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# Transitional Justice and its Role in Development in Post-Conflict Northern Uganda

Jessica Chirichetti  
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# **Transitional Justice and its Role in Development in Post-Conflict Northern Uganda**



Jessica Chirichetti

Advisors: Stephen Oola and Benard Okot

Academic Director: Charlotte Mafumbo

Practicum with the Refugee Law Project

Gulu District, Uganda

Uganda Development Studies: Spring 2013

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## Dedication

To the Acholi people, especially those who welcomed me into their homes and told me their inspiring stories. I hope one day you all will obtain the justice you rightfully deserve.

And, to my family back home- thank you for the constant encouragement of all my world travelling endeavors and believing that I could accomplish whatever I set out to do. I wouldn't be here without your love and support.

## Acknowledgements

I'd like to first thank my Academic Director, Charlotte Mafumbo whose patience and guidance made this entire study possible. Next, to my advisors, Stephen Oola and Benard Okot, and everyone else at the Refugee Law Project office in Gulu. Thank you for welcoming me with wide-open arms, helping me with the smallest troubles, and always pointing me in the right direction.

Thanks to my translator Andrew, for taking me on the back of his boda all around Gulu District and back. And last, but certainly not least, the entire Gulu crew. I wouldn't have made it without all the laughs, late-night chats, and the infamous "it's fine" response. I will miss you all.

## List of Acronyms

**CPA** Comprehensive Peace Agreement  
**DDR:** Disarmament, demobilization and reintegration  
**GoU** Government of Uganda  
**HRW** Human Rights Watch  
**ICC** International Criminal Court  
**ICD** International Crimes Division (of the High Court of Uganda)  
**IDP** Internally displaced person  
**JLOS** Justice Law Order Sector  
**LC** Local Councilman  
**LRA** Lords Resistance Army  
**NUSAF** Northern Uganda Social Action Fund  
**NGO** Non governmental organization  
**OPM** Office of the Prime Minister  
**PRDP** Peace, Recovery and Development Plan  
**RLP:** Refugee Law Project  
**TJ** Transitional Justice  
**UBOS** Uganda Bureau of Statistics  
**UPDF** Uganda People's Defense Force  
**UN** United Nations

## Abstract

This study was completed during a 6-week period in Gulu District, Northern Uganda. The main objective of this study was to understand and analyze the various transitional justice mechanisms currently being used in post-conflict Northern Uganda. The researcher set out to hear the population's general attitudes on justice and understand the challenges that hinder the justice process through the perspective of government officials (including opposition party members), NGO workers, lawyers, academics, and religious leaders. A specific focus was point on the compensation aspect of transitional justice since the region is suffering from severe under-development and poverty issues. This led to an extensive examination of the various post-conflict development programs currently being implemented, in addition to several other justice mechanisms.

This study was completed while the researcher simultaneously conducted a practicum at the Refugee Law Project office in Gulu town. Therefore, one of the main research methods practiced was observation as an RLP intern. Much insight was gained through observing the work of RLP, which gives free legal aid to war victims, mediates conflict disputes, and does extensive research and advocacy work on post-conflict justice issues. The other main research method used was interviewing. The researcher conducted semi-structured interviews with key informants and community members throughout Gulu District. The responses from these interviews were analyzed to obtain both qualitative and quantitative data.

The researcher concluded that there is much work that needs to be done in the transitional justice field in order for the people of Northern Uganda to obtain justice and for the region as a whole to reach the same development levels as the rest of the country. One major challenge is the difference between the needs of the victims and the current transitional justice policy in practice today. In order for the people of Northern Uganda to feel that they have obtained justice, the justice methods must align to their specific needs and desires. Secondly, another challenge is in implementation of justice mechanisms and recovery programs. There has been substantial efforts to create a transitional justice process but it has been

implemented in an ineffective way, and its marred with corruption on every level. In order for there to be durable peace, these challenges must be addressed.

## Introduction

Each culture throughout history has established some sort of justice system. From the ancient Hammurabi Code with its logical punishment, “an eye for an eye, a tooth for a tooth” to shariah, the strict, ancient Islamic legal system that still governs many countries today. Universally, justice is how people all over the world deal when wrongdoings occur to them. Justice is especially necessary in post-conflict situations when crimes have been committed on a large-scale and affects the lives of many people.

Justice can be separated into two categories: restorative and retributive justice. Restorative justice concentrates on the social and economic recovery of victims. This involves forgiveness, compensation, truth telling and vetting. While retributive justice focuses on punishing perpetrators. This mainly consists of prosecution, usually in the formal court system. Transitional justice is a relatively new concept of justice, originating in the post-World War II era, which combines these two categories. According to a report of the UN Secretary General in 2004, the idea of transitional justice:

comprises the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.<sup>1</sup>

In recent years transitional justice has played a major role in reconciling societies after major conflicts, such as in Colombia, Rwanda, South Africa, and Argentina. Transitional justice processes generally “involve a wide range of complementary

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<sup>1</sup> Iversen, Anne K. "Transitional Justice in Northern Uganda: A Report on the Pursuit of Justice in Ongoing Conflict." Diss. Roskilde University, 2009.



criminal and non-criminal justice mechanisms to ensure accountability, justice, reconciliation, peace and democracy.”<sup>2</sup>

An ideal transitional justice process would be comprehensive and include: individual prosecutions on a local, national, and international level, compensation, truth seeking, institutional reform, vetting, accountability, and remembrance. Transitional justice emphasizes having a dialogue between victims and perpetrators, rather than just punishing and holding the perpetrators accountable.<sup>3</sup> The conflict in Northern Uganda and the past eight years of relative peace have created an environment where transitional justice needs to be used in order for reconciliation to occur.

## Justification

There has been 8 years of peace since the end of the two-decade long conflict, but the people of Northern Uganda are still waiting for justice and compensation. If justice mechanisms and post-conflict recovery programs are not implemented properly, this region has little chance at a full recovery and to integrate fully into the Ugandan state. As of now, there has been “negative peace” which is just the mere absence of violence, the silence of guns. In order for there to be lasting peace, reconciliation, and most importantly, for people to move on with their lives, justice needs to be served. As a Human Rights Watch reports puts it, “We have seen time and again that turning a blind eye to justice only undercuts durable peace.”<sup>4</sup>

If Northern Ugandans do not properly recover and continue to feel disenfranchised, the chances that conflict could return is very possible. This idea brings about the question: Is the conflict really over? It is true that people are no longer being killed or abducted, but the people of Northern Uganda are still struggling, economically, socially, physiologically, and physically, more so than in any other region in Uganda. Therefore, in order to put the past behind them,

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<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Lanz, David. “The ICC’s Intervention in Northern Uganda: Beyond the Simplicity of Peace vs. Justice.” The Fletcher School of Law and Diplomacy. May 2007.

Northern Ugandans must have proper justice and compensation, which right now, is greatly lacking. As Lyandro Komakech, a senior researcher at the Refugee Law Project, puts it, “Uganda’s transitional justice process is now at a crossroads. It has the potential to either transform the country or plunge it back into conflict.”<sup>5</sup>

## Statement of Objectives

- To analyze the various justice mechanisms currently being used in post-conflict Northern Uganda
- To examine the implementation of Uganda’s comprehensive transitional justice process, specifically the two major post-conflict development programs, PRDP and NUSAF
- To conduct research on the population in Gulu District to understand the general attitudes towards justice and the effects of justice devices and post-conflict recovery programs

## Background

The twenty-year conflict that was infamously described by former UN Undersecretary-General for Humanitarian Affairs and Emergency Relief Coordinator Jan Egeland, “the biggest forgotten, neglected, humanitarian emergency in the world today” essentially destroyed the entire socio-economic base of the Northern region.<sup>6</sup> The people of Northern Uganda suffered from a range of physical, emotional, psychological, cultural and economic harms. These harms include murder, torture,

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<sup>5</sup> Komakech, Lyandro. "Traditional Justice as a Form of Adjudication in Uganda." *Where Law Meets Reality: Forging African Transitional Justice*. Cape Town: Pambazuka, 2012. 64-80.

<sup>6</sup> *Uganda: Arrest Now! Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen*. Rep. no. 008. Amnesty International, Nov. 2007.

rape, mutilation, arson, the displacement of nearly 1.8 million people in IDP camps, abductions of more than 38,000 children, theft and destruction of property.<sup>7</sup>

Much research and discussion has been put on the origins of the conflict, even the Parliament of Uganda produced a report on the root causes of the conflict and why it took so long to resolve.<sup>8</sup> The two major reasons are a post-independence violent history of power struggles and deep-rooted division between northern and southern Uganda that began in the colonial era.<sup>9</sup> Therefore, during the Juba Peace Talks in 2006, both the LRA and government representatives made a deliberate attempt to address these root causes. These talks resulted in firstly, the signing of the Cessation of Hostilities Agreement, then the Principles of Accountability and Reconciliation in 2007. These all led to the Comprehensive Peace Agreement (CPA), which although has not been signed by either side, serves as the guideline for reconstruction and reconciliation policies.<sup>10</sup> CPA outlines five agenda items necessary for durable peace: cessation of hostilities, comprehensive solutions to the conflict, reconciliation and accountability, formal ceasefire, and disarmament, demobilization, and reintegration (DDR). Agenda Item 2 on Comprehensive Solutions to the Conflict and Agenda Item 3 on Accountability and Reconciliation provide the necessary framework for a transitional justice policy.

### Uganda's Transitional Justice Policy

Nearly eight years since the establishment of CPA, the attacks have ceased, peace has come to the region, people living in IDP camps have moved back to their homes, and life has returned to some form of relative normalcy. Since the end of the conflict, there has been much debate over how to pursue justice to align with the

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<sup>7</sup> *Making Peace Our Own: Victims' Perceptions of Accountability, Reconciliation, Transitional Justice in Northern Uganda*. Rep. Office of the United Nation High Commission for Human Rights, 2007.

<sup>8</sup> Interview: Honourable Norbert Mao 18 April 2013, Gulu

<sup>9</sup> Pham, Phuong. *et al.* "Forgotten Voices: A Population-Based Survey of Attitudes about Peace and Justice in Northern Uganda." International Center for Transitional Justice and the Human Rights Center, University of California, Berkeley. July 2005.

<sup>10</sup> Esuruku, Robert Senath. "The Peace, Recovery and Development Plan for Northern Uganda." *Where Law Meets Reality: Forging African Transitional Justice*. Cape Town: Pambazuka, 2012. 144-166.

agenda items agreed upon at the Juba Peace Talks. This question of how to pursue justice became even more complicated when in 2003 the Ugandan government involved the international community by referring the situation in the North to the Prosecutor of the International Criminal Court (ICC) resulting in the arrest warrants of five top LRA commanders. However, under Uganda's domestic law, the Amnesty Act of 2000, former rebels are protected from prosecution, resulting in over 13,000 LRA combatants being pardoned since the law's enactment. Uganda's amnesty law grants blanket amnesty, meaning anyone who comes from the bush and claims to be a former rebel is automatically pardoned. This law "does not require perpetrators to confess their crimes in exchange for amnesty."<sup>11</sup> However, the Amnesty Act is favorable with the general population since there is a desire for rebels to return from the bush since many of them are formerly abducted children. The law recently expired in 2012, resulting in a general confusion on how to proceed.<sup>12</sup> The Ugandan government has created an International Crimes Division (ICD) of the Uganda High Court to deal with war crime trials. The court has seen only one case of a former LRA rebel, that of Thomas Kwoyello. However this case has been surrounded by controversy and the final result is unclear. There has been substantial effort made by the Ugandan government to bring formal legal justice, a necessary component of any transitional justice process.

Other components of transitional justice have also been implemented but much less emphasis has been put on them. Traditional justice mechanisms are important for people to reconcile with one another on a clan level. The Acholi justice is called mato oput and involves both parties drinking from the same bitter herb to symbolize the acceptance of the past. After, they both promise to never taste the bitterness again, and compensation is usually given, either in the form of cash or livestock. All traditional justice mechanisms used by the various cultures of Northern Uganda share similar components: cleansing, truth-telling, material

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<sup>11</sup> *Making Peace Our Own: Victims' Perceptions of Accountability, Reconciliation, Transitional Justice in Northern Uganda*. Rep. Office of the United Nation High Commission for Human Rights, 2007.

<sup>12</sup> Mugisa, Anne. "No more amnesty for LRA rebels as law expires." New Vision Online. 29 May 2012.

compensation, forgiveness, and reconciliation. With traditional justice mechanisms, an emphasis is put on restoring social harmony and reconciliation, rather than punishment.

Another mechanism of transitional justice, and arguably the most important due to the poor socio-economic status of Northern Uganda today, is compensation. In examining statistics from the Uganda Bureau of Statistics (UBOS), it becomes obvious that the northern region is severely falling behind the rest of the country in many development indicators.<sup>13</sup> The number of poor people in the Northern region since 2005 has been significantly higher than any other region. (*See Appendix A Table 1*). In 2009-2010, the number of poor people in the Northern region was more than three times the amount in the Central region, where Kampala is located. Furthermore, in 2009-2019 the mean CPAE in the Northern region was less than half of what it was in the Central region. (*See Appendix A Table 2*). Even years after the conflict's end, the percentage of poor people out of the entire population in the Northern region is still at an astonishing 46.2%. In addition to poverty, the Northern region faces several other development problems. The conflict essentially destroyed all the infrastructure in the region, resulting in a lack of adequate basic social services, including health centers, schools, and roads. The region also suffers from a massive manpower deficit for jobs that require certain qualifications. These include government positions, academics, and healthcare workers. Lastly, the region suffers from years of NGO dependency. During the conflict and in the immediate post-war years, NGOs were responsible for providing all basic necessities social services to the people, including food, water, and healthcare. However, now that there has been peace for several years, many of the NGOs are losing their funding and are leaving the region, abandoning the people with no options to receive their basic needs.

Therefore, as part of the government's transitional justice process, many post-conflict recovery development programs have been put into place to help the region recover. The two major programs are the Peace, Recovery, and Development Plan (PRDP) and the Northern Uganda Social Action Fund (NUSAF). The PRDP has

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<sup>13</sup> Uganda. The Uganda Bureau of Statistics. *2012 Statistical Abstract*. Kampala: UBOS, 2012.

four main objectives: “(1) the consolidation of state authority; (2) the rebuilding and empowering of communities; (3) revitalization of the northern economy; and (4) peace building and reconciliation.<sup>14</sup> The PRDP is funded 30% by the government of Uganda and the rest from various international donors. All of the funds are managed by the Office of the Prime Minister and technical and sector programming is done by local government officials. NUSAF is a World Bank program and distribution of all NUSAF funds are done by the government of Uganda. The goal of NUSAF is to “empower communities in Northern Uganda by enhancing their capacity to systematically identify, prioritize, and plan for their needs and implement sustainable development initiatives that improve socio-economic services and opportunities.”<sup>15</sup> NUSAF funds are distributed through community groups of 15-20 members who must identify, plan, and then, if they are awarded the grant, implement their own projects. NUSAF is being implemented in two phases and is currently in its second phase. NUSAF I has been “dogged by corruption” and mismanagement of funds.<sup>16</sup> However strides have been made to improve the second phase.

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<sup>14</sup> Mutto, Milton. *CONFLICT AND RECOVERY BRIEFING REPORT NO. 7: UNPACKING THE 'P' IN PRDP STABILITY, PEACE AND RECONCILIATION IN NORTHERN UGANDA (SPRING) PROJECT*. Rep. no. 7. USAID, Oct. 2010.

<sup>15</sup> Jaramogi, Patrick. "NUSAF II on Track- World Bank." *New Vision*. N.p., 13 June 2012.

<sup>16</sup> Ibid.

## Methodology

The researcher used various methods to collect both qualitative and quantitative data from primary and secondary sources. The main data collection methods used were observation, interviewing, and review of previous studies, government documents and publications.

### Interviews

In total, the researcher conducted eleven key informant interviews and approximately twenty-two semi-structured interviews with randomly selected community members in two different communities in Gulu District. From these interviews, the researcher was able to obtain both qualitative and quantitative data. The two communities selected were in Bungatira Sub-County and Paicho Sub-County, which were chosen because of the individual local leaders' willingness to cooperate with the study. Before community members were approached, either the local councilman or parish chief granted appropriate permission to the researcher. Participants for this study were randomly chosen after undertaking a transect walk throughout the entire community. In total, twenty-two community members were interviewed, thirteen men and nine women (*See Appendix B*). All participants were between the ages of 20-75. Prior to each interview, proper explanation of the study was given and participant consent was obtained. Interviews were conducted in Acholi using a translator or in English when applicable. All key informant interviews took place in Gulu town, with the exception of two in Kampala and five in the two rural communities. Interviewees included prominent lawyers, NGO workers, religious leaders, and government officials (*See Appendix C*). All interviewees granted consent prior to the start of the interview. All interviews were conducted in English.

Several different methods were used to obtain data from the participants. For the key informant interviews, sets of questions were asked depending on who the interviewee was. However, these interviews were only semi-structured because often the conversation became more fluid after the set questions were asked. In the community the researcher used a set questionnaire as a research instrument. These

questions were translated and then the yes/no answers verbally responded by participants. (*See Appendix D*). Qualitative data was also obtained from these interviews because many respondents, in addition to the yes or no response, told their personal stories. Therefore, narratives, open-ended discussion, and oral history were also utilized during these interviews.

There were a few challenges in the interviews, including: biased responses, asking personal/sensitive questions, and formulating simple and effective questions. Firstly, it must be acknowledge that interviewees were biased based on the institution they were affiliated with or position in society. For example, members of the opposition political party had a general negative outlook on the current government in power. Similarly, government officials in power shared no criticism or admitted to any challenges. Additionally, there was a major difference in responses of community members and their leaders. The researcher faced difficulty in formulating questions for the community interviews and had to decide between asking direct or indirect questions. The first questionnaire asked questions in an indirect way to avoid being offensive or rude. The method of asking indirect questions was initially preferred since the questions required the participants to respond about personal, often time painful, memories. By asking indirectly about these memories, it was meant to make the participant be comfortable and answer at ease. However, due to misunderstanding and confusion of the questions and responses that did not pertain to the study, the questionnaire was adjusted and only direct questions were used (*See Appendix E*). This method was much more successful and useful data was able to be collected.

### **Observation**

Much of the observation that occurred during this study was made while serving as an intern at a law organization, The Refugee Law Project at their Gulu office. The Refugee Law Project 's mission is "to empower asylum seekers, refugees, deportees, IDPs, and host communities in Uganda to enjoy their human rights and lead dignified lives." This objective is "achieved through a combination of activities categorized under legal and psychosocial, research and advocacy, and



education and training.” Specifically at the RLP office in Gulu much of the work is related to post-conflict legal issues, such as land conflict resolutions, reparations, and post-traumatic mental support. As an intern the researcher was also given various reports to look over and edit, however much of time was dedicated to this study. The intern tasks allowed the researcher to gain insight on the various projects that the organization was involved with, while at the same time, gaining a realistic understanding of the most pressing legal issues that the community members faced at the present time.

Another aspect of the internship was to accompany various legal workers into the field to directly observe their work with community members. All of the visits took place in various sub-counties within Gulu District. The field visits required firstly to travel to various villages in war-affected areas and to either go to a pre-determined meeting spot or to the clients’ homes. Once at the location, the RLP staff would serve as mediators in a conflict dispute or provide legal aid to individuals on a case-by-case basis. All of their services are free of cost to the victims and often time a follow up meeting was scheduled.

The field visits gave the researcher a greater understanding of the most prominent legal problems that Northern Ugandans are struggling with. One particular visit was to monitor a land dispute reconciliation process, which consisted of two opposing clans that were fighting over a specific piece of formerly communal land that had been abandoned when the population was forced into IDP camps. The role of RLP in this conflict resolution was to set up an established meeting location and time, monitor the discussion, and guide the community members to peacefully resolve the conflict among themselves, instead of taking it to the formal court system. The field visits that were more helpful and pertained to my study were the visits to individual clients. These clients are war victims who are in the process of obtaining medical reparations for injuries occurred during the war. The type of victims ranged from amputees, tortured prisoners, and females who were sexually abused. All victims sustained an injury that still constrains them from living a normal life and sustaining themselves and providing for their families. For example, one particular male was abducted by the LRA was physically tortured in

the testicles during his time in the bush. Today, he claims that he is unable to be a real man, since he can no longer work on his farm, make a living, or perform sexually, all due to this injury. RLP is giving legal aid by attempting to have his medical expenses be paid for so he can get surgery and recover from this injury.

The challenges the researcher faced during the field visits were few. One major obstacle was the language barrier. All of the consultations took place in the native language of Acholi and a translation could only be offered once the meeting was over. For a discussion that took sometimes up to 45-minutes, the researcher would receive a brief 5 minute overview of the main points. Therefore, efficient observation skills, such as note-taking and active listening, could not take place. Instead, non-participant observation occurred, where the researcher did not get involved with the activities of the group, instead remained a passive observer. After watching and getting a brief explanation of the consultation, the researcher was able to draw conclusions. The internship with Refugee Law Project was immensely helpful since useful insight, resources, and information were available to the researcher that otherwise would not have been.

## Findings

### General Population's Views of TJ

Since two of the objectives of this study were to examine justice mechanisms currently being used and to understand the general population's attitudes on justice, quantitative data was obtained to portray these findings. When asked if people who committed crimes during the war should be punished, 83% of respondents said no, 8% said only top commanders should, and 8% said only if they continue to disturb their communities. (*See Appendix F Table 1*). These responses show the preference for forgiveness and reconciliation as more suitable types of justice mechanisms over punishment and prosecutions. This point is further reiterated by participants' responses when asked if they have ever brought a war crime case to the formal court system and if they have heard of the International Crimes Division of Uganda's High Court. None of the participants have brought a war crime case to the formal

court system and only 17% of participants have heard of the ICD. (*See Appendix F Table 2 & 3*). Only a small minority of the 17% of participants who have heard of the ICD actually understood its purpose, which was realized by asking the follow-up question of how should the ICD improve and what challenges it faces.

In addition to formal punishment, other transitional justice mechanisms were inquired about. When asked if participants have been involved with or witnessed any truth-telling processes, 86% of respondents said that they have (*See Appendix F Table 4*). The high percentage of respondents who have been involved with truth telling shows the importance of this mechanism to community members. However, it is important to note that some people had negative views of truth telling, even though they have been part of a truth-telling process. Some respondents said they telling the truth is psychologically difficult, and instead would prefer to forget the past. While other claims that past offenders often face stigma from family and community members after telling the truth about the crimes they have committed. One respondent who had told the truth about crimes he committed during the conflict said at first he faced hostility, but with time this hostility turned into acceptance only because he told the truth.

When asked if they have been involved with or witnessed any traditional justice mechanisms, only 17% said they have. (*See Appendix F Table 5*) This small percentage of respondents who have in some way been involved with traditional methods shows that the majority of respondents either are unwilling to participant in the ceremony or do not have the resources or capability of participating.

Additionally, the participants were asked questions pertaining to compensation and reparations, as they are important transitional justice mechanisms. When asked if participants received compensation from the government or NGOs for war losses, 68% responded no, 27% received compensation from NGOs, and only 5% received compensation from the government. (*See Appendix F Table 6*) This shows that the majority of community members are still waiting for compensation, or they have given up and do not expect to be paid back for losses occurred during the war. The participants were then asked about the effect of PRDP and NUSAF on their lives as individuals, since these

two recovery programs have been the only form of reparations given by the government. A clear majority of 77% respondents said that the programs have had no effect on their individual lives. ( See Appendix F Table 7) It is important to note that many respondents acknowledged that these programs benefitted the community in some way, whether it is by building a school or fixing a road. However, it is generally thought to be lacking in focus of the individual, and not compensating for personal losses.

## Implementation of Uganda's Transitional Justice Process

### Formal Prosecutions

There is a great over emphasis on formal prosecutions that are generally viewed in a negative way due to the judicial system's reputation of ineffectiveness, slowness, and corruption. Firstly, the involvement of the ICC when the arrest warrants first were announced resulted in mix reactions. These varied from a general welcoming of the warrants, viewing the ICC as an impartial institution that will raise awareness about the conflict throughout the world.<sup>17</sup> Conversely, there is the view that the ICC was worsening the war by having a negative effect on the peace talks for only prosecuting former LRA rebels and not government forces. However, today focus is moving from the ICC to the ICD, Uganda's national court, which was created to handle the prosecution of war criminals and other international criminals on Ugandan soil. According to an ICC official working in Uganda, the ICC has significantly scaled down its efforts in the country, since the ICC's Uganda budget has stayed the same since 2007.<sup>18</sup> The ICC has been involved with training ICD officials and monitoring the new court's progress. If the ICC feels that the ICD has the capacity and impartialness to put the top LRA commanders on trial, the ICC will refer its cases to them.

The ICD has the potential to be an effective branch in Uganda's judicial system that can play a major role in its transitional justice process. Unfortunately, the ICD so far has been largely unsuccessful. The one case of a former LRA rebel,

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<sup>17</sup> *Making Peace Our Own: Victims' Perceptions of Accountability, Reconciliation, Transitional Justice in Northern Uganda*. Rep. Office of the United Nation High Commission for Human Rights, 2007.

<sup>18</sup> Interview with Jimmy Otim. Kampala. 4 April 2013.

that of Thomas Kwoyello, has been called a “mockery of justice” since Kwoyello has been turned into a “big celeb” in an interview with a prominent Gulu lawyer.<sup>19</sup> The problem is that there is a general lack of knowledge of what exactly the ICD is, which is obvious in the data analysis. Additionally, the population is “not craving for Kwoyello’s blood” instead there is a strong desire for forgiveness and reconciliation.<sup>20</sup>

On a local level, formal prosecutions are also viewed upon in a general negative way. Overwhelmingly, LC courts are viewed as partial, as LCs can be easily bribed according to the majority of community members.<sup>21</sup> However, despite these challenges, many still believe that local courts are the best ways to pursue formal prosecutions. Many people feel more comfortable with admitting past crimes and telling their personal stories in front of their fellow clan members, as opposed to at the national or international level.

### Traditional Justice

Traditional justice mechanisms are overwhelmingly view of in a positive light by the people of Northern Uganda since they promote forgiveness and reconciliation. However, only a small minority of the population actually participates in these processes for a variety of reasons. Firstly, traditional justice mechanisms are not implemented in a formal or uniform way. Instead NGOs, traditional and cultural leaders, and local government officials initiate them. Additionally, perpetrators are not required to go through these mechanisms, they have to be done on a voluntary basis by both parties.

### Truth-telling

Truth-telling mechanisms are extremely important to the various cultures of the Northern region. Most Northern Ugandans have been involved with some sort of truth-telling mechanisms throughout their life.<sup>22</sup> However, in order for a society to reconcile after mass atrocities and human rights abuses, there needs to be truth-

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<sup>19</sup> Interview with Henry Kilama Komakech. 16 April 2013.

<sup>20</sup> Ibid.

<sup>21</sup> Community Interviews in Gulu District. 30 April & 3 May 2013.

<sup>22</sup> Ibid.

telling on a large scale. Truth commissions “create accurate historical records for society; effective remedies to the victims; accountability to perpetrators; reformation and reconstructive of that state; and coexistence and sustainable peace.”<sup>23</sup> In Uganda, there is an immediate need for a truth commission to address all the human rights abuses and violence that has occurred throughout the country since independence. As the Honorable Norbert Mao, a presidential candidate, states:

The North/South divide can only be bridged if there is truth-telling. I think Museveni choose the path of stigmatizing the North. So, it was about collective guilt. Even me, who doesn't have anybody's blood on his hands, I am found guilty of the suffering in the rest of the country. My job is not to defend the north, my job is to say lets find out the truth.<sup>24</sup>

A truth commission will hold accountable all perpetrators, including LRA rebels, UPDF soldiers, and current members of the government. This will enable victims to feel that their stories have been listened to and they can move on with their lives. Additionally, it will help build a cohesive Ugandan state, addressing one of the root causes of the war, which was the divide between Northern and Southern Uganda.

### Compensation

Another major mechanism of any transitional justice process that is completing missing in Northern Uganda is compensation, more specifically reparations. Currently, the GoU is playing off post-conflict recovery programs as reparations. There is a need to differentiate between reparations and development assistance. Reparations “must acknowledge wrongdoing and recognize harm...the government's formal and unambiguous acknowledgement of the harms that occurred” is most important.<sup>25</sup> It is especially important for the people of Northern Uganda, as one victim recounts:

*In the Acholi culture the issue of reconciliation comes after some payment. So, for you to be reconciled with someone you have wronged you must say sorry and also pay back whatever you have taken from him/her. That is what*

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<sup>23</sup> Malombe, Davis M. “The politics of truth commissions in Africa: a case study of Kenya.” *Where Law Meets Reality: Forging African Transitional Justice*. Cape Town: Pambazuka, 2012. 99-123.

<sup>24</sup> Interview with Honourable Norbert Mao, Gulu, 18 April 2013

<sup>25</sup> Esuruku, Robert Senath. “The Peace, Recovery and Development Plan for Northern Uganda.” *Where Law Meets Reality: Forging African Transitional Justice*. Cape Town: Pambazuka, 2012. 144-166.

reconciliation or Mato-Oput is about. Now, here the government has not done anything, or even acknowledged that it is responsible for the conflict. When they give you anything at all, they just give you one saucepan, one plate and a cup. How is that supposed to help? How can you be given one cup and a plate and then be expected to live, or even forgive?<sup>26</sup>

Many of the war victims feel neglected by the government, as they have yet to be compensated for any of the losses incurred during the conflict. To many, this is the biggest TJ need. In an interview with a 2016 MP elect for Gulu District, he claimed that his first fight if he wins the parliamentary position would be to create criteria and a policy for effective reparations.<sup>27</sup> In order for reconciliation to occur, a reparation process needs to be created and implemented by the government.

### Post-Conflict Development Programs

The need for reparations does not diminish the need for recovery assistance programs, like PRDP and NUSAF. Any compensation process must be comprehensive and include: education initiatives, counseling, symbolic measures (memorializations, apologies, etc), truth-seeking to resolve current questions, economic empowerment programs. A comprehensive approach is needed because there is a diversity of needs expressed by the victims. The two decade long conflict completely destroyed the economic and social base of the region, and there is universal agreement throughout the Northern region that there needs to be development programs to help rebuild.

### PRDP and NUSAF

The two major post-conflict development programs have had mix results, according to various stakeholders in the community. The effectiveness of these programs has greatly decreased due to corruption on almost every implementation level. Since all funds for the programs originate in the OPM, these officials have much control in the distribution of funds. Consequently, it has been claimed that

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<sup>26</sup> *Making Peace Our Own: Victims' Perceptions of Accountability, Reconciliation, Transitional Justice in Northern Uganda*. Rep. Office of the United Nation High Commission for Human Rights, 2007.

<sup>27</sup> Interview Henry Kilama Komakech, Gulu 16 April 2013

nearly 50 billion shillings worth of PRDP funds have been embezzled in the OPM.<sup>28</sup> Additionally to the corruption on a national level, a patronage system has been created by political elites. These elites determine who specifically in the community can benefit from these programs based on their own personal interests. According to community members, LCs handpick which groups can obtain NUSAF funding, and these people usually tend to have a personal connection with the LC, either being friends or family members.

Another issue with these programs is that there is a lack of community involvement and understanding of the logistics of both PRDP and NUSAF. A major complaint by community members is that many of the contractors who are employed to carry out these projects are from a different region. These program could help the massive unemployment problem that Northern Uganda faces by using these programs to create jobs for various construction workers and manual laborers. Another problem is that the community needs are not inquired about before a project is planned and implemented. This creates many projects that do not align the with communities most dire needs.

Logistically, these program require application processes that are extremely confusing to the average Northern Uganda, who is relatively uneducated. Many community members claimed that they could not be part of a NUSAF group because they are unable to fill out the necessary forms.<sup>29</sup> Other logistical problems that were discussed were: a shortage of forms available, lack of fees for photocopying forms, a too high minimum number of people required for a group to be formed, poorly constructed buildings and roads, and longevity of projects that never seem to be finished.<sup>30</sup>

Dr. Chris Dolan, one of the founders of the Refugee Law Project, compares PRDP to a three-legged table. In a speech he says, “The bad thing about three legged-tables is that they cannot support any weight without falling over. The good thing

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<sup>28</sup> Ibid.

<sup>29</sup> Community Interview, Gulu District. 30 April and 3 May, 2013

<sup>30</sup> Ibid.



about them is that they can be fixed.”<sup>31</sup> Therefore, it needs to be emphasized that although these programs are currently flawed due to poor implementation, they can easily be fixed. For proper implementation of these program, much needs to change. According to a USAID report, “government and development partners need to ensure that service provision and development programs are as inclusive as possible, with transparent selection processes and benefits for individuals and community as a whole. Local and national government should convene regular public outreach activities with the community on service delivery challenges and opportunities.”<sup>32</sup>

## Conclusions

Uganda’s transitional justice, in its current state, is not adequately addressing the justice needs of the millions of victims from the two decade long conflict in Northern Uganda. This is not due to the government of Uganda’s neglect, it is obvious that the political will is there. By firstly referring the top five LRA commanders to the ICC, the GoU is involving the entire international community in holding perpetrators accountable for past abuses. Next, the mere creation of the International Crimes Division of the Uganda High Court is evidence that there are being efforts made by the national government to hold perpetrators accountable in a domestic setting.

However, the two major challenges facing Uganda’s transitional justice lay in the implementation of justice mechanisms and the lack of adequately addressing victims’ needs. There has been much discussion of the creation of a truth commission and a clear uniform reparation process, but there has been no serious

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<sup>31</sup> Dolan, Chris. "Is the PRDP a Three-Legged Table? Challenges for NGOs in Moving from Humanitarian and Short Term Interventions to Longer Term Approaches in Light of the PRDP and the Conflict Setting." NGO Seminar for Scandinavian Based International NGOs Working in Northern Uganda. Kampala. 10 Apr. 2008. Speech.

<sup>32</sup> Mutto, Milton. *CONFLICT AND RECOVERY BRIEFING REPORT NO. 7: UNPACKING THE 'P' IN PRDP STABILITY, PEACE AND RECONCILIATION IN NORTHERN UGANDA (SPRING) PROJECT*. Rep. no. 7. USAID, Oct. 2010.

attempt to implement these efforts. There also has been no sincere effort by the GoU to inquiry what justice mechanisms the people of Northern Uganda feel are necessary. Overwhelming, in this study and various other studies conducted on the population, the victims two biggest needs are accountability and compensation. Therefore, the current emphasis on formal prosecutions and post-conflict development programs is only fulfilling the agenda of the central government and lacks focus on the people affected by the war.

## Recommendations

- Adjustment of Uganda's current comprehensive transitional justice policy is necessary. The adjusted one must specifically target the core issues that victims have expressed affects them the most. It should include:
  - a clear and uniform reparation process
  - a national truth-seeking commission
  - memorialization
  - post-conflict recovery programs
  - reconciliation at the clan level
  - formal prosecution for only top commanders, of both the LRA and UPDF
- Implementation of post-conflict development programs and other TJ mechanisms must be monitored and evaluated by a variety of actors and institutions. These monitoring and evaluation actors should come from the international, national, and local community. The international actors and institution will ensure that all funds are accounted for, thus holding the national and local government officials accountable. This needs to be done by frequent and regular visits to Uganda and extensive research done during these visits. On a national level, members in the central government, MPs especially, need to monitor the funds used by local government officials. This will include monitoring who exactly in the community receive funds,

ensuring that they are evenly distributed throughout the community. Lastly, community members need to be educated and sensitized about these programs in order to hold their leaders accountable for proper implementation. Groups of community members should be created to monitor the progress and effectiveness of specific projects.

All funds should go directly to community members instead of through the bureaucratic government system. This will ensure that all funds are accounted for and used in an efficient and effective way.

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## Appendix

### Appendix A

Table 1

Poor People (in millions)		Source: UBOS	
Regions in Uganda	2002/2003	2005/2006	2009/2010
Central	1.67	1.30	.87
Eastern	3.19	2.45	2.20
<b>Northern</b>	<b>2.90</b>	<b>3.25</b>	<b>2.84</b>
Western	2.06	1.44	1.60

Table 2

Poverty Estimates 2009/2010		Source: UBOS	
Regions in Uganda	Population Share	Mean CPAE	Poverty Estimate
Central	26.5%	100,441	10.7%
Eastern	29.6%	49,697	24.3%
<b>Northern</b>	<b>20.0%</b>	<b>38,988</b>	<b>46.2%</b>
Western	24.0%	56,232	21.8%

## **Appendix B**

### Community Members Interviews

*30 April 2013, Pabwo Parish, Bungatira Sub-County, Gulu District*

Joel, Farmer, Male  
Norton, Bicycle Mechanic, Male  
Nekolina, Farmer, Female  
Pauline, Farmer, Female  
Joel, Builder/Farmer, Male  
Justin, Mechanic, Male  
Phionia, Farmer, Female  
Jimmy, Farmer, Male  
Anthony, Farmer, Male  
Olura, Farmer, Male

*3 May 2013, Paicho Sub-County, Gulu District*

Nighty, Farmer, Female  
Pamela, Saleswoman, Female  
Missy, Farmer, Female  
Patience, Farmer, Female  
Vicky, Farmer, Female  
Christine, Businesswoman, Female  
Karim, Farmer, Male  
Richard, Retired Soldier, Male  
Justin, Farmer, Male  
Charles, Farmer, Male  
Franco, Farmer, Male  
Walter, Farmer, Male

## **Appendix C**

### Key Informant Interviews

*3 April 2013, Kampala:* Nicholas Opiyo, Lawyer

*4 April 2013, Kampala:* Jimmy Otim, ICC Field Outreach Officer

*16 April 2013, Gulu:* Henry Kilama Komakech, Lawyer

*18 April 2013, Gulu:* Honourable Norbert Mao, Local Council 5 Chairman for Gulu District and President of the Democratic Party of Uganda

*23 April 2013, Gulu:* Lino Owor Ogora, Programme Coordinator, Justice and Reconciliation Project

*24 April 2013, Gulu:* Loum Patrick, Programme Coordinator, Acholi Religious Leaders Peace Initiative

*30 April 2013, Bungatira Sub-County: Andrew Opiyo, Pabwo Parish Chief*  
*30 April 2013, Bungatira Sub-County: V.B Okwonga, Former Pabwo Parish Chief*  
*30 April 2013, Bungatira Sub-County: Labedo, Okello, In-Charge Doctor Health Centre Pabwo II*  
*3 May 2013, Paicho Sub-County: Peter Okot, Local Councilman III Paicho Sub-County*  
*3 May 2013, Paicho Sub-County: Andrew Onen, Community Development Officer, Paicho Sub-County*

## **Appendix D**

### Informal Interview Questions

What is your name?  
What is your age?  
What do you do for work?  
How is your family?  
Do you think that people who committed crimes during the war should be punished?  
In your personal experience, have the people who've committed crimes against you during the war been punished?  
Have you witnessed or been involved with any truth-telling processes?  
Have you witnessed or been involved with traditional justice mechanisms?  
Have you brought a case about the war to the formal court system?  
Have you heard of the International Crimes Division (ICD)?  
How do you think that these justice processes can improve?  
What are their challenges?  
During the conflict who did you receive help from?  
Have you received compensations for losses occurred during war?  
Have you received benefits from the government or NGO for war losses?  
What has been the effect of the Peace Recovery and Development Plan (PRDP)/Northern Ugandan Social Action Fund (NUSAF) on your life?  
What are their challenges?  
How can they improve?

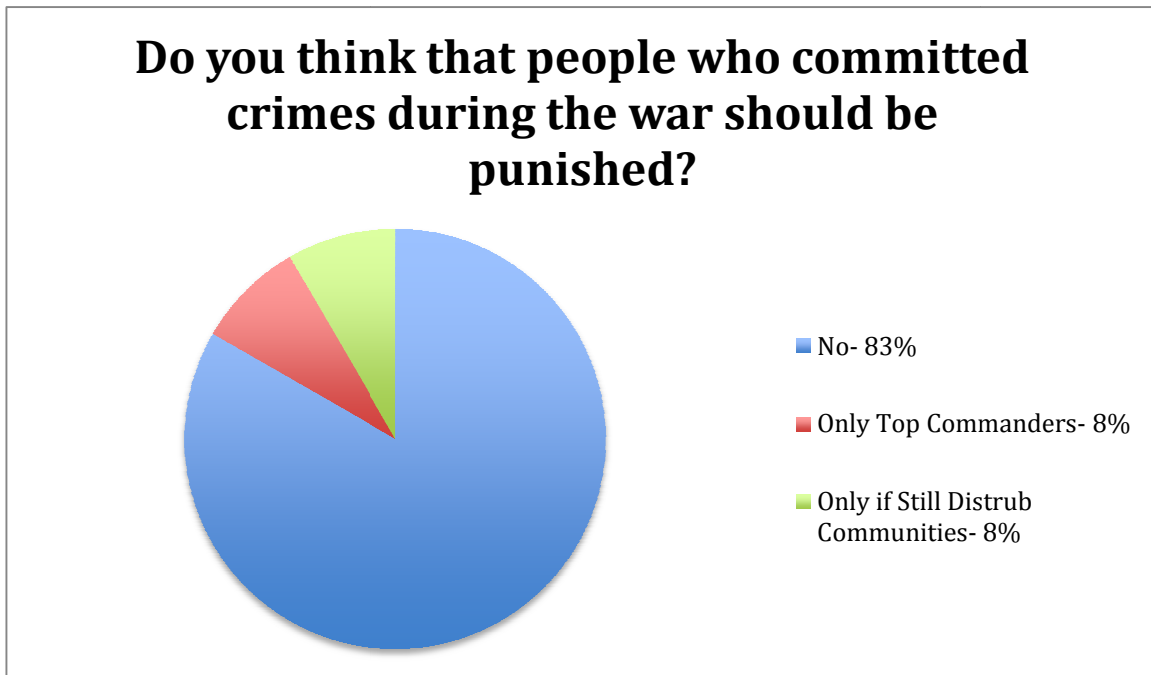


## Appendix E

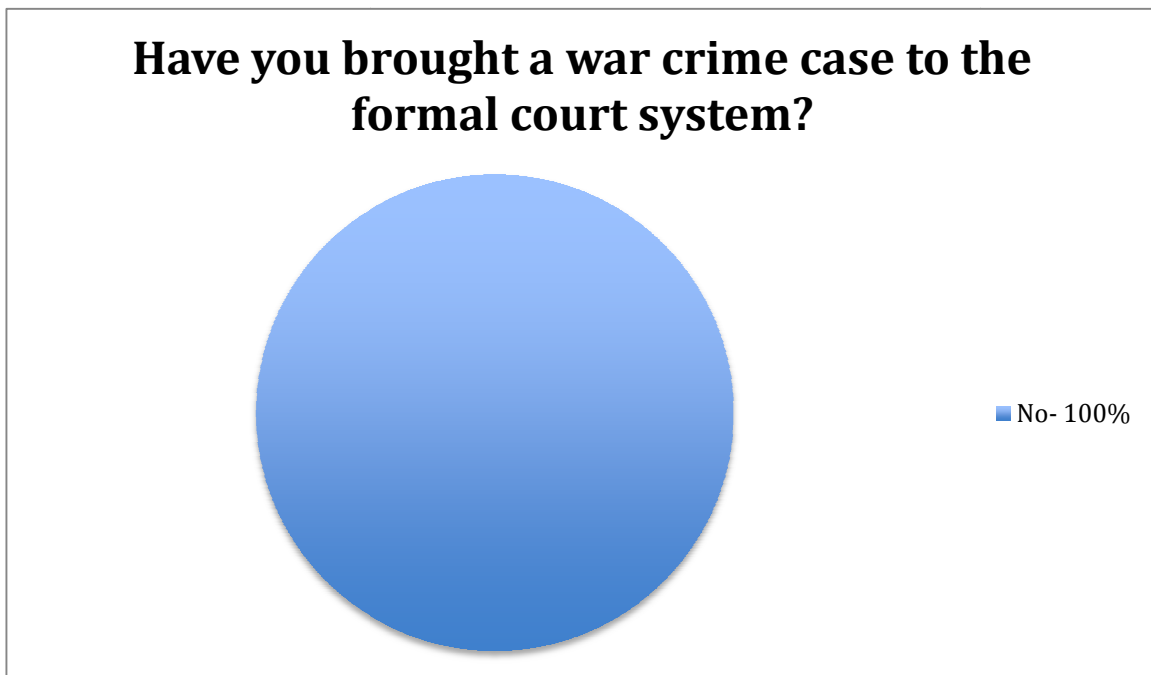
BEFORE	AFTER
<ul style="list-style-type: none"> <li>• —What is your name?</li> <li>• —Have you always stayed in this village?</li> <li>• —What do you do for work?</li> <li>• —How is your family?</li> <li>• —What in your life has caused the need for justice?</li> <li>• —What justice processes have you been involved with?</li> <li>• —Can you explain them?</li> <li>• —Have they been successful?</li> <li>• —How can they improve?</li> <li>• —Have you been involved in/witnessed any truth-telling process?</li> <li>• —Have you received any form of benefits from the government/NGOS/CSOS for losses in the war?</li> <li>• —Have you benefited from any recovery initiatives during/after the war?</li> <li>• —Have you heard of Peace Recovery Development Plan (PRDP) and/or Northern Uganda Social Action Fund (NUSAF)?</li> <li>• —What has been the effect of these initiatives?</li> <li>• —What can be done to improve them?</li> </ul>	<ul style="list-style-type: none"> <li>• —What is your name?</li> <li>• —What is your age?</li> <li>• —What do you do for work?</li> <li>• —How is your family?</li> <li>• —Do you think that people who committed crimes during the war should be punished?</li> <li>• —In your personal experience, have the people who've committed crimes against you during the war been punished?</li> <li>• —Have you witnessed or been involved with any truth-telling processes?</li> <li>• —Have you witnessed or been involved with traditional justice mechanisms?</li> <li>• —Have you brought a case about the war to the formal court system?</li> <li>• —Have you heard of the International Crimes Division (ICD)?</li> <li>• —How do you think that these justice processes can improve?</li> <li>• —What are their challenges?</li> <li>• —During the conflict who did you receive help from?</li> <li>• —Have you received compensations for losses occurred during war?</li> <li>• —Have you received benefits from the government or NGO for war losses?</li> <li>• —What has been the effect of the Peace Recovery and Development Plan (PRDP)/Northern Ugandan Social Action Fund (NUSAF) on your life?</li> <li>• —What are their challenges?</li> <li>• —How can they improve?</li> </ul>

## Appendix F

**Table 1**

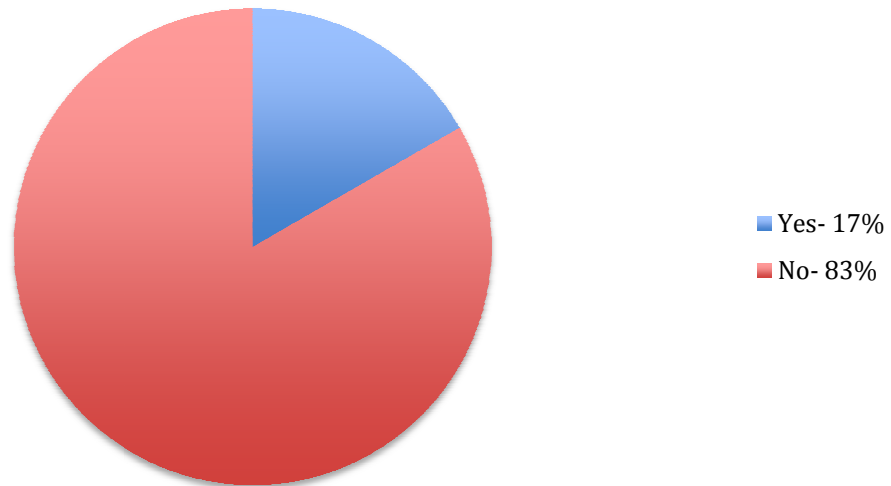


**Table 2**



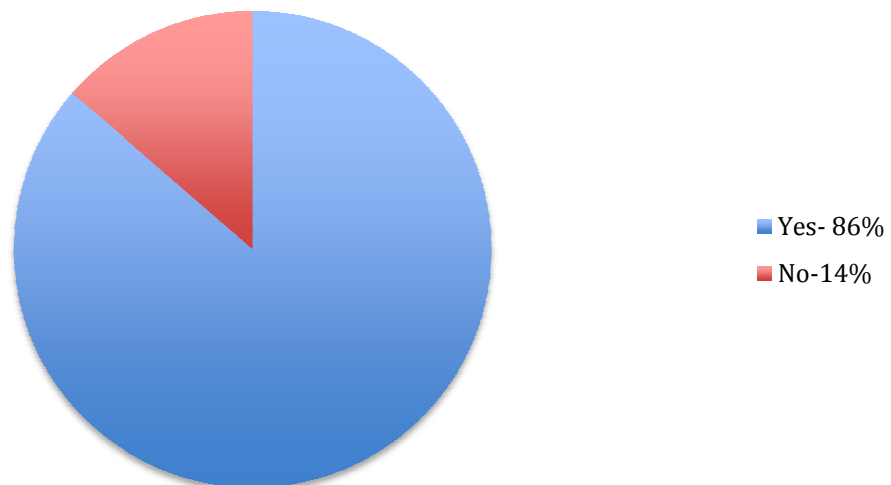
**Table 3**

**Have you heard of the International Crimes Division (ICD)?**



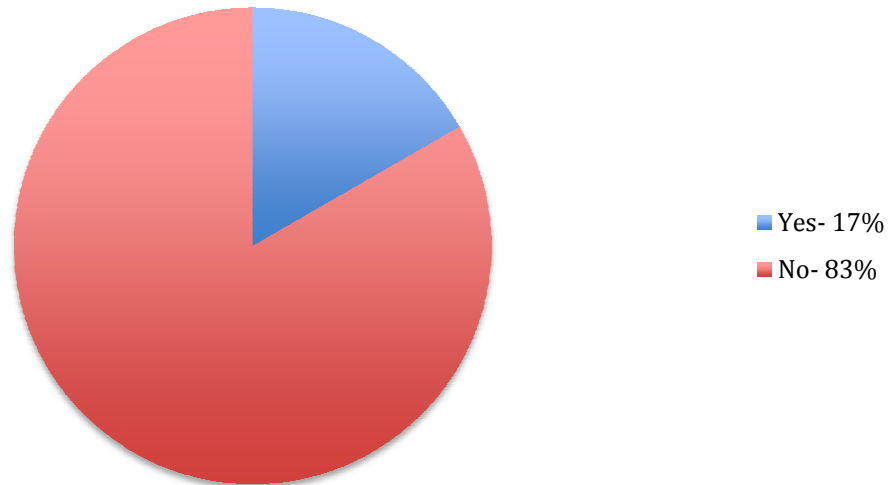
**Table 4**

**Have you witnessed or been involved with any truth-telling processes?**



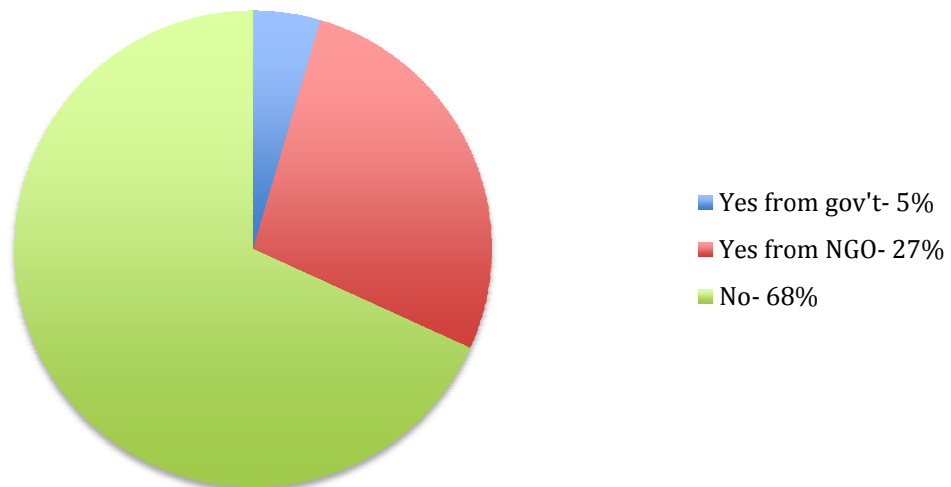
**Table 5**

**Have you witnessed or been involved with any traditional justice mechanisms?**



**Table 6**

**Have you received compensation from the government or NGOs for war losses?**



**Table 7**

**What has been the effect of PRDP/NUSAF  
on your life?**

