

**ACCOUNTABILITY FOR MASS ATROCITIES
THE LRA CONFLICT IN UGANDA**

By

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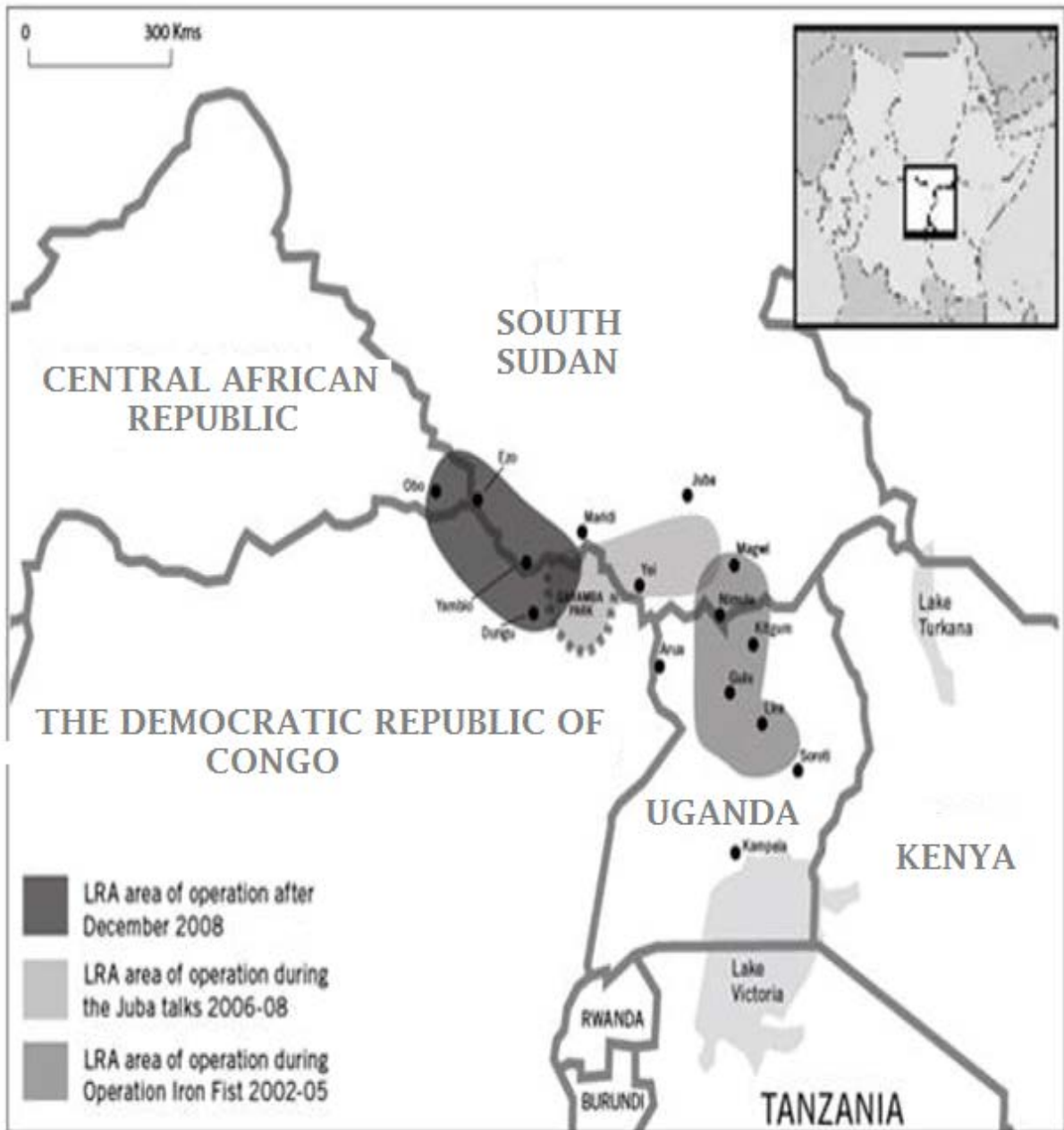
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Map showing LRA areas of activity. Source: Accord Conciliation Resources

ABSTRACT

This thesis addresses accountability for mass atrocities. It presents a case study of Uganda that has undergone a two-decade conflict between the Lord's Resistance Army (LRA) insurgent group and the national army, the Uganda People's Defence Armed Forces (UPDF). The government of Uganda has initiated various accountability measures that include international and domestic prosecutions, truth telling, reparations and traditional justice to address international crimes and other human rights violations committed during the conflict. The thesis in particular investigates how all these mechanisms could be used in a way that ensures that Uganda fulfils its international obligations and that the different measures complement each other.

The thesis traces the background to the conflict that began in 1986 and explores the consequences of the conflict on the civilian population in Uganda. It alludes to its spread from Uganda to South Sudan and since 2008, to the Democratic Republic of Congo (DRC) and Central African Republic. It argues that the significant and continuous involvement of the government of Sudan from 1994 to 2005 internationalised the LRA conflict. It further finds that both the LRA and the UPDF perpetrated war crimes and crimes against humanity during the conflict.

The thesis further discusses the international obligation of Uganda to prosecute, punish and extradite persons responsible for the commission of international crimes and to ensure remedies to victims of such crimes and other human rights violations. It finds that the lapse of Part II of the Amnesty Act that allowed for a 'blanket amnesty' leaves room for Uganda to fulfil its international obligations. The thesis further investigates the Agreement on Accountability and Reconciliation and its Annexure reached between the government of Uganda and the LRA in Juba that ushers in the various accountability pursuits in Uganda. It argues that the implementation and successes of the Agreement depends on the consultations, legislations, policies and the establishment and workings of the institutions envisaged that could lead to justice, truth and reparations in Uganda.

The thesis finds that the different accountability measures that Uganda is pursuing correspond to the political, social and historical conditions in Uganda, in particular, decades of armed conflict and human rights violations with impunity of perpetrators. It concludes that the success of the accountability undertakings will largely depend on the high calibre of officials and staff of the different institutions and their ability to deal wisely with challenges that will inevitably arise. It further finds that a political will and commitment is essential to ensure adequate investment in technical, material and financial resources and that non-interference of the government in the work of the institutions will ensure success. It concludes that such a political will and commitment, a robust consultation with stakeholders including victim groups and the creation of alliances locally, nationally, regionally and internationally, Uganda's accountability pursuits will lead to the desired justice, truth and reparations.

Acronym	
ACHPR	African Charter on Human and Peoples' Rights
ADF	Allied Democratic Forces
ANISOM	African Union Mission in Somalia
ARLPI	Acholi Religious Leaders Peace Initiative
CAR	Central African Republic
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CDF	Civil Defence Forces (Sierra Leone)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CIVHR	Commission of Inquiry into Violations of Human Rights
CMI	Chieftaincy of Military Intelligence (Uganda)
CRC	Convention on the Rights of the Child
CSOPNU	Civil Society Organisations for Peace in Northern Uganda
DDR	Disarmament, Demobilisation and Reintegration
DPP	Director of Public Prosecutions
DRC	Democratic Republic of Congo
DRT	Demobilisation and Resettlement Team (Uganda)
FARDC	Forces Armées de la République Démocratique du Congo (The Armed Forces of the Democratic Republic of Congo)
FDC	Forum for Democratic Change
HRC	Human Rights Committee
ICC	International Criminal Court
ICCPR	International Convention on Civil and Political Rights
ICD	International Crimes Division (of the High Court of Uganda)
ICERD	International Convention on Elimination of all Forms of Racial Discrimination
ICESCR	International Convention on Social, Economic and Cultural Rights
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTJ	International Centre for Transitional Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDEA	International Institute for Democracy and Electoral Assistance
IDP	Internally Displaced Persons
IHT	Iraqi High Tribunal
JLOS	Judicial and Law Order Sector (Uganda)
LRA	Lord's Resistance Army
MONUSCO	United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo
NGO	Non-governmental organisation
NIF	National Islamic Front (Sudan)
NRA/M	National Resistance Army/Movement (Uganda)
OCHA	Office of Coordination of Humanitarian Affairs
RRC	Reparations and Rehabilitation Committee (South Africa)
RUF	Revolutionary United Front (Sierra Leone)
SCSL	Special Court for Sierra Leone
SPLA	Sudan People's Liberation Army



Acronym	
TJWG	Transitional Justice Working Group (Uganda)
TRC	Truth and Reconciliation Commission
UNICEF	United Nations Children's Fund
UPA	Uganda People's Army
UPC	Uganda's People's Congress
UPC	Union of Patriotic Congolese
UPDA/M	Uganda People's Democratic Army/Movement
UPDF	Uganda's Peoples' Defence Forces
UPF	Uganda People's Front
URF	United Resistance Front (Sudan)

THE PREFACE

I spent much of my early life in Lacor, a suburb near a Catholic mission in Gulu, Northern Uganda. My family frequently visited relatives in Laliya, Kati-Kati, Pageya and Bobi, the more distant villages in Gulu district. The harvesting seasons, in July and in December, coincided with school holidays. That was my favourite time of the year. Each year, my family went off to the villages to help our relatives with the harvesting, the biggest family gatherings ever. It was hard day's work under the scorching sun, harvesting the crops, drying and storing them in granaries. Everybody did a share of the work, even children as young as five years, who carried the lighter load and served cold water to the older people working. The sunset was the most rewarding time for the hard day's work. Everybody sat around a big campfire lit in the middle of the compound (*wang oo*) and told stories, jokes, riddles, while roasting and feasting on maize, cassava, potatoes, groundnuts or whatever harvest we got from the field that day. Those are the most memorable days of my childhood.

In 1989 as the conflict in Northern Uganda intensified, my family moved to Kampala and those nights in Gulu became a distant dream. The only news ever received from Gulu was about abductions, killings and torture of relatives, schoolmates, neighbours and friends. It was hard to reconcile the news with the place of my childhood. Around 1994, we heard that people no longer slept in their houses but in bushes in surrounding areas. The bushes were safer - potential attack from snakes and other creatures of the bushes notwithstanding. The lucky ones took refuge in hospitals, schools or mission compounds as the Lord's Resistance Army (LRA) the insurgent group operating in the area had intensified abductions and taken to burning down the grass-thatched houses where the majority of the population live. The LRA razed entire homesteads to the ground. It was also around that time that the government started forcing people to move to protected villages that later came to be known as Internally Displaced Persons (IDP) camps. Children stopped going to school due to fear of abductions, many of which occurred in schools or on the way to school. It was not safe to go to school anymore.

I returned to Gulu for the first time in July 1997 after I finished my Advanced level (A' level) examinations and the year I joined the Faculty of Law at Makerere University. My visit was

grounded in Gulu town. Villages like Pageya, Bobi and Laliya were now war zones and relatives had either moved out of Gulu and were living in the IDP camps or had been abducted or killed. I went to Gulu every year after that and from 1998 joined those who dared to hope for peace in the Peace Walk organised by the Acholi Religious Leaders Peace Initiative (ARLPI) and later several other NGOs in Gulu every year. It was a walk of hope, as peace remained a distant dream.

The 'night commuter' phenomena where scores of children left their homes every night to sleep in bus parks, shop verandas or schools in the town centre¹ reached its peak around 2003 after the failed 'Operation Iron Fist' that escalated violence in Northern Uganda and spread LRA activities to the eastern region of the country. This incidence, highlighted by the ARLPI, attracted international media coverage but the situation on ground did not change much. In 2004, as I prepared to go to University of Pretoria to undertake an LLM in Human Rights and Democratisation in Africa, I saw the need to research and understand why there had been no international military intervention in the conflict. In my understanding, the conflict clearly constituted a threat to international peace and security.² My research found that the international community considered the LRA conflict a national problem within the control of the government of Uganda and saw no need to intervene.³

Although, there was not much international intervention in the conflict, in December 2003, the government of Uganda referred the situation of the LRA to the International Criminal Court (ICC).⁴ The ICC Prosecutor found that there was sufficient basis to begin its first investigations and on 8 July 2005, unsealed arrest warrants for five LRA suspects on charges of war crimes and crimes against humanity.⁵ Though the ICC had issued arrest warrants for LRA suspects, the Amnesty Act of Uganda, passed in 2000 as a conflict resolution measure

¹ Further discussion on the 'night commuter' phenomena is contained in chapter one.

² United Nations Charter chapter VII; art 39 in particular, mandates the United Nations to intervene in situations that are a threat to peace to maintain or restore international peace and security.

³ Indeed every couple of months, senior army officials and politicians in the government indicated that the LRA were 'ragtag army fleeing in disarray' and would be defeated in a matter of time; Unpublished: P Acirokop 'Pitied and then Ignored: International Response to the Plight of Children in Northern Uganda' unpublished LLM thesis, University of Pretoria, 2005.

⁴ 'President of Uganda refers situation of the Lord's Resistance Army to the ICC' ICC Press Release 23 Feb 2004 ICC-CPI-20040129-43.

⁵ ICC Press Release, 'Warrants of Arrest unsealed Against 5 LRA Commanders', ICC-CPI-20051014-110.

granted a ‘blanket amnesty’ to all who renounced rebellion against the government of Uganda.⁶

When I returned to Uganda in 2006 after the LLM, I started work as a child and human rights advisor with Save the Children in Uganda – later that year, I was appointed the Chairperson of Civil Society Organisations for Peace in Northern Uganda (CSOPNU).⁷ By the time, I took up the position as chair of CSOPNU, the Juba Peace Talks was well underway, and all stakeholders, including CSOPNU were giving full support to the talks. Although all stakeholders considered the talks, the best chance for negotiated peace, there was a lingering doubt on the actual agenda of the parties.

There was indication that the LRA leadership saw the talks as a chance to neutralise the threats of prosecutions and to secure jobs for its members.⁸ While the government of Uganda saw this as an opportunity to work out technicalities to end the insurgency that had become both a political liability and an embarrassment. Nonetheless, on 29 June 2007, the negotiating parties in Juba signed the Agreement on Accountability and Reconciliation paving way for domestic prosecutions, use of traditional justice, truth-telling process, reparations, and other national legal arrangements as accountability and reconciliation measures with respect to the conflict. The parties later adopted an Annexure to elaborate principles and mechanisms of implementing the main Agreement.⁹

Most intriguing and the subject of this thesis is whether these measures of accountability meet Uganda’s international obligation in respect of the atrocities perpetrated in the conflict. The thesis also investigates how well these mechanisms can complement each other to ensure that Northern Uganda returns to the nostalgic place of my childhood. A

⁶ Amnesty (Amendment) Act 2000, art 2.

⁷ CSOPNU is a coalition of at least 64 NGOs both national and international that advocated for the peaceful resolution of the LRA conflict and protection of victims of the conflict.

⁸ This was quite clear from the demands of the LRA/M for the ICC arrest warrants to be dropped before it signed a comprehensive peace agreement.

⁹ Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord’s Resistance Army/Movement, signed in Juba, South Sudan on the 29th June 2007 (Agreement on Accountability and Reconciliation) and the Annexure to the Agreement on Accountability and Reconciliation signed between the Government of the Republic of Uganda and the Lord’s Resistance Army/Movement on 19th Feb 2008.

place where people live without fear of violent death or torture; where children are not afraid to go to school; where people can begin to regain livelihoods and most importantly, a place where people can meaningfully take part in civic and democratic activities without fear of recurrence of conflict.

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