

Institution: London School of Economics and Political Science		
Unit of Assessment: 22B – International Development		
Title of case study: The International Criminal Court and struggle for justice in Central Africa		
Period when the underpinning research was undertaken: 2006-2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Tim Allen Holly Porter	Professor Assistant Professorial Research Fellow	1999 to present 2012-2019
Period when the claimed impact occurred: 2013-2020		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact (indicative maximum 100 words)		
<p>LSE research among Acholi people in northern Uganda, during and after the conflict with the Lord's Resistance Army, has made significant contributions to understanding justice and security issues, direct benefitting the International Criminal Court. The researchers' expert testimony has aided the successful prosecution of Dominic Ongwen, helped to protect the welfare of witnesses, and contributed to an important judicial precedent for the prosecution of sexual crimes. The research has also highlighted the importance of ongoing monitoring and long-term support for people returning or recovering from war.</p>		
2. Underpinning research (indicative maximum 500 words)		
<p>In 2003, Jan Egeland, then Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator of the United Nations, described the northern Uganda situation as a "moral outrage". He was referring to consequences of the war between the Uganda government and the Lord's Resistance Army (LRA). From 2004, this became the focus of the International Criminal Court's historic first significant case, and warrants were issued for five LRA commanders in 2005, including Dominic Ongwen. In research underpinning the impacts described here, Professor Tim Allen and colleagues examined the conflict, its participants and victims, international criminal justice, traditional justice, and everyday efforts for post-conflict social repair and reintegration. Impacts described here are underpinned by research and fieldwork undertaken throughout the eligibility period, which built upon Allen's earlier research in the region in the 1980s and 1990s.</p> <p>Allen described in detail the background to the war, rooted in the politics and history of Uganda and its neighbours. He analysed both the atrocities of the LRA (which included massacres and mutilations, and forcible recruitment of thousands of people, with large numbers of children forced to train as fighters or given to LRA commanders for sexual purposes), and the brutal anti-insurgency operations of the government (including the internment of over one million people in appalling conditions). Allen and, more recently, Dr Holly Porter interviewed LRA combatants and formerly abducted persons, and edited and contributed to the most authoritative, comprehensive analysis of the group available [1].</p> <p>Following the referral of the LRA case to the ICC in 2004, Allen's research became more focused on post-conflict accountability and debates about international criminal justice. Working closely with Ugandan colleagues, notably Jackeline Atingo (who was herself abducted by the LRA in 2006, but was rescued before being forced into sexual relations with an LRA commander), Allen took issue with the prevailing analysis of the time, which criticised the court as imperialist, ignorant of the realities on the ground, and counter-productive to reconciliation efforts. Allen and Atingo found that many affected people were enthusiastic about criminal prosecution, and much of activists' and aid agencies' antipathy towards the court's intervention was misplaced [2]. Allen was sceptical about the promotion of a blanket amnesty with no time limit, and was critical about the funding and promotion of purported traditional justice mechanisms by international organisations and some local actors as a viable alternative to the ICC. He also highlighted problems with the process of re-establishing traditional chiefs to implement externally-funded rituals. He argued that promotion of this kind of patriarchal ethno-justice contributed to an impression that northern Ugandans require their own special measures, perpetuating a damaging historical caricature of the</p>		

population as innately violent and primitive, as well as reinforcing potentially oppressive gender norms. Allen also drew attention to the inadequate support and lack of monitoring associated with people returning from the LRA at the time, including thousands of children. This work was written up in widely circulated reports, and discussed in detail with relevant organisations in Uganda, as well as international actors based in Europe and elsewhere – notably, USAID, DFID, Save the Children, UNICEF, and the ICC.

Subsequently, Allen and his team, which included a growing number of Ugandan and international graduate researchers, studied a wide range of themes in the region, including aspects of land settlement, conflict mediation, peace talks with the LRA, aspects of accountability, vigilantes, witchcraft, sexuality and gender relations, and the return of LRA combatants, 30,000 of whom were children (e.g. [3]). From 2011, fieldwork intensified, with new funding from DFID, and later ESRC, AHRC, and GCRF. Atingo took a leading role coordinating research in Uganda. Among other projects was a detailed, long-term, follow-up study of former child combatants and girls forced into sexual unions with LRA commanders [4] [5]. This is one of very few long-term studies of children returning from war in Africa.

Among the most striking insights is that those who spent longest with the LRA are least likely to be stigmatised and most likely to receive official aid. Most of these held rank in the LRA and still exert authority over other returnees. In contrast, a majority of returnees live in rural locations, on ancestral land and in impoverished circumstances, commonly feared or abused by relatives and neighbours. Many were vulnerable children, returned from the LRA with the support of humanitarian organisations, only to have been largely abandoned. Unsurprisingly, it was also found that aspects of life for the Acholi population were affected by legacies of the war and mass forced displacement, such as land conflicts and high incidence of sexual violence.

With respect to the latter, drawing on in-depth interviews with almost 200 women [6] [7], Porter's doctoral research provided extensive evidence and a nuanced understanding of widespread rape and its aftermath, arguing that conventional understandings of what is appropriate are dependent on consent, a concept that does not exist in the same way in the Acholi context in northern Uganda. Instead, what is permissible depends on other conditions, such as whether sex contributes to the establishment of a "home", whether it provides children, and whether certain customary exchanges have happened beforehand. None of these conditions, Porter showed, were present in LRA forced "marriages". Through this analysis of the Acholi-specific context, she was able to demonstrate that LRA sex was transgressive in ways that outsiders had not appreciated.

The research described above was undertaken in close collaboration with Uganda-based researchers, some of whom have worked with the team for more than ten years and have been supported to complete postgraduate degrees (in addition to Atingo, they include Charles Ogweno, Dorothy Atim, James Ocitti, and Julian Hopwood). Through their cumulative fieldwork experiences, and by being embedded in the northern Uganda context, they have provided a critical voice to continuing debates of post-war reconstruction and, when possible, practical support to specific individuals in acute need [3].

3. References to the research (indicative maximum of six references)

[1] Allen, T. and Vlassenroot, K. (Eds.) (2010). *The Lord's Resistance Army: Myth and Reality*. Zed Books. ISBN: 9781848135628.

[2] Allen, T. (2006). *Trial Justice: The International Criminal Court and the Lord's Resistance Army*. Zed Books. ISBN: 9781842777374.

[3] Allen, T. (2015). Vigilantes, Witches and Vampires: How Moral Populism Shapes Social Accountability in Northern Uganda. *International Journal on Minority and Group Rights*, 22(3), pp. 360-386. DOI: 10.1163/15718115-02203004.

[4] Allen, T., Atingo, J., Atim, D., Ocitti, J., Brown, C., Torre, C., Fergus, C. A., and Parker, M. (2020). What Happened to Children Who Returned from the Lord's Resistance Army in Uganda? *Journal of Refugee Studies*, 33(4), pp. 663-683. DOI: 10.1093/jrs/fez116.

[5] Atingo, J. and Parker, M. (2018). Humanitarianism in Uganda: Outcast in your own Home. *Africa at LSE*. Available at: <https://wp.me/p4jHtg-35G>.

[6] Porter, H. (2017). *After Rape: Violence, Justice, and Social Harmony in Uganda*. Cambridge University Press. ISBN: 9781107180048. This was a finalist in the 2018 Herskovitz Book Prize,

which recognises the most important scholarly work in African studies published in English during the preceding year.

[7] Porter, H. (2019). Moral Spaces and Sexual Transgression: Understanding Rape in War and Post Conflict. *Development and Change*, 50(4), pp. 1009-1032. DOI: 10.1111/dech.12499.

4. Details of the impact (indicative maximum 750 words)

This research has had significant impacts on the justice and reconciliation process in post-conflict Uganda. It will likely have much larger, global impacts by pioneering methods for the collection of evidence of rape crimes in war that are efficient, sensitive, and acceptable to victims, and through the establishment of a highly visible legal precedent for the successful prosecution of such crimes. The former set of impacts includes shaping the work of the ICC, as well as initiatives to better protect the welfare of those being reintegrated after war. Beneficiaries include the ICC prosecution team, victims of wartime violence, NGOs and others involved in supporting reintegration, and more than 300 individuals and their families who have returned from the LRA or have been affected by the violence. The latter set of impacts involve justice for victims of wartime rape worldwide, and are likely to be invoked in ongoing peace and reconciliation efforts across Africa, Asia, and Latin America.

Impacts on the ICC trial of Dominic Ongwen

LRA commander Dominic Ongwen was handed over to the ICC in 2015. He was charged with 70 counts of war crimes and crimes against humanity. His trial began in The Hague in December 2016, and ended in March 2020. The judges then deliberated under Covid-19 constraints, finally announcing their guilty verdict in February 2021. From May 2015, Allen's team made sustained contributions to the ICC's work on the trial, as described below.

Provision of expert witness testimony and reports

In May 2015, Allen, Porter, and their LSE colleague Dr Anna Macdonald were invited to The Hague to brief the prosecutorial team and meet with the Trust Fund for Victims and the Victims' Participation Unit. Following this meeting, Allen was invited to act as "Witness 1" (i.e. the prosecution's expert witness) in Ongwen's trial. Ahead of the trial, he was asked by the Office of the Prosecutor to provide an independent report [A] for the court covering the environment in which key wartime events took place.

Once the trial began, Allen returned to The Hague in January 2017 to give testimony in court for two days, including cross-examination by the defence counsel. His testimony provided further information about the organisational relationships within the LRA, its training and use of child soldiers, allocation of abducted girls to LRA commanders as "wives", and also the spiritual beliefs that informed the actions of LRA members, particularly how a spiritual inspiration came to be ascribed to its founder and leader, Kony. With respect to the latter, Allen explained the ways in which spiritual engagement is not in itself unusual in the region, and that association with spiritual forces, both inside and outside of Christianity, did not mean that people did not have a capacity to make choices [B].

Allen's report and court testimony were directly informed by the underpinning research [1] [2] [3] [6] [7] and helped to highlight and explain layers of meaning necessary for the prosecution and defence to understand the context of spiritually-influenced warfare. A trial lawyer of the Office of the Prosecutor at the ICC subsequently attested to the value of Allen's witness contributions: "*His testimony will undoubtedly feature in the final trial judgment expected in early 2021, as an important contextual reference for the judges on conflict in northern Uganda*" [C].

Provision of information contributing to the expansion of charges against Ongwen

An additional, confidential report was submitted to the ICC by Porter, drawing on her research on sexuality and violence [6] [7]. This report helped the prosecution team understand typical modes of distribution of girls and women within the LRA, and the nature of these relationships. Crucially, the research team was able to provide detailed information about notions of consent, marriage, and sexual norms in the Acholi context. The report and oral briefings described dynamics amongst women who spent time in forced LRA marriages upon their return, and particularly the experiences of so-called "junior wives", who were often more willing to describe appalling incidents of abuse [4].

The contributions of Porter, Allen, and other team members provided information (including access to witnesses) that helped prosecutors expand the charge sheet against Ongwen to include sexual and gender-based crimes, such as forced marriage, rape, sexual slavery, and enslavement. This brought to 70 the number of charges against Ongwen, up from seven when warrants were first issued. Based substantially on information and advice Porter, Allen, and the team were able to provide, Ongwen has become the first person prosecuted and convicted by an international court or tribunal for sexual and gender-based crimes. Crucially, the trial's interpretation of the ICC Rome Statute defined rape as sexual penetration in a context of coercion, rather than specifically in the context of absent consent. A prosecution trial lawyer subsequently confirmed Porter's report's value and influence: "*Rich in anthropological and contextual analysis, Dr Porter's report directly informed litigation decisions by the Office of the Prosecutor*" [C].

Enhanced understanding of victims' needs and protected welfare of trial witnesses

Allen, Porter, and their colleagues' work demonstrated the vulnerability of junior wives in northern Uganda, and the pressures being exerted by "senior wives" opposed to Ongwen's prosecution. As a result, the ICC accepted that it would reduce the risks both to the potential witnesses and to the veracity of their testimony if they were able to participate in the trial as quickly and with as little exposure as possible. Porter's report was used as one of the key submissions in a proposal to allow victims of sexual violence to provide witness testimony and be cross-examined from Uganda before the trial commenced. Pre-trial judges made a ruling in favour of this proposal [C]. Subsequently, seven women were able to testify that they were forced to become wives of Ongwen, and that he had raped them. Rather than suffering the long ordeal of a trial and the exposure of travelling to the Netherlands (with the risk of hostile reactions from Ongwen supporters), it was accepted that they could testify early, and confidentially, from Uganda.

Improvements to the lives of returnees

The team's detailed, long-term fieldwork provided evidence to the ICC's Trust Fund for Victims, and to various other international and national actors. Research on LRA child returnees [4] has highlighted the plight of those people attempting to reintegrate in northern Uganda, identifying widespread poverty, stigmatisation, and abuse, in some cases triggering assistance from aid agencies [D]. The research also underpinned landmark policy interventions promoted by Gulu MP Lyandro Komakech. Drawing on information provided by the team in late-2018, Komakech tabled a motion for a resolution of Parliament requiring the government to introduce appropriate special assistance programmes that will effectively enhance the welfare of former female abductees and their children born during the LRA insurgency. This motion, which closely follows the team's findings [4], was formally approved by legislators on 13 February 2019 [E] [F]. In addition, the team has been instrumental in establishing the Trust for Child Soldiers, a registered UK charity set up to work primarily with those who were abducted and who fought as children. In 2019-20 alone, the Trust directly supported more than 300 war-affected people (covering costs of education, medical treatment, small business grants, and emergency assistance) [G].

Impact on international judicial practice

In addition to having greatly eased the burden on those testifying as victims of sexual crimes, the Ongwen case set a ground-breaking international precedent in the ability to prosecute crimes of a sexual nature, with potentially significant implications for the prosecution of rape more broadly. The Ongwen case removed legal impediments that have long been criticised by feminist anti-rape scholarship and activism (e.g. MacKinnon; Boesten; Halley; Chinkin). Article 56 of the Rome Statute of the International Criminal Court allows for consideration of "a unique opportunity to take testimony or statement from a witness...which may not be available subsequently for the purposes of a trial". It was this provision that was invoked to record victims' testimonies. Should this precedent be applied more broadly, as it likely will once it becomes a matter of public record following completion of the trial, it will aid the prosecution of crimes of sexual violence in both domestic and international jurisdictions. Addressing this point, the prosecution trial lawyer has said: "*Dr Porter's report [...] played a key role in the preservation of vulnerable evidence of sexual and gender-based crimes in the pre-trial phase of the case. The novel preservation of this evidence, which occurred before the trial commenced, itself amounts to an important and historic judicial precedent at the ICC, because it amounted to, in essence, judicial intervention to protect vulnerable persons by preserving their evidence quickly, while safeguarding their well-being*" [C]. This view has already been advanced in the *International Criminal Law Review*, which has hailed

this aspect of the Ongwen case as “a milestone precedent for future cases, not just in terms of circumventing situations of witness interference, but more importantly, in safeguarding vulnerable victims and witnesses, and preserving their evidence for any eventual trial” [H].

The verdict and publication of the judgment

After the defence and the prosecution teams delivered their closing statements in March 2020, judges spent several months considering their verdict. Writing prior to the verdict being reached, the trial lawyer of the Office of the Prosecutor attested to the importance of the researchers' contributions: “The role of Prof Allen and Dr Porter in the Ongwen trial has been significant, their expertise enriching and influencing decision-making that has positively impacted and furthered the process of international criminal justice” [C].

The final verdict was announced on 4 February 2021, with Ongwen convicted on 61 of the 70 counts of crimes against humanity and war crimes he faced. He was subsequently sentenced to 25 years in prison. The ICC has published the full trial judgment [I], with the judges noting:

“The Chamber...deems it necessary to include in this judgment a brief background to the case, with a view to placing the case in a historical context and establishing the point of departure for the factual findings which are made as part of the adjudication of the case. In this regard, the Chamber notes the evidence provided by Professor Tim Allen, who prepared a report submitted into evidence and testified before the Chamber as an expert witness. The basic lines of this historical background were not disputed between the parties in the course of the trial. Thus, the following overview is derived from Professor Allen’s report as well as his testimony” [I, p. 9].

The first 14 numbered paragraphs of the judgment were explicitly based on Allen’s independent report and testimony. Allen’s was the only testimony given by any of the expert witnesses in court that was considered credible and relevant by the judges, and his responses to questions in court are directly cited on five occasions. The judgment specifically describes how Allen’s testimony was important in two key aspects: firstly, in underpinning the court’s decision to reject the argument that the LRA had acted in service to a credible political project, expressed in a manifesto submitted as documentary evidence [I, pp. 373-374]; and secondly, by informing the court’s judgement that Ongwen did not act under duress [I, p. 29]. In a communication to Allen on the day the judgment was made public, the main trial prosecutor wrote to Allen highlighting the importance of his team’s influence, noting that: “the sexual and gender-based crimes convictions were particularly important. But actually it was the rejection of [Ongwen’s] excuses (mental health and duress) by which I was most pleased” [J].

5. Sources to corroborate the impact (indicative maximum of 10 references)

[A] Independent background report for the Office of the Prosecutor of the International Criminal Court, related to the environment in which the events with which the trial of Dominic Ongwen is concerned took place, August 2016.

[B] Media reports covering the Allen testimony, in [Africa Times](#) (17 January 2017), [International Justice Monitor](#) (17 January 2017), and [AA News](#) (17 January 2017).

[C] Supporting statement from trial lawyer, Office of the Prosecutor, International Criminal Court, 10 December 2020.

[D] Supporting statement from representative of formerly abducted persons and people returned from the LRA.

[E] “Parliament approves support for LRA returnees”, [New Vision](#), 19 February 2019.

[F] “LRA returnees need counselling, govt told”, [New Vision](#), 30 July 2019.

[G] The Trust for Child Soldiers website, [beneficiaries’ stories](#).

[H] Bradfield, P. (2019). “Preserving Vulnerable Evidence at the International Criminal Court – the Article 56 Milestone in Ongwen”, [International Criminal Law Review](#), 19(3), 373-411.

[I] The Prosecutor v. Dominic Ongwen, Trial Judgment, [ICC-02/04-01/15-1762-Red](#), 4 February 2021 | Trial Chamber IX | Decision.

[J] Personal communication between the main trial prosecutor and Allen, 4 February 2021.