

## **Critical praise for this book**

‘This is an important contribution to the current debate on the relationship between peace and international justice ... I enjoyed reading it and learnt much from it ... an excellent work.’ – JUSTICE RICHARD GOLDSTONE, former Chief Prosecutor of the United Nations International Criminal Tribunals for the former Yugoslavia and Rwanda (The Hague Tribunal) and chairperson of the International Independent Inquiry on Kosovo.

‘An important and revealing account of efforts to resolve a bitter, exploitative, and under reported conflict that the international community should, and could have ended many, many years ago. Tim Allen has provided an early insight into the problems of resorting to the International Criminal Court in so challenging a circumstance. If the ICC cannot work to resolve a twenty year conflict with the lives of thousands of vulnerable young children at its core, when can it work?’ – JON SNOW, broadcaster

‘Presents powerful and empirical support for the relevance of the ICC in one of the world’s worst humanitarian disasters.’ – DAVID KEEN, author of *Conflict and Collusion in Sierra Leone* and *The Benefits of Famine*

‘Trial Justice is a timely and important contribution to a critical – and often contentious – debate about the role of international criminal justice in times of war and peace.’ – ERIC STOVER, author of *The Witnesses: War Crimes and the Promise of Justice in The Hague*, and Director of the Human Rights Center and Adjunct Professor, School of Public Health, University of California, Berkeley

## **Critical praise for this book**

‘Tim Allen has written a gripping and affirmative account of the complex encounter between international criminal law and African realities.’ – MARY KALDOR, author of *New and Old Wars: Organized Violence in a Global Era*, and Director of the Centre for the Study of Global Governance

‘A seminal work that carefully evaluates the conflict that has raged in the region for nearly twenty years. Allen is an anthropologist ... who has been working in Northern Uganda for some time. His work, therefore, is of significant value. He is one of a handful of authors ... whose writing is supported by a deep knowledge and clear understanding of both the social complexities and the political realities of the region.’ – JOANNA QUINN, Assistant Professor of Political Science, University of Western Ontario, commenting on a draft of the book in *Transitional Justice Forum* (<http://tj-forum.org/archives/001506.html>)

‘Tim Allen has written a provocative and illuminating analysis of the emerging practice of a new and potentially significant player in international affairs: the ICC.’ – JENNY KUPER, author of *International Law Concerning Child Civilians in Armed Conflict* and *Military Training and Children: Law, Policy and Practice*

## **About the author**

Dr Tim Allen is Reader in Development Studies at the London School of Economics. He has carried out long-term field research in Sudan and Uganda, and has also researched in other African countries, including Botswana, Ghana, Kenya and Zimbabwe. He has written extensively on issues of healing and suffering in Africa, on war-damaged populations, on aid programmes and on wider issues of international development. His publications include the bestselling textbook, *Poverty and Development* (edited with Alan Thomas, OUP), *Divided Europeans* (edited with John Eade, Kluwer), *The Media of Conflict* (edited with Jean Seaton, Zed Books), *Culture and Global Change* (edited with Tracey Skelton, Routledge), and two books on the repatriation and homecoming of African refugees.

His most recent work includes articles on HIV/AIDS policies in Uganda and Botswana. He is also a broadcaster and has presented or contributed to numerous radio programmes for the Open University and the BBC, including a series of eight programmes about Uganda for the World Service (broadcast in 2002). In 2001 he was elected to the Academy of Social Sciences for contributions in the application of anthropology to development issues.



TIM ALLEN

# Trial justice

The International Criminal Court  
and the Lord's Resistance Army



Zed Books

LONDON | NEW YORK

*in association with*

International African  
Institute

 davidphilip

*Trial justice: the International Criminal Court and the Lord's Resistance Army* was first published in 2006 by

in Southern Africa: David Philip (an imprint of New Africa Books)  
99 Garfield Road, Claremont 7700, South Africa

in the rest of the world: Zed Books Ltd, 7 Cynthia Street, London N1  
9JF, UK and Room 400, 175 Fifth Avenue, New York, NY 10010, USA  
<[www.zedbooks.co.uk](http://www.zedbooks.co.uk)>

in association with the International African Institute, SOAS,  
Thornhaugh Street, Russell Square, London WC1H 0XG, UK  
<[www.iaionthe.net](http://www.iaionthe.net)>

Copyright © Tim Allen, 2006

The right of Tim Allen to be identified as the author of this work has  
been asserted by him in accordance with the Copyright, Designs and  
Patents Act, 1988.

Cover designed by Andrew Corbett

Set in Arnhem and Futura Bold by Ewan Smith, London

index: <[ed.emery@britishlibrary.net](mailto:ed.emery@britishlibrary.net)>

Printed and bound in Malta by Gutenberg Press Ltd

Distributed in the USA exclusively by Palgrave Macmillan, a division  
of St Martin's Press, LLC, 175 Fifth Avenue, New York, NY 10010.

A catalogue record for this book is available from the British Library  
US CIP data are available from the Library of Congress

All rights reserved

ISBN 1 84277 736 x hb

ISBN 1 84277 737 8 pb

ISBN 978 1 84277 736 7 hb

ISBN 978 1 84277 737 4 pb

# Contents

Illustrations | ix Acronyms | xi Preface | xiii  
Districts of northern Uganda affected by  
the LRA | xviii–ixx

<b>1 Introduction: ending impunity</b>	<b>1</b>
International law and the most serious crimes   4 A resurgence of international criminal trials   9 The creation of the ICC   16	
<b>2 The coming of the Lord’s Resistance Army</b>	<b>25</b>
Political upheavals, spirituality and guerrilla war   28 Joseph Kony and the LRA   37 War and counter-insurgency strategies   44	
<b>3 Displacement and abduction</b>	<b>53</b>
Living in IDP camps   53 Living with the LRA   60 Some experiences of abduction   66	
<b>4 Amnesty, peace talks and prosecution</b>	<b>72</b>
The change in political context   72 The Amnesty Act   74 Peace talks   78 Referral to the ICC   82 Reactions to the ICC in Uganda   83 Legal aspects of the ICC intervention   88	
<b>5 Concerns about the court</b>	<b>96</b>
The ICC is biased   96 The ICC exacerbates the violence and endangers vulnerable groups   102 The ICC is spoiling the peace process   117	

<b>6 Justice and healing</b>	128
Institutionalization of ' <i>mato oput</i> '   132	
A diversity of local views   138 Chiefs, churches and spirits   148 The evidence on healing and justice   160	
<b>7 Conclusion: a learning process</b>	169
<b>8 Postscript: the warrants</b>	182
Notes   196 Bibliography   218	
Index   223	

## Illustrations

- 1 The massacre at Pagak in Gulu district, May 2004 3
- 2 Does justice dissipate the call for revenge? A survivor from an LRA attack in Lira district 23
- 3 Father Carlos Rodriguez (on the left) and other Christian leaders have been among those who have tried to keep talks going with the LRA 41
- 4 LRA soldiers posing with their guns: the youth squatting had just been abducted 45
- 5 LRA combatant and his 'wife' posing in the bush 45
- 6 LRA soldiers in the bush at night: note that those on the right are wearing Arab dress 45
- 7 Trying on a new LRA uniform in Juba, Sudan 46
- 8 The LRA have been included in the Terrorist Exclusion List of the USA Patriot Act of 2001: an LRA soldier, probably photographed in Sudan, posing with an Osama bin Laden T-shirt 46
- 9 LRA soldiers meeting with an informant. The rebels rely heavily on such intelligence-gathering in some areas 47
- 10 Awere IDP camp on the border between Gulu and Pader districts. The picture shows the concentration of settlement in the camps. Fires are a constant threat 54
- 11 Pagak camp after it had been set on fire in 2004 56
- 12 Pigs scavenging around overflowing pit latrines at Agweng IDP camp in Lira district. It is hardly surprising that the mortality rate in the camp is so high 56
- 13 Waiting for the water pump to be turned on at Atiak IDP camp in Gulu district. Collecting a full container can take hours. The alternative is a filthy stream 57
- 14 Aid agency vehicles, some of them armour plated, make forays out to the IDP camps. Relief operations keep the whole system going. But is this really the best strategy? 61

15	A picture drawn by one of the people staying at the Rachele reception centre for those formerly abducted by the LRA in Lira town. The artist claimed to have witnessed or been made to participate in each of the acts depicted	70
16	An amnesty card: after returning from the LRA some people are issued with documents under the Amnesty Act	75
17	Mothers and their children were hacked to death at Pagak in May 2004. People at the camp had welcomed 'home' a group of LRA soldiers. This was how the LRA responded	77
18	Save the Children has understandably drawn attention to the rights and needs of children. Concerns have been raised about how those living in the IDP camps will be protected from LRA attacks once ICC warrants are issued	85
19	Much of the discussion about peace in northern Uganda stresses forgiveness and reconciliation: posters warning about landmines and promoting 'solidarity'	118
20	A <i>mato oput</i> ritual performed at Pabbo IDP camp in August 2005, one of scores of such ceremonies that have been encouraged and facilitated by various agencies involved in promoting peace: representatives of the family that committed the killing and the family that lost a member jointly submit to the healing process	161
21	Drinking a concoction made from the blood of two slaughtered sheep mixed with <i>mato oput</i> (the 'bitter root')	161
22	A host of NGOs attended the ceremony, and photographed each detail. But was this really an 'authentic' healing ritual, and does it have much significance for the peace process?	161
23	Protection from LRA attacks may have improved in recent years, but it is far from comprehensive. The LRA still have the capacity to launch attacks, and many government soldiers stationed out in the IDP camps are part of Local Defence Units rather than the formal UPDF. Some are very young and inexperienced (anonymous)	179

## Acronyms

ACCORD	A series of publications from Conciliation Resources reviewing peace initiatives
ACORD	Agency for Cooperation and Research in Development
ARLPI	Acholi Religious Leaders' Peace Initiative
AVSI	Associazione Volontari per il Servizio Internazionale
CSOPNU	Civil Society Organization for Peace in Northern Uganda
DFID	Department for International Development (the UK's aid ministry)
EDF	Equatoria Defence Force (a militia group in Sudan)
FRONASA	Front for National Salvation (a military force led by President Museveni, which collaborated with the UNLA in the overthrow of Amin)
HSMF	Holy Spirit Mobile Forces
ICC	International Criminal Court
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for Yugoslavia
IMF	International Monetary Fund
LC	Local council (these are councils introduced by President Museveni's government. They used to be called Resistance Councils. There are councils at each level of administration, from the village – LC1 – to the district – LC5)
LRA	Lord's Resistance Army
MSF	Médécins sans Frontières
NRA	National Resistance Army (the former name of the Ugandan army after President Museveni seized power)
OAU	Organization of African Unity
OTP	Office of the Chief Prosecutor of the ICC (also appears as ICC-OTP)
RPF	Rwandan Patriotic Front
SCiU	Save the Children in Uganda
SCSL	Special Court for Sierra Leone

SPLA	Sudan People's Liberation Army
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNLA	Uganda National Liberation Army (the name of the Ugandan army after the overthrow of Idi Amin)
UPA	Uganda People's Army (a rebel group operating in Teso region in the 1990s)
UPDA	Uganda People's Democratic Army (a rebel force, largely made up of former UNLA soldiers)
UPDF	Uganda People's Defence Force (the new name of the Ugandan army)
WFP	World Food Programme
WHO	World Health Organization

## **Preface**

Northern Uganda is the site of one of the worst humanitarian disasters in the world. Over a million people live in atrocious conditions in more than 200 displacement camps. It has been like this for years, but until recently it has been largely ignored. There have been the occasional news stories about weird cults, healing rituals, abducted children and mutilated women, but little serious effort to engage with the issues, or even to recognize the scale of the problem. During the past year there have been signs that things might finally be about to change. One reason for this is the role being played by the recently created International Criminal Court (ICC). It has intervened during an ongoing war, with a mandate to end impunity for the worst of crimes. The underlying assumption is that targeted criminal justice will contribute to peacemaking. It is an experiment that has caused a storm of controversy. The following chapters assess these developments and place them in the context of international criminal law and the local political circumstances in which they have occurred.

For me, the borderlands of Uganda and Sudan carry a special significance. This is where I went to live over twenty years ago, initially as a teacher in rural secondary schools and at Juba University, and later as a field researcher among the Acholi and Madi people. Altogether I spent four years in southern Sudan and two years in northern Uganda. Returning to the region in late 2004 for the first time in over a decade was a very moving experience. I met people whom I had not seen since they were small children and old friends who had a great deal to tell me. I also visited the graves of some of those I lived with, and was

filled with sadness at how little improvement had been possible for most families. So much effort had been invested in earning small amounts of money and trying to educate their children. Yet there is so little to show for it. Indeed, for so many the situation is far worse than anything I saw in the 1980s.

Research in northern Uganda was carried out for three weeks during November 2004, for two weeks in March 2005, and at various times while I was living with my family in northern Uganda between May and September. The manuscript was completed in August, before the ICC issued warrants. A further visit was made to the region in November 2005, and a postscript has been added to the book drawing on findings from that trip, and bringing events up to date. By the time the book is published it is possible that one or more of the Lord's Resistance Army commanders will have been taken to The Hague for trial. One of them at least is worried about that prospect, and has been using his access to a satellite telephone to solicit legal advice.

Most of the research in November 2004 and March 2005 took place in Gulu, Kitgum, Lira, Adjumani and Pader municipalities, and in displacement camps at Awee, Opit, Awere, Lalogi, Anaka, Labuje, Pader, Pagimo, Corner Ogur, Abia, Agweng, Atiak and Pabbo. Numerous group meetings were held with local council officers, NGO staff, soldiers etc. But an effort was also made to spend time with individuals and solicit their views in private. Interviews and discussions were held in English, in Lwo (the language of the Acholi and Langi people), and in Maditi (the language spoken by Madi people of Adjumani district). When visiting the camps for the internally displaced, I tried to spend nights there rather than return to Gulu or Kitgum. This was not something that research teams had usually done, which may help explain the differences in local views presented here from those in other reports and articles. I made almost all the interviews in November 2004 and March 2005 with one or other of my two

research assistants, Jackie Atigo and Tonny Odiya Labol. Unless otherwise noted, those quoted in the report took place in the Lwo language. During the period between May and September 2005 I was running a research project on the return of 'formerly abducted people' to their families, involving quite a large research team. This made it possible to visit many more camps. Visits were made by the team to most of the larger camps and a large number of the smaller ones too. Around four hundred interviews were made with individuals and groups, including district officials, aid agency staff, peace negotiators, military officers, LRA combatants and over two hundred people living in the camps. Visits were also made to The Hague in 2005 for discussions with staff at the ICC. In addition to this recent research, the book draws extensively on my earlier long-term fieldwork in northern Uganda and across the border in Sudan from the early 1980s until 1991, and on the many reports, articles, books and dissertations dealing with the area.

To carry out field research in the war zone of northern Uganda is not straightforward. It is easy enough to spend time in the main towns and some of the more accessible camps, but to reach the places where most people live requires transport and logistical support. I am very grateful to the aid agencies that assisted in the research. I have not named them because some of the arguments made in the book deal with sensitive issues, and do not necessarily represent their views. Much of the funding for the fieldwork and writing up was paid for by the Crisis States Research Centre of the London School of Economics (LSE), which is supported by the UK's Department of International Development.

Several perceptive and rigorous commentators have responded to drafts of the book, and provided me with help and suggestions, including Barney Afako, Erin Baines, Betty Bigombe, Adam Branch, Matthew Brubacher, Christin Chinkin, Filippo Ciantia, Chis Dolan, Sverker Finnstrom, Susanne Kirk, Elliott Green,

Mariana Goetz, Matt Hobson, Tania Kaiser, Susanne Kirk, Jenny Kuper, Bob Leitch, Zachary Lomo, Andy Mawson, Ben Mergelsberg, Dyan Mazurana, Adam O'Brian, Gabriel Oling Olang, Melissa Parker, James Putzel, Joanna Quinn, Mareike Schomerus, Eric Stover, David Wright and others whom I cannot name. It must be stressed, however, that the analysis presented here does not necessarily represent the views of any of these people. In fact some of them strongly disagree with what I have written.

I was diagnosed with acute myeloid leukaemia five years ago. I am grateful beyond measure to my anonymous bone marrow donor and to haematology staff at University College Hospital, London, for saving my life. The support received from colleagues at the LSE, my parents, friends and relatives has also been invaluable, and I would not have been able to return to Africa and carry out this research without it. Finally, I thank Luke, Joshua and Rachael for putting up with me while I wrote the book, and above all Melissa for her constant love and care.

**for Melissa**



**Districts of northern Uganda affected by the LRA**

### **IDP populations receiving relief assistance, based on OCHA estimates**

Total IDP population (April/July 2005): approximately 1.5 million living in over 250 IDP camps (excluding unregistered IDPs)

#### **Breakdown by district**

##### *Districts with a predominantly Acholi population*

Gulu district: total IDP population (July 2005) 460,226 living in 53 IDP camps

Kitgum district: total IDP population (July 2005) 310,111 living in 22 IDP camps

Pader district: total IDP population (April 2005) 283,781 living in 26 IDP camps

##### *Districts with a predominantly Langi population*

Apac district: total IDP population (July 2005) 98,193 living in 15 IDP camps

Lira district: total IDP population (July 2005) 350,828 living in 40 IDP camps

##### *Districts with a predominantly Teso population*

Katakwi district: total IDP population (April 2005) approximately 140,000 living in 82 IDP camps

Soroti, Kaberamaido and Kumi districts: total IDP population (July 2005) 18,000 living in 22 IDP camps

(Source: OCHA, 2005)

