

WHAT BECAME OF REPARATIONS?

A DIALOGUE AMONG CIVIL SOCIETY ACTORS ON
THE FUTURE OF REPARATIONS FOR VICTIMS OF
CONFLICT IN NORTHERN UGANDA

August 25, 2011 | Landmark Hotel, Soroti

Summary Report



SODANN



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SUMMARY REPORT

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Executive Summary

The International Center for Transitional Justice (ICTJ), in collaboration with the Justice and Reconciliation Project (JRP) and the Soroti Development Association & NGOs Network (SODANN), held a one-day dialogue on reparations for victims of conflict in northern Uganda on Thursday, August 25, 2011, at Landmark Hotel in Soroti. The event was attended by 25 participants from across the greater North, including Teso, Lango, Acholi, Karamoja and West Nile sub-regions. Facilitators shared presentations on a range of topics relating to reparations, including a conceptual overview of reparations programmes, engendering reparations, international and domestic legal frameworks for reparations, stocktaking in the represented sub-regions, victims' perspectives, the Kenyan experience, the relationship between reparations and development projects and building consensus and a way forward. Throughout the event, 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 five *Discussion* sections of this report.

Purpose

Victims of violations within the realm of transitional have a right to a remedy in form of reparations for harm suffered. In Uganda, discussions on reparations have mainly evolved around the Juba Peace Agreement, specifically Agenda Item 3 on Accountability and Reconciliation, which provides that collective and individual reparations should be made to victims through mechanisms to be adopted by parties to the agreement upon further consultations. Albeit those provisions, little seems to be materializing for victims in northern Uganda in implementing a reparations programme. The absence of a legal and policy framework on reparations has hindered the award of reparations to victims as envisaged in the Juba agreements. This dialogue was organized with the aim of facilitating discussion and building consensus among civil society on the long-forgotten topic of reparations. The views and opinions gathered in the dialogue will be forwarded on to relevant policy-makers with the aim of soliciting action for the implementation of reparations in Uganda.

Conceptual Overview and Understanding Reparations Programmes

Michael Otim, ICTJ

According to Michael Otim, Head of Office of the International Center for Transitional Justice in Uganda, the origins of modern reparations are rooted in interstate affairs of states following violence or disagreements. The state found culpable of an offence was obliged to pay for damage to another country. Gradually, the concept has evolved to include culpability at an individual level, whereby perpetrators are compelled to repair harm that victims suffer through reparations.

The *UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (herein referred to as the UN Basic Principles) holds that a State still has the greatest responsibility in ensuring that victims' rights to reparations are actually met. These guidelines encourage a victim-centered approach to reparations.

When you talk about repairing harm done, there is no amount of compensation or reparation that can completely restore/repair the victim. You cannot put a price tag on human life. According to a quote from the UN Office of the High Commissioner for Human Rights' tools on reparations, "The violations which reparations benefits are meant to address frequently are the sort that are strictly speaking, irreparable. There is nothing that will restore the victim to the status quo after years of torture, illegal detention, loss of a parent, a sibling, a spouse or a child. No amount of money and no combination of benefits can erase either experiences of this sort or some of their consequences. However, this cannot be an excuse for not trying to do something effective in the area of reparations." Even if life is priceless, it does not mean we should not do anything to provide redress to victims.

Uganda currently has no national laws on reparations, although there are international laws and instruments to which Uganda is a signatory which victims can use to derive the basis through which to demand reparations. Victims can also derive sources of obligations through political sources, such as the Juba Peace Agreements. Other sources for reparations include public inquiries or recognition by a state of historical injustices.

Reparations can be provided in many different ways. *Compensation* is a form of reparations for damages which can be economically assessed. This form of reparations has traditionally not been well received by policy-makers who see it as impossible to compensate everyone. However, reparations are not only about money. You can also provide reparations through:

- *Rehabilitation* (ex: medical, psychological or other services for victims)

- *Satisfaction* (ex: locating missing persons and assisting in recovery and reburial of the dead, providing public apologies, commemoration events, memorials)
- *Restitution* (ex: restoring victims to their original state; i.e. returning lost property like livestock, returning land that was used for military barracks, providing employment, restoring basic human rights and freedoms)
- *Guarantees of non-repetition* (ex: institution reform; i.e. removing abusers in the police and military by discharging them or removing them from positions of responsibility, improving law and order and law enforcement in the communities, strengthening human rights)

We should provide reparations to victims to remedy past wrongs. This contributes to the healing and recovery of victims following years of abuse. It is a right for everyone who suffered harm to seek redress and an obligation of the state. Reparations restore victims' confidence in state institutions and acknowledges victims' suffering. There are many different types of reparations:

- *Individual* (ex: giving reparations directly to the victims)
- *Collective* (ex: providing reparations to the whole community)
- *Material* (ex: providing compensation)
- *Symbolic* (ex: offering a public apology to victims)

Oftentimes, these are combined. You can have collective, material reparations, or individual and symbolic, and so on.

Before deciding on whether or not you are going to have reparations, there are many factors that need to be considered. Issues to consider include:

- Do you have the resources to implement such a programme?
- Do you have the political commitment? Is there political buy-in by those in positions of authority?
- What are the numbers of victims?
- Can perpetrators also become beneficiaries?
- Are you going to look at the causal relationship between violation and harm?
- How do you quantify the different types of harm?
- What is the nature and quantity of evidence you require before identifying somebody as qualifying for a reparations initiative?
- What kind of structures do you need to put in place to have this implemented?
- What would be the basis for award?
- What will the relationship be between what you want to do vis-à-vis other initiatives or reparative measures from civil courts and so on?
- What is its relationship going to be with other transitional justice mechanisms like truth-seeking?

What is most important is that you consult with victims to ensure that injustice and discrimination are not again re-established. It is important to respect cultural and geographical factors. It is also vital that reparations are accompanied with an effective outreach strategy. People should understand why victims are receiving reparations and how it is being done.

Discussion One

The following comments and questions were raised following the conceptual overview presentation:

- A participant was disturbed to hear that the judge in the Kwoyelo trial had declared that there would be no reparations outside of the law (i.e. there will be no reparations in conjunction with the trial because there is not law). He appreciates that this dialogue is one step to push for reparations.
- A representative from the Iteso Cultural Institution noted that Uganda's cultural traditions have provisions for victims who suffered. For example, if one kills another, the perpetrator provides compensation to the victims' clan to help the two live in peace. He asked whether the law accepts that.
- A participant raised issue with the International Crimes Division (ICD), the ICC Act and their ability to provide for reparations. She suggested that at the next meeting, a representative from the Justice Law and Order Sector (JLOS) is invited.
- A participant mentioned the compensation of victims of the July 11, 2010, al-Shaabab bombings in Kampala and whether the same legal instrument which afforded them reparations could be used to provide reparations for Kony's victims. Kony has also been declared a terrorist.
- A participant noted that there are many government programmes which are being misnamed as reparations (NAADs, NUSAF, PRDP, etc.). However, these programmes involve a cost-share element and many victims are left out of them because they do not have resources to join them. He also noted that no big leader has come to Teso to issue an apology.

- A participant said that she believes reparations are the only solution to repair and console victims and make them feel they can recover very quickly from the war. She asked how we can implement the provisions on reparations in the Agreement on Comprehensive Solutions, and whether CSOs have explained the right to reparations to communities.
- A participant added that a legislator has advised him that the only way that the judicial system can recognize traditional justice is to codify the traditional justice system. He encouraged ICTJ to assist in this endeavor.
- Another participant agreed that reparations are key to victims' recovery but raised her concern that victims need to be empowered that reparations is a right and not a privilege. She urged civil society to inform victims of their rights and to facilitate their participation and ownership over such a process. She also noted that reparations have so far been a political gamble, with the president going to a village and paying victims 'x' amount of money. She asked where they are deriving the power to do that and its sustainability.

Michael Otim offered a response to many of the comments and questions raised. He mentioned that the task of developing a transitional justice process for Uganda was given to the Transitional Justice Working Group within the Justice Law and Order Sector (JLOS) following the Juba process. JLOS has finished national consultations and are analyzing how their findings can be put into a framework, policy or law. He urged civil society to increase its activism and vigilance to see this implementation through. He emphasized that reparations should be given to victims not because they need them but because they deserve them as a human right. There is still a debate on whether JLOS's proposals will take the form of a law or a policy. He advocated for a policy to act as an interim arrangement for victims while a law is being passed.

International and Domestic Legal Framework on Reparations

Stephen Oola, RLP

According to Stephen Oola, Head of Research and Advocacy at the Refugee Law Project, some scholars have identified what they call the paradox of reparations. Can you repair the irreparable? According to scholar Naomi Roht-Arriaza, "There is a basic paradox at the heart of reparations. They are intended to return the victims to the position he or she would have been had the violation not occurred in the first place, something which is important to do. What could replace the lost health and serenity? The loss of a loved one? Or of a whole extended family? A whole generation of friends? The destruction of homes and a culture of a community? Nonetheless, we work with the tools at hand. These are both material and oral, reparations for the body to enable survivors. Reparations for the spirit and the sense of justice and the same sense of decorous and a secure generation. They are both individual and collective. In essence, reparations are the embodiment of a society's recognition, remorse and atonement for the harms inflicted." This particular line shows that reparations are political rather than legal affairs.

Reparations are about the political will. In Uganda, we see this during campaigns when people make pledges and dish out money for reparations. Yet after votes are counted, the issues go silent. Reparations are a right and not a privilege. Any gestures that are not backed by actions which are comprehensive and coherent do not necessarily amount to reparations.

The basis for reparations in our law is that there cannot be a right without a remedy. Once you have a right, it follows that you are entitled to a remedy if that right is breached or infringed upon. This principle is well established in Uganda's Constitution and in regional and international instruments.

A remedy is reparations. The only difference between remedy and reparations is that reparations involve a lot of political will because victims have been disempowered to seek the remedy.

Under international law, our basis for reparations is derived under the UN Basic Principles. According to the instrument, reparation for harm suffered must be adequate, effective and prompt. Reparations should also be proportional to the violations.

Satisfaction is the broadest category of reparations articulated in the UN Basic Principles. Even prosecution can be seen as satisfaction because it involves taking action to acknowledge suffering and a crime. This is also where the issue of traditional justice comes in because victims and international law may perceive different processes as satisfaction. There seems to be a disconnect between the two and this is why guidelines are mere guidelines. It is important for every country to implement or domesticate these guidelines with context-specific elements.

Under the Rome Statute and the International Criminal Court (ICC) there are two conditions which must be met before victims can receive reparations. First, the victim must be a victim in a country where the ICC is operating (or where the UN Security Council refers a case). Second, the reparation must be tied to a guilty verdict. If the ICC finds Kony guilty for the crimes alleged, only then will victims who are listed as victims in the ICC be entitled to reparation. To be listed as a victim, one must fill out a form and provide

evidence that s/he suffered from a crime that is attributed to the accused. This leaves out a wide range of victims who cannot provide a linkage between their suffering and a verdict.

In addition, the Rome Statute establishes a Trust Fund for Victims (TFV) that does not depend on a guilty verdict. Instead, victims can form groups and apply for assistance from the TFV. Many victims are not receiving these funds, however, because they're not empowered to be in associations or aware of the procedures for applying to the fund.

There are a range of instruments which can be used to pursue reparations:

- African Charter/Commission on Human and People's Rights- establishes a whole range of rights which if violated can entitle someone to a remedy which can include reparations
- Great Lakes Pact- including the Pinheiro Principle, which requires that property rights are guaranteed and embedded in every reparations policy
- Rome Statute
- Universal Declaration of Human Rights
- African Court of Justice
- East African Court of Justice- gives individuals within the community the chance to petition the court for assistance

Before someone can access regional instruments like the African Court of Justice or the East African Court of Justice, you must demonstrate that within Uganda you have tried and failed to access reparations or enforce a particular right. This is a big complication, but it seems that they are trying to make them more victim-friendly and people-centered (rather than state-centered). For example, at the African Court of Justice, NGOs can have a standing before the court. There is also a contradiction in terms of what a court orders at an international or regional level and what is enforceable at the domestic level. However, when a court finds a state has violated or failed to perform its duty to enforce rights, it can urge the state to respond to the rights of victims which have been violated, which could include pushing Uganda to implement a reparations policy.

In Uganda, there are a few provisions within the law which are important in demanding for a reparations policy. The whole of Chapter 4 in the Constitution contains the bill of rights for Ugandans and persons who find themselves in Uganda. Article 51 provides that any person who claims that a fundamental right or freedom guaranteed under this Constitution has been infringed or threatened is entitled to apply to a competent court for redress, which may include compensation. The Uganda Human Rights Act and the Equal Opportunity Commission are two other opportunities to argue for reparations on the grounds of marginalization, discrimination and unequal treatment.

The Juba Peace Agreements were a turning point in Uganda's history in terms of making it explicitly clear that the country needs a reparations policy. Reparations are called for in all the agenda items. The agreements call for the providing of targeted individual and collective reparations, and an aspect of traditional justice mechanisms.

We have the basis for claiming for reparations in this country because we have laws that guarantee rights and we have facts that these rights were infringed upon during the conflict. What we don't have is a policy that makes the administration of reparations possible because the procedures we have for remedy are for a state of normalcy, a state where every citizen is entitled to and has the capacity to enjoy and enforce their rights. In a post-conflict situation, victims are disempowered and cannot access mechanisms to enforce their rights.

Engendering Reparations

Sarah Kihika, ICTJ

According to Sarah Kihika, Program Associate for the International Center for Transitional Justice in Uganda, gender is the social construction of the biologically determined sexes. In other words, gender is the different roles assigned to men and women as a result of their biological composition. It plays a key role in defining and shaping the experiences of men and women during conflict. When examining transitional justice, including reparations, it is important to have a gendered dimension that caters for addressing the unique challenges faced by men and women.

This presentation focuses mainly on women, but acknowledges that gender includes both sexes. During the conflict, women experienced a variety of human rights violations, but it's important to note that women suffered harms that were also prevalent pre-conflict.

Engendering reparations requires have a perspective that is gender-sensitive and ensures that all victims benefit. Clause 9-10 of the Agreement on Accountability and Reconciliation from Juba mandates that priority must be given to vulnerable groups and that

there should be a gender-sensitive approach in the implementation of transitional justice. From a gendered perspective, this includes a broader social transformation for social justice.

In 2007, women survivors contributed to the discourse on gendered approaches to social justice through the Nairobi Declaration. The declaration notes that it is key that societies who emerge from conflict have the opportunity to move forward and see that all marginalized groups participate.

The focus to date has mainly been on the physical harm that women experienced during the conflict. Very few have explored the social-economic dimensions of harms. For example, women and children couldn't leave the IDP camps to return home because they did not have land. This led to them experiencing additional human rights violations. This is compounded by Ugandan laws on inheritance and succession which marginalize women. These laws further entrench inequalities between the sexes.

To move forward, we need to gather information which reflects the depth of roles of women during conflict and move beyond the dominant discourse of women as victims. An inclusive approach should be adopted to make sure that women's needs and interests are heard.

Stocktaking

Lino Owor Ogora, JRP

According to Lino Owor Ogora, Team Leader of the Documentation Department at the Justice and Reconciliation Project, this session is an opportunity to share what participants been hearing, seeing and witnessing on the ground.

If looking at the most recent events, the elections, there were many promises for reparations. In recent years in Acholi, six people were compensated in a place called Mucwini, but when JRP met with community members there we learned that the compensation was for people who had been killed by UPDF soldiers prior to the Mucwini massacre. We have glaring issues. We have many massacres and most have not been compensated. We have the Acholi War Debt Claimants Association. This group had clear goals and mostly wanted compensation for lost cattle. They filed a lawsuit against the government that was negotiated out of court, leading to them being awarded compensation. What happened next is a mystery. The leaders of the association have been accused of abuse and now the new leadership is doing a fresh survey of victims.

The following information was provided by participants during the stocktaking exercise:

- According to one participant from Acholi, the army also provided compensation to some individuals whose land was taken during the insurgency for army detaches. However, the criteria for awarding the compensation is not known and the deals were done very quietly. Most people were never compensated.
- According to one participant from West Nile, the people there have experienced conflict from 1979 to 2001. Some of the victims of LRA atrocities have come together to form a group. In regards to reparations, he was reliably informed that bus owners who lost buses during the Karuma ambushes have somehow been compensated. Survivors of atrocities have engaged the 7th Parliament to follow-up on the case of the missing 5.7 billion shillings in compensation, and also written to the Uganda Human Rights Commission and the IGG. So far they have been unsuccessful in getting answers on why the money never arrived. The group is just concluding their registration of victims. There was a time when they needed logistical support for this process and met with Gen. Salim Saleh. He agreed to give them the 60 million shillings they requested, but with the condition that they change their association's name and agree to register all war claimants, not just those who are victims of the LRA. The group decided to decline the support.
- According to one participant from Teso, the government has built a monument to cover the mass grave of victims of the 1989 Mukura massacre. Recently on Soldier's Day, the UPDF constructed and inaugurated a public library and a resource center at the site. The site has also been fenced. A memorial secondary school has been built, but there is a disconnect between the school administration and survivors' families. Some compensation has been paid to victims and survivors, but the criteria of the award is a puzzle to the beneficiaries. Shortly after the massacre, the government paid 720,000 Ugandan shillings to each of the families of the deceased from the Prime Minister's office. Last year in November, the President came to Mukura and for the first time publically apologized for the massacre, saying it was unprofessional soldiers who were responsible. An MP, Hon. Akiror, was given 200 million Ugandan shillings to distribute to the victims. Three million was given to about 50 families, and then others were given 500,000 Ugandan shillings. Survivors who 'over-disturbed' her for compensation were given 100,000 Ugandan shillings for transport. The compensation has not yet been completed, so they have formed a committee that is trying to follow-up. JRP has documented the massacre and recently launched the report.
- According to another participant from Teso, he is disturbed about who is chosen to receive a memorial. He would not like to see a situation where one incident is more pronounced than another. Another participant from Teso supplemented the

testimony on Mukura by saying there is a bias on looking at only LRA events (although Mukura was perpetrated by the NRA). He cited several examples of UPDF atrocities, including helicopter bombings on civilians where as many as 300 people were killed. He also cited that out of 2500 youth who were recruited to local defense units (LDUs) to protect Teso communities and instead were sent to the DRC, only 30 have come back. Another participant from Teso added that he feels that government is active in undertaking compensation for victims where they are responsible in order to cover their name. He said he has evidence of prominent people who have been compensated because of violations of the conflict, including one a colonel who received 750 million Ugandan shillings because he lost animals.

- A participant from Karamoja narrated the experiences of the region, saying that their problem is caused by cattle rustling, hunger and lack of food. He said many from the communities are leaving the area to beg in other sub-regions. He relayed memories from 1986 when the current government came to power and the NRA tied and detained people from Karamoja in a “3-piece” fashion. Others were hung or amputated. He also said people have lost property and lives because of the disarmament process. He does not feel that peace is coming, rather that the situation is going to get even worse.
- A participant from Lango shared knowledge on the Lango War Claimants Association, backed by the former Presidential Advisor to Northern Uganda, now an MP, Hon. Richard Todwong. The association allegedly registered more than 20,000 people using a form designed by the Office of the President. They took their claims for reparations to court and were advised to settle out of court. There has been some tension between the Lango cultural institution and the association. He does not have a clear picture about how the whole matter was solved. Another participant feels that the ‘true’ victims in Lango were never part of the list gathered by the association. Up to now, no one has been compensated and it seems that the government actors involved have moved on to other business and are no longer advocating for follow through of payment to victims.

Discussion Two

The following comments and questions were raised following the stocktaking exercise:

- A participant felt there is need to undergo capacity-building as civil society so that we better understand the available instruments to pursue reparations. He also added that we need to take affirmative action to identify women’s groups and pursue justice for them.
- A participant said we have a legal framework in Uganda, although there is no specific law on reparations, and she believes we have to hold the government accountable. Article 45 in the Constitution says that rights in Chapter 4 cannot exclude people from exercising other rights not mentioned in the Constitution.
- A participant asked for clarification on the nature of the cases being filed by groups like the Acholi War Debt Claimants and whether they are civil or criminal cases. She asked whether the difficulty in awarding reparations in the Kwoyelo case is because there is no precedent for reparations in criminal cases in Uganda.
- A participant felt that Uganda has the best laws but lacks the capacity to enforce them. The country ratifies international instruments but cannot domesticate them. He asked for JRP to facilitate organizations in the communities to undertake sensitization on reparations and other issues.
- A participant asked whether the agreements in Juba are valid even though the Final Peace Agreement was not signed.
- A participant felt the laws need to be changed concerning women proving they were raped. The laws call for evidence, but she felt that the claim to rape was evidence in and of itself.
- A participant asked whether the Ministry of Justice can take control of the reparations policy creation instead of JLOS.
- A participant felt that liability should first be given to government because Kony is still at large. She also called upon civil society to spearhead these issues of accountability because the victims cannot stand alone.
- A participant said the biggest challenge in Uganda is the institutions. There is ignorance of the law among all levels and there is not enough will by the government to make the laws popular. People have lost trust in the justice system.

Stephen Oola responded to these comments/questions by saying that we need to utilize the people with expertise. Also, we can no longer deposit reparations money into a minister’s account or compensate one and not the other. He feels that although the Final Peace Agreement was not signed in Juba, we can hold government accountable to the agreements that were signed. The ICD is an outcome of the Juba process. In law, there are doctrines of election that you cannot uphold what benefits you and reject what doesn’t. In the same line, the government cannot implement part of the agreements in Juba and leave out others.

Sarah Kihika responded by saying that grassroots women’s organization are key in advocating for the integration of women’s needs in key policies. In Juba there was a women’s coalition for peace that was responsible for the inclusion of the clause on women and children in the Juba agreements. She also stated that the issue of land ownership and property is a time bomb and that it needs to

be reformed to be more affirmative towards the rights of women. She felt culture and law have been used to undermine women, and that atrocities like rape have been normalized because of the absence of effective institutional processes.

The Kenyan Experience

Njonjo Mue, ICTJ

According to Njonjo Mue, Deputy Director for Africa for the International Center for Transitional Justice, Kenya experienced a disputed election in 2007 that led to widespread violence. More than 1,000 people were killed and 500,000 displaced. The country was on the brink of a civil war.

In 2009, ICTJ opened an office in Nairobi to implement a transitional justice programme. Like Uganda, Kenya lacks a reparations policy and has offered assistance to families in a haphazard way. ICTJ has conducted a victims' survey regarding reparations to look at historical injustices from the 1950s to 2008. Its survey was different from any others in that it allowed victims to speak with their own voices. The methodology involved one-on-one interviews and focus group discussions in communities. The report on the survey was released last month in Nairobi. Main findings included:

- Government should implement a reparations programme urgently;
- There should be a credible truth-seeking process in Kenya;
- Constitutional reforms dealing with land issues should be linked to victims' demands for reparations.

The best qualified to speak for the voiceless are the voiceless themselves. They said that we as NGOs must always make sure that it is victims themselves who articulate their reparative needs and priorities.

Taking into Account Victims' Perspectives

Stephen Oola, on behalf of Lyandro Komakech, RLP

According to Stephen Oola, in a presentation on behalf of Lyandro Komakech of the Refugee Law Project, in campaigns for re-election, Museveni has claimed that he defeated 28 rebel insurgencies in Uganda since 1986. There are even more that have not been acknowledged in the public discourse.

Uganda has a legacy of violence and human rights violations that are undocumented. If you allow people to talk, what we call truth-telling, they will talk.

Discussion Three

The following comments and questions were raised following the presentations on the Kenyan experience and victims' perspectives:

- A participant said that we know effective reparations initiatives come through well-established transitional justice mechanisms. In the case of Uganda and Kenya, these mechanisms are still under development and are shaky. He asked how we can best call attention to victims' needs in the absence of effective mechanisms for reparations.
- A participant suggested that victims' violations be codified depending on when and how they occurred. This would be useful in determining who receives reparations. This can only be possible once there has been a comprehensive survey and report on victimization in the country.

Stephen Oola responded by saying that one of the key elements of transitional justice is institutional reform and without it you're at risk of repetition. The reason you have government is because you have given them the power to protect you. We send powers to the state and they should provide protection in return. But we should not give up on receiving reparations because the state is unwilling. He continued by saying it is practically impossible to profile all of the conflict victims. What is important in Uganda is acknowledgment. Memory centers can come before some other mechanisms are put in place. Reparations should support victims at all levels.

Njonjo Mue responded by saying that reparations are best addressed as part of a package, and that the four pillars of transitional justice (accountability, truth-seeking, reparations and institutional reform) are best implemented in harmony. His recommendation is that victims be sensitized and empowered so they can start having a voice and be heard when the methods for implementing TJ are

being decided. Sequencing of TJ mechanisms is important but will depend on each country's situation. The common denominator is that victims must be empowered, preferably at the beginning.

The Relationship between Reparations and Development Projects / Humanitarian Assistance

Moses Omiat, SODANN

According to Moses Omiat, Coordinator for the Soroti Development Association and NGOs Network (SODANN), there is no common position by the government on reparations. Reparations that have been paid to-date have been on an *ad hoc* basis and are disjointed. Without a clear process, anyone can come and claim reparations, especially if there is lack of involvement and participation by victims.

The PRDP is at times presumed to be one of the plans to administer reparations. It has four objectives: consolidation of state authority, rebuilding and empowering communities, revitalizing communities and peacebuilding and reconciliation. But when looking at these objectives, they do not address the issue of reparations. It is a normal traditional role of government to work on roads or the economy if they are poor.

Another programme is NUSAF, funded by the World Bank. It is similar to the PRDP and is supposed to feed into it. Beneficiaries selected to benefit from NUSAF are often the 'active poor,' the ones who have a shop, who sleep on a mattress, who own oxen.

NUREP is another programme, which is a competitive fund. Those who write the best English and have the best proposals get the money. Neither of these have a linkage to reparations because the victims are not explicitly targeted as beneficiaries.

These programmes have also been stretched to many districts outside of the active conflict zones and they have been politically changed. The intentions no longer address the impact of the conflict.

As civil society, we need to advocate for an audit of the plans and programmes to help us to see who are the most vulnerable people. Women should be a priority in these projects.

Discussion Four

The following comments and questions were raised following the presentation on the relationship between development and reparations:

- A participant noted that he is grateful for the PRDP for supporting some victims to return home, where they're engaged in agricultural production. But he lamented there is no government effort to remove bullets from the bodies of victims or repair other physical or psychological wounds.
- A participant noted that during campaign periods, development projects are said to be reparations. She cited one example of a presidential initiative to distribute iron sheets. Many victims did not qualify because if you did not have a wall, you did not get the iron sheets.
- A participant wanted to know the difference between a victim directly affected by war and a victim indirectly affected by war. He also wanted to know whether amnesty packages can be called reparations packages. Other participants responded by saying that the concept of a victim is very contested and can be politically defined. One person ventured to say that direct victims are persons who suffered harm personally or their immediate family members (dependents). Indirect victims are communities or other people who are close to the direct victim who have been surviving on that person. The differences in definition were still unclear. It was suggested that the International Victim Working Group can shed more light on the definitions.
- A participant noted that some of the cases being handled by the Uganda Human Rights Commission are reparations cases. Their challenge is that they do not receive complaints that date before the Constitution was in place (1995). She stated there is still a need to educate communities on their rights and to have more cooperation between the Commission, other government institutions and civil society.
- A participant said that you can draw a distinction between reparations and development by looking at the context, focus and outcome. Humanitarian aid is for active conflict when beneficiaries have no input on what they receive. Development and sustainable projects take note of what beneficiaries have to say. Reparations overlap in that beneficiaries should have a say, but reparations go directly to victims and empower them to achieve healing. Development does not care whether one heals or not and can benefit a victim or a non-victim.

Moses Omiat responded by saying that development is often discriminatory and the projects have standards that victims cannot meet.

Building Consensus and a Way Forward

Boniface Ojok, JRP

According to Boniface Ojok, Programme Coordinator for the Justice and Reconciliation Project, the push for transitional justice in Uganda is rare because it's largely government driven. Regardless, TJ relies on the voluntary participation of civil society. Civil society should be at the center stage of knowing what atrocities took place where. Documentation is very crucial.

Victims need to be empowered. There are other things civil society can do, such as lobby for reparations, organize consultations, conduct studies, devise awareness-raising programmes, provide tangible and intangible victim support, and publicize what is taking place. All of this requires coalition-building. We cannot achieve results when we work independently. A coalition is the best way to approach TJ initiatives.

There is need for consultations among stakeholders. These should be continuous and should be at all stages when we are talking about reparations to enable us to receive all the views of victims and bring them forward to the attention of government. This should go hand-in-hand with monitoring.

Victim participation is different from consultations and should be effective and meaningful. Victims must be informed of ongoing processes and any decisions that might affect their interests. It is a commitment to undertake outreach on the part of civil society.

Experiences from elsewhere have shown that gender can be overlooked when dealing with reparations. This is a danger unless civil society gets involved in considering the needs of the very vulnerable.

Unless we strike a careful partnership with government, it will be very difficult to influence government perceptions or initiatives toward any TJ proceedings. With government driving the process, the ground is not level between civil society and government. The partnership we need is not one that makes civil society the spokespersons for government, but rather where civil society is proactive in any government initiatives. We need to push for legislation and influence parliament on the issue of reparations. This calls for very strategic positioning.

Discussion Five

The following comments were made by participants following the presentation on building consensus and a way forward:

- Civil society needs to actively forge a partnership with JLOS and participate in the development of policies which will support TJ processes.
- Civil society needs to follow-up on the reconciliation bill drafted some CSOs and currently with JLOS.
- Members present need to document who in civil society is doing what where. This will help us with our advocacy work.
- Civil society needs to organize targeted meetings with JLOS and/or Members of Parliament to advocate for a reparations policy.
- ICTJ plans to assist efforts by doing a study on reparations and policy options.
- Through a coalition on reparations, the Uganda Victims Foundation (UVF) will galvanize a platform for victims to share with JLOS. The next step of building the coalition is for UVF to broaden its members and the scope of its activities.
- JRP will continue its ongoing documentation activities across the greater North. Participants were urged to open up to JRP researchers when they come to their community and to forward potential cases for documentation to JRP staff.
- The coalition on reparations should work to develop resources (i.e. factsheets, handbook) for civil society on outreach, transitional justice and reparations to ensure that advocacy and outreach efforts are harmonized.

Closing Remarks

Michael Otim and Moses Omiat

In his closing remarks, Michael Otim thanked participants for turning up and being a part of this process. He committed ICTJ in Uganda to continue supporting civil society's efforts by sharing comparative information and offering technical support.

In his closing remarks, Moses Omiat thanked JRP and ICTJ for providing technical support and selecting Teso for this dialogue. He encouraged everyone to work very hard to champion the cause of victims in northern Uganda. He ended by declaring the workshop closed.

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