2004, the extended 47-day ceasefire ended without an agreement.

CURRENT SITUATION

Fighting between UPDF forces and the LRA continues, as soldiers on both sides commit atrocities. The LRA has lost some strength due to pressure from the UPDF, the effects of Sudan's withdrawal of assistance and Uganda's Amnesty Commission,¹² which grants amnesty to LRA soldiers who

⁷ London: *Uganda's 2006 presidential elections are already rigged*, allAfrica.com, January 13, 2006, <http://allafrican.com/stories/200601120722.html>.

⁸ *Uganda: Campaigning with Uganda's President*, BBCNEWS, January 11, 2006, <http://news.bbc.co.uk/2/hi/africa/4602256.stm>.

⁹ Uganda: Besigye back on campaign trail, Africa Reports, January 9, 2006, http://www.iwpr.net/?p=acr&s=f&o=258902&apc_state=henh.

¹⁰ The International Institute for Strategic Studies, Armed Conflict Database, *Uganda (LRA and ADF) 1993-*, available at http://acd.iiss.org/armedconflict/MainPages/dsp_AnnualUpdate.asp?ConflictID=200&YearID=853.

¹¹ *Id.*

¹² Conciliation Resources, *Accord*, Issue 11: Key Texts and Agreements, *The Amnesty Act, 2000*, available at

voluntarily surrender to the Ugandan government. Sudan may have a positive influence on the conflict due to the signature of the Sudan Peace Accord on January 9, 2005 and the Security Council's referral in March of the situation in Darfur to the ICC. Up to his death in late July 2005, Dr. John Garang, first Vice-President of Sudan and leader of the Sudan People's Liberation Army (SPLM),¹³ was a staunch opponent of the LRA's activities in Sudan. He stated that the LRA is unwelcome in southern Sudan and will be "treated as enemies of United Sudan. They have no business on our territory."¹⁴ The Darfur referral may also influence the situation in Northern Uganda. With international attention now on the region, and the ICC soon to prosecute those committing atrocities, the LRA and other Ugandans now realize that other atrocities will not go unpunished. These events may deeply affect and inhibit the Sudanese-funded LRA.

Although the ceasefire ended in December 2004, Betty Bigombe has continued to meet with members of the LRA to proceed with negotiations. On February 4, 2005, President Museveni agreed to a limited 18-day ceasefire, but LRA attacks increased. Later in the month, senior LRA negotiator Brigadier Sam Kolo surrendered, renounced the LRA and defected to the Ugandan government.¹⁵ Although his renunciation was seen as a huge achievement, it may lead to a breakdown in the peace negotiations since Kolo was the principal negotiator. By the beginning of March, the ceasefire ended and LRA attacks increased. Bigombe has tried to continue negotiations with the LRA, but she fears that the activities by the International Criminal Court may inhibit the peace process entirely.¹⁶

THE ICC'S ROLE IN UGANDA

Uganda signed the Rome Statute of the ICC on March 17, 1999, and ratified the instrument on June 14, 2002. As a State Party to the ICC, Uganda has consented to the Court's jurisdiction for any crimes enumerated in the Statute arising after July 1, 2002. The ICC is a court of last resort, and therefore recognizes the sovereign right of States to domestically adjudicate crimes if they so request. The ICC has jurisdiction to try a case unless the State Party in question asserts its right to prosecute the case itself. A State Party or the Security Council can also make an express referral of a situation to the ICC. The Ugandan Parliament will soon consider the International Criminal Court Bill, which would give force of law in Uganda to the Rome Statute, and establish cooperation between Uganda and the Court.¹⁷

http://www.c-r.org/accord/uganda/accord11/downloads/2000_Jan_The_Amnesty_Act.doc.

¹³ The effect that Garang's death may have on the peace processes in Sudan and Uganda is still unclear. John Prendergast, special advisor to the International Crisis Group, stated that it "could have a serious negative impact for the northern Uganda situation." Garang was returning to Sudan from a meeting with President Museveni where the two were discussing how the Sudanese Government could help deal with the LRA. OCHA, IRINnews.org: *Uganda, Garang death may hurt northern Ugandan peace*, August 2, 2005, available at http://www.irinnews.org/report.asp?ReportID=48398&SelectRegion=East_Africa&SelectCountry=UGANDA-SUDAN.

¹⁴ OCHA, *Uganda, Optimism that Sudanese peace deal could help pacify northern Uganda*, IRINnews.org, January 11, 2005, available at http://www.irinnews.org/report.asp?ReportID=45000&SelectRegion=East_Africa&SelectCountry=UGANDA-SUDAN.

¹⁵ OCHA, IRINnews.org, OCHA situation Report, *Uganda Humanitarian Update Report for February 2005*, 18 March 2005, available at <http://cidi.org/humanitarian/hsr/ix139.html>.

¹⁶ Bigombe feels "the international community needs to review whether the ICC should intervene in an ongoing conflict." Daniel Wallis, "New World Court Faces Unexpected Trials in Uganda," *Reuters*, July 25, 2005, available at <http://www.alertnet.org/thenews/newsdesk/L25649571.htm>.

¹⁷ Amnesty International, Library: *Africa: Uganda, Uganda Concerns about the International Criminal Court Bill*, July 27, 2004, available at <http://web.amnesty.org/library/Index/ENGAFR590052004?open&of=ENG-UGA>.

In July 2003, Prosecutor Ocampo identified Uganda as an area of concern, but did not launch an investigation until after Uganda referred the situation to the Court. The referral to the ICC came in December 2003, the first such referral to the Court. President Museveni initially attempted to limit his referral to only those atrocities committed by the LRA. However, the ICC may only accept referral of entire “situations” and therefore the Court is mandated to impartially investigate all grave crimes that took place throughout Ugandan territory since the entry in force of the Rome Statute on July 1, 2002. On July 29, 2004, the Prosecutor determined that there was a reasonable basis to initiate an investigation, in accordance with the Statute and began investigations in August 2004.

Since then, the Presidency of the ICC assigned the situation to Pre-Trial Chamber II.¹⁸ Early in 2005, the ICC opened its first field office in Kampala responsible for coordinating with local authorities and providing logistical support and assistance to the Court’s staff.¹⁹ Indictments are expected within the next couple of months for Kony and his principal commanders.²⁰

On July 8, 2005, sealed arrest warrants were issued for five senior members of the Lord’s Resistance Army: Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen. They are accused of committing crimes against humanity and war crimes. The alleged crimes include murder, rape, enslavement, sexual enslavement, inhumane acts of inflicting serious bodily injury and suffering, cruel treatment of civilians, intentionally directing an attack against a civilian population, forced enlisting of children and pillaging.²¹ The warrants were unsealed on October 13, 2005. The warrants have been served on the governments of Uganda, the Democratic Republic of Congo and Sudan. When the persons surrender or are arrested and brought before the Court, the Pre-Trial Chamber will conduct a confirmation of charges hearing and then transfer the case to the Trial Division. If certain persons cannot be located and arrested, the Court may confirm their charges in absentia.

The arrest warrant issued for LRA leader Joseph Kony lists 33 counts, including 12 counts of crimes against humanity and 21 counts of war crimes. Vincent Otti, LRA Deputy Commander in Chief, is accused of committing 11 counts of crimes against humanity and 21 counts of war crimes. Okot Odhiambo, Deputy Army Commander, is accused of committing two counts of crimes against humanity and eight counts of war crimes. Dominic Ongwen, a LRA Brigade Commander, who is believed to have been killed on September 30, 2005 during an LRA incursion into sub-region of Teso,²² is accused of committing three counts of crimes against humanity and four counts of war crimes. The arrest warrant for Raska Lukwiya, LRA army commander, lists one count of crimes

¹⁸ International Criminal Court, ICC Press Release, *Decision assigning the situation in Uganda to Pre-Trial Chamber II*, 05 July 2004 and *Election of the Presiding Judge of Pre-Trial Chamber II*, September 16, 2004, available at <http://www.icc-cpi.int/press/pressreleases.html>.

¹⁹ International Criminal Court, ICC Newsletter #4, June 2005, available at http://www.icc-cpi.int/library/about/newsletter/4/pdf/ICC-CPI_NL4_En.pdf.

²⁰ A representative from the Office of the Prosecutor stated that they “are nearing the completion of the investigation stage, but to date that stage continues and we do not comment on ongoing investigations.” Daniel Wallis, “New World Court Faces Unexpected Trials in Uganda,” *Reuters*, July 25, 2005, available at <http://www.alertnet.org/thenews/newsdesk/L25649571.htm>.

²¹ Rome Statute, Article 7 (crimes against humanity) and Article 8 (war crimes).

²² OCHA, IRINnews, “Uganda: ICC Issues Arrest Warrants for LRA Members,” October, 7, 2005, http://irinnews.org/report.asp?ReportID=49420&SelectRegion=East_Africa&SelectCountry=UGANDA.

against humanity and three counts of war crimes.

The arrest warrants remained unsealed until October to ensure the safety and psychological or physical well being of victims, potential witnesses and their families, and to prevent the disclosure of their whereabouts and their identities. After the Court made arrangements to implement measures to protect the victims and potential witness, the Pre-Trial Chamber II decided to unseal the warrants. They remain in a heavily redacted form to ensure the protection of victims and witnesses from reprisal attacks.

THE PROSECUTOR'S RESPONSIBILITIES IN THE INVESTIGATION

The Prosecutor has a duty to address the situation as thoroughly and impartially as possible, paying special attention to persons' rights arising under the Statute. Accordingly, he has sought to cooperate with Uganda and intergovernmental organizations in order to perform an efficient, timely and confidential investigation. The support and assistance of the host country is critical. To this end, in September 2004 the Prosecutor concluded cooperation agreements with Ugandan governmental bodies. The Ugandan parties agreed to facilitate investigations and execute arrest warrants. The ICC strives to be viewed as an impartial organization by the many interested parties. The Prosecutor has stressed that he intends to investigate all sides involved in the situation in Uganda. Some observers claim that the Prosecutor's presence in Uganda has already had a pronounced deterrent effect on the commission of further atrocities, although others believe that this effect is merely temporary.

If the Prosecutor feels that it is in the interest of justice to suspend investigations, he can do so under Article 53 of the Rome Statute. Article 53(2)(c) states that if "a prosecution is not in the interests of justice, taking into account all the circumstances, including the gravity of the crime, the interests of victims... the Prosecutor shall inform the Pre-Trial Chamber and the State making a referral... or the Security Council... of his or her conclusion and the reasons for the conclusion."²³ In the case of Uganda, if investigations would be detrimental to the peace process, the Prosecutor can halt investigations until a future date.

WHY UGANDA CANNOT PROSECUTE THE CRIMES ALONE

Courts in Uganda currently lack the capability to conduct trials of such magnitude, and it was essential that investigations began immediately in order to be successful. While the country has a relatively well functioning criminal justice system, it could not operate at a level necessary to support the arrest of LRA leaders and the trial of their crimes. Furthermore, Uganda's criminal code is not wholly in accordance with the Rome Statute's requirements, and therefore Ugandan courts may be unable to prosecute perpetrators of atrocities.

The Ugandan judicial system is also incapable of appearing neutral to victims. Even to the extent that the courts are capable of prosecuting crimes, Ugandan civilians would almost certainly perceive their prosecutions as biased, because President Museveni exercises considerable control over the judicial system. Finally, the Ugandan court system lacks security measures for victims that would encourage them to testify against the perpetrators or come forward with evidence. The ICC is in a unique position

²³ Rome Statute, Article 53.

to provide both neutrality and victim protection to prosecutions of crimes committed in Uganda.

Domestic courts and other dispute resolution systems will nevertheless play a major role in prosecuting human rights crimes in Uganda. Because the ICC has jurisdiction only over crimes committed after July 1, 2002, Uganda will continue to be responsible for prosecution of crimes committed before that date. Furthermore, the ICC is limited in its resources and mandate such that it can only prosecute the most heinous crimes and highest-level perpetrators. Ugandan courts must therefore prosecute those offences the ICC cannot.

ICC INVESTIGATION AND THE UGANDAN AMNESTY ACT

The Ugandan Amnesty Act, which entered into force in 2000, offers blanket immunity to rebels who disarm and renounce the rebellion. The Act created the Amnesty Commission, which promotes the granting of amnesty under the legislation, and the Demobilization and Resettlement Team, which aids in the disarmament process and accords resettlement packages to those LRA members who seek amnesty. The Act previously needed to be renewed every six months, but since January 2004, due to pressure from President Museveni, the Act now must be renewed every three months.²⁴ President Museveni has made multiple attempts to amend the Act to exempt Kony and other LRA leaders from the amnesty, but no amendment has been passed in parliament. Under Ugandan law, Kony is still eligible to obtain complete amnesty.

The Prosecutor has acknowledged the importance of the Amnesty Act and will work under it while conducting his investigation.²⁵ The Prosecutor stated in March 2005 that he is “mindful of traditional justice and reconciliation processes and sensitive to the leaders’ efforts to promote dialogue between different actors in order to achieve peace.”²⁶

OPPOSITION TO THE ICC INVESTIGATION

Some NGOs and other observers are concerned that excluding senior LRA leadership from the general amnesty and threatening them with prosecution will make any peace process impossible. Others are concerned that the process of executing arrest warrants will create further violence and military conflict in the region. The Paramount Chief of Acholi, Rwot Acana, publicly opposed the ICC investigation, stating that “[t]he best way to resolve the 18-year old war in our region is through [peace talks and reconciliation] as it’s in the Acholi culture.” Another apprehension is that the ICC has begun its investigation too soon, without allowing LRA soldiers sufficient time to surrender. This opposition is felt by those who are apprehensive that the issuance of ICC indictments could weaken the peace process.

These concerns, however, must be weighed against the utter failure of all previous attempts to

²⁴ Conciliation Resources, Accord, Issue 11: *Key Texts and Agreements, The Amnesty Act, 2000*, available at http://www.c-r.org/accord/uganda/accord11/downloads/2000_Jan_The_Amnesty_Act.doc.

²⁵ International Criminal Court, ICC Press Release, *President of Uganda refers situation concerning the Lord's Resistance Army (LRA) to the ICC*, 29 January 2004, available at http://www.icc-cpi.int/pressrelease_details&id=16&l=en.html.

²⁶ International Criminal Court, ICC Press Release, *Statements by ICC Prosecutor and the visiting Delegation of Acholi leaders from northern Uganda*, 18 March 2005, available at http://www.icc-cpi.int/pressrelease_details&id=96.html.

establish peace between the LRA and the government. Although the parties are currently engaged in negotiations and some LRA fighters have surrendered, the violence is far from over and the perpetrators have not been held accountable. Moreover, the Prosecutor will only pursue the most senior of those responsible for the atrocities, and has no authority to prosecute low-level offenders who may have been abducted and indoctrinated into the LRA or UPDF organizations. Additionally, the ICC may not prosecute offenders under the age of 18, who account for a large number of forces on both sides. Therefore, combatants will have no incentive to attack or subvert the Court, and may be compelled to assist the Court. Finally, the Prosecutor has publicly expressed his commitment to restore peace in Uganda, and will take steps toward this goal when conducting the investigation.

Another factor that has affected this extremely delicate situation is President Museveni's announcement in November 2004 that if LRA leaders would surrender, "[t]he state could withdraw its case" from the ICC and the two parties could instead "engage in internal reconciliation mechanisms." This statement has drawn a sharp response from human rights groups, who are worried that such an action would merely allow the violence and impunity in Uganda to continue. Furthermore, it is unclear whether a country can "withdraw" a referral under the Rome Statute. Under the principle of complementarity, if a state is unable or unwilling to genuinely investigate and prosecute crimes, the ICC has jurisdiction to do so. The question is thus whether President Museveni's proposed internal reconciliation mechanisms constitute an effective and good faith attempt to hold perpetrators accountable. If these measures lack adequate accountability, the Court would retain jurisdiction.

OUTREACH AND COMMUNICATION

One area where the Court has been criticized is its outreach and communication efforts in Uganda. The ICC is improving its initiatives. In March 2005, a delegation of Acholi leaders visited the ICC upon the invitation of the Prosecutor. The delegation met with the Registrar, the Prosecutor and other officials of the Court, including Didier Preira, Head of the Division of Victims and Counsels, and Fiona McKay, Chief of Victims Participation and Reparation Section. The delegation included its chief, Rwot Acana, and various religious, political and military leaders.

According to the Rome Statute, the Registrar is responsible for overseeing the Court's outreach activities, supporting the protection of victims and witnesses, and managing victim and witness participation in the Court's proceedings.²⁷ The Registrar and the delegation discussed what possible actions should be taken in regard to supporting victims and rendering justice. This exchange was based on previous discussions between officials of the Court's Victim sections and the local villages in northern Uganda. Among the issues discussed was how to relate information about the Court to the local communities. The Registrar stated that he welcomed the suggestions of the Acholi delegation and will continue to encourage an open and positive dialogue between them. The delegation stated that after the meeting with the Prosecutor, they now understand "his position, mandates, independence and also the limitations he has in what he can do and what he has no control over."²⁸ The Prosecutor declared that he understands the role that national justice and reconciliation methods play in aiding the

²⁷ Rome Statute, Article 43.

²⁸ International Criminal Court, ICC Press Release, *Statements by ICC Prosecutor and the visiting Delegation of Acholi leaders from northern Uganda*, 18 March 2005, available at http://www.icc-cpi.int/pressrelease_details&id=96.html.

peace process, and is attentive to the efforts that these leaders have made to encourage dialogue between all groups involved in the conflict.

Principal members of the ICC have visited Uganda in order to meet with Ugandan government officials, members of the press and NGOs, as well as to visit the newly established field office. The field office will increase the ICC's presence on the ground, as well as disseminate more information about the Court and the investigations to Ugandans. The Registrar, Bruno Cathala, became the first head of the Court to visit the field office when he and a delegation from the Registry of the ICC visited Kampala in April 2005.²⁹

In addition, the ICC hosted a workshop on public outreach in August 2005 in Entebbe, Uganda, for delegates from the local councils from the nine districts affected by the conflict. The intention of the workshop was to provide information on the International Criminal Court as well as to find ways in which to disperse information concerning outreach activities and victim participation in the Court's proceedings. At the workshop, the councils agreed to create sub-committees to aid in spreading information to their constituencies.³⁰

APPREHENDING THE PERPETRATORS

Arrest warrants and indictments by an international tribunal turn a suspect into an international pariah and induce other states to assist in capturing the suspect. It is likely that other countries, whether or not they are States Parties to the Rome Statute, would be willing to help apprehend those indicted by the ICC.

If a suspect avoids arrest for an extended period of time, as Kony is likely to do, the Court still has the capacity to act vigorously on the case. The Court is designed and empowered to hold a complete and public "confirmation of charges" hearing, equivalent to an indictment. At the hearing, the judges will collect and assess testimony and other evidence relating to the charges against the suspect. This creates an extensive public judicial record, preserving evidence of the suspect's actions and the circumstances in which they occurred. Such a record makes it easier and more compelling for states to arrest the suspect. It also allows valuable testimony and evidence to be presented while they are relatively fresh and recent, which might otherwise be lost if evidence were only admissible at trial. Finally, it helps to meet the need of victims and survivors to hear their story told and to know the world is listening.

CONCLUSIONS

It appears that the Court's outreach efforts have begun to take affect. In April and May of 2005, the International Center for Transitional Justice and the Human Rights Center at the University of California, Berkeley, issued a report that surveyed over 2,500 Ugandans on their personal experiences of the conflict and what they felt would be the best way to achieve peace and justice in

²⁹ International Criminal Court, ICC Newsletter #4, June 2005, available at http://www.icc-cpi.int/library/about/newsletter/4/pdf/ICC-CPI_NL4_En.pdf

³⁰ International Criminal Court, ICC Press Release, *ICC Holds Workshop in Uganda on Public Outreach*, 18 August 2005, available at <http://www.icc-cpi.int/press/pressreleases/110.html>.

the region.³¹ When asked what action should be taken against LRA leaders, 66% were in favor of punishment (trial, imprisonment and killing), while only 25% suggested other measures such as forgiveness, reconciliation or reintegration. Of those who had knowledge of the ICC, 91% felt the Court would contribute to peace and 85% believed it would contribute to justice.³² However, the poll indicated that a majority of respondents (73%) knew nothing or very little about the ICC's existence and mandate.

The Refugee Law Project, based at Makerere University in Uganda, produced a similar report in July of 2005 for which 109 interviews were conducted in the northern districts of Gulu, Kitgum and Pader.³³ Their findings showed that most of those interviewed felt that justice could only be achieved once the conflict is over or has been halted and that all sides must be held accountable for the atrocities that have been committed. In response to the difficult question of how the ICC should proceed, the report states that there is no precedent for the Court to follow and is truly setting the stage for future action. The report determines that reconciliation programs, which include traditional methods, may be able to work alongside the actions of the ICC. The ICC has made great progress in reaching out to Ugandans thus far, but this is a continuous effort in which the Court must be vigilant.

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³¹ The report is entitled, *Forgotten Voices: A Population-Based Survey on Attitudes about Peace and Justice in Northern Uganda*. Of those surveyed, 40% had been abducted by the LRA, 45% had seen a family member killed and 23% had been physically mutilated during the conflict. International Center for Transitional Justice, Press Release, *New Study Finds Ugandans Favor Peace With Justice: Victims' Views Key to Resolving Conflict*, 25 July 2005, available at <http://www.ictj.org/downloads/ForgottenVoices.PR.pdf>.

³² Eric Stover, Director of the Human Rights Center at the University of California, Berkeley stated, "While most survey respondents are desperate for the violence to end, a significant number are opposed to letting the key perpetrators walk away unpunished."

³³ Refugee Law Project, Working Paper No. 17, *Peace First, Justice Later: Traditional Justice in Northern Uganda*, July 2005, available at <http://www.refugeelawproject.org/papers/workingpapers/RLP.WP17.pdf>.