

Civil Society Dialogue on Gender & Transitional Justice in Uganda: *Opportunities and Challenges*

SUMMARY REPORT

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ICTJ | 10 years



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Executive Summary

The International Center for Transitional Justice (ICTJ), in collaboration with the Justice and Reconciliation Project (JRP), held a one-day dialogue on opportunities and challenges for gender and transitional justice (TJ) on Tuesday, September 27, 2011, at Churchill Courts in Gulu, northern Uganda. The event was attended by 33 participants from across the greater North, including Teso, Lango and Acholi sub-regions. Facilitators shared presentations on a range of topics relating to gender, including a review of the existing domestic and international frameworks, an analysis on the potential of domestic courts to try sexual and gender-based crimes, mainstreaming gender in traditional justice and truth-seeking processes, prospects of engendering TJ in Uganda through JLOS, protecting women's rights in a post-conflict setting, a review of reparations and reconstruction programs from a women's rights perspective, and building consensus and a way forward. Throughout the dialogue, there were also opportunities for participants to share their views and experiences and ask questions or provide comments on the facilitators' presentations. The majority of participant feedback is captured in the four *Reactions* sections of this report.

Purpose

With conflict ceasing within Uganda's borders, the Justice Law and Order Sector (JLOS) has begun the development and implementation of transitional justice (TJ) processes as provided for in the Juba Agreement on Accountability and Reconciliation of 2007. In July 2011, the International Crimes Division (ICD) began hearing its first war crimes case involving former LRA rebel commander Thomas Kwoyelo, and at the same time, the Justice Law and Order Sector (JLOS) commenced national consultations for developing a national policy on truth-seeking and traditional justice mechanisms. In spite of the progress being made in the transitional justice landscape, women's involvement in these processes has been limited. Of particular concern is that some of the proposed accountability mechanisms pay little attention to the distinct harms experienced by women in conflict and are thus ill-equipped to address justice priorities of women. This consequently entrenches impunity for gender crimes.

It's against this background that ICTJ and JRP organized a one-day civil society dialogue to solicit recommendations for inclusive and gender responsive TJ processes which promote accountability and end impunity for gender crimes, and also offer women satisfactory redress for conflict-related violations. The recommendations and proposals made at the meeting will be submitted to JLOS to contribute towards engendering the policy and institutional settings for truth-seeking, traditional justice and reparations.

Welcome Remarks

Michael Otim, ICTJ

Michael Otim, Head of Office for the International Center for Transitional Justice (ICTJ) in Uganda, welcomed members to this important dialogue. He stated that the Government of Uganda (GoU) is in the process of putting in place transitional justice mechanisms to address human rights violations that took place in the country, and that justice, reconciliation and truth for victims are key goals for any country undergoing a transition to achieve holistic justice. However, these goals cannot be achieved if there is exclusion or inequality in a society. Due to inequality, women have disproportionately suffered the cost of war, and this relates to gender-power relations. He called upon members to not interpret this to mean we should entrench the stereotype of women as powerless, but rather we must acknowledge that women's experiences in conflict differ because of gender inequality. As a result, some of their special justice needs remain largely ignored. This workshop was aimed at developing gender-sensitive strategies for the protection of the rights for all. For this to happen effectively, he urged that we need to acknowledge and seek justice for women's experiences, especially issues of sexual violence they suffered during conflict. We also need to explore ways to secure increased representation of women in policy and decision-making in post-conflict societies. He said this meeting is very timely because mechanisms to achieve all of this are still being developed, and we can influence them to ensure that they provide holistic justice.

Opening Remarks

Christine Akumu, Gulu District Local Government

Christine Akumu, the Gulu District Gender Officer, welcomed members to Gulu district and thanked the organizers for inviting her to the meeting. She said the meeting was very important because time and time again these issues have been talked about, but solutions to gender issues are still missing from programs that are set up. She said that participants were called to the meeting because they have a wealth of experience and they have been actively tabling the issues of women. She expressed frustration that as much as she and others try to table these issues, most of the agendas proposed in regard to women get lost along the way. She reiterated that women in northern Uganda suffered during the conflict. Traditionally, especially in Acholi sub-region, women did not actively participate in war. Instead, they would bless men before they went and fought and then welcome them when they returned home. But during the most recent conflict in northern Uganda, women and mothers became combatants, were abducted, and even became commanders. Even those that remained behind also suffered from widespread sexual violence. Now that the war has come to an end and people are leaving the camps and returning home, some of the rights women enjoyed in the camps (because security forces were there to enforce them) are being dissolved. Since they have resettled, getting to the police in the event of any disputes has become a problem.

According to Christine, when the PRDP was introduced, many of these issues affecting women were factored in, but once the money was delivered, the agenda changed to building health centers and other structures. She lamented that implementers are forgetting that the people returning to the communities had experienced war for 20 years and require mental counseling. She said that this meeting is very important so civil society can look at the issues critically, reflect on the UN Resolutions and government policies, and strategize how to bring out the issues that should be factored into the forthcoming policies on TJ. Even when talking about mainstreaming gender in programming, oftentimes programs related to women are set aside. She asked how gender is mainstreamed if the people who know the issues and have experiences and perspectives are not integrated into the system. She concluded by declaring the meeting officially opened and urged members to be active and open during the discussions.

Strengthening the Participation of Women: Review of Existing Domestic and International Framework

Sarah Kihika, ICTJ

According to Sarah Kihika of the International Center for Transitional Justice (ICTJ) in Uganda, in the 21st century we cannot sit by as women are relegated to the periphery of most processes. She acknowledged that gender is an all encompassing word that includes both men and women, but for the purposes of the meeting, she would examine gender from the context of women. She defined gender as the socially-constructed roles of men and women and how those shape the experiences of men and women in conflict situations. Transitional justice was defined as a set of practices, mechanisms and concerns that arise during periods of conflict and civil strife that aim at directly confronting and dealing with past violations of human rights. They provide remedies to those who have been affected by violations that take place in that context.

In the context of northern Uganda, she said we have all heard the horrific stories that women experienced. In 2000, the government passed the Amnesty Act, which offered ex-combatants incentive to come home and a reintegration package. Whereas this was a welcomed development, women and girls did not benefit fully from the reintegration package because it did not address the key needs of women, especially those who returned with children born in captivity and those with serious health conditions as a result of sexual violence they suffered. To date, many of them who returned with children have failed to reintegrate into their communities because they have limited access to land and face stigma. Sarah argued that if there had been meaningful participation of women in the design of the amnesty process, then it would have catered for the special and unique needs of women and girls.

UN Security Council Resolution 1325

To address the limitations of peacebuilding and TJ processes in addressing the reintegration and justice needs of women, the United National Security Council passed a landmark resolution in 2000, Resolution 1325. Resolution 1325 recognizes for the first time that women's experiences in war are different from the experiences of men. It recognizes that only by being present in negotiations can one influence the outcomes and redistribution of state benefits possible during such negotiations. Sarah likened this to the Juba process in which women, through the Women's Coalition for Peace, influenced the Agreement on Accountability and Reconciliation by ensuring that special provisions to cater for the needs of women and children were included in the document.

Resolution 1325 places an obligation on the state and international actors to fully involve women in preventing, resolving and recovering from conflict to ensure that all peacebuilding efforts are consistent with gender equality. Sarah suggested that we have to look backward at structural inequalities to discern what made it okay culturally for women to be subjected to violence. We have to challenge these notions and recognize that this is a critical juncture for all key stakeholders to play a role in advancing the rights of women. Resolution 1325 recognizes women as vital agents of change and moves away from common notions that render them as mere victims. She believes that casting women as victims is strategic because it disempowers them. To challenge this, civil society has a role in sensitizing women that they have a right to participate in justice processes and to demand that government guarantees and protects their rights.

Under Resolution 1325, government is obliged to:

1. Adopt measures to support local women's peace initiatives and involve women in all stages of peace processes;
2. Support to strengthen the creation of non-governmental organizations, including women's groups that will empower and articulate the interests of women and their key needs;
3. Establish measures to investigate, monitor and report violations of women's human rights, including gender-based violence and sexual abuse.

UN Resolutions 1820, 1888 and 1889

Following Resolution 1325, there were other resolutions that were passed to reaffirm the spirit of Resolution 1325 and address any gaps. In 2008 and 2009, the UN passed resolutions 1820, 1888 and 1889. These resolutions broke new ground by affirming that there cannot be impunity for those who command, condone or commit sexual and gender-based crimes. They pledged the international community to prevent and respond to sexual violence perpetrated during and after conflict. In the past, sexual violence was considered a crime against family honor and not a crime against humanity or war crime. Through the special tribunals for Rwanda and Yugoslavia, and later with the Rome Statute of the International Criminal Court, it became possible for sexual violence and other gender-based crimes to be prosecuted on their own independence and be recognized as grave crimes. Before, when it came to peace negotiations, negotiators often turned a blind eye to sexual violence for the sake of bringing the conflicting parties to the table to agree. Now, there is no impunity for these crimes. Because of these resolutions, governments are required to investigate and prosecute all perpetrators who commit these crimes in the context of conflict.

Resolution 1820 recognizes that sexual crimes are grave crimes against humanity, and as such, under international law a person who is alleged to have committed sexual and gender-based violations is not entitled to amnesty. While countries nationally may grant amnesty (like in the case of Uganda), this amnesty is not recognized under international law. Under the doctrine of international jurisdiction and customary law, perpetrators of these crimes can be prosecuted elsewhere.

Nairobi Declaration

The Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation re-echoes what was affirmed in the abovementioned UN resolutions. It was made at an international meeting on women and girls held in Nairobi that was attended by women's rights activists and survivors of conflict-related sexual violence. The meeting was groundbreaking because for the first time, survivors of sexual violence were given an opportunity to speak for themselves. The declaration recognizes that reparations are an integral part of processes that assist societies to recover from armed conflict. It emphasizes that TJ processes require full participation of women and girls, especially those who were victimized, in design,

implementation, evaluation and decision-making. It stresses the importance of women and girls' empowerment by taking into consideration their autonomy and participation. It stresses that reparations must drive post-conflict transformation of socio-cultural injustices and political and structural inequalities.

Goma Declaration

After the passing of UN Resolution 1325, many countries and regions developed context-specific measures to advance the rights of women and offer appropriate remedies. In June 2008, member states of the International Conference of the Great Lakes Region, together with civil society organizations, religious and cultural leaders and UN agencies, passed the Goma Declaration which seeks to eradicate all forms of gender-based violence, in particular sexual violence, by calling upon member states to take appropriate measures for empowerment and equal representation of women and girls.

Uganda Action Plan on UN Security Council Resolution 1325, 1820 and the Goma Declaration

In Uganda, we have a number of policies and action plans, but they have not been realized or implemented. In 2008, the Government of Uganda launched the Uganda Action Plan on UN Security Council Resolution 1325, 1820 and the Goma Declaration. The action plan defines a systematic framework for national actions and monitoring systems to assess progress and impact of interventions at all levels. The purpose of the action plan is to:

1. Ensure the protection of women and girls from gender-based violence and promote the human dignity and equality;
2. Increase women's participation in prevention and resolution of conflict and maintenance of peace and security in post-conflict peacebuilding;
3. Increase awareness of the public on UN Resolutions 1325 and 1820 and the Goma Declaration;
4. Improve linkages and long-term engagement between local authorities, central government agencies, regional coordination and cooperation between governments and international donors in ending crimes of rape and other forms of sexual violence;
5. Develop the capacities of key actors responsible for implementing the plan;
6. Improve coordination of data collection, analysis and quality reporting.

This action plan is required to enact and, when necessary, amend laws to conform to the UN resolutions and the Goma Declaration. It is required to provide support to transitional justice mechanisms so they are equitable and inclusive of women. It is required to develop a policy on legal aid provision for the poor and vulnerable to ensure that they can seek legal services. Lastly, this action plan is required to support the development and implementation of legislative policies to respond to the vulnerabilities of children born out of rape and women who were abducted.

In conclusion, Sarah stated that we have to adapt a holistic approach to transitional justice when dealing with women. It is good to fight impunity for sexual and gender-based violence, but it is important to promote participation and also address those underlying factors that contributed to the victimization of women in the first place.

Reactions 1

All

The following comments and questions were raised following the review of domestic and international frameworks for gender justice:

- According to one participant, the work women are doing in different peace initiatives is not being recognized by stakeholders or government. She said that Uganda is good at making policies and action plans, but that they always remain on paper because they are not accompanied by budgets. She participated in the launch of the Action Plan in September 2008, but there is no plan to implement the strategy at the district level.
- Another participant expressed concern over Uganda's amnesty process, saying that Uganda's amnesty has no timeline and even someone who has been called to court can still receive amnesty. She disagreed that someone who has committed sexual crimes should be given amnesty.

- A participant suggested that in trying to address the cultural or societal obstacles to gender equality, civil society should reflect on the positive perspectives of African cultures and package sensitization materials so they are easily relatable to the grassroots.
- A participant acknowledged that Uganda has tried in the last ten years to create spaces for women in the discourse of the country and asked why there hasn't been more success in putting the issues on the actual agenda. He felt women should be involved not only at the redress level but also at the level of charting out the political solutions to the issues related to the conflict. He also added that as much as we want to add women to the transformation process, we also want to involve men. It's important that men who have been targeted as perpetrators also recognize that transformation cannot take place without the involvement of women. Lastly, he encouraged the involvement of traditional leaders.
- Another participant reflected on an oversight by the system which focuses on the immorality of rape, but not the emotional impact it has on its victims.
- A participant suggested that it's not too late to attempt to make changes to the amnesty package for women because the law is still in effect. The package can still be adapted to recognize the gender differences of return.

Sarah responded by saying that perhaps the biggest problem has been the failure to integrate the informal contribution of women into the main, larger scale of things. She said it is unfortunate that despite having very good documents, government still lacks the political will to have them implemented. She called for attitudinal change. Transitional justice is key because it offers a variety of mechanisms to address conflict issues. If prosecution does not address the issues of women, perhaps truth-seeking or reparations can. She said we need to bring everyone on board. Women cannot only be talking to themselves as women on these issues. It's the role of civil society to serve as a bridge between the community and the grassroots and the government.

Challenging Impunity for Sexual and Gender-based Crimes: A Missed Opportunity in the Trial of Thomas Kwoyelo

Joyce Apio, UCICC

According to Joyce Freda Apio of the Uganda Coalition for the International Criminal Court, gender crimes are sometimes referred to as hate crimes and may include rape, genital mutilation, forced prostitution and forced pregnancy. This specific presentation is in respect to gender crimes committed during armed conflict or political upheaval. Universally, gender crimes are not recognized as hate crimes. Most countries refer to them as two categories, war crimes or crimes against humanity. This categorization is in the Geneva Conventions and the Rome Statute. However, the United States has made an attempt to consider them hate crimes. Joyce feels crimes of this nature should be given special recognition so they are no longer considered trivial. Internationally, it has been a challenge to prosecute perpetrators for committing sexual crimes. Even in Rwanda, where there was massive evidence of rape, the International Criminal Tribunal for Rwanda did not include rape in the charge sheet until 1997 when there were complaints and pressure by civil society. Historically, sexual offences have been trivialized and the legal framework has not been favorable to trying them.

Even when prosecutions have been made for sexual crimes, the sentencing usually lacks recognition of gravity. In Burundi, where there have been a few instances of arrests and prosecution, there were minimum punishments and most were only sentenced to a small fine. Victims were never compensated. This causes victims to question why they should face the public humiliation of taking these cases to court when all they receive in return is dishonor and stigma from the society. In general, it is difficult to even bring these cases to trial because of difficulties in reporting and providing evidence. Studies show that sexual violence is even perpetrated by those who were supposed to offer protection (i.e. peacekeepers in peacekeeping missions). Traditionally in most African societies, sexual relations were shrouded in secrecy and people did not talk in public about their experiences. This is the origin for impunity in this context. Even when a scenario of sexual violence occurred, families made negotiations and dealt with it in a civil manner, rather than treating it as a criminal offense.

In the Kwoyelo trial, of the 12 counts and 53 alternative counts, there were no sexual offences mentioned. In order for such crimes to be included in charge sheets, crimes must be reported and investigations carried out which provide evidence. It is possible that in this case, reports were made, but there was not enough evidence to include the allegations on the charge sheet. Thankfully, charge sheets can be amended, so if significant evidence emerged, sexual crimes can be added. For future prosecutions, civil society should conduct dialogues or trainings for investigations to enable them to better handle crimes which relate to sexual abuse. We also need to talk to our sisters and brothers who suffered these crimes to open up and allow us to document these experiences. We also need to initiate civil society programs that ‘name and shame’ by stigmatizing the perpetrators instead of the victims.

Joyce said that regarding amnesty for Kwoyelo, she is informed that he applied for amnesty in January 2010. In analyzing this, the Constitutional Court looked at the constitutional provision of equal treatment before the law and that Kwoyelo was entitled to amnesty under the Amnesty Act. The Court made their order with a direction that the ICD will implement. The Attorney General’s office has raised that by having an amnesty law, Uganda is robbed of its international obligations to try crimes of grave nature. Efforts to appeal the Constitutional Court’s ruling to give Kwoyelo amnesty are being explored by the Attorney General and the DPP.

Mainstreaming Gender in Truth-seeking and Traditional Justice Processes in Uganda

Ketty Anyeko, JRP

Ketty Anyeko, Gender Justice Team Leader at the Justice and Reconciliation Project, said there is a tendency when talking about transitional justice to just look at women as victims of sexual violations. But if a woman is reduced to a victim of sexual violence only, she won’t know where to fit into TJ. There is also a danger of referring to women as gender in TJ. TJ processes need to take into account how both men and women experienced conflict.

Oftentimes, women’s recognition in TJ has been narrowed to mothers of the disappeared because they often only talk about their sons or husbands who are missing. Women usually testify about what they saw happen to others, but they rarely talk about their very own experiences because the mandates of truth-seeking processes like truth and reconciliation commissions (TRCs) usually exclude the experiences of women. For example, in the South African TRC, out of 22,000 people who testified, only 158 women testified about sexual and gender-based violence. It is not that only 158 women could have suffered from such a violation.

Gender mainstreaming is important instead of having separate policies for women. Engendering TJ can transform processes. The following are possible factors to be considered by JLOS to engender TJ in truth-seeking mechanisms:

1. Truth-seeking processes should aim at bringing about closure by giving victims and survivors a platform to speak. They should provide opportunities for acknowledgement of what happened and the agency of women in conflict.
2. Processes should be locally-sensitive and suited to the needs of women. They should be able to accommodate women and their experiences. There could be open and closed sessions to give testimony. There should be training of staff on gender issues.
3. Processes should have a research and investigation unit staffed by a number of people with expertise on gender issues. Gender mapping could be done to document gender-based crimes that happened during conflict to better understand the patterns.
4. Any reports and recommendations should be inclusive of women. A TRC has been likened to a machine that generates information depending on what is fed into it. Unless women are informed to participate in the TRC from the beginning, then the outcomes and outputs will not reflect their interests.
5. Any truth-seeking processes should also include economic crimes against women, not just sexual crimes.

On traditional justice, most of the traditions in Uganda have components of volunteerism, acknowledgment, compensation and symbolic rituals. But there is no precedence for addressing serious crimes like mass rape in our traditional systems.

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Furthermore, traditional justice doesn't typically go on to address the psychological feelings of persons victimized by such crimes. However, traditional justice is cheaper to operate than other formal justice procedures. In all, Ketty said there's a lot that still needs to be done before such processes can deliver meaningful justice to women.

Before the war, sexual violence like rape was a societal taboo. Now there is almost a normalizing of violence. A number of our daughters and sisters have returned, and to many, they seem normal. But still to them, those who experienced the violations, they are not yet "normal."

Traditional systems of justice leave women with limited to no decision-making powers, and the possibility for women's meaningful participation in traditional justice is minimal. Our focus should be on substantive and material justice for women. This may mean paying for school fees. Any TJ process should look at empowering women economically and socially to prevent their vulnerability should violence erupt again.

Ketty provided the following questions to guide the discussion:

1. How informed are women of TJ processes?
2. Are women at the grassroots aware of the work JLOS is doing?
3. Do women and men know how and at what level they should participate?
4. How do the experiences of women fit in these processes?
5. How can we contextualize the experiences of women? Where do they fall?
6. What is the view on justice of women whose rights have been violated?

Reactions 2

All

The following comments and questions were raised following the presentations on Kwoyelo and mainstreaming gender in truth-seeking and traditional justice:

- One participant stated that women camp up with priorities and concerns under the PRDP and these were given to the Prime Minister's office. They were then told to monitor the PRDP, but this is not possible without resources. They were given none. She suggested that if the PRDP continues, government should first consult women.
- Another participant reflected on the fact that there are no indictments for sexual violence in the Kwoyelo case. She asked if sexual violence will surface if Kony goes to the ICC. She does not think the legal processes will ever bring justice to the majority of women who suffered. She suggested that we start thinking of the forms of reparations that will directly benefit these women.
- A participant asked rhetorically that if sexual offences are not considered in the ongoing trials, where are women being considered in the justice system. She suggested that SGBV is looked at from the root causes in the communities and that elders would be a good target for addressing negative cultural norms that condone or encourage sexual violence.
- A participant felt there were some aspects of sexual and gender-based violence that cannot be addressed legally. He feels the traditional system may be better suited to handle them.
- A participant stated that what is good for women is good for society and that society should recognize that. He called for a more conflict-sensitive definition of victims if Uganda wants effective accountability. He reflected on a recent meeting between civil society and the Registrar of the ICD in which a woman complained about the absence of gender issues on the Kwoyelo charge sheet. He felt the Registrar's answer made these crimes sound like casual issues and called for an end to this "irresponsibility."
- A participant noted another challenge which is threats by perpetrators. After rape, perpetrators usually threaten strongly to come back for the victim. This causes women to not allow for the case to be taken further to court. Instead, the women ask for compensation so there isn't conflict in the future with the perpetrator or the family of the perpetrator. Recently, there were four cases of rape where victims reported to police and needed protection. The

victims had to be put in the police cells where the criminals go because there was no other facility. This is one of the areas that the PRDP needs to address.

- A participant said that challenging impunity must begin in peace time. He suggested that there are trainings to prepare the army on how to protect women during warfare. He also observed that people are always in a hurry to say culture is bad. He gave examples of the Acholi recognizing the contribution of women in war through naming clans after the women.
- Another participant suggested sensitization in the local language to encourage people to reform. Both men and women should be sensitized at the same time.
- A participant felt that we should not count the Kwoyelo case as a missed opportunity. He feels it's an opening for other mechanisms for justice. He's learned that traditional justice can be more beneficial than amnesty because whereas amnesty grants legal impunity for sexual and gender-based violence, traditional leaders can still require accountability of perpetrators.

Joyce responded by saying that sexual offences are difficult to prove and that efforts should be made to enable more sensitivity of these issues. She said that a lot needs to be done so that gender sensitivity is embraced by all, so systems support victims to seek redress. She called for increased victim and witness protection.

Ketty responded that we must keep insisting for redress even when we don't get responses. She noted that some women choose not to pursue justice in court because they have reunited with the perpetrators and they have economic dependency on them.

Prospects and Challenges of Engendering TJ in Uganda: The Experience of JLOS

Margaret Ajok, JLOS

According to Margaret Ajok of the JLOS Secretariat, the Justice Law and Order Sector (JLOS) is an institution within the GoU that was established as a sector-wide approach to look at broader justice issues. It comprises of 15 government institutions, including the police, prisons, judiciary, Amnesty Commission and others. The Secretariat has 5 staff who are technical advisors and promote good governance, human rights and transitional justice.

The government, through JLOS, is trying to mainstream gender in all of the different ministries and institutions. This is part of the GoU's commitment to ensure that gender and women's need are captured well within the government institutions. TJ is a subject that cannot stand alone and must be captured well with the government institutions, as well.

So far, she noted that the following achievements have been made by JLOS with regard to gender equality:

1. In 2007 the gender policy was revised to better meet the needs of women.
2. The government is in the advanced stages of implementing a legal aid policy. The draft policy should be passed by next month. This is critical to ensure that the indigent and less privileged, oftentimes women and children, have access to justice.
3. The sector has supported family and child protection units within police posts.
4. The sector has advanced support of public interest litigation. This is where a lawyer can represent a number of people in court on an issue that is deemed to be of public interest (i.e. the Mifumi case challenging the constitutionality of bride wealth).
5. The sector has supported a program being run by women judges in Uganda called the Jurisprudence of Equality program.
6. The revision of Police Form 3 is in its final stages, enabling it to be sensitive to gender issues and providing for more detail of an alleged crime.
7. The JLOS Secretariat is undertaking an initiative to customize court buildings to better suit gender issues and challenges of persons with disabilities.

8. JLOS supports the Agreement on Accountability and Reconciliation from Juba which recommends policy and legislative changes where necessary to take into consideration the special needs of women and children.
9. The ICD has one female judge, which is an opportunity for articulating the issues of women.
10. JLOS has offered capacity-building for staff of the DPP and CID on interviewing vulnerable witnesses and handling sexual crimes and witness protection.
11. JLOS has offered continuous technical support on witness protection and there is a bill being developed by the Uganda Law Reform Commission on this issue.
12. JLOS held numerous consultations on the Rome Statute and saw to the enactment of the ICC Act of 2010. This act recognizes gender-based crimes.
13. JLOS recently completed consultations in which one of the issues explored were women and children and their experience in conflict and their participation in TJ processes. They held focus group discussions and intend for the resulting policies to be sensitive to women's issues, especially in regard to their participation.
14. JLOS is undergoing planning for future implementation of the Strategic Investment Plan III. They hope this will capture a number of issues like reparations.

Margaret committed JLOS to continuing the observance of human rights in the administration of justice and capacity-building, and vowed to involve civil society as much as possible. She said JLOS will continue to carry out information dissemination and outreach as they move forward. She said that Uganda's international obligations in regard to preventing and addressing violations of a sexual or gender-based nature are opportunities that need to be strongly advocated for. Uganda has a record of being one of the best ratifying and domesticating states with regards to international law and human rights. Uganda also has a robust constitution. The challenge in engendering TJ is that the issues of TJ and gender are not well appreciated within the sector institutions. It is our responsibility to ensure that those institutions appreciate transitional justice and gender.

Reactions 3

All

The following comments and questions were raised following the presentation on JLOS and engendering TJ in Uganda:

- A participant asked how civil society can influence and work with JLOS on raising some of these issues. Another participant lamented that government is making policies but they are not being translated into laws for implementation.
- A participant noted that lack of will and commitment are still big battles to face. He suggested that civil society engage in advocacy that lobbies for increased budget considerations to deal with gender issues.

Margaret responded that JLOS is already benefiting from involvement from civil society and UN agencies. For example, the Secretariat has an MoU with UN Women, as they have offered to provide capacity support to the sector to engender the different programs. JLOS encourages civil society to approach the Secretariat if they have ideas that can make their work better. The Secretariat is mandated to coordinate activities and should be contacted if civil society wants to collaborate with participating institutions (i.e. offering training to police) to maximize participation.

She continued that on the issue of policies versus laws, a policy is usually anticipated to be a guide and the first step to legislation. Although policies are not legally binding, they are obligatory and can be implemented. Perhaps the problem lies with people's attitudes that laws are more serious than policies. She noted that JLOS has created a gender working group, but that it is the most dormant group, either because people don't attend or the issues are not deemed serious enough. She encouraged more advocacy to make people realize that these are real issues that affect society as a whole and not just women's issues. She also noted that Uganda now has a DNA testing center and that one of the model posts may be in Gulu. On the challenge to advance gender, she said that some progress has been made, but there is still much more progress to make. The beauty of JLOS is that it is a neutral organ of government that is supposed to highlight gaps within the

government institutions. It is her responsibility to ensure that the issues that were highlighted at this meeting are known within the sector.

Joint Session on the Protection of Women’s Rights in the Context of Post-Conflict Northern Uganda & Reviewing Reparations and Reconstruction Programs

All

The afternoon session was supposed to feature presentations on the protection of women’s rights in the context of post-conflict northern Uganda and reviewing reparations and reconstruction programs from a gender equality and women’s rights perspective, but neither facilitators were able to attend the meeting. Instead Sarah Kihika sparked further discussion on these issues and gave members an opportunity to share their views. Sarah noted that when you look at issues through a gendered lens, whereas the conflict seems to have ended, the conflicts have just begun in people’s homes. The aftershocks of the conflict are taking root. She said that when we talk about TJ, we assume that transition has taken place, but for many women who continue to experience pervasive human rights violations, there has been no transition. Previously society protected vulnerable groups, but today women are burdened with a number of complex situations they cannot address on their own, and society does not step in to help them. The representative from JLOS noted that the Succession Act is being revised and should be able to capture gender issues better. The Administrator General’s Office now has a presence and can be approached, as well. She also noted that the revision of the Penal Code captured in the defilement law has re-situated defilement to also include acts where objects and other instruments are used (not just penile penetration) and to acknowledge that defilement can also happen to boys. The definition of rape has yet to be expanded in these areas. Sarah noted that this was a compromise, that civil society had proposed a broader sexual offenses act that covered more, including marital rape.

Sarah continued to discuss reparations and their relation to reconstruction programs. Reparations were defined as measures provided to address harms suffered. They take various forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Uganda is facing a complex issue in regard to reparation and reconstruction. It is important that government puts in place a reparations scheme, but in the meantime, we need to see that the reconstruction plans address some of the immediate challenges that war-affected communities face. The PRDP was implemented to allegedly bridge the gap between areas that experienced different development rates. Some groups, namely ISIS-WICCE, found the PRDP glaringly inadequate in responding to the needs of women, also finding it doesn’t have any key component for gender mainstreaming.

Reactions 4

All

The following comments and questions were raised following the overview of reparations and reconstruction in northern Uganda:

- One participant stated that the PRDP was a very good idea in the beginning, but that right now the whole program is very confused. It’s not addressing women’s main issues. Her networks had been trying from the beginning to assess the document and see if it is gender sensitive, and they found that it is not. The women came up with their own priorities and developed gender sensitive indicators. She expressed frustration that the geographical scope of the PRDP has been expanded to over 50 districts. She said clearly that the PRDP is not a reparations program for northern Uganda. She said if the implementation remains the same, the war-affected areas are getting a raw deal. While poverty has reduced elsewhere, it has increased here.
- Another participant referenced a report by the Pincer Group called, “Unpacking the P in PRDP,” in which it was found that the ‘P,’ peace, was silent during the implementation of the PRDP. He said government is calling the PRDP a framework with a budget and that what civil society is doing is in line with the framework. He said that the

PRDP should have been designed like Europe's Marshall Plan, so there is development and change at the household level.

- Another participant re-echoed that reparations is not development. Reparations focuses on those who have been affected by conflict, whereas development covers everyone and is not cognizant of the people who most suffered during war. He suggested that the government be educated on handling post-conflict situations and referenced instances where the President has been seen handing over brown envelopes with cash and deeming this reparations.
- A participant said that the first draft of the PRDP was very good and was geared towards meaningfully helping people recover from conflict. The money was supposed to go toward rehabilitation and restitution. In the second draft, a lot was reduced and the focus was placed on construction of housing and schools. In the last version, you don't see anything of rehabilitation and restitution. She felt the reason donors supported the PRDP was because of the initial version of the document. Government has instead shifted the burden of recovering the war-affected areas to civil society.
- A participant agreed that what is being done in the PRDP is not reparations because there is no link to accountability or acknowledgement. Instead, the PRDP provides basic needs that the state would ordinarily provide to its citizens. He said we need to initiate a program that recognizes the harm and particular categories of individuals who underwent conflict. The services provided must be linked to acknowledgement of their suffering. Another participant agreed that we need a reparations program that is sensitive to meeting victims' needs.

Sarah responded that with the absence of acknowledgment, you cannot consider the PRDP to be reparations. Instead, the government needs to put in place measures to address victims' harms. Still, she encouraged engagement with reconstruction programs. At this point, government is planning to put in place the PRDP II. Margaret agreed, saying that we have to be creative in how we implement reparations in the absence of accountability. She referenced the ICC and how they are implementing reparations in the absence of court rulings.

Building Consensus and a Way Forward: How Should CSOs Collectively Push Gender Responsive TJ Processes?

Lino Owor Ogora, JRP

During the session on building consensus and a way forward, the moderator and participants raised a number of recommendations to be carried forward to the relevant stakeholders. Specific recommendations raised during the meeting include:

1. Provide recognition and acknowledgment of women's unique experiences during conflict, and of their role as peace-makers in bringing the conflict to an end.
2. Provide opportunities for greater inclusion and participation of women in transitional justice processes and decision-making.
3. Implement actual gender mainstreaming in civil society and government programming.
4. Implement Uganda's policies and obligations for gender equality, including related UN resolutions and declarations.
5. Include gender-based crimes in future trials of the ICD or on existing charge sheets for the ICC.
6. Redirect stigmatization from victims to perpetrators through naming and shaming perpetrators at the community-level.
7. Sensitize government officials on gender issues through trainings.
8. Empower and sensitize grassroots women to speak about their gender issues.
9. Challenge social perceptions and cultural elements which entrench gender inequality.
10. Lobby and advocate for government programs to better address the needs of women (i.e. for budget allocations for the PRDP and reparations).
11. Enact a law on reparations and include provisions for compensation through traditional justice.
12. Conduct outreach with women's groups and women's leaders.

13. Fund increased collaboration between civil society.
14. Train medical personnel and police to better handle issues of sexual and gender-based violence and assign only trained personnel to deal with such cases.
15. Organize a dialogue with cultural leaders over how to address some of these issues.
16. Clarify the interaction between formal and informal justice.
17. Revise the current amnesty law to better cater for the needs of women, especially those returning with children born in captivity.
18. Construct reception centers for survivors of SGBV who come to police posts for shelter and protection.
19. Address the socio-economic dimension of the conflict in transitional justice.
20. Put in place measures that encourage survivors of SGBV crimes to come forward and provide evidence for court.
21. Promote ICT use among women to facilitate reporting of abuses (i.e. through a hotline).
22. Explore alternative justice mechanisms for Kwoyelo and other ex-LRA commanders.
23. Reactive the JLOS working group on gender and include civil society in its meetings.

Closing Remarks

Boniface Ojok, JRP

In the closure, Boniface Ojok, Programme Coordinator for the Justice and Reconciliation Project, thanked everyone for the elaborate consensus-building session. On behalf of JRP and ICTJ, he thanked everyone for honoring the invitation to attend the dialogue. He admitted that the day's discussion had not exhausted the issues, and that the discussion should be a work in progress. He raised that gender is a matter that concerns everyone and challenged the members to think critically on how to take these recommendations forward and translate them into a transitional justice policy. With those few brief remarks, he declared the workshop officially closed.

Contact Us

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