

Ugandan President Museveni and the ICC referral

A matter of interests?

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Foreword

Traditional International Relations (IR) theory sees Africa as a continent without history before the Second World War. Africa exists only to the extent that it is acted upon. It provides the mirror in which the West defines itself. But, according to Kevin C. Dunn, “Africa does generate meaningful politics and there is much to learn from studying and incorporating it into the way we think about IR.”¹ I could not agree more. Although Africa remains a ‘dark continent’ for many, I have found that Africa is a fascinating continent with a history that is complex and never boring. I enjoyed reading the necessary literature for writing this thesis tremendously. Almost every book and article that I read contained new insights, new knowledge and references to more literature. I sometimes felt like a sponge that wants to absorb as much water as possible when I tried to gather as much knowledge as I could. After a difficult start in my academic career I followed this Master with a lot of enthusiasm. I have learned more in this past year than I had ever imagined possible when I started the Master.

Now that this thesis is finished, it is time to look ahead. Before doing so, I would like to thank the people who inspired me to never give up. Jimmy, you have been a great source of inspiration and you showed me anything is possible if you just persevere. Thank you. Special thanks to Rachel; your comments have truly helped me to get the story straight. I would like to thank my family for stimulating me to strive for the best I can be. Finally, many thanks to my supervisor dr. Malcontent, who has always been quick to respond with comments and suggestions that helped me reach the finish line.

Mariëlle Omony-Miedema

Ede, 24 February 2010.

¹ Kevin C. Dunn, ‘Introduction’ in: Kevin C. Dunn, and Timothy M. Shaw, eds., *Africa's challenge to international relations theory*, (Basingstoke 2001), 4.

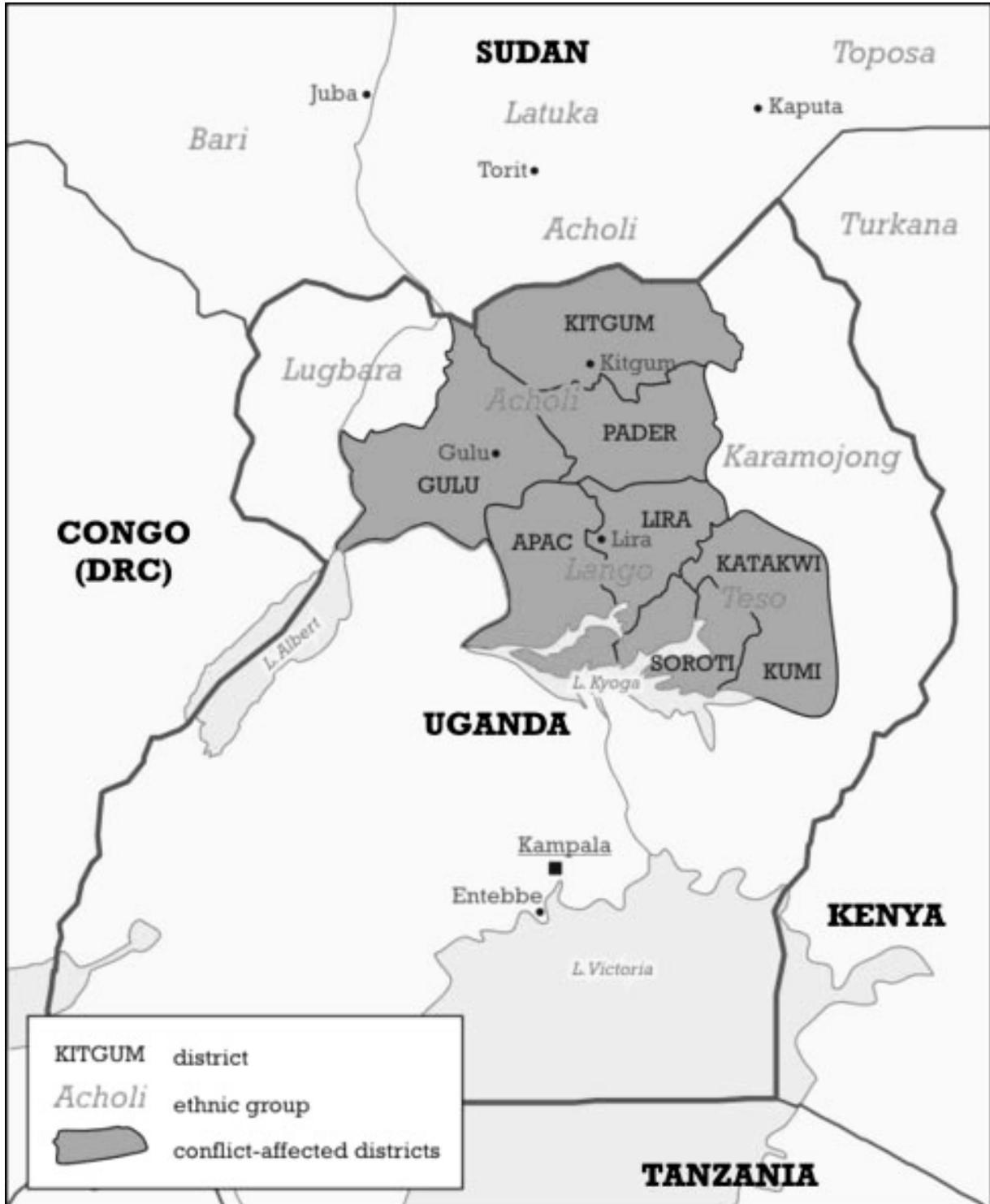
Ethnographic map of Uganda

ETHNOGRAPHIC UGANDA



Source: Conciliation resources: <http://www.c-r.org/our-work/accord/northern-uganda/maps2.php>

Map of the area affected by the LRA



Source: Wikipedia,

http://commons.wikimedia.org/wiki/File:Ugandan_districts_affected_by_Lords_Resistance_Army.png

1. Introduction

For over 22 years the Lord's Resistance Army led by Joseph Kony has fought against the Ugandan government and the Acholi people of northern Uganda. The LRA has become infamous for abducting children, who were subsequently used as child soldiers and sex slaves. As can be seen from the map on page 6, the whole northern region of Uganda has been affected. Hundreds of thousands of people have been living in camps for internally displaced people (IDPs). Although these camps have been promoted by the Ugandan government as safe villages where people would be protected by the army, they have nonetheless often been attacked by the rebels.

After more than twenty years of instability and war, the Acholi people are more than ready to make peace with the rebels, it seems almost at any cost. The Ugandan government and the international community want justice however, which has proven to be a hindrance to the peace that the Acholi are searching for. In 2003, Ugandan president Yoweri Museveni referred the 'situation concerning the Lord's Resistance Army' to the International Criminal Court (ICC) in The Hague.² After a preliminary investigation the court accepted the case and in 2005 it issued arrest warrants for five of the most notorious leaders of the LRA. Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen have all been charged with crimes against humanity and war crimes.³ Although two of these men have allegedly died since the arrest warrants were issued, only the death of Raska Lukwiya has been confirmed. The warrant for the arrest of Raska Lukwiya has thus been rendered without effect; therefore the name of Raska Lukwiya has been removed from the case.⁴

A number of scholars wrote about the conflict in northern Uganda, during several stages of the conflict. This has led to a difference in approaches and conclusions, since events like military operations, the referral to the ICC and various peace talks have had their impact on

² This court came into being on 1 July 2002, after the Rome Treaty that provided for the court entered into force. It has jurisdiction over four groups of crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. The ICC is intended as a court of last resort, investigating and prosecuting only where national courts have failed. A situation or case can be referred to the court by the government of a state party, or the United Nations Security Council.

³ International Criminal Court, *Warrant of Arrest unsealed against five LRA commanders*; <http://www.icc-cpi.int/menus/icc/situations%20and%20cases/situations/situation%20icc%200204/related%20cases/icc%200204%200105/press%20releases/warrant%20of%20arrest%20unsealed%20against%20five%20lra%20commanders>

⁴ The other person who has allegedly died is Vincent Otti who was reportedly killed by Kony in October 2007. It has also been reported that Dominic Ongwen has been killed, but the ICC stated that DNA tests were negative, indicating that Ongwen is still alive.

how the conflict is perceived. For example, the report of Robert Gersony which he presented to the United States embassy in Kampala was written in 1997.⁵ This report of 128 pages is very detailed. It describes the origins of the conflict per region; Gulu and Kitgum, West-Nile and Nebbi districts. Gersony touches on many different factors in the advent of the LRA, as well as the different phases the war has seen. He then continues to give prospects for the conflict and its possible expansion. Unfortunately, the tables have drastically turned since the publication of the report in 1997, as it was written before the 2002 military operation which caused an escalation of the number of abductions and before the referral of 2003 that had a large impact on the peace prospects. It thus has only limited applicability.⁶ The 1999 article from Rudy Doom and Koen Vlassenroot is very balanced, as it tries to explain the emergence of the Holy Spirit Movements in Uganda without justifying their actions. Doom and Vlassenroot offer both spiritual and political explanations for these movements, and they give a chronological account of developments that led to the rise of the LRA. They see a clear turning point in the failed peace talks of 1994. After these talks, the LRA radically changed its tactics, and according to Doom and Vlassenroot, it can no longer be seen as a radical heir of the other Holy Spirit Movements. Similar to the Gersony report, this article too is unfortunately outdated by events that occurred after its publication which had great effects on the course of the conflict.⁷

The different backgrounds of the scholars have also influenced their angles of approach, as anthropologists have a different focus than for example political scientists. Where anthropologist Heike Behrend examines the social roots of the conflict and the logic behind the religious rituals used by the LRA, political scientist Kevin Dunn mostly focuses on the approaches concerning the causes and continuation of the conflict.⁸ Behrend places the LRA in the trend of the Holy Spirit Movements of Alice Auma (Lakwena) and Severino Lukoya that emerged in northern Uganda after Museveni took power in 1986. She explains these movements as an attempt to cleanse Acholi society of the impurity that was brought onto

⁵ Robert Gersony, *The anguish of northern Uganda: results of a field-based assessment of the civil conflicts in northern Uganda* (Kampala 1997).

⁶ Added to this the report is generally supportive of the Museveni government and it neglects the legitimate complaints raised by the Acholi. For example, when compared to other reports, the report paints a too optimistic picture of the behavior of Museveni's NRA towards the Acholi in the period 1986-1991.

⁷ Rudy Doom and Koen Vlassenroot, 'Kony's message: a new Koine? The Lord's Resistance Army in northern Uganda', *African Affairs*, 98 (1999), 5-36.

⁸ Kevin C. Dunn, 'Uganda: the Lord's Resistance Army', in: Bøås, Morten, and Kevin C. Dunn eds., *African guerrillas: raging against the machine* (Boulder 2007), 131-150.

them by the killings committed by the many Acholi soldiers who served under president Obote. These former soldiers were held responsible for all the misfortunes that had struck the Acholi. The Holy Spirit Movements thus fought not only against Museveni's NRA, but also against impure soldiers within Acholi society. Behrend offers insight on the reasons for specific rituals, which all fit within a religious discourse of sorcery and witchcraft.⁹ Dunn draws heavily on Behrend in his historical summary of the conflict. He then presents five approaches that offer some understanding of the LRA. These approaches concern both the origins of the LRA and the reasons for the continuation of the conflict. His conclusion is that the conflict will probably not end anytime soon, due to the roots of the conflict that will continue to keep both sides embittered.¹⁰ In this thesis I will show that there are other, more important factors that contribute to the prolongation of the conflict.

The variety of explanatory approaches offered by Dunn illustrates the plethora of angles of approach though. I will discuss the various approaches in the chapter on the causes and continuation of the conflict. Despite the various approaches to the conflict, I did find a common denominator in the literature as I started my research for this Master's thesis. Many of the scholars writing about the conflict have looked at the ICC referral from the perspective of (expected) consequences. What are the consequences for the peace process, what are the consequences for the LRA and what are the consequences for the ICC? Another important issue raised by almost all scholars writing after 2003 was the peace versus justice conflict; the ICC referral symbolizes justice, while peace is often represented by traditional ceremonies such as *mato oput* (drinking the bitter root) and *gomo tong* (bending the spears). Kasaija Phillip Apuuli is one of the scholars who focus on the traditional justice and amnesty in comparison with ICC intervention. According to Apuuli, traditional justice and amnesty might serve to encourage the LRA top to commit to peace negotiations, but under international law the LRA needs to be punished.¹¹ As Tim Allen has shown, ceremonies as *mato oput* and *gomo tong* represent invented traditions, which have been eagerly accepted by various local and international NGO's. Allen believes there is only limited local consensus

⁹ Heike Behrend, 'War in northern Uganda: the Holy Spirit Movements of Alice Lakwena, Severino Lukoya and Joseph Kony (1986-97)', in: Christopher Clapham, *African guerrillas*, (Oxford 1998), 107-118 and Heike Behrend, *Alice Lakwena & the holy spirits: war in Northern Uganda 1985-97*(Oxford 1999).

¹⁰ Kevin C. Dunn, 'Uganda: the Lord's Resistance Army', in: Bøås, Morten, and Kevin C. Dunn eds., *African guerrillas: raging against the machine* (Boulder 2007), 148.

¹¹ Kasaija Phillip Apuuli, 'Amnesty and international law: the case of the Lord's Resistance Army insurgents in northern Uganda', *African Journal on Conflict Resolution*, 5 (2005), 2, 57.

over traditional forgiveness ceremonies in Acholi society, as every village has its own ways of doing things. The hybrid ceremonies advocated by some NGO's thus have little meaning to the Acholi society as a whole, and even less to the people outside Acholiland.¹² These ceremonies thus don't offer a viable alternative to regular forms of justice. Allen even goes as far as to say that the insistence on traditional ceremonies such as *mato oput* inadvertently reinforces a tendency to demonize the people of the region, who are already seen by many outside Acholiland as innately violent and primitive.¹³

Some of the scholars writing about the conflict, such as William Schabas¹⁴ and Adam Branch¹⁵, have touched on the possible motivation behind the referral, although the focus has mostly been on motivations of the International Criminal Court for accepting the case. Professor of human rights law William Schabas mostly focuses on the legal aspects of the referral. Considering the fact that his book is an introduction to the International Criminal Court, it is obvious that it deals exclusively with the ICC side of the referral. Schabas tries to explain the eagerness of the prosecutor in accepting the case, despite the fact that the Ugandan courts were fully functional and more than able to prosecute the offenders. According to Schabas "in his assessments of admissibility, the Prosecutor has treated gravity before complementarity."¹⁶ Schabas is critical of the decision to accept the case and would rather see Moreno-Ocampo hand the case back.¹⁷ Adam Branch argues that in accepting the referral the ICC chose to pursue a politically pragmatic case. In doing so it contravened its mandate and has allowed itself to be politically instrumentalized by the Ugandan government to the detriment of its own legitimacy.¹⁸ He touches on an important point: the motivation of president Museveni in referring the case to the ICC. This is a perspective that has been largely absent in the other literature. I realized that most writers assumed that all involved were working towards a solution for the conflict, whether it would be peace or justice. With regard to Museveni, I was not so sure how much he was (and is) truly

¹² The area inhabited by the ethnic Acholi is commonly referred to as Acholiland. Which area this encompasses is shown in the map on page 5.

¹³ Tim Allen, 'The International Criminal Court and the invention of traditional justice in Northern Uganda', *Politique africaine*, 107 (2007), 163. See also Tim Allen, *Trial justice: the International Criminal Court and the Lord's Resistance Army* (New York 2006).

¹⁴ William A. Schabas, *An introduction to the International Criminal Court* (Cambridge 2007 3rd edition).

¹⁵ Adam Branch, 'Uganda's civil war and the politics of ICC intervention', *Ethics and international affairs*, 21(2007), 2, 179-198.

¹⁶ Schabas, *An introduction to the International Criminal Court*, 191.

¹⁷ Schabas, *An introduction to the International Criminal Court*, 151.

¹⁸ Branch, 'Uganda's civil war', 180.

committed to bringing an end to the conflict. He has proven to be a pragmatist politician, who has often acted in his own best interests.

Yoweri Kaguta Museveni was born in 1944 in the south-west of Uganda in the kingdom of Ankole. He grew up on his parents' farm, which he left in 1967 for Dar es Salaam (Tanzania) where he joined the university. He studied economics and political science, and became influenced by Marxism. He went back to Uganda, but when Idi Amin took over power in 1971, he went into exile in Tanzania. He was subsequently involved with Front for National Salvation (FRONASA) and the Uganda National Liberation Front (UNLF) which ruled the country briefly after the ousting of Amin. With his National Resistance Army he fought Obote for almost six years, until the latter was overthrown. Despite a peace treaty with the new president, Museveni took over power early in 1986. He is a self-proclaimed pragmatist,¹⁹ a trait that is also evident from his policy over the years, which will be shown later on. The principal question I would like to ask is therefore *up to what extent did the referral to the ICC serve Museveni's interests?*

To answer this question it is necessary to first look at the conflict itself. How did the conflict start, and why has it continued for so long? In order to understand the conflict in northern Uganda I will provide a historical background to the conflict, preceded by an introduction to the rise and development of the Museveni regime. I will argue that the roots of the conflict go back to colonial times, followed by the coming to power of Museveni. The behavior of Museveni's soldiers fed a pre-existing distrust amongst the Acholi people, which led to various rebellions that came together in the LRA. To further analyze the causes and continuation of the conflict I will provide various explanatory approaches and narratives which have been presented by Kevin Dunn and Rosa Ehrenreich. Using these approaches I argue that president Museveni had a great deal to gain from continuation of the conflict. In the following chapter I will examine why Museveni had interest in the continuation of the conflict as I link the continuation of the conflict to the concept of *regime security*. In this concept the regime of a ruler is central, and within the regime the position of the president is paramount. According to *regime security*, a ruler will act to improve his position in the regime, but mostly to improve the position of the regime within its country. I will argue that Museveni has often acted in the interest of *regime security*, and that the continuation of the

¹⁹ <http://www.statehouse.go.ug/profile.php?catId=8>

conflict is in the interest of *regime security*. The referral is thus placed in a general pattern of pursuing *regime security*. In the following chapter Museveni's interests concerning the referral are more deeply scrutinized. I will link the referral to continuation of the conflict, as well as show that the text of the referral helped to improve *regime security*. In order to better comprehend Museveni's interests I divide them into ethnical, economical and political interests. Where the first category is mostly inspired by a widespread belief amongst Acholi that the conflict is part of an ethnically motivated government policy, the other two are designed to show the nature of Museveni's interests. Ultimately, all interests mentioned contribute to the argument of a drive for *regime security*.

2. History of the conflict: causes and continuation

Uganda is a country with a troubled history. The former British colony is the homeland of the well known dictator Idi Amin Dada, alias 'Big Daddy', whose regime was responsible for hundreds of thousands of deaths. Apollo Milton Obote, the only other executive president the country had in its first twenty-four years of independence, was president of Uganda both before and after Amin.

In this chapter I will look at the causes of the conflict and the reasons for its continuation. Since the focus of this thesis is on the interests of president Museveni, an insight into the nature of his regime is required. Therefore I will first offer an introduction to the rise of the Museveni regime. Before continuing with the various theories concerning the causes and continuation of the conflict, I will give a historical summary of the origins of the conflict. This will help to provide a more nuanced understanding of this complex conflict. Subsequently, an understanding of the conflict provides the necessary background for any insight into the interests and motivations concerned with the ICC referral.

2.1 The rise and development of the Museveni regime

In October 1962 Uganda gained independence from Great Britain, with Milton Obote serving as prime-minister. He inherited a country divided by ethnic and religious differences. In 1966 Obote suspended the constitution and became the country's first executive president, after the non-executive president Edward Muteesa was forced into exile. Obote's regime became increasingly dictatorial in nature, and when he was overthrown by General Idi Amin in 1971, few were sad to see him go. The regime that replaced Obote was worse however, and Amin quickly became a feared tyrant. During Amin's reign the country was run into the ground by a complete and utter lack of a coherent policy; demonstrated by the expulsion of all Asians in 1972, and the persecution of ethnic Acholi and Langi soldiers and anyone perceived to be disloyal to the regime. Many people disappeared during Amin's eight year rule, with estimations varying between 80,000 and 300,000 deaths. In 1979 Amin was ousted by the Tanzanian army, who were backed by several groups of Ugandan exiles. After a year with

three different presidents, elections were held which put Obote back in power. Angry with the fact that the elections had been rigged, Yoweri Museveni went ‘into the bush’; fighting a relatively successful guerrilla war with only 27 combatants. In 1985 Obote was overthrown by two Acholi Generals, Tito Okello Lutwa and Basilio Olara-Okello. Tito Okello made peace with Museveni’s National Resistance Army²⁰ (NRA), but was nevertheless overthrown in January 1986. This marked the start of the longest lasting regime in Ugandan history.

Yoweri Kaguta Museveni was sworn in as president of Uganda on the 29th of January 1986. His National Resistance Movement (NRM), also known as The Movement, immediately launched a ten point programme. These ten points were meant to promote political, social and economic development in Uganda.

The ten-point programme of the NRM

According to the NRM, Uganda’s problems started when leaders relied on ethnicity and religion in decision making, at the expense of development concerns. Solving these problems required a new form of democracy at the grassroots level, which is the first point of the programme. The local democracy would also help restore security as mentioned in the second point. Resistance Councils were set up in the villages, which functioned on a local level. This system was built on a pyramid structure, duplicating it on sub-county, county

1. *Restoration of democracy*
2. *Restoration of security of person and property*
3. *Consolidation of national unity and elimination of all forms of sectarianism*
4. *Defending and consolidating national independence*
5. *Building an independent, integrated and self-sustaining national economy*
6. *Restoration and improvement of social services and rehabilitation of war-ravaged areas*
7. *Elimination of corruption and misuse of power*
8. *Redressing errors that have resulted in the dislocation of some sections of the population*
9. *Co-operation with other African countries*
10. *Following an economic strategy of a mixed economy*

and district level. The country as a whole was governed by the National Resistance Council. It announced an interim period, during which all political parties were banned. This became known as the so-called no-party system. This system would serve to accomplish the third point of the programme: the end of sectarianism. The fourth and fifth point mostly concerned the foreign policy, promoting Ugandan interests as main priority in external relations. The fifth point also pointed to a national economy independent from foreign donors. Nevertheless, the Museveni regime relied heavily on donor support. Not only in rebuilding the economy in the early years of the regime, but until date around 50 percent of

²⁰ Museveni’s rebel army, which later became the Ugandan army.

the national budget has been supplied by foreign donors. This serves as one of many examples where Museveni let pragmatism take over from ideology and principle. Points six and eight were mostly meant to promote national unity. The seventh, ninth and tenth point were all meant to promote a stable, growing national economy.

The interim period was initially proclaimed for a period of four years, ending on 25 January 1990. It was extended though, according to Museveni mostly because continued insurgencies in the northern part of the country prevented the NRM from reaching their goals.²¹ The NRM implemented the policy of a broad-based government, allowing leaders of rivaling political parties to join the government. Museveni was hailed by the international community as a new-breed leader. Under Museveni, the country moved away from a state-controlled economy and towards a more liberal and market-friendly system. The economy recorded growth rates with a 6% average.²² The government started a democratization process supported by many, and allowed for the existence of an independent press, albeit reluctantly. Ugandans have enjoyed greater freedom since 1986 than they did under Idi Amin and Milton Obote. The army was generally seen as more disciplined than before, although reports of abuses emerged in the late 1980s when the army violently suppressed rebellions in the northern part of Uganda. The Museveni regime started losing its glamour around 1995, when a new constitution was adopted. The no-party system was legalized, paving the way for a *de facto* one party state.²³ The regime began to limit political space, and power was centralized, both within the country and in the NRM. The broad base that was there in the beginning became a small clique of loyalists.²⁴ The NRM became increasingly dominated by a patronage system where resources were distributed along lines of ethnicity and region.

Although the human rights situation in Uganda has improved drastically since the times of Amin and Obote, opposition to the regime was still not accepted. People could be charged with treason, and in areas with rebel activities this would often lead to torture and arbitrary arrest. However, the press in Uganda had become freer and more impartial than ever

²¹ Yoweri Kaguta Museveni, *Sowing the mustard seed: the struggle for freedom and democracy in Uganda* (Oxford, 2007), 196.

²² Julius Kiiza, Sabiti Makara and Lise Rakner, *Electoral democracy in Uganda: understanding the institutional processes and outcomes of the 2006 multiparty elections*, (Kampala 2008), 4.

²³ Although the NRM was officially not a party, it displayed many traits of a party, and eventually became one after the 2005 referendum that led to the restoration of multi-party politics.

²⁴ Aili Mari Tripp, 'The changing face of authoritarianism in Africa: the case of Uganda', *Africa today*, 50, 3 (2004), 8.

before. Although journalists were still harassed and arrested, they no longer served to feed the Nile-crocodiles, as they did during the Amin era. *The Monitor* and the government-owned *New Vision* became the two major newspapers in the country. One of the most articulate critics of the Museveni regime is reporter and owner of *The Independent* Andrew Mwenda. Although Mwenda has often been arrested and harassed, he enjoys a considerable freedom of speech. He has also written several articles in academic journals in which he accuses Museveni of corruption, mostly in the military.²⁵ The Ugandan media is thus seen as one of the freest in Africa.

Despite a relatively large support for the NRM, public demands for a return of multi-party democracy remained and increased as the years passed. Finally, in 2005, the country returned to multiparty politics after a referendum was held. In 2006, the first multiparty elections were held since Museveni came to power in 1986. Museveni was elected to serve a third term, which was made possible by the constitutional amendment of 2005.²⁶ Although elections in Uganda have been considered relatively free and fair, wide scale campaigns of rigging, intimidation and harassment have occurred. In 1996 and 2001, Museveni drew heavily on state resources to fund his campaign.²⁷ In 2005, Museveni's main opponent, Kiiza Besigye, has been imprisoned on charges of treason and even rape. Although he was released prior to the elections, it effectively blocked his chances of a proper campaign. Some of his supporters were imprisoned and physically harassed.²⁸ Museveni won the elections with 59.28% against 37.36% for Besigye. Tellingly, Besigye got 62.9% of the votes in the northern region, against 29.6% for Museveni.²⁹ Support for Museveni in the north remained minimal since his coming to power.

Despite the growing authoritarian tendencies of the Museveni regime, donors have generally been supportive. This can be attributed to the fact that Museveni succeeded the dictatorial and violent regimes of Amin and Obote, therefore his cause was by definition just. The effectiveness with which the Museveni government handled the problem of HIV/AIDS also generated goodwill. Foreign donors and much of the Western diplomatic community

²⁵These articles can be found in the bibliography.

²⁶ Originally, a president was constitutionally bound to a maximum of two terms. Museveni's first term started in 1996, followed by a re-election in 2001. The amendment allowed him to serve an unrestricted number of terms.

²⁷ Tripp, 'The changing face of authoritarianism', 12.

²⁸ Tripp, 'The changing face of authoritarianism', 12.

²⁹ Kiiza, Makara and Rakner, *Electoral democracy in Uganda*, 11.

have held Uganda to a different standard than the rest of Africa. Of course, Museveni had a better human rights record than his predecessors, and even most of his neighbours. Still, Uganda had many political prisoners and was involved in both internal and external conflicts. In 2001 it ranked third among the world's most corrupt countries, dropping to ninth position in 2002.³⁰ Among the most important consequences of Museveni's relationship with donors was that once he gave them nearly free rein over the policy and budget-making processes, the donors left him a free hand (and sometimes even gave him a helping hand) with his military plans.³¹ Only the Ugandan involvement in the Democratic Republic of Congo (DRC) led to donor reprisals. Donors were pleased when the country returned to multi-party politics, even though it serves "a regime that wants to stay in power at all costs and that will use democratic trappings to do so."³²

2.2 Origins of the conflict

Depending on which causes one identifies for the conflict in northern Uganda the history of the conflict can start in colonial times, during the rule of Idi Amin, or in the aftermath of Obote's second presidency. I believe the seeds of the conflict were sown in colonial times; there have been large differences in political structure and economic development between the northern and southern part of Uganda. Traditionally the northern tribes were recruited into the Ugandan army, while the southern tribes made up the civil service. This division remained after independence and the armies of presidents Amin and Obote mainly consisted of soldiers from the north. When Museveni's NRA ousted Okello, Okello's soldiers, who had earlier served Obote, fled north. They were unhappy with the new president and decided to fight a guerrilla war. They formed various rebel movements, of which the Holy Spirit Mobile Forces led by Alice Auma was most important for the emergence of the LRA.

Alice Auma was a woman from the northern town of Gulu, who claimed to be possessed by the spirit Lakwena. This spirit gave her instructions to wage war against the government. Alice combined conventional guerrilla warfare with (Christian) rites, such as purification rituals. The HSMF marched towards Kampala, but were defeated by government troops in

³⁰ Tripp, 'The changing face of authoritarianism', 19.

³¹ Andrew Mwenda, 'Personalizing power in Uganda', *Journal of Democracy*, 18, 3 (2007), 32.

³² Tripp, 'The changing face of authoritarianism', 24.

1988. This provided momentum for Joseph Kony's movement³³, which he had founded one year earlier. Many former followers of Alice and the spirit Lakwena joined Kony's Lord's Resistance Army, which is why it also became known as 'Lakwena part II'. Kony claimed to be a prophet and stated he wanted to rule Uganda according to the biblical Ten Commandments. When military successes remained absent, the LRA lost momentum, and popular support in the north diminished. Kony traded Uganda for southern Sudan, where he set up camp. There the LRA became involved in the internal struggle for power in the Sudan. The LRA supported the Khartoum government, while Ugandan president Museveni supported the Sudanese Peoples Liberation Army (SPLA) who fought for an independent southern Sudan. The LRA was subsequently supported by the Sudanese government in Khartoum, which provided them with food and weapons.

The governments of Uganda and Sudan reached an agreement in 1999, ending support for both the LRA and SPLA.³⁴ In 2002 the Uganda Peoples Defence Force (UPDF)³⁵ launched an attack on the LRA in Sudan, which became known as 'Operation Iron Fist'. The results of this operation have been mixed. Although the permanent base of the LRA was destroyed, the operation has led to more civilian displacements and increased insecurity in the region. The LRA left its bases in Sudan and moved back into northern Uganda. The LRA launched heavy counterattacks, in which it punished civilians for their alleged support of the UPDF. In 2002 the number of internally displaced people in northern Uganda rose from 500,000 to 800,000; approximately 70% of the population of Acholiland.³⁶ Between June 2002 and May 2003 about 8,400 children were abducted,³⁷ which was a stark increase compared to the less than hundred child abductions reported in 2001.³⁸

Various peace efforts have been made, most notably by former minister of state in charge of northern Uganda Betty Bigombe, in 1994, 2003/2004 and in 2006. These talks have all failed however, for various reasons. Both government and rebel sides have been blamed for the failures, although it has become increasingly clear that president Museveni played a

³³ The movement had various names before settling for Lord's Resistance Army. For convenience I will use the name LRA for the movement throughout the conflict.

³⁴ Despite this agreement, it has been reported that as late as 2006 the LRA received over US \$20,000 from the Sudanese government to buy food and weapons.

³⁵ In 1995 the NRA was renamed UPDF, as a consequence of a new constitution that came into effect in 1995.

³⁶ Human Rights Watch, *Abducted and abused: Renewed conflict in northern Uganda* (New York, July 2003), 4.

³⁷ HRW, *Abducted and abused*, 17.

³⁸ Human Rights Watch, *Stolen children: Abduction and Recruitment in Northern Uganda* (New York, March 2003), 6.

substantial part in these failures. This has been shown by Kevin Dunn, whose arguments I will discuss in the next section of this chapter. In 2005, the LRA shifted its base to Garamba national park in the northern Democratic Republic of Congo (DRC). There they continued to wreak havoc on the local population. Although an effort was made in 2009 by the Ugandan, southern Sudanese and Congolese forces to wipe out the LRA base in the DRC, the LRA and its leaders have remained at large.

The complexity of the conflict has resulted in various approaches and narratives concerning the causes and continuation of the conflict. In the following section of this chapter I will further examine these narratives, as they provide us with a more detailed understanding of the conflict. I will use two authors, who have both distinguished five approaches and narratives concerning the conflict. Kevin C. Dunn is a PhD. candidate in political science who has edited various books on Africa and International Relations theory. He looks at the conflict mostly from a theoretical perspective, which offers a nuanced view of the conflict. Rosa Ehrenreich is a law professor who holds a master's degree in social anthropology as well as a law degree. Besides the five narratives she identified, she also added some personal narratives from affected children to her article.³⁹ When we combine the five main narratives that Ehrenreich describes with the five approaches mentioned by Dunn, a detailed and nuanced view of the conflict is offered. An understanding of the evolution of the conflict will help to comprehend the reasons for its continuation. This will provide a background to which the referral to the ICC can be placed and clarified.

2.3 Narratives concerning the causes and continuation of the conflict

Kevin Dunn identifies five main explanatory approaches in scientific discourse concerning the causes and continuation of the conflict in northern Uganda. The first sees Kony as a madman without a purpose or goal besides violence itself. The second approach states that the conflict is the result of legitimate complaints that the Acholi and other peoples in the North have against the central government. Thirdly, the conflict is seen as a by-product from rivalry between Uganda and Sudan. The fourth approach concludes that Museveni and the army have no interest in defeating the LRA. The fifth and last explanatory approach that Dunn

³⁹ Rosa Ehrenreich, 'The stories we must tell: Ugandan children and the atrocities of the Lord's Resistance Army', *Africa Today*, 45 (1998), 1, 79-103. Read online at <http://search.ebscohost.com/login.aspx?direct=true&db=afh&AN=681583&site=ehost-live> .

identifies holds the view that a 'political economy of conflict' has emerged in northern Uganda. Various actors benefit from the war and thus have no interest in ending it.⁴⁰ Dunn admits he got the idea for his five approaches from Rosa Ehrenreich, who spent some time in Uganda as a consultant for Human Rights Watch. Ehrenreich also distinguishes between five explanatory narratives, which she describes as the insanity theory, the anthropological theory, the government theory, the ethnicity theory, and the geopolitical conspiracy theory.⁴¹ I will give an introduction to these approaches and narratives, which combined provide insight to the causes and continuation of the conflict. Considering their limited relevance for other conflicts I will refer to them as approaches or narratives instead of theories, since the term theory implies a broader relevance.

All these narratives and approaches have a core of truth, although some more than others. I have no doubt that more approaches can be found in the extensive literature that has been written about the conflict in northern Uganda. This is proof of the complexity of the whole conflict, a complexity that needs to be addressed if a solution is ever to be found. It is important to note though, that the explanatory approaches given above concern the reasons for both the origin and the continuation of the conflict. The madman/insanity approach and the anthropological/legitimate complaints approach address the causes of the conflict. The ethnicity approach provides a form of explanation for the causes as well as the continuation of the conflict. The other approaches mainly focus on the continuation. All approaches can be found in the discourse concerning the conflict. They have been used to genuinely explain the conflict, but they have also proven to be ammunition in a propaganda war. Museveni and his government, as well as their critics, have used some of these views to discredit the other. In the following paragraph I will discuss these approaches in more detail, in order to come to a satisfactory explanation of the causes of the conflict and the reasons for its continuation.

The insanity narrative is quite similar to Dunns madman approach. It basically reasons that Kony is a crazy spirit-possessed warlord with an army that kills the very people it claims to fight for. It has no rhyme or reason, and it uses violence for the sake of using violence. Ehrenreich identifies a branch within the insanity narrative which is based on the 'Heart of

⁴⁰ Dunn, 'Uganda: the Lord's Resistance Army', 132.

⁴¹ Ehrenreich, 'The stories we must tell', 79-103.

Darkness'-paradigm. This view from the (mostly Western) press on the LRA is that the conflict is hardly unprecedented in Africa, where crazy things just happen. Simply look at Idi Amin, who allegedly ate some of his victims, and threw the rest into the Nile River where the crocodiles got more than they could chew on. Ehrenreich quotes sources from the New York Times to CNN's World Report that offer this viewpoint. Even in the Dutch press we find similar accounts: "De belangrijkste en meest bizarre [rebelliebeweging in Uganda] is ongetwijfeld het noordelijke Verzetsleger van de Heer (LRA), dat onder leiding staat van de 32-jarige catechist en kruidendokter Joseph Kony. Het LRA komt voort uit de minstens even bizarre Beweging van de Heilige Geest, die in 1986 oprees en werd aangevoerd door Alice Lakwena, een prostituee bezeten door de geest van een overleden Italiaanse soldaat. Ze liet haar strijders naakt vechten. Olie zou hen tegen kogels beschermen, stenen veranderden in granaten."⁴² Dunn even finds this discourse in the Ugandan press, where Kony is depicted as a "dread-locked, drug-addled witchdoctor and madman, surrounded by skulls on pikes, cauldrons with human flesh, and other tropes meant to convey savagery, barbarism and irrationality."⁴³

Ehrenreich's anthropological narrative overlaps Dunn's legitimate complaints approach, although it is broader. It is more nuanced than the other narratives as it takes into account both the historical and the religious dimension of the conflict. Dunn's approach solely focuses on the legitimate complaints of the peoples of northern Uganda, relating those complaints to the rise of the rebel movements in the north. Ehrenreich not only looks at those legitimate complaints, but also explains the religious discourse and practices of the rebels as part of a coherent belief system. Ehrenreich's narrative thus tries to explain both the origins of the rebel movements, as well as their behavior, in a rational sense. This approach is quite similar to Heike Behrend's, who gives a similar account. In addition Behrend links the discourse of Alice Auma's HSMF to Kony's LRA, portraying the LRA as the spiritual heir of the HSMF. Her approach gives an understanding of the structure, discourse and practices of both the HSMF and LRA, but it only touches briefly on the political reasons

⁴² "The most important and most bizarre [rebel movement in Uganda] is without a doubt the northern Lord's Resistance Army (LRA), which is led by the 32-year-old catechist and herbal doctor Joseph Kony. The LRA stems from the at least as bizarre Holy Spirit Movement, which emerged in 1986 and was led by Alice Lakwena, a prostitute possessed by the spirit of a deceased Italian soldier. She let her combatants fight naked. Oil would protect them against bullets, stones would turn into grenades." De Volkskrant (22 November, 1996), 'Museveni's economisch succes in gevaar door opblaaierend geweld; Rebelle Uganda krijgt impuls door crisis in Oost-Zaire'.

⁴³ Dunn, 'Uganda: the Lord's Resistance Army', 137.

why these movements were formed and what their political goals are.⁴⁴ The political causes of the LRA can be found in the book *Living with bad surroundings*. Published in 2003, this book by Swedish anthropologist Sverker Finnström deals with the 'official discourse' concerning the LRA. Finnström cites a series of (alleged) LRA manifestos in which the LRA stated its political purpose. This book fits Dunn's approach that the Acholi have legitimate complaints against the central government. According to Finnström, "the challenge is to acknowledge that the LRM/A manifestos, despite the group's violent military tactics on the ground, pinpoint issues relevant to most people in Acholiland."⁴⁵ Finnström points to an important point: that for a state to recognize insurgents is to recognize a legitimate player in the arena of international politics. This was exactly why the Ugandan government continued its discourse on the LRA, painting them as "a force of deranged warlords and slave masters."⁴⁶

This brings us to the government narrative, as described by Ehrenreich. She summarizes the government's standpoint, which holds that religion has nothing to do with the conflict. Kony has no political agenda either, but he and his army are just a greedy group of Sudanese mercenaries.⁴⁷ In his opening address to Parliament in 1997 Museveni states that: "Kony is not fighting for political aims but for a style of living that he cannot afford through legal toil. Kony has now got pick-ups given to him by the Sudan government; scores of wives; buildings in townships and trading centers in Acholi, and other forms of property. He wants to remain in Sudan or in the mountains taking chickens from the villagers. [...] In other words, they are parasites on society. [...] They are after wealth through lawless means."⁴⁸ More statements like this can be found in the Human Rights Watch report *The scars of death*, where several government officials claim that Kony is nothing more than a greedy villain.⁴⁹

The reason why this discourse has been used by the government is quite straightforward. It denies any legitimate complaints the Acholi might have against the NRM-government. It devalues and erases these complaints.⁵⁰ Indeed, Museveni writes in his autobiography that

⁴⁴ Behrend, 'War in northern Uganda', 107-118.

⁴⁵ Sverker Finnström, *Living with bad surroundings* (Uppsala 2008), 100.

⁴⁶ The Republic of Uganda, *Referral of the situation concerning the Lord's Resistance Army*, 16 December 2003, §9.

⁴⁷ Ehrenreich, 'The stories we must tell'.

⁴⁸ Yoweri Museveni, address at the opening of parliament, April 28, 1997. Quoted in: Human Rights Watch, *The scars of death: Children abducted by the Lord's Resistance Army in Uganda* (New York, 1997) 92.

⁴⁹ Human Rights Watch, *The scars of death: Children abducted by the Lord's Resistance Army in Uganda* (New York, 1997).

⁵⁰ Dunn, 'Uganda: the Lord's Resistance Army', 140.

the rebels were mostly former soldiers of Obote who looted the country for their own personal gain. “The reason why those rebels in the north, organized on a tribal basis, were fighting for control of the national government, was that the NRM as a government had stopped them from looting.”⁵¹ Museveni is not the only one who sees a tribal element in the causes of the conflict, as we can see from the following approach.

According to the ethnicity narrative the conflict can be attributed to a long-standing ethnic rivalry between the Nilotic north and the Bantu-speaking south of Uganda. This rivalry started with the arrival of the British in the late nineteenth century and persists until today. While the south accumulated wealth over the years, the north remained poorer and less-developed. Museveni blames this on the politicians from the north who ruled the country for over two decades: “The colonialists did the most damage by keeping the area backward. When Uganda became independent, the politicians, who came into government, were themselves mainly from the north and never had the vision to identify, let alone correct, the bottleneck factors which had kept the area backward.”⁵² Up to this point the ethnicity narrative is quite similar to the anthropological explanation, which recognizes the historic roots of the conflict. Unlike the anthropological narrative however, the ethnic narrative sees the continuation of the conflict in a perspective of ethnic hatred. Ehrenreich provides us with the view that many Acholi hold: “The conflict in the north persists because the government really has no desire to end it. [...] Being one of Africa's most successful guerrilla leaders, surely Museveni could eliminate a tiny group of rebels if he really tried to do so. But after all, why should the government try hard to destroy the rebels? For the most part, it is Acholi destroying Acholi; the rebels do little damage to the government, but they kill and abduct many civilians. The government hates the Acholi and wants us to destroy ourselves, so they do not intervene to end this conflict.”⁵³ Rudy Doom and Koen Vlassenroot state that “many Kampala-oriented politicians still consider the conflict as a northern-based intra-Acholi fight (with little effect on the rest of the country).”⁵⁴ This perception of ‘Acholi destroying Acholi’ can also be found in various reports by the Refugee Law Project, Human Rights Watch and International Crisis Group. The view of ethnic motivation is widely spread

⁵¹ Museveni, *Sowing the mustard seed*, 181.

⁵² *Ibidem*, 215.

⁵³ Ehrenreich, ‘The stories we must tell’.

⁵⁴ Doom and Vlassenroot, ‘Kony’s message: a new Koine?’, 32.

among northern Ugandans, which is why I will examine it more closely in the following chapter.

From the government narrative another explanatory narrative can be derived, which Ehrenreich identifies as the geopolitical conspiracy narrative. According to this explanation, the conflict is not about religion or the LRA's political agenda, but it is about the Ugandan-Sudanese relations. Even though the LRA is a self-proclaimed Christian army and the Khartoum government is Muslim, they seem to have applied the principle that 'the enemy of my enemy is my friend'. This geopolitical narrative is widely used amongst scholars and journalists to explain the continuation of the conflict. The government narrative also uses elements of the geopolitical conspiracy narrative, although the greed aspect on the side of the LRA is absent in the latter, while it is a key element of the former. The use of the geopolitical narrative is more widespread than the government narrative, since it is more factual. It is certainly a partial explanation for the continuation of the conflict, as I will show when I discuss Museveni's interests in the referral. However, there is a more important reason for the continuation of the conflict, mentioned by Kevin Dunn.

In his fourth approach, Dunn argues that Museveni is not interested in peace. Dunn gives a short introduction to the arguments that support this approach, a view that holds water, according to him. He points out that in a number of instances the peace talks were in fact undermined by Museveni. He mentions complaints of a lack of seriousness, unrealistic demands, arrests of contacts between the rebels and the government, and verbal abuse of LRA representatives. "It is clear that Museveni and his administration have frequently failed to pursue nonmilitary solutions and have even undermined existing peace initiatives."⁵⁵ Even other scholars have commented on Museveni's lack of cooperation. It is worth to mention the Ugandan scholar Kasaija Phillip Apuuli, who is generally uncritical of the Ugandan government. He states that in 1994 "the peace deal was scuttled by President Museveni's sudden announcement that he was giving the LRA rebels seven days to put down their weapons and turn themselves over to the government."⁵⁶ The idea that Museveni doesn't want peace has another strong argument in the fact that the UPDF should have easily been capable of dealing with the LRA, when looked at in quantitative terms alone. It numbered at

⁵⁵ Dunn, 'Uganda: the Lord's Resistance Army', 145.

⁵⁶ Kasaija Phillip Apuuli, 'Amnesty and international law: the case of the Lord's Resistance Army insurgents in northern Uganda', *African Journal on Conflict Resolution*, 5 (2005), 2, 54.

least 50,000 troops, excluding ethnic militias, compared to the LRA's guessed size of 1,000-5,000. It had a track record as a former rebel group that could inform its understanding of the LRA. More importantly, it was successful against other insurgent groups and even in the Democratic Republic of Congo.⁵⁷

One could argue that Museveni has shown his commitment to the peace process by the Amnesty Act that passed into Ugandan law in November 1999. This act was designed to provide an Amnesty for Ugandans involved in acts of a war-like nature in various parts of the country and for other connected purposes.⁵⁸ However, there are two problems with this argument. First is Museveni's attitude toward the act. Museveni was outright opposed to the Amnesty Act and only decided to approve it after pressure from various activists as well as international pressure. Although the act was passed, Museveni made it clear he did not want it to be applied to LRA commanders, which he effectively achieved with the Anti-Terrorism Act of 2002.⁵⁹ Despite his opposition to the Amnesty Act, Museveni managed to use it in his political advantage. Several LRA commanders who either escaped or were captured received generous treatment from the government side. They received amnesty regardless of earlier statements made by Museveni that he did not want the Amnesty Act to apply to rebel commanders.⁶⁰ They also lived as guests in the Acholi Inn hotel in Gulu town, where they enjoyed relative luxury. In return these commanders were used for propaganda purposes for the NRM in the upcoming 2006 elections. Shortly after he was captured and granted amnesty, former LRA-commander Kenneth Banya appeared at a public rally in Kitgum town saying that Museveni deserved another term as President. Another returned LRA commander urged a crowd at Agoro and Madi Opei camps in Kitgum in early 2005 to keep Museveni as their leader.⁶¹ The second problem with the amnesty argument is the referral to the International Criminal Court. The referral has led to the indictment of five, now four, of the LRA leaders. The arrest warrants against the LRA top have proven to be a serious obstacle for peace. Apuuli states that "the issue of the warrants will make or break the talks."⁶² The referral provided Museveni with a way out of the Amnesty Act. A press

⁵⁷ Dolan, *Social torture*, 73.

⁵⁸ The Republic of Uganda, *Amnesty Act*, 2000.

⁵⁹ Allen, *Trial justice*, 74.

⁶⁰ Allen, *Trial justice*, 74.

⁶¹ HRW, *Uprooted and forgotten: impunity and human rights abuses in northern Uganda* (New York 2005), 39.

⁶² Kasaija Phillip Apuuli, "Taking stock of the first arrest warrants of the International Criminal Court", *African Journal on Conflict Resolution*, 7 (2007), 1, 60.

statement issued by the ICC states that “President Museveni has indicated to the Prosecutor his intention to amend this amnesty so as to exclude the leadership of the LRA.”⁶³

Dunn ascribes the view that Museveni is not interested in peace to the ethnicity narrative described by Ehrenreich, although it can also be linked to his approach of a political economy of conflict. This fifth approach posits that the goal of a conflict is not necessarily the defeat of the enemy in battle, but the continuation of fighting and the institutionalization of violence for profit.⁶⁴ There are certainly many different groups who have benefitted from the war. Army officers have made money by turning Operation Iron Fist into a lucrative moneymaking venture, or by cashing pay-checks for non-existent ‘ghost soldiers’. Even owners of hotels and apartments in the area were making money from the aid organizations which had to house their staff. Prices tripled as the aid organizations arrived. That Kony himself was also benefitting from the war has been mentioned already in the government narrative, and civilians who collude with the rebels have even been selling stolen goods in their shops.⁶⁵ Chris Dolan, who was director of the Refugee Law Project at Makerere University (Kampala), points to the fact that the economic interests involved in the conflict were not substantial compared to the economic gains to be made in the DRC. The situation in northern Uganda is “better regarded as the opportunistic exploitation of opportunities created by the government’s (non-economic) motivations for wishing the conflict to continue. As such, the vested economic interests cannot offer a full explanation for the war’s continuation.”⁶⁶ Dolan does agree with the approach that Museveni was not interested in making peace, but he sees the reason for this more in terms of a personal animus against the LRA. He even repeatedly states that the government was not interested in peace, but it was actively trying to bring the situation to a boiling point. According to Dolan, “it seemed that the government was bent on goading the LRA back to violence whenever they were quiet for too long.”⁶⁷ Dolan bases his conclusions mostly on the patterns he distinguishes in the government’s behavior; unfortunately he does not have any

⁶³ ICC Press Release, ‘President of Uganda refers situation concerning the Lord’s Resistance Army (LRA) to the ICC’, The Hague, 29 January 2004.

⁶⁴ Dunn, ‘Uganda: the Lord’s Resistance Army’, 145.

⁶⁵ *Ibidem*, 146.

⁶⁶ Chris Dolan, *Social torture; the case of northern Uganda, 1986-2006* (New York 2009), 101.

⁶⁷ Dolan, *Social torture*, 97.

sources that can give us insight as to why the government and Museveni don't seem to want peace.

From the previous we can say there is credible reason to believe that Museveni doesn't have an interest in peace. Dunn has provided us with arguments that support this view, but an explanation as to why this would be the case is largely absent in his article. I have mentioned that a political economy of war could be the reason for Museveni's interest in continuation of the conflict. These economic gains alone cannot explain the interest in continuation however, since these gains are not substantial compared to the Ugandan interests in the DRC. That Museveni is driven by a personal animus against the LRA seems slightly farfetched. Although it could serve as part of the explanation, it is unlikely that a personal vendetta is the main motivating factor. Nevertheless it has been shown that Museveni and the Ugandan government as a whole have often sabotaged the peace process. The main question in this respect remains why Museveni would be interested in continuation of the conflict. The answer to this can be found in the concept of *regime security*. This concept takes the ruler of a country as the focal point of analysis, following the Realist focus on power and interest. In the following chapter I will provide an introduction to this concept, which I will then use to demonstrate Museveni's motivation for both the continuation of the conflict and the referral of the 'situation concerning the LRA' to the International Criminal Court. I will show that *regime security* is the main reason why Museveni benefitted from continuation of the conflict.

3. Continuation of the conflict: regime security and Museveni

One of the most commonly used notions of IR proves to be problematic in the African setting: the state. The traditional preoccupation with the state is not useful when it comes to the African context. While in Europe the Peace of Westphalia was signed, African societies consisted mostly of (semi-)nomadic peoples roaming the vast continent. The so-called *big men* in African societies were more concerned with *whom* they ruled, than *where* they ruled. Obviously, it did not make sense to rule a region if there was no food or water to feed the people. As a result of the well-known scramble in the 1880s, Africa became a continent filled with artificial states. These states did not come about as the result of long term developments determined by Africans, but were imposed upon the African peoples by Europeans. Different tribes and peoples found themselves within shared borders, while others were separated by artificial borders drawn on a map. These ethnic peoples often do not conceive themselves as a nation. Their leaders are therefore likely to pursue sub-national (ethnic) interests or even the interests of foreign donors.⁶⁸ The state is therefore not the best starting point for studying Africa. Africa is the continent of modern day *big men* such as Idi Amin of Uganda, Jean-Bédél Bokassa of the Central African Republic, Mobutu Sese Seko of Zaïre, Muammar Ghadaffi of Libya, Robert Mugabe of Zimbabwe and many more. The democratic tendencies of all these regimes are questionable at best. These *big men* are the centre of power in their respective countries. The same goes for Museveni, who has frequently bypassed civilian advisors and even Parliament in his decision-making. It is said that Museveni's "will is indisputably the key to foreign-policy decision-making in Uganda."⁶⁹ Therefore, I want to use an actor-oriented approach that starts with the ruler of the state.

⁶⁸ John F. Clark, 'Realism, neo-realism and Africa's international relations in the post-cold war era', in: Kevin C. Dunn, and Timothy M. Shaw, eds., *Africa's challenge to international relations theory*, (Basingstoke 2001), 92.

⁶⁹ John F. Clark, 'Explaining Ugandan intervention in Congo: Evidence and interpretations', *The Journal of Modern African Studies*, 39, 2 (2001), 263.

3.1 Regime security...

Taking the ruler as the starting point for any research requires an analytical tool that deals with the motivation of that specific ruler. In the African context I found that the logics of consequences dominate the logics of appropriateness.⁷⁰ The behavior of the ruler is not so much driven by ideologies and principles, but by the circumstances at hand. This is most certainly true in the Ugandan context. Ugandan president Museveni has often been described as a highly pragmatic leader, who is quick to respond to situations as they arise. He would find a friend in Machiavelli, whose concepts he has practiced often during his 24 years in power. The one main principle that a Machiavellian ruler such as Museveni has adhered to is the concept of *regime security*, a variation on the Machiavellian notion that the aim of a ruler should be to seek power, and strive to keep it. The concept, which has proven to be highly valuable in analyzing Museveni and other (African) rulers, has been derived from Realism's central focus on power and interest. According to John F. Clark "the concept of *regime security* appears to be particularly useful in understanding the behavior of African rulers. [...] They seem to be most frequently guided in their daily behavior by securing their regimes in power."⁷¹ It remains important to remember that while rulers strive for *regime security*, they do this both consciously and unconsciously. It is best compared to a person striving to stay healthy. While one can consciously act to improve his health, this is also often done unconsciously.

The concept of *regime security* has been used to explain the foreign policy of South Korean president Syngman Rhee in 1953-1960⁷² and the character of the post-independence Zimbabwean state⁷³, but a clear definition of the concept remains absent. John Clark does not provide us with a readymade definition of the concept either, since he believes that *regime security* does not have a meaning that is fixed once and for all. According to him, African leaders have employed a variety of different strategies to make their regimes secure.⁷⁴ I have nevertheless derived the following definition of *regime security* from his

⁷⁰ These concepts have been introduced by Stephen Krasner in: Stephen Krasner, *Sovereignty: organized hypocrisy* (Princeton 1999), 51.

⁷¹ Clark, 'Realism, neo-realism and Africa's international relations', 94.

⁷² Yong-Pyo Hong, *State security and regime security: President Syngman Rhee and the insecurity dilemma in South Korea 1953-60* (Basingstoke 2000).

⁷³ Ronald Weitzer, "In search of regime security: Zimbabwe since independence", *The Journal of Modern African Studies*, 22, 4 (1984), 529-557.

⁷⁴ Clark, 'Realism, neo-realism and Africa's international relations', 99.

article: the maximizing of various combined factors that ensure the survival of a ruler in his regime, while minimizing the sources of regime contestation. Within this definition there is still room for the various strategies that can be followed in striving for regime security, but it also offers a clear purpose for these strategies. With this definition I intentionally differentiate between *regime security* and a concept introduced by Christopher Clapham: *state survival*. Clapham states that “rulers seek to assure their personal survival by seeking the survival and indeed strengthening of their states. They can on the whole best protect their own security by preserving and enhancing the power of states which they rule.”⁷⁵ He thus connects the survival of the ruler to the survival of the state. The main problem with this connection is the fact that it treats the state as a universal given, and the state once again remains the core of the analysis. If we take the example of Mobutu’s Zaire, however, we can see that the main reason Mobutu remained in power after the end of the Cold War was not a strong state, but local strongmen who were at the heart of the political system. State control ended a few hundred kilometers from Kinshasa, and the rest of the country was under the control of local strongmen and warlords. It is important to note that their main objective was not to overthrow Mobutu’s regime, but the economic control of particular areas.⁷⁶ The same principle also applies to Idi Amin, under whose reign the Ugandan state institutions virtually disappeared. For him it was the army and a culture of violence that kept him in power for eight years.

Clark names various players that are in a position to directly threaten a regime’s control over the state apparatus. An African ruler needs the goodwill or tolerance of these people. The internal sources of regime contestation have been identified as important members of the national military and the leaders of potential domestic insurgencies as would-be *coup* makers.⁷⁷ External players are the leaders of neighboring states through their potential support of insurgencies, and the rulers of great powers abroad as suppliers of money, arms and military training.⁷⁸ Naturally the first two are the most important because they pose a more real threat to the ruler and his regime than the last two. For the Ugandan case I would like to add one more internal source of regime contestation. The ethnic groups in Uganda

⁷⁵ Christopher S. Clapham, *Africa and the international system: the politics of state survival* (New York 1996), 4.

⁷⁶ Kevin C. Dunn, ‘MatLib #32: The (blank) African state: Rethinking the sovereign state in international relations’ in: Kevin C. Dunn, and Timothy M. Shaw, eds., *Africa’s challenge to international relations theory*, (Basingstoke 2001), 52.

⁷⁷ Clark, ‘Realism, neo-realism and Africa’s international relations’, 95.

⁷⁸ *Ibidem*, 98.

have proven to be of great importance to the security and survival of the political regimes in the past. This is illustrated by the history of Milton Obote, who secured the support of the Baganda tribe in the south of the country. This enabled him to become prime-minister. The parliament of the Buganda kingdom had more power over its people than Obote, which is one of the reasons Obote abolished the kingdom and sent the kabaka (king) into exile.⁷⁹ By doing so, Obote eliminated all sources of regime contestation present in those days, except the army.⁸⁰ In 1971 he was overthrown by general Amin, who had the support of the Baganda. Thus even if the ethnic groups are not necessarily an active force in overthrowing a regime they don't support, they do provide counterbalance to other key players such as the army.

3.2 ... and Museveni

When we apply these players to the situation under Museveni, we can identify the important members of the military as General James Kazini⁸¹, Major-General Salim Saleh (who is Museveni's brother) and Colonel Kiiza Besigye. Where the former two remained loyal to the regime, the latter challenged Museveni and the NRM government while serving as an officer in the Uganda People's Defence Force (UPDF). He collected a group of both civilian and military followers, and hence proved a threat to the regime. He was fired from the UPDF and charged with treason, rape and other crimes in order to prevent him from gathering support in elections.⁸² The ease with which Besigye collected followers proves the point that these members of the military are an important source of regime contestation. Although Museveni has been able to side-track Besigye with allegations of treason and rape, it has damaged his reputation as a democratic leader.

Since the NRA/M⁸³ came to power in 1986, several armed groups have fought the regime. Most of these can be found north of Lake Kyoga. The most important groups have been the Federal Democratic Movement (FEDEMU), the Uganda People's Defence Army (UDPA), the

⁷⁹ Paul Nugent, *Africa since independence* (New York 2004), 127.

⁸⁰ Aidan Southall, 'General Amin and the coup: great man or historical inevitability?', *The Journal of Modern African Studies*, 13(1975), 1, 99.

⁸¹ Kazini was killed in 2009 by his mistress, although rumors of Museveni's involvement have persisted since at the time of his murder Kazini was out on bail from charges of trying to overthrow the Museveni government. It has never been proven that this was actually the case though.

⁸² According to Roger Tangri and Andrew Mwenda, pro-Besigye officers were weeded out of the UPDF. Roger Tangri and Andrew M. Mwenda, 'Military corruption & Ugandan politics since the late 1990s', *Review of African political economy*, 98 (2003), 550.

⁸³ National Resistance Army/Movement.

Holy Spirit Mobile Forces (HSMF) led by Alice Auma (a.k.a. Lakwena), the Lord's Resistance Army (LRA) led by Joseph Kony, and the West Nile Bank Front (WNBF) led by Juma Oris. Except for the LRA, all of these domestic insurgencies have been effectively dealt with by Museveni. FEDEMU was incorporated in the NRA, after the overthrow of the Okello government. The UPDA was mostly dissolved after peace talks although a number of combatants joined the NRA and another group eventually joined the LRA. Alice Auma's HSMF was defeated in battle, after which most combatants returned home, but some joined the LRA. Juma Oris' WNBF was one of the longest lasting movements, except for the LRA. It was eventually defeated in 1998, after several military operations.⁸⁴ These domestic insurgencies have thus proven to be a major challenge for Museveni, but one that he would not easily underestimate, considering he used to be part of them. The only remaining group was the LRA, although new groups have recently started to form. With the Amnesty Act of 2000, LRA soldiers and commanders alike have been given the opportunity to return from the bush. Many have used this opportunity to get away from the LRA. That Museveni was not too eager to sign this act has been discussed in the previous chapter, where I argued that Museveni felt both national and international pressure to sign the act, but he nevertheless managed to use the act in his advantage.

Rwandan president Paul Kagame was a close friend of Museveni's who even served in the NRA with him. Kagame's Rwandan Patriotic Army (RPA)⁸⁵ was in turn supported by Museveni when it invaded Rwanda during the 1994 genocide. Together these men supported the overthrow of Zairian president Mobutu Sese Seko and the coming to power of Laurent-Désiré Kabila.⁸⁶ The leader of neighboring state Rwanda has thus been a useful tool for Museveni. Kabila was initially supportive of Museveni as well, although his support faded. After the coming to power of his son Joseph Kabila, Museveni lost support from the Congolese side. Clearly not all the neighboring leaders were supportive of Museveni, and particularly Sudanese president Omar al-Bashir proved to be a big challenge in that aspect. Museveni has been a close friend of John Garang, who was the leader of the southern Sudanese Peoples Liberation Army (SPLA). He thus supported the SPLA, which in turn led al-Bashir to support the LRA. Museveni has thus been on both sides of the game. One the one

⁸⁴ Gersony, *The anguish of northern Uganda*, 96.

⁸⁵ The RPA was the military wing of the Rwandan Patriotic Front; Kagame's political party.

⁸⁶ It is interesting to note, however, that Kagame only became president in 2000, after the deposing of Pasteur Bizimungu.

hand, he supported an insurgency in Zaire which led to the overthrow of president Mobutu, but on the other hand he has felt the consequences of Sudanese support for the LRA insurgency.

When Museveni came to power in 1986, the country was economically practically bankrupt. He needed the economic support of foreign donors to get the country up and running again. He did this in a very successful manner, with amazing growth figures. In the struggle against the LRA, donor support has also proven to be highly valuable. On the one hand the emergency relief for the affected Acholi people in the north has been vital in providing those people with food and shelter. On the other hand donor support enabled Museveni to keep his budget up, spending money on the military. Museveni also received military training and support from the United States, although this support was terminated after the Ugandan involvement in the Congo War in 1998. After 2001 however, the LRA was placed on the U.S. list of terrorist organizations and Museveni once again received support for his fight against the LRA, which suddenly became part of the global 'war on terrorism'.

Ethnic groups such as the Baganda in the south and the Acholi in the north have proven to be vital for regime security, as is demonstrated by the history of Ugandan presidents since independence. All of these presidents had the support of one or both of these groups in order to get to power and stay there. When Museveni came to power he therefore abolished political parties which drew their support mainly along ethnic and religious lines. By doing so, he removed the main sounding board for discontent. Museveni followed the example of Obote in wooing the Baganda for his own regime security. He has secured their support by restoring the Buganda Kingdom in 1993, which had been abolished by Obote in 1966. Obote deserted the "marriage" with the Kabaka because of the latter's unrealistic demands. But Museveni and his NRM revived the marriage thinking they would be a better spouse.⁸⁷ Museveni also secured the support of the eastern Karamojong tribe, which rustled Acholi cattle allegedly with support from the government.⁸⁸

⁸⁷ When Museveni and the Kabaka had a fallout leading to riots in 2009, it seemed that history was repeating itself. <http://www.independent.co.ug/index.php/the-last-word/106-myblog/1332-is-the-sun-setting-on-the-museveni-kabaka-courtship> visited 23 February 2010.

⁸⁸ Refugee Law Project, *Behind the violence: Causes, consequences and the search for solutions to the war in northern Uganda*, (Kampala 2004), 9, and HURIPPEC, *The hidden war, the forgotten people*, (Kampala 2003), 56.

The Acholi have not been able to effectively voice their discontent due to the LRA-war and the abolishment of political parties. The continuation of the conflict delegitimizes their complaints concerning that regime, because they can easily be accused of an anti-NRM bias due to the LRA-war. Considering there was an anti-NRM sentiment in the north since Museveni took power in 1986, the Acholi were unlikely to join the movement in large numbers. Therefore their influence on NRM-policy was practically non-existent.

From the previous the conclusion can be drawn that Museveni has often acted in the interest of *regime security*. He has pacified the leaders of domestic insurgencies by offering them peace deals and positions in the Ugandan army. Opposition leaders have been sidetracked by accusations of treason, and rebel commanders have been given amnesty in return for their support for the Museveni regime.⁸⁹ Foreign donors have proven to be easily pleased with promises of change and the return to multi-party politics. That the ICC referral as well served to please the international donors will be shown in the third section of the following chapter. Rulers of great powers abroad have received Museveni's support in their goal of overthrowing their political opponents, or they were themselves overthrown. The one leader who was more difficult to deal with has been sidetracked by the ICC referral, which is shown in the second section of the following chapter. As shown, the various ethnic groups in Uganda have also been used to enhance *regime security*.

3.3 Continuation of the conflict

In the previous section we established that Museveni often acted in the interest of *regime security*. The continuation of the conflict is one more example of this. It has served Museveni's purpose of *regime security* in various ways. Seen from an ethnic perspective, the influence of the Acholi people has been marginalized because of the persistence of the war. Politically, it has bound the army to his regime by their continued presence in the north and the possibility for financial gain from the war. The continuation of the conflict also served to enhance international sympathy for the Museveni regime, which, in the eyes of the international community, has struggled to contain this rebellion for two decades. This in turn increased the security of Museveni's regime. Continuation of the conflict also served economic interests as it legitimated a high defense budget.

⁸⁹ Conflict and development programme - Liu Institute for Global Issues, *Northern Uganda – Human security update* (May 2005), 7.

Since Museveni spent a great part of his life fighting against presidents from the north, it is not surprising that he acquired a reputation of being against northerners in general. The idea that he was motivated by an anti-Acholi sentiment in launching his rebellion against Obote has become an article of faith among many Acholi political leaders, many of which were in Diaspora. This reputation was further developed when the soldiers of the NRA misbehaved in northern Uganda in the late 1980s. Killings and rape became the order of the day in Acholiland, and torture and maltreatment were common.⁹⁰ Former government soldiers formed the Uganda People's Democratic Army (UPDA), which sought to overthrow the Museveni government. The NRA fought a counter insurgency that was 'brutal, including deliberate destruction of civilian food stocks and domestic animals.'⁹¹ The remainder of the Acholi cattle was rustled by the Karamojong tribe of the east, allegedly with Museveni's approval.⁹² Although the approval and/or cooperation of the Museveni government cannot be proved, it would definitely serve the desire for regime security, since it would increase the support for his regime by the Karamojong. Museveni himself proudly states that the support for his government in the Karamojong region was close to 100%.⁹³ The combination of maltreatment and cattle rustling destroyed the prosperity and economic life in Acholiland. It also fed ethnic divisions as distrust towards the Museveni government grew.

A prolongation of the conflict makes it difficult for the people of the north to vocalize their discontent with the Museveni regime. They were more focused on trying to survive than protesting against the Museveni regime in general. At best, efforts would be directed to ending the war. Examples of these efforts are the Uganda Women's Network (UWONET) and the Acholi Religious Leaders Peace Initiative (ARLPI), who tried to peacefully negotiate an end to the conflict. Some Acholi elders also publicly pressed for political negotiations, but they were warned by army officers and soldiers not to support the peace process. When they continued their efforts despite these warnings, elders Okot Ogoni and Olanya Lagoni

⁹⁰ Sverker Finnström, 'Wars of the past and war in the present: the Lord's Resistance Movement/Army in Uganda', *Africa: Journal of the International African Institute*, 76, 2 (2006), 203.

⁹¹ International Crisis Group, *Northern Uganda: understanding and solving the Conflict*, (Nairobi/Brussels 2004), 4.

⁹² Refugee Law Project, *Behind the violence: Causes, consequences and the search for solutions to the war in northern Uganda*, (Kampala 2004), 9, and HURIPPEC, *The hidden war, the forgotten people*, (Kampala 2003), 56.

⁹³ Museveni, *Sowing the mustard seed*, 217.

were found murdered.⁹⁴ In addition, many Acholi political leaders had served under Obote, and they had fled the country when Museveni came to power. Although they were able to voice their discontent, they often lacked credibility due to the fact that they had lived abroad for many years. Their impact on the Museveni regime was therefore negligible. An example of this is the Kacoke Madit⁹⁵; a non-profit forum dedicated to finding a solution to the conflict in northern Uganda. Its members were Acholi in Diaspora. Meetings were held in 1997, 1998 and 2000 in London. Except for raising awareness in the international community and providing information about the conflict, its achievements were limited. Some Acholi politicians in exile have even tried to undermine the peace process⁹⁶ and thereby the effort of KM. The political influence of KM has thus been insignificant.⁹⁷

Another source of regime contestation that is dealt with by continuation of the conflict is the Ugandan army. As long as the army continues to fight the LRA rebels in northern Uganda, they are in a way kept busy and will not likely revolt against Museveni. Ending the conflict would mean that large parts of the army would have to demobilize, which would lead to unrest and dissatisfaction with the Museveni regime amongst the soldiers. Additionally it can also be held that Kony and his LRA are not seen as a threat to Museveni's regime, because of the violent nature of the LRA. Kony is perceived as either a religious madman, or a greedy criminal. Any complaints that he may have against the Museveni government may thus be regarded as illegitimate or irrelevant. The LRA is also not strong enough to beat the UPDF and overthrow the government.⁹⁸ As long as the LRA does not pose a real threat to the regime, there is no direct need to defeat him, or to make peace. It should be borne in mind that negotiating with Kony sends signals to other rebel groups that compromises are within reach.⁹⁹ It is understandable that Museveni did not want to send out a signal that one can take up arms against his government and get away with it unpunished. In addition, if a peace deal would be signed, it could lead to a renewed interest in the legitimate complaints that the northerners have. The absence of war would also give the northern opposition the possibility to effectively vocalize their complaints. One could argue that by preventing peace,

⁹⁴ Behrend, 'War in northern Uganda', 117.

⁹⁵ Kacoke Madit website; <http://www.km-net.org.uk/> visited 14 February 2010.

⁹⁶ Doom and Vlassenroot, 'Kony's message: a new Koine?', 24.

⁹⁷ Ugandan government officials stated that "Diaspora groups were not helpful" in the peace process. Conciliation Resources, *Accord*, "Restoring relations between Uganda and Sudan: The Carter Center process", <http://www.c-r.org/our-work/accord/northern-uganda/carter-center.php>, visited 15 February.

⁹⁸ Dolan, *Social torture*, 73.

⁹⁹ *Ibidem*, 33.

Museveni is controlling both the leader of the most important domestic insurgency as well as the Acholi ethnic group. Therefore, Museveni is promoting regime security by pushing for a military approach.

Another explanation why Museveni is not so eager to end the war can be found in Kevin Dunn's approach of a 'political economy of war'. According to Dunn, some evidence seems to support the view that a political economy of war has been institutionalized in northern Uganda.¹⁰⁰ Although the political economy of war in northern Uganda is not as big as in the DRC, it is still substantial enough to serve as an interest. A number of army officers such as Generals James Kazini and Salim Saleh have conveniently made use of their involvement in northern Uganda to haul in a number of lucrative defense contracts that were supposedly intended for the modernization of the army, but mostly involved the payment of vast illegal commissions.¹⁰¹ These officers profited by selling (often defective) arms to the government at inflated prices.¹⁰² For example, Major-General Salim Saleh, who was in charge of operations against the LRA rebels in the north, is alleged to have awarded his own company Ushs 400 million (\$400,000) monthly to supply UPDF with commodities in Gulu.¹⁰³ A number of other officers pursued their commercial interests much more actively than fighting the war. According to some, they even refused to talk seriously with the rebels because they wanted to prolong the war from which they were benefiting.¹⁰⁴ The financial gains of these army officers translated into support for the Museveni regime, both politically and financially. They became entrenched in the regime, and the fall of the regime would also lead to their own downfall, hence political support for Museveni became necessary for their own political survival. As a contribution towards their goal of political survival, Museveni received financial support for his political projects.

¹⁰⁰ Dunn, 'Introduction', 145.

¹⁰¹ Koen Vlassenroot and Timothy Raeymaekers, 'The politics of rebellion and intervention in Ituri: the emergence of a new political complex?', *African Affairs*, 103/412 (2004), 404.

¹⁰² Clark, 'Explaining Ugandan intervention', 277.

¹⁰³ Tangri and M Mwenda, 'Military corruption', 543.

¹⁰⁴ *Ibidem*, 543.

4. Museveni's interests and the referral

This chapter examines the various interests that Museveni may have considered when he made the referral to the ICC. It has already been established that Museveni benefitted from a continuation of the conflict because it increased his *regime security*. Following the assumption that Museveni uses the logics of expected consequences in his actions, I will argue that the referral to the ICC was also mostly designed to serve Museveni's interests as it would lead to a continuation of the conflict. I will therefore look at how the referral contributed to a continuation of the conflict, which in turn improved his *regime security*. Furthermore I will examine the text of the referral, which served to bind certain key players to his regime while eliminating others. In identifying president Museveni's main motives for referring the 'case of the LRA' to the ICC, I will distinguish between ethnic, economic, military and political motives. This distinction will help to keep a clear focus on the different aspects involved with the referral. Nevertheless, as we shall see, many of the interests that might be served by the referral have different sides to it and may well fit in multiple categories of interests. For example, a good case could be made to qualify the ethnic interests as political interests. However I decided to list the ethnic interests as a separate category because of the importance of the ethnic approach in explaining the conflict. Many (northern) Ugandans see the conflict as an ethnic struggle, which is why I chose to examine the ethnic interests as distinct category. The one recurrent theme in this chapter is the army, which is seen as the main source of support for Museveni's regime. Therefore it is an important factor in all the different fields of interest.

4.1 Ethnic interests

One of the explanatory approaches concerning the causes and continuation of the conflict concerns an ethnical motivation from Museveni's side. Most of the affected Acholi people see the reasons for the continuation of the war up to a large extent in terms of ethnicity. There is an important point to be made about the ethnic tension between the northern and southern part of Uganda. Ever since Uganda became independent in 1962, it has been governed by politicians from the north such as Apollo Milton Obote and Idi Amin Dada. Both these men left the country in shambles. The only exceptions to this northern rule were the presidents that ruled during Uganda's year of the three emperors, after the ouster of Idi

Amin in 1979.¹⁰⁵ Milton Obote became president for the second time in 1980, through rigged elections. This was reason enough for Yoweri Museveni to take up arms against him. When Museveni was officially sworn in as president in 1986, he became the country's first southern president to remain in power for longer than a year.

About ten years after the conflict started, the government forced people in the north to move into IDP¹⁰⁶ camps, according to the government for their own security. These so-called 'protected villages' were supposed to protect civilians against rebel attacks. The reality turned out to be almost the opposite, since in many camps the army detachment was stationed in the centre of the camp. This meant in practice that in case of LRA attacks the civilians were protecting the army. Although the reasons given for the forced displacements by the government were 'imperative military reasons' or 'security of civilians', HRW believes the displacements were mainly part of a counterinsurgency strategy called 'draining the sea'. "Pursuant to that doctrine, the rebels are the fish and peasants the sea in which they swim. Dry up the sea by moving the peasants away, and the fish (rebels) die."¹⁰⁷

Olara Otunnu, an Acholi from northern Uganda and former U.N. under secretary-general, sees a different motivation behind the forced displacements. He believes that the Ugandan government is committing genocide. According to Otunnu, the Ugandan government wants to keep the attention focused on the LRA, so that their own activities in northern Uganda remain in the dark. "The truth is that reports of indisputable atrocities of the LRA are being employed to mask more serious crimes by the government themselves. [...] under the cover of the war against these outlaws, an entire society, the Acholi people, has been moved to concentration camps and is being systematically destroyed."¹⁰⁸ According to Otunnu, the government is using HIV/AIDS as a weapon of mass destruction. "Government soldiers are screened, and those who test HIV-positive are deployed to the north, with the mission of wreaking maximum havoc on the local girls and women."¹⁰⁹

¹⁰⁵ Technically Uganda's first president, Edward Muteesa, can also be named as a president from the south. He was a non-executive president however, and the real power during his presidency lay with prime-minister Milton Obote.

¹⁰⁶ IDP stands for Internally Displaced Person.

¹⁰⁷ HRW, *Abducted and abused*, 63.

¹⁰⁸ Olara A. Otunnu, 'The secret genocide', *Foreign policy*, July/August 2006, 45.

¹⁰⁹ Otunnu, 'The secret genocide', 46.

Although evidence for these allegations is practically non-existent¹¹⁰, the Refugee Law Project found that the majority of the people they interviewed for the working paper “perceive the war in the north as a deliberate ploy by the government to destroy, in particular, the Acholi people.”¹¹¹ These findings are confirmed by research done by the Human Rights and Peace Centre from Makerere University. Sverker Finnström has also encountered this idea of a slow and secret genocide.¹¹² The perception of genocide is vocalized on a website called ugandagenocide.info, where Museveni is compared to Hitler and the Acholis to the Jews during World War II.¹¹³ Although some of the complaints mentioned on the website are legitimate, and the perception of ethnic hatred from the side of the government is clearly present, there is a lack of evidence to support the claim of genocide.

The International Crisis Group does substantiate claims of ethnic favoritism however. In a report based on information obtained by *The Independent's* Andrew Mwenda¹¹⁴ the International Crisis Group states that the NRM has favored the western region. People from the west total 26% of the national population, but they hold 44% of all top public appointments. The southern Baganda make up 17% of the total population and hold 30% of such positions. Westerners occupy 74% of the army's top command positions, while northerners are almost completely absent from top public offices.¹¹⁵ Although this ethnic favoritism can obviously be proven, the reasons for this favoritism cannot. One has to keep in mind that the NRM started as an anti-northern movement keen on driving president Obote from power. It is therefore not strange that the movement mostly attracted people from the west and south of Uganda. There has been an anti-NRM sentiment in the north from the moment Museveni took power in 1986, which serves to explain why people from the north are not fairly represented in government and public offices.

¹¹⁰ Otunnu uses no footnotes or other data to substantiate his claims. The only evidence that might support his claim consists of data of HIV/AIDS prevalence in the north compared to the rest of Uganda. This could also easily be explained by the fact that rape in general has increased in the north, especially in the IDP-camps, and that more and more women are selling themselves in order to get some money for food.

¹¹¹ RLP, 'Behind the violence', 48.

¹¹² Finnström, *Living with bad surroundings*, 169.

¹¹³ <http://ugandagenocide.info/?p=1915>, visited 19 January 2010.

¹¹⁴ The original articles were not available to me; however I found other references to these articles, which indicate they are correctly cited in the ICG report.

¹¹⁵ International Crisis Group, *Northern Uganda: the road to peace, with or without Kony* (Nairobi/Kampala/Juba/Brussels 2008), 6.

In my opinion ethnic favoritism can be directly linked to Museveni's desire for regime security. Ethnic groups have already been mentioned as a source of regime contestation, which makes it important to involve them in the regime. It is unlikely that people will oppose a regime in which they are deeply entrenched. It has been shown in various studies and reports that Museveni is using a patronage system to keep his followers satisfied.¹¹⁶ His Banyankole tribe, including his own family, has received a disproportionate piece of the 'national cake'.¹¹⁷ Museveni's most important power base has been the army though, as the army has historically proven to be the most important source of regime contestation in Uganda. Andrew Mwenda states: "politicization of appointments and promotions in the army has turned it into a force personally loyal to the president."¹¹⁸ This is the same army that fought the armies of Amin and Obote, which were mostly made up by northerners. That Museveni's UPDF is mostly southern is no surprise when we keep the history of his regime in mind.

Evidence of an ethnic motivation behind the ICC referral itself is yet to be found. Any ethnic motivation behind the referral would start with the assumption that Museveni knew that the referral would mean a continuation of the conflict, with which the suffering of the Acholi would be prolonged. It is not unreasonable to accept the first part of this assumption, based on statements of various NGO's indicating a prolongation of the conflict in case of ICC interference.¹¹⁹ The second part of this assumption is more difficult to prove. It implies the intentional policy of making the Acholi (and Langi) people suffer for the sake of their ethnicity. Although it would be most unusual to find evidence of an ethnically motivated policy if it did exist, I do not believe that this is Museveni's main motivation for his actions. It would be underestimating his drive for power and regime security, a drive that has dictated his actions since his rise to power. An openly ethnically motivated policy would damage his reputation and his power base. Not only would it strengthen the LRA's case of legitimate complaints, but it would also cost Museveni the support of the great powers, which provide both political legitimacy and financial support for his government. If we assume that

¹¹⁶ See for examples: Andrew M. Mwenda and Roger Tangri, 'Patronage politics, donor reforms and regime consolidation in Uganda', *African Affairs*, 104/416 (2005), 449-467 and Aili Mari Tripp, 'The changing face of authoritarianism in Africa: the case of Uganda', *Africa today*, 50, 3 (2004), 3-26.

¹¹⁷ John F. Clark, 'Explaining Ugandan intervention in Congo: Evidence and interpretations', *The Journal of Modern African Studies*, 39, 2 (2001), 277.

¹¹⁸ Mwenda and Tangri, 'Patronage politics', 463.

¹¹⁹ Allen, *Trial justice*, 84 and 85.

Museveni expected the referral to lead to a prolongation of the conflict, the reasons for Museveni's decision to refer the situation to the ICC would have been more practical. Referral would lead to continuation of the conflict, which would keep the political influence of the Acholi people minimal, as we have seen earlier. An ICC involvement that would not include an investigation into the behavior of the UPDF would also legitimize Museveni's strategy concerning the conflict. Dunn's idea of a political economy of war could serve as an explanation as well, which is shown in the section concerning the economic interests.

4.2 Political interests

There are many political interests which are served by the ICC referral. This can be expected since Museveni has already been classified as a ruler focused on regime security. The continuation of the conflict should be seen as a form of *regime security*, as has been argued in chapter three. As shown, it bound the army to his regime by maintaining a large army that was engaged in the war in the north. In referring the situation in northern Uganda to the ICC Museveni tried to use the ICC for his own gain. This is illustrated by the fact that he initially referred the case to the ICC, but when the ICC involvement no longer best served his objectives he requested Moreno-Ocampo to drop the charges. He then presented himself as a savior to the peace process and Kony stating that "We can save him (Kony) because we are the ones who sought assistance from the ICC."¹²⁰ The idea that Museveni was using the ICC for his personal gain is strengthened by Tim Allen when he says that it seems "unlikely that President Museveni would have initiated the prosecution if he thought he could not control it."¹²¹ In this section of the chapter I will take a closer look at the political objectives that Museveni might have had when he made his referral to the ICC.

4.2.1 Promote military solution: no peace talks

One of the most interesting tactics implicit from the ICC referral is the criminalization of the LRA. As can be expected, the referral is one-sided and limited to atrocities committed by the LRA. But it also portrays the LRA as a criminal or terrorist group devoid of any political agenda. President Museveni has always portrayed the LRA as such, and seldom refers to the LRA as a rebel group, because that would imply that they have legitimate complaints against his regime. Instead, he refers to them as 'criminals', 'bandits' or 'terrorists', the latter

¹²⁰ The New Vision, 11 March 2008.

¹²¹ Allen, *Trial justice*, 97.

supported by the U.S. who put the LRA on the list of terrorist organizations. In his book *Sowing the mustard seed* Museveni says “I refuse to negotiate with bandits [...] because they are criminals.”¹²² The Ugandan government states that “in view of its policies and practices, the LRA is an inherently criminal organization without any legitimate political or military objectives.”¹²³ The statement made by the Chief Prosecutor also confirms a lack of legitimacy of the LRA: “The LRA is a rebel group, claiming to fight for the freedom of the Acholi people in Northern Uganda. The LRA has mainly attacked the Acholis they claim to represent. For nineteen years the people of Northern Uganda have been killed, abducted enslaved and raped.”¹²⁴

The LRA has often been blamed for failed negotiations because they could not produce a list of grievances that could form the basis of talks.¹²⁵ Nevertheless, they have extensively talked to various government representatives, most notably chief negotiator Betty Bigombe. Many observers think they were very close to a peace agreement in 1994, although this view is contradicted by Dolan. He points out that Bigombe mostly worked without substantive support from Museveni. He does not agree with the observation that the talks were close to peace. “Contrary to the view that the 1994 peace talks were a moment of real opportunity, they effectively heralded a dramatic escalation of the scale of war, and are more aptly described as ‘war-talk’ than ‘peace-talks’.”¹²⁶ These peace talks were eventually thwarted by a seven day deadline for surrender given to the LRA by president Museveni. As Doom and Vlassenroot mention in their 1999 article “recent information seems to confirm that Museveni is playing his military card, disregarding further peace negotiations.”¹²⁷ The Ugandan government, and most notably president Museveni, were accused of a lack of commitment to the peace process. He has described negotiating with Kony as ‘giving first aid to a snake’.¹²⁸ Dolan thinks Museveni was letting his personal feelings towards the LRA dictate his policy: “President Museveni has vowed not to talk to the rebels. However, he said he had no objection to other people trying to negotiate with them. He thereby not only ignored an important civil society voice, he also demonstrated the blurring of the line

¹²² Museveni, *Sowing the mustard seed*, 217.

¹²³ The Republic of Uganda, *Referral*, §33.

¹²⁴ International Criminal Court, *Statement by the Chief Prosecutor on the Uganda arrest warrants*, Den Haag 14 October 2005.

¹²⁵ Dunn, ‘Uganda: the Lord’s Resistance Army’, 137.

¹²⁶ Dolan, *Social torture*, 97.

¹²⁷ *Ibidem*, 33.

¹²⁸ Doom and Vlassenroot, ‘Kony’s message’, 20.

between his personal animus against the LRA and the government's official position, a blurring which remained a constant throughout the war."¹²⁹ Nevertheless, the military was also not keen on peace talks, which is evident from Doom and Vlassenroot. They state that in 1994, some army officers were not in the mood to make agreements with an enemy which was close to defeat.¹³⁰

The ICC arrest warrants have removed the LRA command's incentive to come out of the bush, which has made peace talks difficult, if not impossible. Father Carlos Rodríguez of the Acholi Religious Leaders Peace Initiative (ARLPI) summarizes it as follows: "Obviously, nobody can convince the leaders of a rebel movement to come to the negotiating table and at the same time tell them that they will appear in courts to be prosecuted."¹³¹ The indictments became the one issue that could make or break the Juba peace talks in 2006. The insistence of the LRA leaders to lift the indictments proved the point that the arrest warrants had become an obstacle to peace. The Ugandan government had been very reluctant to join these peace talks, and only had a limited involvement. Museveni made a highly publicized day trip to Juba, but he was reluctant to meet the LRA representatives. A meeting finally took place, during which Museveni reportedly verbally abused the LRA contingent.¹³² The talks were subsequently effectively undermined by the killing of top LRA commander Raska Lukwiya and the intensification of army operations despite a ceasefire. As mentioned before, Museveni only agreed to the talks reluctantly; according to the ICG he only agreed because he wanted to give the appearance of exhausting all options before resorting to military action in Congo.¹³³ Indeed, in the referral text we find that "having exhausted every other means of bringing an end to this terrible suffering, the Republic of Uganda now turns to the newly established ICC and its promise of global justice."¹³⁴

The ICC referral thus served to torpedo the peace talks from different sides. Not only did it lift the pressure for president Museveni to continue efforts at a negotiated peace, it also removed the incentive from the side of the LRA commanders. Both sides were not exactly eager for negotiating a peace settlement, leaving the way open for a military approach.

¹²⁹ Dolan, *Social torture*, 98.

¹³⁰ Doom and Vlassenroot, 'Kony's message', 20.

¹³¹ Adam Branch, 'International justice, local injustice: the International Criminal Court in northern Uganda', *Dissent magazine*, 51 (2004), 3, 24.

¹³² Dunn, 'Introduction', 144.

¹³³ International Crisis Group, *Northern Uganda: seizing the opportunity for peace* (Nairobi/Brussels 2007), 8.

¹³⁴ The Republic of Uganda, *Referral*, §6.

Although the UPDF has thus far not been able to destroy the LRA, this could be explained by the view that Museveni is not interested in peace, or by the political economy of conflict.

Internationally, the focus was shifted to the problem of arresting the LRA, instead of talking to them. Museveni's constant emphasis on the criminal and terrorist nature of the LRA was repeated in the referral. It provided him with U.S. approval for his refusal to negotiate with the LRA because the accepted view in the U.S. is that one does not negotiate with terrorists. Hence he keeps the leader of one of the great powers on his side. Museveni actively tried to get permission to re-enter the DRC in pursuit of the LRA, who had retreated to Garamba National Park. Although this might seem to substantiate claims that Museveni actually wanted to defeat the LRA, it should be kept in mind that Museveni and his power base had vast economic and political gains in the DRC. I will elaborate in this point later in this chapter. Museveni also lobbied for international assistance in the arrest efforts. The attention was also successfully shifted away from the human rights violations committed by the Ugandan government soldiers to the brutalities of the LRA. This brings us to the next political purpose of the referral.

4.2.2 Focus on the LRA: impunity for UPDF in northern Uganda

The referral of the 'situation concerning the Lord's Resistance Army' was made in December 2003. In January 2004, a joint press conference was held by the Chief Prosecutor and President Museveni. This joint press conference generated enormous controversy over the ICC in northern Uganda. Not only the timing of the investigation was criticized, but the fact that the Prosecutor appeared with the Ugandan president was also not received well. Coupled with the fact that the referral was made by the Ugandan president, serious doubts arose on the impartiality of the ICC. The text of the referral itself was anything but impartial. It focused solely on the crimes committed by the LRA, while the abuses by the UPDF were not mentioned. It also explicitly requested the ICC to focus mainly on the LRA members in positions of command and control, since they were the ones responsible for the crimes mentioned in the referral.¹³⁵ The one-sided approach was also clear from the title phrase 'situation concerning the Lord's Resistance Army', which the ICC rephrased the 'situation concerning northern Uganda'. This has not solved the complaints though. There were still concerns that the referral would lead to a one-sided approach to the conflict. A statement

¹³⁵ The Republic of Uganda, *Referral*, §42.

from the Chief Prosecutor emphasized that the referral encompassed crimes within northern Uganda by regardless of who committed them. According to Tim Allen however, this has done little to challenge the view that the ICC is acting on behalf of president Museveni and would not attempt to punish the UPDF as well as the LRA. Allen states that there have also been rumors that the ICC used government vehicles and officials to facilitate their enquiries on the ground.¹³⁶ This strongly contradicts an impartial approach.

The referral to the ICC has provided a form of impunity for the UPDF. The focus had shifted to the LRA and away from the UPDF abuses. In his statement Chief Prosecutor Moreno-Ocampo implicitly stated that the abuses committed by the UPDF were not grave enough to be seen as war crimes. “The criteria for selection of the first case was gravity. We analyzed the gravity of all crimes in Northern Uganda committed by the LRA and Ugandan forces. Crimes committed by the LRA were much more numerous and of much higher gravity than alleged crimes committed by the UPDF.”¹³⁷ William Schabas, professor of Human Rights Law, clearly does not agree with the way the gravity criterion has been applied. He states that crimes committed by troops as an act of aggression have an additional element of gravity. So the crimes of a government army, such as the UPDF, “should be judged as being inherently more serious than those of rebel groups trying to overthrow an authoritarian regime, such as the Government of Uganda, which has itself been condemned by the International Court of Justice for serious violations of international human rights and humanitarian law.”¹³⁸

Although the option of eventually prosecuting members of the UPDF was kept open by the prosecutor, until date there has been no indictment of any UPDF soldiers or officers. Museveni welcomed an inquiry into UPDF behavior, but subsequently denied any abuse by the UPDF: “There are no atrocities committed by our soldiers. If there are atrocities committed, we punish them ourselves – the evidence of that is plenty. We have executed soldiers for killing people.”¹³⁹ The Ugandan government even states that the complaints of abuses have been forged: “There is a well established functioning accountability structure

¹³⁶ Allen, *Trial justice*, 97.

¹³⁷ International Criminal Court, *Statement by the Chief Prosecutor on the Uganda arrest warrants*, Den Haag 14 October 2005.

¹³⁸ Schabas, *An introduction to the International Criminal Court*, 191.

¹³⁹ HRW, *Uprooted and forgotten*, 57.

[...] for any abuses by the government officials more especially the UPDF. [...] we note that most complaints are fronted by opposition Members of Parliament to malign the UPDF.”¹⁴⁰

William Schabas believes the one-sided approach of the ICC was part of a strategy employed by Moreno-Ocampo. According to Schabas, the referral cannot have been a spontaneous act from Museveni’s side, but was the result from an idea from The Hague. “To the extent that the Prosecutor believed his strategy of encouraging self-referral was a productive one, he surely had to reassure States that those who referred the case were not threatened. [...] he needs to convince the referring States that their leaders are not in his sights.”¹⁴¹ Schabas finds the suspicion that the prosecutor has an understanding with the Ugandan authorities that only the rebel leaders will be prosecuted inescapable.¹⁴² The Ugandan government was also ‘rewarded’ for its referral with the honor of organizing the first Review Conference on the Rome Statute, held in Kampala from the 31st of May until the 11th of June 2010.

The impunity with which the UPDF has been allowed to roam northern Uganda and the DRC has helped Museveni in creating an army personally loyal to him.¹⁴³ Therefore it was important for Museveni to protect them from allegations of abuses, and investigations into these abuses. This is an important point to be made. As Tim Allen noted, Museveni would probably not have made the referral if he had anything to fear from the ICC. If the UPDF would have been included in the indictments that would be a major problem for Museveni since the army has been an important source of support for his regime. Tangri and Mwenda show that Museveni has protected the army against claims of corruption, denied charges of smuggling from the DRC¹⁴⁴ and fired Colonel Besigye, who became too critical of the NRM and UPDF.¹⁴⁵ Thus in referring the case to the ICC, Museveni protects his main power base from allegations of abuse by shifting the attention to the atrocities committed by the LRA. He has maintained the goodwill of the (important) members of the national military, and by doing so he acted in the interest of regime security. The renewed focus on the LRA caused by the referral also served to deflect attention away from Ugandan activities in the DRC.

¹⁴⁰ Ibidem, 41.

¹⁴¹ Schabas, *An introduction to the International Criminal Court*, 149.

¹⁴² Ibidem, 149.

¹⁴³ Mwenda and Tangri, ‘Patronage politics’, 463.

¹⁴⁴ This was despite reports from the UN proving otherwise. See for example S/2001/357 (12 April 2001).

¹⁴⁵ Tangri and Mwenda, ‘Military corruption’, 549.

4.2.3 Focus on the LRA: deflect attention from Ugandan activities in the DRC

Since 1997, Ugandan soldiers have been active in the neighboring Zaïre (later Democratic Republic of Congo) where they have had a hand in the ouster of Mobutu Ssesse Seko and the coming to power of Laurent-Désiré Kabila. When Kabila was no longer willing to serve Ugandan and Rwandan interests, the two neighboring countries decided to intervene once again. Due to support from Zimbabwe and Angola they did not succeed in the initial plan of overthrowing Kabila's regime. However, both armies did manage to get large parts of eastern Congo under their control, including the mineral wealth that was there.

John Clark mentions *regime security* as one of the arguments for Ugandan intervention in the DRC during the second Congo war. Various rebel groups such as the LRA had their bases in the DRC ever since the Mobutu regime. They still threatened the security of Museveni's regime.¹⁴⁶ However, a UN report states that "numerous accounts in Kampala suggest that the decision to enter the conflict in August 1998 was defended by some top military officials [...] who had a taste of the business potential in the region."¹⁴⁷ Contradictory to this UN report, a report from the International Crisis Group states that "Museveni had to convince a reluctant high command to approve the deployment of troops in the DRC."¹⁴⁸ Clark quotes this report to argue that the opportunity of profitable business was not necessarily on the minds of the army, even though their loyalty was rewarded and reinforced by the free hand Museveni gave them to plunder.¹⁴⁹ The reluctance of the military does not disqualify the motivation of *regime security* for the intervention in the DRC though, since the ICG report offers other possible motivations which still support this idea. The official reason has always been national security, since various rebel groups including the LRA were using Congo as a hideout base.¹⁵⁰ The other reason mentioned by the report was the fear of a new genocide in Rwanda, which would burden Uganda with many refugees. The ICG report believes the real motives for intervention were a chance for Museveni to show his military dominance in the region.¹⁵¹ All these possible motivations can be linked to *regime security* and the effort to control the various groups of regime contestation, whether it is the army, rebel groups such as the LRA, or the leaders of neighboring states.

¹⁴⁶ Clark, 'Realism, neo-realism and Africa's international relations', 97.

¹⁴⁷ S/2001/357 (12 April 2001), § 27.

¹⁴⁸ International Crisis Group, *Uganda and Rwanda: Friends or enemies?* (Nairobi/Brussels 2000), 9.

¹⁴⁹ Clark, 'Explaining Ugandan intervention', 278.

¹⁵⁰ This motivation is also mentioned in the referral text: The Republic of Uganda, *Referral*, §10.

¹⁵¹ International Crisis Group, *Uganda and Rwanda: Friends or enemies?* (4 May 2000), 9.

The UN report identifies Saleh and his wife, General James Kazini, three other colonels and president Museveni himself as the prime beneficiaries from the mass-scale looting and exploitation.¹⁵² As the report differentiates between looting and exploitation it becomes increasingly clear that almost everyone in the Ugandan army benefitted from the war. Looting was even encouraged by the highest army commanders.¹⁵³ This economic plunder has benefited key UPDF officers as well as promoted their loyalty to the regime.¹⁵⁴ Hence, although it is true that Museveni benefitted economically, Museveni's interests in the DRC were mostly political. Although the panel of experts responsible for this report wrote another report in which they used the same tactic of *naming and shaming* those found to be at the core of the illegal exploitation, the consequences for the Ugandan government were virtually non-existent.¹⁵⁵ The military top, which made up Museveni's power base, had earned millions with their lucrative business in the DRC. They had to withdraw from the DRC in 2002 following treaties signed with the Congolese president Joseph Kabila.¹⁵⁶ It had become clear to the UN members and to those involved that Uganda was not present in the DRC for any reasons other than personal gain. Nevertheless, in December 2005 the International Court of Justice (ICJ) ruled that there was not enough credible evidence that there was a governmental policy of Uganda directed at the exploitation of the DRC's natural resources, or that Uganda's military intervention was carried out in order to obtain access to Congolese resources.¹⁵⁷ At the same time, the ICJ concluded that officers and soldiers of the UPDF, including the most high-ranking officers, were involved in the looting, plundering and exploitation of the DRC's natural resources and that the military authorities did not take any measures to put an end to these acts. The court ruled that Uganda was therefore responsible for the acts, and thus had to pay damages.¹⁵⁸

In December 2003 the referral was made, with a purpose of transforming Uganda from an aggressive neighbor to the DRC to a law-abiding state that was trying to deal with the rebels

¹⁵² S/2001/357 (12 April 2001), §28 and §87.

¹⁵³ Ibidem, §43.

¹⁵⁴ Tangri and Mwenda, 'Military corruption', 540.

¹⁵⁵ François Grignon reports that neither Rwanda nor Uganda was sanctioned in any way for their looting and illegal exploitation of the DRC. Not even the direct support from the EU was canceled. François Grignon, 'International response to the illegal exploitation of resources in the DRC' in: Mark Malan en João Gomes Porto, *Challenges of peace implementation: the UN mission in the Democratic Republic of the Congo* (Pretoria 2004), 51.

¹⁵⁶ Kabila junior succeeded his father as president after the latter was killed by his bodyguard.

¹⁵⁷ International Court of Justice, *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, (The Hague, 19 December 2005), 5.

¹⁵⁸ ICJ, *Democratic Republic of the Congo v. Uganda*, 5.

ravaging its territory. The focus was on the attempts made by the Ugandan government to deal with the rebels and the suffering caused by the LRA. The referral also sought to justify Ugandan action in the DRC. The Ugandan government always maintained that it invaded the DRC out of self-defense. The referral adds to this argument by blaming Zaïrian president Mobutu for supporting the Interahamwe¹⁵⁹ in their fight against ethnic Tutsi's in the eastern DRC and Rwanda, and Sudan for helping the LRA establish bases in the DRC. "The LRA's initial theatre of terror was northern Uganda. However, after the 1994 genocide in Rwanda, and in view of Uganda's alliance with the Rwandese Patriotic Front (RPF) against the *génocidaires*, president Mobutu Sseze Seko of Zaïre (now Democratic Republic of Congo) and his former Rwandese Armed Forces (FAR)¹⁶⁰ and Interahamwe allies decided to make use of anti Uganda insurgents for their own purposes. With president Mobutu's support and approval, Sudan established new bases for the LRA inside Congo, across the border from north-western Uganda, opening yet another front in this campaign of terror."¹⁶¹ Nevertheless, Uganda did not have a strong case in claiming self-defense, a standpoint that was rejected by the ICJ in 2005.¹⁶²

The referral served its purpose, which was to shift international attention away from Ugandan involvement in the DRC. The fact that in 2002 Uganda signed treaties managing the withdrawal of its troops from the DRC also helped Museveni's case regarding his involvement in the DRC. By the time the referral was made, most Ugandan troops had already withdrawn from the DRC. This improved his image with international donors, such as the U.S. They resumed military support to Uganda in 2003. Albeit non-lethal support, it was support nonetheless.¹⁶³ Museveni's regime security was enhanced because of the military support from a great power, coupled with the fact that this support was given to his main power base. One of the reasons why the United States supported Uganda was that it was a key ally in the war on terrorism in the region.

¹⁵⁹ The Interahamwe are generally held responsible for the Rwandan genocide in 1994. Although the term *génocidaires* is also used to describe those who actively engaged in the genocide, they are often equated with Interahamwe.

¹⁶⁰ This was the Rwandan national army at the time of the genocide. When the RPF entered the country from the Ugandan border, they fled into Zaïre (now DRC).

¹⁶¹ The Republic of Uganda, *Referral*, §10.

¹⁶² ICJ, *Democratic Republic of the Congo v. Uganda*, 6.

¹⁶³ The support had been cancelled in 2000, as a result of the Ugandan incursion into the DRC. Found at <http://www.state.gov/r/pa/ei/bgn/2963.htm>, website of the U.S. Department of State. Visited 20 February 2010.

4.2.4 Blame Sudan for military failure: sidetrack al-Bashir

From the text of the referral it becomes clear that Museveni wanted to blame the international community for a lack of action. "The United Nations has repeatedly condemned the LRA, and the United States has declared it as a terrorist group. However, despite calls to isolate the LRA leadership and to hold it accountable for massive human rights violations, the international community has failed to arrest the perpetrators, and their heinous crimes continue unabated."¹⁶⁴ According to Museveni "The international community let us down long ago [...]. The conflict was fuelled by Sudan; I wrote to the UN Security Council and they did nothing. The situation was very serious then."¹⁶⁵ This view is supported by Payam Akhavan, who states that there was little international willingness to help Uganda confront the LRA. According to Pakhavan, "there was simply no sufficiently vital interest to prompt action by powerful states."¹⁶⁶ As the United States started the buildup for their war on Iraq in 2003, many Ugandans claimed northern Uganda would be a more suitable target in the war on terrorism. Tellingly, Museveni quickly rejected the possibility of receiving US assistance in the struggle against the LRA.¹⁶⁷ He also stated that he was not in favor of United Nations intervention in the conflict, because the conflict remained an internal affair of Uganda.¹⁶⁸ This is contradictory to his other statement that the conflict was fueled by Sudan, an account that can also be found in the referral text.

Here we come to the idea of geopolitical rivalry between Uganda and Sudan. Because Museveni supported the Sudanese People's Liberation Army (SPLA), Khartoum supported the LRA on a military and financial level and provided them with a base of operations. In his report *The anguish of northern Uganda* Gersony places the beginning of the Sudanese involvement in 1994. Although the LRA was very weak at the time, after the peace talks of 1994 failed, the Sudanese government started to provide the LRA with money, training, and weapons.¹⁶⁹ This account is used by Museveni, who has not only actively blamed Sudan for the continued existence of the LRA, but he also accused the Khartoum government for trying

¹⁶⁴ The Republic of Uganda, *Referral*, §5.

¹⁶⁵ The Monitor, 25 February 2004.

¹⁶⁶ Payam Akhavan, 'The Lord's Resistance Army case: Uganda's submission of the first state referral to the International Criminal Court', *The American journal of international law*, 99 (2005), 2, 409.

¹⁶⁷ Dunn, 'Introduction', 149.

¹⁶⁸ Kasaija Phillip Apuuli, 'The International Criminal Court (ICC) and the Lord's Resistance Army (LRA) insurgency in northern Uganda', *Criminal law forum*, 15 (2004), 397.

¹⁶⁹ Gersony, *The anguish of northern Uganda*, 41.

to overthrow his government.¹⁷⁰ In the referral it is stated that the establishment of Museveni's "broad-based, non-sectarian government that was tolerant and inclusive of all political, ethnic, and religious forces in Uganda"¹⁷¹ was seen as a threat to its radical Islamic ideology and the brutal subjugation of the African people in the south of the country.¹⁷² This discourse of blaming the Sudanese government has provided means for Museveni to reinvent himself. In the wake of 9/11 he presented himself as a key U.S. ally in the region. He supported the SPLA in southern Sudan, the front line in American war on terror against the Khartoum government.

In 1999, an agreement was signed between the governments of Uganda and Sudan, pledging they would stop supporting each other's rebels. This agreement was honored by neither of the parties. When the United States placed the LRA on the list of terrorist organizations, the Sudanese government distanced itself from the LRA.¹⁷³ Rumors of continued support were still widespread, and despite the protocol that was signed between Uganda and Sudan, some Ugandan officials claimed that Sudan was playing a double game. As the Ugandan army notified the Sudanese that a military operation was pending, the LRA was warned and escaped in time.¹⁷⁴ This provided Museveni with a scapegoat on whom to blame the lack of military success despite his preference for a military solution.

The referral mentions that Uganda has been unable to arrest the LRA leaders because they sought refuge in southern Sudan, where the Ugandan army cannot follow without international assistance. Although a red line has been established where the Ugandan army is allowed to cross the Sudanese border in pursuit of the LRA, this has not been adequate since the LRA would simply withdraw behind that line. The referral also states that Sudan established new bases for the LRA inside Congo, opening another front in the war.¹⁷⁵ It explains that Uganda has tried to arrest the LRA but has been unable to do so because its leaders were either sheltered in the Sudan, or in remote regions of Uganda for limited time periods, making arrest and prosecution difficult without international assistance.¹⁷⁶ According to the Ugandan government, the indictments that were issued were meant to

¹⁷⁰ The Monitor, 'Sudan tried to topple me, says Museveni', 30 August 2004.

¹⁷¹ The Republic of Uganda, *Referral*, §7.

¹⁷² *Ibidem*, §7.

¹⁷³ HRW, *Abducted and abused*, 11.

¹⁷⁴ International Crisis Group, *A strategy for ending northern Uganda's crisis* (Kampala/Brussels 2006), 5.

¹⁷⁵ The Republic of Uganda, *Referral*, §10.

¹⁷⁶ *Ibidem*, §30.

serve the following purposes: force countries that are used by the LRA to cause mayhem in Uganda to take more concrete steps towards expelling the LRA from their territory; get more cooperation from neighboring countries and the international community in searching for the LRA; and they will ensure more cooperation from neighboring countries, such as Sudan, where the rebels have operated from.¹⁷⁷ It thus focused attention on the lack of cooperation from Sudan, and increased pressure on Sudan to stop aiding the LRA and to cooperate in the effort to arrest its leaders. This damaged al-Bashirs international standing, and limited his options. The one neighboring leader that Museveni had trouble dealing with had been sidetracked. Shortly after the referral was made, the UPDF announced it was going back into the Sudan to hunt down the LRA. Museveni actively sought U.S. support to persuade the Security Council authorizing the use of force in case the Juba talks were unsuccessful.

4.3 Economic interests

As I have mentioned in chapter three, a political economy of war has emerged in northern Uganda, even though it is not as lucrative as the Ugandan involvement in the DRC. A continuation of the conflict was beneficial for Museveni, since army officers benefitted financially from the conflict. Their financial gains were translated into political and financial support for the Museveni regime. Additionally, the war in the north justified a large army, but more importantly it also allowed Museveni to protect from scrutiny an institution that has been central to the NRM political project and his own power.¹⁷⁸ Control of the defense budget had become vital in financing the political requirements of the NRM. Growing portions of defense funding have been appropriated through the phenomenon of ‘ghost’ soldiers and corrupt military procurement. These resources have been distributed to maintain the political dominance of the Movement, although clearly at the expense of the army’s effectiveness in meeting its security threats.¹⁷⁹ Control of the defense budget became more difficult as donors became increasingly critical. In this chapter I will show how the referral to the ICC helped to satisfy the donors and thus regain control over the defense budget.

¹⁷⁷ Kassaija, ‘Taking stock’, 45.

¹⁷⁸ ICG, *Northern Uganda: understanding and solving the conflict* (Kampala 2004), 12.

¹⁷⁹ Tangri and M Mwenda, ‘Military corruption’, 464.

4.3.1 Promote a military approach: justify a high defense budget

The army is often identified as Museveni's main power base. Even though corruption has been rampant in the army¹⁸⁰, Museveni has always protected those at the top. Top army officers such as Salim Saleh and James Kazini – and others with close ethnic and personal ties to Museveni – have prominently figured in many corrupt deals and have been actively involved in the looting and exploitation of the DRC. Not only did they benefit on a personal level, but they also raised substantial funds for the president's political projects such as most likely the 2001 election campaign.¹⁸¹

For many years the brutalities of the LRA had drawn much international sympathy for the government. Uganda was fighting a fanatical terrorist group whose primary objective was the extermination, brutalization, and enslavement of Uganda's civil population. The LRA was a group that attacked humanitarian relief convoys of the UN World Food Programme and even priests.¹⁸² In recent years however, donors have become more aware of corruption within the military. They have tried to promote a peaceful solution to the conflict, which would end the need for an overblown defense budget, as well as of course bring peace to the people of northern Uganda. However, the referral confirmed that Museveni and the Ugandan army were fighting a 'just war' against the LRA. Because the LRA was a group of terrorists and criminals, negotiating with them was not an option. Museveni never made it a secret that he preferred a military solution to the problem, and the referral to the ICC provided him with support for this military option by portraying the conflict as a just war against terrorists. As Adam Branch remarks, "international criminalization is an excellent strategy for states wishing to rally foreign forces to their side and to delegitimize political or military opposition. [...] Since the LRA was already void of political legitimacy, Uganda was waging a just war [...]" The referral provided international legitimation for a military campaign, in the name of enforcing international law. The Ugandan could focus their attention to arresting the criminals instead of peace talks.

The referral thus underlines the need for a military approach, thereby justifying a high defense budget. For continuing a military approach, Museveni needed to keep this budget

¹⁸⁰ See for examples: Roger Tangri and Andrew M Mwendu, 'Military corruption & Ugandan politics since the late 1990s', *Review of African political economy*, 98 (2003), 539-552 and Koen Vlassenroot and Timothy Raeymaekers, 'The politics of rebellion and intervention in Ituri: the emergence of a new political complex?', *African Affairs*, 103/412 (2004), 385-412.

¹⁸¹ It is generally believed that the 2001 presidential election campaign was funded by 'Congo-money' as well as tax-payers money, although evidence for this is hard to find.

¹⁸² The Republic of Uganda, *Referral*, §22 and §23.

high, in defiance of recent complaints from international donors. The defense budget had been growing despite a World Bank funded demobilization of the Ugandan army between 1991 and 1996. While the defense budget was \$44 million in 1991, it had risen to \$203 million in 2004. Between 2002 and 2004, the military budget grew by 48 percent.¹⁸³ In the financial year 2003-2004, the cost of defense amounted to 23 percent of public expenditure,¹⁸⁴ 47 percent of which was provided by donors.¹⁸⁵ Defense spending had been growing rapidly, ostensibly to combat the LRA. The management of Uganda's defense budget was allocated to a closed circle of Ugandan army officers, who eventually took advantage of this lack of transparency 'to occupy a preponderant place in the equilibrium of political forces of the Museveni regime'.¹⁸⁶

In March 2003, Museveni announced that Uganda needed to spend even more on defense despite donor dissatisfaction. He stressed that the war in the north had been going on for a long time because the army lacked good military equipment. The defense budget subsequently went up with about 20 percent. Museveni himself in the past usually identified the supplier of military equipment, and negotiations were between the supplier and the president.¹⁸⁷ Contracts were often given to companies that were run or supported by senior officers. Therefore it is safe to say that the high defense budget directly served Museveni's goal of regime security.

4.3.2 Addressing complaints of impunity: keep the donors and the NGO's satisfied

Despite the fact that he often blamed foreign donors for meddling in Ugandan affairs, Museveni's government has been running mostly on donor support. His political dominance and legitimacy have been enhanced by foreign aid. Donor assistance averaged \$500 million a year between 1992 and 1996, and over \$800 million a year since 1996. It has financed over half the budget and eighty percent of development expenditures since the late 1990s.¹⁸⁸ In northern Uganda, many aid organizations actively supported the local population or children who managed to escape the LRA. World Vision, the Gulu Support for Children Organization (GUSCO), the International Rescue Committee (IRC), International Crisis Group (ICG), the Kitgum Children and Women's Association (KICHWA), World Food Program (WFP) and Save

¹⁸³ Mwenda and Tangri, 'Patronage politics', 456 and 464.

¹⁸⁴ Ibidem, 456 and 464.

¹⁸⁵ The Republic of Uganda, *Budget speech 2003/04* (Kampala 2003), §81.

¹⁸⁶ Vlassenroot and Raeymaekers, 'The politics of rebellion', 404.

¹⁸⁷ Tangri and M Mwenda, 'Military corruption', 546.

¹⁸⁸ Mwenda and Tangri, 'Patronage politics', 453.

the Children Federation (SCF) were just part of the whole alphabet of organizations active in Acholiland. When the Acholi people were sent to IDP camps, the government made no advance arrangements for health, sanitation, food or other assistance, which was all arranged for by organizations such as World Vision and WFP.¹⁸⁹ The World Food Program has been providing food for the Acholi people in IDP camps since 1996, at a cost of around \$100 million in 2004,¹⁹⁰ which indicates that keeping these organizations active in northern Uganda proved a substantial financial gain for Museveni. When his government does not have to spend its money on supporting people in the IDP camps, it can be allocated to other areas, such as defense.

After Operation Iron Fist in 2002, the LRA expanded its territory to northern Uganda after it had stayed in Sudan for years. Iron Fist was supposed to flush out the LRA from their hiding places. Although the Ugandan and southern Sudanese army rescued a few hundred abductees, many more were kidnapped in the following months. The LRA attacks intensified, and the humanitarian situation worsened. In August 2002, several aid workers were abducted by the LRA. They were released unharmed after one week. The LRA started attacking WFP food convoys, which were used to feed over 800,000 internally displaced persons.¹⁹¹ In February, WFP was unable to distribute food to camps in Gulu district due to lack of military escort. This pointed to the inadequate security available for escort to the humanitarian organizations and agencies in northern Uganda.¹⁹² As the humanitarian situation in the north worsened and the war dragged on, attention shifted from the brutalities of the LRA to the human suffering. International NGO's present in northern Uganda increasingly pointed at the human rights violations committed by the Ugandan government and the UPDF. Foreign donors became more and more critical of the spending habits of the Ugandan government, since a lot of money was allocated to the army but there was still a lack of results. The role of the government in the forced displacements and the lack of security for the people in the IDP camps were criticized by the Refugee Law Project, Human Rights Watch and the International Crisis Group, to mention but a few.

¹⁸⁹ Gersony, *The anguish of northern Uganda*, 59.

¹⁹⁰ Northern Uganda Crisis Response Act, *Report to Congress*, 2 February 2005, 20.

¹⁹¹ UN OCHA, *Humanitarian update – Uganda*, V (2003), 1, 4.

¹⁹² UN OCHA, *Humanitarian update – Uganda*, V (2003), 2, 3.

Tim Allen explains that Museveni's international prestige was adversely affected by the failure of the military option when the consequences of Operation Iron Fist became clear. Explicit statements were being made by donors that something needed to change. The donor support, which had made up 54% of the total budget between 2000 and 2003, was dropping to 47% in the financial year 2003-2004.¹⁹³ The EU showed reservations about the military approach, while the UK stated that the war had failed. More importantly, the humanitarian consequences of the LRA attacks became the focus of international attention. "All sorts of important people suddenly wanted to go and visit northern Uganda, see the situation for themselves, and give briefings to the international media."¹⁹⁴ Most vocal of these was UN Under-Secretary for Humanitarian Affairs Jan Egeland. His statement that northern Uganda was the most forgotten emergency in the world¹⁹⁵ has been quoted by many media, academics and NGO's. NGO's on the ground were becoming increasingly critical of Museveni's policy concerning the LRA and the way the UPDF soldiers were (mis-) behaving in northern Uganda. Reports of rape, abuse and arbitrary killings by the UPDF were slowly but surely coming out. Human Rights Watch wrote about the abuse by the UPDF in its 2003 report on the conflict in northern Uganda. In this report, the government policy of forced displacement is severely criticized and condemned as a violation of international law.¹⁹⁶

According to Allen, Museveni realized that he had lost the political initiative. "Always a pragmatist with a knack of responding effectively to developments as they unfold, he sought to head off international criticism."¹⁹⁷ He launched a formal investigation into corruption in the army, most notably the problem of 'ghost soldiers'. In October 2003, the High Command committee incriminated several senior officers, including Major General James Kazini, for 'the perpetuation of ghosts' in the army. It estimated that ghost soldiers could comprise up to one third of UPDF strength, and cost 48 billion Uganda Shillings (\$25 million) per year. Kazini and 127 senior and junior officers were court-martialed.¹⁹⁸ Although eventually

¹⁹³ The Republic of Uganda, *Budget speech 2003/04* (Kampala 2003), §81.

¹⁹⁴ Allen, *Trial justice*, 73.

¹⁹⁵ Press conference by Mr. Jan Egeland, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, 11 December 2003, accessed online at http://www.reliefweb.int/OCHA_OL/USG%20Speeches/JEPC11dec03.htm. Visited 15 February 2010.

¹⁹⁶ HRW, *Abducted and abused*, 61.

¹⁹⁷ Allen, *Trial justice*, 74.

¹⁹⁸ Roger Tangri and Andrew M. Mwenda, 'Politics, donors and the ineffectiveness of anti-corruption institutions in Uganda', *Journal of Modern African Studies*, 44, 1 (2006), 118.

nobody was convicted for the investigation into the corruption in the army, the international critics were pleased by the announcement of a formal investigation. Donors allocated an extra \$35 million (71 billion Uganda Shillings) for support to Uganda.¹⁹⁹

With the referral to the ICC, and the subsequent announcement made by himself and Chief Prosecutor Moreno-Ocampo, Museveni further addressed complaints of impunity in northern Uganda. Museveni openly welcomed any investigation into human rights abuses committed by the UPDF, challenging allegations that he was covering up abuses. However, in practice the referral effectively provided impunity for the UPDF, which has already been shown in a previous section. There had been international criticism of the Amnesty Law, since it also offered amnesty to the LRA leaders. Amnesty International stated for example that the Amnesty Act should be reconsidered: “Under no circumstances should amnesty laws include crimes under international law.”²⁰⁰ With the referral Museveni had found a way out of an Act that he never fully supported, and at the same time he satisfied the various international players who wanted the Amnesty Act amended. In a statement made by the ICC it is said that: “President Museveni has indicated to the Prosecutor his intention to amend this amnesty so as to exclude the leadership of the LRA, ensuring that those bearing the greatest responsibility for the crimes against humanity committed in Northern Uganda are brought to justice.”²⁰¹

Internationally, the referral was received positively by international governments. Various powerful countries had become more actively engaged. A British army officer was accompanying Betty Bigombe in her meetings with the rebels. The U.S. too had suddenly become an eager funder of the peace process, as well as supporting the military activities of the UPDF north of the border.²⁰² According to the United States, “the Ugandan Government has demonstrated its commitment to a peaceful settlement of the conflict by persistently participating in the Juba Peace Process since July 2006.”²⁰³ The Dutch government was quite

¹⁹⁹ The Republic of Uganda, *Budget speech 2004/05* (Kampala 2004), §57.

²⁰⁰ Amnesty International, *Uganda: First steps to investigate crimes must be part of comprehensive plan to end impunity*, 30 January 2004.

²⁰¹ ICC, *President of Uganda refers situation concerning the Lord's Resistance Army (LRA) to the ICC*, 29 January 2004. Read at: http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/2004/president%20of%20uganda%20refers%20situation%20concerning%20the%20lord_s%20resistance%20army%20_lra_%20to%20the%20icc?lan=en-GB on 20 January 2010.

²⁰² Allen, *Trial justice*, 117.

²⁰³ United States virtual presence post northern Uganda, *Northern Uganda: what a difference two years makes*, read at: http://northernuganda.usvpp.gov/nu_whatadifference.html on 27 January 2010.

pleased with the referral, and accredited the peace treaty signed in Juba to the referral: “Nu kan echter al vastgesteld worden dat het verzoek van de regering van Oeganda aan de aanklager van het ICC om onderzoek te doen en de daaruit voortvloeiende arrestatiebevelen een cruciale rol hebben gespeeld bij de bereidheid van partijen om vredesbesprekingen te voeren.”²⁰⁴ The government allocated an extra €10 million to northern Uganda. The British Department for International Development came up with a five-year development plan for northern Uganda (2009-2014), comprising £100 million.²⁰⁵

²⁰⁴ Kamerbrief inzake het verzoek 'akkoord met LRA', 13 September 2006, read at: http://www.minbuza.nl/nl/Actueel/Kamerstukken/2006/09/Kamerbrief_inzake_het_verzoek_akkoord_met_LRA on 27 January 2010.

²⁰⁵ Department for International Development, *The UK government's programme of work to fight poverty in Uganda*, read at: http://www.dfid.gov.uk/Documents/publications/5601-01_Uganda_ActionPlan@8.pdf on 28 January 2010.

5. Conclusion

Different approaches have been presented to explain the continuation of the war in northern Uganda. Some are complementary, while others are complete opposites of each other. All of these views hold a core of truth however, and they all make up pieces of the puzzle of the conflict. Although Kony can be considered a madman, he does have legitimate complaints against the Museveni regime. The brutalities that he unleashed on the population of northern Uganda have annihilated any support he might have had in his struggle against Museveni. Ironically, the violent nature of the LRA has brought Kony's biggest enemy much needed international support for the fight against the LRA. Museveni, a highly pragmatic politician, has used this international support in his drive for *regime security*.

This concept has been introduced as the main explanation for his behavior concerning the conflict in northern Uganda. It states that a ruler such as Museveni will try to maximize the combined factors that ensure the survival of the ruler in his regime, while at the same time minimizing the various sources of regime contestation. These sources can be found both inside and outside Uganda. Inside Uganda they have been identified as important members of the military, leaders of important domestic insurgencies, and large ethnic groups. Outside Uganda they are the leaders of neighboring states and rulers of great powers abroad. It has been argued that Museveni benefitted from continuation of the conflict, because of *regime security*. Continuation of the conflict bound the army to his regime, it marginalized the Acholi and it ensured the sympathy of the international community. In referring the case of northern Uganda to the ICC Museveni continued the conflict and thus managed to control all important sources of regime contestation. The text of the referral further served to bind certain key players, while eliminating others.

The sympathy of the international community allowed him to pursue his own (military) goals. When the international donors became more critical of Museveni's policy, he referred the situation concerning the LRA to the International Criminal Court. This has proven to be a 'get out of jail free card', since it provided Museveni with the means to further pursue his interests. It underlined the need for a military approach, which earned him the approval of

the U.S. who supported his refusal to negotiate with terrorists. It also justified a high defense budget, thereby sponsoring the army; Museveni's main power base and a major source of regime contestation if it no longer supports Museveni.

The referral also dealt with complaints of impunity, since Museveni welcomed an inquiry into UPDF behavior. Despite suspicions of a deal between Moreno-Ocampo and Museveni, criticism has mostly been directed towards the ICC, which has been accused of acting on behalf of president Museveni. Coupled with a formal investigation into corruption in the UPDF, Museveni effectively addressed international criticism. Strong suspicions of a biased approach from the ICC, combined with the fact that no UPDF officers have been indicted, seem to prove the belief of some form of understanding between Museveni and Moreno-Ocampo. If a UPDF officer had been indicted, it would have presented Museveni with a big problem, considering his heavy reliance on the military. This reliance on the military has also generally been seen as the reason why nobody was convicted of corruption in the military following the official investigation.

The LRA has definitely benefitted from the stressed relations between the Sudanese government in Khartoum and president Museveni. It has received substantial support from Khartoum, which contributed to its survival. Although the LRA became a pawn in the rivalry between Sudan and Uganda, Museveni has been able to use this to his advantage. He used the referral to blame the Sudan for the survival of the LRA and the UPDF's failure to defeat the LRA. Sudanese president al-Bashir lost international standing because of his support to the LRA, and has now himself been indicted by the ICC for his involvement in the crisis in the Darfur region of Sudan. The geopolitical rivalry between the two countries saw Museveni emerge victorious.

The text of the referral focused on the atrocities committed by the LRA in northern Uganda. It effectively shifted the international attention away from the behavior of the UPDF in northern Uganda, and the Ugandan intervention in the DRC also quickly disappeared into the background. This has been important in keeping the goodwill of the important people in the military, who were the most important supporters of the Museveni regime. They had made large sums of money in the exploitation of natural resources in the DRC. Museveni benefitted from this as well, both financially and politically. The support of the army was

vital for his *regime security*. Although the referral failed to provide Museveni with an accepted justification for his intervention, he maintained the support of the army.

By referring the situation concerning the Lord's Resistance Army to the ICC, Museveni effectively regained or strengthened support from the most important possible sources of regime contestation. These sources have been identified as the UPDF and its top officers, and international donors. At the same time he minimized the influence of other sources such as the Acholi ethnic group, Sudanese president al-Bashir, and Joseph Kony himself. Museveni not only searched to head off international criticism of his policy, but at the same time needed to keep the goodwill of the military. He has managed to do both, thereby strengthening his regime security. As new challenges to his regime arise, Museveni will probably find other creative ways to strengthen his regime security.

Abbreviations

ARLPI	Acholi Religious Leaders Peace Initiative
DRC	Democratic Republic of Congo
FEDEMU	Federal Democratic Movement
GoU	Government of Uganda
HRW	Human Rights Watch
HSMF	Holy Spirit Mobile Forces
ICC	International Criminal Court
ICG	International Crisis Group
ICJ	International Court of Justice
IR	International Relations
IRC	International Rescue Committee
KM	Kacoke Madit
LRA	Lord's Resistance Army
NGO	Non-governmental Organization
NRA	National Resistance Army
NRM	National Resistance Movement
RLP	Refugee Law Project
SPLA	Sudanese People's Liberation Army
U.S.	United States
UN	United Nations
UPDA	Uganda People's Defence Army
UPDF	Uganda People's Defence Force
WFP	World Food Program
WNBF	West Nile Bank Front

Bibliography

Books and articles

Acker, Frank van, 'Uganda and the Lord's Resistance Army: the new order no one ordered', *African Affairs* 103 (2003), 412, 335-357.

Akhavan, Payam, 'The Lord's Resistance Army case: Uganda's submission of the first state referral to the International Criminal Court', *The American journal of international law*, 99 (2005), 2, 403-421.

Allen, Tim 'The International Criminal Court and the invention of traditional justice in Northern Uganda', *Politique africaine*, 107 (2007), 147-166.

Allen, Tim, *Trial justice: the International Criminal Court and the Lord's Resistance Army* (New York 2006).

Amnesty International, *Uganda: First steps to investigate crimes must be part of comprehensive plan to end impunity*, 30 January 2004.

Apuuli, Kasaija Phillip, 'Amnesty and international law: the case of the Lord's Resistance Army insurgents in northern Uganda', *African Journal on Conflict Resolution*, 5 (2005), 2, 33-61.

Apuuli, Kasaija Phillip, 'Taking stock of the first arrest warrants of the International Criminal Court', *African Journal on Conflict Resolution*, 7 (2007), 1, 43-62.

Apuuli, Kasaija Phillip, 'The International Criminal Court (ICC) and the Lord's Resistance Army (LRA) insurgency in northern Uganda', *Criminal law forum*, 15 (2004), 397.

Branch, Adam, 'International justice, local injustice: the International Criminal Court in northern Uganda', *Dissent magazine*, 51 (2004), 3, 22-26.

Branch, Adam, 'Uganda's civil war and the politics of ICC intervention', *Ethics and international affairs*, 21(2007), 2, 179-198.

Behrend, Heike, 'War in northern Uganda: the Holy Spirit Movements of Alice Lakwena, Severino Lukoya and Joseph Kony (1986-97)', in: Christopher Clapham, *African guerrillas*, (Oxford 1998), 107-118.

Behrend, Heike, *Alice Lakwena & the holy spirits: war in Northern Uganda 1985-97* (Oxford 1999).

Clapham, Christopher S., *Africa and the international system: the politics of state survival* (New York 1996).

Clark, John F., 'Explaining Ugandan intervention in Congo: Evidence and interpretations', *The Journal of Modern African Studies*, 39, 2 (2001), 261-287.

Clark, John F., 'Realism, neo-realism and Africa's international relations in the post-cold war era', in: Kevin C. Dunn, and Timothy M. Shaw, eds., *Africa's challenge to international relations theory*, (Basingstoke 2001), 85-102.

Dolan, Chris, *Social torture; the case of northern Uganda, 1986-2006* (New York 2009).

Doom, Rudy and Koen Vlassenroot, 'Kony's message: a new Koine? The Lord's Resistance Army in northern Uganda', *African Affairs*, 98 (1999), 5-36.

Dunn, Kevin C., 'Introduction' in: Kevin C. Dunn, and Timothy M. Shaw, eds., *Africa's challenge to international relations theory*, (Basingstoke 2001), 1-11.

Dunn, Kevin C., 'MatLib #32: The (blank) African state: Rethinking the sovereign state in international relations' in: Kevin C. Dunn, and Timothy M. Shaw, eds., *Africa's challenge to international relations theory*, (Basingstoke 2001), 46-63.

Dunn, Kevin C., 'Uganda: the Lord's Resistance Army', in: Bøås, Morten, and Kevin C. Dunn eds., *African guerrillas: raging against the machine* (Boulder 2007), 131-150.

Ehrenreich, Rosa, 'The stories we must tell: Ugandan children and the atrocities of the Lord's Resistance Army', *Africa Today*, 45 (1998), 1, 79-103. Accessed online via Ebsco Host.

Finnström, Sverker, *Living with bad surroundings; war, history and everyday moments in northern Uganda* (Uppsala 2008).

Finnström, Sverker, 'Wars of the past and war in the present: the Lord's Resistance Movement/Army in Uganda', *Africa: Journal of the International African Institute*, 76, 2 (2006), 200-220.

Grignon, François, 'International response to the illegal exploitation of resources in the DRC' in: Mark Malan en João Gomes Porto, *Challenges of peace implementation: the UN mission in the Democratic Republic of the Congo* (Pretoria 2004), 43-52.

Kiiza, Julius, Sabiti Makara and Lise Rakner, *Electoral democracy in Uganda: understanding the institutional processes and outcomes of the 2006 multiparty elections*, (Kampala 2008).

Krasner, Stephen, *Sovereignty: organized hypocrisy* (Princeton 1999).

Mwenda, Andrew M. and Roger Tangri, 'Patronage politics, donor reforms and regime consolidation in Uganda', *African Affairs*, 104/416 (2005), 449-467.

Mwenda, Andrew, 'Personalizing power in Uganda', *Journal of Democracy*, 18, 3 (2007), 23-37.

Museveni, Yoweri Kaguta, *Sowing the mustard seed: the struggle for freedom and democracy in Uganda* (Oxford, 2007).

Nugent, Paul, *Africa since independence* (New York 2004).

Otunnu Olara A., 'The secret genocide', *Foreign policy*, July/August 2006, 45.

Rubongoya, Joshua B., *Pax Musevenica: regime hegemony in Museveni's Uganda* (New York 2007).

Schabas, William A., *An introduction to the International Criminal Court* (Cambridge 2007 3rd edition).

Southall, Aidan, 'General Amin and the coup: great man or historical inevitability?', *The Journal of Modern African Studies*, 13 (1975), 1, 85-105.

Tangri, Roger, and Andrew Mwenda, 'Military corruption & Ugandan politics since the late 1990s', *Review of African political economy*, 98 (2003), 539-552.

Tangri, Roger, and Andrew M. Mwenda, 'Politics, donors and the ineffectiveness of anti-corruption institutions in Uganda', *Journal of Modern African Studies*, 44, 1 (2006), 101-124.

The Republic of Uganda, *Referral of the situation concerning the Lord's Resistance Army*, 16 December 2003.

The Republic of Uganda, *Amnesty Act*, 2000.

The Republic of Uganda, *Budget speech 2003/04* (Kampala 2003).

Tripp, Aili Mari, 'The changing face of authoritarianism in Africa: the case of Uganda', *Africa today*, 50, 3 (2004), 3-26.

Vlassenroot, Koen and Timothy Raeymaekers, 'The politics of rebellion and intervention in Ituri: the emergence of a new political complex?', *African Affairs*, 103/412 (2004), 385-412.

Reports

Conflict and development programme - Liu Institute for Global Issues, *Northern Uganda – Human security update* (May 2005).

Human Rights Watch, *Abducted and abused: Renewed conflict in northern Uganda* (New York, July 2003).

Human Rights Watch, *Stolen children: Abduction and Recruitment in Northern Uganda* (New York, March 2003).

Human Rights Watch, *The scars of death: Children abducted by the Lord's Resistance Army in Uganda* (New York, 1997).

Human Rights Watch, *Uprooted and forgotten: impunity and human rights abuses in northern Uganda* (New York 2005).

HURIPPEC, *The hidden war, the forgotten people*, (Kampala 2003).

Gersony, Robert, *The anguish of northern Uganda: results of a field-based assessment of the civil conflicts in northern Uganda* (Kampala 1997).

International Crisis Group, *A strategy for ending northern Uganda's crisis* (Kampala/Brussels 2006).

International Crisis Group, *Northern Uganda: understanding and solving the Conflict*, (Nairobi/Brussels 2004).

International Crisis Group, *Northern Uganda: the road to peace, with or without Kony* (Nairobi/Kampala/Juba/Brussels 2008).

International Crisis Group, *Northern Uganda: seizing the opportunity for peace* (Nairobi/Brussels 2007).

International Crisis Group, *Uganda and Rwanda: Friends or enemies?* (Nairobi/Brussels 2000).

International Court of Justice, *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, (The Hague, 19 December 2005).

Letter dated 12 April 2001 from the Secretary-General to the President of the Security Council, S/2001/357 (12 April 2001).

Refugee Law Project, *Behind the violence: Causes, consequences and the search for solutions to the war in northern Uganda* (Kampala 2004).

Northern Uganda Crisis Response Act, *Report to Congress*, 2 February 2005.

UN OCHA, *Humanitarian update – Uganda*, V (2003), 1, 4.

UN OCHA, *Humanitarian update – Uganda*, V (2003), 2, 3.

Newspapers and Magazines

The Independent - www.independent.co.ug

The Monitor - www.monitor.co.ug

The New Vision - www.newvision.co.ug

De Volkskrant - www.volkskrant.nl , accessed via LexisNexis database.

Internet Sources

Conciliation Resources, *Accord*, "Restoring relations between Uganda and Sudan: The Carter Center process", <http://www.c-r.org/our-work/accord/northern-uganda/carter-center.php> .

Department for International Development, *The UK government's programme of work to fight poverty in Uganda*, read at: http://www.dfid.gov.uk/Documents/publications/5601-01_Uganda_ActionPlan@8.pdf

ICC website on the situation in Uganda, <http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0204/> .

ICC, *President of Uganda refers situation concerning the Lord's Resistance Army (LRA) to the ICC*, 29 January 2004, read at http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/2004/president%20of%20uganda%20refers%20situation%20concerning%20the%20lord_s%20resistance%20army%20_lra_%20to%20the%20icc?lan=en-GB on 3 January 2010.

Kacoke Madit (Big Meeting), <http://www.km-net.org.uk/> .

Kamerbrief inzake het verzoek 'akkoord met LRA', 13 September 2006, read at: http://www.minbuza.nl/nl/Actueel/Kamerstukken/2006/09/Kamerbrief_inzake_het_verzoek_akkoord_met_LRA on 27 January 2010.

Ministry of Finance of the Republic of Uganda, <http://www.finance.go.ug/> .

State House, The Republic of Uganda, <http://www.statehouse.go.ug/> .

The Republic of Uganda, *Referral of the situation concerning the Lord's Resistance Army*, 16 December 2003, available at <http://www-rohan.sdsu.edu/~abranh/Current%20Projects/Uganda%20ICC%20Referral%202003.pdf> .

Uganda genocide, <http://ugandagenocide.info/> .

United States virtual presence post northern Uganda, *Northern Uganda: what a difference two years makes*, read at: http://northernuganda.usvpp.gov/nu_whatadifference.html on 27 January 2010.

U.S. Department of State, <http://www.state.gov/r/pa/ei/bgn/2963.htm>.