



**Report for the National Stakeholder Dialogue on Transitional Justice**

**25<sup>th</sup> February 2020 at Metropole Hotel**

**Kampala**



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## **1. Introduction**

On 25th February 2020, Avocats Sans Frontières (ASF), the International Centre for Transitional Justice (ICTJ) and the Refugee Law Project (RLP), with support from the Belgian Development Cooperation, Austrian Development Cooperation, Democratic Governance Facility and European Union convened a stakeholder dialogue on strategies to implement the National Transitional Justice Policy, as a pathway to promoting truth, justice and reconciliation as well as preventing future atrocities in Uganda. The dialogue was attended by decision makers, development partners, practitioners, academics, civil society, religious and cultural leaders, and diplomatic actors. The dialogue was divided into three major sessions, beginning with a session on the review of the Development and implementation process of the National Transitional Justice Policy, followed by a session on comparative experiences from other countries with an emphasis on how the experiences can be leveraged to make transitional justice a reality in Uganda, the third session had discussions on how the impunity gaps can be closed, with presenters sharing lessons from ICC and other jurisdictions. The dialogue closed with recommendations on actions to be taken by both state and non-state actors to ensure the effective implementation of the NTJP.

### **1.2 Background and Context**

On 17th June 2019, after a decade-long formulation and adoption process, the Government of Uganda finally announced the passing of the National Transitional Justice Policy (NTJP) and officially released it in September. The passing of the Policy is partly in fulfillment of the Government's commitments under the agreement on Accountability and Reconciliation that was signed during the Juba Peace process, as well as its constitutional obligation to provide an effective remedy to victims of human rights violations. The NTJP provides for 5 priority areas: formal justice, traditional justice, nation building and reconciliation, amnesty and reparations. The goal of the NTJP is to pave the way towards achieving peace, stability and social cohesion in Uganda.

It is significant to point out that, since the passing of the Policy, CSOs have already taken considerable steps to prepare themselves to contribute towards the implementation of the policy. In August 2019, CSO's working on TJ issues collectively, nominated RLP to take lead in coordinating the efforts of CSO's in contributing towards implementation of the policy. ASF on its end has long advocated for the revival of an institutional and collective coordination mechanism between JLOS and CSOs, as opposed to ad hoc and restricted engagements. Therefore, ASF, RLP and ICTJ jointly organised the National stakeholder dialogue on Transitional Justice with the different stakeholders to create a space for dialogue geared towards effective coordination and implementation of the policy.

### **1.3 Objectives and expected outputs of the dialogue**

The general objective was to create space for dialogue between state and non- state actors on the most effective strategies for the implementation of the Transitional Justice Policy while the specific outcome was creation of a responsive space for coordination and dialogue between civil society and the Government of Uganda around the effective strategies for the implementation of the Transitional Justice Policy.

The expected outputs of the dialogue were:

- Improved understanding of the goals and objectives of the National Transitional Justice Policy and the envisaged measures;

- Policy implementation processes are defined and understood by the different stakeholders;
- Effective strategies to operationalize the National Transitional Justice Policy identified and agreed upon by the different stakeholders;
- Coordination mechanisms are shaped and agreed upon by the stakeholders and allow for measurement of progress and accountability in the implementation of the Policy;
- Commitments are made and agreed upon by the different stakeholders on the implementation of the policy.

## **2. Welcome remarks from the organizers of the dialogue & General Opening**

### **Remarks**

In his welcome remarks- **Mr. Romain Ravet**, Country Director, Avocats Sans Frontieres(ASF) appreciated the wide selection of participants and the key contribution by Civil Society in the formulation of the TJ policy. He noted that the objective of the dialogue was to build rapport between the civil society and other actors working towards the implementation of the policy and thus highlighted the need for collaboration to ensure that the TJ policy becomes a reality. Mr Romain also noted that the policy offers an opportunity to put to an end the repeated conflict cycle in Uganda by providing a deeper analysis of the root causes of the conflicts. He further noted that: the TJ Policy is a nationwide policy which should encompass the whole country rather than being focused on Northern Uganda.

**Ms Devota Nuwe**, Head of Programmes, Refugee Law Project (RLP); reiterated the importance of the meeting as a key step in the implementation of the TJ policy. She also noted that the policy responsibility centre had moved from Ministry of Justice and Constitutional Affairs to Ministry of Internal affairs.

**Ms Sarah Kasande Kihika**, Head of office, International Centre for Transitional Justice (ICTJ); appreciated the role of the development partners and the distinguished guests who had made it for the dialogue and thanked members who kept the commitment despite the slow process of forming the policy. Ms Kasande emphasized the importance for truth seeking in achieving future and sustainable peace in the country. She further noted that the dialogue was a catalyst for a broader engagement in the implementation of the policy. She called upon the participants to consider TJ as broader than the policy and thus the aim must be to address the legacies of the past, the unaddressed root causes of division, conflicts and human rights violations. She reminded the participants that the dialogue should facilitate a greater common understanding of the roles and objectives of the different stakeholders in the implementation of the TJ policy which requires a complete way forward towards the implementation of the aspirations of the TJ policy to ensure it does not stay on paper. Ms Kasande also noted the need to draw lessons from other parts of Africa such as Tunisia while undertaking processes that are unique to Uganda.

### **Opening remarks**

**Dr Roswitha Kremser**, Head of office Austrian Development Cooperation (ADC) in her remarks shared the history of ADC's engagement in the TJ processes dating back to 2008. She further thanked the Government of Uganda for adopting the policy, noting that it is a milestone for the poverty ridden communities and an opportunity for transforming ongoing conflicts and achieving Sustainable Development Goals (SDGs) for Uganda. She

noted that the policy tackles some of the challenges of Uganda through mechanisms such as truth telling, memorialisation, respect for human rights with the purpose of ensuring that crimes are not committed. She finally noted that the adoption of the policy creates a new momentum and that the dialogue intended to capitalize on it in order to establish the links between the Ministry of Internal Affairs, the Ministry of Justice and Constitutional Affairs, other government actors, civil society and development partners.

**Hon Komakech Lyandro, Member of Parliament, Gulu Municipality and chairperson of Greater North Parliamentary Forum (GNPF).** Mr Komakech in his opening remarks noted that the adoption of the TJ policy, was a critical moment for all stakeholders to work together to address the legacy of violence. He called upon CSOs to be very open to the Government in the TJ discussions and vice versa to ensure an open communication. Hon Komakech further emphasized the need for funding from development partners to facilitate processes such as treating victims, developing memorial centres such as the one in Kitgum as part of the implementation of the TJ policy in the country. He noted that various processes are ongoing such as the development of the draft TJ Bill, which is yet to come to the floor of Parliament and emphasized the need to engage with the Ministry of Internal Affairs so as to collectively support its implementation. He further called upon the relevant Ministries to include TJ in their budgets for this coming financial year 2020/2021 and also requested development partners to lobby Government on the support to TJ processes in Uganda. Hon Komakech called upon the Ministry of Internal Affairs to come up with a schedule for meeting with stakeholders and briefing on progress of implementation of the policy.

### **3. Session one: NTJ P-Review of the policy, its development and implementation process.**

The purpose for session was to bring out from the onset the expectations of the CSOs and the victims communities in terms of the implementation processes of the policy. In addition, the session provided the victims views regarding the different TJ mechanisms through the data that was collected by TRAC FM. The sessions thus covered the civil society perspective on TJ processes in Uganda, victims perspectives and the significance of data in TJ advocacy processes in Uganda.

#### **3.1 The Civil Society perspective -Ms. Bako Patricia from ASF**

Ms Bako Patricia through her presented highlighted and retracted the role that CSOs have played in the TJ processes in the country. She particularly made note of the consequent restricted space for participation and engagement of CSO. She further noted that despite the limited space of engagement, CSOs had continued to organize advocacy meetings to keep the momentum of the discussions on TJ issues. Ms Bako informed the participants that resulting from the continued loose coordination of CSO's through regular advocacy meetings, a TJ Platform was formed in August 2019. The respective CSOs nominated RLP, a national Non-Governmental Organisation to take lead in coordinating CSO efforts. With the adoption of the policy, she noted that CSOs envision specific aspects that should be considered as critical towards the implementation of the policy and these included;

- Inclusion of CSOs in the implementation of the TJ policy through the revival of the CSOs TJ plenary. The TJ plenary is an opportunity to involve CSOs in the TJ discussion with state counterparts and have their voices and plans feed into the TJ working group.
- Need to give TJ a national face as most people including CSOs have a tendency of looking at TJ as a Northern Ugandan issue. The different regions in Uganda such as the Rwenzori Region have faced conflict in one way or another.
- There is a need to develop guidelines on how the principles of the policy will be put in practice especially for example how the TJ Act will be linked to other existing laws such as the Amnesty Act.
- The policy contains quite broad terms and this provides room for interpretation and this should not be used to restrain the rights of victims and the scope of the long-awaited policy.
- Most of the victims have concerns regarding reparations. The TJ policy does not mention the reparation fund which was included in the initial drafts. Therefore, there is need for the Government to clarify what is meant by 'reparation programme' and what the available options and resources are. She further noted that the policy is silent on the question of court- ordered reparations for victims of past atrocities and that this ignores the concrete avenues for victims to obtain reparations (including but not limited to financial compensation) through court processes.

### **3.2 Significance of data in Transitional Justice Processes: Perspective from the Citizens- Mr Javie Ssozi. TRAC FM**

Mr Ssozi, provided an overview of the role of data in the transitional justice processes with examples from a project that TRAC.FM is undertaking in partnership with Women's International Peace Centre and ICTJ. Mr. Sozi presented data that TRAC FM had collected as demonstration to participants to appreciate Track FM's methodology. He pointed out that quality data informs the TJ processes in the country through presentation of different voices and perspectives such as from various communities across the Country. From his presentation, he highlighted that TRAC FM had partnered with 10 radio stations in the Greater North; with whom surveys were carried out through poll questions and listeners were able to respond by SMS that were prepaid. The data collected from the various communities across the country can be useful in informing the current transitional justice discussions in the country. For CSOs to advocate for the implementation of the policy, there is need to have data informing the views from the communities in line with the different Transitional Justice processes in Uganda.

### **3.3 Perspective from Victims representative- Mr Chris Ongom; Uganda Victims Foundation**

Mr Ongom pointed out that the Policy formulation efforts had lasted for about a decade, and noted that some victims had given up on the processes but hoped that the policy would be implemented soon to cater for the victims. He raised a concern on the limitation of the mandate of the International Criminal Court as a court of last resort which in his opinion, has affected the morale of victims within the communities. He further raised concerns in regard to the lack of clear direction from the International Crimes Division (ICD) in as far as

aspects of victims' protection and participation is concerned. Mr. Ongom, made the following recommendations for consideration in implementation of the policy;

- Decentralizing the sensitization of the policy so that the victim's communities can understand the content of the policy and how they will benefit from it
- Collecting data on the actual needs of the victims if reparation is to be meaningful to the victims.
- Development of a clear framework for victims' inclusion in the implementation processes of the TJ Policy.
- Including aspects of physical harm and trauma as part of TJ interventions.

### **3.4 Discussions arising from the panel presentations:**

A number of questions and comments arose from the discussion and these included the following;

- Concerns over the reductive space for the CSOs in the policy process to mobilization.
- The need for victims to be engaged and participate in all the processes of the policy implementation.
- How the policy would address issues of cultural institution and the children born in captivity
- How the survivors will be mapped out in case of reparations? A concern was for example raised of cattle rustler's claimants...who have consisted of even those born in 1995.
- Who should be given amnesty? A claimant exemplified this concern through his own experience "I lost my daughter ...she was abducted, and when she comes back is she liable for amnesty will be brought back to book for any committed crimes?"

### **3.5. Brief of the TJ Policy and where we are; Ms Margaret Ajok Technical advisor on TJ for JLOS**

The sessions was intended to provide background information regarding the policy in terms of its content and the next steps in implementing the NTJP.

Ms Ajok opened her presentation by highlighting the need for a deeper understanding of the TJ policy as a step towards its implementation. She mentioned that as Government, there has been strong and constructive engagement with CSO and other stakeholders right from the time of consultations and that thereafter the Government has continued to partner with different stakeholders on TJ issues. She further highlighted the importance of CSO engagement, in government consultative processes, and reiterated that this process has been mainstreamed throughout the TJ processes in Uganda, in spaces such as the transitional justice working group, JLOS leadership and steering committee, development partners, select committees of Parliament among others.

She particularly pointed out that during the consultations, they observed that there is sometimes mistrust between the Government and the affected communities and as such one of the policy outcomes is to restore trust between the Government and the communities.

On the position of victims, she emphasized that victims are not recipients but rather the policy intends to enhance their participation and thus will be consulted throughout the implementation process of the policy. Ms Ajok also as a major part of her presentation, highlighted the policy implementation process by discussing the 5 transitional justice processes provided for in the policy while emphasizing the key priorities under each of the processes;

- **Formal justice** the priority will be to address the issues of victim participation, witness protection, access to justice by vulnerable groups such as women and children.
- **Traditional justice mechanisms** she noted that there are ongoing processes such as the discussions on the Transitional Justice Bill that will provide clear guidelines on the operational of traditional courts and their jurisdiction. She informed the participants that the development of the Transitional Justice Bill is underway and notified participants that consultations will be carried out soon to get the input from the different stakeholders.
- **Nation building and reconciliation;** She pointed out that during consultations it was clear that respondents nationally are not ready for a fully- fleshed national commission to handle truth telling and reconciliation. In her opinion, the majority thought strongly that there were other issues such as tribal and social issues that should be resolved as a priority rather than a national level truth telling commission. She however, noted that remains important to embed truth seeking as a culture within the country's transitional justice processes
- **Reparations,** Ms Ajok noted that the reparation program will provide a comprehensive direction on how reparations will be handled and the resources will be drawn from the consolidated fund and other development support. She stated that this process will commence with a mapping exercise to identify the victims, ensuring public participation, identifying responsible actors in the execution of the reparation program such as local government, traditional leaders, CSOs among others
- **Arrangements for implementation,** there will be multi sectoral implementation and, multidimensional relationships with other stakeholders. The Ministry of Internal Affairs will be supported by the Ministry of Justice and Constitutional Affairs while civil society have a complementary role in implementation and coordination.
- **Communication,** Ms Ajok noted that the policy provides for communication to be two-way that is between the Government and other stakeholders by raising awareness, facilitating opportunities for public dialogue, sharing knowledge and enabling information flow from grass root level to decision makers to inform evidence-based planning at all levels. She further appreciated the efforts of TRAC FM for providing evidence based data. She thus called upon CSOs to support JLOS with data that can support the implementation of the policy.

**Ms Ajok shared the current timelines for the implementation of the policy,** which includes the wide dissemination and publication of the policy, fast tracking the TJ Bill and also managing the transitional period between the implementation of the policy and enactment of the relevant laws

## Questions from the participants to Margaret Ajok, Technical Advisor on TJ, JLOS

**Q: Centralisation of policy implementation; The policy implementation has not been centralised** with one specific institution but rather have several institutional entry points. Who then does the job of compiling the data and making sure the work coming out of the several institutions converge at the policy level? **A:** [*The Ministry of Internal Affairs is leading the process and will be centralising the data. There will be a proper mechanism for the collection of the data.*]

**Q: Truth telling-** there are several narratives about the history of conflict in Uganda - How do we transform the Amnesty Commission into a credible institution able to give space to the different narratives? **A:** [*As I already said, there is a transitional period. The Ministry is working on how it is going to look in terms of organogram etc. There are technical consultations for that.*]

**Q: Reparations,** I have the impression that first it was more about monetary compensation, but when the policy became more concrete, the focus shifted more on development programs. What is the current opinion of the Government about reparations, will monetary compensation be completely excluded? **A:** [*It takes us back to this question: are we all on the same page regarding reparations? Are we speaking the same language? As actors we have this tendency to over prescribe, which is a mistake. Through the consultations we have led in the past, COMPENSATION SEEMED TO BE AT THE TAIL END OF THE NEEDS OF THE VICTIMS. Most victims talked about rehabilitative reparations in form of hospitals, rehabilitation, life skills support. I cannot say that compensation will be excluded. It is something that can be work on if we have criteria to decide what compensation can be claimed for and to which amount. Discussion should be carried out on the priorities in terms of communities' needs.*]

**Q: What is the available information about traditional justice?** Is their work rather symbolic, are they giving any compensation to the victims? **A:** [*There is need for records of proceedings- at least to have a clear trend on the traditional justice mechanisms work.*]

**A:** *There is already **A ROADER PLAN TO FORMALISE TRADITIONAL JUSTICE PROCESSES.** As JLOS we have carried out capacity building- case management and reporting for traditional justice systems in the Acholi Region. That is something that needs to be rolled out for all the systems.*

❖**Q:** How prepared are the traditional leadership for the TJ implementation process? How do you cause them (traditional leaders) to work together on a subject of such importance for the country, especially those institutions that are not recognised?

**A:** *Our consultations have not been limited only to the recognized institutions, we have been working with a number of institutions and we are still to work with more institutions.*

❖**Q:** From the time you were doing our consultations 12 years ago, have the needs of the VICTIMS CHANGED: Don't you think there is a need for a NEW ROUND OF CONSULTATIONS?

**A:** *With our prosecution programs, we continue to conduct outreaches and consultations. But I know that in terms of the immediate needs, monetary compensation has never been*

*at the top. People are talking about medical rehabilitation, scholarship for their children, ... We must not confuse compensation in terms of civil claims for example for people who lost property during war with compensation with regard to life. In the context of the LRA war, we do not yet have a program tackling compensation with regard to life. I AM AFRAID WE ARE NOW TRYING TO PUSH THE IDEOLOGY THAT PEOPLE WANT MONEY, WHICH RAISES THE RISK OF LOSING THE WHOLE REPARATION COMPONENT IN TERMS OF OTHER NEEDS. COMPENSATION ITSELF HAS NEVER BEEN SUFFICIENT OR SUSTAINABLE, SO I THINK A HOLISTIC PACKAGE IS LONGER LASTING.]*

*❖Q: There are mafias and claimants who are untruthful and impede the process. Stakeholders need to be careful when identifying claimants. Victims who are real victims cannot become opportunists. A: [The stakeholders involved in the reparation program need to clearly identify the targeted groups and understand the dynamics of the context, SO THAT REPARATION DOES NOT HAND UP IN THE WRONG HANDS.]*

### **3.6 Strategies for the effective implementation of the National Transitional Policy- Ms Sarah Kasanda Kihika**

The session focused on identifying possible strategies of implementing the transitional justice policy.

Ms Kasande emphasized that the TJ process belongs to every citizen in the country and that as a country, there should be ownership of the current processes and that going forward, it would be ideal to include everyone who has a stake in the process. However, she noted that it is also important to reflect on questions such as; what is the goal of TJ in this country, what are we seeking to achieve, who are the beneficiaries? These should be the guiding questions when we talk about transitional justice processes. She further noted that Transitional Justice should not be limited within the confines of the Policy but it should address the violations that victims have faced now that there is a policy to provide a framework for taking this forward in terms of a commitment from the Government to implement the TJ Policy. She emphasized the need to ensure that this process is credible, inclusive and meets the expectations of all those involved, and affected.

Ms Kasande noted that it is important to shift from the mechanisms of TJ to the outcomes and goals of TJ. This calls for tackling the root causes of past and ongoing atrocities though the main goal of TJ is to provide redress to victims and to deliver justice. Transitional Justice is about promoting social healing, reintegration and rebuilding institutions in a culture of democratic and accountable institutions which are bound by rule of law. She also noted that TJ is important to establish truth not for its own sake but to fulfil the rights of victims to know the human rights violations which have happened, know causes of these violations and to put in place measures that will prevent those violations from reoccurring thus having a historical record of what happened so as to protect it from the revisionist arguments.

She further appreciated JLOS for sharing information about the content of the policy but then she emphasized the need to have a better understanding of what happens next in terms of what the role of the different stakeholders, the roadmap and what the process is that will transform the policy into legislation and then into executive measures. She noted that there are key aspects that need to be considered in terms of the implementation of the policy and these include;

- **Need to popularize the policy** – Ugandans must know what the policy provides for, its goals and objectives and the role of implementing partners. As such it is key that the dissemination plan of JLOS and Ministry of Internal Affairs is shared so as to address the going concerns by the people. For example, the PDF format on the website is 90MB and so a person deep in the village may not be able to access it or read and understand the content.
- **Need for public consultations** especially at the operationalisation stage of the policy. This is to ensure that measures provided for in the policy capture victims expectations and this is intended to create a sense of ownership.
- **Consideration of the timing of the implementation of the policy.** It is not possible to implement all the measures of TJ at once therefore; there is need for sequencing to ensure that there is no conflict between measures not forgetting that these measures are all interlinked and contribute to the same goal.
- **The TJ Commission as proposed in the Bill** should not be merely appointed by political powers. Since it is a commission with the aim of restoring confidence in the state, it can only work if the public trusts the Commission and the public should be informed about its mandate and there should be wide consultations on who the Commissioners should be and their minimum standards of qualifications.
- It is also important to consider the aspect of **gender in the policy**. The root causes of conflict that men and women experience are rooted in structural inequalities and TJ provides an opportunity to tackle these underlying inequalities. These should go beyond considering numbers but be more substantive engagement.
- With the incorporation of TJ in the National Development Plan (NDP), it is hoped that the implementation plan will contain **clear strategies to monitor progress**. More importantly, NDP is contributing to Agenda 2030 as well as the Sustainable Development Goals (SDGs), especially goal 16 (Peace, Justice and Strong Institutions), 5 (Gender Equality) and 10 (Reduced inequality). In terms of strategy, it is effective because beyond providing redress for the victims, it contributes to the country's development agenda. In that regard, it is hoped that there will be a transitional justice fund, because for now, the policy only mentions that resources will flow from a consolidated fund.

#### **4. Session 2: Making transitional justice a reality- Comparative experiences and possible strategies for implementation**

This session tackled five aspects from a practical point of view about how to make transitional justice a reality. The session was intended to share experiences with the state actors in order to emphasize the possibility of having effective and meaningful transitional justice processes in the country. Below are the aspects that were considered;

##### **4.1 Closing the impunity gap for atrocity crimes: Lessons, challenges and Strategies – Maria Kamara- outreach Officer for Uganda and Kenya (ICC), and Justice Nahamya Elizabeth- Retired Judge of High Court (Uganda)**

**Ms Kamara in her presentation focused on the role of the ICC** as a complementary court that assists states in closing the impunity gap by fostering a culture of respect for the rule of law. However, she noted that the ICC acts as a court of last resort which is an important component of TJ. She further noted the gaps between the victims' needs and the work of the ICC. For example, in Uganda when the ICC started its work, victims asked about the low level commanders who they believe also committed crimes. She pointed out that it is not the role of the ICC to fill those gaps and therefore the TJ policy should be in position

to address issues that the ICC cannot address. She further raised a concern in terms of blanket amnesty for serious crimes and that this is perceived by the communities of victims as disguised impunity.

**In terms of lessons learnt**, she noted that it is impossible for international institutions to fight impunity without the full cooperation of states and that CSOs have a role to play by creating a momentum and demanding for accountability towards impunity such as what happened in the case of Omar Al Bashir. In addition, it is the role of the state to meet its existing treaty obligations and take steps to encourage other states to do likewise. Finally, the state should invest in justice infrastructure such as judicial, prosecutorial and investigation structures to support them to execute their judicial duties.

**Justice Nahamya in her presentation focused on victim support** which she noted as a gap in Uganda's legal system. She noted that victims should be supported in terms of accessing a lawyer, they have right to be provided with information by the Registrar and that they should be protected so that more cases can be reported. She emphasized that increased protection means increased confidence in the court system and increased provision of evidence. She made reference to the Rules of Procedure and Evidence of the ICD and how the rules are not clear about how victims' participation should be ensured. She drew an example from Section 12 of the Prevention of Trafficking in Persons Act (2009) which sets out the support that should be given the victims. Her Lordship called upon the ICD to have a more comprehensive and participatory approach and engage the victims about their needs to avoid speaking on their behalf. She concluded by emphasizing the need to ensure that the rights of the accused and the rights of the victims are balanced in the execution of criminal justice.

#### **4.2 'We are all victims': Delivering reparations in a context of wide spread need and large scale human rights violations - Loraine Smith, Post-conflict Justice Advisor (Redress)**

Ms Smith in her presentation made a few recommendations for the implementation of the policy in line with the issue of reparations and these included the following;

- The need for appropriate legal frameworks for reparations: She proposed a separate law to deal with reparations rather than having it incorporated into the proposed TJ Bill to provide legal certainty and a level of sustainability regardless of political fluctuations. The legislation should provide; the violations, timeline, sequencing, appeals procedure for reparations decision and the procedural modalities of reparations among others.
- The need to identify the beneficiaries and determine their eligibility and this can be based on the already existing data. She highlighted the importance of including categories of victims who are often excluded from such processes such as refugees and migrants. In addition, she recommended the need for interim assistance for victims of gender based violence or persons with disabilities among others while the mapping is being completed.
- Forms and modalities of reparations should be considered and the emphasis is mostly on compensation which is only part of the broader package. Therefore, prioritisation is

key and gender sensitivity aspect should be considered such as including the Principles of Nairobi Declaration in the way reparation framework is designed. Therefore, any discussion in reparations has to be victim centred and consultative.

- There is need to consider the operational aspect of reparation such as which reparation form should come first and which victims should be considered as priority.
- Need to distinguish between development and reparation while finding appropriate synergies.
- Need to address challenges and misunderstandings around reparations which calls for further communication and outreach

#### **4.3. Achieving reconciliation after conflict: principles and processes - Isaac Okwir, Team Leader-Justice and Reconciliation Project (JRP)**

Mr Okwir focused on the importance of reconciliation and noted that for community to coexist, it is important to deal with the causes of the issues experienced. He noted that the conflicts that happened in Uganda left a lot of unresolved issues such as stigmatisation, land conflicts, discrimination in access to services and lack of acknowledgment of atrocities committed and these are obstacles to reconciliation. He pointed out that, there are a many of conflicts such as clan conflicts, religious conflicts, political and personal and these determine the nature of reconciliation to be considered. In his opinion, it is therefore important that research is undertaken to understand the kind of people who were affected by the conflict, their needs and key actors to involve in the process as duty bearers which will help in identifying the right reconciliation mechanism to explore.

He further noted that it is important to acknowledge the crimes that were committed in order for people to reconcile. There have been a number of community led memorial initiatives which provides for healing to the individuals and to the community as a whole and thus contributes to reconciliation at the community level. In addition, for there to be reconciliation, it is key that peace and reconciliation structures are put in place such as empowering cultural and religious institutions and ensure that women, men and young people participate equally in the healing processes. Finally, he noted the importance of having community led dialogues that can create space for the community members to know and share their challenges.

#### **4.4. The relationship between Amnesty and other TJ processes in the policy Mr. Twinomujuni Nathan-senior legal officer, Amnesty commission**

Mr Twinomujuni provided a brief background about the establishment of the Commission noting that its primary focus handling perpetrators and it was granting them blanket amnesties. However currently, the commission is not granting amnesty to perpetrators of serious crimes anymore. He mentioned that the commission is still working till May 2021. He further posed four questions to the participants which all require further exploration;

- whether a new agency specifically concerned with the TJ Policy should be formed? Currently in Uganda there is a ban on forming new agencies so it is not clear whether the name of the commission will be changed or a new agency will be formed to support the implementation of the policy.

- Question around reparations- whether or not Uganda as a country is in position to handle monetary reparation? If we are to consider monetary reparations, how will it be possible in terms of budget?
- Can the country handle the truth? Or is there a risk of telling the truth?
- How will traditional court be managed and handled? Will the decision be appealable before a court of law?

#### **4.5 Pursuing, truth, accountability and reconciliation through TJ mechanisms- Mr. Oloo Ambrose- Prime Minister –Ker-kwaro,**

Mr Oloo shared the Acholi experience in which he highlighted that in their culture, power radiates from the highest authority to the last segment of society and there is an existing hierarchy

He further noted that in the event of a conflict, the society has developed mechanisms to deal with various aspects of the problems and repair the breaches of the divine code through rituals, compensation, reconnection and reconciliation. He further emphasized that the transitional justice is focused on truth and therefore you cannot talk about reconciliation before knowing the truth and among the Acholi culture, divine intervention may be evoked to determine the truth.

In the Acholi culture, Mr Oloo noted that a person remains a victim as long as the offender has not gone through the whole process of restoring the social ties. In addition, the Acholi do not consider compensation in relation to the material value but rather the inherent value that is healing not the financial gain. He finally emphasized the need to maintain vigilance after conflict since there are new social group emerging in Northern Uganda that nobody is tracking.

#### Questions from the participants

❖Q: How has the ICC supported local accountability processes. **A:** *[In Uganda, the overall aspect of looking for those who are THE MOST RESPONSIBLE is already complementing a system where other perpetrators are actually tried at the national level. There has been a lot of CAPACITY BUILDING, EXPERIENCE SHARING with members of the DPP on witness protection, victims' participation, outreaches, to the extent that some have had the opportunity to go to The Hague.]*

❖Q: What can be done in order to support victims' rights and participation in Uganda, to increase their protection in domestic laws? **A:** *[Enacting MORE LAWS ON VICTIM RIGHTS, knowing that there is no FAIR TRIAL without the victims, ACADEMIC PROGRAMS teaching about victims' rights, sensitisation of the population on how victim participation can occur, SENSITISE the judiciary to appreciate victims' rights, having the voice of the population in parliament.]*

❖ Q: What is the relationship between development and reparations? **A:** *[DEVELOPMENT CANNOT BE A SUBSTITUTE FOR REPARATION; there are key SYNERGIES to be made, and the time is right with SDGs 16 and 5: there is now a basis to use DEVELOPMENT FUNDS for justice purposes. The DIALOGUE needs to happen between transitional justice and development. In*

*relation to collective reparation for example, it must be very clear that whatever is awarded is awarded for reparation purposes and not only for development. for example: building a school is really good for the community but if a child cannot access it because he/she cannot get a birth certificate, it doesn't mean anything. It is development, but it is not reparation. There must be a strong dialogue between development actors and TJ actors, so the firsts are aware of the TJ agenda and can act accordingly.]*

❖Q: What are some of the challenges the Ker Kwaro has faced with regard to conflict resolution? **A:** *[The biggest challenges are the INTERESTS WHICH UNDERLIE ANY CONFLICT. Another challenge is the CHANGING FORMS OF CONFLICT over time. What led to the initial cause of the conflict in Northern Uganda is maybe not what led to its consistence and then to its conclusion. The intervention must then be very dynamic. The last challenge is that we are very often CONSTRAINED BY RESOURCES.]*

❖ Q: You laid out a set of questions about amnesty and the TJ policy in general which you asked to the floor: how civil society can contribute in tackling these questions through the process of implementation? **A:** *[Write papers in relation to the policy and make noise aimed at implementation of the policy.]*

❖ Q: How is the Ker kwaro dealing with cross boarder conflicts? How is it planning to reach other communities like Teso and Lango for truth telling? What safety nets are we putting in place to avoid re-occurrence of conflict?

**A:** *[Ker Kwaro has been holding many DIALOGUES with other communities. The challenge is that traditional rituals are VERY CULTURE SPECIFIC. The safety nets to AVOID FUTURE PROBLEMS IS NOT ONLY THE RESPONSIBILITY OF TRADITIONAL INSTITUTIONS, IT CUTS ACROSS ALL THE INSTITUTIONS – the Government of Uganda, traditional institutions, religious leaders...]*

## **5. Way forward: Commitments towards effective implementation of the NTJP**

According to the program, the commitments were meant to be made by one Member of Parliament and Government officials. The government officials were not available to make commitments.–Below are the commitments and comments that were made by Hon Lyandro Komakech as a way forward;

### **Comments and way forward**

- Need to form a Transitional Justice Commission so as to implement the TJ policy
- Need to have Ugandan scholars to begin writing the local narratives
- A brief from the dialogue should be developed and then CSOs and development partner should organize a strategic retreat to dissect and have critical discussions on the implementation of the policy
- CSOs should meet with the key government agencies that are supposed to implement the policy so as to devise ways of synergies.
- There is need for capacity building among the Government actors to help them understand the TJ policy in greater detail.

- Other Government Ministries such Gender, Education, Tourism, Finance should be involved in the implementation process of the TJ policy so as to mainstream their actions.
- There is need to popularize the TJ Policy and this calls for CSOs to resuscitate the TJ Platform as a mechanism for popularizing the policy.
- CSOs need to engage with development partners to facilitate good working relationships, build synergies with common denominator on the delivery of the TJ policy.
- Need for more programmes and support for women who were abducted and children born in captivity.

**Hon Komakech committed to sharing the report with the Speaker of Parliament and then have meetings to catalyse the TJ process**

**Closing Remarks; Dr Chris Dolan –Director Refugee Law Project**

In his closing remarks Dr Dolan appreciated the role that CSOs have played in adding value to the policy. He further called upon CSOs not to abandon truth seeking in the name of nation building and that the capacity of the communities to deal with truth should not be under estimated as there is an appetite to engage with the truth to create national narrative in Uganda. Mr Dolan further mentioned that it is urgent to bring the line ministers on board in the implementation of the TJ policy so it is important to determine the legal obligations of the line ministries.