Investigating War in Northern Uganda: Dilemmas for the International Criminal Court

By Katherine Southwick

The International Criminal Court’s investigation of the war in northern Uganda poses essential questions for international justice. This landmark case is among the first before the ICC, and it creates dilemmas that the Rome Statute—the document that constituted the ICC—cannot easily resolve. How well the ICC, especially the Office of the Prosecutor, manages these dilemmas will demonstrate how effective the young institution can be in response to large-scale atrocities.

Proposals for a permanent, international criminal court emerged shortly after the Nuremberg Trials following World War II. More than fifty years later, the idea was finally realized on July 17, 1998, when 120 countries signed the Rome Statute of the International Criminal Court. Soon after it was ratified by sixty countries, the Rome Statute entered into force on July 1, 2002. Under the statute, the ICC has jurisdiction to prosecute “the most serious crimes of concern to the international community as a whole,” such as genocide, crimes against humanity, and war crimes occurring on or after the statute’s entry into force. In December 2003, soon after the Office of the Prosecutor turned its attention to the Democratic Republic of the Congo,

Katherine Southwick is a student at Yale Law School.
Uganda became the first state to invoke Article 14 of the Rome Statute by voluntarily referring the situation of northern Uganda to the ICC. On July 29, 2004, the Office of the Prosecutor commenced investigations.

The ICC’s role in the case of northern Uganda has raised a number of serious concerns. First, the circumstances under which the case was referred by the government of Uganda raise questions of legal admissibility. Second, ICC investigation of atrocities amid ongoing conflict may actually obstruct peace efforts in the troubled region. Third, the ICC investigation is widely opposed by human rights and civil society organizations within Uganda that have been advocating peace and an end to atrocities for over a decade. Pursuing international justice in northern Uganda could thus threaten the ICC’s legitimacy and perceived utility. Deferring or dropping the investigation, however, might also undermine the ICC’s credibility as an instrument of ending impunity for violations of serious crimes. These dilemmas raise broader questions about the purpose of the ICC and for whom it is meant to work.

Setting Precedent

On the surface, the ICC’s involvement seems to be a welcome response to the civil war that has plagued northern Uganda for nineteen years. The conflict itself has been particularly brutal, with no shortage of appalling human rights abuses. Led by the messianic Joseph Kony, the Lord’s Resistance Army (LRA) grew out of rebel movements that sought to assure regional security and a political stake in the regime of President Yoweri Museveni, a southerner, who took power in 1986. Over time, the LRA espoused a cult-like ideology, which ostensibly sought to replace the government with a regime based on the Biblical Ten Commandments. In the early 1990s, the rebels began brutalizing the Acholi, the largest ethnic group in the north, whose declining support for the LRA was interpreted as government collaboration. Civilians were attacked as indirect assaults on the government. The LRA has since carried out large-scale looting and destruction of villages, mutilations, and massacres, resulting in the internal displacement of approximately 1.6 million people—90 percent of the region’s population.

Most notoriously, the LRA has abducted more than 20,000 children to serve as rebel fighters and sexual slaves. Around 90 percent of the
LRA is composed of abducted children, who are forced to commit atrocities against their communities and other abductees who attempt to escape. In the course of the war, tens of thousands have died.

ICC intervention seems like an appropriate international response to the crisis in Uganda. LRA atrocities have been universally condemned, and unequivocally satisfy the subject matter jurisdiction of the Rome Statute, in particular Articles 7 and 8 relating to crimes against humanity and war crimes. ICC involvement thus legitimizes international opprobrium towards the LRA and helps to mitigate concerns that not enough international attention has been directed toward what the UN has called one of the world’s “most forgotten” crises.4

Northern Uganda is a compelling case for other reasons. Unlike the current investigation in the Democratic Republic of the Congo, the ICC has adequate access and government assistance in Uganda. Without local support and a clear political agenda, the LRA inspires no sympathy, suggesting that prosecutions would not appear controversial. Focusing on the rebel leadership poses few moral dilemmas since subordinates are kept against their will. Peace initiatives in the past do not seem to have yielded tangible results, some argue, leaving few options other than the possibility of defeating the rebels militarily and capturing them if possible. Finally, being the first state party referral to the ICC creates a presumption in favor of accepting the case. ICC Prosecutor Luis Moreno Ocampo identified the referral as “a historic first” and “a great sign of trust and confidence in the court.”5 Yet as it sets precedent for the ICC in a number of areas, the case of northern Uganda requires careful scrutiny. Northern Uganda poses both practical and normative challenges for the ICC.

The Question of Admissibility

One of the main challenges posed by the northern Uganda case is whether it could be legally admitted for adjudication by the ICC.6 While referral by a state may trigger ICC jurisdiction (or at least initial consideration of a case) under Article 14 of the Rome Statute, the admissibility of a case is governed by Article 17, which states that “the Court shall determine that a case is inadmissible where...the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute.”7 The final clause of this provision articulates the Rome Statute’s principle of complementarity, whereby the ICC may
act to compensate for a state’s unwillingness or inability to prosecute. By making a referral, a state party conveys a clear willingness to prosecute. “Inability” exists where, “due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings.” Though perhaps unsettled, it seems reasonable to assume that while a state party referral may trigger ICC jurisdiction, the case is nonetheless inadmissible if the referring state is able to prosecute within its own borders.

ICC Prosecutor Ocampo has justified admitting the case on the grounds that the Ugandan government is unable to prosecute the LRA “because [the rebels] are in Sudan” and thus difficult to capture. This inability has nothing to do with the collapse or unavailability of the Ugandan judicial system as envisioned under Article 17, however. Uganda is unable to adjudicate the case because of the limited capabilities of its army, the tactical advantages of the insurgent group, and the complex role of Sudan, which has supported the LRA but permits the Ugandan army to cross its border to root out the rebels. Museveni’s statement that “if cases [involving Ugandan military personnel] are brought to our attention, we will try them ourselves,” implies that the Ugandan judiciary is functional [emphasis added]. Thus, with the Ugandan government both willing and able to conduct prosecutions, the ICC’s involvement appears to stretch, if not breach, the provisions of Article 17.

Even if complementarity merely relates to the ICC’s apprehension of a suspect when the state is unable to do so, the ICC prosecutor’s basis for admissibility is still problematic. The ICC investigation does not enhance the ability of the Ugandan army to apprehend LRA leaders. Ocampo claims that the ICC investigation has resulted in pledges of cooperation from the Sudanese government. This is speculative, however, given the other domestic and international pressures on Khartoum. Moreover, promises of assistance from the Sudanese government are difficult to monitor and enforce. While the ICC’s presence in the region can serve as a source of pressure on governments to cooperate with apprehending suspects, it is important not to overestimate the ICC’s capacity to influence these governments.

Where “inability” to prosecute may be attributed to factors other than a collapsed judicial system, the ICC should question whether a state party’s referral would entangle the ICC in political complexities it
should seek to avoid. In such cases, instigating an ICC investigation can enable states to shirk their broader responsibilities to resolve conflict for the sake of prosecuting a few individuals. Close examination of the political context surrounding President Museveni’s referral in December 2003 suggests that the ICC investigation is merely providing a cover for the Ugandan government to evade accountability for the humanitarian crisis unfolding under its watch.

After the government launched Operation Iron Fist in 2002, which increased military pressure on the LRA, the humanitarian situation in northern Uganda drastically deteriorated. LRA violence spread to other districts and the number of internally displaced persons swelled from 400,000 to 1.6 million. More children were abducted than ever before. Civil society groups intensified calls for peace negotiations and donors, particularly the Netherlands, the UK, and the EU, publicly urged a peaceful approach. Jan Egeland, UN undersecretary-general for humanitarian affairs, proclaimed northern Uganda “the most forgotten crisis in the world.” Instead of initiating peace negotiations with the rebels, or consulting with interested parties, Museveni referred the case to the ICC.

According to the Refugee Law Project, a Kampala-based nongovernmental organization, the ICC referral “shifted public and international discourse from the plight of the people affected by the war and the need to end it through peaceful means to discourses on justice and punishing perpetrators of crimes against humanity and war crimes.” International human rights groups, eager to see the ICC operational, welcomed the move. In addition, involving the ICC enabled Museveni to legitimize his personal opposition to an amnesty law passed by the Ugandan parliament in 2000 with overwhelming support from the Acholi community and civil society groups. The law granted immunity from prosecution to all rebels who surrender, including the leaders. It is unclear whether such a law should be construed as unwillingness to prosecute under the Rome Statute, especially since it was passed through an independent, democratic process. To deny the law’s validity would flout Ugandan democracy and politicize the ICC’s image in the country. By accepting the referral, the ICC appears to have played into inclinations within the Ugandan Government to pursue a predominantly punitive, military solution to the conflict in spite of unambiguous domestic and international support for peaceful approaches.
Criminal Investigations in Ongoing Conflict

Beyond legal questions of admissibility, there is a more pragmatic question: what are the costs of pursuing an investigation amid ongoing conflict? Such an inquiry must presume that “the most urgent goal is to end the war, either militarily or by negotiation,” with minimal harm to civilians.16 The ICC should therefore consider what effect the investigation will have on the prospects for peace.17

An ICC investigation functions as a form of pressure on the LRA, but the question is whether it reinforces or undermines the inducements of amnesty and negotiated settlement. According to Father Carlos Rodriguez of the Acholi Religious Leaders Peace Initiative (ARLPI), “Obviously, nobody can convince a rebel leader to come to the negotiating table and at the same time tell him that when the war ends he will be brought to trial.”18 An uncompromising focus on bringing LRA leaders to justice would condemn the war in northern Uganda to a strategy of military attrition until the rebel commanders are captured or killed.

Years of domestic and international support for peace negotiations reflect the belief that the costs of a military strategy against the LRA are unconscionably high. Ugandan government offensives against the LRA precipitate horrific rebel attacks against civilians, including child abductions, and perpetuate life in the squalid displacement camps. Military “successes” against the LRA necessitate killing traumatized child captives. The army has also trained local militia in neighboring districts, raising serious concerns about the influx of small arms into the region. In addition, army abuses against the population, including torture, rape, and murder, are well documented. International Crisis Group (ICG), a Brussels-based organization specializing in conflict analysis, explains that a wholly military solution

would result in the deaths of hundreds, possibly thousands, more abducted child soldiers and LRA dependents; would be much more expensive; and would make reconciliation much more difficult (both among the Acholi and the with the government). Even if they posed no strategic threat to the government, those remaining in the bush—who would increasingly be the hard core commanders—would continue to inflict serious harm on civilians.
 prevent normalization and reinforce regional alien-
ation.\textsuperscript{19}

Even with its numbers substantially reduced, nineteen years of fighting have revealed the tenacity of the LRA.\textsuperscript{20} Since the mid-1990s, the rebels have maintained bases in southern Sudan and received military support from the Sudanese government. Sudan’s assistance to the LRA was in part a response to the Ugandan government’s long-standing support of the Sudan People’s Liberation Movement (SPLM), a rebel group in southern Sudan that had fought the Sudanese government for twenty-one years. Since Khartoum and the SPLM reached a peace agreement in January 2005, Sudan has pledged to cease support for the LRA and continues to grant the Ugandan military access to LRA areas in southern Sudan. Such good news should be viewed with caution; similar pledges in the past have not been met and have not necessarily diminished LRA activity. After so many years in the bush, the LRA is adept at cost-effective tactics to spread insecurity over a wide area, navigating difficult terrain, splitting into smaller and more mobile groups, and using machetes and clubs rather than guns to kill.\textsuperscript{21} Moreover, experts note that “[t]he LRA and its predecessors conducted military activities from 1986 until 1994 without Sudanese military aid.”\textsuperscript{22}

Since a purely military solution could stretch indefinitely, there is a crucial need to provide exit options for the rebels. The past few months have seen the painstaking development of a peace process mediated by Betty Bigombe, a World Bank consultant and former minister in the Ugandan government, and Ruhukana Rugunda, Uganda’s minister of internal affairs. ICG has identified this effort as “the best opportunity for peace that northern Uganda has had since the war began.”\textsuperscript{23} Though the LRA refused to sign the government’s proposed ceasefire agreement at the end of December 2004 and fighting broke out, the mediation team was able to “rebuild the eroded trust” and resume discussions with the LRA.\textsuperscript{24} Soon after, the ICC announced plans to issue arrest warrants for top LRA leaders. Peace groups quickly responded that such threats would “jeopardize the current peace discussions.”\textsuperscript{25} As the BBC reported, Bigombe warned that if the ICC issued arrest warrants, she would “call the whole peace process off.”\textsuperscript{26} Soon after the government’s unilateral ceasefire expired on February 22, 2005, LRA attacks, including mutilations, ensued. As of this writing, however, the peace team maintains communication with the LRA, including Joseph Kony.
While the ICC directly affects the climate for negotiations, its position toward the peace process is unclear. In response to unequivocal local opposition to the issuance of arrest warrants, ICC legal officer Darryl Robinson responded that, “These peace discussions have been going on for something like [eighteen] years now....What we can do is to isolate the very top leadership. We can encourage others to demobilize, and we can help galvanize international attention to focus on the situation.”27 Chief Prosecutor Ocampo’s actions are more responsive to the demand for peace, yet remain ambiguous. At the prosecutor’s invitation, Acholi leaders from northern Uganda visited the Hague in mid-March 2005, eliciting a statement from Ocampo that, “[I have] a clear policy to focus on those who bear the greatest responsibility for the atrocities committed. I also recognize the vital role to be played by national and local leaders to achieve peace, justice, and reconciliation.”28 In mid-April 2005, a second delegation of twenty Ugandan legislators and religious and cultural leaders came to the Hague to express “concern that the ICC investigation was hampering the ongoing negotiations between the government and the rebels and was counterproductive to peace in the north.”29 In a joint statement, “all parties agreed to continue to integrate the dialogue for peace, the ICC and traditional justice and reconciliation processes.”30 Ocampo reportedly stated to international media that, “If a solution to ending the violence was found, and continuing the investigation did not serve the interests of justice, then the ICC would stop the probe.”31 These statements imply some deference to peace efforts, although it is unclear how much.

The sequencing implied in this last statement—that a solution must be found before the investigation may be suspended—sends conflicting signals. It may take damaging pressure off the peace process, but the message of the Ugandan delegations, Betty Bigombe, and ICG is that the highly visible investigation impedes efforts to find a solution in the first place. Focusing on top leaders will deter them from surrendering and seeking amnesty, as several (including hundreds of former abductees) already have, undoing the great pains taken by Acholi communities to assure the LRA that the amnesty is credible. As one senior ex-LRA combatant explained, “This is the contradiction they are getting in the bush: if there is amnesty, why are those people investigating? This is the fear of those who are in the higher rank to come out of the bush....People think it is a trick.”32 Another senior ex-LRA combatant points out that the way in which the ICC undermines the amnesty could have implications for efforts to end
conflicts elsewhere because, “People will learn in future, LRA were given amnesty but also taken to court, and nobody will say that the amnesty is true.”

It is interesting to compare the approach of the Office of the Prosecutor to Uganda with its investigation in the Democratic Republic of the Congo, where the prosecutor has delayed some cases so that “the timing of any announcement does not derail the current fragile stability in the region and...lead to further killings. As a permanent court, the ICC can work on a situation as long as needed.” Why does the Office of the Prosecutor not wait to allow peace initiatives to play out in Uganda? One significant difference could relate to practical access and government support to carry out the probe on the ground. If a peace agreement appears within reach, the Ugandan government’s support for the investigation is likely to diminish.

In short, in ongoing conflict the moral duty to end atrocities necessitates a dispassionate, pragmatic analysis of cause and effect. Clearly, the LRA leadership is responsible for horrendous atrocities in northern Uganda. But any strategy that undermines amnesty and negotiations—such as public ICC announcements against the LRA and the issuance of arrest warrants while talks are in progress—unconscionably condemns northern Ugandans to further suffering.

Consistent with a carrot and stick approach, however, the ICC investigation may constitute a constructive form of pressure, making the exit options of amnesty and negotiations more appealing. To do this, the ICC should reduce its presence while negotiations are ongoing and clarify that it will not prosecute top leaders who seek amnesty and undergo traditional justice processes prior to capture. Echoing the truth-for-amnesty approach employed by South Africa’s Truth and Reconciliation Commission in the mid-1990s, this position dilutes, but does not eradicate, Ocampo’s stated “time, but not immunity” approach.

**International Justice v. Local Justice**

In addition to concerns that the ICC investigation could hamper peace efforts, another dilemma for the ICC is that the investigation is widely opposed by those groups the Rome Statute is designed to serve: the victims. The Rome Statute does not appear to have contemplated such a scenario; the approaches to justice reflected in the statute are
seen to be universal. The apparent clash of an international conception of justice with local approaches raises basic questions of when and how the former must compromise with the latter.

As mentioned above, the blanket amnesty law was passed by the Ugandan Parliament with vigorous support from war-affected communities, who stressed that the law must cover senior rebel commanders. Initially, this amnesty appears to be a clear trade-off between peace and justice. The trade-off, however, is not so stark in light of how the amnesty integrates into Acholi traditions of forgiveness and reconciliation and a long-term strategy of breaking a cycle of violence in Uganda. One Acholi cultural leader explained:

I think amnesty is not very different with our traditional ways, because here, the Acholi do not have corporal punishment. We believe that a wrongdoer will not be punished by death because he will not realize the effect. We want him to be alive to see—let him feel the shame. Let him be blamed and return, and it will teach very many people that “I should not behave in the manner of so and so because it caused many problems.” So the amnesty is the same because it pardons people in the same way the Acholi culture does. You are free, but you feel the weight of what you’ve done. However, you don’t let that person go totally free, he has some mild punishment, which involves the whole clan. The whole of the clan feel the effect because they have to contribute towards the compensation for the bereaved family.³⁷

In this light, amnesty and reconciliation do not equate with impunity, a major concern of international criminal law embodied in the Rome Statute. Perpetrators are made to feel the burden of their guilt. The process of sharing that burden also contributes to a process of reconciliation and prevention of future violence. To help counter concerns about impunity, the Refugee Law Project further recommends a truth-telling mechanism and stresses that combatants’ “admittance of guilt...is vital...for healing to take place.”³⁸

Rooted in pragmatism and local culture, amnesty and traditional re-
conciliation embody a restorative approach to justice, addressing the principal desire to end war, bringing perpetrators to account, restoring dignity to victims (many of whom have also been perpetrators), and preventing future crimes. By contrast, the retributive form of justice reflected in the ICC’s current approach does not reinforce peace or long-term stability. As the London-based organization African Rights points out, “Adversarial criminal justice systems...fail to encourage confession, conciliation or timely justice.”

The notion of reconciling with Joseph Kony is arguably the most difficult. Yet even if the ICC prosecuted the rebel leader alone at the Hague, most Acholi seem to view such a scenario as problematic. In April 2001, before the ICC even came into existence, a district leader in northern Uganda said:

Our people do not see our traditional system here as a form of impunity. In fact, I would say that if Joseph Kony were to be taken away to the Hague or elsewhere to be tried, the Acholi people would not be satisfied. They would not accept that matters would have been concluded. We believe that it is only when rituals of cleansing and reconciliation have been carried out that true justice would have been done.

The conflict between the ICC’s mandate under the Rome Statute and Acholi views of how best to achieve peace and justice in northern Uganda raises questions concerning the sources of international justice’s legitimacy. Nearly all commentators on the war in Uganda stress the autonomy of Ugandans—specifically those most affected by the conflict—to determine how best to address the conflict. South African Archbishop Desmond Tutu, who chaired South Africa’s Truth and Reconciliation Commission, commented, “Ultimately, it is up to Ugandans who have to decide what is best for them. Whatever they choose, it should not hinder reconciliation and healing and yet it should not encourage impunity and hurt the victims again.” In assessing the legitimacy of an amnesty, African Rights stresses the importance of victims’ views: “where victims, as in the case of Northern Uganda, demand an amnesty as part of the process of building the conditions of peace, careful consideration needs to be given to that call.” A recent United States Institute of Peace report stated that “[w]hen designing transitional justice mechanisms, it is essen-
tial to draw upon local cultural traditions and strengths...and to consult the population that the interventions are meant to help." Such observations suggest that, to the extent that the affected communities’ efforts and wishes differ from the methods and approaches of the ICC, the court should defer to the victims.

By raising expectations of an international solution, however, the ICC’s presence may be diminishing local consensus on amnesty and reconciliation as the most appropriate response. This is dangerous, since it increases pressure on the ICC to follow through with prosecution, harming the prospects of a negotiated settlement and undercutting the potential for reconciliation. In short, for the ICC to impose its version of justice on a situation where the affected community has developed a different form adapted to their most fundamental needs is simply wrong. As one observer claims:

[W]hen international prosecution is not in solidarity with local demands, then the idea that any part of humanity is entitled to punish those guilty of “crimes against humanity” necessarily entails a rejection of others’ autonomy and self-determination. The decision, on the one hand, to seek justice through punishment or, on the other, to forgo punishment in favor of justice through reconciliation, is a decision that must be made by the concrete community that is the victim of the crimes and that will have to live with the consequences of the decision....If [international law] is not [guided by those it is claiming to serve], the ICC will find its...legitimacy eviscerated. 44

Moreover, for an institution to insist on a certain approach against the wishes of a vulnerable local community, amounts, as Branch asserts, “at best, to paternalism and, at worst, to a new imperialism.” Arguably, these are results that the Rome Statute’s complementarity principle—with its emphasis on local willingness and ability to address serious crimes—is intended to avoid.

By contrast, others insist that if the ICC were to defer or call off the investigation, the institution would lose credibility. The friction between the ICC and vulnerable communities in northern Uganda is clear, and the case compels the question of who matters more, po-
potential perpetrators or actual victims? If deferring the investigation sends the wrong message to potential perpetrators, pursuing international justice in northern Uganda sends the wrong message to victims: that the ICC, in the name of its bureaucratic interest, is willing to experiment with their lives and discount local efforts to alleviate and resolve conflict. In the process, concepts of forgiveness and reconciliation that have been admired in the case of South Africa and elsewhere will lose influence. International observers must think carefully before they allow the ICC to disinherit these tools of transitional justice. To build its credibility, the ICC needs a case that does not impose these costs on the victims. The problem for the ICC is that such cases are hard to find.

Looking Ahead

The dilemmas facing the ICC in northern Uganda raise larger questions of what principles and factors should shape an ICC investigation. In ongoing conflict—even after a state’s invitation to commence an investigation—the ICC must independently analyze what effect its action may have on reducing atrocities and enhancing the prospects for peace. Divergent opinions within Uganda on how to end the conflict suggest that such an analysis should require consultation not only with the government, but also with the affected communities and their leadership. Factors to consider include the feasibility and costs of apprehending perpetrators; the relations among the government, victims, and other parties to the conflict; cause-effect relationships in the dynamics of violence; historical and political context of the conflict; and whether peace efforts are under way. The ICC (and international observers) should also regard victims as the greatest guarantors of the court’s legitimacy. Where victims oppose ICC involvement on grounds that it either threatens security or their collective efforts to apply their own judicial processes, including reconciliation and democratically enacted amnesty laws, then the court should seriously consider deferring investigation.

Article 53(1) of the Rome Statute grants the ICC prosecutor flexibility to choose whether to pursue an investigation. It authorizes the prosecutor not to pursue an investigation if, “taking into account the gravity of the crime and the interests of victims, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice.” To help maximize the prospects for peace in Uganda, the ICC should limit its role, applying pressure in a
way that reinforces the exit options of amnesty for top leaders and negotiated settlement. The ICC can also focus international attention on alleviating the suffering in northern Uganda, calling for humanitarian assistance or political pressure on the peace process.

Ultimately, a mandate based on worthy ideals does not excuse the ICC from the moral responsibility to avoid putting civilians at risk, obstructing peace efforts, and de-legitimizing local authority and culture. The ICC’s bureaucratic interest in cultivating a positive international image must also be candidly acknowledged. Since the content of that image depends on international expectations and commitments, international observers must take pressure off the ICC by adapting their expectations of what the institution can and should accomplish. The ICC’s credibility must not be measured by the number of prosecutions it carries out, but on how well it reinforces peace and human dignity.

NOTES


2 As of May 2005, 99 countries have ratified the statute and 139 have signed it.

3 Rome Statute of the International Criminal Court, article 5(1) and article 5(2). While article 5(1)(d) enumerates aggression, the court may not exercise jurisdiction over this crime until the crime itself has been defined and adopted pursuant to articles 121 and 123 of the statute. See also article 11.


7 Rome Statute, article 17(1)(b).

8 Ibid., article 17(3).


10 Ocampo, Strasbourg Lecture, quoted in Arsanjani and Reisman, 13.

11 Ocampo, Yale Lecture.

12 Arsanjani and Reisman, 10.


14 Ibid.

tional Criminal Court, “President of Uganda refers situation concerning the Lord’s Resistance Army (LRA) to the ICC” (29 January 2004). “President Museveni has indicated his intention to amend this amnesty so as to exclude the leadership of the LRA, ensuring that those bearing the greatest responsibility for the crimes against humanity committed in Northern Uganda are brought to justice.” http://www.icc-cpi.int/pressrelease_details&id=16.html.

10 Arsanjani and Reisman, 14.


13 ICG, Decisive Weeks, 4.

14 As the ICG points out, “this is an organization with demonstrated recuperative capacity.” Ibid.


16 Ibid., 71.

17 ICG, Decisive Weeks, 1.


19 Refugee Law Project, ICC Investigation Position Paper, quoting statement of the Gulu Catholic Archdiocese’s Justice and Peace Commission. See also Decisive Weeks, 4, which cautions that “if either set of prosecutions (national or ICC) is launched before the talks allow a full assessment of LRA intentions, there is a real risk that they would drive Kony and some of his equally wary associates definitively away from the peace process.”

20 Ibid., 21.

21 Ocampo, Strasbourg Lecture.

22 Rome Statute, Preamble.


25 Ibid., 8.

26 See also Refugee Law Project, Whose Justice?, and Branch, International Justice, Local Injustice.


28 Ibid.

29 Rome Statute, article 53(1)(c).