

# BRING BACK MY FINGER!

## Victim-offender Relationships: A Case Study of Northern Uganda

December 2016



A study by Refugee Law Project and Advance Afrika  
supported by Caritas Switzerland and AGEH Civil Peace Service

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## LIST OF ABBREVIATIONS AND ACRONYMS

|              |  |
|--------------|--|
| <b>ADR</b>   | Alternative Dispute Resolution                 |
| <b>CSO</b>   | Civil Society Organisation                     |
| <b>CTJG</b>  | Conflict, Transitional Justice and Governance  |
| <b>NMPDC</b> | National Memory and Peace Documentation Centre |
| <b>DPP</b>   | Director of Public Prosecution                 |
| <b>FGD</b>   | Focus Group Discussion                         |
| <b>GoU</b>   | Government of Uganda                           |
| <b>IDP</b>   | Internally Displaced Person                    |
| <b>JLOS</b>  | Justice, Law and Order Sector                  |
| <b>LC</b>    | Local Council                                  |
| <b>LG</b>    | Local Government                               |
| <b>LRA</b>   | Lord's Resistance Army                         |
| <b>NGO</b>   | Non-Governmental Organisation                  |
| <b>RLP</b>   | Refugee Law Project                            |
| <b>SGBV</b>  | Sexual and Gender-Based Violence               |
| <b>UHRC</b>  | Uganda Human Rights Commission                 |
| <b>UPDF</b>  | Uganda Peoples Defence Forces                  |
| <b>UPF</b>   | Uganda Police Force                            |
| <b>UPS</b>   | Uganda Prisons Service                         |
| <b>VORP</b>  | Victim-Offender Reconciliation Programme       |



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## EXECUTIVE SUMMARY

From 1986 to 2006, northern Uganda lived through the Lord's Resistance Army (LRA) insurgency and became an epicentre of violent conflict and subsequent criminal activities. While Uganda is currently viewed as a safe, secure and politically stable country with improved infrastructure, and while progress has been made towards peace recovery and development, there is, nonetheless, widespread concern about a wide range of criminal activities that permeate the region.

This report presents findings of a field research study on victim-offender relationships that was conducted between September and November 2016 in the northern districts of Lira and Kitgum in Lango and Acholi sub-regions respectively. The study focused on understanding how existing justice models impact on community cohesion, with respect to relationships between ex-prisoners and their former victims, as well as the goals, meanings and outcomes of individual reconciliation processes.

According to the research, theft and assault are commonly committed offences, followed by robbery, defilement and murder. Most of the people consulted admitted the frequency of these crimes as monthly. Men emerge as the most frequent offenders overall, with men between 21 and 35 years old constituting the largest perpetrator group. Women appear as regular perpetrators of crimes such as arson, poisoning and some forms of domestic assault and murder. The findings highlight not just the pressing problem of crime facing post-conflict communities in northern Uganda, but also point to gaps and tensions within theoretical debates on post-conflict justice and reconciliation.

Efforts to support fragile democracies tend to be geared towards building and strengthening state institutions, not least state-centric models of justice to which litigation is central. However, prosecutions rely on a limited number of victims and witnesses, despite the fact that for prosecutions to result in outcomes that will be perceived as just within the community, wider community involvement may be required for justice to be seen to be done.

Equally, prosecutions emphasise imprisonment as the sentence of choice, with little concern for the impact of this on relations within communities where the crimes were committed. This study highlights the need to address the issue of reconciliation between victims and ex-prisoners if restorative justice is to be promoted and peaceful co-existence established.

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It suggests voluntary processes of facilitated victim-offender dialogue in safe and structured settings. Such dialogues would aim at fostering good relations and peaceful co-existence, with victims encouraged to forgive and support reintegration processes while ex-prisoners seek forgiveness and participate in local truth-telling processes. Research participants emphasised that the nature of the crime committed also determines prospects of reconciliation, and distinguished unforgivable/difficult-to-forgive crimes from those that are forgivable. Current inmates and ex-prisoners described prisons as both learning centres and cruel facilities.

In summary, reconciliation and reintegration initiatives are still wanting and the justice system has a lot to do to improve this process, especially where crime involves close relatives. There is need to strengthen community mechanisms that are structured to work with the justice system to foster reconciliation and reduce crime.

*POVERTY, POVERTY, POVERTY*

*Where do you come from?*

*The poor are trying to chase you away but*

*You could not leave them.*

*What are you focusing on, because*

*You made my parents poor*

*You made me also poor*

*Being poor, you made me become a thief.*

*You made me be arrested.*

*You made me stay in prison*

- Excerpts of a poem by Geoffrey Ongom, Advance Afrika graduate



## INTRODUCTION

The above poem, written by an ex-prisoner, underscores poverty as a central structural cause of criminal activity in northern Uganda. This report presents findings from an exploratory study on victim-offender reconciliation in relation to crime. It considers contextual, historical and current issues related to both state-centric and community-centric justice models. While local communities do not all share the same perspectives on crime, theft, assault, murder, defilement and rape are ranked as the most common crimes committed in post-conflict northern Uganda. Despite a stated preference for negotiations, litigation is in practice the dominant response to crime. The analysis of the state-centric justice model in this report suggests a shift of focus in the administration of justice from the victim to the offender. This affects relationships between ex-prisoners and their victims, which in turn impacts on community cohesion. The report captures the effects of incarceration on offenders' attitudes to contrition as well as victims' attitudes to forgiveness, the goals, meanings and outcomes of reconciliation processes, the views on forgiveness, the empowerment of inmates and the need to support victims of crimes. It also considers emerging issues related to juvenile justice and mental health problems, as well as giving critical recommendations pointing to reforms and a rationale for reconciliation as a means of fostering peaceful co-existence between ex-prisoners and their victims.

## CONTEXTUAL BACKGROUND

Active insurgency between the Lord's Resistance Army (LRA) and the Uganda Peoples Defence Forces (UPDF) within Uganda ended more than a decade ago. This followed various efforts, the most prominent being the 2006-2008 Juba peace talks.<sup>1</sup> Though Uganda is largely viewed as a safe, secure and politically stable country, the inadequately addressed legacies of conflict,<sup>2</sup> unresolved grievances, including youth unemployment, and crime are widespread.<sup>3</sup>

While the state-centric model of justice in principle provides for several alternative forms of punishment, notably imprisonment, community service or payment of a fine, in Uganda almost all crimes are punished through imprisonment. According to the Uganda Prisons Service (UPS), 81% of inmates are youth, ranging from 18 to 35 years of age.<sup>4</sup> This age bracket is not far from the age cohorts that were forcefully conscripted and used by rebel fighters to perpetrate crimes in northern Uganda during the violent armed conflicts in the region. After serving their prison sentences, former inmates return to their villages only to be confronted with the same challenges of lack of alternative livelihoods, now aggravated by the stigma attached to being erstwhile criminals. Furthermore, they mostly return to offended families and communities that seem unsafe to them, as there has been no genuine reconciliation and no process of resettlement and re-establishment as reformed members of society. Unsurprisingly, many young people end up in prison more than once as a result of post-release judgemental relationships and inadequate stakeholder support to ex-prisoners to rebuild their lives and facilitate behaviour change that values and respects human rights and welfare.

1 The Juba peace talks initiated in June 2006 ended prematurely in November 2008 following the failure of the LRA to sign the final peace agreement even after successful negotiations and the signing of six agenda items.

2 <http://www.saferworld.org.uk/resources/view-resource/762-northern-uganda-conflict-analysis>

3 Uganda Police Crime Report (2013).

4 Uganda Prisons Service Annual Report (2014).

While some post-conflict reconstruction initiatives have aimed at skilling youth (including inmates) and supporting them in establishing small enterprises as an empowerment strategy that may result in a reduced crime rate or re-offending, such interventions in support of entrepreneurship do not necessarily guarantee peaceful co-existence, especially when victims of crime are overlooked. Attempts made by some sections of civil society, for instance Products of Prisons (POP) and Advance Afrika, and government institutions such as the Uganda Prisons Service, have largely focused on rehabilitation and empowerment of prisoners to the exclusion of their victims. The manner in which such interventions address social transformation does not attempt to question the relationship between ex-prisoners and their victims, especially at the community level, and victims are thus largely excluded from consideration. This raises the need for more discussion about reconciliation.

Equally, whereas post-conflict studies on retributive justice and restorative justice have addressed the questions of victim-offender reconciliation mostly of ex-combatants (including former child soldiers) and child mothers in northern Uganda, limited research has been done specifically on the reconciliation of former prisoners (ex-offenders) with their victims.

Notwithstanding state-led reconciliation processes such as the Uganda Prisons Service social reintegration initiative, 'From Prison Back Home', and other initiatives attempted, it thus remains unclear how victims are to be involved and what kind of victim support movements exist. The attitudes of community members towards empowered ex-inmates, and the capacities of concerned authorities to foster good relations devoid of stigma and discrimination, are largely under-explored.

## METHODOLOGY

The study focuses on northern Uganda, specifically Kitgum district in Acholi sub-region and Lira district in Lango sub-region, selected on the basis of the high prevalence of crime as revealed by the records of Advance Afrika, an organisation that provides rehabilitation services and economic empowerment to inmates in the region. An estimated total of 927 inmates have been trained in entrepreneurship and life skills, of whom 264 have been supported with start-up kits by Advance Africa.

This study is a product of field research conducted between July and November 2016 in northern Uganda. As a way of establishing the current state of theorising crime, justice models and victim-offender reconciliation, and to ascertain how much has been done to guide our choice of methods, a review of relevant literature was done during the preliminary stages of the study. Consequently three methods of data collection techniques and analysis, namely an opinion survey, focus group discussions (FGDs) and key informant interviews (KIs) were used while purposive sampling through what Glaser and Strauss (1960s) describe as theoretical sampling<sup>5</sup> –sometimes called focused or judgemental sampling – based on gender, age, nature of crime, period of incarceration and marital status was preferred given that it is an exploratory study.

An opinion survey in the form of a structured questionnaire containing approximately 11 closed- and open-ended questions was used to establish a baseline understanding of crime

5 Glaser, B.G. & Strauss, A.L (1967). The Discovery of Grounded Theory: Strategies for Qualitative Research. Aldine Pub. Co., Chicago.

and key opportunities for fostering reconciliation among communities in Acholi and Lango. The opinion survey elicited views from a total of 287 purposely sampled respondents among whom 184 (64%) were male while 103 (36%) were female. They included inmates (109), ex-convicts (45), prisons staff (08), representatives of civil society (18), local governments (14), the police (20), the judiciary (05), cultural/traditional leaders (04), religious leaders (06), and victims and locals (58). Despite efforts to ensure balanced representation, the target respondents, institutions or groups were largely male-dominated.

A total of 14 focus groups were conducted in Aromo, Lira and Adek Okwok sub-counties in Lira district, and Oryang, Kitgum Matidi, Omiya Anyima and Mucwini sub-counties in Kitgum district. The FGDs comprised a mix of ex-prisoners, victims and their families, LCs, youth and cultural/traditional leaders at community level. In addition, 36 structured KIs were conducted with diverse respondents purposively selected and grouped into three clusters, namely: state-led, community-led and crosscutting institutions. Respondents from the state-led institutions comprised magistrates, resident state attorneys, police and prison social workers/warders, local government officials, purposely selected to flesh out issues relating to a state-centric approach to justice and reconciliation. A cluster of community-led institutions comprised of cultural and traditional leaders was also chosen to deepen our understanding of the effects of crime, local administration of justice, rehabilitation, restoration and reconciliation processes. While the third cluster comprising crosscutting institutions such as religious leaders, civil society representatives, inmates, ex-convicts, victims and their family members provided more insights on culture clashes related to diverse notions and forms of justice and reconciliation needs.

The research team conducting the study was well trained, ensuring that they were fluent in the local languages and had some experience in research and data collection in the area of social sciences. The tools were pre-tested on the ground and the necessary adjustments were made.

One key limitation of this study, however, is that it does not take into account the historical perspective of violent conflict in the region. It hence doesn't focus on post war processes such as transitional justice or violations and abuses committed during past conflicts. Since the decision was to focus on present day-to-day criminality, past war crimes were scarcely discussed for the purposes of this research. Geographically, the study focused on two districts (Lira and Kitgum) out of the 15 districts of Lango and Acholi sub-regions. It would have been beneficial to reach out to more districts, such as Oyam and Gulu. The findings, however, point to the need to continuously unpack the complexities surrounding victim-offender relationships and key opportunities for reconciliation and building of social cohesion in an attempt to envisage a roadmap for victim-offender reconciliation in the entire war-affected northern Uganda.

## REALISING JUSTICE – GOALS AND MEANINGS

Justice, though complex and far from straightforward, with various intertwined interpretations and meanings, aims at addressing the inequalities and injustices of everyday life. Justice can be described as legal, distributive, punitive or restorative. When a crime is committed the question of 'who did it, why and what can be done to redress the harm done?' comes to the fore. The state-centric model of justice involves seeking redress through the application of the law by state institutions such as the police, courts, judges and prisons that are believed to act

with fairness with equitable treatment of conflicting claims. Justice then tends to be measured through processes such as arrests, detentions and trials of suspects by the police, courts and other judicial institutions.

However, according to victims and local communities, justice is not (just) about arresting and jailing offenders; rather, it is about reconciliation, healing and offering psychosocial support like rehabilitation and reintegration. In short, the emphasis is on different elements of restorative and community-centric models of justice. Restorative justice focuses on addressing direct consequences in terms of abuses inflicted on individuals.<sup>6</sup> This form of justice tries to balance between repairing harm and restoring broken relationships, on the one hand, and inflicting penalties on the perpetrators, on the other. It is based on collective community responsibility, and can be found in the application of cultural and traditional reconciliatory mechanisms, as opposed to prosecutions.

The distinction between state-centric and community-centric models of justice is rooted in: (a) how the intervention is addressed; and (b) how they deal with both perpetrators and victims of crime. State-centric justice models tend to emphasise punitive over rehabilitative/restorative goals. This is evident in the language used by the police during press statements in which they often vow to arrest the culprits and have them punished accordingly, and in the increased use of incarceration at all levels of criminal and juvenile justice.

The community-centric model of justice conversely relates to traditional approaches to justice, which are viewed as restorative in nature. Often, it combines truth-telling, rehabilitation, compensation of victims of crime, punishment of perpetrators of crime and reconciliation, all of which are aimed at restoring social harmony. Efforts must be made to balance between collective harm and individual harm and ensuring that reparations are made appropriately. Arguably, by paying victims for damage inflicted on them, this system makes justice more likely to be achieved for victims as well as for perpetrators.

## Repairing Harm, Mending Relations

Restorative justice is usefully understood as a process involving the primary stakeholders<sup>7</sup> in determining how best to repair harm done by an offence.<sup>8</sup> Scholars from the Centre of Justice and Reconciliation define restorative justice as a theory of justice that emphasises repairing the harm caused by criminal behaviour.<sup>9</sup> It can also be defined as justice that brings those harmed by crime and those responsible for the harm into communication. This is supposed to enable everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.<sup>10</sup> As Bergseth and Bouffard (2007) have stated:

6 Mani, R. (2005). 'Balancing peace with justice in the aftermath of violent conflict', *Development*, 48(3): 25-34.

7 The primary stakeholders in restorative justice are victims, offenders and their communities of care whose needs are respectively obtaining reparation, taking responsibility and achieving reconciliation.

8 Wachtel, T.(2012). *Defining Restorative*, International Institute for Restorative Practices. Graduate School, Bethlehem, Pennsylvania, USA.

9 Ibid., Centre for Justice and Reconciliation, [www.restorativejustice.org](http://www.restorativejustice.org), 18 October 2016.

10 <http://www.restorativejustice.org.uk>, Wednesday 19 October 2016.

**“ the goal of restorative justice is to bring together those most affected by the criminal act – the offender, the victim and community members – in a non-adversarial process to encourage offender accountability and meet the needs of the victims to repair the harms resulting from the crime.”<sup>11</sup>**

Restorative justice is practised and echoed by many cultures all over the world, from Native America and First Nation Canadian to African, Asian, Celtic, Hebrew, Arab and many others. An example is the Acholi and Lango traditional justice system. Studies on access to justice show that people go for restorative justice first, then punitive justice later and often pursue punitive justice in parallel with restorative justice as a way of increasing their leverage on the perpetrators. Restorative justice embodies the principles and practices of forgiveness and reconciliation as the basis for restoring social relations.<sup>12</sup> Reconciliation in this context goes beyond just the victim and perpetrator dichotomy to include their families and community. Acholi cleansing ceremonies such as *Culo Kwor* and *Mato Oput*, and the Lango ceremony of *Kayo Cuk*, echo many other African cultural practices in bringing together victim, perpetrator and community to have an honest discussion on the crime committed.<sup>13</sup> The aim is to repair relationships, ensure reparations and lay the basis for living peacefully in the future. *Mato Oput* is particularly used for crimes relating to murder, which often pose a huge challenge as far as reconciliation is concerned. This traditional justice mechanism in Acholi seeks to rebuild trust, thus allowing conflicting parties alienated by crime to reunite and re-establish strong social bonds that promote good relations between offenders and victims.<sup>14</sup>

Restorative justice approaches crime as an injury or a wrong done to another person rather than solely as a matter of breaking the law or an offence against the state. Thus, a wrongdoing is viewed as ‘a misbehaviour, or an illness which requires healing’.<sup>15</sup> It offers victims an opportunity to be heard and to have a say in the resolution of offences. This usually includes agreeing to what kinds of reparative activities are appropriate for the offender. Specific reparations by the offenders to the victim are to arise from negotiation and discussion between the victims and the offenders, rather than, say, the ruling of a judge.<sup>16</sup> This implies ‘a theory of justice that emphasises repairing the harm caused by criminal behaviour.’<sup>17</sup> It can be used out of court, in addition to a prosecution, or to form part of a sentence.

## Incarceration or Treatment

Incarceration as a punishment was less pronounced though applied by many African societies. Those who committed crimes might be chained in the open or given other public forms of punishment. In Ankole and Buganda, for example, offenders were detained in stocks, usually

11 Ibid.

12 Institute for Global Issues and Gulu District NGO Forum (2005) “*Roco Wati Acoli: Restoring Relations in Acholi-land – Traditional Approaches to Reintegration and Justice*”, Gulu, Uganda

13 Mato Project (2009). Community perspectives on the *Mato Oput* process: A research study by the Mato Oput Project (2009) 10; See: Beyond Juba Project (2008). Conflict, justice and reconciliation in Teso (2008).

14 It is important to note that it does not only involve the immediate perpetrator and victim, but also their clan members in a demonstration of collective responsibility for individual crimes

15 “Peacejustice later: Traditional justice in northern Uganda”. *Refugee Law Project Working Paper No. 17*, July 2015.

16 (Ibid.)

17 Development Services Group, Inc. (2010, page 1). *Restorative Justice, Literature Review*, Washington DC, Office of Juvenile Justice and Delinquency Prevention. Available at [http://www.ojjdp.gov/mpg/literature/Restorative\\_Justice.pdf](http://www.ojjdp.gov/mpg/literature/Restorative_Justice.pdf)



pending their execution,<sup>18</sup> while in Acholi culture offenders are not really detained but the clan and the family ensure he or she gets punished depending on the type of crime committed.<sup>19</sup> A common punishment administered in Acholi, for instance, was isolation or total banishment in the case of witchcraft. Acholi culture, however, like many other African cultures, promotes truth-telling, forgiveness, reconciliation and restoring relations between the perpetrator and the victim.<sup>20</sup> This is where the clan or family of the perpetrator takes up the crime and goes to the victim's clan or family to reconcile and restore relationships that were broken by the crime. When this is done, the clan or family of the perpetrator usually provides compensation to the victim and his or her family or clan.<sup>21</sup>

The genesis of imprisonment in Uganda, as in other African societies, was primarily in the punishments practised during the colonial administration.<sup>22</sup> In the nineteenth century, colonial powers began using incarceration as a method of controlling political dissidents and maintaining control over occupied territories and their indigenous populations.<sup>23</sup> Article 215 of the Constitution of the Republic of Uganda 1995<sup>24</sup> and Section 4, sub-section 1 and 2 of the Prison Act 2006 provide that offenders should be provided the minimal standards for prison conditions and prisoners' rights.

According to Section 4, sub-sections 1 and 2 of the Prison Act 2006,

**“ the main objective of the prison service is to contribute to the protection of members of society by providing reasonable safe, secure and humane custody and rehabilitation of offenders in accordance with the universally accepted standards. To achieve this objective, prisons have to ensure there are proper living conditions for staff and the prisoners.”<sup>25</sup>**

In spite of these provisions in the 1995 Constitution of Uganda and the Prison Act 2006, the prisons remain congested, with inadequate opportunities for rehabilitation for the prisoners to reform and be reintegrated into the communities.<sup>26</sup> The congestion and limited rehabilitation of prisoners increases torture and ill treatment among prisoners struggling for space and better conditions.<sup>27</sup> Therefore, when they are released they go back feeling more depressed and traumatised, with some developing bad health conditions coupled with community rejection and failure to reintegrate (see Case Studies 1 and 2). This is why there is recidivism, with many of the offenders, once released, going back to their old criminal ways to survive, and ending up back in prison again.

18 Ssanyu, R. (2014). *Prisoner Rehabilitation in Uganda Prison Service*. Sociology-Law Delinquency, School of Applied Social Studies, University College Cork

19 Liu Institute for Global Issues, Gulu District NGO Forum and Ker Kwaro Acholi (2005). *Roco Wat i Acholi*. Gulu, Uganda

20 Ibid., 2005.

21 Ibid., 2005.

22 Ssanyu, R. (2014, p. 4) *Prisoner Rehabilitation in Uganda Prison Service*. Sociology-Law Delinquency, School of Applied Social Studies, University of College Cork.

23 Ibid., p. 4, 2014.

24 Constitution of the Republic of Uganda 1995.

25 The Prison Act 2006.

26 Vasudevan Sridharan (2015) 'Uganda: Over 28,000 prison inmates spend nights standing due to lack of space in jails', 28 August 2016, *International Business Times*.

27 Human Rights Focus (2015) *Human Rights Situation Report*. Gulu, Uganda.

## SETTING THE RECONCILIATION AGENDA

An academic conversation on victim-offender reconciliation emerged in the 1970s as scholars examined a series of practical experiments with alternative sentencing:

“ **The first Victim-Offender Reconciliation Programme (referred to here as VOM) began as an experiment in Kitchener, Ontario in the early 1970s (Peachey, 1989 at 14-16) when a youth probation officer convinced a judge that two youths convicted of vandalism should meet the victims of their crimes. After the meetings, the judge ordered the two youths to pay restitution to those victims as a condition of probation. Thus, VORP began as a probation-based/post-conviction sentencing alternative inspired by a probation officer's belief that victim-offender meetings could be helpful to both parties.<sup>28</sup>**

As a result of this, scholars began providing arguments for and against victim-offender reconciliation and, as time went on, a new concept called restorative justice evolved as a complement to retributive justice. Victim-offender reconciliation is regarded as a restorative justice approach that brings offenders face-to-face with the victims of their crimes with the assistance of a mediator.<sup>29</sup>

Victim-offender reconciliation for everyday crimes in peacetime, as opposed to for conflict-related crimes by perpetrators who were actively participating in the 20-year insurgency in the region, is only now gaining recognition as a distinct approach that could be crucial in present-day northern Uganda. It is an approach that is needed if the reintegration of ex-convicts into their communities is to be meaningfully complete and sustainable without issues such as stigmatisation arising.

When meeting face-to-face, victims and ex-offenders have mixed feelings in spite of the fact that they may both express an interest in dialogue and sharing experiences relating to the effects of crime; there is, therefore, an understandable concern that this should be a voluntary process.<sup>30</sup> Victims of capital offences such as murder and assault that led to any permanent injuries may be less interested in meeting with perpetrators as revealed in Case Study 1, while others – who may not experience their injury as permanent – may be more willing to meet on condition that there is some form of restitution.

## UNDERSTANDING CRIME

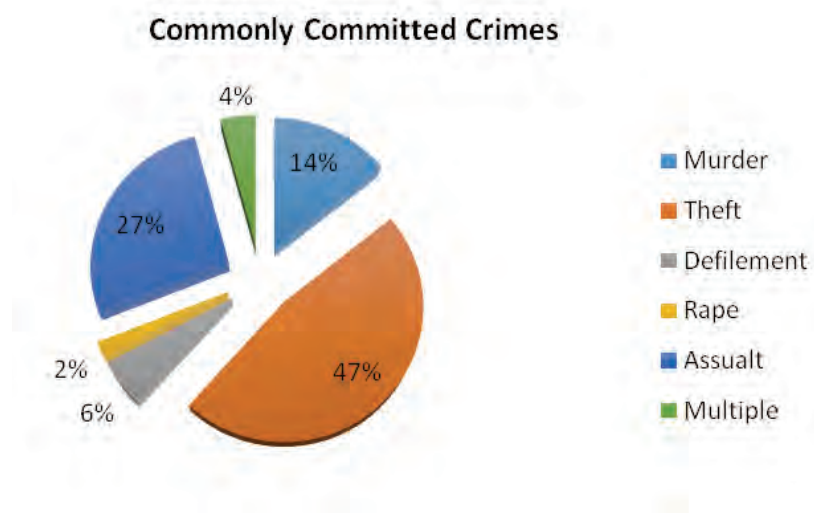
Crime has no universally accepted definition, but from a legal perspective is commonly understood as any act that is legally prohibited by the state or an authority. These unlawful acts can be described as criminal offences (such as theft, murder and rape) or civil offences (for instance, child neglect). Accordingly, such acts are considered wrong and harmful to an individual(s), a community, society or the state and attract some sort of penalty and control.

Crime in Uganda is understood as an offence against the state: it is believed that offenders must be trailed, nailed and jailed, with little or no attention paid to victims of crime.

28 Centre for Justice and Reconciliation, [www.restorativejustice.org](http://www.restorativejustice.org) 18 October 2016.

29 [www.vorp.com](http://www.vorp.com)

30 <http://www.saflii.org/za/journals/AHRLJ/2013/19.pdf>



**Figure 1:** Commonly committed crimes. Opinion survey findings, 2016

## Nature of Crime

Crime in northern Uganda is undoubtedly prevalent and perhaps under-reported. Various kinds of crime occur in both rural and urban areas on a daily basis. Distinct from war crimes, economic-related crimes, sometimes called 'crimes of opportunity' such as theft, are the most common, as observed in Figure 1 above. Of the 287 respondents that participated in the survey, 47% believed that theft was the most common offence committed in various communities as the majority of people in northern Uganda continue to struggle to survive. These range from petty theft of household property and shop break-ins, to strong-armed robberies in which victims are violently attacked with deadly weapons like machetes, iron bars and firearms.<sup>31</sup>

The sexual and gender-based crimes of rape and defilement, as well as other domestic crimes such as arson, suicide, witchcraft, threatening violence and child negligence, are all pronounced. Murder, despite being a separate crime, is often related to other forms of crime. For instance, assault and murder are linked to domestic violence as well as family misunderstandings and land disputes, essentially between close relatives, as seen in Case Studies 1 and 3. If not well managed, these crimes impact strongly on community cohesion.

Analysis of reports by Advance Afrika on inmates trained in entrepreneurship and life skills reveals that there are more male than female perpetrators imprisoned for theft and murder-related crimes (see Table 1 below). The largest number of perpetrators are found in the 21-35 age bracket (refer to Table 1 below). Interestingly, the majority in this age bracket are already married, suggesting that most youth in northern Uganda get married or start living together with their partners at a young age.

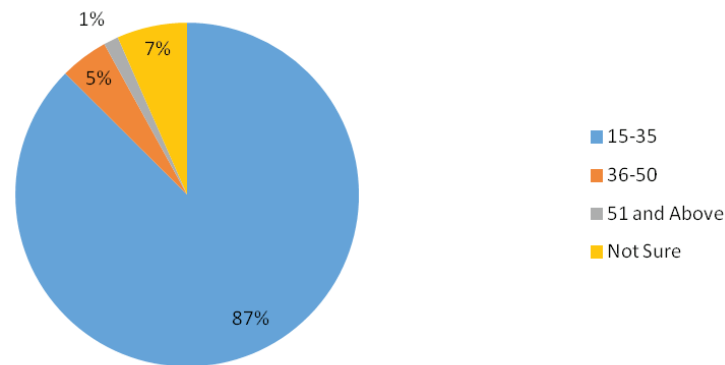
31 Female official from the judiciary, member of JLOS, Lira district, 16 September 2016.

**Table 1: Summary of data on inmates trained by Advance Afrika in Acholi and Lango prisons, captured from Advance Afrika database**

| Summary of data on inmates' age and offences for Acholi sub-region |            |  |            | Gender data on inmates in Gulu |            |
|--|------------|--|------------|--------------------------------|------------|
| Age category   | Total      | Offences   | Total      |                                |            |
| 15-20  | 34         | Theft  | 44         | Male                           | 171        |
| 21-25  | 45         | Assault  | 15         | Female                         | 31         |
| 26-30  | 42         | Murder   | 15         |                                |            |
| 31-35  | 43         | Defilement   | 13         |                                |            |
| 36-40  | 12         | Aggravated defilement  | 7          |                                |            |
| 41-45  | 4          | Robbery  | 6          |                                |            |
| 46-50  | -          | Manslaughter   | 6          |                                |            |
| 51-55  | -          | Simple defilement  | 3          |                                |            |
| 56-60  | 1          | Child trafficking/stealing                                     | 3          |                                |            |
| No age mentioned   | 21         | Other unnamed offences (below total of 2)                      | 90         |                                |            |
| <b>Grand total</b>   | <b>202</b> | <b>Grand total</b>   | <b>202</b> | <b>Grand total</b>             | <b>202</b> |
| Summary of data on inmates age and offences for Lango sub region   |            |  |            | Gender data on inmates in Lira |            |
| Age category   | Total      | Offences   | Total      |                                |            |
| 15-20  | 2          | Theft  | 30         | Male                           | 87         |
| 21-25  | 13         | Murder   | 19         | Female                         | 4          |
| 26-30  | 27         | Assault  | 8          |                                |            |
| 31-35  | 14         | Defilement   | 7          |                                |            |
| 36-40  | 5          | Threatening violence   | 4          |                                |            |
| 41-45  | 3          | Land conflict-related crimes                                   | 3          |                                |            |
| 46-50  | -          | Child neglect  | 2          |                                |            |
| 51-55  | -          | Store-breaking   | 1          |                                |            |
| 56-60  | -          | Domestic Violence  | 1          |                                |            |
| No age mentioned   | 27         | Other offences below total of 1, including those not mentioned | 16         |                                |            |
| <b>Grand total</b>   | <b>91</b>  | <b>Grand total</b>   | <b>91</b>  | <b>Grand total</b>             | <b>91</b>  |

This, in turn, suggests that the majority of those in prison are young men struggling to provide for their families. The participants interviewed overwhelmingly cited men as the dominant gender committing crimes. While women are commonly seen as victims of domestic violence, community participants in FGDs also described women as the leading perpetrators of arson and poisoning, including the murder of their husbands.

What age category is normally involved in crime?



**Figure 2:** What age category is normally involved in crime? Opinion survey findings, 2016

Interestingly, when asked what age category is normally involved in crime, 87% of the respondents in the opinion survey believed that the majority of the offenders fall between the ages of 15 and 35 years, which corresponds to the youth age group in Uganda. The respondents believe that youth aged 21-30 are at the peak of adolescence transitioning into adulthood and, as such, are craving to be 'independent' yet without jobs or a source of livelihood. Some respondents see this as the reason why many engage in dubious activities to earn a living, which results in their involvement in crime. Conversely, those in the age bracket of 15-20 are said to be still under the care of their parents. However, the region is grappling with juvenile justice issues, given the growing number of street children and a lack of adequate resources to deal with juvenile offenders. One senior prison official argued that there is, therefore, fear that 'juvenile offenders can easily transition into capital offenders if not handled properly'.<sup>32</sup> Meanwhile, those aged 36-50 are reportedly employed and are, therefore, believed to have less time and energy to engage in criminal activities. It is important to note that some participants argued that while young people engage in crimes like theft and burglary, those aged 51 years and above engage more in land-related crimes. Only 7% of the respondents to the opinion survey indicated that they were not sure which age category is more involved in crime.

## Perceived Prevalence of Crime – Challenges with Reporting

The majority of prisoners and locals in rural communities perceive that crime occurs more frequently in urban than in rural areas, as revealed in FGDs and individual interviews. The police, government officials and civil society actors argue that crimes often occur on a daily basis, especially in urban areas. Most of the prisoners and ex-convicts interviewed argued that they were innocent and did not commit the crimes for which they were punished. This may partly explain why most of them stated that crime rarely happens.

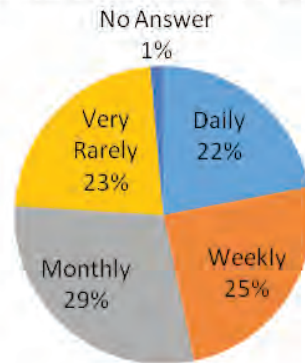
An important factor explaining the perceived variation between rural and urban crime levels is that understanding of which behaviours can constitute crimes varies, particularly from rural to urban areas. For example, many rural respondents do not consider acts such as domestic

32 Senior prison official, Uganda Prisons Service, Kitgum district, 12 October 2016.



violence, land conflicts, arson and defilement as criminal, and as a result these crimes are hardly ever reported to the authorities. Most families, for instance, do not report defilement or wife beating but rather end up in negotiated settlements with the perpetrators. These often result in early marriages in the cases of defilement.

### How often is crime committed in your community?



**Figure 3:** How often is crime committed in your community? Opinion survey findings, 2016

There is no doubt, therefore, that the prevalence of crime in northern Uganda is under-reported. Some of the government officials interviewed underscore the importance of the media as a key platform for sensitisation to bring about awareness creation about crime, how it should be dealt with and how reconciliation can be fostered.

## Perceived Causes of Crime

Poverty and social inequalities as well as alcoholism are seen as some of the prime causes of criminal activity in northern Uganda. However, various forms of crime are seen as motivated by specific factors. For instance, lack of employment is seen as causing many young people to engage in criminal activities such as theft and robbery.

Most participants make a clear connection between contemporary crimes and the northern Uganda conflict; unaddressed conflict-related trauma and depression, youth disenfranchisement, loss of land boundaries/ownership due to prolonged encampment are all seen as contributing factors to domestic crimes such as assault, arson and threatening violence. Young people are more easily drawn into criminal acts in a bid to sustain their independence and cater for their families' basic needs. Geographically, northern Uganda has porous and under-policed borders with South Sudan and the Democratic Republic of Congo (DRC), both of which are heavily embroiled in armed conflict. This allows criminal cross-border activity to thrive.

Climate change following serious environmental destruction (partly caused by charcoal burning and other environmentally insensitive practices such as bush-burning coupled with global warming and unpredictable weather patterns) is believed by participants to have led to food insecurity and consequently famine, hunger and unstable livelihoods for some locals who generally depend on agriculture. The resultant poverty is seen as exacerbating crimes such as theft, domestic violence and child neglect.

Sexual and gender-based crimes are attributed to alcoholism and drug abuse. Excessive consumption of alcohol was noted as another leading cause of crime in both rural and urban communities. This is made worse by a decay in morals, which can result in the use of vulgar and provocative language, as well as hurling of insults, especially at drinking places, where it has been noted to be a major source of assaults arising from petty arguments and disagreements, as observed in Case Study 3.

According to the perception survey, 83% of prisoners are primary school dropouts. This may reflect the fact that the war in northern Uganda disrupted education for many, leading to high levels of illiteracy and a huge population with few employment options. Additionally, the breakdown of the social fabric and social support structures has led to children languishing on their own with no sense of direction. This underlies people's impression that there is an increase in the number of street children as well as juvenile delinquency in northern Uganda. An additional factor is that some communities in northern Uganda remain inaccessible to the police and concerned authorities, thereby making the investigation and mediation of crime difficult. This ultimately is seen as perpetuating crime.

## VICTIM-OFFENDER RELATIONSHIPS

How people react to experiences of crime depends on several factors, including but not limited to, the nature of the crime, mental and psychosocial well-being, and any available support during and after a crime is committed. This is further complicated by the nature of relationships, not only between victims and offenders, but also those around them, namely their families, clans and friends. This study establishes that both the nature of the crime and the nature of these relationships are important determinants of victim-offender reconciliation dynamics.

Though there are not many reports of direct confrontations between the ex-offender and their victims upon return from prison, hostile relationships between offenders, victims and community members appear to permeate communities throughout northern Uganda. Twenty-two per cent of the respondents to the opinion survey describe the relationship between victims and offenders as 'bad', while 17% state that it is 'very bad' (see Figure 4 below). Hostile relationships between ex-prisoners and their victims or victims' families result from emotional anger mainly regarding how they treated one another before and during prosecution processes, particularly because of the losses or damages incurred, as revealed mainly in Case Study 3. One district official said:

**“ After serving a prison sentence, many ex-prisoners return to their communities very bitter. You find that they isolate themselves from the rest of the people and even speak about revenge.<sup>33</sup>**

Interestingly, six out of eight ex-inmates randomly selected as case studies to gain insights on victim-offender relationships reveal that their victims were close relatives (a spouse, sibling or neighbour). The probability of the offender meeting their victims is thus very high, except in murder cases (see Case Study 1 below). This explains why, when asked to describe the

33 A senior district official from Kitgum District Local Government, Kitgum district, 14 October 2016.

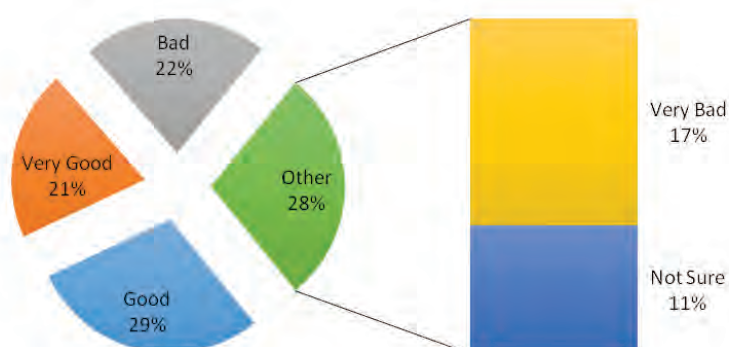
relationship between victims and offenders, nearly 50% of the respondents argued that it was either 'good' or 'very good' (see Figure 4). This may simply reflect the fact that people living with high levels of poverty and associated lack of mobility may be obliged to live together and present their relationships positively as a result.

Local government officials and community leaders claim that victims are skeptical about meeting with ex-prisoners where the relationships are distant and people are able to move far away from their victims or perpetrators. They (and their families) may live in fear of their offender seeking to take revenge, especially in situations where the offender has spent a long time in prison.

The relationship between victims and perpetrators is critical and such bitterness and anger that permeates beyond just victims and offenders to even their families are not addressed by current justice processes. Some relatives – especially children of ex-prisoners who believe their parents were falsely accused and victimised – may wish to take revenge. As one son of an ex-prisoner said:

**“ My father should be compensated and treated because he was in prison for crimes he did not commit for over four years. Allegation cannot make somebody suffer like that. Who is going to cure him from the illness that he got while in prison? Now he is becoming blind and who is going to give him money to pay our school fees? I am not saying I want to revenge but if an opportunity comes, I will revenge since my father is being spoiled by religion now. My father lost his tooth while in prison, almost lost his eyesight and was beaten by hammer by those people fighting him. <sup>34</sup>**

How do you describe the relationship between offenders and victims after a crime is dealt with?



**Figure 4:** How do you describe the relationship between offenders and victims after a crime is dealt with?  
Opinion survey findings, 2016

34 FGD with relatives of ex-inmate at Aromo sub-county, Lira district, 17 September 2016.

Offenders who believe that they were innocent and were falsely accused, exhibit anger and frustration for the emotional and physical torture including health complications arising from imprisonment. One of the ex-inmates in a FGD in Kitgum described compulsory labour done by inmates as a form of torture. He said:

**“ Imprisoning a suspect or a criminal is like you have recruited laborers/servants for the government and prison officers because the prisoner are subjected to hard labor for long hours like slaves in prison farms and are also hired by private individuals for the benefit of the prison and prison officers.”<sup>35</sup>**

A further factor influencing relationships between victims and offenders is the skilling of inmates and supporting ex-prisoners. Civil society actors such as Products of Prisons (POP) and Advance Afrika are working with the Uganda Prisons Service to facilitate the rehabilitation and reintegration of prisoners into their communities upon release from prison by equipping inmates with vocational skills and appropriate business knowledge, as well as providing start-up kits, as noted in Case Study 2. According to an ex-prisoner’s personal account in Case Study 2, religious institutions, mostly churches, have also intervened in nourishing the spiritual lives of inmates while shaping their morals, thus impacting on offenders’ behaviour and ability to be remorseful. One ex-prisoner remarked:

**“ The church stood by me throughout my stay in prison. The church members would bring for me food, clothes and other things in prison and would always counsel me. This helped to remove fear and negative attitude in me. The church even organized prayers for me when I returned from prison.”<sup>36</sup>**

Records from Advance Afrika show that when an ex-prisoner acquires business skills while in prison, they become more resourceful and eventually independent. Ex-prisoners who have been thus empowered relate fairly well in the community and arguably with their victims, mostly to avoid being sent back to prison. This explains why 29% of the respondents (mostly ex-prisoners supported by Advance Afrika) state that the relationship between victims and ex-prisoners is ‘good’ while 21% even say it is ‘very good’.

<sup>35</sup> iNGO Yang village, Kitgum district, 4 October 2016.

<sup>36</sup> Ex-prisoner from Boroboro parish, in Lira district, 17 September 2016.

## Case Study 1: Ex-Inmate's Personal Account

***Female ex-convict aged 27 from Lira district was convicted on October 2010 of murder and sentenced to seven years in Victoria Complex, Luzira Prison. She was later transferred to Lira Women's Prison and released on 16 June 2015***

There was a disagreement about money and it resulted in a fight and my husband ended up dying. We had been having a lot of problems before and he had kept a knife and a big stick under his bed. So that day when we started arguing he pulled up a stick to hit me but I pushed him and then I ran out of the house. Then when I went back I found my husband had stabbed himself though he didn't die there but I was accused of killing him and then his family became aggressive. The case was reported to the police and I was detained. He was in hospital for two weeks, and then he passed on. His family presented the log and knife to the police as evidence and I was convicted for murder. The statement was written on my behalf when we went to police with my in-laws. My in-laws didn't come for any further court process and the court used these weapons to convict me even in their absence.

The judgments in court are not always right but since you don't have any capacity to hire a lawyer, it's always hard to defend yourself, so that's why many people end up admitting their crime even when they are innocent so that they are convicted and they come out. I didn't have anyone to stand for me. I had to accept that I did it because even if I had denied, I didn't have money to pay for a lawyer. The government doesn't consider the cause of the problem that led to the crime but only sees you as a culprit; they don't look at situations that led to the crime.

Being in prison is like being a dead body that has not yet been put in the grave. You are lifeless; it is like your soul leaves you. Welfare always advise that if you see that no one is there to stand in for you, you should admit that you are guilty; then the sentence is lighter than for a person who has not admitted and takes time being prosecuted. You also see what happens to your friends in prison that have gone through the same, and have admitted their crime and are serving sentences. Those who haven't accepted their crime always don't know their fate but when you are convicted, you know how long you have to spend in prison and that is the only hope you hold on to. In prison you are treated like a child. If they tell you not to do anything and you do, you are punished accordingly.

I don't think I can go to my late husband's home and talk to his people or reconcile with them because I don't know the heart they have towards me and I don't think that reconciliation is possible and I don't think I can go there since I was innocent and they didn't even take care of my children when I was in prison. There is no need for me to go back to them.

When I was released, I was happy the way I was received, then they organised prayers for me and the whole community came for my prayers. But later, when a misunderstanding happens, you are always insulted about your experience of being in prison. Like recently I stopped someone whose goat was eating things in my garden; then she started insulting me that what can a prisoner do, saying I was a criminal. I just kept quiet and didn't react because I knew it would turn into more insults. When I am stressed, I call my new husband and he talks to me or prays with me. My husband is an ex-inmate as well. We met when I was still in prison and I cannot imagine marrying someone else other than an ex-inmate because we understand each other since we have gone through the same experience.

There should be a process that encourages the offender and victim to talk about reconciling and willingness to forgive. In prison even when you are sick you are forced to work. This should stop. Inmates are always locked in early. There is no respect in prison. Especially the prison warders, they shout at people even if the person they are shouting at is old enough to be their grandparent. There are letters that people write to their relatives and it is read on a radio programme, especially if you need anything and you can't reach your relatives and also when you are about to be released. The content of the letter is always read before it comes out and if you have written anything that the prison doesn't want then they will ask you to write it again. Such a programme is very good because it helps us to reach our family members.



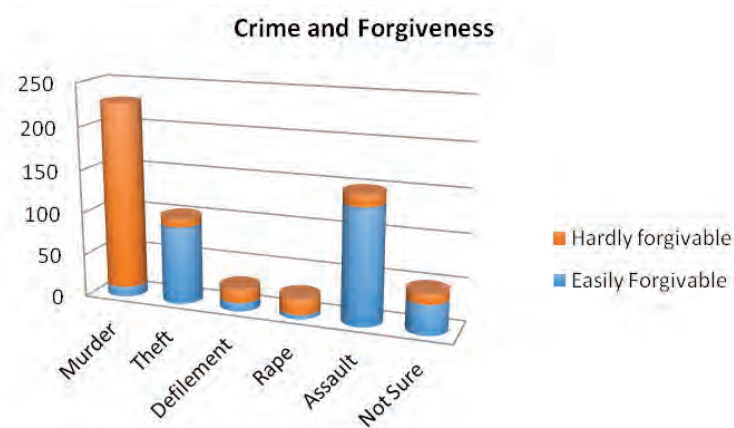
According to the perception survey, it was evident that many of the inmates and ex-prisoners come from poor families and have had little or no formal education. Those interviewed revealed that stigma is a key challenge that ex-prisoners face when they return to their communities and it manifests itself in many forms, namely: verbal abuse/insults, finger-pointing, badmouthing, exclusion from community social groups, making references to an ex-prisoner and labelling ex-prisoner a criminal.<sup>37</sup> Occasionally tensions reportedly arise between ex-prisoners and their victims as a result of insults and this strains relationships in the community, as noted in the personal story of an ex-inmate in Case Study 3.

There is a perceived risk that communities will interpret economic empowerment initiatives targeting offenders as making crime attractive, though the inmates themselves did not express this. One way of neutralising such risks while boosting victim-offender relations would be to introduce social enterprises and training or other avenues that provide support to victims.

After a crime has been dealt with, the nature of the relationship between the victim and the offender always depends on what has transpired between the two. Some relationships turn sour, while in other cases victims and offenders live at peace with each other. The respondents reported that where ex-offenders utilise their skills well for their benefit and the benefit of the community, this progressively improves offenders' relationship with the community because they will be invited to help in construction work and repairs and this engagement helps to overcome community stigmatisation and social exclusion.

## Forgiveness and Crime

While communities in northern Uganda believe in and practise forgiveness even in cases of severe crime, there are numerous factors that influence forgiveness and the effort it takes to forgive. These range from the nature/magnitude of the crime, the victim's personality and the level of remorse perceived in the offender's response. Forgiveness may come more easily after a sincere apology by the perpetrator, or after heavy persuasion of either the victim or offender. Figure 5 below shows that petty crimes, mostly assault and theft, are considered easy to forgive as compared to capital offences such as murder and rape.

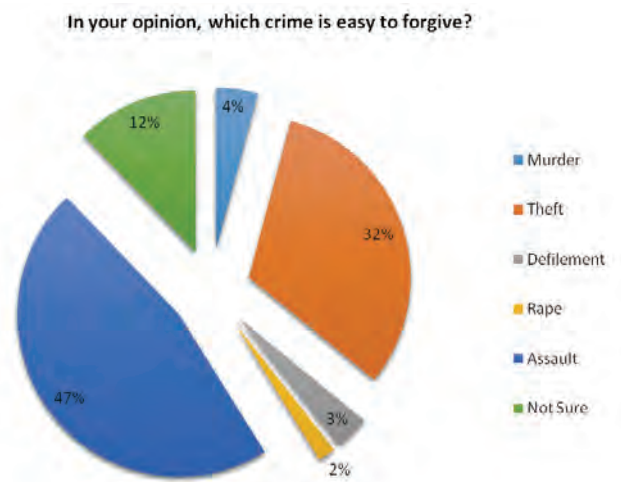


**Figure 5:** Crime and forgiveness. Opinion survey findings, 2016

37 Male elderly local council leader of Ekorom village, in Mucwini, in Kitgum district, 15 October 2016.

This study also found that churches could play a fundamental role in influencing people's ability to forgive (see Case Study 2). One relative to an ex-prisoner said:

**“ My father just returned home with only a Bible that was donated to him by Jehovah Witnesses. He told us that the Jehovah Witnesses visited them, prayed with them and gave a Bible to all the prisoners who wanted it; then they preached the gospel of forgiveness and faith.”<sup>38</sup>**



**Figure 6:** In your opinion, which crime is easy to forgive? Opinion survey findings, 2016

Another ex-inmate convicted of defilement said:

**“ When I was at Erute Prison, I called this girl to prison and told her that though I was bitter with her I had forgiven her. I then asked her to ask God to forgive her because she had only invited problems for herself for wrongfully accusing me. I forgave her family too because the Bible tells us to forgive.”<sup>39</sup>**

The rhetoric of forgiveness is repeatedly shared in religious sermons and in cultural or traditional ceremonies in which people are called upon to forgive one another. Some respondents view forgiveness as a difficult thing. As one victim in a FGD in Lira said, 'It is very difficult to forgive people who have caused harm to you.'<sup>40</sup> Further, one elderly catechist said, 'People can even forgive murder but when another man's wife is taken it is hard for such people to forgive and it's always those men who seek to revenge.'<sup>41</sup>

Seventy-five per cent of the survey respondents stated that murder is a difficult offence to forgive, given its nature and magnitude. One cultural leader interviewed stated: 'Murder in the Acholi culture is forbidden and people traditionally are not allowed to sit and eat with the perpetrator unless a traditional ritual and compensation is paid.'<sup>42</sup>

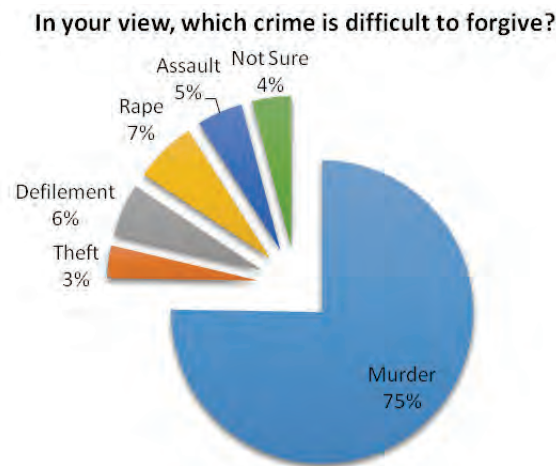
38 Male youth from Bar Pii in Aromo sub-county, Lira district, 17 September 2016.

39 Male ex-prisoner from Boroboro parish, Lira district, 17 September 2016.

40 FGD with community members from Boroboro parish, Lira district, 17 September 2016.

41 Elderly catechist from Adek Okwok sub-county, Lira district, 17 September 2016.

42 A cultural leader from Ker Kal Kwaro Acholi, Kitgum district, 17 October 2016.



**Figure 7:** In your view, which crime is difficult to forgive? Opinion survey findings, 2016

Another police official stated:

**“ Murder is a capital offence under the laws of Uganda and must be dealt with properly under the law. There should never be any compromises linked to compensation. The law must take its cause but we hear compensation still happens or is demanded from those who have completed serving their sentences. That is double jeopardy which should not be allowed and tolerated.”<sup>43</sup>**

Beyond murder, sexual violence crimes such as rape and defilement were seen as the second most difficult crimes to forgive, as their impacts are usually so grave on the victim. These are crimes that attract public attention and resentment. Much as the notion of forgiveness was mentioned by most inmates, living in harmony with the victims was something most of them said was hard, especially for inmates who said they were wrongfully accused of crime.

According to the social welfare officials attached to prisons, counselling is being provided to inmates and perhaps this explains why some ex-prisoners feel remorseful for the crimes they commit and even speak of forgiveness. However, no form of counselling is provided for victims of the same crimes, except in isolated cases where the church reportedly helps people overcome their psychological distress through prayers.

43 Male police official, Lira Central Police Station, Lira district, 15 September 2016.

## Case Study 2: Ex-Inmate's Personal Account

***Male ex-convict aged 35 from Adek Okwok sub-county in Lira district. He was convicted on 9 July 2009 of aggravated defilement and sentenced to eight years in prison and was released on 19 November 2015***

I was a businessman and was very successful, but there were a lot of jealous people. They tried robbing me four times but that didn't stop me from succeeding. In the community, there are people who never want to see others succeed. Not everyone was happy with my success even though I was illiterate. I was also a photographer so the boy who takes photos for me would develop them and I would distribute them. So this girl in question came to pick up her photos from my home one day and on her way back home she met someone who also lives in this area who asked her where she was coming from. And she said she was from my place to pick up her photos. The person went and reported to her mother. The girl was then forced to say that I defiled her.

The girl was seriously beaten so as to admit it. I was then arrested and the girl had to say that I had slept with her because her parents were forcing her to say so. The girl was taken for a medical test and she was found to be normal and that I hadn't slept with her. Then the police doctor and the CID asked me for 500,000/- but I refused to give it, knowing I was innocent. So they promised that I would regret not giving them the money. I was also tested for HIV and I was found to be positive. So the report given to the police was false and showed that I had slept with the girl. The case was called aggravated defilement since I was HIV-positive and the case was committed to the High Court.

Courts are government business. Those who work at the court are the ones who benefit the most. I spent 6,000,000/- trying to get bail twice; paying a lawyer, paying the askari to take me to court every time I appeared in court, then for the production warrant. The first time I appealed for bail, I had three sureties who came (two friends and one cousin), two persons had an LC letter and the other a land title. But I was denied bail on the basis that I didn't have strong sureties. That was at the district court where I had already spent four months on remand before appearing. After the bail was cancelled, I was committed to the High Court. At the High Court, one has to wait till there is a High Court session. If you are committed to a particular judge, you have to wait until that particular person comes. If you want your name to appear faster, you have to pay some money and that's how I ended up spending only 18 months on remand, then I was convicted. There is a man I met who had spent eight years on remand. Those without money have to wait until those admitted earlier are taken to court. Then months spent on remand are not counted. The 18 months I was there were not counted. I started afresh when I was convicted. The person who was pushing for the case used to work into the court, so he did everything to make sure I that stayed in prison and ended up being convicted.

The second time they applied for bail, my uncle's wife put in a passport; another put in a logbook and the third a land title. I moved to court three times to hear my case. I had spent money paying some people so that I could get bail. This would not be possible but the magistrate decided to push my case for hearing even when the case was not yet ready for hearing so that I could not access bail. The hearing went on for three months. The girl told court that I had slept with her three times. So they told the girl to say that I had slept with her using condoms and that was why she was negative. In a defilement case, the person who is listened to most is the victim, so I was convicted. The medical report stated something else — that the girl had incurred injuries and that I also had injuries on my private parts due to the forceful encounter and yet the testimony said that I was a boyfriend and had slept with her three times. This didn't add up. The person behind the case paid a lot of money for me to be convicted.

After being convicted I was taken to Luzira Prison, then to Bulabula in Kayunga, then I was taken to Muchison Bay Prison, then to Mbale, then to Soroti, then to Lira and I finished serving my sentence at Erute Prison. When your sentence is soon ending, you request to complete your sentence closer to home so they keep relocating you to prisons closer to your district as a lodger till you reach closer home... That's how I was being transferred. I was left with two years to be released; then my transfers started and the transfers depend on the availability of transport.

When I was at Erute Prison, I called this girl to prison and told her that though I was bitter with her I had forgiven her. I then asked her to ask God to forgive her because she had only invited problems for herself for wrongfully accusing me. I forgave her family, too, because the Bible tells us to forgive. I then learnt that the mother of the girl had told her son that if I had not been convicted she would have committed suicide so the brother did everything in his power so that I would be convicted. When the mother of the girl heard that I was relocated to Lira, she left the village and relocated and her brother's home was relocated as well. Her family guarded the girl for 18 months until I was convicted and they did not want her to talk to me because they knew I was innocent. I have told her to ask God for forgiveness because I have already forgiven her. In my community some people

did not like me because I was successful. The church stood with me throughout my stay in prison. The church would collect things and take them to me in prison. Before I was arrested, I used to donate a lot to the church and used to head programmes here so they stood with me. Even when I came back home they supported me. When I was arrested I had 50 bags of rice, 20 bags of simsim and had planted 100 tamarind trees and had the shop. I was finally okay. I wanted to sell these things and buy a car but these people knew the plan and that's why I was framed. I had my farm where I would plant rice and get over 150 bags but when I was away, most of the people took my land. Prison taught me more business ideas, how to live with people because you live with various people and you learn how to handle them. While in prison it was easy to access my ARVs, the prison is supplied with the drugs.

Advance Afrika trained us while we were still in prison. So when I came out, I reached them and they gave me 80 kilos of rice seedlings, spray, a watering can. Then I planted them; but weeding the whole garden has defeated me so I weeded only a bit of it. I am on good terms with the community and have no problems at all because I used to help people so much. They were very bitter when I was arrested. When I went to jail, I left my wife with two children, but when I returned I found my wife had re-married. My children are now with their maternal grandmother. I am not yet fully able to take care of them so that's why they are there. I am not happy with my wife because she abandoned the home and made things to be destroyed. I found that even the iron sheets from the house had been stolen. I am living with my maternal relatives and this is where I grew up. We are three siblings. The Bible tells one to forgive so I have no hard feelings towards the girl in question and I am very free with them. If Advance Afrika have limited capacity to support us, they should work in partnership with other organisations so that they can link us to other entities to secure loans that we can pay back monthly. Then we shall be able to work and pay back. Reconciliation normally depends on one's faith in religion. I think that the church should facilitate reconciliation because they are the caretakers of God's flock.

## Reconciliation after Redress

Reconciliation is a complex and long-term process of deep change, which encompasses several dynamic processes involving a blend of the principles of truth, mercy, justice and peace.<sup>44</sup> This involves the acknowledgment of wrong and the validation of painful loss and experiences on the part of the offender, coupled with mercy, acceptance, letting go and a new beginning on the part of the victim. Justice then means the search for individual and group rights, for social restructuring, and for restitution, all linked to peace, which features interdependence, well-being and social cohesion.

After dealing with the crime, are victims and perpetrators willing to reconcile?



**Figure 8:** After dealing with the crime, are victims and perpetrators willing to reconcile? Opinion survey findings, 2016

44 Mapping Regional Reconciliation in Northern Uganda, 2015. Justice and Reconciliation Project, Gulu, Uganda.



When asked whether victims and offenders are willing to reconcile after a crime is dealt with, 67% of the respondents to the survey said 'Yes', only 8% said 'No', while 25% were not sure. The in-depth interviews and continued discussion on reconciliation further revealed that victims and offenders alike still harbour anger and bitterness and are yet to heal or come to terms with their fears, pain and loss, as noted in Case Studies 1 and 3. A female ex-prisoner said:

**“ I don't think I can go there and talk to them or reconcile with them because I don't know the heart and feelings they have towards me. I don't think that reconciliation is possible and I don't think I can go there since I was innocent and they didn't even take care of my children when I was in prison. There is no need for me to go back to them.”<sup>45</sup>**

Reconciliation is not an easy subject when it comes to crimes such as murder, rape and aggravated defilement in which the victims suffer grave harm and in which the losses are perceived as irreparable. Equally, reconciliation between those who were falsely accused for the same and their accusers is highly problematic, as revealed in Case Study 2. According to victims, reconciliation involves healing both physical and psychological wounds. During a validation meeting one victim questioned how incarceration can bring back the loss caused to a victim or, rather, how the needs and claims of victims can be addressed in a more satisfying way. She wondered:

**“ Like for me, someone assaulted me and cut off my fingers. The person was arrested, taken to court and was put in prison. After some few years this person came back and has refused to compensate me. You people now tell me, how then can taking someone to prison bring back my fingers?”<sup>46</sup>**

Reconciliation as a deliberate process targeting ex-prisoners and their victims is lacking. Notwithstanding rehabilitation and reintegration initiatives, civil society actors and religious institutions do not specifically deal with victim-offender reconciliation. Instead, the reintegration of ex-prisoners, particularly in situations where they are being rejected, is taken as part of broader reconciliation initiatives with no targeted follow-ups and monitoring of how such relationships unfold. Equally, the focus is so much put on the ex-inmates with little or no attention to the victims' demands, thus undermining the very essence of reconciliation.

Sometimes people say they have reconciled simply because it is part of their culture, others because community rights tend to supersede individual rights and agency, while others may have influential and powerful close relatives who are appealing for reconciliation, as explained by a psychosocial expert who was interviewed. She argues that people should be given the opportunity to vent their anger, bitterness and pain, and then be given a chance to think about reconciliation. She notes:

**“ Reconciliation starts from the heart. You reconcile with your own self before you take it out to others. The heart must be healed before one is able to reconcile. You can never reconcile with a wailing heart. It is the individual touched first, then the community.”<sup>47</sup>**

45 Female ex-prisoner from Lira sub-county, Lira district, 17 September 2016.

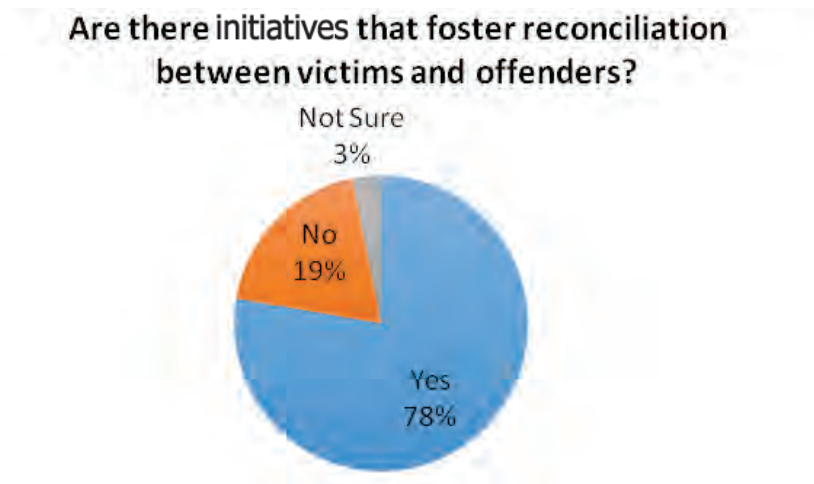
46 Female victim from Mucwini sub-county, Kitgum district during validation meeting in Lira, 12 December 2016.

47 A mental health psychosocial expert, Refugee Law Project, Kampala, 15 October 2016.

A combination of truth-telling, forgiveness, compensation, reconciliation and reintegration dialogues are crucial in the promotion of peaceful coexistence and sustainable participatory development, all of which remain lacking and/or are applied in isolation.

## Fostering Reconciliation

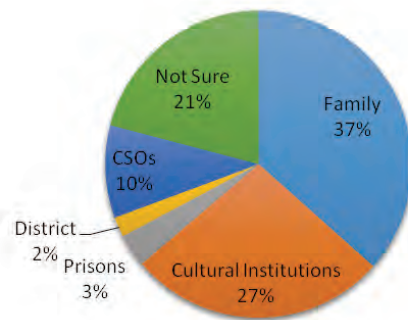
Although there are no deliberate reconciliation initiatives targeting ex-prisoners and their victims, 78% of the respondents acknowledged the existence of broad initiatives promoting post-war reconciliation, notably prayer meetings, dialogues and peace letters, that benefit ex-prisoners and victims alike.



**Figure 9:** Are there initiatives that foster reconciliation between victims and offenders? Opinion survey findings, 2016

Nineteen per cent of the respondents said there were no reconciliation initiatives put in place while 3% were 'Not Sure'. Initiatives that were seen as fostering reconciliation or peace-building included community prayers led by religious leaders, dialogues and sensitisation programmes led by civil society actors, prisons, police and traditional leaders. This implies that key actors that are critical players in reconciliation include family members, religious leaders, civil society organisations, LCs, traditional and cultural leaders, and prison authorities. The stakeholders engaged in peace-building in northern Uganda and consequently fostering reconciliation include religious leaders, cultural/traditional leaders, political leaders, opinion leaders, local government leaders, prisons, the police, judicial officials, UPDF, NGOs, offenders, victims and their families. Out of the 287 survey respondents, 37% singled out family as a key actor facilitating reconciliation between the victim and the offender (also see Case Study 3). Cultural institutions followed this with 27%, as shown in Figure 10 below. Meanwhile, 10% mentioned CSOs, 3% prisons and 2% district local government authorities.

Which of these institutions are fostering reconciliation initiatives?



**Figure 10:** Which of these institutions are fostering reconciliation initiatives? Opinion survey findings, 2016

The church was mentioned as a key institution fostering and supporting reconciliation and peace-building initiatives. Some of the ex-inmates interviewed mentioned that the church plays a big role in comforting people while in prison and even after prison. Prayer is seen as one of the key things that gave people hope and strength to survive the harsh realities of incarceration. An ex-inmate recounts:

“When I returned from prison, the community organised a prayer at home and some of the victim’s family members also attended. We were supposed to sit down and settle the case but that has not yet happened because they still have a negative attitude towards me because their intentions were not all achieved by my imprisonment. They had wanted to grab all my land. Secondly, they fear coming closer to me because they are guilty and ashamed of my properties that they stole when I was in prison and the ones they destroyed like my huts. They have a feeling that we can take them to court over those losses. Indeed, I had wanted to take them to court but as a born-again Christian I have forgiven them.”<sup>48</sup>

Meanwhile, some of the respondents believe that the church is not doing enough to facilitate the reconciliation of ex-prisoners and their victims.

“The church has been calling for reconciliation prayers but end up with only prayers and preaching the gospel of forgiveness and in the end they end up not reconciling the people because they don’t engage the conflicting parties over the pressing issue. Like in my case, the church did not even intervene in any way and I am wondering whether I was a person who was not famous or influential. The community should give a chance to the victim and the ex-convict to solve their problem even after prison so that the issue is dealt with once and for all, but this usually does not happen.”<sup>49</sup>

Community prayers and dialogues seem to have proven helpful in influencing offenders’ attitudes to showing contrition as well as victims’ attitudes towards forgiveness. This, therefore, points to the need to empower local community actors, mostly cultural and religious leaders, to conduct reconciliation dialogues, as well as mobilising civil society as strategic actors with the skills, expertise and resources to facilitate sensitisation programmes and capacity-building and strengthening JLOS institutions, mostly the police and prisons, to ensure that victims remain at the centre of the justice chain while tapping into the expertise of welfare and rehabilitation officials as key resourceful persons to facilitate individual victim-offender reconciliation.

48 Forty-three-year-old ex-inmate from Bar Pii in Aromo sub-county, Lira district, 17 September 2016.

49 A female community member from Ogwar Poke, Mucwini sub-county, Kitgum district, 15 October 2016.

## Case Study 3: Ex-Inmate's Personal Account

***Female ex-convict aged 28 from Mucwini sub-county in Kitgum district. She was convicted of assault on 19 March 2013. After three years at Kitgum Main Prison she was released on 27 March 2016.***

A fight erupted between my brother-in-law and his wife, then my husband interfered in the matter. The victim was very angry because my husband had interfered. She then revenged by coming to fight me. She came home and found that I had just come back from the garden and had a sickle in my hands. She thought that I was going to attack her with it, so she dived at my hands and started struggling for the sickle and in the process I ended up cutting her fingers as we struggled for the sickle. She was taken to hospital and one finger was cut off. My husband treated her but the victim's family started pushing her to go to the police. She reported the case first at Mucwini police post but the police refused to help her because she is known to be a drunkard. Then she went to the police in Kitgum town and reported the case. The police picked me up and I was taken to court and the following day I was sentenced.

When I was arrested, the family sat down and decided to pay for the harm caused by giving the victim a cow but she refused because she was told that she would get 10,000,000/- if the case was taken to court. I was convicted and I was in jail for three years. When I returned the family sat down to reconcile us but the victim said that she still needed to be compensated with 10,000,000/-. The family refused since she had earlier refused to listen to them and only a cleansing ceremony was done. But now we live peacefully but when she is drunk she keeps telling me to pay her any amount of money, even if it's only 10,000/-.

If I had known what court proceedings are like I would have refused the charges against me; then I would have got bail. Jail helps to protect offenders from victims' revenge. It teaches people a lot of things like counselling, prayers and teachings. They teach you to know the law, to forgive and to avoid crime; and it teaches you court proceedings where if you knew these things before being arrested you would not have admitted your crime. You keep thinking of the things you have left behind and there is a lot of work in prison and that is its only problem.

Prayer in prison helps you to seek forgiveness but when offenders come out and the victim is not willing to reconcile, it is not easy because both victim and offender should be willing to reconcile. Money always has a big role in justice. Those who have money easily have their way. When I came back from prison we used not to talk to each other but my mother-in-law started talking to both of us and then invited the clan leaders and they sat us down. She had also promised to harm me but the clan warned her and now we do talk to each other and I even go to her home.

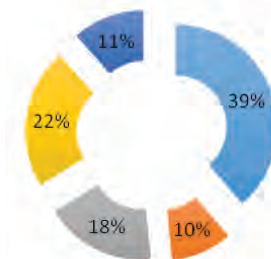
Life after prison was hard before the clan sat us down. I was always alone. I did not have anything, so starting afresh was hard. The weather has been bad this year and we have no harvests from the crops planted. Advance Afrika gave me pigs, which all died, and now I just survive. When one is busy, one hardly thinks but when one doesn't have what to do life is hard. My husband welcomed me well and was always talking to me. He kept visiting me and the children and that kept me strong.

## DEALING WITH CRIME

Crime has far-reaching consequences for both individuals and society. It affects people's livelihoods and security in communities, and strains relationships among individuals, families and the community as a whole. Different communities have different approaches to dealing with crime. Thirty-nine per cent of the survey respondents mentioned negotiations as the most common approach to resolving crime, 22% pointed out litigation, 18% mentioned mediation and 10% spoke of arbitration. Eleven per cent were unsure of how crimes are commonly dealt with in their community.

**What is the most common way of dealing with crime in your community?**

■ Negotiation ■ Arbitration ■ Mediation ■ Litigation ■ Not Sure



**Figure 11:** What is the most common way of dealing with crime in your community? Opinion survey findings, 2016

## Negotiation

Negotiation is one of the central mechanisms embedded in a community-centric model of justice, though mostly undocumented. When a crime is committed the parties involved attempt to negotiate with each other with the hope of reaching an amicable solution. Once an agreement is reached, such crimes are not reported to any authority and thus go unrecorded for the purposes of statistics. Negotiation, according to those interviewed, is used mostly for civil offences such as fights that do not result in grave bodily harm, insults and negligence, among others. Such crimes are often seen as mistakes or unintended and usually the offender appears remorseful and willing to make up for the crime committed. A female offender noted:

**“ It hurts so much that I killed my own husband. Even though he used to disturb me, we used to work together to support the family and contribute to our children’s education. Now my husband is dead and I am in prison and there is no one to take care of the children at home. I have asked my eldest son to go and ask my in-laws to forgive me because it was not my intention to kill him.”<sup>50</sup>**

Besides victim-offender negotiations, religious and cultural leaders are reportedly encouraging conflicting parties to embrace dialogue, which implies a culture of negotiating for redress whenever appropriate. Families and clans are advised to solve problems through negotiation

50 Female prisoner, Lira Women’s Prison, Lira district, 16 September 2016.

before seeking alternative justice mechanisms. The preference for negotiation is motivated by a number of arguments by mostly religious and community leaders, particularly that negotiation fosters good relationships between the offenders and their victims, as well as being cheap compared to going to court, which is expensive and not concerned about relationships. There is a perception that only the rich can afford to go to court.

## Mediation

Mediation is a form of alternative dispute resolution (ADR) in which an impartial third person helps the parties reach a voluntary resolution of a dispute. Mediation is an informal, confidential and flexible process in which the mediator helps the parties understand the interests of everyone involved, and their practical and legal choices.<sup>51</sup> It has been used to deal with civil, domestic and juvenile crimes in a less adversarial setting. Judicial officials interviewed argue that mediation is an alternative to litigation and that it saves the parties time and money, as well as improving satisfaction with court services and reducing future disputes and offences. It is also one option for reducing serious case backlogs in the judicial system. This 'justice' made by a third party – the mediator – in the conflict between parties, in the forms and under the conditions provided for by law, is seen as an alternative form of justice to the classical 'justice' delivered by a judge.<sup>52</sup> Ideally, the mediator basically helps the parties involved to communicate better, explore practical settlement options, and reach an acceptable solution of the problem.

At community level, the respondents pointed out Local Council structures, traditional and religious structures, civil society leaders and government offices, particularly the office of the RDC, as crucial for mediation processes in the community. However, local structures – such as LCIs – need legitimisation/ legalisation in order to better pursue mediation, given that they have often been asked to mediate over certain complex crimes, mostly land-related conflicts. Still, some of the participants stress the challenge of corruption and the lack of neutrality among mediators. Thus, people are losing trust in mediation of crime as a practice, and this explains why some do not want to negotiate with their offender at local level but rather rush to the police.

## Litigation

“ **‘The case is cooked in police, served at the Resident State Attorney (RSA) and eaten in court.’<sup>53</sup>**

Efforts to support fragile democracies have been geared towards building and strengthening state institutions, thus occasioning state-centric models of justice to which litigation is central. A state-centric model of justice draws on an established state institutional justice machinery to deal with crimes and ensure that justice for victims of crime is achieved. In Uganda, the justice, law and order sector (JLOS) brings together state institutions with closely linked mandates of administering justice and maintaining law and order, including human rights, in a unified framework. JLOS institutions such as the Uganda Police Force (UPF), the judiciary and the Uganda Prisons Service (UPS) are crucial for

51 Santa Clara County Superior Court Alternative Dispute Resolution Information Sheet (2013).

52 [http://www.ugb.ro/Juridica/Issue5EN/9\\_Medierea\\_in\\_cauzele\\_penale.Petronela\\_Stogrin\\_EN.pdf](http://www.ugb.ro/Juridica/Issue5EN/9_Medierea_in_cauzele_penale.Petronela_Stogrin_EN.pdf)

53 Male police official, Lira central police station, Lira district, 15 September 2016.



dispensing justice. These institutions are also referred to as formal justice institutions because they were established by law, including the 1995 Constitution of the Republic of Uganda and Acts of Parliament.

## How do police deal with crime?

The Uganda Police Force is mandated to protect life, property and other rights of the individual while maintaining security, public safety and order and to prevent and detect crime.<sup>54</sup> This implies that crime must be brought to the attention of the police, which will then decide what kind of action to take. Usually the most immediate action taken by the police when a crime is reported is registering and filing a case. This is the first step in establishing a record for an alleged crime with a distinct crime reference number. Depending on the nature of the crime, the police will decide whether or not to commission an investigation into the alleged crime. As a police officer in Lira explained:

**“ Once the case is reported, the person affected becomes a complainant or a prosecution witness. They record a statement that details what happened pointing out clearly who was involved, who the victim is and who the alleged perpetrator is, who witnessed the crime and, if need be, then we as police can investigate further. For instance, visit the scene, interrogate eyewitnesses and, depending on the case, we may prepare the case file for other processes like prosecution.”<sup>55</sup>**

This is the most crucial part of the justice chain in which the judgments made may give or shatter the hopes for justice, particularly when dealing with capital offences such as murder, defilement or rape. Ideally, the police, through investigations, collect sufficient evidence and ensure that the ‘suspected offender’ is arrested and produced in courts of law within a specified period of time, as provided in the law. According to the police, ‘investigations can take a long time, efforts to catch the offender may fail or, worse still, there might not be enough evidence to charge the offender with the crime.’<sup>56</sup> Victims often have difficulty understanding this reality, and this feeds the perception that the police are corrupt. While the police can charge someone with a minor offence, such crimes can also be resolved at the police without necessarily proceeding to court, for instance by issuing a caution or warning, a fine, an apology, or even facilitating reconciliation at community level.

The Director of Public Prosecution (DPP) reviews cases submitted by the police and advises on which cases merit possible prosecution. In principle, the DPP determines what offenders should be charged with in more serious or complex cases and their decision whether or not to prosecute is based on two tests: whether there is enough evidence to prove the case; and whether it is in the public interest to bring the case to court. Some of the respondents interviewed criticised the police for escalating cases reported to them and rushing to court even though the interest of the victim was simply to have the offender cautioned or offer an apology. This also shows that communities are not aware of their rights and opportunities in court through which they can raise their interests for a settlement or an apology. It was evident that sometimes the victims do not even know when the suspect is being taken to court and by

54 Police Act, Cap. 303.

55 Male police official, Lira Central Police Station, Lira district, 15 September 2016.

56 Ibid.

the time they get to know the accused is already on remand while the accused obviously lacks the knowledge and/or sureties necessary to apply for bail.

Overall, the police as an institution is the foundational pillar of the justice chain. Where investigations are inadequate or mishandled, court verdicts are bound to be incorrect, thus leading to further injustice and continued mistrust of the JLOS as a whole.

## What happens in court?

Court is basically the 'theatre' of justice, holding hearings where magistrates or a jury decide if someone is guilty of a crime or not. It is where arguments relating to the crime committed are supposed to be impartially examined, treated and dispensed or discharged with the aim of passing a fair judgment. Litigation is largely seen as a reflection of failed negotiations and/or breached agreements. 'Most cases that come to court means that they have failed at lower levels,'<sup>57</sup> argues a judicial official. Most crimes are dealt with in a magistrates' courts with the exception of the gravest crimes, such as murder, which are passed on to a higher court. The High Court sits only once a year in Lira for instance, and sometimes even less frequently in districts such as Kitgum. This results in excessively long pre-trial detention periods. Once the offender is charged, he/she is sent to prison on remand pending a hearing. This decision of the court can be a dismissal, an acquittal, a conviction or a call for mediation. These decisions variously shape victim-offender relationships and can translate into serious tensions, especially when the decision is not favourable to the victim. Justice for those going to court, therefore, means that it should be in their favour and not otherwise. However, a senior police officer calls for increased community sensitisation and counselling, stating that:

**“ There is need for community sensitisation. We should not think that the court should act or go in the direction we want. People should know that justice and truths are two different things and court cannot serve justice without support and collaboration from all stakeholders.”<sup>58</sup>**

Using the sentencing guidelines, magistrates and judges decide on how offenders are punished. Several factors are considered while passing a sentence and these include, but are not limited to, the need to punish the offender, protect the public, deter future crime, change the offender's behaviour (rehabilitation) and have the offender make up for their crime. The belief is that any punishment given should be able to make the offender remorseful.

When a court finds someone guilty of a crime such as murder, aggravated defilement or robbery, the maximum sentence one can get, according to the Uganda Penal Code Act, is a death penalty. Simple defilement attracts life imprisonment, theft a seven-year jail sentence on average, while assault can attract: (a) a fine of about 200,000/- for grievous harm; (b) 5-7 years for occasioning bodily harm; (c) two years for unlawful wounding; and (d) life imprisonment for acts intended to cause grievous harm. However, legal practitioners interviewed argue that there is a lot of leniency exercised by the courts and this is even motivated further by the recent introduction of the plea bargain into the criminal justice system in Uganda. The plea bargain is simply a process whereby a criminal defendant and prosecutor reach a mutually

57 Female senior judicial official, Lira court, Lira district, 16 September 2016.

58 Senior police officer, Kitgum Central Police Station, Kitgum district, 13 October 2016.

satisfactory disposition of a criminal case, subject to court approval. Consequently, the plea bargain can conclude a criminal case without a trial simply because the defendant agrees to plead guilty without a trial and, in return, the prosecutor agrees to dismiss certain charges or make favourable sentence recommendations to court. This new approach is said to be more satisfactory to both the offender and victim since it embraces dialogue and negotiations that closely relate to the principles of restorative justice. However, given the reality of long pre-trial detention periods caused by ineffective legal systems as outlined above, the accused, despite being innocent, may decide to plead guilty simply to avoid long pre-trial detention rather than wait for an indeterminate period for the court hearing. Even if this admission of 'guilt' results in the person going free, his reputation at community level may still have been soiled and this can impact negatively on victim-offender relationships.

Much as the police and courts have the mandate to enforce the law and determine that the suspect committed a crime he or she is accused of, they are 'usually paid insufficient salaries and this increases their susceptibility to be influenced by the accusing parties to act in ways that lead to frequent miscarriage of justice.'<sup>59</sup> Worse still, inefficient investigations and judicial malpractices contribute to the arrest of some individuals who may be innocent.<sup>60</sup> To mitigate the consequences of formal prosecutions, communities need to be constantly engaged with regard to justice processes. There is need to educate them, especially the victims, about court proceedings, their rights and their potential role. For instance, when a case is in court, members of the community should come up and testify so that a satisfactory sentence is given to the offender (including claims of the victim).

## Prison

The core objective of the Uganda Prisons Service is to ensure safe, secure and humane custody and effective rehabilitation of offenders. Prisons are, therefore, supposed to rehabilitate and reintegrate offenders, administer court-imposed sentences, and ensure the security of offenders. The Uganda Prisons Service is also tasked with protecting and respecting the other rights of offenders while in custody and ensuring that they attend trial and that they are adequately taken care of.

This can trigger a conversation on resolving the social injustices that are largely responsible for criminal activity in the communities on ways and means to reduce crime and ensure the reintegration of prisoners into the communities. In other words, 'do not close [your] eyes to the existence of violence, murders and all other crimes but punish the crime committed not the human being, give the person the possibility of renewing him or herself and understand human weaknesses, the capacity to sin is in everyone.'<sup>61</sup> This perspective on punishing the crime and not the person helps to promote discussion on victim-offender reconciliation and restorative justice.

Lastly, it is well known that victims often feel marginalised and dissatisfied with the treatment they receive from the criminal justice authorities. Studies continue to show that victims are often not provided with all the required information concerning their case and are generally excluded

59 Father Agostoni, T. (LPH, LTh) (2000). *May the State Kill? A Challenge to the Death Penalty*. Paulines Publication, Africa.

60 Ibid., p.75.

61 Ibid., pp. 82-3.

from criminal justice processes.<sup>62</sup> The victims always want to be included in the criminal justice process and to be notified of the progress of their case, including the engagement of the victims during the pre-release of prisoners. One victim in Lira said:

**“ As cultural leaders, people always complain that they do not know what happens to someone in court. They just hear that they have been taken to prison then after a few years we see the same person who tormented us in the community back in the community. You find some people coming to me and saying: Why have they released this stubborn man again? Don’t you think he has escaped?<sup>63</sup>**

Overall, what prisoners experience in prison can greatly affect their ability to reintegrate and reconcile when they are set free. In case prisoners experience the prison as negative, they might develop strong feelings of revenge. Community members, in turn, fear these feelings of revenge, which hampers reconciliation and trust-building processes.

## IMPACTS OF INCARCERATION

Imprisonment is a key strategy in punishing and correcting offenders, and has a huge impact on the spiritual, emotional and economic lives of convicts. Some traditional leaders were of the opinion that putting people in jail serves justice for a few victims who are interested in having their offender imprisoned; but they believe that in most instances it does not serve justice, especially where victims have suffered loss and, therefore, have an interest in compensation, treatment or healing (e.g. cleansing rituals for arson cases). During a FGD in Aromo sub-county, one participant said:

**“ Imprisoning someone does not serve any justice to the victims because, for instance, when someone is imprisoned for 47 years, he leaves a huge gap in his family and relatives. There is also going to be no peace of mind for the victim because some victims are haunted by the suffering of the accused and the relatives of the accused will not be at peace with the victim hence they will be on bad terms with the accused kinsperson. Hence no justice, unless the two parties reconcile.<sup>64</sup>**

Local leaders also feel that the money gained from prisoners’ work on farms or anywhere else should be channelled into the individual victims’ accounts, or that the prisoner be compelled to work on the farms of their victims so that the victims get some satisfaction regarding justice.

Prisons in northern Uganda still largely reflect a colonial set-up as punishment facilities or isolation units used to secure and protect the public from those often described in the rhetoric of law enforcement agencies as ‘wrong elements’. Prisons are seen as relevant in ensuring that offenders are both punished and rehabilitated to guarantee non-repetition. The assumption here is that prisons help people to transform from being criminals to peaceful people, a transformation that should include feelings of remorse towards their victims.

62 Wemmers, J-A. & Canuto, M. (2002, page 3). *Victims’ Experiences with Expectations and Perceptions of Restorative Justice: A Critical Review of the Literature*. Policy Centre for Victim Issues, Research and Statistics Division, Université de Montréal.

63 Cultural leader in Lango cultural institution, Lira district, 16 September 2016.

64 FGD held in Aromo sub-county, Lira district, 17 September 2016.

Fellow inmates and ex-prisoners have described prisons as both learning centres and cruel facilities; learning centres because they have received knowledge, skills and training by development partners such as Advance Afrika, for example regarding business skills. In fact, some of the ex-prisoners interviewed testified that they had received training in carpentry and joinery, metal fabrication, tailoring and mat- and basket-weaving while in prison. A police officer stated:

**“ We have seen people who leave prison and their lives change. Prisons can teach a person everything provided one is focused. So if you are not going to deal with land, you deal with wood or metal.”<sup>65</sup>**

Other inmates and ex-prisoners described prisons as a nightmare with harsh conditions, including some forms of physical and psychological torture. According to some of the inmates interviewed, claims of torture relate to bullying by fellow inmates and perceived neglect by prison staff (as these are mostly happening during the nights when prison staff are not inside the prisons). Some ex-inmates interviewed who had spent many years in prison swore never to indulge in criminal activities again, arguing that they would not want to experience a life of suffering in prison again.

One of the goals of prisons is rehabilitation and correction. Ideally, this should be a central focus of the prison services. Unfortunately, the activities involved are too expensive for prisons to be able to offer sufficient rehabilitation services to prisoners. At the individual level, ex-prisoners continue to suffer from interrelated psychosocial issues of trauma and depression. They state that ‘the prison bell [is] still ringing in their minds’.<sup>66</sup> Left unchecked, such experiences can lead to deep-seated grievances, bitterness and hatred, reinforced by their isolation. Other damaging conditions can arise, from bullying and torture in prison, to family breakdown, loss of property, and children’s problems due to lack of parental guidance. One of the ex-inmates shared his ordeal:

**“ While in prison, I developed eye problems that persist to-date. I cannot see normally and my eyes keep tearing all the time. I am worried I might become blind because I feel pain sometimes when I wake up in the morning. My backbone also aches each time I bend but I have to work for my family. I had just returned from a contract building work in Oyam district with about 600,000/-. But I lost things including my eight cows, 15 goats, five sacks of simsim, six sacks of maize, my bicycle, and 500,000/- that were kept inside the house – all stolen. Worst of all, my last-born daughter died of a minor sickness when I was in prison and this still upsets and haunts me a lot.”<sup>67</sup>**

In its study on ‘Sentencing and Offences Legislation in Uganda’, JLOS stated that, ‘the Uganda prisons in their current form and the lengthy terms of imprisonment do not sufficiently reintegrate offenders back into the community’.<sup>68</sup> Former inmates, who said they returned home with little or nothing by way of a reintegration package, confirm this. According to the participants, it was not incarceration per se that led them to feel remorse. Instead they pointed to counselling, sensitisation and psychosocial support as critical in bringing home to them the gravity of the damage done to others.

65 Senior police officer at Kitgum Central Police Station, Kitgum district, 12 October 2016.

66 FGD, in Mucwini, Kitgum district, 15 October 2016.

67 Forty-three-year-old ex-inmate from Bar Pii in Aromo sub-county, Lira district, 17 September 2016.

68 JLOS, Uganda, *A Study on Sentencing and Offences Legislation in Uganda*.

## CONCLUSIONS

It is important to explore a comprehensive framework for understanding and responding to crime and victimisation. Crime should be viewed broadly as opposed to the more abstract legal definition of crime as a violation against the law. Responses to crime should move beyond the offender-driven focus, to ensure that those most directly affected by crime are allowed to play an active role in the attainment of justice, repairing of harm and restoration of broken relationships. This study establishes that restoration of the emotional and material losses resulting from crime is far more important to victims than imposing longer and the most costly punishment on the offender. Hence, rather than simply serving their sentence, offenders should be actively encouraged to restore losses, to the degree possible, by working for the victims and communities affected by their crimes. The use of dialogue and negotiation among victims, victimised communities and offenders is also part of the restorative justice process.

The essence of this approach has its roots in the traditional practices of most indigenous peoples in the country and the wider region. Justice in the complex social relationships of the post-war context should facilitate a sense of having dealt with the past, enabling the victim to move on. Economic empowerment of ex-prisoners, though necessary, does not on its own guarantee any more peaceful outcomes, especially if victims of crimes remain ignored. Instead, offenders should face the consequences of their actions and take part in repairing the harm done, for example by seeking to mend the social relationships damaged by their actions and do community work for victim communities. Initiatives fostering reconciliation and reintegration are still lacking. Gradually, as the justice system starts to improve the process, however, crimes that involve close relatives or clans, for instance, are being handled in new and innovative ways.

On the basis of the available evidence, gathered for this study, it does seem most people prefer to settle out of court if they can. Even where an offender has served their sentence, this preference is expressed, and is one indication that formal justice mechanisms are not always seen as ideally suited to restoring community cohesion and repairing the consequences of crime.



## RECOMMENDATIONS

- **Reform of JLOS institutions:** Government should enact policy guidelines on the reintegration and reconciliation of ex-inmates in order to ensure that there is a balance between prosecution, repairing harm and mending relationships. Generally, there is need to reform the police Criminal Investigation Department and the court processes, quicken the court process and fight corruption within the JLOS.
- **Awareness creation:** The police, the media, the Uganda Human Rights Commission (UHRC) and civil society actors should be supported to constantly engage communities on understanding of crime, prevention and resolution mechanisms.
- **Strengthening structures:** The capacity of lower-level local community structures such as cultural leaders to deal with crimes needs to be strengthened. There is need to empower and train the local leaders and clan elders, as well as those offering social services to the communities such as e.g. representatives of NGOs – to sensitise the public regarding how to deal with crimes.
- **Ending torture in prison:** There could be improvement in the ICT standard of prisons so that they can keep a better record of what is happening inside prisons with a view to facilitating appropriate responses from the authorities.
- **Promotion of reconciliation initiatives:** The GoU, JLOS institutions, cultural, religious and civil society actors should support and facilitate reconciliation initiatives targeting ex-offenders, victims and communities based on restorative justice principles.
- **Provision of psychosocial support:** The GoU and civil society should address conflict-related trauma through the provision of psychotherapy and counselling at health centres, hospitals and prisons. This support should also be able to address health complications that ex-convicts return with to their communities.
- **Establishing victim support networks:** This is to enable victims understand judicial processes and cope with consequences of crime throughout the justice chain to closure including community sensitisation.
- **Establishing a justice referral pathway:** CSOs working on justice issues should establish a justice referral pathway and social safety networks to facilitate healing of victims and perpetrators of crime. This helps to connect all the different informal and formal institutions working on justice.

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