

The Cooling of Hearts

Community Truth-Telling in Acholi-land



Justice and Reconciliation Project (JRP)

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About the Title: The word “cwiny” in Acholi refers to the “nature” or the “inside” of a person, or that part which drives people to act in certain ways, and to be happy or sad. Thus a person can tell you “cwiny col” to mean you are bad, or “cwiny yom” (you are happy) or “cwiny cwer” (you are feeling sad). Appeasing a person who is sad is referred to as “kweyo cwiny”, or the English equivalent of “cooling the heart”. Respondents often used the latter expression to describe the process of healing and reconciliation derived from truth telling, acknowledgement and compensation, and so forms the title of the report.



Cover Photo: A survivor of the Atiak massacre lays a wreath - Atiak massacre memorial ceremony, photo by JRP, April 2007.

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EXECUTIVE SUMMARY

Recent national and international debates on truth and reconciliation in Uganda have emphasized the importance of incorporating local level mechanisms into a transitional justice strategy. This report seeks to contribute to this discussion by focusing on local level mechanisms in Acholi-land and determining how these might promote truth-telling and reconciliation at the community level.

Underlying the research are three main objectives: to assess whether or not grass-roots, war-affected persons in the region want a truth-telling process; to assess the possibilities of adapting local mechanisms to promote truth and reconciliation at the community level; and lastly, to present the results, observations and recommendations found in this report to relevant policy-makers (the Government of Uganda, local-level leadership in Uganda, and the international community).

The research reveals that there is indeed a need for a truth-telling process in northern Uganda. Few atrocities have been documented or acknowledged publicly – most are contested and highly controversial. As a consequence, victims struggle to survive emotionally, socially and economically with tragic memories of loss, and with little to no high-level acknowledgement by the Government of Uganda or by most of the LRA high command. In a quantitative survey with 1,143 internally displaced persons, a resounding 97.5 percent of persons responded ‘yes’ to the question “should the truth about what happened during the conflict be known?” Respondents discussed the desire to know ‘the truth’ in order to be able to promote reconciliation and prevent conflict in the future; learn the fate of their loved ones and provide them with proper burial; and, to receive symbolic and material compensation according to cultural bylaws for the loss of the dead.

Local mechanisms for dispute resolution continue to function in northern Uganda, despite the devastating impact of the conflict. These include local councils, councils of elders and chiefs, and religious leaders. The report argues that if specific steps are taken to ensure victims’ rights and protection, then such processes should be adapted to promote a truth-telling process at

the community level. This process could provide an example to other regions in Uganda affected by conflict where community reconciliation needs to take place. The findings in Acholi should be tested elsewhere in Uganda, to later identify how the varying strands can be brought together to promote a national process.

However, while there are important truth-telling and reconciliation elements in the *mato oput* reconciliation process, given the nature of the atrocities committed throughout the conflict (anonymous killings, mass-murder, forced crimes, etc.), the exclusion of girls and women from the process, and its private nature, *mato oput* in its current form is not enough to compel sustainable nation-wide justice and reconciliation.

In light of this, the report recommends to the Government, the perpetrators, and all other stakeholders in northern Uganda that the Juba Talks should recognize the need for a community, regional and national-level truth-telling process, with the goal of promoting reconciliation in Acholi-land, neighbouring communities and between the South and North. Recommendations can be found at the end of each section, and in the conclusion.

We further recommend that the parties to the talks should agree to a wide-scale consultative process, headed by a neutral group of experts, to identify and develop recommendations on the formation of community-level truth-telling process in northern Uganda, with the ultimate aim of national unity, justice and reconciliation. The consultative process should focus on agreeing upon a timeframe for rolling out a truth-telling body; determining the composition of its commissioners; specifying its mandate; addressing who should participate and how; determining how local, cultural, and religious mechanisms that can be incorporated into the process; agreeing upon the distribution and funding of reparations to victims, and ensuring due process. Consultations should be non-discriminatory, involving all parties to the conflict, including civilian men, women, youth and the elderly.

The report further emphasizes the need for the consultative process to acknowledge that the conflict is on-going, and persons still believe the talks and amnesty should be a

priority so that peace is realized in the North. Some respondents were fearful that the LRA would perceive the imposition of truth-telling at this stage as collaboration with the Government, and that this would impede their willingness to continue in current peace talks. Truth-telling should not undermine this process, and place the protection of victims at the centre of its work.

INTRODUCTION

Within the field of transitional justice, 'truth-telling' is considered a vital process in the reconciliation of violently divided societies and the consolidation of peace after violent conflict.¹ Civil society debates in Uganda have begun to focus on relevant mechanisms for gathering the truth about human rights violations of past and present regimes and armed groups, with a general consensus that reconciliation and a collective national identity is both possible and desirable. Strikingly, various calls for a national truth and/or reconciliation process agree that a bottom-up strategy, starting within communities, is preferable.²

For example, the Refugee Law Project (RLP) recommends the need for "a specific mechanism that allows for dialogue and the telling of truth within communities."³ In late 2006, the RLP began to explore the prospects of a national truth and reconciliation process for Uganda and how it might work in practice, identifying local justice mechanisms as a promising vehicle, and referring in particular to the Acholi cultural process of *mato oput*. "We also believe that the truth-telling elements embedded in *mato oput* and many other Ugandan cultural reconciliation mechanisms should be emulated and adapted into a wider process."⁴ These sentiments are echoed in other forums as well.⁵ For instance, the UN Office of the High Commissioner for Human Rights (UNOHCHR) has recognized the potential benefits of community-based approaches within a range of other justice options in Uganda today.⁶ Various other stakeholders are making calls for wider consultations with grassroots-level communities.

This report responds to this call to action by consulting with the war-affected in Acholi-land. Clearly, the discussion in Uganda has begun to move beyond the once polarized debate of 'peace versus justice,' to a

dialogue that considers *how* justice should be realized.⁷ In addition, there is a need to disentangle the different levels of transitional justice mechanisms required: community and national. Most voices have focused on the need to address national grievances and have considered the possibilities of adapting local-level mechanisms at the national level. However, these opinions have not articulated how such a process would work at the community level, or why it is essential to promote a local approach. This report, therefore, examines how truth-telling, embedded in local-level mechanisms, is both wanted and needed by victims and perpetrators at the community level.

Consider that over the course of the 21-year-old conflict between the LRA and the Government of Uganda, over 30,000 children and youth have been abducted by the LRA – the majority from Acholi-land – and forced to become soldiers and sexual slaves.⁸ Additionally, an unknown number of youth from Acholi-land have joined local militias and the Government Army (UPDF) to fight against the LRA.⁹ In the words of one mother, "the war has turned brother against brother."¹⁰ Some civilians have become collaborators with the LRA or the Government, either for their own protection or for economic advantage.

As a result, it is often difficult to disentangle the categories of victim and perpetrator. What is more, both parties to the conflict have inflicted grave atrocities on the civilian population. Rape, mutilation, humiliation, torture, murder, massacres, beatings, arson, looting, abduction and forced enslavement and internment are trademarks of this conflict.¹¹ Up to 90 percent of the population in Acholi-land¹² are confined to 'internally displaced persons' (IDP) camps, cut off from agricultural production of their land and dependant entirely on food assistance from the United Nations. The camps are poorly protected and maintained.¹³ For example, at the height of the conflict (2001-2004), up to 40,000 children commuted from camps nightly to sleep in the relative safety of town centres to avoid LRA abduction because the UPDF were unable to protect them.¹⁴ Given this context, some form of community-level reconciliation between victims and perpetrators will be needed in the aftermath of the conflict in Acholi-land.

Indeed, a community-level truth-telling body could have a much more positive long-term affect on the afflicted than the trials of only 4 men. For example, the benefit of the South African Truth and Reconciliation Commission, argues Naomi Roht-Arriaza, was that it could “focus on the overall pattern of violations, rather than zeroing in on just those cases that happened to be brought to trial.”¹⁵ For victims, being directly involved in such a process could hasten much needed reconciliation. But as the lessons of South Africa illustrate, a national process is limited in terms of access and involvement. Community-based mechanisms and processes are a much-needed complement.

In the section **Expectations and Fears of Truth Telling**, we address the important question: do northern Ugandans want a truth-telling process, and if so, what are the particular expectations and fears of such a body? As Pricilla Hayner argues, “any successful truth commission process must be a reflection of national will and a national commitment to understand and learn from a country’s difficult, sometimes controversial and often quite painful history”.¹⁶ In this case, we asked this of the persons living in a region of Uganda that has been gravely affected by 21 years of conflict. Are northern Ugandans willing to learn from history and look to the future together?

In the second section, **Adapting Local Mechanisms: Considerations**, we first identify some of the local mechanisms that incorporate truth-telling already, before assessing the potential and shortcomings that would need to be addressed if they were adapted to address war-related crimes. Drawing extensively on respondent perspectives on a truth-telling process, this section explores questions of mandate, the composition and role of commissioners, where, how and when a community truth and reconciliation process should take place.

Finally, in **Conclusions/ Next Steps**, the report advances a series of next steps that should be explored by greater civil society and peace stakeholders in Juba to ensure community level truth-telling is adapted in a locally sensitive and rights-based way. Over 50 local stakeholders endorsed these recommendations during a consultation on the findings of this report in June 2007.

Methods

Research was carried out in 9 internally displaced persons (IDP) camps: 6 in camps with JRP focal points between January-March 2007 (Amuru, Anaka, Kitgum Matidi, Padibe, Pajule and Kalongo);¹⁷ and 3 in camps chosen as ‘case studies’ because large scale massacres had occurred there (Atiak, Koch Goma and Corner Kilak). The case studies presented an opportunity to assess how communities that experienced serious atrocities remember or acknowledge them, what role (if any) local leaders have played in addressing the atrocities, and what needs victims have with respect to truth and reconciliation. Atiak and Koch Goma are compelling cases where the LRA are alleged to have ordered and carried out massacres of up to 300 civilians in the mid 1990s and mid 2000s respectively. Corner Kilak was selected on the basis that it is believed to be the site of a massacre by the National Resistance Army in 1986-87. All three camps reportedly have experienced repeated attacks and human rights abuses by the LRA and UPDF.¹⁸ Massacres remain undocumented and, with the exception of Atiak, are generally not discussed in public for fear of retaliation by either the LRA or the Government of Uganda.

In all 9 camps, 23 focus group and traditional *wang oo*¹⁹ discussions were held with those greatly affected by the conflict, such as survivors of massacres, parents of the disappeared, and youth who had returned from the bush. Both mixed-sex and single-sex discussion groups were held - and most were composed of no greater than 10-12 persons, for an approximate total of over 250 persons consulted. Semi-structured interviews were carried out with 19 individuals knowledgeable of, or directly involved in the proceedings of local mechanisms used to resolve conflict, including elders, chiefs, local leaders (camp commandants and Local Councillors I-III), NGOs and religious leaders. Sixty-four semi-structured interviews were also carried out with survivors of either LRA or NRA massacres and parents of the disappeared to accurately develop a narrative of incidents and to gather their perspectives of truth-telling as related to the conflict.²⁰ The interviews and focus group discussions were conducted in Acholi and responses were translated into English by the same research officers.²¹

A 5-question, quantitative survey was conducted using random sample techniques with 1,145 persons in the 6 focal point person camps to come up with an objective measure of people's views and perceptions about truth-telling. Zones were randomly selected in the camps. Researchers walked to the middle of a zone in the camp, randomly selected a direction to walk in and selected every third household in the area to interview.²²

Finally, findings of the report and recommendations were disseminated and deliberated with over 50 local stakeholders such as elders, chiefs, religious leaders and NGOs in a consultative workshop in Gulu. This method was to verify findings and promote local ownership of the report before its formal launch.²³

EXPECTATIONS AND FEARS

*I am an old man. I need to hear the truth before I die.*²⁴

In the experience of the researchers, every county in northern Uganda holds a story of atrocity; a story with no official record, no acknowledgement by perpetrators and no support for its victims. In researching just three areas where massacres had occurred, the researchers were unable to obtain definitive numbers and names of the dead or missing, where records have been improperly recorded, lost, or exist in memory only.²⁵ However, what does exist is the testimony of survivors, partial, informal records of NGOs, elders and government officials, and the bones of the dead. Given proper attention and time, these could provide important evidence in providing a detailed account of what happened in northern Uganda during the course of the conflict. Most importantly, the survivors of these atrocities want to be involved in establishing the truth themselves, and see this process as vital to moving beyond the conflict.

The following sections highlight what war affected persons identified as unaddressed justice and reconciliation concerns a truth process could help address. It then turns to some of the protection related concerns of victims, voiced as their fears of participating in such a process.

Expectations

In a quantitative survey with 1,143 internally displaced persons, a resounding 97.5 percent of persons responded 'yes' to the question "should the truth about what happened during the conflict be known?"²⁶ In the overwhelming majority of qualitative interviews and focus group discussions, persons argued that truth-telling was needed in order to:

- a) *Understand the root causes of the conflict (in particular, why the LRA or Government took the actions they did) in order to prevent future conflicts;*

Where children and youth have experienced two decades of conflict and a generation of internal displacement and social breakdown of the extended family unit, traditional and formal learning is not possible. Some elders have described this phenomenon as children 'growing up outside their culture' or learning the 'culture of the gun'. A truth-telling process involving the community that acknowledged harm done was considered by some respondents as essential for re-engaging youth in learning about who they are and what happened to their people, and to become advocates for peace in the future. "It is important for such information to...be written down in a book so that...all the [younger] generations...know what happened and [they] avoid repeating the same mistakes that were made by their grandparents,"²⁷ opined one grandmother. More urgently, people viewed the idea of a truth-telling process as necessary to prevent future conflicts between returnees and the community. One community leader noted:

There is a need for truth-telling to cover all the crimes committed and those that are likely to be committed in the future, such as land disputes. People will in future fight returnees, even when the returnees have been rehabilitated and have settled back in the community. They will think the returnees - after killing their children - now want to take their land. Then people will start remembering all the atrocities that happened in the past. That is why when the truth is being told it should also address conflicts that are likely to occur in the future.²⁸

- b) *Bringing closure: to learn what happened to loved ones who are still missing;*

[My son] was abducted while riding towards Rachkoko. He was abducted while he was traveling alone. He just disappeared, and we

never saw him again. I think what can bring me healing is for someone to come and tell me that he is still alive....if someone can come and tell me that he is dead, and then I will forget about ever seeing him again.²⁹

Not surprisingly, parents and relatives or loved ones of persons who have gone missing in northern Uganda continuously search for their whereabouts or seek to learn of their fate. "When I think of my boy [abducted during the 1995 Atiak massacre] who is still missing, I wonder if he will return. I would wish to know his whereabouts,"³⁰ lamented one father.

While tracing programmes exist for persons who return to one of the rehabilitation centres established by NGOs, no system is in place for those who have not yet returned. Names are sometimes collected and recorded by NGOs such as the Concerned Parents Association or local authorities such as the Local Councillors (LCs). But the most common means parents, relatives and loved ones search for the missing is to informally meet and interview those who have returned from LRA captivity or to listen to radio programmes (sponsored by the Government to promote the Amnesty), which host former LRA captives or rebels. One man explained to us:

My child was abducted in 1991 but up to now, I have not heard anything about him. I tried listening from radio thinking that one day I will hear that he has returned but nothing has yielded fruits. When I hear that there are returnees at the rehabilitation centre who have just returned I go there to see if mine is among but I have never found him.³¹

Children and youth abducted in large numbers from one community are one of the best sources of information, where some members of the group are likely to escape or be released at some point, and will therefore know the last whereabouts and status of others abducted in the same group. Otherwise, parents may seek out children and youth who were part of the same battalion as their child in the LRA, although this can be more complicated by the fact that they tend to change their names while in captivity in order to protect themselves and their relatives from the LRA should they escape.

Those abducted also take steps to ensure they can be identified and given a proper burial should they not survive captivity.³² "There was a case when a boy was killed in the bush and in his pocket the people were able to find

a paper that had his name plus those of his close relatives. This was used to come and tell the people at his home about his death and later saw for his burial ceremony being organized,"³³ recounted a mother in a focus group discussion.

c) *Bringing closure: to lay the spirits of the dead to rest and cleanse the area of misfortune*

Culturally, it is believed that the spirit of those who died violently or without respect will not rest peacefully until specific steps are taken. *Cen*, or the ghostly vengeance of the wronged spirit, will cause 'misfortune,' 'sickness' and 'death' on the clan of perpetrator. Some believe that *cen* is what eventually compels most wrong-doers to confess their crimes and request to engage in steps to appease the spirit and the clan of the victim. An impressive 66.2 percent of respondents in the quantitative survey believed that *cen* would compel perpetrators to 'confess' crimes undertaken during the conflict, and seek to rectify their wrongdoings traditionally.

During the course of research for this report, a number of case studies were identified wherein formerly abducted persons came forward to confess to their parents and then to elders of murders they were forced to conduct while with the LRA. These persons believed they were suffering from *cen* and with the assistance of elders, performed cleansing ceremonies in which *cen* was 'chased.'

For persons living near sites of massacres, spirits of those who were never buried in a proper manner are believed to linger and at times disturb the living. A survivor of the Atiak massacre who was unable to bury his relatives remarked:

There are times when the spirits of the dead would come and haunt me, but there was nothing I could do....up to this day we have never brought home their bones for burial. The spirits disturb me and the children. There is no elderly person in the home who can take responsibility for calling their spirits home.³⁴

Elders are known to have conducted ceremonies to 'cleanse the area' of spirits that hearken misfortune for those who pass through and live by an area where death without proper burial or respect occurred.

An important healing ceremony performed is to 'call a spirit to rest.' Many of parents who have learned their children died in captivity have since performed this ceremony. "In Acholi if a person is killed by an enemy, a ritual called *Iwongo tipu* ('calling of the spirit') is done because we believe that even if a person is dead his spirit still lives, hence the spirit should be brought back home to live with the people."³⁵ When asked to explain why this ceremony was important, one respondent remarked, "It makes the deceased know that people care about them....It is to remove the anger that the spirits of those who died and left unburied



Skull remnants of Corner Kilak massacre in 1987, photo by JRP, 2007.

are having. Their spirits will know that you never forgot them and still cared about them even after knowing that they were killed."³⁶ Most parents we spoke to emphasized their desire to learn the fate of children who were abducted, to at least know whether or not they should proceed with steps to lay them to rest: "[if they have died], it gives us a chance to organize a funeral rite for them so that their spirits are laid to rest in peace."³⁷

In his book, *Living with Bad Surroundings*, Sverker Finnström examines intellectual strategies Acholi persons employ to cope with the war. With each attempt to protect a cultural practice from the brutality of the conflict, or to embrace one to counter-balance the misfortunes that arise, everyday people are exercising agency, seeking to cope with intolerable surroundings.³⁸ Cultural practices, such as traditional cleansing rituals, glean important insights into how Acholi people reconcile themselves with what is happening to them.

Likewise in Mozambique and Angola, Alcinda Howana found that "there are local ways of

understanding war trauma: In both countries people believe that war-related psychological trauma is directly linked with the spirits of the dead killed during the war."³⁹ As in Acholi, spirits who were mistreated in life and killed or during burial without dignity must be appeased lest they seek vengeance on those responsible. Social pollution also arises from contact with the dead or blood of the dead, infecting not only an individual but an entire clan, or neighbours. Rituals are then required not only to cleanse an individual but to restore social order.⁴⁰ "Therefore, the cleansing process is seen as a fundamental condition for collective protection against pollution and for the social reintegration of war affected people in society,"⁴¹ Howana adds.

d) *Reparations: To receive both symbolic and material compensation (culu kwor):*

Respondents frequently cited that truth-telling was important, but not sufficient in bringing healing to the afflicted. Respondents expressed the expectation and desire to be compensated for the deaths of their family members, both symbolically (through memorials and shrines, for example) and materially (*culu kwor*), to compensate for the loss of life and be able to complete the *mato oput* process. The need for monetary assistance in order to search for missing children and other abductees was also frequently requested. Some respondents argued that in order to reconcile, traditional payment of *culu kwor* (payment of death compensation) was required.

However, they also recognized that most former LRA fighters would be unable to pay compensation in the current state of poverty in the camps⁴² and given the magnitude of crimes. "It is not possible for [LRA] to pay compensation for all the people who died, they killed very many people. Even me who lost someone, I cannot ask [LRA] to pay compensation but he has to ask for forgiveness and he is forgiven,"⁴³ explained one respondent. Others argued it was the Government of Uganda, for failing to protect the civilian population from LRA attacks, which should pay compensation for lives lost and crimes committed over the course of the conflict.

Culturally, compensation symbolizes the life of the person lost and is required to be used by the victim's family for bride-price. Marriage and the possibility of children are

symbolic of new life; to replace that which was lost. This is generally thought to be an essential stage of *mato oput*. "Unless payment is done, our hearts will not be healed. We shall not forgive the Government and in this regard, we shall not have anything like *mato oput*,"⁴⁴ agreed participants of a focus group discussion for the parents of missing children.

When asked who should construct memorials and pay for reparations, victims frequently assigned the responsibility to the Government of Uganda. There was a strong consensus amongst respondents that, regardless of fault, it is not within the means of the LRA or of its individual members to provide reparations. One individual was asked who should pay for reparations:

Those who caused suffering to me. If they cannot do this then they should come out and tell us that they can't. I think the Government will help them out.⁴⁵

Another respondent, when asked if senior LRA commanders should compensate for damage, laughed and remarked, "But it is the Government who is our father. Why can't they compensate me?"⁴⁶

e) *To be able to move towards reconciliation (mato oput);*

Respondents indicated that the current policy of 'forgiveness' under the Amnesty was critical to end the conflict. By embracing the spirit of forgiveness, the civilian population indicates to the rebels that it is willing and ready to reconcile with those who remain in the 'bush', thereby giving them confidence to return home where they will be accepted by the population. Forgiveness, therefore, is like an olive branch - a way for civilians to indicate their willingness to reconcile. It is not, however, the same as *mato oput* (reconciliation) which is a process involving truth-telling through mediation, acknowledgement, compensation and symbolic reconciliation.⁴⁷ As one elder explained:

Forgiveness comes before *mato oput*. *Mato oput* is a ceremony that marks an end to every kind of anger that exists among the affected people. For the sake of this war I think you should forgive so that the abducted children come home and *mato oput*.⁴⁸

The elder went on to explain that senior LRA commanders needed to know that people

were willing to talk. For some elders, then, 'to forgive' is interpreted as willingness to engage in dialogue, to tell the truth and eventually, to reconcile. Amnesty (and reference to forgiveness under it) is not considered the end of a process of reconciliation, but the beginning. Truth-telling was imagined as a process wherein former LRA members, UPDF soldiers and communities would sit to discuss what happened, to explain why it happened and to identify, with the assistance of a mediator, a means of agreeing on compensation (which could be symbolic) and reconciliation (*mato oput*). It involves acknowledgement of what happened. "In Acholi culture, truth means being open and talking freely, confessing for the wrong committed against others. *It also means acceptance for what you have done and agreeing to correct that wrong that has occurred*,"⁴⁹ we were told. Indeed, the Amnesty Act does contain provisions to promote community-level reconciliation.

When asked if the process of truth-telling was enough for reconciliation, respondents clarified it was one step in the process of reconciliation:

The truth is not enough. When the truth has been told and the perpetrator has accepted his mistake, then he must also fulfill cultural demands. He must go ahead to *culo kwor* and have *mato oput* so that there can be *mato oput*, because when *oput* has been drunk it washes away all the impurities. Truth-telling should be accompanied by *mato oput*, and then there will be no problem afterwards.⁵⁰

Another responded:

Truth is not enough. You have to ask for forgiveness from the victimized so that they forgive you and relations with them will be improved. Those who wronged should be forgiven because it was not their fault or intention to go and fight. They should look at just like any other person or human being and relate well with them just like any other person. If possible even a *mato oput* could be done.⁵¹

Recommendation: Hold Consultations to Address Justice Needs

To move forward, parties to the Juba peace talks should agree to hold wider consultations with the local populace in northern Uganda and other war-affected regions to make certain that community truth-telling is what is desired by everyone.

These consultations should reflect the outstanding justice needs of war-affected persons, especially the need to reconcile the truth of what has happened and to satisfy cultural demands.

Fears

Respondents were cautious about the potential negative ramifications of a truth process, and expressed the following fears:

a) *Victims fear of retaliation by perpetrators*

Victims stated that should they come forward to publicly testify as witnesses, they may be subject to retaliation by former or present LRA rebels, or detention or torture by the Government of Uganda. This fear is substantiated by the fact that both sides have been responsible for atrocities, and it is well known that civilians are often subject to violent retaliation if they are perceived to be cooperating with either party.⁵² One elder whose son was killed after being hit by an army vehicle put it bluntly, "We really have a lot of fear from the UPDF as they would not want you to speak anything that would tarnish their image.....I have a lot of fear of the barrel of a gun and as such I would prefer to protect my life other than think of complaining."⁵³ Clearly, there is a need to ensure that sufficient mechanisms exist to protect victims from retaliation and to reflect what victims perceive truth-telling to be.

b) *Fear of revenge against perceived perpetrators*

Despite the fact that most former LRA rebels were once abducted, they tend to be viewed by the community as a homogenous, guilty group. Former commanders and foot soldiers of the LRA, abducted or not, stated they would be reluctant to voluntarily reveal the 'truth' about their crimes, for fear of revenge by the community. This fear is not entirely unfounded. Revenge killings have occurred, despite the remarkable restraint of most victims. In at least one case (Koch Goma) returnees' public confessions led to revenge mob killings of the individuals. Two other cases identified by researchers were of former LRA rebels that desired to confess publicly (Anaka, Pajule), but the individuals were prevented from doing so, for their own

protection by clan members.⁵⁴ Other respondents warned that unless there is a mechanism to 'cool hearts,' then reminding people of the past may lead to renewed tensions and violent aggression within the camps. Besides a witness protection strategy, community truth-telling should also be prepared to engage perpetrators in confidence-building measures.

c) *Fear that a truth-telling process would negatively affect the Amnesty and peace process*

Victims argued that should a truth-telling process begin presently - before the talks have completed and peace achieved - it might have a negative impact on the Amnesty and peace process. As one elder explained:

You see, in truth, we are pleading with these people to leave the bush and come back home. But if they get to hear that we are calling them back so that they can tell us the wrongs that they did, then they will not come back home.⁵⁵

Researchers observed that where the Amnesty is a government policy, grass-roots persons often fear speaking contrary to this policy in public; that is, elaborating on what forgiveness might entail - for fear of being accused of working against the Amnesty. Consequently, the timing of community truth-telling should be sensitive to the current political and security situation.

d) *Fear of re-traumatisation and disappointment*

A minority of respondents did not want a truth process at all, arguing it would only resurface painful memories and reignite tensions within the community. As one survivor of the Atiak massacre reflected:

I do not go for the memorial prayer ceremonies that are organized...I can prepare to go for it, but something holds my legs...I fail to walk. I just find myself crying...The time of organizing the memorial prayer affects me for the entire week both before and after. [It]...brings sorrow and thoughts about it again as if it has just happened.⁵⁶

In Corner Kilak, one keen youth observed that "when you talk about [the massacre] again, then it is like opening a drying wound and as such would just be causing more worry."⁵⁷ Others were sceptical a truth process would lead to anything, having

experienced years of disappointment and witnessing impunity and corruption. This was particularly noted in Atiak, where survivors of the 1995 massacre had repeatedly given testimonials but have never received any formal acknowledgement by the Government. They had received no compensation, nor follow-up by NGOs or the 'whites' who had come to speak to them. Many of the respondents in this area were therefore disillusioned with the idea of truth-telling, arguing it resulted in nothing but painful memories. Indeed, community truth-telling is a painful and revealing process for victims as well as perpetrators; one that involves grief and sacrifice, and one that requires careful, sensitive, and adequate psychosocial counselling and support.

Recommendation: Sequencing, Protection and Counselling

Truth-telling activities should be sequenced so as to ensure that they do not jeopardize peace, justice and reconciliation.

A community-level mechanism would have to be designed with victim protection and counselling at centre stage, but also to build the confidence and protect the rights of the perpetrators.

Psycho-social care for victims traumatized should be integrated into a truth telling process.

ADAPTING LOCAL MECHANISMS: CONSIDERATIONS

In the past 35 years, there have been 35 formal truth commissions in countries around the world.⁵⁸ Pricilla Hayner defines these as "official, temporary bodies established to investigate patterns of violations over a period of time that conclude with a final report and recommendations for reforms." In her extensive study of truth commissions, Hayner differentiates between these and other truth-seeking mechanisms, such as investigations by NGOs or international organizations, in that they are created and given powers by bodies of government and are therefore more likely, with political will, to result in the implementation of recommendations.

While different from typical truth commissions, some of the basic mechanics

and questions that go into the creation of a national commission also apply at the community level being discussed here. Based on research with respondents, this section of the report examines the basic mechanisms that could be adapted in Acholi and highlights considerations for further reflection and debate.

Local Mechanisms for Truth-Telling in Acholi-land

Local mechanisms for truth telling in times of ordinary conflict exist in northern Uganda, despite decades of war. These include local government and traditional and religious mechanisms for dispute resolution, most aimed at the peaceful restoration of community relations. This section illustrates that such mechanisms could be adapted to establish 'the truth' of the conflict at the community level - involving victims and low level former LRA. However, it is limited in terms of holding higher level perpetrators - LRA or Government, directly accountable. Here a national process is required.

Ordinary Crimes

Truth-telling is a critical part of formal and informal mechanisms designed to resolve conflicts amongst civilians in Acholi-land. Local Council Courts (LCC) operates at the village (Local Council I), parish (Local Council II), and sub-county (Local Council III) levels. Under the *Local Council Court Bill*,⁵⁹ LCC deal with civil matters such as petty theft, debts, assault without injury, trespassing, some crimes committed under the *Children's Act* (1996), and all cases related to customary law such as land, marriage and divorce, or the parentage of children. The jurisdiction of LCs varies depending on the gravity of the offences committed. Cases outside of the LC jurisdiction are forwarded to the Magistrate or High Court, Court of Appeal or Supreme Court.

Local Councillors (LCs) often refer cases to traditional leaders and elders, such as cases involving petty theft, instances of *kiiir* (breaking cultural norms), incest, domestic violence, land disputes and, in some cases, murder - if it is believed that it can be resolved locally. LCs may work alongside traditional leaders and elders to ensure both the formal and cultural laws are upheld. "We

on many occasions work with elders especially on issues that involve abomination (*kiir*). The Acholi people say that 'kiir *ludito aye tyeko*' meaning that if an issue is an abomination, it's the elders who can solve,"⁶⁰ explained one LC.



Dialogue led by cultural leader and elders in Kalongo, similar to an open court process, photo by Colin O'Conner, 2006.

Both LCs and traditional leaders hold open courts, whereby the perpetrator and victim are consulted by a group of elders to investigate the facts surrounding the offence. Witnesses on behalf of the victim and perpetrator provide statements in order to verify facts. '*Wang mapol loyo ajwaka*' - 'as many eyes are better than that of a witchdoctor' - meaning open discussions with witnesses, perpetrator and victim is better than consulting the *ajwaka* (witchdoctor) because it is participative.

Hard evidence is preferred, but in cases that cannot be resolved, witchdoctors have been consulted⁶¹ or, in the case of minor crimes, social pressure is placed on the perpetrator to admit his wrong-doing (although not in the case of killing and *mato oput*; evidence is never extracted under duress). Decisions on cases are taken by an executive, with a judgement passed by the LC Chairman that seeks to promote the restoration of relationships. "The Chairman explains to you where you went wrong and cautions you never to repeat such a thing. It is done like this because he is not there to disorganize people but to unite his people and ensure they live in harmony."⁶²

Although the Ugandan law is clear about the jurisdiction applying to capital offences, traditional leaders have sometimes been involved in cases related to murder and that involve payment of death compensation (*culu*

kwor).⁶³ That is, cases may be taken to them where resolution through the courts is not possible, or where resolution outside the courts is preferred by the parties involved.⁶⁴ *Mato oput* (resolution of murder case) involves truth-telling, acknowledgement, compensation and reconciliation processes. Elders, on the other hand, are involved largely in resolving cases related to land or to *kiir*, whereby a similar process of establishing facts is pursued. Elders play a particularly important role as mediators, separating clans and 'cooling tensions' to prevent revenge, and to ensure that a process of dialogue will follow. Every one mediator has a council or executive of other elders that assists him in deciding appropriate courses of action.

Religious leaders also reported that the Acholi Religious Leaders Peace Initiative (ARLPI) sometimes becomes involved in community dispute resolution, its members acting as mediators between conflicting parties where they are called to sit down and discuss until agreements can be reached. Generally these crimes are not related to the conflict, but ones that could have gone through local courts or to open courts of elders.

Conflict-related crimes

LCs, traditional leaders and religious leaders play different but complementary roles when it comes to addressing the needs of victims of conflict-related crimes. LC's reported they sometimes keep a record of crimes (such as abductions or murders) for advocacy purposes (to NGOs). "If someone's child has been abducted, we record the date, month, year and the place where they were abducted from. If after abduction, they were killed, we also record that he or she died. If we are not sure we indicate that unknown,"⁶⁵ one LC told us. They also receive a person who has returned from the LRA and facilitate them to the UPDF. In some regions such as Atiak, LCs have played a positive role in encouraging communities to embrace the spirit of forgiveness, although none reported becoming involved in mediation of disputes between former captives or LRA rebels, and the clan of victims.

Traditional leaders and elders are more likely to be approached by parents and relatives of former LRA and captives, or by former LRA and captives themselves, so that they might

confess war-related crimes and seek advice and guidance. All reported confessions are taken within the privacy of the clan and where means are available, followed by cleansing ceremonies to relieve the person of *cen*. Communal cultural cleansing ceremonies such as the *nyono tong gweno* ('stepping on the egg,') have been employed to encourage reconciliation in communities, and returnees are encouraged to 'confess' to their elders and seek individual cleansings.⁶⁶

Religious leaders also receive former captives or LRA who wish to confess their crimes and seek guidance on moving forward. Prayer ceremonies might be arranged for the person, and all are couched to embrace the future and to forget the past, reminding those who had been abducted that crimes committed were not of their choice.

In summary, local mechanisms for resolving conflicts involve an element of truth-telling and due process, whereby the accused is entitled to a defence, witnesses are called forward and facts are established through consideration of the evidence. The procedure is done by committee but with the involvement of the community, in the public sphere.

When it comes to war crimes, however, elders and religious leaders prefer to deal with confession of crimes in private, in order to reduce possibilities of retaliation but also in keeping with the current policy of the Amnesty.

Women are largely excluded from these processes:

I think according to Acholi culture, the Rwodi are the most important when it comes to *mato oput*. Me as a woman I don't know anything about this *mato oput*. All I know is that *mato oput* brings about '*ribbo cing*' [joining hands together in harmony].⁶⁷

Given the large amount of gender-based violence that has occurred over the last 21 years, including rape and forced marriage, how would these local mechanisms address the needs of Acholi women and girls?

Moreover, it is not possible in current circumstances to apply *mato oput* or other local mechanisms directly to those who committed gross atrocities and their victims. As pointed out in *Roco Wat I Acoli*, too many atrocities have been committed, often by

unknown assailants against unknown victims. Compensation would be impossible to pay from one family to the next, as the scale of crimes is so high. In the case of *mato oput*, many elders insist that the killer and the victim must have known one another for *mato oput* to occur. One said, "I have heard a lot of talk on the radio that *mato oput* should be used to end the war. With whom will these people *mato oput*? If I kill your relative, I will *mato oput* with you. If you kill my brother you pay compensation first and then we *mato oput*... The rebels cannot *mato oput*."⁶⁸

Much criticism has arisen against local justice mechanisms by human rights scholars who are sceptical of its ability to hold those responsible, accountable. In fact, Acholi methods of truth-telling do not differ much from international judicial principles, and they merit further exploration by the international legal community. In light of this, while local mechanisms are well designed to facilitate a process of community level truth-telling, a number of steps would need to be taken, as elaborated below.

Considerations for Adapting Local Mechanisms

The following section puts forth a series of problems, concerns, ideas and possibilities raised by respondents during the course of the research which can importantly inform the development of a community-level truth-telling process, and which a wider consultative process would need to address.

a. Who is trusted at the local level?

When asked who they trust to be in charge of a truth-telling mechanism at the local level, the majority of respondents identified religious, traditional, and local civil society leaders (NGOs) "because they are neutral. They are not the Government and not the rebels."⁶⁹ Others identified local leaders or elected members of parliament because they were familiar with and trusted to represent their views. This emphasizes the importance of local ownership of the whole process.⁷⁰

The role of commissioners could be to ensure the truth was recorded and final recommendations advanced. In keeping with Acholi traditions, their role would also, presumably, be one of mediation and to calm

tensions that might arise during the process. Here, a number of respondents argued the Council of Elders was best positioned to mediate between former LRA abductees.

Recommendation: Locally-Owned Process

Parties to the Juba talks should take into serious account the stated preferences and confidences of war-affected people.

Further consultations with the wider Ugandan public on the composition of leadership in community truth-telling initiatives should occur.

b. Public and Private: Locations for Truth-Telling

According to the UNOHCHR, a truth and reconciliation commissions'

...primary purpose focus is on truth telling or public acknowledgement of the harms committed, public discourse that leads to collective memory, and the creation of an historical record. To be most effective, a truth commission should aim not only at establishing the truth but also at exploring how and why atrocities happened. Therefore, it is equally important that perpetrators are heard as their accounts serve the purpose of providing an irrefutable public acknowledgement of what happened.⁷¹

Acholi cultural practices likewise emphasize the need for getting to the root causes of conflict through dialogue in order to resolve it. This is generally done in public forums.⁷² "To me, I think that people should be gathered in one place and the perpetrators are asked to tell us what they did, why they did it and the way it has hurt people,"⁷³ one Acholi man said.

Respondents were asked to reflect on the relative merits of requiring victims and perpetrators to provide testimony in public (before the community) or in private (in the confidence of a trusted person such as an elder, chief, religious leader, LC or NGO). The quantitative survey revealed that respondents were split in terms of opinion. More than half of respondents (61 percent) believed the process of truth-telling should take place in public spaces, in keeping with Acholi traditional practices of holding open meetings to discuss and resolve conflicts.

There are several advantages in doing this publicly: for example, if truth was told in public, witnesses could corroborate or correct testimony provided by another person, and a more accurate truth could be arrived at: "The truth should be spoken publicly and not privately so that it allows for the various versions that the people would come out with to be compared [and so] we could establish the facts of what happened,"⁷⁴ one elder thought. On a significant note, several returnees were among those who agreed that the ceremony be public. In over ten focus group discussions in Koch Goma, Atiak and Corner Kilak, most of the returnees were in favour of public truth-telling. This finding is also supported by the results of the quantitative survey, where more than half of the formerly abducted people (55.9%) believed the process of truth telling should take place in public.

On the other hand, 39 percent of respondents in the quantitative survey believed a private process would be preferable, largely because they thought a public process would deter perpetrators from coming forward; and where perpetrators already prefer to deal with issues privately for fear of retaliation. A formerly abducted person in Atiak emphasized the importance of maintaining privacy in the truth-telling process, as stated below.

I think if they tell the truth in public it will be disastrous because they will not tell the whole truth and they will not be sincere enough. If possible, they should tell the truth in a place which is not so open because in most cases if you stand before a lot of people then you can even lose the courage to speak. You will also have been in the bush and will not be knowing what the home people will do to you when you speak out. You will think they have bad plans for you. So they will not speak. The best option is for them to speak through cultural leaders and elders. They should tell what they want to say to these elders.⁷⁵

This statement highlights the need for confidence building and guarantee of due process and security for all involved.

However, a compromise between private and public could be achievable. One respondent suggested:

I think if there is a truth process it should be in the open... But if there is some sensitive information that the leaders feel cannot be released to the public, then they should deal

with it in secret. But I continue to emphasize the fact that something done in secret will never help the people. Telling the truth is good. It also helps to give teaching to the public.⁷⁶

Another woman explained:

A truth process should start mediating truth-telling and forgiveness in private between the perpetrator and the victim. The perpetrators should be asked if they are ready to come out and confess and ask for forgiveness from the people they wronged. If they accept then they should be made to go and ask for forgiveness from these people. Then the victims will grant them forgiveness. If there is a need to bring the matter before the public, then it should be when the offender has refused to confess and ask for forgiveness. But if he is willing to confess to the victim he wronged, then it should be in private and few people should be involved.⁷⁷

It is clear from these responses that while there is significant opposition to a public process, at the same time those opposed often suggest the possibility of a public-private hybrid. This reflects that respondents' aversions towards telling the truth in public have less to do with outright disdain for public confession and acknowledgement than they have *fears* of the consequences of public truth-telling:

I feel that it is better if the truth is told in public because each one can tell us what they saw with their own eyes before everyone. But also on the other hand, it can be told privately if one fears to talk about what the soldiers and the Government did because they can follow you and kill you since they own guns. After privately hearing what everyone has to say, it can be integrated into one story and told in public as the community's general view or one voice.⁷⁸



Memorial Stone in Atiak, photo by JRP, 2007.

Indeed, the conflict is not yet over in Acholi-land; any justice process in the North must never take for granted that a lasting peace has not been realised. While the conflict has disrupted the social order and virtually shattered the most essential long-standing moral structures, even those former LRA rebels respectfully suggest that elders act as intermediaries between public and private truth-telling.

The design of a local mechanism would have to take into consideration these preferences. It could, for instance, take a phased approach, seeking to gather testimonies privately at first, to build confidence in the process to then lead to public sessions that end with a reconciliation ceremony.

Recommendation: Hybrid Public-Private Process

The design of a community-level truth-telling process should balance the desire for public truth-telling with the fears of its consequences.

Elders and other trusted local leaders should play a central role in building the confidences of those first testifying in private, with the aim of eventual public reconciliation.

c. Voluntary Truth-Telling

Existing local mechanisms for conflict resolution rely on the victim or perpetrator to come forward before initiating a process. Respondents generally thought that forcing a person to participate in a truth process would lead to the telling of falsehoods. One youth leader explained, "People should not be forced because they will say something just for the sake of saying it and pushing the process to continue."⁷⁹ The vast majority of respondents (96%) believe that no one should be forced to participate in a truth process.

Culturally, it is regarded as inappropriate to force a perpetrator to confess a crime. Rather, respondents emphasized the importance of allowing a perpetrator to take the time to volunteer to talk about his or her wrong-doing. Elders have a particularly important role in 'gently' persuading perpetrators that it is in their best interest to discuss the truth. It was argued by elders that forcing one to confess results in false truths and insincerity, and distorts the

process of reconciliation. A significant number of respondents in qualitative interviews also argued that the phenomenon of *cen* compels most perpetrators to confess to a crime in order to avoid or stop sickness and death that result because of *cen*. "When the LRA come home...[they] will be compelled to come out one by one. It could start with a sickness, and then offenders will confess to the relatives who will then bring the case to us,"⁸⁰ explained a member of Ker Kwaro Acholi. As much as most elders adamantly stuck to their arguments that *cen* would compel the offenders to come out and confess, a few expressed doubts as to whether *cen* was still active.

Currently, there is nothing to compel voluntary truth-telling because amnesty has been given. One means of compelling perpetrators to participate in truth-telling is by placing a condition on amnesty. However, the current Amnesty Act does not contain such a provision, and thus would have to be amended, which may prove extremely problematic insofar as those who have already accepted the Amnesty are concerned.

Hayner argues that the South African Amnesty represents one of the only models of 'amnesty in exchange for truth,' and such a model can only work under exceptional circumstances. This would require a situation where a serious threat of prosecution exists (that is, a perpetrator will be unlikely to testify if he or she does not believe the threat of prosecution is real). Considering the ICC indictments of the top LRA commanders and the consequent deleterious effect on coaxing the rebels to disarm, this merits further consideration and investigation.

Recommendation: Voluntary Truth-Telling

Truth-telling should be a voluntary process in order to satisfy cultural norms and ensure genuine community reconciliation.

d. Ceremonies and rituals

Traditional leaders and elders strongly emphasized the need for additional rituals and ceremonies even after the truth has already been told. They argued that this was needed for the cleansing of homes that experienced a death. To most of them, a truth-telling commission and traditional ceremonies and rituals are mutually dependant:

Cultural rituals can come after the truth commission has done its work. That will also depend on the participants. If the participants feel they have gotten enough satisfaction out of truth telling, then that is good for them. However, if anyone feels that they still require some rituals, then they should come to cultural leaders so that they can be helped. There are cultural rituals that need to be performed. If a person is haunted by the spirit of a dead person for instance, they should come out and be helped.⁸¹

Elders emphasized the need for rituals such as the cleansing of areas (for places like Atiak and Koch Goma, where people were massacred in large numbers and the bones of people still lie at large), the cleansing of individuals who killed during the conflict, and welcome home ceremonies (*nyono tongweno*, which have already been used in the re-integration of returnees. In cases where clans of the victim and perpetrator can be identified, private arrangements could be made between clan elders to perform these rituals.

Even in instances where the perpetrator could not identify his victims, elders still stressed a need for rituals.

When these rebels have returned, I as an elder, in line with customary laws, will advocate that as they go home, they should begin by stepping on an egg. When they have stepped on the egg then a goat must be slaughtered and used in a ceremony...After this ritual is carried out then he will no longer be troubled by the spirit.⁸²

The same elder went on to explain:

If you kill a stranger in secret, or a wild animal in secret, then *tim merok* must be performed for you...The killings the returnees have committed will be taken as *merok*. They must have ceremonies above performed for them. If not then the spirits of the dead people will haunt them.⁸³

Respondents often identified the Government as bearing the primary economic burden of ceremonies and rituals. A 2006 study by CSCOPNU found that 70% of northern Ugandans have no access to monetary income, while 90% live in absolute poverty.⁸⁴ The inability of persons to access the necessary materials for rituals prevents the restoration of Acholi social and spiritual worlds. Reconciliation in Acholi-land cannot occur in the face of absolute poverty. Any

formation of a truth-telling body would have to take this information into account.

Recommendation: Public Funds and Support for Ceremonies and Rituals

The Government of Uganda should provide monetary and moral support for reconciliation through traditional ceremonies, rituals, and memorials.

Any truth-telling mechanism should contain explicit and significant plans to include traditional ceremonies and rituals in the reconciliation process.

e. Identification of perpetrators, intention and responsibility

How should a truth-telling mechanism differentiate its participants? What would it make of those perpetrators who chose to fight, versus those who were forced? How would *culu kwor* and *mato oput* apply to willing commanders, passive bystanders and war-profiteers? These are several of the challenges in identifying perpetrators at the community-level.

First, the identities of UPDF soldiers who carried out crimes are rarely known unless they came directly from the community. The LRA are equally difficult to identify, as commanders had the practice of sending abducted youth to new regions unfamiliar to them in order to lessen their chances of escape. In many cases, LRA rebels who have returned home do not know the names of people they killed, and so even if they wished to reconcile with the clan of that person, it becomes next to impossible to do so using local justice mechanisms.

Even more challenging is the fact that a large percentage of LRA soldiers and even commanders were abducted youth, forced to fight against their will. Even LRA rebels who gave orders and were active or enthusiastic killers were sometimes abducted youth. Although civilian respondents differentiate those who joined the LRA voluntarily from foot soldiers, there is still the tendency of the civilian population to perceive former LRA rebels - abducted or not - as a homogenous group guilty of committing atrocities against them.⁸⁵

In this instance, there is some evidence from previous truth commissions to suggest that a

society might benefit more from non-criminal judicial methods when the lines between victims and perpetrators, collaborators and passive witnesses, profiteers and pragmatists are shady and indefinable. As Roht-Arriaza argues in her study of several truth commissions:

Non-judicial methods were better at dealing with the many shades of gray that characterize most conflicts. Trials divided the universe into a small group of guilty parties and an innocent majority, which was thereby cleansed of wrongdoing.⁸⁶

Members of the high command, who willingly joined the rebellion, may be more clearly identified as responsible, yet it is unlikely they will return to any of the communities they have committed atrocities against: most who have returned are currently enjoying government packages and living in town centres protected by the military; those remaining in the bush seek packages that will provide them a standard of living far above the average person in the North or more likely, they will never return to the North at all.

There is a question of collaboration - whether civilians collaborated with the LRA voluntarily or were forced. Others were threatened to work against innocent civilians in their community by the UPDF:

I personally have been forced by one of the army of the UPDF top commander Major 'S' to bring four boys from Alokolum Oyam, the children of Muzee 'O'...Major 'S' told me that if I don't bring those four mentioned, then I must make sure my face is not seen in this country-Uganda [again]. Just to protect my life, because it wasn't my intention...I went and brought one boy among the four wanted. [The other] three ran away. The one I brought was immediately tied with hand behind [his back] and beaten to death by the NRA. I always ask God and the family of the deceased to forgive me because it wasn't my interest. This is the truth I need to speak it out in case of anything, I am ready to stand as a witness.⁸⁷

Which collaborators, under what circumstances, should be viewed as perpetrators?

Government, UPDF and Local Defence Units (LDUs) have also been accused by civilians of committing atrocities⁸⁸ under high command (such as accusations of forced displacement or the killing of civilians), and individuals in

the military have been extended impunity after isolated incidents of human rights abuses (including serious crimes such as rape or murder) have occurred. In some cases, current UPDF soldiers were forcibly recruited from their communities.⁸⁹ In many cases, individuals who committed crimes in a camp were from another region of the North or from elsewhere in Uganda, and once they were transferred to a new detach, it became impossible for victims to identify who they were.

For a truth-telling body to be meaningful and effective, it would therefore be important to distinguish those in high command responsible for crimes from those who were originally forced to commit atrocities and may or may not have continued willingly. On the same level, it would be imperative that any mechanism delineate categories of crimes and assign appropriate jurisdictions to each of them. This would both satisfy the international legal community in its desires for specific crime accountabilities, as well as ensure that the truth-telling process remains meaningful and systematic.

Recommendation: Systematic Treatment of Crimes with Focus on Reconciliation

A truth-telling process should be systematic in terms of crime identification, considering victims' needs while remaining sensitive to the public's need for peace, justice and security.

Given the difficulties of separating victims from perpetrators, the process should focus its efforts on determining the record of true events instead of blame at the community level.

f. Determining the Mandate of Truth-Telling

According to the respondents, the following areas can be identified as important objectives of a local truth-telling mechanism:

- To document and record human rights violations and war crimes from 1986 to the present day in northern Uganda, including violations by the LRA and the Government of Uganda, including abduction, massacres, murder, manslaughter, mutilation, forced recruitment, detention and torture, rape

and sexual based violence, forced displacement, looting and property loss;

- To establish a record of motivations behind atrocities by all parties;
- To promote reconciliation within communities between survivors, victims and perpetrators;
- To promote the reintegration of former combatants;
- To develop a set of recommendations to promote national unity in Uganda, reparations such as material compensation and the construction of memorials.

Further consultations must be held in order to ensure that community-level truth-telling is accountable to the needs and wishes of the war-affected populace of Acholi-land.

Recommendation: Clear Mandate
A local consultative process should determine the full extent of the truth-telling mandate.

CONCLUSIONS / NEXT STEPS

In her analysis of the truth commission in Sierra Leone, Rosalind Shaw poses the question: "How effective are truth and reconciliation commissions? How can they build on grassroots practices of reconciliation, reintegration, and healing to develop a new generation of commissions that are more locally effective in dealing with the aftermath of conflicts?"⁹⁰ She goes on to note that where a truth commission or TRC is initiated, it will be more effective if it builds upon established practices of healing and social coexistence. If such processes are ignored, any form of social recovery may be jeopardized.

In Uganda, civil society is already abreast the 'next generation' of truth-telling. Debate has already begun about the relevance of local mechanisms, culture and traditions to promoting truth and healing at the community level.

This report has come to a number of conclusions that help shed light into this debate. In the region of Acholi-land, truth telling is viewed as a critical step in the

process of reconciliation, and is well practiced within existing local mechanisms for dispute resolution. Importantly, the overwhelming majority of the population surveyed desired to know the 'truth' about what happened in the conflict in forums that mimic current mechanisms, such as public meetings or courts where all could participate. However, concerns for upholding the rights of victims and perpetrators and their safety are important to recognize. Finally, respondents were able to identify the reasons why such a process was required at the community level, and to articulate the beginnings of mandate for a commission.

However, we recognize that a community-level approach to truth and reconciliation is limited by certain factors, such as the imperatives of peace, the on-going peace process, the role of girls and women in traditional justice mechanisms, lack of material wealth, the value attached to the Amnesty and a lack of political will. It is not likely that local leaders will have the political clout to force those most responsible to participate in a community truth process, nor is it entirely clear if this would be the best forum for such a process. Difficult questions will continue to arise, such as how to involve women in a male dominated public sphere; how to differentiate perpetrators from victims; and how to uphold due process and the rights of all involved. Yet these questions are not insurmountable.

We recognize that a community-level approach may help Acholi to live together again socially. However, this is not the only need of northern Ugandans. For instance, a truth commission should consider including in its paradigm the competing needs of economic development alongside psycho-social counselling. This is especially true for the case of northern Uganda, where economic marginalization is clearly a part of the conflict. Additionally, truth-seeking alone, without a development agenda as an alternative for enhancing both the material condition of victims and perpetrators, does not adequately work against the possibility of violence relapse. Along this line, the initiation of economic development would be seen as justice and one that is accessible at least to all victims. Furthermore, it would be regarded as a fundamental break with the past, one which is measurably tangible. All victims consulted in this report voiced their concerns over the loss of property, lives, pride and dignity. In Acholi culture, as is in

others across the country, this can only be restored by regaining what was lost. In the words of one elder, "Truth in itself is revealing, but compensation heals and restores relationships."⁹¹ Any truth commission must ensure that it manages the expectations of victims, and addresses current fears. It would be impossible to extend compensation to all victims, but it might be possible to administer reparations that promote structural economic development; or compensation with symbolic value, such as the construction of community centres, memorials, schools and hospitals; or compensation that facilitates resettlement, the treatment of persons with disabilities and HIV. Other possible options could include the creation of documentation and memory centres, where names of the dead could be recorded, persons buried, prayers and rituals conducted and children could come to learn from history.

There are still outstanding regional and national issues that must be addressed. South Sudan and Eastern Uganda (and presently the DRC) are sites where the LRA perpetrated atrocities and where Acholi children disappeared. Inter-communal reconciliation is needed, and the truth is likely something that knows no geographic boundaries in this respect. Furthermore, it is likely that other regions affected by gross atrocities of the past, such as in Luwero, will no doubt request their own form of community, regional and national truth healing process.

Finally, none of this report answers directly the question of accountability as defined by international norms and laws that do not tolerate impunity for war crimes, crimes against humanity and acts of genocide. While the UNOHCHR openly supports the idea of developing a series of complementary mechanisms in Uganda, it insists that either and/ or international and national punitive justice for those most responsible take place. We do not wish to side step this vexing issue, but rather reiterate that our study and work was limited to community-level truth-telling and reconciliation.

Next Steps

To this end, the report ends simply with the following set of recommendations for next steps:

1. The Juba Talks should recognize the need for a community, regional and national-level truth-telling process, with the goal of promoting reconciliation in Acholi-land, neighbouring communities (including South Sudan) and between South and North.
2. To move forward, parties to the talks should agree to hold wider consultations with the local populace in northern Uganda and other war-affected regions to make certain that a community and / or national truth-telling is what is desired by everyone.
3. The consultative process should be headed by a neutral group of experts that should develop recommendations on the following areas with respect to developing a community-level truth-telling and reconciliation process, some of which were highlighted in the report:
 - a) Timing and timeframe (including identification of phases for rolling it out);
 - b) Composition of local commissions;
 - c) Mandate, including issues to be covered by theme;
 - d) Appropriate forums or mechanisms to facilitate into the process;
 - e) Address the question of who should participate, and the nature of their participation (voluntary or forced / public or private);
 - f) How to promote gender equality and a rights-based approach (due process);
 - g) Security and protection of victims;
 - h) Appropriate cultural or religious ceremonies to promote reconciliation;
 - i) Funding structures and sources;
 - j) How to ensure political will exists for implementation.
4. A consultative process should also take place in other communities affected by conflict and gross atrocities of the past, with similar objectives and recognizing the specific contextual, historic and cultural differences of each.
5. A national consultation should take place to explore how regional and national unity building might benefit from and involve local justice processes. This consultation should develop a set of recommendations to promote national unity in Uganda through reparations such as material

compensation and the construction of memorials.

6. Consultations should be non-discriminatory, involving all parties to the conflict, as well as civilian men, women, youth and the elderly.

ENDNOTES

¹ The 2004 UN Secretary General's Report, 'The Rule of Law and Transitional Justice in conflict and Post-conflict Societies,' (S/2004/616).

² See RLP, Makerere University, Faculty of Law. 'Beyond Juba: Building Consensus on a Sustainable Peace Process for Uganda' 1-3 December, Kampala; and, Justice and Reconciliation Project, 'Accountability, Reconciliation and the Juba Peace Talks: Beyond the Impasse,' 15 October 2006 - both papers advance recommendations for a national truth and reconciliation process. Also conference reports and proceedings from ITCJ, Liu Institute for Global Issues and Gulu District NGO Forum, 'Workshop on Transitional Justice and its relevance to Northern Uganda,' 17-18 March 2005.

³ In a study of the Amnesty law, the Refugee Law Project recognized the limitations of the Amnesty - while popular - did not incorporate a process of truth-telling and as a result, has limited role in promoting longer-term reconciliation. Lucy Hovil and Zachary Lomo, 'Whose Justice? Perceptions of Uganda's Amnesty Act 2000: The Potential for Conflict Resolution and Long Term Reconciliation,' *Refugee Law Project*, Working Paper 15, February 2005.

⁴ RLP, HURIPPEC, 'To Look Forward We Must First Look Back,' Press Release, ND 2006, Kampala, p.3.

⁵ For example: 1) the Coalition of Organizations and Institutions working towards sustainable Reconciliation in Uganda (CORU), active since April 2006, has drafted legislation for National Reconciliation which was endorsed by 150 participants at a workshop in February 2007 and calls for a regional approach. 2) The Northern Ugandan Peace Initiative calls itself a Portal for Reconciliation in Uganda (see <http://www.nupi.or.ug/>), and also highlights local and regional mechanisms; 3) Civil Society for Peace in Northern Uganda (CSOPNU) - a coalition of 50 national and international organizations issued a study on national reconciliation and is an active voice in reconciliation debates; and, 4) the Historical Commission on Memory and Reconciliation has held local level consultations in Luwero and in northern Uganda.

⁶ UNOHCHR, 'Options for Accountability and Reconciliation in Uganda,' February 2007.

⁷ See for example, Human Rights Watch. *Benchmarks for Assessing Possible National Alternatives to International Criminal Court Cases Against LRA Leaders* (New York: Human Rights Watch, May 2007),

<http://hrw.org/backgrounders/ij/icc0507/icc0507web.pdf> and Dolan, Chris. "Whatever happened to true justice?" *The Daily Monitor*. Kampala, 1 June 2007.

⁸ Human Rights Watch, *Uganda Campaign: What You Can Do*, available at: <http://hrw.org/campaigns/uganda/>

⁹ Human Rights Watch, 'Child Recruitment by Ugandan Forces,' in *Stolen Children: Abduction and Recruitment in Northern Uganda*, March 2003.

¹⁰ In conversation with Angelina Atyam, Co-Founder of the Concerned Parents Association, New York, January 2004.

¹¹ According to a random survey of over 2,500 persons in displaced persons camps by the International Center for Transitional Justice and the Human Rights Center, 40 percent of respondents had been abducted by the rebel LRA, 45 percent had witnessed the killing of a family member, and 23 percent had been physically mutilated at some point during the conflict. *Forgotten Voices: A Population-Based Survey on Attitudes about Peace and Justice in Northern Uganda*, 2005.

¹² Acholi-land consists of the districts of Gulu, Kitgum, Pader and Amuru.

¹³ In a report later denied as inaccurate by the Government of Uganda, it was estimated 1,000 persons a week were dying of conflict-related diseases and violence. Government of Uganda, Ministry of Health et al., *Health and Mortality Survey among internally displaced persons in Gulu, Kitgum and Pader Districts*. Northern Uganda, July 2005.

¹⁴ Human Rights Watch et al., *Abused and Abducted: Renewed Conflict in Northern Uganda*, 15 (12) A, July 2003.

¹⁵ Naomi Roht-Arriaza. 'The new landscape of transitional justice,' in *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice*, Naomi Roht-Arriaza and Javier Mariezcurrena, eds. Cambridge: Cambridge University Press, 2006. P. 4.

¹⁶ Patricia B. Hayner. 2006. 'Truth Commissions: A schematic overview', *International Review of the Red Cross*, Vol. 88 No. 862, June, p. 296.

¹⁷ A central recommendation of our flagship report, *Roco Wat I Acholi*, was to better inform civil society of the views and experiences of war-affected persons, and to amplify grass-roots voices in local and national debates. Responding to this need, the Justice and Reconciliation Project trained 'focal persons' in 6 IDP camps - Anaka and Amuru in Amuru, Kitgum Matidi and Padibe in Kitgum, and finally Kalongo and Pajule in Pader district. Focal persons live in the camps (and with the exception of 2 focal points, most have lived in the camp for since it was created) and conduct anthropological studies. They guide community in dialogues, focus group discussions, keep up-to-date daily diaries, carry out in-depth interviews as well as assist JRP research officers with quantitative surveys on justice and reconciliation issues.

¹⁸ In all three case studies, victims reported crimes by both UPDF and LRA soldiers, such as torture,

sexual violence and other brutal acts - including burying persons alive in pits and toilets by the Government army, or cooking people in pots by the LRA.

¹⁹ A *wang oo* is a central fireplace where extended families gather to hear stories and proverbs from elders and mego on a nightly basis. Liu Institute, Gulu District NGO Forum, Ker Kwaro Acholi, *Roco Wat I Acholi: Restoring Relationships in Acholi-land: Traditional Approaches to Justice and Reintegration*. 2005. P. 22

²⁰ Respondents were purposively selected based on the identification of victims, with the assistance of a JRP focal point or a local leader (elder, LC or religious person). This approach was then combined with a random technique of selection through cluster and snowballing methods. Qualitative data was then coded according to discernable patterns and themes, analyzed and cross-checked by research officers to determine an objective set of observations and conclusions.

²¹ Interview questions were written in English and translated into Acholi by independent professional translators. Each question was then translated back into English by translators to ensure linguistic consistency. Research officers were trained to use the same phrases and terms in the questions in order to maintain accuracy. The interviews were then given in Acholi, tape-recorded, and translated into English by the research officers.

²² In each selected household, only one individual above the age of 15 completed the survey. Researchers alternated between male and female respondents to ensure equal gender representation was made. When a household or individual was unable to participate, the researchers selected the next available household or individual. This random method resulted in the survey being taken by 12 self-identified former LRA commanders, 36 former UPDF and Local Defense Unit commanders, 229 formerly abducted persons, 155 parents of formerly abducted persons, and 711 community members. Data was then analyzed using SPSS.

²³ Proceedings of the consultation are available on (www.justiceandreconciliation.com) under the events page, in the report 'The Cooling of Hearts' Consultation Report, Gulu June 2007.

²⁴ Interview with elder, Corner Kilak camp, 12 March 2007.

²⁵ In one instance, a parish priest lamented the lack of writing materials to be able to record atrocities.

²⁶ However, there is need to hold wider consultations with the local populace in northern Uganda and other war-affected regions to make certain that a community and / or national truth-telling process is what is desired by everyone.

²⁷ Interview with *meگو*, Corner Kilak camp, 14 March 2007

²⁸ Interview with elder, Corner Kilak camp, 13 March 2007.

²⁹ Interview with young mother, Corner Kilak camp, 13 March 2007.

³⁰ Interview with male youth, Atiak IDP camp, 27 February 2007.

³¹ Focus group discussion with 10 male residents, Corner Kilak camp, 15 March 2007. Statement by an elder in response to question.

³² During peace talks, traditional and religious leaders went to Garamba. Many were approached by young LRA fighters who requested they take their names and photo to inform their families that they were still alive.

³³ Focus group discussion with mothers of missing children, Corner Kilak, 15 March 2007. Statement by a mother.

³⁴ Interview with *meگو*, Atiak camp, 27 February 2007.

³⁵ Statement of elder during a ceremony to call the spirit home, Pajule camp, 13 March, 2007

³⁶ Interview with female youth, Corner Kilak camp, 13 March 2007.

³⁷ Interview with male youth, Corner Kilak camp, 13 March 2007.

³⁸ Sverker Finnström, *Living with Bad Surroundings: War & Existential Uncertainty in Acholiland, Northern Uganda*. Uppsala: Uppsala University Press. 2003. Pp. 6-15.

³⁹ Alcinda Honwana. 'Negotiating Post-war Identities: Child Soldiers in Mozambique and Angola' article abridged from George Bond and Nigel Gibson, eds. *Contested Terrains and Constructed Categories*. Colorado: Westview Press, 2002. NP.

⁴⁰ Iraê Baptista Lundin. 'Mechanisms of Community Reception of Demobilized Soldiers in Mozambique,' *African Journal of Political Science*. 3 (1), 1998, 104-118.

⁴¹ *Ibid*.

⁴² In a recent statement by Civil Society for Peace in Northern Uganda (CSOPNU), it was reported that 70 percent of the population in northern Uganda have no access to monetary income and 95 percent live in absolute poverty ('Northern Conflict Taking a Heavy Toll, Say NGOs', *UN IRIN*, 16 February 2006).

⁴³ Interview with elder, Atiak camp, 27 February 2007

⁴⁴ Focus group discussion with 10 parents of missing children, Corner Kilak camp, 15 March 2007. Statement by elder.

⁴⁵ Interview with young male survivor, Atiak camp, 28 February 2007.

⁴⁶ Interview with *meگو* survivor, Atiak camp, 27 February 2007.

⁴⁷ Liu Institute, Gulu District NGO Forum, Ker Kwaro Acholi, *Roco Wat I Acoli: Restoring Relationships in Acholi-land: Traditional Approaches to Justice and Reintegration*. 2005.

⁴⁸ Interview with elder resident and traditional leader, Atiak camp, 26 February 2007.

⁴⁹ Interview with elder, Anaka camp, 15 January 2007.

⁵⁰ Interview with elder, Corner Kilak camp, 12 March 2007.

⁵¹ Interview with male youth, Corner Kilak camp, 13 March 2007.

⁵² See Human Rights Watch, *Uprooted and Forgotten: Impunity and Human Rights Abuses in Uganda*, 17 no.12(A) (September 2005); Amnesty International, *Breaking the circle: protecting human rights in the northern war zone*, 16 March 1999; Robert Gersony, *The Anguish of Northern Uganda: Results of a Field Based Assessment of the Civil Conflicts in Northern Uganda* (USAID, August 1997), 31-33.

⁵³ Name, date and place withheld for protection purposes.

⁵⁴ These cases were identified during the course of the research by respondents or JRP focal points, and verified by researchers who then identified and interviewed eye witnesses.

⁵⁵ Interview with elder and resident of Atiak camp, 26 February 2007.

⁵⁶ Interview with female survivor of the Atiak massacre, Atiak camp, 27 February 2007.

⁵⁷ Focus group discussion with 10 young mothers who returned from LRA captivity, Corner Kilak camp, 16 March 2007. Statement by a young mother.

⁵⁸ Patricia B. Hayner. 2006. 'Truth Commissions: A schematic overview', International Review of the Red Cross, Vol. 88 No. 862, June.

⁵⁹ Bill No. 23, to replace the Executive Committees (Judicial Powers) Act.

⁶⁰ Interview with elder, Koch Goma camp, 8 February 2007.

⁶¹ In one interview, the LC argued they took steps to avoid bias by consulting witchdoctors outside the community, and to consult up to 5 witchdoctors to ensure they had the correct result. Interview with local government official, Koch Goma camp, 8 February 2007.

⁶² *Ibid*.

⁶³ For a full explanation of traditional mechanisms for conflict resolution in communities, see CARITAS publication *Traditional Ways of Coping in Acholi - Cultural provisions for reconciliation and healing from war*, Intersoft Business Services Ltd Press, Kampala, 2006.

⁶⁴ Victims and perpetrators may prefer resolution through traditional means if they feel that formal trials unduly separate victims from perpetrators, do not involve the greater community, lack death compensation, or may lead to retaliation.

⁶⁵ Interview with elder, Atiak camp, 26 February 2007.

⁶⁶ Roco Wat I Acoli, 2005.

⁶⁷ Interview with *meگو*, Atiak camp, 27 February 2007.

⁶⁸ Interview with elder, Atiak camp, 26 February 2007.

⁶⁹ Interview with elder, Corner Kilak camp, 12 March 2007.

⁷⁰ No one identified the Amnesty Commission as a suitable body to assume the role of a truth-telling institution. Nor were commissioners named as persons who should be represented on such a commission. This may be so because few persons in grass-roots level communities know Amnesty commissioners face to face: their offices are in Kampala, Gulu town or Kitgum town.

⁷¹ UNHCHR, 'Options for Accountability and Reconciliation in Uganda', February 2007, p. 6.

⁷² Historically and today, elders in Acholiland examine root causes of death, illness, accident and any other threats to life such as crop failure, domestic or community conflict, arson, diseases or war, in order to determine the correct steps to take towards remedying the situation and returning to normalcy. The process of investigation typically involves consultation with other elders, witnesses and parties involved. Should this process fail to reveal root causes (for instance, should parties involved fail to admit a wrong doing in the case of accidental or purposeful death or injury, consultations with one or more witch doctor will typically follow. Various ritual ceremonies may also be involved, such as examining the entrails of a goat and contacting spirits of the dead or ancestors. In times of war, a returning soldier is encouraged to tell of any wrongful killings committed and to atone for his or her crimes by undergoing a cleansing ceremony.

⁷³ Focus group discussion with 10 male respondents, Corner Kilak camp, 15 March 2007. Statement by elder.

⁷⁴ Interview with elder, Corner Kilak camp, 14 March 2007.

⁷⁵ Interview with male youth, Atiak Camp, 27 February 2007.

⁷⁶ Interview with elder, Corner Kilak camp, 12 March 2007.

⁷⁷ Interview with *meگو*, Corner Kilak camp, 13 March 2007.

⁷⁸ Interview with *meگو*, Corner Kilak Camp, 13 March 2007.

⁷⁹ Interview with male youth, Corner Kilak camp, 13 March 2007.

⁸⁰ Interview with elder, Koch Goma camp, 8 February 2007.

⁸¹ Focus group discussion with 6 male elders of Ker Kwaro Acholi, Atiak Camp, 1 February 2007. Statement by elder.

⁸² Interview with elder, Atiak camp, 26 February 2007.

⁸³ Interview with elder, Atiak camp, 26 February 2007.

⁸⁴ 'Northern Conflict Taking a Heavy Toll, Say NGOs', *UN IRIN*, 16 February 2006)

⁸⁵ See JRP. 'Grass-roots Perspectives on Truth and Reconciliation: Report of a Focus Group Discussion with Young Men formerly in the LRA', 14 March 2007; Erin K. Baines, 'The Haunting of Alice: Local Mechanisms for Justice and Reconciliation in northern Uganda', *International Journal for Transitional Justice*. 1 (1), March 2007.

⁸⁶ Roht-Arriaza, *The new landscape of transitional justice*, 2006, p. 4

⁸⁷ Dialogue organized by JRP, Anaka camp, 23 January 2007. Statement by elder.

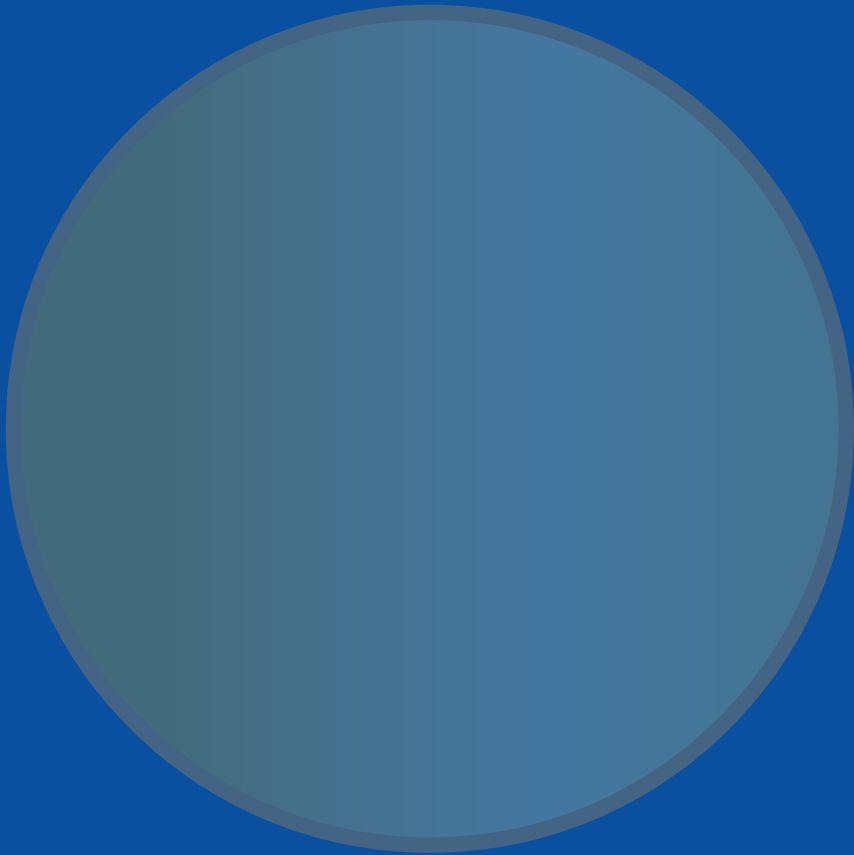
⁸⁸ Amnesty International. *Human rights violations by the National Resistance Army*, 3 December 1999; Chris Dolan. *What do you remember? A rough guide to war in northern Uganda*. ACORD, COPE Working Paper No. 33, April 2000, p. 8. Drawing on civilian memories of the early conflict, Dolan

reports high levels of violence against civilians, including looting of cattle and arson. However, he also finds evidence that it was not only the UPDF responsible for this violence, but also newly emerging rebel groups. See pages 9-13.

⁸⁹ Human Rights Watch, 'Child Recruitment by Ugandan Forces', in *Stolen Children: Abduction and Recruitment in Northern Uganda*, March 2003. JRP researchers have also encountered this phenomenon during the course of their research, although cannot confirm its scale or impact.

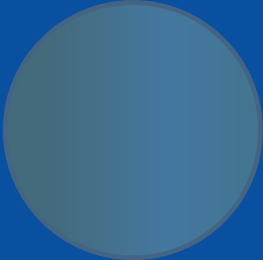
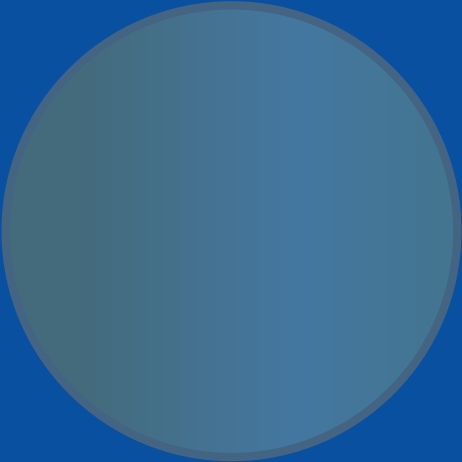
⁹⁰ Rosalind Shaw. "Rethinking Truth and Reconciliation Commissions: Lessons from Sierra Leone. USIP Special Report No. 130, February 2005, p. 1.

⁹¹ Interview with elder Atiak camp, by 26 February 2007.



The Cooling of Hearts

Community Truth-Telling in Acholi-land



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