



# Making Gender-Just Remedy and Reparation Possible:

Upholding the Rights of Women and Girls  
in the Greater North of Uganda



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# **Making Gender-Just Remedy and Reparation Possible: Upholding the Rights of Women and Girls in the Greater North of Uganda**



Publishers: Isis Women's International Cross Cultural Exchange, Plot 7 Martyrs Road,  
Ministers Village Ntinda, Kampala, Uganda  
Feinstein International Center, Tufts University, 114 Curtis Street,  
Somerville, Massachusetts, USA 02144

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Title: *Making Gender-Just Remedy and Reparation Possible*

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Typesetting credit: Joyce Maxwell

2013

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## ACKNOWLEDGEMENTS

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This study was funded in large part by the Ford Foundation, East Africa, and Ford Foundation, New York. We were able to expand geographical coverage of the study and carry out more in-depth research with additional funding provided by the Norwegian Ministry of Foreign Affairs, IrishAid, the Government of Norway, the Australian Agency for International Development (AusAID), and the Feinstein International Center and the Fletcher School of Law and International Diplomacy of Tufts University, USA.

We wish to thank colleagues with Ugandan NGOs that assisted us in of this research, most notably, African Development and Peace Initiative, Amuria Development Agency, AYINET Uganda, CARITAS Gulu, Children/Youth as Peace Builders, Christian Counselling Fellowship, Concerned Parents Association, Empowering Hands Uganda, Facilitation for Peace and Development, Human Rights Focus, Justice Reconciliation and Peace: Gender Justice Department, Participatory Rural Action for Development, Refugee Law Project, Ugandan Victims Foundation, and Women and Rural Development Network. Colleagues at UN Office of the High Commissioner for Human Rights; UN Women; the International Committee of the Red Cross, Uganda; and REDRESS also provided valuable insights and support.

## RESEARCH PARTNERS

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**The Feinstein International Center (FIC), Tufts University, USA.** Members of the Feinstein International Center (FIC) have been working with war-affected communities in the Greater North of Uganda since 2001 and in Karamoja since 1997. FIC is a research centre within the Friedman School of Nutrition Science and Policy at Tufts University, which enjoys a global reputation for academic excellence, research and hands-on participation in development processes. FIC has a 15-year track record of action research in the fields of humanitarian action, livelihoods research, protection, conflict analysis and post-conflict rehabilitation. Informing measures for accountability and redress for grave rights violations and crimes committed against

civilian populations and members of fighting forces are key priorities for FIC. FIC strives to use the highest calibre academic research to inform, develop and promote operational and policy responses. It aims to protect and strengthen the rights and livelihoods of people living in crisis and conflict-affected and marginalised communities. FIC is concerned with communities impacted by violence, mass atrocities, forced migration, loss of assets and malnutrition.

**Isis-Women’s International Cross Cultural Exchange (Isis-WICCE)** is a global action-oriented feminist organisation, founded in Geneva in 1974, and relocated to Kampala, Uganda, in 1993. The organisation has since 1996 focused on enhancing women’s leadership in conflict and post-conflict settings. Its well-grounded social and gender justice values are sustained by a mission ‘*to ignite women’s leadership, amplify voices and deepen their activism in (re)creating peace*’. Isis-WICCE has over the years dedicated its innovative approaches (research, capacity building, dialogue and coalition building), to address the concerns of women war survivors. Using exchange visits and programmes, Isis-WICCE has enhanced the skills of more than 500 women leaders in conflict and post-conflict settings globally, who have replicated the skills in the affected communities through a giving-back-to-the-community strategy that addresses the specific needs of women and girls war survivors. This approach has subsequently restored hope, renewed the spirits of the abused women, and enhanced their dignity.<sup>1</sup>

Since 1996, Isis-WICCE has collected data on violations and abuses committed against women and girls in armed and post-conflict situations. It has used this data to advocate at the United Nations and the African Union and to develop strategy tools for women peace activists who have been instrumental in advocating for women’s needs to be reflected in post-conflict reconstruction processes such as the Peace, Recovery and Development Plan (PRDP) for northern Uganda. Working alongside the Women’s Task Force, Isis-WICCE successfully ensured that the PRDP programme areas addressed violence against women; sexual and gender-based violence; and women’s access to justice, property rights, land and health services in the reconstruction framework.<sup>2</sup> Isis-WICCE’s give-back-to-the-community approach addresses the health needs of women and girl war survivors through medical and psychological assessments and provision of short-term medical treatment to heal the psychological and physical impacts of war on women’s and girls’ bodies.

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## I. Executive Summary

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Victims of serious violations of international human rights law and international humanitarian law have a clearly established right to remedy and reparation. This right must apply without discrimination of any kind or on any ground.<sup>3</sup> Processes of remedy and reparation should therefore not support or enable discrimination of any kind against victims. These requirements have significant implications for ensuring that female victims are treated without discrimination in remedy and reparation processes and outcomes.

Several important initiatives are underway in Uganda to address, in part, victims' of armed conflicts' rights to remedy and reparation. In 2008, Uganda established the International Crimes Division of the High Court to prosecute crimes of genocide, crimes against humanity, war crimes, and other serious crimes including terrorism and human trafficking. Also in 2008, Uganda's Justice, Law and Order Sector (JLOS) established a high-level Transitional Justice Working Group to put in motion the provisions of the Juba Peace Agreement. The Transitional Justice Working Group is made up of five thematic sub-committees: (1) war crimes prosecutions; (2) truth and reconciliation; (3) traditional justice; (4) finance; and (5) integrated systems. Issues of remedy and reparation cut across these thematic areas. The Transitional Justice Working Group is currently drafting national policy on transitional justice that will provide principles and guidance for its advancement. There is also discussion regarding national investigation and documentation of serious violations and abuses of international human rights, humanitarian law and criminal law that were committed during the hostilities between the Government of Uganda (GoU) and Lord's Resistance Army (LRA) in the Greater North of Uganda ('GoU-LRA conflict').

To inform efforts of remedy and reparation, several reports have recently been published within Uganda on the need for, and victims' views and priorities on, remedy and reparation. Most notable is the report by the United Nations Office of the High Commissioner for Human Rights (UN OHCHR), Uganda, and the Ugandan Human Rights Commission (UHRC): *The Dust Has Not Yet Settled: Victims' Views on Remedy and Reparation in the Greater North, Uganda*. It presents findings from interviews with over 2,300 victims and members of victim-oriented civil society organisations in the Greater North of Uganda.<sup>4</sup> Importantly, the UN OHCHR and UHRC report provides a nuanced gender analysis of victims' rights to remedy and reparation, crimes suffered, and victims' priorities. Isis-WICCE, Uganda, drew upon long-term experience documenting women's and girls' experiences of war in Gulu, Kitgum, Lira and the Teso sub-region to provide a range of recommendations on what reparations would mean to female war survivors.<sup>5</sup> AYINET, Uganda, a national NGO that provides medical and psychosocial rehabilitation to victims of war, with support from the United Nations mission in Uganda and the

Office of the Prime Minister, has also released reports on a variety of reparation measures for victims, in particular on medical and mental health injuries and the missing and disappeared.<sup>6</sup> AYINET's data is sex and age disaggregated and the analyses show how injuries and the need for treatment breaks out among males and females of different ages, with important lessons for treating victims of sexual violence. The Refugee Law Center launched the Transitional Justice Audit to document all major current and past conflicts and their legacies in Uganda, with the objectives of (1) documenting community perspectives on all the post-independence armed conflicts in Uganda and (2) identifying and assessing the outstanding reconciliation and transitional justice needs related to each of these conflicts.<sup>7</sup> The International Centre for Transitional Justice (ICTJ) recently released a briefing note focusing what it sees as most urgent areas for reparation in northern Uganda.<sup>8</sup>

The concepts of explicitly gender-just, gender-equitable and gender-sensitive repair for serious violations and crimes have only begun to be explored in theory and practice within the last several years. This report contributes to identifying the factors that constitute gender-just remedy and reparation for Uganda, with insights applicable internationally. The report is grounded in empirical data from in-depth interviews with over 640 victims of serious crimes and their families from the sub-regions of Acholi, Lango, Teso and West Nile in the Greater North of Uganda. These interviews were conducted by the authors in 2010–12. (The study rationale, objectives and methods are described in Section II of this report.)

The goal of this research project was to shape an understanding of reparation based on the experiences and perspectives of women, girls, their families and communities who have suffered serious crimes during the armed conflict between the GoU and the LRA in the Greater North of Uganda. The research documents and analyses how these serious crimes continue to affect the lives of female victims, their families and communities and how in some cases the violations have led to subsequent abuses, violations and harms. Building on this knowledge, the research develops and deepens an understanding of the principles, processes and forms of remedy and reparation (both individual and collective) needed to ensure gender-just processes and outcomes for female victims. Overall, the report seeks to inform and add depth to the current debates surrounding victims' rights to remedy and reparation in Uganda and internationally.

In Section III, the report outlines the main components of victims' rights to remedy and reparation and locates those rights within international and regional treaties that Uganda has committed to as well as those within Uganda's constitution and domestic laws. The report then frames gender-just remedy and reparation principles and processes within the *Agreement on Accountability and Reconciliation* and its *Annexure*. This is one of the five agreements (collectively known as the Juba Protocols) reached in negotiations between the GoU and LRA. The *Agreement on Accountability and Reconciliation* and its *Annexure* make clear that women's and girls' experiences of the GoU-LRA conflict should be emphasised within any inquiry and in the resulting reparation policy and programme. The report then spells out the key components of

the *Nairobi Declaration on Women's and Girls' Right to Remedy and Reparation*, which was created through international action by victims and victims' rights groups to advance gender-just remedy and reparation.<sup>9</sup> Importantly, while the *Nairobi Declaration* documents the long list of rights that victims of serious crimes have to remedy and reparation, few of those rights have actually been delivered in terms of remedy and reparation to victims of the conflict between the GoU and LRA.

In Section IV of this report, based on the findings of publications that documented women's and girls' experiences during and after the war, and our own interview data from over 640 victims of serious crimes, the authors offer a conceptual framework that illuminates and clarifies the dimensions of violence against women and girls during the GoU and LRA armed conflict in the Greater North of Uganda. Breaking out the five most significant dimensions of this violence enables a better understanding of the resulting harms and how to approach a gender-just remedy and reparation. Those five dimensions<sup>10</sup> are:

- (1) sexual or reproductive coercion, harm, torture or mutilation;
- (2) targeting women's mothering;
- (3) women, productive labour and property;
- (4) women and social capital;
- (5) gender multipliers of violence.

Breaking out these dimensions will make clear that gender-blind reintegration and restitution by themselves are not sufficient goals of reparation: the origins of the violations and abuses of women's and girls' human rights predate the conflict, and were likely exacerbated during the conflict. In the post-conflict period, they should not be reproduced or reinforced by reparation processes or outcomes.<sup>11</sup>

The report contends that to counter these harms, remedy and reparation processes and outcomes should identify preventative and protective measures – particularly medical, social and legal – to bolster women's and girls' well-being, safety and rights in the aftermath of serious crimes and violations. These processes and outcomes can help overcome inequalities through post-conflict transformation of socio-cultural injustices and political and structural inequalities that shaped the lives of women and girls before, during and after the conflict.

In Section V, the report focuses on the principles under which, and the processes through which, reparation unfolds. A gender-just approach gives insight into the *processes* of remedy and reparation. How victims are treated and if the processes empower or disempower them will, in the end, help determine the success of remedy, reparation and the overall transitional justice process. This report identifies the following key areas to ensure gender-just remedy and reparation processes:

### ***(1) Equality and Non-Discrimination Principles***

- Equality and non-discrimination should be among the overarching principles that guide the work of:
  - outreach processes;
  - registration processes;
  - data collection;
  - data collection forms and processes and data analysis; and
  - forms, scope and distribution of remedy and reparation measures.

### ***(2) Outreach***

- Outreach is a two-way process that involves engaging with victims and their representatives and seeks to build trust and confidence among victims, particularly victims of sexual and gender-based violence who are highly stigmatised.
- Outreach should uphold the dignity of victims; it should be about their social recognition and acceptance. The observers, legislators, intermediaries and staff of transitional justice efforts should be encouraged to see women and girls who have been subjected to violence as resisters, as persons whose lives go beyond the victimisation they were forced to experience.
- Outreach needs to consider the complexities of the survivor's relations with her community and with others who may see her primarily as a victim and thus diminish her agency within her family and community, as well as possibly contributing to her being perceived as being favoured by national and international reparation service providers.
- Outreach processes should be responsive to women's high levels of illiteracy, poverty, poor access to transportation and deep social fractures (gender, ethnic, language, class or sub-regional differences).
- Victim-led and victim-oriented civil society organisations that are known and trusted by victims should help in facilitating outreach.

### ***(3) Registration and Documentation Processes***

- Gender-just procedures and processes should include gender-sensitive registration and legal and documentary processes.
- Data collection tools and language used in data gathering should reflect multiple local languages and low literacy rates.
- Procedures should be simplified to allow lower thresholds of evidence, understanding that many woman- and child-headed households will not possess paperwork for property or land, or medical or legal documentation to support their claims.
- National and international intermediaries can, at times, unintentionally complicate the process of registration and documentation for survivors. Therefore, local

- intermediaries are preferred. Survivors and relatives of survivors can be trained to translate difficult concepts and values and cultural practices of the survivors' communities.
- Female and male staff should be trained to work with male and female victims of sexual and gender-based violence. All male and female staff should be trained to ensure gender-sensitive and gender-just approaches in their interactions with victims and their families.
  - Provisions should be made to offset women's and girls' difficulties in traveling to and accessing officials tasked to hear, document and process reparation claims.

#### ***(4) Working with Victims of Sexual Violence***

- Due to the strong stigma in Uganda against female and male survivors of sexual violence, we can predict that many will not initially come forward to claim reparation; flexible time frames need to be put into place.
- Requiring victims of sexual violence to come forward under the 'label' of survivor of sexual violence may deter many. It may be preferable welcome victims of sexual violence under the umbrella of other forms of injury or violence. Also, no hierarchy of serious crimes should be presented to victims, as this may result in under-reporting of crimes of a sexual and gender-based nature.
- Nurses and medical personnel associated with reparation programmes (including those referred through hospitals, private clinics and NGOs) should be trained to detect the physical and psychosomatic presentations of patients who may have been sexually abused, so that they can discretely provide the necessary care to which the victim is entitled. They should be linked with civil society organisations (CSOs) that provide victim support and outreach on remedy and reparation for referral.
- Children born of rape represent an extremely delicate and important group to consider in gender-just reparation. Reparation processes should enable their care providers to come forward on their behalf to claim reparation, with complete confidence that neither they nor the children's identities will be disclosed. At the same time, as part of reparation efforts, educational tools about the types of situations children experienced during the war should be readily available in the schools in northern Uganda, so that there is reduced stigma and greater awareness and acceptance of how the war affected children.
- Victims, particularly victims of sexual violence, should have resource people (such as trained counsellors and specialists) helping them with the administrative steps needed to obtain reparation.

#### ***(5) Indivisibility of Rights***

- Gender-just reparation should move beyond a near-exclusive focus on violations, abuses and harm built on civil and political rights to incorporate economic, social and

cultural rights and conditions and seek to address structural violence, and pre-existing inequality and discrimination.<sup>12</sup>

***(6) Victims as Full Participants in the Design, Implementation, Monitoring and Evaluation of Reparation Programmes***

- Participation of women and girl victims and civil society organisations in the transitional justice process is essential and has reparatory value. Gender-just reparation should have administrative structures that enable the participation of CSOs and victim-led groups in the design, implementation, monitoring and evaluation of reparation programmes.

In Section VI, the report looks specifically at the different forms of reparation – restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition – and highlights key areas for realising gender-just reparation for women and girls in the Greater North of Uganda. The main findings include:

***The Right to Restitution***

- **Definition: Restitution** should seek as much as possible to restore victims to their original state prior to the violations. It includes, as appropriate, ‘restoration of liberty; enjoyment of human rights, identity, family life and citizenship; return to one’s place of residence; restoration of employment; and return of property’.<sup>13</sup>
- Because gender-just reparation is based on equality and non-discrimination, restitution efforts should be transformative and link with all other forms of reparation to raise women’s and girls’ status and equality. To do this, reparation processes must be familiar with the structural discrimination and barriers to women’s and girls’ equality that underlie most cultures and structures in the Greater North of Uganda.
- The right to return to one’s residence is violated for many women whose husbands were killed or disappeared and who have been pressured off or had their land stolen by in-laws and neighbours.<sup>14</sup> Gender-just restitution should join with strengthening traditional and formal means to enable women who by law have a claim to land and housing to uphold their rights. Consider reforming customary land laws of land ownership and access to accommodate women who are not traditionally married.
- Relating to the right of restitution of family life, thousands of girls and young women returned from LRA enslavement and forced marriage with children born of sexual violence. Some of these females and their parents report significant discrimination by some family members and members of the community. The mothers and grandmothers raising these children are extremely concerned about the future of their children, particularly as they struggle to provide for their basic needs including education and

health care. Gender-just restitution should support healthy family ties and should provide health and educational support for these children.

### *The Right to Compensation*

- **Definition: Compensation** should be given for any economically-assessable damage in a manner that is appropriate and proportional to the violations, which can include physical, mental, material, opportunistic and moral harms and costs incurred in addressing the resulting harms.<sup>15</sup>
- Gender-just compensation requires awareness of the structural inequalities that pre-date the conflict and that were often exacerbated during the conflict, in order to enable women and girls to assume roles as equal members of their families and communities.
- Women interviewed in our study feared that if they accepted any compensation, it would close the door to demands for truth telling processes. Thus, compensation processes should be part of a larger transitional justice process including acknowledgement, truth telling, investigation, documentation and other appropriate forms of satisfaction.
- Women and girl victims of serious crimes prioritised cash payments, vouchers, pensions and other monetary benefits as a form of compensation, as well as educational support for themselves and their children or grandchildren born of sexual violence.
- Gender-just compensation processes should enable women and girls' to claim benefits and compensation in a way that is responsive to local languages and low levels of literacy and requires few if any legal documents on the part of the claimant.
- In the aftermath of their husbands' death or disappearance, women are being forced off their land or their husband's land and out of their homes and they are being cheated of their husbands' pensions. Traditional leaders should strengthen efforts to help women remain on their land free from violence and harassment. Free legal aid services should be in place and available to women to defend and protect their rights to land, property and social protection payments.
- Payment modalities for compensation should explore processes that are easily accessible and simple to use for women in rural areas.

### *The Right to Rehabilitation*

- **Definition: Rehabilitation** encompasses medical and psychological care and access to legal and social services.<sup>16</sup>
- The case for individual and collective reparation for victims of serious crimes who suffered physical injury and mental and emotional distress is large in scale, compelling and urgent.<sup>17</sup> While our concern is for the entire war-affected Greater North, a recent study of Acholi sub-region found that 13 per cent of households in Acholi – and approximately 120,000 people – require medical and psychosocial care due to injuries

and harm suffered during the GoU-LRA conflict. Between 5,000 and 11,000 of these people require urgent medical treatment.<sup>18</sup>

- For some types of injuries, rates of injury, ability to access treatment, and costs are significantly different between females and males, especially for victims of sexual violence. Gender also has an important bearing on the nature and consequences of war trauma, including presentation of psychiatric disorders.<sup>19</sup>
- Gender-just medical rehabilitation programmes should have a gendered understanding of harms suffered and necessary treatment and recovery to enable the full treatment and recovery of female victims, including survivors of sexual violence, those with gynaecological injuries, and children born due to sexual violence and enslavement.
- Given the large scale of medical and mental health needs by victims of serious crimes, including female victims, collective forms of medical and psychosocial rehabilitation should be considered.
- Regarding provision of legal services, strengthened efforts by traditional leaders and free legal aid services should be in place and made available to women to defend and protect their right to claim land, property, housing and compensation.

### *The Right to Satisfaction*

- **Definition: Satisfaction** is broadly understood to include measures that help cease violations; verification and full public disclosure of the facts (while ensuring disclosure does not harm victims or witnesses); the search for and identification of those disappeared, abducted and killed; proper reburial; official declarations, apologies and sanctions against those liable for the violations; and tributes to the victims, including victims of conflict-related sexual violence.<sup>20</sup>
- The right to satisfaction was the most highly prioritised reparation right named by women and girl victims and their families that we interviewed.
- Women's first priority for all forms of reparation was official apologies and declarations that acknowledged that they and their families had suffered serious crimes and harms and that the GoU had either committed or failed to protect them from those crimes and harms. Women victims stressed that acknowledgement and apology should be the first step in any national reparation process.
- Inquiry and full public disclosure of the facts is highly prioritised by women victims and their families; they overwhelmingly wanted documentation, investigation and disclosure of the extent and nature of the conflict and serious crimes that they, their families and communities suffered. This included making clear which persons or parties were responsible for the crimes and harms and holding them accountable.
- The immense scale of abduction and disappearance of men, women, boys and girls is a defining feature of the two-decade long conflict between the GoU and LRA. The only large-scale representative data on the disappeared comes from a recent representative study from Acholi that finds that in that sub-region alone, in 35 per cent of households a

person disappeared who did not return. The study estimates that between 107,491 and 139,530 individuals from Acholi were forcibly disappeared and never returned.<sup>21</sup> In 73 per cent of cases the family believed the disappeared person was dead; thus, 88,349 to 90,024 individuals who were disappeared are believed by their household members to be dead. The study concludes that 31,400 to 33,103 individuals from Acholi were forcibly disappeared but to date their fates remain unknown to their families. Disappearance also occurred in Lango, Teso and West Nile, though we do not currently have comparable studies to determine the prevalence.

- The majority of the disappeared who have not returned are males, though a significant minority are females. Many of the families of the disappeared are headed by women who reported impoverishment of the household. Enforced disappearance has dire social, economic, legal, administrative, emotional, psychological and cultural consequences for the families left behind, consequences that should be taken into consideration in gender-just remedy and reparation processes.
- Proper treatment of the dead, according to local custom, is an explicitly articulated right to satisfaction that is critical to helping families and communities progress in the aftermath of serious crimes. The improper burial of those who were killed violently is causing mental and physical health problems to a significant number of the victims we interviewed at massacre sites. A responsible (re)burial programme should be complemented by processes of deep discussion with the victims and community leadership, resources to assist with necessary rituals, and the development of long-term emotional and livelihood support and psychosocial resources to assist the living.

### *The Right to Guarantees of Non-Repetition*

- **Definition: Guarantees of non-repetition** include civilian control of armed security forces; application of international standards of due process; independence of the judiciary; upholding of protections for protected persons under international law; human rights and humanitarian law training for relevant sectors and adherence to these laws and a gender-just interpretation of these laws within codes of conduct; and reform of laws that contribute to violations of international humanitarian and human rights law, including through an approach that promotes women's rights and equality, .<sup>22</sup>
- The GoU should seek to enact, implement and support a witness protection law. State personnel who interact with witnesses should be sensitised, particularly for work with witnesses who have experienced sexual and gender-based violence. The state should provide counselling and mental health services for witnesses who become distressed after giving information.
- The vast majority of victims of serious crimes in the Greater North of Uganda currently have no access to remedy or reparation for the crimes they have suffered. A primary reason is the Amnesty Act, which as it has been implemented blocks key remedy and reparation rights for victims. It is high time for the GoU, JLOS and the Parliament of

Uganda to intensify efforts to ensure that at least victims' surviving rights to remedy and reparation are fully respected and enforced.

- Currently, traditional justice mechanisms are unable to provide remedy or reparation for victims of serious crimes resulting from the GoU-LRA conflict, as envisioned, in part, within the *Agreement on Accountability and Reconciliation*. Any attempt to bolster such systems should be based on a thorough assessment of what they have done to date and what they are actually capable of doing. These efforts should be mindful of the frequent failure of these systems to treat women and girls with equality and non-discrimination.

Section VII offers specific, overall recommendations to ensure gender-just remedy and reparation principles, processes and outcomes for the women and girls of the Greater North of Uganda.

## II. Study Rationale, Goal and Methods

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### STUDY RATIONALE

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Victims of serious violations of international human rights law and international humanitarian law have a clearly established right to remedy and reparation. Significantly, this right must apply without discrimination of any kind or on any ground, without exception.<sup>23</sup> Neither should processes of remedy and reparation support or enable discrimination of any kind against victims. This requirement of equality has significant implications for ensuring that female victims are treated without discrimination. Yet, tragically, reparation programmes around the world have failed to systematically incorporate women's and girls' specific needs and concerns.<sup>24</sup>

The concept of gender-just, gender-equitable and gender-sensitive repair for serious crimes has only begun to be explored in theory and practice within the last several years.<sup>25</sup> This report seeks to contribute to identifying factors that can help constitute gender-just remedy and reparation. It is grounded in empirical data from interviews with several hundred victims and their families from the Greater North of Uganda. Over the past 20 years, this area has undergone armed conflict between the Government of Uganda (GoU) and the rebel Lord's Resistance Army (LRA); suffered a series of devastating, violent, armed raids by people of the neighbouring Karamoja region; and seen violent uprisings and responses by a number of armed groups and forces.

Several initiatives are underway in Uganda to address, in part, victims' of armed conflicts right to remedy and reparation. In 2008, Uganda established the International Crimes Division of the High Court to prosecute genocide, crimes against humanity, war crimes and other serious crimes including terrorism and human trafficking. Also in 2008, Uganda's Justice, Law and Order Sector (JLOS) established a high-level Transitional Justice Working Group to give effect to the provisions of the Juba Peace Agreement. The Transitional Justice Working Group is made up of five thematic sub-committees: (1) war crimes prosecutions; (2) truth and reconciliation; (3) traditional justice; (4) finance; and (5) integrated systems. Issues of remedy and reparation cut across these thematic areas. The Transitional Justice Working Group is currently developing a national policy on transitional justice to provide the necessary principles and guidance for advancing transitional justice in the country. Discussion is underway regarding national investigation and documentation of serious violations and abuses of human rights, humanitarian and international criminal law committed during the GoU and LRA hostilities ('GoU-LRA conflict').

To inform efforts of remedy and reparation, several reports have recently been published within Uganda on the need for, and victims' views and priorities on, remedy and reparation. Most notable is a report by United Nations Office of the High Commissioner for Human Rights (UN OHCHR),

Uganda, and the Ugandan Human Rights Commission (UHRC): *The Dust Has Not Yet Settled: Victims' Views on Remedy and Reparation in the Greater North, Uganda*. It presents findings from interviews with over 2,300 victims and members of victim-oriented civil society organisations in the Greater North of Uganda.<sup>26</sup> This report provides a nuanced gender analysis of victims' rights to remedy and reparation, crimes suffered and victims' priorities. Isis-WICCE's research provides details of the impact of the conflict on women's mental, physical and reproductive health needs.<sup>27</sup> AYINET, Uganda, a national NGO that provides medical and psychosocial rehabilitation to victims of war with support from the United Nations mission in Uganda and the Office of the Prime Minister, has released three reports on reparation measures for victims, in particular as they relate to medical and mental health injuries and the disappeared.<sup>28</sup> AYINET's data is sex and age disaggregated and the analyses show how injuries and the need for treatment breaks out among males and females of different ages, with important implications for treating victims of sexual violence. The Refugee Law Center launched the Transitional Justice Audit to document all major current and past conflicts and their legacies in Uganda, with the objectives of (1) documenting from the community perspective all the post-independence armed conflicts; and (2) identifying and assessing the outstanding reconciliation and transitional justice needs related to each of these conflicts.<sup>29</sup> The International Centre for Transitional Justice (ICTJ) has recently released a briefing note focusing on what it sees as some of the most urgent areas for reparation in northern Uganda.<sup>30</sup>

## STUDY GOAL AND METHODS

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The goal of this research project is to define reparation based on the experiences and perspectives of women, girls, their families and communities who have suffered serious crimes during the GoU-LRA conflict in the Greater North of Uganda. The research sought to document and analyse how these serious crimes continue to affect the lives of female victims, their families and communities, and how in some cases the violations have led to subsequent harms, abuses and violations.

Significantly, the research intends to deepen an understanding of reparation (both individual and collective) based on an in-depth study of the realities and actions of the survivors, their families and communities, and to offer insights into defining what constitutes reparation, who is involved, how long it takes, and ways in which the process can be supported. The findings are presented to bring victims' voices, perspectives and priorities to national and international forums to strengthen the agendas for local and national accountability and reparation. A key concern for this study is that processes of justice, accountability and reparation for victims in the Greater North of Uganda do not repeat the failures witnessed in other countries emerging from conflict, namely the marginalisation of women and children within those processes.

The objective of the study was to gain important insights into, and develop a typology of and parameters for, accountability and reparation measures that would help inform gender-just

remedy and reparation processes and outcomes for women and girls in the Greater North of Uganda. The study intends to create a means by which discussions of reparation determined at the local level, particularly by women and girls, will be taken up at national levels as well as inspire other grassroots groups of victims to come forward on these issues, so that the voices at the table can truly include those from the war-affected populations of the Greater North.

This report draws on the findings of five studies designed and carried out between January 2010 and September 2012. In these studies, both females and males were interviewed and gender and generational analyses were used to give further insight into crimes, harms and priorities for remedy and reparation processes and outcomes.<sup>31</sup>

For the present report, we draw upon data from these five studies to present overall findings on what is necessary for a gender-just remedy and reparation for women and girls in the Greater North of Uganda.

We carried out semi-structured, in-depth interviews with 646 victims of serious crimes and their families, select traditional leaders, and community and civil society actors working directly with victims from the Acholi, Lango, Teso and West Nile sub-regions of the Greater North of Uganda (see Box 1). These interviews were conducted in local languages.

### **Box 1. Interviews**

In-depth, semi-structured individual interviews were carried out with victims of serious crimes and their family members living in the sub-regions of Acholi, Lango, Teso and West Nile who suffered:

- unlawful killing;
- deliberate and indiscriminate attacks;
- attacks against civilian populations and civilian objects;
- torture or cruel or inhuman treatment;
- enforced disappearance;
- forced service in hostile forces or children who were used, conscripted or enlisted in armed forces and groups;
- enslavement;
- sexual violence;
- forced movement and displacement; or
- pillaging and wanton destruction of property.

We also interviewed religious leaders, grassroots cultural leaders, and members of victim groups and victim-focused civil society organizations.

In total we carried out in-depth interviews with 646 persons.

In our analyses of the data, we sought to understand the ways in which gender influences why and how women were targeted, how their rights were violated and abused, and how those violations and abuses shape their lives now. The research also focused on women's views on remedy and reparation, the gender dimensions of those views, and a gendered understanding of processes that ensure gender-just remedy and reparation.

The data was collected, managed and analysed by researchers with the Feinstein International Center, Tufts University, USA, and Isis-WICCE, Uganda. The data was organised and analysed using inductive coding. This approach allows research findings to emerge from the frequent, dominant or significant themes inherent in raw data, without the constraints imposed by more structured methodologies (such as deductive coding). Inductive approaches facilitate an understanding of meaning in complex data through the development of summary themes or categories that emerge from the raw data.

The purpose of the data analysis by Feinstein and Isis-WICCE was to better understand (1) the types of serious crimes and violations interviewees brought forward; (2) the effects of those crimes and violations on the victims' lives then and now, with an emphasis on the intersection with gender roles and norms; and (3) victims' and their families' views of, understanding of, and priorities regarding remedy and reparation processes and outcomes. As previously stated, for this report, we prioritise the experiences and views of women and girls.

The accuracy of this report's findings was assessed using (1) comparison with findings from previous research; (2) triangulation within the data gathered for the research project; (3) feedback from participants in the research; and (4) feedback from intended users of the research findings.

### III. The Right to Remedy and Reparation

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This section provides a concise overview of the key provisions within international human rights and humanitarian law, regional law, Uganda’s national laws, international declarations, and the Juba Peace Accords that provide for remedy and reparation for victims of serious crimes and violations. Within each of these provisions, key aspects that mandate or seek to ensure gender-just remedy and reparation are highlighted.

#### **Box 2. Right to Remedy**

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; and
- (c) access to relevant information concerning violations and reparation mechanisms’ (*The Basic Principles*, Principle 11).

Other remedies include access to administrative and other bodies, as well as mechanisms, modalities and proceedings conducted in accordance with domestic law (*The Basic Principles*, Principle 12).

In fulfilling its responsibilities, the state is duty bound to:

- ‘(a) disseminate, through public and private mechanisms, information about all available remedies for serious violations of international human rights law and international humanitarian law;
- (b) take measures to minimise the inconvenience to victims and their representatives, protect against unlawful interference with their privacy as appropriate and ensure their safety from intimidation and retaliation, as well as that of their families and witnesses, before, during and after judicial, administrative, or other proceedings that affect the interests of victims;
- (c) provide proper assistance to victims seeking access to justice; and
- (d) make available all appropriate legal, diplomatic and consular means to ensure that victims can exercise their rights to remedy for serious gross violations of international human rights law. or serious violations of international humanitarian law’ (*The Basic Principles*, Principle 12).

## THE RIGHT TO REMEDY

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Within international human rights and humanitarian law, regional law and Uganda's national laws, the right to remedy includes prevention and investigation of violations, prosecution of perpetrators, and access to justice and effective remedy.

### *International and Regional Standards*

In 2005 the United Nations General Assembly adopted the '*Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*' (hereafter *Basic Principles*).<sup>32</sup> The *Basic Principles* represents the most comprehensive international guidelines and principles on remedy and reparation. The *Basic Principles* draws on existing legal obligations under international human rights law and international humanitarian law.<sup>33</sup> A foundational component of the *Basic Principles* is that the principles must be applied equally to victims of serious crimes and violations, without discrimination of any kind.

The right to remedy for victims of serious violations of international human rights law and international humanitarian law is present in international and regional instruments:

- Article 8 of the Universal Declaration of Human Rights;<sup>34</sup>
- Article 2 of the International Covenant on Civil and Political Rights;<sup>35</sup>
- Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination;<sup>36</sup>
- Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;<sup>37</sup>
- Article 24 of the International Convention for the Protection of All Persons from Enforced Disappearance;
- Article 39 of the Convention on the Rights of the Child;<sup>38</sup>
- Article 3 of the Hague Convention Respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV);<sup>39</sup>
- Article 91 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977;<sup>40</sup>
- Articles 68 and 75 of the Rome Statute of the International Criminal Court;<sup>41</sup>
- Article 7 of the African Charter on Human and Peoples' Rights;<sup>42</sup>
- Article 25 of the American Convention on Human Rights;<sup>43</sup>
- Article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>44</sup>

### *The Right to Remedy under the Republic of Uganda's National Law*

The right to remedy and equal treatment<sup>45</sup> is present within the Constitution of the Republic of Uganda<sup>46</sup>:

- Article 50 guarantees judicial remedy for human rights violations and in particular states that *any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.*
- Article 21 guarantees non-discrimination and equal treatment, violations of which are entitled to remedy under Articles 50 and 53 of the Constitution.
- Articles 24 and 44 (a) establishes freedom from torture and inhuman treatment as a fundamental right, and also recognises these freedoms to be non-derogable. Violation of this right similarly entitles the victim of such treatment to obtain judicial remedy under Article 50 of the Constitution.
- Article 34 (7) provides for special protection of vulnerable children, which implicitly includes child victims of crimes who would be entitled to compensation in case of violation of their rights.
- Article 53 (2) empowers the Uganda Human Rights Commission to order compensation and any other legal remedy or redress in cases where an infringement of a human right or freedom has been proved.

National legislation within Uganda also lays out key provisions for protection, remedy and redress:

- Article 64 of the International Criminal Court Act mentions enforcement of the International Criminal Court's orders for victims' reparations.<sup>47</sup>
- Section 5 of the Children Act,<sup>48</sup> Chapter 59 sets out general duties of a parent, guardian or other person having custody of a child to maintain that child and ensure their right to (a) education and guidance; (b) immunisation; (c) adequate diet; (d) clothing; (e) shelter; and (f) medical attention. The Section further states that *any person having custody of a child shall protect the child from discrimination, violence, abuse and neglect* (Section 5 (2)).
- The Children Act also provides special protection for vulnerable children such as those with disabilities, most notably in Section 9.<sup>49</sup>

Regional instruments ratified by Uganda relevant to victims' right to remedy and reparations include:

- The African Charter on Human and Peoples' Rights;<sup>50</sup>
- The African Charter on the Rights and Welfare of the Child;<sup>51</sup>

- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.<sup>52</sup>

The relevant legislation governing situations of serious crimes and grave breaches of international humanitarian law committed during armed conflict in or outside Uganda include:

- The Geneva Conventions Act, Cap 363;<sup>53</sup>
- The International Criminal Court Act;<sup>54</sup>
- The Amnesty Act.<sup>55</sup>

## THE RIGHT TO REPARATION

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UN OHCHR and the Uganda Human Rights Commission (UHRC) have produced a substantial report on victims' from the Greater North of Uganda's experiences of serious harms and views on remedy and reparation, and within this report the scope and components of reparation are well detailed.<sup>56</sup> Our research, findings and analyses contributed to this OHCHR and UHRC report.

The present report seeks to put forward the main components and elements of reparation, with a focus on gender-just reparation. Reparation has both considerable breadth and depth in the *Basic Principles*, which lays out five main forms of reparation: (1) restitution, (2) compensation, (3) rehabilitation, (4) satisfaction and (5) guarantees of non-repetition. Reparation should attempt to be proportional to the gravity of the violations and the harm suffered. The principles and process of reparation, the various forms of reparation and how to ensure they are gender-just will be explored in depth in Sections V and VI.

### *Victims and Duty Bearers*

The primary principle and obligation of reparation in international law is that reparation should 'provide benefits directly to the victims of certain types of crimes'.<sup>57</sup> The Human Rights Committee has stated that in regards to states' obligation to make reparations to victims: 'without reparation to individuals whose Covenant rights have been violated, the obligation to provide effective remedy . . . is not discharged'.<sup>58</sup>

Victims who have been subjected to serious and systematic violations of their rights under international human rights and humanitarian law have the right to remedy and reparation. The Constitution of the Republic of Uganda also guarantees every person the right to obtain legal remedy and redress from a competent court or tribunal for infringement of human rights.<sup>59</sup>

As presented in the *Basic Principles*, victims and where applicable their family members have the right to be treated with respect, to have measures in place to ensure their safety, physical and mental well-being and privacy, and should not be subjected to legal or administrative procedures that re-traumatise them.<sup>60</sup>

### **Box 3. Victims**

The *Basic Principles* defines **victims** as ‘persons who have individually or collectively suffered harm including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, through acts or omissions that constitute serious violations of international human rights and violations of humanitarian law. Where appropriate and in accordance with domestic law, the term “victim” also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation.’<sup>1</sup>

A person is a victim regardless of whether the perpetrator is identified, apprehended, prosecuted, or convicted, and regardless of the familial relationship between the perpetrator and the victim.<sup>2</sup>

**Duty bearers** include the state, non-state perpetrators, or other parties found liable for the violations. The state should provide reparation to victims for acts or omissions which can be attributed to the state. Persons or other entities found liable for reparation to a victim can be ordered to provide reparation to the victim or compensate the state if the state has already provided reparation to the victim. The *Basic Principles* recommend that the state establish national reparation programmes in the event that non-state, responsible parties are unable or unwilling to provide reparation.<sup>3</sup>

1 The *Basic Principles*, Article 5, para. 8.

2 Ibid., Article 5, para. 9.

3 For greater discussion see OHCHR and UHRC, *The Dust Has Not Yet Settled: Victims’ Views on Remedy and Reparation in the Greater North, Uganda*.

Reparation can occur in both material and symbolic forms. Material forms of reparation may consist of ‘service packages, including medical, educational and housing assistance, as well as compensation in terms of cash, vouchers, pensions or other material benefits that have a monetary value. Rebuilding schools, health clinics, hospitals, roads and markets can also be a form of material reparation.’<sup>61</sup>

Symbolic reparation is intended to address psychological elements so that the victim feels satisfied that necessary and sufficient action has been made towards amending her suffering.<sup>62</sup> Symbolic reparation can include official acknowledgement and apology; naming of public spaces or buildings; setting aside days of commemoration; creation of memorials dedicated to the victims;<sup>63</sup> proper burial or reburial of the dead and the appropriate rituals as per different cultural groups; locating and identifying the dead, including marking and honouring grave sites; the search for the disappeared; and closing sites of violence or converting them into memorials.<sup>64</sup>

Clearly, material forms of reparation and symbolic forms of reparation are not mutually exclusive and can strengthen one another.

#### **Box 4. Victims in the Greater North of Uganda Want Wide-Reaching Reparation**

An OHCHR and UHRC study of over 2,300 victims of serious crimes found that victims want a wide-reaching and complete process of reparation. In particular, victims want application processes to be victim-friendly, and to be open for longer periods of time to allow victims to gain the confidence in the system and come forward. They require reparation responses to consider and address long-term effects of serious violations they have suffered.

They also want a more complex process that includes a range of material and symbolic, individual and collective reparation. For example, they contend that victims should have the ability to access and choose among numerous forms of reparation, such as public acknowledgement of harm and apologies; specialised health care; help with education; compensation for looted, pillaged and destroyed property; and assistance with proper treatment of the dead.

OHCHR and UHRC, *The Dust Has Not Yet Settled: Victims' Views on Remedy and Reparation in the Greater North, Uganda*.

In other countries, past reparation programmes have made symbolic and material awards to individual victims and their families. To a much lesser extent, past reparation programmes have awarded collective reparation to specific groups or communities.

Complex reparation programmes include a range of material, symbolic, individual and collective forms of reparation, and these types of programmes are what victims from the Greater North of Uganda want enacted in Uganda.

## **GENDER-JUST PRINCIPLES AND PROVISIONS IN THE AGREEMENT ON ACCOUNTABILITY AND RECONCILIATION OF THE JUBA PEACE ACCORDS**

Remedy and reparation principles and parameters are outlined in the *Agreement on Accountability and Reconciliation*. This *Agreement* is one of the five agreements (collectively known as the Juba Protocols) reached in negotiations between the GoU and the LRA in Juba, Southern Sudan between 2006 and 2008. The *Agreement*<sup>65</sup> and its *Annexure*<sup>66</sup> form a platform from which the GoU draws key principles to frame policies to determine facts around the

conflict (this process is itself a form of remedy) and define the parameters and modalities for remedy and reparation processes.

### **Box 5. Agreement on Accountability and Reconciliation and its Annexure: Gender-Just Principles and Provisions**

- Agreement implementers are mandated to strive to prevent and eliminate gender inequalities that arise during implementation of the Agreement (Agreement clause 10; Agreement clause 3.4).
- Agreement implementers are mandated to encourage and facilitate the participation of women and girls in the processes for implementing the Agreement (Agreement clause 11).
- Women's and girls' experiences, views and concerns are to be recognised and taken into account throughout remedy and reparation processes.
- The dignity, privacy and security of women and girls should be protected, including through witness protection (Agreement clause 11; Annexure clause 4 (c), (e), (f)).
- Special provisions are mandated for victims of sexual violations and crimes (Agreement clause 3.4).
- Inquiries into human rights violations and crimes committed during the conflict should give particular attention to the experiences of women and children.
- Provisions should be made for witness protection, especially for women and children.
- Special provisions should be made for cases involving gender-based violence (Annexure clause 4 (c) (e) (f)).
- Regarding girls, children should not be subjected to criminal justice proceedings, but may participate, as appropriate, in reconciliation processes. Also, promote appropriate reparations for children (Agreement clause 11 (iv), (v)).

The *Agreement on Accountability and Reconciliation* and its *Annexure* make important contributions to framing gender-just remedy and reparation principles and processes.

## **THE NAIROBI DECLARATION ON WOMEN'S AND GIRLS' RIGHT TO REMEDY AND REPARATION**

The *Nairobi Declaration on Women's and Girls' Right to Remedy and Reparation* (hereafter *Nairobi Declaration*) was created through an international initiative to advance gender-just remedy and reparation.<sup>67</sup> The *Nairobi Declaration* was based on victims' and civil society's

views on gender-just remedy and reparation. It offers a holistic definition of wellness that includes physical integrity, psychological and spiritual well-being, economic security, social status and the social fabric of the community.

The *Nairobi Declaration* helps inform the principles, processes and outcomes of gender-just reparation in Uganda.

The *Nairobi Declaration* highlights that a victim's age, as well as customary and religious law, must be considered to more fully understand women's and girls' diverse needs for reparation. The *Nairobi Declaration* stresses that the state bears the primary responsibility for remedy and reparation, but that the decision-making processes should be participatory, transparent and involve local CSOs, victims groups and the international community.

### **Box 6. The Nairobi Declaration**

The *Nairobi Declaration* states that gender-just reparation requires:

- truth telling, including the acknowledgement of serious violations against women' and girls' and their resulting suffering.
- measures that are sensitive to gender, age, cultural diversity and human rights.
- decision-making that includes victims as full participants and that represents women and girls in all their diversity. Full participation of woman and girl victims should be guaranteed in every stage of the reparation process, i.e., design, implementation, evaluation, and decision-making.
- practices and procedures that are sensitive to gender, age, cultural diversity and human rights, and take into account women's and girls' specific circumstances, as well as their dignity, privacy and safety. As such, structural and administrative obstacles in all forms of justice, which impede or deny women's and girls' access to effective and enforceable remedies must be addressed.
- at every stage of the reparation process, the presence of male and female staff sensitive to specific issues related to gender, age, cultural diversity and human rights, and who are committed to international and regional human rights standards.
- physical and mental health services and other rehabilitation services for women and girl victims.
- provisions for compensation and restitution for women and girl victims.
- justice initiatives that include ending impunity for sexual violence crimes and violations.
- programmes aimed at restoring victims' dignity using symbolic tools like public apologies.
- educational initiatives, including raising awareness on women's and girls' rights and gender sensitivity.
- the reform of discriminatory laws and customs against women and girls.

See UN OHCHR and UHRC, *The Dust Has Not Yet Settled: Victims' Views on Remedy and Reparation in the Greater North, Uganda*.

## RECOMMENDATIONS

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**Recommendation 1:** Uganda, has committed itself through international and regional treaties, its own constitution, and domestic laws to provide victims of serious violations and abuses equal access to effective remedy and reparation. The GoU should strengthen efforts to ensure victims' rights, as currently there is an enormous contrast between those rights and what has actually been delivered in terms of remedy and reparation to victims of the GoU-LRA conflict.

**Recommendation 2:** As per the *Agreement on Accountability and Reconciliation* and its *Annexure* the GoU should ensure that:

- inquiries into human rights violations and crimes committed during the conflict give particular attention to the experiences of women and children;
- women's and girls' experiences, views and concerns are recognised and taken into account throughout remedy and reparation processes;
- the dignity, privacy and security of women and girls are protected, including through witness protection; and
- special provisions are mandated for victims of sexual and gender-based violations and crimes.

**Recommendation 3:** Gender-just reparation should take the form of both material and symbolic forms, with awards to both individual victims and their families and collective reparation to specific groups or communities.

**Recommendation 4:** In line with the key components of the *Nairobi Declaration on Women's and Girls' Right to Remedy and Reparation*, Uganda's efforts for gender-just remedy and reparation should include:

- truth telling that officially acknowledges the serious violations against women and girls and the resulting harms, as well as programmes aimed at restoring victims' dignity using symbolic tools such as public apologies;
- the full participation of woman and girl victims in every stage of the reparation process, i.e., design, implementation, evaluation and decision-making;
- practices and procedures for obtaining reparation that are sensitive to gender, age, cultural diversity and human rights, that take into account women's and girls' specific circumstances, as well as their dignity, privacy and safety;
- the presence of male and female staff sensitive to specific issues related to gender, age, cultural diversity and human rights, and who are committed to international and regional human rights standards; and
- reform of discriminatory laws and customs against women and girls.

## IV. Conceptual Framework for Understanding Serious Crimes and Harms Suffered by Women and Girls

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The serious crimes that women and girls have experienced at the hands of parties to the GoU-LRA conflict and the impacts on their lives have been documented in a number of important studies.<sup>68</sup> The current report develops a conceptual framework that contributes to a deeper understanding of the crimes and resulting harms women and girls have suffered, and what this means for gender-just remedy and reparation for female victims in the Greater North of Uganda. This framework draws on the forms of violence against women and girls documented in our research, as well as in earlier studies.<sup>69</sup>

We begin with a brief introduction of how we use gender in this report, how a gender analysis helps make visible and predict different outcomes for females and males during and after armed conflict, and the implications for remedy and reparation processes.

The term gender refers to the social differences among females and males throughout the life cycle that are learned and, though deeply rooted in every culture, are changeable over time and have wide variations both within and between cultures.<sup>70</sup> Yet gender is more than people's identities. Gender determines the roles, power and resources available to females and males in any culture. Gender is a system of power that rests upon a central set of distinctions between different categories of people; values some over others; and organises access to resources, rights, responsibilities, authority and life options along the lines demarcating those groups of people. A gendered system of power requires political, social, economic, cultural, legal and educational institutions which actualise and underpin it and, at times, justifies unequal access and treatment.<sup>71</sup>

Men, boys, women and girls experience many of the same phenomena during armed conflict, including loss of livelihoods and assets, displacement, physical and mental injury, torture, the death and injury of loved ones, sexual assault and enforced disappearance. Yet how they experience these phenomena during and after conflict is influenced by different aspects of gender relations. In particular, men, boys, women and girls:

- are differently embodied;
- symbolise different things to their communities and those that attack them;
- are targeted differently and their injuries have different social and livelihood impacts;
- have different responsibilities in their families and communities and thus end up differently in harm's way; and
- have differing livelihoods, access to the cash economy, and ability to own and inherit property, all of which impact the resources they can access to aid their recovery.<sup>72</sup>

We know enough about the violence of conflict in the Greater North of Uganda and its gendered dimensions to predict women's and girls' vulnerability to particular kinds of loss, violence and harms suffered during war. We can also predict trends in women's and girls' reduced access to resources, livelihood inputs and basic services; increased family and social responsibilities; restricted mobility; unequal access to protective services and legal mechanisms; and inadequate political power at local and national levels.

## **FRAMEWORK FOR ANALYSING THE IMPACT OF VIOLENCE AGAINST WOMEN AND GIRLS**

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The *Agreement on Accountability and Reconciliation* and its *Annexure* make clear that women's and girls' experiences of the conflict should be emphasised within any inquiry into the conflict and resulting reparation policy and programme. We offer the following conceptual framework to illuminate and clarify the significant dimensions of violence that women and girls suffered during the armed conflicts in the Greater North of Uganda.<sup>73</sup> Breaking out these significant dimensions enables a better understanding of the resulting harms and how to approach necessary remedies.

### **(1) Sexual or Reproductive Coercion, Harm, Torture or Mutilation**

Women and girls were reportedly specifically targeted for sexual and reproductive violence and harm by the LRA and, to a lesser extent, by the National Resistance Army (NRA) and Uganda People's Defence Force (UPDF).<sup>74</sup> The LRA engaged in systematic and widespread abduction of females, often followed by forced marriage, rape, forced pregnancy and forced child bearing.<sup>75</sup> Though rarer, the LRA also engaged in opportunistic rape outside of their systematic practice of forced marriage. Interviewees also reported that the LRA engaged in sexual torture and mutilation of both females and males in communities under attack and against those they had abducted.<sup>76</sup> At some massacre sites, witnesses reported that LRA fighters disembowelled pregnant women and removed their fetuses.

Though much less frequently reported, the NRA and UPDF were also accused of engaging in rape of females and, at times, males.<sup>77</sup> More commonly reported was the sexual exploitation of females in displaced camps by NRA and UPDF soldiers in exchange for food or money.<sup>78</sup>

Sexual violence is a highly taboo crime, where victims are often stigmatised in their families and communities. Thus, many victims are extremely reluctant to come forward or disclose their experiences. Those women and girls who are more willing to discuss sexual violence include some females who have returned from LRA captivity with children, and thus have obvious 'evidence' of sexual violence. Women and girls who have suffered a debilitating physical injury or sexual disease at times come forward to medical personnel to seek care and thus reveal their experiences. Isis-WICCE's experience with carrying out medical

interventions show that when survivors of sexual violence believe that they will be treated, they are willing to open up and talk with medical personnel. Overall, it is difficult to gather information on sexual violence suffered during the conflict from females and males, particularly if victims are asked to self-identify.

Remedy and reparation processes therefore must be alert to the occurrence of sexual and reproductive harm, at the same time being fully aware of the level of stigma it carries, and adapt processes accordingly (as discussed in detail in the section on Processes below).

## **(2) Targeting Mothering**

‘The vulnerability of women to forms of torment and torture because of their maternal hopes, attachments, and responsibilities deserves’ specific focus.<sup>79</sup> The results of rape, forced marriage, forced pregnancy and forced child-bearing are among the most notorious examples of the reproductive abuse committed by the LRA against women and girls.<sup>80</sup> These forms of violence are both physical and psychological<sup>81</sup> and can have life-long effects and possibly irreversible social consequences on the females and children born as a result of these abuses. At times, these women and girls give birth to children they cannot take care of and at times do not want. This can have negative impacts on these mothers’ social acceptability, economic status, marriageability and future life chances.

Furthermore, during attacks by the LRA, women often refused to abandon their children, making them vulnerable to physical abuse by the LRA. Studies find the majority of those mutilated by the LRA are adult women, reportedly because they begged for the release of their children or would not abandon their children. The mental and emotional torment visited upon mothers who failed to prevent the abduction and or enforced disappearance of their children by the LRA was significant and long-lasting for many interviewees.<sup>82</sup>

Wives and mothers who failed to prevent the arrest and disappearance of their spouses and children by the NRA and UPDF also expressed great emotional torment at having failed to protect them. Mothers also were tormented by seeing their daughters provide sexual services to the UPDF during the time spent in displaced camps, as one of the ways by which they could access food and a modicum of protection. These girls were then often left with children from the soldiers who abandoned them, with no means of supporting the children.

The links between physical and long-term mental harm and the resulting social and economic consequences of having a child killed, maimed or disappeared are extremely strong in the case of targeting women’s mothering and will need to be taken into account in remedy and reparation processes and outcomes.

### **(3) Women, Productive Labour and Property**

Women are a pivotal labour force in the Greater North of Uganda. They are responsible for the daily maintenance of their families and provide substantial labour for agricultural livelihoods. They are also teachers, nurses, midwives, clinical officers and government officials. They work in or run small businesses and make their livelihoods through petty trade. Their productive labour is essential to the survival and wellbeing of their families and communities. Their labour often complements the labour of the men and male youth in their households, who are involved in agriculture, livestock and fisheries, petty trade and professional positions ranging from teachers to veterinarians, to local business owners, to government officials. Women's and female youth's productive and reproductive labour literally enables the maintenance and reproduction of the society.

The combination of war, war-related injuries, displacement, loss of assets, loss of employment, loss of educational opportunities, loss of breadwinners and spouses impoverished our interviewees' households, at times to a fatal degree.<sup>83</sup> For example, women and girls reported that when household members became physically injured and incapacitated, it drained resources and also resulted in loss of valuable labour that could not be recovered. The loss of livelihoods resulted in lower nutrition, weaker immune systems, exhaustion and, at times, the death of family members due to disease. It is widely recognised that the main killer in war is not bullets or direct attacks; it is the loss of livelihoods and the resulting malnutrition and increased susceptibility to disease that kill many more people,<sup>84</sup> as was the case in the Greater North of Uganda.<sup>85</sup>

Most of the women and households that we interviewed were left destitute by the widespread stripping of assets by the LRA, and the pressure by the NRA and later UPDF to move quickly into camps for the internally displaced without any opportunity to protect or move their assets, which were often looted or destroyed in their absence.<sup>86</sup> Once inside the camps, restricted movement meant that livelihoods were curtailed or destroyed, and significant material losses resulted in households' rapid economic decline. War injuries sustained by household members further undermined livelihoods and eroded remaining resources as they searched for treatment. Education or achieving other life goals were put on hold or abandoned.

Women, girls and their households emerged from the conflict significantly poorer, with substantial loss of assets, weakened livelihood systems, in poor physical and mental health, with family members disappeared, injured, killed or dead, and with more children to care for, as many households took on war orphans or children from extended families unable to care for them.<sup>87</sup>

These factors and how they are linked need to be considered in the scope of reparation processes, particularly in how women and girls are situated to even know about these

processes and how to make claims, and in shaping outcomes for both individual and collective forms of reparation (detailed in Sections V and IV).

#### **(4) Women and Social Capital**

‘Social capital accumulates at those points where trust in human connections and networks of communication make cooperation and material resources available to men and women. Social capital is defined as “the rules, norms, obligations, reciprocity and trust embedded in social relations, social structures and a society’s institutional arrangements that enable its members to achieve their individual and community objectives”.<sup>88</sup> Both men and women are utterly dependent on, and contribute to the production of, social capital embodied in formal institutions and informal networks.’<sup>89</sup>

Women in the Greater North of Uganda are central to the development and maintenance of their households’ and communities’ social capital through material and social exchange, day-to-day cooperative relations, and informal social networks. Targeting women and girls for death, sexual violence, mutilation, abduction, enslavement, and disappearance is a strategy that causes ruptures or serious breaks in the household and the larger social order.

The limitations on mobility, significantly reduced access to resources necessary for survival, and adaptation of dangerous coping mechanisms frayed social capital, as women and girls were often forced into competition with neighbours and extended families. At times this produced mistrust and animosity, further breaking down the social capital needed to help people survive the war and rebuild in the aftermath.

Thus, there is great value in ensuring that remedy and reparation processes rebuild trust and goodwill among families, neighbours and communities, with attention to the key role that women play in building and maintaining those networks and the resulting social capital. In particular, community based reparation projects must be gender-sensitive and developed with an eye to rebuilding social capital, trust and goodwill among neighbours and communities.

#### **(5) Gender Multipliers of Violence**

The multiple dimensions of suffering faced by women and girls – physical, psychological, spiritual, economic, social and cultural – and their already lower status in households and societies means that some serious crimes actually make women and girls more vulnerable to subsequent human rights violations and or abuses. These factors are called gender multipliers of violence and harm, and they predictably play a role in causing additional exposure to violence, something we found repeatedly with our interviewees in the Greater North.<sup>90</sup>

The most common gender multiplier of violence we documented was among women whose husbands had been murdered or disappeared. The brother-in-laws (at time with the encouragement of their wives) or neighbours or both then stole their land, often using violence and intimidation. Another frequent crime that featured as a gender multiplier was sexual violence against a woman or girl by a party to the conflict which led to her or the resulting child's rejection or abuse by some family members, intimate partners or community members.

Remedy and reparation processes and outcomes need to be very aware of how the crimes women and girls experienced have resulted in further harms, violations and abuses, and consider remedy with an eye to addressing the range of harms suffered. At the same time, awareness is needed of women's and girls' reduced ability to present claims or come forward for remedy and reparation and efforts should be made to ensure their access (as detailed in Sections V and VI).

Breaking out the significant dimensions of the violence women and girls suffered in the Greater North of Uganda makes clear that gender-blind reintegration and restitution by themselves are not sufficient goals of reparation, since the origins of the violations and abuses of women's and girls' human rights predate the conflict situation, were likely exacerbated during the conflict and in the post-conflict period, and should not be reproduced or reinforced by reparation processes or outcomes.<sup>91</sup>

To counter these harms, remedy and reparation processes and outcomes should identify preventative and protective measures, particularly medical, social and legal provisions to bolster women's and girls' safety and rights in the aftermath of serious crimes and violations. As this report argues, remedy and reparation processes therefore should consider the disproportionate effects of serious crimes and violations on women and girls, their families and their communities and use the knowledge gained from this reflection to inform how such processes are planned, how they unfold, and the intended reparation outcomes.<sup>92</sup> In this way, processes that seek gender-just remedy and reparation can help overcome inequalities. In the aftermath of conflict, they can aim to transform the socio-cultural injustices and political and structural inequalities that shaped the lives of women and girls.

## RECOMMENDATIONS

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**Recommendation 1:** Breaking out the five most significant dimensions of violence against women and girls as it occurred during the GoU-LRA conflict enables a better understanding of the resulting harms and illuminates an approach to a gender-just remedy and reparation. These five dimensions are:

- (1) sexual or reproductive coercion, harm, torture or mutilation;
- (2) targeting women's mothering;

- (3) women, productive labour and property;
- (4) women and social capital; and
- (5) gender multipliers of violence.

**Recommendation 2:** Apply a detailed understanding of the significant dimensions of the violence women and girls suffered in the Greater North of Uganda to ensure gender-aware and gender-just reintegration and restitution measures that do not reproduce or reinforce gender-discrimination and violence in reparation initiatives and outcomes.

**Recommendation 3:** Ensure that gender-just remedy and reparation processes are aware of and can help overcome inequalities through post-conflict transformation of the socio-cultural injustices and political and structural inequalities that shaped the lives of women and girls before, during and after the conflict.

## V. Gender-Just Remedy and Reparation

### Principles and Processes

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Under international law, the right to reparation has two dimensions. The first is the substantive or outcome dimension. This includes the duty to provide the victim with actual remedy in the form of reparation – i.e., restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. The second is the procedural or process dimension: the ‘effective domestic remedies’ that are explicitly required by the major human rights instruments that Uganda has signed. This includes, most notably, state acknowledgement ‘for serious violations due to commission or omission, judicial and public recognition that the harms occurred, and the victim participating in a process in which those who committed or failed to prevent the harms are held to account’.<sup>93</sup>

Justice is not only an outcome, it is an experience and a process that the victim participates in and witnesses.<sup>94</sup> The processes through which reparation unfolds and how victims are treated from beginning to end are of paramount importance and will in large part determine the success of remedy, reparation and the overall transitional justice process. The process of remedy can itself constitute reparation. Remedy can also further reparation processes, such as the search for the disappeared, investigations, exhumation and proper reburial.<sup>95</sup>

To be well received and accepted, processes for remedy and reparation need to be *owned* by victims and *empower* them as survivors.

One of the important contributions of a gender-just approach is the insight gained into the processes of remedy and reparation. This study found key areas to helping ensure gender-just reparation processes. These are discussed in the following subsections.

### EQUALITY AND NON-DISCRIMINATION PRINCIPLES

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In any and all remedy and reparation processes agreed to by the GoU, equality and non-discrimination should be integrated into the overarching principles that guide the work, most notably as regards:

- fact-finding, documentation and investigation bodies and processes;
- outreach processes;
- registration processes;
- data collection;
- data collection forms and processes and data analysis; and
- forms, scope and distribution of remedy and reparation measures.

## OUTREACH

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Outreach should be understood as a two-way process that involves engaging with victims and their representatives, and seeks to build trust and confidence among victims, particularly victims of sexual and gender-based violence who are highly stigmatised. Outreach should be carried out in a way that creates and ensures inclusive, safe, participatory space for victims to come forward. Outreach should be understood as an important step towards victims' empowerment.

Outreach processes will need to be responsive to women's and girls' high levels of illiteracy, poverty, poor access to transportation and deep social fractures (gender, ethnic, language, class or sub-regional differences).

Outreach should seek to uphold the dignity of victims. It should be a process of social recognition and acceptance. The observers, legislators, intermediaries and staff should be encouraged to see women and girls who have been subjected to violence as resisters, as persons whose lives go beyond the victimisation they were forced to experience. Mindfulness is needed about how the repeated act of telling their stories can undermine their perceived agency not only to outsiders but also within their families and communities. Outreach needs to consider the complexities of the survivor's relationship with their local community and to other audiences that may see her primarily as a victim and thus diminish her standing within her family and community, as well as contributing to the perception that she is being favoured by national and international reparation service providers.

Victim-led or civil society organisations that are known to victims should be asked to facilitate outreach.<sup>96</sup> Women victims overwhelming did not trust the intentions of the state, were uneasy about being put on an official list and did not want their point of contact to be a person residing outside their district or in Kampala who they had no way to reach. Overwhelmingly, women victims said they wanted to be contacted through civil society organisations working in their areas which are known and trusted for their work with victims and their communities. They wanted to have neutral places to meet to talk and learn more about any processes, where their appearance would not draw inquiries from neighbours. They strongly preferred to have the initial documentation of their cases done by these same trusted civil society organisations, which could then work in conjunction with state offices to ensure the information reached the right channels.

## REGISTRATION AND DOCUMENTATION PROCESSES

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To be gender-just, registration, legal and documentary procedures and processes should be gender-sensitive.

Regarding registration, because women in the Greater North tend to have very low education and literacy rates, data collection tools and language used in data gathering should be mindful of multiple local languages and low literacy rates.

National and international intermediaries can unintentionally complicate the process of registering and documenting survivors. Therefore, local intermediaries are preferred; survivors and relatives of survivors can be trained to translate difficult concepts into the language, values and cultural practices of the survivors' communities.

Procedures should be simplified to allow lower thresholds of evidence, understanding that many woman- and child-headed households will not possess paperwork for property or land. That women have difficulties accessing medical or legal documentation to support their claims of serious crimes should be acknowledged and provisions made. Efforts should be made to streamline claims processes with flexible standards for producing evidence. All efforts should be made to spare victims, particularly victims of sexual violence, the pain of cross examination, and to avoid re-victimisation by investigators, perpetrators, family members and communities.

To ensure that women and girl victims feel comfortable coming forward, female staff must be trained to work with male and female victims of sexual and gender-based violence. All male and female staff should be trained to ensure gender-sensitive and gender-just approaches in their interactions with victims and their families. Staff and survivors should not get the impression that some serious crimes are 'more serious' or 'supersede' others, as this may deter survivors from ignoring or downplaying some crimes, including sexual and gender-based crimes.

Provisions need to be made to offset the fact that women and girls have a more difficult time than their male counterparts in traveling to and accessing official bodies tasked to hear, document and process reparation claims.

Data collection tools should be designed to detect and collect information regarding crimes against women and girls, including sexual violence which is often considered taboo. 'In order to get around taboo, at times, coded language within local languages has been developed to make reference to body parts, sex, and sexual violence, and these codes should be understood and used in order to ensure collection of information in an appropriate manner.'<sup>97</sup> Females and victims of sexual violence in particular may face significant stigma and shame in coming forward and the data collection process should anticipate this and build in provisions to enable them to come forward confidentially, when they are ready.

To seek their feedback, we raised the possibility with interviewees that the Uganda Human Rights Commission, as per the *Agreement on Accountability and Reconciliation*, could be involved in documentation. Most stressed that they preferred first contact to be made through trusted civil society organisations, but said that after such an organisation had explained the process and taken initial information, they would be willing to work with the UHRC, which they saw as an independent, objective body concerned with abuse of citizens. The fact that UHRC

lacks offices or personnel in almost all of the war-affected districts was raised as a serious concern by women, who said they would lack means to reach their offices for initial discussions or any necessary follow up. Ensuring women's accessibility to the UHRC would be essential.

## **WORKING WITH VICTIMS OF SEXUAL VIOLENCE**

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Due to the strong stigma in Uganda against female and male survivors of sexual violence, we can predict and that many such victims will not initially come forward to claim reparation. Therefore, measures should be developed to enable these victims to come forward when they are ready, even after time periods have formally expired.<sup>98</sup> Also, requiring victims of sexual violence to come forward under the 'label' of a survivor of sexual violence may deter many. Victims may prefer to come forward under an umbrella that addresses physical, reproductive and mental injuries due to serious crimes or as a victim of disappearance, in the case of those held by the LRA.

Nurses and medical personnel associated with reparation programmes (including those referred from hospitals, private clinics and NGOs) should be trained to detect the physical and psychosomatic presentations of both female and male patients who may have been sexually abused, so that they can discretely provide the necessary care to which the victim is entitled.<sup>99</sup> These same medical personnel should be trained to encourage victims to come forward with their specific needs and to let victims know that reparation is available when and if they decide to come forward. These personnel should also be linked with those civil society organisations working with victims locally, as victims prefer to have those organisations as their first point of contact. These personnel should be well connected with counsellors who have experience in working with victims of sexual violence, including male victims, so that they can make appropriate referrals for mental health care as necessary. Due to the limited number of health personnel, staff of local NGOs should be trained in trauma counselling to compliment the work of hospital staff and also to enhance their support to these victims.

Children born of rape represent an extremely delicate and important group to consider in gender-just reparation. In our interviews, we learned that many mothers had not told their children, nor did they have any intention of telling them, that they were born as a result of rape or captivity. Therefore, reparation processes should enable mothers and grandparents (who are often the care providers) to come forward on behalf of these children to claim reparation, with complete confidence that their identities will not be disclosed (even to the children themselves). At the same time, as part of reparation efforts, educational tools about the types of situations children experienced during the war should be readily available in the schools in northern Uganda, to reduce the stigma and create awareness and acceptance of how the war affected children.

Finally, as recommended by OHCHR and UHRC,

victims, particularly victims of sexual violence, should have resource people (such as trained counsellors and specialists) helping them with the administrative steps needed to obtain reparation. In some cases, collective reparation efforts, such as the hiring of permanent staff at referral hospitals who specialise in reproductive health care for victims of sexual violence, reconstructive surgery or fistula repair, could serve as a means to ensure access to services for victims who come forward, or for other people in need of such services in the community, and for victims of serious violations in need of such services but do not come forward during the formal time period.<sup>100</sup>

## **INDIVISIBILITY OF RIGHTS**

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The shocking horror of the killing, torture, sexual violence and mutilation that women and girls' experienced should not eclipse the fact that their livelihoods may have been devastated, their assets and wealth wiped out, and the land that they are entitled to by marriage or inheritance stolen by relatives and neighbours.<sup>101</sup> 'Women's assets reside in the first instance in their productive and reproductive labour power and in the second instance in their possessions and their access to valuable assets such as land and livestock.'<sup>102</sup> Women caught up in situations of armed conflict are 'almost invariably responsible for dependent children's sustenance and welfare, irrespective of external changes in women's abilities to secure food, clothing, and shelter, and to provide for education or other significant needs that may determine their children's future, and by consequence, their own future welfare'.<sup>103</sup>

Thus, gender-just reparation should move beyond a near-exclusive focus on violations, abuses and harm built on civil and political rights to a system of reparation that incorporates economic, social and cultural rights and conditions; addresses structural violence; and seeks to address pre-existing inequality and discrimination.<sup>104</sup>

## **VICTIMS AS FULL PARTICIPANTS IN THE DESIGN, IMPLEMENTATION, MONITORING AND EVALUATION OF REPARATION PROGRAMMES**

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Women and girl victims' and CSOs' participation in the transitional justice process is essential to fulfil key principles of the *Agreement on Accountability and Reconciliation* and *Annexure*.<sup>105</sup> Women and girl victims' participation in transitional justice decision-making signals their efforts to position themselves as equal citizens, and in itself has reparatory value.<sup>106</sup>

Gender-just reparation therefore should have administrative structures that allow the participation of CSOs and victim-led groups in their design, implementation, monitoring and evaluation at all levels of government and within the relevant governmental departments.<sup>107</sup>

CSOs and victim-led groups should not only be consulted but must participate by strongly linking up in a government and civil society led process.

## **RECOMMENDATIONS**

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### ***Recommendation 1: Equality and Non-Discrimination Principles***

Equality and non-discrimination should be integrated into the overarching principles that guide the work of:

- outreach processes;
- registration processes;
- data collection;
- data collection forms and processes and data analysis; and
- forms, scope and distribution of remedy and reparation measures.

### ***Recommendation 2: Outreach***

Outreach is a two-way process that involves engaging with victims and their representatives. Outreach should:

- uphold the dignity of victims by being part of a process of strengthening their social recognition and acceptance;
- be responsive to women's and girls' high levels of illiteracy, poverty, poor access to transportation and deep social fractures (gender, ethnic, language, class or sub-regional differences); and
- facilitate outreach by working together with victim-led or civil society organisations that are known and trusted by victims.

### ***Recommendation 3: Registration and Documentation Processes***

Gender-just procedures and processes should include:

- gender-sensitive registration, legal and documentary processes;
- data collection tools and language used in data gathering that reflect multiple local languages and low literacy rates;
- simplified procedures that allow lower thresholds of evidence, including lack of paperwork for property or land, or medical or legal documentation to support victims' claims;
- provisions that help offset women's and girls' difficulties in traveling to and accessing official bodies tasked to hear, document and process reparation claims;
- training of survivors and relatives of survivors to translate difficult concepts into the language, values and cultural practices of the survivors' communities;

- training of female and male staff to work with male and female victims of sexual and gender-based violence; and
- training of all staff to ensure gender-sensitive and gender-just approaches in their interactions with victims and their families.

***Recommendation 4: Working with Victims of Sexual Violence***

- Put into place flexible time frames to enable female and male survivors of sexual violence to come forward to claim reparation.
- Enable male and female victims of sexual violence to come forward under the umbrella of other forms of injury or violence. Ensure that no (perceived) hierarchy of serious crimes exists as this may result in under-reporting of crimes of a sexual and gender-based nature.
- Train nurses and medical personnel associated with reparation programmes (including those referred through hospitals, private clinics and NGOs) to detect the physical and psychosomatic presentations of male and female patients who may have been sexually abused, so that they can discretely provide the necessary care to which the victim is entitled. These personnel should be linked with CSOs that provide victim support and outreach on remedy and reparation for referral (both ways).
- Enable those who care for children born of rape to come forward on behalf of these children to claim reparation, with complete confidence that neither their nor the children's identities will be disclosed. At the same time, create and make available educational tools about the types of situations children experienced during the war to reduce stigma and create awareness and acceptance of how the war affected children.
- Ensure that victims, particularly victims of sexual violence, have resource people (such as trained counsellors and specialists) to help them with the administrative steps needed to obtain reparation.

***Recommendation 5: Indivisibility of Rights***

- Gender-just reparation should respond to abuses and harm in the realms of civil, political, economic, social and cultural rights.

***Recommendation 6: Victims as Full Participants in the Design, Implementation, Monitoring and Evaluation of Reparation Programmes***

- Gender-just reparation should have administrative structures that allow the participation of victims, CSOs and victim-led groups in the design, implementation, monitoring and evaluation of reparation programmes.

## VI. Gender-Just Reparation

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In this section, we look specifically at the different forms of reparation – *restitution, compensation, rehabilitation, satisfaction* and *guarantees of non-repetition* – and highlight key areas for realising gender-just reparation for women and girls in the Greater North of Uganda.

### Box 7. Forms of Reparation

Gender-just reparation embraces five areas:

- |                             |                                  |
|-----------------------------|----------------------------------|
| (1) Right to Restitution    | (4) Right to Satisfaction        |
| (2) Right to Compensation   | (5) Guarantees of Non-repetition |
| (3) Right to Rehabilitation |                                  |

## THE RIGHT TO RESTITUTION

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Women and girls in the Greater North of Uganda traditionally and today are not viewed or treated equally to men and boys and face many forms of discrimination. Recall that the right to remedy and reparation for victims of serious violations and crimes must apply without discrimination of any kind or on any ground, without exception.<sup>108</sup> Neither should processes of remedy and reparation support or enable discrimination of any kind against victims. Hence, gender-just restitution cannot seek to restore women and girl victims to their original state, since that original state was one of inequality and discrimination.

### Box 8. Restitution

**Restitution** should seek as much as possible to restore victims to the state they were in prior to the violations. It includes, as appropriate, ‘restoration of liberty; enjoyment of human rights, identity, family life and citizenship; return to one’s place of residence; restoration of employment; and return of property.’

A/RES/60/147, Article 9, para. 19.

The right to restitution is a fundamental right deeply interwoven with the other forms of reparation. Gender-just reparation must be based on equality and non-discrimination. Such an approach means that restitution efforts should be transformative, and this sets the foundation for and links with all other forms of reparation – rehabilitation, compensation, satisfaction and guarantees of non-repetition – to raise women’s status and equality. Gender-just restitution must be aware of the structural discrimination and barriers to women’s equality that underlie most cultures and structures in the Greater North of Uganda. Below we present findings based on the forms of restitution prioritised by the females we interviewed.

### *Return to One’s Place of Residence*

The ability to return to one’s place of residence for some women and, to a lesser extent girl, victims of serious crimes remains a struggle. Women’s ability to access and claim land and associated housing and assets is for most women tied to their marital status.<sup>109</sup> Women who are traditionally married, upon the death of their husband, by law inherit the land and properties. Yet our studies find that for a significant number of women who were traditionally married whose husbands were killed or disappeared during the conflict, their in-laws and neighbours took this opportunity to try and steal the women’s land and or drive her and her children from it. We found cases in which women had reported violence, threat and intimidation, as well as outright land grabbing to Local Councillor 1s (LC1s) and traditional leaders, and most often these leaders worked to support the women’s land claims. Nonetheless, these women lived in fear of escalating conflict with the land grabbers and often had to bring their cases to local officials multiple times a year for help. Others had to accept the violence and land grabbing until their sons were big enough to physically retaliate against the land grabbers, which at times stopped the attempts to steal land.

Women and girls who are not traditionally married have little customary claim to land. In the cases where their husbands have been killed or disappeared, our study found that they are often driven off the land with their children by their in-laws or neighbours. Assets associated with the house and land are also stolen. These women have little recourse to try and return to their place of residence. For both traditionally married women and those not traditionally married, the killing or disappearance of their husbands brings many gender-multipliers of harm.

Gender-just restitution therefore would need to be coupled with strengthening traditional and formal mechanisms to enable women who by law have a claim to land and housing to uphold their rights. In the case of women not traditionally married, customary land laws for land ownership and access should be reformed, to enable such women whose husbands were killed or disappeared to have claims to the land and housing.

### *Restoration of Property*

For the women, girls and their families we interviewed, the vast majority of their properties were looted and destroyed, hence making compensation an appropriate form of reparation (as discussed below).

Additionally, during our field work, some interviewees reported that their land (through their husbands) had been taken by the GoU to establish military barracks, while other's lands were reportedly used to host IDP camps. Our interviewees claimed the land had been damaged and in some cases land taken for military barracks had not been returned.<sup>110</sup> Interviewees want their land restored or returned or fair compensation for damages or purchase if the GoU wishes to retain the land it took.

### *Family Life*

Thousands of girls and young women returned from LRA enslavement and forced marriage with children born of sexual violence.<sup>111</sup> . Most people accepted the females and their children. However, some such females and their parents who we interviewed reported significant discrimination against themselves and their children by some family members and members of the community. For these females, they reported that some people were physically and sexually abusive to them and used the stigma of their enslavement to steal property, housing and land, to harass and intimidate them, and to make them feel unwanted in larger social gatherings. For Acholi females who brought their children to the homes of the LRA males who had impregnated them, many were driven away, especially those with male children, because the families saw them as competitors for land and assets. In some cases traditional leaders tried to intervene on behalf of those females, with mixed results. We had no reports of Langi or Iteso females trying to approach Acholi families of LRA males for inheritance rights or access to land or assets. On the contrary, Langi and Iteso families of these young women were very clear that they wanted nothing to do with the former captors and their families.

We found that many of the formerly forced wives and mothers we interviewed have left their fathers' homes and have moved to live anonymously on the town periphery, to make a living and raise their children without the stigma from the past serious crimes committed against them. In some cases, they have given the children born of sexual violence to their mothers to raise and have tried to start their lives again. The mothers and grandmothers raising these children are extremely concerned about the future of these young children, particularly as they struggle to provide for their basic needs including education and health care.

Gender-just restitution should put in place supports to help these females and their families, where they want, to create healthy family ties with and provide health and educational support for the children born as a result of sexual violence. Such processes should enable these females

and their families to not reveal the true circumstances of their births to the children, if this is their choice.

## THE RIGHT TO COMPENSATION

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Gender-just compensation requires awareness of the structural conditions of inequality that predate the conflict and were often exacerbated during the conflict, in order to enable women and girls to assume roles as equal members of their families and communities.

### **Box 9. Compensation**

**Compensation** should be given for any economically-assessable damage in a manner that is appropriate and proportional to the violations, which can include physical, mental, material, opportunistic and moral harms and costs incurred in pursuit of addressing the resulting harms.

A/RES/60/147, Article 9, para. 20.

The long period and nature of the armed conflicts in the Greater North of Uganda has had a profound effect on the population.<sup>112</sup> People report that they are poorer and unable to meet most of the basic needs of the families. The looting and pillaging of assets and property including the loss of cattle, destruction of homesteads, displacement, war injuries, and loss of family heads or breadwinners has negatively impacted many families' economic capability to provide for their immediate and basic needs. Some families report the inability to pay school fees for their children, build or maintain decent housing or access basic health care. Basic service provision by the state is weak and under-resourced, further exacerbating people's poor health status and the strain illness puts on households with already limited resources.

### ***What Forms of Compensation?***

During interviews, victims of serious crimes prioritised cash payments, vouchers, pensions and other monetary benefits as forms of compensation.<sup>113</sup> Interest and need for compensation were prioritised for economic losses which are quantifiable, such as looted and destroyed property and assets.

Many women understood that the war had cost their children their educations, and with this women lost a sense of security in their future. Enabling children of victims of serious crimes or child victims themselves to complete schooling through at least secondary school was repeatedly mentioned as one of the most desirable forms of compensation. Other prioritised forms of

compensation included economic assistance for health care and housing, both of which were devastated during the war.

A complex and gender-just compensation must be responsive to the long-term impacts of the serious crimes suffered and the resulting needs of the surviving families both in the immediate and long term. As one female victim expressed it,

Looking at the state of my family, compensation should cover the role my father played in the family such as paying for the education of my family which is what I see as the greatest need now. I can't afford to pay for all my siblings to go to school.<sup>114</sup>

Compensation measures should recognise the gap created by serious crimes in the design of the programme and take into account the role the victim played or was intended to play in the family. Thus, compensation measures should be aware of the loss suffered by the family in the long term and look to address some of those gaps. A single compensation measure is unlikely to address the loss, since in many cases these losses will have a lifetime impact on the family. Areas prioritized for long-term compensation includes measures that support education and housing.

Interviewees had mixed feelings about receiving compensation directly for human losses incurred in the war, particularly women interviewees whose loved ones were killed or disappeared. Many women expressed that it is impossible for GoU to compensate them for the loss of their loved ones (in most cases children or spouse) because it is impossible to put a value on human life. Women, and particularly mothers and wives of the dead or disappeared, expressed unwillingness to receive any direct compensation for their loved ones because they equated this with receiving blood money.

The GoU should never pay us. We don't want anything from the GoU as compensation. We don't want anything like compensation. Human life cannot be paid. We would rather be poor than receive any money or compensation for the blood of our child. It's as though we sold our child to the GoU for a fee. I would rather remain poor and be poor. I don't want anything to do with it!<sup>115</sup>

Many women held similar strong feelings about any compensation that came without investigation or knowing the truth of what happened to their loved ones. Women feared that if they accepted any compensation, it would close the door for any truth telling process because families would lose their power to demand the truth about what happened to their loved ones. Therefore, any compensation process must be part of a larger transitional justice process that includes acknowledgement, truth telling, investigation and documentation, and other appropriate forms of satisfaction.

### ***Gender-Just Procedures to Claim Compensation***

Gender-just compensation processes should enable women and girls to claim benefits and compensation in a way that is responsive to local languages and low levels of literacy and requires few if any legal documents on the part of the claimant. Most rural women and girls in the Greater North do not have any form of identify card. Nor do they have access to or knowledge of official documents such as land titles, bank cards or a spouse's employment letters. Some women interviewees mentioned that they could not put forward a claim to recover pay for their lost loved ones who were formally employed by the government because they did not know how to do it; neither did they possess official documents, as most papers were lost in flight or destroyed during the war. In the place of legal documents, which few rural women and girls will have, letters from LC1s or clan leaders could suffice to verify their identities and claims.

To enable women's and girls' access to information about the reparation process, trained staff could be mobilised to engage with communities to clarify information and help them gather required information and documentation to process claims for compensation. These staff must include women, and all staff should be trained in gender-sensitivity and women's and girls' rights to ensure equal access and non-discrimination throughout the entire process.

### ***Women's Marital Status and Relatives***

A gender-just compensation is aware of women's positions within their households and communities and how this can predictably impact their access to compensation. Women's marital status often determines their recognition, position and access to critical resources such as land, housing, and their deceased or disappeared husband's pensions, which are important for the woman and her children's survival within the larger family and community. Often where a woman has not been traditionally married, her ability to claim benefits of the late husband may be curtailed within the traditional, patriarchal customs that dominate in rural northern Uganda, and such women have essentially no right to the land or house of their dead or deceased husband.

Notably, customary law allows women who are traditionally married to reside on the land with their children even after their husband is dead or disappeared. The woman holds the land in trust for her children, primarily her sons, to inherit when they come of age. If the woman has no sons, her daughters may inherit the land. Yet family members, most often the brothers of the deceased man (at times with the encouragement of their wives), at times ignore national and customary law and use violence and intimidation to steal some or all of the land from the woman and her children. Our study found that taking cases to clan leaders often helped women regain land, but the women often remained constantly under pressure from continued intimidation and threats from their in-laws or neighbours.

Women in polygamous relationships may be left out of any claim to compensation as only the recognised or first wife is given access to a claim. In other cases, the father or brothers of the

dead or disappeared man may gain all access to any claim of compensation, excluding the women and their children.

For women who are not traditionally married but who have spent considerable time in a relationship with a man and who may have also had a child(ren), a gender-just compensation should enable her to come forward to claim compensation for her household if her husband is deceased or disappeared.

During our field work, some women reported that compensation claims for their lost spouses were put forward by their in-laws who did not share any benefit with them. Because the women did not know what to do, they just gave up and did not follow up any process to claim any benefit.

As soon as my husband was disappeared, we were never paid his dues or salary or gratuity. Only his father (my father-in-law who is now dead) was paid the equivalent of two months' salary and that is it, but he never gave me even a penny out of the pay he got. I don't even know how he processed the payment he got. I have no idea if he had official documentation that he used. But, I went to the school [where my husband taught] to the Deputy Headmaster and he told me my disappeared husband's pay was already handed to my father-in-law and there was no way I can be helped.<sup>116</sup>

Where women experience pressure or threat from other family members over their access to land, housing, property and compensation, traditional leaders should strengthen their efforts and free legal aid services should be in place and made available to women to defend and protect their right to claim land, property, housing and compensation and to use it as they see best for their family (see Rehabilitation below).

Recognising and allowing women to come forward as legitimate claimants, where traditionally they were not recognised, and to receive monetary benefits for the family can address discrimination and elevate their position within the family and community. This could enable women to overcome discrimination and attain a more equal position with other family members. A woman who receives and makes decisions about compensation helps family members to see her as an important contributor to the household's livelihood, thus empowering her as a woman and survivor.<sup>117</sup>

### ***Payment Mechanisms***

Payment procedures should be created that recognise that many rural women and girls have not used bank accounts, live far from such facilities, and would not be able to afford transport to access their payments. Therefore, payment modalities for compensation should explore processes that are easily accessible and simple for women in the rural areas to use.

Payment mechanisms such as mobile money transfers using cell phones are quick and accessible in most rural areas throughout Uganda. Such payment modalities could simplify the process and lower the costs of women and girl victims' claiming their reparation. The expanding social protection programme of the Ministry of Gender, Labour and Social Development is using cash transfers to make old-age pension payments in piloted districts of Uganda. A compensation programme could explore how such a mechanism is working and the challenges it faces in order to inform the design of any future compensation programmes that can reach out to largely illiterate victims in rural and remote areas.

Compensation programmes should enable women and girls who have never handled (relatively) large sums of money to manage, keep safe and utilise compensation funds, perhaps with support from local NGOs and CSOs. Teaching women and girls saving, planning and investment skills will enable them to use the money to serve their own and their families' immediate and long-term needs. Such classes and systems should be structured to take into account predictable challenges rural women and girls will face, including family members trying to access those funds.

## **THE RIGHT TO REHABILITATION**

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The right to rehabilitation is the second most prioritised right to reparation by women victims of serious crimes and their families that we interviewed (the first is the right to satisfaction).

### ***Large-Scale Need for Medical and Psychological Rehabilitation***

Tens of thousands of victims require medical and psychosocial rehabilitation in the Greater North of Uganda as a result of physical injuries and emotional distress sustained during the war.<sup>118</sup> A recent large-scale study of the war-affected Greater North by OHCHR (Uganda) and the UHRC documents the serious crimes suffered by civilians, which included deliberate and indiscriminate attacks, attacking civilian populations and civilian objects, unlawful killing, torture and inhuman treatment, abduction, slavery, forced marriage, forced recruitment, mutilation, sexual violence, serious psychological harm, enforced displacement, pillaging and wanton destruction of property. Death, physical injury and mental and emotional distress were the primary effects of these crimes against civilians. The OHCHR and UHRC report highlights that victims of serious crimes prioritise health services and restoration of their health as a form of reparation.<sup>119</sup> Isis-WICCE's studies also document the devastation to women's health and their priorities for rehabilitation.

### ***Injuries to Women and Girls***

In our study of war-affected communities in the Greater North, women and girl victims of serious crimes reported injuries including severe burns, from bullets and shrapnel, retained foreign objects, orthopaedic injuries due to extreme beatings, cut and maimed body parts, broken bones, smashed teeth and jaws, sexual mutilation of their genitals and breasts, fistula and other

gynaecological and reproductive harms. Women and girl victims also reported a range of emotional and mental health distress.<sup>120</sup>

Isis-WICCE’s research and medical intervention in the war-affected districts of Teso sub-region recorded various forms of torture and psychological distress on the population, including beatings and kicking; witnessing killing and rape; sexual violence; illegal detention; deprivation of food, water and necessary medicines; being forced to kill or harm others; forced displacement; forced recruitment; breaking apart of families; and looting of property. Sexual violence included rape of females and males, gang rape, attempted rape, forced marriage, forced witnessing of others being sexually violated, defilement, forced sex in exchange for gifts or food, incest, and abduction for the purpose of rape. Many respondents were found to suffer psychological problems with symptoms characterised by nightmares, depression, anxiety and reoccurring fear and flashbacks of events they suffered.<sup>121</sup>

A recent representative study of the entire Acholi sub-region by AYINET, Uganda, with research support from Feinstein International Center, provides the first estimate of households with war injured members throughout Acholi – 13 per cent of households – and the first estimate on individuals that require medical and psychosocial care – approximately 120,000 people.<sup>122</sup> Of these, between 5,000 and 11,000 people require urgent medical treatment. Conducted by clinical officers, the AYINET study documented the types of physical and mental health injuries suffered by victims due to the war, and breaks out all data by sex and age (women’s and girls’ injuries are presented in Box 9). The study only represents Acholi, and thus the numbers are even higher once we take into consideration the war-affected regions of Lango, Teso and West Nile. Clearly, the case for collective reparation for victims of serious crimes that suffered physical injury and mental and emotional distress is large in scale, compelling and urgent.

### **Box 9. Injuries Suffered by Female Victims of War in Acholi**

Abdominal pain	Eye discharge	Mental and emotional distress
Amputee wounds	Fistula, anal	Multiple painful scars
Chest pain due to torture	Fistula, vaginal	Non-tender swellings
Chronic osteomyelitis	Fixed knee joints	Painful red eye
Contractions of the fingers	Fluctuant swelling on the neck	Painful scar
Cut body parts	Foreign bodies	Painful swellings
Cut pinna	Headache (chronic) due to beatings	Pelvic inflammatory disease
Deviated mouth	Hearing and speech impairment	Smashed or broken teeth or bones
Difficulty with breathing	Hypertrophic scars	Swellings on the head
Disabled body parts	Hypertrophies	Tropical ulcers secondary to
Disabled phalanges	Lipoma or lymphoma	gunshots
Discharging hyper tropic scar	Loss of sight	Webbed neck
Discharging sinuses	Malignant growth	Webbed upper limb

AYINET's data from 2010–13 on their work with over 1,500 victims in Acholi, Lango, Teso and West Nile has important implications for planning for gender-just rehabilitation. Their statistical analysis of their patient data finds that males were significantly (sig. 0.000) more likely to be shot or suffer gun or bomb-related wounds compared to females, and males were twice as likely as females to have foreign bodies lodged within them. Females, on the other hand, were significantly more likely than males to suffer sexual violence and any resulting complications and to suffer mutilation (see Box 9). Both sexes were more or less equally likely to suffer injuries due to torture and mental and emotional distress.

AYINET reports that treatment of females for sexual-violence-related injuries is often much more costly than for most other surgical procedures, often requires several procedures, and patients take longer to recover (and hence require more resources for monitoring and rehabilitation). Furthermore, in separate work, both Isis-WICCE and AYINET found in their efforts to treat fistula patients and women with other reproductive health complications, that it is important to coordinate this work with the Ministry of Health and district authorities to secure the surgeons and the necessary operating and recovery space. This requires several months of preparation and ensuring that enough fistula patients are ready to be treated at the same time.

Rehabilitation should also address the situation of women and girls who contracted HIV/AIDS as a result of sexual violence experienced during the conflict and thus require lifelong medical assistance, drug therapy and boosted nutrition.<sup>123</sup> Reparation processes could link with existing GoU health-care programmes to access free anti-retroviral therapy.

Women and girl victims of serious crimes require specialised care and assistance which is (1) not readily available within the region and (2) costly. Women and girls who are physically and psychologically injured will face different challenges to accessing care, mobilising resources to receive care, and healing before resuming labour and sexual relations.

Finally, women and girls who were forced to bear children as the result of the crime of forced marriage and enslavement within the LRA often have a difficult time caring for the health of these children, some of whom also sustained injuries, experienced emotional distress and have behaviour problems. Gender-just remedy and reparation should also encompass the physical and psychosocial needs of these children born of sexual violence and enslavement.

### ***Gender-Just Medical Rehabilitation Programmes***

A gender-just medical rehabilitation programme should be structured with a gendered understanding of harms suffered to enable the full treatment and recovery of female victims, including survivors of sexual violence and gynaecological injuries, and their children born due to sexual violence and enslavement.<sup>124</sup>

Given the large scale of medical and mental health needs of victims of serious crimes, including

female victims, collective forms of rehabilitation should be considered. From a gender-just perspective, specialised medical and long-term care and assistance should be incorporated in the design of medical and mental health care rehabilitation services for war victims. For example, specialists in reproductive surgeries, orthopaedic injuries and burn victims could provide critical and analogous expertise to those in the Greater North who have suffered sexual violence or immolation as well as those in the wider community who have suffered fistulas due to child birth or accidental burns.<sup>125</sup>

A strong referral system is central to any efforts for collective reparation in the form of rehabilitation. Referral systems should be significantly strengthened to provide specialised services. Medical rehabilitation programmes that are part of reparation should consider working closely with and building on the efforts of existing NGO-run programmes that provide medical and psychosocial rehabilitation to victims of the war. Experts on mental health and reproductive health needs for victims of conflict-related sexual violence should be part of fully staffed reproductive health units within hospitals in the Greater North or part of strong referral structures throughout the North. Nurses, paramedics, midwives and administrative staff in health clinics of the Greater North should be trained in recognising the needs of victims of serious violations.

There are strong correlations between war injuries and negative impact on households' livelihoods. Households with war-injured individuals face considerable difficulties regarding their health and livelihoods. In the AYINET 2013 study representing all of Acholi sub-region, more than half of the household members with injuries or suffering mental and emotional distress had their livelihoods adversely affected by those injuries or mental distress. Moreover, the study found that in households' attempts to treat injured or distressed members, nearly 75 per cent depleted their assets. The more severe the injury or mental distress, the more likely it is that the household would deplete its assets or the assets of other family members trying to treat their member. The research found that most of the victims with these more serious injuries or mental health conditions were no longer trying to seek medical help because their households have no more assets left to facilitate the process.<sup>126</sup>

Our study found that physical injury and mental and emotional distress that inhibited women's and girls' functionality, or members of their household's functionality, had a detrimental impact on the entire household's livelihoods, health and ability to send children to school or for children to complete schooling.<sup>127</sup> Our study also found that some of the injuries, particularly those associated with mutilation, reproductive health and fistulas, have resulted in the rejection of women and girls by their spouses and some members of their families and communities. Gender-just rehabilitation should be aware of these realities and seek to provide women and girls with healing that will not only address their physical and mental needs but help them position themselves to rebuild the fractured social relationships damaged by war. One of the goals of gender-just rehabilitation would thus be to enable women, their children born due to sexual violence and enslavement, and girls to regain their health and resume their place and role in society as equal and valued members.

Finally, a gender-just rehabilitation should be holistic and link the urgent and specialised medical and mental health care required by women and their children born due to sexual violence and enslavement.

### ***Gender-Just Legal Services***

As is detailed throughout this report, and in particular in sections on the right to restitution and the right to compensation, women face losing their land, homes, property and compensation in the face of their husbands' death or disappearance. Thus, where women experience such pressures or threats from other family members or neighbours, traditional leaders should strengthen efforts, and free legal aid services should be put in place and made available to women to defend and protect their right to claim land, property, housing and compensation and to use it as they see best for their family.

## **THE RIGHT TO SATISFACTION**

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The right to satisfaction was the most highly prioritised reparation right by women victims and their families that we interviewed. We highlight key research findings on the various forms of satisfaction in this sub-section.<sup>128</sup>

### **Box 10. Satisfaction**

**Satisfaction** is broadly understood to include, where applicable, measures that help cease violations; verification and full public disclosure of the facts (while ensuring disclosure does not harm victims or witnesses); search and identification of those disappeared, abducted, and killed; proper reburial; official declarations, apologies and sanctions against those liable for the violations; and tributes to the victims, including victims of conflict-related sexual violence.

A/RES/60/147, Article 9, para. 22.

### ***Official Acknowledgement, Apologies and Sanctions against Those Liable for Violations***

Women's first priority for all forms of reparation was official apologies and declarations that acknowledged that they and their families had suffered serious crimes and harms and that the GoU had either committed or failed to protect them from those crimes and the resulting harms.

Women victims stressed that acknowledgement and apology should be the first step in any national reparation process.

To date, due in large part to the Amnesty Act (2000–12), there have been no legal sanctions against the leaders of the LRA who have been captured or who have come out of the bush (discussed in detail in the sub-section on Guarantees of Non-Repetition below). The Amnesty Act as it has been applied to date has contributed to an environment of impunity on the part of those most responsible for serious crimes carried out by the LRA. For its part, the UPDF has sanctioned only a few low-level soldiers for committing crimes against civilians during the war. Overwhelmingly, victims' right to remedy and reparation as it pertains to sanctions (and most other forms) has been violated and obstructed. The GoU should therefore intensify all efforts to uphold the remaining rights to remedy and reparation for victims of serious crimes committed during the GoU and LRA hostilities.

### ***Verification and Full Public Disclosure of the Facts – Truth Telling***

Inquiry and full public disclosure of the facts – commonly referred to as truth telling – is highly prioritised by women victims and their families as a form of both remedy and reparation for past violations and abuses. Women victims of the conflict that we interviewed overwhelmingly wanted documentation, investigation and disclosure of the extent and nature of the conflict and serious crimes that they, their families and communities suffered, including making clear which parties were responsible for the crimes and harms.<sup>129</sup> They wanted this documentation and disclosure to result, in part, in holding accountable those persons responsible for the crimes.

As part of the documentation and investigation of serious crimes and violations, women victims also prioritised the need to clearly articulate the kinds of serious crimes and violations they believe should be investigated, documented and addressed. In so doing, they stated that the aspects of gender and age of victims and the harms they are still suffering due to those crimes should be taken into account. Women victims stressed taking a long view as a way to address the underlying causes of the GoU-LRA conflict, including other war situations before the GoU and LRA war, such as the war that brought the NRA to power.

Women victims also prioritised the need to know the truth about the role of the NRA and later UPDF in the conflict and in the harms they suffered. Women said that any truth telling or documentation or investigation process should clearly bring out the facts about the role of the NRA and UPDF, including specific violations and crimes that they committed and the identity of persons within the army who are responsible for those violations.

Women said that for any truth telling process to bring forward the accurate facts of the war, it has to be independent of any political body for fear of manipulation and politicisation of the process. The persons selected to carry forward truth-telling should reflect gender balance and include persons at high levels with gender expertise relevant to armed conflict and transitional

justice. Women also said that any such body should have among its members one or more victim representatives of high moral integrity and that at least one or two members should have expertise in the experiences and impact of armed conflict on women and girls.

Taking account of women's and girls' experiences through investigations and documentation of the conflict should not only consider their experience of the conflict but how they have survived it to inform remedy and reparation that is grounded in their realities, resources and capacities.<sup>130</sup> Such processes should ensure females victims' experiences are present to help build a shared memory and history of the conflict and its aftermath.

### *The Disappeared*

For our study, we used the definition of enforced disappearance within Uganda's International Criminal Court (ICC) Act and hence the Rome Statute of the ICC, which defines 'enforced disappearance of persons' to mean 'the arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of, a State or a political organisation [which includes non-state armed groups], followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time'.<sup>131 132</sup>

The immense scale of abduction and disappearance of men, women, boys and girls is one of the defining features of the two-decade-long conflict between the GoU and LRA. Because of the scale and gravity of this crime within Uganda (which is among the countries with the highest number of missing and disappeared in the world), because the victims of disappearance are specifically named within reparation, and because to date there have been few studies that looked at the long-term impact of the crime on families and none that consider the implications for remedy and reparation, our research had a particular emphasis on the crime and effects of disappearance.

A recent representative study by AYINET of the Acholi sub-region, with research support from Feinstein International Center, provides the first estimates on the percentage of households in which a person disappeared at the hands of the NRA/UPDF or the LRA who has not returned. While disappearances have occurred throughout Uganda, this study only focused on Acholi and thus actual numbers are higher for the war-affected Greater North. Nonetheless, the study estimates that 35 per cent of households in Acholi have a person disappeared who did not return; the study estimates that between 74,252 and 96,384 households had a member of their household taken by an armed force or group and never returned. This translates to approximately 107,491 to 139,530 individuals from Acholi who were forcibly disappeared and never returned. When asked what happened to those individuals, in 73 per cent of cases the family believed the disappeared person is dead, though most had no confirmation of the death. The study estimates that 88,349 to 90,024 individuals who were disappeared are believed by their household members to be dead. Additionally, over 26 per cent of households reported that they did not know the fate of those

disappeared individuals. The study concludes that 31,400 to 33,103 individuals from Acholi were forcibly disappeared but to date their fate remains unknown to their families.<sup>133</sup> The scale of this crime is enormous and necessitates concentrated action.

We found that enforced disappearance has dire social, economic, legal, administrative, emotional, psychological, and cultural consequences for the families left behind, consequences that should be taken into consideration in gender-just remedy and reparation processes. The majority of the disappeared who have not returned are male, though a significant minority are female. Many of the families of the disappeared are headed by women who are now without their husband or their children or both. Female members of families of the disappeared reported increased impoverishment of the household, especially where the breadwinners were disappeared or where the family depleted their assets or abandoned their livelihoods in search of the disappeared.

The disappearance of male breadwinners weighs heavily on the women and girls who take much greater responsibility in heading households and providing for families' immediate needs. Most women we interviewed did not receive support from their in-laws, and reported being threatened to leave their home and land by their brothers-in-law, even in cases where they were traditionally married and under customary law have a legitimate claim to remain on the land. Where women are not traditionally married and their husbands disappear, they have no right to the land or house and they and their children are usually chased off by their in-laws.

In traditional societies throughout the Greater North of Uganda, where inheritance and access to essential resources such as land are based on patriarchy, wives of the disappeared have a tenuous and weak position. Their unclear status as neither wives nor widows and their determination to maintain claims to their husbands' land challenges the patriarchal social and traditional norms of Greater North, which further leads to their marginalisation. Their diminished and threatened access to resources is exacerbated by an administrative system too weak and over-burdened to systematically uphold women's land rights.

Women-headed households of the disappeared most often reported that they plunged further into poverty and were forced to remove their children from school to help with labour needs. Some married off their girls early as a coping mechanism.

The social impacts of disappearance are profound and far-reaching. Socially, due to uncertainty about the fate of the disappeared man and absence of remains to aid in performing burial rituals, most wives of the disappeared reported that they cannot make – and many do not want to make – the transition from being married to widowed. This creates social tension in the community because of expected behaviour based on one's status – single, widowed or married – and these women inhabit some place in between.<sup>134</sup>

Disappearance takes a heavy psychological, emotional and psychosocial toll on family members. We found that such families tended to be isolated by the community they lived in and to self-isolate. Women family members reported being verbally abused regarding their disappeared spouse or child by members of the community at community events, which caused them to avoid such gatherings. Some family members mentioned constant pain which forces them to rely on pain killers, other medications or alcohol. Others report developing complicated sicknesses due to the constant worry and thoughts over their disappeared loved one.<sup>135</sup>

The majority of the families of the disappeared we interviewed did not have a consensus on the fate of the disappeared loved one. In particular mothers and wives would not agree to believe that their child or husband was dead. This prevented closure within the families, and meant that there was often tension in the household when the issue of the disappeared was raised.

Families that believed their loved one was dead, but did not have final confirmation or the body, expressed that their inability to perform necessary rituals for the dead further complicates their situation and pain.<sup>136</sup> Some families reported that this inability caused significant emotional and psychological pain coupled with attacks from the *cen* (spirit) of their dead loved ones, angry for being abandoned.

Administratively and legally, collecting claims for a death gratuity and pension is almost unthinkable for families whose loved ones were employed or working at the time of the disappearance. This is difficult first because there is no official certificate of the death. Second, most of the women now heading the households are illiterate and do not know the process for filing the case. Third, there is no clarity in Uganda on where families can file official cases on disappeared relatives. Fourth, most of the families are in rural areas and have little access to administrative services like official offices, the courts or police. Finally, as they lack the resources to go through such a (relatively) demanding process, most often they give up and are left with no recourse following the disappearance of their loved ones.<sup>137</sup>

Gender-just satisfaction as a form of reparation requires an understanding of the gender dimensions of disappearance and the gender-based discrimination females face in the aftermath, as outlined above. It requires recognising as legitimate claimants women who were wives of the disappeared, but who were not traditionally married, or who were involved in a polygamous marriage. Women and girls who are victims of disappearance require legal assistance (e.g., as a form of rehabilitation) both from official and customary sources, particularly to defend their claims to land, housing and property from family members and neighbours who try and steal these assets.

Interviewees who had family members disappeared spoke of their strong desire for information of the fate of their loved one and the facts about their fate, which is their right under international and national law. However, the fate of most of those who remain disappeared will not be known until the conflict is over and the remaining people held by the LRA are finally released or come

out of the bush. Even then, information about what happened to many of those people who do not return will likely be impossible to collect, and many of their bodies will likely never be recovered. Thus, focus on reparation for the families of the disappeared could concentrate on helping people live with the likelihood that they will never know the facts behind what happened to their loved one.

The most lasting impact of a disappeared family member is the negative effect on the remaining family members' livelihoods and well-being. Gender-just reparation efforts regarding the disappeared will need to find ways to strengthen livelihoods. Gender-just reparation should also enable emotional and social healing. Gender-just reparation should provide opportunity for families of the disappeared to come together to share their experiences and grief, and create networks of support for one another. Remedy and reparation processes could also help recognise and support the new roles played by women as a result of disappearance. Gender-just reparation should recognise and uphold women's social, cultural and economic rights and defend them against discrimination and attempts to steal their and their children's rightful assets.

### *Proper Reburial*

Practices of mourning, whether secular or religious, function across cultures to heal deep psychosocial wounds. In the aftermath of conflict, proper treatment of the dead<sup>138</sup> is often essential for the living to carry on. This recognition of the bonds that tie the living to the dead is a key feature of reparation enshrined in the *Basic Principles*. When the violations include killing, this reparation requirement covers 'assistance in the recovery, identification and reburial of the bodies in accordance with the expressed and presumed wish of the victims, or the cultural practices of the families and communities'. Thus, proper treatment of the dead, according to local customary prescriptions, is an explicitly articulated right to reparation that is critical to helping families and communities progress in the aftermath of serious crimes.

The study carried out in-depth interviews with survivors at six massacre sites<sup>139</sup> to more deeply understand victims' priorities around the proper treatment of their deceased loved ones, particularly in the face of mass killings of dozens or hundreds of people. We focused on massacre sites also to gain insights into possible collective reparation for the survivors.

Our research found that cultural mechanisms are necessary to assist people in addressing the deep psychic and social wounds that persist in the aftermath of massacre. The trauma of the attack, and the compromise of mass burial, deeply offended people with traditional beliefs surrounding the treatment of the dead, a fact that continues to plague survivors. While cultural practices have been in decline, they are still honoured – in some shape or form – by the vast majority of adults in the community. At their most basic, most informants demanded that the dead be properly buried at the family home, in individual graves, and that a funerary feast be held. According to individual family preferences, the funeral ceremony should be led by religious or cultural leaders or a combination. Until these basic requirements are met, until the

violence and harm has been ritualistically addressed, the majority of survivors will not be able to move on.

Our research found that this right to satisfaction is not without complications. Exhumation and reburial, in any context, is highly sensitive. If the killings occurred years prior, there is no guarantee that families of the dead will find comfort in the reburial of loved ones; indeed, the act of exhumation risks re-traumatising survivors. A reburial programme may also face dynamic cultural challenges. Identifying ‘cultural practices’ in places experiencing rapid cultural transformation requires on-going consultation with victims and survivors. To some extent, such challenges are best addressed case by case, requiring programmes designed to enhance and protect individual choice. Unfortunately, in certain contexts, individual preferences may contradict one another. This is particularly true where bodies have been deposited in mass graves. There may be no consensus on what ‘proper treatment’ of the dead entails. Some may request identification and reburial; others may wish the dead to remain where they are. Where exhumation and identification at a mass burial site would be an all or nothing affair, it might be impossible to satisfy all parties. Given that reparations are, ideally, responses that re-knit the social fabric of communities ripped apart by serious crimes, they should obviously aim to heal, rather than do further harm.<sup>140</sup>

Our research found that traditional burial is a complicated social ritual. Even the abbreviated modern example prescribes the fulfilment of important social functions that centre on the funerary feast. Consequently, any reparation that focuses on exhumation, identification and reburial would require the material assistance necessary to bring potentially dispersed family members together for a modest feast in which they can commemorate the one(s) who died.

Our research found that while overwhelmingly villagers wanted exhumation and reburial, village leaders often did not. Thus, programmes should be designed in consultation with a wide-ranging number of people from the communities that experienced massacre, not just the leaders. An exhumation and reburial programme would require fostering an active conversation among villagers and their leaders to discuss priorities and ways forward.

Virtually all of those who opposed exhumation and reburial did so on the grounds of identification, believing that it would be impossible to tell who was who. This is a critical point for many informants, since they believed that making an error – i.e., burying the wrong person in the wrong family grave – carried highly negative spiritual repercussions. Thus, before any kind of exhumation and reburial process could be initiated, villagers would need to be educated on the potential of anthropological forensics of identifying the dead. Only then could they make an informed choice.

A small minority of those opposed to exhumation opposed it solely on the grounds that it would re-traumatise the community. To some extent, this would be inevitable and in line with traditional expectations. Many of our interviewees believe that one must go through the pain of burial and mourning in order to properly move on following the death of a loved one. Pain is part of the process. However, the scale of reburial required at some of the massacre sites, such as

Barlonyo with likely over 400 people in a mass grave, is unprecedented for these communities. Furthermore, traditional mechanisms for navigating periods of mourning have been so undermined that they will not be able to provide the kinds of support that previous generations enjoyed. Any exhumation and reburial programme will require extensive mediation. Many informants expressed a desire, at the present time, for counselling and psychosocial support to help them deal with everything that has transpired. A responsible exhumation and reburial programme should be complemented by the development of long-term counselling and psychosocial resources to assist the living in bringing home their loved ones for burial, after a long and painful deferment, as well as to prepare for a new future.

## **GUARANTEES OF NON-REPETITION**

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Communities coming out of war highly prioritise not having to live through war and the accompanying serious crimes and harms again. Guarantees of non-repetition as a form of reparation are enacted to help ensure application of due process, the independence of the judiciary, reform of institutions that played a key role in the violence, and reform of laws to ensure legal protection and help guard against the re-occurrence of serious crimes.

### **Box 11. Guarantees of Non-repetition**

**Guarantees of non-repetition** include civilian control of armed security forces; application of international standards of due process; independence of the judiciary; upholding of protections for protected persons under international law; human rights and humanitarian law training for relevant sectors and adherence to these laws and a gender-just interpretation of these laws within codes of conduct; and reform of laws – including through an approach that promotes women’s rights and equality – that contribute to violations of international humanitarian and human rights law.

A/RES/60/147, Article 9, para. 23.

### ***Creating New Laws and Reforming Existing Laws***

The Law Reform Commission should finalise, and the Parliament of Uganda and the Justice Law and Order Sector should seek to enact, implement and support a witness protection law. Currently, witness protection measures in the legal system of Uganda are ad hoc, sporadic and partial, leaving witnesses at risk of possible retribution from persons they accuse of crimes.<sup>141</sup> As part of witness protection, state personnel who interact with witnesses should be trained to sensitise them to working with witnesses, particularly those who have experienced sexual and

gender-based violence. Also as part of witness protection, counselling and mental health services should be provided by the state to ensure witnesses who become distressed after giving information receive appropriate care.

As part of due process, gender-insensitive laws on defining sexual violence should also be examined. In addition, onerous evidentiary burdens regarding sexual violence (e.g., requiring multiple eye-witnesses for corroboration, medical examination and police reports) should be reformed to uphold gender-sensitive and -responsive legal systems.

### ***The Need to Challenge the Current Denial of Victims' Right to Remedy and Reparation***

The vast majority of victims of serious crimes in the Greater North of Uganda currently have no access to remedy or reparation for the crimes they have suffered. A primary reason is the Amnesty Act (2000–12). The Amnesty Act provided amnesty for any person engaged in fighting the Government of Uganda. The Act included all persons acting as 'collaborators' of rebellion against the current Ugandan government. Under the Act, for all persons who renounce and abandon involvement in armed conflict against the government, they:

shall not be prosecuted or subjected to any form of punishment for the participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion.<sup>142</sup>

While the Act does not explicitly state that private individuals or institutions are barred from bringing criminal proceedings against any member of the LRA, it removes the threat of prosecution to encourage members of the LRA to renounce their participation in armed opposition to the state. Should any criminal charges be brought by a private individual or institution, the accused would only need to invoke the protection of Article 28 (10) of the Constitution of the Republic of Uganda 1995, which protects individuals against trial for offences for which they have already been pardoned: 'No person shall be tried for a criminal offence if the person shows that he or she has been pardoned in respect of that offence.' Amnesty is defined, *inter alia*, as a 'pardon'.

At the same time, acts committed by senior members of the LRA who have received amnesty are criminalised within the Penal Code Act (as well as the Geneva Conventions Act). Let us take the example of the serious crimes committed against girls and women forced to be 'wives' to, and bear the children of, LRA commanders.<sup>143</sup> This example is presented to give the reader an understanding of the kinds of crimes committed against just one group of victims, to illustrate the current level of impunity. Acts committed by senior members of the LRA against these girls and women are criminalised within the Penal Code Act and include: abduction;<sup>144</sup> abduction with intent to confine;<sup>145</sup> abduction or kidnapping in order to subject a person to grievous harm or slavery;<sup>146</sup> kidnapping of children;<sup>147</sup> kidnapping with intent to confine;<sup>148</sup> kidnapping or

detaining with intent to murder;<sup>149</sup> confinement of children;<sup>150</sup> detention with sexual intent;<sup>151</sup> attempted rape;<sup>152</sup> rape;<sup>153</sup> indecent assaults on girls or women;<sup>154</sup> defilement of girls under 18 years of age;<sup>155</sup> conspiracy to defile;<sup>156</sup> procurement;<sup>157</sup> procuring defilement of a girl or woman;<sup>158</sup> abetting or aiding defilement;<sup>159</sup> negligent act to spread infectious diseases;<sup>160</sup> fraudulent pretence of marriage;<sup>161</sup> bigamy;<sup>162</sup> fraudulent marriage ceremonies;<sup>163</sup> desertion of children;<sup>164</sup> neglect to provide food for children;<sup>165</sup> child stealing;<sup>166</sup> attempt to murder;<sup>167</sup> conspiracy to murder;<sup>168</sup> murder;<sup>169</sup> killing unborn children;<sup>170</sup> and unlawful compulsory labour.<sup>171</sup> However, upon the perpetrator receiving amnesty, victims of these crimes have no recourse through the formal justice system. Thus, the former-LRA perpetrators of the most serious sexual and gender-based crimes nationally and internationally have, to date, received complete impunity for these crimes.

Furthermore, some formerly forced wives and mothers and their children born due to captivity continue to be harassed by and discriminated against by their families and communities, a strong example of the gender multipliers of harm discussed earlier in this report.

Most of the women and girls interviewed in our study said that they want the crimes and harms they were subjected to acknowledged, and they want redress for those crimes.<sup>172</sup> Yet currently, perpetrators – and in particular those who bear the greatest responsibility for the crimes committed – have impunity. For the eleven years the Amnesty Act has been in force, at no time has the GoU enacted remedy or reparation policy or programmes for the victims. Since the GoU has denied victims some of their rights to remedy guaranteed under national and international law, and failed to provide other forms of remedy and reparation, the moral and legal obligations of the GoU to provide remedy and reparation is all more the pressing. It is high time for the GoU, JLOS and the Parliament of Uganda to intensify efforts to ensure that victims' surviving rights to remedy and reparation are fully respected, implemented and enforced.

### ***Women and Girls Not Finding Remedy or Reparation for Serious Crimes from Traditional Justice Mechanisms***

*The Agreement on Accountability and Reconciliation* and its *Annexure* provide for the possibility of traditional justice mechanisms playing a role in addressing the effects of the conflict.<sup>173</sup> Our study examined whether victims of serious crimes committed by parties to the conflict were bringing cases forward to traditional justice mechanisms, and if not, why, and if so, to what effect. Within this study, we also examined the treatment of women and girls in these mechanisms, and how crimes of sexual violence committed by parties to the conflict were handled, if at all.<sup>174</sup>

Briefly, traditional justice mechanisms as they exist now and in the past are primarily restorative – for the purpose of resolving conflicts within the community. Traditional justice systems in both Acholi and Lango sub-regions are tuned to handle harms between specific and known victims

and perpetrators. Often the perpetrator would admit and take responsibility for the crime and harm caused, to initiate reconciliation – the underlying principle of traditional justice systems. Remedy within these mechanisms primarily encompasses acknowledgement, apology and compensation.

In our study, which focused on the Lango sub-region since its traditional justice mechanisms have been poorly studied compared to those of Acholi. In Lango, we could not find a single case of a victim of a serious crimes committed by parties to the conflict bringing the case to traditional justice mechanisms. When asked why no one was bringing such cases of serious crimes committed by parties to the conflict forward, interviewees noted that (1) the GoU-LRA conflict is too complex for traditional justice mechanisms to handle; (2) national law prohibits traditional justice mechanisms from handling most categories of serious crimes committed; (3) the perpetrators most responsible for the serious crimes remain at large or, if they have come in, have been given amnesty; (4) traditional leaders do not have the competence, skills, capacity and resources to handle cases of serious crimes committed during the GoU-LRA conflict; and (5) women respondents especially mentioned that most traditional justice mechanisms do not provide for their participation; instead, they often re-inscribed the subordination of women.

Our study found that currently, traditional justice mechanisms are unable to provide remedy or reparation for victims of serious crimes of the GoU-LRA conflict. Any attempt to bolster such systems to do so should be based in a thorough assessment of what they have done to date and what they are actually capable of doing. Any efforts should also be mindful of the patriarchy embedded within traditional systems, and the frequent failure of these systems to treat women and girls with equality and non-discrimination.

## RECOMMENDATIONS

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### *Recommendation 1: Restitution*

- Restitution processes must be familiar with the structural discrimination and barriers to women's and girls' equality that underlie most cultures and structures in the Greater North of Uganda.
- Restitution should enable women who by law have a claim to land and housing to uphold their rights. Consider reforming customary land laws of land ownership and access to accommodate women who are not traditionally married.
- Restitution should support healthy family ties and should provide health and educational support for children born of sexual violence.

### ***Recommendation 2: Compensation***

- Compensation requires awareness of the gendered structural inequalities that pre-date the conflict and that were often exacerbated during the conflict.
- Compensation processes should be part of a larger gender-just transitional justice process including acknowledgement, truth telling, investigation and documentation.
- Compensation should focus on what women and girl victims of serious crimes prioritise. These include monetary benefits as well as educational support for themselves and their children or grandchildren born of sexual violence.
- Compensation processes should enable women to claim benefits in a way that is responsive to local languages and low levels of literacy and requires few if any legal documents on the part of the claimant.
- Free legal aid services should be available to women to help defend and protect their rights to land, property and social protection payments. Traditional leaders should strengthen efforts to help women remain on their land free from violence and harassment.
- Payment modalities for compensation should be easily accessible and simple to use for women and girls in rural areas.

### ***Recommendation 3: Rehabilitation***

- Medical rehabilitation programmes should have a gendered understanding of harms suffered to enable the full treatment and recovery of female victims, including survivors of sexual violence, those with gynaecological injuries, and children born due to sexual violence and enslavement.
- Gender-aware collective forms of medical and psychosocial rehabilitation should be considered.
- Regarding provision of legal services, strengthened efforts by traditional leaders and free legal aid services should be made available to women to defend and protect their right to claim land, property, housing and compensation.

### ***Recommendation 4: Satisfaction***

- Satisfaction was women's first priority for all forms of reparation. They prioritized official apologies and declarations that acknowledged that they and their families had suffered serious crimes and harms and that the GoU had either committed or failed to protect them from those crimes and harms.
- Satisfaction processes should ensure women victims and their families' priority for inquiry and full public disclosure of the facts regarding the extent and nature of the conflict and serious crimes that they, their families and communities suffered. This includes documentation, investigation and disclosure, and making clear which persons or parties were responsible for the crimes and harms and holding them accountable.
- Satisfaction processes should be constructed with full awareness of that enforced disappearance has highly gendered and dire social, economic, legal, administrative,

emotional, psychological and cultural consequences for the families left behind. A national programme for registration of the disappeared should be enacted and programmes that support the coming together of families of the disappeared to create networks of support and to help realise their rights to remedy and reparation should be prioritized.

- A responsible (re)burial programme should be complemented by processes of deep discussion with the victims and community leadership, resources to assist with necessary rituals, and the development of long-term counselling and psychosocial resources to assist the living.

#### ***Recommendation 5: Guarantees of Non-Repetition***

- The GoU should seek to enact, implement and support a witness protection law. State personnel who interact with witnesses should be sensitised, particularly for work with witnesses who have experienced sexual and gender-based violence. The state should provide counselling and mental health services for witnesses.
- Most victims of serious crimes in the Greater North of Uganda currently have no access to remedy or reparation. A primary reason is the Amnesty Act, which blocks key remedy rights for victims. The GoU, JLOS and the Parliament of Uganda should intensify efforts to ensure that victims' surviving rights to remedy and reparation are fully respected and enforced.
- Currently, traditional justice mechanisms are unable to provide remedy or reparation as envisioned in the *Agreement on Accountability and Reconciliation*. Mechanisms seeking to bolster traditional justice mechanisms should assess what they have done to date and what they are actually capable of doing. These efforts should be mindful of the frequent failure of these systems to treat women and girls with equality and non-discrimination.

## VII. OVERALL RECOMMENDATIONS

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Based on our research findings, the following recommendations are presented to the Government of Uganda, Development Partners, the United Nations, the International Committee of the Red Cross, and national and local civil society partners:

- (1) Processes of remedy and reparation must be scrupulously respected. How victims are treated and if processes empower or disempower them will, in the end, play a significant role in determining the success of remedy, reparation and the overall transitional justice process in Uganda
- (2) Gender-just reparation processes must be based on the fundamental principles of gender equality, indivisibility of rights and non-discrimination. These fundamental principles should be integrated into the overarching principles that guide the work of outreach; registration processes; data collection forms, methods and processes, and data analysis; and the scope and distribution of remedy and reparation measures.
- (3) To enable a better understanding of the resulting harms and how to approach a gender-just remedy and reparation in the Greater North of Uganda, consider using the framework provided on the five most significant dimensions of violence against women and girls: sexual or reproductive coercion, harm, torture or mutilation; targeting women's mothering; women, productive labour and property; women and social capital; and gender multipliers of violence.
- (4) Participation of women and girl victims and civil society organisations in the transitional justice process is essential and has reparatory value. Gender-just reparation should have administrative structures to allow for the participation of CSOs and victim-led groups in the design, implementation, monitoring and evaluation of reparation at every level of government and in the departments responsible for carrying out reparation programming. In this way, discussions of reparation at the local level, particularly by women and girls, can be taken up at national levels, as well as serve to inspire other grassroots groups of victims to come forward on these issues, so that the voices at the table can truly include those from the war-affected populations of the Greater North.
- (5) Remedy and reparation processes should consider the disproportionate effects of serious crimes and violations on women and girls, their families and communities. Such processes should reflect on this knowledge to inform how such processes are planned and unfold and the intended forms of reparation outcomes.

- (6) Processes that seek gender-just remedy and reparation can and should help overcome inequalities through post-conflict transformation of the socio-cultural injustices and political and structural inequalities that shaped the lives of women and girls before, during and after the conflict.
- (7) Gender-just reparation should recognise and uphold women's social, cultural and economic rights and defend them against discrimination and attempts to steal their and their children's rightful assets and properties.
- (8) Practices and procedures for obtaining reparation must be sensitive to gender, age, cultural diversity and human rights, and must take into account women's and girls' specific circumstances, as well as their dignity, privacy and safety. As such, structural and administrative obstacles in all forms which impede or deny women's and girls' access to effective and enforceable remedies must be addressed head-on.
- (9) In our study, the right to satisfaction was the most highly prioritised reparation by women victims and their families. Symbolic reparations should play a strong role in acknowledgement (a central part of satisfaction), as symbolic reparation is primarily about the recognition of victims' suffering. From a gender-just perspective, acknowledgement should be done in a way that addresses and lessens the ostracism of women and girls who suffered sexual violence, came home with children born due to captivity, or had their family members murdered or disappeared, among other stigmatised harms. It is extremely important that influential political and social leaders recognise the ostracism, break silences about it, apologise for it (e.g., omission or commission) and challenge it by educating people about the resulting harms. Vitaly important for acknowledgement and apology regarding these crimes is that the framing of both must move away from the 'private' and 'apolitical' to the public and official.
- (10) The immense scale of abduction and disappearance of men, women, boys and girls is one of the defining features of the two-decade-long conflict between the GoU and LRA. There is a real need to facilitate processes by which women and their families can make peace with the reality of disappearances of loved ones in their lives, enabling them to handle the endless uncertainty and absence of remains, and helping them to re-engage with family, community and their own future. Serious consideration needs to be given to organising a national registrar for family members of the disappeared to be able to file cases for the purpose of state recognition of individuals who have disappeared during the GoU-LRA conflict. Gender-sensitive staff should be available to accompany those who are illiterate or need assistance. Specifically designed outreach processes, as part of larger transitional justice processes, should include registration of families of disappeared and their next of kin, and be responsive to the economic situation of the many female-headed households among the families of the disappeared.

(11) Reparation for the families of the disappeared should concentrate on helping people live with the likelihood that they will never know the facts behind what happened to their loved one. Efforts should be made to enable and facilitate the networking of families of the disappeared to come together to share their experiences and grief, create networks of support for one another, and to advocate for, and realise, their priorities for their rights to remedy and reparation. Remedy and reparation processes could also help recognise and support the new roles played by women and girls as a result of disappearance.

## Endnotes

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<sup>1</sup> Isis-WICCE. (September 2011). *Restoring Health and Bodily Integrity: Review of Implementation in Liberia, Evaluation Report*. Kampala, Uganda. Isis-WICCE. (November 2011). *Review of MDG3 Implementation in South Sudan*. Kampala, Uganda.

<sup>2</sup> The second phase of the PRDP, which was developed in 2012, recognized and included some of the needs advocated by Isis-WICCE, such as sexual and gender-based violence and women's access to land.

<sup>3</sup> *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Serious Violations of International Human Rights Law and International Humanitarian Law*. (Referred to hereafter as the *Basic Principles*). A/RES/60/147, Article 25.

<sup>4</sup> United Nations Office of the High Commissioner for Human Rights (UN OHCHR), Uganda and the Ugandan Human Rights Commission (UHRC), chapter two of their joint report *The Dust Has Not Yet Settled: Victims' Views on Remedy and Reparation in the Greater North, Uganda*. (2011). Available at <http://www.ohchr.org/Documents/Press/WebStories/DustHasNotYetSettled.pdf>.

<sup>5</sup> See Isis-WICCE. (2001). *Women's Experiences of Armed Conflict in Uganda, Gulu District 1986–1999*, Kampala, Uganda. Available at <http://www.isis.or.ug/wp-content/uploads/downloads/2011/10/gulureport.pdf>. Also see Isis-WICCE. (2002). *Documentation of Teso Women's Experiences of Armed Conflict 1987–2002*. Kampala, Uganda. Also see Isis-WICCE. (2002). *Medical Interventional Study of War Affected Teso Region*, Kampala, Uganda; Also see Isis-WICCE. (2004). *Women, Armed Conflict and Food Security in Uganda: An Exploratory Study of Four Districts*, Kampala, Uganda. Also see Isis-WICCE. (2011a). *A Needs Assessment of the Post Conflict Needs of Women in North and North Eastern Uganda*, Kampala, Uganda. Also see Isis-WICCE. (2011b). *Raising Hope: Reclaiming Lives in Lira District*, Kampala, Uganda. Isis-WICCE has for the last 12 years responded to the emergency reproductive health needs of women by carrying out medical interventions. These interventions include small team of surgeons who work with local health workers to do surgical operations on women war survivors who in most cases have waited for many years to access medical care. Isis-WICCE carried out a medical intervention in Lira that screened over 500 women and provided surgical care for 47. In November 2012, a similar intervention was carried out in Lira where 1,916 women were screened and treated for reproductive health complications in partnership with the Lira District Council.

<sup>6</sup> AYINET. (2013). *Medical and Psychosocial Needs Assessment for Victims of War in Acholi*, Kampala; AYINET. (2012). *Surgery, Medical and Psychosocial Rehabilitation for Victims of War, 2011–2012*, Kampala: AYINET. And see AYINET. (2011). *2009/2010 Surgical and Medical Rehabilitation Report*, Kampala, Uganda.

<sup>7</sup> For a series of briefings on each of these audits by the Refugee Law Project, see <http://www.beyondjuba.org/NRTJA/index.php>.

<sup>8</sup> International Centre for Transitional Justice (ICTJ). (2012). 'Reparations for Northern Uganda: Addressing the Needs of Victims and Communities.' Available at <http://www.ictj.org/sites/default/files/ICTJ-Briefing-Paper-Reparations-Uganda-2012-English.pdf>.

<sup>9</sup> At the International Meeting on Women's and Girls' Right to a Remedy and Reparation, held in Nairobi from 19 to 21 March 2007, women's rights advocates and activists, as well as survivors of sexual violence in situations of conflict, from Africa, Asia, Europe, Central, North America and South America, crafted the *Nairobi Declaration* to help advance and ensure gender-just remedy and reparation.

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<sup>10</sup>This framework draws and builds on the important work of Margaret Urban Walker. (2009). ‘Gender and Violence in Focus’ in *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations*. (ed.) Ruth Rubio, Cambridge University Press. In this report, we adapt her most useful contributions with an eye towards our findings in the Greater North to help us think more specifically about the forms of violence against women and girls and, hence, what is needed for gender-just remedy and reparation.

<sup>11</sup> *Nairobi Declaration*, clause 3.

<sup>12</sup> Ruth Rubio-Marín and Pablo de Greiff, ‘Women and Reparations’, *International Journal of Transitional Justice*, Special Issue Gender and Transitional Justice 1 (2007): 318–37, 326.

<sup>13</sup> A/RES/60/147, Article 9, para. 19.

<sup>14</sup> See also Isis-WICCE, *Women’s Experiences of Armed Conflict in Uganda, Gulu District 1986–1999*.

<sup>15</sup> A/RES/60/147, Article 9, para. 20.

<sup>16</sup> A/RES/60/147, Article 9, para. 21.

<sup>17</sup> See, for example, Isis-WICCE, *Women’s Experiences of Armed Conflict in Uganda, Gulu District 1986–1999*. See also Kinyanda et al. (2010). ‘War Related Sexual Violence and Its Medical and Psychological Consequences as Seen in Kitgum, Northern Uganda: A Cross Sectional Study.’ *BMC International Health and Human Rights*, 10:28.

<sup>18</sup> AYINET, *Medical and Psychosocial Needs Assessment*.

<sup>19</sup> Isis-WICCE, *Medical Interventional Study*.

<sup>20</sup> A/RES/60/147, Article 9, para. 22.

<sup>21</sup> AYINET, *Medical and Psychosocial Needs Assessment*.

<sup>22</sup> A/RES/60/147, Article 9, para. 23.

<sup>23</sup> *Basic Principles*, A/RES/60/147. Article 25.

<sup>24</sup> See Ruth Rubio-Marín, ‘Gender of Reparation’ in Pablo de Greiff (ed.) (2006). *The Handbook of Reparations*. Oxford University Press. Also see Ruth Rubio-Marín (ed.). (2006). *What Happened to the Women? Gender and Reparations for Human Rights Violations*. Social Science Research Council: New York. And see Rubio-Marín and de Greiff, ‘Women and Reparations’.

<sup>25</sup> Women’s and girls’ distinct ways of experiencing serious violence is well documented: see for example, United Nations. (2002). *Women, Peace and Security: Study of the United Nations Secretary-General as Pursuant Security Council Resolution 1325*. New York: United Nations. See also United Nations, *Report of the Secretary-General on Women, Peace and Security to the United Nations Security Council* (UN document S/2002/1154), 2002. Important contributions towards developing gender-just remedy and reparation include: Lisa Laplante, ‘On the Indivisibility of Rights: Truth Commission, Reparations and the Right to Development,’ *Yale Human Rights and Development Law Journal* 10 (2007): 141–76. See also Dyan Mazurana and Christopher Carlson, ‘Children and Reparation: Past Lessons and New Directions.’ In *Unicef Innocenti Research Centre Expert Paper Series on Children and Transitional Justice* (Unicef Innocenti Research Centre: Florence) 2010. Available at [http://www.unicef-irc.org/knowledge\\_pages/resource\\_pages/children\\_and\\_transitional\\_justice/working\\_paper\\_series.html](http://www.unicef-irc.org/knowledge_pages/resource_pages/children_and_transitional_justice/working_paper_series.html). See also Rubio-Marín. *The Gender of Reparations*. See also Rubio-Marín. *What Happened to the Women?* And see Rubio-Marín and de Greiff, ‘Women and Reparations’. See also Walker. ‘Gender and Violence in Focus’.

<sup>26</sup> UN OHCHR and UHRC, chapter two of their joint report *The Dust Has Not Yet Settled*.

<sup>27</sup> See the following publications by Isis-WICCE: *Women’s Experiences of Armed Conflict in Uganda, Gulu District 1986–1999*; *Documentation of Teso Women’s Experiences*; *Medical Interventional Study*; *Women Armed Conflict*

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*and Food Security in Uganda; A Needs Assessment of the Post Conflict Needs; Raising Hope.*

<sup>28</sup> See the following, published by AYINET in Kampala, Uganda: (2013) *Medical and Psychosocial Needs Assessment*; (2012) *Surgery, Medical and Psychosocial Rehabilitation*; (2011) *2009/2010 Surgical and Medical Rehabilitation Report*.

<sup>29</sup> For a series of briefings on each of these audits by the Refugee Law Project, see <http://www.beyondjuba.org/NRTJA/index.php>.

<sup>30</sup> International Centre for Transitional Justice (ICTJ). (2012). 'Reparations for Northern Uganda: Addressing the Needs of Victims and Communities.' Available at <http://www.ictj.org/sites/default/files/ICTJ-Briefing-Paper-Reparations-Uganda-2012-English.pdf>.

<sup>31</sup> In 2013 we will release specific, in-depth reports that use gender analyses to document and analyse (1) the role of traditional justice mechanisms in addressing serious crimes committed by parties to the conflict; (2) the crime of enforced disappearance and its effects on family members and necessary remedy and reparation; (3) the massacre at Barlonyo, the crimes committed, the impact on survivors, and priorities for remedy and reparation; and (4) massacres, mass graves and survivors' views on proper treatment of the dead.

<sup>32</sup> A/RES/60/147.

<sup>33</sup> OHCHR. (2008). *Rule-of-Law for Post-Conflict States: Reparations Programmes*. New York and Geneva: OHCHR.

<sup>34</sup> 1 Resolution 217 A (III).

<sup>35</sup> Resolution 2200 A (XXI), annex.

<sup>36</sup> Resolution 2106 A (XX), annex.

<sup>37</sup> United Nations, *Treaty Series*, Vol. 1465, No. 24841.

<sup>38</sup> *Ibid.*, Vol. 1577, No. 27531.

<sup>39</sup> See Carnegie Endowment for International Peace. (1915). *The Hague Conventions and Declarations of 1899 and 1907*. New York: Oxford University Press.

<sup>40</sup> United Nations, *Treaty Series*, Vol. 1125, No. 17512.

<sup>41</sup> *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June–17 July 1998*, Vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

<sup>42</sup> United Nations, *Treaty Series*, Vol. 1520, No. 26363.

<sup>43</sup> *Ibid.*, Vol. 1144, No. 17955.

<sup>44</sup> *Ibid.*, Vol. 213, No. 2889.

<sup>45</sup> This section draws directly from UN OHCHR and UHRC, chapter two of their joint report *The Dust Has Not Yet Settled*.

<sup>46</sup> The Constitution of the Republic of Uganda, 1995. Available at [http://www.ugandaembassy.com/Constitution\\_of\\_Uganda.pdf](http://www.ugandaembassy.com/Constitution_of_Uganda.pdf).

<sup>47</sup> The International Criminal Court Act 2010, the Uganda Gazette No. 39 Vol. CIII dated 25<sup>th</sup> June 2010, assented on 25<sup>th</sup> May 2010. Available at [http://www.beyondjuba.org/policy\\_documents/ICC\\_Act.pdf](http://www.beyondjuba.org/policy_documents/ICC_Act.pdf).

<sup>48</sup> The Children Act, Chapter 59 of the Laws of Uganda, August 1, 1997, available at

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[http://www.ugandaembassy.com/The\\_Children\\_Act.pdf](http://www.ugandaembassy.com/The_Children_Act.pdf).

<sup>49</sup> Ibid.

<sup>50</sup> United Nations, *Treaty Series*, Vol. 1520, No. 26363.

<sup>51</sup> Ibid., Vol. 1144, No. 17955.

<sup>52</sup> Ibid., Vol. 213, No. 2889.

<sup>53</sup> The Geneva Conventions Act (Ch. 363), available at [www.ulii.org/ug/legislation/consolidated-act/363](http://www.ulii.org/ug/legislation/consolidated-act/363).

<sup>54</sup> The International Criminal Court Act 2010.

<sup>55</sup> Amnesty Act, 2000.

<sup>56</sup> UN OHCHR and UHRC, *The Dust Has Not Yet Settled*. Refer to this report for more substantial discussion on the scope of the right to reparation, and see also OHCHR. *Rule-of-Law Tools for Post-Conflict States: Reparation Programmes*.

<sup>57</sup> Pablo de Greiff, 'Justice and Reparations', in Pablo de Greiff (ed.). (2006) *The Handbook of Reparations*. Oxford: Oxford University Press, 2006. p. 453.

<sup>58</sup> General comment no. 31 (2004) on the nature of the legal obligation imposed on States parties to the Covenant. See also OHCHR. *Rule-of-Law Tools for Post-Conflict States*.

<sup>59</sup> See Article 50 (Enforcement of rights and freedoms by courts) and Article 53 (Powers of the Uganda Human Rights commission).

<sup>60</sup> *Basic Principles*, Article 6, para. 10.

<sup>61</sup> UN OHCHR and UHRC, *The Dust Has Not Yet Settled*, p. xviii.

<sup>62</sup> Brandon Hamber and Ingrid Palmay, 'Gender, Memorialization, and Symbolic Reparation,' in Rubio-Marín . *The Gender of Reparations*, p. 326.

<sup>63</sup> Rubio-Marín, 'Gender of Reparation', p. 453.

<sup>64</sup> Naomi Roht-Arriaza, 'Reparations Decisions and Dilemmas,' *Hastings International and Comparative Law Review* 27, no. 2 (2004).

<sup>65</sup> [http://www.beyondjuba.org/peace\\_agreements/Agreement\\_on\\_Accountability\\_And\\_Reconciliation.pdf](http://www.beyondjuba.org/peace_agreements/Agreement_on_Accountability_And_Reconciliation.pdf).

<sup>66</sup> [http://www.iccnw.org/documents/Annexure\\_to\\_agreement\\_on\\_Accountability\\_signed\\_today.pdf](http://www.iccnw.org/documents/Annexure_to_agreement_on_Accountability_signed_today.pdf).

<sup>67</sup> At the International Meeting on Women's and Girls' Right to a Remedy and Reparation, held in Nairobi from 19 to 21 March 2007, women's rights advocates and activists, as well as survivors of sexual violence in situations of conflict, from Africa, Asia, Europe, Central, North America and South America, crafted the *Nairobi Declaration* to help ensure gender-just remedy and reparation.

<sup>68</sup> See Jeannie Annan, Chris Blattman, Khristopher Carlson and Dyan Mazurana. (2008). *The State of Female Youth in Northern Uganda: Findings from the Survey of War Affected Youth: Survey for War Affected Youth*, Kitgum Uganda, and Feinstein International Center, Tufts University. See also Jeannie Annan, Christopher Blattman, Dyan Mazurana and Khristopher Carlson, 'Civil War, Reintegration and Gender in Northern Uganda,' *Journal of Conflict Resolution* Vol. 55 Issue 6 (December 2011): 875–906. See also Eunice Apio. 'Uganda's Forgotten Children of War', in Charli Carpenter (ed.) (2007). *Born of War: Protecting Children of Sexual Violence Survivors in Conflict Zones*. Kumarian Press. See also AYINET. *2009/2010 Surgical and Medical Rehabilitation Report*. See also AYINET. *Surgery, Medical and Psychosocial Rehabilitation*. See also AYINET. *Medical and Psychosocial Needs Assessment*. And see Erin Baines. 'The Haunting of Alice: Local Approaches to Justice and Reconciliation in

Northern Uganda', *International Journal of Transitional Justice* 1 (1) (2007): 91–114. Also see Erin Baines, et al. (2009). *Kill Every Living Thing: The Barlonyo Massacre*. Justice and Reconciliation Project, Gulu District NGO Forum. And see Khristopher Carlson and Dyan Mazurana. (2008). *Forced Marriage within the Lord's Resistance Army, Uganda*. Feinstein International Center, Tufts University. See also Coalition to the Stop the Use of Child Soldiers. (2004). *Child Soldier Use 2003: A Briefing for the 4th UN Security Council Open Debate on Children in Armed Conflict*. Author: London; Daniel Neumann (producer, writer). And see Isis-WICCE, *Women's Experiences of Armed Conflict in Uganda, Gulu District 1986–1999*. And see Isis-WICCE, *Documentation of Teso Women's Experiences*. See also Isis-WICCE, *Medical Interventional Study*. And Isis-WICCE, *Women Armed Conflict and Food Security in Uganda*. And Isis-WICCE, *A Needs Assessment of the Post Conflict Needs*. And Isis-WICCE *Raising Hope: Kinyanda et al, 'War Related Sexual Violence'*. See also Otim Patrick (producer) and Ann Chang (producer). (2008). *Gender against Men*. A production of the Refugee Law Project, and the Faculty of Law, Makerere University. See also Human Rights Watch. (2003). *Abducted and Abused: Renewed Conflict in Northern Uganda*. New York. See also Human Rights Watch. (2003). *Stolen Children: Abduction and Recruitment in Northern Uganda*. New York, New York. See also Isis-WICCE. *Women's Experiences of Armed Conflict in Gulu District, 1986–1999*. Isis-WICCE. (2001). *Medical Intervention Study of War Affected Gulu District, Uganda*. Available at <http://www.isis.or.ug/wp-content/uploads/downloads/2011/10/gulumedicalreport.pdf>. See also Susan McKay and Dyan Mazurana. (2004). *Where are the Girls? Girls in Fighting Forces in Northern Uganda, Sierra Leone, and Mozambique: Their Lives During and After War*. International Centre for Human Rights and Democratic Development, Montréal, Canada. See also Susan McKay, A. Veale, M. Worthen, and M. Wessells. (2010, July). 'Community-Based Reintegration of War-Affected Young Mothers: Participatory Action Research (PAR) in Liberia, Sierra Leone and Northern Uganda'. Available: [www.PARGirlMothers.com](http://www.PARGirlMothers.com). See also Chrispus Okello and Lucy Ovil, 'Confronting the Reality of Gender-Based Violence in Northern Uganda,' *International Journal of Transitional Justice* 1 (3) (2007): 433–43. And OHCHR and UHRC, *The Dust Has Not Yet Settled*. And OHCHR, Uganda. (2007). *Making Peace Our Own: Victims' Perceptions of Accountability, Reconciliation and Transitional Justice in Northern Uganda*. OHCHR: Geneva and Kampala. See also Oxford Transitional Justice Research. (2008). *Victims' Perceptions of Conflict Reparations in Northern Uganda: Analytical Memorandum*. Oxford. And see M. Worthen, S. McKay, A. Veale, and M. Wessells. (2010). 'I Had No Idea You Cared about Me': Empowerment of Vulnerable Mothers in the Context of Reintegration'. In Bard Maeland (ed.). *Culture, Religion, and the Reintegration of Female Child Soldiers in Northern Uganda*, pp. 149–64. New York: Lang Publishing. See also M. Worthen, A. Veale, S. McKay, and M. Wessells. (2010, Jan 19). 'I Stand Like a Woman': Empowerment and Human Rights in the Context of Community-Based Reintegration of Girl Mothers Formerly Associated with Fighting Forces and Armed Groups. *Journal of Human Rights Practice*, 1–22. For historical information on Acholi norms for conducting armed conflict, see Ronald Atkinson. (1994). *The Roots of Ethnicity: The Origins of the Acholi of Uganda before 1800*. Kampala: Fountain Publishers.

<sup>69</sup> Ibid.

<sup>70</sup> See UN Inter-Agency Standing Committee. (2006). *Women, Girls, Boys and Men: Different Needs Equal Opportunities*. Available at <http://www.interaction.org/document/iasc-gender-handbook>

<sup>71</sup> Carol Cohn. (2013). 'Women and Wars: Towards a Conceptual Framework,' in Carol Cohn (ed.). *Women & Wars*. Polity Press: Cambridge, pp.4–5.

<sup>72</sup> Carol Cohn, 'Women and Wars', p. 22.

<sup>73</sup> This framework draws and builds on the important work of Margaret Walker, 'Gender and Violence in Focus.' In this report, we adapt her most useful contributions with an eye towards our findings in the Greater North to help us think more specifically about the forms of violence against women and girls and, hence, what is needed for gender-just remedy and reparation.

<sup>74</sup> The NRA later transformed into the UPDF.

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- <sup>75</sup> See Carlson and Mazurana, *Forced Marriage within the Lord's Resistance Army*.
- <sup>76</sup> See also Isis-WICCE, *Women's Experiences of Armed Conflict in Uganda, Gulu District 1986–1999*.
- <sup>77</sup> See also UN OHCHR and UHRC, *The Dust Has Not Yet Settled*.
- <sup>78</sup> See also Isis-WICCE, *Women Armed Conflict and Food Security in Uganda*.
- <sup>79</sup> Walker, 'Gender and Violence in Focus', p. 38.
- <sup>80</sup> See Isis-WICCE, *Women's Experiences of Armed Conflict in Uganda, Gulu District 1986–1999*.
- <sup>81</sup> See Helen Liebling-Kalifani, Ruth Ojiambo-Ochieng, Angela Marshall, Juliet Were-Oguttu, Seggane Musisi, Eugene Kinyanda. (2008). 'Violence against Women in Northern Uganda: The Neglected Health Consequences of War.' *Journal of International Women's Studies* Vol. 9:3.
- <sup>82</sup> See AYINET Surgery, *Medical and Psychosocial Rehabilitation for Victims of War, 2011–2012*.
- <sup>83</sup> See also Isis-WICCE, *Women's Experiences of Armed Conflict in Uganda, Gulu District 1986–1999*.
- <sup>84</sup> See Hugo Slim. (2009). 'Movement, Impoverishment, Famine, Disease and Distress.' In *Killing Civilians: Method, Madness and Morality in War*. Columbia University Press.
- <sup>85</sup> Republic of Uganda Ministry of Health and the World Health Organisation. (2005). *Health and Mortality Survey among Internally Displaced Persons in Gulu, Kitgum and Pader Districts, Northern Uganda*. World Health Organisation: Geneva.
- <sup>86</sup> See also Isis-WICCE, *Women, Armed Conflict and Food Security*.
- <sup>87</sup> See also Isis-WICCE, *Women, Armed Conflict and Food Security*.
- <sup>88</sup> Caroline Moser. (2001) 'The Gendered Continuum of Violence and Conflict: an Operational Framework', p. 43. In *Victims, Perpetrators or Actors: Gender, Armed Conflict and Political Violence*, ed. C Moser and F Clare. Zed Press.
- <sup>89</sup> Walker, 'Gender and Violence in Focus,' p. 41.
- <sup>90</sup> See Walker, 'Gender and Violence in Focus.'
- <sup>91</sup> *Nairobi Declaration*, clause 3.
- <sup>92</sup> *Nairobi Declaration*, Preamble.
- <sup>93</sup> UN OHCHR and UHRC, *The Dust Has Not Yet Settled*, p. 22.
- <sup>94</sup> Personal communication, Mariana Goetz, December 1, 2010.
- <sup>95</sup> Mariana Goetz, 'The Right to Reparation,' presentation at *Gender, Reparations and Development*, a joint UNIFEM/UNDP international workshop, December 1, 2010, Kampala, Uganda.
- <sup>96</sup> Isis-WICCE medical interventions are good examples of how this has worked regarding linking injured women with medical professionals. Isis-WICCE alongside medical professionals have worked with local women's organizations to provide trauma counselling and treatment for women survivors of sexual violence in the Teso sub-region (Kumi, Soroti, Katakwi districts), Kitgum, Gulu and Lira. Local organizations have supported these women in different ways, including providing them with means of livelihood. Others have formed peace groups as a means of dealing with trauma through peer to peer counselling.
- <sup>97</sup> UN OHCHR and UHRC, *The Dust Has Not Yet Settled*, p. 27.
- <sup>98</sup> *Nairobi Declaration*, Article 3 (g).

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- <sup>99</sup> Isis-WICCE has experience in this approach in Uganda, South Sudan and Liberia.
- <sup>100</sup> UN OHCHR and UHRC, *The Dust Has Not Yet Settled*, p. 28.
- <sup>101</sup> See also Liebling et al., ‘Violence against Women in Northern Uganda.’
- <sup>102</sup> Meredith Turshen, ‘The Political Economy of Rape,’ in Caroline Moser and F. Clark (eds.), *Victims, Perpetrators or Actors?: Gender, Armed Conflict and Political Violence*. London: Zed Books, p. 56.
- <sup>103</sup> See Walker, ‘Gender and Violence in Focus,’ p. 54.
- <sup>104</sup> Rubio-Marín and de Greiff, ‘Women and Reparations’, p. 326.
- <sup>105</sup> *Agreement* clause 11.4, *Annexure* clause 24.
- <sup>106</sup> *Nairobi Declaration*, 2b.
- <sup>107</sup> The Women’s Taskforce for a gender-responsive Peace Recovery and Development Plan (PRDP) for northern Uganda managed by Isis-WICCE is an example of how CSOs can participate effectively in the reparation process. The Women’s Task Force monitors and advocates for women’s needs in the PRDP.
- <sup>108</sup> A/RES/60/147. Article 25.
- <sup>109</sup> Most women in the Greater North do not have the resources to purchase their own land and have access to land primarily through their fathers while they are young and their husbands upon marriage or cohabitating with a man.
- <sup>110</sup> See also UN OHCHR and UHRC, *The Dust Has Not Yet Settled*, p. 54.
- <sup>111</sup> See Annan, Blattman, Carlson and Mazurana, *The State of Female Youth in Northern Uganda*.
- <sup>112</sup> See UN OHCHR and UHRC, *The Dust Has Not Yet Settled*. See also Isis-WICCE, *Women’s Experiences of Armed Conflict in Uganda, Gulu District 1986–1999*. And Isis-WICCE, *Documentation of Teso Women’s Experiences*.
- <sup>113</sup> See UN OHCHR and UHRC, *The Dust Has Not Yet Settled*.
- <sup>114</sup> Interview with woman victim on 6/06/2012, Gulu district.
- <sup>115</sup> Interview with woman victim on 2/6/2012.
- <sup>116</sup> Interview with woman victim in Gulu, 8/06/2012. Her husband, a headmaster of a primary school, was disappeared by the LRA while attending his duties at the school.
- <sup>117</sup> See also Simon Robins. (2011), ‘Towards Victim-Centred Transitional Justice: Understanding the Needs of Families of the Disappeared in Postconflict Nepal,’ *International Journal of Transitional Justice* 5(1), March 2011.
- <sup>118</sup> AYINET, *Medical and Psychosocial Needs Assessment*. See also Isis-WICCE: *Women’s Experiences of Armed Conflict in Uganda, Gulu District 1986–1999; Documentation of Teso Women’s Experiences; and Medical Interventional Study*.
- <sup>119</sup> See UN OHCHR and UHRC, *The Dust Has Not Yet Settled*.
- <sup>120</sup> See earlier studies by Isis-WICCE, *Medical Interventional Study*.
- <sup>121</sup> Isis-WICCE, *Documentation of Teso Women’s Experiences*; Isis-WICCE, *Medical Interventional Study of War Affected Teso Region*.
- <sup>122</sup> AYINET was founded in 2005 and is based in Lira. It provides physical and psychosocial rehabilitation in the Greater North of Uganda for victims of brutalities. It has focused on those victims who have experienced the most

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serious physical and emotional harm. It regularly reaches out to victims, assesses their needs, screens them and facilitates reconstructive surgeries (plastic and general), provides follow-up care, and offers psychosocial support.

<sup>123</sup> UN OHCHR and UHRC, *The Dust Has Not Yet Settled*, p. 82.

<sup>124</sup> Ibid. See also AYINET, *Surgery, Medical and Psychosocial Rehabilitation* Also see AYINET, *2009–2010 Surgical and Medical Report*. And Isis-WICCE, *Medical Interventional Study, Uganda*. And Isis-WICCE, *Raising Hope*.

<sup>125</sup> Ibid.; UN OHCHR and UHRC, *The Dust Has Not Yet Settled*, p. 83.

<sup>126</sup> AYINET, *Medical and Psychosocial Needs Assessment*. Some services have been provided by NGOs, but this represents a small percentage of the overall cases in need of attention.

<sup>127</sup> See also Liebling et al., ‘Violence against Women in Northern Uganda.’

<sup>128</sup> The fact that part of our research focused on the families of the disappeared and that we carried out interviews and in-depth research at several massacre sites undoubtedly resulted in findings which prioritized the disappeared and proper reburial.

<sup>129</sup> Similar findings are reported in UN OHCHR and UHRC, *The Dust Has Not Yet Settled*.

<sup>130</sup> Rosalind Shaw, Lars Waldorf, with Pierre Hazanand. (2010). *Localising Transitional Justice: Interventions and Priorities after Mass Violence*. Stanford University Press.

<sup>131</sup> See Rome Statute, Art. 7(2)(i) and Uganda ICC Act (2010), Art. 7(2)(i).

<sup>132</sup> Enforced disappearance also includes cases in which a person emerges alive from detention or being held against their will in undisclosed locations, and where information was denied to those seeking to know their fate and whereabouts. Other forms of enforced disappearance include cases in which it is known that a person has been killed but in which their remains are not returned, or where information about the location of their remains is known by those acting under the authority of the state or a political party (including an armed opposition group) but not provided. Victims of enforced disappearance may include civilians, persons who were taking part in combat but stopped (injured or left the fighting forces or laid down their arms), protected persons, and state and non-state combatants. Under the Rome Statute and Uganda’s ICC Act, both state and non-state actors can be held criminally liable for acts of enforced disappearance that constitute a crime against humanity. See Uganda ICC Act (2010), Rome Statute, Art. 7.

<sup>133</sup> AYINET, *Medical and Psychosocial Needs Assessment*. Significantly, these numbers do not reflect the disappeared from Lango, Teso and West Nile sub-regions, which would raise the overall numbers of the disappeared.

<sup>134</sup> See also Robins, ‘Towards Victim-Centred Transitional Justice’.

<sup>135</sup> Ibid.

<sup>136</sup> Ibid.

<sup>137</sup> Legal aid which is provided by the state or NGOs very often does not address such cases.

<sup>138</sup> A detailed report on victims of the Barlonyo massacre’s views on proper burial of the dead is forthcoming by Keith Proctor.

<sup>139</sup> We carried out research with survivors and witnesses to massacres in each of the four sub-regions of Acholi, Lango, Teso and West Nile at the sites of Abako (Lira), Abia (Alebtong), Barlonyo (Lira), Gere-Gere (Agago), Dzaipi (Adjumani) and Obalanga (Amuria).

<sup>140</sup> To the extent possible, reparations seek to restore victims to the status they held prior to the violation (*status quo*)

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*ante*). However, this is not always possible. In cases of death or mutilation, no amount of compensation can obviate the crime. Even in those cases where the crime was the loss of property, the needs of many victims may be simply too great for available resources. In a post-conflict society, the goal of reparations is not simply individual legal redress, but the reconstitution of the community. It is, as De Greiff argues, a political project.

<sup>141</sup> Human Rights Watch. (2012). *Justice for Serious Crimes before National Courts: Uganda's International Crimes Division*, New York: Human Rights Watch.

<sup>142</sup> Uganda, *Amnesty Act*, Part II, Secs. 3 and 4.

<sup>143</sup> For a more comprehensive treatment of the crime of forced marriage in Uganda and international jurisprudence, see Carlson and Mazurana, *Forced Marriage within the Lord's Resistance Army*.

<sup>144</sup> *Uganda Penal Code Act*, CAP 106 (1998), Chapter XV, sec. 120.

<sup>145</sup> *Ibid.*, sec. 120.

<sup>146</sup> *Ibid.*, Chapter XXV, sec., 237.

<sup>147</sup> *Ibid.*, sec. 239. Kidnapping from Uganda is defined as any person who conveys any person beyond the limits of Uganda without consent of that person, or if some person legally authorized to consent on behalf of that person, is said to kidnap that person from Uganda, see *ibid.*, Chapter XXV., sec. 231. Abduction is defined as any person who by force compels, or by any deceitful means induces, any person to go from any place. See *ibid.*, sec. 233.

<sup>148</sup> *Ibid.*, sec. 236.

<sup>149</sup> *Ibid.*, sec. 235.

<sup>150</sup> *Ibid.*, Chapter XVI, sec. 155.

<sup>151</sup> *Ibid.*, Chapter XV, sec. 129(1).

<sup>152</sup> *Ibid.*, Chapter XIV, sec. 119.

<sup>153</sup> *Ibid.*, sec. 117.

<sup>154</sup> *Ibid.*, sec. 122.

<sup>155</sup> *Ibid.*, sec. 123.

<sup>156</sup> *Ibid.*, sec. 135.

<sup>157</sup> *Ibid.*, sec. 125(a) (The attempt to procure any girl or women under the age of 21 to have unlawful carnal connection, either within Uganda or elsewhere.)

<sup>158</sup> *Ibid.*, sec. 126(a) (The procuring of any girl or woman by threats or intimidation to have any unlawful carnal connection either in Uganda or elsewhere.)

<sup>159</sup> *Ibid.*, sec. 127.

<sup>160</sup> *Ibid.*, Chapter XVII, sec. 166.

<sup>161</sup> *Ibid.*, Chapter XVI., sec. 149.

<sup>162</sup> *Ibid.*, sec. 150.

<sup>163</sup> *Ibid.*, sec. 151.

<sup>164</sup> *Ibid.*, sec. 152.

<sup>165</sup> *Ibid.*, sec. 153.

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<sup>166</sup> Ibid., sec. 155. (This includes detention of a child.)

<sup>167</sup> Ibid., Chapter XXI, sec. 197.

<sup>168</sup> Ibid., sec. 201.

<sup>169</sup> Ibid., Chapter XIX, sec. 183.

<sup>170</sup> Ibid., Chapter XXI, sec. 205.

<sup>171</sup> Ibid., sec. 243.

<sup>172</sup> Victims of serious crimes have strongly expressed their desire for accountability and justice. See also UN OHCHR and UHRC, *The Dust Has Not Yet Settled*, and Carlson and Mazurana, *Forced Marriage within the Lord's Resistance Army*. See also Uganda Victims Foundation. (2013). *A Report of Consultations with Victims in Uganda's Greater North Seeking Truth, Remedy and Reparation for Serious Crimes and Violations*.

<sup>173</sup> 'The Government shall, in consultation with relevant interlocutors, examine the practice of traditional justice mechanisms in the affected areas, with a view to identifying the most appropriate roles for such mechanisms. In particular, it shall consider the role and impact of the processes on women and children.' *The Agreement on Accountability and Reconciliation*, available at [http://www.beyondjuba.org/peace\\_agreements/Agreement\\_on\\_Accountability\\_And\\_Reconciliation.pdf](http://www.beyondjuba.org/peace_agreements/Agreement_on_Accountability_And_Reconciliation.pdf)

<sup>174</sup> See Teddy Atim and Keith Proctor. (2013). *Modern Challenges to Traditional Justice: The Struggle to Deliver Remedy and Reparation in War-Affected Lango*. Feinstein International Center, Tufts University: Medford, USA.