

The London School of Economics and Political Science

After Rape

Justice and Social Harmony in Northern Uganda

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Abstract

This thesis explores responses to rape in the Acholi sub-region of northern Uganda, based on three years of participant observation plus in-depth interviews with a random sample of 187 women from two villages. The issues examined lie at the intersection of two ongoing discussions in scholarship and practice and contributes to each of them: wrongdoing and justice, and sexual violence and rape.

Northern Uganda is at the heart of international justice debates. Fierce controversy followed the 2005 announcement of the International Criminal Court's intervention in ongoing conflict between the Lord's Resistance Army and the Government of Uganda. Two opposing representations of Acholi society emerged: that Acholi were innately forgiving--able to deal with mass crime through traditional justice; or that they needed and often supported formal legal justice. But this missed crucial aspects of Acholi realities, which this study illustrates, most basically the profound value of social harmony, and a deep distrust of distanced authorities to dispense justice in their interest.

Many scholars and practitioners assume that in the aftermath of crime, justice must be done. Amongst Acholi, I have found, the primary moral imperative in the wake of wrongdoing is not punishment of the perpetrator or individual victim's rights but the restoration of social harmony.

Experience of rape and harm it causes are predicated on understandings of wrongdoing related to challenges posed to social harmony. Similarly, an appropriate remedy depends not only on the act of forced sex itself, but also on the social role of the perpetrator and social context.

This thesis adds empirical, locally-grounded, and culturally-specific evidence in support of a more complicated and nuanced explanation of rape and its aftermath than is familiar in the analytical/ normative frameworks familiar in post-atrocity

justice debates or anti-rape feminist activist discourse. It suggests reimagining the meanings of these phenomena along lived continuums: before, during and after war; and acknowledging the role of sex, power and politics in all sexual experiences on a spectrum of coercion and enthusiastic consent.

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Abbreviations and Acronyms

GBV	Gender-based violence
ICC	International Criminal Court
ICD	International Crimes Division
IDP	Internally Displaced People
JLOS	Justice Law and Order Sector
LC	Local Council/Councilor
LRA	Lords Resistance Army
NGO	Non-governmental Organization
NRA	National Resistance Army
PRDP	Peace Reconciliation and Development Plan
RC	Resistance Council
RDC	Resident District Commissioner
SWAY	Survey on War Affected Youth
TFV	Trust Fund for Victims
UBOS	Uganda Bureau of Statistics
UPDA	Uganda People's Defense Army, called <i>cilil</i> , go and tell, by most Acholis
UPDF	Uganda People's Defense Force

1 Introduction

This thesis is about crime or wrongdoing and its aftermath. More specifically, it is about what happens after rape in the Acholi sub-region of northern Uganda.

The international discourse of responding to crime or wrongdoing emphasizes the “justice for victims,”¹ often expressed as a moral and sometimes a legal obligation usually paired with the need for punishment of the wrongdoer. Such a call for justice and punishment is very familiar in Acholi, which was at the center of a long (1986-2006) and brutal war where almost unimaginable violence and other wrongdoing occurred. Towards the end of this conflict, in 2005, the top leadership of the rebel movement fighting the Government of Uganda – the notorious Lord’s Resistance Army, or the LRA – were the targets of the first public arrest warrants issued by the International Criminal Court. The Court explicitly framed its action as intending to bring justice to victims and punishment for at least the worst of the rebel perpetrators.

War, of course, is an especially conducive environment for rape, and rape was certainly part of the war in northern Uganda. But rape also occurs in many other contexts, perpetrated (mostly) by men of every socio-economic class, in rural villages and the largest of cities, in the poorest of slums and wealthiest of exclusive neighborhoods, and in every continent, society and culture. And what happens after rape, even in societies with the most effective legal regimes and moral prohibitions, takes almost as wide of variety of forms as the act itself.

Following is the story of two rapes in Acholi, and what happened after. Both occurred during the northern Uganda war. The first occurred when a young woman left her home to visit an aunt in a neighboring village, accompanied by a

¹ “Justice,” “victim,” and “rape” are contentious and much debated terms and concepts that will be examined in more detail below.

friend. They walked past a house where a government soldier was sitting outside. He threatened them at gunpoint, tied them and raped them both. Her friend managed to escape and ran to her aunt's home who immediately reported to a nearby military outpost. The soldiers hurried to the man's home where she was still being held and shot him on the spot. The woman's explanation of what had happened and her reaction was succinct: "He was shot, and I was negative [had not been infected with HIV – a very real danger averted]. That was enough for me. He did something very dark; I was afraid that he might have killed me after raping me, so it [the shooting and killing of the rapist] was the right thing to do."

The second rape involved a young woman being raped by her cousin. The woman returned home after it happened and told her stepmother, who probed her for details and then called the clan elders to decide what to do. The woman explained that the elders "sentenced" her cousin to buy a goat that would be used in a cleansing ritual. This included both of them being smeared with fecal material from the goat's intestines and then being lectured on the perils of incest by one of the elders. "It was a fitting punishment," the woman said, "because he was a relative." She further explained: "It was the right punishment because that is what the elders decided. Also if it [the rape] is cleansed by the blood of the goat then it can never happen again." Importantly, the lecture from the elders assured her that she would not be re-victimized despite living in close proximity to her cousin. The goat's blood, the elders had explained, is only potent to cleanse the polluting spirits once. She knew that her cousin's behavior would be inhibited by fear of certain contamination if he ever repeated the act of forced incest.

Clearly, the circumstances of the two rapes were different, so different response by the victim to what happened to the perpetrator of each is perhaps not surprising. But the extent of difference – death on one hand, paying for a goat and going through a cleansing ritual on the other – was extreme. In both instances, the woman felt the response was appropriate.

What is most striking about these two cases, however, is that the narrator of both is the same woman.

And these responses tell us a great deal not just about this woman (whatever the complex mix of cultural, economic and personal social influences affecting those responses), and also not just about rape and its aftermath in Acholi. Indeed, we learn something central about Acholi perceptions and practices concerning wrongdoing and justice in general, which in turn inform the central argument of this thesis.

Both rapes took place in the woman's early teenage years. In the rapes' aftermath, one man was shot within minutes of raping her and the other was ritually cleansed (along with the woman). In both situations she felt that the responses to her rape were appropriate. For relationship, more than the act, shapes notions of appropriate punishment. Summary execution of one rapist and the ritual cleansing and forgiveness of another is governed by the same principle. That principle is the supreme value of social harmony.

Social harmony as used in this thesis refers to a highly valued ideal in Acholi society. It denotes a state of normal relations among the living and the dead, linked to an idea of cosmological equilibrium and a social balance of power and moral order.² As with any social or cultural ideal, such a balanced equilibrium is something to be strived for, but is difficult to achieve and even harder to maintain. In this sense it is an aspect of the Acholi concept of *piny maber*, or "good surroundings," which Finnström contrasts with *piny marac* ("bad surroundings") of the northern Uganda war,³ and which Okot p'Bitek depicts as "when things are normal, the society thriving, facing and overcoming crises."⁴

² Hook *et al.* (2009).

³ Finnström (2008), the main title of which is *Living with Bad Surroundings*.

⁴ p'Bitek (1986), p. 27.

One important reality that impacts the pursuit of social harmony is that in many ways, Acholi has been – and remains – on the periphery of Uganda, geographically and otherwise located far from the centers of central government administration and political and economic power. On this periphery, neither justice nor social harmony is safeguarded by an efficient formal judicial system possessing moral authority. In Acholi, therefore, the pursuit of social harmony (and secondarily, justice) can be manifested as mob violence, organized revenge, collective killing or summary execution. In other cases, response focuses on cleansing the parties and/or location involved in the crime, or forgiveness related to Christian theological notions. Cleansing and/or forgiveness, moreover, does not necessarily preclude punishment. Punishment might well be considered to be deserved, but is typically a secondary goal pursued only if it can be achieved with an acceptable level of disruption to social harmony.

This Northern Ugandan case study investigates the interplay between justice and notions of rape in the Acholi sub-region at the intersection of local, national and international forces in the aftermath of rape by both combatants and civilians. It focuses on Acholi women from two villages in northern Uganda and the moral community within which they are embedded, offering interpretations of what happens after rape in order to reflect on responses to wrongdoing more generally. I have used a triangulated method, discussed below, combining data from nearly 200 in-depth interviews and three years of participant observation.

The analysis of these interrelated phenomena is situated within two vast overlapping literatures and areas of concern amongst scholars and practitioners: (i) crime or wrongdoing and justice, and (ii) sexual violence and rape, especially in the context of war. The thesis contributes to each by providing a detailed portrait of the point where they intersect in the context of Acholi in northern Uganda. Both of these areas of concern are discussed more fully in the next chapter; however a brief comment on each is useful here to understand the backdrop of the thesis' topics of inquiry, the methods used, and an outline of findings.

The phenomena of wrongdoing/crime and justice have been explored for centuries as human beings grapple with how to respond to the terrible things that we do to each other, as well as how to understand the meaning(s) of justice, the theoretical approaches to it and normative arguments about what it should be. Included in this discourse is a relatively new graft on this ancient tree, a more discreet arena labeled “transitional justice,” justice that is part of a transition from a time of authoritarian rule to one of greater democracy, or from war to peace.

The second major topic of the thesis is sexual violence and rape, especially in the context of war. This could be understood as examining two different continuums. The first is a continuum of violence against women before, during and after conflict, including cultural and social understandings of gender and normal relationships between men and women. The second is related to how rape is defined along a continuum of levels of force or coercion involved in sexual experiences, which includes attempting to understand exactly what is meant by rape, what explains it and where the line between acceptable and illicit sex is drawn.

These two areas of enquiry, of course, can only be understood in contexts and through lived experiences. For the present study, the most immediate of these contexts are the northern Uganda war, displacement and return in Acholi, all of which greatly affect the dynamics examined in this study. It is impossible to know the precise extent of the impact, including how many of the rapes considered in this study would have taken place if the Acholi had enjoyed a similar peace over the past decades, as did the rest of the country. Similarly, the majority of responses to sexual violence examined in the thesis have taken place during or in the immediate aftermath of the war, often in a space created between formal institutions of justice which lack moral authority and local solutions that have been weakened or warped yet remain a prominent part of people’s daily lives. The following discussion of the war seeks to fill in an underappreciated part of Acholi

lived reality by interpreting otherwise apparent – and perplexing – contradictions in Acholi attitudes about justice.

THE NORTHERN UGANDA WAR & ACHOLI REALITIES

The violence that has taken place in northern Uganda since 1986 defies simplistic explanations, though many observers have offered them. It is a challenge to provide a brief history that also conveys a distinctly complex reality. In preparation for this attempt, I asked some of my Acholi friends what they thought were the really important things that people should know in order to understand their lives. Their answers, unexpectedly, did not include mention of war, violence or displacement. Instead they emphasized four things: “First, the way we live. Second, what we eat. Third, how we marry. And last, what makes us Acholi: the story of Labongo and Gipir.” This brief aphorism provides an insightful microcosm of the important orderings of Acholi life, and much of what follows in the subsequent chapters elaborates this. But even to grasp these few mentioned things, some understanding of the war and its disruptive effects is needed.

A series of political changes, military intrigue and armed rebellions followed Idi Amin’s overthrow in Uganda in 1979. Political loyalty and violent reprisal tended to follow regional lines. Since President Museveni and the National Resistance Army/Movement (NRA/M) took power after a five-year guerrilla war in 1986, most of the country has been increasingly secure and economically stable. However, almost immediately after coming to power, the new NRM government launched a military campaign to stamp out expected opposition in the north, the home region of all previous rulers in post-colonial Uganda. It had the opposite effect, sparking a number of armed rebellions and fuelling grievances, especially among former fighters in the previous national army. The Lord’s Resistance Army is the most enduring and devastating of these armed rebellions. LRA violence coupled with the government’s policies and response have entrenched regional social, economic and political division.

The conflict raged for years with relatively little international attention. The consequences of the war are manifold, one of the most devastating of which was the massive displacement of the majority of the Acholi population into squalid, disease ridden internally displaced persons' camps.⁵ At the peak of conflict it was estimated that there were 1.6 million people who were displaced (many forcibly).⁶ The conditions were appalling. There were devastating fires in the dry season, flooding in the wet season, a total lack of protection from LRA violence, and shocking crude mortality rates.⁷ All of this prompted some to call the policy of "protected villages" genocide.⁸ Although most observers were either less extreme in their views or perhaps questioned the usefulness of applying the genocide label, the fact that so many thousands of people suffered for decades in conditions that far surpassed emergency thresholds generated extensive comment and frequent criticism.⁹ In 2004 the situation prompted Jan Egeland, the UN's chief humanitarian officer, to call the situation "the biggest neglected humanitarian emergency in the world."¹⁰ Chris Dolan described the policies of the Ugandan government in general during the war, and the policy of forced encampment in particular, as constituting "social torture."¹¹ Adam Branch argues against "impunity" for humanitarian interventions that he contends were essential to

⁵ WHO (2005); Acholi Religious Leaders Peace Initiative (ARLPI) (2001), p. 7.

⁶ Numbers for displaced varied, but UN OCHA (2006) numbered IDPs in northern Uganda that year as just below 1.7 million, with nearly a million of these in the Acholi sub-region (over 90% of the population), with displacement in bordering areas of Lango, Teso and Madi as well. Similarly, the numbers of estimated abducted children/people have been diverse depending on the method and criteria applied to "abduction." Sometimes only those who were abducted and then held for two weeks were counted, others if they were held over 6 months. By 2005, nearly 27,000 children and adults had passed through reception centres for formerly abducted people – see Allen and Schomerus (2005), p. 40. This number, however, does not consider those who were dead or missing, those still in the LRA, or those who returned but never passed through a reception center. A Berkeley-Tulane survey (2006) estimated that as of April that year the LRA had abducted between 24,000 and 38,000 children and between 28,000 and 37,000 adults.

⁷ See for example the report by Human Rights Focus (HURIFO) (2002).

⁸ Otunnu, (2006, 2005); Obote (1990); Whitmore (2010).

⁹ Weeks (2003); Mukwana and Ridderbos (2009).

¹⁰ Egeland's comments have been reported widely – see, for example, *The Guardian* (U.K.), "Northern Uganda 'world's biggest neglected crisis'" (22 Oct 2004).

¹¹ Dolan (2009).

maintaining the camps and Ugandan government anti-civilian policies in the region.¹²

Two features of the conflict that have received much scholarly and popular attention are the abduction by the LRA of thousands of young people and the phenomenon of “night-commuting,” young people leaving their homes, or more often the camps, to sleep wherever they could in the relative security of towns.¹³ Many other camp residents spent hundreds of nights hiding in fields or the bush attempting to avoid death or capture, primary school students risked death or abduction on walks to or from school, and the abundant and often rich land north of the Nile was left abandoned while displaced people waited on handouts from World Food Program.

In July 2005 the International Criminal Court (ICC) issued its first public warrants, targeting five of the top LRA commanders and thrusting Uganda into the center of justice debates. One year later, in July 2006, peace talks officially began in Juba, between the LRA and the Government of Uganda, mediated by the South Sudanese. As part of the negotiations an agreement was eventually reached between the two delegations on accountability and reconciliation, commonly referred to as “Agenda Item Three,” although it left outstanding the critical issue of the fate of those wanted by the ICC. By April 2008, the negotiating teams reached a final peace agreement. However, LRA-leader Joseph Kony twice failed to sign it when scheduled – first in April, then in November of the same year.¹⁴ Consequently, neither did President Museveni, and although the government

¹² Branch (2011, 2008b).

¹³ Many have written about the experiences of abduction and child soldiers, see for example Eichstaedt (2009); Dunson 2008, among others.

¹⁴ The Final Peace Agreement (as a series of separate documents) can be accessed at the U.S. Department of State (at <http://northernuganda.usvpp.gov/downloads.html>). For discussions of the peace talks, see Schomerus (2012); Atkinson (2010a).

affirmed its commitment to uphold its side of the agreement there has been limited follow-through over the years since.¹⁵

The agreements which were reached comprised some impressively comprehensive components, which if fully implemented would have gone a long way towards addressing grievances shared by many northern Ugandans. The absence of signatures on the agreement created an atmosphere of uncertainty and frustration. It impacted greatly on families' decision about whether to leave the camps and move back (or at least closer) to their customary land, and for some years after, most people chose to keep at least one foot in a main or satellite camp.¹⁶

In December 2008, the Ugandan army – with US planning, logistical, and financial support, and mostly token military cooperation from the Democratic Republic of the Congo (DRC), Central African Republic (CAR) and South Sudanese – launched a botched military operation against the LRA, then mostly located in the DRC. The initiative, called Operation Lightning Thunder, failed to achieve its stated objectives to destroy the LRA military capabilities or capture or kill their leaders. Instead, a resurgence of LRA attacks against civilians ensued, displacing over a hundred thousand people in the first few months, with around a thousand killed and hundreds more abducted, mostly in the DRC. Since then, the LRA has continued

¹⁵ Many Acholi have interpreted the government's failure to fulfill many of its commitments made in Juba as yet more evidence of President Museveni's untrustworthiness. For example, in February 2013 the Acholi Parliamentary Group held a widely publicized community meeting in a crowded Pece Stadium in Gulu to discuss a proposal to create a new country, "the Nile Republic" out of the territory north of Karuma. The main driving factor behind this patently unrealistic idea was the limited implementation for years of a highly touted Peace Recovery and Development Plan (PRDP) for war-affected areas (and more recently the embezzlement of vast sums from the plan). Nothing had materialized from this at the time of writing, but the anger and continued feeling of grievance was palpable. For a report on the PRDP see Refugee Law Project (2008), "Is the PRDP Politics as Usual?"; access at www.refugeelawproject.org, where the PRDP document itself can also be found. For a recent official report documenting massive fraud and diversion of PRDP funds, see the Auditor General's report, Muwanga (2012).

¹⁶ UN Office for the Coordination of Humanitarian Affairs (OCHA) (2007), p. 2. Others were not given a choice -- see "IDP camps close in December," *The New Vision* (30 October 2006); "IDPs given until December 31 to leave the camps," *Daily Monitor* (31 October 2006).

activity in DRC, CAR and to a lesser extent in South Sudan, though attacks have gradually declined and the Ugandan border has been secure.¹⁷

Meanwhile, the Ugandan government has initiated some reconstruction programs in Acholi, but not without delays and suspected – eventually confirmed – massive corruption. And although the government, as agreed to in Juba, established an International Crimes Division of the High Court, the Court’s first case involving a former LRA commander, Thomas Kwoyelo, has had a troubled outcome up to the present. The Court’s rulings have been repeatedly thwarted or ignored by other governmental institutions. After ruling the case unconstitutional due to the arbitrary way in which Kwoyelo was denied amnesty, he has not at the time of writing been released, and an appeal made to the Supreme Court has yet to be heard because it lacks a sufficient numbers of judges, which the President is meant to appoint.¹⁸ All of this raises serious questions about existing law on amnesty, the Court’s status and constitutionality, and the independence of the judiciary and other justice actors.

Many interpretations of the conflict have been offered, including on its roots and why it endured so long.¹⁹ Some have analyzed the LRA’s brutal tactics.²⁰ Others have stressed the group’s spiritual aspects, some with insightful analysis on the role of cosmology and others as a way of interpreting the LRA’s violence as due to Joseph Kony being a fanatical madman – evil and defying all rationale.²¹ Still others have highlighted the very real grievances of northern Uganda, the existence of an

¹⁷ See Westbrook (2000); HRW (2009, 2010); ICG (2010, 2011); Atkinson (2009, 2010b).

¹⁸ The Justice and Reconciliation Project blog reported on many of the developments in the course of Kwoyelo’s trial. See in particular Wegner, “The Kwoyelo trial: A final round up.” (13 February, 2012). The current status is also based off of personal communication with staff from UNOHCHR January 2013.

¹⁹ See Dolan (2005); For a personal account of previous peace attempts from religious leaders see Rodriguez Soto (2009).

²⁰ Vinci (2005, 2006, 2007).

²¹ As an example of the former, see Titeca (2010); Jackson (2009); See also Green, whose title suggests it will be an example of the latter though he does provide some background that is more nuanced (2008).

LRA political agenda (however poorly articulated and undermined by LRA actions), and even, at least up to a point, the logical and strategic function of the violence.²²

A particularly vivid example of the broader resonance of the LRA political agenda was evident in the local responses to the LRA community consultations during the peace talks, one of which I attended in 2007. Community members expressed their grievances toward the LRA for the violence that they had inflicted, but also their affinity with the political platform that the LRA delegates were then putting forward. The meeting itself resembled opposition political-party rallies I have attended more than it did a consultation about accountability for crimes committed during the conflict.²³ An important contribution to understanding this response has been Sverker Finnström's work with young people in Acholi, which shows that many feel cut off, and cast aside from the larger Uganda.²⁴

Three important aspects of the above discussion are of direct, if not necessarily obvious, relevance to this thesis. The first is the ways that the war and forced displacement contributed to both the perceived and actual peripheral status of Acholi, and the resulting distrust on the part of many Acholis of the central government. This is related to concepts of public authority and how various groups in Acholi, both during the war and after, have sought to assert (or reassert) authority. This process impacts greatly on one of the major themes of the thesis, i.e., moral jurisdiction and the possible contribution of any action in the name of "justice" to social harmony. The second is about notions of wrongdoing and appropriate remedy. The concept of wrongdoing as impurity to be cleansed has played an evident role in LRA tactics. It has, as well, been an important part of the reintegration efforts of those who have returned. Third are the socio-cultural effects of violence and displacement, particularly with respect to rape and what happens after.

²² See for example Dunn (2004); Finnström (2008, 2010).

²³ Journal notes, 28 November 2007.

²⁴ Finnström (2008), pp. 116-17.

At the same time, however, as the following pages will make clear, rape and its aftermath in Acholi are about more than war and displacement, however destructive and distorting their effects on Acholi culture and society, as well as many individual Acholis.

THE RESEARCH PROJECT

The specific focus of this thesis on rape and its aftermath in Acholi, is intended first of all to explore this sensitive and serious but little discussed issue, but also to show how it illustrates Acholi responses to wrongdoing more generally.

Rape is a problematic category imbued with legal meaning yet with varying social interpretations. Despite its ambiguity, most definitions of rape, broadly speaking, include fundamental aspects of forced or coercive sexual intercourse.²⁵ Evidence from women in Acholi who have been raped demonstrates the importance of social harmony in Acholi culture as well as general distrust of formal legal institutions to enact justice in the women's interest. Interpretations of their experiences are based on six years of living in northern Uganda, nearly 200 individual interviews with a random sample of the population of women in two Acholi villages conducted between 2009 and 2011, and general ethnographic data collected over the same period.

As discussed more fully below, all interviews explored general topics such as courtship, love and marriage in Acholi; the women's sense of control in their lives; injustices they had experienced; who they would trust to help them deal with such injustices; and then more specific questions about forced or violent sex. Seventy-six of the women interviewed shared having been raped, some multiple times and by different people. More in-depth interviews and participant observation was

²⁵ The legal notions and literature on rape, as well as how rape is defined for the purposes of this study, are discussed below in Chapter 2; Acholi social interpretations of rape are discussed in detail in Chapters 5 and 6.

conducted with these women. Rape victims included those raped by combatants, and others raped by relatives, strangers, acquaintances or partners.

Unlike most debate regarding responses to wrongdoing or crime, which focuses on which justice mechanism to deal with the offense (especially when committed in the context of war), this study takes as its starting point the individual women who were the victims – and survivors – of the wrongdoing, acknowledging that each has her own subjective experience. This explicit acknowledgment of each woman's unique experience and response to sexual violence, I am convinced, helped to encourage women to talk about what happened even if they had never told anyone before. The analysis that follows of these women's experiences consciously sets aside polemic debates that are thin on empirical evidence and driven by externally generated advocacy agendas or local/national politics. Instead, I want to suggest that rape as a particular crime in the particular context of Acholi, and what happens after, is a product of the dynamics in the space between local solutions and formal judicial systems. The various responses to rape in this justice gap, I argue, are illustrative of responses to crime or wrongdoing more generally and are consistent in expressing the supreme value of social harmony.

LIFE AND PARTICIPANT REFLECTION IN NORTHERN UGANDA

Before discussing specifics of the methodology employed during the research for this thesis, it is important to describe the crucial setting within which those specifics have been shaped and applied, namely living in northern Uganda – taking part in the everyday occurrences in the cycles of life, first in IDP camps and then life in homesteads; learning Acholi language; and making a deliberate choice not to focus inquiry into the experiences of war alone, but rather seeking a more holistic narrative of people's lived continuums of war and peace, of violence and struggles for balance.

I first moved to northern Uganda in September of 2005 to work with the Concerned Parent' Association (CPA), an organization initiated by the parents of

139 secondary students who were abducted from a girls school in Aboke in 1996. The CPA's overarching goal was to advocate for a peaceful resolution to the conflict and the release of all abducted children. I worked with the association for three years before I started pursuing a PhD at the LSE. I recall the moment when we officially entered the "North" of Uganda, crossing the bridge over the Nile at Karuma Falls. We bumped along in the truck with our few suitcases behind, as an announcement in Acholi was broadcast on the radio. The driver of the CPA vehicle shook his head and then translated for us: Kony and the LRA were going to target westerners as retaliation for the ICC issuing warrants for their arrest. He then laughed and exclaimed heartily, "Welcome to northern Uganda."

That first year felt like one long summer. I had not yet tuned into the rhythms of life here and how they were connected to the passage of seasons. I had not yet lived through the dry and wet seasons, the planting, weeding, harvesting and drying. I did not know about the dread of hunger that would follow an unexpected rain while the sesame was hung for drying, or conversely the relief of an answered prayer for a good rain right before harvesting groundnuts so that they could be pulled rather than painstakingly dug out of the ground. I began to notice things, like more men seemed drunk in December while women were busy brewing the strong alcohol the men drank. But I was yet to integrate these observations with how the seasons were connected to the various expected duties of men and women, or were reflected in their social and ecological ordering of life.²⁶ This rhythm of life was all unfamiliar, but my co-workers, friends and informants have taught me to listen to its subtleties and recognize its themes. The reality is, those first years, when people still lived in camps, all of these connections between work, weather, land and relationships had been disrupted. It was impossible then, to fathom just how profound the interruption was until several years later, when gradually these connections were revived as people were released from the "social

²⁶ Evans-Pritchard (1940), pp. 95-138.

torture”²⁷ of camp life and displacement and began to build and re-build homesteads.

Now, when I walk through the village on the outskirts of Gulu where I live or drive to the second of my two research sites, I can recognize what is meant to go together. It is February as I write this so the hunters of bush rat are commonplace; the fires are no reason for alarm, but are controlled and help the hunters as well as prepare the ground for the next planting season; people are carrying dry grass for their roofs; and my neighbors are building pyramids of clay bricks to fire. All of these are signatures of construction, re-construction or new construction. It is a sign of the season, the time of year for the re-tying of that, which had been severed during life in the camp or in the bush. Many – perhaps most – people do not want to talk about the war anymore, and seem in their conversations to almost beg you to pay attention to anything else, or everything else, about them. Of course, anything and everything else are now inextricably intertwined with decades of violence and the many shapes it took, domestic and political, physical and structural.

Another radio announcement stands out in my memory as a seminal moment. I was working in Kitgum in June of 2006 when the cessation of hostilities agreement was signed between the Government of Uganda and the LRA.²⁸ The air was electrified by the news. People were jubilant. In the streets people waived white flags and dread-locked fighters greeted people with smiles and lowered weapons on their way to agreed assembly points in South Sudan. The hope was palpable. For nearly the next two years, hope ebbed and flowed, mirroring the ups and downs of the complex and contentious negotiations in Juba. Then on April 10 2008, there was another moment listening to the radio with Acholi friends. We

²⁷ Dolan (2009).

²⁸ *Associated Press*, “Ugandan rebels say war is over after 19 years” (28 August 2006); *The New Vision*, “UPDF/ LRA truce starts” (29 August 2006); *The New Vision*, “North celebrates LRA truce” (31 August 2006).

were lounging on the shores of Lake Victoria where we were taking a brief hiatus from work. It was the second, of several times that Kony was due to sign the final agreement. We listened expectantly, but nothing was reported. In this case, no news was bad news. Later, there were rumors that he failed to sign because of a bad bout of diarrhea, but we all suspected the reasons were more serious.²⁹ “Oh, Uncle Kony,” one of my friends said with evident disappointment. We continued listening to the radio, but it felt like silence. Hope diminished.³⁰

In September 2009 I returned to northern Uganda after a year away to live in Gulu to conduct this research. The first few months back were dedicated to language learning, which remains an ongoing process. I had learned a fair amount of Luo during my time working with Concerned Parents, but I set about it in earnest upon return. A key part of this was spending every afternoon sitting in the homestead of some of my key informants, who have become my family away from family. The father of the house loves to read. He and his wife and their many daughters have been my faithful teachers of language and life. We read *Rupiny*, the local weekly newspaper in Luo together every Wednesday. We listened to Luo radio and he would explain things to me when I didn’t understand, or launch into a story alternating between history and the current village goings on. We read every book written in Acholi Luo we could find in the scarcely stocked book stores, and spent long afternoons exploring the connotations of a fable or a proverb, elaborating all the situations when its utterance might be appropriate.

Though I still bumble my way through conversations and have worked with a translator in some parts of the research, language was integral to this study, as a window into ways of thinking, conceptual translation, building relationships with my informants and enabling a depth to the interpretation of their experiences that I could not have if I had operated solely in English with a translator.

²⁹ For an excellent and detailed analysis of the reasons for the failure of the Juba Peace talks see Schomerus (2012).

³⁰ Journal entry, 11 April 2008.

Living here, really being here, has given this work its shape and set it on the firm empirical foundation of ethnographic fieldwork.³¹ The stories of rape and what happens afterward occur within an Acholi rhythm of life, in which I engage. Being part of the ordinary lives of my informants, my neighbors and friends lies at the very heart of my questions and how I move toward answers. Sometimes, after hours sitting, without words, shelling groundnuts on a papyrus mat under a mango tree, something directly related to understanding the phenomena of rape and justice in Acholi would present itself. Other times the hours would pass and the relevance was less obvious. But it is these everyday experiences, sharing domestic tasks, caring for children, the growing and production of food, the interactions with neighbors and in-laws observed and discussed – all these put the objects of rape and justice in their place. It is in these everyday moments that they are made meaningful.

To be clear, when I talk of a shared experience, I mean one that we experienced together and yet, not in the same way. Put in more anthropological language, what I mean by shared experience is that I engaged in “interexperience;” I explicitly do not claim that the empathy that I feel for my informants has in any way qualified me to talk as if I “relived the experiences of the human beings who were being studied.”³² Rather, this fieldwork, and the intersubjective encounters that it has involved allow me to hear stories of rape and not just hear a tragic event, which happened to a stranger, but to hear it as a part of this rhythm of life that I participate in and observe. It allows for an existential interpretation of the phenomena of justice and rape in the context of Acholi.³³

³¹ See O’Reilly (2005); Pollner and Emerson (2001).

³² Matthews (2002), p. 39.

³³ Several works also worth noting here, which inform the ontological underpinnings of my enquiry and my orientation to epistemology: Brockelman (1980); Ricoeur (1994). Freire (1970); Merleau-Ponty (1962).

I am a foreigner. An American foreigner, and the tone of my skin immediately identifies me as such and inspires children and sometimes even adults to proclaim “*munu*” (or white person) when I pass. This aspect of me superficially and immediately lumps me into the categories of others who share a similar appearance: NGO workers (of which I was one for the first three years), journalists, missionaries, students, and even – more recently – Chinese road constructors.³⁴ This comes with varying sets of assumptions in first encounters that can only partially be deconstructed for most. For children this often means that I am supposed to have a proverbial pocket-full of sweets to distribute; for adults, it means that perhaps I am interested in the war to the exclusion of other things. As much as I endeavor to think my way into another way of being, as greatly as I value solidarity, and however long I may stay, there are things that will always set me apart, not least of which are massive differences of power and access between my informants and me.³⁵

I remember a conversation I had with an Acholi friend when I had lived in northern Uganda almost three years. I was still working for Concerned Parents but I had been accepted into the PhD program at LSE and was preparing to go to London for the first year of that course. He asked me, matter-of-factly, “Do you want to help the community? Or do you want to be part of it?” I could not say that I saw these two things as mutually exclusive (indeed, to me, they appear linked), nor was either of them necessarily a main goal. But if I had to choose one, I said, then I would choose to be a part of it. “Well then, there are three things that you need to do,” he paused to make sure I was appropriately attentive and then enumerated them for me: “one, always give good greetings; two, get land and live on it; and three, have children.” There is something profound in this short list, providing a brief and

³⁴ For the first time this year, 2013, children greeted me in Lacor Trading Centre along the main road from Gulu to Juba in South Sudan with “*nee how*,” rather than the usual “*ciao*.” It struck me as a signal of the changing influence from the longstanding Italian Catholic missions to newly arrived Chinese highway builders.

immediate insight into what most Acholi find significant: social harmony; access to land and the rhythms of life connected to it; and expanding one's life force through cultivation and the production of children.³⁶ Although I have now fulfilled the latter two requirements and take great care to practice the former religiously, there are barriers to membership "in the community" which will always exist. The American author Annie Dillard once spent time living beside a creek. She had a simple aim: "to look well at it."³⁷ An aspect of anthropology, as I choose to practice it, is rather like this, and my aim is, to the extent that I am able, to look well at the place where I live.

Alone, this suggests a rather inactive posture, but another aspect of looking well at the place where I live is the dynamic of "participant observation," which I have alluded to above as sharing the experiences of ordinary life. This included many invaluable experiences. It was to sit around camp-fires with women who passed an old water bottle filled with home distilled alcohol made from cassava and taking shots out of the lid – shots small enough to count as "just tasting." "Mothers don't drink," I was told, "we only taste." After all, we had babies to nurse and might need to be awake during the night. Certainly, we would need to clean up after the men and children before sleeping. The women would laugh and offer another capful. In such settings, women would talk about their husbands, love and sex – often in jest, sometimes with allegories and sometimes with openness. It was also to spend nights sleeping in the same hut with the young women of the family, whispering long after the younger ones had fallen asleep about how the eldest feels about the boy who her parents separated her from until he could make the culturally expected payments to formalize their love.

An important element of this is intersubjective reflection. Finnström, in his insightful book that captures much of the complexity of the lived experience of

³⁶ On expanding life force see Magesa (1997).

³⁷ Dillard (1974), p. 108.

Acholis, talks about his style of participant observation, an approach that resonates with my own:

The Swedish anthropologist Kaj Arhem (1994) describes the data collection of anthropologists as “participant reflection” rather than “participant observation.” As anthropologists, we do our best to participate in the works, questions, joys, and sorrows of our informants’ everyday life. Then we take a few steps back, to be able to reflect upon what we have learnt and experienced, again to step forward and participate. This we do daily in the fieldworks encounter.³⁸

A vital thing to my informants, and so to me, was that I was not only interested in hearing about the war. Gulu, and Acholi more generally, has attracted a host of overseas students and researchers, especially since active conflict ended in 2006. Many of my Acholi friends and informants describe what typically happens when they interact with these overseas visitors. They meet someone who is white (usually) and they are asked about their experiences during the war. The person asking is uninterested in their earlier lives or what happened last week. The person leaves and they never know how their story is used, how the person interpreted it or will represent it to the outside world, or if there is any practical implications of what was learned that could or should impact their lives.³⁹

It was critical to me then, that I wrote from here and that communication toward intercultural understanding of the phenomena I study continued during this phase of “participant reflection.” Much of this thesis I wrote while pregnant with my second daughter, in the dry season, a laptop on my growing belly in my solar powered hut while my two-year old played with the neighbor children. My writing was punctuated with their squeals and my occasional intervention urging them not

³⁸ Finnström (2008), p. 19.

³⁹ A similar phenomenon happened during the war, when NGO workers (again, often white) would conduct project research, leave, and the local people who participated would never see the researchers or learn what was done with the research. For reflections on ethics of being an international engaged in similar studies, see Baines (2005).

to use unkind Acholi words when they spoke to each other and to share. During my writing breaks, over meals, and in the evening, I would sit with people around my house, or visit again some of the homes of women in the two villages where I worked, and ask them their opinions on my interpretations, catch up on the goings on of life, discuss Ugandan news, or reflect on some proverb or fable. This ongoing interaction with, and engagement of, my informants in my evolving ideas and expressions of them has, I hope (which many of them have affirmed), made this work reflective and honest, the most faithful interpretation as I could muster given the constraints of life and my own limits and skill. Recently, I gave my almost completed draft to an Acholi friend for her comments and her summary judgment on it was what I hope others in Acholi will think when they read it: “This is true. These are things we sometimes don’t talk about but we know are true.” Then she said, “I like what you write because you write the people into it.” This, for me, was the highest praise. It has not been my goal to be controversial in this thesis, though I know at least some people may find it so. This thesis presents that which may not be often discussed but is common knowledge among most people in Acholi, especially women.

Making the people who are at the heart of this study – Acholi women who have been raped – the starting point and focus of this research, rather than service providers or justice actors, I am able to include women who have never told anyone about what has happened to them or who never accessed services or justice actors. As the following pages make clear, this is the vast majority of women interviewed for this study who have experienced sexual violence.

RESEARCH METHODS

This is a multi-method study conducted between September 2009 and September 2011, though as described above, it is also shaped by living here before and after this “official” time of gathering data. The study has been carried out primarily in two villages in Acholi, one near Gulu town, the other more rural. These two locations were chosen because together they are characteristic of common

situations in Acholiland today. Their precise locations are not included to protect the identity of those who generously shared their stories with me, especially of my key informants.

In addition to the broader context of long-term participant observation, in-depth interviews were conducted with a random sample of women taken from population data on women aged sixteen and above in the two project villages. I had initially thought of conducting questionnaire-based survey research, but once underway the basic approach evolved into semi-structured, in-depth interviews, designed originally through a participatory method with a group of Acholi women from a non-research village. They were adamant that the best way to find out more about my areas of interest was to begin by asking broad questions that would allow women – if they chose – to narrate experiences of sexual violence and its aftermath in the context of other injustices and life experiences.

The interviews generated a wealth of information and insight. Eight key informants in the project's two primary communities were identified during early interviews (though others emerged through interaction and relationships over the course of research, so when I refer to a "key informant" it does not necessarily refer to one of these eight).⁴⁰ During the next years of participant observation I spent considerable time with these women and their families, on a frequent and regular basis.⁴¹ Triangulation of methods has enabled the comparison of the interview data with the more nuanced exploration of themes in participant observation. The study consists of four main parts:

⁴⁰ I am intentionally, not very precise in citing my key informants. This is a recognized detriment to the presentation of my evidence; however, it is a necessary one to protect their identities. Readers familiar with the places and people where this study took place could readily pinpoint too many quotations and stories, especially when put together. I was in the process of reconsidering how to reference, perhaps giving pseudonyms to the women so that their comments could be traced through the thesis, when one person, whom I believed to be completely unrelated to all my informants, was reading a draft and easily recognized the identity of one of the women. For this reason, I have chosen to utilize intentionally vague references and in some places to change identifying features.

⁴¹ For more on this type of ethnographic approach see Clifford and Marcus (1986).

The first part consists of a situational analysis, including reviewing of Magistrates' transcripts, plus district Gender Based Violence (GBV) working group activities, documents and data. This included observing cases of defilement and rape in the Magistrate's and High Court respectively. Initially, I had intended to specifically observe cases that went to court from the villages where I conducted research. However, none of the cases in these villages reached that level, so in order to observe cases at all, it was necessary to attend those originating from other places. Over the years I have also attended monthly GBV meetings in Gulu, which consist of NGOs, police and government probation and social welfare officers. I also interviewed key people representing each of these bodies, both at the district level and in the villages where research was conducted.

The second part of the study was 187 in-depth, semi-structured interviews with a random sample of women in two project villages on their experience with rape -- either directly or what they knew or had heard of with others -- and other injustices, their perceptions of love and consent, and their control of their lives and bodies.⁴² Population data were available through a census conducted on village level the year before, and the accuracy of the population data were spot-checked before the sample was taken.⁴³ The interviews identified the prevalence of different categories of rape, whether it was reported and to whom, what action was taken if any, and the outcome.⁴⁴ Women who shared being raped also discussed what they thought should have happened in the aftermath, including

⁴² Initially, the research intended to sample only those over 18, legally recognized as women. However, after reviewing the population data in census books of the villages that included ages and marital statuses it was clear that many girls of sixteen were "women" in the social sense. Many were listed as having children, being married or even being divorced or widowed before the age of eighteen. Although there are girls who are married even younger, it is rarer, and would have included what I deemed to be too great a number of children that would have led to ethical considerations where I felt the risk outweighed the benefit.

⁴³ The census data had been collected by hand by village-level officials called Local Councillor Is (LC I), which had not yet been given to the sub-counties for collation and forwarding. I manually went through the stacks of awkwardly long books, which detailed not just the population of women and their ages, but included such information as how many goats the household had and what they had planted in their field the year before.

⁴⁴ Koss (1993).

what they thought should have been done to the perpetrator and what should have been done for them. They were asked about who they trusted most to talk to about such issues and what helped them most to recover.

As noted above, the semi-structured interview format was designed through a participatory method with Acholi women who were not part of the main research and not from the two villages of the research site.⁴⁵ All of the interviews were conducted in Acholi with English translation for me by my research assistant to ensure accuracy and were transcribed in English. Language has been integral to this study. Although I began the study with a basic knowledge of Acholi and it has developed throughout, for the sake of accuracy having an interpreter for these interviews was essential. My language skills were advanced enough to follow most of the Acholi while women responded and pick up on nuances in their answers. This was particularly useful in understanding the different notions that were evident in the way that women put words to forceful sexual experience.

The third part of the study can be understood as participant observation/reflection, particularly with women identified during interviews to continue interacting on a more frequent and intense level as key informants over the course of research. I have spent time getting to know them, their villages, their families and their social situations, including their interaction with maternal and paternal kin and in-laws. This has included special attention to the interactions and relationships that they have with prominent men in their lives. Key informants were selected in part to explore in greater depth different themes that emerged from the interviews. This included those who were raped by different categories of men, ordinary citizen or a combatant in the war (LRA or member of the Uganda military). It also included those who never reported the rape to anyone as well as those who sought some form of redress. I also selected several of them who had been raped more than once by different people with different types of responses and feelings about it.

⁴⁵ For more on participatory methods, particularly from a feminist perspective, see de Ishtar (2005).

The fourth and final part of the research consisted of discussions with men. Although these often greatly resembled semi-structured interviews or focus group discussions, they were informal, which allowed for open communication and less inhibition than would likely have been the case in a more formal setting. Throughout the time of participant observation in the specific villages that were research sites, as well as with other Acholi men I interacted with living in Gulu, I have had discussions individually and in groups with men about their conceptions of love and sexuality, and consent and forced sex, which complement the data gathered with women. These men have included community leaders such as elders, pastors, priests, local counselors, different types of *rwodi* or chiefs and their committees, as well as the men who I came in contact with through the women in the study – their husbands, sons, brothers and friends.

SUMMARY OF FINDINGS AND AN OUTLINE OF THE THESIS

Of the 187 women that were interviewed, 76 had been raped. Some women had been raped in more than one situation, which meant that among those 76 they had experienced in total 94 “situations” of rape.

In the more remote village, 44 of the 97 women interviewed (45%) had been raped at least once, and these 44 women had experienced a total of 54 situations of rape. In the suburban village near Gulu, 32 out of 90 women interviewed had been raped (35%), and they had experienced 40 situations of rape.⁴⁶

The exact timing of the reported rapes was sometimes difficult to categorize, especially when women were elderly (even with typical methods of identifying other events or periods which might have happened around the same time), or when the situations occurred over a length of time that spanned categorization. However, it is important to note that with the exception of a few situations of rape that clearly occurred during the youth of elderly respondents and some very recent

⁴⁶ This quantified data do not claim to be representative of Acholi women generally, rather only of the population of women over 16 in the two villages in the study.

experiences, the majority of these rapes took place within the context of the northern Ugandan conflict, though civilians as well as combatants perpetrated them.

This study looks at rape, but intentionally focuses on what happens afterward. In interviews, all 187 women were asked whom they would go to if they experienced the kind of violence we had been discussing (forced sex). The 76 of these women who acknowledged having actually been raped (in 94 different “situations” of rape) shared what actually took place after these different situations. Among other things, we discussed who they chose to tell, if anyone, and what the outcomes were. Perhaps not surprisingly, what women actually did after sexual violence, and what they said they would do, was drastically different.

Women who had been raped talked about how they felt about what happened afterward, both for them and for the man, and how this compared with their own wishes. Their stated orientation in the aftermath of rape toward punishment that would fit the crime and what actually happened rarely coincided.

A major objective of this thesis is to provide a portrait of rape and its aftermath in the specific context of Acholi in northern Uganda that is much more complex than a cursory consideration of the numbers above. What is meant by rape in Acholi? How does this evidence compare with data from other sources? How should we interpret the massive discrepancy between what women said they would do if they experienced sexual violence and what those who were raped actually did?

The findings of this thesis thus go beyond the numerical and descriptive data by themselves, but are an exploration of what these numbers and labels actually mean. The thesis explores the phenomena of justice and rape in the lived realities of Acholi, and the implication of these findings for theory and practice surrounding rape and sexual violence, justice and post-war justice, in Acholi and beyond.

In the Acholi sub-region of Uganda, historically and geographically peripheral since the colonial era, there is a peculiar manifestation of what appear to be

contradictory phenomena: brutally violent retribution and extraordinary forgiveness. I suggest that both responses to wrongdoing are motivated by the same supremely important value of social harmony. The thesis examines what justice means for Acholi women in the vacuum of justice created by the decayed state of former local methods of responding to wrongdoing and the still inadequate role and legitimacy of Uganda's judicial system and the International Criminal Court. The research indicates that notions of appropriate punishment are oriented by the understanding of the act itself and the degree to which the perpetrator is seen as important to future social harmony. The various responses to rape are a product of dynamics in this justice gap, and, I suggest, are illustrative of responses to crime or wrongdoing more generally. The thesis illustrates the centrality of two integral aspects of lived Acholi reality: *There is a profound value of social harmony, and a deep distrust of higher authorities to dispense justice in their interest.* Women's experiences after rape in this study underscore the importance of an arbiter of justice that has earned moral jurisdiction, or moral authority, on a local level. When authority is recognized and trusted, parties typically accept the judgments of such authority, which in turn help to repair and restore broken social harmony. However, without moral jurisdiction, outcomes of such processes are viewed with suspicion and usually exacerbate existing tensions.

In the next chapter I situate the thesis within the two literatures and broad areas of academic and practical concern: wrongdoing and justice, and rape and sexual violence. Each of these areas is vast, approached from different disciplinary perspectives, and the subjects of many volumes. The present thesis originates from the point where the two intersect. From that vantage point, it offers reflections that are relevant to scholars and practitioners within each. By engaging with these two areas, the chapter also provides necessary background to the rest of the thesis: on justice debates and the nature and meaning of rape.

Chapter 3, "The supremacy of social harmony in the space between local solutions and formal judicial systems," elaborates on the supremacy of social harmony

evident in the interpretation of women's experiences after rape that is a central theme throughout this thesis. It discusses what is meant by social harmony and conversely challenges to it, which is expressed in Acholi conceptions of wrongdoing, or *kiir* and *bal* – loosely, though somewhat incompletely, typically translated as taboo and crime respectively. In the aftermath of rape, there was evidence of a multiple notions of wrongdoing as impurity to be cleansed as well as a crime or wrongdoing to be punished. This chapter relates these to the orientation toward punishment expressed by women who had been raped. In this chapter, I suggest that the need for social harmony is not exclusive of, but typically trumps, the desire for punishment. Further, I suggest that the determination of whether or not punishment poses a challenge to social harmony is related to the position and moral jurisdiction of those who mete out the punishment. To illustrate this, the role of two community leaders, the “chief of the hoe” *rwot kweri*, and the village local counselor (LC I) are considered.

The fourth chapter, “Mango trees offices and altars,” discusses the roles of three prominent actors in the aftermath of rape: relatives, NGOs and churches. This chapter reflects on why so many women never access justice or take advantage of available services. To understand this, the chapter explores how different groups shape notions of rape and appropriate responses to it. It examines the part they have played in the aftermath of “ordinary” and war-related sexual crime and their impact on the context where justice processes take place. Evidence from this study suggests that NGOs and churches have had a profound impact on the evolution of social norms, but that reaction to crime or wrongdoing is still primarily decided within the social context of relatives and kinship authority. Many women have a growing understanding of their rights and desires for remedy when they are violated, but these continue to be subject to the primary value of social harmony. While NGOs and associations of religious leaders and anointed clan chiefs influence the path of justice processes, how and whether ordinary Acholis access and interact with these mechanisms is determined by decisions made in the contexts of

extended family structures, the relevant perceived moral authority of these groups, and the importance of social harmony.

To understand rape and the harm that it causes, it is necessary to examine the norms surrounding sex and love and their social meaning. Chapter 5, “Acholi Love: Sex and Social Belonging,” explores these issues and how they are tied to social belonging. The main observation of the chapter is that Acholi love cannot be understood if it is thought that it is between two people only. In the same way, it is impossible to understand rape amongst Acholis, either combatant or civilian perpetrated, if it is thought that it is just between two people. The dynamics described in this chapter show that the Acholi meanings of justice after rape require an expansion of understanding beyond binary parties: a victim and a perpetrator. Sex, with its continuum of coercion and exercise of control and power between partners may happen between two people, but even then notions about and the exercise of power is determined by the ever-changing social meaning of these phenomena. Love and sex are expressions and mediums of forging and maintaining social relations. The chapter examines Acholi understandings of the purpose of sex and how these notions are evolving, especially highlighting the metaphor of sex as food and the importance of sex for children and social belonging. It describes “traditional” and fluid ways of courtship, beginning a sexual and marriage relationship, marriage, sex outside of marriage and sexual education. Essentially, it shows how sex constitutes a bond upon which social harmony depends. Sex is central to the ordering of Acholi life, and disruption to sexual mores threatens social harmony. The concern in the aftermath of a disruption has less to do with a notion of retributive justice and much more to do with how to restore social harmony.

The sixth chapter, “Consent & rape: When does ‘no’ mean ‘no’?” elaborates the notions of consent and rape. It provides contextualization of the idea of consent as a fluid and changing concept amongst Acholis. First, it does this by considering the experiences of women in this study in comparison with a description by the noted

Acholi author and anthropologist, Okot p'Bitek of Acholi courtship and what he calls the "love fight."⁴⁷ It then examines the primary role of material exchanges between the clans of the boy/man and girl/woman in the form of bridewealth and other customary payments in distinguishing appropriate from inappropriate sex and how this understanding coexists and interacts with legal notions of consent. This shows that consent is not generally considered the key determinant of right and wrong in sexual relationships. However, the understanding of whether a woman has agreed to have sex or not is still an integral part of the interaction and negotiation between men and women and the final section looks in detail about the common methods of communicating consent and the implications for sexual violence and understanding rape. It relates these with how these meanings behind social and legal notions of licit and illicit sex have expressed themselves in the responses to forced sex in this study.

Chapter 7, "Comparing the aftermath of civilian and combatant rape," compares and contrasts rape and its aftermath under "ordinary" and war-related circumstances. Many scholars have noted the continuum of violence that women experience, before, during and after war. However, there is little discussion of the implications for transitional justice. This chapter suggests ways that the exceptional approach of transitional justice is related to the continuum of violence against women in the context of northern Uganda. In order to understand the role of justice in addressing gender-based injustices in a post-war context (even when the injustices occurred in the context of war), continuities between past and present and the relationship between "ordinary" and war crimes must be reflected upon. A close look at women's experiences of combatant-perpetrated and civilian-perpetrated rape and its aftermath is instructive. This chapter examines two sets of comparisons between combatant-perpetrated rape and civilian-perpetrated rape during the war. The first is the situation of "forced marriage." The Lord's Resistance Army is known for the practice of abduction. Many young women and

⁴⁷ p'Bitek (1964).

girls who were abducted had a man within the LRA designated for her to “marry” and then to act as his “wife.”⁴⁸ The relationships and experiences that women had with such “bush husbands” ranged from initial and continuing extraordinary violence, sexual and otherwise, to others who coped with the extreme coercive nature of the situation with some resignation to their fate. Some eventually developed a familiarity and, in rare cases, even fondness for the man.⁴⁹ However, the practice of abducting a wife is not an exclusive practice of the LRA. Indeed, it might be argued that this practice mirrors violence, which took place during raids by Arabic-speaking ivory and slave traders and wars between Acholi chiefdoms in the late 1800s.⁵⁰

Marriage by capture in a civilian context has a history not often discussed, amongst Acholis, and although it is less common or acceptable today, the prevalence suggested by this study suggests that it is still one of the ways in which “beginning a home” takes place, often with the collusion of the girls relatives and/or friends and the comparison between the two highlights insight into the social harm caused by crime depending on the circumstances under which it takes place.

The second comparison is of women who were raped by strangers – men who were completely unknown to them and with whom they did not interact or have any

⁴⁸ See for example Amnesty International (1997); Human Rights Watch (1997); Women’s Commission for Refugee Women and Children (2001); Blattman and Annan (2010).

⁴⁹ SWAY (2006) suggests that the figure was around 1%. In my own research, none of the women who reported being forced into marriage by the LRA had any desire to continue relationship with their previous forced husbands. Similarly, Carlson and Mazurana (2008), pp. 5, 34, found no evidence among the 103 formerly abducted girls they interviewed that they “wished” to continue the relationship. However they note that amongst Acholi girls, in the rare instances when they did remain in the relationships they did so because they believed they would have no other marriage prospects or economic options, and/or were urged to do so by others such as staff at reception centers or NGOs working with “child mothers,” or family members. My encounters with several young women who had been in such “forced marriages” during my time working at CPA corroborated these explanations, as did later discussions with the Director of Empowering Africa’s Future (personal communication, 13 January 2010).

⁵⁰ Atkinson (2010), pp. 267-268; It has also been documented that during wars between Acholi chiefdoms “cattle and girls” were captured in great number. See the reference to Rwot Awich in Allen (2005), p. 150. For more general background on this period, see Gray (1951); Gray (1961); and for more on the Kutoria in Acholiland see Baker (1866), v. 2; Atkinson (1978); pp. 507-16.

type of relationship in the aftermath of rape. Here strangers who were soldiers are compared with strangers who were civilians. Finally, some situations were reported that were outside supposed typical experiences of sexual violence with LRA or Ugandan government combatants, and these are considered briefly before highlighting the key insights and implications of the comparison of civilian- and combatant-perpetrated rape and responses to it. This comparison shows that the experience of rape does not fit neatly into “war” and “ordinary” categories, and rather suggests that a more useful way of conceptualizing women’s experiences comes from understanding how the particular circumstances of rape determine the social harm she suffers.

The conclusion relates the interpretation and insight from women’s experiences of sexual violence and its aftermath in this study back to the two broad overlapping areas of concern to the thesis, writing about justice and wrongdoing, and sexual violence and rape. It highlights the contribution to these areas of scholarship and reflects on possible implications for the practice of transitional justice and the prevention of and response to gender based violence.

ON WRITING ABOUT RAPE

Many people have asked me whether the topic of my research, sexual violence, is too sensitive – are people not reluctant to discuss it with me? What I have often found has been quite the opposite. Most people love an excuse to talk about sex – which is often where interviews or informal discussions that ended up focusing on sexual violence began. On many occasions my partner would overhear a discussion with an Acholi friend and ask whether I am having a social conversation or if I am doing research, and the answer was usually both. And even though discussing the topic of sexual violence is a delicate matter, many of the women I got to know in Acholi who experienced such violence seemed relieved to be given permission to bring to light stories ordinarily relegated to darker corners of individual memory and social space. The number of women who sighed deeply, touched my hand and told me something to the effect of “my sister, I have not

been able to tell anyone about this” is testament to that. Men, too, proved surprisingly willing to discuss sexual violence as well, often alternatively talking about it as something that other men do, or excusing the behavior based on cultural ascriptions of roles to women or the supposed “larger sexual appetite” of men.

I remember the first conversation I had with a former colleague about my research when I got back to Uganda to begin this study. We were driving to Aboke for the annual commemoration prayers of the day in October 1996 when the LRA abducted the 139 girls from the school there, inspiring the inception of the Concerned Parents Association where I had formerly worked. I was maneuvering the car around the crater-like potholes on a back road between Gulu and Aboke, and explaining what my research was about, when he said, “Oh,” and shook his head. “We men are so bad about that.” “Bad about what?” I asked. “Raping women. When a man has an appetite, and a woman is there then he feels he should have access.” I would learn how central these notions of “appetite” and “access” are to Acholi understandings of sex and what constitutes sexual violence.

While most people were more than willing, indeed eager, to talk about sex and sexual violence and their opinions on appropriate responses to it, there were others – a good number of men and a few women – who insisted, “There is no rape in Acholi.” I suppress the impulse in such instances to inform them that, actually, the data generated by this research suggest that at least in two typical villages 40% of Acholi women have been raped. And this in turn, of course, suggests that quite a few Acholi men have raped women.

Bishop Ochola, a retired bishop of the Anglican Church who was for many years active in the core team of the Acholi Religious Leaders Peace Initiative (ARLPI), and was instrumental in many of the attempted peace talks including the Juba negotiations, had a conversation with me about the topic of my research. His eyes got big when I described what I was doing and he said, “There is no rape in Acholi.” I was surprised, because he is a respected leader in his community, and I also hold

him in high regard. ARLPI even had an active program that deals with sexual and gender-based violence. As part of the project, he and other religious leaders encouraged other clergy to preach about violence against women and girls. So, it was more than a little discouraging to hear him deny the existence of a social problem he was meant to be part of addressing. I must not have hidden my feelings well because he went on: “There is no rape in Acholi. It is not there. It should not be there.” “Ah,” I asked, “You mean it *shouldn’t* be there?” “It is not there. It should not be there.”

What I have come to understand is that such assertions are much less a statement of facts as those who utter them see them, but an expression of how things ought to be. If Acholi culture at its best was manifest in all social relationships then women and girls would be safe from sexual violence and even the fear of it. Boys and men would be respectful. Girls would give bangles or handkerchiefs and relatives would give consent to new couples establishing their homes and no one would violate the sacred social institutions that are protected by a woman sleeping with just one man—which ideally, she rather likes and by whom she is sexually gratified. Brothers and fathers would protect sisters and daughters from unwanted suitors and violent husbands.

Many Acholis who deny the darker side of life do so strategically, as many did at the height of debates surrounding the International Criminal Court and traditional justice. They evoke a vision of the way that good Acholis behave, trusting (hoping?) that this narrative will control otherwise devious behavior of members and bring about certain social outcomes. Nurturing certain fictions has justifiable functions in some situations. In this case, I believe a more honest grappling with uncomfortable realities can do much more to better the lives of men and women in relation to one another, to make justice a more meaningful experience for women who have been raped, and perhaps even to prevent rapes from happening in the first place.

What this means, is that at least some Acholis will deny content in the following chapters. There will be some who will be offended because I expose that which is meant to be hidden or which challenges an image they are interested in maintaining. I am studying and writing on a subject that is taboo – even though people like to talk about it in private conversations with an outsider. Some will say there is no rape. They will be made uncomfortable of my treatment of faith, spirituality and tradition. They will say that marriage by capture “never used to be there” in Acholi, maybe the Karamojong did it—but not Acholis. And some will certainly say that marital rape “does not exist” or is impossible. This has in fact already happened. One commenter on an earlier draft of a chapter told me I needed to “check my facts” because rape within marriage in Acholi hardly ever happens. I deeply wish that the sentiment put forward as fact in that comment was true and that by willing the best expression of Acholi values and way of life we could eradicate sexual violence. But sadly, women being forced to have sex by their husbands is common.

I decide to interpret such claims not (at least primarily) as willful ignorance, naiveté, or even as denial—but as two things. First, a protective gesture – even further evidence of one of the main themes of this thesis: the supremacy of social harmony. Rape, at least some manifestations of it, as we will see, can pose a very real challenge to social harmony. Bringing it into the light is a delicate, and even dangerous, thing to do. Second, I interpret it as expressions of the way things should be—articulations of the script they would like to write themselves into and a vision to present to the watching world. If this is the image they want to portray, perhaps it is also the reality they are dedicated to creating and this is welcome movement. Although this vision is not unproblematic, projecting a continuation to some extent of patriarchal control of women’s reproductive power, the absence of sexual violence and presence of strong social protections would improve the lives of many women.

And so it is with some pause but subsequent resolve that I choose to expose some of the dirty laundry of a group that I am fond of. If you, the reader, came to visit me in Gulu I would not introduce you to Acholi people through a discussion of rape and justice. That is part of their story, and it is the one I am telling here, but it is necessarily limited. If you came to visit, you would certainly be overwhelmed first by their sacrificial hospitality. You would eat food; you would sit under mango trees. You would listen to rain and get covered in dust and watch the interaction of sweat and earth through seasons to feed the life around you. You would meet parents who have struggled with every ounce of their being to educate their children, through insecurity and poverty. You would meet young people with aspirations bigger than their available opportunities, but with undiminished hope and determination. You would meet people who have been through adversity so fierce you would have expected the weight to crush them. You would be inspired at the way they are still standing and fascinated by the social, spiritual and cultural resources they have employed to do so. You would be humbled by how they let you be a human being even when that means making mistakes that inconvenience or harm them. You would not take long to realize why surrounding population groups call the Acholi “life lovers,” and you would happily notice how contagious their love is. It is worth keeping all of this in mind as you read the following pages a discussion of rape in Acholi. Rape is an aberration – the uglier side of the elephant, as an Acholi illustration goes, but not the whole animal. If you make up your mind about the nature of elephants based only on this vision you would decide that they are a rough, wrinkly and gray animal with no mouths or eyes – but you would only have looked at an inch on the left buttocks. Then again, if you really want to understand the great beast, you will need to look at it in its entirety, hairy bottom included.

Having been welcomed whole-heartedly into this Acholi house, I have used the privileged position that this granted to gather up the dirty laundry, and in the following chapters, put it out on the line for everyone to see. It is appropriately uncomfortable to focus on the aberrations of a society for which I have a deep

appreciation. I am keenly aware, that as I do, if not read attentively, someone could wrongly lump this writing into a growing body of literature and media that feeds negative stereotypes about Africa as a place of brutality and senseless violence and rape. It is my deepest hope that this study does very much the opposite – offering an interpretation that ascribes meaning to some of the more awful things that we human beings do to each other and how we grapple to find appropriate responses that repair the personal and societal harm we cause. It is not senseless. Rather, there are internal logics that elucidate the way people behave, how we human beings cope with violations of norms and how we try to change norms we recognize as damaging. It seeks to understand, not to excuse, and affirms this understanding as a starting point for engagement.

It is worth repeating three things here, things that are at once obvious but also easy to overlook. One, that this thesis is written from a place of deep respect and appreciation for Acholis. Although it is about one of the more abhorrent things that human beings do to one another, the study does not stop there, and deliberately focuses on how we respond and how we seek repair. Secondly, in exploring rape as a phenomenon that varies considerably in the way it is experienced, it is possible that a rather bizarre criticism might be made (perhaps from a vantage point of ideological blinders, or aversion to even a hint of cultural relativity, or advocacy that feels challenged by acknowledging complicated realities). I would like to anticipate this possible criticism by stating plainly for the record: rape is bad. I think all rape is a terrible violation and it should never happen in any form. This study seeks to understand (not excuse), in all their social complexity, the phenomena of justice and rape and what they mean in the context under study. Lastly, this is not just a story of the Acholi. It is a human story. To borrow what I think is a splendid beginning from Finnström's earlier study of Acholi, a quotation of Paul Feyerabend: "Potentially every culture is all cultures."⁵¹

⁵¹ Finnström (2008), p. 1.

2 Justice and rape: Literature and lived realities

This study contributes to two vast overlapping literatures and areas of concern amongst scholars and practitioners, and provides a detailed portrait of the point where they intersect in the context of northern Uganda.

The first is crime or wrongdoing and justice. The phenomenon of justice has been explored for centuries as human beings grapple with how to respond to the terrible things that we do to each other and to understand the meaning of justice, the theoretical approaches to it and normative arguments about what it should be. Included in this is a relatively new graft on this ancient tree, a more discreet arena labeled “transitional justice,” justice that is part of a transition from a time of authoritarian rule to one of greater democracy, or from war to peace.

The second is writing about sexual violence and rape, especially in the context of war. Much of this can be understood as examining two different continuums. The first is a continuum of violence against women before, during and after conflict, including the cultural and social understandings of gender and normal relationships between men and women. The second is related to how rape is defined along a continuum of levels of force or coercion involved in sexual experiences, here trying to understand exactly what is meant by rape, and where the line between acceptable and illicit sex is drawn.

The rest of this chapter foregrounds the explanations of responses to rape in this study by presenting an introduction to these fields in relation to the present study.

JUSTICE

Justice is commonly invoked as a fundamental moral standard in social life. The most prominent theory of justice proceeds from the claim that justice is “the first

virtue of social institutions, as truth is of systems of thought.”⁵² However, the meaning, concept and practice of justice have a complex history. Justice in a basic sense can be understood as ensuring that every person gets what he or she is due.⁵³ What this looks like and how it is established has been contested in different cultures and societies throughout history. Although the particularities of what justice means and how it is experienced in specific localities have been the source of much scholarly work, especially within anthropology,⁵⁴ the basic idea of justice as a moral imperative is often identified as a human universal akin to “human hunger or thirst.”⁵⁵

Increasingly, the word justice has been used interchangeably with particular formal mechanisms, predominantly (but not exclusively) courts and legal justice systems. Consequently, the established universal imperative of the ideal of justice has been transferred as if it is equally relevant to particular mechanisms of pursuing justice. This is acutely poignant in arguments for legal prosecution, which are vividly illustrated by the discussion below regarding the International Criminal Court (ICC) in Uganda and the debates that have emerged about justice in this context.

The first public arrest warrants issued by the ICC in 2005 targeted five top members of the LRA in Uganda: Joseph Kony, Okot Odhiambo and Dominic Ongwen who (at the time of writing) remained at large, and Raska Lukwiya and Vincent Ottii, whose deaths have been confirmed.⁵⁶ Among their alleged crimes are rape, inducement to rape and sexual enslavement. Although these crimes are classified, as crimes

⁵² Rawls (1971), p. 3.

⁵³ Cohen (1986), p. 1.

⁵⁴ Explored through classic anthropological texts such as Evans-Pritchard’s trilogy on the *Nuer* (1940, 1951, 1956), Malinowski (1926), and Gluckman (1973). In addition there are many newer studies such as Rosen (1990) on law as culture in Islamic society, expressed through Islamic Courts, Goddard (2009) on village courts in Papua New Guinea. Others focus more explicitly on transitional justice, such as the collection in Hinton 2011, as well as many others, some of which are discussed in the section on transitional justice.

⁵⁵ Pascal, *Pensees* (1669), cited in Hirschman (1982), p. 91.

⁵⁶ There have been reports, speculation and rumors about other death, but as far as the ICC is concerned, they have not been confirmed and are still considered at large. See the ICC website.

against humanity in the Rome Statute, there are scores of ordinary women whose daily lives are profoundly altered by the crimes of these men. The Rome Statute requires the ICC to act in the interest of victims. However, it does not spell out what victims' interests are or how they are to be served through criminal prosecutions or otherwise. This has opened space for engagement with theoretical debates about cultural relativism and justice.

The inclusion of victims' interests, as well as other provisions in the Statute are indicative of a wider international movement reacting to concerns of criminal justice's adequacy to respond to the complexity of harm inflicted on victims. However, strategies of justice are often prescribed with a limited and skewed appreciation of existing conceptions of crime, practices of justice in context, and how best to engage them. Without this understanding, justice risks being insignificant and inappropriate for those who are most affected by violence. Perhaps in recognition of this, there is an evident trend in both the fields of transitional justice and the prevention and response to gender-based violence to engage with traditions and be sensitive to culture. Kofi Annan, for example, the then-UN Secretary General, affirmed that "due regard must be given to indigenous and informal traditions for administering justice or settling disputes, to help them to continue their vital role and to do so in conformity with both international standards and local tradition."⁵⁷

In practice, however, this often looks like international donors partnering with institutions that claim "traditional" legitimacy, but rarely does it go farther, or dig deeper than that.⁵⁸ This is often counterproductive. A more nuanced approach to engagement is needed.

⁵⁷ United Nations (2004) *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary General*, UN document. S/2004/616.

⁵⁸ For an in depth discussion of Ker Kwaro Acholi, the Acholi cultural leaders foundation, see Paine (forthcoming).

Peace v justice

Although the debate about the concurrent pursuit of criminal justice and peace predates it, the ICC, and especially its first big case, northern Uganda, elevated it to a new level with a sense of urgency in policy and scholarship. Although the ICC's role in northern Uganda was initially hailed by many international human rights advocates,⁵⁹ it encountered a great deal of opposition from Non-Governmental Organizations (NGOs) in northern Uganda as well as many civil society and community leaders and academics who were well acquainted with the concerns and criticisms of the ICC among many northern Ugandans. This was primarily due to concern about its potential negative impact on the prospects of a negotiated peace agreement.⁶⁰ Some have argued that actually, the ICCs involvement was a driving factor in bringing the parties to the table in the first place.⁶¹ However, this is difficult to prove or assert with any certainty. Undoubtedly, other factors, such as the relationship with North and South Sudan were influential. Ultimately, however accurate this claim may have been initially when the LRA high command evidently had very little knowledge about the implications and limitations of the ICC involvement. The failure of the Juba peace talks to address the ICC and the fate of the top of the LRA command was the stated reason for Kony not signing the final agreement.⁶² Whatever the case, the situation nonetheless has brought to the fore important questions about the difficulty of pursuing criminal justice concurrently with a peace process where those wanted are those whose signatures are needed at the end of the day.⁶³

⁵⁹ For example Human Rights Watch (2006).

⁶⁰ Hovil and Quinn (2005); Parrott (2006); Branch (2004, 2007); Justice and Reconciliation Project (2006a, 2006b); Atkinson (2010a).

⁶¹ Allen and Vlassenroot (2010).

⁶² Schomerus, (2012), p. 230. Schomerus provides an analytical account of the complexities of the peace process, tracing and explaining the way events in the talks transpired and eventually broke down through the lens of the LRA/M experience of the peace process even more than content of agreements (2012), see particularly pp. 219-236.

⁶³ See also Apuuli (2005, 2006); Feldman (2007).

Although there continues to be significant criticism of ICC involvement, there has been a perceptible shifting in attitudes. Some of the initial concerns are the same, such as the frustration on the scope of crimes and the lack of accountability for government crime. But there is increasing focus on issues that initially received less attention, such as victims' participation, how the ICC's Trust Fund for Victims is run and how reparations will be handled. There has always been disappointment surrounding the scope of crimes, especially the inability to prosecute crimes before June of 2002 when the Rome Statute came into effect. Many reasons effect stated opinions in northern Uganda, and how these have evolved over time. Some of the factors include: (i) the increased security since the LRA has been outside the borders of Uganda; (ii) the relative freedom from real or perceived government constraint that people experienced in camps surrounded by soldiers; (iii) the fact that a peace deal believed to be threatened by the ICC is no longer on the table; and (iv) the increased hope by many for arrest warrants being executed.

This shift, at least in part, is illustrative of the thread that runs throughout this thesis, namely the importance of social harmony. An increasing number of people have lost hope that the way to achieve social harmony in relation to the LRA is through forgiveness coupled with non-prosecution. Jackson Atwii, chairperson for the Concerned Parents Association, who was initially critical of the ICC intervention, explained: "We have lost patience with them [LRA]. At some point, we have to realize that even though we keep offering them forgiveness they have refused. They will not come out willingly."⁶⁴ In addition, as the LRA have moved beyond the borders of Uganda and become less entrenched in the Acholi moral community, a space has been created where their punishment is seen as less a threat than before to social harmony.

⁶⁴Discussion on the drive to the ICC Review Conference that we attended together in Kampala, June 2010. Jackson Atwii and Angelina Atyam are both Langi, though the rest of the quotations and focus of the study are with Acholi people. However, they are the former and current chairpersons respectively of CPA and represent Lango and Acholi members.

While they often express themselves ideologically, motivations driven by pragmatic considerations of ending violence are undoubtedly in play. The urgency of this dilemma has been somewhat forgotten since the war has been exported. Among many others, the ICC Chief Prosecutor Moreno Ocampo has repeatedly stated that, “there can be no peace without justice.”⁶⁵ Grono and Clark, however, argue that this is a common and convenient truism that belies the experienced difficulty of simultaneously pursuing peacemaking and justice.⁶⁶ Alex de Waal meanwhile rejects the Prosecutor’s assertion, arguing that a simple historical survey of peace agreements proves otherwise. “Of course there can be peace without justice.”⁶⁷

The protagonists in this debate ascribe different meanings to the words “peace” and “justice” and often use them strategically for the purpose of dismissing rather than engaging substantive argument. The Prosecutor invoked a broad notion of justice as the quality that allows society to be ordered peacefully, but then applied it to defend the narrow practice of criminal prosecutions. If justice is more holistically understood to mean the rule of law (to which prosecutions potentially contribute) and just relationships between people in a society and between citizen and state, then this approaches Galtung’s concept of “positive peace.”⁶⁸

Galtung first described this concept as not only the absence of overt violence, but also a context of relationships that are just. From this perspective, peace without justice is unstable. Peace without justice, is “negative peace” in which injustice is institutionalized and structural violence is sustained. In northern Uganda, Norbert Mao, then-Chairperson of Gulu District, turned Ocampo’s equation of no peace, no justice around, saying, “You cannot have justice if you don’t have peace.” But he then added, “You cannot talk about reconciliation when the structures which

⁶⁵ The specific quote is from an Ocampo lecture at LSE in October of 2008.

⁶⁶ Grono and Clark (2004).

⁶⁷ The quote comes from a De Waal lecture at LSE, also in October of 2008. For such a survey of recent history and peace agreements see Vinjamuri and Boesenecher (2007). Or in relation to the northern Ugandan process in particular, Afako (2010).

⁶⁸ Galtung (1969, 1975, 1996).

encourage violence have not been changed.”⁶⁹ As Mao suggests, it is erroneous to equate justice with ICC prosecutions, or even the criminal justice system more generally. It is equally unclear how and to what extent prosecutions (or as in northern Uganda, the threat of future prosecutions if arrest warrants are ever executed) effect justice understood as a Galtungian positive peace. As this study will argue, when institutions of justice are not trusted by those most affected by violence, the actions of such institutions can undermine rather than contribute to the realization of such a vision.

This discussion has parallels to experiences of individual victims of violent crime and other wrongdoing such as rape. A woman may choose to prioritize her social and economic wellbeing above the pursuit of a “just” punishment for the perpetrator. On both a societal and an individual level, low expectation of meaningful justice combined with high likelihood of an ordeal or even further violence produces particular “choices” of how to respond to crime. For individual women who have suffered rape there continues to be a general recognition of her right not to choose prosecution. On a higher level, the evolution of the ICC and more consistent application of international law mean that justice may be imposed.

Angelina Atyam is the chairperson for the Concerned Parents Association, whose daughter spent 8 years as a forced “wife” to one of the LRA commanders wanted in The Hague. She once said, “We are sacrificing justice for peace.” Troubled by this, I asked for clarification. “It’s not that we don’t love justice in northern Uganda,” she explained. “We love it. But we know that there is no justice. There will be no justice. And so why should we sacrifice peace?”

She went on to powerfully capture the essence of Christian forgiveness and her expectation for justice in the next life. She argued for mercy on the perpetrators of heinous crimes. A central logic of criminal justice is for the punishment to fit the

⁶⁹ *Daily Monitor* (December 5, 2006).

crime. In her view, the only fitting punishment for the LRA leadership has already been accomplished in the crucifixion of Jesus. Nothing less than that is proportional. What she touched on is exemplary of many victims of injustice who choose the benefits of putting the past behind them over an expectation of the empty promise of justice in this life. They are concerned about proportionality, the inability to arrest and how state crime will be addressed. In the view of many victims in this context there is not a true choice between peace and justice. They are convinced that justice is impossible.

International v local

Justice debates in northern Uganda have focused overwhelmingly on the controversial role of the ICC and its alternatives in deciding the fate of three men. This thesis aims to widen the debate. Even if these three rebel commanders were arrested, tried and convicted it would not scratch the surface of addressing the injustices suffered over the past 22 years. This is not to belittle the importance of the Rome Statute or the creation of the ICC. When the Rome Statute went into force in June of 2002 it was arguably a turning point in determining the international response to massive atrocity, as it represented the revival in international criminal law of limiting the possibility for unqualified amnesties, at least for those most responsible for the worst crimes. In the case of northern Uganda, the intervention of the court placed the issue of accountability firmly on the agenda of the peace negotiations.⁷⁰ Consequently, it created a new dilemma because the men who were needed to make peace were international criminals who were slated for prosecution if they gave up rebellion in a peace deal.

The dilemma of merging international with local justice is especially critical where multiple mechanisms appear to compete, and at least initially in northern Uganda “local” approaches were pitted against international. There seems to be a growing

⁷⁰ This may not always be the case, as negotiation around Darfur proved. Negotiators argued persuasively not to include issues of accountability since they were out of their control and being handled by an international institution. See Toga (2007); De Waal (2008), p. 33.

consensus that these can coexist and complement one another.⁷¹ Gready refers to “embedded” and “distanced” justice, and stresses the importance of building local support for both approaches.⁷² This support has not been forthcoming in Uganda, in large part because of the widely-held perception that the court is biased, having intervened in an ongoing conflict and taking the side of the government. The investigation was announced in a joint press conference with the Prosecutor and President Museveni, and no one from government was included among those for whom arrest warrants were issued. However justifiable the exclusion of government crimes may be based on the ICC’s (rather opaque) “threshold” criteria, the interpretation of this choice among many Acholis was that it was political. In addition, community outreach by the Court in Acholi has been nearly invisible.

Internationally-supported justice that does not have solidarity with broad popular opinion has been hotly criticized.⁷³ “When legal prosecution in the name of humanity is in opposition to a community’s demand for justice through peace and reconciliation the prosecution takes on a peculiar and unattractive character.”⁷⁴ For a woman living in a remote village that has suffered injustice the prosecution of crimes against humanity is nebulous. Perhaps if greater outreach and engagement with victims had been present, she might recognize the crimes as transcendent but still inclusive of the individual. To what extent are the assumptions of international justice evidenced in experiences of those most affected by violence? How are trials that attempt to establish individual guilt and ignore responsibility by groups understood in a context where entire clans take responsibility for murder by a clan

⁷¹ See for example Orentlicher (2007), who stresses the need to address state and international legal obligations by promoting victims participation.

⁷² Gready (2005).

⁷³ For example Arzt (2006).

⁷⁴ Branch (2004), p. 25.

brother? Is international justice appropriate for Acholi (or more broadly, African) realities or are African solutions needed for African problems?⁷⁵

The supporters of local approaches to accountability include many prominent religious leaders and people of faith. This has given the argument a distinct moral element that engenders spiritual values of forgiveness and mercy. But proponents also admit that it has had practical value in ending, or at least limiting, violence and contributing to social healing. This local religious/pragmatic approach has been often grafted in the context of northern Uganda onto more specifically cultural or “traditional” ways of dealing with crime or wrongdoing. In this line of thought, the interests of victims are not served best by prosecution but voluntary symbolic ritual that includes acknowledgement of guilt (personal and collective), compensation to victims, and a chance for victims to *timo kica* (“do mercy”) or *bedo gonya* (“set free”) the perpetrators.⁷⁶ Consequently, the invocation of tradition also strengthens the authority of traditional leaders and sets up alternative – sometimes parallel – structures for dispute resolution to those of government. This has made it attractive to both traditional leaders as well as others who favor assertion of “tribal” identity and expression of dissatisfaction and mistrust of central government. Many northern Ugandans have serious, and entirely understandable, concerns about whether crimes committed by the state could ever be addressed effectively in a national framework under the present government.

⁷⁵ For an example of a presentation on “African” solutions see the volume edited by Huyse and Salter (2008). See in particular Latigo (2008), and Alie (2008).

⁷⁶ These concepts are often translated by Acholis as forgiveness and used interchangeably. *Timo kica* literally means “to do mercy” but is often used as the translation for forgiveness as well as for the government policy of amnesty. However, while this conflation in terms might be confusing to outsiders, many Acholi and other Luo speakers have assured me that from the context they always know whether a person means amnesty by the government or forgiveness in some moral sense. *Bedo gonya* is also used by many Acholis and literally means “to be free.” In common use, *bedo gonya* is what the offended would say to the person who has injured them to indicate that they no longer morally indebted to them. They would say it in the imperative, “be free.” *Timo kica* is usually used by the offender to ask for forgiveness or mercy, literally saying, “do me mercy.”

A central argument against local justice in Acholi is that it is an unhelpful "myth," and a singularly Acholi approach would be counterproductive in the construction of national identity and state building.⁷⁷ The Juba agreement is fairly vague on how traditional mechanisms such as *mato oput* would be used, but it explicitly includes ceremonies used by all of the surrounding northern "tribes" that parallel the Acholi practice. *Mato oput* literally means the drinking of a bitter root and was traditionally used in cases of murder or accidental death. It is a ceremony performed as the culmination of negotiations to reconcile the clans of the wrongdoer and the wronged and compensate for the loss of life.⁷⁸ Ugandan politicians recognize that traditional practices of the Acholi are not unique and there were discussions in parliament of codifying similar practices of all the ethnic groups in Uganda, though this has since died down. Codification would have created other issues and fundamentally changed the nature of contextualized flexible practices, but it would not, as has been argued, single out the Acholi from the rest of the country. It is prudent to query the type of ethnic codifying and co-opting flexible rituals into governmental processes that such codifying would produce, what power structures it would strengthen, how interests of victims of wrongdoing, including rape, would likely be affected, and how gendered hierarchies might evolve or be strengthened.

Restorative v retributive

Restorative and retributive justice are two paradigms that present distinct visions of crime and the goals that responses to crime should accomplish. Restorative justice sees crime as an injury to people, where retributive justice sees crime as a violation of law.⁷⁹ The outcomes of retributive justice are concerned with a particular vision of the needs of society, the state and humanity. It pursues a normative role through the goals of deterrence and incarceration. Restorative

⁷⁷ See, for example, Allen (2006), especially pp. 132-38, 162-67; Allen (2007).

⁷⁸ Harlacher *et al.* (2006), especially pp. 78-91.

⁷⁹ Brunk, (2001), pp. 31-56.

justice seeks the rehabilitation of the perpetrator, understanding the factors that contributed to his or her behavior and repairing the harm caused by the crime to the victim and the social order.⁸⁰

The modern iteration of restorative justice was motivated out of dissatisfaction with penal systems to address the needs of victims and disillusionment with “corrective” institutions to positively affect the recidivism of offenders. Restorative and retributive justice debates inform judicial system reform in many countries although almost any attempt to promote restorative justice in most contemporary political systems is usually politically disadvantageous, as it attracts accusations of being “soft on crime.” In practice, restorative justice has been most applied in juvenile justice where a little “softness” is easier to defend – except in times of transition from authoritarian to more democratic regimes or from war (with its atrocities and gross violation of human rights) to peace. These transitions open a window when “normal” assumptions about justice are suspended and the possibilities offered by restorative justice are considered. Restorative justice discourse has an air of moral superiority, as justice that is more virtuous and with the interests of victims at the heart. In this discourse, retributive justice is construed as primarily focused on punishing the perpetrator – a kind of legalized vengeance. The often antagonistic nature of the debate has inhibited a holistic approach that could combine retributive functions such as establishing the rule of law, deterring future crimes, and holding those responsible to account, with such restorative functions as considering harm caused by crime or wrongdoing, subsequent needs and obligations in the aftermath of wrongdoing, and encouraging active roles by victims, perpetrators, government, and community.⁸¹

Some have argued that the theoretical goals of the two approaches are nearer to one another than they are often construed. At the core of both retributive and

⁸⁰Zehr (2005).

⁸¹Ibid.

restorative justice, from this perspective, is a proportional relationship between the act and the response.⁸² The central finding of an anthropological study exploring the universality of human rights was that the only universally-held concept is proportionality.⁸³ This study contributes the important element of context in understanding how proportionality is conceived. In most contexts, proportional punishment for the perpetrator and proportional justice or reparation for a victim are based on local perceptions and understandings of any crime or wrongdoing, and what social and individual harms are caused by such wrongdoing. In the particular instance of Acholi, however, there is also an intervening principle. Rather than justice being understood as a proportional relationship between the act and response *per se*, the response is typically geared more towards its contribution to social harmony. At times, as the following chapters will illustrate, this end requires disproportionate responses.

“Transitional justice”

Transitional justice can be defined as the range of strategies a society pursues in order to emerge from conflict or totalitarian rule that hold in tension political necessity, the pursuit of accountability and social healing.⁸⁴ It is oriented towards closure of a chapter in a nation’s history and often takes place in a context of weak judicial systems with dubious independence from the executive branch of government. Historically, the term arose first from dissatisfaction with processes in Latin America where repressive regimes relinquished power on the basis of amnesties.⁸⁵ The concept and practices evolved in post-communist transitions, and more recently has been applied to contexts of ending war.⁸⁶ The debates about

⁸² Brunk (2001).

⁸³ Wilson (1997).

⁸⁴ International Center for Transitional Justice (ICTJ), <http://www.ictj.org> and African Transitional Justice Research Network, <http://www.transitionaljustice.org.za> have similar definitions, and many of the texts in the references including Cobban (2007), Teitel (2000), Moon (2006), among others have consistent elements to the definition as I have phrased it.

⁸⁵ See Macdonald (2013).

⁸⁶ *Ibid.* See also De Greiff (2011), who notes possible issues in transposing the assertions of transitional justice in times of political flux to those from war to peace.

justice in these contexts are intense as the outcome has implications for peace prospects as well as the effect on balances and legitimacy of power in the post transition order.

Ruti Teitel is often credited with the invention of the term “transitional justice” and indeed has written a key theoretical work by the same title, which accounts for much of what is currently believed about transitional justice and how its success can be evaluated.⁸⁷ Although her emphasis is on the role of law in times of transition, or as she calls it, “transitional jurisprudence,” many of her arguments about the normative effects of the practice of justice during transition inform current thinking on how the “tool kit” of transitional justice mechanisms and processes facilitate change from an old more violent, less liberal state to a new, more peaceful, and more democratic one.

Transitional justice theory tends to emphasize one of two faces. Either it is a more holistic approach to justice – one that goes beyond narrow legal redress – or it is a partial approach, because of the political, economic and social limits of the situation. In either case, the strategies to deal with a legacy of conflict or oppression often include combinations of reparation to victims, a process of truth telling, school curriculum reform, lustration, judicial reform, memorialization, public apology and trials.⁸⁸ Teitel explicitly contrasts justice in ordinary times to transitional justice. The key differences of transitional justice which she discusses that I want to highlight are Transitional justice is (i) “bounded” (limited to a particular time period and sometimes specific categories of crime), (ii) symbolic and (iii) partial.⁸⁹

Although the advent of the ICC and progression of human rights law have limited the range or permissible exceptions to their particular approaches to justice, in

⁸⁷ Teitel (2000).

⁸⁸ See, for example, the UNOHCHR (2006) series of short booklets on tools for post-conflict states.

⁸⁹ Teitel (2000), see in particular pp. 215, 220, 224.

exceptional transitional moments, the appropriateness of typical legal responses are questioned or even suspended through negotiation, creating an opportunity for more restorative measures. Transitional justice processes have also highlighted socially useful aspects of justice that are often overlooked when prosecutions and retributive justice are assumed. These include an orientation towards closure and greater appreciation of the power of symbol and ritual expressions to impact norms and shape a new moral order.

Interestingly, the principles, which are said to operate in the transitional moment, are not so dissimilar to the principles that are the norm for Acholi responses to wrongdoing – whether perpetrated by combatants or civilians. Perhaps this is because in the transitional moment, the normal approaches of law are suspended, and other goals are given prominence. In Acholi, as well as many other local contexts, such other goals are always present. Whereas stability of law is a core value in formal rule of law, in transition as well as in more local and embedded contexts, responses to wrongdoing tend to value flexibility rather than stability. Amongst Acholis, such flexibility is typically directed towards achieving social harmony rather than an abstract standard of justice.

An implicit assumption of transitional justice is that it is justifiable to deal with crimes committed in the aftermath of war differently (either more holistically or partially, depending on particular emphasis). This raises the question of whether there is evidence that the orientation toward justice of those affected by crime or wrongdoing during war is different from more “normal” times. There are reasons to suspect this might be the case. Crime in war may be understood as the politically motivated targeting of a category of people and not an individual. During the long northern Uganda war, many combatant perpetrators were abducted when they were children and/or were acting under superior orders. Once conflict is clearly over, women raped in times of war may have less fear of rape being repeated than women who were raped by civilians in circumstances that have remained unchanged. These factors might be expected to play a role in the

subjective experience of women who were raped during war. They might understand the violence as the painful consequence of living in “seriously bad surroundings” to use Finnström’s evocative phrase applied to war-time Acholi, thus contributing to a diminished sense of personal moral and legal responsibility on the part of the perpetrator. One of the surprises of this study, is that, in fact, almost the opposite is true, and that Acholi understanding of wrongdoing and appropriate responses are better explained through the ways that attitudes towards – and subjective experiences of – rape link with the pursuit of social harmony.

The field of transitional justice draws sharp distinctions between ordinary and transitional justice. As the gender expert in the leading transitional justice organization put it: “The transitional justice field likes to define things in ways where there’s a cut-off date to conflict or repression-era violence, which separates it from what could be called ‘ordinary violence’.”⁹⁰

This thesis, in contrast, examines rapes by both combatants and civilians together, and finds that this distinction is typically not the most important one, whether considering the subjective experience of a rape by the women involved, her sense of what an appropriate response to the rape should be, or what the actual response was. Transitional justice is often discussed as a “toolkit,” with a growing consensus among practitioners and scholars that a combination of justice mechanisms should be used to aid a society in a transition from war to peace or from authoritarian government to democracy.⁹¹ While those working on these issues are quick to emphasize that a single model cannot simply be transplanted from one context to the next, the adaptations to culture and context tend in practice to be quite limited, focusing on the specific dynamics of conflict and

⁹⁰ Muddell (2013).

⁹¹ For example Roht-Arriaza (2006); Fletcher and Weinstein (2002).

political exigencies of the particular transition.⁹² These may be complemented by community consultations or surveys of the population affected by violence.

There are many implicit assumptions in this approach. First, that the goals of transitional justice are universally held – that there is a moral imperative, highly prioritized, that “justice must be done.”⁹³ Second, that the tools in the toolkit (such as truth-telling processes, trials, lustration, reparations and limited amnesties) can accomplish those goals if an appropriate package for the context is assembled. Third, and perhaps most basically, is the assumption that concepts like justice, accountability and forgiveness translate across cultures and political systems.⁹⁴ I would argue that greater attention is needed to explore important questions about what justice really means for a particular group of people, and what the priorities and goals of those most affected by wrongdoing are after it occurs. Erin Baines acknowledged this gap in the transitional justice literature, writing that:

healing within communities must resonate with local cosmological beliefs about morality, social responsibility and norms regarding appropriate behavior. If this is the case, then the study of the socio-cultural process of reconstruction amongst “intimate enemies” is as important to study in the field of transitional justice as the political-legal. Yet the field of transitional justice is replete with studies of the latter, to the neglect of the former.⁹⁵

From interpreting the experiences of Acholi women who were raped by civilians and those raped by combatants, it is clear that deeper understanding is gained from appreciating the broader, “normal” context in which notions of justice are formed rather than looking at crimes during war – by either combatants or civilians

⁹² For some other scholarship critical of the “tool kit” approach see: Hinton (2011); Shaw, Waldorf and Hazan (2010); Roht-Arriaza (2006).

⁹³ Rosalind Shaw (2007), for instance, has drawn attention in the context of Sierra Leone to how certain paradigms in the wake of large-scale injustice come to appear to be “universal” and “natural,” such as truth-telling and redemptive memory.

⁹⁴ Other studies have noted how concepts such as justice are locally understood and how these are perceived differently from interpretations in international law and transitional justice studies; see, for example, Viaene (2010); Baines (2005b).

⁹⁵ Baines (2010).

– as divorced from the rest of lived reality. What justice really means for a people during war, or in the transitional moment after, is intricately related to what justice means for them in general. Correcting this lack of recognition of cultural notions and contexts of crime and justice is a necessary refinement in what is often a valuable agenda.

There are certainly different dynamics in play in wartime violence, including the existence of (more or less) organized combatants and the scale, organization, political motivations and instrumentality of violence. And these differences form part of an understandable and defensible rationale behind the special approach of transitional justice mechanisms. But the research for this thesis suggests that there are fundamental, highly contextual ways that notions of crime or wrongdoing, and therefore appropriate responses to it, are conceptualized by people in Acholi (and, as others have pointed out, elsewhere as well⁹⁶), and these ways predated the long and vicious war from which Acholi has recently emerged. With this in mind, it is of great value to seriously examine crimes and their redress in ways that do not sharply separate wrongdoing by civilians and combatants or in “ordinary” and war-related situations. Times of war are different in many ways from more “ordinary” times, but that does not necessarily mean that the subjective experience of wrongdoing, and what are considered appropriate responses to it, are also marked by the same dividing line. In the case of Acholi women in this study who were raped, at least, this is not the case.

If transitional justice is to contribute to broader gains for women, the similarities and differences between ordinary and war-related social understandings of crime and justice must be made explicit.⁹⁷ War crimes are often a systematic part of

⁹⁶ See Shaw (2006) on truth commissions in Sierra Leone who notes the importance of a “cool heart.” Or Viaene (2010) who describes “the logic of the cosmos” as “justice” in post-conflict Guatemala.

⁹⁷ See, for example, Bell and O’Rourke (2007), who conclude that, “that feminist theory should focus on how transitional justice debates help or hinder broader projects of securing material gains for women through transition.” p. 44.

organized violence, but they do not take place in isolation. Rather, as this study evidences, rapes during war, by either combatants or civilians, take place in a context shaped by conceptions of moral and appropriate relationships between men and women. There are complex and heterogeneous understandings about what rape is, “right” ways to respond to it, and how to forge a viable future in its aftermath, both in Acholi and more broadly. A deeper exploration of these understandings provides a useful angle from which to contribute to wider debates about appropriate ways of pursuing justice after human rights abuses and the theoretical concepts of justice in a post-war context.

CRIME AND WRONGDOING

Crime and wrongdoing are perceived in various ways across cultures. Even in one culture, or indeed one person, there often exist multiple notions of wrongdoing that are intertwined and overlapping. It may be a crime to be punished, an impurity to be cleansed, an illness to be healed, a societal cancer to be removed, or a taboo that has been broken and requires certain rites to stave off cosmological forces it set in motion. Some of these varieties of wrongdoing find resonance in the Acholi context as will be explored below, especially through the concepts of *kir* and *cen*. These various notions of wrongdoing and their consequences are articulated and interpreted differently and are sometimes strongly contested. One example of such differing interpretations can be seen in the recitation and meaning of the passage in the Lord’s prayer where the believer asks for forgiveness:

Our Father, who art in heaven, hallowed be thy name,
Thy kingdom come,
Thy will be done on earth as it is in heaven.
Give us this day our daily bread,
And forgive us our _____
As we forgive those who _____ against us.
And lead us not into temptation but deliver us from evil, . . .

The missing English word that completes this prayer is sometimes rendered as debt, at other times trespass, or sin – each representing a different Greek word, all of which appear in scriptural manuscripts.⁹⁸ The different words are imbued with subtle but important differences in meaning, which impact the orientation toward wrongdoing. Different denominations within Christianity choose to recite the prayer with one or the other version. Debt is a financial metaphor and implies that wrongdoing incurs an obligation that is owed and must be repaid. A trespass is a legal term applied to crossing a boundary. It evokes notions of property, and of violating the moral space of others or breaking divine law. And sin, as it is used in scripture generally, carries the connotation of “missing the mark,” of falling short of good and participating in evil.⁹⁹

The word used for crime or wrongdoing in Acholi Luo (and as it happens, the word typically used in the recitation of Lord’s prayer) is *bal*, a noun form of the verb whose primary meanings in English are *to injure, break or spoil*.¹⁰⁰ When someone commits a wrongdoing in Acholi, the paramount concern is how best to repair the damage to social harmony, not necessarily the victim and perpetrator “getting what they deserve.” Here it becomes clear that understanding an appropriate response to wrongdoing in Acholi must begin with an understanding of the act itself and how it is perceived in terms of its damage, not only (or even primarily) to the specific victim, but to society and social harmony more generally.

RAPE AND SEXUAL VIOLENCE

Rape is a major legal, social, and academic concern because of how awful it is – an invasion of one’s body and an assault on agency. Rape attacks the foundations of what it is to be human, treating the individual and her or his body as objects.

⁹⁸ See Cook (1891).

⁹⁹ Personal communication with Mark James, a “scriptural reasoning” scholar, March 26, 2013.

¹⁰⁰ Crazzolaro (1938), p. 187. He also adds “to corrupt; to transgress; miss, err, to be in the wrong.”

Rape is not an uncomplicated category. In the US there is a debate around a movement to broaden the legal understanding of the term. In part, this is because of the power and impact that the word holds. In popular imagination it confers on the victim recognition that they have been through an awful and serious ordeal and deserve to have their experience validated as appropriately grave.¹⁰¹ As one of the politicians in favor of broadening the legal definition is quoted, “No one goes around saying they were criminally sexually acted upon. Rape is a powerful word.”¹⁰² While this is undeniable, a case for the use of more clinical language could be made as it might foster less stigmatization and even less denial.

But there is ambiguity about what rape is. The term is imbued with varying legal meanings, and there are also varying social interpretations of what should be classified as an act of forced or coercive sexual intercourse.

Legal definitions and social understandings

Feminist anti-rape scholarship and activism has in the past decades have concentrated on easing the path of prosecuting rape, pushing for reform of legal definitions of rape and improving processes from policing to prosecution. In the context of war and political struggle, rape has long been a form of instrumental

¹⁰¹ Even the use of the term “victim” is problematic. Most practitioners in the area of protection and gender-based violence prefer the term “survivor.” The social construction of victimhood is important to note. In South Africa some research has noted that the structure of the Truth and Reconciliation Committee was in itself a way of creating the subjects of the reconciliation narrative – see Moon (2005). In Mozambique, Cobban (2008) credits the practice of referring to both perpetrators and victims as “*afetados*” – the affected – as contributing to post-conflict social healing there. During a time of addressing massive human rights abuses it is fitting to cultivate an awareness of how the justice process constructs social roles and conversely how the understandings of social roles construct the justice process. Possible alternative terms to victim such as “survivor” or “the affected” are also not unproblematic. “Survivor” does imply a sense of empowerment and emphasizes not the ordeal but continuation of life, but it still scripts the woman (or man) in terms of her or his experience. Using the term “affected” or as some have suggested, “associated” (as in the case of children “associated” with armed groups) has been hotly contested in northern Uganda. Many victims – to use this term – and relatives of victims feel that alternative depictions gloss over the violation and the criminal nature of what has happened to them. In this study, the word “victim” will frequently be used, despite its limitations in relation to legal and human rights discourse. However, when appropriate, preference will be not to affix any label or term to a woman herself, but rather state her experience, for example, “a woman who has been raped.”

¹⁰² See Bellafante, “Debating the semantics of rape, *New York Times* (23 February 2013).

violence, though not until recently has this been more widely acknowledged. This developing recognition has been shaped by, and has also shaped, progress in the processes of preventing, prohibiting, criminalizing and prosecuting rape in domestic and international spheres.

The Geneva Conventions stipulate that women should be protected during war against “attacks on their honour.”¹⁰³ After World War II, the International Military Tribunal Charter at Nuremberg recognized rape as a crime but because of a reluctance to call attention to rape committed by Allied forces no one was prosecuted.¹⁰⁴ A quarter-century later, the feminist movement reinvigorated an interest in rape in war from the 1970s. However, as recently as the Truth and Reconciliation Commission in South Africa in the 1990s, amnesty applications for rape were rejected because they were deemed to not meet the criteria of politically motivated crime.¹⁰⁵ During the same period, however, a focus within academia, policy makers and media on sexual violence in war was galvanized by the events of the Rwandan genocide and the breakup of the former Yugoslavia. The *ad hoc* tribunals established in both cases recognized rape for the first time as torture, a crime against humanity and a war crime.¹⁰⁶ A watershed in jurisprudence for sexual crime was the conviction in 1998 of a man named Akeyasu for crimes committed during the Rwandan genocide that included rape and other sexual crimes. In the decision of his case, the International Criminal Tribunal for Rwanda defined rape as:

a physical invasion of a sexual nature, committed on a person under circumstances which are coercive. The Tribunal considers sexual violence, which includes rape, as any act of a sexual nature which is committed on a person under circumstances which are coercive.¹⁰⁷

¹⁰³ Chinkin (1994).

¹⁰⁴ Goldstone (2002).

¹⁰⁵ Moffett (2006); Moon (2006).

¹⁰⁶ See Skelsbaek (2001); Snyder *et al.* (2006).

¹⁰⁷ Akeyasu decision, para 688.

It was during the decade of the 1990s that the use of more victim-centered language and progression from consent to coercion led to what MacKinnon described as “for the first time, rape was defined in law as what it is in life.”¹⁰⁸ The ICC’s Rome Statute added some specificity to the definition of rape and built on the jurisprudence of the *ad hoc* tribunals, using the language “of invasion of the body of the victim, force and coercive environment.”¹⁰⁹

Such developments have driven changes that influence perceptions of rape as a crime of horror and gravitas tantamount to death, and it has increased penalties for perpetrators of rape and decreased ways in which trials and legal processes have often been prejudicial to women who were raped. Yet, as Marcus points out, by successfully demonizing rape, the status assigned to the crime, “implies that rape can only be feared or legally repaired, not fought.”¹¹⁰

In Uganda, the law against rape is in the section of the Penal Code on crimes against morality, which in most western countries would instead fall under the category of violent crimes.¹¹¹ The Ugandan Penal Code defines rape as:

Any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind or by fear of bodily harm, or by means of false representations as to the nature of the act, or in the case of a married woman, by personating her husband, commits the felony termed rape.

The other common legal prohibition against forced sex in Uganda, also in the crimes against morality section of the Penal Code, is called “defilement” or “aggravated defilement” (which in western contexts would typically be called

¹⁰⁸ MacKinnon (1994).

¹⁰⁹ See Rome Statute, Arts.2, 7(1)(f), 7(1)(g) and 7(2).

¹¹⁰ Marcus (2002), p. 169.

¹¹¹ *Uganda Penal Code Act*, CAP 106, (1998), Chapter XIV, sec. 123. Defilement is defined in sec. 129.

“statutory rape”). In the Penal Code, defilement is defined as when: “Any person unlawfully has sexual intercourse with a girl under the age of eighteen years.”¹¹²

According to Ugandan law, a person convicted of rape or defilement is liable to the death penalty.¹¹³

In 2007 the Penal Code was revised to divide defilement into two categories, “simple” and “aggravated,” According to the law, “aggravated defilement” refers to cases where: “The victim is aged below 14 years, where the offender is infected with HIV, where the offender is a parent, guardian or person in authority over the victim, where the victim is disabled person or where the offender is a serial offender.” Cases of aggravated defilement can only be tried by the High Court, and the death penalty may apply.¹¹⁴

Conspicuously, physical violence and a consideration of coercion and consent are absent. In practice, the cases are divided only by the age of the girl and not by the other mentioned factors.¹¹⁵ This has created a gap in how cases were handled. If a girl between 14 and 18 is raped it is considered “simple” defilement, with a maximum sentence of life imprisonment, and can be handled by Chief Magistrates or the Children and Family Court.¹¹⁶

In northern Uganda rape and defilement are among the most common crimes in courts. However, not all cases are forced sex. If a single girl/woman reports rape or defilement it is not uncommon for cases to be dropped if families arrange for bridewealth or other customary payments to formalize the relationship.¹¹⁷

¹¹² Ibid. Defilement is defined in sec. 129.

¹¹³ Ibid. sec. 124 and 129.

¹¹⁴ See the Penal Code Amendment Act, 2007.

¹¹⁵ This paragraph also draws on information in a presentation by Nantudde Lwanga, Assistant Director of Public Prosecutions, Justice Law and Order Sector Regional Workshop entitled, “Investigation and Prosecution of Sexual Offences.” (2009).

¹¹⁶ A proposed Sexual Offences Amendment Bill which had not yet passed into law might address some of these issues.

¹¹⁷ Especially, *luk*, which is discussed in detail in the chapter on love and consent and rape.

Moreover, in discussion with staff at the High Court in Gulu they indicated that they have seen an increase in defilement accusations that are eventually discovered to be about land disputes. In 2012 the court decided 131 cases of aggravated defilement. Of the 131 cases, 61 resulted in convictions with an average sentence of about ten years. Additionally, compensation was usually awarded to the victim of between 200,000 and 800,000 Ugandan Shillings (approximately between 75 and 300 USD). During the same year, the court decided only 14 cases of rape. Nine out of fourteen total cases resulted in convictions, and the men were given sentences of between four and thirteen years. Interestingly, unlike aggravated defilement, in none of these cases did the court order compensation to the victim. At the end of 2012 there was a backlog of over 400 cases waiting to be heard in court, with over half of these being aggravated defilement where only four are rape.¹¹⁸

Understandings of the term rape are locally constructed but applied to international and national legal standards and processes. This has policy, legal and social implications. Before I began this study I had some indications of how prevalent rape was in Acholi. I had earlier facilitated a gender-based violence (GBV) workshop where women wrote anonymous accounts of their own experiences with violence. Four out of the ten stories were about violent forced sex. Many Ugandan women I knew had had forced sexual experiences. Most of them never reported to any authorities and only one who did had a positive outcome. Marital rape seemed common, but as far as I could tell was rarely reported, let alone through formal channels. A colleague working in the United Nations Office for the High Commissioner of Human Rights (UNOHCHR) described the prisons she monitored as full of young men, many under 18 years old, accused of defilement and aggravated defilement. The majority of them, she said, had consensual sex with

¹¹⁸ This is based on analysis of records from all case files that had been registered in the High Court in Gulu since 2009 to January 2013 and interviews with staff in the clerk's office in November of 2009 and January 2013.

their 16-18 year-old girlfriends but the girls' families had them incarcerated as a way of trying to extract customary payments.¹¹⁹

If we accept a definition of rape as sexual intercourse that is non-consensual and/or coercive, it is clear that in northern Uganda some rape is not viewed as illicit, and some consensual sex is treated as criminal. The police and what was previously the UN Protection Cluster, now the Child Protection and Gender-based Violence Coordination Meeting, collect monthly information on reported cases, but these of course conform to popular notions of what "counts" as criminal sex. It excludes many incidences of forced sex in the population that are not socially condemned or are simply not reported. They also include incidences of consensual sex that violate certain sexual mores of Acholi society.

A more accurate picture about the prevalence of rape was needed.

Counting rape, toward a definition and prevalence

The study was conducted primarily in two villages. The two locations were chosen because together they are characteristic of common situations in Acholiland today. Their precise locations are not included to protect the identity of those who generously shared their stories with me, especially my key informants. Both villages experienced high levels of LRA and NRA/UPDF¹²⁰ violence, and one of them was of particular interest because of links of specific crimes that are alleged to have taken place there and the activity of the ICC and International Crimes Division of the High Court of Uganda.

The first is not far from the town of Gulu. Less remote than the other, the residents are a mix of town and rural people. During the war a number of IDPs moved to the area. The population has only recently come together from different

¹¹⁹ Personal communication with Priscilla Ciesay. These customary payments, the types of *luk* and bridewealth are discussed in detail in Chapters 5 and 6 below.

¹²⁰ NRA stands for National Resistance Army, the name of the army that brought current-President Yoweri Museveni and the National Resistance Movement to power in 1986. The name was changed as part of the 1996 Constitution to the Uganda People's Defence Forces (UPDF).

clans and regions of Acholi, allowing the observance of a variety of cultural backgrounds in one location. Because it is closer to a town it also has features that reflect the labor and educational diversity in and around town centers in the Acholi sub-region. Conversely, the more remote location is made up primarily of residents from one clan who have lived in that area for generations. Many if not most of the women in this second village, however (as will be elaborated later), are those who have married into the dominant clan and have come to live on that clan's land; so the women in the second village, as in the first, have come from various places and backgrounds. The proximity to Gulu town of the first site means that people there have more access than the more distant second village to formal justice processes, and are more exposed to NGO activities, workshops, and the competing justice narratives prevalent in Gulu.

Women in the two project villages who had been raped almost invariably described their experiences as unambiguously forced, and in all but a few situations (characterized by deceit, drugs or exceedingly coercive environments) as physically violent.¹²¹ As will be elaborated, it is not uncommon in Acholi to have a rather forceful "love fight" as part of foreplay, but this often leads to what is understood as consensual sex. In this study, such experiences are not counted as "rape situations" unless the woman said that her protestation was not feigned – that she felt the man knew or chose to ignore her genuine refusal and continued anyway, and that she felt aggrieved afterward. Some women were raped multiple times by the same person, and these cases have been quantified as one "situation" of rape. Similarly, there were other women who were raped by several men one after another, and rather than counting each of these as different instances, they too are counted as a single "situation" of rape.

¹²¹ Again, see Chapter 6 below where much more detail about Acholi perceptions of rape, and the language that is used to describe forceful sex is provided.

It is worth noting here the argument that some have made to distinguish rape from the practice of “forced marriage.”¹²² This is discussed further below, but in terms of counting situations of rape, I treat the sex that happened in the context of a “forced marriage” as a “situation of rape,” as the overall circumstances were so coercive as to negate any meaningful consent. However, I am cognizant that words like rape and sexual violence only describe one type of suffering endured by those who experienced forced marriages, and do not capture the wider context of the crime and abuse.¹²³ The phrase “forced marriage,” then, signifies this broader experience of these women’s lived realities.¹²⁴

In this study, it was found that out of a total of 187 women interviewed in the two project villages, 76 (just over 40%) had been raped. These figures represent the more legal understanding of rape as sexual intercourse that was without consent or took place in circumstances that were coercive, though in subsequent chapters, I will highlight the many ways in which these characteristics interact with social understandings of sexuality, crime or wrongdoing and appropriate responses to it.

Some of the raped women had been violated in more than one situation. When these different situations were counted up, the 76 women who had been raped had experienced a total of 94 different “rape situations.”¹²⁵

Interestingly, when many women in the larger sample of 187 who had not been raped, especially young women, were asked about experience with sexual violence, they said that it had not happened to them “yet.” The idea expressed by these women, of the female body as either already raped or always rapeable, is one that

¹²² See, for example, Ouattara *et al.* (1998); Park (2006); Frulli (2008); Hossain and Turner (2001).

¹²³ Carlson and Mazurana (2008).

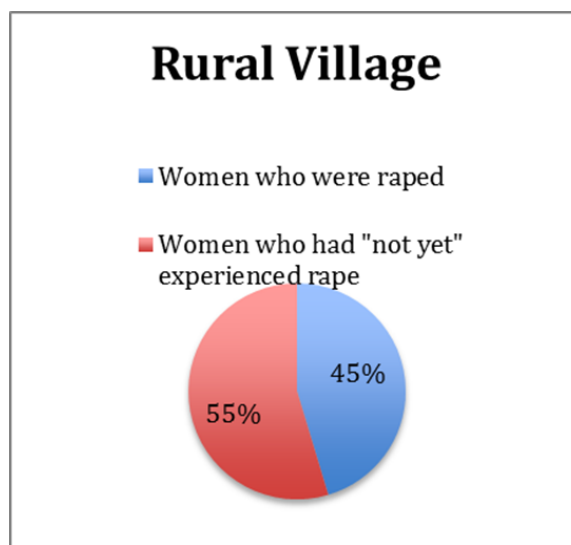
¹²⁴ For more in depth discussion of the merits of a distinct crime of forced marriage from a legal perspective, see Jain (2008).

¹²⁵ I am aware of issues in relying on personal memories – see, for example, Gardner (2001). However, this study follows, and builds upon, the established practice in feminist literature of privileging a women’s account in understanding sexual violence that she has experienced; see Hawkesworth (1989),

has been problematized in feminist and anti-rape literature.¹²⁶ However contentious such a position may be on normative or theoretical grounds, the subjective consciousness of many women in this study indicate that they see themselves in this way, and that is noteworthy.

In the more remote, rural village, 44 out of 97 women interviewed (45%) had been raped at least once, and in all had experienced 54 different situations of rape.

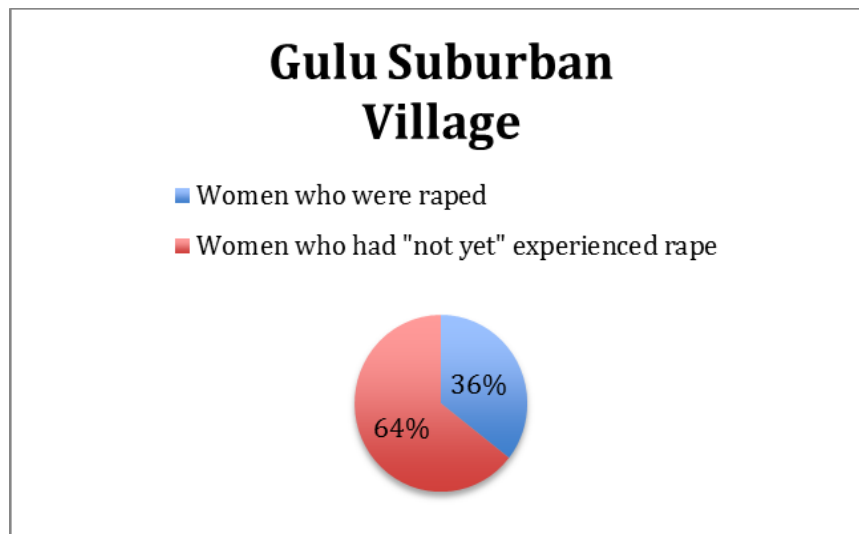
Figure 1: Prevalence of rape among women in the rural village (n: 97)



In the suburban village near Gulu, 32 out of 90 women had been raped (just under 36%), with 40 total situations of rape.

¹²⁶ Marcus (1992).

**Figure 2: Prevalence of rape among women in Gulu suburban village
(n: 90)**



This research has focused on 76 of 187 women in two Acholi villages who acknowledged that they had been raped, and counted 94 total situations among these 76 women where – by the women’s own assessments – sex had been unambiguously forced, including in the context of a “forced marriage” by the LRA.¹²⁷

It must be emphasized that these quantitative data are not claimed to be representative of Acholi in general, but rather only of the population of women over sixteen years of age in the two project villages in the study.

It should also be noted that while the exact timing of the sexual violence was sometimes difficult to ascertain, with the exception of a few situations of rape in the youth of elderly respondents and very recent experiences, the majority of rapes identified in this study took place within the context of ongoing conflict during the long northern Uganda war, although civilians as well as combatants perpetrated these rapes.

¹²⁷ Much more detail on how this was determined and categorized is provided in the chapter on consent and rape.

Least the numbers and percentages above seem unusually high or lead to an impression that Acholis are particularly sexually violent, it is useful to put these indications of prevalence in a broader international and regional contexts. In the United States, for example, two massive studies found that about one of every six women surveyed had been the victim of a completed or attempted rape.¹²⁸

In Uganda, the Demographic and Health Survey of 2006 found that more than two in five women reported having experienced sexual violence.¹²⁹ Although It was not exactly clear what was included as sexual violence (though it was likely to encompass more than forced sex, which this study examines), data on the prevalence of rape in the two subject Acholi villages, if not sexual violence more generally, is highly comparable. And it is arguable that the present study, with its sensitive approach to asking about sexual violence, and rape in particular, utilizing individual semi-structured interviews and long-term participant observation may have prompted women to share experiences that would not have been shared in response to more narrowly framed questions in a mass survey framework. Also similar to the findings of this study, the 2006 Demographic and Health Survey found a higher prevalence of sexual violence among rural women as compared to women who lived in or near towns (41% compared to 31%).¹³⁰

Another survey conducted in 2008 in the Lango sub-region that neighbors Acholi, by the Program on Forced Migration and Health, Mailman School of Public Health, Columbia University (in partnership with Christian Children's Fund), focused on violence against women and children, including incidence rates of rape. Their basic methodology was "the neighborhood method," where women are asked to provide information about their sisters and neighbors as well as themselves. While it is unlikely that the respondents were able to provide valid insight into others'

¹²⁸ Tjaden and Thoennes (2000; 2006).

¹²⁹ See Uganda Bureau of Statistics (UBOS) and Macro International Inc. (2007), p.15. The data were not disaggregated by region in this source.

¹³⁰ Ibid.

experiences in all cases, the study found that reported rates of rape when women recounted their own experiences and what they conveyed for sisters and neighbors was similar in both cases. The study's results indicated that in one year alone, 28% of women had experienced forced sex, most by their husbands. In addition, all ten of the women's focus group discussions conducted during the study prioritized rape as their highest protection concern.¹³¹

Two other studies, though with different parameters, have also reported data pertaining to sexual violence in northern Uganda. Both suggest a much lower prevalence of sexual violence than the present study, and those reviewed just above. In the 2005 International Center for Transitional Justice (ICTJ) study, *Forgotten Voices*, seven percent of respondents admitted to being sexually violated.¹³² The report indicates that this figure refers to sexual violence perpetrated during the war, and not all experiences of sexual violence in one's life. Moreover, the reported percentage seems to refer to all people surveyed, not only female respondents, though this is not made explicit. And finally, other "traumatic events" measured in the study were specifically inflicted by the LRA, and if the reported figure reflects LRA violence (again, this is not clear) this could explain the low number. Evidence from the two villages in the present study identifies seven percent of women who admitted to being raped by the LRA (and another six percent by Ugandan government soldiers). With many caveats, perhaps the ICTJ data are not so dissimilar to my own findings.

The final study to note here is the Survey of War Affected Youth (SWAY). In the second phase of SWAY research in northern Uganda the authors found reported rates of sexual abuse – or "the experiences of sexual abuse, being forced to have sex with a man, and witnessing rape or sexual abuse of another woman" – among non-abducted females as unrealistically low (by their own admission), at three

¹³¹Stark *et al.* (2009).

¹³² International Center for Transitional Justice (ICTJ), Human Rights Center (HRC), University of California, Berkeley (2005), p. 22.

percent. This rate is so much lower than the Ugandan national figures, and indeed lower than those in other international surveys, that it is difficult to figure out what it might mean. One explanation might be that this three percent figure actually represents the prevalence of a specific notion of rape –evil/power rape committed by a stranger. If so, the SWAY three percent rate is similar to the stranger rapes reported in the present study. It seems unlikely, as the authors suggest in a footnote, that it was due to shame and fear because of the taboo nature of sexual abuse, since that would presumably be in play in all the other studies that have found significantly higher prevalence.¹³³

Shame, fear, or similar emotions or concerns are indeed likely to hinder some women when responding to any survey from reporting their experiences with sexual violence, including rape. But the evidence-gathering approach used in this study – including personal, one-on-one interviews (with a line of enquiry planned through a participatory process) and extended participant observation involving numerous visits over two years to each of the two villages where research was conducted – seems to have prompted some women to share experiences that they might not have otherwise, especially intimate partner violence, acquaintance rape and instances when forced sex is related to socio-cultural norms gone tragically wrong.¹³⁴

Explaining Rape

It is obvious, but still important to note, that rape occurs everywhere, perpetrated (mostly) by men of every socio-economic class, in rural villages and the largest of cities, in the poorest of slums and wealthiest of exclusive neighborhoods, and in every continent, society and culture. It happens in the throes of war and within the bedrooms of married couples in peaceful societies. In part, perhaps since forced sex is found everywhere, some theories of rape present it as a human universal,

¹³³ Annan *et al.* (2008), p. 62.

¹³⁴ More detail about the line of enquiry is explored in Chapter 6 below. For further discussion of methodology in relation to studying the prevalence of rape see Koss (1993).

contending that the physical ability to overpower is the foundation of rape. In her seminal work on the subject Brownmiller espouses this influential view, stating that:

in terms of human anatomy the possibility of forcible intercourse incontrovertibly exists. This single factor may have been sufficient to have caused the creation of a male ideology of rape. When men discovered that they could rape, they proceeded to do it.¹³⁵

This vision is problematic for a host of reasons, not least is the idea that if the foundation of rape is indeed biological it is immutable; if so, this would mean that the conditions of rape cannot be altered, challenged or otherwise deconstructed.

Human sexual behavior, though based in virtually universal biological needs, is an expression of cultural forces. In the US, for example, work has been done to examine different sub-cultures within university fraternities to try to explain why some are more dangerous places for women.¹³⁶ Other studies have found a relationship between certain socio-cultural configurations and the incidence, meaning and function of rapes. Among such socio-cultural factors that worsen rape are war and the impacts of militaristic conceptions of masculinity and patriarchy.¹³⁷ Marcus describes the connections between patriarchy and rape as an aggregation of microstrategies (which, with a subtle difference in emphasis, I would rather call “micro-expressions”):

Patriarchy does not exist as a monolithic entity separate from human actors and actresses, impervious to any attempts to change it, secure in its role as an immovable first cause of misogynist phenomena such as rape; rather, patriarchy acquires its consistency as an overarching descriptive concept through the aggregation of microstrategies of oppression such as rape. Masculine power and

¹³⁵ Brownmiller, (1975).

¹³⁶ Boswell and Spade (1996).

¹³⁷ See Sanday (2010); Braudy (2004).

feminine powerlessness neither simply precede nor cause rape;
rather rape is one of culture's many modes of feminizing women.¹³⁸

The above discussion raises the question of whether rape is an expression of such cultural and social forces or an aberration of them—a departure from “normal” everyday life. Veena Das captures well the interplay between these two ways of looking at and understanding such violence. Reflecting on the violent events (particularly sexual violence) of the partition of India and Pakistan she discusses how they were at once both. The magnitude and magnification of violence that took place during the partition (and I would say, during the war in northern Uganda) took place in “a state of exception.” The war brought something new into existence, but it did not come from nowhere. It was “anchored in imageries that already haunted” the two communities’ relations, and in this context, it already haunted Acholi gender relationships.¹³⁹ From the interactions with women in this study and their communities, it seems that rape is in some ways both an expression and an aberration of socio-cultural beliefs and norms. Not all men rape. Sex, whether forced or mutually desired, expresses larger cultural and social forces that are in play beyond the couple involved. Men who rape express something real, which is a manifestation of these forces, even if a distorted one.

What is important from the perspective of this study is that there are social and cultural conditions, to be discussed below in some detail, that are part of Acholi realities – at least at this moment. These realities are not fixed. They have always been and will keep on evolving. Some of them contribute to an environment that is conducive to sexual violence. War, of course – which was a part of Acholi lived realities for two decades – is an especially conducive environment for rape.¹⁴⁰ The prevalence of sexual violence in Acholi is not due to some unique and essential quality of Acholi culture or society. Sexual violence, including rape, happens in all

¹³⁸ Marcus (1992).

¹³⁹ Das (2007), See in particular pp. 1, 21, 23-30.

¹⁴⁰ Watts and Zimmerman (2002).

societies. In the particular context of Acholi, such violence has been exacerbated by the devastating effects of war and displacement, while it remains imbued with meaning shaped by both deep, collective social memory and lived local realities. The particular manifestations of sexual violence that have occurred here in Acholi, and how rape is experienced and responded to can only be understood by examining these phenomena in their social and cultural context.

A major debate in trying to understand rape is the basic question of what motivates rape. What is rape really about: power, sex or politics? The main theories that dominate explanations of rape (both in ordinary times and in times of war) tend to downplay the role of sexual need, desires and libido. Rape is often understood in relation to psycho-pathological models related to power under more ordinary circumstances (for example, during peace time), or as a weapon in war used for political ends during times of conflict. The first of these models for understanding rape has been generated primarily by psychiatric studies with atypical rapists, but the findings of these studies have frequently been generalized to all men who rape.¹⁴¹ This perspective has come to inform the public imagination of what drives rape, as well as feeding into the feminist movement which tends to de-sexualize rape and emphasize instead the driving factor of power.

Susan Brownmiller (especially her 1975 groundbreaking book) is often credited with establishing the notion of rape as not a crime of lust and eroticism but of power and intimidation.¹⁴² Four years later, in 1979, A. Nicholas Groth published his seminal text on the psychology of rape, also emphasizing its nonsexual nature. In it, he stresses the motivations of power, anger and sadism, and espouses the view that: “Rape is always a symptom of some psychological dysfunction, either temporary and transient or chronic and repetitive.” Though written over thirty

¹⁴¹ Palmer (1988).

¹⁴² As argued, for example, by Gina Bellafante – see *New York Times* (23 February 2012), “Debating the semantics of rape”; see also Brownmiller (1975).

years ago, Groth's book has remained a definitive source on understanding rape,¹⁴³ and the most popular explanation of rape today holds that it is about power, control, domination and violence, rather than about sex.¹⁴⁴ Or, as Dumaresq influentially contended, "rape is violence, not sex."¹⁴⁵

Although aspects of this view of rape have analytical power, some tempering of it is required for a more balanced and accurate understanding. For in this popular imagination, men who rape are sick, on the fringe of society, lurking in dark shadows with evil intent in their heart and violence in their past, waiting to terrorize women who fall into their hands. Such men, in this view, will act again and again because it is their pathology. This image of rape leads to all sorts of distortions in understanding, as well as contributing to denial and cognitive dissonance about the issue. In a functioning society, among mentally sane people, this kind of rape should be rare.

A growing body of empirical research challenges this theory, in part due to its "too limited a view of sexual violence because it excludes culture and social structure as pre-disposing factors."¹⁴⁶ These cultural and social structures are, of course, different according to context. A study of American men convicted of rape that analyzed the function of sexual violence in their lives found that in addition to some of the more classic reasons associated with power (revenge, punishment), many used it as a means of "gaining access to unwilling or unavailable women" and some saw it as a "recreational activity and described it as an 'adventure' and an 'exciting' form of impersonal sex."¹⁴⁷

When it comes to rape in the context of war, powerful and evocative language is now commonplace, describing rape as a "weapon of war" and the female body as a

¹⁴³ Groth (1979), the quotation is from p. 5.

¹⁴⁴ Palmer (1988).

¹⁴⁵ Dumaresq (1981).

¹⁴⁶ Scully and Marolla (1985).

¹⁴⁷ Scully and Marolla (2005), p. 15.

battlefield.¹⁴⁸ Historically, rape is generally thought to be an inevitable byproduct of, or weapon in, the horrors of war. Many scholars in this area tend to de-link rape from biologically “natural” sex drives and rather emphasize how the violence is predicated on sexist discourse.¹⁴⁹ Some research depicts ways that the context of war and exposure to violence “spirals” and incites rape, fostering feelings of humiliation, shame, powerlessness, victimization and “othering,” all of which might make the enactment of sexualized violence more likely.¹⁵⁰ It is also argued that in war, “normal” societal mores are suspended, and rape is encouraged by the need to assert power and dominance in the face of the constant risks of victimization and defeat combined with access to vulnerable women who are less protected than under peaceful circumstances.¹⁵¹

While war is certainly an enabling environment for rape, if rape in warscapes is primarily a weapon of war, then when the political and instrumental motivations for rape in war disappear – when the war ends – then so too should the sexual violence. Even stating it this way makes obvious the error of over-extending the view of rape in war as a “weapon of war,” as some recent studies have illustrated. Jelke Boesten, for example, looks at the war in Peru to argue that an emphasis on the paradigm of rape as a weapon-of-war obscures other rape regimes.¹⁵²

Many scholars have noted the links between violence against women before, during and after conflict as pointing to ways in which militarized conflict exaggerates existing gender differences and heightens violence against women. Masculinity is generally associated with aggressiveness and femininity with the

¹⁴⁸ For example Stiglmayer (1994); Card (1996); Brownmiller (1994).

¹⁴⁹ Some key examples include: Alison (2007); Enloe (2000); Goldstein (2001); Horwood (2007); Seifert (1996); Skjelsbaek (2001); Brownmiller (1976); Stern and Nystrand (2006); Stern and Zalewski (2009); and Vikman (2005).

¹⁵⁰ Fresard and Muñoz-Rojas (2004); Staub (1999).

¹⁵¹ Horwood (2007); Kassimeris (2006); Weiener (2006).

¹⁵² See for example Brownmiller (1994); Stiglmayer (1994).

¹⁵² Boesten (2010).

need for protection and dependence and the processes of war and even its aftermath tend to reinforce these associations.¹⁵³ In Dolan's work on masculinity, he has argued that in the context of Uganda, rape is a way that men assert and sustain their leadership in a masculine culture that fosters militarism. His conception of hegemonic masculinity sheds light on men's use of rape as an exercise of power over other men.¹⁵⁴

Cynthia Cockburn also argues that rape in war is a continuum of violence against women, emphasizing that the experience of violence for women does not begin or end with war.¹⁵⁵ And in her work in Mozambique, Carolyn Nordstrom found that the plight of war victims and women harmed in their own homes and communities was qualitatively similar.¹⁵⁶ The relevance of this observation to northern Uganda struck me in an interview with a young woman who had been abducted by the LRA. She was given as a "wife" to a top commander with whom she lived for eight years before her eventual escape. Describing her situation in captivity, she poignantly expressed: "It was a typical African home."¹⁵⁷

Much has been written about the situation of girls with experiences similar to hers. Mazurana and McKay's book on girls in fighting forces in Uganda, Sierra Leone and Mozambique is one example,¹⁵⁸ and Carlson and Mazurana's work on forced marriage in the LRA emphasizes the need to recognize the impact of the crime of forced marriage as more than the sum of its individual parts (for example, abduction, forced labor, rape, sexual enslavement, forced pregnancy), due to its conjugal nature and the forced status of marriage. They define forced marriage as

¹⁵³ Cockburn and Zarkov (2002), pp. 1- 21.

¹⁵⁴ Dolan (2002) pp.57-83.

¹⁵⁵ Cockburn (2002, 2004); see also: Palmer (2009).

¹⁵⁶ Nordstrom (1997b).

¹⁵⁷ The interview was conducted over several days in August of 2008 as part of research for a contributed chapter to a forthcoming book on reconciliation and forgiveness in northern Uganda.

¹⁵⁸ McKay and Mazurana (2004). For other examples see also Cook (2007); De Temmerman (2001); McDonnell and Akello (2007); Baines and Stewart (2012).

“coercive relationships without valid consent of the female and her family. They have the traditional characteristics of shared domicile, bearing of children, domestic responsibilities, exclusivity and sex.”¹⁵⁹ Other reports have highlighted the experience of females abducted by the LRA as “sex slaves,”¹⁶⁰ though analysis in these instances has tended toward generalized description disembodied from context, neglecting the nuance of a fuller appreciation of the young woman’s description above. Use of labels such as “slave labor” and “sex slave” for girls in the LRA rightly point to the gravity of some of the crimes they suffered, but they also suggest a conceptualization of these experiences that is extracted from their surroundings.¹⁶¹

The practice of combatants in the northern Uganda war, and in others, to force women or girls into marriages has political instrumentality. This should not be glossed over, as it is one way to incentivize fighters and insure loyalty.¹⁶² But this practice is also sexual. Interestingly, even within these relationships, women in the present study who had been abducted into the LRA distinguished between encounters that they had which seemed to be more about sex, and those that were about punishment, or in other ways resembled the notion of power rapes. Baaz and Stern in their research on why soldiers rape in the Democratic Republic of Congo (DRC) found a related distinction in the way that sexual violence was characterized – either as “lust” rapes tied to the male libido, or “evil” rapes driven by anger or rage and intended to shame and debase. And while the former were reprehensible they were more morally palatable than the latter.¹⁶³ Cynthia Enloe outlines three different types of militarized rape in the context of war. Two of

¹⁵⁹ Carlson and Mazurana (2008), p. 14. They cite “Prosecutor’s Submissions to Trial Chamber’s Questions Pursuant to Status Conference,” *Prosecutor v. Norman, Fofana and Kondewa*, Doc., SCSL-2004-14-PT (551-558), Special Court for Sierra Leone, p. 5., made available to authors from the Coalition for Women’s Human Rights in Conflict Situations.

¹⁶⁰ See, for example, Human Rights Watch (2003a, 2003b); Amnesty International (1997).

¹⁶¹ Carlson and Mazurana (2008).

¹⁶² Blattman and Annan (2010).

¹⁶³ Baaz and Stern (2009).

these are related to the idea of rape as a weapon of war – national security rape and systemic mass rape. The third is “recreational rape.”¹⁶⁴

Sverker Finnström touches on the issue of rape in northern Uganda.¹⁶⁵ Discussing the work of Turshen he writes that in order to sustain insurgencies in Africa, “rebels often live off the land. For this to be possible, the effort to control women’s productive labour – as porters, farmers, cooks, cleaners, launderers, tailors, and sex workers – becomes an asset transfer in civil war.”¹⁶⁶ While this is certainly true of war, in peace as well the power of men in an agrarian society is sustained by their ability to live off the land and therefore to control women’s productive labor. As Nordstrom writes, there is a strong link between the treatment of women in war and peace.¹⁶⁷ What people accept in peace helps shape what they will tolerate in war.

However, the continuum of violence in the Acholi context as it relates to rape is more complicated than simple links between pre-war, war-time and post-war rape. As will be elaborated below, -the circumstances under which women experience crime or wrongdoing, including rape, effect greatly the perceptions of those experiences and what would constitute just responses. As already argued, a crucially important notion shaping these perceptions is the importance of social harmony.

CONCLUSION

Prevalent theoretical models typically downplay the role of sex in rape, both rape perpetrated by civilians – whether in peaceful settings or in warscapes – and by combatants during war. In “ordinary” circumstances of rapes by civilians, such rapes are about power; in war, the driving dynamic of power is exaggerated and

¹⁶⁴ Enloe, (2000), p. 111,123, 132.

¹⁶⁵ Finnström, (2008), pp. 191, 180-183.

¹⁶⁶ See Turshen (2001b), pp. 78- 96.

¹⁶⁷ Nordstrom (1997).

has added to it the element of political instrumentalization – rape as a weapon of war. By inference, then, socially acceptable and legal sex is *not* instrumental and *is not* about politics or power.

There is an implicit, if almost certainly unintentional consequence of accepting this interpretation of rape: if rape (and other sexual violence) is about power, anger, and/or politics, then acceptable sex is about sexual desire. Consent and coercion are no longer the distinguishing factors between illicit and acceptable sex. The axiom that rape is all about power is problematic.

The lines inherent in the above interpretation need to be blurred or redrawn. One way to do this is to plot all sexual encounters along a continuum. On one extreme is violent, psychopathic, sadistic and even genocidal rape; on the other end are mutually enthusiastic, consenting partners with intense sexual desire for each other. In between, we might imagine at least fifty shades of grey.¹⁶⁸ At a particular point along that continuum, the line, which distinguishes rape from acceptable sex, is drawn. Is it at this precise point, and in addition for all encounters plotted to one side of the line marking this point, where power or anger or politics or the social upheaval of norms and challenges to masculinity suddenly become activated? Who can say that there is no element of power on the other side of the line? Indeed, who can say that there is no element of power in his or her own sexual relationships, even if considered consensual and healthy? As one woman who experienced rape from her boyfriend put it, “I don’t know if I would say that sex or rape is about power, but sex is powerful.”

Sex is a powerful medium for expressing and maintaining anything that the participants in it wish to convey, create or protect. This thesis adds empirical, locally grounded, and culturally specific evidence in support of a more complicated and nuanced explanation of rape. It also contributes to re-sexualizing the

¹⁶⁸ The metaphor seems appropriate here, although its use is not intended to endorse a recent controversial novel or its specific use of the metaphor.

understanding of rape, and to conceptualizing (illicit) rape and (acceptable) sex as existing along a continuum.

This study explores the ideas and principles that can be used in distinguishing sex that is personally and socially acceptable and sex that is considered a crime or wrongdoing, as part of a continuum where any given sexual act falls. Legally, of course, it is important to be very clear about where specifically such lines are drawn, but in social understandings of any such act and appropriate responses to it they are anything but clear. For example, the ways in which rape is instrumental are not always political, nor does instrumentality begin or end with war.

This study explores the relevance of these various distinctions in understanding rape and its aftermath in the specific context of Acholi in northern Uganda, but in the process necessarily blurs lines and defies neat analytical categories. It further illustrates that the vision of evil, stranger rape (civilian or combatant) is atypical, as most of the rapes discovered in this study of two villages in Acholi (as often the case elsewhere) were committed under drastically different circumstances. The thesis also widens the perspective on sexual violence by examining, in the specific case of Acholi, social and cultural pre-disposing factors, while also showing that most instances of rape, even war-rape, were at least partially about sex.

The thesis attempts to do all of this while still noting and acknowledging the role of power in rape. But power is understood here as not just something exercised by an individual man over a woman in any given sexual act, forced or consensual. Instead, sex is analyzed here as both expressing and forging power dynamics in gender relationships, which in turn are shaped by broader socio-cultural mores and social belonging that provide the basis of social harmony in Acholi.

3 The supremacy of social harmony in the space between local solutions and formal judicial systems¹⁶⁹

At four o'clock one morning my neighbors in Gulu town beat a man nearly to death. He had stolen a mobile phone. Women laughed and babies cried while the people I buy eggs from, have tea with, and whose children play football outside my house crushed a man's ribs. They are rather ordinary, hospitable and friendly people so it was all the more disturbing to listen to the sound of heavy blows striking the thief's body unabated, despite his cries for mercy.

This is not an uncommon occurrence in northern Uganda. In the past, or in villages further away from government authorities in Gulu town, the result could well have been death rather than a month in a hospital. Yet this is the same community that has welcomed home members of the Lord's Resistance Army (LRA), and has preached, and often practiced, extraordinary forgiveness. Former LRA Brigadier, Kenneth Banya, who is known to have committed crimes similar to those included in the ICC arrest warrants for his former comrades-in-arms, introduces himself in community gatherings as a "retired civil servant." He now attends a popular Pentecostal church in Gulu where he joyfully dances and sings songs about the grace of God every Sunday, turning to his neighbor when prompted and offering them signs of peace. Visibly uninhibited, they receive him warmly, and shockingly do not remind him of the horror he visited on them for so many years. There is a notorious story of a woman angrily confronting and trying to strangle him in a bank queue. The fact that this incident is so often retold, indicates how extraordinary it is for former senior LRA to be disturbed in their daily lives by that level of open

¹⁶⁹ An earlier version of most sections in this chapter was published in the *Journal of Eastern African Studies* in 2012; see Porter (2012).

hostility. One of his former forced “wives” described with great conviction her inner spiritual journey of forgiveness. Although they have little contact, she insists, “I harbor no bitterness toward him.”¹⁷⁰

Since the intervention of the ICC thrust Uganda into the center of justice debates, observers have promoted competing interpretations of what appear to be incompatible and contradictory expressions of northern Ugandan’s posture toward justice, mercy and forgiveness. Restorative justice mechanisms, usually understood as “local” were pitted against retributive approaches, typically backed by more vigorous international human rights advocates and international law. This association is as misleading as it is pervasive.¹⁷¹ Too often a particular justice mechanism is identified as either restorative or retributive when in fact closer scrutiny reveals that elements of both approaches operate in most justice mechanisms. As in the example of my neighbors taking justice into their hands in the street, some “local” justice is highly retributive and can lead to appalling abuses of human rights. The “local” approach for dealing with witchcraft accusations, incest and sodomy can be brutal.

During my own research and in the reports of others, stories have been recounted of mutilation, torture and killing of accused witches/sorcerers.¹⁷² Thieves have been known to run to the police and turn themselves in to escape beatings or even death at the hands of an angry mob. This calls into question assertions that Acholi are innately forgiving. Many “opinion leaders” speak about this idea, especially in the Gulu area, including “traditional” *Rwodi* (chiefs) who are part of the Acholi cultural foundation, *Ker Kwaro Acholi*, and religious leaders such as Catholic

¹⁷⁰ The quote is from one of a series of interviews I conducted with her in June 2008 for a chapter I contributed entitled, “No Cheap Forgiveness,” in *The Quest for Reconciliation*, a forthcoming book edited by Dean Peachey.

¹⁷¹ Clark (2010).

¹⁷² While documenting such reactions, the use of “witchcraft” and poisoning and accusations of such have been linked to the moral economy of knowledge, assertions of moral probity and used as tools of social exclusion and resistance and contestation of gender relations, socio-economic and local authority dynamics, particularly in times of great change. See Allen (1999); Leonardi (2007).

Archbishop John Baptist Odama and former Anglican Bishop Macleod Baker Ochola. Reports by the Acholi Religious Leaders Peace Initiative (ARLPI), the Justice and Peace Commission (JPC) of the Catholic Church, Refugee Law Project (RLP), and that by Denis Pain following a 1997 meeting of the Acholi diaspora organization, *Kacoke Madit* (“big meeting”), are all examples of this view.¹⁷³

Nonetheless, many Acholi do express a deep cultural value of forgiveness and evoke forgiveness in relation to their identity in public discourse as well as in their personal lives and family interactions. Many rituals that are performed in the aftermath of crime or other wrongdoing are powerfully symbolic, embodying rich notions of reconciliation – frequently following acknowledgment of wrongdoing and payment of compensation – that are emotionally evocative and socially healing.¹⁷⁴ Those who promote “Acholi justice” as an alternative or complement to the ICC emphasize these reconciliatory and restorative aspects. Those who oppose the use of Acholi justice challenge the authenticity of this vision and appropriateness of local processes to address crimes of concern to the international community.¹⁷⁵ In *Trial Justice*, Tim Allen called for the interrogation of assumed consensus on justice among victims, challenging the idea that the “local” view is at odds with international criminal justice.¹⁷⁶ Outside of Uganda, this generated considerable, sometimes heated, academic debate. However, many of those closest to the injustice who read the book or heard about it, responded with offence, seeing it as dismissive of Acholi cultural resources. It undermined the legitimacy of a conception of justice that was being carefully constructed through the discourse of tradition, which many thought would best contribute to peace.

¹⁷³ See, for example, Pain (1997); ARLPI (2002); Civil Society Organizations for Peace in Northern Uganda (2005) and the monthly newsletters of the Catholic Gulu Archdiocese Justice and Peace Commission.

¹⁷⁴ For in depth discussions of (and different perspectives on) such rituals see Allen (2007); Atkinson (2010b); Finnström (2008), pp. 219-230; Harlacher *et al.* (2006); Girling (1960); Ocitti (1973); and p’Bitek (1971).

¹⁷⁵ See for example, Allen (2007, 2010).

¹⁷⁶ Allen (2005).

It is not surprising that there was a strong response to criticism by outsiders, especially from the seat of the former colonial empire.¹⁷⁷ Understandably, many Acholi responded angrily to what they viewed as defamation of their culture and sabotage of their chances for peace, feeling misunderstood and misrepresented. But they have struggled to identify and articulate why the reality of instances of extreme violence in their community do not negate, and are consistent with, the impetus for meaningful reconciliation.

How should apparent inconsistencies between calls for forgiveness of combatants and murderers and the spontaneous and widely accepted violence and brutal killing of people accused as witches, certain categories of rapists, thieves and homosexuals be understood? It can be argued that the answer lies in the exceptional nature of “transitional justice”: that the range of strategies a society pursues in order to emerge from conflict or totalitarian rule holds in tension political necessity, the pursuit of accountability and social healing.¹⁷⁸ From this perspective, the example of mob violence against a thief should not be compared with a categorically different response to LRA crime.

However, evidence from women in this study who had been raped under “ordinary” circumstances (which includes rapes by civilians during war) and those raped by combatants, it is clear that their conceptions of crime, accountability and appropriate ways to redress wrongdoing are intricately related, and are closely linked to notions of moral community and how to restore social harmony – whether the violence was socio-political or not. Deeper understanding comes from

¹⁷⁷ A tragedy of the ICC outreach program (and the fact that the former Prosecutor was seen as pro-Ugandan government and exclusively as the public face of the court), is that more people can cite the specific articles in the Rome Statute that deal with suspension of arrest warrants or challenges to admissibility, but very few have been presented with a vision and benefits of an international criminal justice system.

¹⁷⁸ International Center for Transitional Justice (ICTJ), <http://www.ictj.org> and African Transitional Justice Research Network <http://www.transitionaljustice.org.za>, two key NGOs that work on this issue have similar definitions, among others discussed in the section on transitional justice in the previous chapter.

appreciating the social and cultural context in which notions of justice are formed and understood, rather than looking at crimes of war as divorced from the rest of lived reality.

The dichotomies noted above surrounding the post-ICC justice debate obscure an internal and cohesive logic behind decisions that are made on how to respond to injustice at the particular local level of Acholi. Social communal harmony is a supreme value that does not preclude, but nearly always trumps, the concurrent belief that wrongdoing deserves to be punished.

In this chapter, I suggest that responses to crimes and other wrongdoing are best understood as located in the space between a “local” or embedded approach (discussed further below) and the more distant formal national judicial system or international justice regime. Many former ways of responding to wrongdoing in Acholi (through, for example, ritual, revenge or compensation, and extended kinship systems) have weakened and warped, yet a new system that can fill the gap created by their diminution has not been firmly established. This justice vacuum has led to greater prominence of newer actors such as Local Councilors, Christian churches and non-governmental organizations (NGOs), discussed in the next chapter.

Interpretations of justice that do not adequately appreciate the current Acholi situation are likely to minimize or neglect entirely the centrality of two integral aspects of lived Acholi reality: *There is (i) a profound value of social harmony, and (ii) a deep distrust of higher authorities to dispense justice in their interest.*

Understanding these dual dynamics clarifies the otherwise perplexing Acholi responses to crime.

Those involved in and affected by crime need a level of faith in a justice system in order for it to contribute to social harmony. I refer to this faith and the perceived moral authority of an institution of justice as “moral jurisdiction.” The Ugandan central government and the ICC have thus far failed to earn that faith from a critical

mass of Acholi. Although there continues to be significant local criticism of the ICC, as the LRA have moved beyond the borders of Uganda there has been a shift in attitude among many in Acholi which illustrates the dynamic described in this chapter. As the LRA has become geographically distant from, and less entrenched in, the Acholi moral community, the possibility of their punishment is seen as less of a threat to social harmony than earlier.

I want to suggest that what happens after rape as a particular crime is a product of the dynamics in the space between local solutions and formal judicial systems. The various responses to rape in this justice gap, I argue, are illustrative of responses to crime or wrongdoing more generally and are consistent in expressing the supreme value of social harmony.

THE MEANING OF JUSTICE

There is no word for justice in Acholi. “*Ngol matir*” is the most common translation of the word “justice” in Acholi. But this translation distorts important meanings.¹⁷⁹ *Ngol matir* could be understood literally as to “cut straight,” though conceptually it is more accurate to say a fair or right judgment. Crazzolaro defines *ngol*: “to cut,” “to pass a sentence” or “to decide a question.”¹⁸⁰ Although I have found the definition which best fits my informants experiences to be the latter, the more common translation is the second. In this usage, it signifies a rather narrow particular idea of justice, evoking only the decision at the end of a process. For many native English speakers, it implies a very particular kind of process. To sentence or to give a verdict, indicates a punishment that fits a crime and is given after deliberation and presentation of evidence that established guilt. “To decide a question,” or, as many Acholis put it, “a way forward,” better fits with the experiences of my informants. This raises the question of the prevailing priority in

¹⁷⁹ Other scholars have argued for the use of local “legal” terms and explaining them in English and how this leads to less distortion of meaning. See for example, Gluckman (1969).

¹⁸⁰ Crazzolaro (1938), p. 327.

such determinations. People have told me in English that the outcome of such a process was that a goat was “sentenced.” On further exploration it becomes clear that it was not a fine or punishment levied against the guilty party, but the provision of the requirements of cleansing the impurity that resulted from a disruption of social harmony. It might not even be paid for or given by the individual offender (though it most commonly would be the offender’s patrilineal kin). The animal sacrifice was a requirement for re-establishing social harmony.¹⁸¹

Some additional elaboration of beliefs around two Acholi phenomena or beliefs that threaten social harmony – *cen* and *kiir* – helps to deepen understanding of this crucial social priority in Acholi culture.¹⁸²

Cen

Cen has been described in English as “ghostly vengeance,”¹⁸³ the “unhappy spirits of the dead,”¹⁸⁴ and “polluting spirits.”¹⁸⁵ Crazzolara defines *cen* as “a departed spirit, vengefully disposed.”¹⁸⁶ *Cen* are generally considered to be the spirits of people who died violently. They can affect those who were directly involved in the violence, those who witnessed the violent events, or those who came into contact with the site(s) where the violence took place. A common symptom of *cen* mentioned by my informants, and also in the literature, is nightmares, but *cen* can also cause a variety of atypical behaviors and sometimes sickness, or as Crazzolara notes: “The result is that the exposed person will start behaving asocially, amorally,

¹⁸² *Cen* and *kiir* are among the most common examples I found of believed cosmological causes of suffering that are set in motion by wrongdoing, but they are by no means the only causes. See for example the annex which charts “beliefs about possible causes of diseases and misfortune” in Harlacher *et al.* (2006) p. 140; Baines (2010).

¹⁸³ p’Bitek, (1971).

¹⁸⁴ Finnström. (2008), pp. 24, 159.

¹⁸⁵ Allen, (2010), pp. 249, 260. Allen also notes the importance of consensus in the community that *cen* can be effectively dealt with, regardless of individual beliefs, and thus a combination of Acholi cleansing ritual and Christian prayer may be required in many cases.

¹⁸⁶ Crazzolara (1938), p. 199.

and eventually in violent and destructive ways.”¹⁸⁷ Women are generally believed to be more susceptible than men.¹⁸⁸ *Cen* is also capable of “jumping” from the person who was initially exposed onto others who associate with them (especially family members or other patrilineal kin), as noted by many of those who have written on the experience of former LRA abductees and their challenges in reintegration.¹⁸⁹ *Cen* can be most devastating to social harmony, especially when their “anger” or desire for vengeance is great. Primary examples include the Acholi soldiers of the former government army who returned to the north following the NRA/M takeover. They were believed to carry *cen* because of the many crimes they committed against civilians during their fight against the NRA, and in this cosmological sense to have contributed to the beginning of the war in northern Uganda.¹⁹⁰

Cen need to be cleansed or made peace with. This is a social affair, usually involving a healer/diviner (*ajwaka*) who communicates with the spirits and consults the person affected, their relatives, neighbors and elders. The exact demands of the remedy take these into account, but usually the process entails admission of guilt or responsibility, compensation, ritual animal sacrifice, dancing, drumming, and communal eating. It is a social process that is aimed at appeasing *cen* and thus bringing peace to the affected person, but even more importantly, to reestablishing normal social relations between the clans of the wrongdoer and the wronged, and the living and the dead around them, and thus restoring social harmony.

Kiir

Kiir can best be understood as a kind of curse, which can be enacted through both the spoken word and through acts performed which affect human beings and

¹⁸⁷ Ibid. p. 160.

¹⁸⁸ Ibid., p. 185. See also Behrend, (1995), p. 67.

¹⁸⁹ See for example, Harlacher *et al.* (2006), pp. 59-62.

¹⁹⁰ Behrend (1999), pp. 24, 28.

events.¹⁹¹ Some claim that *kiir* can be any action that is committed with anger or hatred.¹⁹² Crazzolara defines *kiir* as:

[an] infringement of intimate social customs, mainly family, which require atonement (generally a sheep must be sacrificed or killed *toomo kiir*) in order to prevent ill luck of some kind; in your village there must be some *kiir* (inferred from unlucky events occurring there).¹⁹³

Okot p'Bitek goes into some detail about *kiir* when he describes the actions of a desperate wife as bringing, "an already highly strained relationship to a point of total rupture. In the act of throwing the pot or dish or ash, she symbolically broke off all the duties and obligations of a wife and mother." He adds, "she became a dangerous person to the family and the lineage group. And what was a matter within the household now assumed lineage or even clan importance."¹⁹⁴

As noted, *kiir* can be constituted through verbal utterances as well as through actions. In discussing *kiir*, informants would recite a litany of actions that "are already *kiir*." Some common examples include: refusing sex to one's partner, throwing things outside the house during a quarrel, throwing food at another person, fighting at the borehole, nakedness, especially drunken nakedness in front of children, and making an alarm to call for help without due cause.

Interestingly, many women talked about the notion of *kiir* and fear of constituting it, as something that disciplined them and controlled their behavior. Certainly, refusing sex to their husbands was among these.

There were also reports that incidences of *kiir* increased during the war, particularly in the deplorable condition of life in the Internally Displaced Persons

¹⁹¹ p'Bitek (1971), p. 145.

¹⁹² Harlacher *et.al.* p. 74.

¹⁹³ Crazzolara (1938), p. 256.

¹⁹⁴ p'Bitek (1971), pp. 147-48.

camps.¹⁹⁵ This makes sense, and is in keeping with p'Bitek's description of *kiir* as being a desperate act of persons "in an intolerable social position," which was certainly the position created by the structural violence of the camps. He explains that *kiir*:

was a desperate act by a weak person against others who infringed on his or her rights, privileges, status and interests. The curse was the last resort that a person turned to, and it drew urgent and immediate attention to a serious social situation when conflict and tension had reached a bursting point. In fact, at the point when the curse was uttered the social strings were cut, hence the urgency with which the matter was treated, and ceremonies that followed operated to re-integrate the group. The curse provided an opportunity for a formal settlement of serious social problems.¹⁹⁶

To restore social harmony *kiir* must be "*tumu*" or cut with a knife, expiated through animal sacrifice. Interestingly, though the notion of *kiir* and the acts that set it in motion continue in the present, ritual sacrifice is not always employed as a solution. Still, the labeling of an act as *kiir*, and the urgency to respond and address the social disruption in a formal way remain social imperatives. In relation to this process my informants commonly told me that the intention and effects of *tumu kiir* were to allow you to feel pain and guilt, to make you accept what happened, to avoid the negative behavior in the future, and finally to bring people together.

The spear and the bead

An archetypal story often told in Acholi is the myth of the bead and the spear, and the fates of the two brothers involved, Gipir and Labongo. Many other scholars have recounted the story, usually in greater detail than I will here.¹⁹⁷ Importantly, the many storytellers invariably mediate the elements and emphasis of the story in order to serve pedagogical ends that they deem required in any given context. In the previous chapter I referred to four central things that my friends said an

¹⁹⁵ Baines (2010).

¹⁹⁶ p'Bitek (1971), pp. 145-146.

¹⁹⁷ See Finnström (2008), pp. 47-53; Bere (1947), pp. 1-2; Wild (1954); p'Bitek (1973), p. 26; Crazzolara (1950), p. 60.

outsider needed to know about Acholi. The fourth, was “What makes us Acholi”: Gipir and Labongo.

Gipir and Labongo were brothers. As he was the older, Labongo was given a precious gift by their father, the ancestral spear. Gipir was a great hunter, and one day he borrowed Labongo’s spear (in some accounts this was by mistake or in order to defend Labongo’s wife from an attacking animal). Unfortunately, he speared an elephant that ran away with the spear lodged in its body. When he returned home without it, Labongo was so enraged that he insisted Gipir recover it. It was a great ordeal for Gipir, and he nearly lost his life trying to track the elephant and get it back. He never forgave his brother for treating him this way. Just after his return with the spear, in some accounts, and others sometime later, Labongo’s child was playing with his cousins and in the process he ate a precious bead that belonged to his uncle Gipir. When Gipir discovered what happened, he insisted that his brother recover the bead, immediately, just as his brother had forced him to recover the spear. Labongo pleaded with his brother to spare his child, but Gipir refused and the child’s stomach was cut open and the bead reclaimed. The child died. After this, the bitterness between them was so great that they separated. Labongo is the purported ancestor of the Acholi, and Gipir the ancestor of the Alur. Their division marks the mythical origin of the Alur and Acholi peoples.

Often, this story is recounted to explain Acholi identity. But it is also commonly used to admonish people within the same moral community who are in disharmony, as the ultimate example of the potential consequences of their behavior. This story reminds people that they do not know how far-reaching consequences of their actions may be. As noted by Evans-Pritchard in relation to homicide among the Nuer, wrongdoing, “does not concern only the man who has committed it, but his close agnatic kinsmen also.”¹⁹⁸ Amongst Acholi, the

¹⁹⁸ See Evans-Pritchard, (1940) p. 154.

consequences are understood as possibly carrying on for generations.¹⁹⁹ Labongo never imagined the forces that he set in motion when he insisted on his brother recovering his spear, leading to the eventual killing of his child, the estrangement of his brother, and the division of people into groups that have maintained separate identities ever since.

The word typically used by my informants when they told me the story for what was done to Gipir's child's stomach is "*tumu*." Interestingly, as noted above, the Acholi Luo word often used to translate "justice," *ngolo*, has essentially the same meaning. Crazzolaro defines *tumu* as the verb meaning "(1) to cut with a knife; (2) to sacrifice." The second of these meanings remains common in contemporary interpretations of *tumu*, presumably because animal sacrifice involves killing the animal by cutting it with a knife. In one of the examples of its use in his dictionary, Crazzolaro's writes (I altar the original to fit the common modern Acholi spelling): "*kiir gitumu ki romo*, the *kiir* curse is expiated by sacrificing a sheep." The exact translation would be "*kiir* was cut with a sheep."²⁰⁰ To cut the *kiir* you must cut the sheep. Thus in the various rituals that reference *tumu*, the archetypal story of Gipir and Labongo is often evoked. If something (usually a goat or a sheep) is not cut, the consequences of an act against social harmony are unseen but can be far-reaching, likely to affect not only those directly involved, but their children and their broader moral community – just as in the perverse use of cutting in the story of the brothers. As Girard writes, "Violence is not to be denied, but it can be diverted to another object, something it can sink its teeth into."²⁰¹

The words uttered by elders in the rituals of animal sacrifice that I have attended have followed a common pattern, reminding the attendants that the animal being "cut" or "sacrificed" was innocent, but if its blood was not been spilled, then a human life might be lost in the future. They would then say that from that point

¹⁹⁹ Finnström. (2008) p. 224

²⁰⁰ Crazzolaro (1938), p. 398.

²⁰¹ Girard (1977), p. 4.

on, they did not want to hear the issue discussed again. It was finished. Social and cosmological forces set in motion by wrongdoing that needed to be stopped had now been addressed. Cutting, *tumu*, had severed the consequences of the act from its capacity to spoil social harmony.²⁰²

It is important to understand the (real and perceived) threat which wrongdoing, if not dealt with, poses to social harmony. Sometimes there is not an obvious and observable link between a particular act of wrongdoing and subsequent suffering. An example is the only instance that I came across of *mato oput* taking place initiated by those directly affected by the death. A man had been bitten by a snake. Allegedly, someone overheard him quarrel with another man who cursed him the day before. Whether the offending party intended a venomous serpent to deliver a fatal bite, and whether he could in any way have been proven capable of causing the snake to do so was not at issue. They had quarreled, he had cursed and the other man subsequently died. He and his family accepted responsibility, paid compensation to the bereaved family and their relationship as peaceful neighbors was restored. The quarrel and the curse caused a disruption to social harmony that set in motion consequences that led to his friend's death.²⁰³ An outsider might not understand why a problem that arises is interpreted as the consequence of another, seemingly unrelated act. But this is the way that wrongdoing is understood to behave here. Its consequences spread, often unexpectedly, until they are cut or cleansed. Even in instances where a customary ritual is for some reason not performed after wrongdoing, the principles and values of cutting and cleansing the power of wrongdoing in order to restore social harmony remain remarkably evident.²⁰⁴

²⁰² On the role of ritual directed to "assert that social harmony prevails" when it is imperilled, see also Gluckman (1975). Another study illustrates how the priority of "social harmony" expresses itself through community court cases. See Näder (1991), p. 92.

²⁰³ For more on similar situations, see Baines (2010).

²⁰⁴ For an in depth discussion of the continued influence of ritual and sacrifice even after its practice has stopped, see Girard (1977).

In light of all this, “justice” (or *ngol matir* – to “cut straight,” “pass a fitting sentence” or “decide a question well”) is to decide a right way forward in the aftermath of wrongdoing. This way forward may, and sometimes does, have elements of punishment and reparation, though this is not necessarily the case and rarely is the decision aimed primarily at the binary individual level. It is based on an evolving concept of crime or wrongdoing that in each instance is a unique concoction of impurity to cleanse, curse to cut, right to be redressed, and crime to be punished. From tracing this interpretation of the word often used to express the English term justice, *ngolo*, back to *tumu*, and exploring this etymology points the way to a richer understanding of priorities in deciding an appropriate response after wrongdoing.

“EMBEDDED” AND “DISTANCED” RESPONSE TO CRIME

There are several terms that have been used to conceptualize and categorize diverse responses to crime, especially in post-war contexts. The words “local,” “traditional,” “national” and “international” as descriptors have been utilized with associations that have led to misunderstandings – such as equating local with restorative, and international with retributive, justice. Traditional is often used interchangeably with local, leaving “traditional justice” open to contestation, especially when claims of unbroken and gradual evolution of cultural practices are used to legitimize them.²⁰⁵

In practice, in the specific local context of Acholi, and in the absence of a functional judicial system, there are a variety of responses by groups of people – predominantly men – to deal with the aftermath of violations against their wives, sisters or daughters. Practices are influenced by lived and oral history derived from a specific locality, by particular circumstance, and by the social positions and power dynamics among the people concerned. It is informed by cultural tradition but is also influenced greatly by newer claims to legitimacy such as local government and

²⁰⁵ Allen (2005, 2008).

Christianity. Culture is, as Fox writes, “in a constant state of becoming.” It, “always ‘is,’” but, “it has always just become so.”²⁰⁶ Local solutions to a disruption of social harmony are not fixed and cannot be understood with an essentialist view of culture. Gready discusses approaches to justice as “embedded” and “distanced.”²⁰⁷ He uses this distinction to refer initially to physical proximity of a justice mechanism to deal with injustice, but infers that even a “distanced” institution can become “embedded” if it finds legitimacy, ownership and ability to participate by those who are closest to injustice. Acholis have a common saying: a long stick cannot kill a snake.²⁰⁸

Odo mabor pe neko twol.

A long stick does not kill the snake.

If you hit a snake with a long stick they curl around the end, latching on and as the stick is raised to deliver another blow it releases, falling onto the head of the owner of the stick. You have to get near the snake, with a short but strong stick and deliver a decisive blow.

If you are too far away from a problem, you cannot contribute to the solution.

I have found this conceptualization useful as it complements the notion of moral jurisdiction, or recognized legitimacy, to a system of justice in a given locality. Because central state authority in northern Uganda has been relatively weak as well as broadly distrusted, and service provision low, it is not surprising that local solutions would be utilized to deal with crime or wrongdoing, or even preferred, to

²⁰⁶ Fox (1985), pp. 13, 138.

²⁰⁷ Gready (2005).

²⁰⁸ In the following chapters I highlight a few Acholi sayings or proverbs in a similar way. All of these are included in and build on the interpretation of a collection of such sayings in Okot p'Bitek's *Acholi Proverbs* (1985).

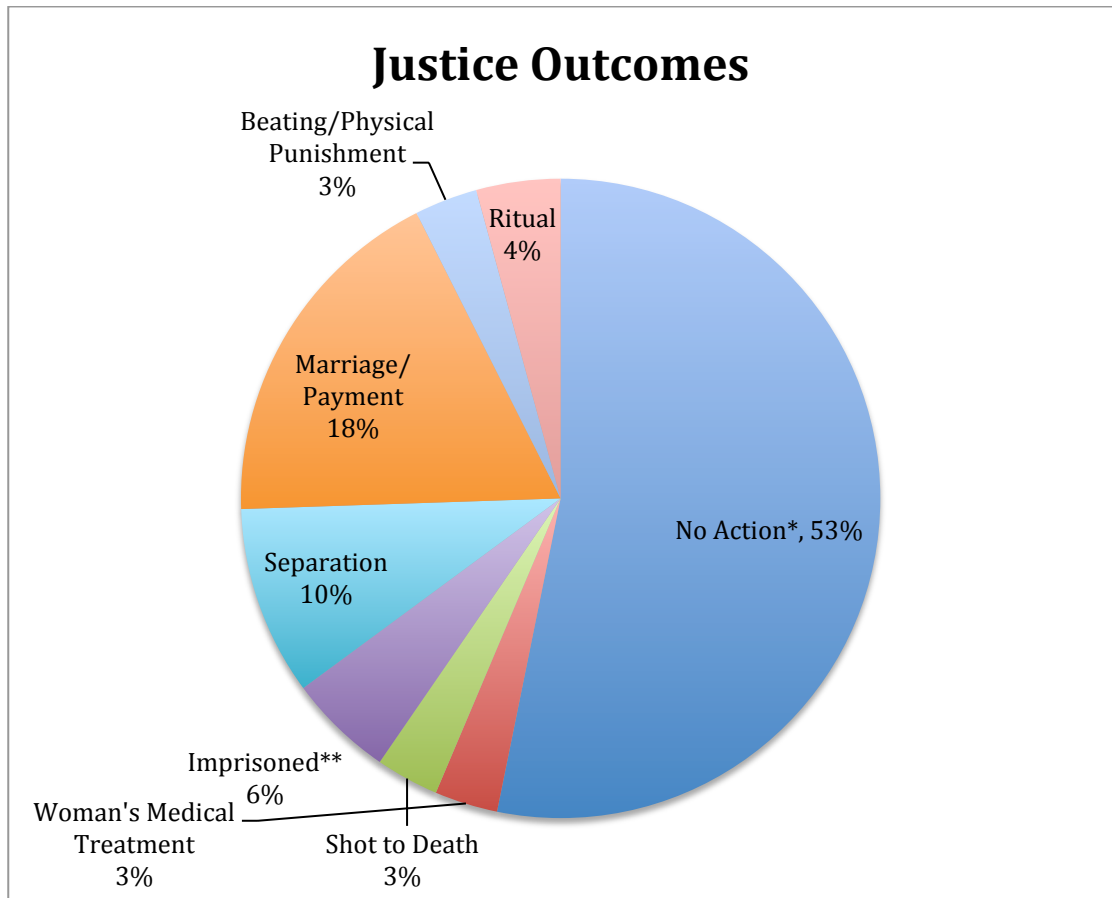
other more formal justice systems.²⁰⁹ Only one woman in my research who had been raped had ever had her case heard in a court of law.²¹⁰ A few other cases were taken to the police but the outcomes were disappointing, because of suspected bribery or gross incompetence and inefficiency. Many rapes were handled through family meetings, sometimes involving the village-level Local Councilor (LC I). Some interventions formalized the relationship between the couple through the payment of bridewealth or other fees associated with socially illicit sex, especially if pregnancy had occurred. In the past, as older women often described, it was common for family members to take revenge by beating the man/boy. A few cases involved ritual cleansing of the people involved and the location where the act occurred. If the family was religious, they might reject Acholi ritual in favor of cleansing through Christian prayer. But the majority of women interviewed who had been raped had never reported the incident to anyone.

Figure 3 below depicts the various responses to 94 situations of rape that were reported to me during interviews with 187 women.

²⁰⁹ Amnesty International (2007).

²¹⁰ It was an unusual case where two young men “defiled” the woman when she was still in her early teens.

Figure 3: Justice outcomes in response to rape (n: 94)



*This includes family meetings where no action on behalf of the woman or against the man was taken and that did not have an impact on his behavior if it was an on-going situation. It also includes several instances where the man was initially taken to the police but they failed to act.

**Only one of the situations included in this percentage was as the result of a conviction in the formal justice system (two men who both raped a thirteen-year-old girl were given seven years in prison). Others were detained temporarily, or were held for several months without any legal proceedings and eventually released.

It is well documented that accepting what people say they would do in many situations (especially such as those as responding to a crime or wrongdoing) is highly unreliable as an indicator of what they actually do. This point is illustrated especially clearly in the present study, where the vast majority of women expressed the belief that the men who raped them deserved to be punished, but very few took action to that end. This incongruity was especially marked in the case of women who were raped by their husbands. While the study's results

provide insight into the fact that a married woman thinks it wrong to be violently forced to have sex with her husband, and that he deserves to be punished, but this cannot be interpreted as her approval to lock him up in prison. Similarly, if someone expresses his or her desire to see Joseph Kony pay for his crimes it should not be assumed that this equates to support for the ICC. Such complex ideas need to be interpreted in light of the social and institutional constraints faced by the people involved and the ways that they negotiate for what they believe are their needs and rights in such circumstances.

The polarization of embedded versus distanced justice arguments misses two important but subtle nuances. First, there is the categorically different nature of the understanding of crime as something to be punished versus something to be cleansed, with the appropriate remedy based on that understanding. Secondly, in the past and in villages further away from (usually) urban sites where formal justice institutions are stronger, local solutions are typically preferred, and these solutions tend to focus on repairing relationships and maintaining social harmony. An example is the case of men who are caught in the act of rape. Even when social harmony is served by punishment of the man, central state authorities are normally not involved. These authorities are seen not only as distant and corrupt, as discussed in the next section, but also as slow and inefficient. This leads to the denial of the often felt need for pursuing an immediate solution. Such issues as the rights of the accused and legal processes that are unfamiliar, untrusted, and protracted stand in the way of rapid catharsis and the social benefits of dispensing prompt punishment.

In some “distanced” approaches to justice there have been efforts to respond to a more robust understanding of victims’ rights to better include their needs in the process. The inclusion of victims’ interests, as well as other provisions in the Rome Statute, are indicative of a wider movement reacting to concerns of criminal justice’s adequacy to respond to the complexity of harm inflicted on victims. Another example at the international level of this development is the 2005 *UN*

basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law. The document outlines a number of mechanisms aimed at satisfying the needs of victims, including:

- (a) Measures to end continuing violations;
- (b) Verification of the facts and full and public disclosure of the truth;
- (c) An official declaration or judicial decision restoring the dignity, the reputation and the rights of the victim;
- (d) Public apology;
- (e) Commemorations and tributes to the victims.²¹¹

Such efforts are laudable and respond to some of the needs that my informants have expressed; important among them is removal from the threat of violence. Almost without exception the women in my research have discussed separation (even if temporary) from the man who raped them as an important need, although one that has often been constrained by the demands of social harmony.

Most raped women interviewed have expressed the notion that “government” is the only institution with the latent potential to uphold their rights, yet they rarely choose to involve government mechanisms on their behalf. This is partly because of its inadequacies but also because the woman’s (and her family’s) main concerns may be undermined by legal processes that by most measures would be considered “distant.” Even more, government institutions lack moral jurisdiction. Women instead tend to recognize local community authorities, such as in-laws, clan leaders, elders or other respected community members. These authorities are less bound by concepts of individual rights and formal rule of law and more influenced by notions of traditional gender roles, concepts of marriage and sex, and concern with social harmony. Thus women are left essentially in a space where what they would see as “justice” from their subjective experience is subordinated to the broader privileging of social harmony.

²¹¹ United Nations (2005).

Evidence from this study suggests the coexistence of several ways of understanding suffering as due to criminal responsibility and spiritual/communal un-cleanliness. A woman raped in this context has a cosmology of suffering that includes not only the material consequences of an act and the person or persons who committed it, but the spiritual forces that were set in motion or broken and the effects of both those material consequences and spiritual forces on social harmony.

This complex overlapping of notions of crime or wrongdoing means that a fully appropriate remedy would respond to the victim's need for safety, care for health consequences, pregnancy, spiritual cleansing, social restoration, *and* her violated rights. An appropriate remedy would address both cleansing impurity *and* punishing the perpetrator. Unfortunately, as indicated in the prevalence of responses to rape shown in Figure 3 above, the most common scenario after rape does neither.

INSTITUTIONAL TRUST AND BOUNDARIES OF MORAL JURISDICTION

In Acholi there is a deep distrust in institutions of the central Ugandan government to act in their interest. As stated, only one of the women in this study has had her case heard before a judge. Most mention their lack of faith in the system as the reason, and the handful that have pursued formal justice have been disappointed by corruption, inefficiency or a belief that formal judicial procedure will be of no or little help.

A courtroom incident that I observed in Gulu is illustrative of how even a judge presiding over a case appeared to recognize the limitation of moral jurisdiction of his proceedings. The judge requested the fathers of the victim and the alleged perpetrator to stand. He addressed them:

I'm very surprised and disappointed that you have brought this case to me. If I make a ruling on it, one of you will conclude that I was unfair and it will bring no peace between your families. But this should have been a simple thing. Can't you go home, sit under a mango tree together, and settle this issue?

The pair of fathers nodded and made statements in turn about how committed they were to settle things out of court. They had placed enough faith in the court to come that far with their case, but in this case, a wise judge realized that a verdict from a formal court process would not satisfy local needs, and sent them home to settle things in the interests of social harmony. As stated, only one of the women in this study has had her case heard before a judge. Most mention their lack of faith in the system as the reason, and the handful that have pursued formal justice have been disappointed by corruption and inefficiency.

If the judge or arbiter is seen as within the moral community, confidence is placed in the person or institution to act in the interest of social harmony even when this overrides coexisting sentiments about “just deserts” for both parties. Someone from within the moral community is accountable for his or her leadership. If a particular local leader in a village is seen as unfair they are marginalized or replaced. If they are particularly powerful and people are unable to displace them, they will circumvent and avoid his authority (the use of the male pronoun is intentional, as such persons are mostly male). In the villages where I work, the community’s trust in the individuals involved plays a greater role in their effectiveness and credibility than the office they hold. This is why interventions by NGOs and UN agencies that target training and capacity building interventions by virtue of particular offices such as village-level Local Councilor (or LC Is) – the lowest level of elected political representation – or specific categories of traditional leaders have limited value and sometimes adverse effects, often strengthening the roles of negative leadership. In one of the villages the LC I is consistently involved in dispute resolution, even in cases of violence such as rape. People can easily monitor whether he is benefitting materially from his position in ways that seem unfair, and he has proven himself a useful and just mediator. The *rwot kweri* (plural, *rwodi kweri*), which means “chief of the hoe,” is another category of local leadership. Some people use a discourse of tradition to articulate the *rwot kweri*’s authority. However the origins of *rwodi kweri* lie in the colonial period (though they were initiated by Acholi people) and a *rwot kweri*’s roles vary considerably

over space and time. The leadership is geographically based, which depending on the demographics of the location might correspond with kinship in homogenous populations, or not in more diverse places; in either case a *rwot kweri* is typically involved in organizing communal farming and resolving disputes,²¹² and in many areas he acts in tandem with, or even as a part of the Local Council system. In very rural areas with sparse population where an LC I covers a geographically large area, the *rwot kweri* often acts as a sub-LC I. In theory, there is no relation between the roles of the LC I and the *rwot kweri* as they are different systems entirely. One is a civil servant (if an unpaid one); the other is a customary leader. But in practice their roles – and their influence and credibility – are determined according to the community’s faith in their leadership and the community’s particular needs. In all cases, there is a curious, evolving and overlapping of cultural (“traditional”) and bureaucratic political structures. It is important to note that a *rwot kweri*’s authority is not necessarily based on kinship or clan (though as noted, it can be related), but is instead tied to a particular geographical location.²¹³

The *rwot kweri* in the village closer to town died several years ago. Protocol in such instances would be to hold a community meeting and those over 18 who are originally from that area would discuss and select a replacement. However, no such meeting has been organized and no one seems particularly bothered. The “Vice-Rwot Kweri” is acting, but passively. The fact that there are “Vice-rwodi kweri” is another example of the curious mixing of “traditional,” colonial and post-1986 government administrative structures, in practice and perceptions. In the years I have worked there, the Vice-Rwot Kweri has never been involved in any responses to communal injustice.

In the second village, in contrast, the *rwot kweri* plays an active role and is frequently mentioned by my informants as the first person they would turn to in

²¹² For a description of the historical role of *rwodi kweri*, see Girling (1960), p. 193.

²¹³ Significant to note, a *rwot kweri* does not represent residents who are outsiders to his geographic area such as teachers and other migrant workers.

case of a conflict. These two examples represent the importance of an arbiter of justice who has earned moral jurisdiction on a local level. When the authority is recognized and trusted, parties accept the outcome of his (or rarely, her) arbitration and judgments, restoring broken social harmony. However, if an institution has legal, but not moral jurisdiction, the outcomes of such processes are viewed with suspicion, often seen as unfair and usually exacerbate existing tensions.

The Local Council system is an interesting example of initially “distanced” justice that has, relatively successfully, transformed into “embedded.” The domestication of the LC system is illustrative of the evolving relationship of Acholi with the central government of Uganda. Initially called Resistance Councils (RCs) by the National Resistance Army/Movement (NRA/M) in territories they controlled during the five-year “bush war” that brought them to power in 1986. When the RC system was then transported to Acholi, it was perceived and often acted as agents of an NRM government that was hostile to the local population.²¹⁴ RCs were seen as the NRA/M’s eyes and ears on the ground as well as a means of control that was accountable to the party and not to the people.²¹⁵ It was intriguing that a number of my informants still referred to Local Councilors as “Resistance Councilors,” even though their titles changed over a decade ago. Despite the continued use of archaic titles, the attitude toward the LCs role has clearly altered, with most of the women in the present study reporting that they had, or would, go to the LC in case they suffered violence. In the two villages where I worked, and it seems in most others, the LC I is not seen as a position of political patronage to the ruling party and a betrayal of Acholi identity, or as a role distant from their moral community. Many Local Councilors, especially at the LC I level, have become firmly embedded

²¹⁴ Branch (2010), pp. 25, 44.

²¹⁵ See also, Finnström (2008), pp. 94-97.

within the moral community of his/her village. Despite pervading distrust of government institutions at a higher level, the LC I has often become a useful person to navigate and negotiate the peripheral landscape of justice.

One woman's story highlights reoccurring themes in reasoning in response to rape within the murky boundaries of moral jurisdiction. A young tailor was asked by a co-worker to visit his home to take his children's measurement for school uniforms. Upon reaching his house she found him, but no children. He locked the door and raped her. It was especially painful for her since she had been diagnosed with an illness that doctors had warned could lead to death in pregnancy or if combined with sexually transmitted infections. To avoid this risk, she lived a life of celibacy. This rape was her first and only sexual experience.

Afterward, she reported to the police, but they were friends with the man and did nothing. Rumors began to spread that she had willfully gone to his home to seduce him. In a small community it was inevitable that she saw the man and his wife on a regular basis. His wife would point and proclaim to everyone within earshot, "That woman is a prostitute! She wants to become my co-wife!" She did not pursue legal action after initial rejection by police. Like many women, her reasons were based on previous experience. "If the court was fair then I would have taken it to court." She narrated how she had lost a business dispute she took to court a few years prior. She was certain that the judge had ruled in favor of her opponent because of a bribe. "I thought about how much money he [the man who raped her] would be able to gather to pay the judge, and I knew I would raise less, so I just let it be. I did tell our bosses at work but nothing happened. They did not even fire him. He and his wife are still there."

Instead she turned to an *ajwaka*, often translated with the all-encompassing and misleading term "witchdoctor," inappropriately applied to all people who deal in some way with the supernatural or traditional herbal remedies. In this case, the *ajwaka* was a spirit medium who used his powers to harm those found deserving of

punishment. The man summoned spirits that talked through him and granted her request to kill the man. “I was so sad,” she explained:

I wanted to die. I did not want him. Sometimes I wished that he had at least been one of the men that used to try to date me, but he never even bothered trying to convince me. What he did almost killed me more than the sickness that I was diagnosed with. . . . I had the heart to kill him. When the *Ajwaka* was shaking his things the voice came out and said that I could kill the man. Then a thought came into my mind. The *Ajwaka* had already confirmed that I could kill him at a cost I could afford [around \$50], but then I thought of my mother who has not killed anyone and she’s a Catholic. All of us are staunch Catholics. I could kill him and then go to church and ask for forgiveness from God for doing it. But then I thought, I shouldn’t kill him because I am also a sinner. The best thing is to go to the priest and confess all the sins that I have committed in my life and just live my life. So I told the *Ajwaka* I can’t kill the man. The *Ajwaka* was angry and asked me why. I explained that I decided to forgive the man since I also need God to forgive me. When I said this to the *Ajwaka* the spirit voice he had summoned said, “this woman is so different” and then the *Ajwaka* told me “you made me call the spiritis but now they are demanding that you kill him, what should I do with the spirits?” I told him, “tell them to go back where they came from. I have forgiven him.”

This woman’s response to being raped highlights two key points integral to the observations of this thesis. She had a deep distrust of the formal judicial system, a distrust based on previous experience. The “traditional” approach to justice (although actually outside the bounds of generally acceptable Acholi ways of dealing with wrongdoing) had been undermined by the stronger moral claims of a newer authority, the Catholic Church, which led her ultimately to choose spiritual forgiveness. Her response to crime was dictated by the justice vacuum that exists in the space between a functioning and trusted judiciary and local solutions. As she clearly stated about an earlier wrongdoing: “If the court was fair then I would have taken it to court.”

REVENGE AND FORGIVENESS

The whole system is corrupt and inefficient but we can’t do things in our old way. My father and brothers should have beaten him and I

should have been cleansed. Instead his family paid a bribe to have him released after only a few days and my parents prayed for me because they are strong Christians. But our ancestors didn't believe in unclean spirits for no reason. I am here without any children because my father refused to do cleansing for me and that man is walking free because the government will not let us do anything and will not do anything themselves.

In the gap left by eroded traditional values and weakened extended family structures other actors have found new prominence: the church, which emphasizes forgiveness and God's monopoly on vengeance, NGOs and Local Councilors. NGOs and churches are discussed at greater length in the next chapter. But a few observations are relevant here as it applies to revenge and forgiveness. Angelina Atyam was the chairperson of the Concerned Parents Association. Her daughter was abducted and spent eight years as a forced "wife" of one of the LRA commanders wanted in The Hague. Angelina's response powerfully captures the essence of Christian forgiveness and her expectation for justice in the next life. She argues for mercy on the perpetrators of heinous crimes. A central logic of criminal justice is for punishment to fit the crime. In her view, the only fitting punishment for the LRA leadership has already been accomplished in the crucifixion of Jesus. Nothing less than that is proportional. Her attitude is exemplary of many victims in a justice vacuum, who prefer the benefits of putting the past behind them over an expectation of what they perceive as the empty promise of justice in this life. It should be noted that this does not mean to suggest any official church stance. Certainly, churches do not generally oppose arrests, imprisonment or the formal legal system. However, practically, this is what has been internalized by many of the women in this study about what it means to be Christian and it has often been reinforced by specific messages from the pulpit or counsel from clergy.

A university student described how she had gone to visit a trusted family friend, (also a religious leader), and after drinking a Coca-Cola she woke up in his bed six

hours later with blood and semen on her naked body.²¹⁶ She forgave him. Her moral decision displayed remarkable fortitude. She retold the words she said to him in parting: “You are a man of God but today you have done the work of the Devil.” She has found solace through prayer and by handing the responsibility of justice over to God. While her faith and display of mercy were admirable, the man has never been exposed as a result of her conclusion that vengeance belongs to the Lord. He continues to be in a position of authority over a particularly young congregation made up of many students. When asked whether she thought he might repeat what he with other young women in his pastoral care she responded she was sure that he would, but did not connect her choice to forgive in silence to enabling him to victimize more women. She had forgiven him, but now more women like her will struggle to know how they should react to rape in this justice no-man’s land. In many cases, forgiveness is seen as the only option and some actors have promoted it exclusively.

The church and NGOs with a progressive gender agenda have had competing messages, especially in situations of intimate partner violence. In the case of the former, social harmony and the need for family unity are usually prioritized, while the latter emphasize equality, a women’s right to live free from violence, and a fight against impunity. One of the more prevalent efforts of NGO interventions has been to promote the idea that forced sexual experiences are something to be reported. In most areas of northern Uganda where NGOs have been active in the last decade or so, procedures and referral pathways for reporting in the aftermath of gender-based violence have been outlined. Countless training sessions have been conducted with stakeholders including LCs, “traditional” leaders, women’s group leaders, teachers, and police. Despite these efforts, however, reporting to government justice mechanisms remains “distanced” for most Acholi. Often such

²¹⁶ It should be noted that this example is shared as illustrative of her belief about forgiveness. The man was a priest, but the episode recounted here is not intended to suggest anything more broadly about clergy. Hers was the only story of sexual violence that I heard of perpetrated by a religious leader.

services are literally distanced, only offered in town centers. And even for many women who have accepted the ideas of NGOs in theory, in practice rarely act on them. Out of the total of 187 women interviewed in the two villages, only three knew the lead NGO for their area. When asked what they would do if they experienced sexual violence, most women said they would tell a relative, go to their village-level Local Councilor or go to an NGO.²¹⁷ Rape officially falls outside of the problems the LC I has authority to handle, but whether s/he would follow the appropriate pathway up the hierarchy of authority or deal with the matter locally has much to do with whether or not taking the issue to a higher level is thought to contribute to or undermine social harmony. A “good” LC that is serving his or her community would tend to have loyalty to social harmony rather than to protocols learned in a workshop, much to the chagrin of NGOs. But if their loyalties were reversed, they would likely be voted out come election time.

The social protection afforded by brothers and fathers has eroded over time due to the war, massive displacement and rapid urbanization, changes in the political landscape and exposure to greater central government control.²¹⁸ In this context, revenge is increasingly relegated to the margins even though the role of relatives remains prominent. Young women often express their wish that brothers or fathers had beaten the men who raped them. They lamented the constraints of the increasing role of government. With a few older women, they recounted how their fathers and brothers found the boy who raped her and beaten him seriously. One was beaten and then forced to dig up a massive termite hill in the middle of the hottest part of the day without wearing clothes. The boy was later taken to the police but released after two weeks because of his father’s connections. A woman in her 20s described an incident when she was 13 and still living in an Internally Displaced Persons (IDP) camp when a stranger raped her on her way to the well.

²¹⁷ See the figures 4 and 5 in the next chapter, “Actors women said they would involve after rape” and “Actors actually involved after rape.”

²¹⁸ See also Patel *et al.*, (2012).

Her parents had been killed by the LRA and her caretakers “settled the issue” in her absence. She still doesn’t know what they negotiated with the perpetrator’s family. If she could have determined the response, she said she would have wanted to be taken for medical treatment, spiritually cleansed by an *ajwaka* and her brothers to have beaten the boy. “But they weren’t there,” she explained.

They [her brothers] had run to Masindi [a neighboring district south of the Nile] to avoid being abducted by the LRA. They were only informed much later over the phone of what happened to me, but not until after my stepparents had already settled things in their own way. If my brothers had been there, they would have talked sense and stood up for me.

Revenge has been marginalized in part as a result of dynamics illustrated in the previous young woman’s story, and because there is a growing – if still limited and often distrusted – presence of higher-level authority to which local “solutions” may be held accountable. In the past year, there have been several examples of cases being prosecuted against those who participated in mob justice or “witch”-killing, and many people have expressed that government authority does help constrain violent behavior.²¹⁹ Still, even a few years ago it was not uncommon to hear of police complaining when a criminal was brought to them rather than be punished on the spot by the injured party and the surrounding people where the crime had taken place. It is increasingly commonplace for police to intervene in situations of mob violence or to take the offender into custody for protection. In the example at the beginning of the chapter where the thief was caught and beaten, the LC was present and involved, but he instructed people to beat the man below his neck and not to use sticks so as not to kill him. If things had gotten out of hand, the police were a phone call away.

BOUNDARIES OF MORAL COMMUNITY & PERCEPTION OF PUNISHMENT

²¹⁹ Interview with Henry Kilama Komakech, lawyer hired by an alleged witch’s family, Gulu, January 20, 2013.

Women interviewed in this study who were raped talked about how they felt about what happened afterward, both for them and for the man, and how this compared with their own wishes. Their stated orientation toward punishment that would fit the crime and what actually happened rarely met.

The act of rape is a gross violation of a woman's body, abhorrent whomever the perpetrator and her relationship to him. Many might even think that when raped by someone close to her the added violation of betrayal constitutes a more serious crime in the mind of the victim. Or, conversely, one might suspect that for various reasons discussed in the previous chapter the rapes perpetrated by rebels or soldiers might be viewed differently, or less individually morally reprehensible. What I found is evidence that her attitude about punishment (if not about personal betrayal) is affected by her social relationship to the perpetrator. The more distant the relationship between the woman and the man who raped her, the harsher the woman thought his punishment should be.

Within the moral community, immediate family is the smallest and strongest unit, so it is useful to begin by examining the experiences of women who were raped by their intimate partners. This is also the most common form of sexual violence that women experienced, as it accounted for 43% of the rapes reported in this study.²²⁰ Many in the legal sector have told me, and I was unable to find any records indicating otherwise, that no woman in Uganda has ever taken her husband to court for the crime of rape. Marital rape is often part of a broader pattern of spousal abuse and not one of the women in my study who separated from her husband who raped her did so because of his sexual violence alone. However, virtually all of them thought their husbands should be punished, highlighting the importance of considering not only what people say they want but what they actually do in the aftermath of injustice. The majority said they wanted him to be put in prison for two to six months. Only a few women who were still in their

²²⁰ See also the figure six, "Perpetrators of rapes by category" in chapter seven."

sexually violent marriages expressed the desire for someone simply to talk to the man, but not punish him, while some thought an appropriate punishment was separation/divorce, different bedrooms, or denial of sex. There are a host of reasons why women in the study are reluctant to ever take legal action against their husbands. Besides obvious material considerations, there is tremendous pressure to maintain social harmony by keeping the marriage intact and the family unified to avoid public and familial ridicule.

However, there are exceptions and I took particular note of them, coming to understand that when women separated or sought some form of punishment for her husband at least one of two related conditions existed. First, she had alternative social and material resources that did not make staying with her husband an imperative for her and her children's future social harmony. She could leave the moral community of her husband and create or return to her own. Secondly, her husband's behavior had become so intolerable that staying with him could in no meaningful way be considered harmonious and she had lost any hope that such harmony could be restored.

As noted above, most women do not leave their husbands unless sexual violence is one of many abuses they suffer in his house. One young woman who had been in a sexually violent marriage for two years, told me that besides his occasional evening violence he is a kind man who does not drink and comes home early. She wished that he would stop the sexual violence, but she said she feels lucky. He takes care of her physical needs and she feels at home with his family. When a woman takes the rare step of breaking the communally sanctioned social harmony of marriage, it is often the case that his unfaithfulness brought sexually transmitted infections into their home, he was a drunkard, he neglected providing for their family, he was extremely violent to the children or the woman had a particularly strained relationships with her in-laws.

One woman described how her husband would come home drunk on a regular basis, beat her nearly to unconsciousness and then rape her. She is now separated, so I asked if that was why. “No,” she explained.

He had been sleeping around and I knew but I tolerated it until I got very sick. Then I sat him down and tried to discuss it with him. But he told me I couldn’t rule over him. Then he beat me and went to get a knife to kill me, but his father held him back and I ran away.

Sometime later, after a friend and I spent an afternoon with her, we discussed our conversation as we left. The woman had talked about her husband’s sexual violence with palpable resentment. She angrily asserted her wish for the police to arrest him and put him in prison for at least two years. She wondered aloud what evidence would be needed in a marital rape case. It was the most serious indication I heard of a woman considering prosecuting her husband. It prompted me to leave her with a phone number of free legal aid focused on gender-based violence in Gulu. I asked my friend if she thought the woman would use the number. “No,” she said. “She knows the social consequences would outweigh the satisfaction of seeing him punished. But it’s good she has it now. In case it worsens she will have another option.”

There is a middle category of offenders, not within the immediate relational circle but on the edges, perhaps within the same village or with some social or distant relational ties. Most of the time in such instances, women said they wanted the men to be beaten seriously or imprisoned for some time, ranging between two and seven years.

In the case of strangers, including unknown rebels or soldiers women expressed their desire for – (or in the rarer instance where action had been taken, their approval of – expeditious retribution.

If I was the judge of that man I would kill him. Sleeping with me in the bush like that has brought so many complications in my life. I would wish him to be killed *nek lomuku* [referring to mob justice]. I want him to really feel pain when he dies, so he should get hit from

all sides. He should not die too fast like with an electric chair or hanging or firing squad. It should be slower. And I would need to be there. Me. I would be the first to throw the stone.

“That man” was a soldier in the Uganda People’s Defense Force who captured the woman quoted here after she escaped from a year-long forced relationship with an LRA commander. The soldier kept her captive and repeatedly raped her for two months.

For men who are outside their moral community most women suggested an appropriate punishment would be at least seven years in prison, and many suggested life imprisonment or death. Discussing their husbands, boyfriends or in a few cases relatives or close family friends, women would often pause to think about their answers. In the case of rebels, soldiers, or other unrelated men there was no hesitation. Most were adamant and had clearly made up their minds before the question was posed.

Most women offered reasons for their desired sentencing of the crime. In the case of shorter sentences for closely related men the impetus for punishment was, as many women put it, “so that they will learn what they did was wrong.” The correctional motivation of punishment was true even for the aforementioned woman to whom I gave the legal aid number. “I think after two years in prison to think about how he treated me he would come back and behave himself. It would make him respect me if I say no,” she reasoned. From my observations, this is an unlikely result. More probable, in this case, the man would abandon her once released from prison or even pursue revenge against her. It is nonetheless the articulated reason for wanting a punishment of men with shared moral community. It is about behavioral change more than revenge. For those with a more distant relationship, the articulation is in terms of retribution. “He took my future when he raped me. He should not be allowed to enjoy the rest of his life. I want his future to be taken from him,” one woman said about a soldier whose identity she never knew.

How women who have survived rape are oriented toward punishment of the aggressor is deeply impacted by whether he is a vital part of future moral community. Similarly, whether punishment is perceived as the maintenance of social harmony or the disruption to it is closely linked with the man's location within the future moral community. One woman lamented how she experienced this reality when she confided in her mother after a neighbor boy raped her. The mother took her for a health check-up and tested for sexually transmitted diseases and pregnancy, but refused to report the rape to any authorities or to confront the boy and his family because his mother was her best friend. The importance of social harmony trumped even her daughter's wishes and right to justice.

Women talked about how they felt about what happened afterward both for them and for the man and how this compared with their own wishes. Their stated orientation toward punishment that would fit the crime and what actually happened rarely met.

CONCLUSION

In northern Uganda, on the periphery of justice, between local solutions and formal judicial systems, responses to crime or other wrongdoing include extraordinary displays of both forgiveness and brutal violence. Despite the manifestations of these apparently contradictory phenomenon, they are consistent expressions of the value and need for social harmony. In some situations, moral forgiveness presents itself as the best, or only, option. In others, the wellspring of all injustices suffered explodes on perpetrators who can be caught and whose beating or death poses little or no threat to social harmony, and in some way protects it.

The particular cocktail of selective mercy and brutal violence that exists in this space does not satisfy the demands of justice. However, this space has the potential to be transformed by justice actors who have moral jurisdiction. Existing embedded approaches to justice that have moral jurisdiction might be strengthened and evolve to better realize the needs and rights of women.

Distanced justice approaches, national and international judicial bodies, might develop and act in ways that gain moral jurisdiction from those most affected by injustice, effectively embedding themselves. When distanced justice becomes embedded it contributes to, rather than undermines, social harmony and makes disruption to social harmony less dangerous. Careful analysis avoids the misinterpretation of a desire for punishment of wrongdoers as an invitation to practice distanced justice. Rather, with attentive listening, a different invitation can be heard in the voices of my informants: for the practitioners of now distanced justice to gain moral jurisdiction: “If the court was fair, I would have taken him to court.”

4 Mango trees, offices & altars: The role of relatives, NGOs and churches²²¹

“No good Acholi pursues justice alone.”²²²

The woman sitting in front of me seemed hollow. She sat hunched over, almost as if her drawn-in shoulders could protect her heart. “I was raped four days ago,” she said. The man who raped her was her late husband’s nephew. He resented her presence on “his” family land. Her husband had died years before, and since she had been married traditionally, she still belonged to his family under the care of her brother in-law, and was entitled to use and benefit from family land. Her nephew is well known to be HIV positive. She narrated how four days earlier he knocked down her door in the middle of the night and said, “Since my uncle your husband is dead you should go and join him. I’m going to infect you now,” and then raped her. She reported him to her in-laws and called her brothers who gathered under a mango tree for a joint family meeting to decide how to handle the incident. Their decision was to take her for an HIV test. Post exposure prophylactics would have been more appropriate given his status. If anyone had known that an international non-governmental organization (INGO) had a center nearby and hotline that could have made these potentially lifesaving drugs available to her, she would have had more peace of mind. Instead she was told to come back after three months when the virus might be detectable in her blood. In regard to the perpetrator, they decided to admonish him, strongly, which apparently made him feel so ashamed that he ran away. He disappeared after the meeting. She told me how she was struggling to sleep in a hut alone, not knowing his whereabouts and feeling deeply unsafe. Women from her church came to pray with her and she felt a little

²²¹ An adapted version of this chapter has been accepted for publication in a forthcoming edited book compiled by the International Law and Policy Initiative on preventing sexual and gender-based violence in the Great Lakes region and was supported with funding from NORAD.

²²² The quotation is from the woman whose story is narrated in this section.

comforted. She wished her relatives had taken the case to the police. If it were up to her, she said, he should be imprisoned for seven years. “But,” she explained, “I didn’t tell the police. I told the home people and they decided to settle it that way. I have to accept it because I can’t decide anything like that alone.”

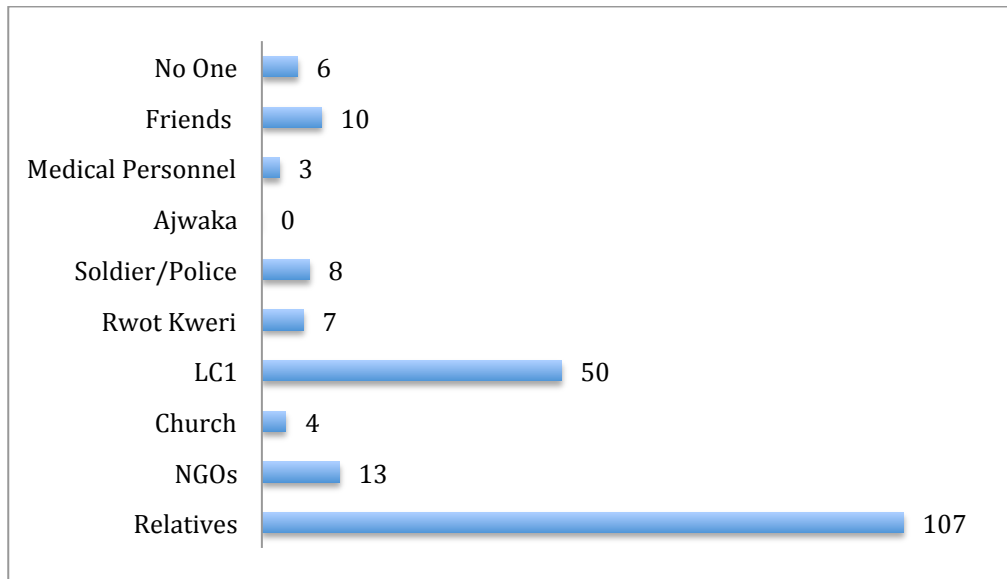
Her lamentable situation highlights common dynamics that exist after rape in northern Uganda. NGO services were available and yet unutilized. The church offered some consolation to her but played no tangible practical role. Her relatives made a decision in the interest of social harmony that was contrary to her own wishes.²²³ She was resigned to the situation, because in the aftermath of a crime such as rape, no good Acholi would pursue justice alone.

In the nearly 200 individual interviews, all women were asked to whom they would go if they experienced the kind of violence we had been discussing (forced sex).²²⁴ The following figure shows their responses. Some mentioned several categories of actors, so the figure indicates the number of times a category was mentioned.

²²³ Although it should be noted, that she, like many women, did not assert or even express her own wishes to her relatives. Indeed, it seemed that I was the first person who asked her about what she wanted. This is common, not only in the aftermath of rape. Many times after my friends and informants (even those who would generally be thought of as “empowered” and educated women) over the years have had family meetings that decided things against their wishes. I would express frustration, only to eventually find out that they never discussed what they wanted with their relatives. Young women especially are noticeably inhibited from doing so, even when they are asked.

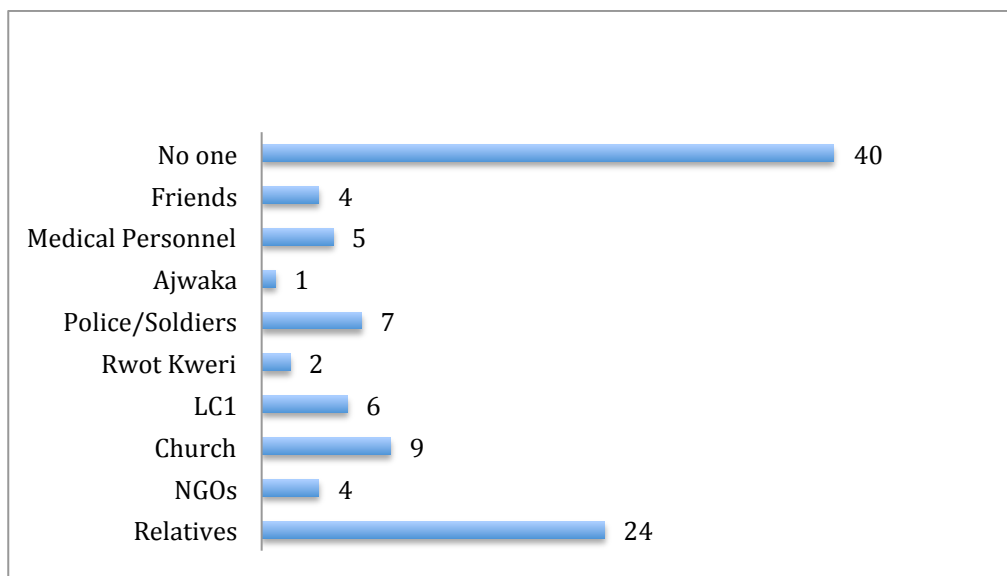
²²⁴ In the Survey of War Affected Youth, female youth were asked similar questions though not specifically in relation to sexual violence, rather, who they trusted if they were “physically threatened” or after domestic abuse – see Annan *et al.* (2006) p. 62-63. They do not make the important point that what people say they would do and what they actually do might be (and this research shows, is) radically different. Their hypothetical question is discussed as indicative of who women actually turn to in such situations. Importantly, they emphasize the importance of not misinterpreting women’s reliance on clan leaders or LC I as one of choice, but often as lack of choice.

Figure 4: Actors women said they would involve after rape



Seventy-six of these women had actually been raped in ninety-four “situations,” and so in addition to the hypothetical question asked to everyone charted above, they shared what actually took place after they were forced to have sex. Among other things, we discussed who they chose to tell, if anyone and what the outcomes were.

Figure 5: Actors actually involved after rape



Although the numbers of responses are different, visually the difference between what women said they would do and what they actually did after rape is striking, especially how few said they would (hypothetically) tell no one and how many actually remained silent. Much of the rest of this chapter explores why.

The following sections explore how relatives, NGOs and churches have been involved in the aftermath of rape that women in this study experienced. For each group, the chapter looks first in detail at the practical ways in which these actors were – or were not – involved in the aftermath of the specific situations of rape that form this study. Secondly, it examines how they have, or have not, influenced notions of rape, appropriate sexual behavior, and responses to crime. This examination of their roles as shapers in attitudes and practical actors after ordinary and war-related crime contributes to a more grounded understanding for scholars and practitioners in the fields of gender-based violence, access to justice, and transitional justice.

RELATIVES

Relatives continue to play both the most practical and most common role in the aftermath of rape as well as exerting considerable influence on notions of rape and redress. Because of their importance in the aftermath of rape for the women in this study, the role of relatives is looked at in some detail in this chapter. Several dynamics of relatives' role in the context in which justice processes take place are apparent. First, women have situated freedom within a social system that highly values social harmony. The tendency within such a system is to “seal” or deal with the situation expeditiously. This can take different forms, depending on the perceived threat of the crime or wrongdoing to social harmony. As some of the examples provided below describe, there are situations where punishment protects social harmony.²²⁵ When it does, communities find satisfaction in meting it out to perpetrators. Secondly, the context for acceptable and unacceptable

²²⁵ See also Porter (2012).

violence against women is highly impacted by the communal exchange of customary payments and bride wealth. Lastly, the strength of the kinship system has been weakened by the confluence of changes ignited by war and modernization.²²⁶ What this has meant for women has been mixed, since it has created more space for individual freedom and understanding of rights. Worryingly, however, it means the most practically-present actor's authority has been eroded. The social protection that relatives are meant to provide, in the ideal Acholi situation, has been and is being undermined before any other sufficient replacement is established.

An explanation is due of my preference of the term relatives and describing them as kinship and lineage based authority, rather than "traditional authority." It is less ambiguous and more accurately describes where traditional authority comes from in Acholi culture – from kinship systems. Interestingly, if I were to use the word tradition, then certain roles should be played by agnatic, matrilineal or patrilineal kin. The lived realities that I have been exploring however, suggest that the traditional "ideal" is often not played out, and there is a mixing of roles depending on circumstances. The magnitude of the problem is what determines which relatives to include (how many and how-distant), and which roles and personalities are required from within that structure to deal with the needs of the situation. This, I believe is actually a more accurate description of what has been taking place "traditionally" amongst the Acholi, but in northern Uganda the word traditional has become contentious, and what is actually meant when the word is used varies considerably. The term "relative" avoids the rather impossible burden to prove unbroken evolution of custom or when failing to do so the obligation to use words like "myth" and "invention."²²⁷ "Traditional" in common justice debates in northern Uganda has become associated with the Acholi cultural leaders foundation, Ker

²²⁶ See for example Hovil and Okello (2007).

²²⁷ See Hobsbawm and Ranger (1986). Or for a discussion relating the concept to northern Uganda, Allen (2007).

Kwaro Acholi, which operates much like a civil-society organization or NGO, with professional staff that manage grants and projects. It is associated with anointed chiefs, or *rwodi moo* in Acholi.²²⁸ These actors are not central to my discussion of relatives and kinship authority as they were notably absent from post rape scenarios in this study, and were not mentioned by any of the women interviewed as someone that they would go to for help if they experienced sexual violence.²²⁹

Mon rwotgi peke.

Women have no chiefs.

Women are all equal, and none can be allowed to be superior as they have common status in their community, they are all wives and mothers. In another sense, a chief is not a chief to his wife or other women.

Relatives' practical role after rape

A common Acholi saying is, *Rwodi pa mon pe*, meaning "women have no chief."

What women do have are husbands, brothers, fathers, uncles, brothers-in-law and fathers-in-law. In situations considered more serious, other more distant clan elders, and sometimes co-wives and aunties might be part of determining "the way forward" after rape. In most situations when relatives were involved it was "finished *gang gang*" or "finished down home". This is often by finding a way to "seal" the issue, through punishment, shaming, cleansing, payment, marriage, or some combination of these.

²²⁸ See Paine, (2013, forthcoming).

²²⁹ This is in no way meant to diminish the important role many *rwodi moo* play in Acholi society in general, it is rather to look at what actually happens in the aftermath of rape, and what people said they would like to happen in the aftermath of rape in the Acholi community.

In Acholi when there is a problem within your house a woman will always go to her eldest brother-in-law and then he will call her and her husband and talk to them. After he fails to resolve the problem then he will involve their fathers to come and talk about it. How good it [the decision] is, I mean whether it is good for the women or not, depends on the character of the brothers-in-law. If they are respectful and trustworthy, it might be good.

This woman described the norm of what women did if they chose to tell anyone about the rape they suffered, especially at the hands of their husbands. She gets at the heart of the issue when she indicates that the result for women varies widely depending on the character of her relatives. In instances of marital rape, most women (32 or 80% of them) had not discussed it with anyone apart from their husbands. Many women had similar things to say as this woman:

In case of anything that happens to me are the elders in my home here. It will be their responsibility where to take the issue. But I'm afraid taking the issue with my husband to my elders because it's really obscene.

However, eight (20%) of women raped by their husbands did seek social support, sharing the intimate violence of their husbands with others. In half of these cases, it was to seek advice from their aunties, co-wives, mothers or sisters. They distinguished this from "reporting" to the men, as they did not expect any action to follow from consultation with "their fellow women." The other half reported their husbands with the intent of someone taking action. All (four) of these instances were when sexual violence was one of many abuses they suffered at his hands. These exceptions highlighted the potential of the kinship system to protect women if elders are respectful of their rights. One woman had been violently forced by her husband to have sex after a serious disagreement. She told her brother and the man's elders, who then "warned him seriously" and he reportedly never did it again.

A woman whose husband raped her only during periods of high insecurity and fear of attacks explained why she would be comfortable reporting him to her in-laws if he persisted.

I am a big person in my house so I don't fear talking to my father-in-law. I would have called him and he would sit my husband down and give him some teaching and if necessary they would call other people to advise him and teach him. But that is because I'm mature now. For young girls they're scared and can't bring out such issues to their in-laws so they will just battle within themselves. There is an option to help those young girls come out with their problems, like other women who are recently married can't come out with such things themselves but the youngest person who has been married if she's the one who is experiencing she should go to the next person in that home like the older sister in-law and then that person can help. Like my younger sisters-in-law can come to me and talk to me and I'll talk on their behalf.

In two of the instances where the woman reported they shared that their brother or father-in-law sat down and talked with the man and that he had reformed, or temporarily improved. In the others, elderly relatives and in-laws supported women to separate from their sexually violent husbands. In these cases sexual violence was combined with other serious behaviors such as severe alcoholism, obvious neglect, extreme violence, or sexual proclivities that drastically raised the risk of sexual diseases at home. Brothers of the men in question knew that if their brother's behavior caused illness and eventual death, the responsibility to care for the children who were orphaned would be theirs. In at least one instance when in-laws' stern warnings failed, women were assisted in separating, allotted nearby clan land and their brothers-in-law acted as male provider and protection for her family, much as he would have if her husband had died. Many people have told me that this is how ideally relatives ought to act to protect women.

Unfortunately, not all women had relatives that acted in their interests. Many more anticipated that they would not and so were convinced there would be no benefit of telling anyone. The reaction that women expected from their elder relatives keeps many cases of sexual violence secret, especially when it happens in the context of marriage. Out of 94 different situations of rape my informants described, 40 of them had never told anyone else. Many of them gave explanations similar to this woman:

I do not tell anyone about this thing. Even if I went to elders they would ask me “what brought you to this home? When you get married that’s what you’re there for—to sleep with him.” So I have that shame. They’ll just tell me it’s my duty.

Another woman explained that there was no one to whom she could report her sexually violent husband. She knew that her relatives would approach the matter with a mentality that would not be in her favor and she did not think there were other alternatives, as she expressed in the following way:

If there was a right or a law that helps people who are staying together to overcome such problems, then you could go to a court or to a particular group of people that can handle it. But we women cannot come out with such a case and tell the elders or people around because it will be a shame and they’ll ask you “why are you married?” Or “why are you in that home?” Even when I’m sick and in pain he wants to sleep with me, which is not proper. To bring up that issue is very hard. Unless you get someone who understands and that is very rare I think, and it will just cause more problems if you tell someone who can’t understand.

In some cases, telling a relative did bring more problems, such as when a young girl’s father entered her hut after a man had raped her. Rather than consoling her, he beat her for promiscuous behavior, even though she had been screaming for help. Another woman who had been raped by a neighbor lamented:

I wanted to report him but I didn’t because of my home people. I thought they might quarrel with me and blame me, but if I knew that they would understand then I would have reported him.

In many cases, the relatives encouraged or coerced (or some variety of social and economic pressure in-between) the girl/woman into marrying against her wishes. The story below is illustrative. The girl was raped when she was still a teenager after a man and three of his brothers grabbed her on her way home and locked her in his home.

When it happened I told my mother what had happened and she went to school and reported the case. They gave him a big anthill to dig up. That was his punishment. His father was a policeman so he hid his son’s case. So they took it to the *rwot kweri*’s home. When

they reached there they set a date in which the boy and his father were to report and the amount of money they should pay but they did not show up. When we tried to follow up with what happened, the father of the boy and his son went to Kampala.

It happened again when he came back from Kampala. I had gone to my auntie's place in town since she had delivered her newborn baby and I went to help her. On my way back I saw him on the road and he grabbed me and dragged me all the way up through the grass and to his home and that's how I started my marriage. I just stayed in that home. After I'd stayed at his home for two nights I escaped to my sister's home. But my sister's husband took me back to him and said that I should stay there. When my parents heard about it they came and took the things I was bringing them from my auntie's place. They said since it was the second time we had slept together so they couldn't remove me and bring me home again so I should just stay.

As in many post-rape scenarios in this study, relatives were involved but failed to protect her. Their inability to meet her needs had been weakened by insecurity and the fraying of wider social networks due to war and displacement, and the diminished social authority of the *rwot kweri* that would have compelled the man to appear in his "court." Rather, he had escaped accountability in the city. When he returned and raped her again, her family felt no other options were available but for her to marry him.

This scenario brings attention to another key aspect of relatives' practical role in the aftermath of rape. The war disrupted social protection in dramatic ways. The level of insecurity and circumstances into which it thrust people exacerbated weaknesses of the system. Thus, although relatives are still the most prominent actors in women's lives in the aftermath of rape, they act with diminished power and often within limited and weakened wider social networks.

Another example was a woman who recounted how a previous marriage had begun when she was attending her father in Lacor hospital after he had stepped on a landmine. A man grabbed her with two other men from the roadside and locked her in a room until midnight when he came back and raped her. In the morning she

told her mother and her brothers, but her mother was overwhelmed by her father's situation and her brothers were unsympathetic, accusing her of making an "appointment" with the man.

After what my brother told me I had no option but to go with that man. Then four months after my dad was home from hospital they wrote a letter to the man that he should pay bridewealth, but when he did not pay they brought me home.

Many women lamented how in times past their brothers would have come to their aid but that they no longer lived close by due to displacement or urbanization. Others were denied normal social responses by emergency situations in war. And economic hardship has changed the ability to pay and refund bride wealth resulting in both new opportunities and new vulnerabilities.

The point was made above that the role of relatives and kinship authority after "ordinary" incidences of rape is most often to "seal" the issue in the interest of social harmony. Or, in many instances because that is the expected response, women do not involve them, choosing instead to "battle the issue within themselves." There were some exceptions that are worth noting. In the rare instances when the case was reported to the police or the LC, or an NGO was involved, it was usually after relatives decided that was the appropriate course of action.

An important aspect that emerged from listening to the stories of women who had been raped are the considerations that relatives deliberate as they determine a way forward after rape. They have multiple concerns about consequences of sexual violence and appropriate responses to it, including the effects on social harmony, children (if they are involved), and, importantly, the expected cosmological consequences of the act. The location of where sex occurs, consensual or otherwise, is important in Acholi understandings of illicit and acceptable sexual behavior. A girl who had been raped by a neighbor explained:

It happened by the well here [she pointed in the direction of the well] and I told my parents, and they said I should be cleansed and leave alone the rape case or taking it to a court. It is because it happened in the wrong place.

It was more important to deal with possible consequences of breaking a taboo of sex near a well than to hold the boy accountable for his crime. Women who had been raped “in the bush”, in a garden, or near a well – whether by rebels, soldiers or non-combatants – had additional fears of cosmological consequences.

Importantly, all sex that happened in the context of the LRA, is considered to have taken place in the moral space of “the bush,” carrying with it severe cosmological consequences, even if it occurred within huts in the more permanent LRA camps.²³⁰ And in the context of the northern Uganda war, fighting in the bush, displacement and the practice of night commuting all provided many more opportunities than usual for such taboo sex, in the wrong places, to happen.²³¹

After rape in the context of “forced marriage” after abduction by the LRA, women were rarely afforded the option of keeping their experience secret, as they often returned with children or resultant health problems. Even if they escaped both of these, all relatives, neighbors and extended social networks were aware of their abduction and assumed they experienced sexual violence while in captivity.

One woman’s story stands out, especially as someone who had experienced a staggering level of sexual violence. Two different rebels raped her repeatedly, then a soldier raped her while she was in the barracks before she was taken to a reception center. When she finally re-settled and got married, her violent and alcoholic husband continued her torturous sexual experiences. A tailor in her mid-30s, she had been abducted when she was 13 years old. Her family was well aware of what happened to her in the bush and while she was in the barracks, but, like

²³⁰ See for example Mergelsberg (2010), and Titeca (2010), p. 65 on the alternative moral space of the bush.

²³¹ Hovil and Okello (2007); Patel *et al.* (2012).

many women who have come back from the LRA she has not found a safe place with her relatives, and has found difficulty in negotiating the social belonging of her children.

I've realized, I think because of abduction, it created a great gap with me and my home people. Since I came back even if my kid does something wrong and I try to stop him they will comment "that is the kind of mind that she came with from the bush." Yet they also discipline children in the same way. So I don't share with them because I think that they will think I am a terrible person. Not even my man who I stayed with. I know they will judge me. That gap is already there and it will grow if I share.

When the perpetrators of rapes were combatants, the violence that they did to women is virtually universally condemned, whereas forced relationships and violence against wives is more socially acceptable. For example, a soldier raped a woman in front of her husband, who managed to get the soldier's gun and shoot him while he was in the act. She explained: "Even the village and the home people where that man came from supported my husband for doing that. They knew that their son had done badly."

Most LRA who raped women were either of still in the bush or dead. A few returned and received amnesty. The strong reaction of many civil society actors after the intervention of the ICC in 2005 could be interpreted as a version of the extended family role of "sealing" the issue within themselves by responding to LRA violence in the interest of social harmony, trumping concurrent individual belief that wrongdoing deserves to be punished.²³²

Relatives' role in shaping ideas

Notions of appropriate sexual behavior, and, therefore, what constitutes sexual crime or rape are deeply impacted by one's relatives. Many women who were

²³²See for example, CSOPNU (2005); Justice and Reconciliation Project (2007); It is worth distinguishing the reactions of mostly local civil-society organizations and a few international supporters from most international human rights NGOs that were broadly supportive of the ICC intervention.

raped by their husbands or who began their marriage after someone raped them had similar sentiments as this woman:

You just tell yourself that maybe this is a normal way of settling in a home. It was like that my first time and I was annoyed and depressed at first but I realized that it was also my fault because I am the one who accepted going to his house.

My informants told me that in the past, close female relatives were meant to bear greatest responsibility for teaching girls about what to expect when they “went to a man’s home,” that is, when they got married and began a family. Elders and other male relatives influence norms of how men and women relate. But as already noted, the kinship system has weakened. Many young people are growing up without strong input from extended kinship networks. Practices that were common in the past have diminished and much of what could be understood as sexual education happens in unintentional ways, more by osmosis than by deliberate impartation of norms. One result is that many women are unprepared for their first sexual encounters. Women who reported that their first encounter was forced, said it was in part because they simply didn’t know what to expect from the mechanics of a man and woman’s bodies meeting during sexual intercourse. One woman elaborated:

I had no idea what he should’ve done differently because I was so young, thirteen by then. I didn’t even know those things happened. All I knew is that when women go to a house with their husband they stay together and you cook, eat, have kids, but I didn’t know about details of sex. If someone had taught me I would’ve gone to him prepared, but I had no idea about what would happen.

This young woman has married when she was thirteen. Although the sexual encounter was forced, she said that she had married him voluntarily, so I asked her about it. “Actually, there was a reason for that. Getting married early so the rebels won’t abduct you. That’s why I went to him very early, and he was around 25.” Girls who married young and were unprepared were all too common. How terrifying for girls who were abducted and raped in the bush who had no

understanding of sex even in non-coercive circumstances, let alone the rape they endured there.

An important aspect of relatives' contribution to notions of appropriate and unacceptable sexual behavior is how they shape the understanding of consent. Most women, though not explicitly taught, come to understand that a good Acholi girl should refuse and even "fight" the first time they have sex with a man, even when their intention is to sleep with him. In this context, ascertaining consent is complicated, and how a man distinguishes whether his partner has given it or not is problematic.

Many people equate consent with going to a "solitary place" with a man. The vulnerable position this erroneous assumption puts women in is illustrated well by the experience of young woman who had been raped twice by different men when they were alone. Because of this, she did not consider it rape. She said she had not wanted to have sex with them and that they forced her. The first was a man she had begun dating but had not yet decided to sleep with. The other was a family friend. Trusting him, she assumed when he invited her to his house that he had something important to discuss with her. Instead he drugged and raped her. In both cases, she told no one about what happened because of her notion of consent.

But perhaps the most crucial way in which relatives impact the ideas around sex, sexual violence, and about the right way forward in its aftermath is through social agreements that are formed through the exchange of *luk*, customary payment related to sex and of bridewealth. During the war many girls and women were abducted by the LRA and raped "in the bush" and forced to act as "wives" to men they were distributed to. They have been referred to as "sex slaves" but they were also expected to cook, clean, garden, bear and raise children.²³³ It would seem that

²³³ Mazurana and McKay (2004); Carleson and Mazurana (2008).

their life as a forced wife might not have been drastically different from lives of girls and women abducted and forced into marriage by non-combatants. As noted above in Chapter 2, Caroline Nordstrom's work in Mozambique found that the plight of war victims and women harmed by forced sex in their own homes and communities were at least qualitatively similar.²³⁴ There are however distinct and significant differences, which are discussed at greater length in the next chapter. One is worth mentioning here. It is related to the connection between bridewealth and social permissibility of violence against women and girls.

Acholi language and represented attitudes around bride wealth and women's place in a family is often tied to notions of property rights. Adultery or rape of another man's wife can be understood as a trespass on his property. This idea, is not new, or unique to Acholi. In *Real Rape*, Estrich, makes a number of analogies between theft and rape.²³⁵ Clark and Lewis provide a thoughtful analysis of connections between property law and laws pertaining to sexual violence.²³⁶ Bart and O'Brien compare rape laws to trespassing laws in *Stopping Rape*,²³⁷ and the *Ms. Report* on acquaintance rape compares definitions of rape with definitions of theft.²³⁸ Many women in this study who reported confrontations with their husbands about their sexual violence toward them were given the excuse that his father's cows purchased her and as long as she is his wife he should "have access." After payment of bridewealth her body ceased to be her own, and she has no right to refuse access to "the owner." There are many ways to refer to the man one lives with or to the father of one's children. The direct word for "husband" *cwara* is

²³⁴ Nordstrom (1997).

²³⁵ Estrich (1987).

²³⁶ Clark and Lewis (1977).

²³⁷ Bart and O'Brien (1985), p. 21.

²³⁸ Warsaw (1988), p. 22.

used, but less commonly than “the father/owner of my child” *won latina*.²³⁹

Iwila ki lab lyec?

Did you buy me with elephant tusks?

A rhetorical question used by wives who are mistreated by their husband to draw a distinction between slaves, who were bought with elephant tusks, and wives for whom brideprice is paid.

I point out this metaphor between property and sexuality with some pause, and wish to add an important caveat, because if understood in isolation it risks painting a distorted picture of what I have come to see as the deeper meaning behind bridewealth for many Acholis. Although for some, it may be related to notions of individual property rights, in general, it is better understood as akin to establishing social belonging. Even this traditional saying in Acholi points to the conscious belief of the difference between wives and property. The idea of ownership is still in play, but as with other understandings of property rights in this context, it is communal. In this case, it has to do with social order, identity, entitlements, protection and responsibility. Interestingly, as values of individualism are being imported and assimilated, the idea of women as personal property seems to go hand in hand. However, a more nuanced interpretation of bridewealth is that it establishes social belonging. Adultery or other taboo sex, then, is a trespass not only on an individual man’s property but against the social foundations of Acholi society.

Because this belonging, established through the payment of bridewealth, is so critical to social harmony, unless the violence is extreme or coupled with other

²³⁹ See also Crazzolara (1938), p. 418.

types of socially unacceptable behavior, much violence, including marital rape is ignored or effectively condoned.

A crucial social distinction concerning a woman who was abducted by rebels and forced to become a “wife” of a rebel in the bush is that the man in question did not enter into a social contract with the woman’s family, nor involve her relatives in her selection or in negotiating bridewealth or other payments. Thus an LRA “husband” was related to her in ways that were completely outside of Acholi social norms. The sexual violence and forced marriage that she endured broke all conventions of interacting between men and women, and is therefore experienced as a crime or wrongdoing perpetrated against both her family *and* his; indeed, it is against Acholi identity.

Women talk about being married “to a home” rather than being married to a man. If the woman married traditionally, or *nyome*, *luk* and bridewealth (*lim akumu*) was paid, she and all of her children belong to the man’s family and wider clan by virtue of their contribution of cattle, money or other items given to her family. This “ownership” at times works in favor of the woman, giving her husband’s extended family more authority to intervene on her behalf if her husband mistreats her. After all, he is mistreating “their” wife. It gives them more leverage to exert pressure on him because they contributed financially to bringing her into the family and they have a stake in her wellbeing. It can, and does, also work against her interest, keeping her in a position where she is at risk to violence unable to leave without refunding the payments, which her family may be unable or unwilling to do. She is at the mercy of the particular ethical attributes of her in-laws and the good hearts and economic ability of her parents’ kin. Before war and displacement, both individual families and wider kinship groups typically had more resources – including cattle which were almost all lost during the war – both to pay and to refund bridewealth. Many women today are in “their homes” – that is the man’s family home – but are not *nyome*, meaning that no bridewealth has been paid. What this means in practical terms is that she has more freedom to leave,

but less social protection from her own relatives and her in-laws, another example of how the strength of kinship systems has been undermined. On the other hand, women who have been married with the payment of bridewealth might (depending on the character of both his family and clan, and hers) have greater social protection, but at the same time her birth kin, given current economic constraints, are unlikely to be capable of refunding bridewealth. This gives her less power to leave a sexually violent marriage.

NGOs

We used to follow the culture that we had in the olden days, but now we women are realizing that we have rights and anything that oppresses us we don't accept. You see, that's why I have separated (from my husband). The way I found out that I had rights is through the radio and also because of being in the [IDP] camp. NGOs used to call gatherings and talk to us about women's rights.

Based on information provided by the women in this study, NGOs' role in the context where justice processes take place has several dynamics. First, rape, is something that NGOs teach should be considered a violation of human rights and be reported, with some action to follow. Secondly, among women interviewed, many expressed their belief that NGOs could be trusted to uphold their interests, in contrast to governmental authority which they often deemed corrupt and inefficient, and relatives or traditional authority that may not share progressive understandings of rights and evolving concepts of gender. Despite this, few benefit from existing services because of lack of awareness combined with strong social constraints and the diminished yet still paramount role of relatives in decision-making.²⁴⁰

I heard that there is some group of people that are helping women but because I'm not educated I don't know the name of that group.

²⁴⁰ Likewise, the SWAY research found that when female youth are physically threatened in the community, less than one percent seek assistance from an NGO or health care worker or a member of the Ugandan armed forces. See SWAY (2008), p. viii.

I hear they stay in town. I heard they're from other countries, but I don't know.

When asked where they would go for help if someone committed a violent crime against them, many women answered similarly to the woman quoted above. A few had slightly more specific knowledge, saying they would visit the “people of human rights.” Asked which people, some said they didn’t know how to differentiate them and that, “all NGOs are human rights people.” A few described the location of a particular Ugandan NGO in Gulu town commonly referred to as “the people of human rights.” Knowledge of what NGO services are available and how to access them is low. Even where knowledge exists, very few women take advantage of opportunities. Many women had a low expectation that NGO services were relevant to their specific situation, as this woman whose husband rapes her when he’s drunk explained:

[An INGO] trained people so those people can help. If I have a problem I can go to the LC then he can take me to those women who were trained. It wouldn’t help me though because my husband doesn’t listen. If you’re a woman with a husband that listens it might help.

Many people in the two villages where I worked recognize NGOs as actors that promoted and would act in a woman’s individual interest. In response to an open question, women named NGOs among the most common parties they would go to for assistance if they ever found themselves victims to violent crime.²⁴¹ Virtually none of them actually did. This highlights the importance of interpreting what people actually do versus what they say would do. The following section looks in greater detail at how NGOs were involved in the aftermath of rape of women in this study.

²⁴¹ The other two most frequently mentioned parties were relatives and elders or the Local Council I Chairperson.

NGOs' practical role after rape

In northern Uganda the influx of NGOs during the war resulted in a high level of activity aimed at the prevention and response to gender-based violence (GBV). Child protection committees and GBV committees were formed and continue to exist in all sub-counties and most parishes in Acholi. Trainings were conducted for police, the judiciary, "traditional" leaders, teachers and other parties identified as "stakeholders" in the protection of women.²⁴² Lay counselors have been trained, sometimes in case management. There is an operational hotline to report instances of sexual violence and centers where services can be accessed. Services have been mapped and referral pathways have been written for most sub-counties. A lead NGO has been designated in each sub-county to partner with local government authorities to prevent and respond to GBV. Ideally, through these pathways, services flow down and information flows up.

In the nearly 200 interviews conducted in this study, a majority of women said they could or would seek assistance from an NGO after sexual violence, but in practice, out of the 94 situations of sexual violence, only four had any interaction with NGOs after they were raped. Of these, two women who had been raped by rebels talked positively about the assistance they received from a reception center. One of them said,

What has helped me is that when I was in [the reception center] those people helped me with counseling. Not only that, they took me to the hospital and I had the bits of bombs and a bullet that were in my body removed. I was also given tests and treatment and I left there healthy. Then they inquired my interest since I didn't have access to education and I chose tailoring and they trained me in that. They didn't have a sewing machine to give me then, so I went home and I would begin thinking that I should do something even if I can't be educated, and I managed to struggle to buy my own machine, and even today I have some good customers and I get at least a little money and it's keeping me.

²⁴² A parish is one administrative level higher than village but smaller than a sub-county and a district.

The other two had been raped by their husbands and tried to access services from NGOs. One went to a Ugandan NGO but according to her they did not help. The other reported to a “group that helps women” which I found was the child protection/GBV committee for her area. They wrote a report documenting her problems with her husband, which included sexual violence as well as serious neglect. She expected their report to be followed by action. When it was not she sought help from the Local Councilor and her relatives to separate from her husband, which she eventually succeeded in doing.

Some women in the more remote of the two sites where this research was done specifically mentioned an INGO, and their trained lay counselors, as being helpful in the event of rape. This INGO operates a center in the same area. But none of the women went there after rape. Some said that they have visited the center for other reasons, such as their husbands beating them seriously and to get counseling. As one woman said:

In case of some injury I go to the elders at home first but if they don't solve the issue I go to [the INGO] counselors in the community. They've been trained. I've been to them before and it has reduced my bad ideas and cooled my heart.

A woman whose husband rapes her hinted at the reason behind the discrepancy between what women say they would do and what they actually do.

We have people like [the INGO] and also the people of human rights. They might help in a difficult situation or your conflict. But with problems like mine [a sexually violent husband] of course they can't help. If there are issues in the home you settle it between the two of you or you can call in the brothers of the husband, but if it passes them then we call family elders.

Even when the sexual violence occurred with people other than their husbands, relatives and elders were the primary sources of decision-making on responding to rape.²⁴³

Women in this study who were raped by combatants, with the exception of the two who initially passed through a reception center, were unaware of how NGOs or other actors might benefit them. They were unaware, for example, of the possibility and policy discussions that were taking place at the time of writing regarding reparations. Only one, quoted below, had considered that she might be entitled to benefit. There have been many meetings and consultations held by civil society organizations and the United Nations Office for the High Commissioner on Human Rights to contribute the voice of civil society to the Government of Uganda's reparation policy formation by the Justice Law and Order Sector, as well as the work of the International Criminal Court's Trust Fund for Victims. These efforts have yet to reach the vast majority of victims of sexual violence in Acholi villages. Indeed, it has reached only one of those who I interacted with in this study.

One of the few programs that has as its mandate to address specific harm caused by war-crimes is the ICC's Trust Fund. A project they support relevant to their mandate is plastic surgery for people maimed during the war. One of my informants also had an injury from a bullet. She explained how she tried and failed to access reparation.

You go and fill the form and if your arm had an injury then you take a photo. For my case I took a photo of my finger, but then only some people's names came up [on a list of beneficiaries], but my name never came up. Of course you can't take a picture to show the other injury I suffered because I was raped. With my finger it is

²⁴³ One study also showed that the services that NGOs supported, e.g. health services, tended to focus on sexual violence from a stranger and not the overwhelmingly more common forms of sexual violence such as intimate partner violence. See Henttonen *et al.* (2008).

obvious how I was hurt, but they can't say what kind of compensation this one [rape] can get.

The reparations measures to be put in place, among other transitional justice mechanisms, remain in their initial stages in northern Uganda. The verdict is still out on how well NGOs will support and influence actors such as the International Criminal Court and the Government of Uganda in delivering justice for victims of war-related rape in northern Uganda. The ICC's Trust Fund for Victims (TFV), for example, at the time of writing was supporting a program of gender-based violence response run by an NGO. However, the violence that the program responds to is current and perpetrated by civilians, and so is not war-related crime within the jurisdiction of the ICC outlined in the Rome Statute.²⁴⁴ This is a tricky situation. In fact, I wondered about the ethical implication of drawing attention to it. Several others I have spoken to who have been part of evaluating the program have intentionally not done so.

It would be a shame for the NGO to lose funding. They seem to be doing very good and needed work. If anything, they should be given more, but perhaps by a different donor. The difficulty comes, in part, because of the way the TFV works, through NGO partners, and not directly implementing projects. NGOs in northern Uganda have largely recognized that singling out particular categories of people for assistance, rather than using a more needs- or rights-based approach is counterproductive and creates new problems. This recognition is welcome and is indicative of wider learning amongst NGOs. However, the TFV is not an NGO and has a different role to play. The TFV is meant to be about justice after crimes against humanity. It is meant to be about reparations and it has a normative role to play. Its mandate is not to be "a donor of last resort," which is what a TFV staff in Uganda told me was the approach to funding projects in the North. According to

²⁴⁴ This information is based on conversations with the head of the Trust Fund in Uganda as well as the then project coordinator of the NGO during the ICC Review Conference in June of 2010. It was later corroborated and discussed with the former staff and the person involved in evaluating in January and March of 2013 respectively.

a former staff of TFV that I spoke with, there has been much soul searching about such issues within the TFV, but more is needed.

Another issue with respect to sexual violence and the TVF in particular, is the difficulty of knowing exactly how to identify victims and how to design targeted assistance to women whose rape would be counted among crimes of concern to the court. Evidence from this study is suggestive of material ways reparations could respond to the harm of rape. Others working on representing victims' views regarding reparations have highlighted some of these which resonate with many of the sentiments expressed by my informants, particularly health, education, housing, land inheritance, rebuilding livelihoods and proper treatment of the dead.²⁴⁵ The current study also reveals that women who have been raped can be identified and are often willing to self-identify for assistance. Many women I spoke with expressed sentiments similar to the woman above, "everyone knows what happened to me. Why should I be afraid to come forward if it can help me?"

NGOs' role in shaping ideas

Radio and other mediums of exposure to ideas about violence against women and women's rights have had a profound impact on the way women think about their own experience of sexual violence and what appropriate responses to it should be. The idea that "rape never used to be there" is a common response when I tell Acholis about my research. I have found that what is meant by this statement is usually one of two things. First, that the notion of rape as a crime as it is talked about by NGOs did not exist prior to the war. An example is the reaction of one of the eldest women I interviewed. She did not know her age but made references to *rwodi moo* that were in place when she was born and certain colonial legislation around the time she was married that would indicate she must have been around a

²⁴⁵ For an outline of victims' views on reparation see UNOHCHR (2011). On the individual priorities in terms of categories of reparation, see in particular p. 81. The document is based on a wealth of interviews with 2,302 people between 2007 and 2011. The authors discuss forced marriage and other sexual violence (see pp. 45-49) and also interviewed me on my research and involved me in their validation workshops during their fieldwork.

century old. She laughed at my questions and said they were “very useless,” because, as she expressed, “it is hard to even say whether a man forced you to have sex when you never even thought that refusing was an option and you were never asked if you agreed.” Another elderly woman also laughed and had the same opinion of my questions being “very useless.” Her explanation was that she and her age mates didn’t know what “rape” was in those days, although, she added, of course, men used to force them.

The other meaning of the idea that “rape never used to be there” is driven by values associated with Acholi identity and a vision of a kind of continuous past, a static and ideal picture of how Acholi society is at its best and all social protections are functioning as they should. It is more a statement of positive Acholi values and ideals: that women should be protected from sexual violence and it should not happen if all is healthy in the community, and less a statement of understood reality.

These notions have been dramatically impacted since the war and an influx of NGOs. In Acholiland, there are few places that remain untouched by NGO interventions, and certainly by radio airwaves. Although many Acholi women talk about rape as something “normal” or *gin matime* (literally, “something that happens”), they equally talk about it as morally wrong with negative impact on their relationships, mental health and bodies. When asked how they came to this understanding, radio and NGOs were the most common responses.

One woman commented on how she viewed changes in the way people think. Her own experience with sexual violence had been severe. She was abducted and spent five years as a forced “wife” in the LRA, only to survive a second sexually violent marriage before she settled with a man who treats her well.

In case the girl changes her mind after she has gone somewhere alone with the man, but she’s embarrassed to scream, she will show that she’s very annoyed and also fight him. Sometimes she’ll end up giving in because he overpowers her, but afterwards she’ll sack the

boy. And in today's situation she can even take that person to court. In the past people were ignorant of their rights. But today with sensitization of NGOs people know their rights. Not only that, in the past the issue of age brackets wasn't considered. It was just whether the girl has breasts or not. Now it's if someone is under 18 they are considered children, and so if someone sleeps with them the person can be taken to court. But in the past, the girl could report to her parents and from there the parents would go and talk to the parents of the boy and sometimes they would have to pay a fine called *luk*. *Luk* doesn't mean they have to stay together necessarily, but in some cases they do get married. Either way, that fine [payment], *luk*, would need to be paid.

Her observation articulates a progression of understandings common in Acholiland. Even though virtually none of the women in this study accessed legal avenues of redress, the knowledge that laws are part of what defines appropriate sexual behavior and how they should be treated is a recent phenomenon that they attribute to NGOs. The idea of sexual violence has evolved from *only* a social crime as the discussion of *luk* above indicated, to a crime that also abuses the rights of an individual that should be protected by the state.

The evidence from women in this study suggests that NGOs have had an impact on notions of rape and appropriate responses to it. They have contributed to a growing sense of individual rights which women feel are violated by being forced to have sex, even by their husbands. It also shows the limits of NGO impact. Despite the fact that the majority of women said that they trusted NGOs to help them and many said they would turn to an NGO for help after sexual violence, only four actually did and just two of those felt they were helped in a meaningful way. Women's experiences point to two main contributors to this state of affairs. First, many, especially in rural areas are unaware of how or if NGO services are relevant to their needs and situation. Secondly, and the much greater challenge, is that decisions surrounding how to respond to crime are made within the context of extended family structures and with the supremacy of social harmony as a driving factor. NGO programs tend to target women as individuals in their gender-based

violence response programs and have the supremacy of human rights as a driving factor.

CHURCHES

The backdrop to transitional justice in northern Uganda has been a narrative of forgiveness over punishment, promoted especially by many religious leaders. Links have been drawn between religious, especially Christian, understandings of forgiveness and Acholi cultural understandings by prominent associations of religious leaders, especially as they had been active, over many years, in attempts at peaceful resolution of the war. Other more political actors, the Acholi cultural organization Ker Kwaro Acholi, and some NGOs who had advocated for the Government's Amnesty Law, have joined them. It has been useful to link religious understandings of forgiveness and Acholi cultural values of forgiveness for leaders trying to re-assert moral and political authority in a time of transition. It was also what many of these leaders believed would best contribute to peace for their people.

Research for this thesis indicates that the concept of forgiveness taking precedence over punishment in situations where this is thought to lead to social harmony has found fertile ground in Acholi soil. It is evident in the aftermath of rape by combatants and civilians alike. Social harmony and family unity are principles that the church (Anglican, Catholic and Pentecostal) and the many Acholi believers who are raised in their sphere of influence hold dear. This is usually coupled with a low expectation of justice in this life and a strong belief that, in the end, God will judge.

One woman expressed a common sentiment:

It's difficult because you don't know if those men [in the LRA] are on the government side now or if they are dead or they are still in the bush. Because you can't arrest them and don't know where they are. I think that if I was the judge I couldn't give a sentence. I can't say "let's kill them" or something like that. I would say "let them go but let God punish them in His own way." The Bible says do not judge. Let God do what he wants to them. From what I hear in

church you don't repay evil with evil. They did bad things to me, so I should forgive them and let God judge.

This woman had been abducted twice, spending her first period of captivity as a forced wife to a man in LRA leader Joseph Kony's own camp. The second time, in a smaller mobile brigade, different men nightly raped her until they were "more settled" and she was allocated to one of them.²⁴⁶ Another woman, in the single reported instance in the study as noted above, shared her belief in God's judgment after being drugged and then raped by a Catholic priest.

The best punishment would be to tell his congregation and the community since that would be the worst punishment – worse than prison. He would have that terrible shame. But to me, I have already cast out my feelings to God. I didn't tell anyone. I didn't tell my parents! I didn't tell his Bishop. But what I know is that God will punish him. My strong belief is that one day, God will punish him because he lied to God, saying that he is God's worker but he's the devil's worker. It might not be seen – but I know that something will happen to him.

Although most clergy and churches encourage mercy over punishment, a few women who are believers expressed their disagreement.²⁴⁷ For example, a woman who was raped by three different LRA rebels and then by a Uganda People's Defense Force (UPDF) soldier after she escaped said:

²⁴⁶ These circumstances, and others, which I have come across in my research, were unexpected, and deviate from the norms of LRA behavior that other academics have documented. See for example Carlson and Mazurana (2008); Wood (2009); Justice and Reconciliation Project (2006a). The fact that they occurred with such frequency in my relatively small random sample of just under 200 women suggests that they may be more common than previously thought. My research was not intended to identify trends in LRA violence or even to show which groups or command structure under which the various crimes took place. More interrogation of these supposed anomalies would be useful. In one such situation the woman did not actually know for sure that it was the LRA, as she could not distinguish between rebels of the UPDA (called *civil*) the Holy Spirit Movement and the LRA. She referred to them alternately as "rebels" the Lakwena's (people with Alice Lakwena of the HSM) and "the Konys" (people with the LRA). However, others knew details of the LRA command under which such things happened to them. These supposed anomalies are discussed more in the seventh chapter comparing the aftermath of civilian and combatant perpetrated rape.

²⁴⁷ To be clear, many women expressed their desire for the man who raped them to be punished. Those referred to here did so explicitly contrasting their wishes with teaching they had heard in church.

All of them should have had the death penalty because they were all merciless men. In each of those instances I was suffering and they didn't care or consider that I was already in pain. That one in the barracks saw my serious injury [she had been shot] and knew that I believed I had been rescued. I thought my suffering was over, but even knowing that he didn't sympathize with me and just went ahead and raped me.

The teaching of churches on forgiveness as equating an absence of any form of earthly accountability has both impacted and been shaped by a consistent and strongly-held value in Acholi culture, the supremacy of social harmony.²⁴⁸ There is resistance to exposing wrongdoing or insisting on punishment where it is thought to threaten social harmony, even when the individuals involved feel strongly that punishment is deserved.

Churches' practical role after rape

Twelve out of 94 different situations of rape in this study resulted in any type of punishment for the man.²⁴⁹ In a context of such limited punitive response to rape, it is no wonder that the church's primary role after rape is spiritual consolation, supporting an internal process which women have power to pursue regardless of the social constraints of relatives or impotence of formal justice mechanisms. Many women voiced their belief that prayer was the only option available after being raped. Almost all of the women who had been raped discussed the importance of prayer in their healing process. As one woman said, "Prayers help me most. When I am really depressed and I pray I feel like my heart cools down." Another woman expressed a similar feeling this way:

²⁴⁹ The punishments varied greatly, from digging up an ant hill, being beaten, paying a fine, or buying a goat for a cleansing ceremony, to being imprisoned for seven years or being shot and killed. I have chosen here to use the word "punishment" rather than "accountability" because in the Acholi context the word accountability would also include all of the men who paid *luk* and then married the girl or woman that they raped. Also, it would likely not include all of the men who were punished but paid nothing to the victim's family. In fact the differences in the meanings of accountability in Acholi and most western audiences and researchers is often overlooked and has led to misleading representations of Acholi opinions on accountability.

The best thing would be if I'd reported to my brothers but it was only that I was young and feeling so ashamed so I didn't. The brothers would have followed it up in court or to the police and arrested him. They should have made him pay some money but all the same I would have felt ashamed. People would have said I was the one who he slept with and embarrassed me. All I could do was pray and just leave it to God.

Some women wanted to pursue other remedies after rape but were dissuaded by religious relatives. For example, one young woman when she was still living in the camp was attacked by two men she did not know. One held her and kept her from screaming while the other raped her. As soon as they let her go she started screaming but they had run off before people realized what was happening. Despite her personal feeling that they both should have been imprisoned for seven years, she did not report to camp authorities or soldiers who were supposed to provide security. She explained:

I told my mother after it happened but she was someone who is "saved" so she told me to just leave the issue, forget about it and forgive the person. Also since I didn't know the person, I couldn't do anything.

As with many women, the combination of a low expectation of justice from available options, combined with their own or someone in their family's faith, meant that "forgiveness" was her only option.

Besides prayer and spiritual comfort, as alluded to earlier, one of the important considerations in the aftermath of rape is how to effectively deal with any cosmological consequences. There are two main ways that this is generally handled, either through the church and the power of prayer or through cleansing ceremonies. The role that the church plays, apart from the internal emotional and spiritual healing women seek, is decided by relatives and social consensus about appropriate response to crime or wrongdoing, as the following young woman's story illustrates. She had been raped when she was in the garden, which breaks Acholi sexual taboo. It is *kiir*. She explained, "I come from a Christian background

and we are saved, so although some people wanted to do the cleansing my father refused. They just prayed for me instead.”

This young woman was having fertility problems when I spoke to her, and was convinced that these were due to not being cleansed traditionally by her clan elders after being forced to have sex in the garden. Many of the women in this study who had been raped during the war were also raped in taboo places. The issue of whether to pray or to cleanse is a common one (although they are not necessarily mutually exclusive), and manifests itself not only in individual instances of rape but in debates about appropriate communal response after massive crime. In a project I worked on previously which supported rituals aimed at “community reconciliation,” it was evident that there was tension in some places where the project had activities, between churches that supported public prayer and people who preferred cleansing ceremonies. In this project, as in many others in northern Uganda, cleansing ceremonies were supported over and above religious prayer ceremonies. Although this tension has evidenced in practice, a prominent leader of a Ugandan NGO of religious leaders dismissed the idea that there is any tension, at least theoretically or theologically, between Acholi tradition and Christian religion, and there has been evident synchronism in many ceremonies that incorporate prayer and even sermons into rituals.

The synchronism is not only between tradition and religion, but also with what could be called “NGOism.” Rather bizarrely, at a ceremony in which I meant to passively observe as an NGO worker, I found myself thrust into the middle of a circle of gray-haired elders and given the lead to a goat. I was instructed “to handover” the goat on behalf of the NGO, which I reluctantly did amidst much photography. We were told that before we arrived that day a group of born-again Christians had a prayer meeting so that our cleansing ceremony would not open

the area up to demonic activity.²⁵⁰ Later, I asked retired Anglican Bishop Ochola his thoughts. He pointed out that there are many common convictions held by traditionalists and Christians such as the striking imagery of a sacrificial lamb and belief in the cleansing power of blood. He suggested that the born-again group should have joined the ceremony and opened and closed the “meeting” with prayer.²⁵¹ In fact, his use of the word “meeting” was strangely as accurate a description of what happened as “cleansing ceremony.” There was an agenda, there was a committee who had organized it, and everyone registered on an attendance sheet.

Such experiences give pause to the desirability of NGO, governmental, or “outside” interventions or policies that promote, control or financially support such practices. This is not because they are not valuable mediums of social healing; in fact it is precisely the opposite. In addition to social functions they evidently play, many are strongly convinced that they have been spared negative cosmological consequences of crime because they, or the location of the crime, had been cleansed. One particular story stands out as a surprising “indicator” of impact in the previously mentioned reconciliation project. There was a place where a massacre had happened and villagers from the surrounding area were terrified to go there. They reported hearing voices of marching soldiers, and of children who had died. A cleansing ceremony was done and supernatural occurrences ceased. A number of women in this study who were raped “in the bush” told me that their children stopped getting ill, their barrenness was healed, nightmares ceased, etc., because a ritual had been performed.

²⁵⁰ In a previous paper I reflected on the experience of community-based NGOs involvement in such practices. See Porter (2009). Dean Peachey and I attended one such ceremony together, which he has also written about, see Peachey (2012).

²⁵¹ A program staff from the same NGO commented on an earlier draft of this chapter. He noted the discrepancy between the accepting attitudes toward use of Acholi ritual of high-level religious leaders and opposition to them by camp or village level leaders as an “ongoing challenge” to their work. (Personal communication with Wade Snowdon, March 2011).

NGO or other outside support of such practices is so troubling because it fundamentally changes the ritual and its social power. Additionally, if an NGO or outside party is known to support such practices it undermines communities' initiative. Even when people have desire and ability to perform an appropriate ritual for their situation they will wait. An example is the proverbially-postponed cleansing ceremony at one of my research sites. A terrible massacre took place there. Men, women and children were killed, including women with their babies still strapped to their backs who had their skulls crushed. The people in the surrounding area wanted to do a cleansing ceremony. A US Agency for International Development (USAID)- funded initiative purportedly promised to support it, but funding was delayed for over a year after the ceremony was initially planned. One might assume that financial requirements of the ritual were beyond the means of the mostly subsistence farmers who make up the population in that village. However, it is instructive to consider the lavish feasts organized communally for last funeral rites of the long-deceased. Special huts are constructed specifically to house visitors and days of continuous eating, drinking and dancing (often with hired generators and speaker systems) ensue. In the past year several have taken place in the area in question. In my discussions with community leaders, they have shared that they have not organized the cleansing ceremony, not because they do not value ritual, nor because they cannot afford it. They have not organized it because they are waiting for USAID support to do so.

The relatively few NGO-supported cleansing ceremonies were among the most-widely known and promoted ceremonies for dealing with war-related violence or reconciliation for returning rebels. One of the most widely practiced public ceremonies was a relatively simple one to welcome LRA back into the community called *nyono tong gweno* or "stepping on an egg." Even more widely known (if often misrepresented) was the reconciliation procedure called *mato oput*, ("drinking of bitter herb"). In addition, and with less general publicity, NGOs often sponsored local land or area cleansing ceremonies (with different names

depending on which animal killed to cleanse the area), such as those discussed just above.²⁵²

Conversely, ceremonies that communities organize in the absence of any policy or program have typically demonstrated much more variety. One woman described how they used to handle rape cases traditionally in her clan. It involved dragging a sheep to the location where rape took place, ritually killing it, and then smearing the victim and perpetrator with fecal matter from the intestines. Though several women mentioned similar practices having occurred in the past, none of the women in this study who had been raped had undergone this ceremony themselves. One woman described a different ceremony done for her: “Cleansing was done; they bought a goat, circled me and killed it by stepping on it repeatedly. They cut it in pieces and roasted it and then threw it in all directions.”

In such locally determined and performed ceremonies, cosmological requirements of the specific situation are considered to determine the requirements of the ceremony. For example, in the case noted above following the rape of a woman by her cousin, the cosmological consequences of incest were the most important to deal with, which had little to do with the forceful nature of the act. In all cases reported by women in the present study, the most important considerations concerned the relationship that the man had had with the woman, where the act took place, and what if any consequences were known to have resulted. It would be a rare single approach, and an ingenious one, that could cater for all the

²⁵²*Nyono tong gweno* is meant to be performed after long absences from home to cleanse the person upon their homecoming and has been used in large public cleansing ceremonies for those returning from the LRA. *Mato oput* was traditionally used in cases of murder or accidental death. As described, for example, in Harlacher *et al.* (2006), and as noted, is a ceremony performed as the culmination of negotiations to reconcile the clans of the perpetrator and victim and provide compensation for loss of life. To my knowledge, there have been no *mato oput* ceremonies conducted with any LRA for war-related killings, although in at least two instances there were failed attempts to do so initiated by international agencies. The process was filmed with the intention that it would eventually be a documentary. It can be accessed on youtube where it is entitled: “A Heavy Matter.” It was eventually aired on *Al Jazeera* in 2011 under the title “Bitter Root.”

variation needed to respond to the specific exigencies of individual cosmological and social needs through ritual without undermining meaning and significance.

Notwithstanding some pronounced tension between some religious followers and traditionalists, there is an underlying consistency in motivation which expresses widely shared belief in the need to deal with cosmological consequences of crime or wrongdoing and the view of such wrongdoing as an impurity to be cleansed. They also hold a common primary aim, which is to restore broken social harmony.

Churches' role in shaping ideas

The church has a powerful role in shaping notions of appropriate behavior and how to respond when moral norms are broken. Most Acholi would self-identify as Christian (and the majority of these as Catholic). While the potential for positive impact is great, and there have been some recent initiatives, the church has left this potential largely untapped.

Instead churches have mainly promoted the pre-eminence of family unity and the submission of women to their husbands, while not teaching men about appropriate loving and consensual sexual relationships (at least until pre-wedding classes before a church marriage ceremony). Weddings are a costly affair, and the majority of couples who go through a traditional (*nyome*) marriage, never also wed in a church ceremony. Those who do are usually only able to afford a church wedding later in life. Some of my informants joked that their husband had gray hair the first time he was taught that sex should be mutually agreed. Only rarely does a couple receive moral education related to marriage from a church when it has any relevance to the formative period of their sex life.

The understanding of forgiveness as equating to no punishment has been taken to such an extreme by some that even in situations where public safety is put in jeopardy by its application, repeat offenders are left unexposed and free. The woman mentioned earlier who was raped by a priest, for example, has found solace through prayer, handing the responsibility of justice over to God, while

aware that her silence would almost certainly mean that he would victimize more women.

CONCLUSION

Relatives, NGOs and churches have profound impact on the evolution of social norms. However, reaction to crime and wrongdoing more generally is still decided mainly within the social context of relatives and kinship authority. While NGOs, religious leaders and organizations and others influence the path of transitional justice processes, how and whether ordinary Acholis access and interact with these mechanisms is determined by decisions made in the context of extended family and kinship structures. Whether the perpetrator of a crime such as rape is a rebel, a soldier, a husband, a relative, a neighbor or a stranger, notions of how to maintain or restore social harmony largely determine what to do in the aftermath, trumping individual sentiments regarding what the man deserves and what the woman needs. Most women accept this state of affairs because social harmony is also paramount to them, despite a growing understanding of their rights as promoted and taught by NGO and human rights discourse. The most important thing that women need after suffering crime is still for the people who are closest to them to agree that the course of action taken after rape is appropriate.

In our tribe in Acholi here, I think settling it down at home [*gang gang*] is best because if you take it to another level like the LC and police it will bring hatred between the clans, so doing things traditionally by getting elders to just warn them is good. The community seals the issue within themselves.

In the final analysis “home people” and not “the people of human rights” determine what justice after rape looks like. The home people typically consider cosmological consequences and the effects on social harmony as having precedence in their deliberations. An often evidently valid concern raised in regard to traditional authority in transitional justice is the existence of gendered

hierarchies and inequalities that exist within them.²⁵³ The post- conflict moment of transition offers a window of opportunity to forge more just gender relationships.²⁵⁴ Social norms and power dynamics have been affected by the war and subsequent post-conflict developments in Acholi, but the role of relatives is still strongest, and cannot be bypassed or overcome simply by strengthening other actors or by programs designed to target women as individuals. In order to maximize opportunities presented by the transitional moment that still characterizes Acholi less than a decade after the guns have fallen silent (even though the LRA remain active in neighboring regions), those working on these issues will need to recognize and engage the role of extended family structures in women's lives and appreciate the deference to relatives that women are likely to continue to show while aiming to transform detrimental gender dynamics within them.

²⁵³ Reilly (2007); Allen (2010).

²⁵⁴ Much has been written on war and the effect on gender. See for example, Summerfield and Crockett (1992).

5 Acholi Love: Sex and social belonging

“You cannot understand Acholi love, if you think that it is between two people.”

The single mother in her thirties shook her head when she said it. I knew her story well. She had enjoyed living with her husband peacefully, with few quarrels. She had given birth to their firstborn. They had planted a successful garden of beans that had yielded well and she had many plans for their family’s development. “We never had any problems between the two of us,” she had told me. But her mother-in-law was jealous of her success and entrepreneurship as well as her son’s attention, and eventually forced her out of the home and sent her back to her parents. “You cannot understand Acholi love,” she said, “if you think that it is between two people.” When I have repeated the statement to other Acholis, or those who know them well, they have nodded in agreement and recounted personal memories and gossip to illustrate its relevance. In one sentence, the young mother gave voice to so many situations and so many of my observations over the past years.

In the same way, you cannot understand rape amongst Acholis, whether perpetrated by civilians or combatants, if you think that it is only between two people. The dynamics described in this chapter show that the Acholi meanings of justice after rape require an expansion of understanding beyond binary parties: a victim and a perpetrator. Sex, with its continuum of coercion and exercise of control and power between partners may happen between two people, but even the exercise of personal power is determined by the ever-changing social meaning of these phenomena.

“What is Acholi love?” I have asked many people this question, sometimes as part of a formal interview and other times in casual conversations and when the topic came up. And it regularly did, because as noted, love and even sex are social things. Others have asked me whether the topic of my research, sexual violence, is

not too sensitive. Are people not reluctant to discuss it with me? What I have found has been the opposite. Most people love to talk about sex, and when it comes to sexual violence, while that is an even more delicate matter, many are relieved to be given permission to bring to light stories previously relegated to darker corners of individual and social space. Love, power, sex and its aberrations are made meaningful as social phenomena. The physical act of sex happens between two people, but it expresses a relationship between two families, two clans, families with neighboring families, between men and women, parents and children. It establishes a position and identity from which individuals operate within their social realities and to which all others reference them.

Love and sex are expressions and mediums of forging and maintaining social conditions. As one elder put it when asked if a certain couple were married: “Well, they have already had the physical marriage.” Sex constitutes a bond upon which social harmony depends. Marriages and socially acceptable sex outside of the family unit are central to the ordering of Acholi life, and disruption to sexual mores threatens social harmony. The concern in the aftermath of disruption has less to do with a notion of justice predicated on punishment and much more with how to restore social harmony. This restoration may or may not include punishment of the perpetrator and addressing the needs of the victim that resulted from the harm she suffered because of the crime; the focus is primarily on the harm to the social order.

In order to place what happens after rape in context and understand its meaning for Acholi people, it is necessary to explore the meaning of sex. To understand how rape is an aberration and the harm that it causes, there is need to examine norms surrounding sex and love. The present chapter begins this examination by looking at Acholi understandings of the purpose of sex and how these notions are evolving. It describes both “traditional” (often articulated as a fixed ideal) and current, apparently ever-changing ways of courtship, beginning a sexual and marriage relationship, marriage, sex outside of marriage and sexual education. Notions

surrounding sexuality for Acholis are not now, nor have they ever been, static, however much people may talk about what “is” as also a past and continuous state. The older, often idealized, notions of how things should be are mixing with current realities in a context influenced greatly by internal dynamics and external factors associated with long years of war and displacement and a still problematic post-conflict recovery. One man put it this way:

It is very difficult to talk about what is Acholi. There is a revolution going on. Things are changing so fast. I can talk about the past and we will say, “ideally.” But in the present we try to have some semblance of the past, but actually the world, and in Uganda, it is becoming the same as any other country implementing western policies. Maybe what love is like and sex are becoming universal. Like, we may have the World Bank and economic policies from the west, and we might think that is about economy, but all those things effect the social relationships in one way or the other. So it is very difficult to say this is what love is like in Acholi now. I can talk about the past, but if about the present then it depends on so many things, like the exposure of the people involved.

Many people discuss Acholi culture and tradition as if it is a simple ideal that existed in pre-colonial times, one that it would be desirable to replicate in the present but is under threat by external influences. Of course, external influences have always been a part of the evolution of culture, including Acholi culture, and in Acholi did not arrive with Europeans at the turn of the previous century. However, the quotation above expresses a common posture toward the past, a vision of “how things were” that is often articulated as what is more purely “Acholi.” Acholis use a number of different phrases to express this vision: *cik Acholi* (“the law of Acholi”), *kit Acholi* (“the Acholi way”), *tekwaro pa Acholi* (“traditions of Acholi”), or the ways of *Acholi macon* (“the old Acholi,” or “Acholi from olden times”).²⁵⁵ Others do not make a distinction between present and past, but simply say, “in Acholi, it’s like this,” inferring a continuous past and present.

²⁵⁵ For a similar discussion of ways that Acholis discuss tradition, see Harlacher, *et al.* (2006), pp. 9-10.

SEX AND MEANING

Food as metaphor for sex

Shortly after I moved to northern Uganda in 2005, I went to a traditional music concert in Gulu promoting women's rights. An elderly man sat in the center with a *lukeme*, the Acholi thumb piano, and sang songs at once familiar and surprising to most Acholis. In the Acholi tradition, lyrics are a blend of the musician's improvisation and pre-scripted lines passed down, sometimes for generations.²⁵⁶ He was impressive. A colleague leaned over, clearly proud of the musician's skill and clever wit of the lyrics, and translated them for me. One song admonished: "men, you better not try grinding millet or your testicles might get caught between the grinding stones." Another lyric proclaimed that "all women cook the same." For a concert promoting women's rights both of these lyrics struck me as odd. The first sounded like a way to engrain gender roles and division of labor to the production of food and not to more empowering economic roles. The second seemed to deny the uniqueness and individual contribution of women, rather creating a degrading archetypal singular. My colleague offered an alternative explanation, which over the years I have found to have merit. It has also proved useful in understanding Acholi notions of sex. According to him, the first of these lyrics was meant to appreciate the difficulty of women's work and to encourage men to value their wives. And the lyric that "all women cook the same," he explained,

encourages men to be faithful to their wives, because if what they eat at home is the same thing that they would eat if they dined elsewhere, then there is no reason for them to cheat on their wives.

My understanding of this interpretation has become much fuller over the last six years of living in northern Uganda and through the shared lives of the women in this study. "Eating," my colleague went on to explain, "is a code for making love.

²⁵⁶ p'Bitek (1986).

They say “eating” so that the adults will understand but the children cannot understand.”

“Eating” and food as sex are metaphors often used (and not only when children are present) when teaching or singing or storytelling in a traditional setting of the *wang oo* communal fireplace or elsewhere. It is also used among adults in other settings, between friends and between partners, and is an integral part of Acholi understandings of sex.

When sex is discussed, references to food are common. For example, a man who wants to justify his many extra-marital affairs will say, “How can I eat the same thing every day? I need some variety in my diet.” Or a common slang for the girlfriends of a married man are the “side dishes,” while the wife is the “main course.” A man who does not want to go out with a particular girl might say: “That dish is not appetizing.” It needs to be noted that men primarily evoke this metaphor, and it generally describes men’s sexual appetites. The woman in the metaphor is the food, or the preparer of the food, and the man eats the food. The metaphor emphasizes the man’s sexual needs, but downplays women’s desire for sexual pleasure, seeing her purpose in sex as one-sided.

In discussions about sexual drives and differences between the sexes it is generally accepted and articulated that men have larger “appetites,” and that women might have desire, or they might not, but certainly if they do that desire is much weaker. This is also one of the rationales, in addition to perceived population ratios between the sexes, that is commonly voiced in support of polygamous relationships or for men having girlfriends in addition to wives. A man with a larger appetite, and hence, more of a man, needs more than one woman to satisfy what is understood to be a need as basic to survival as food.

An instructive contrast to the Acholi metaphor of food is to consider common American sexual images . Many are sports-related: “score,” and “home run” are common expressions for having sex. Foreplay is equally full of baseball and other

sports analogies, such as “getting to first base.” For getting a woman pregnant, an American man might say that he “slipped one passed the goalie.” Someone who has tried to woo a woman and failed might say that he “struck out.”²⁵⁷ While there are certainly other American metaphors for sex that do not fit into this category, those just noted are indicative of American attitudes towards sex that are recreational. Sex is about pleasure, even entertainment. The metaphor of food, in contrast, indicates an attitude toward sex as something much more essential. An American might also talk about being “turned on” or say that someone was a “turn off,” suggesting that sexual desire is something controllable, able to be flipped off and on. Hunger, in contrast, cannot be turned off. If ignored it leads to starvation. Such metaphors express and affect how people within different cultures perceive reality.²⁵⁸

An Acholi wife’s primary duties involve satisfying the physical needs of her husband, including feeding him and having sex with him – and consequently, producing and feeding the children that result from their relationship. Just as a wife expects to cook for her husband and provide food, providing sex even when she may not want to, is, like cooking, seen as her duty. If a wife refuses and she is forced, her husband is taking something that she “should” have given him willingly. If sex is seen as essential to a man as eating dinner, this has implications for how people perceive the apportionment of moral culpability, especially (but not only) in marital rape. If a wife fails to cook for her husband, many Acholis would feel that he acted within his rights if he beat her to discipline her.²⁵⁹ Similarly, many women in Acholi fear that if they raised the issue of marital rape to any authority figure, a large portion of the blame would be placed on their shoulders. They fear the response would be: “That is what you are there for. What brought you to this home?”

²⁵⁷ For other analysis of metaphors to describe sex see for example, Emanatian (2009) who describes the Chagga of Tanzania.

²⁵⁸ Thomburg (1995).

²⁵⁹ See also Mazurana and Carlson (2006).

In other chapters, the attitudes of women regarding punishment has been discussed, and suggests that many women who are raped by their husbands do think of what he does as wrong. Others think that their husbands who force sex upon them deserve some form of punishment. At the same time, however, many of these women also feel partially responsible themselves, and certainly think that others would judge them so. Even more, because their notions of sex include the idea that it is as essential to survival as food, and that it is their duty to provide it, the circumstances of rape are experienced as “less bad” than they might be otherwise. The idea that marital rape in this context might be experienced differently than other forms of rape is from many perspectives troubling and controversial.

Two recent remarks by Western politicians alluded to different types of rape, the first in highly-reported, shockingly ignorant comments by U.S. Republican politician Todd Akin, and the second proposing dubious sentencing distinctions by British Minister of Justice, Ken Clarke. Akin claimed that: “If it’s a legitimate rape, the female body has ways to try to shut that whole thing down,” suggesting that it is impossible to conceive from “real” or “legitimate” rape, a baseless claim long proven erroneous.²⁶⁰ But even more disturbing was the suggestion that some rape does not count as “legitimate rape.” And Ken Clarke, when discussing rape sentencing proposals, talked about some rape as being “serious, “forcible,” and “proper,” implying that some is not all three of these things.²⁶¹ The tone of the resounding, angry reactions in the media, and the public debate that followed, was captured in an official statement from a group that deals with the aftermath of

²⁶⁰ See, for example, Holmes *et al.* (1996), which found that five percent of American women ages 12 to 45 who were raped became pregnant. Akin’s comments were widely reported, and the interview can be watched in full at: <http://fox2now.com/2012/08/19/the-jaco-report-august-19-2012/>.

²⁶¹ The Clarke interview can be accessed at <http://www.youtube.com/watch?v=-7z5ZYlvGVg>.

rape regularly, Rape Crisis: “Rape is rape regardless of the relationship or the context.”²⁶²

It is not my intention to lend credence to such comments that were ill-advised in a host of ways, nor to make suggestions about how rape should be penalized within a legal framework, (though my own feeling about it is that it should be severe). All rape is fundamentally an invasion of another person’s body, and violates their sexual autonomy. Rape is violence in and of itself, and reprehensible regardless of the circumstances or whether or not additional physical violence was part of it. Rape is rape. But to assert that there is no variation under this larger categorization of experiences seems to turn a blind eye to patently obvious realities, while also in another sense to deny the validity of the subjective experiences of each person who has lived through the terrible ordeal of rape. The experiences of the women with whom I have interacted in this study suggest that the way they understand the act of rape, and therefore the way they experienced rape and its aftermath, indeed varied a great deal depending on relationship and context.

A particular example is illustrative. A woman in her mid-forties shared how her husband raped her. She was clearly deeply disturbed by his behavior. She said:

The worst part of it is that I think he does it intentionally to hurt me. He has two other wives. If it was just about sex he could go to them. But he comes to me and does this – so I think that he is trying to play with my mind and torture me.

Rape that is seen as being “just about sex” and a fulfillment of a basic need is somehow experienced as less traumatic than rape which is understood as more overtly about power, anger or punishment. This does not mean that other women whose husbands rape them, but only have one wife, look at it as acceptable. As already noted, all of the women in this study who were raped by their husbands

²⁶² See <http://www.guardian.co.uk/commentisfree/2011/may/18/rape-ken-clarke-serious-5-live>.

thought that it was wrong for their husbands to force them to have sex. They all said that they wanted their husbands to stop. But these women's experiences of being raped by their husbands is concurrent with their belief that sex is essential to survival and that it is their duty to satisfy their husband. This inevitably shapes the way that they think about his culpability, and even how they cope with the sexual violence. Marital rape, for many of these women, is *gin ma otime* ("something that happens"), and for which they see reasons, if not excuses.

In the Demographic Health Survey in 2006, 19 percent of men and 31 percent of women in Uganda expressed the belief that a husband is justified in beating his wife if she refuses to have sex with him.²⁶³ The prevalence of this attitude evident in the survey helps to foreground the experiences of Acholi women in this study who were raped by their husbands and suggests a connection between attitude and actual practice. Just over 20 percent of women over sixteen in the two villages in this study had been raped by their husbands.²⁶⁴ The similarity between this and the percent of men (nationally) who believe they are justified in beating their wives for denying sex is striking.²⁶⁵ Many of their wives, it would seem, are not only beaten for refusing, but are beaten and then forced to have sex anyway.

Even with other, non-marital, rape the way that sex is viewed as a basic need influences the way the crime is understood more generally. An Acholi police detective shared some of his thoughts on rapists from his work. "I would look at that human need," he told me:

I would see the perpetrator in front of me and think, "probably he has not had access to sex for a long time." Sometimes the woman he raped was even ugly so he must have been desperate. Often times there was also influence of alcohol. I would estimate around

²⁶³ UBOS (2007). p. 15.

²⁶⁴ This is the percent of the total number of women over sixteen that I interviewed, including many who were single.

²⁶⁵ Interestingly, SWAY with female Acholi youth found that over 80 percent said their husbands do not have a right to sex on demand – see Annan *et al.* (2008), p. viii.

60% or more of the cases I saw happened under the influence of alcohol.

This interpretation was a further way of reducing the moral culpability of the man, whose inhibitions were down and libido up under the influence of alcohol. He continued:

Everything is commercialized in Uganda. If you don't have money, you don't have a woman. I think people who rape, especially in towns because that is where the commercialization is worse, it is a desperate situation. Sex is a basic need. **So it's like a starving person stealing food** [emphasis added]. Of course, you cannot, in terms of the law, consider that and be lenient. But at times I can understand their desperation, so I don't like my job sometimes.

Another example concerns an incident recounted to me when a mentally disturbed person raped a woman in the middle of a village road. By the time people responded to her cries for help and rushed to the scene, he had almost "finished." Some people wanted to pull him away, but others argued that since he had already gone that far and the woman was already violated, he should be allowed to continue so that he could "satisfy his appetite." In the end, they arrested him, but only after he had completed raping the woman.²⁶⁶

This is a way of viewing sex that is evolving as it interacts with new societal dynamics and socio-cultural influences. One day I discussed my research with the late Resident District Commissioner (RDC) for Gulu, Walter Ochora. An Acholi colleague accompanied me and made a comment that surprised me given his extensive background working on gender issues. He said something about marital rape being a difficult issue because men have "greater sexual appetites than women." Ochora leaned back in his chair and stared at the ceiling thoughtfully before he spoke, his gigantic belly protruding onto his desk when he leaned

²⁶⁶ I was told this story by someone in one of the sites of participant observation and it was confirmed as true by another bystander. However, I did not corroborate it in any other way. It is quite possible, then, that the story distorts the facts of what happened. It is, however, worth noting that whether events unfolded exactly as they were told to me or not, the attitudes of the people who told me were casual and accepting of the response.

forward to respond. “Sex,” he pronounced, “is a mental thing. It is mentally driven. If the wife says she is not in the mood then men should be able to understand.” While the late Commissioner’s sentiment represents a wider movement that is evident in some people’s attitudes and is encouraged by churches, NGOs and exposure to ideas of human rights as well as University dating culture, it is slow movement. The fact that my colleague, who had been exposed to all of these, made the comment that he did is revealing of just how enduring some of the “traditional” approaches to Acholi love are, even those with negative implications.

Sex for producing children

While one of the primary meanings of sex is seen as the satisfaction of a fundamental biological drive, especially for men, the most significant social meaning of sex for Acholis is realized through the production of children.²⁶⁷ A relationship between a man and woman is seen as somehow partial and not yet fully consummated before the arrival of children.²⁶⁸ The period in a relationship before children is considered as a more or less precarious time because the marriage is not yet held together by the bond of shared parenthood. Infidelity on the part of the woman is seen as more probable and separation more likely between a childless couple than one that has the bond of children. Women in a relationship with children are considered as more secure since the presence and “ownership” of their children in the man’s clan is also an anchor for them. Okot p’Bitek writes: “The desire for childbirth was so strong, and the implications of inability to produce so grave that it was absolutely essential to know, right from the start, who might be the sterile party.”²⁶⁹ He goes on to explain that if the boy/man was found by the girl to be “alive,” that is, not impotent, than he was also assumed

²⁶⁷ Even in the LRA, research with formerly abducted girls who acted as forced wives indicates that the primary purpose of sex within those forced relationships was to produce children; see Carlson and Mazurana (2008), p. 24.

²⁶⁸ See also Girling (1960), p.21, who writes that marriage is “not properly constituted” until after the arrival of the first child. And Allen (1994), p. 131, writes of a wife who has not yet had a child: “She may be a sorcerer/poisoner. She is unpredictable, her loyalties are unclear, she is a threat to her husband’s sisters living at home and to other wives and their children.”

²⁶⁹ p’Bitek (1964).

(incorrectly) capable of paternity. Because of this strong desire for children and social pressure to find a life partner able to produce them, Acholi youth were/are encouraged to “taste” each other before “settling in a home” or having a more committed relationship. As p’Bitek described in an essay on Acholi love: “Girl visits boy in his hut; boy sleeps with her normally, therefore boy is sexually fit. If for some reason boy cannot or does not sleep with girl, then boy is not sexually fit.”

There was, and is, therefore tremendous pressure on both parties to prove themselves worthy as life partners both to each other and to their families and communities by having sex the first time the girl visits the boy’s hut. However, this pressure was disproportionate on the boy, and, as described below, often a girl does not know exactly what to expect when she visits a boy the first time. The creation of children through sex, and the social bond and roles which children establish, are so imperative and valued that this leads to a strong condemnatory attitude toward sexuality which is unable to result in children, such as masturbation, anal sex and same sex relationships.²⁷⁰

Sex for pleasure is secondary

Recognition of sex as for desire, pleasure, entertainment, expression of love, and other purposes are usually discussed as of lesser importance in Acholi, or even as recent phenomena. Although it is unlikely that this is an entirely accurate perception – as even *Acholi macon* (or Acholi from the olden days) must have enjoyed sex – it is commonly expressed. Enjoyment of sex seems relatively universal for men, and most women also report enjoying sex to some extent,²⁷¹ but such enjoyment or pleasure was discussed basically as a nice byproduct if it happens. One old woman said: “Well, if you don’t ‘finish your desire’ [a

²⁷⁰ This is an area which will be the focus of some future research, as it was not the main focus of enquiry, but seems to have important ramification not only to sexual violence but issues around homosexuality, HIV, social exclusion, etc. It raises a host of new questions.

²⁷¹ I have, however, interacted with some women who were either unaware of female capacity to achieve orgasms or had not experienced them themselves (although this was not a major focus of research).

euphemism for orgasm in Acholi], but he does, you just wait and hope for the next time.”

Interestingly, many young Acholis, from post-pubescence until marriage, are known to talk about “playing sex.” Both males and females are encouraged to experiment and get to know each other’s bodies before marriage.²⁷² An important example of a cultural provision for meetings that can lead to such exploration are the pulsatingly erotic and provocative Acholi courtship dances. Such settings might give the impression of an emphasis on pleasure, but from p’Bitek’s writing and considering how the courtship practices of the Acholi fit into broader social ordering, it becomes clear that courtship dances, and the “playing sex” that can follow are primarily about determining if the person of someone’s interest is qualified as a marriage partner. This is established by whether or not the female can “satisfy the appetite” and whether or not the male is “alive” (or not impotent) and therefore able to produce children. And so even at this stage where enjoyment is more emphasized, it is still with the underlying and greater purpose of children and with the understanding that a stable marriage is one that satisfies the essential needs for survival – sex and food.

Okot p’Bitek concludes:

Acholi love is certainly not a kind of pond into which the lovers fall together. And the idea of romantic love, which looks upon the love object as precious and exceedingly difficult to possess and involves a devotion to it which is associated with a reverence so profound it almost necessarily excludes all desire for Intimacy, this kind of love that the poets and troubadours sang about was unknown among the Acholi.²⁷³

Although, my own research concurs to large degree with p’Bitek’s observation that Acholi love generally does not resemble Hollywood romance, either in the past as

²⁷² Sex before “marriage” in various forms is the norm all over Uganda, not only amongst Acholi. See Uganda Bureau of Statistics (UBOS) and Macro International Inc. (2007), p. 4.

²⁷³ Ibid.

described by elderly informants or currently, “love” in Acholi for many couples commonly involves respect, fondness and a kind of partnership in planning for life and a family that unites not only the individual woman and man, but their respective extended families and clans. Many women, when asked what Acholi love was, described it as having a peaceful home and shared productive activity such as digging together, or planning how to pay children’s school fees together, or teaching their children together. Others mentioned how their husbands brought them gifts or bought them a new dress.²⁷⁴ In research and writing about rape, it is easy for the more violent and tragic stories to drown out the simpler, quieter and more common reality of couples enjoying each other in consensual relationships. It is important to draw attention to the reality that many of the women in this study talked about the respect and sensitivity of their partners. Many expressed positive opinions of their husbands, expressing sentiments similar to this woman’s: “He was an understanding man. If I was not in the mood then he would let me rest. He appreciated that I have a lot of work. But if I also had that desire, then we would enjoy [sex].”

Although generally, pleasure seems less essential when compared to other meanings of sex for Acholi (and as will be seen, sex exclusively for pleasure is seen as a violation²⁷⁵), its relative importance varies. For example, there is an observable difference in the attitudes of people in towns, with higher levels of education and exposure to such socio-cultural influences as university dating culture, television, Internet, pornography and NGOs. Various NGO programs touch on attitudes toward relationships and sexuality such as HIV and AIDS, gender-based violence, youth and “Life Skills” programs, human rights, family planning and efforts to reduce birth rates and increase maternal health. There has been an inundation of such activities aimed at attitude changes especially since the 1990s,

²⁷⁴ The dress is an interesting example, because men discussed it also, as evidence of pride in one’s wife and the purpose was to make a social statement to those who saw her wearing it.

²⁷⁵ Discussed in the next chapter, see the section entitled “*onywaro*.”

in significant part due to the large NGO presence generated by the northern Uganda war. A person who has lived and been educated primarily in a town setting is more likely to want fewer children and therefore to see the production of children as one purpose of sex, but not the only or even most important one, and one that should even be controlled. Another anthropologist working in Gulu described this as growing Acholi “middle-class aspirations.”²⁷⁶ As one man I spoke with said (with at least a touch of elite condescension): “Concerning relationships, elites want to move forward but ordinary people think the past was very okay.”

Sex as the foundation of social harmony

Another fundamentally important purpose of sex, though perhaps less explicitly recognized and articulated than satisfaction of men’s appetites and the production of children, is the way in which sex both constructs and maintains the social harmony upon which Acholi society is founded. It does this in two main ways. The first is through the structure of marriage and production of children and how these provide a place within the larger community from which, and to which, people relate. Men and women learn to inhabit their moral community through engagement with sex. Second, in the ways that sex shapes and enacts notions of masculinity and femininity.

Women and men are expected to talk about sex differently when they are among their (gendered) peers. In general, women are discouraged from talking openly about sex. Those who reportedly talked openly about it with friends, or even with their aunties, sisters or co-wives, said that the common attitude toward this was that the women were overly sexual, prostitutes, or “spoiled.” Women should enjoy sex, but their sexuality is meant to be private and only known to their partner. In some cases, especially with women who were less urban or less exposed to “modern” ideas reported that they felt their partner would judge them or think they were “spoiled” if they showed too much desire or enjoyment. The role that

²⁷⁶ Personal communication with Dr. Birgitte Folmann.

sex plays in establishing a woman's place in her community is less about overt sexuality or bedroom gossip with her peers (as it is with men), and more through her identity as a wife and, most importantly, a mother. Most women are proud of their roles as mothers, and infertility is a source of deep sadness and shame. The pressure to conceive and bear children is immense. In fact, it is very difficult for a woman to have a socially-accepted identity in a village unless she is a mother.

When I began this study, I took a random sample using census data of the populations from the two villages I had chosen as research sites. When it came time to interview the women identified, I went out to the villages with lists of their names, along with household numbers that vaguely corresponded to the route the Local Councilor had walked when collecting the census data. I thought it would be relatively easy to find the women on my lists, however, I quickly realized my error. Although both communities are small and people know each other well, surprisingly few know the actual names of the women who are their neighbors, as women in these villages are rarely called by their names. Mothers are all respectfully referred to as "the mother of So and So" (*Min _____*). In some cases when women proved particularly hard to find, I was forced to go back to the original household census data and find the names of their children so that I could ask, for example, "do you know where Min Adoch lives?" This proved far more successful than asking if they knew Akello Joyce (the mother of Adoch).²⁷⁷

A woman is seen as liminal until she marries, and even then, she is considered unstable, and her loyalties may be questioned until she has children. At this point her position is firmly established as an insider to her husband's clan and the home, as she has produced a child or children who will help perpetrate the existence of the patrilineal clan of her husband, and she is no longer seen as a threatening outsider.²⁷⁸

²⁷⁷ These are common Acholi names and do not refer to specific respondents.

²⁷⁸ See also Finnström (2008), pp. 192-193 and Allen (1994), p.131.

A further example of the importance of children to establish belonging in a community was illustrated by the advice that an Acholi friend gave, recounted in the first chapter, of how to be “part of the community.” He advised three things: “One: Give good greetings. Two: Get land and build a house. And three, have a baby.” Five years later, I finally fulfill all the requirements, but found that the last was most important. With the arrival of our first daughter, I became *Min Akidi*, the mother of Akidi. Although I am, of course, not part of an Acholi clan, my social position is now more established and my marriage is perceived as more stable, making me less of a threatening outsider. My fidelity to my husband is believed to be more secure. Being a mother is a fundamental way of establishing belonging among Acholis.

Men, on the other hand, are fathers and husbands and find their identity in being the head of a household. In order to achieve full status as a man in his community he must be the head of a household, a husband and a father. Women, in this essential way, are their passage into becoming a fully social person. Although a man might be respectfully referred to as the father of so-and-so, his household finds its definition through him and in his name. A man’s place in a clan had been established at birth, and his children serve to strengthen the clan that is both his and theirs.

Cip aye otera i tim

It is the apron skirt that took me away.

“Only women wear the apron skirt; and because of the rules of exogamy, sisters and daughters must marry outside the lineage. Used when there is a tendency to treat girls or women as less important than boys and men in the family or clan.”

While women's sexuality is meant to be private, men are expected to talk openly about their sexual experiences with multiple women. Sex plays an important role in men's relationships to each other. A young man is expected to have material for the stories he should tell when he gathers most evenings with his peers. Wives, however, are not usually talked about sexually. One man explained, "You don't talk about your wife sexually. You talk about the good old days – the girls you chased and the one that you missed out on." When men talk about their wives, they might talk about how she is always asking for money, or how she cooks, or other domestic issues, but the couple's sex life is not appropriate for public consumption. Among very close friends a man might share a sexual struggle, or if the woman has denied the man sex for an extended period of time without socially acceptable cause (such as menstruation or giving birth) the matter could be the subject of a family meeting or involve parents of the couple or other elders or respected relatives.

More commonly, however, men discuss the women that came before or the women they have "on the side" of their wives (sometimes called "side dishes"). One man in his early 30s estimated that it was usually about 90% of what he and other Acholi men talk about when they get together. Another put it this way: "If you really want to bond with your male friends and buddies, you have to talk about sex. So you tell stories and it's very important." Their sexual relationships with women were a medium by which they establish and perform their own masculinity in relation to their peers. Many admitted that when they were young, they would repeat the stories of older youth as their own to prove themselves as knowledgeable and capable of such "manly" exploits. A man with more impressive stories, and the apparent ability to satisfy multiple women is admired for his sexual potency, and for the financial means that wooing and maintaining female sexual partners requires. An additional element of masculinity that is displayed through stories of multiple partners is the cleverness needed to make each woman feel special, and either not know about each other's existence or not be bothered by it. This requires cunning and strategy that is encouraged and admired among men.

Sex then, is an enactment of gender relationships, and what it means to be a man or to be a woman through social practice. It is a way of both forging and maintaining these roles and relationships. The social practices as they relate to men and women's sexuality and social belonging are a way of naturalizing gender hierarchies.

An example of the centrality of sex and its meaning to social harmony is how previous generations would use a girl as compensation to settle disputes or crimes. When social harmony was disturbed through murder or accidental death, for example, the clans of the aggressor and the aggrieved would go through a process of negotiation and "cooling of their hearts" that culminated in the often-discussed *mato oput*, drinking bitter herb. This process would take place only after compensation was paid. Part of the compensation or *culu kwo* (literally "paying life") would often involve the aggressor's clan giving a girl to be married into the clan of the aggrieved.²⁷⁹ The practice has evolved, and often cows or equivalent cash are given instead of a girl, but the concept remains the same. The cows or money are meant to be equivalent of, or means to pay bridewealth, so that the aggrieved clan can "pay" for a girl to be brought into the clan and produce children that would replace the life lost.²⁸⁰ Although *mato oput* does still happen, each situation of wrongful death is unique, and often the elders and clan leaders involved (whether a killing or accidental death had occurred) opt for other ways and use different rituals to deal with the resulting disruption to social harmony. The underlying meaning of compensation still rests on the thicker notion of marriage and the production of children as a way of maintaining or restoring social harmony.

²⁷⁹ Harlacher *et al.* (2006), p. 80. See also Crazzolara (1938), who defines it as, "to pay for blood guiltiness." p. 203. It is worth noting that payment can be through "blood," (revenge) or through compensation; see Finnström (2008), pp. 219-20.

²⁸⁰ This has also been noted in Girling (1960), 66-67.

In the aftermath of rape, there is a similar concern for how to restore social harmony, and often this is demonstrated by concerns relating to marriage and children as well. In a conversation with a policeman, he commented on the traditional ways of settling rape cases. “They are much easier to resolve than a murder case,” he said. He then continued:

In tradition, there is no crime they cannot solve. Rape is easiest to solve because ideally you were supposed to marry the woman. Actually, if I admire you, I just time when you go to the well. I abduct you and keep you in my house locked for a week, then call the family and negotiate the marriage. Village people don't want to put the perpetrator in prison because it will cause enmity between the families.

Chapter 7 comparing ordinary and war-related rape goes into such scenarios in greater detail, but it is worth mentioning here that ten out of the seventy-six women in this study who had been raped began their marriages in much the way the policeman described. Women in this study who conceived due to rape by civilians often married the men who raped them. The internal logic of this is made clear through the understanding and meanings of sex described in this chapter. If sex is seen less for pleasure and more for children and social belonging, and women's primary social roles are to be wives and mothers while men's as to take social and material responsibility for the woman they marry and the children they produce, then the response of marriage after rape makes sense within the framework. This logic is even more powerful if a child resulted from the rape, as parenthood and children are the central means to establish full social roles for both men and women. The social order was subverted, and social roles muddled, by rape but these can be made right by the man marrying the expectant mother and taking responsibility for her and the child. Sexual violence, which is understood as dismantling “the orderly exchange of women,”²⁸¹ is remedied by the rightful

²⁸¹ A phrase used by Das (2007), p. 21.

reinstatement of proper kinship: women under fathers and husbands. Levi-Strauss termed it the “reinstatement of correct matrimonial dialogue of men.”²⁸²

“MEETING” TO MARRIAGE

This section explores evolving practices and attitudes surrounding various stages and expressions of love in Acholi. Throughout, a link is evident between what happens between the couple and their social surroundings. Where relevant, I will highlight some of the differences between newer, urban – or as many Acholis put it, more “exposed” – manifestations of love and those that are more common in villages and/or in the past.

Courtship

Okot p’Bitek describes how boys would spot and then try to claim the girls that they admired either as they were on their way to a well or perhaps at a traditional dance. They would approach the girl and try to talk to her, but she would rebuff him and always say “no.” The word in Acholi for what boys do when they are wooing a girl is *cono* (often translated to me as “to con,” though more accurately, Crazzolaro defines it as “to induce” and “to flirt.”)²⁸³ When the boys would try to “con” the girls, they should play hard to get. This still seems widely accurate in the village setting of today, though the imperative to play hard to get as emphatically as p’Bitek’s depiction has lessened greatly. Young couples will often take evening walks or boys will accompany a girl on a household errand, or they will see each other as they are going somewhere and stop to chat on the side of the road. The role of *lalwoko* (a friend who escorts for such chats) or *lakwena* (a go-between messenger who helps to arrange things when shyness or other circumstances make direct contact difficult) are still very common, at least in the village setting. In contrast to the past, where bangles, handkerchiefs or other articles from the girl

²⁸² Lévi-Strauss (1969), pp. 30-33, 231.

²⁸³ Crazzolaro (1938), p. 204.

were offered to the boy as a symbol of affection,²⁸⁴ now letters are often exchanged or the girls attitude towards the boy noticeably softens and she might eventually admit her feelings for him or indicate that he could visit her parents, a sign that she is open to the relationship proceeding to the next level of commitment.²⁸⁵

But p'Bitek describes continual refusal from the girl as common, and says even the "exchange" of bangles is done forcefully, with the boy pulling them off her arm. As already described, before a marriage is arranged, young couples should have "tasted" each other already and determined that both parties are sexually satisfying and impotence is not an issue. In this first meeting, p'Bitek describes how the girl must be dragged into the boy's hut and the love fight that ensues, even suggesting that at times the boy may need to call a friend to help hold the girl's legs apart. In my research, however, I found that a much less forceful approach is the norm. When the two are alone together and planning to "meet" sexually for the first time, the girl is still generally expected to protest and a milder form of the love fight ensues.

In a discussion with half a dozen men in their late 20s or 30s who could be considered "more exposed," they talked about dating and how it is changing. "These days," one of them explained, "I think it's the same as in your country with text messages flying back and forth to flirt." Another agreed and talked about learning what the girl is interested in and watching movies with her, and about the impact of Hollywood on the way modern Acholis view love. In courtship among those who are more "exposed," the young men described a surprisingly formulaic

²⁸⁴ This is described by other anthropologists such as Girling and p'Bitek, and was also discussed by many older women in this study.

²⁸⁵ p'bitek describes how articles from the girl would be taken from her forcefully by the boy, but presumably this was all part of a game and she wanted the boy to take it as a token of her affection. In my own research, I found no evidence of this. It was rather much more common that middle aged or elderly women in the study had willingly given a bangle bracelet or some other gift to the boys who then became their husband, and that they equated this with "consent" for sex the next time that they were alone together.

and seemingly widespread dating sequence. First, they repeatedly try to convince a girl to go out with them the first time, usually for dinner. If they have the means, they try to take her out for something nicer than what she would be used to or would be able to do for herself. When she finally agrees to go out with them she will definitely refuse sex that night, which they expect, even though they ask for it. On the second date, “touching comes in and maybe even kissing.” She is still expected to refuse sex on this second date. On the third date however, if she refuses again “you play it cool.” The young men would then describe what “playing it cool” in this case meant. “Well, if she comes to your house then you offer her a chair instead of your bed. Or you just wait for her to call you. You don’t call her. And they always call.”

The differences between the two coexisting and overlapping ways of approaching love and sex can lead to confusing and frustrating situations. This is elaborated in much greater detail in the next chapter. One woman from the more remote village complained that, “The men of these days are getting too polite. When you say ‘no’ and you fight them, they will leave you alone and then you both go away disappointed.” Although not everyone is apparently perplexed by the coexistence of these dual understandings, as one man boasted, it is actually not confusing for him at all to read the signals from women. He said he could always determine if they want to sleep with him or not (though I did not confirm this from any of his sexual partners).

You have to know the girl that you are seducing. Of course, if your girl is from the village and she has not gone to school she will look shy and down at the floor when she wants you and she will struggle when you try to take her. But if an educated girl from the town than you can expect her to look at you with those take-me-to-bed eyes.

Foreplay

Kissing is uncommon among “less exposed” Acholis. A pastor once gave this as the reason why men are tempted to visit prostitutes. Prostitutes kiss and kissing is

nice, the pastor explained, but wives refuse to kiss their husbands because they think it is something that “spoiled” women do. The pastor urged women to kiss their husbands to lessen the men’s temptations and keep them satisfied at home. At a marriage and family counseling training in which I was involved, one man very genuinely asked, “I know that for you people [meaning Americans] it is normal for you to kiss. But if you see two Africans kissing is that mental illness?” After repeated times of confronting the rarity of kissing in more traditional settings I asked an Acholi colleague who was well educated and grew up in town whether that was the norm. “Kissing is the first thing that I do,” he said, “but that is because I’m now exposed. In the village they don’t do it and they are missing out. In the village, foreplay is like, ‘kick and turn,’” suggesting that when a man wants sex he kicks the woman in his bed and tells her to roll over.

Although not as rough as my friend jokingly suggested, what I have found is that something of a “love wrestle” the first time a young couple meets is quite normal, and that subsequent sexual experiences involve very minimal if any foreplay. An elder of about 80 years old from *Ker Kwaro Acholi*, the Acholi cultural institution, told me about his own sex life. “When you see the woman in the panty,” he explained, raising both wrinkly hands in my direction, “you touch the breast,” he said, squeezing the imaginary breasts in the air, “and that is kissing enough. Another elder from the village shared his approach with his wife. “My wife and I wait until the deep of the night, so as not to expose ourselves unnecessarily.” This refers both to wakeful children as well as darkness, both of which were commonly discussed precautions taken for privacy. He continued, “then we fondle each other and the rest of it.”

Usually, men are expected to initiate a sexual encounter. Acholi notions femininity are not typically sexually aggressive. An exception is a particular acceptable way for a woman to initiate sex if she is in the mood called *gonyo laa* (which means “untying the skins”). It comes from a time when the Acholi people wore skins to cover themselves, and so an updated translation might be “to get naked.” In the

past, Acholi communities ate more communally than the current common practice of eating with one's own household. The extended families, which lived in close proximity as a cluster of homes that made up a larger homestead, would all cook dishes and then bring them to a central place. Women would then serve the men, and women and children ate in a separate group. If a woman wanted to seduce her husband, she would make his favorite meal and keep it a secret so that it was not shared during communal eating time. Then when they were alone in their hut, just before bed she would serve the meal to her husband and this would lead to the "untying of the skins." This description of what a woman typically did when she wanted to seduce her husband is one more example of the connection between sex and food in Acholi. Although neither communal eating nor wearing skins are any longer common practices in Acholi, even in very contemporary and "modern" situations many Acholi still make reference to *gonyo laa*. It has become a euphemism for a woman initiating sex, and it is still most appropriate for her to do so by cooking her partner's favorite meal.

Consent

Even though the following chapter discusses notions surrounding consent in greater detail, it is relevant to touch on the most common themes here. Consent, first of all, is often not the paramount consideration in the act of sex. Although I have discussed consent as central to the understanding of criminal versus legal sex, in terms of social understanding in Acholi of what distinguishes acceptable from illicit sex, it is secondary and not a pivotal factor. Still, despite its more peripheral importance, there are some common ways that consent as understood in the Acholi context is discerned: if the girl gives a gift to the boy; if she goes to a solitary place with him; if she did not scream; if she had physical signs such as a moisture and warmth between the legs; and most commonly mentioned, if she comes back for sex a second time.

Boys and men are still expected, both in the village and the more urban and "modern" settings, to show some level of forcefulness and strength when they

make love. One man said: “These African ladies, they need you to really push them sometimes. They need force. They want to see that the man is strong.” As previously noted, if a girl visits a boy in his hut he is under pressure to prove that he is “alive.” This mentality is also strong in towns, though more because of peer social expectations than because of “proving” his ability to have children by not being impotent. As one man explained: “For us in Africa, it’s like an insult if you don’t take a woman is she has already come to your home.” It is interesting that often when men were explaining the forceful aspects of sex they would justify it with reference to what is “African” or sometimes “Acholi.” With a group of men who had shared how important talk about sex and women was to their brotherhood, I asked whether they boast about their sexual escapades to their buddies if they had forced the woman. One said, “well, you wouldn’t think of it like that. A man who forced would say, ‘The girl refused. But I struggled and I made it.’ But all of us would understand what it means.”

The others nodded in agreement.

Marriage

Marriage, amongst Acholi, is traditionally patrilocal, with the woman marrying into and living among her husband’s patriclan of some segment of it.²⁸⁶ It might be expected that marriage is a straightforward idea, and that there exists a clear distinction between the single and the married. However, the social and legal bonds that bind people together in marriage in the Acholi context are nuanced and usually involve several stages. When sex becomes part of the relationship, and even more when children are produced, the social sanctioning of these occurrences requires a payment called *luk*, the particular type and amount dependent on the specific circumstances of each case. Then, along with or after such *luk* payments,

²⁸⁶ See Girling (1960), p. 21; patrilocal residence for married couples remains the norm, but also, many Acholi households live with and on the land of relatives of the woman’s side of the family, referred to as *paneya*. Though this has always been the case to some extent, it is not clear how this may have been affected by displacement into camps and resettlement.

eventually *lim akumu* (bridewealth) will be paid during the official *nyom*, or marriage. *Luk* and *lim akumu* are exchanges of cows, goats, spears and other goods (or a monetary equivalent) to be paid by the boy/man, or by his family or broader patrilineal kin to the girl/woman's family or her patrilineal kin, an exchange that both symbolizes and helps to cement a social relationship between them.²⁸⁷

Previous anthropological writing has typically sought to define specific types of *luk* and to note how, when and how much should be paid. What I have found is that *luk* is a fluid and flexible practice, which belies rigid classification. Much depends on the character of the relatives, especially the parents of the girl, in determining just when, how and how much they seek in *luk* payments from a man who sleeps with, impregnates, lives with or wants to marry their daughter. Typically, there are different types of *luk* that are paid which correspond to the degree of belonging that the woman and her offspring have with a man and his clan. I will mention three of the most common and important, though this list is certainly not exhaustive.

Luk poto

At some point, usually within the first year, after a boy/man sleeps with a girl/woman and they begin staying in his home, the brothers or other male relatives of the woman write to inform their sister's new partner the amount and value of *luk* they expect him to pay and when they will come to collect it. This is a way of recognizing and formalizing her leaving their home and beginning to stay with him. If the man is unprepared to pay when her brothers come, it is not uncommon for them to take her back with them to their own home until he raises and pays the required *luk*.

²⁸⁷ A specific schedule of *luk* payments was outlined by Ker Kwaro Acholi, the Acholi cultural institution, as part of a broader effort to formalize and codify Acholi practices and to legitimate claims that Ker Kwaro were asserting for an Acholi justice system; see Ker Kwaro Acholi (2001), p. 17.

Luk ayije

This payment is made for having sex before the marriage. Importantly, it should be noted that *luk ayije* is not a punishment, as young people are encouraged to have sex before they marry for the reasons already described. *Luk ayije* is an integral part of acknowledging that a sexual relationship took place, *of* clarifying the intention behind the act and *of* taking responsibility for it on a social and inter-clan level. *If the couple gets married, this luk can be paid at the same time as lim akumu or bridwealth. If they do not marry, customarily the girl/woman's family or clan still has a right to be paid. This is common in instances when a young girl is "defiled" and does not remain with the boy/man. It can also be paid in other instances of separation that take place before marriage.*²⁸⁸

Luk nyodo

This is a payment made at some point after a woman has given birth. Usually, it is paid for the first and second children only. Additional children incur no expectation of payment. The most common way for it to be paid is when the marriage is taking place alongside payment of *lim akumu* and *luk ayije*. However many children the woman has at this point is how many are paid for. If the couple separates or the woman dies, and the man or his patrilineal kin are interested in having the children brought up in their clan and the woman's clan agrees, it must also be paid. Again, this is only for the first two children.

Luk is not easily translatable into English. It is a customary payment that is related to acknowledging and socially normalizing a sexual relationship. The word "fine" or

²⁸⁸ All of the practices outlined here are always in flux, but this form of *luk* in particular seems to be one that is waning, especially in instances where the girl or woman is above the age of consent and the couple separates. Also, as with all the practices there is variance from place to place, clan to clan and even situation to situation, but there is some indication that *luk ayije* varies more than some of the other types of *luk*. I encountered some people from Kitgum for example, who said that it was not as common as others and it was also not called *ayije* but *balo kwan* (spoiling studies, if the girl was a student) or just *luk* generally. It is concerning that this notion of *luk* appears to be diminishing, because it is the only form which does not come with expectations that the couple will remain together. Other forms are linked with the man and his relatives having entitlements to the girl/woman and her children.

“wealth” have been regularly suggested, but *fine* signifies that there has been some wrongdoing and that it is in some way a penalty, which is not the case.²⁸⁹ Wealth is a different word in Acholi, and doesn’t capture the fact that *luk* is a payment made as a consequence of actions – but actions that are not in and of themselves considered wrong, as long as the payment is made. It is perhaps something in-between. *Luk* as it is currently practiced is not a “fine for illicit intercourse.”²⁹⁰ This is clear from the fact that it is also paid to establish the belonging and ownership of children and, perhaps more importantly, sex that is expected and encouraged can hardly be called “illicit.” Neither is it the actual act of illicit sex.²⁹¹

The type of social bond that exists is then defined by sex, children and the exchanges of *luk* and *lim akumu*. Inability to translate precisely the complexity of the category of “marital status” became evident while entering population data when I was preparing my sample for interviews. The census data, which the LC Is collected, have five categories for marital status: single, married, polygamous, separated and widowed. These categories, at least in Acholi, not only obscure the complex realities that they try to define, but completely miss what those who were reading the data presumably wanted to know. It was fascinating for me to compare the census categories to what I already knew about the social situations of women in the village based on interactions for several years before this study began. There were several ways that the census categories obfuscated the actual realities of women’s relationships. If a woman had gone through a traditional marriage, that is, if her husband had made the combination of appropriate *luk*

²⁸⁹ See also Girling (1960), p. 69, who notes that sex before marriage is common practice.

²⁹⁰ Girling (1960), p. 70.

²⁹¹ Though this may have been the case in the past, see Atkinson (1994), pp. 125, 227. Crazzolara (1938), p. 297, also defines *luk* as “illegitimate sexual intercourse,” though interestingly, in his example of its usage he writes that it is “the debt for illegitimate sexual intercourse.” It should be noted, that *luk* is paid in cases of sex (or for resultant children) which occurs outside of or before marriage and bridewealth. To a Catholic priest, the words illegitimate and illicit must have seemed appropriate as descriptors for sexual intercourse under those circumstances, even though, as has been discussed, sex to test the suitability of potential marriage partners was, and is, encouraged.

payments and *lim akumu* (bridewealth), she would be considered *nyome* or married. Important here is that she and her children would then be in a contractual social relationship with the man's clan. Effectively, the man's clan "owns" her and any of her offspring and is also responsible for her and her children's wellbeing, including the provision of social protection and access to land.

This does not change if the man dies. Many women who were widowed answered "yes" to the question "are you married (*nyome*)?" This is because they are still "married" to the man's home. It is obvious, why, with this dynamic, great care is taken in investigating and knowing the relatives of a prospective partner and whether he comes from a good family. When choosing a husband, a young woman, and her relatives, choosing a husband know that she does not choose him alone, but that in a very tangible way she chooses his family and clan. She knows that in the event of his death she may be "inherited" by one of his brothers,²⁹² and even if this inheritance is not practiced in the same way as before by the families involved, she and her children will still always be a part of her husband's family and clan.²⁹³

This theme of being married to a home and not just to a person is central to Acholi concepts of marriage and social harmony. Interestingly, going back to the census data, a woman who lived with a man and had a family with him but whose partner was still trying to gather enough wealth to officially marry her would answer "no" as to whether or not she was married (*nyome*), even if they had lived together for 15 years and had six children. She was still liminal to her partner's clan, and

²⁹² Widow inheritance varies in how it is practiced. Often, perhaps even most commonly, the brother of the deceased assumes a role as head of the household in terms of social protection, responsibility and decision making, but it does not necessarily mean that the widow is expected to provide all the other wifely duties and intimate relationship which she had with the deceased.

²⁹³ When I asked the LC I for clarification about why the women who were in polygamous marriages were not coded as such, he looked incredulously at me and said, "Can a woman be polygamous?" This was clearly rhetorical, and I was not meant to answer because he continued. "All women are monogamous," he exclaimed, with emphasis on the word "all," a comment, which amused me (and was the source of not a little laughter when I recounted it with some Acholi female friends).

considered in many respects to be an outsider. Her loyalties would be divided between her own clan and that of the man. I observed that the “in-between” social space she occupied came with certain individual freedoms. For example, she could leave her husband if he was abusive much more easily than if bridewealth had been paid. But this status also had detrimental social implications in as much as it limited her belonging and did not provide the same social protections to which a full wife in her husband’s clan should be entitled.

To find out if a woman lives with a man, albeit without the social contract established through the payment of the appropriate *luk* and *lim akumu*, one would need to ask “do you have a man?” or “do you live with a man?” Many times in such cases, the man might have paid one of the types of *luk*, thus establishing one of the stages along the continuum that someday could culminate in marriage. He might have “ownership” of her children, for example, but not of her. This secures his children’s place of belonging in his clan and entitles them to that social protection, land inheritance, place of burial, and firmly establishes their otherwise unstable identity, even if the woman might still be liminal with respect to his clan.

Even more central to the topic of this study, as further elaborated in the next chapter, *luk* performs the work, in the Acholi context, of distinguishing illicit from acceptable sex. For most Acholi, the payment of *luk*, or the intention to pay it, is what determines where the line along the lived continuum of sexual experiences is drawn. It is what separates the socially acceptable sex that contributes to social harmony from that which damages it. Sex that is completely outside of the structure of *luk* – such as female adultery, defilement (of pre-pubescent girls in particular), forced marriages within the LRA in “the bush,” and homosexual sex – is reacted to strongly, as it threatens the well-being of the moral community. Conversely, sex, whether forceful or consensual, within the structure of *luk*, does not pose such a threat. Consent happens between two people. *Luk* happens between two kin groups within their moral community, and establishes the foundation of acceptable Acholi love and belonging.

SEXUAL EDUCATION

The way that Acholi women learn about sex varies, and it is changing. Many people said that in the past there was a role for a female relative, usually an aunt, or a grandmother of the aunt. Mothers were meant to teach their daughters expectations of being wives, and to advise them on how to care for and keep their husbands happy but, might only superficially allude to sexual topics if at all. Even with aunties or grandmothers, it seems that this education rarely included any detailed discussion of sex. Most people would contrast this with what they have heard of the sexual education of Baganda women who are taught about satisfying men sexually in great detail, for example, an older woman would demonstrate to young brides-to-be how to perform oral sex using a banana. In the Acholi context, women said that their mothers would mostly focus on how to talk to their husbands respectfully and how to take care of domestic work and raising children – yet another example of prioritizing food and children over pleasure. In some cases, sex was alluded to but only in very vague terms. The limited sexual education of the past appears often even more limited in the present. The roles of extended relatives in sexual education has all but vanished, and while mothers teach their daughters about being wives it has become almost taboo to speak of sex with one's children. Some young girls said that they overheard older women talk about sex, but that they did so using obscure language so that they could hear but not really understand what it was all about.

Latin kic winyo pwony ki ibad dero.

An orphan learns from listening behind the granary.

Without a father and mother to provide proper guidance while growing up, an orphan must learn by observing and listening the behavior of others around him/her. These lessons are not always the lessons that are intended to be passed down in an ideal situation from generation to generation. The effects of the war have resulted in much unintentional education of children in this manner.

Women who had attended school would have learned something in their human biology courses. But many reported that in that part of their curriculum, their teachers would tell them that a sperm and an egg had to come together to make a baby and that the eggs came from the woman and the sperm from the man, but they skipped the part about how the sperm entered the woman's body. Some younger women who had attended Catholic school talked positively about the benefit of "girly talks" that were organized where you could ask a mentor questions. The discussions they had usually surrounded issues to do with menstruation, teaching on the prohibition of masturbation, and warnings about going out with boys/men alone because this could result in pregnancy and interrupt (or more likely put an end) to their studies.

A common feature around many girls' primary and secondary schools in northern Uganda are little signposts around the green spaces on the school grounds that urge the girls to "avoid bad touches," admonish them that "virginity is good for girls," and warn them to "say 'no' to sugar daddies." Again, such superficial engagement with sexual issues did not provide any real understanding of the specifics of sex, and in some cases to be discussed in the following chapter, actually contributed to an understanding of consent that led to several rape victims blaming

themselves and consequently not holding the perpetrator responsible. As one university student told me:

They [her secondary school teachers] told us that if we go somewhere alone with a man than anything that happens there is our own fault. We should have expected it. So after he forced me to have sex, I thought of reporting him, but I knew that people would just ask me, "Why did you go to that place alone with him if that is not what you wanted?"

Most women reported that they learned about sex from their first sexual encounter, and many also said that they felt unprepared for exactly what would happen once they went to a "solitary place" with a boy/man. In many cases they talked about having desire and feelings for him, but sometimes not knowing exactly what those feelings meant. Many of the first sexual experiences recounted to me as part of this study I have not counted as situations of rape, even though they were in fact physically forceful as the women described them. In such cases, the women said that they did want to sleep with the man, but due to a combination of shyness about being naked, the need to have a show of refusal to prove she was not a "spoiled girl," and a lack of understanding about the mechanics of sex, the man needed to use "some minimal power" (or *kero ma nok*). These women also said that at some point during the wrestling and fighting charade they gave in, or "opened up for him." This was a phrase which men and women used regularly to indicate eventual acquiescence. It refers to the girl or woman relaxing her thighs rather than squeezing them tightly to minimize access between her legs. One young woman, 17 when I spoke to her and already married for three years, said that she had had no idea what happens between a man and a woman until she went to her husband's hut for the first time after their traditional marriage. "But my husband was gentle and patient," she said, adding that:

some men probably would have just forced me to have sex that first day, but he explained to me what sex is like and then he said it was okay if I was not prepared, that we can wait until I was ready for that. I took one or two weeks before I told him I was ready and he was patient.

Many men who I spoke with said that by adolescence they felt that they were expected to be sexually well informed, but that actually no one taught them. Many of them seemed to resent this, as one man complained, “As a man, there are certain things which you are expected to just discover for yourself, and nobody should tell you. Part of how you show you are a man is about getting knowledge about such things.”

Others said that they learned the most about sex from their conversations with peers, or by overhearing older boys’ stories. And some would use such stories as their own:

Sometimes, we would hear a story from an older boy about what he had done with some girl and then we would repeat it in our circle of age-mates as if we were the one who did it and the other boys would think that we were really well experienced.

More recently, and especially in town settings, pornography has begun to play a role in the formation of sexual understandings. More commonly, among men who had gone to school and lived in town, while they may have learned something about sex from the examples of older men around them such as their uncles, their own dating strategies and behavior toward women was vastly different, often referring to the very different dating culture in the schools they had attended. Illustrative is one man who grew up primarily in Gulu town. He talked about how he had grown up with his uncle who had “taken” his wife, “from the well side,” which he explained meant that he abducted the girl he fancied on her way to fetch water, locked her in a hut for a week, and then negotiated the traditional marriage with her family. The man telling me this story is one of the most progressive Acholi men I know when it comes to gender issues, so I was naturally curious why he thought he was able to come so far from such practices in the way that he thought and acted concerning women and relationships. “Education,” he answered. I probed further to know whether it was the curriculum, specific things he had read or heard in the classroom, or something more social. Eventually, he pinpointed it:

“That’s not how you get girls at Makerere University.”

CONCLUSION

Acholi love cannot be understood without recognizing how it involves more than two people. Men and women inhabit their social space as sexed beings. Love involves a social circle as well as impacting the gender relations upon which social harmony is based and the identities of the individual men and women involved in relation to all other members in their moral community. Similarly, one cannot understand rape and sexual violence if it is imagined that it is only between two individuals. In order to place rape and sexual violence in context, this chapter has examined what normal, acceptable and even desirable Acholi love is like. This understanding puts into relief the internal logic behind notions of love gone wrong – of sexual activity that is in no way related to the production of children such as same sex sex and masturbation, and sex that is outside the socially sanctioned structure of *luk* and *lim akumu*. At the basis of what rape means in this context are understanding of sex generally, of how consent is sought, of what roles pleasure, children, and social harmony play, and importantly how sex is viewed as a vital need of a man as essential as food. In circumstances of war the deviations of the norms intensify and violence and struggles for power become exaggerated. This has certainly been the case in northern Uganda, still in the early stages of reconstruction and recovery after long years of war and forced displacement.

The meaning of sex as it has been explored here makes clear why certain types of rape are reacted to strongly while others are virtually ignored and practically, if not with active intention, condoned. The following chapter explores in greater depth notions of consent and rape and what these terms mean amongst the Acholi.

6 Consent & Rape: When does “no” mean no?

“The men of these days are getting too polite. When you say ‘no’ and you fight them, they will leave you alone and then you both go away disappointed.”²⁹⁴

The anthropologist and poet, Okot p’Bitek describes an archetypal first sexual encounter between an Acholi boy and girl in his essay “Acholi Love.”

As they approach the hut, the girl’s steps slacken, and they stop. Now the boy has to drag her inside; and this is not an easy job. She coils herself tightly around the post by the door, like a python around a lamb. After a long struggle, she is removed and forced into the hut. She again coils herself tightly, now round the central post. On some occasions this central post may break down, on account of the vigorous struggle and the earlier activity of termites. At long last she is uncoiled and thrown onto the bed. She is violent and struggles wildly, undoing your grip, throwing powerful limbs here and there, tears flowing in plenty. Sometimes she pushes you right off the bed, and you hear a little giggle. You must never allow her to escape, for you will become a laughing stock. They will call you all sorts of names, and may even suspect you of not being whole, alive...She locks up her big toes, her knees and thighs, tightly, tightly. You get a hold of her arm with one hand, and grip the hand, and bend hard at the wrist. (This is very painful.) You twist one of her fingers. You apply pressure at certain vital and painful points at the joints. She shrieks, her tears streaming. You shut your ears to her cries, because you know that all this is bluff; nay encouragement. She is encouraging you. At long last, when she has made you feel convinced that she was really unwilling and that your strength has overpowered her, she gives in. Other times you may have to call in a helpmate, who will hold her legs apart.²⁹⁵

Notwithstanding the giggle and implied encouragement, this scene sounds disturbingly like rape. How are notions of consent and rape understood in a

²⁹⁴ Interview with a woman who had separated from her husband of many years and was commenting on her experience re-entering the dating pool. She had never been raped.

²⁹⁵ p’Bitek (1964).

context where as recently as the 1960s the “love fight” described by p’Bitek was, at least by some Acholis, considered typical foreplay? Does “no” mean no in a context where young women are expected to fight and struggle with a man that they actually want to sleep with? How are men to know if they are simply playing along in the game or if they are actually violently invading the woman’s body? If the girl described in p’Bitek’s scene had her case heard before a judge, under Ugandan law, such a case could easily be considered aggravated defilement or rape. Yet, evidence from this study suggests legal meanings diverge in significant ways from social interpretations of appropriate sexual behavior. It suggests that a much milder version of the love fight is still common, and that refusal of sex before the first encounter is still integral to the Acholi notions of feminine sexuality. Conversely, applying “some minimal power” *kero ma nok* (discussed below) is part of understandings of male sexuality.

The reaction to sexual crime is shaped by perception of normal “Acholi love” and the role of sexuality in social harmony. Having explored the supremacy of social harmony, the common concern after sexual wrongdoing is if or how the non-consensual sex disturbed social harmony, and if it did, what can be done to remedy that disturbance. From the previous chapter, Acholi love is seen as a phenomenon not only between a man and woman, but their families, groups of kin and is the basis of establishing their identity and social belonging. Children cement the foundation of this social relationship and are central to the purpose and expectations of sex. In Acholi marriage, the importance of producing children would be difficult to overstate, and there is significant social pressure to determine whether either party is infertile. In the early stages of a relationship pressure is especially felt by the man who is thought to prove his ability to father children by demonstrating he is not impotent. He does this by sleeping with the girl when she visits him alone. This increases the felt social need to have sex in order to prove virility, whether the girl has consented or not. The need for sex is perceived as as necessary for survival to a man as food, and a man who can afford it, expects and is expected to eat a variety of “foods.” Women’s roles and their social belonging are

defined by their satisfying men's needs for food and sex and the production of children. The exchange of the appropriate *luk* and bridewealth formalize and recognize this social standing.

This chapter begins with a contextualization of the idea of consent by elaborating the primary role which *luk* has in distinguishing appropriate from inappropriate sex and how this understanding coexists and interacts with legal notions of consent. It then explores some of the most common ways that consent is understood and communicated. Even though consent is not typically the key determinant of right and wrong in Acholi sexual relationships, whether a woman has agreed to have sex or not is still part of the interaction and communication that takes place in the sexual encounter. This part of the chapter looks in detail at the various methods of communicating consent and the implications for sexual violence and understanding rape. The final section explores perceptions surrounding the continuum of coercive sex and notions of rape and the way this is articulated and narrated through the medium of language.

DISTINGUISHING ACCEPTABLE AND ILLICIT SEX

Notions of consent and rape are social. Just as Acholi love cannot be understood as only between two people, consent and rape are also conceptualized as having meaning beyond these two parties. This is vividly expressed through the centrality of exchanges from the male partner's kin to the female partner's relatives to sanction different levels of sexual relationships and social belonging forged through them. In most common laws and modern penal codes, consent is generally the key factor that distinguishes sex from rape, or circumstances that are so coercive as to negate the relevance of consent. In the Acholi context, though the concept of consent still exists, it is much less central. For many Acholis what distinguishes sex that is deemed appropriate from inappropriate sex is whether *luk* has been or will be paid by the man and his family and clan to the woman's family and clan. If it is not paid, whether the sex was violent and forceful or the result of mutually enthusiastic consent, it would typically be considered illicit in a social sense.

It is interesting to note how this social understanding interacts with the legal system, especially in what are considered “defilement” cases. As outlined in the second chapter, there is a further distinction of aggravated defilement, which has several criteria of inclusion. Although there should be several factors considered in whether a case is aggravated or simple and forwarded to an appropriate court accordingly, in practice the only deciding criterion used is age. If the girl is above fourteen it is considered a simple defilement case and the magistrate’s court hears the case. If the girl is under fourteen, it is sent to the high court.²⁹⁶ If the man’s/boy’s family pays *luk* to the girl’s family the case would not typically reach court and the couple might begin a home together. If they do not pay, it is quite possible that a young man will be tried for defilement for sex with his 17-year-old girlfriend, who by all accounts, consented to sleeping with him.²⁹⁷ In some instances, the couple was practically married and even had several children together, but the relatives of the woman took legal action after they had exhausted all other avenues of compelling their would-be-son-in-law and his relatives to pay *luk*. It seems that whether a girl is old enough to potentially be childbearing and whether or not *luk* is paid are the central elements in understanding the crime.²⁹⁸

The common legal understanding of consent involves the two people who have sex. *Luk* by contrast is meant to involve entire clans and is a public expression of a social bond being established through exchange. In most judicial systems justice is understood as “justice for the victim” by punishing the “perpetrator.” There are two people involved, with the state as intermediary. This basis of justice does not easily translate itself into the lived reality of Acholi after crime or wrongdoing.

²⁹⁶ Interview with Gulu court clerk in January of 2010.

²⁹⁷ In most states in the United States there are provisions for such circumstances under what is referred to as “Romeo and Juliet” laws, which vary according to state, but usually stipulate that sex under a certain age is always illegal, but above that age, the law takes into consideration the age difference between the boy and girl.

²⁹⁸ These observations combine information from participant observation and a review of court records of rape and defilement cases from 2009 and 2013 at the Magistrate’s and High Court in Gulu.

Consider again the example in the introduction of this thesis. A girl was raped by her cousin. Her elders lectured them both about the dangers of incest. It was not relevant that she was unwilling. They were protagonists who set in motion a real danger and through ritual, the consequences were severed. They were cousins in a clan in that moment, not victim and perpetrator. Even the instances noted above of how courts are used suggest that they are deemed useful inasmuch as they can compel reluctant families from the boy's side to pay *luk*—in other words, to conform to customary norms of re-establishing social harmony. Sometimes what restores social harmony is to punish the aggressor. Other times accountability or responsibility for the act is taken through the payment of *luk* and/or marriage, and sometimes it is to ignore the act completely.

NOTIONS OF CONSENT

As with Acholi love, notions of consent and rape are not fixed. Some of the current sources of influence (and resistance) include a disruption in old ways of sexual education, the increasing role of schools and a national curriculum in sexual education, as well as significant influences from Bantu culture, television and western culture, university dating norms, as well as NGO activity during and following the war and displacement. Exposure and interaction with these forces has resulted in an extremely ambiguous space between men and women who determine if the person they are with is willing or desirous of sleeping with them. As noted, some women complained about how “polite” Acholi men were becoming. As one woman put it:

Men of these days are becoming too polite! If you refuse, as good Acholi girls should do, he might not pressure you like you are expecting him to do. Both of you will end up getting disappointed! He will leave you alone when what you really wanted was to have sex with him.

Consent is communicated through a combination of a number of factors. The multiple, simultaneous and fluid understandings of consent have left a vast grey area which couples negotiate (or in some cases, men ignore). There is often some

level of confusion on both sides. Some of my male informants expressed a level of trepidation about how to take a woman to bed and know for sure he has not raped her. Others said that, actually, if one really cares to pay attention to the woman's desires, it is not difficult to tell if she wants him and is being coy, playing to the expected Acholi "love fight" game, or is actually terrified and angry or has changed her mind. Their attitude was that "you just know." But there are undeniably times when they read their partner wrong, or do not care to take a proper reading and respect it. Combining this understanding of consensual ambiguity with the overwhelming social pressure on a man to prove that he is normally functioning sexually, and beliefs around male and female sexuality, provides some of the context for making sense of the just over 40 percent of women in this study who have experienced rape. This in no way excuses men who rape women. It is however an important part of understanding the context where this sexual violence takes place and is made meaningful.

The following discussion has emerged from research from all of the women involved in this study, the nearly 200 interviews with women which included those who were raped and those who were not, as well as the many other people and key informants with whom I have discussed these issues with over the years. With so much emphasis on sexual violence, it is worth noting, that in the interviews, 60 percent of the women indicated that all of their sexual experiences were consensual (as they understood consent). Many of them would giggle and become animated when they talked about sex, their first sexual encounter and courtship. Although the majority felt that it was common for boys or men to force sex, they said that it never happened to them. Personal sexual experience, whether positive or extremely negative, inevitably colors the lens through which one understands and narrates consent and coercion.²⁹⁹ Their insight was valuable in rendering a broader picture on notions of consent, rather than only reflecting on the

²⁹⁹ See Bletzer and Koss (2004).

perceptions of women who had been raped, and had their choice to give or withhold consent so forcefully denied.

Below are elaborated several of the characteristic perceptions of consent.

Relatives' investigation and blessing

Role of relatives as go-betweens, and the importance of familial investigation in beginning a relationship were often recounted in interviews and in discussions over the years of fieldwork. However, only a small handful of the marriages I encountered had actually begun in this manner. I witnessed one meeting of a *lakwena*, which means messenger. To outsiders familiar with northern Ugandan history, *lakwena* is famously associated with Alice Auma, better known as Alice "Lakwena," the leader of the Holy Spirit Movement, a rebel group that preceded the Lord's Resistance Army.³⁰⁰ But, *lakwena* simply means "messenger" and is one of several typically used terms for a mediator or go-between for couples considering marriage. The woman who was the *lakwena* that I met, was a distant and trusted cousin of the bachelor. He asked her to investigate the character of the prospective bride and her family. She came to investigate some common elements that people have told me are important in determining the suitability of a marriage partner. She was to find out first if the prospective couple was even distantly related to one another. If incest could be confidently ruled out, she should determine whether there was witchcraft in the girl's family and whether she was hardworking.

From the rarity in which mediators were encountered, yet the frequency in which it was discussed it seems it was more common in the past and still exists in the notion of an Acholi ideal. My elderly informants talked about how the breakdown of this system led to the possibility of more sexual violence. They believed that if relatives were involved in a lengthy process of establishing the suitability of both parties, that by the time the couple might visit one another in a solitary place, both

³⁰⁰ Behrend (1999).

parties would be prepared for what was expected of them there. It is still common for relatives to be involved in investigating the suitability of a marriage partner, but this usually takes place when the couple has already discussed marriage and they inform a relative in order to proceed with the formal process of the marriage or *nyom*, which will involve the exchange of *luk*, other customary payments and bridewealth. At this point, it is most common that the couple would have already “tried each other out” sexually. In fact, when a girl first tells her family about a boy/man she is interested in, it is a typical question for an aunty on the girls side to inquire whether or not the girl “knows the kind of person” she is going to, especially to know whether he is “alive” and whether he is sexually satisfying in order to avoid her separating with him in the future because of sexual struggles. Although many people talked about establishing consent through relatives, what I found was that by the time relatives are told about a new love interest, they have already had sex with each other.

Going to a solitary place

Going somewhere that has sufficient privacy to have sex was commonly discussed by men and women as indicative of consent. Some of the women who had been raped in such circumstances in the first instance did not use the language of rape to describe what happened to them, even when the man was additionally violent or as in one situation, drugged her. They would say they had not agreed, that they had struggled, that they were deeply hurt, angry and ashamed after the fact — but that they held themselves partially to blame and did not hold him as accountable for his actions as they would had the circumstances been different. This woman expressed:

If she accepted going up to his home it means that she’s ready and she’s interested in that man. So in case the boy insists and makes love with her if they begin staying together that means that she was ready [for sex]. But in case she was really not interested in him than it will not take long and they will separate.

Others, especially young women, said that they were taught that if they went somewhere alone with a boy/man that they should be prepared for whatever he

would do to them there (without much, if any discussion of what exactly that might entail). Expectations about what happens in “a solitary place” amongst Acholi are changing. Men who I spoke with shared how in the inverse of “tradition” they play hard to get with women and “it always works.” As noted in the previous chapter, if a woman refuses sex after the third date they would “offer her a chair instead of the bed” to sit on. If she continues to refuse they stop calling her, and eventually when she initiates their next meeting, she will be ready for sex.

However the more common scenario still seems to be that women protest, but that once they are alone with a man the protestation lessens, and depending on her “exposure” to new influences on sexuality, she may just “open up” or giggle and smile and touch a man provocatively while saying “no.” If she is more “traditional” she may protest more vigorously, fight, hit and bite but through the combination of her acceptance of being alone with him with some of the elements discussed below, he determines that actually she is ready to go (or not).

Not “making an alarm”

Many women who had had only consensual sexual experiences mentioned “going to a solitary place” and “not making an alarm” as indicating consent.

If at all the girl screams loudly for people outside to hear that really she doesn't want but if she doesn't scream and is fighting silently then she's ready. And if she does scream than people outside will come in but if she doesn't even people outside know what is going on than they won't go in because they'll assume that it's an agreement.

Women who had been raped in a solitary situation, where they had for various reasons been quiet and not screamed, pointed to the troubles inherent in these understandings. Some women had been raped when there was no one near enough to hear them even if they had made an alarm. Others talked about how ashamed they would be if people rushed to the scene and their fear of other people's reactions when what was happening to them became known. Often, they felt partially to blame for having gone to a solitary place to begin with, and so they

chose to stay quiet rather than expose themselves to what they saw as almost certain ridicule if they called for help. In several instances, friends or relatives had been part of a plan to entrap the girl alone in a house with the boy/man and so they felt it would have been useless to scream. Those who should have helped were the same people who abandoned them knowing what would follow.

Some of the women who had this experience did not use the language of rape to describe what happened to them in the first instance. They would say that they had not agreed and would talk about force and/or violence. But even though they had not “agreed” they did not hold the man fully accountable for his actions and felt that some of the blame for what happened was their own. Blaming oneself, at least partially, is a well-documented and common feeling amongst rape victims generally. In this situation, it is intensified, because the girls/women knew they were in a situation that was socially perceived as implicit agreement to sex. This limits their ability to get out of the situation if it was not their intention to have sex and their freedom to change their minds even if it was. The context of the circumstances is coercive.

Gifts: Bangles or handkerchiefs

Another indicator of consent often relayed to me is the girl giving the boy some personal article, usually her handkerchief or some of her bangle bracelets. Okot p’Bitek describes this as well, although in his version, the boy might take the article by force, especially if he thinks the girl has purposely made it more accessible, but on account of propriety and shyness has not offered it. When my informants mentioned it, they said they had given the items, not that they were taken forcefully, but that this usually came after a long time of the boy pursuing her to show his seriousness, and only once he had indicated he was ready to meet her parents. This was most common in older respondents. The youngest woman who said her relationship with her husband began in this way was forty. Women who talked about giving gifts thought it was a good way of showing consent because there was little ambiguity involved, at least, in determining whether the girl loves

the boy. It still leaves some difficulty, when the girl may not be fully prepared for sex. As this woman's situation demonstrated:

The boy can know [the girl wants to have sex with him] because what I know, is that when you love each other the boy will request for something from you, so that he knows, like a handkerchief or anything to show love and then if you give it then he will invite you for a visit at his place and if you refuse he will postpone and call you again at some point, and you keep postponing until you feel like you're ready. So it means, when you finally go there you are ready. So in case of anything, like pregnancy, it means that by going there you have already decided that if it happens then you are prepared for it. But if he forces you, he will know that you love him but you are just afraid and that is why you're behaving like that.

I asked what she thought the boy should do if the girl is afraid and refusing.

Actually, the boy should leave the girl alone, but sometimes because the girl is a new person in the home she'll have fear and he will take the opportunity and get what he wants or fulfill his interest. It has happened to me. When I first went there [to her current husband's home] but I had gone initially to go stay there, I didn't think that I would come back [to her father's home]. That's why I'm saying that you go there because of having sex but then you might be nervous in that moment and he can force you even if you're not quite ready. He should wait, but he does it forcefully.

This woman went on describe that she was not upset with the boy, who is now her husband because he did what was expected and that is how "a home is started." She said he was not violent, but that he "used some minimal power" and that she was so shy and embarrassed about sex that it was probably the only way she would have ever had sex the first time.³⁰¹ She laughed and said she might still be a virgin if he had acted differently. It was clear that the gift of handkerchiefs or bracelets is a diminishing practice, which was usefully unambiguous in expressing love but still left quandaries in determining consent to sex.

³⁰¹This woman's situation was not counted as "rape" for the purpose of this study; See below for further discussion of *kero ma nok* or some "minimal power." I took care to try to maintain women's subjective experiences of sexual encounters and so privileged her feelings of this not "counting" as rape.

“You can see it in the eyes”

I confess that I heard this from a number of people before I thought to ask what exactly one saw in the eyes. What exactly does a woman do with her eyes to indicate consent? I had unthinkingly presumed, mistakenly, that this meant what it might mean to me, an American woman, and that an Acholi woman would turn on the seductive eyes in same way that I would. When it belatedly dawned on me that this was, given all the other differences in courtship practices and perceptions of sexuality, a ludicrous assumption, I finally began asking. The answer was surprising: “If you look shy and stare at the ground,” this most commonly indicates consent. On the other hand, if a woman does not want to have sex she should: “look him straight in the eyes so that he knows you are annoyed.” Confusingly, although staring at the ground and not making eye contact with the man appears typical, I was also told the opposite. Some noted the influence of Hollywood and even the sexually aggressive female characters on Nigerian and Spanish soap operas and “Big Brother Africa.” As women emulate the roles they are exposed to, what they do with their eyes is changing and the way such signals are sent and interpreted is altering.

Physical signs

Men and women discussed certain physical indications that a woman wanted to have sex. Most commonly people talked about “opening up” which refers to relaxing ones thighs and “opening” them. Apparently, squeezing the thighs together is one of the typical features of the love fight, and also what women do when they are delaying or resisting access to their genitals. Men talked (with some relish and pride) about how strong Acholi women’s thigh muscles are and how when she is determined not to sleep with them it is virtually impossible to pry them apart. Many talked about how despite the physical struggle, and the “minimal use of power” which is fairly normal, at some point the woman will relax her thighs and “open up for him” and this is when she has consented. There are several obvious problems with this, one being highlighted by a woman who said, “When he holds you here and here [indicating both sides of her hips] you are powerless. He is

stronger than you and there is not much you can do so you just *open up* for him now.”

Others referenced the existence of other mysterious physical signs, which they did not know, but that they believed men had knowledge about. I probed one woman about it. “I don’t know how the boy detects that [a woman is ready for sex] and I’m not sure how men get to know about such things. But he somehow can see that [a woman wants sex]. Maybe out of his experience with former girls.” I asked, “What if it is his first time?” She laughed.

No, it’s quite impossible. He must have slept with someone before me. Maybe he does it forcefully sometimes, and he can know the difference but I don’t know how he can know the difference.

Other women described how a woman becomes wet between the legs, a changed body temperature, or again reiterated the mysteries of the female body known only to men.

It’s possible for the boy to know if the girl is ready for sex. It also happened to me. I asked the man how he knew I was interested since I was afraid and was resisting because of shyness. He said he knows if the woman is ready, there are some parts that will show that you’re ready.

I asked which parts exactly.

For me, I don’t know those body parts, but it must be that men know. It is true that other men just go ahead to sleep with ladies who don’t accept. And actually they can know that the woman doesn’t want it because of the body temperature. She’ll be cold so he’ll know that he has actually forced her. When you are ready, your body temperature raises so that’s how he knows.

Besides being based on partial or misinformation, some of the many clear issues which arise by determining consent using such physical signs are that they are virtually impossible to detect (without a thermometer to hand) or require quite an intense degree of intimacy (or even penetration) to ascertain.

You can't know until the second time

Many people said that it was virtually impossible for boys/men to know for sure if their partner really wanted to have sex with them the first time.

Most of the time the man knows that you are refusing him just because of shyness not that you're not interested. Even to me it was like that. But some girls aren't yet ready. So how does he know the difference? That lady who is not interested and the man went ahead to make love to her she would be hurt or bitter with him even after the incident or from time to time when she sees him. Or if she stays with him initially they might even separate. But if you're interested and it was just shyness then afterward you would feel normal and stay together like that.

The only way that many people saw to know for sure, was in retrospect. If the woman stays with the man or if she comes back a second time then she consented the first time. After describing something like the love fight in p'Bitek to this woman, she said:

Yes, that happens. Yes, even to me. [Laughed] That's out of fear and shyness, you don't know the person and it's your first time. So how the boy knows the difference between someone like me [who consented] or someone who really has totally refused him and he just went ahead and did what he wanted, it's difficult to detect at that very moment. What boys always think is that it's shyness but later on he might realize that actually the girl might not have wanted to sleep with him. He will know if the girl leaves him after—but he realizes too late. Then he'll realize that he hurt the girl, but he won't know it at that time when he does it.

There are of course, situations where it is quite obvious that a girl/woman has not agreed to have sex, but in circumstances where they are alone together and this privacy was chosen in part by the woman, and in a context where protesting even to the point of fighting is not rare and sometimes expected it makes certainty about mutual desire and enthusiasm in the first encounter problematic. Perhaps more disturbing, are the many women who began their marriages in this way, not feigning protestation but in sincere refusal of the man, but for various reasons felt pressure to stay with him. This was especially true if the woman became pregnant during the first sexual encounter. However, there are others that did not conceive

but were young and thought “this is how you start a home” or who had difficult home situations and thought perhaps getting married, even under such circumstances might be an improvement, or who were placed under tremendous social pressure to stay with the man, in particular if he was ready to pay *luk* to her family. It seems, even if she comes back the second time, this is not always without a degree of coercion.

Marriage as permanent consent

One perception of consent is that it is given once and for all in a marriage. This is again linked with the notion of the exchange of *luk* and *lim akumu* in establishing where to draw the line that separates appropriate and illicit sexual behavior. As discussed in greater detail below, women who were asked about rape would typically not bring up non-consensual sex with their husbands until asked with different language, using words like “force” “violence” and “did not agree.” Again, as with other socially perceived notions of consent, while women recognized that they had not agreed, they viewed themselves as partially responsible for what happened, the men, as having reasons if not excuses for their actions and they often did not use the language of rape to describe their experience in the first instance. Notwithstanding this, they would still discuss it in negative terms, noting the detrimental effects on their physical, emotional and psychological wellbeing. They also often noted their curiosity over whether their husbands’ behavior was typical of how all men behaved. Women expressed the desire to be in different circumstances, or with a man who did not force them, but many did not know if being married to any other man could reasonably be expected to be different. Additionally, in the knowledge of the social perceptions of marital duties to satisfy their husbands’ sexual desires most women suffered this sexual violence in silence.

HIV testing

An interesting and relatively new factor in the prelude to sex, which is thought to indicate consent, is testing for HIV as a couple or sharing evidence of one’s status.

We went and tested for HIV and then we came straight away to his house. So I don't know what tradition is in such circumstances anymore. HIV is changing that. Because whatever we used to do, now we should know the status of the person.

One woman lamented this change as it brought a level of seriousness to the relationship when in the past men and woman, boys and girls should have time to explore one another sexually. They should "play sex" as many Acholi put it in order to know if the person they were committing to was both satisfying and fertile (gain, this is primarily understood to be detectable by a lack of impotence on the man's part).

It is quite unfortunate that these days there is HIV; But before, even in our African setting there was need for a lady to know the kind of person that she's going to. What I mean, is that she should sleep with him first before staying in his house. But because of HIV it has changed because you can't go with a person to bed before testing and then you can begin staying together as husband and wife but our culture was that you should try the man out first.

Although this is now not uncommon, many relationships still begin without HIV testing. There is some indication that determining and sharing HIV status will continue to be a factor and perhaps an increasingly common step that might overcome some of the ambiguity of consent.

A combination of indicators

The discussion above highlights some of the typical considerations that are elements in understanding or giving consent. It is often a combination of these that couples use to communicate and ascertain consent. No single factor is sufficiently unambiguous. Even taken together a vast grey area seems to exist. Each leaves space for misunderstanding or vulnerability of the woman. After describing a love fight scene to this woman she explained her interpretation:

Yes, you see that's the way it is because if the boy is normal and he has invited the girl he has to take her to bed to show that he's not impotent. He will have to do it is a must. In courtship there are stages and to show that the lady really loves the boy they would have already given the boy the beads or a handkerchief, so if the boy

already has those items at his place and then she is invited and she turns up than it shows that she's ready and in case maybe now when you want to go to bed with her and she refuses he will apply minimal power and physically ladies are weaker than boys and when the force is applied and she doesn't make an alarm that is what she wants. But of course, if a boy holds you here and here [indicating her waist] very tightly then you are helpless and you just open up now.

As seen from her perspective, even using a combination of all of these various signs, in the end, the boy is under considerable pressure to show he is not impotent, and the girl is weaker than he is and so is at his mercy.

NOTIONS OF RAPE

In most legal definitions notions of rape are tied to notions of consent. Rape is commonly thought of as sex without consent, or in coercive circumstances that negate the relevance of consent. In the Acholi context, consent, as it has been described above has a looser relationship with the notion of illicit sex. Indeed, often what is meant by rape has little to do with whether the girl or woman has gone to a solitary place, not made an alarm, or given bangles to a boy and much more to do with whether or not there has been a customary transaction between the girl or woman's family and the boy's or man's. The social understanding of illicit sex is tied more strongly to *luk* than to consent and this social understanding interacts with approaches to justice, including formal justice in interesting ways. One of the first defilement cases, which I observed at the magistrates court, illustrated this. I observed all of the witnesses, including the girl herself, and none of the testimony, the examination, or the cross-examination even touched on the issue of whether she wanted to have sex with the man. The element of consent was absent from the entire proceeding.

In this context where *luk* and ability to produce children are main social concerns with what distinguishes licit and illicit sex, some sex that is actually consensual is reported as rape or defilement and other sex that is clearly not is kept quiet, or dealt with by responding to the break in social harmony—often neglecting the

individual needs of the victim and/or the rights and deserts of the accused. On the other hand, the legal proceedings rarely address the needs of social harmony or adequately response to individual needs of the victim or the rights of the accused because of corruption, inefficiency and the lack of trust and moral jurisdiction of formal justice systems amongst most Acholi.

In the interviews the various notions surrounding the idea of rape were narrated in the way that women answered questions designed to illicit responses about their personal experiences with sexual violence. Before going into greater detail on this, a note on the methodology and the approach of the questions is in order. Asking women to share such intimate details of often-painful personal experiences is delicate, to say the least. I was guided by and sought advice from Acholi women who were not part of the study to help inform a more sensitive approach. I worked with women in a different village where I did not conduct research to develop a participatory interview guide. These women raised some of the pertinent areas of inquiry and also reflected on how they would feel most comfortable sharing such information.

My Acholi advisors stressed the importance of telling their stories and not ticking boxes or answering yes and no questions. They all said that if it were them, they would want to share about the experience with sexual violence in the context of other injustices suffered and the context of their lives. This approach to the interviews generated a mass of extremely rich data, as well as allowing my informants to discuss aspects of their experience that were most important to them and not necessarily always what I had pre-conceived would be of greatest interest to me. It also led to spending much time with elderly women, for example, who had never been raped, but who had buried their children, survived LRA attacks, and lived in biting poverty but who rarely had a respectful listening ear and time to listen to them reminisce about the “old days.”

It is also telling that women were pleased about the fact that I was interested in their full experiences and not just what had happened to them during the war.

They conveyed that many researchers want to know about the war but that the war is not the beginning and end of Acholi experience or what is important to them. As women, they were encouraged that I was interested in violence that affected their lives in their own homes and from within their own villages as well as from strangers and combatants.

The questions that prompted women who had been raped to share their experiences were revealing. Based on recommendations of the women referred to above from the non-research village, we broached the subject of injustices and sexual violence after discussing general information about the women, their lives and their power in their households. Then I asked them to share how their “rights had been broken” in their lifetimes – during the war, as well as before and after. It was important to specify this, because without the prompt, people assume that, being a foreign researcher I was only interested in the war. My intention was to learn about what injustices they suffered, and in this to learn not only whether they had been subjected to sexual violence but also what they viewed as an injustice. As previously noted, there is no word for justice, and conversely for injustice in Acholi. There is a word for crime, which is also used for the words “sin” and “break/spoil.” To get at the broader experiences of injustices, talking about broken or tied rights worked well.

Some women who had been raped did not include this experience in their response to what had “broken their rights,” though they eventually revealed that they had. I asked some of them about this later and their responses tended to indicate one of two things. First, that rape was one of many injustices they had suffered in their lives and was often not the one that they felt impacted them most deeply. The second is related to the reasons for not revealing rape even when asked directly.

If what had happened to them included some aspect of the social notions of consent outlined in the previous section, they often did not initially describe what happened to them with the language of rape. The situations, which commonly were mentioned in response to this question, were rapes by strangers and

combatants — sexual violence that contains no element of the notions of consent above and certainly does not include *luk*. These were the rapes that unambiguously fell both into the legal and the social understandings of illicit sex. A few women who had been raped by others such as co-workers or neighbors but whom they had never dated and had not ended up marrying also answered at this point in the interview.

I would then describe a scenario similar to that at the beginning of this chapter of p'Bitek's "Love fight", and said that I had heard that in Acholi a girl/woman should fight and say no and pretend that she does not want sex the first time that they "meet" in a sexual way ("in the way of the bed," or *i yoo me butu* as it is put in Acholi). I would ask them if it was true. Almost all of the respondents said that it was. Many laughed and would then share how they had fought their husbands on their first "meeting," some recounting how they had even bitten their husbands and wrestled them energetically. Some thought that this was as it should be, as this young woman said:

It's true that most boys try to fool around with girls and that's why girls resist. If you get one that you really want you have to resist because if you don't they will assume that you have also not resisted the other times when boys have tried with you. If you don't resist they will say that you are an easy girl. So, according to me boys should force girls so that they will know that we are good girls.

Others said that traditionally there should be a love fight but that times are changing, and that now if they want to sleep with a man they can just do it without the charade of pretending they do not want to.

I would then ask, since that is indeed the case and such wrestling and refusing is common, how the boy/man knows whether the girl really wants him and is pretending or he is forcing her? The previous section contains much of their responses to this—the role of relatives, giving gifts, going to a solitary place, not making an alarm, going back a second time, etc. I would then ask them whether boys/men ever force sex when the girl/woman has genuinely refused. Virtually all

said yes. Then I would ask if it had ever happened to them. Many women who had previously said they had never been raped would then elaborate how a boyfriend or in some cases someone who they had rejected but was continuing to pursue them had forced them to have sex—sometimes, but not always they would at this point use the language of rape as well. In some cases, they married these men. Others separated.

The last question seemed ridiculously repetitive to me initially, but in fact, the responses seemed as if I had asked an entirely new question and elicited yet more stories from women who had not yet shared their experience with sexual violence. I asked whether a man or boy had ever *forced* them to have sex when they had not *agreed*. I would prompt them, depending on their age, if they were old saying, “even when you were very young” and finally mention “*even* your husband.” As with the responses to the first question, sometimes these prompts called to mind incidences that women had not initially called to mind to share. Their explanations reiterated the two factors mentioned earlier: Firstly, forced sex was one of many injustices they had suffered and they had suffered so many, it was hard to know where to begin. Rape was not always at the forefront of their litany of sufferings endured. In fact many women who, for example, had been raped by their husbands emphasized some other incident when they felt he had injured them most seriously, some showing scars or recounting how they had feared for their lives or hidden at their relatives until he had calmed down (or sobered up). Secondly, if their experience of rape included some element of the notions of consent and or *luk* discussed above, they often felt either partially responsible or what they had experienced did not fit into their own social understanding of illicit sex. In this question, the use of the words “force” and “not agree” rather than the language of rape bypassed some of the socially entrenched understandings of appropriate sexual behavior, and allowed them to engage with and reflect on their experience in a different way.

The importance of language was clearly evident in the subtle distinctions in how women expressed the continuum of coercion in sex. A selection of the most common Acholi articulations and the boundaries of experiences they depict are explored below:

Butu tek tek

This the most common translation of the word rape, and literally means, “sleep strong strong.” A woman might say that “he slept with me strong strong” and this would indicate that he had forced her, as well as specifying physical coercion. To “sleep with,” is the most common way of referring to having sex in Acholi, and then to add on the descriptor of strong, and repeat it for emphasis. Interestingly, as noted above many women did not use this language to talk about experiences with their husbands in the first instance. However, in the process of responding to the question about sexual encounters when men “forced” them when they “did not agree” they would use the vocabulary of violence and strength to overpower them. They would describe the sex as *tek tek* strong strong. The way that they talked about it was suggestive that this language was employed as more of a description for the sexual act with them and less of a category of injustice. They might also say *maka tek tek*, he took me strong strong, to indicate how he initiated the process of sleeping with her — physically and forcefully grabbing her strong strong, and then (often) sleeping with her strong strong as well.

Butu gufo gufo

Gufo is a Swahili word that means energy. The phrase is employed in practically the same way that *butu tek tek* is used and would apply to the same situations. Some Swahili words have made their way into Acholi, and this one in particular is not surprising, since Swahili is considered a language of soldiers and the military. Force, including forced sex and rape is associated with soldiers in the public imagination. Interestingly, a relatively small proportion of the perpetrators of rape considered in this study were perpetrated by soldiers when compared with other categories, however, many people associated the presence of soldiers with

heightened prevalence of rape and women and girl's exposure to the risk of sexual violence and exploitation.³⁰²

Rape

Some women would use the English word “rape” in the middle of a conversation, which was otherwise entirely conducted in Acholi. Sometimes this seemed relatively unconscious, and other times they would continue to reference some exposure to an outside or western notion of the crime such as a radio talk show that they had heard, a “community sensitization meeting” or a workshop they attended on gender-based violence. During interviews, after the description of the love fight, when I asked if boys ever forced girls, some would then switch to the English word and say that it does happen, but that it would be “rape.” It was evident that while this notion of sexual violence had perceptibly entered and influenced their understanding of appropriate sexual behavior, the fact that they used the word in a foreign language was indicative of the extent to which it remained a foreign concept, relevant to their observations of life but not yet integrated into the deeper grammar of life and meaning.

Onywaro

Onywaro is to do something intentionally to hurt or purposefully commit an offense against someone.³⁰³ In a non-sexual context it is also used, and these applications are instructive to a deeper appreciation of the meaning. Someone who is in debt to another but repeatedly and intentionally dodges the person might be said to *nywaro* the other—it is akin to “fooling” in this instance, not paying what is rightfully owed but feigning intention to do so. Or another example, in farming,

³⁰² Hovil and Okello (2007).

³⁰³ Remarkably, this word is often translated and back translated incorrectly between English and Acholi as “impunity.” When I have heard Acholi speakers use the word impunity in English (better translated *labongo pwod*, without punishment) and asked the person to say what they mean in Acholi the word used is *nywaro*, meaning an intentionally committing a harmful act, especially when the offender is arrogant and unapologetic. It has also been used by staff of NGOs working on transitional justice issues and in translation for survey research. It is one example of how easy such conceptual distortion is and leads to significant misunderstanding.

when a person is given a contract to dig the field and they do not fulfill what they agreed in a satisfactory way, that is *onywaro*. It could also apply in situations where someone intentionally destroys other people's property. In relation to sex, often it might be used in the first instance to put an experience more mildly or to be subtler and less graphic in communicating it.

It is sometimes used by victims in court in rape and defilement cases. A victim might say that someone "*onywara*" (intentionally harmed me) and then probing is necessary to find out how the victim was *nywaro*. Important for this thesis, I found that *onywaro* is used in situations of sex that challenge or do not contribute to social harmony, not just forced sex. This includes forced sex, but it also includes sex under false pretenses, deceptive promises of marriage, sex with a pre-pubescent girl, adultery, and significantly—sex that is exclusively for pleasure and not tied to the production of children and/or *luk*. People might say that the man was just "fooling her" or "using her" (*onywaro en*) and was not serious about the proscribed social role, which is meant to be linked with sex. Intentionally hurting the woman by sleeping with her outside of socially proscribed norms and responsibilities is to *onywaro*.

Opyedo

Opyedo might be and often is translated as "defilement" in English; *Opyedo* as understood in Acholi would fall under the legal definition outlined in the second chapter but the legal parameters include much more.

In Acholi social understandings it is applied in more limited situations, often to when particularly young girls (without developed breasts) are violated or when the age gap with the man is extreme. It is seen as something abnormal, an abomination. It is considered a very serious *kiir*. The reaction to *opyedo* is urgent and rather comprehensive. The man should be punished either by the law or by communal beating, even to death. People would even call the perpetrator *lajok* or a wizard because a normal person should not want to sleep with a small girl or someone so many years his junior. Significantly, this is tied to the importance of

the reproductive work of sex and the importance of children. A young girl who is pre-pubescent is not capable of conception from the act, and indeed it is believed that having sex with her may block her future fertility, for health or cosmological reasons, and usually measures are taken to deal with both. Girls who have been *opyedo* must have their medical needs attended to and *kiir* must be expiated to sever the consequences from her reproductive future.

Ywayo (tek tek)

Ywayo means pulling. When women talked about having been pulled strongly it referenced the means used by a man to begin a sexual encounter (rather than the act of sex itself), which she refused. It was part of a process, initiated and planned by the man, usually where the goal was marriage. In the instances in this study where it happened, and in stories that informants told me, the man and girl/woman knew each other or the man had approached her beforehand. He had already decided he wanted to marry her and on that day he set in motion his plans to begin living with her. If she accepted she would return to his home willingly, but if she rebuffed him he would pull her strongly sometimes with the help of friends or brothers who accompanied him. In some of these cases in this study women said that the sex that followed was not *tek tek* because once they found themselves in that coercive environment they felt they had no choice and gave up.

The reactions to such situations vary and are determined to a great extent by the particular dynamics of families as well as to what the relatives of the girl know or discover about their daughter's previous interaction with the boy/man. Consider if a girl who has gone to collect water does not come home when expected. Her relatives might look for her and learn that she has gone (as in some cases it is willingly) or been taken to someone's house. If they are aware that she was friends with him and that she liked him, they might wait a day or even a week before following her up to begin a process of formalizing the relationship. If they do not approve of the person, or their daughter has previously complained of him disturbing her, they might interrupt immediately and retrieve her from his home.

However, often the situation is not so clear-cut and the involvement, assumptions and even availability of relatives to keenly investigate and respond vary (especially during the war) and this entails distinct vulnerabilities for young women being forced into marriages, which they never wanted and at a time they were unprepared for.

Odiya

Odiya means, “he oppressed me.” Sometimes women would say “he oppressed me to sleep with him.” This might, and often did mean that additional violence and physical coercion was used. But it is broader, and it could also refer to other kinds of coercion or force, not only physical. There was also a distinction if the word was used once or repeated to indicate it was more intense. For example, those who said it once, were generally not counted as situation of rape in this study, and although they might not have felt good or respected about the situation, they also did not feel the man had violated them but rather he had pressured them into sex and they had reluctantly, but eventually agreed. Often women who had been raped and described their experiences in this way would add on other descriptions, or a common way of emphasizing something—they would say it twice and add “doh!” an exclamation that magnifies the severity of what was said. Women would say that he *odiya diya doh*, “oppressed me oppressed me doh” and with this they emphasize that the experience was forceful, usually physically forceful. There is only one situation counted in this study where the woman insisted that her husband forced her, using this language, but it was not physical, so she did not describe the sex as *tek tek srong srong*. She did not elaborate how he forced her, but she was deeply disturbed by the experience and felt it to be a violation. He had forced her after she had a medical complication during pregnancy and lost the child.

Kero ma nok

As also noted above, “Some minimal power” was often mentioned by men and women as part of sex, and although this was a grey area, and many would or certainly could argue that at least some of the instances where such “power” is

used could/should be counted as rape, I did not for the purposes of this study count them as such. Importantly, “some minimal power” as it was expressed to me, was not experienced by the women as a violation or a “breaking” of her rights. Sometimes they would elaborate that the sex was “in the way of negotiation” *yoo me winye*. Usually, when this phrase was used it indicated the strength of the man and how he exerted it on the woman who had less *kero* or was less powerful. However, it does not, by itself, indicate violence or coercion from her subjective perspective. A woman who had sex when the man used *kero ma nok* would not be injured, and was not generally annoyed with him. When *kero* power/energy is used in sex it can be employed in different ways, not only to force but as expressions of feminine and masculine notions of sexuality and gender relations.

Rape in this study

There is a continuum of the degree to which circumstances where sex takes place are coercive. This research has focused on and “counted” 94 cases where sex was most unambiguously forced, by the woman’s own assessment, mention of additional physical violence in her description of what happened to her, and/or in the context of a forced “marriage” by the LRA. For the purpose of this analysis it was most useful to categorize “rape” in this way—based primarily on the subjective experiences of the women involved, in large part, because widening the parameters would have moved the concept unhelpfully far from the social understandings and because trying to use strictly legal definitions would be impossible (and undesirable). But it is important to note, that an definition of rape as more broadly applicable to coercive circumstances could also have been valid and would have included many of the other situations that women described to me, bringing the number higher. For instance, women who were socially and economically pressured to marry men, or who had “some minimal power” applied in the coercive circumstances of being alone but who by their own assessment did not consider it forced. Another example is some of the elderly women in my study who found the idea that they could have or would have been forced by their husbands to have sex absurd. For some of them, the idea that they had any right

over their own sexuality had not occurred to them and they would never have considered the possibility of refusing. The line used in this study could have been drawn somewhere else along this lived continuum. However, I have strived to be as clear as possible about how it was drawn — by staying as faithful as possible to women’s understandings of their own experiences while marrying this with an understanding of rape as sex that is forced, without consent and with coercion.

CONCLUSION

Notions of consent and rape are changing. There is a curious mixing of ideas which people perceive (rightly or wrongly) as “new” and “old” or “Achoi” and “foreign.” People who are “exposed” are expected to think a certain way, while those who are thought of as “traditional” are expected to act in another. All of these notions create a complex picture of how men and women interpret (or ignore) signals intended to communicate consent and negotiate or conversely ignore and force their own will in varying degrees their sexual encounters. The social meanings and expectations of the notions of consent and rape, of appropriate and illicit sex, limit in important ways women’s felt freedom to say no, to change their minds, or to get out of coercive circumstances. *Luk* continues to play a central role in distinguishing acceptable sex from sex that is considered illicit. It underscores the way in which sex can and does contribute to social harmony or, when the social responsibility that should be joined with sex is not, how it can threaten it.

The notions of consent and rape as explored above, suggest how important it is to appreciate the social aspect of how crime and wrongdoing is understood and experienced. This exploration has highlighted ways that such understandings create conditions where violence is a distinct and present possibility. It also points to how women’s understand their own experiences of forced sex. For the most part, they experience an individual sense of violation, even in situations that are considered socially acceptable, though for some, to a lesser degree than they might otherwise. Their experience differs in important ways from that of a woman in a different social context. In the first case, because some women do not consider

certain levels of coercive sex under certain circumstances as very wrong they are less aggrieved by it, and cope with it differently — as some women whose boyfriends were forceful in their first encounters but whom they intended to sleep with described. They saw it as him “just trying to start a home” and of him expressing their expectations of sexual masculinity. However, in the second instance, are the many others who did feel it is wrong but suffer in silence because they are painfully aware of the dissonance between their experience of injury and social norms of sexuality. Finally, the harm that they experience from socially condoned forced sex is an individual experience. Women who were raped in a way that is recognized as socially illicit sex based on the understandings of Acholi sexuality, have the added injury of social harm that the crime caused but the added ability to have what happened to them be validated and acknowledged as wrong — a violation which they and their moral community were victims of. The following chapter explores this experience of varying social harms caused by crime in greater depth by comparing rape in the context of war, perpetrated by combatants, and rape perpetrated by civilians.

7 Comparing the aftermath of civilian and combatant rape

Many scholars have noted the continuum of violence that women experience, before, during and after war.³⁰⁴ However, there is little discussion of the implications for transitional justice and ordinary justice processes. How does the exceptional approach of transitional justice interact with the continuum of violence against women? A close look at two sub-sets of women's experiences of civilian and combatant rape, and what happened after, in the context of the northern Uganda war is instructive.³⁰⁵

The first sub-set compares rapes by combatants and civilians, following abductions that were intended to result in "marriage." With respect to combatants, one of the most widely known practices of the LRA has been the abduction of children and youth. For many young women and girls abducted by the LRA, their abduction was followed by a "forced marriage," where the girl or young woman was given to a man within the rebel group to act as his "wife."³⁰⁶ The relationships and experiences that women had with such "bush husbands" ranged from initial and continuing extraordinary violence, sexual and otherwise, to others who became at

³⁰⁴ See for example, Nordstrom (1999, 1997a, 1997b); Cockburn (2004); Scanlon and Muddell (2008).

³⁰⁵ This chapter uses the terms "civilian" and "combatant" to distinguish between the two categories of perpetrators of rape in the context of the war in northern Uganda, rather than "ordinary" and "war-related" designations utilized in transitional justice discourse. This has been done, firstly, because all of the rapes and what happened after that are discussed in the chapter took place in the "war-related" context of the northern Uganda conflict or its immediate aftermath. Secondly, in the context of transitional justice, the term "ordinary" is used to designate rape that cannot be considered a war crime, including most civilian rape during war. It is not intended to diminish the seriousness of such rape, or to suggest that it is not traumatic for the victim or that it is not reprehensible behavior on the part of the perpetrator. Rather, it is meant only to distinguish between crime that fits into a category of response for transitional justice and crime that would be addressed using national penal codes rather than exceptional justice measures or international justice mechanisms that apply especially to combatant rape.

³⁰⁶ See, for example, Amnesty International (1997); Human Rights Watch (2000); Women's Commission (2001); Blattman and Annan (2010).

least somewhat resigned to the extreme coercive nature of the situation and eventually developed a familiarity, and in rare cases even fondness for the man, to the extent that a few have even reunited after returning from the LRA. Thirteen of the 94 incidences of rape reported in this study were rapes within the context of LRA forced marriages.

The practice of combatants capturing and abducting women or girls with the intention that they would become wives within the group that captured them is not, of course, solely an LRA tactic. Indeed, it seems to have been a feature of raiding and warfare for as long as these have existed. In Acholi, this can be clearly seen during the late 1800s, as part of raids by Arabic-speaking ivory and slave traders (called *Kutoria* by Acholis), along with co-opted Acholis.³⁰⁷

Nor is such a practice in more recent Acholi history limited to combatants. In this study, out of the 94 incidents of rape reported, ten involved being captured, abducted, and then raped by a civilian non-combatant who intended to make the girl or woman his wife. As discussed in Chapter 5, such “marriage by capture” in Acholi has a history that extends back in time before the war, though this is not often discussed or acknowledged today. The prevalence of women in the present study who report this experience (over five percent of the sample from the two project villages) suggests that it remains one of the ways in which “beginning a home” takes place.³⁰⁸ The first task of this chapter, then, will be to examine the

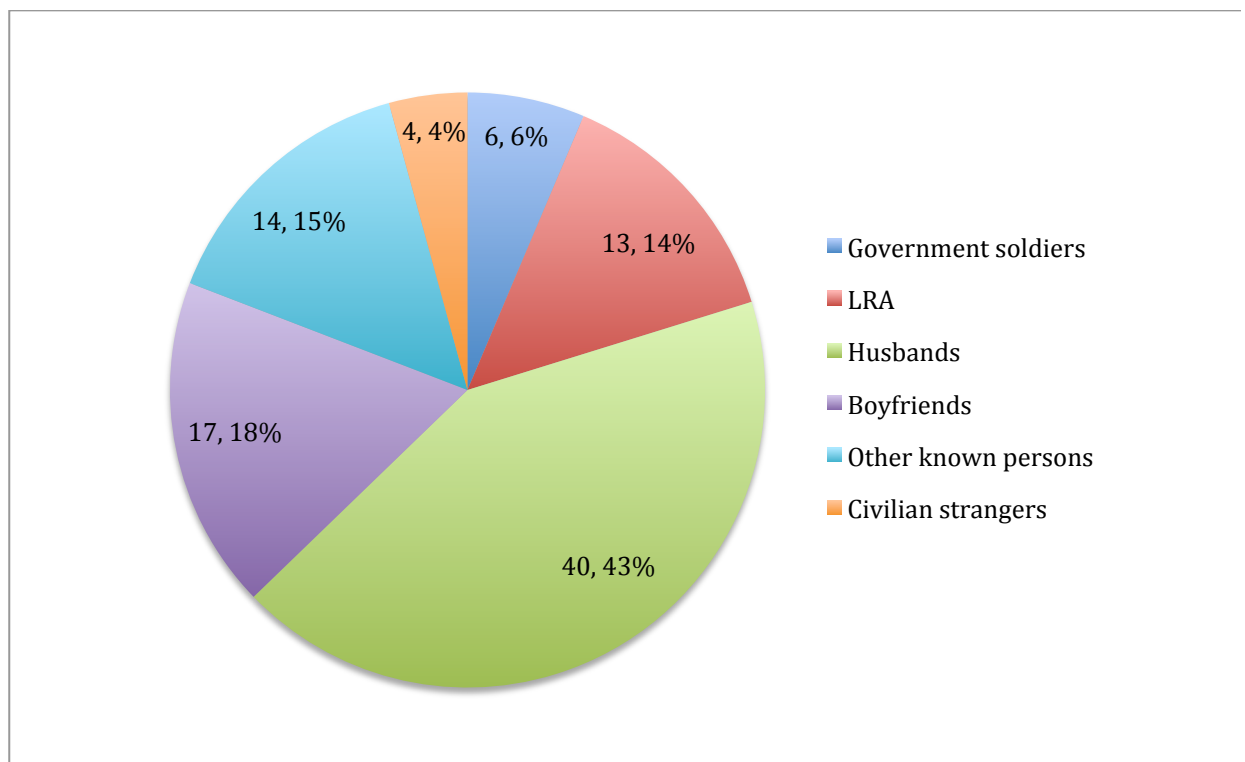
³⁰⁷ Atkinson (2010), pp. 267-68. It has also been documented that during wars between Acholi chiefdoms “cattle and girls” were captured in great number – see the reference to Rwot Awich in Allen (2005), p. 150. For more general background on this period, see Gray (1951); Gray (1961); and for more on the *Kutoria* in Acholiland, Baker (1866), v. 2; Atkinson (1978); pp. 507-16.

³⁰⁸ One factor in the reluctance of many Acholi to admit the practice of “marriage by capture” is that it is thought of as something that their Karamajong neighbors to the east practice, and Acholis often view the Karamajong as “backward.” They are therefore reticent to acknowledge that, although less accepted and less overt, similar violence against women happens in their own community. It should be noted that Acholi resistance to equating “marriage by capture” among the Acholi and the Karamajong is understandable, even if total denial of the practice is not. In Karamoja, for instance, the act of “abducting” a wife is the primary way of beginning a home rather than an exceptional situation. It is widely acceptable, appears to be a game, and is relatively consensual in most instances. See Hopwood and Porter (2011).

differing responses in Acholi to women who: (i) were abducted, raped and coerced into “forced marriage” by the LRA, and (ii) women who faced similar circumstances of abduction with intent to marry, but at the hands of civilians.

The second sub-set of data to be compared here involves women who were raped by strangers – men who were completely unknown to them with whom they did not interact again or have any type of relationship in the aftermath of rape. Here the crucial distinction for comparison is between strangers who were government soldiers and those who were civilians.

Figure 6: Perpetrators of rapes by category (n: 94)



The particular incidences of rape of concern in this chapter number 33 out of the total of 94 situations of rape included in this study. The first comparison involves situations of rape and their aftermath committed by thirteen rebels versus the experiences of ten women abducted and raped by civilian men intending to marry them. The second compares responses to rapes by six government soldiers to the four incidences of rape committed by civilian strangers.

Each incident of rape examined in the pages below – and the responses to them – includes unique circumstances that muddy the neat categories in Figure 6 and the two sets of comparisons just noted. And many of these unique aspects will be noted. But the differing responses in each set of comparisons, as will be seen, also share crucially important features that provide further insight into general Acholi notions of crime or wrongdoing and their aftermath. And the evidence yet again points to the fundamental importance of how the particular circumstances in each case were perceived to threaten social harmony and what could be done to limit that risk. The degree of risk was in turn linked to the cosmological dangers associated with the location where the events took place, the relationship of the perpetrator to the social and moral community of the woman raped, and the extent to which the “marriage” that was entered into (or intended) conformed with Acholi notions of what constitutes proper marriage.

ABDUCTION AND RAPE WITH INTENT TO MARRY

Civilian “marriage by capture”

As already noted, ten women in this study were abducted and raped by civilian men who intended to marry them. As was described in detail by Okot p’Bitek and discussed in the Chapter 5 above, physically taking the girl of one’s choice from “the roadside” while she is on her way to the well or on some domestic errand could occur in cases where the girl was particularly adamant in her refusal of the potential suitor. The physical force involved could entail, notes p’Bitek, getting the bride-to-be into the house by dragging her or even by soliciting help from brothers and age-mates to carry her. Presumably, she should have given some indication that her “no” was actually a “yes” (Chapter 6) in order for this to be appropriate. But in the current study, I encountered no one who wanted to marry the man after this level of force was employed. As this woman described it:

That boy was big and I used to fear him. I would answer him when he talked to me just because of fear. I would listen to him talk and I would accept, but then I would never go and visit him. Other times he said he’d come to my house and I would accept because of fear,

but if he came I'd hide. So, he knew I didn't want him. He had already read my mind. He knew I wouldn't go with him and that's why he organized to come and pick me in that way.

Some men say that if the girl makes an alarm that means that we don't want it, but if we don't then we're ready. But I didn't make any alarm. It was between [described the location which is deleted here for purposes of confidentiality]. You know that corner? [I nodded yes]. No one can hear you so I just kept quiet. Plus I couldn't really [do otherwise]. The style they carried me I couldn't do anything. There were six boys. If you're really interested the boy will pull you but with less force because you're interested. Not such physical force like my experience. He knew, definitely, I didn't want him.

In most instances in the study, the girls to whom this happened were quite young.

The following woman's situation was characteristic:

The father of my child – I wasn't ready for him yet. We did date each other but I wasn't interested in settling with him or starting sex. But in a group they came one day when I was on the way to the safe place to sleep when they just took me from the road to their place. I can't deny, that was rape [she said the word "rape" in English]. It was. I didn't think that it was rape at the time because we had been talking to each other even before that. But when he did it, I didn't even know what was going on. I had never had sex. He raped me and I had only had my first period ever in life the month before that and I didn't even know what it was. So I got pregnant from that time but I didn't realize that I was pregnant because I didn't know what a period was or that I should look for it to be missing. It was only when people there told me that I was pregnant because my belly was growing that I realized it.

Another woman who told of being raped in this way was only eleven years old when it happened. A young boy she had rejected abducted her. It was her first time to have sex and she conceived, though she later miscarried and this opened the possibility for her to avoid marrying him. He abducted her from the roadside and since it was evening no one saw them. He had intended to marry her but she didn't want to. Some young girls in her situation were fearful of expressing their sincere desires to their families, especially when rape had resulted in pregnancy, but since she miscarried she felt the courage to plead her case to her parents. She

thought he should be punished, but her family said that since he was also young and a student, for the sake of his studies he should be allowed to continue. She felt it was unjust that he continued his studies whereas she had to drop out on account of what happened. Interrupted education was a consistent concern – and reality – for young women and girls abducted and forced into marriage, whether by civilians or by the LRA. She thought he should be put in prison for at least four years, but her father was a friend of the boy's parents and nothing was done.

The women discussed here, although some of them had been courted by the men, were either uninterested or undecided about whether they wanted to marry them or have sex with them. They all said that they were offended³⁰⁹ by the manner in which they were taken. However, they felt differently about how bad this behavior was and what punishment was fitting depending on the circumstances, which are discussed below. These situations range in their gravity of force used to capture the women. Included here are several situations where the girl was not physically carried, tied or dragged to the place where the man raped her, but who felt she had been otherwise captured and could not escape and the man did so with the plan of forcing her into marriage.

Most of the women who were raped in this manner stayed with the man who did it, despite recounting their experiences as ones where they were offended by the man's actions and depressed or sorrowful about being married to a man they did not love and who, in many cases, continued violence against them, sexual and otherwise. The main factors involved in whether the sort of abduction described above evolved into a marriage were: (i) whether or not the woman had conceived; (ii) whether or not the man formalized the relationship and received social consent by paying *luk*; and (iii) whether or not he provided for the woman and their children. Here we see echoed the common threads explored above in Chapter 6. The woman's individual sentiment regarding the initial act of rape and her wishes

³⁰⁹ From *cwinyé cweer* (offended, afflicted, sorrowful) – see Crazzolaro (1938), p. 238.

regarding how the situation should be handled were secondary to considerations which surround social harmony and define Acholi love and sexuality: especially children, material provision, and the social ties forged through *luk*.

Whether or not a woman had the social support necessary to have realistic options besides marrying the man who abducted and raped her was significant. If continued relationship with the man was necessary to the maintenance of social harmony, this made it extremely difficult for a women to separate from the man. As this woman explained:

He had been trying to date me but I kept refusing him so then one day he just grabbed me on the way and forced me. . . . I wanted to report him but I didn't because of my home people. I thought they might quarrel with me and blame me. But if I knew that they would understand then I would have reported him. The place where he stayed was close to us, so he was our neighbor and they knew him well.

Women who had experienced previous sexual violence or who had been abducted were in particularly vulnerable situations. One woman who had been raped by three different rebels was then abducted and raped by a civilian once she had escaped from the LRA. She came back to an IDP camp and to a family that had been severely affected by violence. Her parents had been killed and her main relative, an uncle, was unable to provide for her.

When a man from the camp abducted and raped her she conceived. Though she did not love him or have any interest in marrying him, she felt she had few options as she was faced with providing for the child alone. A friend advised her to marry him, and so did her uncle. Ten years later, she had five children with him, and she endures his regular drunkenness and continued sexual violence. She now regrets listening to the advice of her friend and uncle. As she explained: "It's not good to be married to a man you never chose and you never loved." "But," she lamented, "now I'm worried about the children. If I'm with him, at least he pays their school fees. "

A picture of how women felt about the gravity and moral culpability of what the man did to them is depicted through their ideas of appropriate punishment. This again had to do with whether or not he had been “accountable” for his actions, which in the Acholi context means that he was responsible for the material, cosmological and social consequences of his actions. Usually, this meant that he paid *luk* to repair the social harm from his actions and took care of the woman and any children that resulted from their relationship. In all cases, women in this situation felt the violation of both crimes, the abduction and the rape. One woman went as far as to say that she was most hurt by the abduction. The man came with a group of his brothers to take her. She said that she wanted punishment for the man who had sex with her by force. But then, she continued,

actually I was very offended and depressed, but not mostly because he had slept with me. But [rather] the way they picked me. Always he used to come as an individual to flirt with me, but that day they came as a group and I didn't like the way he did it. I think the best thing for those people is that they should have been beaten. That would have taught them. But there was no one to beat them. The best people to beat them would have been the boys from my home [but they were not there because of the war]. Then they'd know that next time they should respect me I shouldn't just be carried by force.

This woman's sentiment highlights two key issues. First the crime of rape was viewed through the lens of the prior crime of abduction. In her case, as well as in the case of many of the women who were abducted by the LRA, abduction was principal crime that they focused on, which gave rise to all others. In other words, the crime was experienced as a violation not only, or even primarily, because it was an act of forced sex but because of the context of abduction in which the forced sex took place. Secondly, her preference for justice through punishment could not happen because there were no appropriate justice actors available. Her brothers had all been affected by the war in various ways and they were no longer present. In her case, she did not become pregnant and the boy who abducted and raped here was unable to pay *luk* and so they separated.

There were some situations where a young girl was not physically dragged into a house, but was tricked by friends or relatives and then abandoned, as in the following example:

It happened with my first husband, the father of my first four children. I went to visit him and I thought it would be like any other time when we just could talk. But then he started by locking the door and then he raped me. I used to sit with many girls in our homestead and sit by the firestone after bathing and that evening me and my friends decided to take a walk and went to my friends' home and the boy came there. When we found him and we went in the house; then all my friends left and he locked the door.

I thought that if I separated from him after that people would laugh at me and I was ashamed, so I decided to start up a family with him. I was still young, 15. He had told me he would embarrass me until I became his, so when he did it to me, I started to make an alarm but then stopped because I remembered what he said. That's how he ended up doing it to me and then the next morning he said "let's go to your home and I'll set a date for our marriage." I knew him before that. He used to follow me in the market. He sent someone to go to my home. That's our tradition. That person brought a letter and set arrangements for my marriage. I didn't refuse. My parents called me and asked and I said "yes I know him." I could not refuse because I knew what happened to me last night.

Unfortunately, the man continued sexual violence in their marriage. They eventually divorced. Her situation is among those exceptional cases where she had social support to separate from him. However, as in other cases discussed elsewhere, sexual violence was only one of several factors that led her to separate from him. By her own admission, she would have stayed with him since he had taken the responsibility of marrying her, if he had not been abusive in other ways and if her brother had not opened another avenue for her which made future social harmony possible independent from him.

I didn't get scared [after what happened initially] because he went to our home and married me. But if only he wasn't a drunkard I might have even stayed with him, but he was too violent. What helped me most was my brother. Because he [the husband] went and paid money and married me but my brother saw that I was

suffering at the hands of the man and he got me back and paid back the bridewealth to the man and took me home. He really helped me. You have to respect your brother from the time you're young until when you're old so that he'll help you.

Interestingly, she had never told anyone about the way her relationship with her ex-husband started until we spoke and she was still evidently bitter with her cousin and one of the friends who had accompanied her and then abandoned her that night before he locked the door. She seemed more upset by this betrayal than she did with the actions of her ex-husband.

Another woman described a similar situation, though with less physical coercion. However, as she said, she was still captured, albeit through a "trick."

It was a trick that was used. I didn't know that it was a trick. He invited me to visit his uncle and everyone there had already known that we were coming and when we reached there everyone left us alone and he forced me, even though I definitely didn't want it. I couldn't come back home because it was very far. And then after he sleeps with you once then it means you're his wife. It was bad luck that that day I conceived. He [then] had to come to my house and set the date for marriage.

Fortunately, in this case the man did not continue sexual violence in their marriage. But she was still saddened that she was not given the opportunity to make a choice of husband freely. As she said:

It's because of tradition that I'm stuck with him. I couldn't sleep with anyone else after that. I actually discussed it with him, though I didn't tell anyone else. He said, "How do you think people start up families? It's like this." I also kept quiet, and thought that maybe it's true. Now I'm mature; those days I was young. So I didn't know he should be punished at the time, but looking back on it I think he should've been punished by being imprisoned for a month.

It is striking that although she believed what he had done was wrong and worthy of some punishment, she also said: "It wasn't such a bad thing that he did, because I did like him and he did marry me." Still, she also liked other boyfriends and hadn't

decided yet which one she wanted to marry, so she felt he should have waited until she had agreed.

During times of intense insecurity during the war, a practice of what became known as “night commuting” became common, where people, especially children, would walk long distances from insecure and more remote locations to take shelter in places freer from the threat of LRA attack in or near trading centers and towns. Around Gulu town, people slept in the compounds of hospitals, schools and churches, and even in the bus park and on the verandas along the streets.³¹⁰ This practice exposed young women and girls to great risk of sexual violence by removing them from the shelter of their homes and protection of family members. Two of the situations of abductions in this study happened under these circumstances. One girl was night commuting when a man came with two others and abducted her and locked her in a room where she was raped by one of them. She explained:

He knew that I couldn't run back because of the insecurity. He knew I wouldn't run, so then after that I just stayed with him. I was 14. I also conceived with him. My father was in the hospital so he couldn't do anything. My mother knew but she was so busy caring for my father that she couldn't come and talk regarding my issue.

Later her relatives wrote to the man and insisted that he pay *luk* to begin formalizing the marriage. When he failed to pay, her brother and mother finally came and took her home. She was pregnant at the time. So she gave birth from home and the man did not have rights to the child since he had not paid *luk*. In her case, she finally escaped the situation because of the man's inability to conform to the socially accepted way of taking responsibility for his actions. Her feelings about him were not part of the determination of an appropriate response in the aftermath of rape.

³¹⁰ See Perrot (2010), pp. 188-90.

Speaking to a group of men including the *rwot kweri* and his team and several other elders, they explained that abduction of the sort described to begin marriage was rare, since in most cases the woman would run away if she was able. Most marriages begin after the couple has negotiated and agreed amongst themselves and gotten the blessing of relatives and parents. They explained the difference from the practice of the LRA abduction in three key aspects. First, the LRA who abducted were strangers, and usually the boy abducting a wife for the purpose of “beginning a home” is known either to her or someone she is close to. Usually, the men insisted, the girl knows the person but was reluctant. “So it’s not as bad as the LRA.” This way of beginning a home through abduction does require a response, since the girl was brought forcefully, which means that it was *kiir*, a kind of unclean negative act, similar to taboo, which must be cleansed through sacrifice of an animal to be provided by the man (a chicken, goat, sheep or bull, depending on the magnitude of the *kiir*). The woman is the party to be cleansed. Although the act of the man is considered bad, he is not punished unless the girl made an alarm. This assumes that the boys/men abducting their would-be wives do so in a place where someone could hear and respond to her cries for help, and that they were unable to prevent her from doing so. If she doesn’t yell, or if no one heard her yell it is assumed that “she was interested.” If she does yell and people run to her aid, “the boy should buy a goat for her and her people and for those who came to her rescue.”

According to these men, a second difference between the LRA and a man trying to begin his home “is the difference between professional armed robbery and a petty neighborhood theft.” They said: “The LRA was threatening lives of those women, but with the “boy,” it is just a process of starting his home. He did not threaten the woman’s life, and he should “marry her and take responsibility for her.” Thus, the men argued: “It is not so harmful.” Such community leaders thought that an appropriate punishment the LRA who abducted would be life in prison, but they lamented that this would not happen.

The government should do it [punish them], yet they are protecting the former rebels now that they're back. At least when a crime happens at home here, the man has to *tumu kiir* and he can be jailed for some years, but the LRA [rebel], he's done much worse but he doesn't *tumu kiir* and he just walks freely – not in jail.

Third, the men argued, was the perspective that at least in civilian forced marriage there is love from at least one side, and it may develop into something mutual. However, in the case of the LRA, there was only force and no love.

The main factors involved in how the woman and her moral community perceived the act or marriage by capture and rape, and what they deemed an appropriate response, as noted above, were first, whether or not she had conceived; secondly, whether or not the man formalized the relationship and received social consent by paying *luk* (and eventually bridewealth); and finally whether or not the man provided for the woman and her/their children. These considerations affirm the importance of a notion of consent that is based more on the social contract of *luk* that takes place between families and clans than on either of the two individuals involved. It underscores the understanding of the social purposes of sex in the production of children and the paramountcy of social relations and social harmony.

Lord's Resistance Army abduction and "forced marriage"

One of the first women I talked to as part of this study who had been abducted by the LRA, and she described what happened after abduction as being raped in the LRA. She was pretty, with a round face and an easy smile. It took me by surprise that in response to a question about injustices in her life she began by describing her experience in the bush, but not as abduction or in any other terms, but as rape. She is the only person I spoke to who did. She seemed accustomed to talking about her experiences and I later learned that she was. She had been very involved with an NGO working with the "wives" of high-ranking men in the LRA. She had also spoken to other researchers, and in the beginning of our conversations, she assumed I had come there specifically looking for her because of her experiences. In fact, it just happened that her name came up from my random sample of the population of her village. The way that she responded to questions served to

sharply differentiate her narrative of LRA crime from those of other women. While she had come to view her experience with the LRA through the lens of sexual violence, most others would talk about sexual violence but within the context of abduction, interrupted education and/or social difficulties that they and their children faced upon return. But for her, the greatest injustice was “raping me forcefully when I didn’t agree. I was still young but they gave me to an old man not of my age group.”

A key part of the harm which women abducted by the LRA suffered, and continue to suffer, is the way in which their abduction broke the norms of Acholi approaches to marriage and love, approaches that are at the foundations of the social harmony of their moral community. Studies have shown that a quarter of all women and girls abducted by the LRA were forced into marriages and that half of these gave birth to children.³¹¹ None of the women in this study, formalized their relationships with the men to whom they were given in the LRA once they came back, although a few women who I have encountered in the six years that I have lived and worked in northern Uganda did. In these rare instances, the men followed customary Acholi procedures, making contact through his relatives with the woman’s relatives to arrange for the marriage and to pay all appropriate *luk* and *lim akumu* (bridewealth). Most of the women I have encountered, however, had no desire for such an outcome and their relatives either agreed or were supportive of her decision.

The consequences of the forced relationships and marriages experienced by many women abducted by the LRA pose significant challenges to social harmony, and many communities have struggled to deal with these. In a sense, even though most of these women would be considered innocent of moral or even legal guilt for things which took place in the LRA, and virtually all were victims of extraordinary violence and lack of protection which allowed them to be abducted in the first

³¹¹ Annan *et al.* (2008).

place – through no fault of their own, their very presence, and the presence of children in their parental home communities, is an aberration of Acholi norms and a challenge to social harmony.³¹² An illustration of this is the challenges that many women and their children have in gaining access to land and places of burial in the event of deaths.

One woman's situation highlights this problem. She was a "wife" in the LRA for eight years and came back with two children. Sadly, one of her children from her "bush husband" died. "I had nowhere to bury him," she said. Her new husband's family refused to allow him to be buried on their land. He was eventually buried in her home village, but only after difficult negotiations with her clan relatives. It was painful for her, since she now stays with her current husband and would have wished to have the grave of her child on the land of the clan into which she is now married. This is a sorrowful situation, for in the midst of grief over her lost son she experienced rejection as well, in essence being sent the message from her community that she and her deceased child did not belong – that they were somehow outside of the moral community.

Since the children of such women occupy an ambiguous social space, belonging to and having full rights in neither their mother's nor their father's clan, how they are integrated is largely dependent on individuals in those clans, including leaders, and less on broader norms. Girling referred to the status of children of unmarried mother's for whom no *luk* was paid as "temporary" members of the mother's clan, and as always being seen as claimable wealth by the "real owner," which was the male genitor and his clan.³¹³ Under ideal customary circumstances, children are a

³¹² For a discussion of social exclusion of children born in captivity of the LRA, see also Atingo (2008), p. 21. It is also worth noting, that other societies have wrestled with the question of how to apply customary norms regarding children born to women that might be considered "illegitimate" but that happened during exceptionally violent circumstances, e.g. in India and Pakistan as a result of the rapes and abductions that took place on a massive scale. An insightful and riveting reflection on this is provided by Das (2009), see in particular pp. 30-32, in regard to children.

³¹³ Girling, (1960), p. 70.

kind of social glue for the mother's and father's families and clans, as well as the source of an accepted social place and identity for women. Yet for women who gave birth while with the LRA this is reversed.

Many women have experienced social difficulties in their parental homes or in the homes of new husbands after returning from the LRA, as documented in some detail by other scholars and practitioners.³¹⁴ But it is relevant to highlight examples of their experiences here to illustrate the consequences of the damaged social harmony caused by the abduction of the LRA.

One woman was twelve years old when she was abducted by the LRA, and she remained with the group for five years. She came back pregnant with one child, which her family did not accept. She married soon after she returned, but her new husband also rejected her child. He would insult them both regularly, continuing to call them rebels. He was also sexually violent toward her, but as in other situations of marital rape this alone did not drive her to separation. Eventually, the extensive cruelty he showed to her child became too much to bear and she left him and found another man. Fortunately, the first man had not paid *luk* for her so she was able to separate from him more easily. This woman articulates both the common social difficulties and concern for lost opportunities to be educated which are pervasive among women who have come back from the LRA.

Since I came back, even if my kid does something wrong and I try to stop him they will comment "that is the kind of mind that she came with from the bush." Yet they also discipline children in the same way. So I don't share with them because I think that will think I am a terrible person. Not even my man who I stayed with. I know they will judge me. . . . Currently, I'm finding difficulty in life, even today, because what has happened when I was young had determined my life today and my future. I have no education and life depends on education. If you know something you can do something. I have no access to that and my work is not something that builds my future. And you know as ladies when you stay with your husband and then

³¹⁴ See, for example, the work of Atingo (2008); Stewart and Anyeko (forthcoming).

you come back to your home the love of your parents is not the same as the way it was before you went to a man. I want to get my own land, even if it's small, and go there with my children and my sister's children who are orphaned and take care of them from there.

An additional aspect of the experience who were given as "wives" in forced marriages in the LRA is that this took place in the "the bush." As described in Chapter 5 above, the location where sex takes place is important, and there are strong beliefs that sex "in the bush" is inappropriate and carries negative cosmological consequences. It violates the norms that define the purposes of sex around the creation of and cementation of "a home." Sexual encounters within the context of the LRA occurred in a moral space outside of normal life, a space referred to by both those within and those outside the LRA as "the bush."³¹⁵ Many of the women I spoke to who had sexual experiences "in the bush" said that they feared or suffered cosmological consequences. And this was the case whether it involved the LRA or a non-combatant civilian man who raped them in a physical location that also qualified as bush.

As one woman said, her entire life has been affected by what happened after she was raped by the LRA "in the bush." She has intense dreams, and the children from both her "bush" husband and her current husband all suffer from strong nightmares. The fact that her current husband's children also have bad dreams affirms to her that it is not just a psychological effect, or due to memories, that she and her earlier children might have. Thus both she and her current husband believe that these dreams are because they have not done any rituals to deal with the cosmological consequences of sex in the bush. They are still saving for the requirements to perform them.

³¹⁵ Actually, literally "the grass" but it is widely translated into English as bush. In fact another way of saying "rebel" is to say literally, "the people of the grass/bush" *jo me lum*.

Another woman whose primary concern was about the negative cosmological consequences of being raped in the bush talked about the importance of a cleansing ceremony that was done for her.

I shared the issue with people from home but nothing was done until I shared with my man, after we had observed that both the children kept falling sick. So when the elders realized all that had happened to me they did cleaning for me, and then the children were healthy. Cleansing was done; they bought a goat, circled me and killed it by stepping on it repeatedly. They cut it in pieces and roasted it and then threw it in all directions.

She felt much relieved after the ceremony and believes that her children's health situation has greatly improved.

Differences in perceptions of women who were raped concerning appropriate punishment feature more prominently in Chapter 3; however, it is worth revisiting a few features here. In comparison with women's reactions to fitting punishments for the men who abducted with the intention of marrying them versus those abducted by the LRA and then installed in forced marriages, the perception of the crimes' gravity was much greater for the rebels. As noted in above, most women abducted by civilians with the intent to marry were deeply offended and thought the boy/man responsible should be punished in some way, such as being beaten by her brothers or sent to prison but for a relatively short time. Women raped by the LRA, in contrast, mostly wanted those responsible to be killed or imprisoned for long sentences. As one woman put it:

It's different what would be fitting punishment. Depending on the circumstances, it's not the same punishment that should be given in general any time a man sleeps with a woman forcefully. It depends on who does what.

This woman had been raped after having been abducted by the LRA, but she was also raped by her husband. She described her relationship with the man who raped her in the LRA this way, "we were staying together like husband and wife." But she would always refer to her civilian husband, who also raped her, as her

“real” husband. And in terms of punishment for the two “husbands” who raped her, In her estimation, her “real” husband should be punished by prison for two months. But, she added:

The rebel, I heard he’s still alive but I haven’t seen him. I heard he sometimes comes home, but he’s in the bush. If at all he’s the kind of person to be punished, and I was the judge, I would sentence him to life in prison without any kind of mercy. The government needs to give a fitting punishment.

This can be interpreted through the understanding of the moral culpability of the man in terms of how his act affected social harmony. In the cases of LRA abduction – although it was practically lived and experienced as a temporary “marriage” which included keeping a house, bearing children, and having a sexual relationship – it was not a socially sanctioned marriage. Unlike those who were abducted and raped by civilians intending to marry them through the processes of *luk* and bridewealth, these women were not “married to a home.” Being abducted and then subjected to forced sex and forced marriage in the LRA meant that the women affected were taken against their will outside of their moral community into an entirely different and dangerous moral space.

A number of women talked about their experience of forced marriage in the LRA as if it was akin to an ordinary marriage – but always in reference to marriage “in the bush.” For example, one woman talked about conversations that she had with the man who was her “temporary husband” which sounded much like an ordinary married couple. They discussed plans for the family including gardening, budgeting, and generally running their household. At one point she was even able to tell him that she was tired of going out on attacks and he allowed her to stay back and keep to their base.

When such things were happening, you move and you’re supposed to attack vehicles on the road, and one day I told my man that I was tired of all the attacks and I wanted to rest and then he let me rest and used to take other people instead of me on the attacks.

This depiction, and others like it, are not to imply that sexual violence was absent, but that there could develop a normality and routine within LRA forced marriages to which some women became accustomed, if not without resentment and regret, as expressed by the following:

He [the LRA man who became her “temporary husband”] forced me into sex and then he continued living with me there, so that by the time I came back we were staying with him like husband and wife. But it was forcefully when he had sex with me. I didn’t like it.

Another woman also described her LRA forced marriage in terms of husband and wife, but was also clear that the relationship was not based on love but the coercive nature of the circumstances:

I was abducted by the LRA, [and] they gave us to a man and you stay like a wife and he had sex with me whenever he wanted. I was 14 years old. I was there two months, then I escaped . . . I escaped at night with my cousin when people were asleep. There was no one to tell, you can’t do anything, you just accept – but not out of love, just because we were forced by the situation.

As with many women who experienced marital rape in ordinary life, women who were abducted and acted as “wives” to husbands in the LRA often saw the sexual violence they experienced as just one of many injustices that they suffered in a violent and unjust context. Sometimes this expressed itself as highlighting particular incidences as particularly violating and traumatic. One woman who had been abducted in her early teens described a specific occurrence of sexual violence after one of the co-wives tried to escape. As punishment he laid them all down in a row and had sex with them one after another and then they were beaten with knives. “That was such a terrible violation,” she remembered.

Other LRA rapes

There were also situations reported in this research that lie outside of what most observers of LRA behavior have documented as normal.³¹⁶ However, of the thirteen situations of rape committed by rebels in this research, seven of them fall into this category. These supposed anomalies deserve more investigation, as the fact that they come up as frequently as they do in my small sample may suggest that “deviants” to the norm might be more common than previously thought. Another researcher doing work with children who were born in captivity, many of whom are now between eight and twenty years old, also noted that sexual violence such as rape during attacks came up regularly in the violence that they described and drew.³¹⁷ Perhaps this is partially explained because women were fearful of coming forward when violations of the LRA rules took place, and many of the women whose stories have been best documented and studied were married to high level commanders, perhaps affording them a higher level of protection from sexual violence from other men within the LRA. As this woman explained:

I couldn't report the rape there because if you report then they will ask who did it to you. And then if the person realizes that you're the one who reported them, they'll kill you. So instead of risking your life you keep quiet.

Another woman was raped three different times by different rebels after she was abducted, but she hadn't been designated a “husband” because she was still considered too young. Despite the risks, she chose to report the men who raped her to their commanding officers. But was accused of lying and was beaten for it all three times:

³¹⁶See for example Carlson and Mazurana (2008); Wood (2009); Justice and Reconciliation Project (2006a).

³¹⁷ Personal communication with Beth Stewart, a researcher from the University of British Columbia who conducted fieldwork in Gulu for six months in 2011. Her forthcoming thesis is about children born in captivity of the LRA. See also Beth Stewart and Ketty Anyeko, (forthcoming), p. 11, where Figure 4 reproduces one of the drawings of rape during an LRA attack.

It was the low-level rebels who would do it. I reported to their commanders. One of the commanders is dead now. He was shot when we were there by the helicopter gunship. Because they kept on changing the commanders, so it kept on happening in different groups. . . . They would come and pick me from where I was sleeping and then tell me to follow him, and not what he was going to do, and then when I reached some spot in the bush they would rape me.

The LRA had a pattern of strictly regulating sexual conduct within their ranks. However, it is unknown how common situations like hers might have occurred. For example, the woman described previously who was punished after her “co-wife’s” attempted escape was also raped by a rebel who had separated from his group after she escaped and then re-captured her. He forced her to stay with him for a week and raped and beat her each night “as a routine.”

I know both of them and they are both back now. The first one I was given to is in *** and the second one who got me after I had escaped is in ***. The one in ***, there was a time I met him in town. He saw me but we didn’t talk to each other, but we knew each other. The one that I was given to forcefully he came to find me and tried to talk to me, but I didn’t answer him and eventually he left me alone. I was 13 when they took me. That’s why I didn’t have any children from that experience. I was so young. I stayed roughly three years in total – in Sudan for two years, then we were brought to Uganda when I was shot and injured; that’s when I tried to sneak away, it was about 11 months. That’s when that man got me with the injury but he had no sympathy, he just raped me and beat me like that.

She escaped in 1998 before the amnesty law was enacted, so she was put in prison where she spent almost six months before a children’s rights NGO became aware of the situation through a relative who worked in the prison and finally secured her release. During that time she was also raped by a soldier who was imprisoned with her (discussed in the section below on soldiers), and later when she got married, by her husband.

Although the situation just described seems to be an example of a lone rebel acting on his own initiative and outside of his command structure and the rules of the

LRA, others appear to have happened as part of a pattern. Some women who had been abducted by the LRA said that there was a ritual of initiation before which no one should have sex with them because they were still considered unclean and outside the moral community of the LRA.³¹⁸ They called the ritual *wiro jo ma ki mako*, which means “smearing the abducted people.” Oil was smeared on their chest, water was sprinkled on them, and prayers were said. Others, however, said they were raped within the first days after abduction and did not mention this ritual. The following two accounts describe a different progression of events following abductions, but both include reports of rape almost immediately after being taken.

The Konys³¹⁹ abducted me when I was still young. They also raped me. The rebels used to force me to have sex. I also was shot in my hand [she showed a crooked and deformed finger]. When I was first abducted any man would just come and use me in the way that he felt. But after you get used to the place, then only one man will come and claim you. So then, that man becomes your husband temporarily. The way it used to happen is that once you settle for the night in a camp while moving they would just come. I was abducted and I stayed for four years and then when I got home I got married, and then they abducted me again and I was there for eight months the second time³²⁰.

³¹⁸ In the Survey of War Affected Youth it was found that in the first two weeks of abduction, 10% of abductees interviewed reported receiving and initiation ceremony. If they had stayed in the LRA as long as a year, 88% of them had undergone initiation. See Blattman and Annan (2010).

³¹⁹ The LRA are referred to in several different ways. Sometimes by the word for rebel in Acholi, *adui*, or as the LRA, or as “the Konys” It is a common practice in Acholi to talk about a group in the plural of the prominent person from that group. For example, my family might be referred to as “the Hollys.” Some do not distinguish the different rebel movements that have been active since Museveni’s NRA/M government came to power and will call the LRA “the Lakwenas” referencing Alice Lakwena. However, I have taken care to place when the incidences described in this section took place, and none of those included here could have been the Holy Spirit Movement or the UPDA. There is one rape perpetrated by a rebel that I encountered (not included here) because from the woman’s story I was unable to be sure which of the three rebel groups might have been responsible for it.

³²⁰ Interestingly, this woman was able to pinpoint exactly who commanded the two groups responsible for the rapes that fall outside the more typically documented practice of abduction and rape in the context of a forced marriage. I have chosen not to put their names for purposes of confidentiality of the woman; however, they were not rogue elements, and the command structure

Another woman was raped during an attack on her village.

The rebels attacked our home and since it was at night one of them raped me and I conceived and I had my first daughter. I don't know the father of my firstborn. You can identify the rebels because they move with girls and we saw girls in their group who were abducted. I was in the house when the rebels came; all of us were there with my parents in the house. The rebels came and made us all go out to the firestone; one held my hands and said you follow me and took me to the bush where he raped me. I came back and told my mother, and then after some time I saw my stomach growing and realized I had conceived.

She talked about the difficulty of not knowing the father of her child. Now she faces pain of her daughter's rejection. Because of the child, her situation and the social impact is similar to those who were abducted and came back with children. Her husband refuses to provide for her like he does the other children, and when he drinks he is cruel to her. The woman said: "If I knew the relatives of the man they should help me, but I was raped and I didn't know the man."

Yet another woman was abducted for only two days before she escaped, but she was raped during that time. She was married when it happened and had already given birth to two children. "It was one rebel who did it and I did not know him." She told her husband about what happened and he continued to relate with her normally after that, which she appreciated. "When I told my husband he didn't react, he knew that it was not something that I wanted. He knew I didn't do it intentionally."

Women like her who were raped by rebels but did not have the same experience of a forced marriage posed less of a challenge to the social harmony of their moral communities when they returned. The sexual violence they experienced was more of an individual violation, whereas the rape that happened as part of forced marriage was experienced as a crime against the individual, their family, and their

she mentioned would indicate that they should have been among the LRA groups operating under strict control and regulation.

clans, as well as the general mores of Acholi society. The kind of harm that the act of rape caused – social, familial and individual – differed depending upon the circumstances, and therefore an appropriate remedy would need to take such circumstances into account.

Women who were abducted and forced to marry civilian boys and men who knew and intended to marry them, and who formalized their relationship through traditional procedures, and those who were abducted by the LRA and forced into marriages in the context of the bush had, in many respects, qualitatively similar experiences. But the dissimilar settings of these experiences brought different cosmological consequences, and differing social effects generated more or less damage to social harmony. Varying notions about appropriate or just responses to such acts are shaped by how the crime or wrongdoing is interpreted relative to such differences, at both individual and socio-cultural levels.

RAPE BY STRANGERS

There were ten incidents of rape by strangers reported in the present study, four by non-combatant civilians and six by Ugandan government troops. One of the striking similarities among all such rapes, whether civilian or government soldiers, was the overwhelming concern of those raped with the health implications of that forced sex, especially the possible (and for some, later confirmed) contraction of sexually transmitted diseases or infections.³²¹ As this woman resident in an IDP camp during the war narrated:

I don't have my mother or my father and so by then I was staying with my sister. I had fear that if I tell her she might beat me so I didn't tell her. I only shared the issue with my friend and afterward she advised me to go and test and I went for a test. I had been walking on the road and it was coming to seven in the evening, and that is when it happened. It was just like these paths here but some

³²¹ Few women in this study actually accessed health services though this was a primary concern. For a study of women who experienced sexual violence and did access medical services, see Kinyanda *et al.* (2010).

paths are deserted and when people aren't there such things can happen. I have never shared it with anyone since then, not even my current husband. Only my friend and the medical personnel. They didn't talk to me about going to the police or give me any information. I had thought of it, but no one could help me to lead me through that process. If I was a judge, such a man should be hanged. That is the best thing. Not even to stay in the jail for his life. No! He should be hanged!

Fortunately, she tested negative for HIV. Her story highlights a common theme among women raped by civilian strangers and strangers who were government soldiers. The women typically wanted harsh punishments to be meted against these rapists, though many did not have the opportunity to pursue this path, either usually because they did not know who did it, but also sometimes because they were fearful of repercussions. Interestingly, these rapes caused less social harm than even those committed in LRA forced marriages, even though the latter were also thought deserving of harsh punishment. This can be understood, yet again, through the lens of the importance of social harmony. Because these strangers who raped were all outside of moral community of the women, or were assumed to be since they were unknown, their punishment was not seen as a threat to the moral community and to the social harmony within it, and in some cases such punishment would even have protected these.

Civilian strangers and rape

The war created opportunities for exaggerated violence against women, and there have been reports of people who posed as rebels, often in the aftermath of rebel attacks, to loot and, as in this case, to rape.

The rebels caught me and I was also "raped" [she used the English term] by them. But actually it wasn't the Lakwenas that raped me; it was a man who pretended to be rebels. The rebels would abduct women and take them, but [men like the one who raped her] they only wanted specifically women in the house, and they would keep you for a few days and then let you go back. They took me for three days. The rebels abducted me but they weren't the ones who raped me.

The second time I was abducted by a stranger after I had produced my second born. . . . My husband was also at home during that time and my baby was four months old. It was actually one man who came with a gun and a knife and a torch. That was the time when the rebels had massacred in *** and people were scared, but they were not rebels. He came and started calling out, saying we should come, so that we would think that there were many people even though he was alone. He had a head torch and looked around and we were sleeping. He pretended as if he was cocking a gun to shoot my husband, since he was trying to protect the baby and me. When he was fighting my husband, I tried to protect my child but he grabbed my child and threw the child across the hut hard.

Then my husband ran to the child, and when he did that the man grabbed me and pulled me outside. He took me outside, not even very far from my home, and then he just raped me in the open and beat me seriously and told me to go back home. It was so dark, he didn't cover his face, but since he had the torch on his head [she motioned adjusting a head torch], and then looking into the light, we couldn't see his face, so we have no idea who it was.

Like others, she was also anxious to have medical tests and get the results and was happy to find out that she was negative for any sexually transmitted diseases or infections. She thought the rapist should be punished with a life sentence.

Another woman was raped while in the IDP camp by a resident she didn't know. He did it by the well, which as has been discussed, carries special negative cosmological consequences and meaning. So her parents thought she should be cleansed, but that trying to pursue a legal case against him in court was less important. She decided to marry not long after this, even though she was still quite young at fourteen years old, because she felt she needed the protection of a man to prevent such things from happening again. Her strongest concern, as with others in her situation, was about health. She felt she should have been taken for an HIV test although she was not, and at the time we talked she was worried because the man who had raped her had died.

The last woman in this category was also raped in the IDP camp.

When I was in the camp I was raped during the night. I don't even know who it was. It was two of them who came, so they kept me from making an alarm and one of them raped me. I made an alarm as soon as they let me go, but they ran away then before people could come. I told my mother after it happened, but she was someone who is saved so she told me to just leave the issue, to forget about it and forgive the person. Also since I didn't know the person, I couldn't do anything. My mother just told me to go to the hospital. So I went and tested.

Test results were negative, and the woman talked about her relief. She said what helped her most after it happened, especially not knowing the person combined with her mother's reluctance to pursue any other justice avenues based on her spiritual understanding of forgiveness, was going to the doctor.

As will be seen in the following section on rape by government soldiers, whether the man was a combatant or not did not seem to drastically impact the way the woman experienced the crime. Rather, his location in relationship to her moral community was what was most significant. Three common themes in all instances emerged: a desire for harsh punishment, the importance of health implications of the act, and a concern that the experience not be repeated.

Rape by government soldiers

Of the six incidences of rape by government soldiers in this study, four of them resulted in punishment. Because punishment of rapists was a rare occurrence in the overall 94 situations in the study sample, this high proportion is worth noting. Two government soldiers who raped were shot and killed immediately, one was beaten and was then imprisoned, and the last was initially incarcerated although the woman he raped did not know how long he was held.

One of these women's situations was highlighted in the third chapter above. She was raped by her cousin when she was thirteen, and not long after was raped again by a soldier. He was shot immediately afterward by other soldiers who ran to the scene after being made aware of what was happening. Afterwards, her relatives took her for HIV testing and she was negative. "He was shot and I was negative.

That was enough for me.” She expressed her satisfaction that he had been killed and said the main reason she felt that way was a fear for her life, and that he might repeat the rape.

Two women raped by soldiers were subjected to this violence by government soldiers after they escaped from the LRA.³²² The story of the first of these was recounted above. After escaping from the LRA she was captured by the UPDF before the Amnesty Act was in place and was imprisoned. While there, another prisoner, a government soldier who was serving time for indiscipline raped her. She reported him to the prison warden and he was given a severe beating – fifty strokes with a cane. She was concerned that he might do it again, but she was released before anything else happened. The other woman was raped by a government army officer who was in charge of debriefing a group of women who had all escaped the LRA together. According to her, he raped any of the six of them whenever he wanted during the month that they were held in the barracks before they were finally released. She continued:

We told another group from the army that came to collect us what their leader had done to us. But he denied doing it and said that he only asked us where we’d been in the bush and other information from us. We also told the LC of the area where the barracks in *** was. The LC took the report to the RDCs office and they arrested that NRA man [the National Resistance Army (NRA) was the name of the government army during the first ten years of the northern Uganda war]. They put him in the army prison. But I don’t know how long they kept him there because the day that they put him in prison was the day they provided us transport to return home.

Like other women raped by strangers, she was concerned about her health and wanted a medical examination, but none was organized for her. She wanted the soldier to be punished and thought he should be imprisoned for life, although she never found out how long his stay in prison was. Her situation, as well as that of

³²² Others have documented the occurrence of government soldiers raping women/girls who escaped from the LRA. See UNOHCHR (2011), p. 48; HRW (2005).

the following woman, were the two examples I encountered where the women clearly perceived rape as political. They both felt that the soldier acted toward them as though they were enemies in the war, even though they considered themselves victims of the war and deserving of the soldier's protection.

A UPDF soldier came to my home and raped me from my home in the camp. He was supposed to protect the camp and then he did that. He was transferred after three days. I contracted syphilis. I told my nephew's wife and she took me to the hospital and they gave me tablets to treat it from there. The army should've paid my medical bill because I suffered for two years.

She did not report him. At first, she was afraid that he might take revenge or intentionally not protect her, or the camp, as it was a time of intense LRA activity. She decided that the risks outweighed the remote chance that he would be punished. However, she did not have long to consider her options since he was transferred to another area and she never heard about or saw him again.

To conclude this section, two incidences of rape by government soldiers will be recounted in which the soldiers perpetrating sexual violence do not fit into the category of "stranger." In both, the situations were intensely personal. In the first, the man was part of a conspiracy of revenge against the woman's husband; in the second, the man intended to marry her. In fact, this second case could have easily fall into the category of "marriage by capture," but it was not included in that section because the perpetrator was a government soldier.

The first woman had been abducted and raped by the LRA in an incident described above. When she returned she married, and she and her husband were attacked in their home in the middle of the night by a government soldier who raped her. The soldier was the new lover of her husband's ex-wife. The plan was to rape her and kill him.

Before attacking my husband he [the soldier] raped me and while he was raping me, my husband got his gun and shot and killed him. That guy was an army man so we were taken to the barracks for shooting a soldier. But we explained to them that it was self-

defense and my husband didn't even know how to use a gun; he just did it somehow because of what was happening to me. So they let us come home.

My husband said he understood that it [the rape] was by force so it was not my interest [in the rapist]. He said that he loved me whether the man who raped me was sick [a reference to HIV] or not, but that I am his wife and we would stay together no matter what.

The second woman originally said that she had not been raped, but then added that her "first husband was a soldier." She then went on to describe how their relationship began:

On the first day he took me to his place; maybe that was rape. He took me there by force but what we did there I don't think it would be called rape (*tek tek*). He had talked to me but I was not interested in him. I stayed with him after that and didn't go home. I was pulled on the way by my [future] husband forcefully. But once I was already in his house I stopped resisting.

My father is a very rude man. That man [the soldier] locked me inside from midday to midnight. So I knew that if I left at that time and went back to my father so late my father would beat me. So I just accepted that I would now need to be the wife to that soldier. I could not tell anyone. There was nothing that I could do. Who would I report to? He was a soldier.

She felt helpless in the situation and so surrendered to the coercive nature of the circumstances. She was a resilient woman and made the best of the new life that was thrust upon her. She appreciated how well he provided for her, and that was a key part of how she came to understand the initial act of forcing her into sex and marriage.

At the same time, however, she still said that she would have preferred if he had been imprisoned for seven years, "because I was a student at that time, very young – in primary school – and he was a soldier."

A striking aspect of the rapes committed by these soldiers is that the majority of them do not appear at least explicitly politically motivated.³²³ They are not indicative of a pattern of rape used as a “weapon of war” in a widespread or systematic way. One of the key characteristics of crime considered in most transitional justice theory and practice is the political nature of the violence. This observation about how rape by government soldiers in this study does not fit into this transitional justice notion is not meant to discount the importance of the extent to which this violence had political significance, even if only because it was committed by agents of the state who would not have come into contact with these women without the political conflict. Nor is it meant to overlook the overall political consequences the rapes may have had, as distinct from intentions of individual perpetrators, as part of the suppression of a marginalized group by the state. However the circumstances described above indicate ways that soldiers abused their power in very personal, individual ways, and their acts in several instances were followed by other soldiers acting decisively in exacting justice on their comrades-in-arms.

It was noted that in two incidences of rape by government soldiers, the women raped experienced and characterized the crime as political. They clearly saw the soldiers as agents of the state, and the act of rape impacted their relationship with the government. This is likely to have been true in other cases of sexual violence committed by Ugandan soldiers not included in this study. However, even the small sample in the present research suggests that an overemphasis on rape as political, or a perception of rape as a weapon of war, could lead to distortions in understanding. Conceptualizing the sexual violence perpetrated by soldiers through a strictly political lens de-personalizes the violence in unhelpful ways that cloud the lived realities of the crime as experienced by the women involved. Rape, even by soldiers in war, might well be better understood by not excluding the social

³²³ This stands in sharp contrast to rapes that soldiers perpetrated against men; see the film produced by the Refugee Law Project (2008).

meaning of the crime in the particular culture where the rapes took place and how it impacted not only the women individually, but the society and moral community in which they are embedded.

CONCLUSION: REFLECTIONS ON IMPLICATIONS FOR TRANSITIONAL JUSTICE

This chapter has considered the experiences of women in Acholi who were raped in the context of the northern Uganda war or its immediate aftermath. It does so in a way that explores how Acholi social understandings of love and the sexual violence of rape are tied to broader conceptions of culpability, moral responsibility, and the cosmological and social consequences of the crime or wrongdoing of rape. Some rapes are typically considered greater or lesser violations, by both the women who were raped and the moral community from which they come, depending on the specific context – including location – in which it occurs.

Differing individual and social perceptions of rape are strongly influenced by Acholi notions of love and its aberrations, and how these notions cannot be divorced from the basic understanding that love and sex do not have meaning as just between two people. This is vividly depicted by the comparisons of abductions by rebels and civilians. Through *luk*, the production of children, paying bridewealth and being accountable by providing for a new wife, some of these crimes are put “right” and maintain social harmony, whereas in the absence of all of these, rape can challenge the very foundations upon which social harmony is built. Perhaps this is partially why very few Acholis make links between combatant and civilian violence against women explicit. In fact, when I have engaged elders in conversation about the relationship between abduction by civilian admirer versus abduction by the LRA – both resulting in forced marriage – it typically took some time for them to even understand what I was asking or realize that there were any similarities at all.

Of the actors involved in the aftermath of rape, NGO workers best recognized the similarities in gendered dynamics of violence before, during and after conflict, whether perpetrated by combatants or civilians. An example is the program design

of NGOs, from around 2004, when there was an influx of returned “child mothers.” Many projects aimed at assisting these young mothers through group support. Most of the “child mother” groups were comprised of girls who had become mothers early in the camp setting or those who had spent time in the LRA and had children as a result of forced marriages. This programmatic decision had the potential normative effect of highlighting the disadvantages of early marriage and childbirth, and the benefit of not singling out formerly-abducted persons alone for assistance, thus avoiding further stigmatization and resentment.

It remains to be seen, however, if transitional justice projects were – or will be in the future – able to address calls for “broader projects with material gains” for women.³²⁴ Many transitional justice measures and funding available to NGOs continue to be exclusively earmarked to address wartime crime, which in many cases could be appropriate, especially if based on a careful response to the differences in social harm suffered depending on the context of the violence. Reparations, for example, necessarily focus on linking measures of redress to the harm caused by specific war-related crime. However, it will be important for civil society actors to link such action in public discourse to existing Ugandan legislation that provides the basis for civil suits and claims for reparation after ordinary crime as well if normative and practical links to the continuities of violence against women are to be meaningful. On the other hand, this study suggests a careful consideration of the extent to which it is useful for formal justice mechanisms aimed at war crime be applied.

For example, Hovil and Okello described the nature of GBV in two main categories – insider, and outsider – referring to domestic violence and defilement in the case of the former, and rape or violence by the UPDF and LRA in the latter. Insider violence was seen to be exacerbated by the conditions of the camps, for instance, women attempting to exercise control of their sex lives with their husbands

³²⁴ Bell and O’Rourke (2007).

because of fear of the prevalence of HIV in camps or tiredness resulting from the difficulty of camp life. They link this to transitional justice by suggesting a nexus between gender-based crime which took place in the context of forced displacement to the camps – which should, they argue, be considered a crime of war.³²⁵ But it is unclear what benefit using transitional justice mechanisms to address domestic or “insider” violence would have. This study suggests a rethinking of the exceptionalism of transitional justice and suggests that the differences about the transitional moment in this context should be understood in light of their impact on social harmony.

In the case of strangers, both civilian and government soldiers, women in the study almost invariably perceived the act of rape as a crime and thought the man should be punished harshly. There were common concerns about the health implications of what happened and fear about the possible repetition of rape. In both categories of stranger rape the social impact of what happened was limited and the more personal aspects of the experience were of greater prominence.

Cognizant of differences between what this chapter has referred to as civilian or combatant rape, which transitional justice discourse labels “ordinary” and “war-related,” respectively, this study indicates that deeper understanding is gained from appreciating the context in which notions of justice are formed rather than looking at crimes of war as divorced from the rest of lived reality.³²⁶ From interpreting the experiences of Acholi women who were raped under “ordinary” circumstances (that is, by civilians) and those raped by combatants, it is clear that both individual and collective Acholi conceptions of crime, accountability and the appropriate ways of redressing wrongdoing are not discrete to the transitional

³²⁵ Hovil and Okello (2007).

³²⁶ Boesten, using a case study of the war in Peru articulated a similar conclusion, that emphasis on the paradigm of rape as a weapon-of-war can undermine the transformative potential of the transitional justice project by obscuring other rape regimes; see Boesten (2010).

moment.³²⁷ Rather they reveal consistent understandings of sexual crime as based on Acholi notions of appropriate sexuality and purposes of sex, with an emphasis on how injustice impacted the moral community of the woman and its social harmony, and what steps were required to restore that harmony. Whether the violence of rape was socio-political or not was seen as less important in both individual and collective perceptions of the act and its aftermath than the social effects. As with Acholi love, understanding rape is not possible if it is considered to be just between two people. Both the transitional justice discourse and the formal legal system's inherent fixation on individual victim and perpetrator roles excludes the lived experience of rape (and other crime or wrongdoing) as social. Thus any determination of justice from such a perspective can only provide a partial remedy, even when fully and efficiently implemented. Used exclusively, this leaves many opportunities for social transformation in "doing justice" untapped.

In this context, abduction is a loaded word. Comparing abduction by the LRA and abductions by some Acholi men with the intention to marry might lead some to misconstrue the comparison to suggest that LRA abductions of women were a particularly Acholi phenomena. As noted above, this is certainly not the case, as a simple consideration of the widespread practice capturing and abducting girls and women in conflict across the world and across time easily demonstrates.³²⁸ Instead, abductions by the LRA to those by civilians are compared here to point out both differences between the two – which are significant and important – but also similarities, some of which might be more comfortable to ignore.

By comparing the two forms of abduction, I call attention to typically unacknowledged commonalities; in both a woman is forced against her will into a marriage at a time and with a person not of her choosing. It is my intention – and my hope – that this provokes a re-examination of a sometimes ambivalent or

³²⁸ See McKay (2005); McKay and Mazurana (2004).

apathetic attitude toward violence against women within a particular society by others inside it. Such a re-examination might provoke not apathy and acceptance, but outrage of a kind that demands change. Women do not ordinarily disappear without anyone among their relatives or other community knowing where they are. As the previous stories illustrate, sometimes friends or relatives colluded in the process. It is hard to imagine a caring Acholi relative or friend under ordinary circumstances would dream of complicity in the kind of abduction perpetrated by the LRA, yet in both the LRA and the civilian cases of abduction with intent to marry explored above, a girl was surprised and forcibly plucked out of her environment, interrupted in ways she was unprepared for, and forced into a relationship and new life which she did not consent to or choose.

A final comment: some readers of early drafts of this chapter took exception to applying the word rape to some of the experiences discussed above. "Rape" often evokes a particular moral response, conjuring up an image of a rapist as someone who perceives a woman merely as an object and a target, and the act of rape as having nothing to do with relationship, provision, social responsibility, or even love. Instead rape is imagined as the opposite of, and outside the boundaries of, all these things. The popular image of rape is typically predicated on some of the very limited explanatory axioms explored in the Chapter 2. But what separates appropriate sex from sex that is wrong or even criminal is the choice of a woman.

This is what needs re-imagining.

8 Conclusion: Medicine and lighting

An old woman and I sat opposite each other on a mat in her hut, the smell of freshly smeared cow dung in the air. She was known in her village as an *ajwaka*, sometimes translated as diviner or (incorrectly) as “witchdoctor,” but who self-identified as an Acholi traditional healer. She uses *yat*, or medicine, to remedy physical and cosmological ailments for her clients. She removes curses and charms, treats skin and eye diseases, helps “cool” the jealousy in polygamous relationships, cures mental illness and fuels the flames of passion in husbands who have lost interest in their wives. One of my informants, as narrated above, had shared her experience of feeling that all avenues of justice were closed to her, and how in desperation she had gone to an *ajwaka* in order to exact revenge on the man who had raped her, though she eventually changed her mind and decided to forgive him based on her understanding of the Biblical obligation to forgive.

The particular *ajwaka* I was with on that day, however, focused on remedies, or medicine, *yat* in Acholi. She did not punish wrongdoing, but removed its negative effects on the victims of at least some types of wrongdoing. I asked her if women ever came to her for help after they had been raped. She told me that they did, so I asked what remedy or *yat* she used to help them. She looked at me, evidently thinking my question silly and naïve. “There is no *yat* for rape,” she said emphatically. She did not treat these women. Rather, she said she would counsel them and advise them on what action they should take. “I tell them to go to report to the government so that the man will be arrested.”

How intriguing, I thought, for a woman who by most accounts could be considered an embodiment of what is “traditional” amongst Acholi would instead advocate for a formal, government-led justice process. As we have seen in previous chapters, only the tiniest proportion of women report to formal public authorities, and even fewer of the men they report end up in prison. Indeed only one woman in this

study had her case heard in court, resulting in the only instance that resulted in a conviction and imprisonment.

The healer's words bring attention to the difficulty of redress. Remedy after rape, as the healer indicated, and so many of the stories of women who were part of this study illustrate, is rarely forthcoming. Sometimes there simply is none. Certainly, there is no ready-made resolution that can be proscribed, picked off of a shelf and administered.

This thesis has explored what justice after rape actually means. To move toward a better understanding of this, I have rendered a portrait of what happens after forceful sexual experiences in two Acholi villages in northern Uganda. The interpretations I have submitted originate at the intersection of two discussions in scholarship and practice, and thus contribute to each: wrongdoing and justice, and sexual violence and rape.

THEORETICAL REFLECTIONS

On wrongdoing and justice

As human beings grapple with how to respond to the terrible things we do to each other, the phenomena of wrongdoing/crime and justice have been a nexus of concern throughout history and all through the world. Scholarship has explored various ways to understand the meaning(s) of justice, the theoretical approaches to it, and normative arguments about what it should be. In the context of war and during times of great political flux, a more discreet arena has emerged, labeled "transitional justice." Much of the present thesis has complicated, or suggested, a blurring of the analytical and normative distinctions of "ordinary" and transitional justice, and political or apolitical violence by holding them up to the scrutiny of lived realities in a specific place and context.

Here I wish to highlight key implications of this work. Two important areas need to be explored in transitional contexts. First, the relationship among those who are closest to and most affected by injustice to prospective justice actors. One window

into that is to examine various crimes and responses to them. The types of normative shifts which transitional justice theory claims to enable have as a prerequisite that the justice actors need to have, or to quickly establish, some level of “moral jurisdiction.” This is often lacking in conflict and post-conflict contexts. This is certainly the case in Acholi, but is just as certainly not unique to northern Uganda. In many places where transitional justice processes take place there are marginalized people with problematic relationships with the state, and the state is often inefficient, incapable and/or lacks will to do justice in their interest. Yet, the institutions of such states are usually either the very ones expected to practice justice that enables the normative shift posited in transitional justice discourse, or they are heavily involved in setting up new transitional justice bodies, in which officials from the distrusted state often continue to play important roles. In either case, these transitional justice institutions have varying levels of real and perceived independence from the state and, consequently, legitimacy with those affected by injustice.

Second, the priorities of those most affected by injustice in the aftermath of crime and other wrongdoing need to be understood and taken seriously. Population surveys on attitudes about forgiveness and justice provide limited snapshots of highly intricate orientations to life and social ordering. Alone they are clearly insufficient to appreciate the complex notions of crime and wrongdoing, and priorities of response. This is elucidated by examining the phenomenology of wrongdoing, justice and social repair that does not begin and end with the transitional moment, which is precisely what this thesis has attempted to do. This exploration, in the specific context of the Acholi, has made evident the paramount importance of social harmony in the aftermath of wrongdoing. This finding is highly contextual and cannot be safely generalized to other transitions or other groups. Recognizing this requires greater attention to the micro than most policy and theoretical discussions tend to invest. However, this work has tried to highlight the value of such endeavors. More than fifteen years ago Paul Richards warned “not to disregard complexity of historical and sociological details when

thinking about . . . conflict. Small wars [and the particular societies involved] need fine-grained explanation.”³²⁹

Jon Elster uses the same metaphor in his *Closing the Books*: “If I had had a theory of transitional justice, I might have begun the book by stating it and finished by evaluating it.” But, he goes on to say, he does not have one. He writes, instead,

for those whose intellectual excitement is triggered by the fine grain of societies rather than for those seeking the large picture. Implicitly, I suppose, I do not think there is a large picture to be found, since if I had thought there was one, I would have been searching for it too.³³⁰

To a great extent, my own sentiment echoes that of Richards and Elster. I find myself skeptical of claims about the large picture. I have intentionally focused on the “fine grain” of one society, or indeed not even that, but on the fine grain of two villages and the responses to one particular type of wrongdoing – rape. I believe that this inquiry and reflections on it suggest insights about ways of thinking about wrongdoing and justice more broadly, and what it can and does mean for those closest to injustice. But I think of these as potential arenas for, or approaches to, gaining insight rather than broad claims or generalizations. Indeed the only broad sweeping claim that I wish to make is that the meanings of crime or wrongdoing, justice and social healing are always highly contextual and should be treated as such.

On rape and sexual violence

The second major topic that this thesis explores is sexual violence and rape, especially in the context of war. Prevalent theoretical models typically downplay the role of sex in rape, both rape perpetrated by civilians – whether in peaceful settings or in warscapes – and by combatants during war. In “ordinary” circumstances of rapes by civilians, such rapes are about power; in war, the driving

³²⁹ Richards (1996), p. xi.

³³⁰ Elster (2004), p. xxi.

dynamic of power is exaggerated and has added to it the element of political instrumentalization – rape as a weapon of war. By inference, then, socially acceptable and legal sex is *not* instrumental and *is not* about politics or power. The experiences of women in this study explored in the previous chapters make clear that the axiom that rape is all about power is problematic. In the same vein, so is the idea that consensual sex is devoid of power and politics.

The lines inherent in common anti-rape discourse need to be blurred or redrawn. The sexual encounters of the women considered in this study might be imagined as existing along a continuum. On one extreme is violent, psychopathic, sadistic rape; on the other end are mutually enthusiastic, consenting partners with intense sexual desire for each other (even if many feigned the opposite in their first encounters). Most of the situations described in this study exist somewhere in-between. The line which distinguishes rape from acceptable sex is drawn at some point along that continuum. But on both sides, it seems that power, even sometimes anger, or politics, or the social upheaval of norms and challenges to masculinity are active. This thesis adds empirical, locally-grounded, and culturally-specific evidence in support of a more complicated and nuanced explanation of rape and its aftermath; the thesis also contributes to re-sexualizing the understanding of rape, and to acknowledging the role of power in all sex.

But power as understood here is not just something exercised by an individual man over a woman in any given sexual act, forced or consensual. Instead, sex as explored in the previous chapters is seen as expressing and forging power dynamics in gender relationships, which in turn are shaped by broader socio-cultural mores and social belonging that provide the basis of social harmony in Acholi. Rapes express something real, which is a manifestation of these forces, even if often a distorted one.

THE STORY OF THE OGRE AND THE MOTHER OF AYAA

Obibi “the Ogre” is a common character in Acholi folklore (and in other nearby groups). And the story of how the Ogre raped “Min Ayaa” – that is, the mother of Ayaa – is an archetypal myth in Acholi. The story was told to me first by retired Anglican Bishop Ochola. He narrated the responsibility of the ogre in perpetrating rapes in Acholiland. I asked whether the Ogre was a physical being, which you could see, or a spiritual one; or possibly *Obibi* was mythical, representing the evil within all human hearts or symbolic of illicit sexual desire? Bishop Ochola answered me with a question: “Can you see your own life?” He was answering my questions as an elder does a child sitting around a communal night-time fireplace (*wang oo*), employing mythical characters for pedagogical purpose. He later added: “We talk as if [it is] animals and birds, but it is human beings.” *Obibi the Ogre* in popular Acholi imagination is essentially a threat to Acholi community. *Obibi*, it is said, has no respect for human life. He is grotesque and has multiple eyes (usually either six or twelve).

And *Obibi* only rapes women who are mothers, but never young girls. “No one should touch you if you are a girl,” Bishop Ochola explained. According to him, *Obibi* targets mothers for rape for the express purpose of “challenging the husband and the children.” The following is based on a detailed version of the story of *Obibi the ogre* and the mother of Ayaa as told by Bishop Ochola:

There was a lovely young girl, named Ayaa, the name given to a girl who has many brothers but no sisters. Ayaa had three brothers: a rabbit, an elephant and lightning. Ayaa was walking one day to fetch water from the well when she met *Obibi* by the roadside. *Obibi* feigned social pleasantries and greeted her. He asked after the well-being of her mother [Min Ayaa]. Unfortunately, her mother was sick and so Ayaa told *Obibi* that she was unwell. *Obibi* pretended to be concerned and said that he would visit her. So he went home and prepared food for her.

At this point in the story, Bishop Ochola paused to explain that the ogre did not actually prepare food for Min Ayaa. Here, “food” represents the sexual desire of *Obibi*, a desire that grew in the ogre when he was at home. In the story, Bishop Ochola explained, the reference to food is to “hide sex from children.” As

discussed above in Chapter 5, food is often used as a metaphor for sex and is an integral part Acholi notions of sexuality. Bishop Ochola continued:

Obibi prepared food and then took it to the mother of Ayaa and pretended that he was going to feed her and nurse her in her illness, but he “mistreated” her. [He then added in an aside: “this means that he raped her, but you do not say it straight.”] He did this to challenge the sons. So the sons had to do everything possible to kill him. When the sons learned what happened they began planning how to kill him. The rabbit tried first, but when he met Obibi he realized that he would not succeed and was so frightened that he urinated on himself and ran away. Then the elephant went to confront him, thinking that at least his strength was more closely matched with Obibi than his brother the rabbit. But when he faced Obibi and they began fighting, Obibi delivered a strong blow to the elephant’s tusks with a club and it knocked him so hard that he flew miles away.

Confident in his victory and superior power after defeating two of her sons, Obibi went back to mistreat Ayaa’s mother again. When he arrived he found the mother still weak from her illness and the mistreatment. He called to her but she refused to answer the door. He taunted her, saying: “Who will protect you today? I have defeated your sons.” But he did not realize that Lighting [the third son] was hiding in the house. Then Lighting came out and struck Obibi several times until he finally died.³³¹

I asked him who the brothers represented in northern Uganda now. I had hoped that he might reveal which institutions or actors he associated with the incapacity of the rabbit, the failure of the elephant and the impending (and inevitable) success of lighting. His answer, as with most such stories, left enough ambiguity to be relevant to many diverse situations. According to him, the rabbit represents people without ability or capacity. The elephant represents those who try and might be strong enough, or have the ability, but nonetheless fail. “And who is

³³¹ The words of the story as I have written them are not an exact quotation of Bishop Ochola; however they maintain the content and tone as he told it but it is narrated here to make the flow of the story clear and more easily read. I have also confirmed with other Acholis that this is a common story in Acholi folklore, and asked open questions about the meaning of serving the mother food and “mistreating” her to corroborate Bishop Ochola’s assertion that these are metaphors for sexual desire and rape.

lighting?” I asked. “Lighting is the one who will always succeed. Lighting is from the community – but we don’t yet know who is going to be lighting.”

The story of Obibi and Min Ayaa reiterates several aspects of the phenomena of rape and justice in Acholi that have been explored in this thesis. The description of the woman who was raped in the story is identified in relation to her social importance and position. She is “the mother of Ayaa” and we are not told her name, much like many of the women in this study who I struggled to locate using their names until I went back to their household data and found the names of their children and asked their neighbors if they knew the “the mother of so-and-so.” The ogre rapes her in order to challenge her sons. This highlights the social significance of the crime and the way that it is meant by the ogre, and perceived by others, as a crime not only or even primarily against the individual woman but against the social order, a social order that is sustained on her gendered role as a mother and notions of masculinity. As seen repeatedly, Acholi love and aberrations to it cannot be understood if they are thought to take place only between two people.

The story also highlights other understandings of Acholi sexuality elaborated above. Here the importance of children to establishing belonging, identity and social stability is evident. Similarly, the recurring metaphor of sex and sexual desire as food portrays a notion of sexual desire as a basic and vital need, which cannot be denied and over which will power has little control. If left unsatisfied for too long it can lead to starvation. In terms of a response to Obibi’s heinous crime, it was taken up by her sons and she was presumably passive, showing again the importance of family and “the home people” in determining appropriate response to wrongdoing over and above individual women’s sentiment, or in the current situation the roles of other actors such as the church, NGOs or governmental and other public authorities. Her relatives made a decision to respond in the interest of social harmony. Obibi’s death posed no threat to social harmony. In fact, killing him was required to restore it. No attention to the needs of the mother are noted,

and such needs can be understood as secondary to the main concern of killing the ogre in order to restore social harmony.

Interestingly, in a lecture on *mato oput* entitled “Spirituality of Reconciliation” Bishop Ochola referenced Obibi as well.³³² In it, he said that there are certain crimes that are so far beyond the normal realm that they are not in the Acholi tradition, and therefore the traditional rituals such as *mato oput* cannot be used to address them. Bishop Ochola commonly used the name of the ritual and the word and concept of reconciliation interchangeably.³³³ These crimes are “in the realm of demons” he said, and you “cannot *mato oput* with Obibi. Here he seems to be suggesting that there is some wrongdoing for which rituals of reconciling human beings and restoring social harmony among them are not relevant. Among these crimes he included rape (emphasizing specifically gang-rape), incest and cannibalism. These are crimes commonly attributed to the ogre in Acholi folklore.³³⁴ Such crimes are so dark, and so counter to Acholi values and the foundations of social harmony, that recognizing their existence as attributable to merely human causes in itself might threaten the possibilities of restoring social harmony.

MEANING IN CONTEXT

Looking at what justice means in the aftermath of rape in Acholi must necessarily appreciate the continuities and differences in notions of rape and responses to it before, during and after war. This thesis has shown how a large part of how a

³³² A copy of Ochola’s lecture (October 2009) is available at www.usask.ca/stu/emmanuel/docs/spirituality-of-reconciliation.doc. For the reference to Obibi see p. 22.

³³³ In fact, when I worked for an NGO as a “Technical Advisor on Community Reconciliation and Peacebuilding” I was told, rather bizarrely, to introduce myself in Acholi as a “*mato oput* advisor,” even though I had never even seen the ritual performed. The title of an influential report “*Roco wat I Acholi: Restoring relationships in Acholi-land*,” helped to popularize a better translation; see. Baines (2005b).

³³⁴ Incest, rape and cannibalism were attributed to the ogre by Bishop Ochola in his lecture, but this has also been evident in my own research and are three types of wrongdoing commonly mentioned as the activity of Obibi in folklore.

woman in Acholi experiences rape and the harm that it causes are social and cosmological. These are predicated on understandings of wrongdoing and the challenge that such wrongdoing poses to social harmony. Thus redress after rape that is appropriate depends not only the act of forced sex itself, but on its specific circumstances.

The present case study of cultural notions of rape and its aftermath in two Acholi villages has explored what justice after rape means for the women in these two villages and used this exploration as a lens through which to reflect on response to wrongdoing more generally. Northern Uganda, and Acholi in particular, have been at the heart of debates around justice and what it should look like in the aftermath of mass atrocity. The often propounded representations of Acholi society that emerged following the ICC's intervention – as either innately forgiving and able to deal with mass crime through ritual and a traditional system of justice or as worryingly violent in traditional responses and often supportive of more formal and distanced justice interventions – miss crucial aspects of lived Acholi realities which this study illustrates: *the profound value of social harmony, and a deep distrust of higher authorities to dispense justice in their interest*. A fuller appreciation of these two aspects helps provide an interpretation of otherwise perplexing evidently contradictory Acholi attitudes about justice. There is an internal logic in both the extraordinary displays of forgiveness in Acholi and the sometimes brutal violence and support of harsh punishments.

I have found that what differentiates notions of right and wrongdoing amongst Acholis is directly related to the harm that the latter causes to social harmony, and that the determination of what constitutes an appropriate remedy to wrongdoing is what is needed to repair and restore that harmony. And this determination is in large part the consequence of the moral jurisdiction of those involved in establishing a way forward after rape.

Understandings of justice often focus on the two parties most affected by a crime or wrongdoing: the victim and the perpetrator. In the situation of rape in Acholi, as

we have seen, there is often no obvious or practically possible remedy for the former, and punishment for the latter is typically not what the women who have been raped would prefer. Though these two parties may be ones most directly affected by the violence, and so a focus on them in response is in many respects appropriate, as the previous chapters have illustrated, it is crucially important in the context of Acholi to widen the understanding of justice, or perhaps more accurately, to widen understanding of the end goal of actions typically pursued after wrongdoing amongst Acholi.

In order to do this, it is necessary to revisit here two crucial aspects of lived Acholi realities central to the present study: (i) the importance of moral jurisdiction in determining the credibility of justice in the aftermath of crime or wrongdoing, and (ii) the primacy of social harmony in Acholi conceptions of appropriate responses to wrongdoing.

Clarifying moral jurisdiction

This study has examined understandings of, and responses to, rape as a system of belief in expression. Importantly, these understandings and responses have been situated within broader power dynamics in the social and institutional environment in which they are embedded. The responses to rape and other wrongdoing in Acholi are profoundly influenced by the gap that currently exists between former ways of responding to crime and other wrongdoing weakened and warped by long years of war and displacement and the lack of formal legal institutions with the necessary moral jurisdiction to act and contribute to social harmony. Rather, the higher public authorities, or distanced justice actors – such as the Ugandan judicial system, including the new International Crimes Division (ICD), and the International Criminal Court – have failed to earn the trust needed by those most affected by violence in order to serve justice in the latter's interests.

Girard asserts that the judiciary is effective at confronting and containing vengeance because it operates in a system where it has universal respect, independence from the sovereign, and has a monopoly on revenge.³³⁵ A judicial system is effective when it exists in conjunction with a firmly established and respected political power. For many Acholi, this is clearly not the case, at least not yet, for the ICC, ICD or the Ugandan judicial system in general.

In the context of recent and current Acholi, justice in the aftermath of crime or wrongdoing is less a question of moral or legal culpability and more of restoring damaged social harmony. An appropriate and legitimate remedy is therefore not primarily about punishment of the guilty party or healing of the victim (though it does not always preclude these things), but cleansing the impurities and “cutting” the consequences of it from future social life. This is evident even in many of the rituals which are currently being referred to as “traditional justice” such as *tumu lobo*, *tumu kir* and *tumu romo* – cutting/dividing the earth, the curse, or the sheep – all of which were noted in this study as ceremonies that dealt with cosmological consequences of rape. However, these practices are also used in many situations that have nothing to do with rape, but are rather responses to other contaminations that need to be cleansed or forces that had been set in motion that need to be stopped to avoid negative ramifications.

But such notions are rapidly evolving, and as has been noted in previous chapters there are multiple (often coexisting) understandings of crime and other wrongdoing that are associated with the need for healing as well as newer notions of individual rights and a proportional response which seeks to remedy through punishment of the perpetrator and reparation for the victim. In the absence of justice actors who share the latter perspective but lack moral jurisdiction, a tension is mounting. There is a demand for justice by many justice actors, as well as some

³³⁵ Girard (1977), p. 23.

Acholi, which cannot be met and, if attempted, may be resisted by same community that includes some members who demand it.

Agoro pe camo kato kulu.

Termites do not cross the stream to eat.

The agoro termites are among the most destructive but they are territorial and only eat within certain areas, never crossing water to feed.

Each person, whatever his status, has a jurisdiction beyond which his powers become

For example, both the Amnesty Commission and the International Crimes Division of the High Court in Uganda are perceived by many in Acholi as extensions of, and interdependent with, a National Resistance Movement-led state. To a somewhat lesser degree, but still present among many, the ICC (an international justice institution) is perceived in this way as well, due to the initial Ugandan government referral, the joint press conference of Museveni and the Chief Prosecutor of the ICC Moreno-Ocampo announcing the referral, and the lack of any government actors included amongst those for whom arrest warrants were eventually issued.

Whether this is fair, and is certainly debatable, it is in many ways irrelevant. To the extent to which the ICC is perceived as entwined with the government of Uganda's political objectives, for many Acholis this translates into a lack of moral jurisdiction.

The stuttering start of the first case of Uganda's International Crimes Division, concerning former LRA commander Thomas Kwoyelo, are illustrative. Kwoyelo was of particular interest to this study because he is alleged by people in one of the villages where research was conducted to have led a particularly gruesome LRA attack there. My informants say that he was personally present and responsible when the violence took place. Most people I spoke with there would gladly see

him punished. When several rulings were made that he be granted amnesty and released, many were extremely unhappy about the prospect of him going free. At the same time, however, they shared the same lack of moral jurisdiction attached to Ugandan legal institutions more generally, in this case expressed as concerns about the independence of the court, the arbitrary way that Kwoyelo was denied amnesty to begin with (and as then provided in Ugandan law), and the lack of attention in the Court proceedings to state crimes. Although people did not necessarily want Kwoyelo free, they also did not support what they viewed as an arbitrary, politicized process that was unfair and might create confusion among others who had received amnesty or were still in the LRA and might otherwise consider surrender.

Conspiracy theories, rumors and misinformation were in plenty as people speculated, and frequently repeated speculations as fact, about why events were unfolding as they did.³³⁶ Evident in these dynamics was an underlying argument of this thesis. Whereas many if not most people I talked with would have loved to see Kwoyelo punished, their paramount concern was how this process initiated by the government of Uganda – an actor deeply mistrusted – would affect Acholi social harmony. As Girard notes: “only the transcendental quality of a system acknowledged by all, can assure the prevention or cure of violence.”³³⁷ Insisting on a link between guilt and punishment exacted by actors without moral jurisdiction ignores an underlying fear of not only injustice, but the threat of violence.³³⁸ What could be called a “culture of impunity” may be an expression of fear of escalating revenge which is historically legitimate and reasonable in a situation with distanced political and judicial institutions and grievances which lie only just beneath the surface for many.

³³⁶ Finnström also discusses rumors role in the northern Ugandan war. (2008), pp. 167-168.

³³⁷ Girard (1979), p. 24.

³³⁸ Ibid. (1979), p. 27.

The idea that justice is to some extent politicized is far from new and the politics of transitional justice are explored by many.³³⁹ However it is prudent to point out once more the theoretical and contextual implications so clearly illustrated by the Acholi realities discussed throughout this work: deep distrust of distanced justice institutions and a profound valuing of social harmony. The actions of transitional justice actors will necessarily be interpreted and experienced by Acholis from this dual stance. While transitional justice theory can make claims about the functions of [their form of] justice to facilitate change this pre-supposes a level of legitimacy of the justice actors involved. Where this legitimacy (or moral jurisdiction) is lacking, the links between the practice of justice and its aims become much less tenable. Indeed, in northern Uganda, as this work has argued, when a justice actor has no moral jurisdiction, the practice of justice can undermine rather than contribute to the goals of those it seeks to champion – that is, it can threaten rather than protect or promote social harmony.

There has been a trend in the fields of transitional justice and gender-based violence prevention and response to have “culturally sensitive” approaches. In practice, however, this often expresses itself through a partnership of funding and “capacity building” with the most organized local actor which claims to represent a “traditional approach.” This work begs for a more nuanced approach to engaging with culture and tradition. In particular, it shows how important the idea of moral jurisdiction is and how especially in a post-war context this simply cannot be equated with a particular institution – whether a traditional, cultural, political or religious one.

The formal role of an institution, or an individual within it, is one component of a public authorities’ legitimacy. But it is far from sufficient in creating the moral

³³⁹ See for example Branch (2007); Clark (2008, 2011); DeWaal (2008); Waddell and Clark (2008); Nouwen (2011).

jurisdiction needed for the enactment of justice that contributes to, rather than undermines, social harmony.

Complicating social harmony

As the thesis has illustrated, not all manifestations of forced sex in Acholi pose grave challenges to social harmony. Indeed, the understanding of the crime of rape itself, and therefore appropriate responses to it, are predicated on multiple, evolving notions of sexuality, masculinity and gender relationships. For many Acholi these notions continue to be intricately connected to the foundations of social harmony forged through the exchange of *luk*, bridewealth, and other payments, which both ideologically reflect and materially enhance social contracts between families and clans, including the birth of children. Forced sex, if perceived primarily as a violation against an individual woman, does not elicit the same responses or set in motion the same imperatives of response as when the harm caused by the crime affects the wider community and social ordering. If, however, wrongdoing is seen as a crime against social harmony – often as a crime against her husband, or father, or sons, and on the relationships she has with them and therefore her community – some preventive action becomes necessary.

Rendering a portrait of the paramountcy of social harmony, as an Acholi ideal and as a struggle for balance, is not the same as to suggest that it is necessarily the best way forward. In fact, it seems that, implicitly at least, some visions of an essentially static social harmony in Acholi represent structural violence in the form of intense patriarchy. In the ideal vision, which is at least sometimes more or less the reality (as has often been expressed and observed in intersubjective interaction), social harmony is a kind of “benign” patriarchy, where women are daughters and sisters who are protected by fathers and brothers until the time when they choose another man as a partner they rather like, are sexually satisfied by, and with whom they can bear children. As a wife and mother, a woman in this view, has full standing – through marriage and childbirth – in her husband’s clan, her husband and in-laws are her safeguard. But in this scenario, violence and sexual violence in

particular exists as an always-present possibility. Women are written into this notion of social harmony as essentially sexual and reproductive beings under the male heads of households and male relatives.

But this ideal is not stagnant; rather it is in a state of flux. There is a real question of how in an emerging Acholi context of today this priority might change and be contested. Will the vision of what constitutes social harmony adapt into something that better serves women? Will it be replaced with the pursuit of justice as a notion akin to universal human rights and rule of law? Or will things move in different directions?

Some might argue that if rape under certain circumstances is not experienced as *“that bad,”* if this “less-bad” rape is common, and the chances to change the situation in the short-term future seem slim, then problematizing sexual violence in new ways might do more harm than good for the women involved. Indeed, I have suggested in previous pages that some rape, depending on the understanding of the act, does not entail the same severity of social harm as others and in some ways this may make recovering from these rapes easier, or the trauma suffered from them different, more personal and less social. If that is the case, then would there not be negative effects of “demonizing” rape that is relatively socially condoned in an Acholi context? Would this increase the stigma and add a dimension of social harm previously absent? An Acholi woman experiences being forced to have sex in certain contexts differently than a woman in a setting where “rape” signifies a crime tantamount to death. I find arguments along this train of thought deeply troubling. But I also am aware that my own sentiments about this are less important than the Acholi women, and their perceptions, who are the subjects of such musings. I asked one of my informants, a dear friend, what she thought. She considered for a moment and then said that in the immediate term, she thought things might worsen for women, but that unless these things were

challenged many women would continue to endure forced sex and suffer silently.³⁴⁰

She looked at me, and said, “This is not an Acholi question. This is a human question. Am I not a human being?”

FINAL THOUGHTS: THE ELEPHANT’S HAIRY BOTTOM

Rape is awful. Many stories told by women in this study are truly harrowing. Even now, I still cannot really fathom the act of rape. I have had nightmares about it – but it has never happened to me. I cannot *really* imagine it happening to anyone, nor anyone doing it to another person, even though I have now spent quite a lot of time with people who experienced the former or did the latter. Often, this part of the lives of women who had been raped was submerged in all the other, sometimes very pleasant aspects of their daily reality. Most women in the study who had experienced rape seemed to have been successful at restoring at least some level of personal and social harmony to their normal life (even where these fell short of the ideal). It is important to note and give due regard to this – to the ways that people carve out spaces for themselves. And yet, the reality of sexual violence was always there. Veena Das has discussed this in a particularly captivating and apt way. She explains that her work is not about the violent events themselves, but about the persons and communities who were deeply embedded in them. It seems to me, the other side of this is also true: that such violent events are deeply embedded in the persons and communities where they occurred. Her image of “the way that the [violent] event attaches itself with its tentacles into everyday life and folds itself into the recesses of the ordinary” articulates vividly the way that the realities of living with past sexual violence infiltrate the lives of my informants.³⁴¹

³⁴⁰ For a discussion of implications of women awakening to their rights on gender-based violence see Mazurana and Carlson (2006).

³⁴¹ Das (2007), p. 1.

Ruth Benedict famously asserted that a purpose of anthropology is to make the world safe for human differences.³⁴² Sensational aspects of violence tempt the observer to wrench them from their context. Certainly rape in this region of Africa, and shockingly brutal aspects of the Lord's Resistance Army's activity in northern Uganda (particularly Acholi) and beyond have been no exception. Context must be carefully but explicitly put back again.

Throughout the analysis and interpretation in this thesis, I have referred to "Acholi" experiences, notions, beliefs, responses, but in doing this I do not mean to suggest that these describe some sort of unchanging Acholi culture, or that the phenomena of rape and justice in the particular context of this study are expressions of Acholi cultural essences. Instead they are socially patterned, with both longer-term elements but also ever and always changing. This thesis has explored what rape and justice mean for Acholi women and their communities in a particular period of time and in particular places. I have traced this thread of meaning as it not only as it existed during the immediate post-conflict situation during which research was conducted, or even during the northern Uganda war when most of the rapes – by combatants and civilians alike – that were reported in this research occurred. Instead, the approach in this thesis has deliberately explored notions of sexual violence against women before, during and after war, and to reflect on the implications of this for the practice of justice. Again, to quote a giant in this field, "It may be in the cultural particularities of people – in their oddities – that some of the most instructive revelations of what it is to be generically human are to be found."³⁴³

If we make an effort to spend time with people affected by wrongdoing and really listen to what they have to "say" (in word and deed), a picture emerges, in all its complexity, which does not fit into generalized descriptions, or cannot be fully

³⁴² Benedict (2005), p. 15.

³⁴³ Geertz (1973), p. 49.

captured in analytical/ normative frameworks familiar in post-atrocity justice debates or anti-rape feminist activist discourse. A singular understanding of rape or appropriate approach to justice in the aftermath of rape does not materialize. Rather a deeper understanding percolates up that indicates what these phenomena mean along the lived continuums of Acholi women and their communities. Only from this place can a way forward that holds significance and moral authority for them and their communities be charted – or to phrase this in a way that more directly reflects the particular context which frames this work, only from this location can *ngol matir* happen, a way forward that severs the social, cosmological and individual consequences of the terrible experience of having been raped.

In the meantime, women in Acholi continue to survive and to carve out spaces of situated agency and autonomy for themselves in the midst or the aftermath of rape, even though for many such women there is a lack of medicine and lightning has yet to strike.

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