Gaps in Transitional Justice

Pauline Eloff

In post-conflict areas, such as northern Uganda, you often hear of the concept ‘transitional justice’. But what is transitional justice? And why is it important? Transitional justice is not a ‘special’ kind of justice, but an approach to achieving justice in times of transition from conflict. By accountability and redressing victims, provides recognition of the rights of victims, promotes civic trust and strengthens the rule of law. In the aftermath of massive human rights abuses, victims have well established rights to see perpetrators punished, to know the truth, and to receive reparations. To achieve justice, a comprehensive policy needs to include different elements. Four processes are believed to constitute the core of transitional justice. Usually, a transition encompasses a justice process, to bring perpetrators of mass atrocities to account, and to punish them for the crimes committed; a separation process, to redress victims of atrocities for the harm suffered; a truth process, to fully investigate atrocities, perpetrators and underlying causes; and an institutional reform process, to ensure that such atrocities do not happen again. This is not a closed list however. Memorialization, for example, has become an important part of transitional justice in most parts of the world.

A history of unaddressed massive abuses is likely to be socially divisive, to generate mistrust between groups and in the institutions of the State, and to hamper or slow down the achievement of a full reconciliation. Ultimately, it can lead to a recurrence of violence in various forms. History teaches us that claims of justice refuse to ‘go away’. In May 2013, the Justice Law and Order Sector of the Ugandan government distributed a draft Transitional Justice Policy to various CSOs and JLOS requested them to share their ideas. While we welcome the efforts of the government to formulate a long overdue transitional justice policy, we also see that the draft policy showed very significant gaps. E.g., while it talks about a need to provide reparations, it neither provides sufficient information regarding criteria for accessing reparation, nor does it provide an implementation modality, while our events documentation has revealed multitudes of victims whose identification processes are extremely complicated. Also, while there was mention of a national truth-telling processes, it didn’t reflect the how, why, when and where of such a huge state-led process. For a government led transitional justice policy to be effective, we suggest that the many gaps within the draft TJ policy need to be addressed, and CSOs should be involved when the government goes back to the drawing board.

“While the government claims that the draft TJ policy is the first in its kind, RLP holds that it has significant gaps that need to be addressed”

Parenting the Missing

Lisa Peters

The issue of missing people has received little attention in post-conflict Uganda. This does not mean that the issue is minor. A survey conducted by the Justice & Reconciliation Project (JRP) shows that 55.5% of people living in the Acholi region have 1 or more missing family member(s).

Challenges faced by the families of people who are unaccounted for are manifold. The emotional burden of not knowing whether their loved one is alive or has passed on is heavy and may be ever-continuing. Often, the missing person was the breadwinner of the family. Hence, making ends meet becomes problematic in an already damaged economic structure. When a person dies away from home, proper rituals – such as Calling the Spirit – need to be conducted. This prevents the spirit from bringing vengeance upon the family. Furthermore, even when the whereabouts of missing family members are known, financial reasons may still obstruct the possibilities of conducting rituals. The needs identified by families of the missing are context-dependent. Some families indicate that the gap left by the missing family member has left them lacking the resources to support themselves. Others require economic support to conduct the proper rituals. In addition, the absence of proper memorials and memorial services is considered a privation to the grief of those left behind. To bring these, and many more, issues to the attention of policy makers, the NMPDC has initiated a new project called ‘Parenting the Missing’. Through the making and distribution of a documentary and a photo exhibition, the Centre aims to raise awareness for the plight of families of the missing.

“Ever since my daughter went missing, we have never stopped praying. The hope that she would come home has never faded away from our minds”
National Memory and Peace Documentation Centre (NMPDC)

The NMPDC is a memory and conflict/peace documentation initiative of the Refugee Law Project and the Kitgum District Local Government. The NMPDC collects, organises, preserves and communicates memories of conflict-related events. The NMPDC is located next to the District Headquarters of Kitgum, in the white, two-storied building (the ‘former library’).

The NMPDC Newsletter comes out monthly and reports on ongoing activities at the NMPDC as well as issues of interest. But we do more! Visit us in Kitgum or online.

Young People Talk

Juliet Adoch

In May 2013 the draft transitional justice policy was shared with civil society. To understand the perspectives of young people about this policy, the Young People in Transitional Justice Research team together with a team from Kampala held a one-day dialogue. This dialogue explored young people’s views on the policy and considered the different components of transitional justice including truth telling, reparations, formal courts, traditional courts and institutional reforms. The dialogue was attended by 20 young people, aged 11-22 from Kitgum Town Council and Acholibur representing different categories of young people who have been affected by conflict, including those disabled as a result of the war, former IDPs, and formerly abducted persons. Two youth leaders from Kitgum were also in attendance.

The conversation with young people was highly engaging and fruitful. Specifically, in response to the transitional justice policy, the young people raised several comments for further consideration e.g. Truth telling should be incorporated in all aspects of transitional justice; The transitional justice policy should first aim at resolving ongoing conflicts then proceed to implement the policy, The transitional justice policy should take into consideration the special needs of persons with different disabilities, and there should be provision for youth and women to participate in the transitional justice policy development and implementation.

Other issues of concern with the Draft TJ policy included among others, government commitment to the policy, witness protection, queries on Amnesty and its validity, and the functionality of formal courts.

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Young People discussing transitional justice issues. During the dialogue at the Centre, the opinions of young people on the new transitional justice policy were discussed.

www.refugeelawproject.org/nmpdc.

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