



### Overview

After more than twelve years in force, Uganda discontinued 'blanket' amnesty for reporters on 25 May 2012 by allowing Part 2 of the Amnesty Act of 2000 to lapse. With positive developments in the creation of a transitional justice (TJ) framework and a shifting of the armed conflict to neighboring countries, the continued relevance of Uganda's Amnesty Act of 2000 had been fiercely debated in recent months in high-level discussions between government and civil society, with many asking, "What should be the future of the Amnesty Act?"

Recognizing the absence of greater North grassroots voices in many of these debates, especially from a gendered perspective, the Justice and Reconciliation Project (JRP) carried out a series of consultations from 21-27 March 2012 in conflict-affected regions of northern Uganda—including West Nile, Lango, Acholi and Teso—to discern the views of those most directly impacted by and benefitting from the Act on its role, achievements and continued relevance. As subsequent sections of this paper reveal, the consultations unveiled mixed views at the grassroots level on the past and present relevance and equity of the Act, yet reached overwhelming general consensus for the renewal of the Act with amendments. Such amendments were seen to better address the justice needs of both victims and perpetrators, while ensuring the sustainability of an already fragile peace.

Draft versions of this brief were circulated prior to the Act's expiration to inform the Justice, Law and Order Sector's (JLOS) decision to abolish, renew or renew with amendments Uganda's Amnesty Act. However, with the JLOS Leadership Committee's subsequent decision to abolish amnesty, this brief seeks to contribute to the Government of Uganda's ongoing consultative and policy-making process to integrate elements of conditional amnesty into a national TJ policy.

### Introduction

For more than 20 years, northern Uganda was home to a series of protracted conflicts between the Government of Uganda (GoU) and several rebel movements, most notoriously the Lord's Resistance Army (LRA) led by Joseph Kony. In 2000, after extensive lobbying from northern leaders, the GoU enacted an amnesty law in an attempt to put an end to the bloodshed by encouraging the return of combatants from the numerous groups waging rebellion.

After more than twelve years in force and a series of amendments and extensions, Part 2 of Uganda's Amnesty Act lapsed on 25 May 2012, in effect ceasing the awardance of amnesty to any additional reporters. Parts 1, 3 and 4 of the Act, which establish the monitoring and sensitization functions of the Amnesty Commission, were extended for a period of twelve months to allow the Commission time to conclude its reintegration and reconciliation activities.

Recent developments in the country's transitional justice (TJ) sphere, which emphasize accountability and reconciliation for

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the past, such as the creation of the International Crimes Division (ICD) of the High Court of Uganda and the passing of the International Criminal Court (ICC) Act of 2010, have led to heated discussions on the future of the amnesty law and the relationship between amnesty and transitional justice in the Ugandan context.

In recent months, JLOS member institutions and other stakeholders have organized a series of meetings and workshops to debate the continued relevance of Uganda's Amnesty Act vis-à-vis the end of active hostilities within Uganda's borders<sup>2</sup> and the development and/or proposal of TJ processes. Two meetings with broad representation have been held to discuss the future of the Act. On 11 November 2011, the Refugee Law Project, Office of the High Commissioner for Human Rights (OHCHR) and UN Women organized a meeting in Kampala, and from 15-16 March 2012, JLOS in collaboration with OHCHR and UN Women, organized a dialogue in Kitgum. What clearly emerged from these discussions was the need to widely consult war-affected communities. During the second day of the Kitgum dialogue, JRP coordinated a working group that discussed options of expiry and amendment of the Amnesty Act from a gendered perspective. This working group, which included women's and victims' group representatives, identified key issues for further discussion. The issues identified and recommendations proposed were used as a basis for conducting focus group discussions (FGD) on the continued relevance of the Amnesty Act and its future with a specific subset of victims, namely formerly-abducted youth and forced wives, among others.

**Building on the meetings held in Kampala and Kitgum to discuss the future of the Amnesty Act and recognizing the need for wider consultations with victims directly impacted by and benefitting from amnesty, especially from a gendered perspective, from 21-27 March 2012 JRP carried out a series of focus group discussions with war-affected persons in the West Nile, Acholi, Lango and Teso sub-regions to discern grassroots views on the future of the Amnesty Act.**

In each sub-region, a FGD was held for men and women (8 FGDs), with 116 participants (54 men and 62 women) consulted in total.<sup>3</sup> Participants were purposively selected based on their conflict experiences, and included self-identified victims and perpetrators including formerly-abducted persons (FAPs), forced 'wives' of rebel commanders and mothers of children born in captivity, parents of missing children, massacre survivors, rape and torture survivors, local councillors and recipients of amnesty certificates from the LRA and Uganda National Rescue Front (UNRF) II conflicts. Furthermore, participants and the location of each FGD were purposively selected to diversify the views collected and

<sup>2</sup> Since the dissolution of the Juba peace talks, the LRA has moved their areas of operation to neighboring Democratic Republic of the Congo (DRC), Central African Republic (CAR) and South Sudan, where they are active up to today.

<sup>3</sup> For each sub-region, the breakdown of participants was as follows: West Nile (20 men, 15 women), Lango (14 men, 16 women), Teso (15 men, 15 women) and Acholi (5 men, 16 women).

included areas and past engagements with armed forces previously eligible for amnesty. FGDs were held in Moyo town and Lefori sub-county in West Nile, Barlonyo village in Lango, Tubur sub-county in Teso and Katedopong village and Gulu town in Acholi. All discussions were conducted in the area's local language and English, and included mobilization and translation assistance from regional partners such as the Justice and Peace Commission (JPC) Moyo, the Barlonyo Massacre Memorial and Preservation Committee, and Teso Women Peace Activists (TEWPA).

The purpose of these consultations was to contribute to the ongoing debates around the future of the Amnesty Act, specifically by informing the broader debate with gendered views from victims and perpetrators from the war-affected regions. The FGDs centred on grassroots views on amnesty, including participants' past experiences with the law and their views on the current Act and whether it should expire, be renewed or be renewed with amendments. Draft versions of this brief were shared with JLOS and other stakeholders prior to the JLOS Leadership Committee's decision to abolish 'blanket' amnesty by allowing Part 2 of the Act to lapse. In light of this development, this brief seeks to contribute to the GoU's ongoing consultative and policy-making process to integrate elements of conditional amnesty into a national TJ policy.

### The Amnesty Act

Uganda's Amnesty Act came into force on 21 January 2000. The Act granted amnesty to, "any Ugandan who has at any time since the 26<sup>th</sup> day of January, 1986 engaged in or is engaging in war or armed rebellion against the government of the Republic of Uganda."<sup>4</sup> It was hoped that this law would bring peaceful resolution to ongoing rebellions in the country, such as the two-decade conflict in northern Uganda, and is commonly known as an act of forgiveness. It was blanket in nature and granted pardon to all ex-combatants upon their denouncing of rebellion. Once granted blanket amnesty, the Act states one shall not be prosecuted or subjected to any punishment under the courts of law.

The Act created an Amnesty Commission (AC) to oversee its implementation. Commissioners were appointed and offices were set up in towns like Arua, Gulu, Mbale, Kasese, Kitgum and Kampala. Mandates of the AC include monitoring programmes of demobilization, reintegration and resettlement of reporters; coordinating general public sensitization on the Act; and promoting dialogue and appropriate reconciliation mechanisms to the affected areas.<sup>5</sup>

Since its inception, more than 26,000 reporters have been granted amnesty and resettled in various communities across Uganda.<sup>6</sup> Among these beneficiaries, thousands of former LRA

<sup>4</sup> The Amnesty Act, 2000. Section 3(1).

<sup>5</sup> Ibid. Section 9.

<sup>6</sup> Institute for War and Peace Reporting. 2011. "Uganda: Future of War Crimes Trials in Question." Available at <http://iwpr.net/report-news/uganda-future-war-crimes-trials-question>.

combatants defected and returned home. Some returnees credit messages of amnesty reaching them in the bush and encouraging them to return.

*“I had learnt that if you escape, soldiers would arrest you, so I didn’t want to return home. But when we were in Juba, we were taught that there was a law. Even then, I didn’t accept to come back home. Then a book written by the Amnesty [Commission] was brought... saying that if you return home and you have been forgiven, no one will prosecute you in the courts.”<sup>7</sup>*

The Amnesty Act has undergone three amendments since 2000. In 2002, it was amended to exclude the granting of amnesty to a person twice, except in exceptional circumstances like re-abduction.<sup>8</sup> Again in 2006, the law was amended to give the Minister of Internal Affairs power through a statutory instrument to name persons ineligible for amnesty. A list was reportedly generated and presented to Parliament for approval, but to date, no list has been passed. On 23 May 2012, the Act was amended through a statutory amendment to declare the lapse of Part 2 and the twelve-month extension of Parts 1, 3 and 4.<sup>9</sup>

## Grassroots Understandings of Amnesty

According to the Act, “Amnesty means a pardon, forgiveness, exemption or discharge from criminal prosecution or any other form of punishment by the state.”<sup>10</sup> While this is the actual definition availed by the law, grassroots persons and communities often have their own interpretations of the Amnesty Act.

In our analysis, we found that community views on amnesty depend heavily on how that community and its residents experienced the different conflicts. In Teso, the civilian population was affected by the LRA, the Karimojong cattle rustlers, the Uganda People’s Army and the National Resistance Army, while in Acholi and Lango, they were largely affected by the LRA and Karimojong cattle rustlers. The communities in West Nile were affected by the UNRF I and II, the West Nile Bank Front and the LRA. Their levels of victimization greatly determined how they perceive amnesty and efforts for justice and reconciliation.

To many, amnesty was a familiar word insinuating forgiveness or pardon. To others, amnesty was a very new term. This was especially the case in Teso and West Nile, where the focus group discussions were reportedly the first time some participants had heard about the amnesty law in any depth.

*“This is my first time to hear about amnesty. For the war victims, we’re not aware of amnesty.”<sup>11</sup>*

To some participants, amnesty meant giving tangible support—through the reinsertion packages—to persons returning from rebel activity. It has been largely viewed by many community members as a reward to perpetrators.

In some districts like Moyo in West Nile, participants reported that the Amnesty Commission offices are far away and quite inaccessible. They questioned why Acholi sub-region alone has two offices. They felt that there was some form of bias towards communities affected by the LRA in setting up these offices, affecting their view and perception of amnesty. To some participants, amnesty was meant for the LRA and the Acholi people, evoking tribalism and nepotism.

The nature of people’s engagements with amnesty too influenced how they perceived it. For instance in Acholi, many of the amnesty beneficiaries reported that the AC staff reached out to them while at various rehabilitation centers, where as in areas like Moyo, some of the former combatants received amnesty while in prison.

## Grassroots Views on the Future of the Act

According to the mainstream discourse on the future of the Amnesty Act, there were three general options for the law on or before the 24<sup>th</sup> of May: expiration, renewal in its current form, or renewal with amendments. In these consultations, the facilitators encouraged the exploration of all options, which revealed the following sentiments among grassroots, war-affected communities in northern Uganda:

### On Expiration

The possible expiration of the Amnesty Act garnered mixed reactions, with the majority of respondents across all sub-regions opposed to its then-impending expiration. However, in nearly every focus group discussion, at least one participant expressed a desire for the Act to expire. Some stated that the Amnesty Act and Commission had fulfilled their mandate, the wars were over (or at least no longer in Uganda), and, therefore, there was no continued relevance for the Act. Others felt that the law had not fulfilled its objectives and could never provide the justice called for by victims, especially reparative justice, because those needs fall outside the jurisdiction of the Act. One participant noted that the Act was originally conceptualized to end the conflicts in six months. Now more than twelve years later, those most responsible and who have the authority to end the rebellion (in the case of the LRA) have yet to accept amnesty and its forgiveness. If they have not accepted it yet, they are unlikely to do so, and therefore, amnesty should expire. A male participant in Tubur-sub-county in Teso further implied that amnesty appears to encourage and entrench impunity and reward rebellion.

<sup>7</sup> Female respondent, FGD in Kabadopong village, Gulu district, Acholi sub-region, 27 March 2012.

<sup>8</sup> The Amnesty (Amendment) Act, 2002.

<sup>9</sup> The Amnesty Act (Declaration of Lapse of the Operation of Part II) Instrument, 2012 and The Amnesty Act (Extension of Expiry Period) Instrument, 2012.

<sup>10</sup> Supra note 4. Section 2.

<sup>11</sup> Male respondent, FGD in Lefori sub-county, Moyo district, West Nile sub-region, 22 March 2012.



*“What I hate most about this Amnesty Commission is that they forgive the perpetrators, but they don’t look at the survivors. It makes people to think that you first have to join the rebel group, then you come out to gain from government.”<sup>12</sup>*

### On Renewal

There was overwhelming support in all focus group discussions for the continuation of the Amnesty Act, due largely to the unresolved LRA conflict and the hundreds of unaccounted for persons believed to still be forcibly in LRA captivity. According to a female participant in Barlonyo village in Lango sub-region, amnesty should continue so families and friends of missing persons can see their loved ones return. Moreover, there was some support for the renewal of amnesty in its current form without exclusions or conditions because the removal of its ‘blanket’ form may to discourage commanders from abandoning rebellion. If amnesty is not extended to those ‘most responsible,’ then other senior-level combatants will have little incentive to return to Uganda and face punishment. Without release, their captives will find it difficult to return.

*“If this talk about arrest is to continue, that means the war is not yet about to end... It is going to continue indefinitely.”<sup>13</sup>*

It was also acknowledged that the nature of Uganda’s conflicts, especially with the LRA, oftentimes blurs the line between victim and perpetrator, making it difficult—perhaps even impossible—to assess culpability and differentiate who is a victim and who is a perpetrator. And with a large percentage of combatants—especially those believed to still be in LRA captivity—comprised of formerly-abducted persons who were children at the time of capture, some participants suggested amnesty be offered to all who return, and that amnesty be extended until all are safely back home.

It is also notable that the most enthusiastic calls for the renewal of ‘blanket’ amnesty were those holding amnesty certificates themselves, suggesting there is a real fear among those who have already been granted amnesty that an expiration or amendment of the Act could jeopardize their status.<sup>14</sup>

### On Amendment

Even more favored than the renewal of the Amnesty Act ‘as is’ was the option to renew the Act with certain amendments. In all FGDs, the general consensus was to amend the Act.

First, notwithstanding the above concern about incentive for return for those most responsible, many participants expressed desire for an exclusion based on culpability, such that those most senior and most responsible for committing atrocities against civilians are excluded from receiving amnesty. More so, it was recommended that senior commanders who committed certain crimes—such as rape, murder and abduction—be ineligible to receive amnesty. It was recognized that some combatants were coerced or forced to commit atrocities against their will (such as those who were abducted), and such persons should be amnestied for their crimes. It was also suggested that those who entered into the bush as children and returned above the age for criminal liability<sup>15</sup> still be considered for amnesty. Those excluded in the proposed amendment should undergo a trial process, or in the case of those most responsible like Kony, be subject to death.

In terms of conditions one should undergo before being granted amnesty, several groups suggested a thorough investigation of a reporter’s background and incentive for returning before s/he could be granted amnesty. There was widespread concern that some who have returned in the past and been granted amnesty have only done so to regroup and then return to the bush, despite the 2006 amendment that bars amnesty being granted twice except in exceptional circumstances. There was also desire for face-to-face meetings between victims and reporters, and militias (as with the case of the Arrow Boys in Teso) and reporters, for communities to better understand the motives behind the rebellions and the attacks on civilians. With such conditions, it was hoped there would be opportunities for voluntary apology and request for forgiveness from reporters before amnesty would be granted. Some respondents suggested monitoring reporters, either in rehabilitation centers or prison facilities, to ensure they had “changed,” and thorough questioning before one could be declared as deserving of amnesty.

Crucial to every group consulted was the view that amnesty should be amended to better include victims, both in terms of their participation and decision-making as to who receives amnesty, and in terms of victims and affected-communities receiving material benefits and sensitization from the Amnesty Commission.

*“The Amnesty Act has left out the victims... We’re seeing that the perpetrators are enjoying life, while we’re suffering. According to me, there should be amendments... in a way that caters for victims, too.”<sup>16</sup>*

With such amendments, there was consensus in all eight FGDs that amnesty has a continued, relevant role to play in peace building in northern Uganda.

<sup>12</sup> Male respondent, FGD in Tubur sub-county, Soroti district, Teso sub-region, 24 March 2012.

<sup>13</sup> Female respondent, FGD in Kapedopong village, Gulu district, Acholi sub-region, 27 March 2012.

<sup>14</sup> In all FGDs, it was emphasized that the law does not operate retroactively, such that those who already have been granted amnesty will not have amnesty revoked if the law expires. Any expiration only affects reporters who apply for amnesty after the date of expiration and subsequently are not eligible.

<sup>15</sup> In Uganda, the age a person is considered criminally liable for crimes s/he committed is 12 years old.

<sup>16</sup> Female respondent, FGD in Moyo town, Moyo district, West Nile sub-region, 21 March 2012.

## Amnesty and Transitional Justice

Amnesty can significantly affect other transitional justice mechanisms in societies emerging from violent conflicts. It is widely believed that amnesty alone is inadequate in fulfilling victims' justice, peace and reconciliation needs after experiencing atrocious violations. Instead, in other countries such as South Africa, an amnesty process was conducted concurrently with other transitional justice measures such as truth-seeking through a truth and reconciliation commission (TRC). From this consultation, we noted several respondents mentioning other transitional justice mechanisms that they felt should be implemented in order for justice and peace to be realized. Respondents also mentioned the need for a gender-just means of delivering justice to ensure that experiences of sexual and gender-based violations are not left out or marginalized. Below are findings on how amnesty can or should affect other transitional justice mechanisms:

### Amnesty and Reconciliation

Uganda's amnesty law was conceptualized as an act of reconciliation according to its preamble. However, in the Act's implementation, it became unclear who was reconciling with whom.

Much as the Amnesty Commission did a commendable job in enabling mass return of ex-combatants and to some extent reconciliation, participants felt government assumed communities had forgiven the reporters. Participants expressed feeling excluded from the process of reconciliation, as some of them only heard that an ex-combatant had already been granted amnesty, even when that person subjected them to suffering.

*"We have forgiven, but it seems this forgiveness has lost meaning to the people it was intended for. None of them has come out to admit that they wronged us or have forgiven us. Let forgiveness not be only one-sided."<sup>17</sup>*

Many victims felt they needed to participate in the process and be able to ask their abusers why they did what they did. One participant from Tubur village in Teso sub-region remarked, "Kony should be brought before the people of Tubur."<sup>18</sup> Another said, "If there is a way of reconciling, that person who committed an atrocity on me should come and ask forgiveness from me as an individual, not only from the government."<sup>19</sup>

More so, participants expected an apology from the alleged perpetrators and a promise that they will not hurt them again. This they felt should have happened before the granting of amnesty, so that meaningful and sustainable reconciliation

could take place. This, among others, is a reason for victims to feel that amnesty favored ex-combatants more than victims, by offering a pardon for the sake of ending the war while ignoring the possibility that victims may need (and have a right to) a symbolic form of reconciliation in order to come to terms with past violations and bring closure. Some participants thought it was still possible for those who have already been granted amnesty to apologize and reconcile with them, a process they thought could be overseen by traditional and religious leaders at community and individual levels.

An important issue that came out was the need for inter-tribal reconciliation. Aware that conflicts affected the greater North of Uganda, participants highlighted inter-regional reconciliation and unification as important elements in addressing the aftermath of the wars, most especially the LRA war. In Barlonyo in Lango, participants repeatedly questioned whether the perpetrators have both accepted their offer of forgiveness and forgiven them, the victims and communities. It was unclear why the victims felt they required forgiveness from their perpetrators.

*"From the time we had this massacre in 2004, very many people have been coming to us to seek our views on amnesty. Time and again, we told them that we have chosen to forgive. But from that time up to now, we have not received any report from the people we forgave saying that they have also forgiven us. For now the forgiveness is only from us. What is the future of our forgiveness?"<sup>20</sup>*

### Amnesty and Reparations

When asked what needs to be done to address the crimes committed during the war, one participant from Moyo district said:

*"The first thing is reparations for the victims. Thereafter, we need reconciliation with the perpetrators through tolu koka, a way of forgiving."<sup>21</sup>*

During the consultations, respondents expressed the urgent need for reparations, and made repeated reference to compensation for the tangible and intangible losses suffered during the war. To many, the GoU forgot about victims and survivors in its inception and implementation of the Amnesty Act. They viewed the reinsertion packages given to ex-combatants as a reward for a job well done, overlooking the fact that these packages were intended to enable the reporters to resettle and start to rebuild their lives again. The mandate of the Amnesty Commission does not cater for victims, an undeniably overwhelming task if it did.

<sup>17</sup> Female respondent, FGD in Barlonyo village, Lira district, Lango sub-region, 23 March 2012.

<sup>18</sup> Male respondent, FGD in Tubur sub-county, Soroti district, Teso sub-region, 24 March 2012.

<sup>19</sup> Ibid.

<sup>20</sup> Female respondent, FGD in Barlonyo village, Lira district, Lango sub-region, 23 March 2012.

<sup>21</sup> Female Respondent, FGD in Moyo District, West Nile sub-region, 21<sup>st</sup> March 2012.

In all four sub-regions, more than half of the respondents in each FGD mentioned the need for compensation by government, with many asserting that the government had the responsibility to protect them, and since it did not do it fully, it should restore their lives back to normalcy.

*“Kony is like a swarm of red ants that attack your place in the night. Unless you bring fire and chase away the ants, you are bound not to sleep. My stake on this is that, much as Kony acted like that swarm of red ants, it was the responsibility of the government to protect us. So government should compensate us.”<sup>22</sup>*

In West Nile, some beneficiaries of amnesty felt that the government had made promises which they have failed to fulfill since the end of the UNRF II conflict nearly ten years ago. As former combatants, they too felt the need for more comprehensive reparations, including physical, psychological and economic rehabilitation. Some of them felt government should have extended some form of support to victims, too, so that their reintegration and reconciliation with communities was made easier.

*“Amnesty is good. But as people of northern Uganda who have been through a lot during the conflict, all our needs can’t be met by this law alone.”<sup>23</sup>*

With the magnitude of loss incurred during the conflicts, reparations is integral to the transition from war to peace. Victims view reparations in various ways. Some feel they need an acknowledgement and apology from perpetrators, while others need reassurance from ex-combatants that they will not go back to fight again. All focus groups emphasized that amnesty alone cannot bring the necessary satisfaction they need and called for various forms of reparations.

### Amnesty and Prosecution

When asked what should be done with those who should not be granted amnesty, several respondents said that they should be prosecuted. *“Our daughters were abducted and exposed to all sorts of bad treatments, so if Kony is to be prosecuted and imprisoned then it should be for life.”<sup>24</sup>* Some participants mentioned particular names of LRA top leadership that they feel should be excluded from amnesty and imprisoned.

The Ugandan Amnesty Act of 2000 says, “A reporter who has in any way been involved in insurgency shall not be prosecuted or punished for those crimes.”<sup>25</sup> This contradicts international legal norms and standards, notably the UN *Rule-of-Law Tools for Post-conflict States*, which says, “An amnesty for gross violations of human rights or serious violations of international humanitarian law would not prevent prosecution before

foreign or international courts.”<sup>26</sup> Cognizant that certain ex-LRA commanders have already been granted blanket amnesty, it must be noted that some victims of their crimes are in a constant search for justice. Policy-makers, transitional justice practitioners and states need to consider victims’ justice needs, especially in the context that their tormentors have been amnestied. Some reporters view this amnesty as impunity for post-conflict crimes and are reportedly continuing to abuse civilians upon return.

Furthermore, the research revealed that some women victims are struggling to raise the children they bore of rape by former rebel commanders who have benefited from amnesty. The state, in its implementation of amnesty, needs to ensure that amnesties awarded are consistent with international legal standards and instruments, many of which Uganda has ratified.

Some respondents have lost hope in the top LRA leadership abandoning rebellion and facing trial for their crimes.

*“If Kony happens to come back, our government and the International Criminal Court should deal with him. I am saying this because I know that irrespective of any attempt we put in place, Kony and his very top commanders will never surrender and come out of the bush.”<sup>27</sup>*

### Amnesty and Gender Justice

*“What hurt me most in Kony’s war was abducting our daughters and forcing them to become mothers at a very young age.”<sup>28</sup>*

“Transitional justice processes can be leveraged not simply to secure justice for individual human rights violations, but also to address the context of inequality and injustice that gives rise to conflict, transforming the structures of inequality and social relationships that underpin this violence.”<sup>29</sup> “In order for this to happen, justice must encompass gender justice as a central feature, and reforms must address unequal gender relations and the overall context of injustice to ensure that violence does not simply continue for the majority of the population in new forms.”<sup>30</sup> In this respect, it is important to consider the gender dimensions to amnesty and whether it is able to deliver gender justice.

The needs and experiences of male and female reporters are not the same. In order for amnesty to deliver a gender-just

<sup>22</sup> Female respondent, FGD in Barlonyo village, Lira district, Lango sub-region, 23 March 2012.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> The Amnesty Act, 2000. Section 3(2).

<sup>26</sup> United Nations OHCHR. 2009. *Rule-of-Law Tools for Post-conflict States: Amnesties*, pg. 29.

<sup>27</sup> Female respondent, FGD in Barlonyo village, Lira district, Lango sub-region, 23 March 2012.

<sup>28</sup> Ibid.

<sup>29</sup> UN Women. 2010. *A Window of Opportunity? Making Transitional Justice Work for Women*, pg. 1.

<sup>30</sup> Excerpt from Lakshmi Puri’s (Deputy Executive Director at UN Women) opening remarks at the panel discussion titled, “Securing Justice for Women in Post-Conflict States,” held at the UN Headquarters in New York, 2 May 2011.

response, there is need to consider the different ways men and women experience conflict and its aftermath.

Results from this study suggest that there have been glaring gaps in the manner in which the Act was implemented from a gendered perspective. For example, female reporters felt that the reinsertion package does not consider the extra burden and challenge of returning with children born of forced marriage. Whether female or male, with dependents or without, the reinsertion package has been the same. To a mother who returned with three children born in captivity, this package fell short of facilitating a meaningful resettlement. More so, one respondent said that the resettlement services have not met the specific medical needs for women and children, especially those that need surgical operations and psychosocial support services for recovery.

Secondly, some female reporters in Acholi felt that amnesty was awarded indiscriminately, with the Amnesty Commission not considering the possibility that some women never fought, but spent most of their time nurturing children and the wounded in the sick bays. One formerly-abducted woman we interviewed rejected the offer of amnesty on this basis:

*“When I was given the amnesty application form, I said, ‘NO! I didn’t pick any gun to fight against the government.’”<sup>31</sup>*

This contradicts the view held by certain civil society actors that some women were not granted amnesty because they were viewed as helpless bystanders. However, denial of amnesty on this basis can be related to the traditional African perception of women as passive victims and narrows the female ex-combatants’ opportunities to benefit from amnesty’s reinsertion package and demobilization and reintegration programming.

For other female respondents from Acholi sub-region who report holding amnesty certificates, as time has passed and they have realized the meaning of the certificates they hold, they have come to disagree with their awardance of amnesty. These respondents said they should have been protected by government from abduction and not demonized as perpetrators when that protection failed. They expect an apology from the government for failing to protect them from the rebels.

Another concern that arose from some respondents was the fact that some reporters who have been granted blanket amnesty committed atrocious gender-based crimes against the civilians. For instance, some former LRA commanders have received amnesty, while young mothers and women they victimized are toiling alone to raise orphaned children and children born of sexual violence. As a result, many of the focus

group discussions argued that rape and other sexual and gender-based crimes should not be eligible for amnesty.

*“In a rape case, I don’t think amnesty should be given to a rapist.”<sup>32</sup>*

For these victims, access to formal justice has been blocked as amnesty certificates prevent anyone from bringing a criminal case against perpetrators of such crimes.

Still, some female respondents commended amnesty for enabling the return of peace, as they are now able to rebuild their lives and raise children in a peaceful atmosphere.

## Conclusion

Despite the inherent challenges in Uganda’s Amnesty Act vis-à-vis victims’ rights to justice and redress, war-affected communities in northern Uganda credit the law with contributing to the prevailing peace and see it as being necessary for the foreseeable future.<sup>33</sup> However, as evident in the views and opinions gathered during this consultative process and in previous meetings on the future of the Amnesty Act, the debates on amnesty have raised more questions than answers on the future of accountability, justice and reconciliation in Uganda.

Although the awardance of amnesty has expired, more than 26,000 Ugandans have already been forgiven for their crimes and pardoned from any future criminal liability for what took place during the conflicts.<sup>34</sup> What is the hope for justice for those victims whose perpetrators have already been amnestied? How does Uganda honor previously-awarded amnesties and victims’ rights to justice and reconciliation at the same time?

Without doubt, there is overwhelming general consensus among grassroots, war-affected communities on the relationship between amnesty and the peace they are now enjoying. There is also consensus on the need for amnesty to continue until the LRA war is over, so that those who are yet to return also can benefit from its forgiveness.

That said, if amnesty is amended to meet international legal standards, such that the most responsible for the most grievous crimes are held accountable, and amended to complement other transitional justice processes being proposed or implemented, amnesty can better meet the needs of the conflicts’ victims and perpetrators and greatly contribute to the lasting justice and reconciliation in Uganda that everyone desires.

<sup>31</sup> Female respondent, FGD in Kadedopong village, Gulu district, Acholi sub-region, 27 March 2012.

<sup>32</sup> Female respondent, FGD in Moyo town, Moyo district, West Nile sub-region, 21 March 2012.

<sup>33</sup> As earlier noted, at the time of these consultations, a decision on the future of the Act had not yet been made.

<sup>34</sup> According to a report printed by the Amnesty Commission on 2 May 2012.

## Recommendations

1. **To the Justice, Law and Order Sector, through the Transitional Justice Working Group, there is need to develop a comprehensive transitional justice policy** which outlines how processes such as amnesty, reparations, accountability, truth-telling and traditional justice will complement each other and further holistic efforts for justice and reconciliation in Uganda.

**Furthermore, any proposed TJ processes which include elements of amnesty should consider the following:**

- a. Exclusion for those ‘most responsible’ for international crimes such as war crimes, crimes against humanity, genocide and sexual and gender-based crimes;
- b. Conditions for truth recovery, acknowledgement and apology by reporters, and participation and involvement by victims;
- c. Provisions for gender-just practices, such as revision of reinsertion packages and acknowledgement of the unique reintegration challenges facing men and women.

2. **To the Justice, Law and Order Sector, through the Law Reform Commission, there is need to harmonize Uganda’s laws pertaining to justice and accountability—especially the Penal Code, ICC Act and Amnesty Act in relation to justice and accountability—to ensure prompt and effective remedy and redress for victims.**

3. **To the Government of Uganda, there is need to revive peaceful efforts to bring the LRA conflict to an end and ensure the safe return of those still in captivity.**

4. **To the Amnesty Commission, there is need to conduct comprehensive outreach to sensitize communities** of the mandates of the Commission and Act, and any updates, developments or changes to the law.

**There is also need to revise the reinsertion packages provided to reporters to make them gender-sensitive** and better able to meet the needs of women, especially those returning with children born in captivity.

5. **To the cultural institutions and local leaders, there is need to work together with the Amnesty Commission to promote reconciliation within communities and regions affected by conflict.**



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