

# Universal Periodic Review of Uganda 2016

## Joint stakeholder submission on the rights of survivors of conflict related sexual and gender based crimes and children born as a result conflict related of sexual violence

By the International Center for Transitional Justice (ICTJ), the Women's Advocacy Network (WAN), and Watye Ki Gen

### A. Introduction

1. This submission focuses on the rights of survivors of sexual and gender based crimes in the context of Uganda's past conflicts, and children born as a result of conflict related sexual violence. In particular it evaluates the progress made to date on the recommendation from the 2011 UPR calling on the Government of Uganda to *"Strengthen long-term efforts to provide reintegration measures in order to provide all children who have been recruited or used in hostilities with child- and gender- sensitive multidisciplinary assistance for their physical and psychological recovery."*

### B. Background/Historical Context.

2. During the conflict in northern Uganda, thousands of young women and girls were abducted and forcibly conscripted by the LRA, becoming child soldiers, victims of sexual and other forms of violence. Outside the context of LRA abductions, while less frequently reported, the NRA and UPDF have also been accused of sexual violence including the sexual exploitation of women in displacement camps by NRA and UPDF soldiers in exchange for food or money.<sup>1</sup> The UPDF mobile forces have also been accused of raping women in communities they were supposed to protect and defend from LRA attacks.<sup>2</sup>

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<sup>1</sup> See: Mazurana, Dyan, Teddy Atim, Ariane Brunet, and Helen Kezie-Nwoha, Isis-WICCE and the Feinstein International Center, "Making Gender-Just Reparations and Remedy Possible: Upholding the Rights of Women and Girls in the Greater North of Uganda," 2013; Uganda Human Rights Commission (HRC) and the UN High Commissioner for Human Rights (UNHCHR), "'The Dust Has Not Yet Settled': Victims' Views on The Right to Remedy and Reparation: A Report from the Greater North of Uganda," 2011.

<http://www.ohchr.org/Documents/Press/WebStories/DustHasNotYetSettled.pdf>

<sup>2</sup> Dolan, Chris, *Social Torture: The Case of Northern Uganda 1986–2006* (Oxford: Berghahn Books, 2009); Moses Okello and Lucy Hovil, "Confronting the Realities of Gender-Based Violence in Northern Uganda," *The International Journal of Transitional Justice* Vol. 1 (2007), 433–443; Human Rights Watch, "Uprooted and Forgotten Impunity and Human Rights Abuses in Northern Uganda," Vol. 17 (2005), No. 12(A); Holly Porter, *After Rape: Justice and Social Harmony in Northern Uganda*. PhD thesis, The London School of Economics and Political Science, 2013.

3. In 2008, the UNICEF-funded Survey on War Affected Youth (SWAY) in Uganda estimated that in Acholi sub-region alone, over 60,000 children and young people (aged 14-30) were abducted over the course of the conflict, which represents 1 in 3 male adolescents and 1 in 6 female adolescents in Acholi.<sup>3</sup> Girls and women were forced to carry out a range of roles that included domestic labor, combat, and being “forced wives.” Many gave birth to children as a result of sexual violence. In Acholi and Lango alone, it is estimated that there are between 3,000 and 8,000 children born of rape and 25,000 women victims of conflict-related sexual violence.<sup>4</sup>
4. Many of these girls and women have faced problems reintegrating into their community on their return. Stigmatized and frequently denied shelter or access to land or property, these young women and their children require targeted assistance. The needs of these victims are complex and diverse, going beyond helping them to deal with the immediate consequences of violence. They also require support to help them successfully reintegrate into the community both socially and economically.
5. To date there have not been long-term measures to facilitate the reintegration of children recruited or used in hostilities, and in particular nothing has been done for the children they returned with. A study conducted by ICTJ, found that the consequences of conflict related sexual violence are severe, long-lasting, and intergenerational.<sup>5</sup>
6. A lack of redress compounded by the intersection of multiple factors—discriminatory cultural norms; abject poverty and scarce resources, including a lack of land for cultivation; patrilineal systems of identity; and rejection due to perceived association with rebels—leads to a series of human rights violations which impede mothers and their children born of sexual violence from integrating into their communities and becoming self-sufficient citizens who live with dignity.<sup>6</sup>

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<sup>3</sup> Jeannie Annan, Chris Blattman, Khristopher Carlson, and Dyan Mazurana, SWAY, “The State of Female Youth in Northern Uganda: Findings from the Survey of War Affected Youth: Survey for War Affected Youth (SWAY) Phase II” (2008), 31. <http://chrisblattman.com/documents/policy/sway/SWAY.Phase2.FinalReport.pdf>.

<sup>4</sup> Dyan Mazurana, Anastasia Marshak, Jimmy Hilton Opio, Rachel Gordon and Teddy Atim, “The impact of serious crimes during the war on households today in Northern Uganda,” Secure Livelihoods Research Consortium (SLRC) Briefing Paper 5 (May 2014). Available here: [http://www.securelivelihoods.org/publications\\_details.aspx?resourceid=298](http://www.securelivelihoods.org/publications_details.aspx?resourceid=298). The authors of this study noted that these statistics are likely to be severe underestimations given the stigma that inhibits victims from disclosing this type of violation.

<sup>5</sup> Virginie Ladisch, “From rejection to redress: Overcoming the legacies of conflict related sexual violence in Uganda” (ICTJ) 2015.

<sup>6</sup> Ibid,

### C. Substantive Concerns

7. The 2011 UPR review of Uganda included several recommendations focused on the status of the rights of survivors of sexual and gender based crimes and children affected by conflict. One of these recommendations made to and accepted by the GoU in 2011 was to *“Strengthen long-term efforts to provide reintegration measures in order to provide all children who have been recruited or used in hostilities with child- and gender- sensitive multidisciplinary assistance for their physical and psychological recovery.”*
8. Five years later, based on an assessment carried out by ICTJ and first-hand information from the Women’s Advocacy Network and Watyeke Gen, evidence shows that two key ideas mentioned in this recommendation, *long-term* and *child- and gender-sensitive* multidisciplinary assistance have not been addressed.
9. To date there have been no targeted initiatives to provide long-term and child and gender specific assistance for children who were recruited or used in hostilities. Whereas in 2014, the Parliament of Uganda passed a motion<sup>7</sup> directing the government to establish gender sensitive reparations program for persons affected by the LRA conflict, the executive is yet to implement the parliamentary resolution.
10. On paper the Government of Uganda did provide development and reconstruction funds for war-affected communities and—through the Amnesty commission—reinsertion and reintegration support for returnees, yet in practice the government largely failed to reach and provide support for formerly abducted young mothers<sup>8</sup> and their children born of sexual violence. For those who were able to receive support through existing development programs,<sup>9</sup> the type of support provided was insufficient to address their particular and specific needs. The Amnesty Commission distributed the same reinsertion and reintegration assistance to reporters regardless of a number of critical factors that might have shaped their reintegration, such as duration of abduction, gender distinctions, and whether or not they returned with children. As a Gulu District Local Government Official noted: *“Children born in captivity were not considered in packages awarded to applicants for amnesty. The Amnesty Commission did not consider the needs of the mothers who returned with children.”*<sup>10</sup> The assistance was short-term and focused on

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<sup>7</sup> Motion for a resolution of Parliament on the Plight of Persons Affected by the Lord’s Resistance Army Rebellion, Parliament of Uganda, 2014.

<sup>8</sup> These are young girls who were recruited or used in hostilities and as a result returned with children

<sup>9</sup> The government programs include, The Peace Recovery and Development Program, The Northern Uganda Social Action Fund, the Youth Livelihood program

<sup>10</sup> Virginie Ladisch, *“From rejection to redress: Overcoming the legacies of conflict related sexual violence in Uganda”* (ICTJ) 2015, p9. Available at: <https://www.ictj.org/sites/default/files/ICTJ-Report-Uganda-Children-2015.pdf>

limited economic support, but fell far short of the multidisciplinary and long-term support needed to effectively reintegrate into society and provide for their children born of sexual violence.

11. ICTJ, WAN, and Watye Ki Gen want to call attention to ongoing violations of the basic rights of children born of sexual violence and their mothers.

#### **D. Specific Human Rights issues**

**12. The Right to an effective remedy and reparations** (Universal Declaration of Human Rights (UDHR) Article 4, The International Covenant on Civil and Political Rights (ICCPR), Art 2(3). Victims of gross violations of human rights have a right to an effective remedy, which includes the right to “adequate, effective and prompt reparation” and “access to relevant information concerning violations and reparation mechanism.”<sup>11</sup> To date, victims of conflict related sexual violence and children who were abducted and used in hostilities are yet to receive any form of remedy and reparations. The 5<sup>th</sup> draft National Transitional Justice Policy, which proposes a broad range of mechanisms that would provide redress to victims of conflict related gross human rights violations and violations of international humanitarian law, has been under discussion for the past four years and awaits cabinet and parliamentary approval before it comes into force.

**13.** Testimonies shared with ICTJ across the four sub-regions showed that the initial violation inflicted on the mother, when left unacknowledged and unredressed, has severe consequences for her and her children as well as the caretakers who provide support to the children.

#### **14. Specific Recommendations on the right to an effective remedy:**

- i. The government of Uganda should urgently implement a comprehensive and gender sensitive reparations program, which will address the needs of vulnerable victims in a practical, meaningful, and feasible way. Reparations measures should also be distributed in a way that does not further contribute to stigma and resentment against victims.

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<sup>11</sup> UN General Assembly, 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, G.A. Res. 60/147, U.N. Doc. A/ RES/60/147 (Mar. 21, 2006) [hereinafter UN Basic Guidelines], [www.unhcr.org/refworld/docid/4721cb942.html](http://www.unhcr.org/refworld/docid/4721cb942.html)

- ii. The government of Uganda should urgently implement the parliamentary resolution on the plight of persons affected by the LRA conflict<sup>12</sup> which inter alia calls for the establishment of a gender-sensitive reparations fund for persons affected by the LRA conflict and the prioritization of the livelihood, healthcare, skills training, and education needs of women and children affected by the LRA conflict.
- iii. The government of Uganda should accelerate the adoption of the draft national transitional justice policy and enact its implementing legislation.<sup>13</sup>

**15. The right to equality and non-discrimination (UDHR Article 7, ICCPR Article 26).**

The constitution of Uganda provides that all persons are equal before and under the law and persons shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.<sup>14</sup> The constitution asserts that women have the right to equal treatment and equal opportunities and “prohibits laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status.”<sup>15</sup> However in practice women continue to face many obstacles to enjoying their fundamental rights, a situation made worse for mothers of children born of sexual violence because of the social discrimination they face. Discrimination results in the denial of the right to shelter, the right to land, and inheritance rights. Discrimination also limits access to social and economic services.

**16. Specific Recommendations on the right to equality and non-discrimination**

- i. The government of Uganda should take measures to eliminate stigma and all forms of discrimination against formerly abducted young mothers and children born of conflict related sexual violence. These measures include community dialogues and sensitization campaigns conducted in partnership with local victims’ organizations and community leaders; public awareness programs on the rights and protection of children born in captivity using different media platforms.
- ii. The government should strengthen social protection measures at the sub county level to ensure the protection and welfare of children born of sexual violence in the community.

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<sup>12</sup> Motion for a resolution of Parliament on the Plight of Persons Affected by the Lord’s Resistance Army Rebellion, Parliament of Uganda, 2014.

<sup>13</sup> Justice Law and Order Sector, “The Draft National Transitional Justice Policy” September 2014

<sup>14</sup> The Constitution of Uganda 1995, Article 20 and 21

<sup>15</sup> The Constitution of Uganda 1995, Article 33

- iii. The Equal Opportunities Commission should investigate all cases of discrimination against children born of sexual violence and their mothers, and offer appropriate remedies when it is established that discrimination has occurred.
- iv. The Human Rights Documentation Project should establish a data collection tool that captures information about, and the narratives of, children born of conflict-related sexual violence and their mothers.
- v. The government should domesticate and implement the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

**17. The right to dignity (UDHR Article 1), the right to an adequate standard of living (UDHR Article 25, International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 11).** The right to an adequate standard of living requires, at a minimum, that everyone shall enjoy the necessary subsistence rights: adequate food and nutrition, clothing, housing and the necessary conditions of care when required. Discriminatory cultural norms; stigma, rejection, abject poverty and scarce resources, deprive mothers and their children born of sexual violence from accessing land for cultivation, shelter, food and other basic necessities, thus violating their right to dignity and an adequate standard of living. This is evidenced by alleged refusals by some families to provide support for the children and by some relatives accepting women who returned from captivity by rebels, but not the children they returned with. In ICTJ's consultations, children born of sexual violence and their mothers cited stigma and discrimination among their greatest problems.

**18.** In many cases, children born of sexual violence are treated as social outcasts whose basic rights are routinely violated. As a sub-county official from Tubur noted, "There's a caste system in the family: those wanted, unwanted, and tolerated. Children born of sexual violence are in the latter two." A commonly held view is that children born of sexual violence should "pay for the sins" of their fathers, which is used to justify mistreatment and abuse. For example, one 18-year-old girl from Tubur recounted how, "There were days when we ate at school, and even though I had paid, when it was my turn, the teacher listed all the things my father stole and said, 'You should be satisfied,' and refused to serve me."

**19. Specific recommendations on the right to dignity and the right to an adequate standard of living.**

- i. The government of Uganda should establish measures that address the livelihood needs of the formerly abducted women and children born of conflict related sexual

violence. This includes providing them with income generating projects, as well as market-appropriate skills' training.

- ii. The government of Uganda should revise existing development program guidelines to specifically provide targeted measures for children born of sexual violence and their mothers as priority beneficiaries.

**20. The right to education** <sup>16</sup>(UDHR Article 9(1), Convention on the Rights of the Child Article 28, ICESCR Article 13): Most of the formerly abducted women ICTJ consulted, consider education to be a beacon of hope for a better future and the key to advancement. *“Let our children go to school and be educated. When they are educated they shall be independent. Education shall be their father and mother,”* explained a mother from Barlonyo. Education was also seen as an escape from rejection and suffering, a means to empowerment, self-sufficiency community respect, and dignity.<sup>17</sup> However, for many formerly abducted young women, former child soldiers and children born and of conflict related sexual violence, the right to an education is elusive, either because they do not have the resources to attend school or because schools themselves become sites of further stigmatization and discrimination, by both fellow students and teachers. In Lira, at a school that was originally founded to help formerly abducted young mothers and their children, students informed ICTJ that they faced a multitude of challenges in schools, some students reported being called derogatory names like “rebel,” “guerilla,” and “child of a rebel” one of the students interviewed noted as follows: *“There are some teachers who claim that all the short, stunted, and dull children are Kony’s children and this breaks our heart. At times, they say these words just when you are about to start sitting for your examinations and it discourages us a lot”*.

**21.** The stigmatization and mistreatment of children born of sexual violence in school can have a detrimental impact on their ability to perform well in school. In some instances, stigma and rejection forces some of the pupils drop out of school. Girls who drop out are vulnerable to trafficking and early child marriage.

## **22. Specific recommendations on the right to education**

- i. The government should establish affirmative action measures that enhance access to quality education for children affected by conflict and children born of conflict related sexual violence. This could include scholarships which cover tuition scholastic materials, uniforms, lunch and other essential requirements in order to

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<sup>16</sup> The right to education is enshrined in and is also provided for in the Constitution of Uganda,<sup>16</sup> and the Children’s Act.<sup>16</sup>

<sup>17</sup> Virginie Ladisch, *“From rejection to redress: Overcoming the legacies of conflict related sexual violence in Uganda”* (ICTJ) 2015

eliminate possible barriers to accessing the free and specialized education opportunities.

- ii. The government should establish and adequately resource education facilities for the children born of war and their mothers. The teachers in these schools should have specialized training on how to handle traumatized and socially ostracized students and pupils.
- iii. Teachers training colleges' curriculum should include a training component about the recent conflicts, and train teachers in how to discuss this past with their students, and how to respond to situations of rejection that may arise within school. The emphasis of these trainings should be to highlight the blurred lines between victims and perpetrators, place the violations in a broader socio political context, and encourage respect of the rights of those were victimized in different ways.

**23. The Right to Health (UDHR Article 25, ICESCR Article 12):** During the conflict in northern Uganda, the civilian population was subjected to severe forms of physical violence, including mutilation; deliberate burning, gunshot wounds, shrapnel injuries, and beating. Victims of conflict related sexual violence suffer long term health consequences which include increased risk of infection of HIV/AIDS, reproductive health issues, problems requiring surgical intervention, and psychological impacts.

**24. Specific recommendations on the right to health**

- i. The government should establish or strengthen specialized services at referral hospitals in conflict affected districts addressing reconstructive surgery and rehabilitation needs, including counseling, psychosocial support, and other services that meet the needs of victims of sexual violence.

## **E. Conclusion**

While the majority of families in northern Uganda struggle to meet their basic needs following two decades of conflict, recent studies have found that women and girls who experienced sexual violence and/or who returned from the LRA with children were among the most vulnerable categories of war-affected people across northern Uganda in relation to most measures of wellbeing, including wealth; food security; physical, mental, and emotional health; access to health care; and experience of crimes in the last three years.<sup>18</sup>

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<sup>18</sup> See: Dyan Mazurana, Anastasia Marshak, Jimmy Hilton Opio, Rachel Gordon and Teddy Atim, Secure Livelihoods Research Consortium (SLRC), "The Impact of Serious Crimes During the War on Households Today in Northern Uganda," Briefing Paper 5, 2014. [http://www.securelivelihoods.org/publications\\_details.aspx?resourceid=298](http://www.securelivelihoods.org/publications_details.aspx?resourceid=298);



A targeted response is needed from the government of Uganda in order for mothers to be able to provide for their children born of sexual violence and cope with the consequences of the initial violation of their rights. Such a response should include local and national programs and policies that aim to repair the harm endured, facilitate victims' acceptance into society, and advance accountability for human rights violations and crimes. It is also necessary to consider the violations suffered by members of the receiving community and their needs and perspectives. Future measures aimed at redressing the harms suffered by children born of conflict related sexual violence and their mothers need to be matched by measures for the community, recognizing that the community is an essential variable in the potential success or failure of an individual's integration process.