



Promoting International Support for Community-Based Justice Mechanisms in Post-Conflict Burundi and Uganda

By Bahati Ntama Jacques and Beth Tuckey

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- *Bahati Ntama Jacques is Policy Analyst at Africa Faith & Justice Network in Washington, DC. He can be reached at bahati@afjn.org.*
 - *Beth Tuckey is Associate Director of Program Development and Policy at Africa Faith & Justice Network in Washington, DC. She can be reached at bethtuckey@afjn.org.*

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INTRODUCTION

Those who committed crimes in the long wars in Burundi and Uganda are wanted by both the national and international criminal court system, but very little attention is given to peacebuilding, reconciliation, or restoration of the communities destroyed by violence. For example, the reconciliation process of *mato oput*, an Acholi tradition in northern Uganda, and the *Ubushingantahe* in Burundi, uniquely achieve justice and healing of the concerned parties in a way that a formal justice system cannot. These methods of restorative justice emphasize community-building and the need to reconcile an entire society after conflict.

To complete this project, interviews with both victims and perpetrators of crime, as well as implementers of restorative justice programs were conducted in Burundi and Uganda. Using this local perspective, the paper elevates the need for international recognition and support for restorative justice mechanisms in post-conflict communities in Africa. Civil society has an important role to play in elevating awareness of these traditions and practices, and the U.S. government can enhance restorative justice through both leverage and funding. Ultimately, it is imperative that Western governments and citizens around the world perceive restorative justice as a legitimate and much-needed form of justice.

METHODOLOGY

Africa Faith & Justice Network (AFJN) staff have studied restorative justice for nearly two years. It is a topic that we consider integral to our work on peace and justice and is something that is commonly overlooked as the United States frames its foreign policy. To elevate restorative justice as a legitimate form of justice, on par with punitive justice, AFJN will conduct advocacy on traditional community-based mechanisms of justice in Burundi and Uganda. Through the use of first-hand resources from our work on the ground, as well as secondary resources and analysis from practitioners of restorative justice, we will work to educate the broader public about restorative justice in Africa. Furthermore, as an organization committed to promoting a just U.S. foreign policy toward Africa, we will provide suggestions for U.S. policymakers and advocates. AFJN is a Catholic-based organization, and we therefore root much of our work in the Catholic Social Teachings of promoting dignity, respect, and solidarity with our African brothers and sisters.

For this paper, which serves as a piece of the abovementioned broader project, two AFJN staff members traveled to Burundi and northern Uganda to gather information about restorative justice in these post-conflict regions. In Burundi, we primarily studied the Centre Jeunes Kamenge (Kamenge Youth Center) whose mission is to promote peace and reconciliation by restoring youth relations in the capital of Bujumbura. In northern Uganda, we spoke with native Acholi, NGO workers, and Catholic clergy to gain insights into Acholi traditional reconciliation ceremonies. A total of three weeks were spent gathering first-hand information and interviews in these countries.

Upon our return, we continued to study secondary resources that describe indigenous Burundian justice processes, Acholi rituals, other transitional justice mechanisms, the state of the formal justice systems in both countries, and how these can be used to resolve the conflicts in the

region. We recognize that our time on the ground was limited, and that we will necessarily rely on secondary resources for a more complete picture of restorative justice in both countries. It is also important to recognize, however, that our goal in this project is not to detail indigenous justice systems in these areas but rather to evaluate why it is important and what the United States can do to promote restorative justice as a legitimate form of post-conflict peacebuilding and reconciliation.

RESTORATIVE JUSTICE DEFINED

Restorative justice, sometimes known as transitional justice or traditional reconciliation, is a method by which the victim, the offender, and the affected community can be reconciled after crime or violence. Many scholars and practitioners of restorative justice attempt to define the concept in specific terms, but we feel that that limits the types of community-based mechanisms that can be considered restorative justice. In our view, there is no common metric for determining what may or may not be a restorative justice mechanism, nor should there be. Only members of the affected communities have the power to decide what will help them heal.

We met with a young man in Gulu, northern Uganda, who coordinates the Justice and Reconciliation Project and who had some very important insights as to how restorative justice should operate in his community. Significantly, in his opinion, restorative justice cannot be codified.¹ This is very important, because it is something that the Western world would be inclined to promote. It would seem so logical to encourage communities to write down these practices, bind them in a book, and reference them any time there is a problem. But restorative justice, by nature, must remain malleable to any situation. What matters sometimes is not the logical aspect of the process but rather successful results. Though there are specific rituals designed for conflict, others designed for stealing, etc., communities must be able to set the rules and terms of each ritual as it pertains to the crime at hand.

In short, we have intentionally chosen not to define restorative justice in specific terms, other than that it is a locally-based practice aimed at restoring a community after violation. Examples of restorative justice in Burundi and Uganda will be explained in detail throughout the paper, and we hope it will provide a sense of why it is important not to limit our understanding of restorative justice.

BURUNDI

The Republic of Burundi: Historical Background

The Republic of Burundi is 27,816 sq kilometers (10.740 sp miles) in size and home to 8.9 million according to the United Nations census record of 2008. Its ethnic makeup is 85 percent Hutu, 14 percent Tutsi and 1 percent Twa.² Both tribes speak the same language,

¹ Ojok, Boniface. Personal Interview. 5 February 2009.

² "Country Profile: Burundi." **BBC**. Oct 2008. April 30, 2009
<http://news.bbc.co.uk/2/hi/africa/country_profiles/1068873.stm>

Kirundi. Burundi was part of German East Africa in 1890, then became a Belgian colony in 1916 until independence on July 1st, 1962. The years leading to independence were marked by ethnic struggle, claiming many lives and forcing hundreds of thousands of Hutu to flee to Rwanda to escape Tutsi persecution.

Between 1959 and 1962, the ethnic conflict in Rwanda was transferred to Burundi and many Burundian Hutus died as result. Among other events that sparked ethnic violence was the killing of a Tusti prince, Louis Rwagasore in 1961 following his party's parliamentary victory. Also, in 1965, Hutu-Tusti violence started when King Mwambutsa refused to appoint a Hutu prime minister despite Hutu victory in the parliamentary election. Consequently, the Hutu-dominated police staged a coup that failed, crushed by a Tutsi-dominated army. In November 1966, Michel Micombero deposed King Charles Ntare V in a coup, declared himself president of Burundi, and created the Republic of Burundi, thereby marking the end of the monarchical system. The assassination of King Ntare V in 1972 sparked the massacre of an estimated 150,000 Hutus because Tutsis believed that King Ntare V had been killed by Hutus.³

After yet another series of coups, Piere Buyoya came to power in 1987. Under his presidency, in 1988, about 20,000 Hutus were massacred by Tutsis and many more fled to Rwanda. Then, in June 1993, Melchior Ndadaye became the first democratically elected president of Burundi, and the first Hutu and civilian to hold that office. In October 1993, his assassination created yet another wave of ethnic violence.⁴

The parliament elected Cyprien Ntaryamira to the office of the president in 1994. He and the Rwandan president Juvenale Habyarimana were killed in a plane that was shot down on their way back from peace negotiations between the Rwandan president and the rebel group Front Patriotique Rwandais on April 6, 1994. Sylvestre Ntibantunganya (Hutu) was appointed president and served from April 1994 to July 1996. Ethnic struggle continued and led to the massacre of Hutus in 1995. Former Burundian president Pierre Buyoya staged another coup and took office again. In response, many Hutu-led rebel movements were created and carried out more attacks that continued to displace the population.⁵

To pacify Burundi, it has taken support from the international community and many power sharing agreements between rebel groups and the government. The 2003 ceasefire agreement stipulated a three-year power sharing transitional government, which was led by Domitien Ndayizeye (Hutu) for two years. On August 26, 2005, Pierre Nkurunziza (Hutu), a former rebel leader, was democratically elected president. He remains in power today and so far, he is the only democratically elected Burundian president to serve a long term.

On the issue of ethnic conflict in Burundi, President Nkurunziza tells of his experience when the civil war began: "I was a lecturer at Burundi University. In 1995, the Tutsi army attacked the campus and killed 200 students. They tried to kill me too. The attackers shot at my

³ "Timeline: Burundi." BBC 30 Oct 2008. 30 April 2009

<http://news.bbc.co.uk/2/hi/africa/country_profiles/1068991.stm>

⁴ "Burundi Transition: A War-weary Country Grapples with Peace." Thomson Reuters Foundation. 27 May 2008. 30 April 2009 <http://www.alertnet.org/db/crisisprofiles/BI_REC.htm?v=timeline>

⁵ "Sylvestre Ntibantunganya." Microsoft Encarta Online Encyclopedia. 2009. 1 May 2009 <http://encarta.msn.com/encyclopedia_761584088/sylvestre_ntibantunganya.html>

car but I got out and ran away. They torched my car. I then joined the CNDD-FDD as a Soldier. This war was forced on us; we did not start it.”⁶

On the first of April 2009, the leader of Forces for National Liberation (FNL), Agathon Rwasa, surrendered his own weapon in an official ceremony to the African Union (AU) peacekeeping soldiers in Burundi to mark the end of his rebel movement, the last in Burundi to go through the disarmament program.⁷ Although this is an important step, it is imperative that we remember Burundi’s ethnically volatile history. In a memorandum by Simbizi Audace Studies Center in 1992, they estimate that “in 20 years, the Tutsi army has massacred about 700,000 Hutu in Burundi, which is about 16 percent of the Hutu population and 14 percent of the overall population, or the equivalent of the Tutsi population”⁸

Justice Mechanism in Burundi

There are many reasons why justice has yet to be delivered to Burundian people. The main question that Burundians face is how to deal with their past, a past tainted by mass killing based on ethnic discrimination and human rights violation. To heal the hurt from their past, Burundians have to be ready to commit to truth-telling, accountability, reparations, and reconciliation. To reform the formal justice system in Burundi, one has to address these issues: lack of and/or mismanagement of funds, corruption, ethnic discrimination, and poor wages for workers.

The justice system in Burundi, one of the legs on which its democratic system has to stand, has been crippled for a long time. Burundians continue to pay the price for many years of power struggle between Hutu and Tusti at the detriment of building a nation where tribal identity would not outweigh national identity and justice.

While we acknowledge that the Burundian justice system urgently needs reform, we must also ask: can there be justice without peace? Political priorities for the current Burundian government have been peace and security with the specific goal of bringing together all of the rebel groups to put down their weapons. Now that disarming, demobilizing, and reintegrating (DDR) rebel forces has been a success, the challenge is to realize and find appropriate solutions to Burundi’s past.

On February 6, 2008, Burundian President Pierre Nkurunziza said during a visit to Washington that he plans to set up a Truth and Reconciliation Commission (TRC) to examine crimes committed since 1962. In fact, a law establishing the TRC was passed by the parliament on December 27, 2004. Furthermore, the United Nations "Kalomoh Report" and the United Nation’s Security Council (UNSC) resolution S/RES/1606 (2005)

⁶ “Interview With Pierre Nkurunziza, Leader of CNDD-FDD.” UN Integrated Regional Information Networks, Burundi: IRIN 23 August 2004. 29 April 2009 <<http://www.grandslacs.net/doc/3114.pdf>>

⁷ “Burundi’s last Rebel Group Becomes a Political Party.” Thomson Reuters Foundation. 22 April 2009. 1 May 2009 <<http://www.alertnet.org/thenews/newsdesk/LM537867.htm>>

⁸ “Memorandum sur les Massacres Repetitifs des Hutu au Burundi.” Centre D’etudes Simbizi Audace. January 1992. 29 April 2009 <<http://www.burundi-agnews.info/massrep01.htm>> (Translated from French)

“...expressed the view that, in order to consolidate peace and reconciliation in Burundi, it was necessary (i) to establish the truth, (ii) to investigate the crimes, (iii) to identify and bring to justice those bearing the greatest responsibility for crimes of genocide, crimes against humanity and war crimes committed in Burundi since independence, (iv) to bring an end to the culture of impunity, in Burundi and in the region of the Great Lakes of Africa as a whole. Furthermore, the SC emphasized that appropriate international assistance was needed to help the Burundian people end impunity, promote reconciliation, and establish a society and government under a rule of law.”⁹

Burundian Opinions on Justice System

The popular opinion is that there is a greater need for reform of all the domains of government in Burundi. There is growing understanding that Burundi can overcome the hurt of the past if people of every ethnic background realize and decide to fight against manipulation by politicians on ethnic-centered terms. Eugide Ngendakuriyo, an employee at the Kamange Youth Center in the capital of Bujumbura, sees it this way; “Burundian politics is a way to access wealth instead of being concerned about the wellbeing of the people. The youth who give into the manipulations of politicians are the ones suffering and those who manipulate them live like royalty with government money.”¹⁰ Burundians are ready to build their nation based on their common identity of being Burundians and with respect to their ethnic and traditional diversity.

Understanding Burundian Indigenous Processes of Justice

Time has come for Burundi to integrate indigenous processes of justice into the broader justice system. In this way, Burundians will find lasting solutions to the crimes that were committed during years of war. Up to now, people have dealt with past crimes in different ways: rebel movements have been formed out of grievances, peace agreements have been signed, a ceasefire agreement has been fully observed, and a truth-telling commission is soon to be created. However, Burundian indigenous processes of restorative justice, peace, and reconciliation have not been fully utilized, despite the fact that this might produce the most positive results.

The effectiveness of the indigenous process of justice is due to the fact that it takes into consideration local customs, people’s world view, local wisdom, and the ritual of mediation to prevent or solve conflicts. It focuses on the victim, the community affected by the crime, and the offender. In fact, in the Burundi culture, it is very common for someone wanting to bring his or her issue to indigenous institutions to say “I will bring the issue before men.” It is not one man, but many men willing to hear, listen, and advise. As a communal society, they go by the principal found in their proverb that says *Ntamugab’umwe* which means “no one man can be self

⁹ Vanderginste, Stef. “Transitional Justice for Burundi: A Long and Winding Road.” Paper presented at the International Conference, Nuremberg 25-29 June 2007. 29 April 2009 <<http://www.peace-justice-conference.info/download/WS10-Vandeginste%20report.pdf>>

¹⁰ Ngendakuriyo, Eugide. Personal interview, translated from French. 27 January 2009.

sufficient.” An issue in the community is brought before men because everyone is supposed to be concerned about the wellbeing of the community.

Isolation: An Indigenous Law Enforcement Method

If someone in a community commits an offense or acts inappropriately, he or she can face serious penalties such as isolation. Isolation is implemented by boycotting his events, not paying attention to his issues when he has one, and excluding him from local associations and other community initiatives. To be restored, he would be required to ask for pardon by paying a fine which would be used to buy local wine, on top of which he would confess his guilt before the community. Once the confession is accepted, participants can comment on the dangers of disrespecting the community and the consequences. If “it takes a village to raise a child” according to the famous African proverb, *it takes a community to solve or prevent conflicts* because there is never a community of one person.

In the same way the indigenous restorative justice processes aim to restore the broken relationship between the victim, the community, and the offender, it also uses exclusion to protect the community. Isolation was one of the most common penalties in many Burundian communities because jails were not part of the culture. In cases such as sexual violence against women, serious measures including isolation were taken to vindicate the victim’s rights. Isolation includes banning the offender from local bars; denying access to job opportunities; making it difficult to find a bride in his local, neighboring, very distant communities, and even in communities that have ties to the one that fined him. These ties can be by marriage, clan, or just by blood pact. His offense and his penalty are known by word of mouth from one person to another, from one restorative justice institution to another, from one family to another, and from one village to the other.

People learn about indigenous law enforcement through different genre codes of life such as proverbs. In the code of the Hutu and Tutsi tribes of the Great Lakes Region of Africa, for example, you have this proverb: “One knows the use of his or her butt when s/he wants to sit.” This means that one can boycott or disengage in the community, but when you require help, you will realize how important the community is. A person depends on the strength of other men to rush a critically ill patient to the hospital, something that was even more important before cars were popular in Africa.

***Ubushingantahe* Transitional Justice in Burundi**

For centuries, traditional institutions such as *Ubushingantahe* have prevented and solved conflicts. This institution survived colonial powers’ brutality and cultural genocide, but it has yet to survive Burundian oppressive leadership and the cycle of ethnic war that claimed hundreds of thousands of lives.

Members of *Ubushingantahe* are indeed considered the wisest men in their communities and speak authoritatively on different matters. Most of the members of this institution have been only men, but today this institution is open to women. This is due to the fact that in peace negotiations, women were the most affected by these wars but could not be present while men made decisions about them. The pressure of human rights organizations, women’s rights

association, and the growing number of educated women continue to play a role in this shift. The more every Burundian feels empowered, the more we can trust that these institutions will continue to help Burundi deal with its violent past and become a more unified nation.

Who are the *Bashingantahe*?

Historically, the *Bashingantahe* were chosen while they were still children, based on their character, and were trained to become *Abashingantahe*. Their role is to hold hearings on matters brought to their attention. They work in teams and a typical session entails the following,

“The session begins as one of the *Bashingantahe* takes the ‘stick of justice’ and requests that the complainant tell her/his story. Disputants are required to ‘have empty hands’ –they may not provoke their opponent and are not allowed to leave without permission from the *Bashingantahe*. When the *Bashingantahe* have heard from everyone involved, they retire to deliberate. On their return, they give the authoritative version of events and tell all parties to forget the contradictory stories and accept the version submitted by the *Bashingantahe*. The session is concluded with the words ‘we enjoin you to become the brothers as before,’ and the participants, the council, and observers share a drink which celebrates and seals the newly restored relations”¹¹

Politicizing *Ubushingantahe* has led people to lose trust and credibility in their authority, particularly their capacity to be impartial and deliver justice. This was the policy of the National Unity for Progress (UPRONA in French acronym) party. Charles Villa-Vicencio explains such policies in these terms:

“Prior to the reintroduction of *Ubushingantahe* as an auxiliary judiciary institution in 1987, Unite et Progres National, (UPRONA), the single party of presidents Michel Michombero, Jean-Baptiste Bagaza, and Pierre Buyoya, during its political congress of 1979, had recommended that the judicial responsibilities of *Ubushingantahe* be given to those notables who were associated with local structures of UPRONA. This recommendation was not implemented, and under the second republic of President Bagaza, efforts were made to eliminate the *Bushingantahe*, partly because of their close connection with the Catholic Church.”¹²

In 2003, the *International Crisis Group Africa Report No. 70* urgently called for the creation of a transitional justice process designed to exclusively deal with the issue of land and

¹¹Villa-Vocencio, Charles. Building Nations: Transitional Justice in African Great lakes Region. Cape Town: Institute for Justice and Reconciliation, 2005, p 26.

¹² Reychelel, Luc. Peace Building: A Field Guide. Cape Town: Lynne Rienne, 2001, p 133-134.

specifically *Ubushingantahe*.¹³ In fact, Burundian President Pierre Nkurinziza explained to his audience at a Washington conference in 2008 that

“...land rights is a serious one in Burundi. Consequently, the government recently put in place the ‘land and other property commission.’...Land is a particularly difficult issue for Burundians who were born in refugee camps after 1962, for orphans, and for those whose land was sold because they belonged to rebel groups. Fortunately, on the matter of land inheritance and women, the Burundian government has put in place a law to allow them to inherit land - a huge opportunity for the country to change its mentality on women’s rights.”¹⁴

Our research confirms that there are more land-related cases than what the Burundian criminal justice system can handle in timely manner. Consequently, cases take years in court, creating hardship for the people involved, but financial gain for those who have a say in the cases.

Ubushingantahe is an internal resource that needs to be used and given due value in order to bear fruit. *Ubushingantahe*, particularly when it comes to land issues, a domain in which it is well qualified, can yield greater results than the criminal justice system. They know well and use the people’s customary laws to deliver justice. Consequently, to bring about reconciliation and healing from their country’s violent past, Burundian authorities have to seriously consider empowering such an institution as a supplement to criminal justice. Not only would such a move ease up the strain on the criminal justice system, but would also create space for truth telling, negotiation, and could even create a more democratic country. The choice between criminal justice and restorative justice would reduce the culture of impunity, ethnic polarization, and contribute to building peace and national unity.

Local, but not Traditional Ways of Peace and Reconciliation

The Kamenge Youth Center is the Catholic Church’s response to the same question: how to deal with Burundi’s dark past? This project was conceived to provide youth of all ethnic backgrounds a place to meet, work, learn, and play. Recognizing that Burundians have no other choice than to live together, the goal of the project was simply to provide a space where youth could experience life together.

In 1990, under the leadership of Archbishop Simon Ntamwana, the Archdiocese of Bujumbura entrusted the Xaverian Missionaries with the task of starting the center. In 1993, a month before the coup against democratically elected President Melchior Ndadaye, the Kamenge Youth Center opened its doors. During the ethnic violence that ensued, the center became a sanctuary for both Hutu and Tutsi youth. But it also became a target of some extremists, only because they thought it was a training center for their enemies. The center became a place where youth who wanted to distance themselves from what was going on would come, as would those

¹³ “Refugees and Displaced Persons in Burundi –Defusing the Land Time-Bomb.” *International Crisis Group*. 7 Oct 2003. 1 May 2009 <<http://www.crisisgroup.org/home/index.cfm?id=2312>>

¹⁴ Ntama, Bahati. “Opportunities and Challenges in Burundi” *Africa Faith and Justice Network*, 15 March 2008. 30 April 2009 <http://www.afjn.org/continental_issues/democracy/opportunities_and_challenges_in_burundi.html>

who were looking for trouble, and to their surprise would find that it was a place of peace. The concepts they took from the center to their segregated neighborhoods (primarily the Cibitoki neighborhood, a Tutsi stronghold, and Kamenge, Hutu neighborhood) has helped the center gain credibility as a place of peace and reconciliation.¹⁵

In its goal to reinvent the future through transformation from within, and by the power of its many volunteers, the Kamenge Youth Center helps repatriate displaced persons.¹⁶ Through this program, Hutu and Tutsi youth break the boundaries of neighborhood segregation and build homes for the families who have come back, no matter their ethnicity.¹⁷ This initiative has been icebreaker for many and contributes to the process of ethnic tolerance and desegregation of the northern neighborhoods of Bujumbura.

The Kamenge Center also works in partnership with other local associations and schools to promote peace, justice, reconciliation, and development. It partners with about 460 groups working together to intervene in different domains such as ending illiteracy, promoting HIV/AIDS awareness, providing access to micro credit, cultural activities, and sports to name a few. In addition, in the northern district of Bujumbura, it partners with 55 secondary schools and 31 religious communities. It also works closely with the Burundian Ministries of Human Rights, Education, Youth, Sports, and Culture.¹⁸

The center stands above the old and ongoing issue of ethnocentrism and by its ethnic inclusion provides an answer to the question, who is a Burundian? The Center is also a force against politicians who want to get wealthy by spreading and exploiting ethnocentrism ideology taught in these terms: “What is it to be a Hutu or a Tutsi? It is being neither Bantu or Hamite nor serf or master! It is to remember who killed one of your close relations fifteen years ago or to wonder who will kill your child in ten years, each time with a different answer.”¹⁹ However, with the Kamenge Center, a generation of peacemakers and peace builders continue to be trained.

It is up to the Republic of Burundi to deliver on its promises to share what it has with all Burundians. The Burundian story will not end only by healing the wounds of the war; there are also social, political, and economic issues that need to be addressed to ensure Burundi’s stability. The reality is that in Burundian government today, those in power are former rivals who got together to share the little that Burundi has. Those without access to the wealth often instigated ethnic violence. This is why at the Kamenge Center, they believe that sustainable change has to involve the grassroots. Youth are particularly important, as they are often the ones who end up fighting in wars. As of October 2008, the Kamenge Youth Center has registered 30,704 members age 16 to 30 of which 5,921 are women.²⁰ Each of these brave youth is searching for ways to be part of the much needed peace, justice, and reconciliation in Burundi.

¹⁵ Marano, Fr. Claudio. Personal Interview. 27 January 2009.

¹⁶ Ibid.

¹⁷ Gahungu, Laurent. Personal Interview. 27 January 2009.

¹⁸ Centre Jeunes Kamenge (pamphlet). Bujumbura: Centre Jeunes Kamenge, Oct 2008.

¹⁹ Chretien, Jean-Pierre. The Great Lakes of Africa: Two Thousand Years of History. New York: Zone Books, 2003, p 316.

²⁰ Centre Jeunes Kamenge (pamphlet).

UGANDA

History of the Conflict in Northern Uganda

Since 1986, when President Yoweri Museveni's National Resistance Movement (NRM) came to power in Uganda, the people of northern Uganda have experienced a level of marginalization that can best be described as a humanitarian catastrophe. For over twenty years, a silent war waged on between the NRM and the Lord's Resistance Army (LRA), a rebel group notorious for gross human rights abuses and child abductions. Though it is widely understood that the LRA are the primary culprits of the Acholi tribe's misery in the north, the broader context of political and economic marginalization by the government in the capital of Kampala also holds relevancy.

Just prior to Museveni's successful military campaign, an Acholi woman known as Alice Lakwena (whose true name was Alice Auma) started what came to be known as the Holy Spirit Movement (HSM). Professing supernatural powers, she claimed she received a divine message to cleanse the sins of Acholi who fought against Museveni in the long "bush war." She gained broad public support, primarily because she framed the Acholi tribe as God's chosen people, and offered them salvation as an Acholi "nation."²¹ The same spirit messenger soon ordered Alice and her followers to take up arms against the government forces, resulting in the eventual defeat of the HSM and Alice's escape to Kenya.

Shortly thereafter, Joseph Kony came forward as Alice's "cousin," believing he could build on her movement to create another, more powerful force to oppose the government in Kampala. Support soon waned, however, when Kony and his LRA began abusing the very people on whose behalf he was fighting. Furthermore, Kony's message was never very clear; at times he focused on the political insurgency against the government, at other times he claimed a pseudo-religious goal of creating a "pure Acholi race" that would rise up to defeat the government and rule Uganda by the Ten Commandments.²²

Political or religious motives aside, the LRA waged a campaign of violence against the Acholi, Langi, Teso, and other tribes in the north. Thousands of people were brutally murdered, whole dormitories of schoolchildren were abducted, and eventually almost two million people were displaced into squalid camps. The LRA is known for cutting off the ears and noses of its victims, for ordering children to kill their own parents, and for turning young girls into sex slaves. For years, these atrocities went unnoticed by the outside world, and unaddressed by the thriving government in the South.

It was not until 1996 that the government of Uganda began a serious effort to remove the LRA from northern Uganda, and even then it was a half-hearted attempt. Rather than effectively pursuing, capturing, and imprisoning Kony's rebel group, Museveni's army, the Ugandan People's Defense Forces (UPDF), made the situation much worse. The President ordered the people of the north to leave their homes for "temporary" displacement in "protected villages."

²¹ Martinez, Ian. Rev. of *Alice Lakwena & the Holy Spirits: War in Northern Uganda 1986-97* by Heike Behrend. *African Studies Quarterly Online*. 27 April 2009 <<http://www.africa.ufl.edu/asq/v7/v7i1a10.htm>>

²² Nayakaru, Frank. "The Making of LRA's Joseph Kony: the Enigmatic Rebel Leader." 6 January 2008. *Global Policy Forum*. 27 April 2009 <<http://www.globalpolicy.org/intljustice/wanted/2008/0106enigmatic.htm>>

The theory was that this would allow the UPDF to attack and fight the LRA without civilian casualties. But instead of quelling the violence, the camps merely provided opportunities for large-scale attacks by the LRA against the people. Furthermore, the UPDF failed to mount an effective counter-insurgency or peacekeeping strategy; instead, the UPDF themselves abused citizens, looted villages, and abducted children, albeit at a lower rate than the LRA.²³ Such actions, including forced displacement, constitute violations of the Geneva Conventions and are punishable under international law.²⁴

The Juba Peace Process and the International Criminal Court

After many failed attempts at both a military solution and a peaceful resolution to the conflict, President of Southern Sudan Salva Kiir initiated what is now known as the Juba Peace Process in mid-2006. These talks were legitimized within the international community by the appointment of former Mozambiquan president Joaquim Chissano as the UN Special Envoy to the talks. In the U.S., public support for a resolution to the crisis began gaining momentum, and as a result, State Department official Tim Shortley was appointed to the Great Lakes Region, with a specific focus on resolving the conflict in northern Uganda.

Despite a sustained, supported, and thorough process, the talks eventually collapsed in 2008. The reasons were varied, though the most often-cited cause is the role of the International Criminal Court (ICC). The ICC issued arrest warrants against Joseph Kony and other top LRA commanders in 2005, prompting a serious debate within the international community over different paths to peace in Uganda. By and large, northern Ugandans were calling for “peace first, justice later,” meaning that they preferred that a peace deal be signed and that Kony be prosecuted (by the ICC or by traditional justice mechanisms) at a later date.²⁵ International actors, however, hesitated to allow what they viewed as impunity for a man who committed such serious crimes against humanity.

The ICC, stubborn in its beliefs, rejected the notion that it should defer the warrants, despite the fact that, according to the founding Rome Statute, a case may be tried under a complimentary standard by a State that has jurisdiction over the case.²⁶ In this instance, the government of Uganda was willing to set up a special court for the prosecution of Kony (under Agenda Item 3 of the Final Peace Agreement (FPA)) and Museveni would ask the ICC to withdraw the warrant as long as Kony came to sign the FPA. Still, there was no guarantee that the warrants would be dropped, and much of the international community rallied behind Kony’s prosecution. Unsurprisingly, Kony eventually refused to sign the FPA probably because it did not guarantee him immunity from The Hague.

²³ Butagira, Tabu. “New Report Pins UPDF on Human Rights Abuse.” Daily Monitor 17 November 2008. 28 April 2009

<http://www.monitor.co.ug/artman/publish/news/New_report_pins_UPDF_on_human_rights_abuse_75111.shtml>

²⁴ Parker, JD., Karen. “Forced Displacement in Northern Uganda.” Statement submitted to the United Nations Sub-Commission on the Promotion and Protection of Human Rights by International Educational Development: 28 April 2009 <<http://130.94.183.89/parker/sub01 wsu.html>>

²⁵ “Peace First, Justice Later.” Refugee Law Project. Working Paper No. 17 (July 2005): 28 April 2009 <http://www.refugeelawproject.org/working_papers/RLP.WP17.pdf>

²⁶ Rome Statute of the International Criminal Court, Part 2: 28 April 2009 <<http://untreaty.un.org/cod/icc/statute/rome fra.htm>>

Whether Kony would have endorsed the agreement had the warrants been dropped is left to speculation. Some believe that the ICC was indeed the deciding factor while others feel that Kony never had any intention of signing the FPA. Indeed, there is evidence to show that throughout the peace process, Kony was using the cessation of hostilities to rearm and to replenish his ranks.²⁷ It is also possible that the LRA was afraid of appearing “weak” by giving in to its enemy, in which case, there are very few ways forward.

Many peace and justice advocates believe that Kony would have eventually come to sign, but that the government and the international community were too impatient. In the words of Catholic Archbishop John Baptist Odama of Gulu Archdiocese, northern Ugandans have lived through over two decades of war; would another year of peace negotiations have made a difference?²⁸ He tells a story about his meeting with Kony in late November 2008, just days before he was supposed to sign the agreement. That day, Kony told him that:

“I have a spear in my hand. I would like to spear peace, the animal called peace, so that people could eat it and enjoy it. But as I struggle to run after peace, to spear it, there is a lion behind me. And the lion wants to eat me... should I run after peace, or should I fight the lion?”²⁹

Odama and many others firmly believe that Kony was serious in his analogy, and that had the mediation officials given Kony more time to consider his options, he may have come out of the bush.

Despite the collapse of the talks, the Juba Process is still widely regarded as the most successful attempt at peace between the north and the south to-date. There was buy-in from the international community, the government of Uganda showed at least some will to resolve the crisis, and many LRA commanders seemed honest about wanting to broker peace. The process also resulted in a completed document that can serve as a road map toward peace in the future, even if its current implementation is somewhat hampered by the lack of a signature and hesitation on the part of the government.

As the Juba Peace Talks progressed, confidence grew among northern Ugandans about the prospect of a sustainable peace. Due to the cessation of hostilities agreement, there was very little fighting in the north during the two-year period that the talks occurred. Kony even moved his main base into the Democratic Republic of Congo’s (DR Congo’s) Garamba Park, leaving only vestiges of the LRA in Uganda.

Thus, the people of DR Congo are now sadly suffering from increased LRA violence while northern Uganda is in a state of relative calm. Internally Displaced Persons (IDPs) are beginning to move back home – something that has triggered many land ownership disputes – or into transition camps, where there is more land for farming and where individual homes are further apart. This is a hopeful development, though it has been years since the LRA left the

²⁷ Crilly, Rob. “Lord’s Resistance Army Uses Truce to Rearm and Spread Fear in Uganda.” The Times Online 16 December 2008. 28 April 2009 <<http://www.timesonline.co.uk/tol/news/world/africa/article5348890.ece>>

²⁸ Odama, Archbishop John Baptist. Personal Interview 7 February 2009.

²⁹ Ibid.

region and many families still live in the squalid IDP camps. Government incentives for return are low, and the escalation of violence in Congo has caused some individuals to pause their own return process.

The government of Uganda has said that it would like to move forward with implementing its part of the FPA, such as reconstructing and rebuilding northern villages and towns, but any strong efforts in that regard remain to be seen. In fact, in early 2009, President Museveni announced that he would suspend the Peace, Recovery, and Development Program (PRDP), much to the dismay of northern Ugandans and global donors who pledged support for the PRDP.³⁰ The north remains terribly underdeveloped compared to the southern part of the country, having been deprived of support from the central government both before and during the 22-year war with the LRA.

Justice and Accountability Under the Final Peace Agreement (FPA)

Despite Kony's refusal to sign the FPA, the Peace Process did herald a number of positive results, most notably Agenda Item 3 on Accountability and Reconciliation. In recognition of the need for different forms of justice, Agenda Item 3 legitimizes the use of alternative justice practices alongside a formal court proceeding. According to the document, "alternative justice practices shall promote reconciliation and shall include traditional justice processes, alternative sentences, reparations, and any other formal institutions or mechanisms."³¹

Since the creation of Agenda Item 3, a justice system that is integrated and holistic has begun to evolve. According to Esther Loeffen, a Legal Sector Advisor at the Dutch Embassy in Kampala, three clear pillars of justice are emerging: (1) a formal, national court for the worst crimes committed during the war, (2) traditional justice mechanisms, and (3) a truth-telling body.³² This is one of the first times that a post-war justice framework has included all three of these very important methods of accountability and reconciliation.

However, this process is not without its hurdles. The government and civil society in northern Uganda still do not communicate on a level that will allow for total honesty and inclusion. In many ways, Museveni is afraid of local and cultural empowerment because he views it as a threat to his own political power. Furthermore, the ICC warrants still loom over Kony and the LRA, and it may be impossible to arrange a national court without the removal of those warrants.³³

The most significant obstacle remains the illegitimacy of the government of Uganda as an honest broker in the peace process. The war against the LRA began because northern Ugandans felt a sense of disempowerment and neglect from the national government. Northerners also experienced abuse at the hands of UPDF soldiers, many of whom are just as guilty as LRA

³⁰ Mao, Norbert. "Has the Government Moved a Vote of No Confidence in Itself?" The New Vision 9 February 2009. 29 April 2009 <<http://www.newvision.co.ug/D/8/20/670934>>

³¹ Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, p.6 (29 June 2007): 29 April 2009 <http://northernuganda.usvpp.gov/uploads/images/u_h8S9SwfKutKGw70eM4vw/agendaitem3296.pdf>

³² Loeffen, Esther. Personal Interview. 2 February 2009.

³³ Ojok.

soldiers for destroying lives. A true national court or truth-telling commission may be impossible under this government, because information about government abuse would likely be told.³⁴

With an unsigned FPA, the ICC dilemma, and a government that may be unwilling to seriously prosecute Kony, it is unlikely that criminal justice will be effectively pursued in northern Uganda. Restorative justice, the ritual processes of reconciliation within and between communities, offers the best hope for a population that has been devastated by two decades of death, displacement, and abuse. In the case of northern Uganda, it is a particularly viable option because the Acholi tradition has an extensive restorative justice process.

Restorative Justice in Acholi Northern Uganda

Cultural Background and Acholi Community

The Acholi people have a long history of traditional practices, some of them adopted during colonialism, others from pre-colonial times. They are often known for having a particularly vibrant culture, with a rich set of customs and social mores. War has interrupted these traditions, but it has not destroyed them. They remain viable methods for achieving cultural and social restoration among northerners, particularly as the region is experiencing a higher level of peace and stability.

Understanding the breadth of Acholi traditions is daunting for those of us who are outsiders to this culture, so we will not discuss every intricacy here. *Traditional Ways of Coping in Acholi*, authored by a team of writers and published in Kampala, offers a user-friendly understanding of Acholi traditions, particularly as they relate to conflict resolution and healing. From this base knowledge, it is possible to better-understand the restorative justice practices that may be used today as a means of resolving the LRA conflict.³⁵

Perhaps the most crucial concept to understand when looking at Acholi life and tradition is the communal nature of guilt, crime, and peacemaking. Traditionally speaking, everything is the responsibility of the family and clan head of the offender, no matter who committed the actual crime. Once the perpetrator has confessed his or her wrongdoing to the family, the entire family or clan will take on the guilt of the perpetrator, and claim it as their own.³⁶ In turn, this communal sense of crime means that the whole society, clan, or tribe, has a greater investment in realizing peace and restoration.

Fr. Joseph Okumu, a local leader in Gulu, described the communal concept of justice in this way:

“When someone has committed, say, murder,” he began, eventually they will go to their family and say “‘please, receive me back among you’. Then the people say ‘you are welcome.’ ...When the older people receive this murderer back into the society, they are actually admitting that they had not done all that

³⁴ Atkinson, Ron. Personal Interview. 7 February 2009.

³⁵ Harlacher, Thomas, Francis Xavier Okot, Caroline Aloyo Obonyo, Mychelle Balthazard, and Ronald Atkinson. *Traditional Ways of Coping in Acholi*. Kampala: Thomas Harlacher and Caritas Gulu Archdiocese, 2006.

³⁶ Olaa, Ambrose. Personal Interview. 4 February 2009.

they had in their power to bring him up in a proper way, ...so as not to allow him to kill. So somewhere along the line of his formation as a young man in the family, something went wrong, and they are responsible. Once the murderer is received in this way, the community therefore owns a piece of his sin. So, they've got to go confess to the clan of the one who has been killed. They say 'listen, we have come here to you. You remember you had a son who was killed 10 years ago in that river by some rebel... we killed him... we would like to pay compensation, we would like for you to forgive us.' So, justice is not an individual affair. It is a community affair."³⁷

Mato Oput and Other Practices

When Uganda is cited as a case study for transitional or restorative justice, *mato oput* is commonly used as a catch-phrase for all Acholi community justice practices. Indeed, *mato oput* is an integral part of conflict resolution, but it is not the only ritual that brings restoration within Acholi society. *Tumu kir* ('cleansing taboos') is a ceremony that can be performed for smaller, localized conflicts, *gomo tong* ('bending of the spears') was formerly used to mark the end of a conflict, and *nyono tonggweno* ('stepping on the egg') is performed today with former LRA child soldiers as a means of cleansing the bad spirits they may have contracted while away from the home. There are innumerable other ceremonies that can be performed, but not all are useful as a means of conflict resolution.³⁸

Mato oput is cited in the FPA as a useful form of traditional restorative justice, and it is a ritual that is well-known in northern Uganda as a means of reconciliation. However, it is not commonly performed, and there are questions about how applicable it might be to the mass-killings committed by the LRA. The literal translation of *mato oput* is 'drinking *oput*.' *Oput* is a tree that grows in Acholiland that is made into a bitter drink to be consumed at the height of the ceremony. This concept of drinking the bitterness of a conflict or of sin is a common notion throughout much of the world. Many religious traditions perform such rituals as a means of recalling past pain; in Judaism, for example, a bitter herb or root (typically parsley or horseradish) is consumed on the Passover Seder to remind the faithful of their slavery in Egypt. In the Acholi context, the bitter drink is consumed at the conclusion of a reconciliation process, just before the two clans or families forgive one another.³⁹

Before the ceremony, the two parties involved – the killers and the victims – engage in lengthy negotiations about the crime and decide upon compensation. Today, compensation is typically paid in Ugandan shillings, though historically it was paid in the form of livestock. Then, the *mato oput* ceremony is used to cleanse the problem and to right relationships between the parties. The ceremony begins with the two sides engaging in mock fighting, followed by a symbolic acceptance of guilt, then the parties are pulled apart and compensation is given to stop the fighting. Next, a sheep and a goat (one each belonging to the parties) are cut in half, their

³⁷ Okumu, Fr. Joseph. Personal Interview 9 February 2009.

³⁸ Harlacher, 64-109.

³⁹ Ibid, 78-90.

blood is mixed with *oput* and local beer, and their livers are exchanged. Finally, the potion is consumed, food is prepared and eaten, and relations are restored between the two clans or families.⁴⁰

Nyono tonggweno is commonly confused with *mato oput*, though it is a very different ritual and procedure. Traditionally, *nyono tonggweno* was performed when someone returned home after being gone – not necessarily after being involved in a conflict or crime. The purpose of the ceremony is to cleanse away any negative spirits that that person may have collected outside, so that they do not bring them into the home. This is symbolized through stepping on an egg and then stepping over the stick (a sort of threshold, if you will) that is used to open the granary.⁴¹

It is important to remember, however, that *nyono tonggweno* does not cleanse someone of any killing or wrongdoing they may have committed while away. That is addressed through the use of other ceremonies such as *moyo piny* or *moyo kom*, traditional cleansing rituals. Today, refugees or displaced persons have gone through mass stepping on the egg ceremonies, and it is known for being used with two LRA commanders, Kenneth Banya and Sam Kolo, to symbolize their reintroduction into Acholi society. In this way, it makes for a very important reintegration ceremony for former child soldiers and other LRA who have committed crimes.

Perhaps the most essential thing to take away from all of this is not the specifics of the ceremonies but the notion that there is a deep-seeded culture of reconciliation, peace, and justice in the Acholi tradition. As Fr. Okumu said, “this search for peace is deep in the concept of justice. It is so strong that it pushes you to look for reconciliation, if you want peace.”⁴² In the West, we are much less inclined to invest in community restoration after conflict, so it is imperative that we come to understand how integral it is to Acholi life.

Restorative Justice and the LRA Conflict Today

As the conflict in northern Uganda gained more attention in the international arena, many advocates and political appointees began thinking of ways to bring Joseph Kony to justice. It is a natural feeling in much of the world, particularly the West. We do not like to see people get away with terrible crimes, for we know it only perpetuates such acts in the future. However, we cannot expect the rest of the world to understand justice in such a way. And the fact that a majority of northern Ugandans were advocating for the withdrawal of the ICC warrant against Kony should have been the first clue that the West had no place in determining another community’s sense of justice.

There is a common theory among international advocates and some northern Ugandans that Kony and top LRA commanders have committed crimes that are beyond the purview of a restorative justice system. Though there were wars in Acholi history, there was never such mass slaughter of the population orchestrated by a few rebel leaders. This theory may very well be true, but it is important to remember that we are not in an either/or situation. It is indeed possible

⁴⁰ Ibid.

⁴¹ Ibid, 65-70.

⁴² Okumu.

to practice restorative justice to reconcile the community and also try Kony in national court. It is a delicate balance, and achieving justice in this way is only possible through dialogue between local leaders and government officials. Whether Kony would agree to be tried is another issue, but it should be recognized that restorative justice can be complimentary to punitive justice when properly conducted.

Furthermore, as Archbishop Odama notes, restorative justice must adapt to the circumstances. Yes, Kony has committed terrible crimes unknown to Acholi history. But why not look to past rituals, see them in the context of today, and apply them? There is no rule book and no binding laws in the Acholi traditional justice system, so it can be malleable. For example, women used to be largely absent from traditional justice ceremonies; now, as the concept of women's rights gains credibility in Uganda, they are increasingly a part of those rituals.

As aforementioned, some practices such as *nyono tonggweno* have been used with former LRA combatants, and with relative success. It is important that the Acholi, Langi, and Teso communities of northern Uganda begin to think about how they will bring their children who are in the LRA back into society. After 20 years of war and over a decade of displacement, many of these traditions are unknown among young people. It is important that restorative justice be revised, evaluated, and utilized to fit the circumstances of today.

CONNECTIONS TO THE UNITED STATES: AWARENESS AND POLICY CHANGE

The Christian Tradition and Restorative Justice

Restorative justice in the African tradition is not contradictory to restoring humanity from the biblical perspective. Rather, it is complementary. For example, the Bible teaches forgiveness of sins through the Church community. The Gospel of Luke 11:4 clearly states that if someone wants to be right before God, he or she has to have right relationship with others "...forgives us our sins; for we also forgive every one who sins against us. And lead us not into temptation."⁴³ In Burundi and Uganda, the kind of sins and temptations people want to be freed from and forgiven of are corruption, injustice, rape, mass killing, ethnic discrimination, and bad governance, among others. In the Christian tradition, these crimes are considered sins, and are forgiven by God, a similar process to many of the restorative justice mechanisms described here. People of faith, under the guidance of the Holy Spirit, are called to continue the mission that Jesus stated in Isaiah 61: 1-4ss:

"The Spirit of the sovereign Lord is on me, because the LORD has anointed me to preach good news to the poor. He has sent me to bind up the brokenhearted, to proclaim freedom for the captives, and release from darkness for the prisoners, to proclaim the year of the LORD's favor, and the day of vengeance of our God; to comfort all who mourn, and provide for those who grieve in Zion – bestow on them a crown of beauty instead of ashes, the oil of gladness instead of mourning, a garment of praise instead of a

⁴³ New International Version Holy Bible. Michigan: Zondervan, 1989, p 924.

spirit of despair. They will be called oaks of righteousness, a planting of the LORD for the display of his splendor.”⁴⁴

Following this mission, the church is sent to accomplish justice, peace, liberation, restoration and reconciliation.

Contrary to God’s plan for peace (shalom) for all humanity, many African nations are dealing with the evil of war. In Burundi and Uganda, like many other places, the lack of peace is linked to economic, political, social, and moral oppression. However, the church in Africa is committed to implementing God’s decrees regarding Shalom (peace). In the *Pastoral Constitution on the Church in the Modern Times (Gaudium et Spes)*, on the question of fostering peace and the promotion of the global community, Pope Paul VI states that

“...all Christians are urgently summoned to do in love what the truth requires, and to join with all true peacemakers in pleading for peace and bringing it about. Motivated by this same spirit, we cannot fail to praise those who renounce the use of violence in the vindication of their rights and who resort to methods of defense which are otherwise available to weaker parties too, provided this can be done without injury to the rights and duties of others or of the community itself.”⁴⁵

The African Catholic Church has been on the front lines of peace building. Catholic bishops of Africa’s Great Lakes Region, to which Burundi and Uganda belong, continue to gather to find solutions to the wars that have plagued their countries for so long. As a regional church confronted with a regional problem, they try to find a regional solution. Also, locally, the dioceses have Justice and Peace offices to respond to and promote the need for justice, peace, and reconciliation.

Most of the time, the church is called upon to be a neutral voice in the midst of political crisis or to provide assistance where the state has failed. In Burundi, the Kamenge Youth Center, a project of the Archdiocese of Bujumbura, is an example of helping youth reconcile and heal from the trauma of violence and ethnic discrimination. In Uganda, Archbishop Odama is a voice in favor of the use of indigenous restorative justice process in addressing the crimes and injustices going on in northern Uganda. He uses his power as a member of the clergy in the Catholic Church to promote a system which he believes is the best way to heal the people of northern Uganda who have been affected by the war.

Blessed Are the Peacemakers

In the Gospel according to Mathew, Jesus said “Blessed are the peacemakers, for they shall be called sons of God.” Mt 5:9⁴⁶ Peacemaking is part of God’s kingdom to which the church is committed. Africa Faith & Justice Network (AFJN) was founded by American Catholic

⁴⁴ New International Version Holy Bible, p 667-668.

⁴⁵ Pastoral Constitution on the Church in the Modern World (Gaudium Et Spes). Promulgated by his Holiness, Pope Paul VI on 7 December 1965, #78.

⁴⁶ New International Version Holy Bible, p 860.

missionaries who recognized the ill-effects of U.S. foreign policy in Africa. Thus, rather than simply preaching the good news of salvation to African communities, they began to advocate for a change of U.S. policy toward Africa. Individual Catholic religious communities are also well-known for being purveyors of social justice. The Community of Sant'Egidio, for example, is world-renowned for mediating peace talks in Mozambique (1990-1992) and was involved in resolving the Algerian crisis (1994-1995). Numerous other efforts on the part of the Church attempt to provide a sense of restoration after conflict, often promoting the local, indigenous, and traditional ideals that will ultimately lead toward a just and peaceful society.

In the statement, “A Call to Solidarity with Africa,” United States bishops highlight Africa’s challenges and implore the Catholic community in the U.S. to be attentive to those in need. “Our nation should provide more development aid for the neediest countries in Sub-Saharan Africa, including aid for Africa’s debilitated health care systems. The United States should also seek and develop trade relationships that are an engine for the elimination of poverty, and should play a more central role in promoting peace throughout Africa.”⁴⁷ Also, the American Church is an ally in promoting peace on the African continent through Catholic Relief Services (CRS), which combines humanitarian relief with works of justice and peace.

Peace is God’s plan for every human being. The Swahili call it “amani,” a word in which we find the noun “imani” (faith). The Greek call it “eirene,” and it means tranquility in the context of a boat sailing on a calm water of the sea. Social justice activists refer to it as the absence of strife. In Latin it is “pax” from which derives the word “pact.” A pact is a treaty that can only happen either between two people, nations, tribes, etc. but never with one person. The Hebrew call it “shalom” which among its many meanings, means the presence of all good things. The Church on its mission for peace wishes to everyone good things by building bridges for harmony, unity, justice, and reconciliation.

Thus, it is within this context that we promote restorative justice as a legitimate form of justice and an engine of peace. The Christian tradition teaches the importance of living in harmony with one another, something that is also well understood by the *Bashingantahe* in Burundi and the Acholi in northern Uganda. When approached from this angle, citizens in the U.S. can better understand the local justice mechanisms in countries such as Burundi and Uganda. Restorative justice is not unknown to us, it has simply faded as an integral part of our social fabric. We may be well-advised to follow the African example and return to our roots of community-building and restoration.

Raising Awareness of Restorative Justice in the U.S.

Although making religious connections is one means of increasing public awareness of local restorative justice practices, it is not the only way. The first and most important step for the United States to take is to publicly recognize community-based restorative justice as a legitimate form of justice. This will not only benefit the citizens of African countries, but also U.S. citizens who may be able to use similar practices in their own communities to achieve reconciliation. As

⁴⁷ “A Call to Solidarity with Africa: A Statement of the U.S. Catholic Bishops.” Washington DC: United States Conference of Catholic Bishops, 2004, p 19.

civil society organizations, we have a role to play in educating the American people about how justice is done in other areas of the world and why it may be a valuable tool here at home.

The West tends to push punitive justice in its dealings with developing countries. This is particularly clear with regards to the ICC. Although the U.S. is not a signatory to the Rome Statute of the ICC, it tends to endorse decisions made by the high court, leading the American public to perceive arrest warrants as the way to solve Africa's conflicts. This is not to say that it is wrong to issue an arrest warrant against Kony, or against Sudanese President Omar al-Bashir – they certainly deserve punishment – but it is wrong to allow it to dominate the justice toolkit, particularly when there are other viable options.

As we described our project to Kathleen Fitzgibbons, a political officer at the U.S. Embassy in Kampala, she indicated how much education the U.S. Congress needs on this issue. In her view, though she would like to do more, the government in Washington does not see restorative justice as something in which the U.S. should seriously invest. Again, the role of civil society organizations comes into play. It is our job to tell the *Bashingantahe* story and the Acholi story, and to make it clear that these *are* viable methods to achieve peace and justice. Awareness is the key to starting a serious national dialogue about the value of indigenous and community-based institutions.

U.S. Foreign Policy and Restorative Justice

If restorative justice is, by nature, a locally-determined method of seeking reconciliation, what role can the U.S. government play, if any? It is certainly a challenging situation – of course we want to help promote restorative justice, but we do not want to obviate Burundians or northern Ugandans from their own systems. As the previous section iterated, changing U.S. rhetoric and mentality is the first step. The second step is more direct, and involves specific policymaking and legislation to change the way the U.S. government approaches its relationship with African countries.

Congress and the U.S. Administration must ask themselves how they can create the environment for restorative justice to take place without actually financially supporting such mechanisms. Currently, the U.S. provides some funding for ceremonies such as *mato oput* in northern Uganda. However, the whole premise behind exchanging halves of a sheep and a goat is that the two parties are giving one another something that belongs to them – something that they are giving up to show that they are willing to reconcile. What happens when the United States is the one buying the sheep and the goat? Does it devalue the meaning behind the ceremony? Does it cheapen it? Do the parties lose some sense of agency over the situation? These questions are near-impossible to answer, but it is safe to assume that it does distance the ceremony a little further from the local community.

As such, if the U.S. wishes to invest money to help rebuild and reconstruct torn societies, it must contribute in a way that *adds* to the process, rather than *taking away*. Promoting human rights education, women's empowerment, and education are all ways that the U.S. can effectively use its power and influence. Furthermore, the U.S. (and other Western countries, for that matter) can pressure African leaders to legitimize and invest in traditional justice. The

Burundian and Ugandan governments stand to gain from such an arrangement – ‘you, the people, can help us, the government, bring peace and justice to our fellow citizens.’

None of this is to say that punitive justice should be discouraged; rather, it should act in concert with restorative justice where possible, and should always be used at the request of the local population. In Acholi, even if someone commits a crime and is hanged for it, it will not ultimately solve the problem. The community must go through a process of dialogue, communication, and mediation.⁴⁸ The community might want the hanging to occur, but it cannot be the *only* means of addressing the situation. This may be why Agenda Item 3 of the FPA in Uganda holds so much promise – it recognizes (though it may not follow through) that trying Kony in court will not ultimately resolve the conflict, but that it may be helpful in handling some of the issues that the traditional justice system cannot.

In Burundi, reconciliation among the youth is perhaps the most important way to move forward. Young people were at the very heart of the conflict in the 1990’s – it was they who fought, it was they who died, and it is they who must come to grips with what happened. Youth empowerment programs, such as the Kamenge Center, can help in this restorative process, particularly if Burundi wishes to avoid conflict in the future. The U.S. does provide some monetary support for youth programs through the United Nations, but it could do more to directly empower local groups. Through education, financial assistance for the construction of more centers like the one in Bujumbura, and pressure on the Burundian government to support such measures, the U.S. can further legitimize restorative justice.

In the Ugandan case, the U.S. Congress passed the Northern Uganda Crisis Response Act (S. 2264) in 2004, adopting a holistic approach to resolving the conflict. Among other things, it pledged funding for relief and development for displaced persons and required the Secretary of State to submit a report on LRA activities as well as UPDF tactics in northern Uganda.⁴⁹ Since then, numerous resolutions, letters from members of Congress, and diplomatic visits to the area have raised the profile of the conflict in the U.S. It is likely that Congress will allocate more funding toward humanitarian aid in northern Uganda this year, and it is important that restorative justice be encouraged within the legislation. AFJN recently signed an NGO letter to Congress supporting the allocation of \$10 million toward transitional justice in northern Uganda in the 2010 budget. That money would be used for an array of justice mechanisms, such as truth-telling commissions and local and national reconciliation efforts. We must be clear again that though we support funding for elements such as human rights training, women’s rights awareness, etc. within traditional justice systems, we do not support direct funding for the carrying out of ceremonies or other practices that must necessarily be locally or nationally-led.

Although the U.S. should not directly fund restorative justice, it should use its leverage to pressure Museveni to empower local leaders to conduct traditional reconciliation. Similarly, when the U.S. allocates aid to Burundi, it should strongly encourage President Nkurunziza to recognize and empower *Ubushingantahe*. The U.S. Agency for International Development (USAID) has an office in Gulu and conducts a program entitled Northern Uganda Traditional

⁴⁸ Olaa.

⁴⁹ United States. Cong. Senate. 109th Congress, 1st Session. S. 2264, Northern Uganda Crisis Response Act [introduced in the U.S. Senate; 31 March 2004]. 109th Cong., Bills, Resolutions, Library of Congress Access. Web. 25 April 2009 <<http://thomas.loc.gov/cgi-bin/bdquery/z?d108:SN02264:@@L&summ2=m&>>

Initiatives (NUTI). This is a positive gesture, and could be effective, as long as it is entirely locally led and U.S. funding is not taking the place of community ownership over the practices.

Finally, the United States funds many large humanitarian non-governmental organizations (NGOs). It is important that such NGO's be sensitive to the local situation and the capabilities of local people, particularly those affected by war. According to Ambrose Olaa in the USAID office in Gulu, many NGO's "assume people are at zero percent" and fail to utilize the processes people already have.⁵⁰ When NGO's come in, expecting to hold workshops on justice and peacebuilding without acknowledging the progress already made in the community, they are inadvertently delegitimizing local restorative justice.

CONCLUSION

There is a concept that exists in much of Africa that we do not have in the West, called *Ubuntu* in Southern Africa. It is a sense that humanity shares a common spirit and that when one individual is violated, the whole of humanity feels that pain. Archbishop Desmond Tutu has characterized *Ubuntu* as such: "my humanity is bound up in yours, for we can only be human together." He employed this ideology when he presided over the Truth and Reconciliation Commission (TRC) in South Africa after apartheid. At the TRC, those who had committed crimes of aggression appeared in front of their communities and apologized for the sake of a greater good. Although the TRC is much better-known, Acholi justice mechanisms in Uganda, *Ubashingantahe* in Burundi, and community projects such as the Kamenge Youth Center all provide a similar result of reconciling humanity. Though transitional justice often takes place alongside criminal justice, it has proven to be an incredibly effective means of cleansing a society previously wrought with violence and instability.

Ultimately, restorative justice must happen on local terms, but Westerners can contribute by broadening the public understanding of community-based justice mechanisms and ensuring that their foreign policy respects such forms of peacebuilding. The United States can transform its justice narrative from one of criminal prosecution to one of community reconciliation, and then embolden this perspective through political pressure and funding allocation. If we consider *Ubuntu* as a guiding principle, then we must necessarily support and recognize restorative justice in Burundi and Uganda as legitimate, for it is only when those communities are healed that we too can feel reconciled.

⁵⁰ Olaa.

Promoting International Support for Community-Based Justice Mechanisms in Post-Conflict Burundi and Uganda. As part of AFJN's ongoing research on restorative justice, staff members Bahati Jacques and Beth Tuckey wrote a report on their recent trip to Burundi and Uganda. It details community-based justice mechanisms in these post-conflict societies and what the U.S. can do to promote awareness and policy change. Click here to find and download the report! Burundi. Ivory in the custody of Ugandan armed forces (Photo: Dave Bugzy). Mass atrocities don't come cheap. A common misconception is that everything must fail in order for international crimes – war crimes, crimes against humanity, and genocide – to be perpetrated against civilian populations. On the contrary, many things need to align for governments, terrorists, or rebel groups to commit atrocities. After another year in which the demand for accountability for international crimes far outweighed the supply of justice, this July 17 – International Justice Day – is a useful time to highlight the importance of tackling the funding of atrocity perpetrators. One way to do so is to connect the prosecution of mass atrocities with the lucrative, transnational crimes that fuel them. Promoting International Support for Community-Based Justice Mechanisms in Post-Conflict Burundi and Uganda. By Bahati Ntama Jacques and Beth Tuckey. Bahati Ntama Jacques is Policy Analyst at Africa Faith & Justice Network in Washington, DC. He can be reached at bahati@afjn.org. Those who committed crimes in the long wars in Burundi and Uganda are wanted by both the national and international criminal court system, but very little attention is given to peacebuilding, reconciliation, or restoration of the communities destroyed by violence. Using this local perspective, the paper elevates the need for international recognition and support for restorative justice mechanisms in post-conflict communities in Africa. These organizations operate based on international law and universal principles, such as peace and cooperation, and work towards promoting them. Therefore, even domestic conflicts rarely remain internal affairs of States, and are often subject of conflict reduction in a UN peacekeeping mission without being drawn into the regional conflict itself, as well as giving the IO the roles of neutral trustee in supervising conflicts and cease-fires, neutral roles of community representatives and managers of enforcement. In the former role, they frame the international discourse so that it regards shared values and interests of member States and their community, as for instance it has been done with the Universal Declaration of Human Rights. This.