



**WOMEN AND SEXUAL VIOLENCE IN CONFLICT: A CASE OF
NORTHERN UGANDA**

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This document represents part of the author's study programme while at the Institute of Social Studies. The views stated therein are those of the author and not necessarily those of the Institute.

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List of Acronyms

ACCS	Advisory Consortium on Conflict Sensitivity
CID	Criminal Investigations Department
CRSV	Conflict Related Sexual Violence
DCDO	District Community Development Officer
DPP	Directorate of Public Prosecutions
DRC	Democratic Republic of Congo
FGD	Focus Group Discussion
FIDA	International Federation of Women Lawyers
HRBA	Human Rights-Based Approach
ICTJ	International Centre for Transitional Justice
IDP	Internally Displaced people
JLOS	Justice Law and Order Sector
JRP	Justice and Reconciliation Project
LRA	The Lord's Resistance Army
NGO	Non Government Organisations
NRA	National Resistance Army
NUSAF	Northern Uganda Social Action Fund
OHCHR	Office of the High Commissioner for Human Rights
PRDP	Peace and Recovery Development Projects
SJP	Social Justice Perspectives
SV	Sexual Violence
TJ	Transitional Justice
TJP	Transitional Justice Policy
TJWG	Transitional Justice Working Group

UBOS Uganda Bureau of Statistics
UHRC Uganda Human Rights Commission
UN United Nations
UNHCR United Nations High Commissioner for Refugees
UNICEF United Nations Children's Fund
UPDF Uganda People's Defence Force

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Abstract

While sexual violence and rape have been a practice against men and women during civil war and conflict, women (and girls) faced challenges of accessing justice in post-war periods where institutions and practices remain patriarchal. This study analyses cases of sexual violence and rape in Nwoya district in Northern Uganda. It examines the ways in which the government has addressed the challenges of re-integrating the survivors of sexual violence into society. It discusses the significance of the Mato Oput as a traditional transitional justice system in this process and argues for a coordinated and collaboration between different agencies as well as increased gender awareness in dealing with the victims of sexual violence. While progress has been made in providing retribution and support to the victims, much still remains to be done to ensure a sense of security in the lives of women in Nwoya and society, as well as providing them with legal, social and economic assistance.

Relevance to Development Studies

This study contributes to the existing body of knowledge with regard to researching conflict in northern Uganda and ways of promoting justice to the victims of sexual violence during wars. It provides a framework for reintegrating sexual violence victims based on the traditional justice system presented. The study further experiences from other related cases across the world and details evidence and information for different actors in a comprehensive manner and advocates an effective criminal justice for survivors of sexual violence.

Keywords

Women, sexual violence, conflict, Human Rights, justice, re-integration

CHAPTER 1: Introduction

While men and women are victims of sexual violence during war and conflict, studies suggest that women (and girls) are often more vulnerable and appear to be more frequently abused in such circumstances (McKay, 2005: 386; Turshen, 2000:803; Jefferson, 2004; McKay, 2005; Sriram et al., 2014 (Brown-Miller, 1993: 38). These atrocities usually lead to the destruction of lives, social dismissals and mental disorders among different impacts (Vinck et al., 2007). Recognising the seriousness and long-term effects of such experiences, governments and non-government agencies have been set up to support victims of sexual violence.

In Uganda, many women and girls were also sexual victims of the Lord's Resistance Army (LRA) amid the war that set the LRA against the Uganda People's Defence Force (UPDF) in Northern Uganda from 1986 – 2006 (Vinck et al., 2007). While there are initiatives to redress some of the problems women encountered, there is less research carried out on how the survivors of sexual violence have been reintegrated into their communities.

Therefore, this study focuses on both the experiences and the reintegration of female victims in Uganda from a human rights and justice perspective from 2007 to 2015. Although men and boys were also subjected to sexual violence, abductions and were conscripted into the rebel armed force positions (Human Rights Watch, 2005:16), this study focuses on the situation of women because they had the additional challenge of re-integrating into a male-dominated society. Thus, the survivors endure being assaulted and being denounced by a patriarchal group (Kesic, 2002: 316). Allowing them to recount their story in this manner, is indispensable in formulating another method for comprehending their situations.

1.1 Background

The African continent has for quite a long time experienced internal and external armed conflicts since the 1960s (Olaosebikan, 2010:549). For example, between 1987 and 2007 alone, out of 56 countries on the African continent, 20 experienced armed clashes (Bastick et al., 2007: 27). In every one of these contentions, there was tremendous loss of lives, destruction of property, mass killings of individuals, and sexual violence among other human rights infringement (Bread cook, 2011: 245).

The war in Northern Uganda began in 1986 when the Uganda government armed forces, the National Resistance Army (NRA), which was later renamed the Uganda People's Defence Force (UPDF), was attacked by the Lord's Resistance Army (LRA) rebels led by Joseph Kony, who needed to restore the 'ten commandments' (Sturges, P. 2011). The LRA rebels initially enjoyed the backing of the Acholi (an ethnic gathering living in Northern Uganda), who felt underrated and estranged from the rest of the country by the government (Sturges, P. 2011). However, they rapidly lost that backing because of their dreadful acts including beating, injuring and sexually manhandling their tribes mates whom they suspected to be working with their enemy (Okello and Hovil, 2007:434).

To maintain a strategic distance from revolutionary assaults against civilians in their communities, the government forces forced more than 1.7 million individuals in Acholi and Lango sub-regions to leave their homes and moved them into more than 200 Internally Displaced Peoples (IDPs) camps (UNICEF, 2007: 99). Again, this did not prevent the raiding militants from attacking the IDPs and murdering, damaging, destroying property and abducting individuals (Human Rights Watch, 2005: 16). By 2007, almost 25,000 children (7,500 of them being girls), had been abducted by the LRA (UNICEF, 2007:99). The women and girls some as youthful as twelve years, were given out to army commanders as 'wives' and forced into sexual abuse (UNICEF, 2007: 99). Men and boys were similarly abducted, subjected to assault and conscripted into the rebel positions (Human Rights Watch, 2005: 16). Demonstrations of sexual brutality and torment were not restricted to the LRA

but also the government forces – the UPDF, needless to say that the greater part of the sexual exploitation that occurred in the IDP camps is attributed to the UPDF officers (Human Rights Watch, 2005:32).

1.2 Problem Statement

Since the defeat of Kony in 2007, Acholi and Lango ethnic groupings have enjoyed relative peace and the majority of the internally displaced persons have been sent back to their homes to transform their lives (Okello and Hovil, 2007). However, the survivors of sexual violence are yet to see justice. The greater part of the cases of sexual brutality went unreported to the authorities. This is because of the related social disgrace associated with rape, the widespread absence or failure of the legal framework and the apprehension of responses from the culprits some of whom or their associates were still at large (Human Rights Watch, 2005:51).

Sexual violence has assumed a substantial part in degrading a large number of women over the world, particularly in countries where such internal conflicts have formed the way individuals feel and consider their positions in the general public. The majority of women expect that they will get no justice at all in light of the fact that the vast majority of the legal procedures are sorted out locally. The local leaders are trusted with offering relief to the casualties, however they do not have any power of increasing further justice to see their tormentors imprisoned or punished. This study further concentrates on northern Uganda on the grounds that the war between the LRA rebels and the Ugandan Government is one of Africa's prolonged armed conflicts. It went on for almost two decades and occasioned cases atrocities, anxiety, substantial cases of infringement of the people's human rights, overwhelming sexual violations particularly in the Acholi sub-regions (Amnesty International, 2005; Liebling-Kalifani et al., 2013).

Since 2007, relative peace has come back to northern Uganda after the LRA rebels were driven out of the country to DRC, Southern Sudan and Central African Republic (Vinck et al., 2007). This empowered the government to decommission the greater part of the camps and permit individuals to come

return to their homes (Baker, 2011: 247). It is likewise vital to take note of the peace that has been restored; there is presence of the police; the financial potential of the area has been enhanced and there is progressive return and reintegration of formerly displaced persons (ACCS, 2013). To modify and settle the northern district by an establishing framework for recovery and improvement and to bridge the current financial gap between the south and the north, the government of Uganda established Peace and Recovery Development Projects (PRDP) in 2007 (Adong, 2011:30). These programmes were boosted by different development partners all over the world who attempted to support their success at different stages (ACCS, 2013).

Nonetheless, the leaders in Northern Uganda assert that government programmes like PRDP and Northern Uganda Social Action Fund (NUSAF) have not profited the survivors of the war who are as yet sulking in servile poverty since what was implied for them was snatched by the government authorities (Daily Monitor, 2014). For example, a few months into PRDP enormous corruption crimes were reported in the Prime Minister's Office, which stirred the whole venture into risk. Here, critics asserted this was a show of absence of political will in favour of the government to deliver the northern region to the same advancement levels as the other parts of the country (Human Rights Watch, 2013: 15 & 20). In addition, the rule of coordinating clash conflict affectability into mediations was not adequately actualized (WTF, 2011: 46).

The government of Uganda is signatory to worldwide human rights instruments most of which have been approved and ratified by government. However, a portion of the international and domestic laws that address the predicament of the survivors of sexual violence has not been sufficiently invoked and implemented on account of the LRA discord in northern Uganda. It is upon this premise that this study seeks to examine how sexual violence was used as a weapon of war in Northern Uganda and how the reintegration needs of the survivors of sexual brutality have been handled especially the right to access to criminal justice. The study employs the focal significance of the principle of law, incorporating it into conflict circumstances, in researching and indicting shocking violations, particularly sexual violence.

1.3 Relevance and Justification

A closer look at the right to remedy and equal treatment under Uganda's national law gives an insight into government response to the plight of the victims of rape and sexual violence during conflicts in order to seek justice, remedy and reparation. Article 21 of the 1995 Constitution of the Republic of Uganda guarantees equal treatment, and non-discrimination. The right to seek remedy of violation is prescribed in Articles 50 and 53. Articles 24 and 44 (a) guarantee freedom from cruelty, torture, and callous treatment; these are fundamental rights which are acknowledged to be non-derivable. Furthermore, Article 50 guarantees victims of serious violation and the opportunity to apply to a competent court for redress, which may include reparation. Besides, Article 53 (2) authorizes the Uganda Human Rights Commission to demand for legal remedy or redress and compensation in any proven case of human rights violation. Apart from the stated provisions of the constitution, the National legislation also sets out key provisions that guarantee redress and remedy of serious violation of human rights. Article 64 of the International Criminal Court Act (2010) refers to implementation of the International Criminal Court's orders for victims' reparations.

By and large, Uganda has ratified quite a number of relevant Regional and International legal instruments of victims' rights to remedy and reparations. These include the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, The African Charter on Human and Peoples Rights, The Geneva Conventions Act, Cap 36342, and The International Criminal Court Act. This is in addition to the Amnesty Act (Uganda's national amnesty law). Moreover, remedies for victims can also be achieved through the trial of crimes that are documented in the domestic penal law and that have negative impact on the individual victim's natural rights and human self-esteem. It is interesting to know that Uganda Penal code Act Cap 120 includes crimes such as rape in section 123-124, abduction in section 126, and murder in section 188-189. In addition, the provision for kidnapping and abducting is clearly presented in Chapter XXIV – Sections 239 -247. Punishments can be supplemented with an order handed out by courts acting under the powers granted by Section 126.

Therefore, Uganda has sanctioned a significant number of pertinent Regional and International instruments of victims' rights to remedy and reparations. This incorporates, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, The African Charter on Human and People's Rights, The Geneva Conventions Act, Cap 36342, and The International Criminal Court Act. This is notwithstanding the Amnesty Act (Uganda's national exoneration law). Besides, solutions for survivors can likewise be achieved through the trial of violations that are recorded in the local correctional law and that have negative effect on the individual survivors' rights and human security. It is interesting to realize that Uganda Penal code Act Cap 120 incorporates violations, for example, assault Sections 123-124, Abduction in Section 126, and Murder from Section 188-189. Likewise penalties about Kidnapping and Abducting were plainly exhibited in Chapter XXIV – Sections 239 - 247. Despite the fact that, penalties can be supplemented with a request passed out by courts acting under the forces allowed by Section 126.

While legislature of Uganda set up an atrocities division in the High Court to among others manage the wrongdoings (including sexual violence) that were carried out during the LRA and different conflicts, prosecution of sexual violence violations has not taken off (Tadeo, 2012). The real deterrent to access to lawful solution for the survivors is the Amnesty Act 2000 Cap 294, which vies for pardoning and exemption of people who could have carried out any wrongdoing during the war (Roymond, 2012: 423). There are various reasons behind lack of implementation of the law and access to criminal justice by the survivors of sexual; they include the apprehension of backlashes from the culprits, absence of proof, lack of knowledge about the formal court systems and inability to separate the offenders from innocent people (Baker; 2011:249).

However, despite the presence of the above significant international and domestic human-rights and criminal laws set up to address the gross violations of sexual violence as a weapon of war (Sellers, 2007: 3), the Uganda government has not taken genuine measures to bring the culprits of sex savagery against women to book.

1.4 Research Objectives

The objective of this study is to use a Human Rights-Based Approach to analyse the use of sexual violence as a weapon of war during the northern Uganda conflict against women, how they have been reintegrated into the community and their access to criminal justice since the war ended in 2007. The study will also examine the importance of the rule of law in conflict situations, in investigating and prosecuting atrocious crimes, especially sexual violence, which is used as a weapon of war.

1.5 Main Question (S)

How was sexual violence used as a weapon of war during the conflict in Northern Uganda and how have the reintegration needs of the survivors of sexual violence been addressed especially the right to access criminal justice?

1.6 Sub-Questions

1. How was sexual violence used as a weapon of war during the conflict in Northern Uganda?
2. How has the government addressed the reintegration needs of the survivors of sexual violence?
3. Has the reintegration process for the survivors of sexual violence been handled based on the law?

1.7 Structure of the Paper

This research starts by introducing war, and those people who are affected by the effects. In this chapter, I present the background, research problem and justify the problem. Besides, I also discuss the relevance and justification of the study I present the objectives of the research, questions, and sub-questions. Lastly, I discuss the mixed methodological approach. This approach greatly assisted in providing answers to the reintegrating survivors of sexual violence in a post-conflict situations. I conducted primary and secondary research. Also, I used Journal databases and a general search engine to browse for relevant sources. The challenges and limitations of the study are also highlighted. The

second chapter reviews literature and examines the theoretical and conceptual frameworks which helped in the analysis of the data collected. It discusses **sexual violence and human rights-based approach to access to justice for female victims**, legal framework of the fundamental human rights during armed conflict, magnitude of sexual violence in the recent armed conflicts human rights based approach, transitional justice and reintegration of survivors of sexual violence, and gender sensitivity on sexual violence in conflict. In chapter 3, I present the data and engage important concepts such as sexual violence and the government's response, understanding the use of sexual violence as a weapon of war in northern Uganda, government's response to addressing the reintegration need of survivors of sexual violence. In chapter 4, I still discuss the data in order to answer the important research question. I examine the reintegration of survivors of sexual violence according to the law, transitional justice approach to reintegrating of survivors of sexual violence during conflict, understanding of customary and social justice mechanisms in northern Uganda. Finally, in Chapter Five, a general summary and conclusion of the entire study is presented.

1.8 Methodology

The study is a case study research, which was conducted in July and August 2015 in Nwoya district, Alero sub-county. The importance of a case is that it attempts to understand the complex social process that would be achieved by centring on the case containing a “holistic and real-world perspective” (Yin Robert. K, 2014:4). Nwoya district has a population of 128,094 people with about 126,818 households (UBOS, 2014: 12&46-47).

In an attempt to provide answers to the outlined research questions of this study, a mixed methodology was adopted, corresponding to the case of study research. To begin with, secondary research relied on performing a comprehensive literature review and a number of articles including journal articles, reports, books, governmental publications and other relevant sources

that were selected for review to address the specific research questions identified above.

As for primary research, the interview and focus group discussion methods were used as a specific strategy to acquire new data to complement the arguably evidence literature. To fill in the identified gaps in the literature, interviews and FGDs were organised with stakeholders and their input were prompted regarding the research questions.

However, the choice of interviews and focus group discussion techniques was due to their possibilities of possessing a vibrant role with more curiousness in the difficulty of the data as a different option to the extensiveness (Wimmer and Dominick 1997: 84). Although it is often tricky to draw unqualified assumptions from the results, I took a broad view of larger clusters because of the unrepresentative samples that were commonly used. The leading advantage of interviews and focus group methods is that it allows the researcher to modify her design, give room for flexibility in case of unforeseen development or circumstances. Besides, the methods offer deep understanding and account of people's specific experiences of events with extensive detail because they are situated and embedded in local situations.

For these methods, survivors of sexual violence from former rehabilitation centres, Internally Displaced People's (IDP) camps and communities were selected through the use of Convenience sampling. This sampling often referred to as non-random (handpicked, snowball and volunteering) sampling dictates participant selection, which means that the accessibility of respondents and their personal availability to participate are the main criterion for selection. The choice of this sampling strategy can be justified if we are to consider the rather low accessibility of respondents, given the sensitivity of the subject in question.

Both purposive and snowball sampling techniques were chosen. The choice of purposive sampling methods was influenced by the objective of acquiring satisfactory evidence across a wide range of the study sections. This sampling procedure is the most suitable for this specific study passing by the

reason and its affectability; it includes selecting key respondents in light of an unequivocal reason (O'Leary 2010: 170).

The sample of respondents comprised a total of 4 FGDs with 8 to 12 participants. Each FGD was organized as follows: the first FGD comprised persons from communities, the second one was made up of cultural leaders, the third one comprised male survivors and the fourth one had female survivors. The main respondents for the FGDs were women, men and girls who are survivors of sexual violence. Using a snowball sampling technique, female and male survivors of sexual violence were selected for in-depth interviews. In addition, six (6) former LRA rebels were selected and interviewed on what their views are about sexual violence during the war in northern Uganda. More data was collected through interviews with four (4) key informants from government bodies and agencies, the justice chain link agencies such as the Criminal Investigation Department of Police, Directorate of Public Prosecutions, Courts of Law, and correction/rehabilitation centres (prison). NGOs, cultural, religious and opinion leaders were also interviewed. About 55-60 people were interviewed and this number may not be representative enough of the rest of the survivors.

The semi-structured interviews in this study were built around 9-10 research questions. These served as a rough structure for discussion, helping to ensure that the researcher guides respondents towards addressing the elements of interest of the study. They also ensured a certain degree of freedom for participants to develop their discourse in the way that they find meaningful for the discussion. By doing so, the researcher favoured the authenticity of responses and allowed each respondent to cover what is the most significant to them in terms of the topic and area of discussion.

Ethical and moral concerns were fundamental to directing this research because the communities within the area of study have been profoundly influenced by conflicts. Culture is of focal significance to the Acholi people, particularly topics that are related to sex. Therefore, corroborations were completed in as touchy a way as could reasonably be expected. Interviews were carried out in the dialect the respondent felt most comfortable with, which in rural communities was to a great extent Acholi. In this case, research was

conducted with the led of an interpreter with knowledge of study objectives, to guarantee sensitivity and secure accurate information.

Confidentiality and anonymity are strictly observed in this report, so that all names of group respondents are either changed or excluded and the list of participants is not be included or attached to this report. Respondents were made mindful of this, and were requested to sign a discretionary assent forms or participation records (for Focus Group Discussions). The participants had the decision to decline voice recording amid the procedure. During the focus group discussions, in-house standards and rules were communicated to the members with regard to the feelings and opinions of those that have individual grievances against one another; they were to be kept aside. To guarantee cultural sensitivity, this research was directed under the supervision of the Refugee Law Project staffs, who are more acquainted with Acholi culture and could control the morals of this study.

The field study did not go without some challenges as expected including the language barrier, bureaucratic tendencies, and denial of access to some information by government respondents. Sexual violence being a sensitive issue especially for Ugandan women, the majority of the key informants was reluctant to give enough explanation and answers to the topic. This was as a result of fear of reprisals from the perpetrators of sexual violence that may still be at large. However, I made use of an organization that is working in the area of study like The Refugee Law Project.

CHAPTER 2: Sexual Violence and a Human Rights-Based Approach to Access to Justice for Female Victims: A conceptual framework

2.1 Introduction

This chapter discusses the legal framework of the fundamental human rights that ought to be observed during and after armed conflict as provided for under different international treaties that Uganda is signatory to and has ratified. It also examines the magnitude of sexual violence in most of the recent armed conflicts, gender sensitivity, the Human Rights-Based Approach to transitional justice and reintegration of the survivors of sexual violence during armed conflict. It engages the concepts of human rights, legal consciousness and access to criminal justice.

2.2 Legal Framework of the Fundamental Human Rights during Armed Conflict

Embraced in 2005 by the UN Assembly, the privilege to cure and reparation in worldwide human rights law and global humanitarian law is one of the remarkable steps taken by the universal group in battling sexual brutality and torment in armed conflict and in post-conflict circumstances (UNHCR and OCHRC, 2011:7). However, this statute did not create any new lawful commitments since similar statutes are available in a significant number of worldwide laws. However, this principle is all encompassing and draws on existing fundamental legal obligations under international human rights law. For instance, it is included in Article 3 of the Hague Convention Respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), Article 8 of the Universal Declaration of Human Rights, Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Articles 68 and 75 of the Rome Statute of the International Criminal Court. It also found in Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination and Article 24 of the International Convention for the Protection of All Persons

from Enforced Disappearance among others. As provided for under international law, remedies for serious violations of international human rights law and international humanitarian law include the victim's right to: '(a) Equal and effective access to justice; (b) Adequate, effective and prompt reparation for harm suffered; (c) Access to relevant information concerning violations and reparation mechanisms' (UHRC and OCHRC, 2011:13).

2.3 Magnitude of Sexual Violence in the Recent Armed Conflicts

The degree of sexual violence in armed conflicts is disturbing. During the war in Congo, sexual misuse was at a peak and the frustrating issue was that the individuals who were to secure others were the same individuals who inflicted the violence. The mercilessness with which sexual savagery is done is very significant and majority of the women experience the impacts on any given day. Children as young as ten months are not saved (Ward and Marsh, 2006: 2). Women and men are forced into rape or to watch their children and relatives being raped and a few others are taken away into sexual suppression and forced into personal unions with soldiers (Bastick et al., 2007:2). At the end of the day, the conflict in Northern Uganda was no exemption to these examples of brutality (Baker, 2011:246). A few women and girls who escaped from the radical imprisonment came back with children born out of forced marriages (UNICEF, 2007:99). Women have been discovered entirely defenceless and this defines their position in the general public, making it hard to hold fast with regard to managing the armed forces and different guilty parties that exploit the circumstances (Emily Mick, 2011). Those without a male supporter close to them are most helpless in light of the fact that they have no insurance at all.

Sexual violence and assault continue to have high predominance in the war-influenced areas. For example, during the 1994 Rwanda genocide, around 250,000 to 500,000 women were sexually tormented and raped; in Sierra Leone sexual violence constituted more than 50% of the human rights violations (Emily Mick, 2011:7; Nowrojee, 2005:85). The 2013 report by the Secretary General on sexual violence in conflict shows that in DRC, near 200,000 victims

of rape are believed to be enduring the atrocities. No less than 1,000 rape cases were accounted for per day in 2011 alone. The same report demonstrates that during the war in Sierra Leone, no less than 60,000 women were assaulted between 1991 and 2002, and more than 40,000 women in Liberia between 1989 and 2003. Almost 60,000 were allegedly assaulted in Yugoslavia between 1992 and 1995 (Emily Mick, 2011:7). These insights demonstrate that the quantity of individuals that fall back on such disgraceful acts over the world expanded during conflicts, and the effects of these atrocities remain years after the end of the conflicts.

In several examinations of post-strife sexual violence (SV) events, women are always regarded as the victims and peacemakers while men are regularly portrayed as looking for war and struggle but also as the culprits of SV. This sexual orientation separation in the exploration methodology neglects to distinguish the different roles that both men and women play in armed conflict and also in the aftermath of conflict. While the female mother and wife, (feminization) is seen as loyal, the man (masculinisation) is seen as the holder of solid trademark which make him reasonable for business, war and whatever other zone concerned with physical powers in addition to education (Bouta et al, 2005: 3). Before we go further, it is important to analyse different strategies and hypothetical ideas that can help our understanding of the topic.

2.4 Human Rights-Based Approach, Transitional Justice and Reintegration of Survivors of Sexual Violence

On 10 December 1948, the United Nations General Assembly embraced the comprehensive statement of human rights whose principle goal was to recognise the characteristic pride and the equivalent and unavoidable privileges of all individuals from the human family on the planet. Worldwide, human rights are regularly alluded to as the world's first widespread belief system (Bryan S. Turner, 1993: 490). While encouraging the need to perceive the hypothesis of human rights, Sen traces the concept path back to 1770s beginning with the U.S. Announcement of Independence in 1776. After thirteen years, the French affirmation of "the rights of man" where both

announce that not just man is conceived and stay free and equivalent in the rights, however everybody is invested by their maker with certain unavoidable rights (Sen, 2004:316). This was emphasised by Robert Alexy while attesting Kantian position on the standard of all comprehensiveness of human rights when he noticed that every single individual has certain rights (1996: 209).

The Human Rights Violation Committee has confronted critical correspondence issues in the reparation process in nations that have been affected by SV because of a variety of components of culture, social and economic nature. This issue has empowered the Committee to provide support to individuals who required it as psycho-consistent help (Rubio-Marín, 2006: 78). This calls for the use of a Human Rights-Based Approach to handle such difficult circumstances.

Under the Human Rights-Based Approach (HRBA), the projects implemented by the governments to manage human rights must lead towards the victims' effective reintegration into the general public. Researchers like Andrea Cornwall and Celestine Nyamu portray a HRBA as "what ought to be". They further proceed to express that a HRBA calls for fairness in sharing the current resources and to help the underestimated individuals to state their rights towards the available resources (2004:1416 and 1417). On the same note, Peter Uvin alludes to a HRBA as the "means" and "ends"; which "means" are to engage the underprivileged groups to test mistreatment and exclusion and "ends" as systems that can advance, respect and mediate the violation of human rights (2007: 602-604).

The suggestion is that given such order, the general population must cooperate with different bodies to recognize the issues affecting the general public and build up a rather dynamic engagement to permit each influenced individual to make the right changes (Liebling-Kalifani et al., 2013). Under the HRBA, governments must understand that investment is an objective and a method: the main method for accomplishing such objectives is to reproduce and produce new open doors that will demonstrate to assist in the dynamic improvement of partner limits. HRBA accentuates the states' responsibility to human rights; rights suggest obligations and obligations request responsibility

and the state oversees the implementation of human privileges of the general population under its purview (Andrea C. and Celestine N., 2004:1417).

Involved parties must attempt a situational examination to recognize any prompt worries that could bring about an issue in the inevitable improvement of the projects, and in addition to handling any basic reasons from the immoral. That will permit even the non-state performing actors to have a simple time helping affected persons inside of the general public (Liebling-Kalifani et al., 2013). All development partners and the government must have a will to advance connections to human rights in their advancement points (Peter Uvin, 2007:604). The real human right that should be seen in the light of northern Uganda is the right to access to criminal justice.

The UN demands Member States to consent to their commitments for prosecuting the culprits of sexual violence, ensuring that all victims of sexual savagery, most importantly women and girls, have met assurance under the law and the same access to justice... end exemption for sexual violence as a feature of a broad way to deal with looking for practical peace, equity, truth, and national compromise (UN, 2015: 2-5). However, access to criminal justice by the survivors of Sexual Violence during war has been met with increasing difficulties particularly social challenges inside of the communities (Roymond, 2013:32).

The notion of transitional justice is important in post-war situations and can be usefully applied to victims of sexual violence. Different interpretations have been advanced such as the definitions for transitional justice to mean a reaction to a set of new difficulties and a method for legitimizing practices, for example, prosecutions, commissions of inquiry, disposals and compensation approaches that are used to react to these issues (Paige Arthur, 2009: 329). The government of Uganda is yet to embrace the Transitional Justice Policy; this is a reasonable indication that the government has not yet adopted any legitimate method for reintegrating the survivors of sexual violence regardless of consenting to various laws and statutes that compel clear and defined ways of reintegrating the survivors of sexual violence in conflict.

As provided for under international law, remedies for serious violations of international human rights law and international humanitarian law include the victim's right to: "(a) Equal and effective access to justice; (b) Adequate, effective and prompt reparation for harm suffered; (c) Access to relevant information concerning violations and reparation mechanisms" (UHRC and OCHRC, 2011:13). A study led by Magara (2014: 19) over the proficiency of the justice systems in Uganda exhibits that formal criminal justice procedures have been inadequate in providing social justice to the casualties of sexual violence in the post-conflict period. The author recommends that a victim-centred approach would be more effective.

The definition or understanding of justice shifts among different groups due to culture, traditions and norms. In some cultures, they trust that justice ought to be retributive with emphasis on proportional prosecution and punishment for the crime committed which is considered to have a value in itself. On the other hand, other communities value restorative justice with emphasis on processes "through which all those affected by an offence – victims, perpetrators, and by-standing communities – collectively deal with the consequences", and "the healing of wounds and rebuilding of relationship" (Megan, 2007: 155).

Criminal justice is gotten from the more extensive hypothesis of equity which is characterized by John Rawls to mean uses of the distributive standards for the essential structure of society (2001: 9). He doesn't just take a glimpse at justice as reasonableness by the general public but as additional Equal Liberty where every individual is to have an equivalent right to the most broad aggregate arrangement of equivalent essential freedoms perfect with a comparable arrangement of freedom for each of them (J. Raws 2001: 10 & 220). In any case, Richard J. Arneson Spring criticizes this idea observing that profound disparities as portrayed by Rawls don't all have their starting point in the fundamental structure of society (2008: 2). The distinctions in native ability or potential among individuals are present during childbirth and fundamentally shape individuals' life prospects; however, these emerge from diverse hereditary gifts, not from the essential structure of society (Richard J. Arneson 2008: 2).

F. Francioni characterizes access to justice as a “synonym” of legal insurance that depends on the tenet of the law and established detachment of force (2007). Access to justice is one of the crucial human rights recognized in the majority of the above-examined enactments. The general acknowledgment and use of the thought of access to justice was unmistakably set down under Article 8 of the 1948 Declaration of human rights among different laws. This along these lines must be perceived and executed by the Government of Uganda and these circumstances can be seen better applying the concept of Legal Consciousness.

Sally Merry defined legal consciousness as the ways through which individuals comprehend and use the law (Sally Merry 2003). Legal consciousness is also defined to mean a concept that address issues of lawful administration, generally how the law endures its institutional force in spite of an industrious gap between the law in the books and the law in real life (Sibley, 2005:323). To realize what law does and how it functions, we are expected to know how ‘we the people’ might add to the law's systemic impacts, in addition to its incapability (Sibley, 2006:326). Harding defines legal consciousness as a concept which considers how normal individuals approach, use and regard law in their regular life (Harding, 2010: 13).

In the setting of human rights, knowledge of the law is not just fundamental for security and social control of the rights, but for individuals to have some cognizance of the human rights commitments forced on them by law. Therefore, one of the essential variables that decides the compelling lawful right or requirement of human rights in any general public is the level of open attention to such rights and of the systems and foundations through which they are implemented. *Ignorantia iuris neminem excusat* (obliviousness of the law is no defence) is a typical lawful adage in light of the assumption that all individuals are relied upon to know the law in order to defend themselves and to secure and attain their rights (John C. Mubangizi, 2005:169).

In any case, it is not clear that to appreciate these rights one needs to have knowledge of them, and one cannot appreciate or actualize rights that he/she does not have even a hint on. This system proposes that a greater part of the casualties may know the law is available yet have not very many methods for

guaranteeing that they can take their tormentors to court. The illiteracy levels in such social orders are high, and the lawful parameters made conceivable in such zones are left to the scholarly and local leaders. That obliterates the justice framework on the grounds that the women have nothing to do with the justice framework headed by the elders and that underestimation exacerbates things. The wastefulness of the justice framework in Uganda is also called to attention by Opiyo who contends that the Justice and Reconciliation Project (JRP) developed recently ought to address the absence of knowledge in the region of providing justice to victims of sexual brutality (2015:2)

2.5 Gender Sensitivity on Sexual Violence in Conflict

Sexual violence in time of contention is coordinated by each individual from the clashing social orders, without segregating in sex or age. In a comprehensive investigation of the way of sexual misuse in conflicts, Sivakumaran (2007: 253) examines the issue of male violence in armed conflict. The author points out the development of sex in social orders and spotlights on the sort of sexual violence coordinated by men. As the author states, homosexuality, genital mutilation, authorized sanitization and rape are types of undermining in which the culprit attests its predominance over the victims and assumes responsibility of the professional creation means of the victims. In this setting, feminization and empowering of homosexuality are types of averting multiplication. A comparative analysis by Russell (2011: 2), states that sexual violence directed towards men usually has three intents: to eliminate any future sexual pleasure, eliminate the victim's possibility to reproduce or induce heavy bleeding and thus murder.

Steiner et al (2009: 1) contend that despite the fact that there is a universal affirmation over the issue of SV in armed conflict, the circumstances of the events and the method of the culprits employ remain obscure. Moreover, there is a restricted measure of data on the mental and physical unsettlement on the victims of such wrongdoings. Steiner et al (2009: 3-9) investigated information from 2005 to 2007 from Malteser International, an institution that held a medico-social support programme for the surviving victims of rape of the Democratic Republic of Congo. An aggregate number of 20,517 female

victims were enrolled in the system. The analysts inferred that just a small section of the survivors and on rare occasions have asked for medical or psychological assistance. Moreover, the author found that humanitarian programmes are extremely difficult because of the numerous needs of survivors.

One consistent issue is rejection of the rape victims by society and by their relatives (Steiner et al., 2009: 9; Kelly et Al., (2011: 6). These studies used a blended approach in which a non-random sample of 255 was surveyed. Taking after this system, a focused group of 48 female survivors were required to expound on the premise of the starting survey findings. The author found that from the initial sample, 75.7% of women were raped, and 30% had children of rape. In addition, 29% of these women confronted rejection from their families and 6% from their communities. The authors concluded that rape is a type of social division that goes for tearing the fabric of social integrity. In spite of the fact that victims of rape require programs for reintegration, these are either missing or wasteful.

Two vital refinements can be produced using the investigation of the above studies. A methodology that would just concentrate on one part of reintegrating assault casualties is not adequate. Two unique studies, namely Steiner et al (2009: 9) and Kelly et al (2011: 6) have exhibited that reintegrating victims of rape in a post-conflict circumstance is troublesome particularly in light of the fact that these individuals require support in more than one area. This can imply mental, restorative, financial and/or societal backing. The second qualification alludes to the information that exists on this point about men as victims of sexual violence in post-conflict societies. None of the studies examined the repercussions for male victims because the examples used as a part of the study had no male members; this demonstrates that this area is still unexplored.

A report prepared by Jones et al (2014: 2) for the Overseas Development Institute, shows a more detailed point of view on the long term impact of rape in a post-strife circumstance for both men and women. The report presents information from Liberia where social conflicts of ethnic origin regularly lead to sexual violence among women and men. The socio-economic effect over

the victims of this kind of violence is extreme. As the authors contend, for women, rape can bring about forced pregnancies or infertility; this is a deadly sentence because a woman's worth in some of these places is measured by her ability to produce. For men, the fear of being raped or mutilated in a sexually violent act implies inadequacy to tend to agricultural needs often fearing being assaulted which consequently brings poverty for the whole family. Jones et al (2014: 5-6) contend that speculations made in the psychological support centres can help victims to overcome post-traumatic-shock disorders and start the process of reintegration. Also, a second move should be made towards developing a legitimate framework that would quickly aggrieve and sentence the perpetrators of rape. This activity could decrease the disgrace and trepidation among victims of rape. Thirdly, the authors propose that bringing issues to light within the community would encourage the investment in help programs and decrease stigmatisation. Fourthly, the communities and external forces that go for destroying post-conflict sexual violence ought to put resources into reducing hyper-masculinisation, a term used to characterize violent cases of masculinity and strength. Sivakumaran (2007: 253) argues that declaring masculinity and predominance is a fundamental driver of rape and consequently handling this issue may reduce such occurrences. At last, reinforcing financial opportunities and putting resources into national action plans would give a more efficient reintegration of rape victims through learning and strengthening.

Jones et al (2014: 2-6) employs various methodological frameworks already alluded to by Rothe and Mullins (2008: 87). Any of the five propositions to eradicate the issue of sexual brutality in a post-conflict context can be replaced or supported when one or more recommendations fail to achieve their objective. For instance, regardless of the possibility that strengthening is a long and troublesome procedure, raising awareness in communities can lead to a better legal system and also to a reduction in stigmatisation.

Researchers like De Greiff et al contend this could be best accomplished through transitional justice. They argue that managing the past is critical for development reasons, both from the human rights point of view and on

grounds that unrepressed vast human rights transgressions undermine manners, standards and foundations that are on a very basic level imperative for future development. Moreover, Transitional Justice components can advance individual upgrades in welfare by recognizing individuals' stories, plea for justice, and rights to reparation – and by giving them channels of voice and acknowledgment and being accorded equal citizenship rights. Transitional justice measures can be seen as an arrangement of legal and non-legal measures that serve to flag the importance of the status of citizens as rights bearers (2009:12-24).

2.6 Conclusion

From this investigation of literature, the important frameworks have been examined as a means of explaining the immediate concerns that will be addressed in the study. A large portion of the issues talked about demonstrate the genuine effects that should be considered while responding to research questions. In addition, a large portion of the issues worked upon in this review demonstrates that the government has a part to play to help the society and also guarantee they understand their rights. The government needs to establish a system that will incorporate the strategies and projects that will elevate the lives of a huge number of victims today and in future. The society will no longer separate, isolate, and criticize such victims or neglect to hand over culprits of sexual violence on the grounds that they are aware of their legal mandate.

Although other cases apart from Uganda were included in the literature selection, the concluding remarks demonstrate that there are no strict arrangements to take after by the nearby governments or international community in managing SV in a post conflict context. The reasons for SV appear to be very many and even presented as a list of tackling issues. For example, the attempt to engage the powerless people through hyper masculinization or predominance attestation over the powerless, yet these systems need legitimate application and even need appropriate arrangement. On account of empowering for education, examples have been found; however, governments may be not able to sustain these measures.

Furthermore, the local governments do not have the stability and vital power to control the magnitude of SV in post-conflict because of the instability factor, thus they are unable to draft and apply a policy that can prevent SV.

A few victims of SV in post-conflict have also been ignored. Although some policy makers, researchers and analysts have signalled the issue of SV geared towards men, there has been little consideration; as a result, many victims remain without help. Economic implications are clearer on account of male victims in addition to cases where the reproductive capacities of the woman have the power to dictate her social status and, therefore, her security.

Another issue is the gap of knowledge that exists for these victims and the cases reported to the authorities, who much of the time are the culprits of SV. These difficulties, governments' inadequacy to act coupled with the absence of information over the connection and the characteristics of culprits, prompts confusion in policies. Yet a considerable number of researchers pinpoint the areas to be tended to, for example, specialised services in health, psychology and facilities.

CHAPTER 3: Sexual Violence and the Government's response

3.1 Introduction

This section examines data on the use of sexual violence as a weapon of war during the conflict in northern Uganda. It also explores how the needs of the survivors have been attended to by government and different actors amid the reintegration process. The data is derived from the existing literature as well as field findings. The chapter also examines the different perceptions of rape as a weapon of war and rape in general context, government's response to the plight of the survivors and interventions that have been put in place.

3.2 Use of Sexual Violence as a Weapon of War in Northern Uganda

The vast majority of the population in Northern Uganda has suffered from immense conflict and trauma resulting from various forms of human rights violation. During the conflict, the three most common forms of violence were rape, child sexual abuse, and physical assault (Megan et al., 2007: 65). Gender-related offences during the conflict are pervasive, exerting a staggering effect on the lives of a large number of civilians (Amnesty International, 2005; Liebling-Kalifani et al., 2013). The infringements also included sexual violence, mutilation, murder and rape during the twenty-three year war between the Lord Resistance Army and the Ugandan Peoples Defense Forces (Thomas and Gardner, 2014: 95-96).

To analyze the use of sexual violence as a weapon of war during the conflict in northern Uganda, around 40% of the reactions were combined with the existing literature that portray the use of sexual violence as a weapon of war during this conflict. In most of the interviews, respondents supported the victims' account of the atrocities committed. When asked further about using rape and sexual violence as a weapon of war, one of the interviewees (a police officer) illustrated:

I somehow disagree since sexual violations that were committed here were direct looking at defilement, rape but not

using sexual violence as a weapon of war. Looking at the LRA, they would abduct and then distribute women to men to become wives. For the soldiers [government], whenever they stay in the bush for long, once they get a woman they just rape as part of the call of nature. Also, the issue of male rape was not there during the period of war in northern Uganda (Interview with Police Office, 15/8/2015).

This view was supported by the Human Rights Commission, Gulu Local Office. They observed that they have never received any reports or cases of use of sexual violence as a weapon of war since the time that the war ended. One of the respondents, previous LRA soldier, observed that sexual violence cases were committed by the LRA, the UPDF and the community.

I would categorize the sexual violence into three: these are from three different perpetrators - LRA, government soldiers and the community. Let me start with the LRA on the issues of sexual violation. The abducted young girls turn into [were made] wives but are [were] not raped. While in the bush, women, regardless of the age or pregnancy status are not given time to choose who they want to stay with; they are allocated to a man without their choice. On the side of the government soldiers, they spend a lot of time in the bush without seeing their women and whenever they come across a woman or even a man they just rape. In most cases when you escape from the LRA captivity, and you landed into the hands of the government soldiers you are always raped irrespective of your sex or at times you are killed. Within the community, if you escape and come back home, there is that high level of isolation and stigmatization. On many occasions, some men in the community also rape the returnees well knowing that nobody will believe the returnees” (Interview with former LRA soldier, 17/8/2015).

In general, assault and other related sexual violences are committed during conflicts for diverse reasons. The arbitrary events can portray it, and on a few occasions, it can be a by-product of the breakdown in social and moral order resulting from the conflict (Ward and Marsh, 2014: 3). Ward and Marsh observe that amid the breakdown of moral order, besides the fighting forces that generally sustain brutality against civilians, men from the communities also

exploit the circumstances of the conflict to engage in sexual violence against women without fear of being condemned. In order to destabilize a populace and family bonds in the communities, sexual violence could likewise be carried out by fighting forces. In this case, rape is frequently an open demonstration, intended to benefit as much as possible from disrespect and embarrassment. (Ward and Marsh, 2006: 4).

To rely entirely on the above affirmations of human rights violations with regard to sexual violence survivors without authentic accounts from the victims themselves is unreliable. This required the need to conduct interviews with the victims of sexual violence. The encounters with a considerable number of respondents' records are intriguing. One, Akello's (not real names) noted: 'I know of one person who was tortured by the UPDF, raped and later on killed' (Interview with Akello, 16/8//2015).

Most of the interviewees blamed the UPDF for most of the violations meted out on them especially in the IDP camps and in the communities. UPDF destroyed their crops based on the allegation of harbouring and feeding the LRA soldiers. It is important to consider that in Uganda, the fundamental culprit of SV as noted by the United Nations Security Council (2014: 33; 2015: 33) is the National Army; a group that ought to have been extensively controlled by the government. Another interviewee further accentuated this: 'The UPDF soldiers if they come to your home they rape you (men and women) and then kill [you]' (Interview with Victim, 16/8/ 2015).

The study also sought to establish whether LRA used rape as a weapon of war. I inquired as to whether the majority of the rape cases committed in their communities were by the government army. Another interviewee answers strongly:

Yes all rapes in this area were by the government soldiers but the LRA soldiers only abduct you and the girls and women were then turned into wives but not raped. (Female survivor, 17/8/2015)

The interviewees elucidates further that none of them was abducted and then raped by the LRA. Such view came from those who spent a short time in

the bush compared with many others. The majority of the people abducted were killed or never returned. From the experience of the victims above, it seems that government forces committed the bulk of human right violations.

Megan et al. (2007: 66) contend that an extensive number of girls that was abducted were turned into slaves performing family and sexual duties of the LRA. They maintained that the LRA used rape as weapon of war during attacks even though they made it a practice not to rape girls who are still young especially below the age of twelve because of the belief that such behavior would not please the “gods” and that the girls are prone to sexually transmitted infections, thus ensuring that they are free from infection when assigned to their “husbands”. This might explain why many of the respondents in this study speak less of the sexual violence atrocities committed by LRA since the age of the girls during abduction determined the treatment given to the abductee.

Unarguably, the findings from the interaction with the perpetrators and victims of sexual violence during the conflicts show that while there are various forms of sexual violence such as torture, rape and forced marriages, these affected civilians, in particular, the women and girls. The extent or the dimension of how sexual violence is used as a weapon of war is still ambiguous since most of the accounts from the respondents countered the existing literature which depicts rape and sexual violence as weapons of war. The information gathered from the field conveys a significant element that is corresponding with women who were subjected to assault and different types of sexual violations during the war which impacts sexual violence at the end of the day and results in optional infringement and abuse of the victims’ rights.

As noted earlier, a number of human rights were violated during the war in northern Uganda such as the right to consent to marriage, the right to security and freedom from torture among others and as indicated by Article 16 from the Universal Declaration of Human Rights. Marriage is directed with the full consent of both parties. This right has been disregarded by the presence of forced marriages. Article 3 states that everybody is entitled to security and respect while Article 9 states that nobody ought to be subjected to torture.

Rights that were violated with the presence of SV. Further, Article 4 states that slavery is prohibited, which was also violated

On this note, I concur with Koos (2015: 13); while examining conflict-related sexual violence (CRSV) Koos contends that more focus is on the causes of these conflicts than the real outcomes of sexual violence (SV) in post-conflict. While the reasons for CRSV have been identified as dominance, humiliation and terrorization of civilians, the long-term effects and possible solutions to reduce SV are understudied. Koos posits that there are various areas to address at a micro-level in research, such as the sociological aspect, gender relationships in a specific culture and also individual reasons and results. Likewise the development mechanisms of CRSV have been overlooked especially the emphasis on the circumstances that may lead to an increased CRSV in a post-conflict situation.

3.3 Government's Response to the Reintegration Needs of Survivors of Sexual Violence

A state that is simply rising up out of prolonged conflict is confronted with immeasurable challenges with regard to violations of the rights of civilians. Apart from undermining frameworks of government and the rule of law, conflict and war leave behind a number of victims. It also leaves survivors as culprits and a state deprived of resources to address several genuine claims for restitution and rebuilding of society (FIDA-Uganda, 2011: 3).

An interview with the District Community Development Officer, IDPs camps were decommissioned and majority of the people returned to their homes. The infrastructure has been, to some degree, restored; the police stations have been upgraded and the economic potential has improved as earlier discussed. The government of Uganda is working with different development partners both local and international to implement different development programmes like NUSAF (I & II), PRDP (I & II) which also focus on critical social services of the community.

The Officer also revealed that the district now has seventeen (17) functional health facilities both governmental and non-governmental. He

further noted that the government has enhanced safe water coverage from 44% previously to over 62% with over 80% functionality. It has also reduced poverty at household level to about 24%; school dropout from over 50% to about 43%; and the rate at which teachers are retained in schools is over 83%. Health staffing has improved from about 26% to over 54%. Nwonya District, in particular, won the Best Healthcare Management Award in the entire country (interview with DCDO on 13/08/2015).

Although these approaches seem to be highly effective, other issues must be considered. One of these is how to empower the survivors through educational programmes. In a post-conflict situation, governments may experience difficulties in establishing a proper and functional educational system. This issue has been examined and generally discussed by Nicolai (2015: 6) in a research carried out in Pakistan, DRC and Haiti. The author argued that governments require considerable foreign assistance to accomplish a functional educational system especially after violent conflicts but also after natural disasters. As noted by the Advisory Consortium on Conflict Sensitivity (ACCS) (2013: 3-4) in Uganda, the governmental and external institutional efforts have been insufficient to reintegrate the victims of sexual violence several years after the armed conflict ended.

This argument is corroborated by the District Community Development Officer (DCDO) who noted that in-terms of human rights-based approach to reintegration; the survivors have not benefited much since the programmes were not needs-based designed. He also condemns the legislature for not giving careful consideration to government interventions such as construction of schools and disregarding alternate variables that motivate a child to go to school particularly the survivors of sexual violence. Indeed, there were instances of communities surrendering the schools. Social assurance was not solid and most of the development partners upheld crisis mediations but they did not provide for recovery and reintegration interventions.

Nicolai (2015: 6) and ABColombia (2013: 13) observe that two of the most important strategies that government should consider in any rehabilitation programme include the legal context to provide security for victims of sexual violence and empowerment through education and

rehabilitation. As noted from these studies, in some cases, like it is for Northern Uganda, governments do not possess necessary resources or authority to provide citizens with security and empowerment.

Although, the survivors had access to some psycho-social interventions and training in life skills that have brought changes in their lives by different development agencies when they came back from the bush, there are those that have lost their childhood and suffered from the effects of the war. Under such situations, many survivors are still confronted with the economic challenges, social exclusions, high levels of illiteracy and unemployment. Some of the survivors illustrated:

On the negative part, since the time five of us we were abducted I came back alone because all the others died. I am now taking care of all the children they left behind, and that is a massive responsibility for me. I also thought as I have returned home I will go back to school, but these huge responsibilities have completely blocked me from going back to school. I started hard work but without any paper/professional qualification; these are petty jobs and I use the money to pay the school dues for these children and provide other basic needs (Interview with a survivor, 17/8/2015).

3.4 Conclusion

As earlier discussed under the HRBA to reintegrating survivors of sexual violence, the government of Uganda has not empowered the marginalised groups who are, in this case, survivors of sexual violence to challenge oppression and exclusion. It has also not put up the mechanisms that can promote, respect and adjudicate the violation of human rights. Moreso, the state has not accounted for the rights of its citizens.

CHAPTER 4: Reintegration of Survivors of Sexual Violence According to the Law

4.1 Introduction

This chapter presents findings from data obtained from the Uganda Human Rights Commission, village chiefs, police, and NGOs. The distinctive prevailing mechanisms that guaranteed reconciliation were put into consideration. They incorporate transitional justice and other reconciliation mechanisms that focused on traditions among others. The discussion brings out favourable circumstances, for example, the LRA together with the Ugandan government did not agree on peace deal. Numerous individuals from the LRA sought amnesty and returned to their villages. Considering the traditional reconciliation mechanism, reconciliation ceremonies were held as a method of reintegration especially in the post-conflict context. Although traditional chiefs are not legally empowered, their operation was still informal but their legitimacy within the communities has not been obliterated. Access to justice by the victims is provided for by various international laws, treaties, conventions and domestic regimes. In the next section of this chapter, we explore the inherent strengths, weaknesses, opportunities and threats to the justice system in Uganda. We focus on dispensing criminal justice to the survivors of sexual violence during armed conflicts to facilitate their integration into the society.

4.2 Transitional Justice Approach to reintegrating of survivors of sexual violence after the conflict

The reaction of Uganda government to the violations committed in the conflict was relayed by the Justice Law and Order Sector (JLOS), which in the end set up the Transitional Justice Working Group in 2008 to supervise the execution of the procedures of transitional justice (ICTJ, 2014:1). The Transitional Justice Working Group (TJWG) has drafted a comprehensive policy, which incorporates measures that provide for culpability of crimes committed during the conflict, redress for victims, and in due course uphold national reconciliation.

By Uganda endeavouring to use the transitional justice approach, Phuong Pham and his colleagues propose that Transitional justice ought to not simply rebuff the culprits of human rights violations, but to uncover reality of what occurred, reconstruct the communities and observe the victims who experienced untold enduring (2005). Truth telling and reparations ought to be explored further and supported. They went ahead to explain that recognising the victims would respect them, keep their evidence in history and this would be utilized to hold the future replication of such conflicts. Moreover, giving victims a chance to talk freely about what they experienced has a helpful impact (Phuong Pham et al, 2005: 38). For instance, the transitional justice draft policy addresses the issues that have to do with truth telling, compensation, reparation and institutional reforms. These are the various ways through which all the violations can be addressed.

According to the Uganda Association of Women Lawyers report of 2011, the views of the victims of justice contrast with those of the tribunals because the procedure of justice is often understood to be biased and insensitive to the interests of certain sections of the community, particularly women (FIDA-Uganda, 2011:4). This led to the genuine search for unconventional ideas and process of justice. Various alternative forms and processes of justice have emerged such as truth commissions, ad-hoc tribunals, and hybrid national courts, amnesty agreements, people's tribunals, and constitutional amendments, traditional systems of justice modified or adapted to meet contemporary needs for justice. These mechanisms also referred to as transitional justice, are employed alternatively to achieve the different goals in a post-conflict situation (FIDA-Uganda, 2011: 5).

When I inquired whether what government has done with regard to TJ policy is trusted, the Uganda Human Rights Commissioner answered:

Like I have said some of the interventions that have been going on like the NUSAF and PRDP they are TJ elements only that it has not been looked at in that way. When dealing with TJ, people are interested in compensation, reparation and individual reparation. These, once we have been looked at, [they] are collective reparations. For an instance, if you have a health centre, that is now collective reparation. Just like I have said, we still have a draft of

the TJ policy which is being moved forward hopefully if it comes to pass then you will see better interventions but for now with a mere fact that this is still a draft, there is still more that the government can do (Interview with Human Rights Commissioner, 19/8/2015).

My connection with the Human Rights Commission in Gulu provincial Office further uncovered that there are distinctive ways through which the states engaged the survivors of sexual violence during war, such engagement can be informed by litigation, and some survivors have taken them into court. The engagement can likewise be concerned with how the states react to the transitional justice interventions that are being executed. The Officer responded:

Hopefully once the TJ policy is in place, then they shall be in position to flag off those but even then, some of these policies have been directed towards Northern Uganda, which are part of the TJ only that people just take them for granted but those are some of the TJ intervention. Money has been channelled through different government departments to implement various activities which are TJ components (Interview with Human Rights Commissioner, 19/8/2015).

While analysing the criminal justice system under the transitional justice, it is not easy to indict individuals who are likewise regarded as victims whereby the majority of the casualties themselves were at one time other culprits of the wrongdoing either intentional or involuntary. In such circumstances, it is troublesome for all wrongdoers to be indicted in light of the fact that there is no flawless victim. This is on the grounds that a percentage of the victims are likewise complicit or took part directly in the violation of victims¹ (McKay, 2005: 386-387). A large number of victims interviewed were abducted at an extremely young age, compelled to join the military and do terrible things during the war. They were subjected to different sorts of sexual violence and compelled to violate others. For example, a 32-year-old female survivor confirmed these suspicions when she explained her story. She was kidnapped

¹ See also Girls as “Weapons of Terror” in Northern Uganda and Sierra Leonean Rebel Fighting Forces.

for a long time and sexually abused but when she came back; she could not get the justice she demanded to permit her reintegrated into the general public without reminding her of her past.

When I was abducted, I was forced to do all sorts of bad things to the new recruits or else I would be shot at. Some of these things were bad. But I remember a day that I was in front of the Justice and Truth Committee to address my issue with one of the men that violated me. One of his family members who was also waiting to address the Committee interrupted me and said that I should also be ready to pay for what I did to her when she was abducted for three days. Looking at her face, I remembered what I was forced to do to her at gun point. Then, it becomes difficult to ascertain when a crime can be considered a crime because everybody was just dumbfounded (Interview with Female Survivor, 16/8/2015).

While a portion of the survivors face the dilemma of being the perpetrators and victims at the same time, it turns out to be so troublesome for one to claim criminal justice. This provides clarification on why the vast majority of respondents favoured restorative justice where justice can be achieved through the customary and social systems.

4.3 Understanding of Customary and Social Justice Mechanisms in Northern Uganda

The findings of this study show that almost all the survivors that I interacted with are hoping to get justice through Mato Oput traditional justice system. It is believed to be built on three pillars: promotion, restoration and preservation of culture. One of the cultural leaders further explained:

MATO OPUT is about reconciliation after a wrong has been committed, and that is expressly in relation to death or deliberate killing of a person by another. It involves two clans or two parties where A kills B intentionally and is proven either by voluntary admission that they have done something wrong and they have realized it and are apologetic for what I did. (Interview with Traditional Leader, 14/8/2015)

The Mato Oput process begins with the two parties coming together with the mediator between the two. There are fundamental and important pre- and post-requirements that should be provided by the two sides. The climax of MATO OPUT is when the two come together with all the requirements (monetary or livestock) and they go through the customary rituals. The two people share the mutton from the sheep produced by either side. The most important aspect of MATO OPUT is that the two parties come together to share in the concoction from the back of OPUT tree which is pounded and mixed with the blood of a sheep plus local brew and waste matter of the sheep. Once MATO OPUT is concluded, there are no quarrels, expression of revenge and so on. Once that one is done the two parties now join together.

Fortunately, I was present during one of the Mato Oput ceremonies, what I saw was the reparation cost in terms of the cows presented from the other side that had wronged the other and the deceased party accepted it. That is a very formal and very significant aspect of MATO OPUT. Once that is done, the two clans are joined together. This is done once and for all, and you don't go back to it again. The two notions of justice exist on a continuum. Many justice mechanisms have both retributive and restorative elements, although some communities have neither a concept of retributive justice nor a perception of justice for the individual or community. In general terms, truth and reconciliation bodies represent a restorative justice model, whereas criminal trials place greater emphasis on retributive justice (Megan, 2007: 155).

There are two issues here when one is talking about the formal justice and traditional justice in the form of MATO OPUT, the Chiefs will be looking at a situation where death has occurred. Once MATO OPUT has happened, the families/ parties are integrated; it is like a vow that one has taken. It is done once for every case and should not recur. The benefits of Mato Oput include one being forgiven; it also creates a good relationship so that when the perpetrators and the victims meet one day they will not fear each other. They come together peacefully and share things normally without fear, for example, of marrying from each other's clans. For the young ones who see and join the ceremony, they learn to be open to the elders who would be referred to as "dictionaries" for the cleansing ceremonies once they are disputed. To put it

simply, MATO OPUT is considered more powerful and relevant than the legal court. One of the survivors that I interacted with during the field study explained:

I was raped and got [became] pregnant, I delivered a baby boy and ten years on, nobody wants to take my hand in marriage despite the fact that I got justice from the court. The court case did not take the shame away from my name. But after, I approach the Mato Oput, the cultural leaders invited the perpetrator, and we performed the ceremony. A month later, one man came to ask my hand in marriage, although the court case justice makes my case to be treated without further investigation by the cultural leaders, without the traditional justice, a survivor of sexual violence will find it hard to survive here. (Interview with Community member, 14/8/2015)

Clearly, the Mato Oput became more interesting than I thought, so I inquired further on how it deals with sexual violence-related cases. If one has raped a woman or a member of the clan within a given community and the matter is brought to the elderly, the families from the either sides will come and sit together with the elders and the chief, and the culprit is penalized. Once the perpetrator has already met such a penalty, that is the end of it and people will not go back for such offence again. In this case, the culprit must pronounce very clear that he or she is remorseful and promise not to repeat it again. The two parties come together and pronounce forgiveness before the elders and also the two families also pronounce forgiveness.

In this case, informal justices are very paramount and the spirit exhibited in the cause of reconciliation makes everybody satisfied; therefore, informal justice is considered better than the formal justice. This is because the victims believe that it is time saving and there are no complicated bureaucratic tendencies like in the formal courts. It also encouraged reconciliation and forgiveness in the sense that after the ceremony, no side is expected to keep a grudge regardless of the gravity of the offence. This was explained by the cultural leader who noted:

A court can jail you for seven years or even more depending on the crime committed but after you come out of prison nobody will

remember what kind of person you are and what you have done. But in Mato Oput case, your name will be associated with evil and shame through folklore songs that the unborn generation will be singing about a known rapist. If you do such a thing to your uncle, you will be cursed and it will be known by the generation that shall follow you. In some very extreme cases, you will be banished from the community/ clan (Community member, 14/8/ 2015).

In a case of rape, the perpetrator has to pay for the abomination and also cleansing ceremony is conducted where the perpetrator brings in two goats, one for cleansing the bad act and another for cleansing the household that is offended. The perpetrator is always monitored and sometimes he is shunned for raping a woman. The community always has a song that is sung with the name of the perpetrator and it goes on like that for purposes of exposing the perpetrator to those who did not know of his act. This cultural song is very historic and remains in the records; it remains in perpetrator's family and future generations.

By and large, the nature of Acholi culture is that once a wrong has been committed, it should not be left to continue. The traditional justice mechanism of Mato Oput is well organized just like the legal system. It has the Tribunal committee before whom the matter is brought. The committee gets to know the cause such as the cause of death, rape or destruction of properties and a resolution is made as I explained earlier on. Compensation is intended to ensure for the loss incurred. This caters for the economic and legal rights of the survivors in a very short period in comparison to that of legal court procedures that might take years before it comes to a conclusion, if at all there is one.

As I highlighted earlier that the traditional form of justice is more favoured in the region because it serves as a pathway for proper integration into the society, washing away all the shame the survivor might have brought to the community. However, various obstacles hindered the achievement of such mechanism. They include but are not limited to interference from politicians, religious groups and other cultures. The politicians tend to influence the processes and also prevent the practices(Mato Oput). From the

religious point of view, all the cultural norms and beliefs and all that the Mato oput stands for is perceived to be ungodly and illegal.

They continue to discourage the survivors to use the Mato Oput to access justice saying [arguing] it is primitive in the 21st century, and yet we know of the three pillars of governance, that is, the state, religious institutions and cultural institutions. For instance, if there were a priest, this exercise would have been cancelled. They always say very bad things about it which are detrimental to culture and traditions. (Traditional Chief, 14/8/2015)

In addition, the socio-economic situation has also come in; for instance, if somebody has killed, culturally, he is expected to pay a fine of ten (10) heads of cattle but because of the socio-economic aspect, many victims were advised to go to court because he/she stands to gain monetary rewards in billions of shillings.

4.4 Conclusion

Many of the interviewees argued that legal systems in Uganda work but they are not as important as the local Mato Oput system. More cases should be handled through this local justice system because it plays a huge role in strengthening relations between communities in Uganda. The growth of the system in local societies should receive a boost from government because the victims feel it achieves much more than the legal system. The victims must receive the attention that will improve on their self-esteem and build on their experiences so that they too can play a role in generating the required local interventions. Nonetheless, it is important to create a standard working procedure through government institutions as a way of ensuring that things work out as intended.

CHAPTER5: CONCLUSION AND RECOMENDATION

In this study, I have analysed and documented the extent to which survivors of sexual violence have been reintegrated in the communities based on the dispensation of justice following the end of the two-decade LRA war in northern Uganda in 2007. Specifically, I engaged with the justice aspect to gain a deeper understanding of the challenges the survivors of Sexual Violence during the LRA war faced as they sought to be fully integrated into the community and access criminal justice. This was done by identifying how their rights to protection have been violated due to the war in northern Uganda and how their reintegration needs were catered for. In particular, I discussed various forms of human rights violations suffered by survivors of sexual violence of the war in northern Uganda. These violations include but were not limited to rape, cultural discrimination, violence, denial of justice and reparation. With regard to the reintegration process of survivors of sexual violence during conflict, the government addressed the needs of the survivors and victims because they have to cope in male dominated societies.

The findings of this study revealed that the Uganda government responded to plight of the survivors of sexual violence by establishing the Transitional Justice Working Group in 2008 to supervise the execution of the processes of transitional justice on the one hand. On the other hand, there are some other policies of government that have some element of TJ even though the government has yet to adopt the Transitional Justice Policy that provide culpability for crimes committed during the conflict, afford redress to victims, and in due course uphold national reconciliation.

The Universal Declaration of Human Rights does not recognize the presence of race, ethnicity or sex. Human rights are universal and rise above any race or ethnicity. In northern Uganda, some of these human rights were violated. Article 16 from the Universal Declaration of Human Rights, marriage is entered into with the full assent of both parties. This privilege has been violated by the presence of forced marriages during the war. Article 3 states that everybody has a right to security while Article 9 states that nobody ought

to be subjected to torture; these rights that have been violated with the presence of SV.

One cannot say with all certainty that the reintegration process for the survivors of sexual violence has been handled according to the law or not because there are two forms of justice that were revealed by the findings, restorative justice and retributive justice. In Lira district, the restorative form of justice is widely accepted and regarded as the best form of justice that expedites reintegration of victims of sexual violence. The findings of this study show that almost all the survivors are hoping to get justice through Mato Oput traditional justice system. Also, some of the survivors faced the dilemma of being the perpetrator and victims at the same time, others are confronted with the economic issues and societal acceptance, high levels of illiteracy and unemployment.

From this paper, insecurity is the primary concern facing the victims of sexual violence. Institution sectors dealing with security must come in and provide prevention measures together with acute responses towards violence cases. Moreover, coordination and cooperation of the security sectors together with other crucial sectors might be quite significant. For instance, the survivors of sexual violence can be provided with the exact services they require during the conflict. Some essential services supplied by the agencies include medical care, provision of shelter and protection, frequent psychological counselling, and legal advice among others. Also, collaboration and coordination between the agencies emphasizes the effort in responding to cases of sexual violation. The security sector should adopt gender-sensitive approaches at every stage of responding to sexual violence in the conflict. These phases mainly include planning, implementing, comprehensive monitoring and finally evaluation. In such an approach, consideration of adult male survivors of sexual violence would be looked at.

Development of gender sensitivity capacity among security services can only be achieved after gender training is done to all personnel who are concerned with the security sector. The main agenda of this training includes addressing particular requirements of the sexually violated victims. Women miss unique opportunities that they can indeed perform in a better way. This is

largely due to discrimination and lack of equality. It is important to maintain the act of equity and equality among different genders. Therefore, promotion of the participation of women in the security sector must be equal and full as the others do. This aspect ensures that the needs of all members of the community are responded to and adequately identified by the security services. Considering gender sensitivity in recruitment together with retention strategies are measures that must be included to improve the proportion of women. Gender sensitivity is later followed by developing organizational culture that leads to the promotion of gender equality and equity within the services provided by the security agents.

Development of procedures, together with operational protocols within the security sector is very essential for providing the required support and assisting sexual violence victims. For instance, it should include detailed rules for the victims' interviews together with investigations of sexual violence crimes. Furthermore, these protocols help in the documentation of sexual violence together with legal, social and health services referrals. In the provision of services to sexual violence survivors during a conflict, determination of individual measures for particular groups by security sector institutions is needed. These powerful groups include children, sexually violated survivors who include male and the former combatants.

Justice is another crucial factor that must be put into consideration. In this study, most of the perpetrators of violence do not face justice. Therefore, assurance of justice, including reparations should be reinforced for the sexually violated victims. Considering the armed conflict, the security institutions should be able to put much development and prioritization of operational strategies to enhance the prevention of sexual violence. Because of other insecurity, enforcement of personal ethics must be done. These ethical provisions are mainly to prohibit sexual abuse and exploitation, which, to some extent, are done by the security personnel including police officers among others. Before any security personnel is recruited for the job, he/she must undergo thorough training. Once this is put into consideration, accountability is ensured thereby fighting impunity and preventing cases of sexual violence.

Women and girls who faced sexual violence together with the affected communities should be supported by security institutions. Also, this action is achieved when civil societies give advice or rather implement training for the security actors. Besides, raising awareness in the communities that are affected and provision of services to the victims is crucial.

Liebling-Kalifani et al (2011: 15-16) argue that the Libyan government (during Libya's post-conflict social violence) was unable to provide a proper justice system for the victims of SV and that many women were often forgotten when it came to providing legal, social or economic assistance. The health system has also not been efficient at providing help for these victims thus it can be noted that programs of reintegration have little effect. Another example of how governments can fail to support their citizens who have become victims of SV in a post-conflict situation is exemplified by the UN Office of the High Commissioner for Human Rights (OHCHR) (2011: 43). It observes that in DRC, although the government brought two new laws to provide justice for victims of sexual violence, the application of these laws failed, especially in remote areas.

Rothe and Mullins (2008: 87) argue that to be effective, justice mechanisms used after a conflict have to address multiple areas at the same time. They analyse cases from the sub-Saharan Africa, in which over 130 cases of violence and wars have been reported. They argue that many of the studies conducted on this topic present single modalities to institute justice, and thus due to the limited applicability of the method, it is not always successful. Drawing from two distinctive cases, the Rwandan genocide and the Sierra Leone civil war, the authors state that post-conflict modalities are substantially different when it comes to their effectiveness. Due to this fact, multiple post-conflict social justice strategies are much more effective because one of the modalities can easily replace a case in case of failure.

If people can increase their knowledge of how efficacy can be achieved when using certain ideologies, it will be easier to meet the immediate needs of the society and create a new understanding of how such knowledge can be used to meet the needs of the victims. That will boost their reactions in such cases and improve the delivery of justice to all victims. In addition, the fact that

the justice system focuses only on women and girls leaves the male victims of sexual violence with few alternatives to seeking justice.

Another issue is posed by the legal system in which the post-conflict area must trust. In a report by ABColombia (2013: 13), over the situation of sexual violence in Colombia, often the perpetrators of rape are the security forces that should have been in charge of protecting the people. Moreover, women have been used as sexual objects by the army in return for protection of their families. In this context, it is clear that these women cannot turn to the legal system to protect them since the legal system representatives are the main issues of sexual violence.

Focusing on the survivors, required care together with high standard treatment must be given to them. No case of sexual violence should be treated as a psychological issue or rather reproductive health, but a protective issue.

From this paper, it is quite important that the protection and safety of women and girls are ensured. Besides, the need for proper funding must be enforced by different organizations to cater for different programs. Support from international organizations can only be achieved by highlighting the problems facing the sexually violated people in a given conflict area. For reintegration and rehabilitation programs for the girls who were formally abducted, special financing should be pledged. Furthermore, much emphasis should be laid on programs concerning recovery for those girls and women. Since the villages are affected by the LRA in an effort to reconstruct their lives, it is very crucial to note that the process of trauma healing is vital in the post war recovery.

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