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***“Indicting War Criminals: Good Start, Long Road Ahead”***

The International Criminal Court in The Hague made history this month, by issuing its first-ever indictments against top leaders of a murderous rebel movement in Uganda. Hailed by leading human rights groups as a major step toward ensuring justice for atrocities, the case also illustrates the dilemmas faced by ICC chief prosecutor Luis Moreno Ocampo and the 99 nations – about half the countries of the world – which have joined the treaty establishing the ICC.

One could hardly imagine more deserving candidates for international prosecution than Joseph Kony and his cronies, who lead the so-called Lord’s Resistance Army. They specialize in kidnapping children from isolated villages in northern Uganda. They force the boys to become child combatants, and turn the girls into sex slaves. Their child armies then maraud civilian villages, killing adults and kidnapping more children.

The toll adds up to tens of thousands of kidnappings and butcheries. In order to escape this hell, some 1.6 million Ugandans – out of a total population of 26 million -- are forced to live in squalid camps for “internally displaced persons,” where death rates from disease are sky-high and survivors live on hand-outs from international aid.

Legally speaking, then, the ICC is right on target in charging Kony and four of his commanders for ordering the commission of war crimes and of crimes against humanity, which are defined as widespread or systematic attacks against civilian populations.

At the same time, the case exemplifies why no sane person would want Luis Moreno Ocampo’s job. In Uganda justice must compete with no fewer than five conflicting interests: protecting victims, negotiating peace, demobilizing fighters, feeding civilians, and ensuring even-handed prosecutions.

No prosecutor ever faced a taller order.

The first conflict involves protecting victims from retaliation by Kony’s gang. Although the indictments were originally issued in July, the ICC sealed them until this month, in order to establish a witness protection program. Even now, to protect identities of witnesses as long as possible, details of dates, places and names are deleted from the public version of the indictments.

Will all this succeed in avoiding retaliation? One hopes so, but time will tell.

The second conflicting claim is for peace. Peace negotiations have been underway, off and on, for the last eighteen months. To give them a chance, Moreno Ocampo reportedly agreed not to indict Kony for up to one year after beginning the investigation.

The government's chief negotiator says, understandably, that negotiating with Kony will now be difficult if not impossible. On the other hand, after years of failure, it is not at all clear that a peace agreement with Kony would ever have been achieved. Before issuing the indictment, Moreno Ocampo met with a broad spectrum of Ugandan leaders. He is as well informed as anyone on the realities of the peace vs. justice trade-off in Uganda.

The third conflicting claim is demobilization of combatants. In order to entice rebel combatants to lay down their arms, Uganda's government has offered an amnesty to thousands of rebels. While it may make sense to use an amnesty lure to net the little fish, this need not conflict with ICC prosecutions of the big fish. Still, the ICC intervention leaves the legal status of the amnesty in doubt.

A fourth conflicting claim is continued humanitarian aid to displaced civilians. Will Kony now step up attacks on their camps and on the international aid workers who feed them?

Finally, there is the issue of evenhandedness in ICC prosecutions. Human Rights Watch reports that Ugandan government troops have also committed atrocities; Amnesty International protests that the ICC indictments target only the rebels, not the government.

But Moreno Ocampo has acknowledged that he is also investigating crimes by government forces. It may be only a matter of time before he indicts them as well. If and when he does, of course, it will complicate his ability to secure cooperation from Uganda's government.

And these are not the only headaches the prosecutor faces. Having indicted Kony, how will he arrest him? The ICC has no police force; arrests will depend on cooperation by such nations as Sudan and Congo.

But UN peacekeepers are nearby in Congo, and experience at the international tribunals for Yugoslavia and Rwanda shows that nearly all indicted persons, sooner or later, are arrested and brought before the court. Again, time will tell.

So three cheers for Mr. Moreno Ocampo. Yet many challenges remain before this promising start translates into a true victory for justice.

**Doug Cassel's commentaries are broadcast Wednesdays during the noon hour of the Worldview program on Chicago Public Radio, 91.5 FM. All views expressed are the personal views of the author and not necessarily those of Notre Dame Law School, the Center for Civil and Human Rights or Chicago Public Radio.**