

**VICTIMS' VIEWS ON THE DRAFT TRANSITIONAL JUSTICE
POLICY FOR UGANDA:
ACHOLI SUB-REGION**

Victim Consultation on June 5, 2013

Facilitators/Organizers

Avocats Sans Frontières & Justice and Reconciliation Project

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About the Organizers

The **Justice and Reconciliation Project** (JRP) has played a key role in transitional justice in Uganda since 2005 by seeking to understand and explain the interests, needs, concerns and views of communities affected by the LRA conflict. JRP promotes locally sensitive and sustainable peace in Uganda by focusing on the active involvement of grassroots communities in local level transitional justice.

Avocats Sans Frontières (ASF) is a non-governmental organization committed to enhancing access to justice for the most vulnerable persons in society. The primary goal of ASF is to contribute to the establishment of institutions and mechanisms that allow for access to independent and impartial justice, and which are capable of guaranteeing the protection of fundamental rights. ASF has worked in Uganda for several years and focused its activities on promoting access to justice for vulnerable communities, supporting the transitional justice process in Uganda and promoting the application of international justice principles and obligations. ASF is a victim-oriented organization that promotes and defends victims' rights in conflict situations. As such, ASF is committed to supporting victim communities, and enhancing their voice and agency in policy and lawmaking processes.

Acronyms

| | |
|------|------------------------------------|
| ASF | Avocats Sans Frontières |
| CSO | Civil Society Organization |
| GoU | Government of Uganda |
| JLOS | Justice Law and Order Sector |
| JRP | Justice and Reconciliation Project |
| LRA | Lord's Resistance Army |
| TJ | Transitional Justice |
| TJWG | Transitional Justice Working Group |
| UPDF | Uganda People's Defence Force |

1. Executive Summary

On June 5th 2013, Avocats Sans Frontières (ASF), an international non-governmental organization committed to enhancing access to justice for the most vulnerable partnered with the Justice and Reconciliation Project (JRP) to host a one-day consultative meeting to seek the views of victims on the Justice, Law and Order Sector's (JLOS) draft Transitional Justice (TJ) Policy.

This policy was shared with stakeholders on May 21st 2013 to seek their input in the draft. JLOS invited CSOs and others to channel their feedback on the draft by June 12, 2013 in an effort to ensure that the policy is a product of broad consultations and participation by key stakeholders. In light of the policy's victim-centered approach, ASF and JRP organized discussions with victims and war affected communities in Gulu in an effort to share the draft with them and seek their views and expectations for the policy.

This report is a reflection of the victims' views on the policy. It must however be noted that this report highlights the views of only a select group of victims from the Acholi sub-region and is not necessarily representative of all victims in the affected areas.

ASF and JRP served as facilitators in the process of channeling victims' views to JLOS for consideration in the final draft of the policy; as such, the views contained in this report are solely of these victims and not the official position of ASF and JRP.

The meeting was held at Churchill Courts Hotel in Gulu and was entitled "*Victims' Consultation on the National Transitional Justice Policy for Uganda.*" The meeting brought together 49 participants, namely victims and victims' group representatives from the Acholi sub-region in Northern Uganda.

Overall, the goal of the meeting was to provide victims with a basic understanding of the key aspects of the TJ policy and seek their input and recommendations for JLOS.

During the meeting, facilitators from both organizations shared and explained key aspects of the draft policy and ascertained victims' views on the provisions for formal justice, traditional justice, truth-telling, reparations and amnesty therein contained. The participants were divided into five small groups to specifically discuss each of these TJ mechanisms.

There was an overwhelming consensus that the TJ process and policy needs to be adapted to the needs of victims, and that the participation of victims should be encouraged and facilitated throughout.

2. Introduction

ASF partnered with JRP, a community-based victim-oriented organization in Gulu, to hold a one-day consultative meeting with victim communities. It provided an opportunity to disseminate the draft policy to victim groups and explain the key aspects of the policy to ascertain their views, expectations and desires regarding:

- Formal justice & criminal prosecutions
- Traditional justice
- Truth-telling
- Amnesty
- Reparations

2.1. Objectives

The following objectives of the meeting were met:

- The draft TJ policy was disseminated to victims and the key aspects were explained to provide them with a comprehensive understanding and encourage their participation;
- Discussions were generated with victims on the key aspects of the policy; and,

2.1.1. **Victims' views and expectations were documented by JRP and ASF and are now summarized in this report for JLOS' consideration;**

2.2. Outcomes

The following were achieved:

- The participants are now aware of the national TJ policy drafting process;
- Victims were able to communicate their opinions, concerns and suggestions on key aspects of the TJ policy to JLOS for consideration in the final draft;
- JLOS can incorporate the view of victims in line with the policy's 'victim-centered' principle; and,

- The agency of victims was enhanced and they were encouraged to stay engaged in the process.

3. Victims' Views and Recommendations

The victims were separated into small groups to discuss their views and recommendations along the five key issues in the TJ policy, namely:

- Formal justice & criminal prosecutions
- Traditional justice
- Truth-telling
- Amnesty
- Reparations

3.1. Formal Justice

One of the principal concerns reiterated throughout the consultations was that the TJ policy will need to reflect the fact that so many of the victims are perpetrators as well. The victims also highlighted the need to encourage victim participation in the trials as well as to provide witness protection.

3.1.1. Victim participation

Victims felt that their involvement in the trials was important and made suggestions to facilitate this:

- Legal representatives should be appointed to represent their views, as the large numbers of victims would make individual testimony unfeasible. Furthermore, legal representatives would also be important as some cases would involve testimony of government violations.
- Counseling services should be provided to victims. There was agreement that counseling can provide the support needed to give victims the confidence to testify openly in court
- The court should be equipped to facilitate communication of victims in their local language to ensure that victims can both understand the proceedings and be understood.

- Victims should participate, but require security and protection, and should be free to express their opinions without fear of repercussions
- The mothers of children should also be witnesses in the trial processes, as a girl who was raped or married off at a young age may not understand the complexities of what happened to her.
- The TJ process must involve the participation of all victims including men, women, children, the elderly, perpetrators and government;
- The TJ policy should be translated and circulated to community members so they can better understand what it entails;

3.1.2. Crimes

There was general agreement that the formal courts should handle the following crimes:

- Massacres;
- Rape; (Victims noted that since traditional justice does not provide punishment to a man who committed rape, courts may be the best avenue to handle this)
- Forceful recruitment of children into the army and LRA rebel ranks

3.1.3. Victim-Perpetrators

The policy should give guidance on the treatment of victim-perpetrator dual role. The courts should provide victim-perpetrators with a fair hearing. There was agreement that victim-perpetrators should be prosecuted but that their punishment should depend on the extent of their involvement. For example, the courts should differentiate between foot soldiers and commanders.

3.2. Traditional Justice

The victims highlighted the need for traditional justice mechanisms to take into account the following:

3.2.1. Involvement of Women and Children

Women and children are often left out of the traditional justice processes. The victims highlighted the need to address this in a number of ways:

- Women and children can participate through village dialogues with elders where they are given time and space to express their views;
- Video documentaries can be used to expose the realities of what communities experienced;
- Children forums to provide an avenue for children to express their views and experiences could be instituted.

3.2.2. Crimes to be dealt with by traditional justice

There was general agreement that the following crimes could be dealt with through traditional justice mechanisms administered by local elders and religious leaders:

- Homosexuality
- Land conflicts

3.2.3. Traditional Justice Mechanisms

The victims believed that certain traditional justice ceremonies and rituals practiced in Northern Uganda are important to encourage community reconciliation and should be promoted. These include ceremonies such as *mato oput*, cleansing rituals such as *tum*, and mediation between parties e.g. *riyo-tal*.

3.3. Truth-telling

3.3.1. Participants

There was agreement that the following should participate in the truth-telling process:

- Victims, which includes everyone in the community who was affected by the conflict
- Government representatives/institutions(UPDF and other officials)
- Perpetrators (LRA, UPDF, etc.)

3.3.2. Structure and process

- Timeframe: The truth-telling process should span from 1986 until the present day, as there has not yet been a truth-telling forum in northern Uganda. The victims also requested that the government explain why they did not protect civilians and why victims still face poor living conditions.
- National and grassroots process: The victims stated that regional/community meetings should be held at the grassroots level twice per month to encourage a community truth-telling process whereby community members would be free to express themselves.
- Commission structure: The truth-telling commission must be gender balanced so that women are not sidelined and their views are presented. The truth-telling commission should also involve religious leaders.
- Witness protection: Before a truth-telling process can commence, the protection of witnesses must be guaranteed. The victims were concerned about how this would work.
- Language: The truth-telling commission should be equipped to cater for persons speaking in their local language so that victims can be understood
- Outreach initiatives should be conducted through radio programmes and community visits to ensure that victims are aware of what is happening.
- Truth-telling should take place before reconciliation. This is because forgiveness and compensation are necessary stepping stones. After truth-telling, victims suggested that the acknowledgment of the crimes committed and an apology should proceed, followed by reparations.

3.4. Amnesty

3.4.1. Conditional Amnesty

The victims were in favor of a conditional amnesty. However, before receiving an amnesty, testimony should first be given regarding the violations committed. It was also noted that the conditional amnesty could be granted by traditional leaders based on the cooperation of a returnee seeking re-integration into the community, and his willingness to engage in the process of reconciliation with victims

3.4.2. Crimes Exempt from Amnesty

A section of the victims agreed that perpetrators of crimes such as massacres, crimes against humanity and genocide should not be amnestied.

3.4.3. Considerations for Granting Amnesty

In granting amnesty, victims agreed that certain considerations should be taken into account:

- Those who were abducted forcefully and forced to commit atrocities should be given amnesty;
- The magnitude of crimes/atrocities committed should be considered. There was agreement that we must differentiate between low-level perpetrators, and those like Joseph Kony who gave orders. The latter must not receive reparations;
- Those born in captivity should be given amnesty and reintegrated in their communities;
- Women who were forcefully married off in the bush should not be forced to separate or remain with their LRA husbands unless they so desire;
- Community reintegration must continue following the grant of amnesty.
- The amnesty process must also repair victims of perpetrators who are granted amnesty

3.5. Reparations

Victims emphasized that the voices of all community members should be considered in the reparations process.

3.5.1. Entitlement

Victims stated that the following people should be entitled to reparations:

- Victims of rape (both male and female)
- Victims of massacres
- Those whose property was looted or destroyed

3.5.2. Individual/ Collective Reparations

Reparations should be both collective and individual as victims' experiences were so varied.

3.5.3. Types of Reparations

Victims agreed that a number of different types of reparations should be granted:

- Monetary: Where the government has the capacity to provide monetary reparations, victims agreed that this is important to allow for counseling and physical support, as well as the payment of school fees.
- Symbolic: monuments and other symbolic reparations should be provided for the purpose of memorialization