

# Reconciliation and justice:

## 'Mato oput' and the Amnesty Act

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The unacceptably high costs of civil war have caused Ugandans to re-assess approaches to resolving conflict. Among the Acholi of northern Uganda, the bitter experience of unending conflict has generated a remarkable commitment to reconciliation and a peaceful settlement of the conflict rather than calling for retribution against the perpetrators of serious abuses. Through their civic and religious leaders, and in other public fora, they have called for the government to pursue dialogue and to introduce a comprehensive amnesty for combatants as a confidence-building measure. This call for amnesty was underpinned by their faith in the capacity of the community and cultural institutions to manage effective reconciliation even against the background of serious offences.

Many conflicts yield meaningful distinctions between victims and perpetrators. Yet the majority of Acholi recognise that most combatants in the Lord's Resistance Army (LRA) were forcibly abducted and have themselves been victims. This generates the realisation that anyone could be subjected to the conditions that produced the perpetrators of the crimes experienced in the conflict. Combined with a profound weariness with the war and the suffering it has caused, this creates a moral empathy with the perpetrators and an acknowledgement that the formal justice system is not sufficiently nuanced to make the necessary distinctions between legal and moral guilt. As a result, most Acholi have decided to promote reconciliation, rather than a retributive understanding of justice, to create conditions to end the war and reintegrate the community.

### A history of impunity?

Ugandans have been subjected to extensive human rights abuses under successive regimes. Yet no systematic or effective efforts have been made to prosecute the perpetrators. In part, this might have been due to the fragility of new governments whose weak



institutional and political bases have made robust legal responses difficult. Whether in Acholi, West Nile, or in the Luwero Triangle where many civilians have lost their lives in civil conflict, there have been no formal prosecutions and convictions. For example, following the violent overthrow of Amin's regime, many former members of the security services were detained pending trial but most were eventually released without charge because of lack of evidence.

Ugandans have had to grapple with the meaning of justice in this context. For a country with such a troubled history, amnesty has come to be seen as the most effective way of drawing a line between the past and the present, in order to rebuild the nation. In the Acholi region, traditional reconciliation processes of 'mato oput' complement and underpin the pardon offered by the state.

## The amnesty law

When the government introduced an Amnesty Bill in 1998, it was revisiting an old political formula of offering pardons to insurgents as a means of ending intractable

conflict. Previous de facto and de jure amnesties under the National Resistance Movement (NRM) had offered general and specific pardons to groups that had engaged in rebellion, notably the UPDM/A and the UPF/UPA. The Amnesty Statute of 1987, which was passed by the National Resistance Council (NRC), professed to encourage various fighting groups and sponsors of insurgency to cease their activities. In particular, the statute targeted 'Ugandans in exile who are afraid to return home due to fear of possible prosecution'. Under the statute, four offences – genocide, murder, kidnapping and rape – were considered too heinous to be included under the amnesty. Similarly, the subsequent 1998 Statute also sought to exclude certain offenders from amnesty.

Subjecting all the LRA members to a formal prosecution did not seem, to many people, a valid or effective alternative. Thus, when in January 2000 the government introduced a new Amnesty Act, it was building on tradition and responding to the expressed wishes of the people of Uganda – particularly those of the people of Acholi whose specific concerns were incorporated into the law.

In a memorandum to the government, Acholi Religious Leaders' Peace Initiative (ARLPI), reflecting the aspirations of the people of Acholi at home and in the diaspora, rejected the partial proposals and strongly advocated the adoption of a general amnesty. Their draft was in fact to form the basis of the current Amnesty Act. Advocates of the comprehensive amnesty saw that any threats of prosecution, even of a minority of combatants, would pose an obstacle to peaceful resolution of the conflict. The government's own findings were that there was solid support for the proposed law. Although the enactment of the Amnesty Act may have coincided with the Nairobi Accord between Uganda and Sudan, the groundwork and the discussions had preceded that particular initiative.

Under the Act, 'amnesty' means a pardon, forgiveness, exemption or discharge from criminal prosecution or any other form of punishment by the state'. In translating the word 'amnesty' into Acholi the word 'Kica', which also means forgiveness, has been used. This expression has caused difficulties with the LRA resenting the suggestion of guilt and submission. Since they were not party to the formulation of the law, the Act still needs to be more fully explained to the LRA.

For the individual, the greatest significance of the amnesty law is a legal one: it confers upon the beneficiaries of the amnesty an irrevocable legal immunity from prosecution or punishment. Under the Act, amnesty is extended to cover all insurgency-related offences ranging from combat to collaboration and aiding rebellion. Once a person has renounced insurgency that person can never again be charged for the same offence. However, under legislation now being introduced by the government, if, after receiving amnesty, another insurgency offence is committed, he or she will not be protected from prosecution for the subsequent offence. The immunity from future prosecution for previous offences is also underwritten by the Ugandan Constitution (Article 25(10) 1995), which protects a person granted a pardon from any prosecution or punishment. While it is effective within the country, the amnesty does not protect a person outside the borders of Uganda.

Under international law, the increasing trend is to require states to prevent and punish crimes against humanity, and the already restricted space for an international jurisprudence of amnesty to emerge is set to become even more limited. In northern Uganda this has posed a dilemma, particularly for international agencies protecting children's rights. Most have had to recognise the complexities of attributing moral guilt against the background of extensive and prolonged abduction. With the added limitations and risks of military operations quite apparent, the alternative of an amnesty and reconciliation process becomes even more attractive.

## Institutions of the amnesty

An Amnesty Commission and a Demobilisation and Resettlement Team (DRT) were established by the Act to oversee the amnesty process and to perform a range of activities including: promoting dialogue, sensitisation, drawing up programmes for decommissioning of weapons and resettlement of returnees. Resettlement assistance has, however, been primarily carried out by other agencies working in collaboration with the Commission. Originally passed for a renewable period of six months, the Act has so far been renewed without much difficulty. Gradually, the Commission is establishing its presence nationally and in the region. Gulu and Kitgum now have Amnesty Commission offices as do Arua and Kasese in western Uganda, and another is planned for Mbale in the east. In addition to its media presence through Acholi language programmes reaching into Sudan, the Commission has already made one visit to Khartoum in Sudan and is keen to make contact with the LRA leadership in order to explain the amnesty.

## Impact of the Act

To date, over 4,000 people across the country have formally applied for amnesty under the Act, and many more will have returned in response to the amnesty without formal procedures involving the Amnesty Commission. Combatants who return directly from combat experience are debriefed by the authorities for security purposes. This has not had any discernible adverse effect on the numbers of people reporting. In Acholi, even before the arrival of the Amnesty Commission, the community, local government and other agencies had developed reception and reintegration programmes for those returning. Their work has continued with the Commission retaining responsibility for the legal procedure of issuing amnesty certificates.

It is clear that the existence of the amnesty has encouraged hundreds of insurgents around the country to return home. Accounts by LRA ex-combatants indicate that news of the amnesty, received through radio and word of mouth, is a critical factor in motivating their escape. The law provides the legal and political space within which community and other initiatives for pursuing dialogue and reconciliation can take place. Pajule, in the Pader district of Acholi, has become a focal point for LRA combatants returning in response to the amnesty. There, the local traditional chief, working with priests from the local Catholic mission, has been involved in receiving such combatants on behalf of the Amnesty Commission.

## Traditional approaches

Acholi tradition embodies the principles and practices which have been central to the support for reconciliation and amnesty within that community. Through the mediation of the traditional chiefs (rwodi) many offences, including homicides, have traditionally been resolved by reconciliation. Whenever a homicide takes place the rwodi intervene in the situation to 'cool down the temperature' and to offer mediation. Although the traditional chiefs had, since 1911, been supplanted by the colonial appointed chiefs (Rwodi Kalam) their legitimacy has never been destroyed. The 1995 Constitution, which allowed for traditional or cultural leaders to exist in any part of Uganda, has led to the revival and celebration of cultural and traditional institutions in all parts of the country. Today, in a project supported by the Belgian government, the rwodi of all the Acholi clans have been reinstated and the Lawi Rwodi (head chief) has been elected by the other rwodi. After years of conflict and marginalisation, the chiefs, like most of their people, are poor and royal houses are in need of repair. However, the greatest asset of the chiefs – their political independence – gives them enhanced credibility in mediating reconciliation.

The unique contribution of the rwodi is through their mediation of the reconciliation process, *mato oput*, which many Acholi believe can bring true healing in a way that a formal justice system cannot. This ceremony of clan and family-centred reconciliation incorporates the acknowledgement of wrongdoing, the offering of compensation by the offender and then culminates in the sharing of symbolic drink. Early in November 2001, a group *mato oput* ceremony was held in Pajule. This involved about 20 recently returned LRA combatants and included many others who had already settled in the community. The ceremony was supported by non-governmental organisations (NGOs), churches and by Acholi in the diaspora. Government officials, the amnesty commissioners, senior army commanders in the region and several representatives of NGOs attended the function, demonstrating the support of the wider Ugandan community. Another ceremony has taken place in Pabbo, in Gulu district, and others are planned for different parts of Acholi.

In addition to *mato oput*, individual cleansing rituals routinely take place whenever former LRA members return to the community. Most agencies that receive and reintegrate ex-combatants ensure that traditional rituals are integrated into the process. In a demonstration of the value attached to traditional approaches locally, in Kitgum the district earmarked some funds for elders to carry out atonement rituals. The Amnesty Act enjoins the Amnesty Commission to 'promote appropriate mechanisms of reconciliation in the affected areas' (Section 9c), and the Commission has been supportive of

the initiatives in Acholi. Although all these efforts have contributed to a successful reintegration process it is difficult to attribute specific effects to each element.

## Challenges

It remains to be seen to what extent the hardening of international positions against terrorism after the events of 11 September in the United States will affect the amnesty and reconciliation process. The LRA and the ADF are now labelled by the United States as terrorist organisations. So far there is no indication that these moves have affected international support for the amnesty and reconciliation process in Uganda. The Ugandan government has extended the amnesty for another six months until July 2002. At the same time, however, it has introduced the 'Suppression of Terrorism Bill, 2001', which is currently making its way through Parliament. As with a previous bill that was passed in 1998, the LRA, LRM and the Allied Democratic Forces are labelled terrorist organisations. The new bill outlaws membership of these organisations and any contact with members of such groups also attracts punishment. It appears that the government will continue to pursue the dual approach of maintaining an amnesty without suspending military action against insurgents. Inevitably this creates a tension between reconciliation and protection, which the government has a duty to resolve carefully.

## Conclusions

The breadth of support for restorative justice in Acholi indicates a popular recognition of the complexities of the current conflict and of the inability of formal processes to deal adequately with serious violations within the community. This has led to a rediscovery of and renewed role for tradition. Its focus on community participation and acknowledgement of wrongdoing deals with individual guilt in a social context. This is particularly appropriate given that the offences committed in the course of the insurgency were directed at the community. The amnesty law, establishing both a political and legal mechanism for ending the conflict, has emerged from the advocacy of the communities who have been the principal victims of the war. Their active role at the inception of the amnesty and their participation in the different forms of traditional and social reconciliation enhances the value and legitimacy of these processes. However, questions about the meaning of justice and the role of amnesties will continue to be relevant. The demands of the people may also change as the conflict unfolds. Prolonged conflict has challenged perceived notions of justice and has posed serious moral dilemmas with which the people of Uganda and the international community must continue to grapple.