

“The International Criminal Court at the Hague represents one way of holding those who commit atrocities responsible for their crimes. The raw eggs, twigs and livestock that the Acholi people of northern Uganda use in their traditional reconciliation ceremonies represent another.”

Marc Lacey, “Victims of Uganda Atrocities Choose a Path of Forgiveness” *The New York Times* (18 April 2005) A.1.

**Breaking Eggs / Re-Building Societies: Traditional Justice as a Tool for
Transitional Justice in northern Uganda**

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Barbara Harvey
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I. Introduction

In October 2005, the International Criminal Court (ICC) announced that it had issued arrest warrants for Joseph Kony and four senior commanders of the Lord's Resistance Army (LRA) in Uganda.¹ At first glance, the LRA seems the perfect target for the sanctions of international justice. Acting under Kony's direction, the LRA has terrorized the Acholi people of northern Uganda for nearly two decades.² Approximately 90 percent of the affected Acholi population, nearly 2 million people, has been forced to relocate to overcrowded and disease-ridden internally displaced persons (IDP) camps.³ At least 20,000 children have been abducted by the LRA, and forced to serve as soldiers and sex slaves.⁴ To avoid a similar fate, up to 40,000 children commute every evening to sleep in the relative safety of town centres.⁵

The announcement, however, proved to be highly controversial and "sparked an intense, and often acrimonious, debate within Ugandan civil society and the international community".⁶ On one side, supporters of the ICC insist that the impunity of the LRA must not be allowed to continue and that the intervention has had "a positive impact, facilitating prospects for realizing sustainable peace, primarily by drawing greater international attention to the conflict and pressuring conflicting parties

¹ "Catching a Ugandan monster" *Economist* 377:8449 (22 October 2005); "Uganda Aide Criticizes Court Over Warrants" *The New York Times* (9 October 2005) 1.20. In issuing its arrest warrants, the ICC stated that there were "reasonable grounds" to believe that Kony and the four senior commanders had "ordered the commission of crimes within the jurisdiction of the court...including murder, abduction, sexual enslavement, [and] mutilation."

² For example, see International Crisis Group, "Northern Uganda: Understanding and Solving the Conflict" Africa Report No. 77 (14 April 2004) online: International Crisis Group <http://www.crisisgroup.org/home/index.cfm?id=2588&l=1>; Hovil, Lucy & Zachary Lomo. "Behind the Violence: Causes, Consequences and the Search for Solutions to the War in Northern Uganda" Refugee Law Project Working Paper No. 11 (2004) online: Refugee Law Project <http://www.refugeelawproject.org/papers/workingpapers/RLP.WP11.pdf>.

³ For example, see Human Rights Watch. "Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda" 17:12(A) (2005) online: Human Rights Watch <http://hrw.org/reports/2005/uganda0905/uganda0905.pdf>, at 13; "A catastrophe ignored" *Economist* 372:8385 (24 July 2004) 46.

⁴ The UN Office for the Coordination of Humanitarian Affairs estimates that 20,000 children have been abducted, but some put the figure at 30,000 or higher. There has been no systematic monitoring by UNICEF since 2001. See "Uganda: Waiting for elusive peace in the war-ravaged north" (9 June 2005) online: IRIN http://www.irinnews.org/report.asp?ReportID=47568&SelectRegion=East_Africa; and Tim Allen, "War and Justice in Northern Uganda: An Assessment of the International Criminal Court's Intervention" (2005).

⁵ Bruno Stevens, "Night Flight" (March/April 2006) *Foreign Policy* 76 at 76.

⁶ International Center for Transitional Justice & the Human Rights Center, University of California, Berkeley, "Forgotten Voices: A Population-Based Survey on Attitudes About Peace and Justice in Northern Uganda" (July 2005) ["Forgotten Voices"] at 9.

to resolve it.”⁷ On the other side, those who opposed the ICC intervention feared that it would undermine the Ugandan Amnesty Act and peace talks.⁸ Further, opponents argued that traditional approaches to justice would better address the needs created by the ongoing conflict.⁹

This paper aims to explore the capacity of these traditional justice approaches to meet the transitional justice needs of the people of northern Uganda.¹⁰ In Part II, I introduce the concept of transitional justice, and specifically highlight differences between western and traditional approaches thereto. In Part III, I outline some of the key principles and practices of Acholi traditional justice, paying particular attention to the “Stepping on the Egg” ceremony and how it has been modified by the ongoing conflict. In Part IV, I analyze the potential of this ceremony and other Acholi traditional justice mechanisms to play a useful role in the transitional justice process in northern Uganda. In Part V, I offer some brief final reflections.

II. Transitional Justice

(a) An Overview

Societies attempting to address, and move forward from, histories of massive human rights abuses face a number of daunting challenges. To succeed, it will be important for those in charge to restore civic trust, address past wrongdoings, heal deep societal divisions, and prevent future abuses.¹¹ These tasks are enormously difficult, and especially so for the impoverished and unstable states that must undertake them. Thus, although the prospect of ‘moving forward’ is a profoundly hopeful one, the actual process of doing so is neither simple nor straightforward. As the

⁷ Liu Institute for Global Issues, “Northern Uganda: Human Security Update” (May 2005) online: Liu Institute <http://www.ligi.ubc.ca/collateral/common/index.cfm?fuseaction=view&pageName=conflictAndDevelopment&contentID=479§ion=Programs&subSection=Conflict%20%26amp%3B%20Development>, at 1.

⁸ For example, see “Uganda: Acholi leaders in The Hague to meet ICC over LRA probe” (16 March 2005) online: IRIN News http://www.irinnews.org/report.asp?ReportID=46134&SelectRegion=East_Africa&SelectCountry=UGANDA. Gulu’s Catholic archdiocese’s Justice and Peace Commission stated that “To start war crimes investigations for the sake of justice at a time when the war is not yet over risks having, in the end, neither justice nor peace delivered.”

⁹ For example, see Adam Branch, “International Justice, Local Injustice” (2004) 51:3 Dissent 22; and Lucy Hovil & Joanna R. Quinn, “Peace First, Justice Later” Refugee Law Project Working Paper No. 17 (2005) online: Refugee Law Project <http://www.refugeelawproject.org/papers/workingpapers/RLP.WP17.pdf>.

¹⁰ I will be focusing specifically on the Acholi ethnic group, which represents the majority of the population in northern Uganda’s Gulu, Kitgum, and Pader districts. See Uganda Conflict Action Network, “Key Actors, Terms and Acronyms in the War in Northern Uganda” online: Uganda Conflict Action Network <http://www.ugandacan.org/glossary.php>.

¹¹ International Center for Transitional Justice, “What is Transitional Justice”, online: <http://www.ictj.org/en/tj/>.

number of states facing these transition dilemmas has increased, so too has academic and applied interest in the related field of transitional justice.

The precise definition of transitional justice remains somewhat contentious,¹² but it is generally understood to encompass “a range of approaches that societies undertake to reckon with legacies of widespread or systematic human rights abuses as they move from a period of violent conflict or oppression towards peace, democracy, the rule of law, and respect for individual and collective rights.”¹³ The term itself is somewhat misleading, in that ‘transitional justice’ usually refers to ‘justice during transition’ and not to any particular modified form of justice.¹⁴ Ideally, justice will be pursued during this transition period through institutions carefully designed to both address past wrongs and be attentive to the needs of the present and future.¹⁵ Martha Minow acknowledges this delicate balance, stating that justice at this juncture amounts to replacing “violence with words and terror with fairness”¹⁶ and “steering a path between too much memory and too much forgetting.”¹⁷

A number of judicial and extrajudicial transitional justice approaches are available to help societies strike the right balance at this critical juncture. Those that are most commonly invoked include domestic, hybrid and international prosecutions; truth-telling initiatives; reparations; institutional reform; public apologies, memorials and museums; and blanket and individualized amnesties.¹⁸ In recent years, traditional justice mechanisms have also gained some traction internationally.¹⁹ None of these approaches are mutually exclusive, and each has particular strengths and weaknesses.

¹² Alex Boraine, “Transitional Justice as an Emerging Field” (Lecture presented at “Repairing the Past: Reparations and Transitions to Democracy” symposium, 11 March 2004) online: The International Development Research Centre <http://www.idrc.org.sg/uploads/user-S/10829975041revised-boraine-ottawa-2004.pdf>, at 1.

¹³ International Center for Transitional Justice, *supra* note 11.

¹⁴ *The Encyclopedia of Genocide and Crimes Against Humanity* (Macmillan Reference USA, 2004) “Transitional Justice”, 1045. Having said that, ‘justice during transition’ may ultimately be pursued in a unique manner.

¹⁵ Katherine Franke, “Gendered Subjects of Transitional Justice” (Prepared for ICTJ Meeting on Gender and Transitional Justice, March 2005) online: Columbia University Faculty of Law http://www2.law.columbia.edu/faculty_franke/ICTJ%20Justice%20Paper.pdf, at 1.

¹⁶ Martha Minow, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence* (Boston: Beacon Press, 1998) at 2.

¹⁷ *Ibid.*, at 4.

¹⁸ International Center for Transitional Justice, *supra* note 11; and Franke, *supra* note 15, at 1.

¹⁹ International Center for Transitional Justice, *supra* note 11; and Joanna R. Quinn, “The Role of Informal Mechanisms in Transitional Justice” (Paper presented to the Canadian Political Science Association Annual Meeting, 2 June 2005).

Evaluating the success of transitional justice processes is a notoriously difficult exercise.²⁰ Ultimately, the perceived failure or success of any transitional justice process will depend on stakeholder interests, expectations, and perspectives. In essence, the success of any particular transitional justice approach will depend on what the very concept of 'justice' means to those individuals and communities that it affects most directly.

(b) Western and Traditional Models of Justice & Transitional Justice

Our conceptions of justice tend to be grounded in paradigms that are either retributive or restorative.²¹ Retributive justice is primarily concerned with accountability and ensuring that perpetrators do not go unpunished. In contrast, restorative justice involves active victim, perpetrator, and community participation in a process that ultimately aims to restore relations as far as possible.²²

By and large, formal Western justice systems have been shaped by the retributive paradigm.²³ In the specific context of transitional justice, the Western retributive model has informed decisions to prosecute perpetrators of major war crimes and human rights abuses. Indeed, the very origins of the field of transitional justice are often traced to the post-WWII Nuremberg trials.²⁴ Other prosecutions that have been initiated for transitional justice purposes include the domestic trials of former members of military juntas in Greece and Argentina;²⁵ the International Criminal Tribunal for

²⁰ Judy Barsalou, "Trauma and Transitional Justice in Divided Societies" United States Institute for Peace Special Report 135 (April 2005) online: United States Institute for Peace <http://www.usip.org/pubs/specialreports/sr135.html>, at 9-10. Elizabeth Evenson names four broad goals of transitional justice, namely "providing for individual criminal accountability, deterrence, and punishment, and establishing a common truth about the past which can carry the society forward in a process of healing and reconciliation." (Elizabeth Evenson, "Truth and Justice in Sierra Leone: Coordination between Commissions and the Court" (1998) 104:3 Columbia Law Review 730 at 761). Similarly, Miriam Aukerman suggests five general goals for justice processes – retribution, deterrence, rehabilitation, restoration, and condemnation/social solidarity (Aukerman, Miriam J. "Extraordinary Evil, Ordinary Crime: A Framework for Understanding Transitional Justice" (2002) 15 Harvard Human Rights Journal 39). Both scholars, though, emphasize that the relative priority given to each of the goals they list will depend heavily on local context.

²¹ Hovil & Quinn, *supra* note 9, at 11.

²² David Bloomfield, Teresa Barnes & Luc Huyse. "Reconciliation After Violent Conflict: A Handbook" (Stockholm: International Institute for Democracy and Electoral Assistance, 2003) online International Institute for Democracy and Electoral Assistance http://www.idea.int/publications/reconciliation/upload/reconciliation_full.pdf, at 97-113.

²³ For example, see Barbara Hudson, "Restorative Justice: The Challenge of Sexual and Racial Violence" (1998) 25:2 Journal of Law and Society 237. There are, of course, exceptions to this rather sweeping statement, and an increasing number of Western societies are making use of restorative justice approaches.

²⁴ *The Encyclopedia of Genocide and Crimes Against Humanity*, *supra* note 14.

²⁵ *Ibid.*

the Former Yugoslavia;²⁶ the International Criminal Tribunal for Rwanda;²⁷ and the recently established International Criminal Court.²⁸

Traditional²⁹ models of justice, on the other hand, tend to operate very differently. These models are often premised on restorative principles, such as the traditional justice systems of some of the aboriginal communities in Canada³⁰ and New Zealand.³¹ Many African communities share similarly restorative understandings of justice:

If you have harmed my child, it is because something has gone wrong with you to such an extent that you could do that. That which has gone wrong for you is now harming my life. It means I cannot be the kind of human being I want to be because you are no longer human. So it is my interest – my interest – as the victim, to get you and assist you to get your humanity back so that I can become human again... This is a fundamentally different way of looking at a community and looking at what to do with evil... The biggest evil is to live in complete disregard for others.³²

Notwithstanding this strong restorative theme, traditional justice mechanisms *also* commonly and concurrently incorporate retributive, rehabilitative, compensatory and reconciliatory elements in varying degrees.³³ The particular emphasis on each will vary according to the needs and circumstances of the community in which the mechanism is grounded.

In part because of this demonstrated versatility, traditional justice mechanisms are increasingly utilized to promote recovery and reconstruction as part of transitional justice processes.³⁴ Where such mechanisms exist indigenously, there seems to be a hope that they will carry greater legitimacy and relevance than will solutions imported from the West. Recent uses of traditional justice in transitional justice settings include the *gacaca* courts in Rwanda, a traditional system of

²⁶ “International Criminal Tribunal for the Former Yugoslavia”, online: United Nations <http://www.un.org/icty/>.

²⁷ “International Criminal Tribunal for Rwanda”, online: United Nations <http://65.18.216.88/default.htm>.

²⁸ “International Criminal Court”, online: <http://www.icc-cpi.int/home.html&l=en>.

²⁹ ‘Local’ or ‘customary’ would arguably be preferable terms here to ‘traditional’ – however, I have used ‘traditional’ for the sake of consistency with the still relatively small amount of published literature on this subject.

³⁰ For example, see Rupert Ross, “Duelling Paradigms? Western Criminal Justice versus Aboriginal Community Healing”, in *Continuing Poundmaker and Riel’s Quest*, ed. R. Grosse, J. Henderson, and J. Youngblood (Saskatoon: Purich Publishing, 1994), 241-268.

³¹ For example, see Teresa Olsen, Gabrielle M. Maxwell & Allison Morris, “Maori and Youth Justice in New Zealand”, in *Popular Justice and Community Regeneration*, ed. K. Hazlehurst (London: Praeger, 1995), 89-102.

³² Antjie Krog interview by Philip Coulter, in “Walk to Freedom”, Radio Segment, *The Current*, CBC Radio (2004), see <http://www.cbc.ca/walktofreedom/index.html>.

³³ Hovil & Quinn, *supra* note 9, at 12.

³⁴ Barsalou, *supra* note 20, at 8.

community-based conflict resolution and justice being adapted to oversee the ‘trials’ of citizens accused of lower-level involvement in the 1994 genocide;³⁵ community ceremonies in East Timor, led by village elders and intended to facilitate the return of those who collaborated with the Indonesian military during their bloody campaign in 1999;³⁶ and healing rituals in Sierra Leone, conducted to assist the reintegration of child soldiers.³⁷

III. Traditional Justice for Transitional Justice Purposes in Northern Uganda

(a) Preliminary Comment

Before examining the potential role for traditional justice in the Uganda transitional justice process, a preliminary comment is necessary. Transitional justice by definition involves those societies that are engaged in some form of transition, from periods of lesser to greater peace, stability and justice. Although the exact points when this transition begins and ends are admittedly blurry in individual cases, the LRA conflict cannot yet be relegated to the past. Indeed, despite occasional expressions of optimism, the conflict wages on unabated and the Acholi people continue to suffer.

However, notwithstanding the ongoing nature of the conflict, there are two key reasons why transitional justice is a relevant issue for northern Uganda at this early stage. First, former child abductees regularly escape from the LRA and return to their home communities.³⁸ Their return is rarely easy, given the extended periods of time that many have spent away from their families and the resentment that many face because of crimes they have been forced to commit against friends, family and neighbours. To the extent that reconciliation is a central component of transitional justice, the re-integration of these former abductees into their home communities should be seen as the beginnings of what will eventually (hopefully) be part of a broader societal transitional justice process. Second, assuming that the northern Uganda conflict *does* eventually come to an end, it will be important to have some basic ideas ready about what kinds of transitional approaches can

³⁵ “Rwanda killers face local justice” *BBC News* (10 March 2005) online: BBC News <http://news.bbc.co.uk/2/hi/africa/4335405.stm>.

³⁶ Tina Rosenberg, “Designer Truth Commissions” *New York Times Magazine* (9 December 2001) online: International Center for Transitional Justice <http://www.ictj.org/en/news/coverage/article/444.html>.

³⁷ *Ibid.*

³⁸ For example, see Marc Lacey, “Victims of Uganda Atrocities Choose a Path of Forgiveness” *The New York Times* (18 April 2005) A.1.

and should be implemented. Consequently, the time to consider this issue, and the potential role that traditional justice might play, is not once the conflict is over – rather, the time for discussion is now, and an appropriate starting point is traditional Acholi approaches to justice.

(b) Acholi Traditional Justice: *Stepping on Egg Ceremony Example*

To fully appreciate the operation of Acholi traditional justice mechanisms, both in their historical context and with respect to their potential application today, it is first necessary to understand the foundational values and sources of authority that inform Acholi society.³⁹ In broad terms, social order within Acholi culture has historically been maintained through two mutually reinforcing loci of authority. First, because traditional Acholi society is communal, the health, harmony and unity of the clan were highly valued. To maximize the well being of the clan as a whole, each member was expected to fulfill different but complementary cultural, productive, and reproductive functions within the hierarchically structured collective. Second, the conduct of each Acholi individual was seen as shaped by, and deeply connected to, the spiritual world. Gods or divine spirits (*Jok*) and ancestor spirits directed the overall Acholi moral order, and these spirits were believed to deliver illness and misfortune (*cen*) whenever a wrong was committed. The *cen* would persist until an Elder or the offender took appropriate action. These complex spiritual beliefs continue to be held by the majority of Acholi people, and unsurprisingly deeply influence Acholi notions of justice.

Traditional Acholi justice is predominantly restorative in character, and a traditional Acholi justice process likely should satisfy five key criteria to be successful.⁴⁰ First, all parties involved should *trust* the officials leading the process. Second, the process should be *voluntary*. The perpetrator will be motivated by the spirits to come forward on his or her own behalf – and if not, will suffer the consequences of *cen*. Third, *truth telling* will be critical to determine the required amount of compensation, identify the proper ritual or ceremony required, and promote reconciliation between the parties. Fourth, *compensation* will be necessary to restore balance between the parties. The level of compensation will vary according to the category of crime, is typically paid in the form of livestock or its monetary equivalent, and is received by a chief Elder from the perpetrator’s entire

³⁹ Liu Institute for Global Issues, Gulu District NGO Forum & Ker Kwaro Acholi. “Roco Wat I Acholi” (September 2005) online: Liu Institute <http://www.ligi.ubc.ca/collateral/common/index.cfm?fuseaction=view&pageName=publications&contentID=543§ion=Information&subSection=Publications> [“Roco Wat I Acholi”], at 10-13.

⁴⁰ *Ibid*, at 14.

clan. Fifth, and finally, the process should be *restorative*. Because a perpetrator's crime and the victim's injury each extend to their respected families within Acholi society, a single wrongdoing harms the entire community. This harm can only be repaired – and *cen* chased away – if truth is established as part of a voluntary process, compensation paid, and the proper rituals or ceremonies are performed.

A number of sophisticated traditional Acholi justice rituals and ceremonies have been documented.⁴¹ The ceremony that has attracted the most media attention in the west,⁴² perhaps because of its powerful symbolism, is the 'Stepping on the Egg' (*Nyono Tong Gweno*) ceremony. It is designed to welcome home a family member who has been away for an extended period, and to repair any problems or feelings of alienation that may have arisen as a result of their absence. In brief, the ceremony can be described as follows:

The ceremony involves the returnee stepping on an egg (*tongweno*) placed on a 'slippery branch' (*opobo*) and a stick with a fork (*layebi*), traditionally used to open graineries. The egg is said to symbolize purity. 'The egg has no mouth, and cannot speak ill of others'. The egg also symbolizes that which is 'soft', 'fragile', suggesting a restoration of innocence. The *opobo* is a soapy, slippery branch, which helps to cleanse the returnee from any external influences he or she might have encountered in the 'bush' that might be calling them back. The *layebi* is a symbol of welcoming a person back into the home, where the family members will once again share food together.⁴³

These steps were generally carried out in a private domain or compound, and normally to receive individuals who had been away because of domestic disputes, education, work or hunting.

(c) 'Neo-Traditional' Acholi Justice: *Modifications to the Stepping on Egg Ceremony*

In recent years, the Stepping on the Egg ceremony has been put to use to deal with the effects of the LRA conflict. It was first considered as a possible response to the requirement within the 2000 Uganda Amnesty Act that the Amnesty Commission "consider and promote appropriate mechanisms of reconciliation in affected areas".⁴⁴ The hope was that the ceremony could help facilitate the safe return and reintegration of rebels and abductees.

⁴¹ *Ibid*, at 26. A number of historical anthropology texts documents these practices, but the "Roco Wat I Acholi" study provides the most comprehensive and recent account of Acholi traditional justice ceremonies.

⁴² For example, see Marc Lacey, *supra* note 38; and Clancy, Nancy. "Uganda", Radio Segment, *The Current*, CBC Radio (23 February 2006) online: The Current <http://www.cbc.ca/thecurrent/2006/200602/20060223.html>.

⁴³ "Roco Wat I Acholi", *supra* note 39, at 31. (internal footnotes omitted)

⁴⁴ Section 9(c) of the Amnesty Act.

The realities of the conflict in northern Uganda, however, have made modifications to the ceremony necessary. Elements of the older ceremony have been mixed with new ideas and adaptations, forming a novel “neo-traditional”⁴⁵ Stepping on Egg ceremony. The sheer number of returnees has led to the performance of the ceremony for groups rather than for individuals, and in towns and IDP camps rather than in private homes.⁴⁶ Individual ceremonies are not only logistically difficult because of the number of returnees, but also prohibitively expensive given the impoverishment and displacement that most Acholi communities have suffered.⁴⁷ Materials for the communal ceremonies in some cases continue to be donated by the community, and sometimes are replaced with less expensive substitutes.⁴⁸

Since 2003, traditional leaders have conducted approximately 30 family and communal Stepping on Egg cleansing ceremonies.⁴⁹ The ceremony itself has typically been accompanied by musical and dance performances, the communal sharing of food, and speeches by local officials, traditional leaders, and elders.⁵⁰ In total, over 2,500 adults and formerly abducted children are estimated to have participated in one of these communal ceremonies in some capacity.

Overall, the reaction of participants in modified Stepping on the Egg ceremonies appears to be positive. After taking part in a ceremony, former combatants often felt more accepted, became more sociable, and displayed less aggressive behaviour.⁵¹ One former combatant stated that “[stepping on the egg] put me at peace for the bad things I did when I was in the bush. I felt relieved.”⁵² Parents, neighbours, and other participants have also observed that the ceremonies assist reintegration, as well as strengthen the community as a whole. As one parent noted, “it is an

⁴⁵ Hovil & Quinn, *supra* note 9, at 28.

⁴⁶ *Ibid.*

⁴⁷ One traditional leader explained: “The issue of communal cleansing ceremonies came about because of the conflict and the magnitude of the problem associated with it...The people have lost their shrines (*kac*) and in Acholi these shrines are supposed to be in the original homestead or clan. The traditional rituals need money [but] our people cannot afford them. So we felt these communal ceremonies would help those who cannot organize it on their own.” “Roco Wat I Acholi”, *supra* note 39, at 44. See also Hovil & Quinn, *supra* note 9, at 30.

⁴⁸ “Roco Wat I Acholi”, *ibid.*, at 26. In the context of the Stepping on the Egg ceremony, the egg might be replaced by herbs, for example.

⁴⁹ *Ibid.*, at 44.

⁵⁰ *Ibid.*, at 45.

⁵¹ *Ibid.*

⁵² Hovil & Quinn, *supra* note 9, at 29.

occasion where the general community comes together and ascertains the return of one of their members. It is an opportunity for the general community to share benefits of uniting as members of the same clan. It also instills feeling of belonging to the same community.”⁵³

IV. Potential Role for Stepping on the Egg Ceremony (and other Traditional Justice Mechanisms) in northern Uganda Transitional Justice

In the following discussion, I will attempt to answer four key questions about the utility of the Stepping on the Egg ceremony – and, by extension, other Acholi traditional mechanisms – as an instrument of transitional justice:

- (1) Is it consistent with Acholi conceptions of justice?;
- (2) Is it still relevant and meaningful to Acholi citizens?;
- (3) Is it equipped to deal with the challenges currently facing the Acholi people, given the scale and nature of the ongoing conflict?; and
- (4) Is it enough?

The discussion below considers each of these questions in turn, and highlights both the promise and limitations of Acholi traditional justice as a vehicle for reconciliation.

(1) Is it consistent with Acholi conceptions of justice?

In the wake of the public debate about the relative benefits of the ICC prosecution and Acholi traditional justice, some popular assumptions have developed about precisely what Acholi justice is. As Tim Allen points out, it has gradually become “a kind of ‘received wisdom’ that the Acholi people have a special capacity to forgive, and that local understandings of justice are based upon reintegration of offending people into society.”⁵⁴ He continues that “[i]t has become such an institutionalised perspective that it is expressed as a matter of course at virtually every public meeting on the conflict, and appears in most reports and articles.”⁵⁵ For example, Adam Branch criticizes the ICC intervention on the grounds that it “seek[s] justice through punishment” rather than “forgo punishment in favour of justice through reconciliation”, as he implies is the Acholi way.

⁵³ “Roco Wat I Acholi”, *supra* note 39, at 46.

⁵⁴ Tim Allen, “War and Justice in Northern Uganda: An Assessment of the International Criminal Court’s Intervention” (2005) at 65.

⁵⁵ *Ibid.*

The reality, however, is not quite so simple. Although Acholi citizens do regularly insist that forgiveness must be an important element of any justice process dealing with the conflict,⁵⁶ the same citizens are also interested in retribution. A 2005 population-based survey in northern Uganda, for example, found that a majority of the respondents believed that LRA leaders should be punished.⁵⁷ Allen similarly reported that the Acholi individuals he interviewed consistently expressed an interest in retribution.⁵⁸ The reason for this apparent contradiction may lie in our use (or misuse) of language: whereas notions of ‘reconciliation’ and ‘forgiveness’ are generally seen as the diametric opposites of ‘retribution’ and ‘punishment’ in western frameworks, they appear to be much more closely related within Acholi understandings. In fact, Acholi citizens interviewed in at least one report did not distinguish between retribution and restoration, and spoke of both as being equally important.⁵⁹

None of this is to say that the Stepping on the Egg ceremony, because of its focus on reconciliation and restoration, is inconsistent with normative Acholi conceptions of justice – the Stepping on the Egg ceremony developed out of, and continues to evolve according to, a firmly Acholi vision of justice that can broadly be defined as restorative. Rather, the above discussion simply serves as a reminder that justice within Acholi society, as in many others, is a complex and multi-faceted concept. A single ceremony may not be able to adequately address all of these facets at once, and complementary justice and reconciliation efforts may be necessary. In short, the fact that the Stepping on the Egg ceremony is *consistent* with the Acholi conception of justice does not mean that it *exhausts* the Acholi conception of justice.

(2) Is it still relevant and meaningful to Acholi citizens?

After 19 long years of conflict and near total societal disruption, some question if traditional institutions and traditional justice even remain relevant for the Acholi. Before the conflict started, some aspects of Acholi culture were already under stress – the Acholi system of traditional chiefs,

⁵⁶ For example, see Hovil & Quinn, *supra* note 9, at 36; and Allen, *supra* note 54, at 66.

⁵⁷ “Forgotten Voices”, *supra* note 6, at 25-27. Note, however, that the survey reported lower levels of support for punishment in Acholi districts, and opposition to punishment of lower-rank members of the LRA in all districts.

⁵⁸ Hovil & Quinn, *supra* 9, at 36; and Allen, *supra* note 54, at 66.

⁵⁹ Hovil & Quinn, *ibid.*

for example, was stripped of power years earlier by the British colonial administration.⁶⁰ The role of traditional chiefs and of Elders was further weakened by the conflict. Traditional chiefs now must either live in the towns apart from their clans or with their clans inside the IDP camps, where conditions of poverty severely restrict their ability to perform mediation, cultural rituals, and community building.⁶¹ For their part, Elders feel disrespected in the chaotic camp environments and unable to offer guidance to younger generations who “do not know how to be Acholi”.⁶² Acholi youth, in turn, no longer feel so beholden to older generations because they increasingly must protect and provide for themselves.⁶³

Within the camps, use of traditional rituals, ceremonies, and customs has declined, which many attribute to the difficult living conditions. As one Acholi woman living in an IDP observed, “the camp is like a tree where you are getting a shelter, it is not like a home where cultural things can be carried out.”⁶⁴ One of the most meaningful Acholi customs formerly centred around communal fireplaces (*wang oo*), where extended families gathered every evening to listen to Elders share stories and proverbs.⁶⁵ Since the conflict began, however, this practice has been suspended and the younger generation no longer benefits from the teachings of the Acholi oral tradition. With few economic or educational opportunities available, alcohol abuse and violence have become widespread in the camps.⁶⁶

Notwithstanding these challenges, Acholi traditions appear to have survived and retained meaning. It appears that Acholi youth still understand and respect traditional institutions.⁶⁷ As well, the traditional Acholi leadership was strengthened by their official recognition in the 1995 Uganda Constitution and the re-institutionalization of the Ker Kwaro Acholi (KKA, the cultural institution of the Acholi).⁶⁸ It is the KKA that was primarily responsible for initiating the communal Stepping on the Egg ceremonies, which are themselves considered an important site of cultural renewal and

⁶⁰ “Roco Wat I Acholi”, *supra* note 39, at 21.

⁶¹ *Ibid.*

⁶² *Ibid.*, at 22.

⁶³ *Ibid.*, at 25. This represents a significant change, as Acholi youth were previously cared for and protected by older generations. Communities were around on rigid age hierarchies, but these have been weakened by the conflict.

⁶⁴ *Ibid.*, at 21.

⁶⁵ Hovil & Quinn, *supra* note 9, at 27.

⁶⁶ “Roco Wat I Acholi”, *supra* note 39, at 21.

⁶⁷ Hovil & Quinn, *supra* note 9, at 26.

⁶⁸ “Roco Wat I Acholi”, *supra* note 39, at 31.

pride.⁶⁹ Although the Stepping on Egg ceremony is not entirely familiar to all Acholi,⁷⁰ it is also far from obsolete. Perhaps the strongest demonstration of its continuing relevance is the fact that the communal ceremonies are growing dramatically, both in terms of demand and size.⁷¹

Concentrating current and future transitional justice efforts on traditional justice efforts such as this may produce dividends in two respects – not only does traditional justice have the potential to serve as a uniquely relevant and meaningful institution for the Acholi, but it could also help a once proud people to reclaim their culture, identity and dignity.⁷²

(3) Is it equipped to deal with the challenges currently facing the Acholi people, given the scale and nature of the ongoing conflict?

The LRA conflict is, in many ways, unprecedented for the Acholi people. Never before have their communities been so totally uprooted from their traditional lands and warehoused in ‘temporary’ and overcrowded camps,⁷³ nor have they experienced such pervasive and abominable forms of violence over such an extended period.⁷⁴ One of the especially challenging aspects of the current conflict is the very blurred line dividing perpetrators from victims. There is a general recognition that most returnees were forcibly abducted, and yet “it is still extremely hard and painful for

⁶⁹ *Ibid*, at 44.

⁷⁰ “Forgotten Voices”, *supra* note 6, at 31. In the two Acholi districts surveyed, the report found that 55% of the respondents were familiar with traditional justice mechanisms. Although this figure clearly falls short of a uniform universal level of knowledge, it was five times higher than the figures reported for non-Acholi districts. See also “Roco Wat I Acholi”, *ibid*, at 47.

⁷¹ “Roco Wat I Acholi”, *ibid*, at 46. As a further testament to the import that the ceremonies are seen to have, some participants travel many miles just to take part in the ceremony.

⁷² Recognizing the potentially positive functions that traditional justice could fulfill, however, does not amount to an across-the-board endorsement of *all* traditional ways or beliefs. Indeed, “not all customary laws are necessarily benign, as they have undergone their own troubled history and evolution, and their content may not necessarily be uniformly acceptable to all citizens or communities in the country.” (Rama Mani, *Beyond Retribution: Seeking Justice in the Shadows of War* (Oxford: Polity Press, 2002) at 81). Especially given the extent to which women and youth have assumed different social roles and increased responsibilities in the IDP camps, it will be necessary to closely interrogate traditional practices to ensure that they continue to reflect changing social realities. See “Roco Wat I Acholi”, *ibid*, at 23-25.

⁷³ Some organizations have been extremely critical of the government of Uganda’s protection strategy and of the IDP camps in particular. For an excellent discussion, see Civil Society Organizations for Peace in Northern Uganda, “Nowhere to Hide: Humanitarian Threats in Northern Uganda” (2004) online: Oxfam http://www.oxfam.org.uk/what_we_do/where_we_work/uganda/downloads/nowheretohide.pdf, at 66.

⁷⁴ The “Forgotten Voices” survey reported that four out of five respondents in northern Uganda had been exposed to at least one or more of the listed events of direct traumatic exposure. Forty percent reported that they had been formally abducted, 31 percent had a child abducted, and 50 percent had witnessed a child being abducted. Further, 45 percent had witnessed a family member killed, 48 percent witnessed a friend or neighbour killed, and 49 percent had been threatened with death. Another 23 percent had been mutilated, maimed or injured, 24 percent had been physically beaten or injured by a family member, 25 percent witnessed someone being sexually violated, and 7 percent admitted that they had been sexually violated. “Forgotten Voices”, *supra* note 6, at 20-21.

individuals who have lost close family members to accept back those who have killed.⁷⁵ As a result, some of those who have escaped the LRA continue to feel stigmatized and unable to rejoin their communities.⁷⁶

In its original form, the Stepping on the Egg ceremony was ill-equipped to respond to these challenges. As discussed above, difficult living conditions, extreme poverty, and the large number of returnees made the ceremony an unrealistic means of reconciliation for most Acholi. However, the modifications to the size, location, and materials of the ceremony have gone some distance towards addressing its shortcomings. This responsive evolution underscores the fact that traditional justice, like any culturally informed practice, is situated socially and over time will “shift in meaning and appearances”.⁷⁷ It may be useful to consider whether other Acholi traditional justice rituals and ceremonies could be adapted in a similar way to better respond to current needs and circumstances created by the conflict. In particular, it may be worth exploring whether the *Mato Oput* ceremony – part of an involved process that traditionally took place when a member of one clan killed a member of another clan – can be modified. This ceremony has been identified as an important component of Acholi traditional justice and one that at least certain returnees should complete, and yet it is considered ill-suited in the current circumstances.⁷⁸ Finally, the obstacles that some returnees continue to face to reintegration arguably speaks *less* to how well-equipped the Stepping on the Egg ceremony is to respond to the current conflict, and *more* to the final question – namely, “is it enough?”

(4) Is it enough?

In a word, no. Given the “incompleteness and inescapable inadequacy of each possible response to collective atrocities”,⁷⁹ a single ceremony will of course be unable to accomplish all of the healing that the Acholi society so desperately requires. As required by Acholi norms of justice, the Stepping on the Egg ceremony is restorative and voluntary, but it does not satisfy the need for

⁷⁵ Hovil & Quinn, *supra* note 9, at 29.

⁷⁶ “Hunting Uganda’s child-killers” *Economist* 375:8425 (7 May 2005) 41.

⁷⁷ Sverker Finnstrom, *Living With Bad Surroundings: War and Existential Uncertainty in Acholiland in Northern Uganda* (Uppsala: Acta Universitatis Uppsala Studies in Cultural Anthropology No. 35, 2003) at 296-299, cited in Hovil & Quinn, *supra* note 9, at 25.

⁷⁸ Hovil & Quinn, *ibid*, at 24; and “Roco Wat I Acholi”, *supra* note 39, at 54-58.

⁷⁹ Minow, *supra* note 16, at 5.

compensation and truth telling.⁸⁰ These elements will need to be fulfilled through other justice initiatives, traditional or otherwise. Some of these initiatives will need to focus on the particular situation of former abductees, but others will need to be designed to assist an entire population that has endured appalling structural violence for nearly two decades. Further, much of the transitional justice process will not be able to occur until the conflict has ended and communities feel ready to work towards meaningful reconciliation. From this perspective, the Stepping on the Egg ceremony is only a part measure.

An incomplete but constructive response, however, is infinitely superior to no response at all. The Stepping on the Egg ceremony should be understood as just one of the many multiple reinforcing initiatives that will eventually be required. And, in the words of one expert, the absence of a single perfect solution to mass atrocities should not stifle efforts to “grab a little bit of justice and a mechanism for reconciliation wherever we can.”⁸¹

V. Conclusion

Given the scale of the suffering that northern Uganda has endured over the past two decades, it seems difficult to fathom from an outside perspective how simple sticks and branches could advance reconciliation and rebuilding. However, we should not be too quick to assume that we know what measures are necessary or even appropriate – just as “war and dictatorship are not modern inventions...neither are the basic ways societies find to respond.”⁸² Overall, the Acholi Stepping on the Egg ceremony appears to be playing an important role in early transitional justice efforts in northern Uganda. It resonates with broad norms of Acholi justice, facilitates the reintegration of former abductees and community healing, retains popular currency and is serving as a site of cultural revitalization.

⁸⁰ The fifth criteria of ‘trust’ for Acholi justice processes, discussed above, will be met where participants trust the official leading the ceremony. This is less a function of the ceremony itself, and more a reflection of the individual selected to conduct the ceremony.

⁸¹ Patrick Burgess, international legal adviser to East Timor Commission for Reception, Truth and Reconciliation, in “The Price of Peace” (25 September 2005), Transcript, online: Australian Broadcasting Corporation <http://www.abc.net.au/compass/s1468301.htm>.

⁸² Rosenberg, *supra* note 36.

The positive outcomes of the Stepping on the Egg ceremony and other traditional justice mechanisms in northern Uganda raise a number of significant issues that transcend national borders. They serve as reminders of the importance of local voice in transitional justice, and may contribute to the gradual evolution of a truly pluralistic construction of international law and justice. At a very fundamental level, northern Uganda's experiences with traditional justice should also push the international community to reexamine how it currently allocates support and resources for various transitional justice efforts around the world.⁸³ Breaking eggs may ultimately be one of the most effective investments we can make in re-building societies.

⁸³ Helena Cobban is one of many scholars who are critical of the significant expense of the increasing number of international tribunals. She writes: "As of November 2005, the ICTR [International Criminal Tribunal for Rwanda] had handed down judgments for only 25 individuals. More than \$1 billion has been spent on the tribunal so far, or about \$40 million per judgment." In contrast, she notes "[i]n postconflict Mozambique, programs to demobilize and reintegrate thousands of former combatants cost about \$1,000 per case." From Helena Cobban, "Think Again: International Courts" (March/April 2006) *Foreign Policy*, online: <http://www.amicc.org/docs/March-April%202006%20Foreign%20Policy.pdf>. In northern Uganda, traditional justice efforts have largely been overlooked by international donors – Acholi people identify poverty and the inability to supply the most basic materials (such as eggs, hens, or goats) as the most substantial obstacles to their participation in traditional justice ceremonies. See "Roco Wat I Acholi", *supra* note 39, at 40.

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