



Coalition to Stop the Use of Child Soldiers
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Child soldiers

UNICEF reported in December 2004 that 15,000 people, most of them children, were recorded abducted by the armed group the Lord's Resistance Army (LRA) during 2003 and 2004. In 2004, 840 formerly abducted girls returned through reception centres in Gulu, of whom 250 were girl mothers.¹ Nine girls were released by the LRA between May and August. They were among 109 girls abducted when the LRA stormed St Mary's College Aboke in 1996. Of the thirty who had remained with the LRA at least three have been killed, two of them in February and June 2004 during Uganda People's Defence Force (UPDF) air raids. Another girl was reportedly killed during a raid on an LRA camp in Sudan in July 2004.² UNICEF reported that by December 2004 about 35,000 child "night commuters" travelled into town centres at night to avoid abduction by the LRA.³ Children, including children captured from LRA forces, continued to be used by government forces. They were also recruited to local defence units and pro-government militias.

International Criminal Court investigation

The Uganda government referred the situation concerning the LRA to the International Criminal Court (ICC) in December 2003. On 29 January 2004 ICC prosecutor Luís Moreno Ocampo announced that he had opened an investigation into crimes against humanity and war crimes committed in northern Uganda since 1 July 2002.⁴ According to the ICC the Uganda government, which had previously enacted a law giving amnesty to LRA members to encourage them to return to normal life, indicated that the law would be amended so as to exclude the LRA leadership from the amnesty.⁵ In February Human Rights Watch (HRW) called upon the ICC to operate independently and to investigate alleged crimes by government forces as well as the LRA.⁶

While welcoming efforts to prosecute those allegedly responsible for war crimes, HRW, Save the Children in Uganda and Ugandan civil society groups have expressed concern for the security of children abducted by the LRA if the investigation is carried out during continuing armed conflict. Save the Children in Uganda has noted in particular that "the mere fact that children are exempted from ICC prosecution might make them even more attractive targets for LRA. For example they might be forced to carry out even more atrocities since they do not risk punishment". Save the Children has also recommended that a comprehensive risk assessment focusing on child protection be carried out before the investigation begins (statement attached as Annex I).⁷

The Coalition to Stop the Use of Child Soldiers unites national, regional and international organisations and Coalitions in Africa, Asia, Europe, Latin America and the Middle East. Its founding organisations are Amnesty International, Defence for Children International, Human Rights Watch, International Federation Terre des Hommes, International Save the Children Alliance, Jesuit Refugee Service, the Quaker United Nations Office-Geneva and World Vision International.



General context

The security situation deteriorated between January and June 2004 and LRA attacks on internally displaced people (IDPs) increased in Gulu, Kitgum, Pader and Lira and Apac districts of Northern Uganda. In early March the governments of Uganda and Sudan renewed a bilateral military protocol and signed a three-month extension of a military agreement which, among others, allowed Ugandan troops to pursue the LRA across the Sudanese border. Pressure on the LRA and weakening of their bases in Sudan forced LRA troops to cross back into Uganda and this resulted in increased attacks on villages and IDP camps for food and recruits from April. However, after July the security situation improved and the number of LRA attacks decreased following high rates of desertion by middle-ranking commanders and soldiers. While the humanitarian situation has yet to improve substantially, the desertions led to hopes for an end to the conflict.⁸

On 2 November, an LRA spokesman, “Brigadier” Sam Kolo indicated that the LRA was interested in peace talks with the government.⁹ The government announced a unilateral month-long ceasefire which took effect on 15 November 2004. This was extended twice ostensibly to allow the LRA more time to discuss proposals for a ceasefire agreement. However, LRA troops reportedly attacked villages and staged ambushes during the ceasefire period.¹⁰

On 28 December LRA representatives met religious and community leaders from Northern Uganda ahead of proposed talks with Ugandan government officials on reaching a peaceful solution to the armed conflict. Internal affairs minister Ruhakana Rugunda, leading the government negotiating team and LRA spokesman Sam Kolo met in Kitgum the same day.¹¹ However, on 31 December mediator and former government minister Betty Bigombe stated that the draft memorandum developed by the negotiating parties could not be signed. President Museveni announced the same day that the army would start full scale military operations at 7am on 1 January. The president said that military operations would not cease until the LRA made a firm commitment to ending the conflict and coming out of the bush.¹² The President indicated that peace talks could still go ahead outside the country but the UPDF would resume full operations inside the country.

From early January 2005 the media reported that LRA leader Joseph Kony and his top commanders feared ICC prosecution if they came out of the bush and that this was an obstacle to the progress of the peace talks. According to press reports the government provided the LRA with assurances that the ICC investigation could be withdrawn, or an amnesty given, if the LRA agreed to peace talks. One report suggested that the government’s reassurances were contained in a draft Memorandum of Understanding (MoU) given to the LRA on 4 January, but this could not be confirmed as the MoU had not been made public by the end of January.¹³ There appeared to be confusion about the legal basis (if any) for formally withdrawing a complaint which had already been submitted to the ICC.¹⁴

On 28 January the leader of the Sudan People’s Liberation Movement/Army said that his groups would not permit the LRA to operate from Sudanese soil and expressed willingness to contribute to the achievement of peace in northern Uganda.¹⁵

The Civil Society Organisations for Peace in Northern Uganda, a coalition of civil society groups, urged the Ugandan government and the LRA to resume talks. They expressed fears that renewed clashes between government forces and rebels would have dire humanitarian consequences. They called on the international community to maintain pressure on all parties to resume talks as soon as possible. National NGOs have repeatedly emphasized that military intervention will not be effective in bringing peace to the region.¹⁶



Points for consideration

- At the time of writing (February 2005) there was confusion over the status of the ICC investigation and that of Uganda amnesty laws. Press reports suggested that the government had provided assurances that LRA members would not face prosecution if they agreed to peace talks and came out of the bush. Other reports stated that the Uganda government intended to withdraw its referral to the ICC.
- Civil society groups in Uganda have repeatedly emphasized the need for a non-military solution to the conflict. If the ICC investigation is to proceed, such groups have called for special initiatives to protect the safety of abducted children (and their children) currently in the ranks of the LRA. They have called for a comprehensive risk assessment focusing on child protection (see Annex I).
- International community involvement to date has mainly focused on the provision of humanitarian assistance. Increased international attention, and the presence of international human rights monitors, might serve to decrease human rights violations by all parties as well as facilitating the progress of peace negotiations. Civil society groups and human rights organizations have proposed, among others, the creation of a field presence under the auspices of the UN High Commissioner for Human Rights (see Annex II).

¹ UNICEF Humanitarian Action, “Uganda, Donor Update”, 22 December 2004, www.reliefweb.int; see also Irinnews, Uganda, “LRA rebels not committed to peace – army spokesman”, 23 December 2004, www.irinnews.org.

² Statement by the Concerned Parents’ Association Uganda, 20 August 2004. See also “Mother, daughter reunited”, Human Rights Watch press release, 13 September 2004, www.hrw.org.

³ UNICEF op. cit.

⁴ International Criminal Court (ICC), “President of Uganda refers situation concerning the LRA to the ICC”, 29 January, www.icc.org; 2004; Amnesty International, “Uganda: Government cannot prevent the International Criminal Court from investigating crimes”, 16 November 2004.

⁵ ICC press release 29 January 2004 op. cit.

⁶ Human Rights Watch, “ICC: Investigate all sides in Uganda”, 4 February 2004.

⁷ Save the Children in Uganda, “Statement on ICC prosecution of LRA”, 12 February 2004; “The security Situation in Northern Uganda”, statement by Coalition for Human Rights and Justice Initiative for Northern Uganda, February 2004.

⁸ UN Office for the Coordination of Humanitarian Affairs, *Humanitarian Appeal 2005 for Uganda*, www.reliefweb.int, 19 October 2004.

⁹ Irinnews, “Uganda: lasting peace still elusive”, 20 January 2005.

¹⁰ Irinnews, “Uganda: LRA rebels not committed to peace – army spokesman”, 23 December 2004.

¹¹ Irinnews, “Uganda: LRA representatives meet northern regional leaders, promise peace”, 29 December 2004.

¹² Irinnews, “Uganda: Peace eludes northern region again”, 4 January 2005.

¹³ *The Monitor*(Kampala), 6 January 2005; *Washington Times*, “Sudanese peace pressures Uganda”, 27 January 2005.

¹⁴ Amnesty International press release, 16 November 2004, op. cit.

¹⁵ Irinnews, “Sudan-Uganda: SPLM/A leader pledges to help Ugandan peace effort”, 1 January 2005.

¹⁶ Irinnews, “Uganda: Civil society groups call for resumption of talks on northern conflict”, 6 January 2005.



ANNEX I



SCiU Statement on ICC Prosecution of LRA

The International Criminal Court's chief prosecutor Luis Moreno Ocampo has announced that the tribunal's first case will target the leadership of the rebel group in northern Uganda, the Lord Resistance Army (LRA).

Over the past 10 years Save the Children has worked in northern Uganda for and with children, who are the main victims of the 18 year conflict. The mandate of Save the Children is the UN Convention on the Rights of the Child (CRC). An important aspect of the CRC is protection of all children against any kind of abuse. Save the Children has therefore always advocated for a peaceful resolution of conflict in northern Uganda and has on many occasions called upon the international community to get involved to provide active support for a peaceful and lasting solution.

Through our rehabilitation work with the formerly abducted children, carried out in partnership with local NGOs, we have developed a thorough understanding of the psychological state of these children. By listening to their stories we have come to understand the transformation they go through when held in captivity after abduction. We have an extensive insight into the cruel processes of severe atrocities that are applied to transform children into killers, rapists and tormentors, but also into victims, sex slaves and psychologically tormented human beings.

In up to 90% of the cases the LRA members are victims as well as perpetrators. We have learnt about the huge risk abducted children face when trying to escape from the LRA. We also receive children who have been born in captivity and have never known anything but the brutal regime of the LRA and harsh life in the bush. Their young mothers are at great risk of HIV/aids infection due to their experiences in the bush, and often find great difficulty in becoming a member of their families and communities once more.

Maybe the most important experience we have is from the reintegration process of the children. We know how the process of rehabilitation and forgiveness by the communities enables most of these children to live a normal life and contribute to the process of reconciliation within their own community. However, many children continue to live in fear of re-abduction.

Save the Children recognizes that the intervention of the ICC is aimed at putting an end to impunity, provide justice for the victims and hold the perpetrators accountable for their crimes, and fully supports the general mandate of the ICC. We sincerely hope that the involvement of the ICC will enhance the international focus on this almost forgotten conflict.



However, much as Save the Children welcomes attempts at addressing impunity through the ICC, we have some serious concerns about the timing of the investigation and eventual prosecution, in that it is likely to be taking place during ongoing armed conflict. This is when communities are in a particularly vulnerable situation and during which trust between people is minimal.

Linked to this, we are concerned about how the possible arrest and prosecution of the LRA leadership will affect the rights of the children still in captivity as well as the rights of all children in northern and eastern Uganda. We have to realize that this war primarily involves children, thus any action taken must seriously consider the impact on child protection.

Jan Egeland, the head of UNOCHA, in a recent statement after his visit to northern Uganda had this to say:

“This is not a normal guerrilla war between rebels and a government. This is a war on, and with, and against children.”¹⁶

It is with the above statement in mind that we ask some fundamental questions relating to **child protection issues**, these are based on the Convention on the Rights of the Child, ratified by the Ugandan Government in 1990.

- Although the Statute of the ICC is very explicit on the exclusion of jurisdiction over persons under 18 years, what will be the status of youth, who were abducted as children but today are above 18?
- Given the fact that the investigation will go on during ongoing armed conflict, Save the Children is concerned that the mere fact that children are exempted from the ICC prosecution, might make them even more attractive targets for LRA. For example, they could be forced to carry out even more atrocities, since they do not risk punishment.
- Save the Children is also concerned about the protection of the children still in captivity during the process of investigation and the possible process of arresting the leadership. It is a well-known fact that within LRA itself members commit, often by force, severe atrocities against each other. Children are by far the main witnesses (and victims) of these actions. Save the Children is concerned that the LRA leadership might apply even more strict discipline to prevent witnesses from escaping. They could also easily convince the children that they will be subject to prosecution by the ICC if they do so. In other words, their hold and control over the child hostages can be increased, as well as the risks to children associated with escaping from LRA. This is likely to prevent more children from escaping including newly abducted ones.
- Children who have escaped are/have been witnesses to the very crimes included in the ICC Statutes. One can safely assume that also their lives will now be even more endangered, especially if they give evidence to the ICC. This may also have implications for the present practices of rehabilitation and reintegration, where organizations working in this field actively encourage children to return to their communities following assessment and assistance in the rehabilitation centres. Who will be held accountable for the safety and protection of these children?



- How will the ICC consider members who have been born in captivity?

In general we find that it is extremely challenging to impart clear information to war-torn communities in ways which will be properly understood by the majority and not converted into damaging rumours which lead to even more suspicion and distrust. We anticipate that this will represent a huge challenge to any investigation mounted by the ICC, considering the ambiguities embedded in the fact that the communities in northern Uganda are made up of victims and perpetrators, often in one and the same person.

We therefore strongly recommend a **comprehensive risk assessment focusing on child protection** to be carried out prior to the process of investigation. If the ICC investigation is to proceed, increased protection measures of the civil population, in particular the children, have to be put in place. A monitoring mechanism must also be established to ensure that protection procedures are functioning.

Other complex issues which will require full clarification are : How does the ICC define the LRA leadership? How will the ICC consider members of the leadership who have been conscripted through forceful abduction into the LRA and forced into conscription?

Attempts to arrest the LRA leadership in the absence of any peace agreement or process, may translate into, even justify, an increased military offensive by the Government of Uganda, which the LRA are likely to respond to with more violence against citizens. The people of northern Uganda have already suffered the impact of Operation Iron Fist, launched in March 2002, which has led to a massive increase in the number of abducted children and internally displaced persons and a huge increase in atrocities committed against civilians. Save the Children therefore urges the ICC strongly to consider this aspect.

Save the Children is committed to work with the ICC to enhance their understanding of the complex and complicated nature of the conflict. We recommend that the law and principles enshrined in the UN Convention on the Rights of the Child be incorporated in all proceedings regarding this issue.

Should the ICC, in spite of an eventual assessment of risks to children decide to proceed with the investigation, Save the Children recommend ICC to name a team of internationally recognized specialists who have competence and experience from court proceedings dealing with children in conflict with the law, both as victims and perpetrators, to assist in the ICC proceedings.

KAMPALA – 12 FEBRUARY, 2004



ANNEX II

The Security Situation in Northern Uganda: Overview and Recommendations

Presented on behalf of the Coalition for Human Rights and Justice Initiative for Northern Uganda February 2004

Background

Civil society organisations (CSO) operating from war-affected northern Uganda are extremely concerned about the ever deteriorating and worsening humanitarian situation arising from the now 18 -year-old conflict between the rebels of the Lord's Resistance Army (LRA) and the Ugandan government. Children are at the centre of the conflict as primary targets of abduction by the LRA, and make up 85% of the LRA's forces. Up to 22,000 children have gone through the terrifying experience, and an estimated 50% of them are still missing¹⁶. Many of the children are taken to camps in Southern Sudan. While in captivity, they are forced to kill their own kin, and are abused both physically and sexually. They are then militarily trained by their captors and eventually find themselves in military confrontations with the government forces that were originally supposed to have protected them from abduction. The entire civilian population has been under attack, with women and youth particularly affected.

Through the six-person delegation led by His Grace John Baptist Odama, Archbishop of Gulu Archdiocese and chairperson of Acholi Religious Leaders Peace Initiative, civil society organisations make an earnest appeal to the international community to assume a more active and positive direct role to achieve an expeditious resolution of the conflict through meaningful dialogue.

Key Human Rights Violations in Northern Uganda

Human rights violations are common as a result of nearly two decades of devastating conflict. The following are the most pronounced and disturbing aspects of violations in the sub-region.

- a) **Abductions:** About 22,000 people have been abducted by the LRA and many have not been accounted for to date. They are either dead or are still in captivity. The situation grew worse from mid-2002 to date with the launch of "Operation Iron Fist," (OIF), a military operation which was intended to wipe out the LRA. In the first year of the operation abductions skyrocketed. More than 10,000 children have been abducted from June 2002 through the end of 2003 in an operation initially meant to rescue abducted children. This figure accounts for 45% of the total abductions of children in the conflict.¹⁶



- b) **Displacement:** Internal displacement has equally more than doubled over the period of Operation Iron Fist, from 450,000 displaced people in early 2002 to now close to 1,200,000¹⁶. Of this number, 920,000 are in 62 camps in the Acholi region. People in the camps have no access to their land so they do not have any possibilities for increased economic and nutritional self-reliance. Other displaced persons outside the Acholi region in Lira and Soroti stay in public buildings and open spaces, which, like camps, are quite inhuman and unhygienic. Displaced people are suffering from severe lack of basic care and their lives are characterized by fear, despondency, despair and deprivation.
- c) **Child “night commuters”:** Furthermore, a new phenomenon of night displacement for children has since developed and increased dramatically since mid-2002. Fearing abduction, large numbers of children who live near urban centres move unaccompanied to seek shelter overnight in churches, hospital compounds and shop verandas. It is estimated that up to 20,000 children fall in this category.
- d) **Attacks on humanitarian convoys, civilian vehicles and IDP camps:** Access to IDP’s in Pader and Katakwi has become almost impossible. Road travel in northern Uganda is intolerably risky and attacks on humanitarian vehicles and civilian convoys take place regularly. Non-governmental organisations have suffered tragic losses of colleagues in the line of duty. The conflict also has spread to the eastern part of the country. The protection of civilians and the assurance of safe access to humanitarian aid are immediate priorities.¹⁶
- e) **Human rights abuses by the government** have been reported in the conflict areas and cited in the local press. In a report by the UN Secretary General to the Security Council on children and armed conflict,¹⁶ the Ugandan People’s Defense Force (UPDF) is mentioned as one of the forces which recruit and use children contrary to international instruments ratified by Uganda. Gender-based violence especially against women has been documented.¹⁶ Civil society leaders who have attempted to promote peaceful dialogue have been labeled collaborators, and some have been subject to arbitrary detention and treason charges. The government has also interfered with freedom of expression, including the media’s ability to report accurately on the conflict.

The Coalition’s proposal for a peaceful solution

We believe that a solution based on military intervention is inappropriate. Efforts by the Government to seek an end to the conflict through military means have failed. Instead, they have increased the suffering of civilians as evidenced by increased abductions by the rebels. In spite of the fact that the government claims that it will soon finish the war militarily through Operation Iron Fist, to date the war continues to drag on with no end in sight. Neither party has shown a commitment to end the conflict peacefully.

We believe that the amnesty to those fighting the government, which expired on 17th January 2004 and was subsequently extended for three months, offers an opportunity to end the conflict. We urge the government to renew the amnesty in its



present form and give it a longer-term mandate with matching human and financial resource commitments. The amnesty also needs to make specific provisions for returning children, taking into account their needs and vulnerabilities and focusing on their successful reintegration into supportive home communities. The Amnesty Commission should be sufficiently funded so it can do effective work. Above all, we ask the Government to show its real commitment to the amnesty through consistent public statements and allocation of public resources.

We recognize that the conflict has its roots partly in the cycle of revenge and mistrust that has affected Ugandan past history. Uganda's history is full of examples where some sections of the population feel marginalized and have not been able to secure the much needed support from the Government in terms of security, and the right to basic livelihood. We believe that this must be ended in a bid to build a unified nation.

Civil society organisations have continuously advocated and spoken out on the deteriorating situation of the conflict. However, the visible involvement of the international community in the conflict in northern Uganda has largely been limited to humanitarian assistance.

RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY

- 1) **End the conflict by prevailing on the warring parties to pursue peace through dialogue outside the conflict zone preferably with the involvement of a third party mediator and with the agreement of the parties involved.**
 - a) The UN, at its highest levels, should call upon the parties to immediately cease hostilities and issue a strong statement supporting mediation and dialogue as the only effective route to peace;
 - b) All governments, and particularly those with strong influence with the Ugandan government, should clearly and unequivocally support mediation and dialogue as the only effective route to peace;
 - c) Governments should stop immediately all political, financial, or military support to the LRA;
 - d) Governments should condition military assistance to the government of Uganda, including training, on their commitment to peaceful dialogue with the LRA.;
 - e) Any third party mediator should work closely with existing peace initiatives undertaken by local religious and cultural leaders.

- 2) **Place the situation of Northern Uganda on the agenda of the UN Security Council, in order to facilitate steps towards peace and security. These steps could include:**
 - a) A visit to affected areas by a Security Council mission to assess the situation, and engage in dialogue with parties, as mandated by Resolution 1460;
 - b) Consideration of deploying a peacekeeping force to the area if a ceasefire is achieved;
 - c) Taking measures to open up humanitarian access to the civilian population.



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- 3) **Ensure that the issue of the protection of children who have been abducted and forcibly recruited is addressed independently of any ongoing political processes.**
- a) Governments and the UN should continue to appeal to the LRA to immediately end abduction of children and release all children from their forces;
 - b) Seek access to children in the LRA to identify the children in captivity, provide medical assistance and other relief;;
 - c) Strengthen food security, especially for civilians in the IDP camps, to reduce abductions of children who leave the camps seeking food;
 - d) Donor governments and UNICEF should more actively support the rehabilitation of children formerly abducted by the LRA, including through financial assistance.
 - e) Governments and the UN should appeal to the Ugandan government to stop recruiting children into the home guard, army or other forces.
- 4) **Strengthen the international monitoring presence in the North to document and follow-up human rights abuses as well as implementation of peace processes.**
- a) Welcome and support the increased presence of UNICEF in Gulu and Soroti; and OCHA in Kitgum, Lira and Soroti;
 - b) The Office of the UN High Commissioner for Human Rights should open a monitoring office in the North;
 - c) The European Union head of mission in Uganda should ensure regular monitoring and reporting on children affected by armed conflict in the North, in compliance with the new EU Guidelines on Children and Armed Conflict;
 - d) Ensure that all international human rights monitoring is linked with local initiatives;
 - e) Stronger efforts should be made to accurately document the human cost of the conflict.
- 5) **Facilitate and support national and community processes which will foster a sustainable peace and minimize the recurrence of conflict.**
- a) The UN should appoint a facilitator to support contact processes between the parties to prepare them for mediation;
 - b) Donor governments should provide financial support for post-conflict national truth and reconciliation processes;
 - c) Invest in education to ensure that children have universal access to schooling, to redress national inequalities in education, and contribute to community reconstruction and stability.