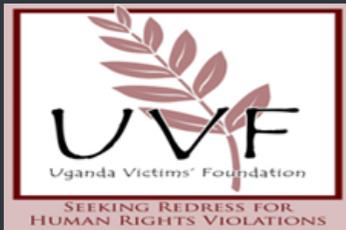


VOICE ON THE GROUND

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REDRESS
Ending Torture, Seeking Justice for Survivors

LANGO WAR CLAIMANT ASSOCIATION DRAGS GOVERNMENT OF UGANDA TO COURT FOR COMPENSATION

BY DANIEL OKELLO

Uganda as a nation is renowned for many international issues, including the long armed conflict in the greater north of Uganda which has lasted for over 22 years. Although peace

prevails, one is not sure whether to say the conflict has ended because the LRA rebel outfit has not laid down its arms plus the top commanders indicted by the International Criminal Court (ICC) for allegedly perpetrating war crimes and crimes against humanity have not apprehended despite the warrants issued by the Court.

By 2008, the greater north of the country had started realizing relative peace as exhibited by the number of internally displaced persons (IDPs) who voluntarily returned to their home villages. This followed government's programmes aimed at helping IDPs return to their villages. The plans to effect return by the IDPs involved setting up satellite camps with basic services for those returning to live a "new" life, out of the crowded former IDP camps established in strategic places by the military. With additional support from Agencies, NGO's, both International and local, communities in Lango and Acholi were assisted to return to their homes. Nevertheless, these remarkable movements to the satellite camps and in some cases homes was met with a lot of challenges including determination of land boundaries, loss of family properties to the rebels and wild fires, widespread theft, etc.



Former child soldiers for trauma management training and re-integration process back in their homes and community. Photo by: Caritas Counseling and Training Centre

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As most communities affected by the armed conflict try to recover and await the successful arrest, trial and prosecution of the LRA indictees at the ICC, those in Lango have decided to form themselves in an association to wit: the **Lango War Claimant Association** whose membership is presently estimated at 2,700. The association's main objective is to demand reparation from the Ugandan government for the loss of property and lives from 1987 to 2005 when relative peace returned to Lango. Available information indicates that a 6billion U.shs. suit was filed at the High Court of Uganda in Lira by a private law firm on behalf of the association. The suit likely to be the first of its kind in the country, if successful, may establish a precedent for other ethnic groups to follow by filing their respective claims



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against the government, especially considering that the government is yet to establish a policy to provide for remedy and reparation for victim communities affected by the armed conflict in the greater north.

It is not clear however if the Attorney General of Uganda has filed a defense to the suit yet and it remains to be seen how the court will deal with the matter before it.

As much as this civil suit appears to be a fair and proper one for the victims in the association to seek remedy and justice, one wonders how this case, if successful, would be reconciled with the ICC case against rebel leader Joseph Kony and his co-accused in particular in relation to reparations. It would appear that there could be a

conflict arising from a possible double claim for reparations by victims if the ICC was to award reparations to victims who would also have received compensation before Ugandan courts. On another and separate note the suit has been mentioned in Court a couple of times but without any actions taken. Confusion surrounds the issue and there continues to be no response on the part of government to the pleadings filed. In spite of the non action on the case, there seems to be a lot of enthusiasm and high expectations from members of the association. One can only hope that the exercise is genuine and wisely conceptualized.

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Victims need more than development programme

By Ebiru Nathan
Executive Director
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The Government of Uganda is being applauded for effectively designing and successfully implementing development programmes in the greater North purposely meant to economically, politically, socially and culturally bring the region that has lagged behind due to war at the same level with other parts of Uganda. The programmes such as NAADS, NUSAF I, PRDP and now NUSAF II have attempted to change the socio-economic situation of the region with the view to improving the lives of the people in the greater north and have in most cases been referred to as 'government reparation programmes' in the region.

However, the following questions need to be addressed while referring to these programmes as reparation. What is the scope of these programmes and who do they target? To what extent have the war victims been involved in the programmes and to what extent have they benefited from them? To what extent do they aim at repairing the harm suffered by victims? How is participation of victims guaranteed? Who are the beneficiaries to the programmes? And does the beneficiary selection criteria cater for the rights,

needs, aspirations and priorities of victims? If the programmes are answered without victims focus in mind then they do not fall within what reparation initiatives for the war victims should be. Instead they constitute normal government development programmes targeting at improving lives of the general population.

The greater north has experienced incidences of armed insecurity including Karimojong cattle rustling in Teso, Acholi and Lango; Uganda Peoples Army in Teso; Holy Spirit Movement in Acholi, Lango and Teso; West Nile Bank Front in West Nile; Uganda Peoples Democratic Movement in Acholi and Lords Resistance Army in Acholi, Lango, West Nile and Teso. The war and insecurity led to total socio-economic losses such as destruction of food and cash crops, household property, family and community assets that formed family and community economic fabrics in the region. To help address the basic needs of victims, reparative programmes need to be developed and, among other things, identify, profile, map and document the losses incurred for easy and smooth compensation. This will help solve major challenges affecting the war victims in the region.

The LRA and other wars fought in the region caused physical, mental, moral and psychological damage to the lives of the individuals. Victims

have been subjected to physical torture, inhuman and degrading treatment, rape, enforced disappearance, amputation of body limbs and parts, disfigurement, gun and explosive remains within body parts for long. These categories of victims do not look at development programmes as a priority in their lives. Rather, they wish to see programmes that target restoring their livelihoods to the pre war situation. Programmes like health care specifically addressing the health needs of victims should be a priority of the Uganda Government in the post conflict areas of the greater North.

The LRA rebels also had a characteristic of causing brutality to their captives including killings, child abductions and subsequent recruitment to the rebel ranks, sexual violence, looting and destruction of people's property. Unfortunately, the majority of the LRA child captives were either

killed or have not returned to date living the relatives in a state of trauma and distress. In as much as the government has designed development programmes for the region, these programmes may have been implemented but not fully, as victims still look to the future for an opportunity of being re-united with or receiving credible information about their missing dear ones and or giving descent

burials to dead relatives. No progress has been made in this direction yet there is likelihood that survivors and relatives will only be at peace if this is achieved.

The LRA senior commanders and perpetrators of war are at large and none has been apprehended yet for crimes committed against people in the greater north. This justifies the statement that silence of guns does not mean peace has returned and victims feel that the rebels may still resume their heinous acts. This situation continues to create fear in the population hence the reservations by some victims to return to their villages. In this respect, victims need assurances of



A victim who recovered after the bullet was removed-we made a follow up counseling (home).

Photo by: Caritas Counseling and Training Centre

non recurrence of similar atrocities from the Government, as they return to their homes.

On the other hand, victims have blamed the government for not providing them with security at the time the LRA orchestrated their atrocious armed campaign and destabilised the prevailing

peace and development. Victims thus feel they have not been accorded justice for this failure on the part of government and reference is made to the Amnesty Commission which facilitates rebel returnees with resettlement packages and it is perceived

that some of the commanders are being rewarded highly while victims who suffered at the hands of the rebels have been completely ignored.

Additionally LRA perpetrators of the conflict have not publicly declared responsibility for the atrocities committed against the population nor have they publicly sought apology from victims. This gives the impression that the rebels still maintain intentions to continue their criminal acts in the future. Victims recognise that some of the rebels were

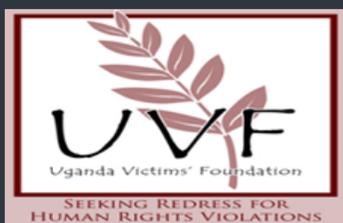
abductees who were forced to commit atrocities and as such if they apologised, they could be forgiven by the victims themselves facilitating any future return to the community.

With the above in mind, there is a need for a holistic post conflict programme that meets the rights, needs, aspirations and priorities of the victims, if other government development programmes are to succeed. It must include among others: total compensation of what victims lost, restoration of the victims to the situation they were in before the war and commitment by the government to provide security and protection to the community in order to ensure the non-recurrence of similar acts in the future. .

UGANDA VICTIMS' FOUNDATION

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STATEMENT ON THE NEED FOR REPARATIONS AND GUIDING PRINCIPLES FOR VICTIMS OF CRIMES PERPETRATED IN UGANDA

06 MAY 2011

The Uganda Victims' Foundation formerly the Uganda Victims' Rights Working Group (U-VRWG) is a coalition of human rights and civil society NGOs in Uganda working with victims and on victims' rights issues. The objectives of the Foundation are to lobby and advocate for victims' rights especially with respect to the conflict in the greater north of Uganda. The group was formed in 2006 following an International meeting of the Victims' Rights Working Group and has since developed position statements on victims' needs and rights all available at www.vrwg.org/uvf.

The Uganda Victims' Foundation;

RECALLS that Uganda has gone through a turbulent history of political upheaval and violence in which state and non state actors have been involved in perpetrating Gross violations of International Human Rights Law and Serious violations of International Humanitarian Law against civilians without remedy and reparation;

RECOGNISES that Uganda is going through a process of transitioning from serious armed conflict in the greater North to a peaceful environment and as a part of this transitional process, the Government of Uganda participated in talks with the LRA delegations at Juba which recommended under the Protocol on Accountability and Reconciliation the need for the provision of reparations for victims of crimes among other things;

APPRECIATES that Government of Uganda has taken measures aimed at restoring livelihoods in the greater northern Uganda and other hitherto conflict ridden areas in her development initiatives such as PEAP, and PRDP.

AWARE that numerous victims of Gross violations of International Human Rights Law and Serious Violations of International Humanitarian Law have suffered and continue to suffer prejudices, loss of life and property, pain and suffering without any acknowledgement on the part of the state and non state actors of the victimisation suffered during the violent wars and conflicts and no provision of reparations;

MINDFUL that victims of Gross violations of International Human Rights Law and Serious Violations of International Humanitarian Law have rights to remedy and reparations as set out in the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights law and Serious Violations of International Humanitarian Law, 2005* notwithstanding whether a perpetrator of crimes has been identified or not as spelt out in the *Declaration of the Basic Principle of Justice for victims of crime and Abuse of power, 1985*;

INVITES the Government of Uganda, her partners and other stakeholders in - discussing the questions relating to remedy and reparations for victims referred to above to:

- A) Take steps and measures in the absence of any perpetrators being identified and held responsible for the widespread victimisation, to recognise the victims of the conflict in the greater north and provide for the right to remedy and reparation;
- B) Consider defining reparations to include repairing harm; rebuilding broken relations; and truth telling;
- C) Consider developing a reparations policy and guidelines with immediate effect and no later than a period of six months and to fundraise and initiate reparations for victims within a period of two years;
- D) Recognise that while the right to reparations is an individual right, reparations can also be collective in some circumstances;
- E) Ensure that reparation policies and guidelines fully conform with international standards on the right to remedy and reparations.
- F) involve all Ugandan citizens in the reparation process to ensure there is ownership of the process as a guarantee of non repetition.



This girl on the hospital bed was shot on the hand and deformed, and was nursing the wound after the operation. Photo by: Caritas Counseling and Training Centre

DRAWS ATTENTION to;

General Principles necessary for reparations:

1. **Inclusiveness:** Measures to ensure victims are not brought on board at the last minute must be put in place. Similarly, mechanisms to ensure effective and meaningful participation of victims must be defined and provided for, in particular with regards to the participation of women, children and vulnerable groups. These should be alive to the needs to protect dignity of those participating, and avoid situations likely to cause retraumatisation.
2. **Informed consent:** victims should be informed on their rights and give their informed consent to apply for and participate in the reparation processes.
3. **Sensitivity:** the reparations process should be informed and sensitive to gender needs, child needs and PWD needs in order to facilitate their effective and meaningful participation.
4. **Non discrimination and Equality:** the process of reparations should be guided by the principle of non discrimination and equality for all victims applying for reparations. With this principle victims will appreciate that they are respected and that their suffering has been recognised.
5. **Transparency:** Reparation processes must be undertaken within well spelt out guidelines and directives for all those engaging with the process and be fully transparent. Victims must be properly informed about the procedures to access reparation process, the mechanisms involved, as well as the necessary proofs required etc.
6. **Victims:** the term victim for purposes of reparations must be defined in precise terms to enable those considering themselves as such to satisfy oneself that they meet the specifications and hence qualify for an award of reparations.

It is recommended that any definition of a victim for purposes of reparations should adopt the meaning defined in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights law and Serious Violations of International Humanitarian Law, 2005; which state that victims are: Persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation.

Principles necessary to guide the reparations process:

1. **Safety and security:** owing to the nature of the conflict in the greater north of Uganda the reparations process should appropriately be guided by the need for the physical and psychological safety and security of victims, witnesses, perpetrators’ family members and community at large.
2. **Consent of victims and witnesses:** the reparations process should proceed from the basis of informed consent of victims and witnesses. All victim communities being the subject of a reparations process must be informed adequately of the entire process to facilitate decisions taken on the basis of knowledge.
3. **Confidentiality:** mindful of the process likely to be of a public nature for purposes of promoting proper accountability and transparency, the need for confidentiality in certain cases requiring protection of some victims and witnesses is paramount and must be appropriately considered. Adequate, independent and well funded protection systems will need to be developed and put in place to that effect.
4. **Participation:** as a human rights approach, victims and witnesses of crimes referred to above need to be involved and engaged to facilitate ownership of the reparations process. Mechanisms must be developed to allow for effective and meaningful victim participation during the process.
5. **The reparation process should ensure that the process proceeds on the principle that no further harm principle is occasioned on victims.**
6. **Access to relevant information:** research shows that victims in Uganda often lack information on their basic rights hence the reparations process must have mechanisms developed to enhance victims’ proper access to information relating to;
 - a) Individual rights;
 - b) Developments on reparation;
 - c) Gaps that exist; and
 - d) Ways to access and participate in the process

In disseminating that information, efforts should be made to find creative ways to ensure it reaches all victims, for example through the use of local languages, children friendly versions...

7. **Awareness about special interest group:** conflicts are often characterised by serious and grave violations perpetrated against some groups such as children, women and elderly. A reparations process therefore must be aware of the existence of special interest groups unlikely to have access and/or audience before a body charged with reparations. These interest groups include;
 - a) victims of sexual violence; b) abducted children; c) child victims and witnesses
8. **Consideration of scale, gravity of harm suffered:** Mindful of the extent of victimisation, it is recommended that the scale and gravity of crimes suffered be considered.
1. **Well defined forms of reparation:** owing to the situation on the ground a reparations process must in addition to the well



Principles necessary to guide the effective enforcement and implementation of reparations:

recognised forms of reparation namely Compensation, Rehabilitation and Restitution, define in explicit terms any additional forms that may be recognised such as satisfaction and non repetition.

2. Representative composition: the structure of the reparation body that will be established must be representative in nature. Specifically the body should be gender, elderly and persons with disability sensitive and include representatives from victims' communities and civil society.
3. There should be a bottom up well laid structure
 - a. this could help with monitoring
 - b. structures in villages would ensure an adequate flow of information
 - c. Having an established structure would ensure credibility of the information shared.
4. The reparation body should pre identify potential hurdles for specific groups to benefit and access reparations. In particular, challenges to women and children to access reparation due to existing property and other family laws should be identified and adequate solutions designed.
5. Individual and group/collective victims: In as much as there are many individual victims, there may be situations of group/collective victims. The reparations process must not be blind to this factor rather it must be alive to this situation and when individual or collective victims are give reparations, there must be a mechanism developed to ensure the right individuals are beneficiaries.
6. Monitoring and Evaluation: Mechanisms to monitor and evaluate the implementation and impact of reparations to specific interest groups such as women and other vulnerable groups must be developed and taken into account from the early phases of a reparations process. The body overseeing implementation of reparations should be neutral and independent.
7. Continual consultations: It is believed that the station in life of the various victims may change over time and therefore it is necessary that continuous consultations be undertaken with victims and organisations working with victims to be up-to-date.
8. Reparations Fund: Government should create a budget line for reparations, management and incidental costs. The fund should be permanently established to respond to reparations issues likely to arise in future. In doing the government should take the lead by demonstrating its commitment and thereafter may reach out to other actors for funding including donors, well wishers and also proceeds from the assets of person found guilty of serious international crimes. Should external donor support be sought, the funds should be channelled through the national body who will be implementing reparations as opposed to international organisation to ensure the maximum impact of reparations and make it distinct from general development and assistance projects.
9. Respect for rights of the accused/convict and those of his family: The process of tracing/seizing assets of convicted person for purposes of court ordered reparations should not in any way be made to infringe on the rights of the family of a convicted person because doing so will militate against basic human rights principles.



*A child who was burnt in a house, nursing the wound after the operation.
Photo by: Caritas Counseling and Training Centre*

TRAUMA IN NORTHERN UGANDA

By Sr. Beatrice Adoch Caritas Counseling and Training Institute-Gulu

This article is intended to share information on the experiences of the people suffering from trauma in the greater north of Uganda. It will highlight what trauma is, its rest in the body, the relations individuals have with it.

Trauma has been defined as a body wound or shock produced by sudden physical injury as from violence or accident. It has been known to cause impairment in people's lives. Trauma is an experience that makes people frightened and helpless, disrupting an individuals' normal flow of life. A traumatic event falls outside the range of normal human experiences; it is often unexpected and very intense. During traumatic events, a person may think he/she will die or someone will. It makes one feel powerless, out of control and anxious.

Trauma had been a silent word in Northern Uganda but became more pronounced due to the LRA and UPDF armed conflict that lasted for two decades. This insurgency led to a number of traumatic experiences that affected the people in most villages and homesteads. These included; abduction, arson, massacres, brutal killings, displacement, deaths, physical and sexual abuses, mutilation, famine, child abuse and neglect etc.

Naturally our bodies protect themselves and don't allow traumatic memories to come to our conscious mind because the experiences are too painful to remember. However the memories loom and eventually manifest physically and psychologically. These manifestations are exhibited in form of depression, suicidal tendencies and deaths, antisocial behaviors and substance abuse, broken relationships and ties, increase in mental illnesses cases, evidence of physical deformity, aggressiveness and violence, abandonment of homes etc.

Now that a degree of peace is being enjoyed, the counseling profession has been at work because the cases of trauma arising from the conflict are amazingly huge and could not have been predicted moreover others have no opportunity to access counseling services such as those provided by the Caritas Counseling Centre in Gulu.

Too often people hear of disturbing thoughts or plans prior to a tragedy and they do not know how to respond. It is not until the aftermath of a disaster that we see survivors interviewed and hear them describe how the alleged perpetrator had, in some way, suggested impending violent actions.

I believe that at the very core of the trauma problem is a fundamental issue that should be investigated i.e. addressing the causes as opposed to the signs/symptoms. Possibly there is need for some practical helping strategies such as counseling, provision of remedy and reparation to facilitate the ability of victims to appreciate that others in the community recognize that they have been wronged and share their pain.

Caritas Counselling Centre, now known as Caritas Counseling and Training Institute (CCTI) was established to address the issues of trauma cases experienced in the region. Right from its inception in 2004, a number of formerly abducted children, child mothers, former LRA rebels have benefited from the various activities that have been designed to help the clients. CCTI has developed strategies for addressing the signs/symptoms of trauma and the causes of trauma. These practical strategies include individual and group counseling, family therapies and visits, training community leaders with helping skills, community sensitization on trauma, its causes, signs and how to help a traumatized person, or on topics of their interest, rehabilitation and reintegration into the community for the most traumatized. Furthermore counselors have been variously trained and empowered to support other service providers in

handlings social problems that arise as a result of conflict and wars.

Understandably, the primary responsibility of treating trauma rests with government, its bodies and institutions. However the role of community leaders, counselors, social workers, the church and the victims cannot be ignored. It is important therefore that government works hand in hand with all stakeholders to minimize the effects of trauma in the region as it recovers from decades of violence because experiences from sharing with the traumatized persons in the greater north shows that many people have been traumatized by the armed conflict in one way or another



*A victim who had a live bullet removed from his body on the white cotton wool, nursing the wound after the operation.
Photo by: Caritas Counseling and Training Centre*



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The Importance of Victim Participation at the Ugandan International Crimes Division

By Luke James Frederick Moffett, PHD candidate, School of Law, Queens University Belfast.

One of the most heralded provisions of the International Criminal Court (ICC) has been its articles on victim participation. The ICC was established under the Rome Statute (1998) to end impunity and to provide justice to victims of international crimes. The ICC seeks to fulfil this mandate by prosecuting those most responsible for international crimes while permitting victims to participate in proceedings and seek reparations. However, the ICC has limited resources and can only prosecute a handful of suspects requiring States to hold those responsible to account, the so-called notion of complementarity where the work of the Court and States are meant to act together to end impunity. This article explores the obligation of incorporating victim participation in domestic trials in Uganda.

The establishment of the International Criminal Division (ICD) in the Ugandan High Court in 2008 is meant to fulfil the complementarity obligation under the Rome Statute. The ICD was created as part of the Juba Peace Agreement in 2008 between the Lord's Resistance Army (LRA) and the Ugandan government to peacefully resolve the conflict and to ensure domestic control of prosecutions.¹ Despite the failure of the LRA to conclude the agreement the Ugandan government has pursued the provisions on accountability by creating a war crimes division as well as passing the ICC Act 2010, which brings the Rome Statute into force in Ugandan courts. The first trial against Thomas Kwoyelo, a senior commander in the LRA, is due to commence in July 2011, based on Geneva Conventions Act 1964 and other domestic legislation. At the International Criminal Court arrest warrants for senior commanders of the LRA remain outstanding though the creation of the Ugandan ICD indicates that if ever apprehended the government could attempt to seek prosecution domestically under existing legislation drawing mandate from Article 15 of the ICCPR.

The inclusion of victim participation within the Rome Statute incorporates international, human rights and domestic law which recognise the independent and important role victims can play in criminal proceedings.²

¹Agreement on Accountability and Reconciliation, 29th June 2007; and the Annexure to the Agreement on Accountability and Reconciliation 19th February 2008.

² See UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, A/RES/40/34, 29th November 1985 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/60/147 16th December 2005. The Situation in the DRC, Decision

International and human rights law have recognised that victim participation provides an important safeguard for victims' views and concerns to be heard and their interests protected before a court. Although prosecutors can represent victims' interests other interests may dominate, such as a speedy trial, political pressure or confined charges which may perpetuate impunity. Human rights law has instead recognised that in ending impunity victims of serious crimes have a number of rights including a right to justice, the truth and reparations with victim participation as an effective way of holding those responsible to account while protecting their rights. Many domestic jurisdictions also enable victims to participate in criminal prosecutions in such as during sentencing in order to promote self esteem in their rights and interests.

At the ICC, victims are provided a number of participatory rights, exercised mostly through a legal representative, including voicing their views and concerns, asking questions, calling witnesses, submitting evidence, and attending hearings.³ Additionally, victims' identities can be protected and victims are informed of their rights and judicial developments in order to allow them effectively and meaningfully participate. In permitting victims to participate the ICC has recognised that it can bring a trial closer to those affected by the crimes and add legitimacy to the trial by having independent individuals participate beside the defendant and the prosecution.⁴ Furthermore, the ICC has found that victim participation has made a positive impact on the Court's work by helping it determine the truth without undermining the rights of the defendant or overly increasing the length of the trials.⁵

Due to the language of the Rome Statute these rights and provisions on victim participation at the ICC only apply to the Court and not explicitly on State Parties. There-

on the Applications for Participation in the Proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6. 17th January 2006, ICC-01/04-101

³ See articles 15(3), 19(3), 68(3) and 75(3) of the Rome Statute which have been elaborated on by the jurisprudence of the ICC.

⁴ See the Prosecutor v Germain Katanga and Mathieu Ngudjolo Chui, Decision on the Set of Procedural Rights Attached to Procedural Status of Victim at the Pre-Trial Stage of the Case, 13th May 2008, ICC-01/04-01/07-474

⁵ Prosecutor v Jean-Pierre Bemba, Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings, 19th July 2010 ICC-01/05-01/08-807

fore, at the Ugandan ICD there is no specific obligation on the Ugandan government to incorporate a specific participation regime. The Ugandan ICC Act 2010 also does not provide for victims participation. However, the Juba Peace Agreement and Annexure did acknowledge and stipulate provisions for victim participation, protection, information and reparations as part of any accountability mechanism. These provisions were agreed to on the basis on human rights obligations as well as responsibilities under the Rome Statute with the aim of ending impunity and to 'honour the suffering of victims by promoting lasting peace and justice.'⁶ Nevertheless, the Ugandan government has ignored these statements and its international obligations by so far excluding victim participation due to its absence from normal Ugandan criminal practice. Not only does this absence fail to complement the work of the ICC, it also risks promoting impunity by excluding the people most affected by international crimes.

In order to effectively and meaningfully end impunity, following human rights jurisprudence,⁷ victims should have access to the ICD in order to protect their interests and rights through participation. By doing so victim participation can ensure that the trials conducted at the ICD effectively and meaningfully hold those responsible to account and enable those affected by

international crimes to voice their views and concerns. It would also add legitimacy to the trials by having independent parties participating and increase transparency, thereby promoting the end to impunity. Although the Ugandan government may consider the participation of victims in criminal proceedings as strange, its benefits far outweigh its costs. Furthermore, the practice of domestic jurisdictions, including many other common law countries, such as the UK which permits victims to bring private prosecutions, make impact statements at sentencing and claim compensation, have demonstrated that victim participation can work and be effectively implemented in criminal proceedings.

In conclusion, while victim participation may seem strange to the Ugandan government it is internationally recognised as an important way to end impunity and ensure justice for victims. In order for domestic courts to complement the work of the Court they need to embody the spirit and jurisprudence of the ICC in which victim participation is central. The Ugandan government has already incorporated the ICC into its legal system and outlined its intention to end impunity. However, the Ugandan government needs to enable victim participation at the ICD in order to effectively ensure an end to impunity and justice for victims. The practice of the ICC, domestic jurisdictions and human rights law should all serve as an example which the ICD consider drawing lessons from providing for victim participation within its own court.



*A victim who had a live bullet removed from his body on the white cotton wool, nursing the wound after the operation.
Photo by: Caritas Counseling and Training Centre*

⁶ Preamble of the Agreement on Accountability and Reconciliation

⁷ See Case of Mahmut Kaya v Turkey (Application no. 22535/93) Para.121-126; Case of Hugh Jordan v the United Kingdom (Application no. 24746/94) para.159-160; and Loayza Tamayo Case, Reparations (Art. 63(1) American Convention on Human Rights), Judgment of November 27, 1998, Series C No. 43, para.169

RECALLING THE RIGHT TO TRUTH CONCERNING GRAVE HUMAN RIGHTS VIOLATIONS

By Joseph Manoba

The right to truth concerning grave human rights violations is one of the remains unknown in the Ugandan public and unenforced yet with the experiences of the communities in the greater north, one would expect that the leadership in the country should have taken steps to make the right a reality for the numerous victims of grave human rights violations.

The right to truth stems from the right to a remedy and reparations recognised under international law for victims of gross violations of international human rights law and serious violations of international humanitarian law. It involves investigations/inquiries into the violations perpetrated and provision of testimony into the truth around grave violations.

Uganda has witnessed a host of gross human rights violations, occasioned by both state and non state actors. These violations constitute serious crimes under international law and have resulted in investigations and indictments by the ICC.

The ICC to date provides the single avenue for victims who were victimised by the indicted LRA commanders under warrant by the Court to know the truth through its formal and legal process at the international level albeit theoretically considering non of the indictees have been apprehended. The bulk of the other victims remain without an avenue to know the truth about the war and about their losses and experiences.

As a member of the UN Assembly, the Government of Uganda (GoU) has obligations under the UN Basic Principles and Guidelines to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law to take measures aimed at implementing international standards into national law and as well as giving effect to the law, especially ensuring access to justice and reparations.

Victims:

In the course of promoting truth for grave violations of human rights, it is important to be reminded that a person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted and regardless of the familial relationship between the perpetrator and the victim.¹

In the context of the conflict in the Greater North of Uganda, many victims hardly know who perpetrated violence against them or caused their victimisation. This lack of information or knowledge as to the source of victimisation should not hinder victims from being recognised as such. The Government is mandated under international law to recognise all such victims of grave human rights violations and accord to them the respect they deserve.

The UN Principles on the Right to Remedy and Reparation specifically provide that “ Victims should be treated with humanity and respect for their dignity and human rights.....The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation.”

Recognising the right to truth for victims of grave human rights violations, should go a long way to remind Government and its several arms of its duties and obligations to the victims of

¹ The UN Principles on the Right to Remedy and Reparation for victims of gross violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

serious violations to ensure that steps and measures are taken to promote the rights of victims to the truth.

The Government is obligated under international law to put in place mechanisms that will allow for victims to know the truth behind their victimisation. It is known that there are presently efforts to draft into legislation a national reconciliation law which perhaps will provide for truth processes. These efforts are applauded; however, it must be recalled that at the time of writing, no steps have yet been taken to accord the victims of the LRA and Government of Uganda hostilities dignity and care, as many continue to suffer prejudices and physical life-threatening conditions due to their injuries. Many have died before without witnessing the Government taking responsibility for the harm done to them via omission or commission, and they have died without seeing any justice and hence the need for urgent Government resolve.

Reparations:

Reparations are other key measures in the administration and realization of victims' rights to justice and redress. Reparations encompass restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition. The process of speaking and hearing the truth about serious violations and crimes committed, can itself be reparative and a form of reparation. For example, disclosure on the location of murdered loved ones can enable a proper reburial, a form of reparation under 'satisfaction.'

The UN Principles provide that “Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.”

Acknowledging that a victims' community exists as a result of the conflict compels the Government of Uganda to be guided by the above outlined principles and to take prompt measures to provide a platform for truth telling, remedy, redress and reparation for the numerous victims of grave human rights violations in Uganda. The lack of an identified perpetrator by no means should hinder the process that allows for victims to receive access to remedy and reparations.

It is appreciated that there have been development and reconstruction efforts to rebuild the Greater North after the violent conflict, but these government initiatives are not reparation. In essence, reparation provides direct remedy to the victim of gross violations of international human rights law and/or serious violations of international humanitarian law. Reparation signifies public acknowledgement of the State's commission of harms or gross violations and/or the State's failure to prevent gross violations and harms. Reparation signifies State responsibility to address these gross violations. Development policies do not entail State responsibility for wrong doing. Development policies are not done to achieve justice for victims of gross or grave violations or address irreparable harms. Development does not meet (nor does it seek to meet) distinct and direct needs of victims who have suffered gross violations and harms.

The author is a legal Advisor to the Uganda Victims Foundation

Promoting Humanitarian Efforts and Rebuilding Lives of Victims of War in Uganda

By Victor Ochen

In the Greater North of Uganda, people have been subjected to numerous ethnically-based wars and armed insurgencies lasting decades. In these circumstances, the African Youth Initiative Network (AYINET), Uganda Chapter, based in Lira was founded in 2005 by a group of youthful persons with a vision to reach out to communities to promote ideals of respect for humanity, peace and justice. To date, its activities have had a wide reach and in these activities it has worked with victims of serious violations which occurred during the war in the sub regions of Acholi, Lango, Karamoja, Teso and West Nile. AYINET is also the proud host of the Uganda Victims Foundation (UVF), and is an active member of the UVF network.

Medical rehabilitation, building and promoting responsible youth leadership for peace and justice is one area necessitating a lot of attention during the transitional justice phase that Uganda is now experiencing. Very few locally based organizations in Uganda have been in a position to systematically assist stigmatized, marginalized and hard-to-reach victims of serious injuries arising from grave crimes and violations and to provide them with access to medical rehabilitation and responsible youth leadership for peace and justice. In this context, AYINET uses her partnerships with international groups and agencies to facilitate physical and psychosocial care and rehabilitation for victims of brutalities suffered during the hostilities between the LRA and the Government of Uganda, which have plagued the region over the last two decades. A significant focus has been made to target victims who have experienced the most serious physical and emotional harm. Owing to

this work, over 2,500 victims of serious violations have been reached, screened and 1,000 of these have been assisted to access medical care. Characteristically, most of the victims have suffered physical injury and deformity, physical trauma, gunshots, retained shrapnel, maiming, immolation, torture, and sexual abuse. Usually, support has been directed to those in critical medical need of reconstructive surgery and psychosocial support.

AYINET's medical work is a response to the non-response by the government to victims needs. Hence its work aims at providing a more effective response to these victims, with emphasis on women and children, building safe, peaceful and healthy communities through victim empowerment, and strengthening of a human rights culture. Outreach to victims, assessments of victim needs, screening and facilitating reconstructive surgeries (plastic and general), follow up care and psychosocial support are some of the key activities that have to be undertaken to achieve success in this work. These activities are possible because of strong community peace building programs, which aim at working with conflict affected youth and their communities in promoting peace.

The focus at life-saving and life-altering interventions aimed at restoring people's humanity and dignity can be seen from the field testimonies of those who have benefitted from interventions such as mentioned above. For example, a young woman now 20 years of age, single mother of a 3yrs old girl who conceived at the age of 17 years, and was unfortunately abducted by the LRA rebels when she was 6 months pregnant, tells the story of how she was tortured

and made to carry looted property by foot on long distances. On the day she was abducted, the rebels failed to abduct other children and blamed that failure on her pregnancy as the cause of their bad luck. Thus they decided that she should be killed. Three of the rebel fighters dragged her to the road side to be killed and, armed with knives and razor blades, they cut off her ears, nose and lips. In addition, she was beaten, kicked in the stomach and left with a wrapped paper containing the severed ears, nose and lips to take to the government soldiers. During community programs which facilitate those in urgent need of medical attention, she explained:

Supporting victims is constantly inspired by these and other testimonies. There is an overwhelming need to do more to reach out to other victims who have lost hope of receiving support and facilitation to access medical services. As the UVF continues to raise a voice for the countless victims, there must be commitment from her coalition members to continue facilitating quality care for people who have suffered the worst harms as a result of the decade's conflict in the Greater North of Uganda. Victimized communities wish to see that others are concerned about them and are ready to work with local care providers whenever possible. Efforts to galvanize and rally communities to join together in the reconstruction of the lives of their families and neighbors cannot be overlooked at this time. Hence the overwhelming need to work in solidarity with victims and their families for the realization of their rights.

The writer is a director at AYINET.

"In 2008, Victor Ochen came and told me that he is the director of an organization called African Youth Initiative Network. He said his organization... was assisting people who got injuries due to LRA crimes and are in need for reconstructive surgery like me. I was not willing to respond to their call because I never expected any meaningful reconstruction to be done to me and all I wanted was to get out of pain. But he insisted and brought me to the hospital where I received lips reconstructions. That was the first time I saw something good happened (sic) to me, and I eventually generated the idea (sic) of going back to school. My life changed and I couldn't afford to spend 20 minutes without looking myself into the mirror to see the good changes for me. Three months later, Victor came back again saying they had paid for even my nose to be operated, and they took me again to the hospital and I received surgery of the nose and right now I feel I am back. I can't believe myself that I don't get stigmas anymore and I really feel so good and grateful to all the teams behind my reconstructive surgeries....."

Whatever was done to me like to any other victims here is not what should be done to a human being. It was a big mistake to do it to me and I felt so bitter.... There are many people like me who need much more assistance, but no one is coming to their assistance... If I had the power I would do whatever I can to help the many victims who are left with pain and injuries."

WAR CRIMES TRIAL IN UGANDA, A HISTORIC MILESTONE TOWARDS ACHIEVING JUSTICE AND SUSTAINABLE PEACE.

By Joyce Apio

The first War crime trial at the International Crimes Division of the High Court of Uganda commenced on 11th of July 2011 at the High Court in Gulu, in the case of *Uganda vs. Thomas Kwoyelo*. It is presided over by three judges of the High Court to wit; Hon. Justice Dan Akiiki Kizza, Hon. Justice Elizabeth Nahamya and Hon. Justice Owiny Dollo.

The accused appearing for the first time before the Judges of the Division, is represented by Caleb Alaka and John Francis Onyango (on Private Brief) while the Prosecution is led by Joan Kagezi, assisted by Lino Anguzo and Byansi William from the Directorate of Public Prosecutions (DPP).

According to the Indictment the accused defendant is charged with 53 counts drawn from the Geneva Conventions Act 1964 and the Penal Code Cap 120 of the Laws of Uganda. The counts which constitute grave breaches of the Geneva Conventions include: willful killing, extensive destruction of property, taking of hostages, and kidnap with intent to murder.

Under the Penal Code Act, the counts include murder, robbery with aggravation, inhumane treatment, attempted murder and causing injury to body. The accused pleaded not guilty to all counts.

The visibility and impact of the ICC and the pursuit of justice for international crimes is tremendous since its intervention in 2003 and the subsequent issuance of the arrest warrants for the five top LRA commanders. A demonstration to move the juba agenda forward, Uganda's complementarity efforts have begun to be witnessed - through an accountability process in which victims of crimes perpetrated by the defendant in Northern Uganda have the opportunity to observe the administration of justice in the trials of the first war crimes suspect before the International Crimes Division. This effort is remarkable as a first step in ensuring justice for all and in ending impunity for perpetrators of crimes.

It is critical now that the trial process should be expeditious and characterized by due process including observance of international standards to ensure a fair trial.

With the trial resuming later in August where the defence will likely raise preliminary and constitutional issues before the trial can effectively take off, one hopes that the court and other respective bodies will have occasion to think around developing mechanisms for victim and witness protection.

The writer is the Coordinator of the Uganda Coalition for the ICC.



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We would like to invite all well wishers to support the cause of updating the public on events happening in relation to victims' rights in the country.

We also invite the submission of articles for the next issue on topical areas affecting victims' rights including on protection, access to justice and information, violations arising from multilateral business corporations.