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# Negotiated Peace, Denied Justice? The Case of West Nile (Northern Uganda)

Artur Bogner and Dieter Neubert

**Abstract:** “Reconciliation” and “justice” are key concepts used by practitioners as well as authors of conflict-management and peacebuilding textbooks. While it is often recognized that there may be contradictions between the implementation of justice and truth-telling, on the one hand, and an end to organized violence, on the other, the ideal of a seamless fusion of these diverse goals is widely upheld by, among other things, reference to the rather utopian concept of “positive peace” (Galtung). One difficulty arises from the fact that discourses usually focus on (post-)conflict settings that resemble a victory of one conflict party, whereas peace settlements are often negotiated in a context more similar to a military or political stalemate – a more ambiguous and complicated scenario. This essay discusses these problems against the background of an empirical case study of the peace accord between the government and the rebels in the West Nile region in north-western Uganda.

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**Keywords:** Uganda, conflict resolution, conflict management, peacebuilding, peace terms, justice

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The current debate on “transitional justice” has to be put into the context of the broader field of conflict management and peacebuilding. Together with “reconciliation”,<sup>1</sup> it has strong inherent normative claims reminiscent of the ideal, or utopian, concept of “positive peace” (Galtung 1969). Recent contributions take a critical view of the normative claim of justice in practical peacebuilding and discuss the tensions between different normative objectives or standards under the heading of “the peace vs. justice dilemma”.<sup>2</sup> The tension between peace and justice refers to the common difficulty of combining a peaceful settlement with the punishment and compensation of war crimes or similar offences, when many of the perpetrators themselves are among the indispensable partners to a viable peace accord (Krumwiede 1998). One might call this frequent quandary “the peacemaker’s dilemma” (Neubert 2004). Peacemakers act in a multipolar field of fluid power balances between various actors. This is particularly applicable in contexts of fragile or only nominal statehood.<sup>3</sup>

Against this backdrop, we attempt to take a more realist perspective on peace processes and post-conflict developments that recognizes the essentially political nature of peacebuilding. Based on our investigation into the post-conflict process in the West Nile region (in north-western Uganda), where after long-time activity by different rebel groups a peace accord between the rebels and the government had been successfully negotiated,<sup>4</sup> we

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- 1 E.g. Kriesberg 2003: 329-333; Ramsbotham, Woodhouse, and Miall 2005: 231-245; Fischer 2011: fn. 1.
  - 2 E.g. Sriram et al. 2013; Thoms, Ron, and Paris 2008: 18-20; Grono and O’Brien 2008: 16; Waddell and Clark 2008. For an overview of the debate on reconciliation, see Fischer 2011.
  - 3 E.g. Klute and Embaló 2011; von Trotha 2011; Migdal and Schlichte 2005; Elwert 2001.
  - 4 This discussion is based on the findings of our research project “Conflict regulation and post-conflict processes in Ghana and Uganda”, which was funded by the German Research Foundation (DFG) from 2009 to 2012 (see Bogner and Neubert 2012, 2013; Bogner and Rosenthal 2012). The authors conducted a total of 45 weeks of fieldwork in Uganda and more than 100 interviews in West Nile and Acholiland, including 53 biographical-narrative interviews, with ex-rebels and victims of collective violence, among others. Only in special cases will we directly refer to interviews. We would especially like to thank our interpreters and field assistants, Droma Geoffrey (Yumbe) and Geoffrey Okello (Koch Goma), as well as the staffs of the M.A. Peace and Conflict Studies Programme (Department of Religious Studies, Makerere University, Kampala), the Refugee Law Project (Faculty of Law, Makerere University) and the Centre for Basic Research (Kampala), including David Kibikyo, Paddy Musana, Moses Chrispus Okello as well as Steve Tonah and Alhassan S. Anamzoya (both at the University of Ghana, Department of Sociology, Legon) for their generous support and institutional assistance. We are also grateful

will first attempt to depict typical variations concerning the type of war termination (negotiated peace vs. victor's peace) and the relation between perpetrators and victims (for instance, have war crimes or other atrocities been committed and, if so, by which of the fighting factions?).<sup>5</sup> Debates on conflict management or conflict transformation too often focus on the victor's peace scenario, whereas the more ambiguous and more frequently occurring scenario of a negotiated peace is neither sufficiently nor systematically explored. We argue that it is particularly in cases of negotiated peace that peacemaking is a political process rather than an attempt to pursue the ideal of a "positive peace" permitting reconciliation and transitional justice. Such a political process typically involves a compromise that is dependent on the particular context of war termination. In such cases, the peacebuilding practitioner will strive to accommodate the civilian population's interests as far as possible but out of necessity must also take into account the power resources and interests of the combatants.<sup>6</sup> This means that in these cases it might be necessary, for the sake of achieving at least a "negative" or scaled-down version of peace, to opt for "second-best" solutions and to accept that a peace agreement will serve the interests of the fighters and make them its main beneficiaries. It may also imply accepting that those among them who are responsible for serious human rights violations will receive amnesty and cannot be punished. We are not suggesting that such a distressing outcome is desirable. However, we believe that "second-best" options of this type are often the price that must be paid to end armed conflicts, and are often needed in order to respect fundamental wishes and interests of the civilian population.

We argue that the discussion of post-conflict dynamics, including the issues of reconciliation and transitional justice, has to be based on a differentiating analysis of the concrete way in which the peace came into being. For the presentation of our argument we will first briefly discuss the core elements of the scholarly debate on the concepts of reconciliation and transitional justice. An outline of the history of the conflict in West Nile provides some background for our analysis, while our main argument will be presented in a further section where we analyse the peace process. The sub-

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to our cooperation partner Gabriele Rosenthal (Georg-August-Universität, Göttingen), who also participated in some of our fieldwork.

- 5 Whereas the current critical debate on transitional justice stresses a wide range of topics, e.g. timing, sequencing, international involvement, centralization of processes, legitimacy (see section on reconciliation and transitional justice), the question of the type of war termination has hardly been considered.
- 6 The importance of solutions appropriate to the context is underlined, for instance, by Clark and Palmer (2012: 6-8).

sequent section covers post-conflict dynamics. Based on this case study, we will conclude that peacemaking should be analysed in a more contextualized manner and thus understood more strongly as a concrete process, and consequently as a political process in which the types of war and war termination are crucial factors for the ways peace can be achieved.

## Reconciliation and Transitional Justice

According to Western conceptions of post-conflict peacebuilding, the ingredients of a genuine peace include the demobilization of the fighters; technical and economic reconstruction; the installation of post-conflict governance with functioning rule of law; the prosecution of war crimes; social justice; political participation; a constructive non-violent political culture; and the control of destructive patterns of conduct and sentiment in conflict situations.<sup>7</sup> Such a comprehensive understanding of post-conflict peacebuilding makes measures of “transitional justice”, including the restoration of the rule of law and/or reconciliation, essential elements of practical conflict management (e.g. Lambourne 2009: 34). The concepts of “transitional justice” and “reconciliation” are thus deeply interlinked<sup>8</sup> but focus on different elements of peacebuilding.

Bloomfield (2003: 12) defines “reconciliation” as a process “through which a society moves from a divided past to a shared future” and views the past in a way that allows people to see it in terms of “shared suffering and collective responsibility”, thus helping to restore confidence. In this sense, “reconciliation” describes a multilevel process (Fischer 2011: 415ff.) that is defined by its desired outcome of restored confidence.

“Transitional justice is implemented in a context of a process of transition from violence or mass violation of human rights to some more peaceful and democratic state” (Lambourne 2009: 29). Conceptions of transitional

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7 This was discussed in Germany quite early (e.g. Senghaas 1994: 17-49; Kühne 1998), partly influenced by Elias’s theories of civilization and socio-cultural development (Elias 1969). In contradistinction to the conceptions of Lederach developed at the same time, the peacebuilding discourse in Germany did not refer to Christian faith but solely to principles of pluralism and human rights, placing more emphasis on improving the discipline’s theoretical foundation (see foremost Senghaas 2002, 2007). The aforementioned core elements are still valid and can be found in Newman et al. (2009), Sriram et al. (2011) and Sriram et al. (2013), among others. Based on these ideas, the German government has supported the Civil Peace Service (ZFD) programme since 1998, whose tasks include civil conflict prevention and constructive conflict management. A staff member of the Civil Peace Service was involved in the peace negotiations in West Nile.

8 At the same time, the two elements have been in long-standing tension (García-Godos and Sriram 2013: 1).

justice are interested in the relations between conflicting parties and the people affected by a violent conflict, or in the relations between rulers and the people formerly oppressed by an authoritarian regime. In the following discussion on West Nile, the focus shall be more specifically on restoring justice and fighting impunity. Impunity is seen as a door opener for further crimes and violations of human rights (Bosire 2006; Fischer 2011; Lambourne 2009; Thoms, Ron, and Paris 2008). A wider concept of transitional justice may also include amnesty, demobilization and reconciliation (Bosire 2006: 23-29).<sup>9</sup> Typical instruments of transitional justice are commissions of inquiry, court proceedings, truth commissions, public rituals of cleansing or reconciliation, and commemoration ceremonies, often with reference to local (“traditional”) customs; any or all of the aforementioned tools may be linked to the payment of reparations. Especially the local, “traditional” forms are held in high esteem by many practitioners in Uganda (cf. Meier 2011; Allen 2010; Pain 1997).

The number of transitional justice mechanisms applied worldwide shot up from the 1990s onward, from less than 10 within a two-year period (1987–1988) to 60 (2001–2002) (Sikkink and Walling 2007: 431). In spite of this considerable growth, however, there is still insufficient evidence to show whether these mechanisms have had positive or negative effects (Thoms/Ron/Paris 2008: 4).

Whereas undertaking criminal proceedings is only one way to restore justice, the element of truth-telling is part and parcel of all mechanisms. After armed conflicts or collective violence under authoritarian rule, there is never only one version of the sources and genesis of conflict or violence (Lambourne 2009: 34). Quite often there is a plurality of believable, conflicting narratives (for the example of Palestine, see Adwan et al. 2012). At the core of truth-telling are collective (public or informal) discourses on political conflicts and violence – their roots, reasons, meanings, trajectories and consequences – and the ways to deal with these following armed fighting. Such a process has a bearing on the reconciliation between former conflict parties, and on the (future) dynamics of the relations between their members, allies and sympathizers. This affects the *social construction of historical reality*, the production of collective pasts and futures (e.g. Jabri 1996: 124-144; Cairns and Roe 2003; Baumann 2012: 337-339; von Trotha 2012: 418-420; Buckley-Zistel 2008: 94-111). As these discourses and the related symbolic power relations contribute to the constitution, genesis and transformation of “imagined” collectivities of “us” and “them”, these processes

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9 As a background for our case study, we can only give a short summary of the ongoing discussion. For a good critical overview of various conceptions of transitional justice, see Palmer, Clark, and Granville (2012).

deeply affect the dynamics of the relations among (former) conflict parties in the long term as well as in the short term (Baumann 2008, 2012; Buckley-Zistel 2008; Schlee 2006).

The tensions between the diverse objectives implied in the concept of transitional justice have already been discussed. The core of the debate focuses on either “peace vs. justice” or “peace vs. truth” (for an overview, see Thoms, Ron, and Paris 2008: 18-20; see also Grono and O’Brien 2008: 16; Waddell and Clark 2008). Recent studies that reflect empirical experiences with transitional justice (e.g. Palmer, Clark and Granville 2012; Sriram et al. 2013; Shaw, Waldorf, and Hazan 2010) demonstrate that transitional justice instruments are not “one size fits all” for the whole world (Clark and Palmer 2012: 6-8; Shaw and Waldorf 2010: 1); rather, the application of transitional justice concepts needs to be tailored to the particular context (Clark and Palmer 2012: 6f). At the same time, these studies support the overall impression that a “peacemaker’s dilemma” (the existence of a regular tension between peace and justice) frequently occurs, often in combination with further typical difficulties or questions to be considered, such as the sequencing of transitional justice elements; the dependency on donors; the legitimacy and influence of human rights organizations; transitional justice without regime transition; the interference or overlapping of transitional justice with development activities; and the problems of the local application of transitional justice schemes, including tensions with local or “customary” practices of the restoration of justice (on the latter, see e.g. Allen and Macdonald 2013; Shaw and Waldorf 2010; Clark and Palmer 2012: 5f.; Boege 2011).

By analysing our empirical case of a negotiated peace in West Nile (in north-western Uganda), we wish to contribute to these recent critical debates. In Uganda this peace is seen as a success story, with a peace treaty having been accepted by all parties, which has led to an apparently stable and peaceful situation in West Nile.<sup>10</sup> In accordance with similar findings by other case studies, at least one point seems to require special attention: We think that the type of settlement and the process in which it came about play

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10 This marks a notable difference to the conflict and process of peacebuilding in Acholiland in the central north of Uganda, which, due to the extreme atrocities committed by the “Lord’s Resistance Army” (LRA), gained much more international attention – including an ICC warrant for the five top commanders of the rebel group. In this case, the LRA shifted their combat zone into the Democratic Republic of the Congo and later to the Central African Republic to escape the military pressure of the Ugandan army and the consequences of the ICC warrant (on the controversial debate surrounding the ICC’s intervention, see, for instance, Allen and Vlassenroot 2010; Branch 2011; Finnström 2010; Peachey 2012; Quinn 2013). On the extreme quality and quantity of the atrocities committed by this rebel group, see e.g. Blattman and Annan (2010); Annan, Blattman, and Horton (2006).

an important role in setting the options for transitional justice and similar activities in the field of post-conflict peacebuilding.

## The West Nile Conflicts

The north of Uganda, including West Nile, played a subordinate role in the colonial period (on the history of West Nile, see Leopold 2005; Mischnick and Bauer 2009: 4-24; Rice 2009; Eckert 2010). The peripheral position of northern Uganda was temporarily mitigated by the governments of Milton Obote and Idi Amin, both of whom originated from different parts of northern Uganda.<sup>11</sup> Amin, in particular, who overthrew Obote's first government in a coup, relied strongly on West Nile, his province of origin, for recruiting higher military officers and government officials (e.g. Jørgensen 1981: 303-306). His regime was marked by countless human rights violations, often targeting soldiers (or their relatives) associated with the neighbouring Acholiland and believed to be Obote's allies or supporters (see e.g. Branch 2011: 56-57). Due to the origin of many perpetrators from West Nile, the province's population found itself in an extremely precarious situation at the end of Amin's rule. Also and even particularly the civilian population suffered massive reprisals by members of the armed forces of various subsequent governments, at least until 1985 when Obote's second regime was overthrown.<sup>12</sup>

The north of Uganda increasingly became the area of operation (and main target) of various rebel groups that initially consisted primarily of former soldiers and officials who had been loyal to the overthrown governments, and which were largely supported by the Sudanese government. They quarrelled among themselves, and at times even fought each other. In this period, especially in the 1990s, northern Uganda also became a secondary arena for the Sudanese civil war and the civil war in the neighbouring Democratic Republic of the Congo (then Zaire).

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11 We draw here from our more detailed analysis of the armed conflicts in West Nile in Bogner and Neubert (2012, 2013); Bogner and Rosenthal (2012). For summaries of the recent general history of Uganda and neighbouring parts of northern Uganda, see Branch (2011: 45-89); Mutibwa (1992).

12 See Refugee Law Project (2004: 5-6, 18); Branch (2011: 56-58); Mutibwa (1992: 137-142). There has not been sufficient research on the question of to what extent government forces committed human rights violations against the civilian population of West Nile during Museveni's rule, i.e. since 1986. It seems unlikely that these reached a scale similar to those committed by army members during the rule of the previous governments controlled by Obote or his allies.



For our case study, three of these rebel groups are relevant. Parts of the former Ugandan Army under Idi Amin formed the Uganda National Rescue Front (UNRF I) in 1981 and fought from West Nile in the Ugandan civil war. Museveni's newly established government achieved an important political-military victory in 1986/1987, when it succeeded in pacifying the UNRF I. Museveni co-opted its most important leaders into his government's informal circle of power and appointed one of them to his cabinet. But not all rebels in West Nile joined this (rather informal) alliance permanently; some left after a short time, following disagreements and growing distrust (and some unexplained incidents) in relation to the government. One of the new factions, the West Nile Bank Front (WNBFB), formed circa 1994, was crushed by Uganda's army and its allies among the South Sudanese rebels in 1996/1997 and had to give up its fight without any official peace agreement being reached (Mischnick and Bauer 2009: 19; Prunier 2004). Another faction, the Uganda National Rescue Front II (UNRF II), was formally founded in 1989, but started to undertake military actions only from 1996 onward.<sup>13</sup> Some of the members were former fighters from the UNRF I. It recruited the majority of its combatants from a Muslim enclave (by and large corresponding to today's Yumbe District), a territory mainly settled by the Aringa, a subgrouping of the Lugbara. Initially, the UNRF II could count on considerable support from the inhabitants of this area. But this support waned as violent attacks, looting, rape and forceful recruitment in the region by the rebels and the government army increased. In addition, the UNRF II lost its most important place of retreat due to the military successes of the rebels in southern Sudan, who were supported by the Ugandan government under Museveni. Even though its strategic position was thus decisively weakened, the UNRF II continued its armed struggle until a peace treaty was reached in 2002. This peace treaty is the focus of our analysis.

Especially between 1979 and 1986, a large part of the population of West Nile was permanently on the move between different refugee camps in Sudan or Zaire and their home area, trying to escape the continuously escalating crisis with its famines, war crimes and epidemics. Even after most had returned to West Nile, in the late 1980s, the regional population was under recurrent pressure resulting from the fighting between various rebel groups and the Ugandan government forces. During the second wave of rebellion

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13 Interview with Maj Gen Ali A. Bamuze (chairman of the former UNRF II High Command) and Piwang Pascal, Kampala, 24 January 2010. In this interview, the respondents named 1989 as the year in which the UNRF II was formally founded (during the exile of its leaders in Sudan). Cf. Peters (2008: 17); Brix (n.d.: 24); Mischnick and Bauer (2009: 18-19), and the quotation from an interview in Refugee Law Project (2004: 12).

in West Nile from 1995 to 2002, this applied especially to the area of today's Yumbe District and the Aringa section of the regional population, which comprise the majority of the population in this territory. The conduct on both sides – various successive governments and various rebel groups – repeatedly (and increasingly on the part of the rebels) took on a terrorist character vis-à-vis the local population. People became victims of war crimes such as looting, killings, torture, rape and assaults on villages. Even when there is no systematic documentation of the war crimes, in nearly every small settlement memories of incidents of this type endure, especially among people living in today's districts of Yumbe, Koboko and Moyo.<sup>14</sup> Because of this, the rebels lost most of the initial political and moral support they had received for their armed revolt from the civilian population. However, the rebels in West Nile still maintained relatively close ties and networks with the population of their home region. This resulted in a highly ambiguous and often ambivalent relationship. On the one hand, the rebels claimed to be fighting for their people, and fighters secretly visited their families. On the other hand, these same fighters often represented a larger threat to their people than did the government army. The picture is further complicated by the fact that during the insurgency inter-community and inter-ethnic rivalries and tensions motivated at least some part of the attacks on civilians committed by different rebel organizations or their remnant groups (Mischnick and Bauer 2009: 19-20; Community Dynamics 2004: 42). At the same time, the fighters' close ties to their local communities made it possible for elders and particularly female family members to convince the fighters to accept entering into peace negotiations.

After the peace agreement was signed, the fighters returned to their villages and families. Some but not all underwent local cleansing rituals. Most of them see themselves as veterans and more or less openly demand that their professed role as fighters for the rights of West Nile be acknowledged and respected. They participate in the political and administrative arena through channels of various institutions and organizations that they use to communicate their views, demands and grievances. According to the peace agreement, a "liaison committee" made up of former leading members of the UNRF II is supposed to oversee the implementation of the peace agreement. Some former UNRF II fighters founded a cooperative credit and savings union (Bidi Bidi) that is now open to other civilians too. Since the end of the rebellion, a number of war veterans' associations with

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14 Refugee Law Project 2004: 14-18, 9; Community Dynamics 2004: 5, 27, 42; Sabiiti 2006: 11-12; Brix n.d.: 25; Bauer 2009: 26-27; Mischnick and Bauer 2009: 18-20, 81). Furthermore several parts of West Nile such as Adjumani and Moyo suffered greatly under incursions by the LRA until 2005.

members from different former rebel groups in West Nile (including the UNRF II) have emerged. These associations receive a major share of the humanitarian and development assistance meant for non-governmental groups/organizations in the region. The civilian population still remembers the atrocities, so the ambivalent relationship between ex-combatants and the rest of the population persists.

## Negotiated Peace

The peculiarities of peacebuilding in West Nile can be understood only through a detailed analysis of the contextualized political process of peacebuilding. First, the signing of the peace treaty in 2002 was made possible by a number of different factors. Perhaps most important were the close ties between the rebels and the population of their home region, especially their families and the village communities and their elders. The still considerable impact of elders and other local opinion leaders on the rebels seems a crucial element both in the “homecoming” of most fighters of the WNBF (after their military defeat in 1996/1997) and in the later peace negotiations between the UNRF II and the government. Second, after the defeat of other rebel groups in Uganda and in West Nile (including the WNBF), the Ugandan government was able to concentrate on fighting the UNRF II – the last rebel group with local roots in this region – and, in neighbouring Acholiland in the central part of Uganda’s north, the so-called Lord’s Resistance Army (LRA). Third, as a result of developments in the Sudanese civil war and an agreement between the Ugandan government and the government in Khartoum, the rebels lost much of the latter’s support, important areas of retreat in (southern) Sudan, and much of their logistic backing. Fourth, the general situation was rapidly deteriorating in what later became the district of Yumbe – the home area of most UNRF II combatants and the group’s main field of operation.

Thus the peace agreement became possible last not least because of a factor that Zartman would have identified as a “hurting stalemate” (Zartman 1985, 2000). The loss of Sudanese support forced the rebels to go on the defensive, though they were not defeated, and the ongoing insurgency was costly for the government and bound considerable army forces needed to fight the LRA in neighbouring Acholiland, which was at that time very active. It was possible to start negotiations because the conflict was “ripe for resolution”, to borrow Zartman’s words again.

In view of these facts, various actors in the civilian population succeeded in initiating contacts, negotiations and finally a peace agreement between the government and the UNRF II. These actors included a group

of clan elders, as well as women, religious leaders, and a small local NGO called Participatory Rural Action for Development (PRAFORD), which was supported in these activities by, among others, an expert from Germany's Civil Peace Service (Ziviler Friedensdienst, ZFD) who was employed by the German Development Service (Deutscher Entwicklungsdienst, DED) and based in Yumbe. Funding for these peacebuilding activities was provided by DANIDA (the Danish government), USAID, the EU and the governments of Ireland and the Netherlands (Bauer 2009: 31-32; The Defunct UNRF II and the Uganda Government 2004: 8, 36).

Most of these efforts on the part of various actors were known to the government, were largely supported by it, and in several cases were either openly or secretly initiated by it.<sup>15</sup> An important role was played by the informal promises of amnesty and reintegration assistance offered by representatives of the government to the rebels in West Nile in the 1990s (Refugee Law Project 2004: 18-21). These promises were kept and most provisions implemented – as were earlier presidential amnesties in Teso in eastern Uganda (cf. Buckley-Zistel 2008). A formal, extremely generous amnesty law was passed by Museveni's government in January 2000 – mainly due to lobbying by leaders of the local civil society in neighbouring Acholiland.<sup>16</sup> This law had been preceded in 1987 by an amnesty law (limited to a short period only), and later by more restricted presidential pardons on different occasions (Buckley-Zistel 2008: 79, 159). The various amnesties were a central prerequisite to persuading the combatants of the diverse rebel groups in Uganda, and West Nile in particular, to give up their armed struggle. Without amnesty and therefore facing the risk of being tried for war crimes and possibly earlier<sup>17</sup> human rights violations, the leadership of the UNRF II

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15 Interview with Joyce Ayikoru, PRAFORD Centre, Yumbe, 26 April 2009, and Weber (2009: 32). This version of events is supported by interviews we carried out with local cadres of the ruling party in the then single-party regime headed by Museveni (National Resistance Movement) – in other words, members of the local administration at that time – who underscored this support and their own important role in the initiation of mediation talks; interviews with Vuni Welborn, Arua, 6 March 2010, Drassy K. Ally, Kampala, on 22, 23 and 26 January 2010, and with Alamiga Haruna (LC5 Councillor for Romogi/Yumbe District), Yumbe, 3 February 2010.

16 They sought to facilitate a negotiated settlement between the government and the LRA and to assist the surrender or desertion of LRA fighters or their “reintegration”, last but not least with a view to the tens of thousands of former child soldiers from Acholiland; cf. Amnesty Commission 2009; Acholi Religious Leaders' Peace Initiative et al. (n.d.). This amnesty law remained in force until 2012.

17 Formally, the amnesty law of 2000, like earlier amnesties, did not cover human rights violations committed by state officials or those prior to an armed rebellion, but in political practice there was a strong tendency to understand it that way (Rice

hardly would have accepted a peace agreement and disarmament. The entire peace process was dominated by the interests of the fighters, for the sake of an end to war in West Nile.

The UNRF II finally succeeded in negotiating a peace agreement. The agreement referred in very general terms to the long-lasting “instability” in the West Nile region and the resulting standstill in “development”, which needed to be ended and compensated for. It contained financial and material aid for the ex-combatants (so-called demobilization packages) and promised vocational training for some of them. In conjunction with the peace accord, a list of concrete infrastructural measures was promised for the area inhabited by the Aringa (largely coterminous with the newly created district of Yumbe). Ending the region’s “backwardness” was presented in the public discourse and the text of the peace accord as the main aim of the rebel movement, and as one of the main aims of the agreement. The peace agreement was, so to speak, purchased and traded economic incentives for the fighters and certain general promises of development for demobilization. In addition, according to the text of the treaty, the government vaguely promised to “facilitate” school education for “135 child soldiers” of the rebel group.<sup>18</sup>

Reparations or any kind of specific support for civilian war victims, war-disabled persons or the victims of war crimes were neither mentioned in the peace agreement nor planned, not to mention the prosecution of the perpetrators. Whereas the term “transitional justice” was not common in Uganda in 2002, at this time the issues of justice and compensation for victims of illegitimate violence, the prosecution of grave civil rights violations, and the problems surrounding truth-telling after the end of violent regimes were not at all new. In fact, Uganda was one of the first countries to set up a truth commission, in 1986, shortly after the end of Obote’s and Amin’s regimes and only months after the rebel movement led by Yoweri Museveni seized power (Quinn 2010; Rice 2009; Buckley-Zistel 2008). In addition, transitional justice was at least part of the agenda of the ZFD, which was involved via a staff member in facilitating the peace process on the ground. There is also some evidence that people in West Nile demanded some form of reparation, and that some members of the local population even wanted

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2009: 137, 234). A prominent Ugandan peacebuilding practitioner who participated in the negotiations with the UNRF II and who personally was a victim of torture during Amin’s regime, attested the fact that several of the perpetrators in question were among the rebels present at the negotiation table in Yumbe in late 2002 (our interview on 29 May 2011).

18 See Republic of Uganda 2002: Art. III, 8; Community Dynamics 2004: 31. This promise was never fulfilled, an omission sometimes justified by the fact that the former child soldiers have meanwhile become adults.

an investigation into war crimes (see footnotes 24, 28 below). The exclusion of the victims underscores both the difficulties in convincing the fighters to accept the agreement and the topicality of the “peacemaker’s dilemma”.

At the local level, a few “healing” or “cleansing” ceremonies were conducted, but the elders did not convene a general peace ceremony. They argued that a genuine reconciliation would have needed a detailed assessment of all atrocities that were committed during the different phases of the conflict, which is seen as completely unfeasible given the length of the war and the impossibility of identifying specific perpetrators for all of the atrocities (Peters 2008: 42). In addition, the elders had lost much of the authority that would have been needed to make perpetrators confess their crimes. They had proved to be unable to settle the conflict on their own. Despite their contribution to facilitating peace negotiations, in the end they were excluded from the formal negotiations, which further weakened their position.

The definition of the situation eventually agreed on by the rebel and government leaders allowed and continues to allow the rebels to present themselves in the public discourse as custodians and defenders of the interests of the local population, especially in respect to their need for “development” and reconstruction. After an inglorious end, the UNRF II’s armed rebellion, and the suffering it caused to the population, were thus given a meaning that was doubtful even from the beginning. Among the local population, this interpretation of the situation is no longer generally accepted, but in practice it is not publicly criticized – obviously in order not to disturb the peace that has reigned since 2002 (Bauer and Giesche 2007; Bauer 2013: 179, 2009: 39f.; Brix n.d.: 37-39; Mischnick and Bauer 2009: 80-81, 85; Peters 2008: 22, 44-7, 53-55; Weber 2009: 66-67).

## Post-Conflict Order and Development

If we want to assess the peace process in West Nile, we need to look more closely at the post-conflict order and ask what has been achieved in the peacebuilding process. Demobilization took place largely according to plan, and the government quickly set up a rather well-functioning local administration in the whole of the region. Within the framework of the current process of decentralization in Uganda (Asiimwe and Musisi 2007), the few districts were divided up, and a new district (Yumbe) was created as a concession to the Aringa subgrouping of West Nile’s population (the same section that was home for most members of the UNRF II). Thus, for the first time in the history of West Nile, the formal administrative apparatus of the state penetrated the remote parts of the region and offered opportunities for political participation at the national and local levels, as well as access to

the governmental juridical system. This equates to what in the conflict management literature is called “post-conflict governance”.

In the course of the implementation of the peace agreement, a considerable number of development organizations and civil society associations appeared for the first time in the core area of the conflict (today’s Yumbe District). Their activities have contributed significantly to the reconstruction of the region, including the building of schools, health centres and roads, and the improvements in access to clean water (Weber 2009). From an outsider’s perspective, there have been sizeable advances in the infrastructure, particularly notable when compared with the dramatic situations at the time of the peace accord and, of course, at the time of the fighting. Key elements of a peaceful post-conflict order have been implemented. This makes the West Nile case in Uganda a success story.

The local population sees and appreciates these improvements, whereas most of the changes have yet to reach the majority of Yumbe District’s population; it will take quite some time before the consequences of decades of civil war can be overcome. Furthermore, the current speed of development in this region will slow down because newer post-conflict settings in the vicinity have gained the attention of development organizations and NGOs. In Uganda itself, the focus of activities has shifted to the adjacent Acholiland since the military displacement of the LRA to nearby regions of the neighbouring countries. Many ideas for projects in West Nile have therefore been shelved, and most development organizations have not fulfilled the expectations they created during the peace negotiations. An extensive World Bank programme (Northern Uganda Social Action Fund, NUSAF) continues to be an important exception.

Whereas the “elders” of the villages and clans, who were important local decision-makers before the civil war, have to a great degree lost their political influence and can be seen as, so to speak, “losers” of the peace process, the ex-rebels have become established as important social and political actors. Many leading figures from the former UNRF I and a few from the dissolved UNRF II have been co-opted to the political elite, and the UNRF II fighters can point to the benefits for the civilian population of the “purchased peace”, and see their position as champions of the interests of the West Nile region confirmed. In the meantime, the ex-combatants in West Nile have set up their own NGOs in the form of veterans’ societies, in which former combatants both of the different rebel groups and of the Ugandan army at the time of Amin’s government are represented. The former leaders of the UNRF II are privileged insofar as they are represented by the officially recognized Liaison Committee anchored in the peace agreement, which in institutional terms is an interface between the formally dis-

solved rebel organization and the government apparatus (Republic of Uganda 2002; Community Dynamics 2004: 42). Due to the scarcity of other attempts at self-organization in the civilian population of the province, the various groups of ex-rebels thus continue to have a distinct voice in the public discourses of the region.

Occasionally, the ex-combatants have also toyed with the officially unspoken but nevertheless audible threat “to go to the bush” again – in other words, to resume the armed struggle. Rumours to that effect and the ambushing of a bus in 2007 made the government react quickly: In addition to reinforced security measures, the government approved funding for numerous projects put forward by ex-combatants within the framework of the World Bank’s NUSAF programme (cf. Bauer 2009: 43; Brix n.d.: 32-33). At the beginning of 2010, the government was willing to grant compensation or severance payments to veterans in West Nile (ex-soldiers under Amin and ex-rebels).<sup>19</sup> According to information provided by our field assistant, this promise was partly fulfilled prior to the presidential elections in the following year.

This political strength of the ex-combatants puts them in a position to represent and reinforce the militaristic worldview and associated macho ethic that still predominate among large parts of the population, especially the male population, of West Nile, even thirty years after Amin’s overthrow (cf. also Eckert 2010).<sup>20</sup> The ex-rebels and many other inhabitants of West Nile define themselves as residents of a marginalized region, as the “true victims” of Uganda’s history, and at the same time refer to West Nile as a recruiting field for “good soldiers” (cf. Eckert 2010; Rice 2009: 256). A differentiation of the population into perpetrators and victims would contradict this socially homogenized heroic self-image or “group charisma”. This collective we-image and its associated discourse, which defines all inhabitants of the province as victims, is an important base of collective identification for many of them – and it is at the same time a serious impediment to the self-organization and articulation of the civilian war victims and victims of war crimes or other human rights violations.<sup>21</sup> Recognition of their status as

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19 See, for instance, the newspapers *Saturday Pepper*, 13 March 2010, 3, and *New Vision*, 5 September 2011, 4

20 This militaristic worldview has penetrated Ugandan society as a whole (Kagoro 2012). Jude Kagoro shows that this worldview is not simply the result of the great power of the military in Ugandan society but the outcome of a long social process which led to a high collective prestige of the military, the predominance of an idealized warrior image and a broad identification with the ideals of the military. The especially intense militarization of the local culture in West Nile is also confirmed as a historical fact by Leopold (2005, see e.g. 129).

21 On the concepts of “we-image” and “group charisma”, see Elias (1987: 207-315); Elias and Scotson (1965: 103-105); Rosenthal (2010); Rosenthal and Stephan (2009).



victims of collective acts of violence, often committed by rebels from their region, would tarnish the heroic image of the offenders, who are still an important part of the socio-political elite in this province, or at least of the relatively more influential sections of its population. However, the development and humanitarian organizations that were involved in the peace negotiations as advisors have contributed indirectly to this situation by not discussing the question of war victims.<sup>22</sup> Whereas infrastructure development and post-conflict governance were reasonably successful, reconciliation and justice with respect to the war victims, usually a professed objective of development and other humanitarian organizations (including transnational NGOs and faith-based associations), were almost completely ignored. Critical voices claim that the peace treaty did not achieve much other than to redirect funds that had already been designated for the newly created district (Yumbe) into the pockets of the former rebels (in the form of support for demobilization that was supposed to be allotted according to military rank in the rebel army).<sup>23</sup> War victims have no voice in the socio-political arrangement that has emerged in the wake of the peace accord, nor were their interests on the actual agenda<sup>24</sup> of the governmental and non-governmental organizations active in the local arena. Recently, some associations of war victims have emerged, but until now the numbers of their members and their public significance seem to be very limited.<sup>25</sup> This constitutes a prolongation of the ambivalent relationship between the ex-combatants and the rest of the population, who were not involved in the rebellion. The former rebels and the civilian population may have an estranged – or in some cases even a hostile – relationship, but a sense of a common bond between the rebels and the regional population nevertheless seems to be still intact among many in West Nile.

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- 22 On the subdued or denied histories of the victims and the position of their histories in the public discourses in and on West Nile, see Bogner/Rosenthal (2012). In this as in other regards, the analysis of the conflict in West Nile, its roots, history and settlement may serve as a useful corrective to the current discourse on northern Uganda that tends to tacitly equate the rebels of northern Uganda with the LRA, and “northern Uganda” with Acholiland.
  - 23 Interviews with Vuni Welborn, Arua, 6 March 2010, and Drassy K. Ally, Kampala, 22, 23 and 26 January 2010.
  - 24 The considerable dissatisfaction with “rewarding” perpetrators of atrocities among some members of the civilian population had been recognized by two internal reports commissioned by DANIDA (Denmark) and the German Organisation for Technical Cooperation (GTZ). See *Community Dynamics* (2004: 5, 42, 26-28); Sabiiti (2006: 11-12).
  - 25 Interview with Sam Buti, the founder of the “Kony War Victims Association” in West Nile, Arua, 16 August 2011.

## Peacemaking as a Contextualized Political Process and Options for Action

This case study suggests that a negotiated peace cannot usually satisfy the high normative demands for reconciliation and justice that are made by, for instance, faith-based organizations and human rights organizations. Such an enterprise is usually thwarted by the fact that the negotiation partners will accept only terms that ensure them attractive prospects, including financial and political incentives, in addition to impunity. This is what was offered with the amnesty and demobilization packages and what has led to a “purchased peace”. As a result, it was no longer possible to charge the rebels with war crimes and, in the case of some senior rebels, with earlier<sup>26</sup> human rights violations. Since the elders saw themselves as unable to deal adequately with the war crimes committed by the rebels, these offenses are practically no longer mentioned in public discourses. War crimes on the part of the government were never made a subject of discussion in the context of the peace process. It is remarkable that, despite their involvement in the peace negotiations, foreign and multilateral development agencies and humanitarian organizations did not even discuss the question of justice for victims of collective violence.<sup>27</sup> Obviously, their main concern was to bring the armed conflict to a peaceful end at all costs (see also Bauer 2009: 32, 2013: 180).

One might wonder whether this peace process has been in fact a failure, as there has been no justice for the victims of collective violence, who are simply ignored in the public discourses in this region, nor have there been notable attempts at reconciliation. The discourses on the local history still express a militaristic and regionalist worldview that impels even the victims of violence to praise the perpetrators as heroes who brought “development” to West Nile. But the fact is that aside from widespread criticism and scepticism about the role of the fighters, this peace is highly appreciated by the civilian population, including the war victims. The current order provides for protection against organized violence, the possibility to travel even at night and over long distances, an economic development process at the local level with significant improvement of the infrastructure and a restart of the local economy, even though people expected more “development” and economic advancements. At the same time, people are well aware of the shortcomings. They criticize the fact that the ex-combatants were “rewarded” for atrocities and

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26 See footnote 17.

27 This marks a striking difference to peacebuilding efforts in the context of the rebellion of the LRA in the adjoining Acholiland.

misdeeds, citing the demobilization and re-integration packages that former fighters received (through the official amnesty commission and also, in the case of the UNRF II, through the government), whereas the civilians and the victims of collective violence in particular did not receive any personal compensation, and any serious reconciliation was lacking. In their words, it is a “bitter peace”,<sup>28</sup> but it is a peace that is accepted by the conflict parties and, in spite of occasional criticism, has remained stable since 2002. The purchased peace shifts almost all of the weight onto the shoulders of the victims and rewards the fighters who were the perpetrators in the majority of cases.<sup>29</sup>

This peace and the resulting post-conflict order is the outcome of a political process of balancing the interests of the different actors. The government gained military and administrative control over the West Nile area. The rebels negotiated in their eyes an honourable peace, in which demands for the development of West Nile were accepted and at least partly fulfilled. Because of this, they are able to see themselves as successful fighters for the rights of “their” people and demand the corresponding respect for themselves. From their perspective, the amnesty and the assistance given to ex-combatants under the peace agreement is evidence of this role. Most “elders” and local opinion leaders of the civil population have apparently accepted the public silence on the war atrocities. In a way, it looks as if it was the designated role of the foreign and multilateral humanitarian organizations to offer some kind of peace dividend for the civilians (aside from the inherent benefits of an end to the armed fighting) and thus to ease the return of the rebel fighters into their midst by compensating the civilian victims of the conflict for the lack of a more conventional form of conciliation and compensation. However, the delayed “reconstruction” or development of the infrastructure, which is most welcome, is neither anything like complete nor has it been presented as a general compensation for the suffering of civilians through the war.

Is it necessary to accept this “unjust” outcome of a negotiated settlement for the sake of peace? Even if the ideals of transitional justice and reconciliation cannot be achieved in this case – at least not in the near future – it is still possible to take measures to alleviate this situation. For instance, the suffering of the civilian population, especially the suffering of civilian war victims, could still be acknowledged in public. The considerable development efforts by various actors, including the World Bank, United Nations agencies and a number of other development and humanitarian organiza-

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28 Peters 2008: 44-47, 53-55; cf. also Brix n.d.: 37-39; Weber 2009: 66-67; Bauer 2009: 39-40, 2013: 179-180; Mischnick and Bauer 2009: 80-81; Community Dynamics 2004: 5, 42, 26-28; Refugee Law Project 2004: 28.

29 Cf. Peters and other sources as in footnote 28.

tions, would probably have been more appreciated if they had been expressly presented as an effort to compensate the population for the suffering of the area due to the long period of civil war. The peace treaty was celebrated, at the time, only by the belligerents – members of the rebel and government armies – in a camp where the ex-combatants waited for disarmament. No attempts were made to convene a public ceremony where both fighting parties would offer their respect to the civilians and the war victims. These acts may be seen as window dressing, but public ceremonies and acts have a symbolic meaning and at least publicly communicate an acknowledgement of the suffering of the civilian population. However, to this day the discourse centred on the peace agreement is linked only to the ex-combatants, who have the Liaison Committee that serves as an official interface between themselves and the government. No equivalent to such a committee or ombudsman exists for the civilian population or for the civilian victims of collective violence. The victims are still there and could be a target for specific measures – for example, medical assistance and psychosocial support (including support for their capacity to build self-help groups) as well as small income-generating projects. Even though ex-combatants would most likely manage to also benefit from such activities, this would be (almost) the first time that the victims were in the focus of any specific measures of support. Until 2011 the only exception to this rule was a small project by a Ugandan NGO called the Transcultural Psychosocial Organization (TPO), which was funded by DANIDA for one year.

The case of West Nile offers interesting insights into the practical work of conflict management under complicated conditions, which are the rule more often than the exception. The chance to facilitate a negotiated peace that would end more than twenty years of insecurity and fighting had to be taken under the extreme pressure of the “peacemaker’s dilemma”. In this situation, the mediating and supporting organizations apparently simply forgot to accommodate the interests of the civilian victims, even on a symbolic level. Serious attempts at transitional justice and reconciliation were simply not considered. Obviously nobody felt the urge to look for softer options to pay respect to the victims of organized violence without offending the fighters. This would have been a second-best solution compared to truth-telling, a truth commission or the prosecution of war crimes, which had no chance of being realized under the political and military conditions under which the peace agreement had been negotiated. Public recognition of the victims’ suffering would certainly have a significant impact on the local discourse on violence, not least by encouraging victims of collective violence to make their plight an issue of official concern and public discourse. In addition, this recognition is also important to avoid the impression that fate, ancestors

or other transcendental powers are on good terms with the perpetrators while indirectly or directly punishing the victims for their weakness.

## Peacebuilding and Types of Conflict and Peace

The debate on reconciliation and transitional justice does not refer systematically to different types of peace or different types of war termination. There is a fundamental difference between a victor's peace and a negotiated peace settlement (Elwert, Feuchtwang, and Neubert 1999: 27). In the former case, transitional justice is easier to pursue, but the defeated party may claim that this is also a victor's justice. However, successful cases mentioned in transitional justice debates show this pattern. Examples given are the Nuremberg war trials of the leading figures of the German fascist regime and, in the case of the Rwandan genocide, the combination of the Arusha trials, trials on the national level and the *Gacaca* courts at the local level (on Rwanda, see Waldorf 2010). Even in these cases, we know that a comprehensive juridical treatment was impossible simply because of the large number of co-perpetrators. The end of many authoritarian regimes in Latin America and of the South African Apartheid system were the result of negotiation processes but also led to radical regime changes, accompanied by heavy political pressure on the representatives of the former regime. This made at least the softer instruments of transitional justice possible (such as truth commissions, truth-telling, the development of a collective memory of violence that is recognized in public), which were seen as contributions to reconciliation.

A negotiated peace settlement during an armed conflict is much more complicated and often leads to the typical "peacemaker's dilemma". In cases where each side is guilty of atrocities against the civilian population of the other side, truth-telling or even prosecution of extreme war crimes might be still possible because the confessions of the wrongdoings of one side may counterbalance the confessions of the other side. This kind of peace settlement was attempted in the former Yugoslavia and achieved mixed results. The case of Northern Ireland also shows the limitations of this approach. In the former Yugoslavia as well as in Northern Ireland, we also see that the so-called root causes, which are often mentioned in the literature on conflict management (e.g. Lederach 1997: 79, 2003), are not only hard to eliminate but, at least in the course of protracted armed conflicts, often lose much of their importance compared to the manifold humiliations, atrocities and traumas resulting from collective violence and its dynamics.

The West Nile case has had an even more complicated starting position for reconciliation and transitional justice. It was an armed conflict where both

parties committed atrocities and crimes against the same civilian population, either as a result of counterinsurgency measures or simply by looting and assaults. A confession of cruelties, even with the guarantee of full amnesty, would have been symbolically costly for the army (and the government leaders) and for the rebels. Neither side had a strong reason to apply, or comply with, instruments of transitional justice beyond the general amnesty. Truth-telling would have been an especially heavy burden for both sides without bringing any obvious political or moral gain. The national army had relatively few links to the civilian population in West Nile (at least in the areas most affected by the fighting). It compounded matters that most human rights violations by state functionaries against civilians in West Nile had apparently happened prior to the rule of the current government or its leadership. The rebels who claimed to have fought for the rights of West Nile do not want to jeopardize their heroic warrior image. In addition, any form of transitional justice or truth-telling would have awakened the sleeping “ghosts” of the times of Amin’s and Obote’s despotic governments – including countless extreme human rights violations against civilians by armed members of the varying consecutive regimes, in West Nile and in other regions of Uganda. A peace agreement without transitional justice was apparently the easiest solution for both sides. The local mediators as well as the leaders of the local population accepted the silence concerning war crimes and other human rights violations. The foreign and multilateral development organizations and embassies who were involved in the negotiations and their preparation had the simple priority of safeguarding the peace agreement and did not even attempt to take significant steps in this direction.

## Conclusion

The case of West Nile, like other cases, demonstrates that the ways of and conditions for peacemaking as a political process are more multifaceted than the predominant discourse on conflict management and peacebuilding premises. Therefore, a more refined analysis is required to determine the differences, similarities and linkages between various empirical cases. These differences include the particular local and socio-cultural contexts of the conflicts (Clark and Palmer 2012, 6-8), but also the specific types of armed conflicts and their settlement (victor’s vs. negotiated peace). Especially in decentralized armed conflicts, the so-called new wars (Kaldor 1999) without clear front lines where the civilian population often suffers from human rights violations by more than one fighting faction simultaneously, “all-or-nothing” solutions for reconciliation and transitional justice will likely not work. One of the reasons for this is the complexity of the actor figurations

in such processes, which includes the existence and competition of conflicting rationalities and worldviews along with competing images of varying collectivities and their collective pasts.

To deal with the “peacemaker’s dilemma”, a pragmatic approach is needed that searches for mechanisms that facilitate at least the public recognition of the suffering of civilian victims and offer them respect and, as far as possible, also support and measures of reparation. However, any cost–benefit comparison of a peace accord will always remain a political (and moral) decision and often a very complex one. While theoretical debates on peacebuilding quite rightly strive to integrate various rationalities and normative standards into a coherent vision, practical efforts may make use of, and are sometimes compelled to accept, the (at least temporary) decoupling of competing objectives. A pragmatic approach to dealing with the “peacemaker’s dilemma” should not be understood as a plea for peace at all costs, including the acquittals of violent actors. Impunity or partial impunity should be only a last resort and a temporary outcome of peacebuilding efforts within a period of time as limited as possible (Grono and O’Brien 2008: 18f). And it may be precisely the use and purpose of “theory” (and empirical research) to remind practitioners that a recombination of diverse objectives (and actors or groupings), including those that were marginalized or “forgotten” (perforce or by force) in the phase of the immediate construction of a peace accord as a result of an entirely political process, may be both possible and advisable at a later phase of a protracted process of conflict transformation.

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## **Ausgehandelter Frieden, verweigerter Gerechtigkeit? Der Fall West Nile (Norduganda)**

**Zusammenfassung:** „Versöhnung“ und „Gerechtigkeit“ sind Schlüsselkonzepte sowohl in der Praxis als auch in der Lehre von Konfliktmanagement und Friedensförderung. Zwar wird zumeist eingeräumt, dass es zu Widersprüchen zwischen der Durchsetzung von Gerechtigkeit und der öffentlichen Aufarbeitung des Geschehenen einerseits und der Beendigung organisierter Gewalt andererseits kommen kann; dennoch wird das Ideal einer nahtlosen Verknüpfung dieser unterschiedlichen Ziele aufrechterhalten, unter anderem mit Bezugnahme auf das relativ utopische Konzept des „positiven Friedens“ (Galtung). Eine Schwierigkeit entsteht dadurch, dass

die Diskurse zu diesem Thema normalerweise von einem Szenario ausgehen, bei dem eine der Konfliktparteien einen Sieg errungen hat, während in der Praxis Friedensverhandlungen häufig in der Situation eines militärischen oder politischen Patts stattfinden und deshalb einer weit komplizierteren und vieldeutigeren Lage Rechnung tragen müssen. Im vorliegenden Beitrag wird diese Problematik am Beispiel des Friedensabkommens zwischen der ugandischen Regierung und den Rebellen in der Region West Nile im Nordwesten Ugandas diskutiert.

**Schlagwörter:** Uganda, Konfliktlösung, Konfliktmanagement, *Peacebuilding*, Streitkräfte/Militärische Verbände, Friedensbedingungen, Gerechtigkeit