The JLOS Bulletin

Special edition on Transitional Justice

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National Transitional Justice Policy: A New Dawn for Uganda

INSIDE

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Editors' Note

Showcasing Key Milestones of Uganda's National Transitional Justice Policy Journey

Welcome to this edition of the JLOS Bulletin special edition on Uganda's Transitional Justice process. In 2019, Cabinet considered and approved the National Transitional Justice Policy (NTJP). This was a landmark achievement and a major milestone as it made Uganda the first African Union Member State to enact such a policy. The Policy is an overarching framework by the Government of Uganda (GoU), designed to address the justice, accountability and reconciliation needs of post-conflict Uganda.

The Policy proposes the use of a combination of formal and informal (alternative) justice mechanisms. The Transitional Justice (TJ) programme was first institutionalised at JLOS in 2008 when Cabinet directed the implementation of the Agreements resulting from peace negotiations between the Government of Uganda and the Lord's Resistance Army (LRA) in Juba, South Sudan. These peace negotiations gave the momentum for the development of a legal framework for the Government of Uganda to implement Transitional Justice.

Over the years, the JLOS Transitional Justice programme has successfully evolved from the development of a legal framework to the implementation of initiatives aimed at enhancing access to justice through Transitional Justice mechanisms. Sector institutions are being supported to implement specific Transitional Justice interventions that cut across legislative development, law reform, prosecution-led investigations, adjudication and rehabilitation of combatants. The programme also takes into account the unanimity of common values, principles and standards of the Sector; such as accountability, transparency, victim participation, vulnerability, gender equality and the best interests of the child, among others.

The development and approval of the NTJP is therefore an affirmation of the Government's commitment to peace, justice and reconciliation. It reflects the Government's core objectives aimed at ending impunity and promoting justice and reconciliation as necessary precursors to sustainable development.

In this special edition of the JLOS Bulletin, we explore Uganda's Transitional Justice experience and showcase the various achievements, milestones, challenges and opportunities of our Transitional Justice programme.

Over the years, the JLOS Transitional Justice programme has successfully evolved from the development of a legal framework to the implementation of initiatives aimed at enhancing access to justice through Transitional Justice mechanisms

We commend this magazine and encourage you to give us your feedback and thoughts on Uganda's transitional justice process – especially in regard to the enactment of a national Transitional Justice policy. JLOS

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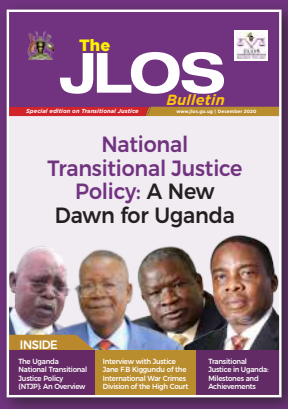

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Rt. Hon. Dr. Ruhakana Rugunda

Prime Minister of the Republic of Uganda

Rt. Hon. Ruhakana Rugunda, the Prime Minister of the Republic Uganda has played a pivotal role in shaping the Transitional justice discourse in Uganda, most significantly the Juba peace process that highlighted the need for justice, accountability and reconciliation in conflict and post conflict situations. Notably in 2008, after a report of the Minister of Internal Affairs on the Juba peace process, the then Prime minister Professor Apollo Nsibambi, upon a cabinet resolution, directed all Ministries, Departments and Agencies (MDAs) to immediately within their mandate implement the Juba Peace Agreements, a process that kick started national consultations on the feasibility of implementing the provisions of the Agreements. For JLOS, this process inspired the development of the JLOS Transitional Justice Working Group (TJWG) that embarked on development of the legal framework for the realization of Transitional Justice.

ACKNOWLEDGEMENT

Transitional Justice was first adopted by the Sector in 2008, when the 3rd National JLOS Forum considered it in-depth and resulted in firm commitments. These included the establishment of the JLOS Transitional Justice Working group (TJWG) as a think tank on issues of transitional justice to make recommendations and decisions. The main terms of reference for the group was to design a framework for the implementation of the national transitional justice framework; a multifaceted justice approach that would encompass all aspects of justice (formal and non-formal).

The Justice, Law and Order Sector (JLOS) would like to acknowledge the following persons and institutions that played a pivotal role in the process of developing the Uganda National Transitional Justice Policy (NTJP).

Rt. Hon. Dr. Ruhakana Rugunda	Prime Minister
Hon. Justice Richard Buteera	Deputy Chief Justice (Former Director of Public Prosecutions)
Hon. Justice Eldard Mwangustya	Justice of the Supreme Court
Hon. Justice (Rtd) James M. Ogoola	Retired Principal Judge, Chairman JSC and Chairperson TJWG
Hon. Justice (Rd) Yorokamu Bamwine	Retired Principal Judge
Hon. Justice Lawrence Gidudu	Judge of the High Court of Uganda and Chairperson TJWG
Hon. Justice P.K Onega	Chairperson, Amnesty Commission
Hon. Justice (Rtd) Dan Akiiki-Kiiza	Retired Judge of the High Court of Uganda
Hon. Justice (Rtd) Elizabeth Ibanda - Nahamya	Retired Judge of the High Court of Uganda
Hon. Justice Paul Gadenya	Judge of the High Court of Uganda (Former Senior Technical Advisor, JLOS)
Hon. Frederick Ruhindi	Former Attorney General
Dr. Johnson Byabashaija	Commissioner General, Uganda Prisons Service
Mr. Francis Atoke	Solicitor General
Dr. Benon Mutambi	Permanent Secretary, Ministry of Internal Affairs
Mr. Christopher Gashirabake	Deputy Solicitor General
Dr. S.P Kagoda	Former Permanent Secretary, Ministry of Internal Affairs
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H.W Lawrence Tweyanze	Judiciary
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Ms. Margaret Ajok	JLOS Secretariat
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Mr. Ronald Sekagya	Judicial Service Commission
Dr. Roselyn Karugonjo-Segawa	Leadership Code Tribunal (formerly at UHRC)
Mrs. Grace Eudia Ocitti	Former member of the Amnesty Commission
Ms Joan Kagezi (Deceased)	Office of the Director of Public Prosecutions
Mr. Venice Baguma Tumuhimbise	Uganda Police Force
Mr. Simon Nangiro Lowot	Ministry of Internal Affairs
Ms. Lynette Bagonza	Ministry of Internal Affairs
Mr. Nathan Twinomugisha	Amnesty commission
Ms. Jane Frances Adongo	Uganda Law Reform Commission
Ms. Florence Ochago	East African Community (formerly at Uganda Law Reform Commission)
Ms. Jeroline Akubu	Uganda Law Reform Commission
Ms. Irene Lugayizi	Ministry of Justice and Constitutional Affairs
Ms. Juliet Komugisa	Ministry of Justice and Constitutional Affairs
Mr. Lino Anguzu	Office of the Director of Public Prosecutions
Ms. Lillian Kiwanuka	Uganda Law Reform Commission
Mr. Charles Birungi	Uganda Law Reform Commission
Mr. Andrew Kisitu	Uganda Prisons Service
Mr. Andrew Mubiru Kizimula	Uganda Police Force
Mr. Edgar Kuhimbisa	JLOS Secretariat

The Uganda National Transitional Justice Policy: An Overview

The National Transitional Justice Policy is an overarching framework of the Government of Uganda (GoU); designed to address the justice, accountability and reconciliation needs of post-conflict Uganda. The Policy provides a holistic intervention to achieving lasting peace in a country whose history has until recently, been marred by political and constitutional instability. A combination of justice mechanisms is proposed in the Policy. It, therefore, marks a major milestone in the history of the administration of justice in Uganda as well as Africa.

In June 2019, Uganda became the first country to adopt a National Transitional Justice Policy, after the African Union's (AU) adoption of an AU Transitional Justice Policy.

The Constitutive Act of the African Union 2000, recognizes the fact that the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and the need to promote peace, security and stability. Transitional Justice is a range of processes and mechanisms associated with society's attempt to come to terms with a legacy of large – scale past abuses and human rights violations in order to ensure accountability, serve justice and achieve reconciliation. Transitional Justice consists of both judicial and non-judicial processes and mechanisms including prosecution initiatives, truth-seeking, reparations programmes, institutional reform or an appropriate combination thereof.

The development of a National Policy on Transitional Justice is an affirmation of the Government of Uganda's commitment to national reconciliation, peace and justice. It reflects the Government of Uganda's core objectives of ending impunity and promoting justice and reconciliation as a necessary precursor to sustainable development. It recognizes that Ugandans aspire to live peacefully with citizens of other countries and in harmony within their social, cultural and ethnic diversity.

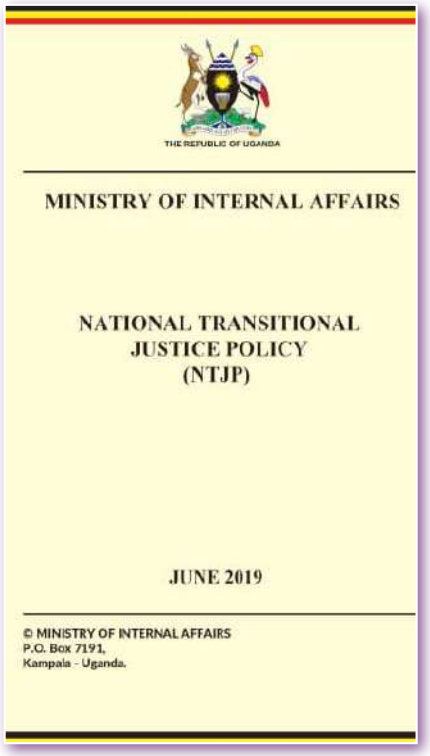
The Government has over the years reiterated the need for peace, stability and social cohesion as important prerequisites for the development of the country.

The Transitional Justice Policy implementation will, therefore, set a base for economic development and inclusion of all Ugandans in national development.

This policy will serve as an overarching framework that will address justice, accountability and reconciliation needs of post-conflict situations. It will create a holistic intervention in achieving lasting peace and stability.

The following will be the major outcomes of the policy:

- Restoration of trust between Government and communities,



- Sustainable peace, reconciliation and nation building,
- Enhanced victim participation and witness's protection,
- Traditional Justice Mechanisms formalized,
- Socio-economic empowerment of war victims and communities,
- Rehabilitation and reintegration of affected persons enhanced, and
- Gaps in the Amnesty process addressed.

Policy Vision

"A peaceful, just and stable Uganda".

Policy Mission

"To promote national reconciliation, peace and justice" .

Policy Goal

"To provide a framework for management and operations of formal and informal justice processes in post conflict situations".

Policy Objectives

The objectives of this policy are:

- To address the gaps in the formal justice system for post conflict situations;
- To formalize the use of traditional justice mechanisms in post conflict situations;
- To facilitate reconciliation and nation building;
- To address gaps in the current amnesty process; and
- To provide reparations for post conflict situations.

Guiding Principles

This policy takes into account the unanimity of common values, principles and standards shared across communities in Uganda. It identifies the following key values and principles to guide the implementation of this policy.

Victim Centeredness: Victim participation in the design, implementation and oversight of TJ will ensure that interventions are meaningful, timely and have impact.

Vulnerability: The Policy recognizes that during and after conflict, certain categories of persons are immensely affected. In this Policy vulnerable persons shall include; formerly displaced persons, formerly abducted persons, women, children, and persons with disability, the elderly and the youth, who are most vulnerable in times of armed conflict.

Gender Equality: Gender equality is an integral part of national development processes. It reinforces the overall development objectives in the country. This policy emphasizes Government commitment to the mainstreaming of gender considerations in all components of transitional justice.

Best interests of the Child: Children have for decades been entangled in conflict and its aftermath, yet limited attention is placed on their role in negotiating the best justice, peace and unity options they would aspire to. This Policy will place special emphasis on the contribution of children in justice as well as adhere to their best interests.

Transparency: Transparency is para-

mount for transitional justice as stakeholders must be kept in constant communication with actors. In particular, this Policy underscores the fact that all local reconciliation processes will be underpinned on openness of all parties.

Accountability: Responsibility for stakeholder action during the implementation of the policy will promote confidence in the processes. It also means continuously challenging actors to effectively and efficiently use resources to fulfil the agreed roles and set goals of the policy.

Public Participation: Transitional justice is a community driven justice process, which therefore demands that the initiators of this process actively participate in the design and implementation of programmes.

Inclusiveness: This Policy will accord equal treatment to all actors irrespective of any differences. It underscores the importance of inclusive participation in conflict prevention, peace processes, and security initiatives.

Complementarity: This Policy recognizes that the solution to national reconciliation and justice lies in the multiple systems of justice functioning simultaneously and effectively complimenting each other.

Confidentiality: The transitional justice process will be accorded the utmost confidentiality it deserves. It involves showing and having respect for individual rights and freedoms which is a pillar of human dignity. Emphasis will be placed especially on victim concerns.

Neutrality: This policy takes cognizance of the need to build confidence in all her stakeholders. As such its implementation will adopt a non-partisan and objective approach in order to maximize engagement, obtain trust and achieve results.

Integrity: In order to facilitate the healing of aggrieved parties, integrity is vital. This policy advocates for consistency and accuracy in the implementation of transitional justice processes.

Reparations

Reparations; redress given to victims of gross or serious human rights violations or abuses. Reparations can take material and symbolic form as well as individual or collective form these include; restitution, rehabilitation – medical, legal and psychosocial, satisfaction-acknowledgement of guilt, apology, burials/reburials, construction of memorials/memory days, and guarantees of non-repetition, reformation of laws or structures.

The reparations in this Policy context may be short, medium or long term, material, individual, collective or symbolic and may include:

- Restitution; Mitigate land conflict that has emerged as a post conflict issue
- Social– economic support
- social services for the affected communities; like education and health for the most affected persons like orphans, and
- Rehabilitation, such as medical, legal and psychosocial initiatives to address especially trauma and stigma
- Resettlement and reintegration
- Burials and reburials of the dead
- Construction of memorials, and monuments in remembrance of the deceased; to foster a culture of memory/memorials for healing, deterrence of conflict and history
- Satisfaction or
- Acknowledgement or apology

Maj. Gen. Jeje Odongo
Minister of Internal Affairs

Hon. Prof. Ephraim Kamuntu
Minister of Justice & Constitutional Affairs

Amnesty

There shall be no blanket amnesty and the Government shall encourage those amnestied, to participate in traditional justice processes for purposes of meaningful reintegration and reconciliation.

In effect, the Policy envisages that persons will only be eligible for amnesty on the basis of making full disclosure of all the facts relevant to the violation or abuse of human rights, and that a person has not committed war crimes, crimes against humanity or genocide, and that a person is not a child.

The Policy further envisages that where a child has been exposed to armed rebellion, on return, the child shall be subjected to available demobilization, resettlement and reintegration establishments within the community or as established.

Traditional Justice

Traditional justice systems play an invaluable function in conflict and dispute resolution especially among disadvantaged populations in conflict and post conflict environments. This is so because the formal justice systems are often inoperative or inaccessible in such situations.

As such, traditional justice plays a complementary role to the formal justice system. Its formal recognition as a medium to enhance access to justice is becoming more appealing. In Uganda, traditional justice has been used as a more accessible option than formal law in most communities. The Policy envisages that the Traditional justice system will be beneficial in promoting accountability, healing, reintegration and reconciliation.

As such, the traditional justice system is instrumental in mitigation of customary land disputes resulting from the conflict in as far as;

- Resettlement of persons displaced by the armed conflict will enhance resettlement of victims, survivors, less privileged and vulnerable or those granted amnesty
- Matters involving family tracing and reunions, parentage and identity of children born as a result of sexual violence in a conflict and inheritance
- Resettlement and reintegration of girls, women and other formerly abducted persons
- Community matters, such as communal resource sharing that promote peace and social harmony and
- Conducting rites, ritual and ceremonies that facilitate the traditional justice system

Nation Building and Reconciliation

In order to achieve reconciliation and nation building, the Government needs to strengthen existing structures or resource processes to facilitate nation building and reconciliation at all levels. This can be achieved through the practice truth seeking which is being globally acclaimed for its reformative and reconciliatory nature. The practice is also instrumental in facilitating other dispute resolution mechanisms.

- The use or adoption of truth seeking at all Policy initiatives will support:
- The verification of legitimate claimants for reparations
- The mitigation of formal court proceedings
- The initiation of traditional justice mechanisms
- The award of an amnesty certificate
- The true record of injustices that will contribute to national history that will deter future conflict and enhance national unity
- Ascertain and document human rights violations that took place in communities, their impact and magnitude
- Recommending actions for redress
- Facilitate conflict prevention and dispute resolution. JLOS

A New Dawn of Hope

By Grace Acan

Thousands of victims of rebel activities especially in northern Uganda have greeted the passing of the long-awaited policy with excitement given the opportunity it presents for healing and restoration

Please excuse me for using practical examples to illustrate the feeling that I and many Ugandans had when the process of formulating the National Transitional Justice Policy commenced. Just imagine the excitement that a newly married couple have when they get to know that they are expecting a child. That was the feeling everyone had when the process of setting up the Transitional Justice (TJ) policy started. I remember in the many consultation meetings which I was part of, how stakeholders spoke with passion, dedication and hope of seeing the lives of people transformed after the long-lasting war that ravaged a large part of the country.

Many suggestions on how the TJ policy would take shape were made. To me, the most important part of the policy was making reparations. After getting to know the elements of reparations, I felt that I have not lost it all, at least there was hope of starting a new life for me and others, even if complete restoration may not be possible. But again, what kept on lingering in my mind was how soon the policy would be passed so that I could begin to see change in the lives of victims whose lives had been torn apart by conflicts. You know, the situation was like a pregnant mother in labor, waiting to see the face of her long-awaited new baby.

There were a series of drafts with issues that had to be amended. With every draft that came, the hope of the stakeholders kept on rising like the demand and supply curve that we studied in Economics. The demand increased with every increase in supply but it came to a standstill where there was no demand, even when there was more supply.

What I mean is that by the time the final draft was in place, people were already beginning to lose hope because the process was taking forever. But when the announcement was made, it was a new beginning of hope and many Ugandans could see some light at the end of the tunnel. We are excited about the developments that are taking place already. But there are questions that persist. How soon will the implementation start? What measures will be in place to ensure that genuine reparations take shape? We all would like to see an inclusive and transparent process in the implementation whereby all the victims and other stakeholders are involved and consulted on every step of the way.

Commissioner Grace Ocitti of the Amnesty Commission hands over bicycles to excombatants who were granted Amnesty.

I would like to commend all those who have put in the effort, such as the technical advisors at JLOS, CSOs, religious and cultural leaders, of course and all the victims. They all labored to ensure that we have a TJ policy that will address the needs of all affected people.

Allow me to single out one specific individual for commendation; Ms. Maggie Ajok, the JLOS technical advisor, for her passion in this process

Allow me to single out one specific individual for commendation; Ms. Maggie Ajok, the JLOS technical advisor, for her passion in this process. If there was someone who was always on the spot in every meeting - and I don't know how many times she has been called upon to explain to the suffering population what was going on with the policy. There were always many questions such as: What next? Where has the policy reached? How is the policy taking shape? Why has the TJ policy taken long? Ms Ajok always made sure that she explained everything to everyone's satisfaction.

Dear fellow Ugandans; now that the policy is out, let's not lose hope but continue with the momentum we had at the beginning of the process until we see light, yes it is still possible! JLOS

Grace Acan is a victim of war and a human rights activist from Northern Uganda.

Experts Propose Way Forward for Uganda

By Advocats San Frontiers (ASF)

After a decade-long formulation and adoption process, the Government of Uganda on June 17, 2019 finally announced the passing of the National Transitional Justice Policy (NTJP) and officially released it three months later. The passing of the Policy is partly a fulfillment of the Government's commitments on accountability and reconciliation that it made during the Juba Peace process, which started in 2006, as well as its constitutional obligations. But it is only the beginning.

The NTJP addresses the legal and institutional framework for investigations, prosecutions, trials within the formal system, reparations and alternative justice approaches. These matters are clustered into five (5) key areas:

- formal justice,
- traditional justice,
- nation building and reconciliation,
- amnesty,
- and reparations.

The ultimate goal of the NTJP is to pave the way towards achieving peace, stability and social cohesion in Uganda.

Why does a Transitional Justice Policy matter?

The adoption of the NTJP raises hope in Uganda; especially for the victims who, for the past two decades, have been left with uncertainty on whether, when and how past violations committed against them would be dealt with. The text also provides an overview of how the relevant stakeholders can contribute to its implementation. The Policy specifically notes that whereas the Government will provide an enabling environment for its implementation, it will be implemented under a multi-sectoral, multi-dimensional approach that involves collaboration between various stakeholders. The necessary funding will not only come from the government itself but also from Civil Society Organisations (CSOs), development partners and other non-State actors in the private sector.

Thomas Kwoyelo, a former LRA commander during a court appearance

The long walk to adoption

The development of the NTJP originates from a broad consultative, participatory and inclusive process based on studies and research undertaken by the Justice Law and Order Sector (JLOS), as well as consultations with and by CSOs. In the early stages of formulation, the JLOS gathered views and contributions from civil society through its Transitional Justice Working Group initiative. It was later transformed into a plenary, limited to only Government officials and consequentially eliminating CSOs from the process. In order to keep the momentum of the advocacy, CSOs took initiatives to hold consultative meetings within their networks and to provide feedback to JLOS. They advocated for the adoption of the policy through providing platforms for stakeholders, including Members of Parliament through the Greater North Parliamentary Forum, and pushed to fast-track its development.

What next?

In order to achieve the objectives, implementation of the NTJP should not be delayed any further. Also, it is important that some of its areas be clarified. First, the Ministry of Internal Affairs, which was entrusted to lead the implementation, should set up an effective coordination structure, able to implement policy directions across sectors and to coordinate the respective contributions of the multiple actors involved. In particular, the coordination structure should organize the participation of civil society organizations, as they have built strong and reliable interface with the policy' beneficiaries in post-conflict areas, particularly with victims of human rights violations.

Second, the policy, albeit a general framework, devotes a considerable part of its implementation modalities on the adoption of complementary legislations. Amongst others, the Policy makes the adoption of a Transitional Justice Act, and legislations on Witness and Victim Participation, Traditional Justice Mechanisms, and comprehensive reparations, preliminary requirements to its own implementation. Given the protracted process that led to its adoption, further bureaucratic delays could only add up to the general sense of fatigue among TJ stakeholders, the victims in particular.

Finally, the reparation area of the policy remains quite vague. The idea of a reparations Fund, mentioned in earlier drafts of the policy, has now been left out from the final text, as the NTJP refers to a 'Consolidated Fund' without further details. The policy is further silent on the question of court-ordered reparations for victims of past atrocities and ignores the concrete avenues for victims to obtain reparations (including but not limited to financial compensation) through court processes. Overlooking the question of reparations would jeopardize the Policy's objectives. Indeed, victims in Uganda have made it clear that they expect reparations above all other outcomes of their participation in accountability processes. The absence of a perspective on reparations is thus likely to take away victims' main rationale to participate in criminal proceedings, a key element not only in fostering the fight against impunity but also in enabling criminal justice to fulfil its reconciliation and restorative functions. JLOS

Advocats San Frontiers (ASF) is a key stakeholder in Uganda's Transitional Justice process through its partnership with the Justice, Law and Order Sector.

National Transitional Justice Policy Interventions Deliver Justice, Peace in Uganda

By Jacky Achan

For 20 years, Uganda had to put up with the brutal Lord's Resistance Army (LRA) rebellion that brought northern Uganda to its knees. The LRA was one of the most deadly rebel movements ever seen in Africa.

Having started their warfare around 1986, the group was involved in brutal violations of the local population up to about 2008.

The LRA was responsible for abductions, conscription, mutilation, torture, rape, killings and displacement of thousands of people not just in Northern Uganda but also parts of Eastern Uganda and neighboring countries.

Yet, the LRA war was just a continuation of Uganda' turbulent past. Uganda has since independence in 1962 had to endure numerous military coups and conflicts that have left many Ugandans broken.

In addition to the LRA war, there have been other rebellions by the Allied Democratic Forces (ADF), West Nile Bank Front, UPDA (Uganda People's Democratic Army, the UNLA (Uganda National Liberation Front), and the Holy Spirit Movement of Alice Lakwena.

However, the LRA war was the longest and most brutal. At least 30,000 people died as the LRA spread terror in northern Uganda for over two decades, displacing some two million people.

Lives were lost, people were moved into Internally Displaced People's (IDP) camps to live in deplorable situations; families were separated, children were abducted, while girls and women were sexually assaulted during the war.

The girls and women abducted by the LRA returned home with unwanted children, diseases (e.g HIV/AIDS), disabilities, and faced rejection from their own parents and families.

In addition, the fate of those born in captivity still remains hanging as they equally face rejection. Many victims of war in Uganda are still looking for justice, a situation that the Government wanted to address.

In order to address the problems, Government initiated interventions, ranging from military action to counter the insurgencies, peace negotiations, commissions of inquiry, and designed policies notably the Internally Displaced

Kony LRA Rebels meeting Ugandan MPs and religious leaders in Juba

Persons (IDP) policy and enactment of laws, including the Amnesty Act in 2000 and the International Criminal Court Act 2010.

"All these processes have had their successes and challenges, which precipitates the need for collective action enshrined in values of consultation, dialogue and cooperation," said Eng. Hillary Onek, while still Minister of Internal Affairs.

However last year, the Government approved the National Transitional Justice Policy to provide a holistic intervention to deliver justice and achieve lasting peace in Uganda.

Mr. Ofwono Opondo, the Executive Director of Uganda Media Centre, told a pressf briefing that the main objective of the National Transitional Justice Policy was to address the gaps in the formal justice system for post conflict situations, explained following its approval last year.

He added that the Transitional Justice policy is also aimed at formalizing the use of the traditional justice mechanism in post-conflict situations and also to address gaps in the current amnesty process, to facilitate reparation processes and programmes, reconciliation as well as nation building," said Opondo.

Understanding the National Transitional Justice Policy

According to the Justice, Law and Order Sector report, the National Transitional Justice Policy was derived from the 2006 Juba peace process and is anchored in one of the visions of the national development plan, which is a peaceful and stable Uganda

The report provided two basic approaches to transitional justice; the first is restorative justice, which deals with the socio- economic recovery of victims and mass human rights violations and perpetrators. Under this are mechanisms such as acknowledgment and truth seeking, compensations, institutional reforms, memory, forgiveness and amnesty.

The second is retributive justice, which concerns bringing to book the perpetrators of gross human rights violations hence focusing on prosecutions,

The need for a national Transitional Justice Policy in Uganda was borne out of the growing clamor for justice, accountability and reconciliation in northern Uganda, according to Minister Onek.

Transitional justice consists of both judicial and non-judicial measures implemented in order to redress legacies of human rights abuses, according to Margaret Ajok, an advisor on Transitional Justice, at the Justice Law and Order Sector (JLOS) Secretariat.

"It includes use of criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms or an appropriate combination," she says.

For example in 2011, the Constitutional Court ordered the release of Thomas Kwoyelo, one of LRA commanders who had been charged with 53 counts of murder and other crimes, ending the country's first war crimes trial.

The Constitutional Court said Kwoyelo should be given an amnesty in line with what was done to the other LRA rebels.

However on May 8, 2015, the Supreme Court of Uganda ruled that the trial of Thomas Kwoyelo was constitutional and should continue.

The Supreme Court said that the Amnesty Act does not grant blanket amnesty to all crimes committed during the rebellion, but only grants amnesty to crimes of a war-like nature.

The International War Crimes Division (ICD) of the High Court in Uganda also heard from a number of victims and witnesses that they have evidence of UPDF soldiers committing atrocities during the conflict.

The ICD rules of procedure and evidence provide for the Government to offer reparation or compensation to qualifying victims and witnesses should the trial produce a conviction.

"The National Transitional Justice Policy is designed to address justice, accountability and reconciliation needs of post-conflict Uganda," says Ajok.

"The policy provides a holistic intervention to achieving lasting peace," she adds.

Overall, transitional justice strives, not only to deliver justice to victims of mass atrocities, but also to assist societies devastated by conflict to achieve sustainable peace and reconciliation.

What does the Transitional Justice Policy mean for ordinary Ugandans, especially victims of war?

Transitional Justice is a range of processes and mechanisms associated with society's attempt to come to terms with a legacy of large – scale past abuses and human rights violations in order to ensure accountability, serve justice, and achieve reconciliation, says Ajok.

"Various justice mechanisms are proposed in this policy and this makes it a great deal for victims and survivors of war as well as societies," she says.

For the cabinet to have equally passed the National Transitional Justice Policy thereafter last year, Uganda became the first African country to adopt a Transitional Justice Policy.

"It, therefore, marks a major milestone in the history of the administration of justice in Uganda as well as Africa, stated Ajok.

"The Constitutive Act of the African Union 2000 recognizes the fact that the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and the need to promote peace, security and stability," she explained.

The approval of the National Policy on Transitional Justice is an affirmation of the government's commitment to national reconciliation, peace and justice, according to a report by the Justice, Law and Order Sector.

The government recognized traditional justice as a tool for conflict resolution and put in place safeguard to protect the rights of parties that seek redress

It also reflects the government's core objectives of ending impunity and promoting justice and reconciliation as a necessary precursor to sustainable development.

In addition, it recognizes that Ugandans aspire to live peacefully with citizens of other countries and in harmony within their social, cultural, and ethnic diversity.

The Government has over the years reiterated the need for peace, stability, and social cohesion as important prerequisites for the development of the country.

The Transitional Justice Policy implementation therefore sets a base for economic development and inclusion of all Ugandans in national development.

Role of the Justice, Law and Order Sector in passing of this policy

The Justice, Law and Order Sector (JLOS) Transitional Justice Working Group was established by the government to consider resolutions of the Juba Peace Agreements and develop its implementation mechanisms.

It opted for a national Transitional

Justice Policy to ensure a coherent and coordinated government response not just to the northern Uganda conflict but throughout the country.

The group embarked on drafting the policy which went through a number of back and forth discussions with key stakeholders resulting in over ten different drafts documented along the way.

"While there was huge interest at technical levels within the relevant line ministries on the Policy, at the Political level the Policy received mixed reactions."

"For a very long time, the Policy was scheduled in the Cabinet agenda but kept being pushed backwards until it was no longer talked about. It was, therefore, a big surprise when it was announced that the Cabinet has finally adopted the Policy," wrote Stephen Oola the Director of Amani Institute Uganda and Francis Nono, the Center Manager at National Memory and Peace Documentation Center-Refugee Law Project, in the *New Vision*.

"There is no doubt that the Cabinet's adoption of the Transitional Justice Policy however late, is a welcome development. First and foremost, it's an acknowledgment that victims of the myriad conflicts in Uganda, past and ongoing, deserve justice."

"Second, it provides a basis for the pursuit of the much-needed justice, accountability, healing and reconciliation in the country. Third, it demonstrates that the government is willing and committed to pursuing transitional justice measures."

"Finally, it answers the call of the many activists, victims and conflict-affected communities that Uganda is deeply hurt and must sit down in the judgment of itself," wrote Oola and Nono.

According to the duo, Transitional Justice Policy is an essential structure by the Government to address issues of past human rights violations in order to promote Justice, accountability, reconciliation as well as sustainable peace.

"The policy is designed to provide holistic interventions to achieve lasting peace in Uganda, a country with a dark conflict past. Various justice mechanisms are proposed in this policy and this makes it a great deal for victims and survivors of war as well as societies," they say.

Implementation, action plan, public awareness and legislation

To ensure the Transitional Justice system works just like the formal justice system, the Government has ensured victims and witnesses are protected and participate in its proceedings, according to the Justice, Law and Order Sector.

This is in addition to removing barriers to accessing justice especially for vulnerable victims.

Also, the Government recognized traditional justice as a tool for conflict resolution and put in place safeguard to protect the rights of parties that seek redress.

Furthermore the Government will enact the Transitional Justice act that will strengthen existing structures to facilitate nation building and reconciliation at all levels.

Government provides amnesty in the Transitional Justice Act but there is no blanket amnesty. Instead the Government encourages those amnestied to participate in truth seeking and traditional justice processes.

Also established and implemented is the short term reparation programmes for victims of conflict.

The National Transitional Policy is aligned to most international, continental, and regional dispensations including among them the UN Charter of 1945, and the Universal Declaration of Human Rights of 1948 Article 8 which provides for rights to an effective remedy by competent national tribunals for acts violating fundamental human rights granted by the Constitution.

The National Transitional Policy is also contributing towards the achievement of Sustainable Development Goal (SDG) 16, which aims to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. JLOS

Jacky Achan is a reporter with The New Vision. This article was published in The New Vision on November 13, 2020 as a part of a special supplement on the Transitional Justice process in Uganda.

LRA war memorial in Northern Uganda

On the Transitional Justice Frontline

By Ismene Nicole Zarifis

My time serving as International Technical Advisor on Transitional Justice to the Justice Law and Order Sector in 2011-2012 is marked by several memorable moments, both personal and professional. Professionally, I can sum up my experience by highlighting the most rewarding, the most memorable and the most significant moments during my time with JLOS.

Most memorable:

2012 was the year when we mobilized as the TJWG to overturn the blanket amnesty clause in the Amnesty Act of 2000. During its consideration for renewal, the TJWG put forth a proposal to abandon the blanket amnesty clause due to its conflicting nature with Uganda's national and international obligations to honor the right to justice and a remedy for victims of war crimes. The issue of amnesty has been highly contested and controversial for years with arguments both for and against it, and reflective of the complex nature of the conflict which was characterized by a high number of child combatants who were forcibly recruited to take up arms and later coerced to commit atrocities. Amnesty in Uganda was seen to favor this category of perpetrators and used to encourage captives to return, disarm and reintegrate into society. This issue has since been the focus of an ACHPR decision in 2018 where it addressed the blanket amnesty clause and its contravention of Uganda's international human rights obligations (Thomas Kwoyelo v Uganda). It is now up to JLOS institutions to clarify and confirm what category of individuals would be subject to prosecution and which individuals would be subject to amnesty and alternative forms of justice and reconciliation - either through truth-telling mechanisms or traditional justice avenues.

Most significant:

In 2012, the discourse on the right to remedy and reparations had not yet featured as a central issue in the NTJP process. As the NTJP was intended to be a victim-centered instrument, and as a victims' rights advocate myself, we as the JLOS Secretariat, placed the issue of reparations at the front and center of the process. The right to remedy became one of the key pillars in the policy, alongside formal justice, truth telling and traditional justice. The year 2012 was therefore marked by several initiatives to include the issue of reparations in the policy, namely a JLOS-led national reparations conference followed by nationwide consultations with victims groups and war-affected communities on their expectations for reparations. The NTJP is not only the first policy of its kind on the continent, but also novel in that it calls for a national reparations program to deliver comprehensive reparations to victims.

Most rewarding:

One of the most rewarding experiences as a JLOS advisor was the role I played in connecting the policy process to victims and victims' rights groups. This was an essential ingredient to developing a victims-centered policy, which is responsive to the needs, expectations and priorities of victims and war-affected communities. As an advisor, I participated in numerous consultative meetings organized by victims and victims groups where I had the opportunity to hear first hand, the direct and long-lasting effects of the violence on local communities, including women, children and the particular consequences on IDP populations. In turn, as JLOS, we welcomed the written submissions of victims and victim groups on their expectations for victim participation and reparations in the policy process and the various transitional justice mechanisms. This greatly enriched the process and final product. It was also one of the first times that victims were directly consulted in a policy-making process.

Finally, at a personal level, my time at JLOS was wholly enriching and memorable. I can only be grateful for the unique privilege of being a part of the transitional justice process in Uganda and becoming a member of the extended JLOS family. In 2011, I was embraced by the TJWG and JLOS member institutions and entrusted with an important task of providing guidance on the formulation of the NTJP for Uganda. I thank the JLOS Secretariat and member institutions in particular the TJWG members and its former Chair, Justice Lawrence Gidudu, for the trust and confidence placed in me to support the process. This was an incredibly humbling and enriching experience. It led to a comprehensive policy, which despiteits its flaws, is evidence of a willingness to confront the past and chart a way forward towards truth, justice and national reconciliation in the years to come. JLOS

Ismene Nicole Zarifis is a former International Technical Advisor for Transitional Justice at the JLOS Secretariat, Ministry of Justice and Constitutional Affairs.

Ismene Nicole Zarifis

Transitional Justice Law in Offing

Nathan Twinomugisha

By Nathan Twinomugisha

The journey to the National Transitional Justice Law has been a marathon rather than a sprint. The effort to come up with that law started way back more than 6 years ago. However, the Technical Working Group's determination to have this law go before Parliament has been relentless.

The passing of the National Transitional Justice Policy by Cabinet on June 17, 2019, was the first major boost to the drafting of the Transitional Justice legal framework.

A technical team to fast-track the operationalization of this policy was formed comprising officials from the Ministry of Internal Affairs and the Ministry of Justice and Constitutional Affairs. This team has come up with the draft National Transitional Justice Bill.

A country-wide consultation and dissemination of the National Transitional Justice Policy will commence very soon.

We are all looking forward to the day the National Transitional Bill will be enacted into Law. JLOS

Nathan Twinomugisha is a Chief Legal Advisor at the Amnesty Commission, Ministry of Internal Affairs.

Passing of the Transitional Justice Policy: Stakeholders Speak Out

The ongoing suffering and pain experienced by victims as a result of the crimes committed during the war has never been really addressed. The Government of Uganda must now implement the measures of the Transitional Justice Policy as effectively and as quickly as possible, and in compliance with international standards. The drafting and passage of the Bill that will create the framework for its implementation needs to be expedited, as survivors can't wait much longer

Lorraine Smith van Lin, Post-Conflict Justice Adviser at REDRESS

After a long wait by the victims and survivors of the war in Uganda, there is at least some light at the end of the tunnel. We hope that after the approval of the Transitional Justice Policy, the process will move quickly to address the urgent issues that affect the victims, particularly their reparations.

Hon. Lady Justice Elizabeth Ibanda Nahamya (Rtd), Executive Director of ESA

It is good that finally the Government of Uganda has shown commitment at the most critical time when victims have been seeking mechanisms for accountability

Chris Ongom, Executive Director of UVF

I'm glad that it has been approved. I hope it contains all that will benefit us. This is a big achievement for victims and survivors; we have all along been waiting for the Transitional Justice Policy

Grace Acan, a war survivor who suffered human rights violations at the hands of rebel group Lord's Resistance Army (LRA)

SOURCE: REDRESS.ORG

Chief Justice Alfonse Chigamoy Owiny - Dollo (left) and the Principal Judge Justice Dr. Flavian Zeija at the launch of the 2019 / 2020 JLOS Annual Report during the 25th Annual JLOS Review on 26th November 2020

Transitional Justice Report Card (2019 - 2020)

The NTJP was finally approved on June 17, 2019. The Cabinet directed the line Ministries to ensure wide dissemination and publication of the NTJ Policy, the fast-tracking of the legislation on NTJ Policy, and the management of the transitional period between the implementation of the Policy and the enactment of the relevant laws on Transitional Justice. JLOS consequently developed a road map for the implementation of the directives and the progress so far has been encouraging despite a few challenges.

In the reporting period, a Policy dissemination plan has been developed, copies of the Policy have been printed, soft copies of the Policy have been uploaded on the JLOS website, a drafting team has been constituted and is fast tracking the development of the Transitional Justice Bill. With regards to managing the transitional period between the enactment of relevant laws and implementation of the Policy, the Amnesty Act was extended for two more years and funding for Transitional justice is being maintained in the Sector annual work plans and the Budget Framework Paper (BFP) of the line Ministries and support to non JLOS institutions to embrace planning for Transitional Justice.

Demobilisation, resettlement, reintegration, and rehabilitation:

As part of the Sector's contribution to post conflict justice, resources were provided to the Amnesty Commission to support the demobilisation, reintegration and rehabilitation of ex-combatants, victims of war and the communities.

In the reporting period, the Amnesty Commission facilitated demobilisation of reporters,12 reintegration and resettlement of reporters, dialogue and reconciliatory meetings with communities and training of reporters in life skills to contribute to peace building.

The Commission contributed to the prevention of conflict and reduction of armed insurgency. It demobilized 176 reporters (Bunyangabu-30, Kasese-20, Kiryandongo-124, Kiboga-1, Kyankwanzi-1). In addition, the Commission made 4 contacts with Allied Defence Forces (ADF) rebels in a bid to convince them to abandon insurgency activities and embrace amnesty as a way of promoting peace and contributing to the economic development of the country. All the demobilised reporters were documented and provided with Amnesty certificates. The Amnesty Commission also conducted five meetings on Amnesty Law and process held in three DRTs; West Nile, (DRT Arua), Bwodha landing site (DRT Central) and DRT Mbale at Namutumba. Prison visits in Tororo, Mbale, Soroti, Kasese, Fort Portal and Rubirizi and seven radio talk shows were conducted (4 radio talk shows in Arua DRT on Radio Pacis and three radio talk shows in Central DRT in Mayuge and Mukono on Radio Safari FM. One documentary on Amnesty was aired out on UBC Television.

These campaigns are important because they encourage reporters/ex - combatants to surrender to the Government and also come out for documentation without fear of persecution. These campaigns also helped to emphasize the importance of peace and peaceful coexistence between the reporters and host communities. The Amnesty Commission also provided 402 reporters with reinsertion support, rehabilitated 260 reporters and victims, reunited 42 reporters with their families and next of Kin in Gulu, Kitgum, Kiboga, Kyankwanzi and Nwoya district and resettled 296 reporters in their communities. The Amnesty Commission reintegrated 3,366 reporters and victims through training them in various life skills including environmental management, tree planting and agriculture. The trained beneficiaries were provided with improved tree seedlings, fruit seedlings as

a start up from the training.

The Amnesty Commission carried out 13 dialogue and reconciliation meetings between reporters and communities held in Arua DRT, Central DRT, Mbale Municipal Council and Kitgum Municipal Council. Land issues between reporters and communities were resolved by 60% and others deferred to relevant authorities. Child mothers too were accepted back in their families and communities after the reconciliation meetings.

Amnesty Commission activities were monitored to check on the progress of implementation of all reintegration activities and to ascertain whether there was any impact created. It was found out that the training of reporters and victims has enabled them to settle peacefully in the communities. However, it was also noted that the beneficiaries needed more financial and physical support for development. There is a need for beneficiaries to document success stories to ease the evaluation of the reintegration programmes and also attract additional support from stakeholders.

Prosecution of war crimes cases:

As part of its contribution to enhancing access to justice for post conflict crimes; ODPP prosecuted two (02) war crimes cases during the reporting period, namely the case of Uganda v Thomas Kwoyelo (an ex-Lord's Resistance Army combatant) and the case of Uganda v Ali Kabambwe Munakenya & Others.

Uganda v Thomas Kwoyelo: The prosecution of the case continued in Gulu. During the year, three trial sessions were held and 20 prosecution witnesses have so far testified. Prosecution adopted innovations such as engagement of expert witness and establishment of a witness hostel to enhance witness support and protection. It is expected that hearing of the case will be concluded in the next Financial Year 2020/21.

The prosecution team engaged the services of witness protection officers in Gulu, Lamogi and Pabbo to monitor, empower and protect witnesses before, during and after trial. A total of 7 police officers have been assigned as war crimes witness protection officers in the Kwoyelo case. These officers are given modest facilitation and register books to execute their work. The prosecution team also engaged the services of an expert witness to provide a background context to the case and to prepare an addendum to his report covering SGBV. This means, this witness would be called to testify. Key to this trial is that, it is prosecution led, witnesses including expert witnesses testifying as scheduled, witness protection measures have been established and gender-based crimes have been considered.

In order to boost the capacity of the prosecutors and quality of the case, the ODPP has signed a two-year MoU with Justice Rapid Response (JRR) - Geneva to offer technical support in the prosecution of the Kwoyelo case. This organization runs a global roster of experts in various aspects of International law. So far, JRR has provided support in the areas of witness protection, legal research-international law, psycho – social support for traumatised witnesses. These experts will continue providing technical support during the trial.

However, there is need for more resource allocation to support an independent prosecution to be able to adequately source experts to support the trial especially with regards to witness protection, psycho -social support and legal research.

Uganda v Ali Kabambwe Munakenya & Others: The prosecution of the case commenced in the FY 2018/19 and was continued in the FY 2019/20. The pre-trial was completed successfully and charges were confirmed. The case now awaits cause listing for full trial. The ODPP also carried out witness preparation and verification in Uganda v Ali Kabambwe and Uganda v Charles Wesley Mumbere both in eastern Uganda and western Uganda Districts of Kasese, Kyenjojo, Bundibugyo where seventy-five (75) key witnesses were verified and prepared for trial.

Outreach programs to victims of crimes in western, eastern and northern Uganda:

During the reporting period, the department undertook 6 outreach sessions, 3 each in Northern and Western Uganda respectively to address the concerns and issues arising in those communities relating to cases being handled by the department. The objectives of undertaking outreach activities were to complete the inquiries in the case of Uganda v. Thomas Kwoyelo and those in Western Uganda were in respect to the Uganda V. Jamil Mukulu case; Uganda v Ali Kabambwe Munakenya & Others; Uganda v Charles Wesley Mumbere, interface and interact with the key witnesses and victims to ascertain their availability and willingness to testify in court; establish the concerns of the victims and witnesses and find ways of addressing them in preparation for court; and mobilize and update the victims, witnesses, leaders and other stakeholders in the region on the status of investigations and the case generally. This will also create awareness in the community.

In Northern Uganda, the ODPP undertook three (03) outreach sessions in the districts of Gulu and Amuru respectively in preparation for the hearing of Uganda versus Thomas Kwoyelo before the International Crimes Division of the High Court were conducted in Acholi sub-region where the focus of the activities was the LRA atrocities. Victims and witnesses were briefed on the progress of the case and prepared for court proceedings. The activities undertaken included engagements with local leaders, community meetings and witness preparations and verifications, and visiting scenes of atrocities. The exercises greatly contributed to preparation of the communities, especially witnesses, for the trial to proceed in Gulu.

In Western Uganda, ODPP officials undertook two outreach sessions in August and December 2019 in several districts which were affected by the ADF insurgency. These included Kasese,

Kabarole, Bundibugyo, Kyenjojo, Kamwenge, and Ntoroko. The exercises as well targeted communities that suffered direct ADF attacks and the activities included engagements with local officials and community meetings, and visiting scenes of atrocities. The outreach sessions were carried out jointly with police for purposes of follow up of investigations.

Opportunity was taken to inform and update the communities on the progress of various cases handled by the department as well as take feedback from community members. The activities were successful by large. The respective detailed activity reports were submitted separately. This activity was combined with mop up investigations to close any evidence gaps. One outreach activity is underway in western Uganda and will make the total 7 activities for the year. It was delayed due to the interruption of COVID 19 pandemic and delayed release of funds.

Through our various channels, victims of crime and witnesses are free to engage with prosecutors' prior to during and after trial of their cases. This helps to build confidence of victims and witnesses in the prosecution service.

Key issues identified during the outreach program sessions included community ignorance about their responsibilities in relation to the prosecution of international crimes, especially with regards to securing exhibits like mass graves that are used for evidence by the prosecution. The implementation of Sector activities on Transitional Justice are on track in comparison to past years. A Sector trend analysis on transitional justice reveals an increase in resource allocation and institutional interest in implementation of activities which is a plus for the affected communities. In addition, as anticipated, the approval of the National Transitional Justice Policy has renewed momentum for TJ within the Sector and beyond.

Capacity building for prosecutors, judges, defence counsel and other parties involved in the international crimes cases has been affected by the COVID - 19 Pandemic after a training program had been planned by the Sector. Relatedly, the international conference on memory and memorialisation planned to be conducted by MoJCA has been affected. JLOS

Taking Stock of Successes, Achievements

By Margaret Ajok

That Uganda has had a turbulent past is an undisputed fact. Dictatorial rule in the 1970s, sporadic armed rebellions of the early and mid-1980s, 1990s and 2000 onwards in the Northern, Eastern, South Western (Rwenzori sub-region) and West Nile Sub Regions; are some of the eminent examples. Consequently, communities in these regions have been grossly impacted by the various atrocities with a myriad of effects ranging from loss of life, incapacitation through injury, trauma (including post traumatic stress disorder), poverty, stigma, disease, loss of identity and rejection (especially in the case of children born of war) plus continued deprivation due to the prevailing challenges.

Margaret Ajok

These situations brought into perspective the need for an end to the armed rebellions. As a result, a combination of efforts ranging from peace negotiations, military counter offensives, legal action and amnesty were put in place by the Government of Uganda.

Milestones in transitional justice in uganda

Inquiry into the Violation of Human Rights; The 1995 Constitution of the Republic of Uganda

The promulgation of the 1995 Constitution of the Republic of Uganda was one of the most remarkable Transitional Justice activities that Uganda has undertaken. It followed the Commission of Inquiry into the violation of Human rights between December 1962 and January 1986, which was established by President Yoweri K. Museveni. The Commission inquired into violations of human rights since independence. The report of the Commission indicated widespread violations of human rights and abuse of the law. One of the key recommendations of the Commission was the revision of the law on detentions without trial.

Securing Peace: Amnesty and its challenges

After prolonged calls and negotiations from various sections of population; especially religious, cultural, political and local leaders in the region most affected by the rebel activities of the Lord's Resistance Army (LRA), an Amnesty law was enacted in 2000. The Amnesty Act provided for pardon for all Ugandans engaged in acts of war or armed rebellion against the Government of Uganda since January 1986. Its main objective was ending hostilities in the affected areas.

The Law was particularly an incentive for the boys, girls, men and women who had been forcibly abducted and conscripted as militants in the LRA, Allied Democratic Forces (ADF) and other active rebel forces at the time. Cultural and religious leaders in the

Northern region particularly appealed for the children to be released and to "come back home" as the slogan was. As many as 28,000 reporters/ ex-combatants have received amnesty certificates and have been resettled and re-integrated into the community.

Indeed, the contribution of the amnesty law to the pacification of the country cannot be denied. However, Some of the initiators of the rebellions in Northern and South Western Uganda are yet to make use of the privilege and thus remain on the run or have been captured.

Justice: Formal Criminal accountability

Realizing the need for criminal accountability for gross crimes committed against innocent civilians, the Government of Uganda in December 2003 referred the case of LRA Commander Joseph Kony and four others including Dominic Ongwen to the International Criminal Court (ICC). This decision was greeted with criticism from some skeptics who thought perhaps that the referral of the case to the ICC was against the spirit of the LRA – GoU Peace Agreements. However, time revealed that even with the five Juba Agreements in place, the LRA had failed to turn up for the signing of the final peace agreement.

National prosecutions

The Agreement on Accountability and Reconciliation (aka Agenda Item No.3) and its Annexure provided for the establishment of a Special Division of the High Court to try individuals alleged to have committed serious crimes. The International Crimes Division was established in 2008 as a result. To date, it is handling cases arising from the ADF and LRA insurgencies.

The National Transitional Justice Policy: Why a legal framework?

Despite the various attempts to address issues of peace, stability, and accountability, there has been no overarching Government policy to deal with conflict and post-conflict situations in Uganda. The lack of a holistic and coherent Government Policy and coupled with the inadequate legal framework to deal with crimes or wrongs during and post-conflict situations, had culminated into dissatisfaction with Government's recovery and resettlement programs, as well as justice systems especially for the victims and communities affected by conflict.

In addition, whereas there was evidence that the traditional justice mechanisms had the potential to address the effects of armed conflict, there has been limited appreciation of existing alternative justice mechanisms as a tool for addressing conflict and post-conflict situations. There are also concerns that if the effects of conflict among the affected communities is left unaddressed, it could constitute a potential threat for national stability, security and sustainable development.

The National Transitional Justice Policy therefore provides a holistic intervention for achieving justice and peace in a country whose history has been characterized by political instability.

The Policy provides a framework to address the gaps within the formal justice system, the amnesty process, reparations, traditional justice and nation-building and reconciliation, and provides a framework to guide the implementation of Transitional Justice.

Hon. William Byaruhanga
Attorney General

Hon. Obiga Kania
State Minister for Internal Affairs

It is true that peace and stability are necessary precursors to development. Similarly, justice, accountability and reconciliation are crucial drivers of peace and stability

It is expected that the implementation of the Policy would influence the following outcomes:

- Restoration of trust between Government and communities;
- Sustainable peace, reconciliation and nation building
- Enhanced victim participation and witness's protection
- Traditional Justice Mechanisms formalized
- Socio-economic empowerment of war victims and communities
- Rehabilitation and reintegration of affected persons enhanced
- Address gaps in the Amnesty process.

In conclusion, I would like to state that it is impressive to witness the commitment of the Government of Uganda to a fragile process due to inadequate resources, skepticism and politicization; while focusing on the overall goal of addressing the concerns of the helpless victims and communities faced with vulnerability as a result of armed conflict. Indeed, it is true that peace and stability are necessary precursors to development. Similarly, justice, accountability and reconciliation are crucial drivers of peace and stability. JLOS

Margaret Ajok is an Advocate of the High Court and is the National Advisor on Transitional Justice at the Justice Law and Order Sector Secretariat, Ministry of Justice and Constitutional Affairs.

Mr. Kanyamunyu during a court appearance

Mato-oput: Should the Judiciary Blend in Traditional Justice?

BY ANTHONY WESAKA

The Judiciary and the Office of the Director of Public Prosecutions (ODPP) are currently facing what seems to be a strange development in one of its criminal cases. One of the suspects, Matthew Kanyamunyu, a Kampala businessman, who is accused of murdering a child rights activist, Kenneth Akena, has sought the halting of his trial.

This is to enable him to first pursue and conclude the Acholi traditional justice process dubbed mato-oput and later enroll for plea bargain before the formal court system.

"Before this trial began, our client had embarked on a journey of truth and conciliation with the family of the victim in accordance with the cultural norms of the Acholi people from whom the victim hailed. This journey, an elaborate Acholi traditional process of truth, healing and reconciliation- culminates in a ritual known as mato-oput," Kanyamunyu's lawyers wrote to the DPP on October 16.

Adding: "The purpose of this letter is to request that our client (Kanyamunyu) is accepted into the plea bargain program once the process of mato-oput has been concluded. Therefore, we would be most obliged if this matter is removed from the cause-list of trials beginning 20th October 2020 before Hon. Justice Mubiru Stephen to allow for the completion of mato-oput and plea bargaining."

But since the indigenous transitional justice system is alien to the criminal justice system, DPP Jane Frances Abodo, wrote back to Kanyamunyu's lawyers, stating that the formal criminal trial would have to continue.

"Our position is that whereas the proposal for plea bargain is welcome, the trial process shall continue as scheduled until your client opts for the said plea bargain, in which case the normal process as provided under the Judicature (Plea Bargain) Rules, 2016 shall apply," DPP Abodo wrote.

Justice Mubiru has since delivered his ruling in which he declined to halt Kanyamunyu's murder trial.

The judge reasoned that the accused person was instead using the same informal processes as a scapegoat to prolong his trial contrary to demands of the speedy public criminal trial by the Constitution.

"The usual purpose of delaying tactics is to postpone the resolution of the case or to confuse the court about the merits of the case, or trigger a reason for its eventual stay. Because delaying tactics are contrary to one of the goals of a trial (an expeditious resolution of the case), they tend to be perceived negatively. By prolonging the process, they increase costs and expenses and often the anxiety of all participants," Justice Mubiru ruled on November 9.

The judge continued: "In the circumstances, the court is not satisfied that the applicant's (Kanyamunyu's) intentions to plea bargain upon conclusion of the ongoing process of mato-oput, which is speculatively expected to be concluded before end of December, 2020 in light of the inevitable indeterminate delay that will be occasioned by the adjournment or suspension sought, is sufficient to outweigh the constitutional right of the accused to an expeditious trial. The application is accordingly dismissed."

This means that Kanyamunyu will have to continue with his criminal trial.

Prior to Justice Mubiru's ruling, two people including the Kwaro Acholi cultural Prime Minister, Mr Olaa Ambrose, swore affidavits to support Kanyamunyu's bid to first pursue the traditional justice process.

The Prime Minister explained that the Acholi traditional justice system does not replace court processes.

He added that the informal justice system instead, would help in reconciling Acholi and Ankole people who had been divided along tribal lines following the murder of Akena by Kanyamunyu.

"The traditional process does not replace the criminal proceedings in court but is only to handle its reconciliatory aspects and thereby enhance the court's ability to dispense justice," the prime minister stated in his affidavit.

"Media sensationalisation surrounding the case, provoked sentiments of tribalism that ran contrary to the national goals of peace and unity. The mato-oput will help in healing those divisions and the case will serve as a reference in future disputes," he added.

Likewise, Mr David Okello, a mediator and coordinator of the traditional reconciliation process on behalf of Akena's family, put in his affidavit to support Kanyamunyu's enrollment on mato oput.

"The applicant (Kanyamunyu), has undergone the most important and binding phase but is yet to undergo the crowning ceremony of drinking the bitter herb and sharing first meal with the victim's family as the symbolic seal of principled reconciliation between the two families and peoples," Mr Okello stated.

"It's of utmost importance that both families complete that process as a means of restoring harmony between the applicant's family, clan and people with the victim's family, clan and people. Continuation of the trial will greatly hinder the process of traditional reconciliation," he added

The aforementioned back and forth letters coupled with a deleterious court ruling, would be uncalled for if the formal court system blended with the transitional indigenous system to concurrently resolve disputes.

Given the above developments, advocates for transitional justice are demanding that the policy be fast-tracked.

What transitional justice means

Transitional justice consists of judicial and non-judicial measures implemented in order to redress legacies of human rights abuses.

Such measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms.

The need for a transitional justice policy is premised on Uganda's violent past that is characterized by several civil and armed conflicts.

They include; Joseph Kony's Lord's Resistance Army, 1966 Buganda crisis, NRA guerilla war, among other conflicts.

To that effect, there was a need for the government to come up with a national transitional justice policy as a way of acknowledging these conflicts and resolving them.

A 2008 study on transitional justice in Northern Uganda and Eastern Uganda and some parts of West Nile, highlighted the justice needs of the affected communities including the need for truth telling, traditional justice, reparation and conditional amnesties.

The national transitional justice policy addresses matters of legal and institutional framework for investigators, prosecutors, trial within the formal justice system, reparations and alternative justice system like mato-oput.

Chief Justice Alfonse Owiny-Dollo

Chief Justice Speaks out

Chief Justice Alfonse Owiny-Dollo, in a recent interview with Nation Media Group-Uganda, emphasized the need to blend informal justice with the formal justice system. "Doing informal justice alone misses something and doing formal justice alone, also misses something. There has to be a blend of both depending on the circumstances." CJ Dollo said.

He explained that the beauty of informal justice is that you may achieve something that you would have literally not achieved in the formal mechanism.

"The African justice system does both formal and informal justice. You are held to account and you may achieve something that may not be achieved even if you kept somebody in Luzira," the head of the Judiciary said. He added: "There is that aspect of compensation and restitution, which African justice emphasizes. The African justice system gives you an opportunity to be useful in society after committing a crime."

In further advocating for an informal justice system, Justice Dollo said that in the formal justice system, the winner also loses because if you won a case against someone, you will lose that person forever and yet the African justice system gives room for healing.

JLOS's bid to breathe life into transitional justice

In a bid to bring life to transitional justice, about a decade ago, the Justice Law and Order Sector (JLOS), established the Transitional Justice Working Group (TJWG) as a special policy-making entity to develop a national policy and law for Uganda.

The policy is intended to give effect to the commitments made in the agreement on accountability and reconciliation, which calls for the promotion of formal and informal accountability mechanisms to address the crimes committed during the twenty-year long conflict.

It's also an overreaching framework of the Government designed to address justice, accountability and reconciliation needs of post-conflict Uganda.

Further, the policy provides a holistic intervention to achieving lasting peace in a country whose history has until recently been marred by political instability.

Mr. Kanyamunyu kneels before Acholi elders

Going continental, Member States implementing the policy would be helped on how to deal not only with legacies of conflicts and human rights violations, but also governance deficits and developmental challenges.

Transitional justice is not new in Africa as it has been in the front burner of the continent's agenda to deal with the challenges of colonialism, apartheid, system repression and civil wars.

Since 1990, transitional justice has been implemented in several African States to resolve the legacies of violent conflicts and gross violation of human rights.

What it means for Uganda to become the first African nation to adopt the policy

Ms Margaret Ajok, the advisor for Transitional Justice at JLOS Secretariat, says Uganda being the first African country to adopt a transitional justice policy means that it is a peace-loving country and that this marks a major milestone in the administration of justice.

"As you are aware, regional cooperation is key for member States and this shows our commitment to that and also setting the pace in the great lakes region, which has been for years a death bed," Ms Ajok said.

Since 1990, transitional justice has been implemented in several African states to resolve the legacies of violent conflicts and gross violation of human rights

She added: "Our neighbors rely on us for that guidance and South Sudan is currently pursuing that. The African Union in its implementation framework intends to draw a pool of experts on transitional justice from member States and I am sure Uganda will contribute to that pool. Generally, for me it's a renewed opportunity for regional cooperation in line with the AU's agenda for peace, stability and development of the continent, which is fragile without a transitional justice framework."

Likewise, Ms Sarah Kihika Kasande, the head of office at the International Center for Transitional Justice (ICTJ), says, it is a good step for Uganda to develop from a continental framework.

"…. However, there is still more work to be done in order to pass the policy. We must not prioritise colonial justice processes over our own traditional mechanism because it goes a long way to reconciliation, so the courts should provide an avenue of developing a framework to blend in traditional justice," Ms Kasande said.

About the ongoing Kanyamunyu's attempt to undergo mato-oput process, Ms Kasande explained that Uganda has two parallel justice systems and that he (Kanyamunyu), first commenced his criminal trial before embarking on the traditional justice system.

She added that the judge's decision of declining to allow Kanyamunyu to finish the traditional justice process should be understood since he commenced the traditional justice process later before asking the courts to blend in the informal processes in resolving cases going forward. JLOS

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Moses Baluku (4th from left) with colleagues at the memorial monument which is at the entrance of St. John's Seminary in Kiburara, Kasese District

The Cries of a Former Abductee

One of the victims of rebel abduction speaks out on their expectations from Transitional Justice proceedings, the community and other stakeholders

By Moses Baluku

Fellow countrymen and women, I wish to thank my fellow victims of war for standing strong amidst the many challenges they have gone through. And to all of you who have dedicated your life to end conflict in our country, I salute you with honor!

Before we were abducted by the rebels, we were innocent young boys and girls, healthy and full of hope. We were good citizens who believed in our country's motto, "For God and my country."

Then the rebels came; they forcefully uprooted us from our families. We could not avoid taking on new behavior, which we did not have before. Everything changed; we appeared very different to the local communities where we came from. They called us 'rebels' since we were with notorious rebel groups. In truth, we are victims too and are still going through the terrible trauma. Most of us are struggling with it. We are growing up amidst these different forms of torture. However, our suffering cannot crush us completely.

The groups we were forced to join had people from different cultures. The leaders of these rebel groups put in place strict rules that broke down the barriers between the different cultures. Everyone had to live within the group's rules; failure to adhere would lead to death.

Hope for victims of conflict

One of the best practices for victims' participation in traditional justice proceedings is to learn to respect other cultures. Being open-minded to learn from other people's cultures is very important. This allows us to "cherish the freedom accorded to the individual persons" in their respective cultures in our communities. Freedom makes one more responsible for his/her actions. It's a necessary ingredient for growth towards peace hence maturity that makes one more peaceful with self-control. Mutually, the time for us to stand up in solidarity and protect the freedom accorded to individuals in our country is now. More so, engagement with Government stakeholders responsible for the implementation of the TJ Policy as well as working towards the need to have a CSO advocacy plan towards the implementation of the Policy.

As victims of war, we call upon everyone to continue with initiatives like the Transitional Justice processes, whose aim is to prevent, heal and provide a new hope for the future - a move that will create sustainable peace and justice in Uganda and Africa at large. The Foundation of Rwenzori Abductees' and Returnees' Organization (FORARO) addresses the harmful effects of conflict, empowering the victims and survivors to manage conflict and prevent future violence, as well as promoting solidarity for healing, stability and development.

Many thanks to you, my fellow victims of war, who have been peaceful since you returned from captivity. In spite of the many challenges we have met, we have not participated in criminal activity, and this has given us an opportunity to begin enjoying the freedom we once had as innocent sons and daughters in our families before being abducted. Thank you for being peaceful. I am strongly convinced that with the TJ policy, all victims of war shall once again regain their freedom to live in peace and harmony with one another. JLOS

Moses Baluku is an Ex-ADF child soldier (he was abducted from St. John's Seminary in Kasese). He is the founder of Foundation of Rwenzori Abductees and Returnees Organization (FORARO).

Value of a Specialized Transitional Justice Framework

By Ismene Nicole Zarifis

Achieving truth, justice, reparations and reconciliation in the aftermath of mass violations is no simple task. Post-conflict societies have grappled with achieving these goals in whole or in part for decades, with each country choosing its own path and in many cases without a clearly articulated policy in place to guide the process. The result has been a piecemeal approach that fails to articulate a comprehensive policy with overarching principles to drive the transition. It has led to frustrated processes whereby victims and war-affected communities may not have even been aware of the decision-making at the top, let alone consulted on their views and expectations for appropriate avenues to deliver truth, justice and reparations for the violations they suffered.

A cursory scan of some of the most widely documented processes in Africa reveals several initiatives to address accountability for mass violations, each with varying degrees of success. In Rwanda, for example, criminal accountability was prioritized through the establishment of an internationally backed tribunal meant to prosecute war criminals bearing the greatest responsibility; this was coupled with alternative justice mechanisms, the gaccaca, to address the grievances of victims through a more accessible forum where the many hundreds of perpetrators would face a traditional justice mechanism aiming to achieve justice and reconciliation at the local level.

While criminal trials were going on at the ICTR, memorialization predominated in the country. A trust fund for victims was also set up to dispense reparations for victims of the genocide, this was in the form of education, housing, rehabilitation and livelihood support. The issue of monetary compensation to victims however was left unresolved. The need for reconciliation, while critical to sustaining peace and mending the fractured society, is still not clearly articulated in the context of Rwanda. Whereas several initiatives were adopted, not all were implemented in a coordinated fashion.

Rwanda is not alone in as far as it adopted several transitional justice strategies and mechanisms making strides towards meeting its national objectives, however this was not reflected in one coherent, comprehensive policy

Screening session in Uganda at the beginning of the Ongwen trial in 2016 by the International Criminal Court

framework that articulated the country's vision for achieving truth, justice and reparations in the aftermath of the genocide.

In contrast, the conflict in Sierra Leone drew the attention of the international community, which supported the establishment of the Special Court of Sierra Leone, set up to try war criminals, while at the same time adopting a truth commission that would focus on truth telling by the masses, mainly the victims and child combatants. One of the biggest challenges in Sierra Leone was making a distinction for the public between the role of the Special Court and the truth commission. As many thought there was a connection between the two, there was generalized reluctance to come forward to participate in the truth commission hearings. The issue around how child combatants would be handled by these mechanisms was another thorny issue that needed clarification given the lack of public awareness of the distinct mandates and structures of these overlapping institutions.

While these examples are distinct based on their individual dynamics, the nature of their conflicts, the actors involved and the peace processes that paved the way for a transition, they share at least one characteristic. They were largely led by political actors, leaders and/or with/by the involvement of the international community and not necessarily governed by certain overarching principles to achieve peace and reconciliation, neither were they the product of widespread national consultations with, or endorsement by victims and war affected communities informing on the justice options or the nature and structure of the mechanisms to address the violations. Developing an adequate, effective and responsive justice response after conflict is thus highly dependent on the process adopted, meaning it should be a highly participatory, nationally driven, victim-centered process inclusive of all stakeholders. Further, it should provide overarching direction for how the country intends to address its history of violent conflict.

International instruments

In recognition of this complex task, the United Nations developed several instruments over the years that stipulate clear principles, concepts, mechanisms and methodologies to undertake a transitional justice process that is responsive to the local context, the victims, and the society as a whole. The UN principles emphasize the victim-centered approach, the importance of a participatory and consultative approach to policy making and the establishment of multiple transitional justice mechanisms. Importantly, they emphasize principles of complementarity and comprehensiveness, which call for the establishment of one or more mechanisms to meet the goals of truth, justice, reparations and reconciliation in a multi-layered, war affected society.

Of late, the African Union adopted a Transitional Justice Policy that espouses many of the same principles. This is reflected in one consolidated text that speaks to principles and mechanisms applicable to the African context and intended to guide AU member states as they embark on a transitional justice process. The policy is comprehensive in its treatment of transitional justice and serves as an important blueprint for designing a comprehensive and complementary transitional justice process. The AUTJP is the first of its kind to consolidate applicable state obligations, overarching principles and mechanisms on transitional justice in one framework making it a widely accessible and applicable resource.

Uganda adopted its National Transitional Justice Policy in 2019 , making it the first African Union Member State to adopt a specialized policy on transitional justice

Uganda sets pace

The trend to adopt a specialized policy to guide a transition process is quickly gaining traction. Uganda adopted its National Transitional Justice Policy in 2019 , making it the first African Union Member State to adopt a specialized policy on transitional justice. The NTJP outlines the country's approach to accountability through formal and informal justice mechanisms and calls for a national reparations program. The Gambia has developed a draft policy with the similar intent of mapping out not only the mechanisms that will be put in place but more importantly articulating the understanding and position by the State on its priorities for truth, justice, reparations, reconciliation and institutional reform.

What can be gleaned from the experiences highlighted here and the potential role of a specialized policy on transitional justice? A comprehensive policy allows the State to articulate a common position on how it intends to address the aftermath of mass violations and injustices during conflict. It may be drafted with a foundation in international and national obligations of the state and set out a priority for formal justice (prosecutions), alternative justice (truth telling), a combination of the two, or how the State intends to deliver reparations to victims. The policy is strengthened and validated through the inclusion of overarching principles such as transparency, non-discrimination, inclusion, victim-centeredness, best interest of the child, complementarity and comprehensiveness.

Most importantly, a number of contentious issues can be settled with a specialized policy making for a smoother transition, for example the issue of amnesty can be addressed (if and when it should be applied); criminal accountability of child combatants can be clarified (how will child combatants responsible for serious violations be handled and through which mechanism); the question of whether child combatants would be treated as victims, benefitting from reparations or otherwise; how the process will cater for women and children, in particular those who have been severely affected by sexual violence, and many more. Equally important, a policy that provides for one or more transitional justice mechanisms can provide guidance on how these mechanisms will work together- in complementarity or sequentially and what, if any, will the relationship be between them so as to avoid conflicts in mandates. While the development of specialized transitional justice frameworks is still new, evidence shows that such a specialized instrument promises to pave the way for a more coherent and comprehensive approach to transitional justice; and if developed with the active participation of all sectors, promises to reflect a truly nationally owned process with relevant mechanisms and strategies to meet the nation's goals of sustainable peace and reconciliation. JLOS

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Specialised Courts, International Crimes and Transitional Justice

In a bid to address impunity, Uganda has adopted various steps towards fulfilling its international commitment to protect human rights and to pursue accountability for serious international crimes. These included the ratification and domestication of the Geneva Conventions in 1964 and the Rome Statute in 2002 (domesticated in 2010), followed by the creation of the International Crimes Division (ICD) of the High Court.

In 2009, the Justice Law and Order Sector (JLOS) undertook consultations on the use of formal criminal prosecutions in addressing impunity with specific regard to the then proposed International Criminal Court (ICC) Bill. The outcome of the study led to proposals for the amendment of the Bill, which has now been enacted into law - the International Criminal Court Act, 2010 - intended to address accountability for war atrocities that have been committed in different parts of the country.

Uganda has since taken additional steps to ensure effective implementation of the above-mentioned treaties, with a particular view to enhancing national capacity to effectively prosecute international crimes. The creation of the International Crimes Division (ICD) of the High Court of Uganda in 2008 marks a significant step towards this objective.

The ICD has jurisdiction to: Try any offence relating to genocide, crimes against humanity, war crimes and trans-boundary international terrorism, human trafficking, piracy and any other crimes under international law" as may be provided under the Penal Code Act of Uganda, the Geneva Conventions Act of 1964, and the International Criminal Court Act of 2010, as well as international customary law

Since the ICD's establishment, Uganda has adopted additional measures to ensure that it is effectively 'able' to pursue prosecution of perpetrators of war crimes and other serious violations of international law.

Furthermore, Uganda is in the process of adopting legislative and policy measures directed towards the delivery of adequate protection for witnesses and necessary support to victims and witnesses expected to participate in criminal proceedings. Such measures, while critical for the trials to take place, will not be limited to application by the ICD, but will be national in scope.

In an effort to enhance the capacity of personnel in formal criminal prosecutions, the Judges of the ICD, the Registry, the DPP, Investigators, as well as members of the Ministry of Justice, the Uganda Law Reform Commission, defence counsel have

had their capacity needs met through specialised training.

Uganda is now pursuing its first trial against an alleged perpetrator of war crimes, Mr. Thomas Kwoyelo, a mid-level commander of the LRA.

Uganda's approach to complementarity—enhancing local capacity and sustainability

Establishment of the ICD as a permanent yet specialised division of the High Court does not only contribute to meeting Uganda's obligations under the complementarity principle, but as an integrated mechanism within the national court structure, the ICD is an important measure that promises sustainability, enabling Uganda to fulfill its international obligations on the long-term.

Complementarity is therefore envisioned and approached more broadly in Uganda, encompassing the adoption of relevant institutional, legal and judicial measures to strengthen the rule of law institutions and the administration of justice more generally, not solely limited to international crimes prosecutions.

Establishment of the ICD, building capacity of its staff and the adoption of relevant guidelines are therefore all long-term investments in enhancing domestic accountability mechanisms by the Government of Uganda.

Transitional Justice in Uganda

The transition to peace implies more than just the end to hostilities and accountability for wrongdoers.

The Juba Agreement provides an overarching framework for Uganda's transitional justice process and reminds us to view transitional justice broadly and holistically. It emphasizes the importance of an integrated approach whereby complementary and coordinated mechanisms seek to achieve accountability through a variety of mechanisms, including truth-seeking, traditional justice and reparations for victims, with special emphasis on the rights of women and children.

Uganda is therefore embarking on a transitional justice process. It will seek to explore options for alternative justice mechanisms to complement the formal justice initiatives spearheaded by the Government. As with the establishment of the ICD, Uganda hopes to develop transitional justice mechanisms that prove to have a long-lasting impact on improving the lives of those most affected by the conflict, but also for all Ugandans.

H.E Yoweri Museveni shakes hands with a former LRA commander

Transitional Justice and Development

Adopting an integrated approach to Transitional Justice, one that also includes the aim to improve conditions of war affected communities will positively contribute to the full recovery of victims and war affected communities as well as enable them to develop their livelihoods and contribute meaningfully to the national economy. These are essential elements towards building lasting peace in the region. Empowerment of this group will transform their situation of dependency to a situation of independence. Our task is to facilitate this transition by developing the appropriate mechanisms and policies. In this regard, Uganda is faced with a new challenge and can stand to learn from other countries having faced and overcome similar situations so as to determine how best to move forward.

Finally, the progress achieved thus far is a combined effort, led by the Government of Uganda with the critical support of international stakeholders. Uganda's ability to establish a specialised mechanism to prosecute international crimes and to adopt relevant measures to ensure a fair trial that meets international standards, has been greatly enhanced with the financial support and technical assistance of international partners.

The principle of complementarity is presently being tested in Uganda; however, with the necessary structures and personnel in place, Uganda is confident to pass this test. What is important in addressing issues of impunity is Government commitment - and this has been expressed in the Juba Agreement - the setting up of the ICD, national consultations, and fulfillment of international obligations through ratification, domestication and implementation. JLOS

Transitional justice strives not only to deliver justice to victims of mass atrocities, but also to assist societies that were devastated by conflict to achieve sustainable peace and reconciliation. Peace and reconciliation demand comprehensive societal transformation that must embrace a broad notion of justice, addressing the root causes of conflict and the related violations of all rights. Transitional justice mechanisms offer the potential for incorporating economic, social and cultural rights.

Investigation and Prosecution of International Crimes in Uganda: Prospects and Challenges

As a signatory to the Rome Statute, the Government of Uganda has set up institutions such as the International Crimes Division (ICD) of the High Court and the International Crimes Section in the Office of the Director of Public Prosecutions, which are mandated to deal with international offences such as war crimes, crimes against humanity, genocide and other crimes of a transnational nature

INTRODUCTION

The Government of the Republic of Uganda is a signatory to the Rome Statute that set up the International Criminal Court. As part of operationalising the Statute, an International Crimes Division was set up in the High Court of Uganda and 3 judges appointed to sit on this court.

For its part, the Office of the Director of Public Prosecutions (ODPP) also established the International Crimes Section which it staffed with three full time Prosecutors. When the workload so demands more Prosecutors can be assigned from time to time.

The Directorate is empowered by Article 120 of the Constitution of the Republic of Uganda to institute criminal proceedings in any court except the Court Martial.

There have been cases tried by the International Crimes Division. Some have been concluded while many others are still in the pipeline. The most common offences are war crimes, crimes against humanity, terrorism and trafficking in persons.

LEGAL FRAMEWORK

The Rome Statute gives precedence to national justice systems to combat impunity and to assume responsibility for trying (or extraditing) those responsible for the crimes listed in the Rome State, i.e. war crimes, crimes against humanity and genocide.

Uganda as a country has exhibited its willingness and ability to deal with international crimes by domesticating the Rome Statute under the "ICCP Act 2010" and the Geneva Conventions of 1949 under "The Geneva Conventions Act 1964".

Apart from the available legal frame work, in 2008, the High Court set up the now International Crimes Division (ICD) of the High Court of Uganda which is mandated to adjudicate international crimes, i.e. war crimes, crimes against humanity, genocide and other crimes of international nature and or of transnational nature.

The Geneva Conventions Act 1964 confers extra-territorial jurisdiction on the ICD, i.e. all war crimes committed outside Uganda can be heard before the Ugandan courts of Judicature.

BACKGROUND

The Lord's Resistance Army (LRA) and the Allied Defence Forces (ADF) have committed heinous crimes in the Northern and Western Regions since the early 1990s. The two groups have since moved to the Democratic Republic of Congo (DRC), South Sudan and Central African Republic (CAR) and continue causing havoc.

Given the fact that the ADF & LRA rebels are operating across borders and committing crimes it is pertinent that a framework is established to ensure that they are arrested, successfully prosecuted and that the victims receive justice as a catalyst to end impunity.

In the year 2013, over 200 victims (abductees) were repatriated to Uganda from the DRC and CAR. There are also victims who have been re-integrated with their families in the DRC and CAR. The Re-integration is not enough, those at whose hands they suffered have to be held accountable, and this calls for investigation of cases in the DRC as well as executing arrests and extraditions in the DRC and CAR.

Other International Crimes include: terrorism, human trafficking, crimes against humanity, genocide, piracy etc.

Statistics from the Ministry of Internal Affairs show that Trafficking in persons is increasingly becoming a major concern.

THE CASE OF DOMINIC ONGWEN

The case of Ongwen helps highlight the major challenges surrounding adjudication of the international crime of war crimes:

- Captured as a child and rose through the ranks. There are those who have argued loudly that therefore he should either be forgiven or should not be held criminally liable.
- Fighting across the international borders
- Committed atrocities in Uganda, South Sudan, Sudan, DRC and CAR. Which government takes responsibility?
- Victims and witnesses scattered in all those countries. Who bears the cost of collecting evidence? Where is the budget?
- Was he captured, arrested or did he surrender? Seleka rebels, UPDF, US Army?
- Who captured him or who did he surrender to?

High court building in Kampala

- Amnesty or Prosecution? Who should decide?
- Luxury at the ICC. Suites, suits, sauna, conjugal rights, no death penalty etc versus Luzira maximum security prison.

COURTS OF LAW

Indeed courts of law could decide on whether war criminals who apply for amnesty can be prosecuted or granted amnesty. The case of Kwoyelo who was captured and applied for amnesty is awaiting judgment before the Supreme Court of Uganda.

VICTIMS MARGINALISED

The criminal justice system is by and large suspect-centred. The victims of crime, apart from being used as witnesses are completely left out of the criminal justice system.

This is more so in the arena of genocide, crimes against humanity and other offences covered under the Rome Statute. The LRA, for example, left thousands of victims in its wake. Abductees, bereaved families, maimed individuals and displaced communities.

ABOKE GIRLS

You can read about them in a book by Els De Temmerman, 2001. 139 girls were abducted in October 1996 from St. Mary's SSS Aboke. The case of these girls highlights the plight of victims of crime.

Aboke girls became Aboke women, Aboke brides, Aboke mothers. How can the justice system ever atone for the Aboke girls and their parents for their lost childhood, innocence and in some cases lost lives? Dominic Ongwen has many lawyers lining up, vying and jostling for position to represent him. How many lawyers have you heard of lining up to represent the victims? I think there is a Cabinet sub Committee to choose Ongwen's lawyers.

Did you hear of many lawyers positioning themselves to represent the Aboke girls or other girl brides abducted by the war criminals?

Nothing worth of mention has been done to address their individual needs. Of course peace has returned and like everybody else in society they reap the peace dividend. Is that all?

On the other hand, about five members of the top leadership have been indicted by the ICC and untold resources have been set aside, as they should, to hunt them down. Some other fighters have been granted amnesty.

So we have thousands of victims and a handful of perpetrators. More attention needs to be given to the victims.

Thankfully under the Sentencing Guidelines recently launched by the Judiciary, victims have been given a right to be heard at the time of sentencing. A Victims Impact Statement is required before the sentence is read out. This is a step in the right direction. The ICD needs to take particular interest in this aspect.

PROS AND CONS OF AMNESTY

- It has been some time since prosecution of an offence of war crimes or crimes against humanity took place at the International Crimes Division of the High Court of Uganda. Non prosecution before ICD can be both good and bad.
- We cannot prosecute all the crimes that are committed. We have no human or financial capacity to do so. Neither does the judiciary.
- A kind of plea bargain or surrender, where the accused person pleads guilty and gets amnesty is not a bad idea after all. The only condition we would attach to this kind of plea bargain under the Amnesty Act is that the accused person should take responsibility for his actions, pleads guilty and is convicted. Thereafter he can be granted amnesty if that is what the terms of the plea agreement provide.
- Whether the protagonist surrendered or was captured is a question of fact not answerable by prosecution. It is the army or whatever security organ at the frontline that arrested or received the accused person that can advise prosecution whether he surrendered or was arrested in the thick of action.

139
girls were abducted in Oct. 1996 from St. Mary's SSS Aboke. The case of these girls highlights the plight of victims of crime

OTHER CHALLENGES

- The terror suspects of July 2010 mounted a challenge to the Constitutional court challenging the way they had been arrested. Thankfully after what seemed like a long time the Constitutional court has finally dismissed their challenge and set the stage for their prosecution before the International Crimes Division.
- Delays in bringing the accused persons to trial. Gathering witnesses from abroad, legal challenges aka technicalities, death or disappearance of witnesses e.t.c
- Death of accused persons, e.g. Vincent Otti, Okot Odhiambo, Raska Lukwiya, Odong Latek
- The lack of a law on Mutual Legal Assistance with several key countries like DRC and CAR.
- Uganda does not also have an Extradition Treaty with the DRC and CAR. This is quite surprising given the amount of cross border criminality. Understandably DRC and CAR not being members of the Commonwealth additional steps have to be taken to sign such a treaty.
- Lack of a law on witness protection. Some of the witnesses in Uganda and the DRC and CAR need protection and it is high time their needs are addressed. These victims are mainly the abductees and those who suffered sexual violence.
- It is also important that Uganda addresses the issue of the children who were born by the abducted girls whether currently resident in Uganda, CAR or in the DRC.
- Ratification, domestication of the Geneva Conventions and the Rome Statute is not enough. We have to fully empower the WCD to carry out its mandate. Uganda can only be seen as a willing and able state when the structures put in place can operate without the setbacks in our laws.
- Kwoyelo's case is still stuck in the Supreme Court awaiting a ruling. Even if Kony were to be captured tomorrow, ICC would offer more semblance of justice than ICD with the Supreme Court yet to decide
- The Amnesty issue needs to be reconsidered. The Amnesty law in its current form is an impediment to successful prosecution of those most responsible. Moreover, the DRC and CAR are not party to the Uganda Amnesty Law.
- Difficulty in getting the cooperation of countries where girls and children are trafficked to. There are registered companies dealing in the genuine business of employment overseas alongside those involved in trafficking.
- There is the issue of freedom to contract between adults. In other words, some victims unknowingly acquiesce in their own kidnap.

CONCLUSION

The prospects for investigation and prosecution of international crimes remains bright as long as the challenges posed by the Amnesty Act, lack of witness protection laws and the lack of a comprehensive victim rights regime remain unresolved. JLOS

*Adopted from a speech delivered by the **Honorable Justice Mike Chibita** (currently serving as Supreme Court Judge) on the subject of complementarity and adjudication of international crimes in Uganda.*

Enact Witness Protection Law - Justice Kiggundu

The International Crimes Division is a special division of the High Court, a national court established in 2008, under the 1995 Constitution of the Republic of Uganda. Originally, it was called the War Crimes Division. **Edgar Kuhimbisa** from the JLOS Secretariat spoke with **Justice Jane F.B Kiggundu**, the deputy head the ICD to get more insight in the mandate, jurisdiction and achievements of the court over the years.

What is the International Crimes Division; its mandate, mission, vision and jurisdiction?

The International Crimes Division (ICD) is a Special Division of the High Court of Uganda (formally known as the War Crimes Division). It was established in July 2008 pursuant to Article 141 of the Constitution of the Republic of Uganda of 1995. Paragraph 3 of the High Court (International Crimes Division) Practice Direction, 2011 sets up the International Crimes Division.

MANDATE: The mandate of ICD is to check and end impunity of the perpetrators of the most serious crimes by ensuring their effective prosecution. The following are some of the principles observed in a bid to realise the mandate:

- To apply international best practices and High Standards in criminal justice.
- To be efficient and effective in its operations at all times.
- To offer protection for victims of International Crimes and have those who have committed crimes against them held accountable.
- To put in support measures for the protection of witnesses and victims.
- To protect and observe the fair trial rights of an accused person.

ICD MISSION: The mission of the ICD is to fight impunity and promote Human Rights, Peace and justice.

ICD VISION: The vision of ICD is to have a strong and independent
Judiciary that not only delivers but also is seen by the people to deliver justice and contribute to the economic, social and political transformation of society based on the rule of law.

JURISDICTION: Without prejudice to Article 139 of the Constitution, the Division is mandated to try any offence relating to: genocide, crimes against humanity, war crimes, terrorism, human trafficking, piracy and any other international crime as may be provided for under the Penal Code Act, (Cap. 120), The Geneva Conventions Act, (Cap. 363), The International Criminal Court Act, No. 11 of 2010 or under any other penal law. (see: Para 6 of the High Court (International Crimes Division) Practice Directions, No. 10 of 2011)

What were the founding principles of the International War Crimes Division in 2008?

Justice Jane F.B Kiggundu

In 2006, the Government of Uganda (GoU) and the Lord's Resistance Army (LRA) commenced peace talks to end the conflict in Northern Uganda. In June 2007, the GoU and the LRA signed an annexure to the final Peace Agreement on Accountability and Reconciliation, which required the Government to establish both formal and non-formal justice mechanisms to address accountability and reparations for atrocities committed in Northern Uganda.

In line with the JUBA PEACE AGREEMENT calling for the establishment of accountability mechanisms for crimes perpetrated during the conflict, the Government of Uganda established the WAR CRIMES DIVISION in 2008, now the INTERNATIONAL CRIMES DIVISION of the High Court, to try individuals suspected of committing war crimes in the country.

Where is the ICD located?

Currently, the ICD is located at Plot 8 Mabua Road, Kololo, Kampala. However, the Court may also sit in any other place in Uganda as the Chief Justice and the Principal Judge may decide.

What kind of crimes does the ICD handle?

The ICD has jurisdiction over serious International Crimes as prescribed in the Practice Directions of the ICD (Legal Notice No. 10 of 2011, gazetted 31 May 2011). The offenses include: Any offense relating to genocide, crimes against humanity, war crimes, terrorism, human trafficking, piracy, and any other crimes as prescribed by the Law.

What laws can be applied by the ICD?

The laws which shall be applied by the ICD include:

- The Constitution of Republic of Uganda, 1995
- The Trial on Indictments Act, (Cap. 23)
- The Penal Code Act, (Cap. 120)
- The Evidence Act (Cap. 6)
- The Criminal Procedure Code Act (Cap. 116)
- The Prevention and Prohibition of Torture Act, No. 3 of 2012
- The Anti - Terrorism Act, Act 14 of 2002 (as amended by Act 3 of 2017).
- The Prevention of Trafficking in Persons Act, Act No. 6 of 2009
- The International Criminal Court Act, 2010 No. 11 of 2010
- The Geneva Conventions Act, (Cap. 363)
- The High Court (International Crimes Division) Practice Directions, Legal Notice No. 10 of 2011
- The Judicature (High Court) (International Crimes Division) Rules of Procedure and Evidence No. 40 of 2016
- Any other relevant laws.

How many judges does the ICD have?

Rule 4 of The High Court (International Crimes Division) Practice Directions, Legal Notice No. 10 of 2011 states that the Division shall have a minimum of three judges. The Head of the Division is Hon. Justice David Kutosi Wangutusi, the Deputy Head of Division is Hon. Lady Justice Jane F.B. Kiggundu. The third Judge is Hon. Justice Vincent Okwanga. Her Worship Beatrice Stella Atingu is the Registrar of the Division.

To assist ICD especially in the composition of Panels, the Hon Principal Judge attached the following judges to ICD: Hon. Justice Michael Elubu, Hon. Justice Duncan Gaswaga, Hon. Lady Justice Eva Luswata, Hon. Lady Justice Susan Okalany, Hon. Lady Justice Lydia Mugambe and Hon. Justice Stephen Mubiru.

Which institution is responsible for bringing charges before the International Crimes Division?

According to the Constitution of Uganda (Art 120 (3)) it is the Director of Public Prosecutions, on behalf of the People of Uganda.

Describe the relationship between ICD and other international institutions such as the International Criminal Court.

The International Crimes Division is a special Division of the High Court of Uganda. It is a national Court and should not be confused with the International Criminal Court (ICC), which is situated in The Hague, Netherlands. The ICC is an International Court that handles cases dealing with serious international crimes, specifically the crime of genocide, crimes against humanity, war crimes and aggression. The ICC was established by the Rome Statute in 2002. The two adhere to the complementarity principle. Complementarity is a principle which represents the idea that States, rather than the International Criminal Court (ICC), will have priority in proceeding with cases within their jurisdiction. As Roy S. Lee has written: This principle means that the Court will complement, but not supersede, national jurisdiction. National courts will continue to have priority in investigating and prosecuting crimes committed within their jurisdictions, but the International Criminal Court will act when national courts are 'unable or unwilling' to perform their tasks. Uganda ratified and domesticated the Rome Statute in June 2010 by enacting the International Criminal Court Act 2010, meaning that it is obliged to respect the obligations in this treaty. In general terms, the International Criminal Court Act No. 11 of 2010 (commonly known as the ICC Act) was enacted to give effect to the Rome Statute of the International Criminal Court and to provide for offences under the Laws of Uganda corresponding to offences within the jurisdiction of that court.

The objectives of the Act include:

- To implement Uganda's obligations under the Rome Statute of the ICC;
- To make further provision in Uganda's law for the punishment of the international crimes of Genocide, Crimes against humanity, war crimes and other International crimes;
- To enable Ugandan Courts to try, convict and sentence persons who have committed crimes referred to in the Statute (Section 2 of the ICC Act, 2010). Specifically, Uganda has the duty to prosecute the listed crimes when they are committed in its territory. If Uganda is unable or unwilling to do so, the International Criminal Court may bring charges against offenders of such crimes, especially when the offenses were committed in Uganda after 2002.

What have been the major achievements of the International War Crimes Division since its establishment in 2008?

I assume the question relates to the International Crimes Division as it is currently known. The major achievements would include the following:

- ● Hearing cases: Completed over 80 trials
- Training of Judicial Officers, Prosecutors, Defence Counsel and Victims' Counsel under which joint trainings were undertaken.
- Cultivation of cordial working relations and appreciating prosecution, defence and victims' counsel positions and roles.
- Adoption of international best practices and high standards. Sensitisation of Security Agencies about the need to strictly observe the Constitutional Rights and Freedoms of Suspects of Crime and Accused Persons.
- Development and publication of ICD's own rules of procedure and evidence
- Creating access for victims to participate in the court process: Mapping and identification of Victims in relation to the crimes charged. And appointing Counsel to represent the Victims.
- Development of awareness of the need for witness protection – its nature and context, development of measures for witness protection and appreciating challenges to effective witness protection.

The ICD has also been involved in outreach activities aimed at:

- Engaging grass root populations affected by crimes committed by rebel groups
- Cultivating a level of awareness and understanding of the ACDs mandate and mode of operations, promote access to and understanding of judicial proceedings and foster realistic expectations about the court's work. This in turn is to engender not only greater local community but also participation in court proceedings by addressing the concerns of those in affected communities and by countering misperceptions; in close collaboration with networks of victims, local leaders, RDC, police, and NGOs.
- Providing platform to provide information on victims' rights before the Court and facilitate interactions with ICD officials and others

How has the sector-wide approach (under JLOS) effectively facilitated the work of the international war crimes division?

In 2018, JLOS availed funds to commence prosecutions of those accused of committing crimes in Northern Uganda during the protracted war.

In your view, what have been some of the key success stories from Uganda's transitional justice process so far?

- The development and passing of the Transitional Justice Policy.
- The prosecution of those accused of the most heinous crimes in the courts of law both international and local courts.

How significant is the passing of the National Transitional Justice Policy to Uganda as a nation but more specifically to the work of the International War Crimes Division of the High Court going forward?

Transition connotes the process or a period of changing from one state or condition to another. Transitional Justice hence refers to the ways countries emerging from periods of conflict and repression address large scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide adequate response.

It was therefore important to develop and pass the Transitional Justice Policy as a nation to have in place a comprehensive, holistic and victim-centred document. With the policy in place, ICD and the nation are expecting a law to guide mainly on the issues of:

- Witness protection and victim participation in court, formal recognition and regulation of traditional justice mechanisms as tools for conflict resolution

Profile: Justice Jane F.B Kiggundu

Who is justice Jane F.B Kiggundu?

A judge of the High Court since 2007

Describe your journey working in the judiciary and now at the icd?

- Posted to Masaka High Court Circuit from 2007-2011
- Redeployed to the Criminal Division of the High Court 2011-2013
- Posted as ED JSI (as it was then) 2013-2015
- Transferred to Family Division (while attached to ICD) 2015-2017
- Posted to ICD 2017 to date

What are some of the most fulfilling moments of your judicial career so far?

- Delivering of judgments especially after a session
- The calling off of the strike by Judicial Officers
- The passing of the Judiciary Administration Act 2020

and protection of parties who seek redress.
- Reparation, compensation, protection, peace building and reconciliation.
- The structure, jurisdiction, powers, functions and mandate of the National Truth-Telling processes at all levels
- Victims should be given platforms to tell their stories
- Perpetrators should be given the opportunity to confess their wrongs and seek forgiveness hence the adoption and recognition of complementary alternative justice mechanisms

What challenges does the ICD face currently and how are these being addressed by the judiciary?

Challenges facing ICD are numerous but not insurmountable. They include:

- Uganda unlike Kenya does not have a victim and witness protection law. The Court may make orders for protection but who is responsible for implementing them? Who holds the budget for this - it is trite law that courts should not make orders in vain?
- While the court orders protective measures for prosecution witnesses, it has to balance and ensure that an accused person's fair trial rights are not prejudiced.
- In the absence of legislation ICD cannot put in place an elaborate structure for victim participation in the court process in Uganda.
- Under the existing legal framework, the victims cannot directly claim for compensation. The law leaves it at the discretion of the court to determine whether or not to award compensation.
- Where a convict is indigent, the Court would, as a matter of principle, make an award of reparations against him but the victims could end up getting nothing. The government is not obliged to provide reparations in such cases.
- The ICD does not have a trust fund for victims (unlike the ICC) to help fund an award made by the court.
- The ICD has no authority to award collective reparations. Direction 5(2)(e) of the Sentencing Guidelines provides that the Court shall in accordance with the Sentencing Principles pass a sentence aimed at providing reparations for harm done to a victim or to the community. There is need for substantive law to empower ICD to issue Orders for collective reparations.
- The ICC Act, 2010 came into force on June 25, June 2010. However, some crimes were allegedly committed before that date, International Customary Law existed before the ICC Act, 2010 came into force. Crimes such as Genocide, War Crimes and Crimes Against Humanity were already serious crimes (grave breaches) known to International Customary Law. Such crimes can be prosecuted and punished under the Geneva Conventions Act. However, this Act covers situations of an International Armed Conflict context. Further, under Section 2(1)(d) and (e) of the Geneva Conventions Act, 1964 (Cap. 363), the maximum penalty for a grave breach of wilful killing of a person protected by Article 147 of the Geneva Conventions IV of 1949 is imprisonment for life. In Uganda, the Penal Code Act (Cap. 120) and the Sentencing Guidelines retain the death penalty. Therefore, there is a sentencing disparity.

Under the Rome Statute it is the duty of every State: to exercise its criminal jurisdiction over those responsible for international crimes and to establish an independent permanent internal criminal Court. A National Court takes the primary responsibility to try offenders under international and domestic criminal law. The ICD therefore has to adopt international best practices and high standards. However, the court does not have magistrates attached to it. Suspects may be arrested and detained who will end up being committed to the ICD for trial. For remand, such suspects/accused persons appear before magistrates' courts, which have not yet been sensitised to observe international best practices. The accused persons could have been subjected to abuses like torture, mistreatment and denial of fundamental rights. Before such magistrates' courts, the accused persons are routinely remanded or further remanded without addressing their complaints and /or concerns. It may be too late after the committal for the ICD to do a post-mortem. A lot of injustice might have been down to this dynamic.

The ICC Act, 2010 came into force on June 25, June 2010. However, some crimes were allegedly committed before that date, International Customary Law existed before the ICC Act, 2010 came into force

Other challenges and recommendations:

- The ICD has a unique jurisdiction as reflected in The High Court (International Crimes Division) Practice Directions, Legal Notice No. 10 of 2011 which conforms to international practice and standards. The Division requires special funding to be able to establish a proper Registry and to put in place measures necessary for a court, which handles international crimes.
- In conformity with the principle of complementarity, Uganda needs to establish a well-funded team for investigating and prosecuting international crimes. The Agreement on Accountability and Reconciliation provided that the prosecution would be based on systematic independent and impartial investigation. (Item: 4.2)
- The Government needs to expedite the process of making available legislation for Victim and Witness Protection. The Agreement on Accountability and Reconciliation required the Government to take measures to ensure the safety and privacy of witnesses, protection of child witnesses and victims of sexual crimes. (Item: 3.4)
- There is a need for a law to provide for and ensure the physical and psychological well being of victims and witnesses who come in contact with the court.
- The law should also provide for victim participation in proceedings before the ICD and the right to legal representation. The Agreement on Accountability and Reconciliation in items 3.8 and 8.2 required Government to promote effective and meaningful participation of victims in accountability and reconciliation proceedings.
- The issue of award of individual and collective reparations remain in the balance/hanging. A scheme for reparations and should provide for both direct government programs for reparations and court awards as provided in item 6.4 and item 9 of the Agreement on sentences and sanctions and reparations.
- The law on reparations should specifically provide for victims initiating and applying for compensation and making representations to the court. The law should provide for a right of reply to the accused/convict.
- A clear distinction should be drawn between offences against the State (e.g. waging war) and offences against civilians (gross violations of their human rights). This is to make Section 2 of the Amnesty Act exclude international crime, making perpetrators of the latter not to benefit from amnesty.
- The law on reparations should provide for a Trust Fund from which awards by ICD could be drawn. JLOS

End

African leaders take part in a family photograph at the African Union Headquarters in Addis-Ababa, Ethiopia on February 09 2020

African Union Adopts Transitional Justice Policy

The 32nd Ordinary Session of the Assembly of the Union adopts the AU Transitional Justice Policy (AUTJP). The Policy is a continental guideline for AU Member States to achieve sustainable peace, justice, reconciliation, social cohesion and healing in line with Article 4 (o) of the Constitutive Act of the African Union, which calls for peaceful resolution of conflicts, respect for the sanctity of human life, and the condemnation and rejection of impunity

The AUTJP was initially considered and recommended for adoption by the 4th Ordinary Session of the Specialized Technical Committee on Justice and Legal Affairs held from 23-30 November 2018 in Addis Ababa, Ethiopia. The Policy was further consid ered by the Executive Council, at its session preceding the Assembly of the Union. The adoption was the culmination of an eight-year journey characterised by multiple consultations, revisions and refining to produce a policy that is one of the African Shared Values instruments.

As one of the key policies aimed at realizing Aspiration 3 of Agenda 2063, the AUTJP builds on the AU Policy on Post-Conflict Reconstruction and Development and draws lessons from past experiences, including African traditional justice systems. The AUTJP presents an African model with holistic parameters, benchmarks and practical strategic proposals for designing, implementing, monitoring and evaluating transitional justice in AU Member States based on key principles and specific indicative elements. The Policy also aims to ensure that transitional justice activities address root causes of conflicts, legacies of violence, governance deficits and developmental challenges in Africa.

Commenting on the adoption of the Policy, H.E Amb. Minata Samate Cessouma, the Commissioner for Political Affairs of the African Union Commission, said: "…the African Union is once again renewing its commitment to the promotion and protection of justice, accountability, human and peoples' rights in Africa." She noted that: "this new wave of Human and Peoples Rights promotion and activism in Africa requires the support of all of us for it to make the required difference." The Commissioner further commended the AU Member States that have embraced the Policy prior to its adoption and championed its implementation. JLOS

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African Union Transitional Justice Initiatives: Harnessing Opportunities for Peace and Development in Africa

By John G. Ikubaje

African Union Transitional Justice Policy (AUTJP) was developed as a guide for the formulation of national policies, strategies and programs aimed at promoting socio-economic transformation, sustainable peace, justice, reconciliation, social cohesion and healing from wounds inflicted by decades of human rights violations and conflict.

The year 2019 marked a significant watershed in the history of transitional justice in Africa. The following two significant documents, the African Union Transitional Justice Policy (AUTJP) and the report of the African Commission on Human and Peoples' Rights on Transitional Justice, Human and Peoples' in Africa, were adopted by the African Union Assembly in February 2019, and August 2018 by the 24th Extraordinary Session of the African Commission on Human and Peoples' Rights respectively. The implication of the above unanimous adoption of these documents is that their provisions point to the right direction on how to formulate, implement and evaluate impactful transitional justice mechanisms in Africa, particularly in countries currently implementing one form of transitional justice mechanisms and the other.

The AUTJP is conceived as a continental guideline for AU member states to develop their own context-specific comprehensive policies, strategies and programmes to promote democratic and socio-economic transformation, sustainable peace, justice, reconciliation, social cohesion and healing. The Policy is meant to assist Member States implementing TJ. The Policy is an African model and mechanism for dealing with not only the legacies of conflicts and human rights violations but also governance deficits and developmental challenges. TJ is not new in Africa, it has been in the front burner of the Africa's agenda to deal with the challenges of colonialism, apartheid, system repression and civil war. Since 1990, TJ has been implemented in several African countries to resolve the legacies of violent conflicts and gross violation of human rights. The Policy addresses three significant issues in term of focus, namely

- Legacies of conflict and human rights violations.
- Governance Deficits, and (TJ is a political process).
- Developmental Challenges

On its part, the above referenced report of the ACHPR on TJ and human and peoples' rights in Africa complements the AUTJP and made constructive recommendations on how to tackle the challenges of legacies of conflict, human rights violations, governance deficits and underdevelopment in Africa. While there are different definitions of transitional justice, the African Union on its part, taking into consideration the continental nuances, defines the concept as the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation. The overarching objective of the Policy is to provide the policy parameters (on holistic and transformational transitional justice), drawn from, among others, the AU relevant policy share values instruments (AU Constitutive Act, the ACHPR, PSC Protocol, etc. The AUTJP, the ACHPR's report on TJ and Human and Peoples Rights in Africa and other AU initiatives on Transitional Justice thus provide ample opportunities for innovations and sustainability of TJ interventions at all levels of governance, prior, during and after the COVID-19 pandemic in Africa. Such opportunities, amongst others, are highlighted below:

John G. Ikubaje

Opportunities for innovations in the AUTJP, includes:

The Provisions of the AUTJP are broad and comprehensive in nature and thus provide opportunities for different stakeholders to work on different aspects of TJ. Unlike those of the United Nations, AUTIJP has more pillars. The UN has four TJ Pillars, namely; Criminal Prosecution Initiatives, Truth Seeking Initiative (TRC), Reparation Programmes, and Institutional Reforms . On the other hand, the AUTJP has the following twelve unique areas of interventions (pillars): the Peace Processes; Transitional Justice Commissions; African Traditional Justice Mechanisms; Reconciliation and Social Cohesion, Reparations; Redistributive (Socio-Economic) Justice; and Memorialization. The others are: Diversity Management; Justice and Accountability; Plea Bargains and Pardons; Mitigation of Sentence and/or Alternative Forms of Punishment and Amnesties . These provisions avail the Government, Civil Society and Civil Society Organisations (CSOs), the Community Based Organisations (CBOs), the media and the Private Sector a unique opportunity for innovations under the 12 pillars and for them to constructively pursue their specialized areas of expertise to an impactful conclusion. For example, one CSO in South Sudan - the Community Empowerment for Progress Organization (CEPO) - is currently collaborating with the African Union and has established Transitional Justice Centres across South Sudan to educate the citizens on TJ and how they should engage the South Sudan TJ processes. The AUTJP helps a great deal in regard to this intervention.

The African Union Roadmap of Implementation of the AUTJP makes provisions for Composition and establishment of the African Union Transitional Justice Reference Group: Members of the group are to

be drawn from TJ experts in Africa, including the academia, CSOs and individual TJ experts. TJ practitioners from outside of Africa that are Africans will also be part of the group. The role of the Reference Group will include, but not limited to, Africa's programme definitions and quality control on various TJ interventions in the continent. A group of 15 Transitional Justice Experts will be appointed across the continent. The basis for the appointment will be premised on equal regional representation. Three TJ experts will come from each of the African geo-political regions, including youth, women and one TJ technical expert. The operationalization of this group will back-up the implementation of the AUTJP through the provision of technical quality control and advice to the AU Member States, the AUC, RECs and CSOs and other stakeholders. The innovation here is that the AU is not leaving the implementation of TJ initiatives in the hands of Government officials alone, but bringing on board the academia, private sector, CSOs and CBOs as key stakeholders and partners in implementation of TJ initiatives in Africa.

The AUTJP makes provisions for sustainability of TJ initiatives(s), even in times of pandemic like the COVID-19 and after: In section four (4) of the policy, dealing with resource mobilization, the policy provides for stakeholders across the continental spectrum, with support from the international community, for the AU, RECs and national governments to embark on resource mobilization, for both human and financial resources in support of TJ implementation. For example at the continental level, the Policy provides for African Transitional Justice Fund (ATJF), which is different from the Africa Transitional Justice Legacy fund (ATJLF) . The Opportunity for innovation here is that the RECs and member states, including the private sector and CSOs can also establish a Fund for TJ programmes at any level of governance.

The Policy also provides for an array of actors in support to TJ initiatives and its implementation in Africa: These actors for example, range from the (1.) national government (including local and state governments); (2) intergovernmental organizations- like the AU and RECs, and the (3.) non-state actors- including private donors like the MacArthur Foundation, the CSOs and the private sector involvement in the implementation of TJ initiatives in Africa.

Knowledge Generation and Experience Sharing: The African Union has different programmes that are currently helping in generating knowledge and experience sharing on TJ on the continent. These programmes include the Annual African Union Continental Transitional Justice Forum, which provides opportunity for a yearly interaction among TJ stakeholders and practitioners on the continent to come together to share good practice experiences on TJ implementation and challenges inhibiting TJ on the continent and how to overcome these challenges.

Connected to this experience sharing, is the provision for knowledge generation in the AUTJP. A good reference in this regard is the new Report of the African Commission on Human and Peoples' Rights Study on Transitional justice and Human and Peoples' Rights in Africa . The knowledge generated on TJ in Africa thus far under the AU has impacted positively through new innovations among the AU Member States in their TJ programming. The Centre for Democracy and Development (CDD) in Nigeria is an organization that is doing very well in this area.

Another important opportunity for innovation in the Policy is that it provides for the Decentralization of TJ intervention in AU Member States: We are beginning to see this operationalized in a number of countries in Africa, fully utilizing the AU TJ policy in framing their TJ interventions. For example, ECOWAS is currently developing its TJ framework and access to justice programme; IGAD on its part, is developing her regional reconciliation policy for its Member States to use. Countries like The Gambia, Nigeria, Mali and South Sudan are embracing the same trends, while Uganda has adopted its national Transitional justice Policy following the adoption of the AUTJP. Interesting TJ decentralization innovations in Nigeria for example, include the North-East TJ programme and the Kaduna and Plateau States Reconciliations Commissions at the State level. We do hope to see this type of TJ decentralization at the local levels just the way we have been having it at the community level from time immemorial in Africa. Provision on Reporting of the outcomes of TJ implementation: Regular and adequate reporting on policy implementation is a serious challenge in Africa, including on TJ initiatives. The Policy provides for regular reporting on AUTJP. In this context, the CSOs can also do a shadow report and make the reports available to AU, RECs and state government and other relevant human rights and policy making organs. COVID-19 Pandemic: an Opportunity for TJ Innovations: As at the time of development of the AUTJP, COVID-19 had not yet surfaced and to that end, the issue of similar challenge was not taken into consideration in the AUTJP. Meanwhile, the past and ongoing discussion on TJ and COVID-19 has reinforced the need for the integration of COVID-19 and similar pandemics in TJ processes in Africa. The roadmap for the AUTJP has therefore utilised a transformative approach to the implementation of the African Union Transitional Justice Policy, by incorporating a section that addresses present and emerging crisis-related experiences, including COVID-19 and similar pandemics with the aim of constructively transforming the lives of victims and affected communities during the COVID-19 pandemic. As COVID-19 has brought to fore new and peculiar human rights violations, TJ interventions must therefore take on board the new violations as part of the TJ remits.

In conclusion, innovation(s) on TJ during and after COVID-19 in West Africa and beyond on the continent will therefore require efforts on the parts of all the stakeholders. JLOS

John G. Ikubaje is a Senior Political Officer in the Department of Political Affairs at the African Union Commission.

Innovation and Sustainability of TJ Interventions on the Continent post COVID-19

The Ebola Virus and COVID-19 pandemics have impacted negatively on the human and peoples' rights in Africa. The challenge of COVID-19 is particularly worrisome. The second phase of the pandemic is looming and since it is challenging the foundation of specific human rights, Transitional Justice must take on board the victims of such violations and address them accordingly. To this end, the nature and dimension of human rights violation during the COVID-19 has made TJ a subject of relevance. Sustainability of TJ interventions during and post COVID-19 is therefore critical, and should be treated as one of the elements of peacebuilding in African countries. To this end, the African Union Member States should take seriously as sustainability components in its TJ policy, programmes and initiatives.

- Adoption of National Policy and TJ Legislation at national level: It is an adopted policy and Member States are to develop policy to operationalize it at the national level, a good example in this regard is The Gambia that has developed a national policy on TJ. We also have other countries like Uganda that adopted its own policy in 2019. Others at the verge of completing their national TJ policy include Sierra Leone and Zimbabwe, among others.
- Resource mobilization mechanisms in the AUTJ Policy and Member States: TJ policies and legislation will also help to realize sustainable innovations during and after COVID-19 pandemic in West Africa in particular, and Africa in general.
- CSOs, CBOs and Media advocacy as provided for in the AUTJP will also assuage sustainability of TJ innovations on the continent.

Witness Protection: Implications for the Prosecution of War Crimes

By Lino Anguzu

The need to protect witnesses stems from the fact that criminals will want to exploit any available opportunity including threats in order to avoid conviction, hence the need for prosecutors to ensure a maximum degree of security and safety for their witnesses.

War crimes are a class of international crimes that take place in a context of armed conflict. These are serious violations of the laws or customs of war applicable in both international and non-international armed conflicts (IAC & NIAC) . In other words, war crimes include grave breaches of the Geneva Conventions, and other serious violations of the laws and customs applicable in international armed conflict and in conflicts not of an international character when committed as part of a plan or policy and on a large scale.

Member States have the primary responsibility of trying war crimes. States are urged to establish specialized courts at national levels vested with jurisdiction to try war crimes. For Uganda, the International Crimes Division of the High Court is established for that purpose . At the international level, the International Criminal Court (ICC) has the mandate and jurisdiction to hold persons accountable for international crimes committed within the territory of any Member State of the United Nations. The ICC however only exercises jurisdiction in a complementary capacity.

In general, a witness is any person privy to an event constituting a crime/charge and with information that is relevant to criminal proceedings who has agreed to corporate with police during investigation and to testify before court during the trial . Any party to criminal proceedings may call any person who has witnessed a crime, or with information relevant to the case before Court to testify as a witness. Witnesses may be direct victims of crimes, innocent bystanders, co-accused or accomplices, experts, technical witnesses, insider witnesses and etc. Witnesses play a critical role in any criminal justice administration. Without witnesses, it would not be possible for courts and tribunals to administer justice as they are the eyes and ears of justice.

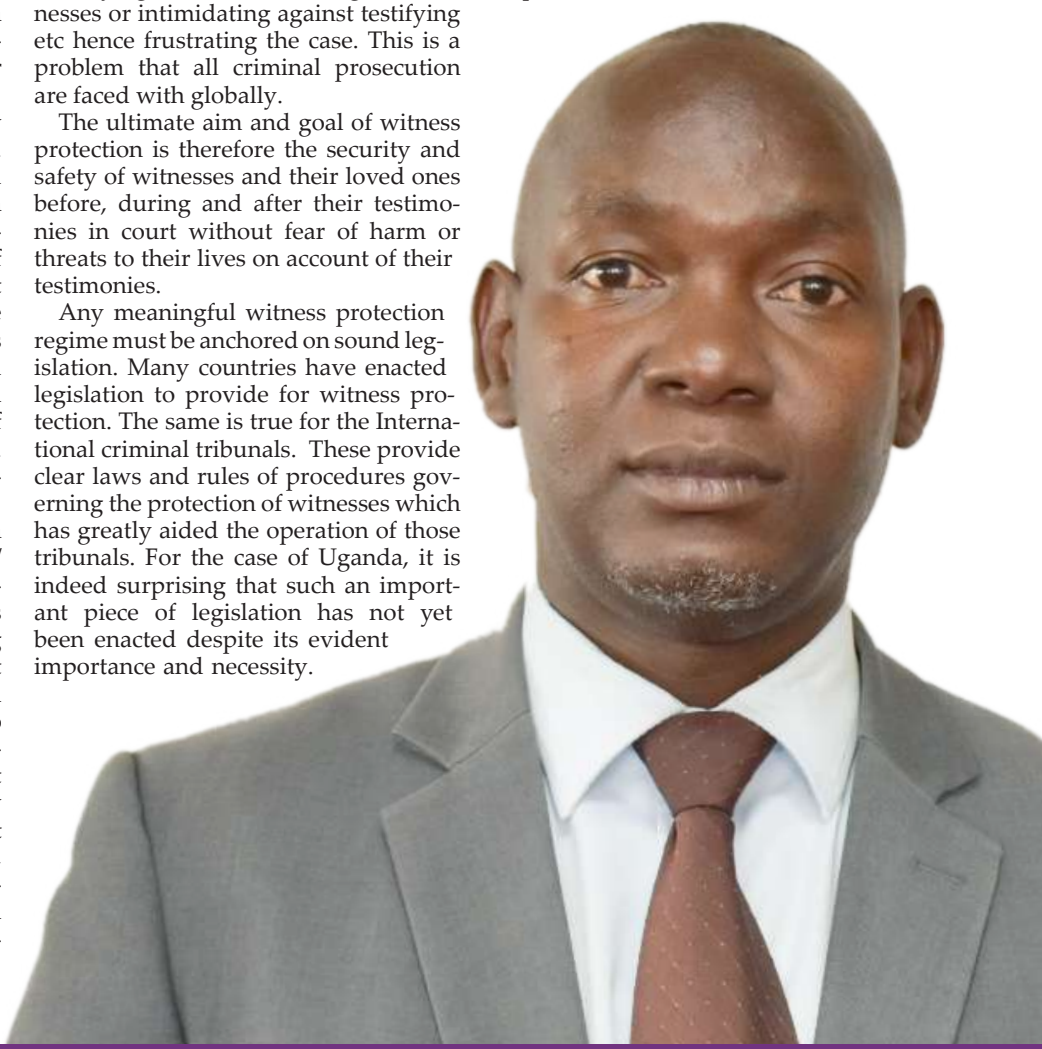
Despite this important role, witnesses are often exposed to risks in the process which calls for some meaningful degree of protection to be accorded to them if justice is to be administered in any true sense. The need to protect any witness stems from the fact that criminals will exploit any available opportunity to avoid conviction. This may include destroying evidence, harming the witnesses or intimidating against testifying etc hence frustrating the case. This is a problem that all criminal prosecution are faced with globally.

The ultimate aim and goal of witness protection is therefore the security and safety of witnesses and their loved ones before, during and after their testimonies in court without fear of harm or threats to their lives on account of their testimonies.

Any meaningful witness protection regime must be anchored on sound legislation. Many countries have enacted legislation to provide for witness protection. The same is true for the International criminal tribunals. These provide clear laws and rules of procedures governing the protection of witnesses which has greatly aided the operation of those tribunals. For the case of Uganda, it is indeed surprising that such an important piece of legislation has not yet been enacted despite its evident importance and necessity.

All that parties to criminal trials are left to rely upon for the protection of witnesses in Uganda, are mere guidelines and rules that remain unconsolidated thus rendering them largely ineffective.

A number of protective measures are available to witnesses depending on the stage of the case i.e pre-trial, in-trial and post-trial. Confidentiality and cover stories are critical to the success of protection in addition to other emer-

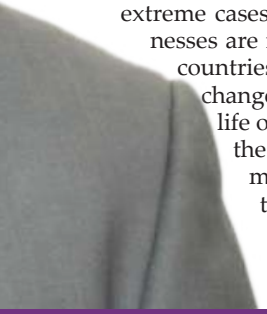


Lino Anguzu

gency backup plans . In a war crimes prosecution where the crimes are committed in the context of armed conflict and violence, the risks to witnesses are much higher and more serious. Before commencement of trial, prosecution is obligated to disclose both incriminating and exculpatory evidence to the defence/accused . This is usually at the pre-trial stage of court proceedings. The protective measures the Court may issue at this stage include redacted disclosure or delayed disclosure. However, full disclosure is usually required shortly before the witness testifies but with strict requirements of confidentiality not to be disclosed to third parties . In court procedural protective measures applicable in both domestic and international trials of war crimes include use of pseudonyms, face or voice distortion or both, camouflage, proceeding in camera, concealing or expunging the identity of the protected witnesses from the Court record of proceedings, which is a public document. Special protective measures may also be granted by the court for special categories of witnesses such as victims of sexual violence, a child witness, elderly persons, traumatized witnesses and others. Such measures may include testimony by video-link, shielding the witness from direct eye contact with the accused etc. Relocation and change of identity are the most extreme but most effective modes of protection. They are also the costliest and therefore must not be casually suggested or undertaken.

Witness protection measures have serious implications on the right to a fair trial for the accused person. An accused is entitled to know who the accuser(s) are in order to investigate their information or evidence and to confront and challenge that evidence fairly. Further, an open and public trial is a fundamental tenet of fair trial. It enables the Court to test the veracity of evidence adduced by the prosecution. Yet, witness protection negates from these important principles.

Witness protection also has serious ramifications for the lives of the protected witnesses and their families. Having witnesses in protective custody often infringes on some fundamental rights of such witnesses such as liberty of movement and association. In the most extreme cases of protection, where witnesses are relocated from their home countries and communities or change of identity, it disrupts the life of the witness by uprooting the witness from their community and cuts all social ties such witnesses hitherto had. This often causes serious psychological problems that are detrimental to the protected witnesses.



Witness protection often has an impact on the evidence of the witness. In developing countries like Uganda where standards of living are generally low, the treatment accorded to protected witnesses often have the appearance or effect of improving the stature of such witnesses in terms of wellbeing. Provision of basic necessities to protected witnesses may appear as privileges for testimony. This has two possible consequences for the case. The defence is likely to challenge the witness' evidence by attributing it to the motivation of protection. Secondly, the witness may misunderstand the objective of the protection accorded and either exaggerate or give false evidence in order to appease his/her protectors.

Many developing countries are reluctant to commit to serious witness protection programmes due to apprehensions about the budgetary implications. An effective witness protection program requires the setting up of an independent and well-facilitated witness protection agency capable of executing such a complex mandate. This is a costly venture. Globally, the most effective witness protective measure is relocation and change of identity. However, this measure is quite burdensome in terms of resources. It is therefore a last resort and is only invoked on account of absolute necessity where no other measure can offer protection to the witness.

The above is however mitigated by the duty of courts to protect the interests and rights of witnesses appearing before it as well as the greater interest of justice. This therefore requires that the Court should always balance the interests of the accused, witnesses, victims of crime and the interests of justice. Protective measures must only be ordered when the Court is satisfied that an objective situation exists and the security of the said witness is or maybe at stake. In other words, the threats or risks are real and not merely perceived. Protective measures must be granted only on exceptional basis and following a case-by-case assessment of whether they are necessary and proportionate to the rights of the accused .

In considering protection measures and balancing the different interests at stake, the Courts have emphasised that the balance dictates clearly in favour of the accused's right to the identity of witnesses, which the Prosecution intends to rely upon while due regard must also be given to the protection of victims and witnesses, which is a secondary consideration. This is the same jurisprudence drawn from the on-going war crimes trial of Thomas Kwoyelo and other subsequent cases may follow.

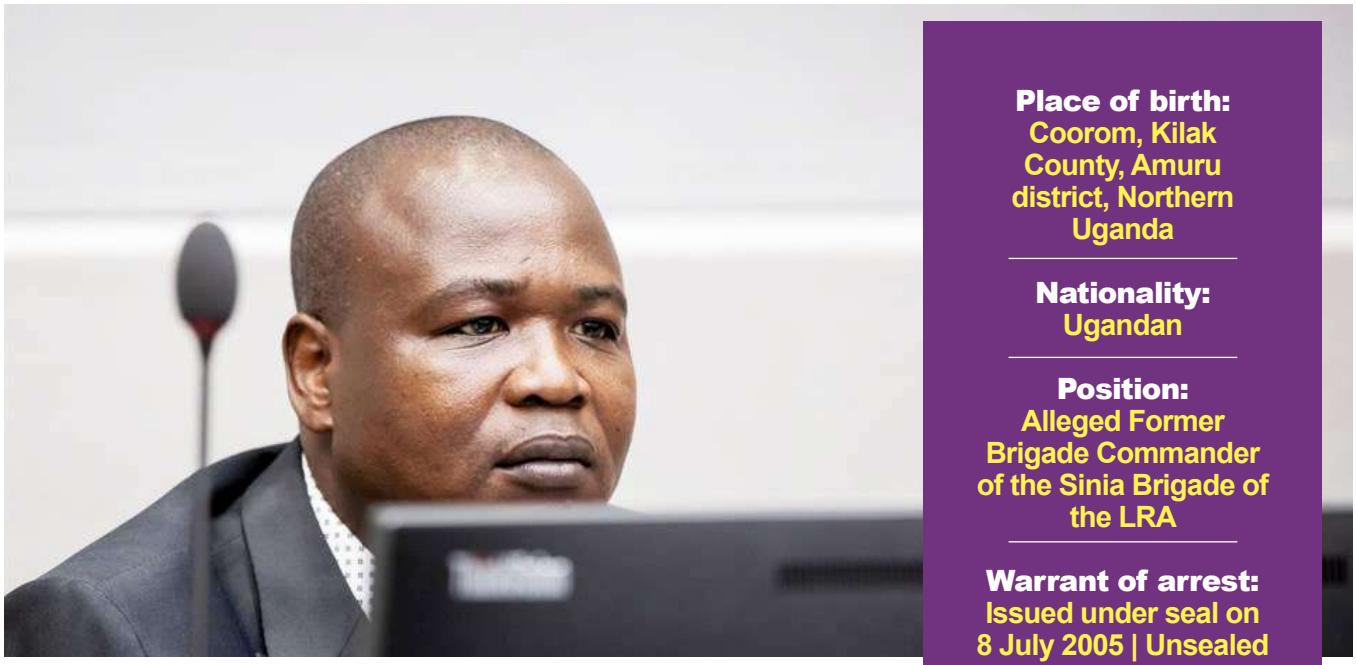
In conclusion, Witness protection is a critical aspect of the administration of criminal justice and can no longer be ignored. The stakes are even higher for war crimes cases and other organized/transnational organized crimes, without which no meaningful prosecution can be achieved. What is paramount is that the measures should strictly be used to make witnesses safe and comfortable and available to all the parties to the trial equally. As a country, Uganda should urgently put in place the witness protection legislation and programs. The enactment of the National Transitional Justice Policy is an important step that will strengthen the witness protection measures with the existing rules and guidelines that are already in place especially for the serious cases such as war crimes. The Office of the Director of Public Prosecutions in recognition of the need for witness protection has established a specialized department for this purpose and once the law is enacted, it will ease the work and operation of the department.

As Prosecution, we welcome this policy and look forward to achieving more, especially in the prosecution of war crimes and other international crimes as well as other transnational organized crimes.

As Prosecution, we welcome this policy and look forward to achieving more, especially in the prosecution of war crimes and other international crimes as well as other transnational organized crimes. JLOS

Lino Anguzu is the Assistant Director of Public Prosecutions and heads the International Crimes Department in the Office of the Director of Public Prosecutions.

Dominic Ongwen: ICC Case Information Sheet



Place of birth:
Coorom, Kilak County, Amuru district, Northern Uganda

Nationality:
Ugandan

Position:
Alleged Former Brigade Commander of the Sinia Brigade of the LRA

Warrant of arrest:
Issued under seal on 8 July 2005 | Unsealed on 13 October 2005

Transfer to ICC Detention Centre:
21 January 2015

Initial appearance hearing:
26 January 2015

Confirmation of charges hearing:
21 -27 January 2016

Decision on the confirmation of charges:
26 March 2016

Opening of the trial:
6 December 2016

Closure of Submission of Evidence:
12 December 2019

Closing statements:
10-12 March 2020

Charges:

Dominic Ongwen is accused, pursuant to articles 25(3) (a) (direct perpetration, indirect perpetration and indirect co-perpetration), 25(3) (b) (ordering), 25(3) (d) (i) and (ii) and 28(a) (command responsibility) of the Rome Statute, for the following crimes against humanity and war crimes:

- War crimes: attack against the civilian population; murder and attempted murder; rape; sexual slavery; torture; cruel treatment; outrages upon personal dignity; destruction of property; pillaging; the conscription and use of children under the age of 15 to participate actively in hostilities;
- Crimes against humanity: murder and attempted murder; torture; sexual slavery; rape; enslavement; forced marriage as an inhumane act; persecution; and other inhumane acts.

Alleged crimes:

During the period from 1 July 2002 to end 2005, the LRA, an armed group, allegedly carried out an insurgency against the Government of Uganda and the Ugandan Army (also known as the Uganda People's Defence Force - UPDF - and local defence units - LDUs). There are reasonable grounds to believe that the LRA had been directing attacks against both the UPDF and LDUs and against civilian populations, and that, in pursuing its goals, the LRA had engaged in a cycle of violence and established a pattern of "brutalization of civilians". This had been carried out by acts including murder, abduction, sexual enslavement, mutilation, and mass burnings of houses and looting of camp settlements. Civilians, including children, are believed to have been abducted and forcibly "recruited" as fighters, porters and sex slaves to serve the LRA and to contribute to attacks against the Ugandan army and civilian communities.

In the context of this insurgency, it is alleged that the Pajule IDP (October 2003), the Odek IDP (April 2004), the Lukodi IDP (May 2004) and Abok IDP camps (June 2004), were attacked and that in his capacity as Brigade Commander of the Sinia Brigade of the LRA, Dominic Ongwen would have ordered the commission of crimes within the jurisdiction of the Court in the context of these attacks.

Mr Ongwen is charged with the following crimes against humanity and war crimes:

- War crimes: attack against the civilian population; murder and attempted murder; rape; sexual slavery; torture; cruel treatment; outrages upon personal dignity; destruction of property; pillaging; the conscription and use of children under the age of 15 to participate actively in hostilities;
- Crimes against humanity: murder and attempted murder; torture; sexual slavery; rape; enslavement; forced marriage as an inhumane act; persecution; and other inhumane acts.

Key judicial developments:

Referral and opening of the investigation

Uganda signed the Rome Statute on 17 March 1999 and ratified on 14 June 2002 becoming a State Party to the International Criminal Court. On 16 December 2003, the Government of Uganda referred the situation concerning northern Uganda to the Office of the Prosecutor. On 29 July 2004, the Prosecutor determined a reasonable basis to open an investigation into the situation concerning northern Uganda.

Warrant of arrest

On 6 May 2005, amended and supplemented on 13 May 2005 and additionally on 18 May 2005, the Prosecutor submitted the request for the warrants of arrest for Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen. On 8 July 2005, Pre-Trial Chamber II issued warrants of arrest under seal against the named individuals for the commission of crimes against humanity and war crimes and requested the Republic of Uganda to search for, arrest, detain and surrender to the Court, Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen.

On 9 September 2005, the Prosecutor submitted an "Application for Unsealing of Warrants of Arrest Issued on 8 July 2005" to Pre-Trial Chamber II. On 13 October 2005, Pre-Trial Chamber II decided to unseal the warrants of arrest for Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen. On 29 January 2015, the non-redacted warrant of arrest for Dominic Ongwen and its translations in French and Acholi were reclassified as public pursuant to an instruction of Pre-Trial Chamber II.

Separation of the ongwen case

On 6 February 2015, Pre-Trial Chamber II severed the proceedings against Dominic Ongwen from the case of The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen. As the three other suspects in the case have not appeared or have not been apprehended yet, the Chamber deemed it necessary to separate the case so as not to delay the proceedings against Mr Ongwen. After having consulted the Prosecutor, the Chamber decided not to proceed against the other three suspects in absentia.

Surrender and transfer

On 21 January 2015, Dominic Ongwen was transferred to the ICC Detention Centre in The Hague (Netherlands). His initial appearance before the single Judge of Pre-Trial Chamber II took place on 26 January 2015.

Confirmation of charges

The confirmation of charges hearing in respect of Dominic Ongwen was held from 21 – 27 January 2016. On 23 March 2016, Pre-Trial Chamber II confirmed the charges brought by the Prosecutor against Mr Ongwen and committed him to trial. On 2 May 2016, the Presidency constituted Trial Chamber IX to be in charge of the case.

Trial

On 6-7 December 2016, the trial opened before Trial Chamber IX at the seat of the Court. The charges against Mr Ongwen were read and the Chamber was satisfied that the accused understood the nature of the charges. The accused pleaded not guilty to the charges. Opening statements were then made by the Office of the Prosecutor and the Legal Representatives of victims.

The trial resumed on 16 January 2017 with the presentation of evidence of the Prosecution. The Prosecution has completed its presentation of evidence. The Legal Representatives of Victims also called witnesses to appear before the Chamber.

The trial resumed on 18 September 2018 with the opening statements of the Defence and the Defence started the presentation of its evidence on 1 October 2018. On 6 December 2019, the Defence closed its presentation of evidence.

Over the course of 231 hearings, the Chamber heard 69 witnesses and experts called by the Office of the ICC Prosecutor, Fatou Bensouda, 54 witnesses and experts called by the Defence team lead by Krispus Ayena Odongo and 7 witnesses and experts called by the Legal Representatives of the Victims participating in the proceedings. The Trial Chamber issued 70 oral decisions, and 190 written decisions during the trial phase of the proceedings.

On 12 December 2019, the presiding judge declared the closure of the submission of evidence in the case The total case record, consisting of the filings of the parties and participants and the Chamber's decision, currently includes more than 1720 filings.

Composition of Trial Chamber IX

Judge Bertram Schmitt, Presiding Judge Judge Peter Kovacs Judge Raul C. Pangalangan

Representation of the Office of the Prosecutor

Fatou Bensouda, Prosecutor

James Stewart, Deputy Prosecutor

Benjamin Gumpert, Senior Trial Lawyer

Defence Counsel for Dominic Ongwen

Krispus Ayena Odongo

Legal Representatives of the Victims

Joseph Akwenyu Manoba

Francisco Cox

Paolina Massidda

The closing briefs in this case were filed on 24 February 2020.

The closing statements took place from 10 to 12 March 2020. During the closing statement hearings, the Prosecution, the Legal Representatives of Victims and the Defence presented their final arguments.

Trial Chamber IX will now deliberate on the proceedings and, within a reasonable period, pronounce its decision on conviction or acquittal pursuant to article 74 of the Rome Statute. The Chamber bases its decision only on the applicable law and on evidence submitted and discussed before it at the trial.

Participation of victims

4,065 victims have been granted the right to participate in the proceedings. They are represented by two teams of lawyers. A first group of 2,564 participating victims is represented by two lawyers, Joseph Akwenyu Manoba and Francisco Cox, who were chosen by these victims under Rule 90(1), which allows victims to choose a Legal Representative. Paolina Massidda from the Office of Public Counsel for Victims represents a second group of 1,501 victims who did not choose a lawyer. JLOS

Source: International Criminal Court

For more information:
International Criminal Court: Oude Waalsdorperweg 10, 2597AK The Hague, The Netherlands. Postal address: Po Box 19519; 2500 CM, The Hague, The Netherlands. Tel. + 31 (0)70 515 8515; Fax. +31 (0)70 515 8555

LRA Boss Ongwen: ICC to Deliver Verdict on January 12

After a four-year wait, the International Criminal Court (ICC) finally announced the date on which it will deliver the verdict for rebel leader Dominic Ongwen

The Prosecutor v. Dominic Ongwen will be delivered on January 12, 2021. The session will be transmitted live through the ICC website. Practical information on attending the session and information materials will be available in due course.

The verdict will be read out in public and will either acquit or convict the accused. The accused before the ICC is presumed innocent. While the Prosecution must prove the guilt of the accused, the Trial Chamber will convict the accused only if it is satisfied that the charges have been proven beyond reasonable doubt. The Chamber bases its decision only on the applicable law and on evidence submitted and discussed before it at the trial.

The Chamber is composed of Judge Bertram Schmitt, Presiding Judge, Judge Péter Kovács and Judge Raul Cano Pangalangan. The three judges ensure the fairness of the trial and that the rights of both parties and of the victims are respected. In response to the verdict, the parties will be able to appeal the decision before the ICC's Appeals Chamber.

Order Scheduling the Delivery of the Judgment

Background: The trial in this case opened on December 6, 2016. Dominic Ongwen is accused of 70 counts of war crimes and crimes against humanity allegedly committed in northern Uganda. The Prosecution and the Defence have completed the presentation of their evidence. The Legal Representatives of Victims also called witnesses to appear before the Chamber. On December 12, 2019, the Presiding Judge declared the closure of the submission of evidence in the case. The closing briefs were filed on February 24, 2020. The closing statements took place from March 10-12, 2020.

A total of 4,065 victims, represented by their legal counsels Joseph Akwenyu Manoba, and Francisco Cox, as well as Paolina Massidda, respectively, have been granted the right to participate in the proceedings

Over the course of 231 hearings, the Chamber heard from 69 witnesses and experts called by the Office of the ICC Prosecutor, Fatou Bensouda, 54 witnesses and experts called by the Defence team lead by Krispus Ayena Odongo and seven witnesses and experts called by the Legal Representatives of the Victims. The judges ensured the respect of the rights guaranteed by the Rome Statute to each of the parties, including the right to question the witnesses.

A total of 4,065 victims, represented by their legal counsels Joseph Akwenyu Manoba, and Francisco Cox, as well as Paolina Massidda, respectively, have been granted the right to participate in the proceedings. They have expressed their position on matters heard before the Chamber and were authorised to examine witnesses on specific issues.

The Trial Chamber issued 70 oral decisions, and 190 written decisions during the trial phase of the proceedings. The total case record, consisting of the filings of the parties and participants and the Chamber's decision, currently includes more than 1750 filings. JLOS

Source: International Criminal Court

A court session at the International Criminal Court in The Hague

About the International Criminal Court (ICC)

The International Criminal Court (ICC) investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression.

The Court is participating in a global fight to end impunity, and through international criminal justice, the Court aims to hold those responsible accountable for their crimes and to help prevent these crimes from happening again.

The Court cannot reach these goals alone. As a court of last resort, it seeks to complement; not replace, national Courts. Governed by an international treaty called the Rome Statute, the ICC is the world's first permanent international criminal court.

Key Features

- The Office of the Prosecutor is an independent organ of the Court. The Prosecutor conducts preliminary examinations, investigations and is the only one who can bring cases before the Court.
- Defendants are entitled to public, fair proceedings that they can follow in a language they fully understand, and more.
- ICC judges conduct judicial proceedings and ensure the fairness of proceedings.
- Victim's voices are heard in the courtroom, as the Rome Statute grants victims unprecedented rights to participate in ICC proceedings. Watch now.
- The ICC has a victim and witness protection programme that uses both operational and procedural protective measures.
- The Court engages in two-way dialogue directly with communities that have suffered from crimes under its jurisdiction, so that they can communicate directly with the Court and gain a sense of ownership in the judicial process.
- By supporting the Court, the countries that have joined the Rome Statute system have taken a stand against those who, in the past, would have had no one to answer to after committing widespread, systematic international crimes. The ICC calls on all countries to join the fight against impunity, so that perpetrators of such crimes are punished, and to help prevent future occurrences of these crimes.

ICC Facts and Figures

- Over 900 staff members: from approximately 100 States.
- Six official languages: English, French, Arabic, Chinese, Russian and Spanish.
- One ICC Liaison Office to the United Nations in New York and 7 ICC Country Offices in Kinshasa and Bunia (Democratic Republic of the Congo, "DRC"); Kampala (Uganda); Bangui (Central African Republic, "CAR"); Abidjan (Côte d'Ivoire); Tbilisi (Georgia); and Bamako (Mali).
- Two working languages: English and French.
- Headquarters: The Hague, the Netherlands.
- 2020 budget: €149,205,600
- There have thus far been 28 cases before the Court, with some cases having more than one suspect.
- ICC judges have issued 35 arrest warrants. Thanks to cooperation from the States, 17 people have been detained in the ICC detention centre and have appeared before the Court. Some 13 people remain at large. Charges have been dropped against three people due to their death.
- ICC judges have also issued nine summonses to appear.
- The judges have issued eight convictions and four acquittals.

Founding treaty: The Rome Statute

The creation of the Rome Statute in 1998 was in itself a historic event, marking a milestone in humankind's efforts towards a more just world.

The Rome Statute then took effect in 2002, upon ratification by 60 States. In addition to founding the Court and defining the crimes of genocide, war crimes, crimes against humanity, and – as of amendments made in 2010 – the crime of aggression; the Rome Statute also sets new standards for victims' representation in the Courtroom, and ensures fair trials and the rights of the defence. The Court seeks global cooperation to protect all people from the crimes codified in the Rome Statute.

Today, the Treaty serves as the ICC's guiding legal instrument, which is elaborated in such other legal texts as the Elements of Crimes, Rules of Procedure and Evidence and more. JLOS

Source: International Criminal Court

Amnesty as an Arm of Transitional Justice: Uganda's Experience

By Nathan Twinomugisha

Amnesty is a form of pardon. In the Ugandan context, amnesty is defined by the Amnesty Act, 2000 and it owes its origin to the determination of the people of Uganda to seek reconciliation with those who have inflicted so much pain on them in conflict.

The preamble to the Amnesty Act expresses the wish of Ugandans to end suffering and to reconcile with insurgents who may have committed atrocities. In exchange, Ugandans ask that the insurgents should stop inflicting needless suffering on others.

Since 1986, over 27,500 potential killers have been persuaded to abandon rebellion to embrace peace in return for a grant of amnesty. The Amnesty Commission, which was created by the Ugandan Government in the year 2000, was to receive, rehabilitate and reintegrate these "born again" insurgents back into their communities and to ensure that the ex-combatants understand their duty to renounce and abandon violence. The reporters (ex-combatants) then surrender weapons in their possession.

The Act was passed following conflicts in some parts of the country particularly in Northern Uganda led by Joseph Kony of the Lord's Resistance Army. There were several other rebel movements including the Allied Democratic Front (ADF) and the West Nile Bank Front.

Amnesty according to the Uganda Amnesty Act is given once. Recidivism (going back into rebellion) is not tolerated. This is to guard against impunity. Hence a rebel who re-offends cannot be granted Amnesty again.

The Amnesty Act allows the Director of Public Prosecution (DPP) to play a part since the Amnesty Commission has to consult the DPP before any accused person can be considered for grant of a pardon.

The principle of complementarity is also respected if the International Criminal Court (ICC) is involved.

There are certain circumstances where the Uganda Amnesty Commission will NOT grant an amnesty to an ex-combatant.

The following categories of ex-combatants are excluded from being granted pardon:

- Those persons already convicted by the courts of law for the same offence
- Those indicted by the ICC (these include Joseph Kony and four others)
- Non –Ugandans
- Those excluded by the Minister of Internal Affairs through the Parliament of Uganda (S.2A of the Amnesty Act, as amended)
- Children under the age of 12 as the

The President of Uganda H.E Yoweri Kaguta Museveni receiving a flag from the late Major General Bamuze of West Nile Bank Front

law absolves them from criminal liability
- Those accused of serious crimes (war crimes) and crimes against humanity such as genocide
- Those ex-combatants who re-offend (go back into rebellion-recidivism).

The Mandate of the Uganda Amnesty Commission

- To demobilize and give amnesty to reporters – that is those ex-combatants seeking to be pardoned
- To resettle the reporters in their communities. This is a short term assistance to ex-combatants
- To reintegrate the ex-combatants. This is a longer term assistance to them
- To promote dialogue reconciliation as a method of peace building.

Achievements of the Amnesty Commission since inception

Demobilization

The Commission has so far demobilized close to 28,000 ex-combatants.

Demobilization by rebel group
- Lord's Resistance Army (LRA) 13,304 ex-combatants.
- West Nile Bank Front (6,501)
- Uganda National Rescue Front [UNRF] (3,253)
- Allied Democratic Front [ADF] (2,341)
- Other Rebel Groups (2,099)

Resettlement

The Amnesty Commission has resettled 21,767 ex-combatants. This involved giving them short-term assistance, which included a mattress, a blanket, a basin, a jerrican, saucepans, cups and plates, garden items (2 hoes, 5kg of maize for planting and beans also for planting. An allowance of UGX 263,000/= (two hundred sixty three thousand Uganda shillings) is given to each resettled ex-combatant to help transport him or her back to the community she/he came from prior to joining rebellion against the Government.

Re-integration

This involves provision of life skills through training and provision of tools and inputs. This process started in the financial year 2009/2010. Close to 16,000 ex-combatants and victims have been re-integrated through training in skills, provision of tools and inputs. The life skills include:

Carpentry
- Welding
- Bicycle repair
- Soap making
- Candle making
- Tree and fruit planting
- Environment management
- Apiary
- Hairdressing and
- Entrepreneurial skills

Tools have included the following:
- Hoes
- Maize mills
- Sewing machines
- Metal fabrication kits
- Carpentry kits
- Bee hives

Inputs included seedlings, seeds, pesticides, candle and soap making inputs and hair dressing kits. It should be noted that in re-integration, 30% of the people re-integrated were victims of the rebellions.

Dialogue and reconciliation

The Amnesty Commission chaired peace talks between the Government of Uganda and Uganda National Rescue Front II, which enabled 2,500 UNRF II fighters to be demobilized. The commission also brokered the Juba Peace Talks between the LRA of Joseph Kony and the Government of Uganda. This enabled many fighters of the LRA to embrace amnesty.

In addition, the Amnesty Commission continues to engage in dialogue and reconciliatory meetings between ex-combatants and communities and in the provision of psychosocial support to enable peaceful co-existence.

Challenges
- The Amnesty Act is limited in scope in addressing other requirements of post-war conflicts and the role of stakeholders such as traditional institutions.
- Stigmatization is still common with some returnees (especially women and children) and therefore the need for continued counselling and psychosocial support to address trauma.
- The capacity of the Amnesty Commission is limited both in human resource, mandate and financially.

Shifting to transitional justice
- The National Transitional Justice Policy was passed by Cabinet on June 17, 2019.
- A technical team to fast-track the operationalization of the policy was formed by the Ministry of Internal Affairs and the Ministry of Justice and Constitutional Affairs.
- The team so far has developed principles and drafted the National Transitional Justice Bill.
- Countrywide consultation and dissemination of the NTJP was initiated including printing of the policy and integration into NDP III strategic direction.
- Transitional justice is wider and consists of the traditional justice mechanism, formal trials for those who have committed grave atrocities like war crimes and crimes against humanity, amnesty, and reparations to assist victims of insurgencies.
- A National Transitional Justice Policy and Law would therefore be a better option for facilitating reconciliation, for the rehabilitation of victims, and for the handling of reparations in a coordinated manner that would enhance nation building.

We are all looking forward to the day a National Transition Justice Bill would be passed into law. JLOS

Since 1986 over 27,500 potential killers have been persuaded to abandon rebellion to embrace peace in return for a grant of amnesty

Mr. Nathan Twinomugisha is the Chief Legal Advisor at the Amnesty Commission, Ministry of Internal Affairs.

A Path to Reparations for Victims of Gross Human Rights Violations in Uganda

By Sarah Kasande Kihika

It has been over a decade since the end of active armed conflict in Northern Uganda. However, the impact of this war persists, particularly in the lives of victims who have not received any form of reparations from the Government. In addition to the widespread human rights violations, the war in Northern Uganda led to the destruction of vital infrastructures, such as schools, health facilities, and roads. It caused substantial material losses for the population in the affected areas.

Sarah Kihika Kasande

The Uganda National Household Survey of 2016/2017 found a 33 percent poverty level in the north, significantly higher than the national average of 21.7 percent.

The 2007 Juba Agreement on Accountability and Reconciliation between the Government and the Lord's Resistance Army (L.R.A.) recognized the need for reparations that "may include a range of measures such as rehabilitation, restitution, compensation, guarantees of non-recurrence and other symbolic measures such as apologies, memorials, and commemorations. The Agreement provides that priority shall be given to members of vulnerable groups." The Agreement further states that reparations may be collective or individual and may be ordered as part of the penalties and sanctions resulting from accountability proceedings. Appropriate reparations for children are also identified. The Government of Uganda's 2019 Transitional Justice Policy acknowledges that reparations are integral to the recovery and reintegration of victims, stipulating that "the Government shall establish and implement a reparations program for victims affected by conflict. In doing this, the Government shall consider interim, short term reparations."

Reparations are sets of measures that provide redress to victims of gross violations of international human rights law and serious violations of international humanitarian law. Reparations seek to give recognition and acknowledgment for rights that have been trampled, for harms suffered, for indignities endured to restore the victim to the situation which would, in all probability, have existed if that violation had not been committed. They also promote reconciliation between victims and perpetrators and restore trust in the Government.

The State has a duty to provide reparations due to the acts or omissions of its officials, which constitute gross violations of international human rights law or serious violations of international humanitarian law. A State is also

obliged to provide reparations if it fails to take reasonable steps to protect its citizens' human rights from being violated.

Non-state perpetrators of serious crimes are also liable to provide reparations to victims of their violence or human rights violations. The reality is that no such reparations are likely to be made because most of the non-state perpetrators do not have the capacity or resources to provide reparations. In such circumstances, the State bears the responsibility to deliver reparations to all victims. Aside from the value of solidarity, it makes great good sense in terms of the objectives of accountability and transitional justice that the Government steps in where non-state actors are unwilling or unable to make reparations for which they are liable. The provision of reparation confirms the State's obligation and commitment to victims, their families, and communities to redress the harms suffered and restore trust between citizens and the State.

The legal basis for reparations

Under international law, victims of human rights and humanitarian law violations have an established right to an effective remedy. The elements of the right to reparations are outlined in the 2005 U.N. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and International Humanitarian Law (U.N. Basic Principles). According to the U.N. Basic Principles, victims of human rights violations have the right to:

- equal and effective access to justice;
- adequate, effective, and prompt reparation for harms suffered; and
- access to relevant information concerning violations and reparation mechanisms.

The U.N. Basic Principles outline the following five forms of reparations: (1) restitution: restoration of a victim's rights, property, and citizenship status; (2) rehabilitation: psychological and physical support; (3) compensation: provided for economically assessable damage proportional to the gravity of the violation; (4) satisfaction: acknowledgment of guilt, apology, and construction of memorials; and (5) guarantees of non-repetition: reform of laws and civil and political structures that led to or fueled violence. Effective reparations should be "proportional to the gravity of violations and harms suffered."

The Right to reparation is also contained in regional conventions, including the African Charter on Human and People's Rights. In Uganda, it is covered in various provisions of the constitution, the Juba Peace Agreement on Accountability and Reconciliation, and the recently approved National Transitional Justice Policy.

Who is entitled to reparations?

According to The U.N. Basic Principles and Guidelines on the Right to a Remedy and Reparation, Reparations should be made to victims who have suffered physical, mental and psychological harm or economic loss due to gross violations of International Human rights law or serious violations of International humanitarian law are entitled to reparations. "Victims" may also include the immediate family or dependents of the direct victim regardless of whether the perpetrator of the violation is identified or has been convicted.

Implementing Reparations programs

Reparations can be administered individually or collectively and can be material or symbolic. Material reparations are often in the form of service packages, reconstructive surgery for the war wounded, education support, access to health care services, and cash or non-cash projects, among others. Symbolic reparations can include official acknowledgment and apologies, naming of public places, proper (re)burials, identification of the dead and missing, and the provision of information on those who are still missing, and commemorations and memorials. The two forms of reparation are complementary and will realize their purpose more effectively when linked to other transitional justice measures.

The initial step in implementing a reparations program is the identification and categorization of victims. Given the limited resources, victims should be categorized based on their vulnerability and the seriousness of the violations committed. Uganda has many vulnerable victims in need of specialized or urgent care. Vulnerability may arise from an illness or disability, resulting from mutilation, burning, gunshot wounds, shrapnel injuries, beatings, sexual violence, including trauma. These may include child mothers, families of the disappeared, child-headed households, orphans, street children, traumatized children, widows, female-headed households, persons with disabilities, persons living with HIV/AIDS, and the elderly. When delivering reparations, three requirements will need to be balanced: (1) Reparations should provide something meaningful, symbolically and materially, to victims; (2) The State must have a real capacity to provide reparations and fulfill whatever promises it makes to victims; and (3) Reparations should encourage reconciliation, specifically by not increasing grievances or divisions between different groups in society, while guaranteeing a perception of legitimacy.

To provide comprehensive reparations for victims, Uganda will have to establish a coherent legal and policy framework that should establish a reparations fund and an independent institution legally mandated to implement reparations. It is also of utmost importance that victims can participate and influence the design and implementation of reparations programs.

When delivering reparations, three requirements will need to be balanced:

1. **Reparations should provide something meaningful, symbolically and materially, to victims;**
2. **The State must have a real capacity to provide reparations and fulfill whatever promises it makes to victims; and**
3. **Reparations should encourage reconciliation, specifically by not increasing grievances or divisions between different groups in society, while guaranteeing a perception of legitimacy**

Conclusion

Planning and implementing a reparations program is a long and challenging process because of the many political, practical, and financial challenges. But these challenges can be identified and anticipated. The Ugandan Government must work within a limited budget and respond to many other priorities. Not everyone would receive what they want or expect. The number of victims who would demand reparations and the extent of their economic loss, physical harm, and emotional suffering may be too great to be addressed by reparations alone. The Government will also have to consider other transitional justice approaches to satisfy the justice demands of victims. JLOS

Sarah Kasande Kihika is the Head of Office for the International Centre for Transitional Justice (ICTJ) in Uganda

International Centre for Transitional Justice (ICTJ)

ICTJ's Role in Uganda's Transitional Justice Process

Since 2005, the International Centre for Transitional Justice (ICTJ) has worked to support Uganda's efforts to build peace by securing the dignity of the victims of conflict, particularly women and young people. It has also provided technical advice to ongoing efforts to hold the perpetrators accountable.

Children Born of War and their Mothers: In 2015, ICTJ conducted an assessment of the situation of children born to women who had been abducted by the Lord's Resistance Army (LRA), and forced to marry LRA fighters. On returning from captivity, these women and their children often face social stigma, rejection, and inadequate access to education, healthcare and other services. ICTJ's assessment identified the reparative needs of this marginalized population and suggested concrete ways for the national and local governments to take steps to redress the violations. ICTJ continues to work with victims' organizations dedicated to seeking justice for this population, and produced the film titled, "I Am Not What They Think I Am," which explores the unique challenges the women and their children face.

Human Rights Documentation Project: In 2015, the Uganda Human Rights Commission (UHRC) initiated a Human Rights Documentation Project (HRDP), the first official state process to record violations committed between 1986 and 2007. ICTJ is a member of the Advisory Committee of the HRDP, providing technical assistance and capacity support to the UHRC and HRDP technical team. It also facilitates collaboration between the UHRC and civil society to ensure that the project reflects victims' priorities, and that victims participate meaningfully in it.

Strengthening the capacity of victims and civil society: ICTJ has provided technical assistance and capacity building to civil society organizations and victims' groups in Uganda. As a result of these interventions, different civil society groups have been able to engage and mobilize around different transitional justice issues and contribute to the development of the transitional justice process. ICTJ works with victims' organizations to build their capacity to advocate for justice, and creates platforms for victims to interact and voice their concerns to State actors.

CTJ dialogue commemorating the International Justice Day on 17th July 2019

Support to the International Crimes Division: The International Crimes Division of the High Court of Uganda was established in 2008 to investigate and prosecute international and transnational crimes such as crimes against humanity, war crimes, genocide, terrorism, piracy and trafficking in persons. ICTJ has offered judicial training and exchange, and provided expert advice on a range of issues including amnesty, witness protection, victim participation and outreach. Most recently, as a member of a special task force formed by the ICD and from Advocat San Frontiers, ICTJ offered technical advice to support the development of the ICD's Rules of Procedure and Evidence.

Support to the development of the **National Transitional Justice Policy:** ICTJ offered extensive technical assistance to JLOS to support the formulation of an effective, integrated and victim-centered national transitional justice policy framework. ICTJ also facilitated the involvement of a broad range of stakeholders in the policy development process.

Research ICTJ has conducted research and studies on a range of topics including reparations, gender justice, truth seeking and complementarity. These studies are aimed at informing policy development processes at the national level, drawing from comparative experiences from other contexts, as well as victims' perspectives and priorities on truth seeking and reparations. JLOS

Chief Justice Alfonse Chigamoy Owiny - Dollo (left) and the Principal Judge Justice Dr. Flavian Zeija at the launch of the 2019 / 2020 JLOS Annual Report during the 25th Annual JLOS Review on 26th November 2020

Commissioner Grace Ocitti of the Amnesty Commission hands over bicycles to excombatants who were granted Amnesty.

Mr. Kanyamunyu kneels before Acholi elders

Moses Baluku (4th from left) with colleagues at the memorial monument which is at the entrance of St. John's Seminary in Kiburara, Kasese District

Dominic Ongwen

The President of Uganda H.E Yoweri Kaguta Museveni receiving a flag from the late Major General Bamuze of West Nile Bank Front

Screening session in Uganda at the beginning of the Ongwen trial in 2016 by the International Criminal Court

H.E Yoweri Museveni shakes hands with a former LRA commander

African leaders take part in a family photograph at the African Union Headquarters in Addis-Ababa, Ethiopia on February 09 2020

A court session at the International Criminal Court in The Hague

JLOS

Justice for All

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