



# A Beggar has no Choice

**Victims' Perspectives on a Reparations Framework for Uganda**

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## Avocats Sans Frontières

Avocats Sans Frontières (ASF) is an international NGO specialising in the defence of human rights and support for justice in countries in fragile and post-conflict situations. For 25 years, ASF has been implementing programmes which improve access to justice for persons in vulnerable situation. It has field offices in the Central African Republic, Myanmar, Democratic Republic of Congo, Burundi, Chad, Tunisia and Uganda. The Ugandan Field office was established in 2007.

With the support of the MacArthur Foundation, ASF has been implementing a project in Uganda to bolster national accountability processes for mass atrocities. Support for the national transitional justice processes included the development of a community-based participatory research to identify and discuss key considerations that need to be addressed by the proposed Transitional Justice Legislation. This was to ensure that it is responsive to both the victims needs and makes provisions that will create a conducive environment for the Government to fulfil its obligations to guarantee accountability for human rights violations.

It is envisioned that this report will inform further discussions in the country on the need to ensure victims-centered reparation programs.

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# List of Abbreviations and Acronyms

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ASF	Avocats Sans Frontières
AU	African Union
CSO	Civil Society Organization
GoU	Government of Uganda
ICC	International Criminal Court
ICD	International Crimes Division
ICTJ	International Centre for Transitional Justice
IDP	Internally Displaced Persons
JRP	Justice and Reconciliation Project
LRA	Lord's Resistance Army
NAADS	National Agricultural Advisory Services
NGO	Non-governmental organization
NUSAF	Northern Uganda Social Action Fund
NRA	National Resistance Army
PRDP	Peace Recovery and Development Plan
RDC	Resident District Commissioner
TJ	Transitional Justice
UPE	Universal Primary Education
VSLO/A	Village Savings and Loans Organization/Association

# Executive Summary

When large-scale violations occur, similar to what happened in what is now commonly referred to as “Greater Northern Uganda” during the 20-year LRA insurgency, it is the ordinary person who pays the price, possibly for a lifetime.

Such conflicts negatively impact the lives of their victims. While some of their effects may be visible to the naked eye, others remain largely invisible. The visible effects can include maims on victims’ bodies, killings that wipe out generations and the destruction of basic social services such as health care, education, housing, water et cetera. The invisible effects, on the other hand, are the mental scars that wars leave imprinted on the minds of their victims who are then forced to navigate through life struggling with the trauma of their conflict experiences.

Most of the victims consulted in this study continue to struggle for survival—each day is yet another reminder of their pain, loss and suffering. Many cannot afford a day’s meal or even pay tuition for their children to attain an education. Others still carry with them, the physical and mental injuries of war, some of which can be addressed through a well-thought out reparations program.

Reparations are not a matter of charity. They are rights. The international legal basis for the right to a remedy and reparation is now firmly enshrined in the elaborate corpus of international human rights instruments widely accepted by States. In Uganda, victims have made demands for reparations for a number of years. During the consultations, they highlighted the potential role reparations can play in helping them improve their dire economic situation by supporting their various livelihood projects and returning the property and other wealth they lost during the conflict. To victims, reparations also have the capacity to help them move forward with their lives, heal their broken hearts and help them forget or come to terms with their tragic past. Only after this initial phase and change in circumstances can victims take the additional step of reconciling with the perpetrators of the crimes committed against them. In this regard, and even though it is widely considered that in order for something to count as reparation, as a justice measure, it has to be accompanied by an acknowledgment of responsibility and it has to be linked, precisely, to truth, justice and guarantees of non-recurrence,<sup>1</sup> the data collected appears to indicate that without first addressing the needs of victims in the country, securing their genuine participation and engagement in other transitional justice processes such as prosecutions and truth-telling will remain an uphill task.

As a matter of rights, reparations are not simply an exchange mechanism that provides benefits to affected communities in the wake of a violation of their rights. The consultations highlighted that the Government’s programs in Northern Uganda which have, among others, been geared towards fostering infrastructural and economic development have fallen short in many ways. Their benefits have failed to trickle down to the grassroots. Additionally, the study reveals that such development programs are not categorized as reparations, because, like all other Ugandan citizens, victims equally have a right to the provision of basic services. They, therefore, lack the special reparative element which would give them a unique status and added value to victims of grave crimes.

In order to stand the test of time, a future reparations program has to largely be informed by victims’ voices. As Uganda looks towards shaping its reparations framework, it is important for the Government and civil society to understand the priority needs of victims, devise appropriate ways of channeling reparations benefits to victims and also conduct an elaborate stocktaking exercise to establish which victim support programs have been undertaken in the past and the reasons for their success and failure. Failure to do so will likely result in the implementation of programs which are far-removed from victims’ needs and which end up triggering victims’ resentment of transitional justice processes. The study is a step in this direction. ASF hopes that more concrete steps will follow. The time has come for the reparations talk in the country to be reduced into real action.

<sup>1</sup> See Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, A/69/518, October 2014, para. 11. Found at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/564/67/PDF/N1456467.pdf?OpenElement>

# 1. Introduction

Victims' right to reparations is derived from various sources and definitions. The *UN Basic Principles on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violation of International Humanitarian Law*, (hereinafter referred to as the UN Basic Principles) provide for their right to equal and effective access to justice including the right to adequate, effective and prompt reparation for harm suffered and access to relevant information concerning violations and reparation mechanisms.<sup>2</sup>

The final draft transitional justice policy of Uganda, which *inter alia* provides the transitional justice framework for victims' access to redress, specifically defines reparations as "redress given to victims of gross or serious human rights violations/abuses[as a form of] acknowledgement of responsibility and accountability".<sup>3</sup> However, very little progress has been realized in establishing clear avenues and systems through which victims of various conflicts in the country can access such redress because of delays by Government to approve the TJ policy.

The draft policy also provides a definition for the term "victim" which forms a central part of the discussion in this publication. Accordingly, a victim is "a person(s) who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or impairment of their fundamental rights, through acts or omissions that constitute gross violations/abuses of human rights and may include – a member of the immediate family or dependent of the victim or other person(s)."<sup>4</sup> This study focuses specifically on victims of the LRA conflict in "Greater Northern Uganda".

Reparative measures can either be in material or symbolic form and on an individual or collective basis.<sup>5</sup> They include measures such as restitution, compensation or monetary benefits for damages; rehabilitation (medical, legal and psychosocial), satisfaction which can include acknowledgement of wrongdoing, apology, decent re-burials of the dead, construction of memorials, and guarantees of non-repetition including reform of laws and civil and political structures.<sup>6</sup>

Past efforts to advance the reparations discussion in the country have included Parliament's unanimous adoption of a resolution to assist victims of the LRA conflict in Northern Uganda.<sup>7</sup> In his motion, Hon. Reagan Okumu, a Member of Parliament representing Aswa county in Northern Uganda, urged the government to establish a reparation fund and offer reparations to individuals and communities affected by Joseph Kony's Lord's Resistance Army (LRA) rebellion.<sup>8</sup> However, this has not been realized to date.

<sup>2</sup> 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, par. 11  
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>

<sup>3</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014) Also see Uganda Law Reform Commission, Concluded Projects, at <http://www.ulrc.go.ug/content/concluded-projects> Accessed 10/05/2017: This policy draft was approved by the JLOS joint leadership and steering committee and is awaiting consideration by Cabinet. The latter process has however stalled and therefore very little progress has been realized in establishing clear avenues and systems through which victims of various conflicts in the country can access redress.

<sup>4</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014), page 8. Also see Basic Principles, para. 8

<sup>5</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014), page 7

<sup>6</sup> Id. JLOS, National Transitional Justice Policy (Final Draft, September 2014), page 7

<sup>7</sup> JRP, Applauding Parliament for adopting a resolution on reparations for war-affected women and children, found at <http://justiceandreconciliation.com/blog/2014/applauding-parliament-for-adopting-a-resolution-on-reparations-for-war-victims/>

<sup>8</sup> Parliament calls for increased government support to LRA victims, <http://www.parliament.go.ug/new/index.php/about-parliament/parliamentary-news/374-parliament-calls-for-increased-govt-support-for-lra-victims>



Different reports<sup>9</sup> on the subject of reparations in Uganda have highlighted a range of salient issues such as the urgent need for the GoU to enact a reparations policy and an implementation framework; the importance of providing victims with physical and mental health services and, where victims have urgent health needs, the establishment of interim assistance programs to provide them with the necessary medical care; the value of establishing reparations programs which also empower victims economically and provide them with access to education and other social services; the need to also consider symbolic reparations such as public acknowledgement of wrong doing and issuing of apologies; the need to pursue accountability for both state and non-state actors; the need for a national truth and reconciliation process; the importance of taking due consideration of the unique experiences of victims of sexual and gender based crimes whose needs and concerns are often on the periphery of reparations discussions and lastly, the longstanding debate on whether or not development programs can rightly qualify as reparations.

<sup>9</sup> UHRC, UNOHCHR 2011 "The Dust Has Not Yet Settled" Victims' Views on The Right to Remedy and Reparation A Report from the Greater North of Uganda, Found at <http://www.jlos.go.ug/index.php/document-centre/transitional-justice/reparations/205-th-dust-has-not-yet-settled-victims-views-on-the-right-to-remedy-and-reparation/file>  
ICTJ 2012, Reparations for Northern Uganda Addressing the Needs of Victims and Affected Communities, Found at <https://www.ictj.org/sites/default/files/ICTJ-Briefing-Paper-Reparations-Uganda-2012-English.pdf>

## 2. ASF Consultations

### 2.1. Background of the Study

This study was undertaken with the strategic goal of getting insight into LRA victims' reparation needs and priorities as well as their perceptions of ongoing reparations discussions.

In a 2016 report, ASF proposed principles and guidelines to inform the Uganda International Crime's Division's practice in relation to court-ordered reparations.<sup>10</sup> The report emphasized the central role victims should play at every stage of the court proceedings.

This current study reinforces the significance of placing victims at the center of any discussions regarding the establishment and implementation of a national reparations program in Uganda. It therefore targeted communities in the Acholi, Lango and Teso sub-regions which were greatly affected by the 20 year LRA conflict.

ASF recognizes the fact that this subject has been widely covered by various actors. The intention of this study, therefore, is not to reinvent the wheel but to, *inter alia*, present victims' perspectives and contrast them against commonly opined views of transitional justice practitioners on reparations. ASF analyzes these diverse views and uses these "victim voices" to inform the policy recommendations made in this report.

### 2.2. Study Methodology

Focus groups discussions were used as the most effective methodology to create a complete picture of how a given issue affects a community of people and for capturing information about social norms and the variety of opinions or views within a population. The format adopted was meant to encourage interaction among participants, allowing them to hear each other's ideas and influence each other through their presence and their reactions.

Participation in the focus groups was based on the principles of informed and voluntary participation, confidentiality and anonymity. Participants were fully informed of the purpose, methods and intended possible uses of the research. A discussion guide covering the topics and issues to be discussed was designed to aid the team in conducting the session.<sup>11</sup> The guide contained only a few items, to initiate each topic, help keep the discussion focused and help drive the focus group discussion, whilst allowing some time and flexibility to pursue unanticipated but relevant issues.

The discussions were facilitated and analyzed by an ASF research team composed of a consultant with transitional justice expertise, 2 ASF staff members, a research assistant, an interpreter and a counselor.

The study was conducted in Pagak, Parabongo and Atiak in Amuru district, Burcoro in Gulu district, Abia in Alebtong district, Barlonyo in Lira district, Obalanga and AmuriaTown Council in Amuria district, all of which were ravaged by the LRA conflict.

Different demographics were targeted under the study and these included youth, community and religious leaders, elders and women who directly and indirectly experienced the impact of various

<sup>10</sup> ASF, Principles on court-ordered reparations: A guide for the International Crimes Division of the High Court of Uganda, Found at [http://www.asf.be/wp-content/uploads/2017/01/ASF\\_UG\\_Court-OrderedReparations\\_201610\\_PP\\_Low.pdf](http://www.asf.be/wp-content/uploads/2017/01/ASF_UG_Court-OrderedReparations_201610_PP_Low.pdf)

<sup>11</sup> See Annex

conflicts in the affected regions. These participants were identified through purposive sampling with the help of community focal persons and local NGOs working closely with victims on the ground. They were randomly assigned to different focus groups, each containing on average, 15 participants. Using focus group discussions, the research team met with a total of 370 respondents. A detailed breakdown can be found in the table below:

Location	Number of Participants	Participation in previous research		Gender breakdown	
		Yes	No	Female	Male
Pagak	44	6	38	16	28
Burcoro	45	5	40	30	15
Parabongo	45	15	30	27	18
Atiak	56	2	54	30	26
Abia	45	20	25	19	26
Barlonyo	45	14	31	25	20
Obalanga	45	25	20	24	21
Amuria Town Council	45	14	31	21	24
<b>Total</b>	<b>370</b>	<b>101</b>	<b>269</b>	<b>192</b>	<b>178</b>

Constant Comparative Analysis approach was used to review qualitative data collected in order to allow patterns and themes to emerge over multiple passes through the data. This methodology allowed the theories about a phenomena being studied to evolve during actual research through a continuous interplay between analysis and data collection. Such a comprehensive data collection approach helps ensure that key aspects have not been missed. Additionally, this approach came with a certain level of flexibility which allowed the team to collect the most relevant data. The multiple sources of evidence led to enhanced data validity and reduced bias, and multiple sources of evidence lead to enhanced validity and reduced bias.

The first draft of this study was submitted to victims' representatives for validation. Their inputs were captured during a validation workshop and integrated in the final version of this study.

### 2.3. | Challenges and limitations of the Study

The report does not claim to represent the views of all victims in the areas which were affected by the LRA conflict. Effort was however made to ensure equal representation of victims from the main areas affected by the conflict.

The large geographical expanse of Northern Uganda also presented a challenge for the study. Because of this, the study was also limited to five districts in the Acholi, Lango and Teso sub-regions. Due to time and resource constraints, the West Nile region was not included.

As already mentioned, the respondents were interviewed in focus group discussions which may have affected the extent to which they could freely share their individual perspectives on the subject of reparations.

## 3. Study Findings

The following aspects were covered during the study: victims' varied understandings of reparations, the link between development programs and reparations, victims' proposals on who should benefit from reparations programs and the violations which should be covered thereunder, the adequacy of any given reparations program and the impact of the conflict on victim communities.

From our study, it is clear that victims have a fairly good understanding of reparations likely because of the numerous advocacy efforts by civil society and other actors. There is however still need for sensitization on the subject. Victims are in dire need of assistance to cover their urgent medical, social and economic needs. The numerous delays in implementing a national reparations program as well as the challenges facing other Government efforts established to assist them has, therefore, left many of them deeply frustrated.

In this section, the study explores some of the key themes emanating from the research undertaken including, the extent to which it validates and challenges common transitional justice approaches to reparations.

### 3.1. ■ Linking Reparations and other Transitional Justice Measures

Reparations are one of several transitional justice mechanisms which should be implemented holistically in a manner which fosters mutual reinforcement.<sup>12</sup> To this end, the widely accepted transitional justice view is that reparation programs should be closely linked with other transitional justice or redress initiatives, for example, criminal justice, truth-telling and institutional reform.<sup>13</sup> It is further stated that through such connections, reparations can be seen as beneficial in terms of justice, rather than as a mere exchange of money and services for appeasement or acquiescence which might contribute to improving the overall perception of the set of measures.<sup>14</sup> The long term benefit of such an approach is that there can be a marked improvement in the overall perception of the reparation measures adopted.<sup>15</sup> Informed by likely similar reasons, the final draft of the Ugandan TJ policy proposes intra-linkages<sup>16</sup> among the various proposed TJ mechanisms with reparations as the common denominator; one which offers redress for victims interfacing with all the other transitional justice processes.

Our findings however appear to be somewhat at odds with the suggestion that stand-alone reparation efforts would have lower chances of success. During the discussions, victims barely linked reparations to other TJ mechanisms and in fact, not once was there mention of reparations either prefaced or followed up by any reference to such other mechanisms as prosecutions and truth-seeking. Asked whether he is interested in what is happening with the Ongwen case, one respondent said,

<sup>12</sup> United Nations 2010, Guidance Note of the Secretary General on the United Nations Approach to Transitional Justice, 1 t [https://www.un.org/ruleoflaw/files/TJ\\_Guidance\\_Note\\_March\\_2010FINAL.pdf](https://www.un.org/ruleoflaw/files/TJ_Guidance_Note_March_2010FINAL.pdf)

<sup>13</sup> Pablo de Grieff, "Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparations and Guarantees of Non-Recurrence" UN General Assembly Human Rights Council 21st Session, 9th August 2012, A/HRC/21/46, at para. 24: "*The Special Rapporteur emphasizes that success in the implementation of the four measures under the mandate, and the likelihood that they will be interpreted as justice measures, depends upon paying heed to the tight and bidirectional relations between them when designing the relevant programmes...*" [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-46\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-46_en.pdf)

<sup>14</sup> United Nations, Rule of Law Tools for Post-Conflict States, Reparations programmes, 33, 34 <http://www.ohchr.org/Documents/Publications/ReparationsProgrammes.pdf>

<sup>15</sup> *Ibidem*

<sup>16</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014), para. 80, 84

*"I don't care about what is happening in The Hague."*<sup>17</sup>

This may be because, irrespective of what happens in The Hague, convicted persons still have to go through the community traditional processes prior to their reintegration into communities.<sup>18</sup>

From the discussions, it was nevertheless also clear that many victims are more concerned about pressing needs such as where they were going to get their next meal, where they would get the funds to pay school fees, meet their children's health care needs; and the daily reality of chronic pains from ordinances, such as bullets, and shrapnel in their bodies; and wounds/injuries from the conflict violence inflicted on them.

Therefore, aspects such as truth-seeking and prosecution rank low on victims' lists of priorities. Such transitional justice processes may run their course, but to these victims, they only attain credibility following the establishment and implementation of a much more urgently needed reparations program that caters for their basic needs.

Victims only raised the issue of legal redress within the context of finding an avenue to pursue reparation awards rather than to prosecute anybody for the crimes which were committed against them. For example, in Barlonyo, community members mobilized themselves to petition court for compensation of the lives of their relatives who were killed during the LRA massacres and the resultant loss of property, but not to hold accountable the LRA commander who led the attack against their camp.<sup>19</sup> This followed an unfulfilled Presidential pledge to provide the said compensation.<sup>20</sup> In Obalanga, one participant shared the lengths they went to in order to facilitate the process of petitioning the Ugandan courts for compensation following the loss of their cattle and relatives during conflict.<sup>21</sup>

Each interested victim willingly parted with a fee of UGX 26,000 shillings. (approximately \$ 7 dollars) to an unknown group of individuals who were stationed in each sub-county. Asked about the identity of these individuals, the participant's response was simply,

*"We did not mind who they were but all we wanted was reparations."*<sup>22</sup>

It is likely that victims do not take note of such details because they are more focused on the issue of reparations rather than the bearer of information on the subject matter. They attach a lot of importance to reparations and will stop at nothing in the search for any resulting benefits. They are willing to spend their meager resources on any process which appears to have the potential of enabling them to receive these benefits. They barely concern themselves with questions around the integrity of the person who is collecting this money with a promise of ensuring that they get the compensation they desperately need. Where they are defrauded by one individual and left with no results, they will still willingly trust the next person who comes to them with yet another promise to help them receive compensation for the harm they have suffered. Their optimism is unwavering.

In addition, when some victims are expressing their disappointment for not having the opportunity to participate in the Ongwen case currently before the ICC, their main problem is not the fact that Ongwen will not be held accountable for the LRA crimes which were committed against them but, rather, that the people of areas such as Lukodi (which is covered by the Ongwen charges) are already receiving assistance from the ICC while they are not.<sup>23</sup>

The veracity of this allegation notwithstanding, it is easy for one to once again see that victims are more preoccupied with the question of reparations or compensation rather than of accountability and/or truth-telling. It could be that, to the ordinary victim, the guilt of a person like Ongwen is a foregone conclusion and therefore what is important is what they get after the accountability

<sup>17</sup> Parabongo representative at ASF Validation Meeting 19th May 2017

<sup>18</sup> Discussion during the ASF Validation Meeting 19th May 2017

<sup>19</sup> Also see, Radio Pacis (October 13, 2016), "LRA Barlonyo Massacre survivors drag government to court", in which it is reported that the survivors filed a suit before Lira High court under their Umbrella Association of Barlonyo Massacre and Survivors Association – BMASA. They sought compensation from government for the loss of their relatives, property and injuries during the attack by the Lord's Resistance Army-LRA. The survivors claim in 2003, government ordered people in war torn areas of Lira district to move to Barlonyo Internally Displaced People's Camp. (<http://www.radiopacis.org/?p=7141>)

Also see A. Wesaka (Daily Monitor August 28th 2014), "War victims want Shs2 trillion pay" On August 25, 2014, the aggrieved families through their lawyer wrote a letter to the Attorney General, Mr. Peter Nyombi, threatening to take legal action against government if they are not compensated as soon as possible.

(<http://www.monitor.co.ug/News/National/War-victims-want-Shs2-trillion-pay/688334-2432738-format-xhtml-ey8ts0z/index.html>)

<sup>20</sup> Group 2, Barlonyo

<sup>21</sup> Group 1, Obalanga The research team could not independently verify the details of the petition in question or clarify the conflict covered under the petition. However, our desk research reveals that a series of petitions seeking compensation for loss of property and livestock during the period of insurgency in the Teso Region have been filed over the years. See J.E. Onyango (Daily Monitor), 16 November 2015, Uganda: Government Earmarks Shs15 Billion for Teso Compensation, <http://allafrica.com/stories/201511161613.html>

<sup>22</sup> Id. Group 1, Obalanga

<sup>23</sup> Group 2, Abia

process rather than the process itself. It is, however, difficult to say conclusively that the award of immediate reparations could trigger victim interest in other transitional justice processes.

*"We already know what happened so we do not care about what is happening in The Hague. Set up a vocational training institution, employ our children who missed school."<sup>24</sup>*

Furthermore, to date, a number of victims informed us that they are still traumatized by their horrific conflict experiences over the years. Some of them have lived through more than one conflict. The LRA one which is often the preoccupation of most actors is only one of the many conflicts<sup>25</sup> that they have survived over the last few years. This has had a serious impact on their mental health. Many of them now struggle to get through ordinary aspects of life such as waking up in the morning, moving from one place to another, concentrating on any given task, sustaining day to day conversations et cetera. They are constantly haunted by horrific memories of the people they were forced to kill, their experiences of sexual violence, the destruction of their homes, the beatings they were forced to endure et cetera. Some, such as one participant in Burcoro, were among the people 'buried alive' by government soldiers during the LRA conflict.<sup>26</sup> This may explain why they are less concerned with the joint implementation of reparation programs alongside other transitional justice mechanisms. Until their trauma is dealt with, such victims cannot be reasonably expected to meaningfully participate in the full spectrum of transitional justice processes.

As such the data collected raise crucial questions that a victims' perception study cannot, in itself, fully elucidate: in their current state, can such individuals appreciate the relevance of transitional justice processes? Are they in a position to publicly or even privately share their experiences through such processes? From our observation of the victims who took part in this study, the response to these questions will likely be in the negative. Indeed, as we have seen over the years even in Uganda, for example with the ongoing trial of Dominic Ongwen and Thomas Kwoyelo before the ICC and ICD respectively, transitional justice mechanisms such as prosecutions and truth-telling can proceed without the involvement of a section of the affected society. However, we must question whether this is the intention of the whole concept of transitional justice. Can we still say that it has realized its ideals when the majority are left out simply because they are not in the right frame of mind to engage in and with the process? All victims deserve the opportunity to see and fully experience the benefits of the various transitional justice processes which are regularly peddled as being implemented in favour of victims.

The common TJ approach is to advocate for a sequenced approach to transitional justice without providing specific guidance on what should come first in the list of transitional justice priorities. This may be attributed to the fact that it does not want to dictate to States how they should approach the implementation of transitional justice programs; application should therefore be guided by the needs and realities of a given context. The cautious step taken therefore is to simply advise States implementing transitional justice to sequence mechanisms in a manner that helps "preserve and enhance the constituent elements of the transition itself—democracy and peace—without which all transitional justice possibilities may diminish in scope and quality."<sup>27</sup> Based on our discussions with victims, it is clear that for a country like Uganda, victims have to first and foremost, be provided with reparations before they can meaningfully engage in any other transitional justice processes. It should be recalled that transitional justice does not operate with a "one-size-fits-all" approach<sup>28</sup> and, therefore, in this case Uganda's context shows the need and importance of first focusing on reparations before other transitional justice efforts.

Without reparations, the interest of victims in the other transitional justice mechanisms will keep dwindling. Their participation in premature truth-telling processes and even prosecutions may, in the long run, simply be for the purpose of receiving some of the small allowances which are given out by government agencies and NGOs during victim engagements rather than a real commitment and belief in the cause fronted by these processes.

<sup>24</sup> Parabongo representative at ASF Validation Meeting 19th May 2017

<sup>25</sup> Karimojong cattle rustling attacks, Alice Lakwena conflict

<sup>26</sup> Group 2, Burcoro Also see JRP, The Beasts at Burcoro Recounting Atrocities by the NRA's 22nd Battalion in Burcoro Village in April 1991 [http://justiceandreconciliation.com/wp-content/uploads/2013/07/Burcoro-Final\\_SM-2013-07-25.pdf](http://justiceandreconciliation.com/wp-content/uploads/2013/07/Burcoro-Final_SM-2013-07-25.pdf)

<sup>27</sup> United Nations, What is Transitional Justice? A Background, 4 [http://www.un.org/en/peacebuilding/pdf/doc\\_wgll/justice\\_times\\_transition/26\\_02\\_2008\\_background\\_note.pdf](http://www.un.org/en/peacebuilding/pdf/doc_wgll/justice_times_transition/26_02_2008_background_note.pdf)

<sup>28</sup> African Union, African Transitional Justice Framework (draft), 15 <https://lawyersofafrica.org/wp-content/uploads/2014/11/AUTJF.pdf>

### 3.2. | Victim Consultations

The research findings bring to light both the pros and cons of conducting victim consultations on issues related to reparations. In his report, the special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, (hereinafter, referred to as the "Special Rapporteur"), notes the importance of consulting with victims in the course of developing and implementing reparation programs in order to increase the fit between the benefits on offer and the expectations of victims.<sup>29</sup>

During the consultations, victims commended the relevance of a number of the victim support programs which have been undertaken particularly by NGOs. Although they do not appear to appreciate the link between the success of such efforts and victim consultations conducted by NGOs over the years, the relevance of the latter cannot be underscored. The relative success such programs enjoy is likely because they are guided by information acquired from victims themselves on their priority needs.

From the same findings however, it is easy to see that victims are equally frustrated with the consultation process despite its presumed benefits. Several victim consultations have already been carried out over the years not just by the government and NGOs but also academic researchers.

*"Many organizations come here...we have filled papers and papers and papers but there is nothing."<sup>30</sup>*

The victims' responses above point to a grand problem, that is, a lack of coordination among the various actors engaging with victims. This is what in the end results in multiple engagement of the same victims by different actors hence leading to victim fatigue in relation to reparations discussions. Victims neither get to read the books and reports which are published about their plight nor do they attend the several workshops in which these issues are discussed.

In addition, victims are likely frustrated by these numerous consultations because, in a number of cases, they have not yielded any tangible reparations result. This has left them disinterested in any further engagements on the subject matter. For a number of these victims, talking about their conflict experiences and any resulting impact is traumatizing; to take the difficult step of opening up and not receive any support only adds to the pain they have endured over the years. After providing information during these various consultations, many of them still wake up to face yet another dreadful day where they are unable to treat their war time injuries, feed their children or pay school fees. It is therefore important that the dire circumstances of victims are addressed before engaging them in the bureaucratic process of setting up a reparations program. The views of the victims we met and the data collected under this study, has led us to believe that some of the victims will not be willing to engage constructively in any consultations or mapping exercises without at least receiving some form of assistance.

It is important to recall that under the draft national TJ policy of Uganda, as part of the steps towards establishing a reparations program for victims affected by conflict, the Government intends to undertake a mapping exercise to among others, identify victims of violations and ascertain who receives reparations.<sup>31</sup> In light of the feedback highlighting victims' frustrations with numerous consultations, such an exercise while beneficial, to the extent that it will provide the necessary information on which to base any eventual reparations program has to be undertaken with caution. Effort should therefore be made to map out the several studies which have been undertaken by different actors on similar thematic issues, identify areas where such exercises have been undertaken. This will ensure that when carrying out the mapping, victims who have already been consulted are not requested to provide the same details regarding violations they suffered.

<sup>29</sup> Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on Victim Consultations, A/HRC/34/62, para. 57 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/441/89/PDF/G1644189.pdf?OpenElement>

<sup>30</sup> Group 2, Obalanga

<sup>31</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014), para. 71



### 3.3. | Purpose of Reparations

The UN lists fostering social integration or reconciliation as a major benefit of undertaking reparations programs.<sup>32</sup>

When asked to state the purpose that reparations would play in their lives, the respondents outlined several benefits, with the leading one being the potential role reparations can play in helping them improve their dire economic situation by supporting their various livelihood projects and returning the property and other wealth they lost during the conflict. To victims, reparations also have the capacity to help them move forward with their lives, heal their broken hearts and help them forget or come to terms with their tragic past. This shows that victims are yearning for a positive change in their lives and believe that in reparations, lies the answer to this quest. Victims also believe that reparations can enable them to receive much needed medical treatment and also look after orphans.

For this section of the study, we look specifically at the role victims believe reparations can play in the promotion of reconciliation because the latter is fronted as a core concept of transitional justice.

Our research respondents saw the value of reparations in fostering reconciliation at three levels: internal community reconciliation (on account of the fact that many people were forced to commit atrocities against their relatives and fellow community members and are now back to living in the same communities), reconciliation between the Government of Uganda and the affected communities (on account of Government's failure to protect the people in the affected region during the conflict as well as the violations committed against them by government soldiers) and lastly, reconciliation between different communities. (Participants particularly those from the Teso and Lango sub-region informed us that there is still existing ethnic tension between them and the Acholi who they blame for causing them untold suffering through the LRA conflict.<sup>33</sup> This blame arises from the fact that Joseph Kony, the leader of the LRA, is an Acholi.)

*"...we are not happy with the Acholi but if we are given reparations, we shall reconcile."<sup>34</sup>*

It is important to note that the link victims make between reparations and reconciliation is informed by their local cultural practices in case of violations. In Pagak for example, a respondent shared the traditional objective of reparations; somebody provides reparations so that they can be remembered for it and then reconciliation can ensue.<sup>35</sup> Among the Acholi, Teso and Lango, there are established ceremonies in place to foster reconciliation where one clan is wronged by another; during such ceremonies, the clan at fault has the responsibility to provide compensation to the other clan and then eventually reconciliation can ensue.<sup>36</sup> In such cases, reparations have to come first, that is, prior to the parties delving into any deeper discussions on the violation at hand. Without reparations, traditional processes are devoid of credibility and significance.

Our consultations, however, show that victims do not see reconciliation as an automatic outcome of awarding reparations likely because the war left the affected communities so broken to the extent that reconciliation is a complex affair. Under the draft national transitional justice policy, reconciliation is defined as "the process that yields restoration of broken relationships through acknowledgement, repentance and forgiveness by parties to a conflict."<sup>37</sup> The AU too acknowledges the complexity of the term and highlights the fact that it doubles both as a goal and a process which should address the relationships between former enemies at all levels.<sup>38</sup>

It is therefore no wonder that for the victims we contacted during the study, reparations are only seen as one small step towards achieving the long-term goal of reconciliation. From their feedback, it is clear that they must, first and foremost, feel whole again through the reparations process before they can reconcile with those they deem responsible for their suffering. They strongly believe

<sup>32</sup> UN General Assembly 2014, Report of the Special Rapporteur Promotion of truth, justice, reparation and guarantees of non-recurrence, para. 9 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/564/67/PDF/N1456467.pdf?OpenElement>

<sup>33</sup> Group 2, Obalanga; Group 1, Abia

<sup>34</sup> Group 2, Obalanga

<sup>35</sup> Group 2, Pagak

<sup>36</sup> Information gathered during the ASF Validation meeting 19th May 2017

<sup>37</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014), page 7

<sup>38</sup> AU, African Transitional Justice Framework, 39 Found at <https://lawyersofafrica.org/wp-content/uploads/2014/11/AUTJF.pdf>



that reparations will bring them happiness and peace of mind. Only after this initial phase and change in circumstances can victims take the additional step of reconciling with the perpetrators of the crimes committed against them. Reconciliation cannot, therefore, be realized in the abstract. It can only be taken up by victims who finally feel that their lives are changing for the better and that society understands the pain and suffering they underwent.

Furthermore, for some victims, reparations are not necessarily the pre-condition for reconciliation. One participant whose daughter was abducted and has not returned home to date emphasized that maintaining the current peace that they enjoy is the one thing that will help them reconcile with the Acholi.<sup>39</sup> In his words:

*"All we need is peace and we shall reconcile even with the Acholi; even if you people do not give us reparations, if Kony does not come back, we shall not mind."*

Reparations implemented in the context of looming uncertainty on the likelihood of returning to conflict does not therefore favour reconciliation. Recent developments reported on the withdrawal of American and Ugandan troops from the Joseph Kony hunt are therefore worrying and a disappointment for victims of LRA atrocities.<sup>40</sup> This will likely negatively impact any reconciliation efforts among the affected regions.

### 3.4. ■ Modes of Reparations

Transitional Justice practitioners recommend the provision of both individual and collective reparations in order to cover a large number of victims.<sup>41</sup> In the final draft national transitional justice policy of Uganda, it is acknowledged that receipt of some form of compensation or reparations from a perpetrator to the victim, their families or community members is a prerequisite for justice to be done.<sup>42</sup> The policy clearly envisages the application of both collective and individual reparations.

According to the report of the UN Special Rapporteur, victims are unlikely to perceive collective reparations as reparations because they do not target them specifically.<sup>43</sup> From the consultations, we found this perspective to be true among certain groups of victims. However, it is evident that victims have varied preferences when it comes to deciding on the appropriate mode of reparations which should be implemented in their respective regions. The final approach taken is thus determined purely by the context in which one seeks to implement a particular reparations program.

For some of the victims we met, individual reparations are seen as a better option because they leave them with room to decide how to use a given reparations award. This may be because in a collective reparations structure, their hands may be tied. For example, where resources are given to a group, victims irrespective of their own reservations, will have to go with the decision of the majority especially regarding issues such as how to invest, implement and manage a given reparations grant. The other reason why victims prefer an individual reparations path is because of the urge to cut out the "middle-man" and thus guarantee maximum reparation benefits for the individual. In such a case, the reparations body can approach them directly with a given grant and thus reduce the likelihood of their reparations award being embezzled by other group members.

*In case help is given to groups, it will just fly away. They will not remember us. Please bring help directly to us.<sup>44</sup>*

*"Let people be given things in their hands; there are very many thieves, they will use the group opportunity to steal from others."<sup>45</sup>*

<sup>39</sup> Group 2, Obalanga

<sup>40</sup> Michael Ojok, 25 April 2017, Northern Ugandans react to end of LRA hunt, Found at <http://letstalk.ug/article/northern-ugandans-react-end-lra-hunt>

<sup>41</sup> Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, A/69/518, para. 31 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/564/67/PDF/N1456467.pdf?OpenElement>

<sup>42</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014), para. 54

<sup>43</sup> Id. Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, A/69/518, para.40

<sup>44</sup> Group 1, Amuria Town Council

<sup>45</sup> Group 1, Amuria Town Council

During the consultations, we also observed that victims who lost specific physical items often know them by heart and would like these to be returned to them individually. They are able to remember such details likely because of the significance these items had in their individual lives or in the lives of their family members. Additionally, clinging onto these details may also be a syndrome of their inability to get closure on the trauma that they have suffered. To this extent, developing a one-track program which opts for collective reparations because they are perceived to be easier to manage, has the potential of leaving such individuals frustrated and disappointed with the reparations process.

From the data collected, individual reparations seem to be the main priority because while crimes may change the community as a whole, their effect on the individual is far more serious and close to heart. Some victims are of the view that traumatic experiences such as rape which affect an individual in a personal way and whose impact can seldom be shared with the rest of the world cannot be adequately addressed using communal reparations. In such instances, individual reparations are seen as more appropriate. One participant stated as follows:

*"Let it be given to me as an individual because when the insurgency was here, they did not gather us together to start beating us, torturing us. They tortured you alone wherever they found you."*

In parallel, during the consultations, many victims also supported the idea of collective reparations projects such as hospitals, schools, roads et cetera which they can freely access for their benefit. Victims who are still nursing war-time injuries can then access these hospitals for treatment and surgeries where necessary. The schools on the other hand, can benefit those who missed out on the opportunity to attain an education due to the conflict. A technical school would particularly be beneficial in equipping many with practical skills that they can then rely on to earn a living. Good roads will facilitate easier transportation to the market and thus foster business growth in the affected regions. While these projects were seen as beneficial by some community members, the biggest disappointment expressed was that they would benefit everybody, including those who did not suffer during the conflict.

A section of victims also supported a collective reparations model that takes the form of channeling support through their local village savings and loans organizations<sup>46</sup> and other survivor groups<sup>47</sup> which they have formed over the years with the assistance of NGOs and sometimes independently. Some of the survivor groups highlighted during the consultations are divided along demographic lines such as the youth, the old, widows, widowers et cetera. These groups have likely been established to enable victims to fundraise for support from external actors, demand for recognition and compensation from the Government and also jointly carry out various livelihood support projects and initiatives.<sup>48</sup>

In his Reparations Handbook, Mr. Pablo de Greiff currently the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, proposes that States could issue collective grants to villages and sub districts to be used as start-up capital for a local microfinance institution.<sup>49</sup> He notes two major challenges which may arise from such a model: it fails to distinguish between victims and those who did not suffer directly, or worse, those who aided or participated in the abuse. In addition, because victims do not choose to consciously take part, this option can reduce their sense of local ownership and responsibility.

The group support model proposed by the victims we met may register some form of success because, unlike the approach criticized by Mr Pablo De Greiff, these are groups which have already been established by victims themselves and therefore members already have a certain level of trust amongst themselves. They also reduce on the potential cost both in terms of resources and time which may need to go into establishing new community groups. The challenge however, may be the fact that many of them are informal structures which would require some formalization in order to execute their reparative mandate on solid legal ground. This process, if forced on victims would likely create an additional burden as opposed to remedy. Furthermore, for various reasons, some victims do not belong to such groups and therefore if this model is taken up, the Government will have to undertake the challenging task of not only establishing such groups but also convincing such victims to join them.

<sup>46</sup> Group 1, Atiak

<sup>47</sup> Group 3, Parabongo: There was preference to channel support through established associations such as the Parabongo Massacre Association. Also see JRP Field Note XVI, October 2012 Paying Back What Belongs To Us: Victims' Groups in Northern Uganda and their Quest for Reparation, <http://justiceandreconciliation.com/wp-content/uploads/2012/11/Paying-Back-What-Belongs-to-Us-Web.pdf>

<sup>48</sup> Shared during various FGDs and also highlighted during the ASF validation meeting 19th May 2017

<sup>49</sup> Pablo de Greiff 2008, The Handbook of Reparations, 687

The other justification some victims fronted for advocating for support to be channeled through such groups is the fact that some of the victims are in a disadvantaged position. For example, disabled victims may not be able to personally look after any animals which are given as part of a reparations program and it would, therefore, be best for them to be part of a group which includes both the able and disabled who can assist them to take care of such animals.<sup>50</sup> This thinking by victims is likely shaped by their sense of community which has helped them deal with the impact of conflict on their societies and the need to ensure that all victims, irrespective of their circumstances, can benefit from any form of support which will be provided.

However, some of the victims we consulted were not in favour of being provided with support through such groups because, in the past, certain individuals in these groups have embezzled group resources.<sup>51</sup>

*"There are those who have gone to school, those ones will oppress us. They will take everything and leave those of us who have not been to school."<sup>52</sup>*

This goes to show that while the provision of reparations to affected communities may be a noble goal, there are individuals (including victims themselves) who may misuse this process for personal gain. It, therefore, follows that if such a model is adopted, the body responsible for implementing a given reparations program must carry out its due diligence to ensure that only persons of integrity are appointed into positions of authority within these groups and also maintain close oversight of the group's operations. In addition, when looking at a group support model, issues such as the varied education levels of individuals forming the group should be considered in order to avoid mistrust.

Furthermore, complaints were raised in relation to the fact that these groups often have very limited resources which cannot sufficiently cover the needs of all the group members. Any reparation plan therefore has to set the minimum and maximum number of members for each group and also award adequate resources to avoid group tension and a complete breakdown of the established structures. The AU recommendation to states about including a clear strategy for resource mobilization in a given reparations policy should therefore be prioritized by States such as Uganda.<sup>53</sup> Short of this, any reparations processes established may leave victims even more frustrated.

### 3.5. ■ Scope of Reparations

The Special Rapporteur for the promotion of truth, justice, reparations and guarantees of non-recurrence recommends what he terms as a "complex" reparations program which includes both material and symbolic reparations and is therefore in position to cover various victim needs.<sup>54</sup>

He further adds that material reparations may take the form of financial compensation or support towards education, health care, housing et cetera.<sup>55</sup> Symbolic reparations on the other hand may include steps such as issuing a Government apology, monuments, enacting commemoration days, the change of names of public spaces, the creation of museums and parks dedicated to the memory of victims, or rehabilitation measures like restoring the good name of victims.<sup>56</sup>

Similarly, under the Draft National Transitional Justice Policy, Uganda intends to implement monetary compensation, collective, symbolic and other forms of reparations such as social services for the affected communities.<sup>57</sup> Throughout our discussions, it was evident that victims support the implementation of both material and symbolic reparations programs.

According to the UN Basic Principles, full and effective reparations include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

*"Restitution includes restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property".<sup>58</sup>*

<sup>50</sup> Group 1, Burcoro

<sup>51</sup> Group 2, Obalanga

<sup>52</sup> Group 1, Amuria Town Council

<sup>53</sup> AU, African Transitional Justice Framework, 39 Found at <https://lawyersofafrica.org/wp-content/uploads/2014/11/AUTJF.pdf>

<sup>54</sup> Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, A/69/518, para. 30

<sup>55</sup> Ibidem.

<sup>56</sup> Ibidem.

<sup>57</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014), para. 54

<sup>58</sup> Basic Principles, para. 19

Drawing from the various discussions with victim communities, there is a view that restitution cannot be fully realized on some issues. In the areas in which these consultations were conducted, many acknowledged that while they would like to be put back in their original state or way of life, some aspects such as their family lives can never return to what they used to be. This may be because they have lost so many loved ones who, short of a miracle, cannot be brought back to life. Therefore, there is very little that can be done to return families to what they used to be in the past. To date, many are still waiting for their children to return from abduction and despite some efforts by the government for example through offensives against the LRA, there has been very limited success in this area.

The participants in our various Focus Group Discussions reminisced about a past where the young respected the elders; the latter had the opportunity to hand down dearly held society traditions to the younger generation. In Obalanga for example, a focus group participant noted that children in IDP camps never had the opportunity to learn how to dig and yet this is a very significant aspect of Teso culture.<sup>59</sup> The war and specifically the IDP camp setting brought an end to this sense of family life and culture. Due to the imminent dangers of war and the struggle for survival at the time, these traditions had to be abandoned and this haunts communities to date. Many of the elders we met complained that today, the youth act disrespectfully towards them and move around with reckless abandon, caring very little about their traditions.

It maybe over-ambitious to suggest that reparations can ably address an issue which goes to the core of the fabric of society and family life. However, seeing at the value that the victims we consulted attach to their cultural institutions which are seen as the guardians of tradition, one could look to them as the avenue through which a reparations program can address issues related to a breakdown in traditions. In the Draft National Transitional Justice policy of Uganda, these institutions are given three key roles, that is, collaborating with actors in the TJ process to uphold cultural values; providing cultural guidance in the implementation of TJ mechanisms and sensitizing communities on TJ matters and processes.<sup>60</sup> Following the feedback we received from the consultations, it may be beneficial for the role of the cultural institutions to be expanded to include organizing community sessions dedicated to educating the young generation about cultural values and norms. This would in many ways appease the elders who believe that the war destroyed this aspect of society and would in turn serve as some form of society restitution.

Because tradition is very central in the lives of many of the individuals that we consulted, the government has to work hand in hand with traditional institutions to ensure that they closely monitor and follow the reparations process.<sup>61</sup> They can then sensitize their people on its benefits and make them see that such a process is complementary to their traditional practices. In the absence of such sensitization by these guardians of tradition, community members may still go after individuals they suspect to have wronged them despite receiving reparations from the Government. Traditional leaders are in a better position to explain to their community members that the administrative reparations process in this case is adequate to address what happened.

It should however be recalled, that some areas do not have strong traditional structures and therefore relying on them to support the reparations process will first require building the capacities of the existing traditional leaders.<sup>62</sup>

Respondents also recognize the limitations of their traditional ways in resolving some of the challenges that have resulted from the conflict. They do not have the capacity to address the widespread killing that has arisen from the conflict.<sup>63</sup> Family members have killed their fellow family members, neighbors have killed their own people and therefore traditional systems are not in position to deal with such situations or even provide the required compensation.

On the other hand, many victims were of the view that unlike their family life which may not be returned to normal, the return of their property is possible. Victims strongly believe that restitution of their lost properties is a necessity. This may be because they are in dire economic and social need since a number of them lost their animals and land during the conflict. Land wrangles have arisen because many people returned from the IDP camps or abduction only to find their land taken by other family members or even neighbors. A return of different lost items including land would mean that victims can finally have a fresh start and support themselves without having to live from hand-to-mouth or even beg for land on which to farm and live.

<sup>59</sup> Group 3, Obalanga

<sup>60</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014), 38

<sup>61</sup> Barlonyo participant during the ASF validation meeting 19th May 2017

<sup>62</sup> Amuria participant during the ASF validation meeting 19th May 2017

<sup>63</sup> Participants during the ASF validation meeting 19th May 2017

This is a key priority of most victims despite the fact that the Draft National Transitional Justice policy omits to include restitution as one of the Transitional Justice programs that it will implement likely because it may require a complete overhaul of the whole land administration system and also that a return of lost animals and other property may be challenging for various reasons including the complexity involved in verifying what was indeed lost during a period of conflict. For the latter, therefore compensation may be seen as the most viable option.

As highlighted previously, many of the victims we met could clearly enumerate the various items they lost during the war and have over the years, participated in different government exercises aimed at documenting their lost properties. However, a series of challenges are evident which may impact on the success of any ensuing restitution program. How will a clear determination of the property that they lost be carried out? Who will prove that they owned such property? Land records were often destroyed during the conflict period. In addition, for certain individuals particularly those whose elders died during the war, there may be difficulty in proving issues such as their land ownership and inheritance claims. Relatives present are often the very ones evicting them from the land and will therefore not provide any oral proof of ownership. These challenges impact on a major AU recommendation urging states to design reparation programs which can address the structural nature of economic and social cultural violations such as property and land dispossession.<sup>64</sup>

Despite these challenges, victims strongly believe that the return of their lost items is the key to ensuring that they return to their once economically and socially prosperous past.

*"Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage and costs required for legal or expert assistance, medicine and medical services, and psychological and social services".<sup>65</sup>*

A number of the victims we met are interested in receiving compensation in the form of monetary compensation for the losses they suffered during the conflict. This may be because they currently do not have the money to access health care facilities, send their children to school or even afford daily basic necessities.

The victims we met were however reluctant to set the exact figure they would like to receive in the form of compensation.

*"We cannot decide the amount because a beggar has no choice."<sup>66</sup>*

This sentiment is likely because victims have spent several years asking the government to compensate them for their losses without much success.<sup>67</sup> They are therefore willing to take whatever is given to them in the form of compensation.

The fact that victims see themselves as beggars nevertheless raises questions on whether transitional justice has the capacity to fully achieve one of its main aim of providing recognition to victims not only as victims but as rights holders.<sup>68</sup> It essentially means that extensive outreach will have to be conducted with victim communities in order to ensure that even during the course of implementing any reparations program, they are in a position to see themselves as key stakeholders in the transitional justice process as a matter of right and thus consistently demand for any services or benefits listed as part of a reparations process. It is safe to assume that such efforts may not form

<sup>64</sup> AU, African Transitional Justice Framework, 21

<sup>65</sup> UN Basic Principles, para. 20

<sup>66</sup> Group 3, Amuria Town Council

<sup>67</sup> Also see 13 June 2012, LRA victims rap compensation delay Found at <http://www.irinnews.org/news/2012/06/13/lra-victims-rap-compensation-delay>

<sup>68</sup> UN, A/69/518, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, in accordance with Human Rights, Focus: Reparations, para. 9

a top priority for any agency charged with implementing a reparations program and that is where the combined efforts of different TJ stakeholders such as CSOs would be required to contribute to the process by sensitizing the victims/beneficiaries.

As one might expect, the few victims who willingly shared their compensation expectations provided varying figures based on the worth each one of them attached to their various losses. Any reparations authority therefore has to take into account the fact that clear criteria will have to be established to determine the amount of compensation to provide to each individual. While all victims have endured losses, from the information which was shared with us, it is clear that some victims have lost far more than others and therefore a uniform compensation system, albeit easier to manage, may leave some victims feeling unfairly treated by the established reparations authority.

In addition, when probed to explain how they arrive at the stated expected compensation figure, none of the victims brought up possession of any receipts to prove ownership of their lost property. Any reparation process will therefore have to take into account the fact that victims do not have clear records to prove some of the losses they highlight. This may be because they rely more on a communal system where neighbors, family and friends often assist to verify information concerning the losses suffered by any individual. Further, any proof of ownership and receipts may have been destroyed during the conflict.

While some victims support receipt of monetary compensation, many say that they should be provided with both monetary and non-monetary support in the form of animals which they can rare both for food and income and further, that their children should be supported to pursue an education in addition to pursuing psycho-social support provided. They believe that such support is more sustainable for the long-term.

*"Government should not only give us money because money vanishes."<sup>69</sup>*

*"...money might not address all problems say in the case of psycho-social support issues which cannot be addressed by money."<sup>70</sup>*

*"In Acholi we say "ngat ma omini bwoo onyo goli ber loyo ngat ma omini rec" which means a person who gives you a fishing net or hook is better than he who gives you a fish. We want somebody to give us something which will sustain us for long."<sup>71</sup>*

Many victims complained about the various economic and education opportunities they have lost over the years. They however believe that no amount can ever be enough to compensate for such items. Providing compensation for such lost opportunities and loss of earnings, while important, may not be helpful in the context because of the long passage of time. As highlighted during the Focus Group Discussions, for parents who missed out on the opportunity to go to school due to the conflict, an ideal reparation program is one which ensures that their children are given the education opportunities that they themselves missed out on.<sup>72</sup> Reparations in this case take on a trans-generational form which moves away from the more traditional structure of providing compensation, for example, to the exact individual who was affected by the conflict.

Victims are also interested in receiving compensation in the form of medical care as well as psychological and social services.<sup>73</sup> Such interventions can allow them to afford the costs of accessing services to, for example, receive treatment for the injuries and trauma they continue to nurse as a result of the conflict. This, however, cannot be a one off payment; some of the victims we spoke to have been paying for treatment for the last couple of years and therefore giving them a one-off payment may not be reflective of their circumstances and may in the long-run place a heavy financial burden on them. The costs provided for such services should therefore be on a case by case basis and planned for the long-term.

<sup>69</sup> Group 1, Barlonyo

<sup>70</sup> Group 2, Abia

<sup>71</sup> Group 1, Parabongo

<sup>72</sup> Group 2, Abia

<sup>73</sup> Group 2, Parabongo



A number of victims informed us that they are still recovering from trauma and other illnesses they acquired in the course of different conflicts. Medical and psychosocial care is therefore a key priority. Many of them are not in a position to afford access to good health care because of its high costs. They would therefore greatly benefit from established facilities where they can acquire medical and psychosocial care for their war time injuries at zero cost.

Oftentimes, aspects such as the need for medical and psychosocial care are fronted as the most critical social services required by victims. Our consultations show one area which has largely been neglected, that is, providing victims with access to clean water in light of the fact that several watering points were destroyed during the conflict. Today, victims in some areas reported that they have to get their drinking water from the same sources as their animals<sup>74</sup> which leaves many of them feeling humiliated and prone to disease. In addition, aspects which impact on victims' capacity to enjoy any eventual social services need to be covered under a reparations program. For example, we listened to complaints related to the fact that communities still live with the fear of stepping on landmines which were left behind during the conflict.<sup>75</sup> Therefore, in thinking about reparations, it is important to explore often neglected issues which go to the core of victim's dignity and capacity to enjoy their lives.

There is also need for victims to be provided with access to free legal services in order to place their reparation demands before courts of law. Victims want to sue the government because of its failure to protect them during the LRA conflict. Participants at the validation meeting provided the historical context for this blame—in the years prior to the conflict, communities had the traditional governance systems –and guns- to protect themselves but these were taken away by the Government and therefore, when the conflict began, all that the people could do was watch helplessly as their communities were destroyed by the rebels. Despite taking away this public order management role from the communities, the Government failed to protect them from the LRA attacks. Although many victims want to sue the government for this lapse in responsibility, they are left stranded because of the heavy financial burden they have to bear if they are to pursue court proceedings. Providing them with legal support as part of a reparations program would therefore enable them to pursue this avenue for justice.

Drawing from past experiences of victims, it is important for such support to be closely monitored in a bid to ensure that it serves a reparative purpose. Victims told stories of cases where they have been able to receive compensation from government but this partially goes into legal fees and also payment to the executive leaders of the associations which have sued for compensation. In the end, victims receive very little for the loss they have undergone.<sup>76</sup>

*"Satisfaction entails verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations; the search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities; an official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; public apology, including acknowledgement of the facts and acceptance of responsibility; judicial and administrative sanctions against persons liable for the violations; commemorations and tributes to the victims; inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels".<sup>77</sup>*

To the victims we consulted, a relevant aspect of satisfaction as a form of redress is that of searching for the whereabouts of the disappeared and the dead. This is because many of them have relatives who were abducted and have never returned home to date. They therefore do not know if they are dead or still alive. In the end, family members rely on their cultural practices to establish the facts from local mediums. It would therefore be helpful if any reparations program prioritizes establishing facts regarding missing family members. For this to serve as a meaningful reparations program, it would have to incorporate the different victims' cultural practices in order to ensure that the local communities are involved in these processes.

<sup>74</sup> Group 3, Atiak

<sup>75</sup> Group 1, Pagak

<sup>76</sup> Revelations during the ASF Validation Meeting 19th May 2017

<sup>77</sup> Basic Principles, para. 22

Memorialization is also a major priority for victims in the affected communities. To demonstrate the importance of this issue to victims, when a victim was asked whether he viewed Obalanga Comprehensive Secondary School which was established by the Government<sup>78</sup> as a form of reparations, his response was simply:

*"...if that school was as a result of the war, then it should have been a memorial school like Mukura memorial school. We also have a mass grave here."<sup>79</sup>*

During the validation meeting, a representative from Amuria district noted that the construction of this school was more of a political pledge from the President following the overwhelming political support he received in the area rather than a project undertaken as a response to the suffering that the people of Obalanga went through during the conflict. Because of this, victims do not believe that it qualifies as a reparations project. It is important to recall that political promises without a public reparative motive are self-serving and do not advance the needs of victims.

From these responses, one can also see that victims attach great value to even the simplest of issues such as the names of some of the monumental projects undertaken by the State. It is therefore important for the Government, while implementing various reparation projects, to constantly find ways of drawing direct links between conflict and the various projects undertaken in honor of victims.

Some victims also proposed the construction of monuments in memory of those who lost their lives during the conflicts in their respective areas. In Parabongo, for example, victims would like the Government to construct a memorial building in the area which they can use to store records and information about their dead and as a tourist center.<sup>80</sup> This demonstrates the great importance they attach to remembering their dead with the additional goal of exploring ways through which memorial projects can help them earn some income that can benefit their communities. In thinking of possible symbolic reparations projects, it is important for the Government to focus on projects which serve this dual purpose.<sup>81</sup> Similarly, a representative from Pagak reported that they have lobbied both Government and NGOs to support building of a monument in their area in memory of the victims who lost their lives but this has not yielded any fruit to date.<sup>82</sup>

In addition, in honoring victims through memorialization, government must maintain the utmost level of honesty. Failure to do so makes such reparations efforts meaningless to victims. In Barlonyo for example, community members complained about the Government records which allege that only 121 people were killed in the area and yet to the best of their knowledge the number stands at 301.<sup>83</sup> In Abia, the number of dead recorded on the monument is 139 and yet survivors believe that this number stands at 150.<sup>84</sup>

Further, victims attach great value to commemoration day celebrations they hold every year in remembrance of the days on which their friends and relatives passed on.<sup>85</sup> Many complained that government officials rarely participate in such events which makes them feel completely disregarded.

While apologies are seen as a particularly important step in healing victims, they have to be followed by support to victims in order for them to have any added value. A Pagak participant at the ASF Validation meeting summarized it as follows:

*"Apology and forgiveness does nothing for us. Have people really forgiven? When somebody comes and apologizes, you have lost your dear ones and you are taking care of orphans. What next after the apology? How will the apology support you? How will it cure your brain? How do we take care of our orphans after the apology? Within the apology speech they give, they also have to tell us what they will do for the children who lost their parents? That is a good apology."*

Victims also believe that for apologies to have any significance, they have to specifically state what happened to them and where the Government failed. If made in passing, they only further infuriate victims.<sup>86</sup>

<sup>78</sup> S. Naulele (New Vision), February 8th 2010, LRA Memorial School to Be Built in Teso <http://www.arlpi.org/february-8-2010-lra-memorial-school-to-be-built-in-teso>

<sup>79</sup> Group 3, Obalanga

<sup>80</sup> Group 3, Parabongo

<sup>81</sup> This was listed as an urgent priority in Group 2, Parabongo

<sup>82</sup> Pagak representative, ASF Validation Meeting 19th May 2017

<sup>83</sup> Group 3, Barlonyo

<sup>84</sup> Abia participant, ASF Validation Meeting 19th May 2017

<sup>85</sup> Barlonyo 21 February, Parabongo 28th July Memorial prayer, Atiak 20th April, Obalanga 15th June, Abia 4th February, Burcoro 14th April, Pagak 16th May 2004 (In Pagak, a validation meeting participant noted as follows: "...we had one memorial prayer and that was the end, we requested civil society or government or any wealth wisher to come and join us and we build a monument but to date nothing has been done...")

<sup>86</sup> Criticism of President Museveni's apology to victims of Barlonyo attacks was raised at ASF Validation Meeting 19th May 2017. For more details on the apology, see New Vision, Museveni visits Lira, makes public apology 25th/02/2004, found at [http://www.newvision.co.ug/new\\_vision/news/1106244/museveni-visits-lira-makes-public-apology](http://www.newvision.co.ug/new_vision/news/1106244/museveni-visits-lira-makes-public-apology)



Victims also highlighted the fact that reparations programs need to look specifically at issues related to the reintegration of former abductees and other returnees who come back home after years of living in captivity, in IDP camps or other areas. This is likely because the ill treatment of such children has led to tensions within the communities. Although some have been embraced by their families and communities upon their return, the majority still struggle to fit back into society. Many have to bear the shame of having been members of the LRA and the insults and disdain from community members who look at them as the cause of their suffering. The rest of the community rarely takes into account the fact that they were abducted against their will. In Pagak, one returnee reported that the rumors spread about returnees have led to a breakdown in some of their marriages.<sup>87</sup> The issue of the reintegration struggles of children fathered by former rebels and UPDF soldiers was also raised. The parents of such children struggle to take care of them. In addition, the communities' negative treatment of such children has left them cruel and harmless not just to their own families but to the community as a whole.<sup>88</sup> Many of them have no place to call home.

The gains of reparations will therefore not be realized or safeguarded if issues concerning reintegration are not put at the forefront of the agenda. Providing such returnees with, for example, monetary compensation without ensuring an enabling social environment for them to get back on their feet is pointless. How will they be able to run successful business projects with such compensation in communities which still look at them as criminals? How will they be able to enjoy the benefits of education in a classroom where fingers are constantly pointed at them for their past actions?

Although some sentiments were raised on aspects such as ensuring accuracy in number of the dead which has a truth-telling element, they did not take center-stage in the discussions. Furthermore, a judgement delivered by the ICD or ICC on the guilt of any accused person is not a satisfaction because regardless, such a person still has to be dealt with by their cultural systems when they return to the community.

Key to also note is the fact that for the elderly in communities, provision of housing is seen as a more urgent and appropriate reparation benefit because many of them are homeless and also do not have the physical strength to manage a reparations project in the form of agriculture for example which would require full-time dedication.

*"If you want to support the elderly, you should build them houses because they have nobody to help them build or even repair their houses."<sup>89</sup>*

*"...even if I am given cattle I cannot even look after them so build houses for us the elderly."<sup>90</sup>*

Therefore, in determining the appropriate reparations program to implement, the Government must also be guided by the realities on the ground.

### 3.6. ■ Development Programs versus Reparations

The Government of Uganda is currently implementing a range of programs aimed at rehabilitating the Northern Uganda region.<sup>91</sup> They include programs such as NUSAF, post-war recovery and presidential pledges programs which intends to fulfill the president's pledges to victims of the LRA and other conflicts in the Northern region, the Peace, Recovery and Development Plan (PRDP) et cetera. Various projects have been undertaken by these different programs and these include distribution of hoes, ox ploughs, construction and rehabilitation of vocational institutes in Northern Uganda, re-stocking of animals, construction of low cost housing for former IDPs et cetera.

In the different communities we visited, the victims listed some of the Government programs they have heard about and in a few cases, personally benefited from. Examples of these included UPE, NUSAF, PRDP, Youth Livelihood Program, NAADS. Under these programs, schools, roads, hospitals, boreholes, teachers' quarters, local government office blocks have been constructed, rural electrification programs undertaken and agricultural implements, seeds as well as animals have been given to some victims. The transitional justice policy also notes that the GoU is currently settling victims of the NRA/LRA bush war in the Acholi sub-region (the Acholi war debt claimants) as well as ad hoc directives by the President in the form of monetary compensation for victims of the Mukura massacre in the Teso sub-region.<sup>92</sup>

These government programs form a core part of the discussion on reparations because they have been undertaken in response to the impact of the conflict that wrecked Northern Uganda.

<sup>87</sup> Group 2, Pagak

<sup>88</sup> Group 1, Parabongo

<sup>89</sup> Group 1, Parabongo

<sup>90</sup> Group 1, Parabongo

<sup>91</sup> See website of the Office of the Prime Minister for more details on the government programs targeting Northern Uganda, <http://opm.go.ug/northern-uganda-rehabilitation/>

<sup>92</sup> JLOS, National Transitional Justice Policy (Final Draft, September 2014), para. 55

Therefore, some of the victims we met believe that they qualify as reparations programs. This may be a matter of perception but can also be attributed to the fact that they may not be aware of the distinction between reparations and development programs which is often fronted by transitional justice experts. The Special Rapporteur has time and again cautioned governments against passing off development programs as reparations because in addition to having a right to basic services, victims also have an individual right to reparations.<sup>93</sup> However, there is a clear failure to realize that victims tend to look more at the eventual objective of different programs and are less concerned with their assigned names. Therefore, ideally, the concern of the Special Rapporteur should be on whether such programs are making a real difference in victims' lives.

The thinking of some victims is however in line with the Special Rapporteur's position. When asked whether the different government interventions amount to reparations, their response is in the negative for various reasons which include the fact that such programs benefit everybody, including those who did not go through the conflict experience. Participants further noted that they are already entitled to development projects such as access to quality education, health care and good roads simply by virtue of being Ugandan citizens and that it is the government's role to take care of them in this regard.

*"If the road is tarmacked, it is a government program. We pay taxes. If they give us a road, now that goes back to a group benefit. It is only those with cars who will use it and for you who suffered you won't manage. The hospital is in bad shape. The doctors end up asking us to go to their own clinics."<sup>94</sup>*

Additionally, similar programs have been undertaken in other parts of the country, including those that have not undergone any conflicts. The Special Rapporteur discusses this issue in the context of collective reparations programs that include those goods, which once available, are difficult to keep others from consuming.<sup>95</sup> He cites the example of a hospital which can be used by both victims and non-victims. The victims we consulted believe that for government programs to be categorized as reparations, there must be an individual benefit provided to them. To emphasize this point, one respondent blatantly said,

*"Finish with us, pay us and even if you want to build the schools, you will build but after you have finished dealing with us."<sup>96</sup>*

Drawing from the recommendations of victims, one way of giving Government programs a reparations touch could be by, for example, providing conflict victims with free access to the hospitals and schools which are constructed in their areas. These should be fully-equipped with the necessary infrastructure and manpower. It is one thing to market some of the results of these programs such as the establishment of technical institutes. However, as pointed out by the respondents, of what use are such schools if all victims can do is look at how glorious their buildings are and only dream of a time when they will have the money to access them?

Referring to Abia Memorial Technical Institute that stood near our meeting point, one victim had this to say,

*"This school is a result of war and when it was first started, it was clearly stated that it was going to be a vocational center to support the vulnerable who have suffered as a result of war. Now it has advanced, there is now formal admission, you pay fees to join. Its original purpose has changed, it can no longer benefit those who suffered. It is now open to the benefit of the able people. We have this girl who was left behind (orphaned) at the age of 4, how do you expect her to benefit from this school? Its original purpose has been forgotten."*

In Pagak, a proposal was made for victims suffering from conditions as a result of the war to be provided with identification which allows them access to free health care.<sup>97</sup> It is however important to take this recommendation with caution because it can also be subject to misuse and create

<sup>93</sup> UN, A/69/518, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, in accordance with Human Rights, Focus: Reparations, para. 86

<sup>94</sup> Group 2, Amuria Town Council

<sup>95</sup> Id. Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, para. 40, 41

<sup>96</sup> Group 3, Amuria Town Council

<sup>97</sup> Group 1, Pagak

negative labels in society. Victims also want the Government to provide their children with scholarships in order for them to be able to pursue their education.<sup>98</sup> Such affirmative action efforts can enable the government to continue implementing development programs but with a reparations component. This clearly highlights the relevance of the draft AU TJ framework proposal for innovation to be undertaken particularly where reparations programs can be linked with development initiatives and for the enactment of clear guidelines which separate out individual and communities' rights to reparations from the broader development agenda of the society.<sup>99</sup>

To other victims, government programs cannot qualify as reparations because of their discriminative selection criteria. For example, when they undertake to support the old, such support only goes to people who are over 60, youth support goes to those who are between 18 and 30 years.<sup>100</sup> They believe that under a true reparations program, the only denominator that should come into play is the fact that one is a victim of conflict, has suffered a loss as a result and is therefore entitled to redress. Any other aspects such as age are merely secondary and should have no bearing on one's entitlement to access particular services.

*"We have all undergone the torture so give all of us reparations. We should be given reparations at the same time since we all suffered at the same time."<sup>101</sup>*

Furthermore, some Government departments may claim that reparation programs could potentially be a duplication of other Government efforts. Other Government efforts in this context could include the development programs listed above which are being implemented in affected communities. The likelihood of suggesting this link raises the importance of highlighting some of the shortfalls of these "development" programs.

While some victims acknowledged that they have benefited from such programs, many say that they have only heard about their existence but are yet to receive or see any real benefits. Parents complain of the fact that they are often required to make some contribution, financial or physical, in order to access some of the government programs (the likely reason for this on the part of the government is to create some sense of community ownership over any of the projects undertaken); the existing hospitals are ill-equipped and in many cases lack medical staff and supplies<sup>102</sup>; the support provided is also not enough for all the potential beneficiaries (for example, one participant complained that the seedlings distributed under the Operation Wealth Creation program in the area were not sufficient for all of them and therefore others went home without anything.<sup>103</sup> In Pagak, there were complaints related to the fact that the schools constructed are very few and that the health center in the area is not big enough for the community.<sup>104</sup> They also question the relevance of some of the programs.

*"If you build a school there, how will the old benefit from a school?"<sup>105</sup>*

This frustration with the Government emanates from the fact that victims are seldom consulted on the projects that should be implemented in their respective regions.<sup>106</sup> Victims have a clear preference for programs that touch individual victims' lives by, for example, removing bullets from their bodies, providing counselling and other medical rehabilitation. This component has largely been absent in many of the government programs<sup>107</sup> and should be central in any planned reparations program.

One participant in Burcoro also reported the heavy burden that some government programs place on the affected communities such as the submission of project proposals in order to access support.<sup>108</sup> The Government likely does this in order to ensure that it has a clear information on the projects that it is going to support. The requirement to submit proposals, however, fails to take into account the low levels of education and expertise particularly among affected communities, a majority of whose members missed out on the opportunity to pursue an education due to the conflict. Furthermore, victims do not see the relevance of projects such as tree-planting whose

<sup>98</sup> Group 1, Abia

<sup>99</sup> AU, African Transitional Justice Framework, 39

<sup>100</sup> Group 2, Atiak

<sup>101</sup> Group 1, Amuria Town Council

<sup>102</sup> Amuria participant at ASF Validation Meeting: "We worry when they say that they are rehabilitating the national referral hospital that people should pay money to access services down there. We who are already poor have to simply wait for a coffin. We cannot afford. Even right now when somebody needs to be operated at a certain level, you have to contribute. People then sell pieces of land to acquire health. You are then healed. Where are you going to stay after?"

<sup>103</sup> Group 3, Amuria Town Council

<sup>104</sup> Group 2, Pagak

<sup>105</sup> Group 3, Amuria Town Council

<sup>106</sup> Barlonyo participant, ASF Validation Meeting 19th May 2017

<sup>107</sup> Group 3, Abia

<sup>108</sup> Group 3, Burcoro

benefits can only be realized in the distant future.<sup>109</sup> This may be because they are in urgent need of money to address immediate challenges. Victims would therefore like any future national reparations program to look at the relevance of the proposed support, the extent of responsibilities to place on potential beneficiaries under the program and criteria for beneficiary access.

Victims also want the government to address the issue of delays in the implementation of projects in the event that a reparations plan is undertaken. In Barlonyo, for example, victims are unable to see the reparative or even development value of Kaguta bridge which started in 2012 as an initiative by President Museveni in memory of more than 300 civilians killed by the LRA rebels at Barlonyo IDP Camp on February 21, 2004. This is largely because the project has stalled for a number of years and yet it was intended to connect Lira District to Pader District and other neighboring districts.<sup>110</sup>

### 3.7. | Role of Complementary Actors

Victims commended the efforts NGOs and other actors such as the ICC Trust Fund have made towards improving their lives. This therefore justifies the reason why the Special Rapporteur sees a strong role for civil society to play in the adoption and implementation of reparation programs.<sup>111</sup> Victims consulted thus demanded that Government works hand in hand with civil society to implement any reparations programs. This may be informed by the long-term positive experience which they have had with some NGOs.

It is important to note that many of the NGOs cited are those which have assisted victim communities to build memorials, supported returnees who are coming home after years in captivity, provided medical treatment to victims nursing war-time injuries and counselling services to address victims' trauma needs. Victims appear to value those NGOs, institutions and individuals who made a visible positive difference in their lives rather than those who came to them for information with no reparations results. This should not however be taken to mean that information collection is a futile and irrelevant exercise. However, what it tells us is that it has to be matched by actions that can result in real and meaningful change in the lives of victims.

The Government should aim to work with civil society organizations not just during the process of developing a reparation program but also in implementing any reparations projects. Involving NGOs will ease victims' apprehensions about Government projects which they say continue to be a disappointment because of widespread corruption. It has been repeatedly said that Transitional Justice can help rebuild trust between the Government and its people.<sup>112</sup> Within the Ugandan context, this cannot happen unless Government partners with external civil society organizations who are already trusted community partners.

We were also informed that institutions such as the ICC Trust Fund are currently implementing projects which have benefited some victims who have now received treatment for injuries sustained during the conflict as well as psychosocial treatment to help them deal with trauma. In thinking about a national reparations policy and its implementation, it is therefore important to have clear guidance on how any government programs will interact with such ongoing projects. While equity is a core transitional justice principle, in this case, it is likely that some victims may draw double benefits for the same kind of loss or injury. This question will however be a difficult one to address given that the two programs, that is, the ICC Trust Fund and a national reparations program are separate and independent. Subject to internal procedures and confidentiality rules, it may be beneficial for the ICC Trust Fund to share the scope and coverage of their programs so as to address this potential challenge.

Looking at the other side of the coin, although civil society organizations and the ICC Trust Fund have played a positive role within victim communities, some of the victims still appeared frustrated following engagement with these institutions. This may emanate from the fact that they unfairly heightened victims' reparation expectations and provided minimal explanations in relation to their procedures. In Amuria for example, one participant carried his ICC victim participation letter with him to the meeting with the hope that it would help him receive reparations from our team.

*"We were given numbers by the ICC and taken to Kampala in 2010 but now all they keep telling us is let Kony be got (arrested) and that renews the anger in us..."<sup>113</sup>*

The complaint highlights raises the key role that outreach will need to play in order to enable victim communities understand the limits of any given reparation process. Failure to do so may result in frustration among victim communities.

<sup>109</sup> Group 3, Burcoro

<sup>110</sup> Barlonyo focus group discussions, Also see B. Oketch (New Vision), November 14 2016, Construction of Kaguta bridge stalls again, <http://www.monitor.co.ug/News/National/Construction-of-Kaguta-bridge-stalls-again/688334-3451328-format-xhtml-c8d2h1z/index.html>

<sup>111</sup> Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on Victim Consultations, A/HRC/34/62, para. 60

<sup>112</sup> UN General Assembly 2014, A/69/518, Report of the Special Rapporteur Promotion of truth, justice, reparation and guarantees of non-recurrence Focus: Reparations, para. 9

<sup>113</sup> Group 1, Amuria Town Council

## 4. Victims' Fears

The main fear that victims have is that the award of reparations will never happen. This is largely informed by the fact that so many promises have been made to them over the years but these have not resulted into any efforts being undertaken to address their concerns. The last thing that they would like is more empty talk and zero action.

*"It has been long since we have been speaking of this. Number 1, they deceived us here that we are going to get reparations, those who lost. Since then up to now, we have seen nothing and yet we are a community which passed through trouble. Kony burnt our houses and we have never got answers."<sup>114</sup>*

In addition, victims also fear that in the event that reparations are awarded, they will never be able to receive any benefits because of the rampant corruption in the country. In the past, funds meant for victims' support programs have been swindled.<sup>115</sup> The Government is yet to put in place credible safeguards to ensure that such high level corruption does not re-occur in the future. It is therefore no wonder that victims do not have faith in the system.

Victims who have returned home without amnesty certificates also fear that this may lead to them being denied access to reparation benefits. A participant from Obalanga shared the experience of a fellow community member who allegedly missed out on an opportunity for an education scholarship by an NGO because the RDC of his area declined to give him a recommendation letter on grounds that he did not have an amnesty certificate.<sup>116</sup>

<sup>114</sup> Group 2, Obalanga

<sup>115</sup> H. Athumani (23rd April 2013), DPP Spends UGX 1.5B To Investigate OPM Corruption Scandal, <https://ugandaradionetwork.com/story/dpp-spends-ugx-1-5b-to-investigate-opm-corruption-scandal>

<sup>116</sup> Obalanga Participant, ASF Validation Meeting 19th May 2017

## 5. Conclusion and Recommendations

Reparations are a key priority for victims which needs to be addressed sooner than later. Failure to do so may serve as a future conflict trigger. While other transitional justice processes such as prosecutions, truth-telling are important, the GoU as well as other actors should not underscore the importance of giving victims redress for the pain and suffering they underwent during the conflict. Below are specific recommendations to the key actors ASF believes are pivotal as the country moves towards establishing a national reparations program:

### 5.1. | To the Government of Uganda

- ✓ Cabinet should prioritize passing of the transitional justice Policy which is the first step towards establishing a national reparations program.
- ✓ It is important to address the issue of corruption which has made many victims lose confidence in the capacity of the government to manage a reparations program. In the past, resources dedicated to assisting affected communities have been plundered by government officials and other individuals.
- ✓ Changes in government program strategies and policies should be undertaken in order to ensure that such programs serve a reparative purpose for victims. This can be undertaken by local governments through their respective budgeting processes. Affirmative action should provide victims of conflict with priority access to benefits in the health and education sector.
- ✓ It is also important for the Government to put in place psycho-social programs to address widespread trauma within the affected communities.
- ✓ The Government should create a proper working environment free of intimidation for NGOs which are supporting local communities recovering from conflict.
- ✓ While a range of government programs have been implemented in Northern Uganda, these should not supplant the Government's duty to provide reparations to local communities.
- ✓ Government needs to draw lessons from institutions such as the ICC Trust Fund for victims which have implemented several victim support programs in the country over the years.
- ✓ Government officials should undertake memorial projects that honor the different victims of the LRA conflict. In addition, it should support and participate in the different victim commemoration ceremonies that take place in areas which were affected by the conflict. As part of this effort, it would be prudent for one national day to be set aside in remembrance of all those who lost their lives during the conflict.
- ✓ Government should follow through on the victim support projects they have undertaken to carry out in different affected areas.

### 5.2. | To the Parliament of Uganda

- ✓ Parliament should play an active oversight role over Government programs targeting affected regions. This will ensure that they benefit the right individuals and that any programs developed respond to the needs of the target group.
- ✓ Parliament needs to prioritize the passing of all necessary transitional justice laws in order to set the path towards the establishment of a national reparations program.
- ✓ Parliament should follow-up on its 2014 resolution urging the Government to set up a reparations fund and provide support to LRA victims in Northern Uganda.<sup>117</sup>

<sup>117</sup> <http://www.parliament.go.ug/new/index.php/about-parliament/parliamentary-news/374-parliament-calls-for-increased-govt-support-for-lra-victims>



- ✓ Parliamentarians particularly those from the affected regions should actively participate in memorial prayers organized for the fallen victims.
- ✓ Members of Parliament could also lobby for support from external funders which can be used to support victims and address their urgent needs.

### 5.3. | To Civil Society

- ✓ CSOs need to re-think their areas of intervention with victim communities. More emphasis needs to be placed on programs that have real and meaningful benefits for victim communities recovering from the effects of conflict.
- ✓ CSOs have to continue pushing for the passing of the transitional justice policy and any accompanying laws in order to ensure that a national reparations program becomes a reality for victims in Uganda.
- ✓ Furthermore, civil society organizations need to closely coordinate their efforts and also manage victims' expectations.
- ✓ CSOs also need to provide regular feedback to victims on the ongoing reparations discussions and, where their views are solicited, provide them with timely feedback on the various uses of such information.
- ✓ They should continue lobbying and advocating for victim support by way of a national reparations program or through immediate assistance support.
- ✓ CSOs have a role to play in monitoring government programs intended to benefit victims and reporting on the same to the relevant stakeholders.
- ✓ They should further continue to document victims' perspectives and needs on a range of issues.
- ✓ They also have a role to play in sensitizing victims about their rights in order to ensure that they can be able to demand for support from the Government.

### 5.4. | To Uganda's Development Partners

- ✓ Development partners need to continue pushing the Government to pass the necessary policies and legislation to make transitional justice and reparations part and parcel of Uganda's legislative system.
- ✓ It is also important that development partners diversify the beneficiaries of their support in order to ensure that existing organized victims' groups can have access to resources which can enable their members to undertake projects which can enable them to recover from conflict.
- ✓ Furthermore, more donor funds need to be invested in programs which can address critical needs of victims who require urgent medical care to address the injuries suffered during the conflict, provide victim psycho-social support and education scholarships to members of affected communities. Such funding should be able to cover projects for the long-term.
- ✓ There should be donor flexibility in order to ensure that beneficiaries are able to easily adjust the geographical and thematic scope of their projects in order to reach more victims.
- ✓ There should be continued coordination among donors to avoid duplication of funding and thus ensure that different reparation needs are covered.

### 5.5. | To other stakeholders

#### ICC and Related Institutions:

- ✓ It is important for the ICC to prioritize outreach and follow-up with victims in order to manage their expectations of the ICC process particularly the likelihood of receiving reparations.
- ✓ The ICC Trust Fund for victims should expand the reach of its assistance programs to cover areas that have not benefited from victim support programs by different actors.

#### Cultural Leaders :

- ✓ Cultural leaders should also be at the forefront of demanding that the Government provides support to victims in order to help them through the recovery process.
- ✓ They should also take on the task of dealing with some of the emerging land conflicts

in the region as a step towards enabling families reconcile and providing a livelihood avenue for certain individuals.

## Annex: Study Questionnaire

Topics/area to explore	Main questions	Follow up/probe questions	Clarifying Questions	Goal of the questions
<i>Reparation vs. development programs</i>	What is your understanding of reparation? How do you understand what reparation are?	What should be the purposes of reparation in your view? Does it mean: receiving support from the government (support economic development) or should it be more than economic/ financial support? Was there development program in your region? In your view does it amount to reparation? Why?	Can you expand a little on this? Can you tell me anything else? Can you give me some examples?	Determine whether the consulted persons distinguish between reparation and development. Whether it matters to them and why (typically because reparation is a form of acknowledgment of their status of victims; and/or of the responsibility either of the government or of the perpetrator)  Determine connection between reparation, transformative reparations, socio-economic development  Issue of overall goal of reparations and links to justice, truth-telling and guarantees of non-recurrence



Topics/area to explore	Main questions	Follow up/probe questions	Clarifying Questions	Goal of the questions
	Who should benefit from reparation?			<p>Determine whether the consulted persons distinguish between reparation and development.</p> <p>Determine connection between reparation, transformative reparations, socio-economic development</p> <p>Whether they consider that the reparations may serve an ultimate goal of reconciliation</p> <p>Issue of overall goal of reparations and links to justice, truth-telling and guarantees of non-recurrence</p>
<i>Regarding the Modes of reparation</i>	<p>What reparation would you consider adequate to redress the harm suffered?</p> <p>Should there be a priority given to certain type of harm suffered?</p> <p>If we need to establish priority, what should come first?</p>		<p>Can you expand a little on this?</p> <p>Can you tell me anything else?</p> <p>Can you give me some examples?</p>	<p>Determine potential reparation</p> <p>Determine the connection between reparation and needs (there might be a "distance" between the actual harm suffered and ultimately the reparation sought which might more correspond to today's needs)</p> <p>Determine connection between reparation, transformative reparations, socio-economic development</p> <p>Determine whether priorities and which ones</p> <p>Issue of guarantees of non-recurrence</p>

Topics/area to explore	Main questions	Follow up/probe questions	Clarifying Questions	Goal of the questions
	<p>What is the impact of the conflict on your community? Do you think reparation can redress that? How?</p>			<p>Determine whether the consulted persons distinguish between reparation and development.</p> <p>Determine connection between reparation, transformative reparations, socio-economic development</p> <p>Determine whether individual/collective reparation</p> <p>Whether they consider that the reparations may serve an ultimate goal of reconciliation</p> <p>Issue of guarantees of non-recurrence</p>
<p><i>Implementation of reparation/trust in the government</i></p>	<p>In your view, who should be responsible for providing reparation? Why ?</p>	<p>What is, in your view, the most important challenges in implementing reparation in your area?</p> <p>Are you confident that government will comply with a commitment to provide for reparation in your area? If not why?</p>	<p>Can you expand a little on this? Can you tell me anything else? Can you give me some examples?</p>	<p>Issues of accountability and potential link with need for justice and truth-telling</p> <p>Issue of actual implementation and challenges, such as corruption (connection with experiences in development programs)</p> <p>Issue of trust in the State and building-confidence</p>

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