

*This seminar summary is for informational purposes only and should not be directly quoted or cited.
The views presented here are those of the individuals only and not necessarily that of the RLP.
Please [Contact the RLP](#) for further information.*

The Juba Peace Talks: Implications for the Protection and Eventual Return of IDPs

Seminar held at the Refugee Law Project

7 September 2006

Speakers: Mr Zachary Lomo, former Director, Refugee Law Project (RLP)
Major Felix Kulayigye, Spokesperson, Uganda Peoples Defence Forces (UPDF)

Chair: Ms. Maarit Kohonen, Head of Office Kampala, Office of the High Commissioner for Human Rights (OHCHR)

The RLP director, Dr. Chris Dolan opened the seminar by welcoming all participants and guests to the RLP. Although this was the first seminar since December 2005, and the first since the director had taken over, he hoped that there would be many more fruitful and regular engagements of this kind at the RLP. Furthermore, it was hoped that these sorts of seminars could take place in the areas directly affected, in this case, northern Uganda. An apology was given for the way in which the invitations for this seminar had been sent out that may imply the seminar had any agenda related to Mr Lomo's article calling for the withdrawal of the International Criminal Court (ICC) warrants against the top Lord's Resistance Army (LRA) commanders.

Without further ado, the table was given to Ms. Maarit Kohonen, who announced the itinerary for the seminar. Mr. Zachary Lomo would speak first, followed by Major Felix Kulayigye, followed by questions from the floor. While a strict timetable would be followed, everyone was invited to intermingle after the seminar was over.

Optimism over the talks

Mr. Lomo thus began his speech by thanking everyone for coming and for being given the opportunity to speak. He stated that the Government of Uganda, the LRA and the Government of Southern Sudan should be congratulated for taking such bold courageous steps towards resolving the 20-year-old conflict through peaceful means. This had been the wish of the people of northern Uganda to end it through peaceful means. The 26th August cessation of hostilities agreement was the first step towards peace in the region. In his view, he observed two significant aspects:

1. Parties agreed to cease hostile media and propaganda campaign – this was critical because both parties had in the past wanted to be the moral victors. Today however, both were willing to keep quiet since the signing of the agreement. To the credit of the President, nothing seriously derogatory had been said that indicated the seriousness and willingness of both parties to seek peace.
2. The agreement allows places of worship to be used as sanctuaries for LRA fighters – this second

positive feature would mark the first time that the UPDF could see the rebels without opening fire and furthermore were even willing to help them assemble at the designated locations.

These had never occurred in the past, and thus there was great cause for optimism, Mr. Lomo said. If the first step—the cessation of hostilities—can hold, there would be a huge possibility that the parties can come to terms and issues that were deep-rooted in the politics of Uganda could be tackled. This would not be achieved by claiming moral supremacy. It would not be an easy task, but Mr. Lomo felt the principal mediators would use their skills to successfully conclude the negotiations. The international community would play a key role in support for this challenge.

The challenge ahead

The first positive implication from Juba was the end to violence. The question was, what are the implications of peace talks for IDPs? While an end to violence was impossible (indeed no human society has managed this feat), the reduced violence by the main parties was a realistic outcome. It raised other implications about whether people could go back to their ancestral homes and reorganise their lives. Everyone would be able to live in a secure environment—meaning "secure" in the broader perspective that was inclusive and included the LRA and UPDF. Civilians could then put to use creative means to solve human issues, rather than just struggle for survival. Reconstruction and expansion of the development "pie" would be the next step. Reconstruction could begin as long as it was recognised that Uganda was one nation—one people, and there would be no fragmented economy that divided north from south as it did in the past.

These would ensure the silence of guns and the shaking of hands would not be short-lived. Young people who have lost their future totally, the social infrastructure crumbled—all these presented a huge challenge in mobilising resources for a proper reconstruction program. The question of how to graft the larger outside interventions with the existing local structures was important. Outsiders could have good intentions, yet create situations of dependency. Catching up was required and land issues will crop up very seriously. Those who were born in IDP camps, or lost family heads or traditional boundaries would need to reclaim land rights, but the capacity to deal with them institutionally was not yet there. An enduring challenge would be how to deal with fears, suspicions, and other complications in long term reconciliation.

Protection of human rights

Mr. Lomo argued that protection must be seen from a broad perspective of the overall environment in which the physical, social, economic, and political rights of the individual can be enjoyed. For example, with the issue of HIV in IDP camps, an open way of dealing with these issues that did not stigmatise victims was required. Similarly, sexual and gender based violence was increasing in certain situations— young girls of 12 to 16 years of age were unable to fully develop their creative abilities when being married off at such early ages.

Mr Lomo stated that poverty was the old problem that has always lived with us. Yet Uganda and northern Uganda has been a rich place that produces a lot of food and economic activities. What has happened is that the twenty years of violence has caused the livelihoods and potential of people to be totally destroyed. With peace there was the possibility of rebuilding that potential, but it was still a huge challenge.

Peace Talks: The UPDF's view

After Ms. Kohonen thanked Mr. Lomo and agreed that this was a critical point in Uganda's history, she invited Major Felix Kulayigye to speak about the talks and respond briefly to some of the things that Mr. Lomo had stated. Major Kulayigye quipped that this was not a time for provocation, but for cessation of hostilities, so he would not argue with Mr. Lomo. Speaking on the implications of Juba, he concurred that this was a welcome development, and that every well-intentioned person should want Juba to succeed.

Major Kulayigye believed the peace talks would succeed, because of a number of reasons. Firstly, the LRA had lost many of the advantages that it had before. It no longer had backing from Sudan. In the past, it enjoyed sympathy, if not support, from many individuals but since July 2005, there was a growing unanimity that enough was enough. The Ugandan diaspora were finally on board and were even in Juba. Kony himself had said he wanted to meet the President of Uganda, something he had never done before. Major Kulayigye felt that the ICC indictments had played a significant role in that it made the LRA isolated, so that anyone sympathetic to the LRA could not appear to be associated with them.

On the UPDF's part, Major Kulayigye admitted that there had been some weaknesses in terms of strategy and conducting the war. However, these were now corrected and the LRA could no longer make war, and had lost the will to fight. Having lost the ability to kidnap and kill, it meant they had also lost in the propaganda.

Peace, reconstruction and IDPs

Major Kulayigye agreed with Mr. Lomo in many ways about the implications of the talks for the rehabilitation of the north. A kind of 'Marshall Plan' for the north was stepping up, led by the Joint Monitoring Commission (JMC), that had received significant financing from the government. He noted that there were Universal Primary Education (UPE) schools in the north, but in the bushes. The modern structures are already there, and now they will be accessed. Health centres would be opened up near the people in the villages. For law and order, the UPDF was anticipating reduced participation because their role was to *return* order, and the police would now come in to *maintain* it.

Significant places such as Kalongo, Atanga, etc. in Pader would have much more police, with Local Defence Units (LDUs) commissioned to maintain law and order as well. He admitted there was some criticism about not having the IDPs return home immediately but instead get 'decongested', but he stated that there needed to be peace in order for the IDPs return home.

Reductions in violence

He reiterated that the UPDF had obeyed the terms of the cessation of hostilities, but mentioned that if anyone had heard Vincent Otti on KFM the previous day, they could not think that was in the spirit of the agreement. Certainly, Major Kulayigye felt that his views were not contributing positively. However, since the LRA had not issued any orders for their soldiers to stop moving to the assembly points, the peace process was still on course. He did note also that, contrary to Mr. Lomo's earlier claim, the UPDF had indeed ceased shooting at the LRA before. In 1999, not only had the UPDF stopped shooting, they had also given the LRA uniforms, food and other items. He said that they didn't "hate" the LRA, but their activities. "Hate" was too heavy an emotion and many of them are victims of kidnap and abduction, and so hating them would be unfair to them.

The only violence now were isolated incidents, and reconstruction was high on the agenda. The well-being of the people could improve but in terms of before the war, the kinds of crops grown were not high-yielding or saleable in a cash economy. However, the area was rich in fertility and rain, and

therefore people should look at crops with shorter maturity and better price. Those involved must work to convincing people's minds that the war is ended.

He wanted to sum up by responding to a few accusations that had been levelled at the UPDF in the past. One was that the UPDF had used HIV as a weapon—Major Kulayigye denied this categorically, and stated that the UPDF deploys units, not individuals. However, in an environment in which there are no economic opportunities, one will find sex crimes. Defilement has been there, but in the history of the region, he stated that girls often were sexually active by the age of 14. The major difference might be that people have been exposed or used to soldiers, where previously they were not.

The second point was a national question for all to discuss with forgiving hearts, but having a concern for accountability and justice. The UPDF's view was that the ICC could only lift the indictments if the LRA agrees to Juba and uses *mato oput* [an Acholi traditional reconciliation ceremony]. He noted that the ICC would not be able to be convinced unless an alternative was provided, and that these traditional methods were one such alternative.

A human rights perspective

Ms. Kohonen now thanked both participants, and wished to add a few points to issues that had been referred to. On the subject of justice and accountability, she felt that there were important protection implications. A key challenge was how to make sure that any peace agreement builds a sustainable peace.

From a human rights perspective, it was necessary to look at the root causes to ensure that peace does not just return to the status quo before the war, but to a better position. It was also important to listen to the victims. Thus some key human rights elements were:

1. Accountability and justice – an end to impunity. Relevant institutions need to be in place to take care of such issues.
2. International human rights laws will never allow amnesty to those who have committed grave human rights violations or abuses, including genocide, war crimes and crimes against humanity. The amnesty law might be applicable for those who have been abducted but not for those who bear the greatest responsibility for crimes and violations. If that happens, people will eventually raise those questions after the initial euphoria over peace has subsided.
3. What mechanisms in the transitional justice toolbox?: Other processes that can take the place of formal justice when it has collapsed and until they are rebuilt. Parties must know about the options available and then decide—can *mato oput* handle this? What is applicable in other (non-Acholi) regions? Other possibilities for transitional justice include, for example truth and reconciliation commissions. Unlike in Uganda, receiving amnesty elsewhere requires giving back something in order for it to be granted, such as in Burundi or Sierra Leone. These possibilities, including telling the truth or apologising for wrong-doings should be made available too. Another question was that of vetting: LRA ex-combatants could not be absorbed into any new armed forces without vetting for human rights abuses? These needed to be discussed at the peace talks.

For Ms. Kohonen, she agreed with Major Kulayigye that the ICC was an important tool to address accountability and justice. She noted just for information that any attempts at swaying the on-going judicial process under the ICC would have to go through the Office of the Prosecutor, but this could be a considerable task because evidence does not just go away. As the prosecutor had decided based on evidence that major violations of human rights had taken place, he would then have to present a case for withdrawing the indictments to the judge, but no evidentiary material had changed. Therefore, legally

the situation would be difficult unless it can be demonstrated that adequate justice can be administered in an alternative forum.

Questions & answers session

With that, Ms. Kohonen now opened the seminar to the floor, and invited groups of questions or comments which would then be tackled by the relevant panellists. The first question, from a participant from Jesuit Refugee Services, concerned the grouping of the LRA into three categories. First, there were the core people who had committed serious atrocities. Second were those who are ready to face trial, and the third were the others who were now assembling. The participant wanted to know what message was being sent in prosecuting the first two groups, and what the reaction of the third group might be.

The second question was tabled by Dr. Dolan himself. He noted that Major Kulayigye had mentioned increases in LDUs, but asked, if there were a successful peace process, will there be a process of demobilisation and demilitarisation of the north? What might be done about small arms prevalence and banditry that could continue even with a peace accord?

The final question of this group was by a member of Uganda Conflict Action Network. He noted that all were hopeful for the Juba Peace Talks, but raised concern about the time limit (12 September) that had been set for successfully concluding the talks. He wanted to know what might happen past the deadline.

The UPDF's future role

Major Kulayigye responded to the questions first. He agreed that there were three categories of LRA combatants: (1) the two core leaders of Vincent Otti and Joseph Kony, (2) the other three indicted commanders (Dominic Ongwen, Okot Odhiambo, and Raska Lukwiya, the latter reportedly killed in action), and (3) other LRA fighters. Major Kulayigye noted that in the agreement, there was a clause that should the Juba talks fail, the LRA were free to disperse. He said that in the spirit of Juba, he could not comment, but urged Ugandans to raise the issue of what these implications might be. He reiterated that the UPDF was determined not to lose their achievements—that people in Lango had returned home, and in Acholi, were closer to home.

He pointed out that there were mechanisms in place to prevent the LRA from any attempts to disturb the peace. The UPDF had not let down their guard, and while they may have shaken hands, they will not allow them to commit crimes, he said. Referring to the question about demobilisation, he said that there would not be LDUs in non-war areas, and Local Administration Police (LAP) would assist in law and order. The LDUs would be part of the LAP.

On the question of banditry, he noted that there were already cases of *boo kech* (armed bandits), or ambushes, and the problem of small arms in the wrong hands was real. Thus the UPDF would begin a programme of demobilisation, disarmament, return and reintegration. Not everyone would want to stay in the armed forces, and they would be allowed to return home, but for those who were interested in remaining, of the LRA, they would be vetted of course.

He pointed out that the victims know who the perpetrators were, and like with Sam Kolo and Kenneth Banya, there needed to be a process of forgiving so that they can be free to move about. Others who are underaged must go back to school, and their psychological makeup will be different, so they will need special care.

On the deadline, he confirmed that the Government of Uganda was not fixed on it, but that they wanted

to see progress. As long as there was progress, the Government would be committed, and the President himself had said the line will be crossed when we reach it.

He also added that the UPDF does not exist just because of the LRA, nor would they commit future crimes just because they have fought for a long time. He noted that the UPDF was getting involved in Somalia as peacekeepers and in disaster management, since disasters do not make appointments. The UPDF would have a lot to do when peace came.

Further questions

A participant from the American Refugee Committee asked about the "Transitional Justice toolbox"—if serious violators should face justice, where were the lines drawn? Additionally, reconciling the idea of a special court (e.g. Sierra Leone, as had been mentioned) was difficult in the current circumstances with ongoing peace negotiations since in Sierra Leone, the rebels had been totally defeated, enabling the court to proceed as it did.

The next comment came from a participant representing People's Defence of Rights. After a twenty-year war, he felt that the government needed to approach people more. He felt that some money of the Amnesty could be used by the government on other issues. Furthermore, the ICC would have other things to do, and other issues elsewhere. However, he observed that it seemed as if the Government was using the conflict to justify its military expenditure, and asked if it was true. People were concerned if the money was going there instead of on other programmes.

Finally, a journalist from *The New Vision* asked whether there had been any formal communication between the Government of Uganda and the ICC regarding forgiveness of the five indicted commanders.

Accountability in uncertain circumstances

Ms. Kohonen responded to the first set of questions. She explained that international law defines categories of crime according to content—those who bear the most responsibility are identified through the command structure and the types of crimes they have committed. The International Criminal Tribunals for the former Yugoslavia and Rwanda had set legal precedents. While there were no perfect solutions, there was a need to isolate those bearing the most responsibility. She acknowledged it was certainly difficult to discuss trials at the peace table, and would require a creative solution that analysed the root causes and considered national reconciliation. Historically, there may have been some marginalisation of the north and this should be addressed through a national reconciliation process.

Major Kulayigye added that this was the ICC's first major case, and he doubted they would be willing to lose it. He stated that there had definitely been several communications between the Government and the ICC regarding the withdrawal of the indictments, and there were officials doing just that in The Hague at this time.

On the question of the military's budget, he offered a comparative viewpoint. Kenya spent about USD 283.1 million on defence last year, while Tanzania had spent USD 201.8 million. By comparison, Uganda's 2006-2007 defence budget was only USD 198.3 million. He asked rhetorically, 'Who spends the most? Who is at war?' He claimed that Uganda was the only country that has executed a war using a peacetime budget. Furthermore, whereas defence used to be the greatest expenditure in the budget, it was now the fifth largest expenditure. He argued that if one is interested in maintaining the defence budget, then one would have rubbished the peace talks. Nevertheless, defence was a necessary component of every nation.

The ICC—a rebuttal

Mr. Lomo weighed in on the issue of the ICC. He stated that he hadn't wanted to talk about the ICC at this seminar initially, but felt he had to share his opinion given the number of times it had been raised already. To begin with, he didn't believe Uganda as a country did not have the capacity not to prosecute, as one of the key requirements in the Statute of Rome. He also asked rhetorically, where were these international institutions like the ICC in 1994 during earlier rounds of peace talks with Betty Bigombe? Furthermore, where does the international community place the concerns of the Government of Southern Sudan that fears that an unstable northern Uganda will disrupt their attempts at reconstruction in Southern Sudan and destabilising the entire region such as the D.R. Congo?

He continued, if the ICC was not an obstacle to peace, then why was Vincent Otti specifically talking about it? In his view, the question of who should bear the greatest responsibility should start from London, from Brussels, and so on. The LRA were simply the end of a long process. He asked—do we identify just those who pull the trigger? In a complex situation like northern Uganda, if you have people sitting in The Hague saying they can punish impunity, they are only kidding themselves. They had to be strategic in their quest for justice, and consider these people had not yet been arrested and needed to learn from other processes.

He referred to past attempts at bringing war criminals to justice. Thus at Nuremberg, for instance, the Allies discussed behind the scenes but would not announce publicly what was to be done with the Nazi leaders. Some wanted those leaders shot, others wanted trials. But here we are talking about people who hadn't even been arrested—you can't talk about what you want to do with them yet, he said.

He also referred to the case in Argentina, where the civilian government realised that if they pushed for trials of the generals and intelligence officers, the military would not return to the barracks but seek to reclaim power. But twenty or thirty years later, people could begin to ask these questions because now it was safe to do so—the institutional structures had developed and were now strong enough compared to the initial stages of the civilian government.

He stated that even the concept of 'transitional justice' was problematic because in the context of Uganda, we are still struggling with the transition from violence to non-violence. What we needed most are the ideas and processes that lead to the ending of violence (such as Juba), and then we could start to talk about transitional justice. The transition from collapsed structures to democratic institutions was a lesson learned from South Africa.

Final questions and comments

With time running short, a final series of questions were allowed. The first came from a law student. She wondered what the root causes of the problem were as Kony had a platform to speak for twenty years. What was he fighting for?, she asked, and if so, does the peace process address his grievances?

A participant from Concerned Parents' Association (CPA) wanted to raise some concerns. He felt that the ICC had been a partner to stopping the war, because it had reduced the space available. However, the talk of withdrawing the warrants was not yet mature because the outcome of Juba was not yet certain. He felt that they still needed the pressure to exist. However, in terms of accountability, he felt the differential treatment of those associated with the LRA was not conducive. People who had been abducted had received almost no support, yet the Kolos and the Banyas were now living comfortably. The difference was very clear, and did not promote accountability, in his opinion. He asked also that while transporting former 'wives' may have been part of confidence-building measures, was it in the

interest of those being transported? He felt the continuous association was not helping them. Finally on the Amnesty Commission—there was latent anger among the people, he said, especially on the surrender of senior LRA commanders. People had viewed amnesty in terms of their children escaping, a situation that was very different from these. But (for example) Banya was not abducted as a child; he could not claim he was innocent.

The third question by a participant from Christian Children's Fund, concerned accountability of the UPDF. He asked, if the LRA go through the *mato oput* process, what of the soldiers who committed crimes against civilians?

Finally a member of the Centre for Justice and Reconciliation wanted to point out that attention has been drawn to the ICC, but they are not a party to the peace talks. Using the ICC as a scapegoat, she felt, was passing over the essence of the peace process, which was to bring about peace. With reconstruction, it would take several years for these things to come about.

Major Kulayigye first responded that he was unable to comment on the motives of the LRA, implying that they were as mysterious to him as any. However, he agreed with the participant from CPA that the ICC had been a partner, and that removing the arrest warrants too early may not be good. But on the issue of preferential treatment, he argued that when faced with two evils, you must choose the lesser of them. Banya had been captured, while Kolo surrendered. If one wanted to persuade others to follow suit, how could one then turn and punish these people? Instead, one had to swallow their pride and treat them well. The UPDF's main strategy had been for the LRA to surrender, not fight to defeat.

Since the issue of Labora Farm had been raised in the past, he wanted to clarify that this was set up as a way to occupy those who had come out of rebellion. People said that victims were being supervised by the perpetrators, but he denied this was the case. He noted that a full lieutenant colonel supervised the farm and if any problems were found, they would be investigated.

On a personal note, he also criticised the ICC for punishing only the perpetrator but not assisting the victims. For those who perpetrated genocide in Rwanda, they were now living far more comfortably than those survivors.

Conversely, the UPDF was very harsh on its soldiers who commit crimes. He admitted that they had been criticised by human rights organisations on this matter, but he added that when one is fighting and faced with great provocations, one has to be harsh. He gave an example: If the rebels had fled and soldiers were in pursuit, but the villagers had told them to go one way, leading nowhere, how would the soldiers react the next time they were faced with such a situation? That was why the UPDF were very strict so that the soldiers know that if they do something, they will be punished severely.

Mr. Lomo finally addressed some final issues about what was to happen to the LRA commanders. He pointed out that people, in terms of the majority, must actually say what they want (and in a democracy, that would be 50% speaking for the other half). Yet in the north, there was no unanimity of opinion. Some people want the LRA commanders shot on the spot, not just sent to The Hague. Others say that even if they took Kony himself and cut him to pieces, that wouldn't bring their sons back. Mr. Lomo's point was that one could not simply decide the fates of these LRA leaders—it was something for the north to do, yet the ICC had stood firm in deciding what to do. That in his opinion was an impunity and arrogance. He summed up by stating that everyone makes decisions, but the facts on the ground can be different, and so we must sometimes acknowledge and withdraw.

Ms. Kohonen closed by thanking all the speakers and participants for creating a lively seminar where

many different views could be shared respectfully. They were encouraged to mingle with other participants afterwards.

The Refugee Law Project would like to extend a special thanks to Ms. Kohonen, Major Kulayigye, and Mr. Lomo for contributing to making this seminar so successful.

This seminar summary is for informational purposes only and should not be directly quoted or cited. The views presented here are those of the individuals only and not necessarily that of the RLP. Please [Contact the RLP](#) for further information.