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UGANDA



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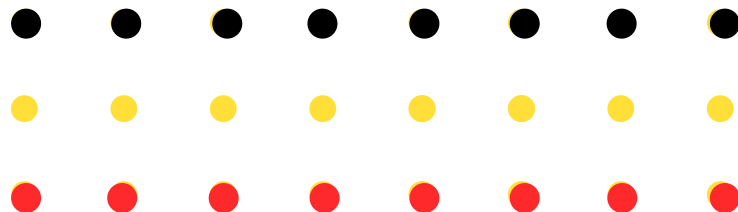
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TÊTE-À-TÊTE WITH JUDGE PROST

BY EDEN SHOSANYA / 4TH AUGUST 2020

Judge Kimberly Prost was elected in 2018 as a Judge of the International Criminal Court (ICC) for a 9 year term. Before her election, Judge Prost served as Chef de Cabinet to the then - ICC President. She has also worked with the United Nations, the International Criminal Tribunal for the former Yugoslavia (ICTY) and for the Canadian Department of Justice, having an illustrious career spanning over 18 years.



Q: Did you always want to get into the legal field or you had different aspirations/ dreams while growing up? Please take us through your formative years.

JUDGE PROST: I never really had any particular vision of what I wanted to do, so it was one of those situations where I was in university and I thought of teaching in some field. A lot of my friends were writing the LSAT (the Law admissions test) and I thought, it always kind of interested me. So I wrote it, and did okay. It was more by chance. Now that I look back, I can't imagine myself doing anything else. But, it wasn't that I grew up wanting to be a Lawyer or anything that major.

Q: Do you believe being a female in Law has created any particular challenges for you?

JUDGE PROST: There were always challenges because at the time when I became a prosecutor it was so novel. There were inherent biases and challenges. In many ways, there have been advantages in being sort of unique in that sense, in my time of the career, and I have certainly had opportunities that arose because I was a female. For example, when I was selected to be nominated by Canada to the ICTY as a Judge, it was because they needed, and definitely wanted to put forward a woman, with the right qualifications of course. Where I have found the challenges is, once I reached the international sphere and faced the differences in attitudes. It's one thing when you're in Canada, there's prejudice of course, but it's quite manageable because of the country's perspective. At the international level you see the challenges much more vigorously, I must admit.



Q: You were elected as an ICC Judge in 2017. Can you tell us how a normal workday for an ICC judge looks like?

JUDGE PROST: That's a good question! I wish sometimes that people who were interested in being ICC judges actually asked that question because one of our challenges that I don't think many people realize is as to what the job is.

It's very much a job that's about the cases that are before us. For me, as a Trial Judge, my day involves reading through material that has been filed, applications and responses, forming a picture in my mind of how I want to approach issues, talking to my team, giving instructions, taking to my colleagues, arriving at positions, discussing legal issues. So that's the preparatory phase.

And once you're in a trial, the work is about sitting in a courtroom every day and listening to people give evidence and really applying yourself in that context. It is not for everyone. But, I absolutely love it and that's the reason I wanted to be a Judge again.

And of course, there's variation as there are times when you are writing judgements, but it's all that kind of work. It's all about the facts, and the Law and it's not about meetings and big political issues, or about Court as a concept. It's day to day judicial work.

Q: What is the most fulfilling part about your role?

JUDGE PROST: There are so many aspects of it. I love being in the court room and asking questions. I sat on the Afghanistan appeal, and that was extremely fascinating. Forget the politics surrounding the case I didn't care much about that, but the legal issue was so fascinating and the structure of the Rome Statute. I loved that interaction. I also like working with my team and drafting and solving. It's like solving puzzles sometimes when you're interpreting legal provisions and giving directions. It's all that interactive work. I particularly enjoy the judgement crafting and decision writing phase since I like legal drafting so much.

Q: If you are able to say, what is the biggest challenge at your work place?

JUDGE PROST: We have many. I speak about the challenges, as there's no use hiding the challenges the Court has. It's a very complicated institution and we have lots of issues. Fortunately the review process is ongoing right now which I welcome because I think we could really use some objective perspectives. I think, focusing on the judiciary, one of our biggest challenges is building a judicial culture that produces consistent approaches to our cases. When you think about it, part of the problem is structural.

Every three years, six judges go and six judges come. Maintaining continuity and developing that culture with that kind of change, you really have to concentrate on doing that. I also think the never ending issue of Common Law versus Civil Law has people coming in wanting to bring their own approaches when what we have to do is draw the best of those systems. There are some real challenges that distinguish every Judge going to the bench in any jurisdiction, but for us it's these bigger challenges of coming together and overcoming these cultural and legal differences.

Q: How successful do you think ICC has been in achieving its mandate since the time of its inception? What do you think is the biggest achievement of ICC so far?

JUDGE PROST: People, of course criticize the Court and they make these outlandish statements about the money spent and the number of cases and their outcomes. That's not the way to examine the record of the Court. I think the Court can do better in fulfilling its mandate, there's no question as to why we need to improve.

I think what's overlooked is the enormous impact it's had as a system, not as a standalone Court. The Rome Statute system, the purpose of which is to bring to light cases/ situations and ultimately pressurise states to take up their responsibility.



ICC press release 16 March 2018 © ICC

It's their responsibility to investigate and prosecute, we're (the Court) supposed to be the last resort and unfortunately in too many situations we're the only resort.

I think the impact, the fact that states talk about us (The ICC), that we're talked about in the Pentagon, people worry about going to the Hague. That's all part of what this Court was established to do and I think it has accomplished a lot in terms of getting states to look at their situations and getting to address them. I think it has had some successes. It needs to do better. Everything needs to improve including National practice as well as the Courts practice.

"I do think the ICC as a system that holds states accountable is its biggest achievement. It has played a huge role in making accountability a permanent part of the international agenda."

When you see mechanisms like the Syria Mechanism being created and the innovations that have been taken and the national prosecutions being done on a extraterritorial bases, the existence of the ICC, even though we don't have jurisdiction plays a role. States can no longer dismiss accountability or ignore these situations.

Q: You are also a member of the Crimes against Humanity Initiative that is aimed towards establishing the world's first treaty on the prevention and punishment of Crimes against Humanity. Why do you think we need a separate treaty when the issue has already been addressed in the Rome Statute to a large extent?

JUDGE PROST: I am a big supporter of the two initiatives, there's the one in the ILC and then there is the Mutual Legal Assistance initiative which I am a huge supporter of. For me, the biggest gap and the reason why both are important is that we do have the international approach with the creation of the Court and the Rome Statute, but we do not have the same kind of cooperation provision for Crimes against Humanity unlike Drug Trafficking and Corruption where such provisions are already in place. For me, as a former practitioner of international cooperation, the most important aspect of both these initiatives is the idea of encouraging cooperation between States in support of national prosecution.

The initiative on Crimes against Humanity is also about states upping their game, and incorporating the crimes, the definitions and taking on the obligation themselves which is created through the Rome statute in an indirect way. I don't view these initiatives as competitive in any way at all. They are completely a part of the complementary nature of the Rome statute and I do think they add to the need of having a whole network that wants to bring an end to impunity, the network we don't have otherwise have.



Q: We know that you are frequently involved in Capacity Building projects. Without breaking any confidentiality agreements, are there any projects you are currently working on that you are particularly excited about?

JUDGE PROST: A lot of the work I've done historically in Capacity Building was in my prior roles when I was with the UNODC and Commonwealth. Currently, I do a couple of things with the Rule of Law organization in Malta and the national initiative for justice which is related very much to the work on counter terrorism.

The good thing about working on counter terrorism for practitioners is that you're building capacity to be able to deal with big cases. I have always been of the view that if you have the right skill mix and training for prosecutors in the field of terrorism, then you can easily translate that to the field of Organised Crime or Crimes against Humanity. It's all about big case management that has very similar issues. I personally find training the prosecutors and academic side of that work very interesting.


Q: What is the one piece of advice you would give to a young lawyer that you wish someone had given to you?

JUDGE PROST: Something I would advise for is getting a background domestically. It is really important if you want to be a practitioner. Especially today, you need to be quite creative in your thinking about the Law and how you practice the Law. There are traditional ways of doing it, but especially in the international sphere, there are so many ways you can use your legal training and background. When I worked at the UN, all of the amazing rule of law work that goes on in difficult country situations, was out on the field. I never did any work of that nature on a sustained basis, I would travel but I didn't have a base in a field office. I would highly recommend every young lawyer to do that, especially when you're young and you don't have the kind of responsibilities and family that makes it more difficult. Those experiences for the people who do them are always amazing in the impact you can have.

Corruption, Legal Education and Justice System of Uganda

Uganda is ranked 137 out of 180 countries surveyed on perceptions of public sector corruption in Transparency International's 2019 Corruption Perceptions Index, with a score of 28 out of 100


What people think of Corruption




69% Think corruption increased in the previous 12 months



46% Of public service users paid a bribe in the previous 12 months



44% Think that ordinary citizens can make a difference in the fight against corruption




78% Think their government is doing a bad job of tackling corruption

Source: GCS report Africa 2019 by Afrobarometer

In December 2018, Law Development Centre (LDC) released results for the 2017/2018 Bar Course showing that out of over 800 lawyers that sat exams in August, a whopping 650 had failed and would only graduate if they re-sit and pass the supplementary papers. Out of the 650 that resat for the exams, 200 failed again.

Source: Peter Kinobe Interview, ULS president

Challenges facing Legal Education System



Outdated Curriculum
The curriculum at the university is rather parochial and traditional in scope largely dependent on the English Law system.



Inadequate Staff
Most of the universities have disproportionate student faculty ratios along with inadequate remuneration for the lecturers.




Overcapacitated Law Schools
Each of the 5 Law schools in the country has between 200 and 300 students a year., while operating on a maximum capacity of 40 students per year.


Source: Study report on a Nexus between the Law Development Centre and schools/faculties of law in Uganda

As of 2016, the proportion of Magisterial areas accessing state funded legal aid services was only 26%. Currently state provided Legal Aid is only guaranteed for Criminal matters. Justice Centers— which should offer Legal Aid including for Civil matters— are few and far between. They are only located at Magistrate Courts and one High Court.

Ugandan Judicial System problems



Case Backlog
From 2017 to 2019, the number of cases more than 2 years old pending in the High Court, Court of Appeal and Supreme Court increased by 137 percent. As of October 2019, an estimated 40,306 cases were more than two years old; 34 percent of these were more than five years old. The High Court has by far the largest share of the case backlog, with a total of 36,009 cases.



Inadequate Staffing
There are a total number of 390 judicial officers working in the country. Of these, 86 are judges of Courts of Record (High Court, Court of Appeal and Supreme Court), 36 are Registrars, Deputy Registrars & Assistant Registrars, and 268 are Magistrates. It is unimaginable that in a country of approximately 40.3 million people, there are only 390 judicial officers. This means that Judicial Officer to population ratio is 1: 109,487.2.

Source: Meaningful access to justice for economic and social rights by ISER, September 2019



Limited Access to Justice
Uganda is yet to pass the National Legal Aid Policy. Only 18.2% of the people in rural areas have access to a Magistrate Court within a distance of less than 5km and residents often have to travel long distances to get to the courts where the Justice Centers are housed.

(Source: Judiciary of Uganda)



A general view shows the opening session of Heads of States and Government of the African Union on the case of African relationship with the International Criminal Court (ICC) in Ethiopia's capital Addis Ababa, October 11, 2013. Credit: Reuters/Files

Uganda and the ICC

by Marvin Lindijer

Uganda has had a turbulent relationship with the ICC since ratifying the Rome statute in 2005. Some may recall the incumbent president Museveni refer to the court as a "bunch of useless people" joining other African states in condemning the ICC as a biased institution focusing solely on the leaders of the African continent.

Conversely some of you may also recall that Uganda was the first country to refer a case to the Court Pursuant to article 14(1) of the Statute of the International Criminal Court. Also, the first country to host the review conference of the statute.

However only recently in the assembly of state parties the Ugandan representative declared a firm commitment to the ideas in for which the international criminal court was established.

Conversely, despite this mixed messaging, Uganda currently has six high profile cases technically ongoing at the ICC. Dominic Ongwen has particularly captured headlines lately with his interesting back story of a child soldier himself turning into a child abductor for war.

This article will attempt to go through the main highlights of the fascinating relationship between the ICC and Uganda.

On December 16th 2003, President Museveni sent a letter to the then prosecutor of the ICC, officially referring the Ugandan Situation to the Court. At the centre of all this is the Lord Resistance Army (LRA), a rebel group that has been active in Uganda and surrounding areas since 1987.

Lead by the infamous Joseph Kony, the ICC investigation in Uganda has primarily focused on alleged war crimes between the LRA and the national authorities mainly, in northern Uganda, since July 1st 2002. Shortly after correspondence with the Ugandan government, the office of the prosecutor issued a press release stating: "a key issue will be locating and arresting the LRA leadership".



Dominic Ongwen during his trial at the ICC © ICC



Around 40 LRA Soldiers emerge from thick bush © AFP/ STRINGER

Then in July 2004, the ICC officially initiated investigations in the Ugandan situation. The alleged War Crimes and Crimes against Humanity included murder, enslavement, rape, pillaging among an array of crimes prohibited under

International Law. This led to the issuance of arrest warrants against top members of the LRA. With the exception of Dominic Ongwen, all other LRA members whose warrants have been issued are still at large at the time of writing this article.

Accordingly, the main priority for the ICC regarding Uganda is the ongoing case of Dominic Ongwen. He has been charged with 70 counts of War crimes and Crimes against Humanity, primarily committed in various IDP camps in the region of northern Uganda.

With his trial having begun in 2016, it is now in its final stages with Trial Chamber IX stating that it "will deliberate on the proceedings and, within a reasonable period, pronounce its decision on conviction or acquittal pursuant to article 74 of the Rome Statute"

Perhaps surprisingly Uganda has been seen to have cooperated substantially in the Ongwen case;

having provided crucial evidence in his prosecution. Where it seems likely that the Ongwen trial will be able to offer some sort of justice to the victims, the Ugandan cooperation with the court would have gone a long way in achieving the result.

However, As the trial was in progress the Court received two separate petitions from Uganda both requesting the court to investigate crimes allegedly committed by President Museveni's government. The first of these petitions concerned a 2016 incident where Ugandan government troops and personnel stormed a palace of King Charles Wesley Mumbere in western Uganda resulting in the death of over a hundred civilians including women and children.

The second petition came in 2019, among other issues the petition "contends that General Museveni and a number of high ranking security and public officers... have committed heinous crimes and gross human rights violations categorized as Crimes against Humanity to the people of Uganda jointly and severally, for which he is liable to be subpoenaed, prosecuted, tried, convicted and punished by the International Criminal Court."

Where these petitions seem to have evidential backing, it shows how tensions between the Court and the Ugandan government apparatus have evolved over time. Uganda's President has been publicly critical of the ICC for better part of the last decade. During the swearing in ceremony of Kenyan president Uhuru Kenyatta, President Museveni referred to the Court as an institution that is being abused by Western powers to promote their own agenda.



President Yoweri Museveni delivering the State of the Nation address in 2017.- Dominic Bukenya/Daily Monitor

Then, Museveni openly welcomed then Sudanese president Al Bashir who had been indicted by the Court on War Crimes, and extended this; offering the President, asylum following massive protests in Sudan and his subsequent deposing. These hardly seem like actions that a state with positive relations with the ICC would take. However, commentators agree that is unlikely the ICC would take any action on the aforementioned petitions, considering the importance of the ongoing investigations in the midst of the Ongwen trial despite the legitimate claims that Crimes against Humanity were committed on both sides including government authorities in Uganda.

As of now, we are all waiting in anticipation for the deliberation on the proceedings of the Dominic Ongwen. Not only will it be immensely consequential for Uganda but for the international community who are closely watching the newly formed Court amid the criticism it has received.

Where it would be largely seen as a positive result for the Court, if Ongwen is indeed convicted in pursuant to article 74 of the Rome statute.

The Court and its commentators would be mistaken to believe that what the Court may achieve in this trial is anywhere close to fulfilling its mandate in the Situation case. Not only are the majority of those indicted by the Court in this situation still at large, but also because there are legitimate reasons and evidence to believe that Museveni himself could be indicted on crimes under jurisdiction by the Court.

By large these issues are in turn familiar with the Court; exercising political will and capacity to conduct and prosecute without the dependence on state governments.

Whatever the results of the case may be, it is clear that the Court must continue on its path to achieve what it set out to do in the Preamble of the Rome statute. The Court must adapt and evolve without losing sight of Equality in Justice. How it will be able to do that only time will tell.

For now, we can only hope that the Ongwen trial will be able to offer some form of respite to the Court in a time when its authority seems to be constantly undermined by African states.



Proceedings going on in the Ugandan Parliament. Photo:Sumi Sadurni via Getty Images

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Violations of freedoms in Uganda



Restrictions on expression and assembly, arbitrary detentions and prosecutions of outspoken critics, and the government's failure to ensure accountability for past abuses, do not bode well for the 2021 general elections.

Freedom of Expression

Freedom of Assembly

On May 30 2019, the Constitutional Court declared unconstitutional Section 36 of the Police Act, which allowed police to use unlimited force when dispersing crowds and gatherings with no liability for deaths or injuries. The decision signals the need for reform of other laws that allow police and other security forces to arrest and disperse crowds without limits on the use of force or firearms.

In April 2019, the Uganda Communications Commission directed 13 radio and television stations to suspend their staff, accusing them of airing programs that were "unbalanced, sensational and often give undue prominence to specific individuals."



Lack of Accountability for Torture, Killings

In August 2019, the speaker of parliament, Rebecca Kadaga, directed parliament's Human Rights Committee to investigate claims of the existence of safe houses kept by the Internal Security Organisation (ISO) to illegally detain and torture people.

Children's Rights

In July 2019, government officials and police violently and arbitrarily rounded up over 600 children and young adults in Kampala as part of an exercise by local authorities to remove and resettle homeless street children. Witnesses said police used sticks and batons to beat these children as they forced them into vehicles. Ugandan authorities have carried out similarly operations in the past.



Robert Kyagulanyi Ssentamu a.k.a Bobi Wine

Born: 12 February 1982, Nkozi, Uganda

Occupation: Politician, singer, actor, businessman, philanthropist

Years active: Early 2000s–present

Political party: Independent

He serves as the member of parliament representing Kyadondo East constituency in Wakiso District, in Uganda's Central Region. He leads the People Power, Our Power movement in opposition to President Yoweri Museveni.



Copyright: AL JAZEERA AND NEWS AGENCIES, April 2019



In April 2019, security officers arrested Kyagulanyi while on the way to address a press conference on issues of "police brutality, injustice and abuse of authority." A week later, he was charged with disobedience of statutory duty for leading a protest in July 2018 against a tax on social media use that the government imposed.



In August, Kyagulanyi faced additional charges for inciting violence and with intent to "alarm, annoy or ridicule" the president, stemming from 2018 when Kyagulanyi and 33 other people were arrested and charged with treason on allegations that they threw stones at the president's car during an election campaign rally in Arua in Northern Uganda. Kyagulanyi and the others alleged that security forces tortured them in detention.

Barring candidates from running as independents after participating in party primaries.

Preventing independent presidential candidates from forming alliances with political parties.

Removal of a 75 year age limit for presidential candidates from the Ugandan constitution.

BUT...

This law seems to target Kyagulanyi, who said he would run for president in 2021 as an independent candidate.

BUT...

The ruling National Resistance Movement party announced in March that President Museveni, 74, would be its candidate for "2021 and beyond."

Regressive Electoral Laws in the build-up to elections in 2021

THE VICTIMS' RIGHTS: ARE WE DOING ENOUGH?

AN ARTICLE BY STEPHANIE ERE TOBI

“I often had to bend over and stand in that position for long periods of time, or I had to stand on one leg with my hands against the wall. Once, I even had to stand on one leg for forty days in a row...the worst torture I had to endure was being exposed to an electric current. A number of times, they put electric wires into my mouth and switched on the current...worst of all was when they applied electric wires to my genitals. That was excruciating painful...”

The above statement was bitterly expressed by a victim who sustained severe physical and emotional impairment due to the sufferings gotten from War Crimes, Crimes against Humanity and Torture. The victim in this context voiced what many other victims of international crimes - War Crimes, Genocide, Crimes against Humanity, Crimes of Aggression, Torture, etc. experience into the hands of the accused person(s).

To have a better understanding of what victims' rights are, it is important to briefly identify who a victim is according to recognised sources of international laws and framework.

A victim according to the United Nations Declaration of Basic Principle of Justice for Victims of Crime and Abuse of Power is described as “person(s) who individually or collectively have suffered economics loss or substantial impairment of their fundamental rights”. However, for the purpose of this article, the working definition of a victim shall be one who has suffered emotional and psychological harm as a result of the commission of any of crimes within the International Criminal Law. Under international laws, victims of crimes are entitled to certain rights which serve as obligations not only on the part of the Courts, but also on the part of the member states. These rights include but are not limited to the following:

- Right to participate in a proceeding
- Right to seek justice and fair treatment
- Right to reparation
- Right to protection



1994, Rwanda, The Tutsi Genocide ©James Nachtway

Given recent developments in the International Criminal Court, the scheme in ensuring rights of victims are enforced is highly commendable, however, there are still crucial aspects of these rights that are not given as much attention as it deserves. In other words, those rights are either insufficiently addressed or sometimes ignored. One of such fairly addressed rights include the right of victims to be reasonably protected during the proceeding and where necessary outside the proceeding of the Court.

The bone of contention here is not the rights to protection in its entirety; rather, it is on the right of victims to be reasonably protected outside the boundaries of the courtroom. An aspect that is barely discussed but deserves a lot more attention than it gets.

Victims' right to protection is an open-ended topic that cannot be exhausted in this article; this is simply because there are several factors that need to be determined before a victim is concluded to necessitate protection outside the Court. Factors such as:

- The characteristics of the victim – gender, age, sex, etc.
- The type or nature of crime – Sexual slavery, assaults, attacks, extermination etc.
- The circumstances of the crime – War, genocide, widespread or systematic attack etc.

Therefore, this article shall be taking on the perspective of victims who 'deserve' adequate protection outside the proceedings/Court. Thus, victims who have been encouraged to testify against the accused and who stand chances of their safety been compromised where adequate protective measures are not applied or fail.

Although, it is unclear to what extent victims outside the Court are said to be reasonably protected; there is no doubt that many international courts are ensuring maximum protection of victims who may be at risk in their various communities as well as victims who are entitled to some sort of protection after the conviction of an accused or judicial proceeding.

Nevertheless, despite, the protective measures presumed to have been assured for victims, there appears to still be complaints of intimidation, retaliation, further attacks, violence and sometimes cyber bullying on these victims; leaving many of them to lose confidence and trust in the Criminal Justice System. Hence, with this in bear gives rise to the question:

“Whether or not the protective measures for victims outside the proceedings are adequate enough to actually keep them safe?”



In Nigeria, Kevin was tortured for hours with heated knives and other metallic objects by a community vigilante group working with the police ©IRCT

To determine the answer to the above question, it is foremost important to mention that when it comes to victims' right to protection outside the court, it's not solely the responsibility of the Court. As a matter of fact, it also requires the monitoring and cooperation of the states where the victims reside. With that in mind, the aim of this article is to highlight why some victims find it extremely difficult to trust the criminal justice system for their safety. More so, the goal is to recommend more ways to ensure that victims' right to protection are not only sufficiently addressed but also, that maximum protection is accorded to victims who 'deserve' it by the different levels of the society. Thus, the different levels of the society in this context shall mean - the Courts, the state or community and individuals.

THE COURT

"...there are persons who were asked questions as witnesses and whose names don't even appear on witness lists because they have been killed. I don't want protective measures because such measures do not exist in reality; they only exist within the boundaries of this courtroom, not outside it."

It is often said that the court is the "last hope of a common man". This simply means that the court is a place of refuge for persons that seek justice and ensure that all their guaranteed rights are applied accordingly; one of which is the right to protection.

In the International Criminal Court, it is an applauding development to see that victims, not only get the opportunities to share their views in a clearer picture to the Court of the hideous experience inflicted by the accused, but also they get to see justice take its due course against the accused responsible and also that they (victims) are protected and their identities are guaranteed to be hidden away from public domain through various protective measures set by the Court.

However, the challenge here is that these existing protective measures appear not to be sufficient as there are still many victims who have consistently complained of being harassed, intimidated and attacked due to their participation at certain stages of a proceeding. While, some others did not get the chance as they were either killed by (un)known persons or families or allies of the accused; and the other victims, their inability to continually take the pressure led them to committing suicide.

"One of the duties of the State is that of caring for those of its citizens who find themselves the victims of such adverse circumstances as makes them unable to obtain even the necessities for mere existence without the aid of others.... To these unfortunate citizens aid must be extended by government-not as a matter of charity but as a matter of social duty." - Franklin D. Roosevelt



A child mutilated by Uganda's Lord Resistance Army (LRA) ©simplywar - Tumblr

Hence, even though the participation by victims is voluntary and many times in International Criminal Court, provisions are made to hide identities of victims through a pseudonym setting; unfortunately, in this day and age of information, it can be quite possible to track suspected victims to a given case before the Court. Hence, the guaranteed victims' right to protection especially outside the proceeding should not be taken frivolously.

Therefore, for victims to continually entrust the criminal justice system for their guaranteed right of protection, it is important that the courts innovate new mechanisms to ensure victims of crimes are duly protected both during proceedings and outside the "boundaries of the court."

THE STATE/COMMUNITY

Besides the courts, families and the state/communities play important roles in the protection of victims outside the court. It is no doubt that the moment, a victim testifies at a proceeding, s/he may be at risk outside the court. Hence, there are several protective measures initiatives by the courts for victims of any given case; however, without the cooperation of the state/community, it may be very difficult to reasonably safeguard victims of crimes against intimidation,retaliation, harassment, physical attacks and emotional abuses.

Therefore, where the Court is unable to stretch its power, it is the obligation of the state/communities to find possible protective measures to ensure maximum protection of victims and ensuring that those measures are kept discreetly between the victims and the enforcing departments in-charge of victims' support and protection.

Setting maximum protection and support for victims will in a way give victims assurance to trust in the criminal justice system and strengthen their confidence to freely move around the communities without fear.

Therefore, besides enhancing the already existing protective measures, states/communities may consider criminalising individuals who specifically harass, attack, intimidate or shame victims, if that doesn't already exist. Doing so will serve as deterrence to those persons who do such to victims.

Furthermore, the states should formulate mechanisms where victims can be constantly monitored to ensure their safety is not compromised in any way.



Rwandan refugee children plead with Zairean soldiers to allow them across a bridge separating Rwanda and Zaire where their mothers had crossed moments earlier before the soldiers closed the border, in Zaire, now known as Congo on Aug. 20, 1994. (AP Photo/ Jean-Marc Bouju)

INDIVIDUALS

“For a community to be whole and healthy, it must be based on people’s love and concern for each other” – Millard Fuller

Besides the courts and the states/community, individuals regardless of how high or low, influential or not they are; it is important that individuals in a given society understand that victims of crimes are survivors of severe maltreatment, torture, genocide etc. Thus, they deserve respectful treatment and recognition as victims.

Therefore, it is believed that anyone and everyone can contribute towards assisting the courts and the states in ensuring that the victims around them are protected. It is obvious that individuals do not have mechanisms in place to protect victims when the need arises, however, sometimes all that is needed is something as little as not making excuses or remaining silent when the victims are seen to be intimidated or harassed.

Individuals in the society go beyond what the courts and states do in protecting victims. Persons living around the victim are assumed to be their brother’s keeper and they are the people close enough to the victims than the state or the court. They get to see the day to day activities of the victims and they ought to ensure the victims around them are not harassed or victimized.

Thus, as an individual, one can make personal commitment to speak out when victims of crime are harassed or intimidated. Speaking out in this context does not mean getting physically aggressive towards another for intimidating a victim but in this information age, there are several ways of actually contributing towards the safety of another; For example: whistle blowing- reporting the intimidator to the authorities; calling out through the internet as a way to campaign against harassing victims who have survived War Crimes, Genocide, Crimes against Humanities and even Tortures.

More so, being able to defend these victims when derogatory statement is made against them either offline or on the internet may give victims a sense of safety to walk freely in their environment without fear.

CONCLUSION

It can be deduced from this article that one of the best means of ensuring victims’ protection outside the boundaries of the court is by having all the different levels of a society collectively and individually supporting the framework that safeguard victims’ right. Protection to victim is also a protection to the state etc.

In other words, if all the different levels of the society take responsibility; intimidations, retaliation, attacks and stigma towards the victims may reduce to a barest minimum and maximum protection could be guaranteed.

Therefore, for this perspective the following recommendations provide a few suggestive ways through which the protective measures can be improved to ensure victims' maximum protection. The recommendations shall be divided into recommendations for the different levels of the society and recommendations for victims.

RECOMMENDATIONS FOR THE DIFFERENT LEVELS OF THE SOCIETY

1) Given the many complaints by victims over constant harassment either physically or via the internet, there is a desperate need to sensitize and educate people about the magnitude of what victims of crime experience and how such traumatic experience lead to certain impairments.

Sensitization can be achieved through campaigns that would disclose the following information:

- a) Having a complete understanding on the implications of shaming or intimidating victims of crime
- b) Factual information of these international crimes and the long-term impact it has on victims
- c) General tips on how to protect victims using the different online and offline platforms
- d) Information on available remediation tools for victims who get intimidated, harassed etc.

2) There are quite a number of victims who have suffered elevated unimaginable mental and physical health problems, worse some have even died in the course of struggling through constant intimidation, attacks from either unknown persons or allies of the accused; hence, there should be an inclusion or amendment in the laws to criminalise people who specifically intimidate victims of crime in any form. That would serve as deterrence to people who assume it is fine to just shame victims without consequences.

3) There should be follow-up schemes to follow up on victims under any of the designed states/community protective support system.

4) States should coordinate better with the courts to ensure that the safety and protection of victims under their care are not compromised

RECOMMENDATIONS FOR VICTIMS

It is important for victims to understand that despite the different measures been set up by the courts and states; it is not a full assurance that intimidation, harassments, retaliation will stop.

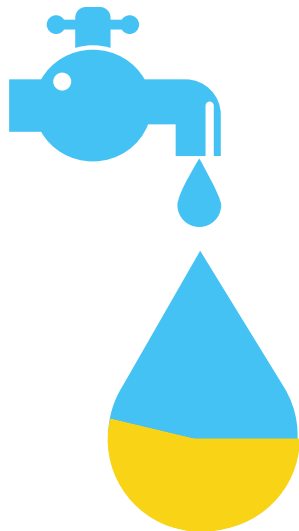
Therefore, besides involving the appropriate authority, here are some tips recommended for victims:

- 1) Place an alert and immediately report your victimization
- 2) Endeavour to take control of your mental state, and where the feelings gets unbearable, consider professional help. International Court and organization have set up recovery centres and rehabilitation to assist when the need arises.
- 3) Do not delete comments, messages, or any evidence that would build up a case against the offender
- 4) Gradually come to terms with the situation. There is no time allotted for victims to move forward after the victimization.

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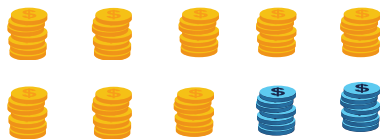


Uganda Health and Water

21.9 million Ugandans lack access to safe water - that's **51%** of the population



83% of the population of Uganda lives in **rural areas**



People in poverty pay as much as **22%** of their income to access water

4500 children in Uganda die every year from diarrheal diseases.



8 in every 10 people don't have a decent toilet



The African Charter on Human and People's Rights states that all people have the right to the highest attainable state of physical and mental health



The right to water is directly stipulated in objective XIV of the Constitution of the Republic of Uganda



Article 11 of the International Covenant on Social, Economic and Cultural Rights emphasises the right to adequate food, housing and clothing



The United Nations recognises access to water and sanitation as a fundamental human right

CHILD SOLDIERS IN UGANDA

GENDER-BASED ISSUES AND THEIR IMPACT ON THE REHABILITATION PROCESS

By Célia Daubagnan

As emphasised by the defence of Dominic Ongwen before the International Criminal Court (ICC):

"Child Soldiers are brutalised into a fighter machine and thus, can be both victims and perpetrators."

Child soldiers became a hot button issue in Uganda as between 25 000 to 38 000 children were abducted by the Lord's Resistance Army (LRA) in 19 years of conflict.

Dominic Ongwen was himself a child soldier from the age of 9. However, he continued to serve after becoming an adult. His stories along with the 70 war crime charges held against him drawn international attention to the crimes committed by the LRA.

In fact, if child soldiers can be perpetrators, they are victims in the first place, taken away from their families and exposed to inhuman treatment. Abducting children is now a widely recognise war crime according to the adoption of a protective legal framework.

The Rome Statute first confirmed the unlawfulness of such facts but also clarifies that it stands for enlisting children under 15 into the army. In addition, the UN Child Convention's Optional Protocol on the Involvement of Children in Armed Conflict confirms States have legally binding due diligence obligations and thus, grants rights for child soldiers.

This topic is particularly important as child soldiers abducted by the LRA have suffered abuses, aiming to desensitise them from violence. Recent reports also address the "reverse roles" they sometimes were given. Especially in Uganda, many girl soldiers have been reported as taking part in the combats while boy soldiers could also be victims of sexual violence. Consequently, it is also relevant to wonder whether gender inequalities impact child soldiers' experience and rehabilitation as it can teach us about their reintegration.

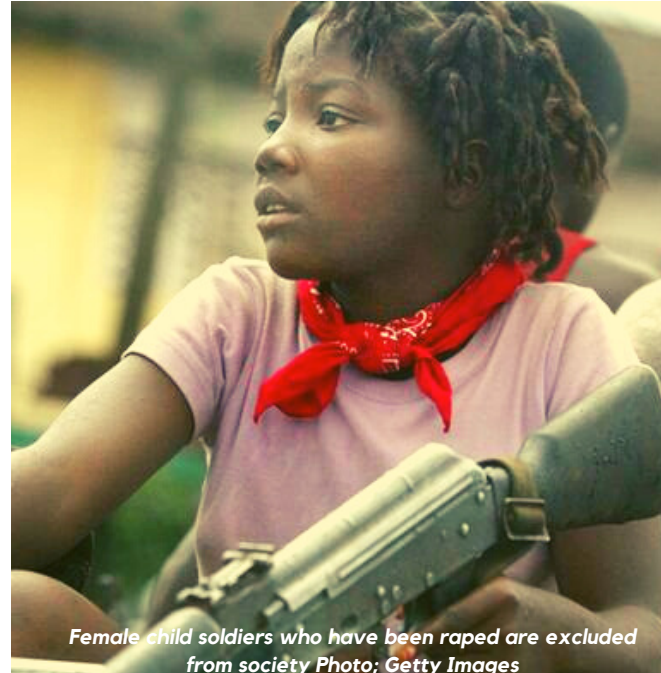
Gender inequalities

In fact, when they have to re-adapt to civil society, former child soldiers fear to be excluded because of the numerous stigma they bear. In addition to this burden, the difficulties experienced when rehabilitating really depend on child soldiers' gender.





A child soldier from Uganda holding an armed machine gun ©Medium



Female child soldiers who have been raped are excluded from society Photo; Getty Images

For instance, boys are more likely to take part in reintegration programmes meanwhile girls represent about 40% of child soldiers worldwide nowadays. This can be explained by the different kind of violence they have to endure. Firstly, numerous cases of sexual violence against woman and girls were reported in Uganda.

At the same time, boys are less likely to complain about sexual abuses they suffered since rapes of boy child soldiers are particularly under reported and stigmatised.

Consequently, it is more difficult for them to have their stories heard. As a matter of fact, while the Ongwen case counted the highest amount of gender-based crimes ever heard before the ICC, the Chamber refused to admit allegations of sexual violence against boys. The Legal Representatives for Victims (LRVs) requested that three alleged victims could testify of these facts.

However, the Chamber issued a decision against it, stating that it would not fall within the scope of the case, aimed at addressing gender based violence against women and girls. The LRVs vainly denounced the injustice of the decision, as sexual violence directed against men and boys particularly illustrates the dehumanisation methods operated by the LRA.

Unfortunately, it also demonstrates this issue remains a taboo. Its under-reported nature makes it more difficult to denounce and to use during trial. As a result, victims are reticent to testify which then feeds a vicious circle of impunity.

Their gender along with their reproductive capacity incited the LRA to use them as sex slaves. Nonetheless, girl soldiers also importantly served as combatants, some of them were even ranked captains, lieutenants and corporals in the LRA.

Accordingly, once back to civilian life, former girl soldiers bump into several issues. For those who suffered sexual violence or forced marriage, they can face undesired pregnancies but also important physical damages such as sexually transmitted diseases. In addition, they also suffer psychological consequences including unprecedented trauma. The stigma of being raped is an important burden that cannot be hidden with a fatherless child, without adding that girls can be discriminated for non-marital sex.

In contrast, for the numerous girls who served as fighters, they obtained positions of leadership which they hardly experience in civilian society. As a result, reintegration is more difficult for girls who served reverse roles as they fall out of social constructs. They tend to be reluctant for people to know about the acts they were forced to accomplish as soldiers and intend to stay discreet on their past. Hence, avoiding their participation in the rehabilitation programmes.

Moreover, the Anti- Homosexuality Act passed by the Ugandan parliament in 2013, then invalidated for procedural reasons, helped reinforcing a climate conducive to homophobia. Consequently, victims fear society stigma and remain silent on sexual violence cases to ease their rehabilitation process.

Available law and existing measures in Uganda.

As stated in the Rome Statute, International Courts have no jurisdiction over individuals aged under 18 years at the moment of the facts. Notwithstanding, young children that were abducted often suffer long lasting trauma following their experience due to the dehumanisation methods used by the LRA and the different roles they had to conduct.

Moreover, due to their young age at the time of abduction, they have to be socialised after disarmament in order to successfully reintegrate society. Consequently, operations are conducted post conflict aimed at disarming child soldiers and reintegrate them through demobilisation camps.

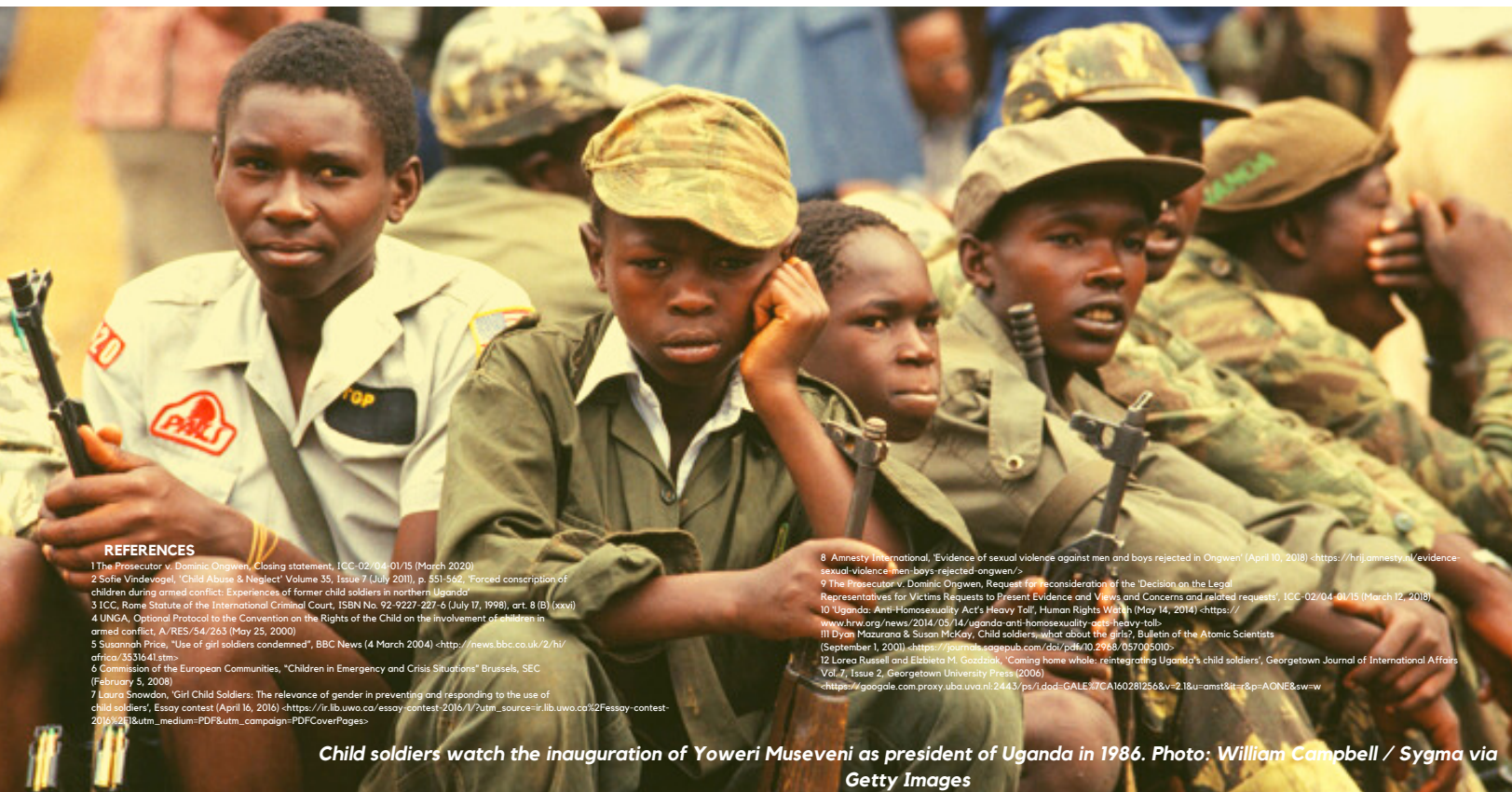
However, boys are more likely to be concerned by disarmament and reintegration programmes as pointed out by various studies. Seemingly, due to a tendency to ignore that girls also are forced to carry weapons and fight when abducted but also suffer long lasting consequences due to their experience. As a result, their need for help is marginalised in reintegration processes.

In Uganda specifically, centres exist in order to reintegrate abducted child soldiers after disarmament. The International Rescue Committee (IRC) organise for them to receive health care, along with psychological help. They enable the children to socialise again and feel accepted through the implication of families or 'reconciliation ceremonies'. Other NGOs also welcome child soldiers such as World Vision International or Association of Volunteers for International Service.

To conclude:

The abduction of children is a recognised war crime which made thousands of victims in Uganda. However, even once they are disarmed and free, they need help during their reintegration as they experience difficulties coming back to the civilian society.

In order to better help them in this process, their gender and the difference it makes regarding their experience is meaningful as it teaches us that both girls and boys need to be accompanied in their rehabilitation meanwhile stigma can be an important obstacle.



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Child soldiers watch the inauguration of Yoweri Museveni as president of Uganda in 1986. Photo: William Campbell / Sygma via Getty Images

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