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## The impact of international justice on local peace initiatives: The case of Northern Uganda

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## **The impact of international justice on local peace initiatives: the case of northern Uganda**

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The ICC's intervention into the brutal, 20 year old northern Uganda conflict provides a clear case study for how the pursuit of justice in situations of on-going conflict can advance the cause of peace. In short, the ICC has spurred, not smothered, peace efforts in northern Uganda.

The ICC has come under intense criticism in northern Uganda and risks being stigmatized as a peace spoiler. Since the announcement in January 2004 that the Ugandan government made the first state party referral to the ICC, the Court has been shelled by criticism from a coalition of international NGO's, academics, mediators, and northern Ugandans. They argued that the threat of international prosecution would capsize fragile local peace initiatives, prolonging the conflict by obliterating the LRA's incentive to negotiate and making defenseless, displaced northern Ugandan's prey further LRA attacks. While sometimes the criticisms were tempered by statements that the main complaint was simply over the ICC's timing, in other cases opponents argued that retributive punishment was fundamentally inconsistent with local values, enshrined culturally in traditional reconciliation ceremonies and legally in Uganda's Amnesty Act of 2000. The ICC's intervention, opponents argued, would perpetuate rather than prevent conflict.

Over three years later, the exact opposite has happened on the ground. We are in the midst of the most promising peace initiative in the last 20 years, one which has dramatically improved the security and humanitarian situation in northern Uganda. A landmark cessation of hostilities agreement removed most LRA from Uganda, allowing hundreds of thousands of displaced and war-weary civilians to begin the process of resettlement and redevelopment. The elusive and erratic LRA have tentatively begun the process of building lines of communication and channels of trust with northern Ugandans and the government, helping build confidence, promote reconciliation, and pave the way home. Rather than driving the LRA back into the bush, the LRA have been drawn in to negotiations. Rather than making civilians more vulnerable, northern Uganda is currently witnessing unprecedented security.

How did we get here? I want to be careful about placing too much credit at the feet of the ICC. An array of political and military developments in the region – most notably the signing and early stages of implementation of Sudan's Comprehensive Peace Agreement, as well as improved performance by the Ugandan army in northern Uganda – have all conspired to increase the costs of continued conflict and compel the LRA to explore a negotiated settlement more vigorously than in the past.

At the very least, we can say that the pursuit of justice did not create a crippling counterweight to these currents which pushed the parties to peace talks. But I think we

can say more. I would cite four reasons for arguing that the ICC's investigation played an active, positive role in encouraging and reinforcing these regional trends.

First, the threat of prosecution clearly rattled the LRA military leadership, providing pivotal pressure that propelled the rebels to the negotiating table. When I speak to the commanders in the bush or their delegates in Juba, "ICC" is usually the first and last word out of their mouths. For Kony and Otti, who see the ICC has a crucible of the international community hanging over their heads, the issuing of arrest warrants in particular created an incentive to talk and to deal. I would also suggest, although it is speculative, that the LRA's decision to pull most of its troops out of northern Uganda and issue standing orders not to attack anyone in northern Uganda is in part due to the ICC's deterrence. The LRA continues to attack civilians in South Sudan, which I think they believe is beyond the geographic limits of the referral.

Second, the ICC's investigation complicated continued support from Khartoum, the LRA's key foreign ally. Beginning in 1994, Khartoum provided an umbilical cord to Kony, offering sanctuary to receive a steady stream of weapons, training and transportation. For Khartoum, who could potentially fall within the orbit of the ICC's criminal investigation if it continued its close, nurturing relationship with the LRA, the ICC's case upped the stakes for continued support.

Some caution is necessary here. Other factors may have influenced Khartoum's calculations and deterred support more than the specter of the ICC. Pursuant to the CPA, the Sudanese Armed Forces (SAF) pulled out of South Sudan, cutting off the LRA's supply lines and depriving the rebels of bases to retreat within. Moreover, while there is no smoking gun at the moment, there is a lot of smoke that Khartoum continues to maintain a close relationship with the LRA and provide some supplies despite the ICC's presence. But, the signs of support we are seeing at the moment seem to be small and surreptitious, mainly moving through proxies in the vast and lawless vacuum of Central Africa Republic rather than directly to the LRA's jungle hideout just west of Garamba National Park in the Democratic Republic of Congo. This is notable because in the past Khartoum has felt free to overtly airdrop supplies to other Ugandan rebel groups, such as the WNBLF and UNRF II, based in the Garamba area.

Third, as alluded to above, the ICC's investigation raised awareness and focused engagement among the international community, which in turn provided a crucial broad base of regional and international support for this fledgling peace process. One of the key problems of previous peace initiatives was weak external support. Now, in Juba, the international community has begun to awaken from its indifferent slumber. Former UN Jan Egeland, UN Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, made an unprecedented and ultimately brief visit to meet with Kony. The UN Secretary General named Joaquim Chissano, a former president of Mozambique with experience, a high profile, and clout, as Special Envoy for LRA-affected areas. Donors are funding the process via UN OCHA's Juba Initiative Fund, and the Security Council as well as numerous foreign governments have voiced support for the talks. Five African countries have joined the Juba negotiations as observers, and the African Union

agreed to assist monitoring of the cessation of hostilities agreement. While more could be done, the level of direct regional and international engagement in the current peace process is unprecedented, and I would argue that the ICC's investigation helped draw the world's eyes to the neglected conflict and helped create a compelling case for urgent international engagement.

Fourth, the ICC's attempt to hold the LRA leadership criminally liable for the atrocities they've orchestrated in northern Uganda played a very useful channeling function. The presence of the ICC has embedded accountability and victim's interests in the structure and syntax of the peace process. The third point on the five point negotiating agenda is devoted to reconciliation and accountability. The parties have accepted, in principle, that at least some form of robust accountability is inevitable -- although I must say that, based on my conversations with Otti, I'm very skeptical of the LRA's commitment to this principle. Consultation with the victims will play a crucial role in attempting to devise a genuine national proceeding that could potentially satisfy the ICC's concept of complementarity. This has never happened before in any previous initiative with the LRA or any of the other myriad rebel groups that have sprouted out of Uganda's soil since President Museveni came to power in 1986, and this is the footprint of the ICC's investigation.

Additionally, the presence of the ICC also channeled the legitimate use of force if the peace process fails, constraining the military options available to the Ugandan government by defining the boundaries and aims of any "Plan B" military strategy and creating obligations for regional government's to cooperate with the enforcement of the arrest warrants. The Ugandan government didn't view the issuance of arrest warrants as a green light to plow into Congo, as many critics predicted. Instead, they accepted to talk in Juba. If all peaceful options are exhausted in Juba and the talks falter, the fallback military options will be for limited goals -- apprehension of the ICC indicted -- and focus on regional cooperation rather than destabilizing unilateral action.

In sum, we shouldn't unquestioning accept a false dichotomy and perceived antagonism between the simultaneous pursuit of justice and peace. Ultimately there may be tensions, which we will spend time discussing today, and difficult decisions requiring a delicate balance of short and long term interests may have to be made. But so far in northern Uganda the two have coexisted and supported one another.