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Contextualized Transitional Justice Policy Development in Uganda: Differentiating between Normativity Types in Evidence-Based Problem Analysis

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> *The problem is when people sit out there and say those that have been affected by conflict, they cannot even think of solutions they want and then they are not involved in the [policy development] process. But the moment they are involved in the process, local peoples are very rational actors, and they have very clear paradigms of thinking about what they want in those very rough conditions, for you to capture and bring into your highly technical international frameworks. But, when they look at it, they look at it as a mirror, they see themselves in that, that would work.*
>
> — Ashad Sentongo, Buganda, Central Region, Uganda

Introduction

In the field of genocide prevention, responding to acute crisis is the work of "midstream prevention," which includes response to atrocities occurring in real time to interrupt and prevent their escalation.[1] In some cases such as Uganda, response to acute crisis also includes "downstream prevention" that works to redress atrocities that have already occurred, in ways that contribute to preventing their recurrence.[2] Transitional Justice (TJ) is an established global industry specializing in redress for mass atrocities. Though redress can indeed be pursued as an end in itself, TJ is often burdened with responding to mass violence in ways that contribute to preventing recurrence and new forms of atrocities and harm. Since the mid-1990s, commentators have acknowledged the need to use evidence-based guidance to help *localize* TJ and be context-sensitive to ensure redress is meaningful and crucially, to strengthen TJ's preventative capacity.[3] But what constitutes evidence-based guidance? It is argued here that it should comprise empirical evidence of societal dynamics and views of affected communities.

The statement above by Ashad Sentongo, a Ugandan scholar and practitioner in genocide and mass atrocities prevention (GMAP), reinforces the awareness that affected communities have "clear paradigms of thinking about what they want."[4] So what inhibited their contextual dynamics and lived experiences from meaningfully shaping Uganda's National Transitional Justice Policy (NTJP)? While Sentongo rightly points out the harmful assumptions about the capacity of affected communities as a contributing factor, there are also fundamental conceptual and technical challenges worth considering. Among such barriers, this paper establishes that understanding the role of normativity in problem analysis for policy development and practice is vital to producing evidence-based guidance. As Phuong Pham and

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[1] James Waller, "'Genocide Is Worth It': Broadening the Logic of Atrocity Prevention for State Actors," *Genocide Studies and Prevention: An International Journal* 13, no. 3 (2019), 102.

[2] James Waller, *Confronting Evil: Engaging Our Responsibility to Prevent Genocide* (Oxford: Oxford University Press, 2016), 211–249.

[3] Dustin N. Sharp, "What Would Satisfy Us? Taking Stock of Critical Approaches to Transitional Justice, *International Journal of Transitional Justice* 13, no.3 (2019), 570–589; Paul Gready and Simon Robins, "From Transitional to Transformative Justice: A New Agenda for Practice," in *From Transitional to Transformative Justice*, eds. Paul Gready and Simon Robins (Cambridge: Cambridge University Press, 2019), 31–56.

[4] Ashad Sentongo, scholar and practitioner in the field of genocide and mass atrocity prevention and member of the Buganda nation in Uganda, interview by author, Kampala, November 3, 2016.

Saghar Shahidi Birjanndian. "Contextualized Transitional Justice Policy Development in Uganda: Differentiating between Normativity Types in Evidence-Based Problem Analysis." In "Evidence-Based Approaches to Preventing Genocide and Mass Atrocities." Edited by Jamie D. Wise and Kristina Hook. Special Issue, *Genocide Studies and Prevention* 18, no. 1, 212–245. https://doi.org/10.5038/1911-9933.18.1.1964.

Patrick Vinck describe, evidence-based TJ "consists of the initiation of policies and programs based on evidence derived from the best available data."[5] But, how should the "best available data" be determined for context-sensitive policy development, and how should said data be used so that affected communities *see themselves* in TJ policy?

Using Uganda's NTJP development process as a primary case study, this paper argues that ascertaining the *best available data* for evidence-based guidance should be determined by societal dynamics and the views of affected communities. This is because selecting relevant evidence and the best available data are normative exercises that can easily become guided by a priori conceptions of TJ that lead to irrelevant and harmful interventions. Recently generated empirical evidence here means primary data generated in relation to the focal transition period where policy development is occurring. In addition, to sustain the integrity of evidence-based guidance, it is recommended that real-time or recently generated empirical data should first inform a comprehensive *problem analysis* process as the departure point for strategy development and practice. As Rosemary Nagy rightly states, "It is not often remarked that figuring out how to implement transitional justice is *necessarily* a task of first determining the *problem* [author's emphases]."[6] The findings here establish problem analysis as a crucial site in producing evidence-based guidance. More specifically, real-time or recent empirical evidence of societal dynamics and views of affected communities must shape the normativity guiding problem analysis so that affected communities' have the appropriate ontological, epistemological, and intellectual space to contextualize TJ (i.e., produce evidence-based guidance as defined here). To facilitate this process, findings also show that policymakers and practitioners should differentiate between normativity-types in problem analysis to strategically prevent dominant "[meta]normative narratives of transitional justice,"[7] or what I call belief-based guidance, from universally predetermining the problems and scope of TJ interventions, and, in turn, undermining the production of evidence-based guidance.

To substantiate these claims, the discussion begins by establishing, in theoretical terms, the effects of diverse normativity-types on TJ problem analysis. Theorizing the differences in normativity-types is required to identify *when* norms guiding knowledge production for problem analysis in policy and practice move from being primarily "evidence-based" to primarily "belief-based" where there is an increased risk of decontextualization. Belief-based normativity here refers to universalized normativity that does not change in light of new empirical evidence. Evidence-based normativity on the other hand, permits empirical evidence from the Ugandan context to shape the epistemological assumptions and methodology and methods used in the contextualized approach applied here. After distinguishing the normativity-types that can be derived from empirical evidence, the next section provides a brief overview of the methodology, informed by the preceding theoretical discussion. The analysis then unearths significant substantive differences between problems identified for macro-level intervention in Uganda's NTJP, which was heavily influenced by universal norms including standardized practice, and the problems theorized using a contextualized approach shaped by evidence-based normativity. The macro-level here refers to state-led, state-sponsored and/or popular responses to atrocity-related societal problems with widespread effects on the populace. The analysis also shows that the NTJP prioritizes mechanisms such as prosecutions that reinforce a separation-based ontology in Ugandan society. This actively works against the macro-level intervention participants prioritized, which involves reinforcing moral consideration of others in everyday interactions by scaling up exposure to interconnection-based sources of moral guidance in the everyday. This type of intervention helps to address the

[5] Phuong Pham and Patrick Vinck, "Empirical Research and the Development and Assessment of Transitional Justice Mechanisms," *International Journal of Transitional Justice* 1, no. 2 (2007), 233.

[6] Rosemary Nagy, "Transitional Justice as Global Project: Critical Reflections," *Third World Quarterly* 29, no. 2 (2008), 276.

[7] Siphiwe Ignatius Dube, "Transitional Justice Beyond the Normative: Towards a Literary Theory of Political Transitions," *International Journal of Transitional Justice* 5, no. 2 (2011), 177–197; Pablo De Greiff, "A Normative Conception of Transitional Justice," *Politorbis* 50, no. 3 (2010), 22; David A. Crocker, "Reckoning with Past Wrongs: A Normative Framework," *Ethics & International Affairs* 13 (1999), 43–64.

effects of mass violence on individual decision-making logics that either undermine efforts to redress the past and/or cause new types of harm in the present. The possibility of getting strategy development this wrong should be sufficient to seriously consider differentiating between normativity-types in TJ problem analysis. Accordingly, the conclusion offers concrete recommendations for policymakers and practitioners working in the fields of TJ and GMAP on how to strategically make use of evidence-based normativity in research models working to produce evidence-based guidance.

Normativity Types and Theorizing the Problems of Transitional Justice

The term normativity is generally associated with judgements of good and bad or appropriate and inappropriate actions or outcomes, and "norms" embody normativity because they focus on guiding or representing widely accepted right or appropriate behavior. Across diverse disciplines, "regulative norms" order and dictate appropriate behavior and "constitutive norms" help to "create new actors, interests, or categories of action."[8] Both types encompass a "quality of 'oughtness'" used to prescribe and/or evaluate what is right or, in the case of TJ, *legitimate* practice. For example, legitimate prosecutions must adhere to the regulative norms of international law such as upholding the rights of the accused in "conformity with due process."[9] Constitutive norms in TJ can produce categories such as "child soldiers," which merges the conventional conflict categories of "victim" and "perpetrator" as seen in the Ugandan case.[10] Both regulative and constitutive norms can be used to generate prescriptive normativity and evaluative normativity. For example, Pablo De Greiff's normative conception of TJ advocates applying a "holistic approach" to yield the best results:[11]

> Transitional justice refers to the set of measures that can be implemented to redress the legacies of massive human rights abuses, where "redressing the legacies" means, primarily, giving force to human rights norms that were systematically violated. A non-exhaustive list of these measures includes criminal prosecutions, truth-telling, reparations, and institutional reform. Far from being elements of a random list, these measures are a part of transitional justice in virtue of sharing two mediate goals (providing recognition to victims and fostering civic trust) and two final goals (contributing to reconciliation and to democratization).[12]

The constitutive norms in De Greiff's conception comprise the "non-exhaustive" list of conventional mechanisms, which over time and across transitioning contexts created "new categories of action" that helped generate the predetermined goals outlined. The goals on the other hand (e.g., "giving force to human rights norms") are examples of regulative norms. These goals become regulative norms because they concretize what *any* justice mechanism ought to be doing in a legitimate TJ intervention.[13] Together these constitutive and regulative norms in De Greiff's conception can function to prescribe what TJ ought to look like (i.e., prescriptive normativity) and/or evaluate the success, rightness, or legitimacy of a TJ

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[8] Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998), 891.

[9] Leslie Vinjamuri and Jack L. Snyder, "Law and Politics in Transitional Justice," *Annual Review of Political Science* 18 (2015), 305.

[10] Erin K. Baines, "Complex Political Perpetrators: Reflections on Dominic Ongwen," *Journal of Modern African Studies* 47, no. 2 (2009), 163–191.

[11] De Greiff, *A Normative Conception of Transitional Justice*, 22. First mentioned in note 7.

[12] Ibid., 21.

[13] Ibid., 18.

intervention (i.e., evaluative normativity). The main difference between prescriptive norms and evaluative norms is temporal as the same norms can be used to prescribe how a TJ intervention ought to look in its formulative stage, and to assess the efficacy of said intervention during and after its completion.[14] Crucially, neither constitutive, regulative, prescriptive, or evaluative norms are *inherently* "evidence-based" or "belief-based" as defined here.

As mentioned, findings show that what constitutes "evidence-based" guidance must be shaped by recent or real-time primary data from the transitioning context. Approaches to problem analysis based on any other types of evidence, including best practices gleaned from historical cases or value systems, are referred to as "belief-based." If normativity in TJ discourse can be informed by real-time and recent primary data, historical lessons learned, and a priori beliefs, then: (1.) what is the tipping point for when evidence-based guidance becomes belief-based and; (2.) what are the implications for problem analysis when the distinction between evidence-based and belief-based normativity remains ambiguous?

Demarcating Evidence-based and Belief-based Normativity Guiding Problem Analysis

Marie I. Kaiser offers a useful normativity typology that helps to differentiate between evidence-based and belief-based norms in the context of knowledge production.[15] There are three types of normativity in Kaiser's typology namely, *metanormativity*, *object normativity*, and *methodological normativity*. Metanormativity encompasses *universal* claims that are devoid of new empirical content and primarily based on one's beliefs about how things should be—often from a self-declared superior position. For example, in UN Secretary General Kofi Annan's field defining report, "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies," TJ is defined as:

> [T]he full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof…The challenges of post-conflict environments necessitate an approach that balances a variety of goals, including the pursuit of accountability, truth and reparation, the preservation of peace and the building of democracy and the rule of law.[16]

The UN conception predetermines the problems of TJ in post-conflict societies, namely addressing legacies of large-scale mass violence, accountability, serving justice, and achieving reconciliation. This so called "liberal legalist dominant script"[17] is still used at the time of writing as stated in the recently adopted Guidance Note on Transitional Justice: A Strategic Tool for People, Prevention and Peace. However, the new Guidance Note reinforces "four interrelated dimensions: truth seeking, criminal justice, reparation and guarantees of

[14] Kirsten Ainley, "Evaluating the Success of Transitional Justice in Sierra Leone and Beyond," in *Evaluating Transitional Justice: Accountability and Peacebuilding in Post-Conflict Sierra Leone*, eds. Kirsten Ainley, et al., (London: Palgrave Macmillan, 2015), 241–263.

[15] Marie I. Kaiser, "Normativity in the Philosophy of Science," *Metaphilosophy* 50, no. 1–2 (2019), 36–62.

[16] Kofi Annan, "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies," Report of the Secretary-General, United Nations, August 23, 2004 (UN Doc. S/2004/616*) 4, 8, accessed August 15, 2024, http://archive.ipu.org/splz-e/unga07/law.pdf.

[17] Dustin N. Sharp, *Rethinking Transitional Justice for the Twenty-First Century: Beyond the End of History* (Cambridge: Cambridge University Press, 2018), 15.

nonrecurrence…The United Nations stands for a holistic approach to transitional justice, meaning that these four dimensions are part of a comprehensive policy."[18]

By predetermining the *goals* of TJ and preferable mechanisms for redress each with specific and limited capacities, this conception further constricts the scope of problems that can become relevant to TJ. The universal goals of accountability and the building of democracy and the rule of law reinforce what is referred to here as "mainstream TJ," which foregrounds the global, the Western, the modern, the secular, the legal, civil and political rights, physical violence, extraordinary violence, the state, the individual, as well as formal, institutional, and "top-down" change.[19] This conception is reinforced by "a well-documented resort to law"[20] that limits the types of atrocity-related issues that can be deemed relevant to TJ practice. As Dustin N. Sharp analogizes, "if you only have a hammer [e.g., prosecutions], everything looks like a nail [e.g., atrocity crimes]."[21] Similarly, the Ugandan case shows that if you only have a hammer, (e.g., prosecutions), then you only *look* for nails (e.g., evidence of atrocity crimes).

The second type is "object normativity," which defines characteristics of the object of study so researchers and participants can locate relevant empirical information for analysis. However, as theoretical alternatives to the dominant script illustrate, object normativity can be shaped by metanormativity (i.e., belief-based guidance) and/or evidence-based normativity. For example, Sharp proposes to use a critical approach to problem solving to determine what model or integrated conception of TJ is suitable in a particular context. Sharp's spectrum includes several types of transitions, distinguished by tools used, violations responded to, and the relationship between "transition" and "justice." For example, the "paradigmatic transition" or mainstream TJ uses top-down, state-centric methods to administer legal and other forms of justice primarily for violations of civil and political rights and atrocity crimes to (further) liberalize a transitioning society. On the other end of the spectrum is "revolutionary TJ," where peoples' courts administer accountability, and justice prioritizes redistributing economic wealth and democratizing the economy.[22]

Sharp's typology does not attempt to describe what the object of study (i.e., TJ) is according to contextual dynamics and the views of affected communities in a particular case. Instead, the framework offers constitutive norms generated from historical cases to hypothesize a range of options as the parameters of how TJ can be conceived. Sharp then encourages using empirical evidence from the transitioning context to refine and challenge the spectrum's conceptual parameters. Although much more flexible and adaptive than De Greiff's conception, this approach can disregard radically different theories of TJ problems and corresponding intervention mechanisms as seen in the analysis below. The object normativity in evidence-based problem analysis must be generated using new empirical evidence from the transitioning context. Grounded object norms have implications for one's research methodology because as Nicola Palmer, Briony Jones, and Julia Viebach argue, TJ "[r]esearch is shaped by the concepts and theories that underlie any means of data collection, analysis and interpretation. Discussing what these concepts are and who gets to define them is an important first step in developing and being aware of our research methodology and its underlying epistemologies."[23] Kaiser

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[18] United Nations, *Guidance Note of the Secretary General, Transitional Justice: A Strategic Tool for People, Prevention and Peace*, June 2023, 2, accessed August 15, 2024, https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

[19] Ibid.

[20] Nicola Palmer et al., "Introduction: Ways of Knowing Atrocity: A Methodological Enquiry into the Formulation, Implementation, and Assessment of Transitional Justice," *Canadian Journal of Law & Society / La Revue Canadienne Droit et Société* 30, no. 2 (2015), 173–182.

[21] Sharp, *Rethinking Transitional Justice*, 108, 121. First mentioned in note 17.

[22] Sharp, *What Would Satisfy Us?*. First mentioned in note 3.

[23] Nicola Palmer et al., "Transitional Justice Methods Manual: An Exchange on Researching and Assessing Transitional Justice" (Bern: Swisspeace, 2013), 8, accessed August 15, 2024, https://www.swisspeace.ch/assets/publications/downloads/Articles/fd1a9ca9bb/Transitional-Justice-Methods-Manual-13-An-Exchange-on-Researching-and-Assessing-Transitional-Justice.pdf.

accounts for this relationship in the third normativity type of relevance here namely, "methodological normativity."[24]

Methodological normativity explicitly and/or implicitly "guide[s] the selection, interpretation, and evaluation of empirical information and the process of mutually adjusting philosophical [or TJ] theory and empirical information."[25] In other words, methodological normativity guides *how* to examine a particular object of study and "which types of empirical information are valuable."[26] They can also continuously become more refined in the process of theorizing findings as shown in Appendix A. Like object normativity, methodological normativity can be either belief-based and/or evidence-based. In the former case, methodological normativity can be affected by metanormativity and belief-based object normativity. For example, in their transformative approach to TJ, Paul Gready and Simon Robins propose assuming an activist position and intentionally engaging marginalized groups to find empirical information about what TJ should look like. Granting this approach is informed by lessons learned from historical cases, such methodological normativity becomes metanormative to promote democratizing who gets to determine what constitutes TJ and therefore, can restrict the scope of object normativity (i.e., TJ is what marginalized groups determine it should be). Although this activist agenda is commendable and partially integrated into the approach applied here, in a context like Uganda where there is no regime change and the current regime headed by Yoweri Museveni is culpable for mass atrocities, such activism might lead to impractical strategies and an "implementation gap."[27] Therefore, the likelihood of producing evidence-based guidance for TJ policy significantly decreases when the object and methodological normativity guiding knowledge production (for problem analysis) are no longer primarily based on recent or real-time empirical evidence from the transitioning context. Option 1 in Appendix B provides a visual depiction of this reasoning.

Foundations of a Contextualized Approach to Problem Analysis

Determining the "context" of a TJ intervention is indeed a normative exercise. As Daniel Andler argues, determinations about what "context" means requires understanding how actors associated with a particular "situation" interpret what is relevant to said situation from the broader environment(s) in which they are embedded.[28] A "situation" refers to "the set of entities and relations" that can affect persons and their activities, including "features of the environment to which the agent is potentially sensitive, as well as permanent features of his[her/their] corporal and mental make-up."[29] A situation *does not* include those phenomena that associated actors are not affected by, nor those entities that said actors cannot fathom or sense using their corporal capacities. Context then is determined by "[…] whatever the situation becomes in the light of the agent's expectations[; 'becomes'] refers to the observer's move from the objective to the subjective viewpoint."[30] Therefore, the "context" of TJ interventions cannot be solely defined in episodic and geographic terms such as a community's borders, a nation-state's borders, multiple sites across borders, or a theatre of war. It also requires determining within and beyond relevant geographic location(s), the entities and relations (operating at any level) deemed relevant to addressing and redressing mass violence as this is TJ as a "situation." Accordingly, the contextualized approach here uses empirical evidence from observed societal

[24] Kaiser, *Normativity in the Philosophy of Science*, 53. First mentioned in note 15.

[25] Ibid., 50.

[26] Ibid., 58.

[27] Anna Macdonald, "Somehow This Whole Process Became So Artificial: Exploring the Transitional Justice Implementation Gap in Uganda," *International Journal of Transitional Justice* 13, no. 2 (2019), 224–248.

[28] Daniel Andler, "The Normativity of Context," *Philosophical Studies: An International Journal of Philosophy in the Analytic Tradition* 100, no. 3 (2000), 273–303.

[29] Ibid., 274.

[30] Ibid., 276.

dynamics and affected communities' views to generate an intersubjective understanding of the geographic spaces, entities, and relations relevant to the problems of TJ in the Ugandan case.

My journey of co-developing a contextualized approach to problem analysis began in late 2012 with inductive reasoning. This was the onset of the height of public engagement on Uganda's NTJP. The Policy was rooted in the politics of international criminal justice and globalized peace-versus-justice debates that accompanied the Government of Uganda's (GoU) referral of the situation in northern Uganda to the newly established International Criminal Court (ICC) in 2003. These global debates triggered a highly metanormative, donor-driven, and technocratic approach to negotiating peace between the GoU headed by President Yoweri Museveni and the Lord's Resistance Army (LRA), headed by the infamous Joseph Kony.[31] Starting in 1987, this 20-year war devastated the infrastructure and people of northern Uganda (i.e., West Nile, Acholi, Lango, and Teso subregions). There was mass displacement of close to 2,000,000 civilians across the greater north, as well as systematic anti-civilian violence committed by LRA combatants and Uganda's Peoples Defence Forces (UPDF) personnel. These atrocities include murder, rape, torture, abduction, maiming, arson, forced pregnancies, forced marriage, forced displacement, the use of abductees as child soldiers, looting, among many other egregious acts.[32]

Commitments to accountability in line with the dominant script in the final peace agreement—popularly referred to as the "Juba Peace Agreement"—served as the launching pad for TJ policy development. Consequently, the third, fifth, and final drafts scrutinized by civil society were significantly shaped by mainstream themes, tools, and goals.[33] This mainstream conception of TJ has the metanormative aim of establishing, or further consolidating, a liberal democratic social order through the implementation of TJ mechanisms. To achieve this, the Orthodoxy prioritizes responses to atrocity crimes and human rights violations in line with certain themes, namely administering and strengthening accountability (understood as "Western-style courtroom justice"[34]), truth-seeking, reparations, and institutional reform. These "themes" or goals of TJ are often associated with ideal type mechanisms or "tools" such as trials, truth commissions, symbolic or material compensation schemes, and integrating liberal policies into executive, legislative, and judicial branches of government.[35] Nonideal-type TJ mechanisms can indeed be included in mainstream approaches so long as they do not work against prescribed goals.[36]

In all three drafts, the first third provided a general background as a series of conflicts pre-and-post independence and relevant domestic, regional, and international legal frameworks. The second third breaks down the problems requiring intervention into thematic areas, namely formal justice, traditional justice, truth-telling, reparations, and amnesty. In relation to reparations the policy identifies institutional, legal, and policy gaps that need to be addressed. In relation to formal justice, truth-telling, TJMs and amnesty, similar liberal-legalist critiques to those coming out of the peace-versus-justice-debates, are identified as problems to

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[31] Macdonald, *Somehow This Process Became So Artificial*. First mentioned in note 27.

[32] Tim Allen and Koen Vlassenroot, eds., introduction to *The Lord's Resistance Army: Myth and Reality* (London: Zed Books, 2010), 1–21.

[33] National Transitional Justice Working Group, "National Transitional Justice Policy 3rd Draft" (Kampala: Justice Law and Order Sector, Government of Uganda May 2013); National Transitional Justice Working Group, "National Transitional Justice Policy, 5th Draft" (Kampala: Justice Law and Order Sector, Government of Uganda, 2014); Justice Law and Order Sector, "National Transitional Justice Policy—Final Draft Presented to Member of Parliament" (Kampala: Justice Law and Order Sector, Government of Uganda, October 2016).

[34] Sharp, *Rethinking Transitional Justice*, 10.

[35] Saghar Birjandian, "Uganda's Transitional Justice Policy Development Process and the International Criminal Court," *E-International Relations* (blog), April 21, 2020, accessed August 15, 2024, https://www.e-ir.info/2020/04/21/ugandas-transitional-justice-policy-development-process-and-the-international-criminal-court/

[36] See for example Ban Ki-moon, "Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice," March 2010, accessed August 15, 2024, http://www.helsinki.org.rs/doc/Guidance%20Note%20March%202010.pdf; Anan, *The Rule of Law and Transitional Justice*. First mentioned in note 16.

address. For example, the lack of gender equity and human rights observance in traditional justice processes was a problem warranting their reform. The blanket amnesty law that helped to pacify many insurgents was also problematized because it does not take "into consideration the nature of crimes committed."[37] The last third then outlines measures for government and non-government service providers to address the issues listed in the previous section. For example, under "formal" justice, the government commits to enacting "legislation on witness protection and victim participation."[38] Under traditional justice, the government commits to developing guiding principles and checks and balances, and increasing the semblance of TJMs to formal courts. Under the amnesty section, it states in bold letters that "there shall be no blanket amnesty and Government shall encourage those amnestied, to participate in truth telling and traditional justice processes."[39] The overarching objectives of the NTJP are to: (1) provide guidance for management and operations of formal and informal justice processes in post conflict situations; (2) formalize the use of traditional justice mechanisms in TJ processes; (3) establish a reparations programme; (4) address gaps in the current amnesty process; and (5) establish and resource a comprehensive truth telling process.[40] In sum, the primary problems of TJ at the macro-level are addressing liberal critiques about how to administer legitimate justice processes for mass atrocities.

As a practitioner embedded in various civil society-led TJ networks and activities providing feedback to policymakers on successive drafts of the NTJP, I observed the types of issues being raised and how events engaging civil society were structured and organized. It was in this space that I began learning of the various factors important to contextualizing problem analysis in the Ugandan case. Crucially, Ugandan policymakers and leading civil society organizations working on TJ were genuinely interested in centering the views of affected communities in the policy development process. Regardless, problem analysis was restricted by the language of TJ being implicitly determined by the conventional themes and predetermined problems outlined in the final Juba Peace Agreement, particularly the sub-Agreement on Accountability and Reconciliation.[41] For example, African Youth Initiative Network hosted an unprecedented National War Victims Conference in May 2014 where survivors of the LRA conflict and other cycles of political violence communicated their needs directly to service providers. The themes of the discussion included: reparations, truth-seeking, justice (formal and traditional), and reconciliation.[42] The thematic areas that structured the discussion were not determined by the victims in attendance. Therefore, participants mapped TJ problems in relation to what is relevant to the thematic areas and/or the capacity of mechanisms associated

[37] Justice Law and Order Sector, "National Transitional Justice Policy—Final Draft Presented to Member of Parliament," (Kampala: Justice Law and Order Sector, Government of Uganda) 23.

[38] Ibid., 26.

[39] Ibid., 28.

[40] Ibid., 24.

[41] Government of South Sudan, "Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement," June 29, 2007, accessed August 23, 2024, https://peacemaker.un.org/uganda-accountability-reconciliation2007.

[42] African Youth Initiative Network, "National War Victims Conference" (conference programme, African Youth Initiative Network, Kampala, Uganda, May 28–30, 2014).

with these predetermined themes, limiting problem analysis.[43] In addition to mainstream metanormativity constricting policy development, problem analysis was also constricted by having the blueprints of the NTJP generated by elites and conflict-party-delegates in the context of a negotiated peace agreement where the Ugandan state had to explicitly respond to international pressures and norms to actively participate in combatting impunity for atrocity crimes.

Such approaches to public scrutiny of the NTJP limited strategy development but were not problematized at the time. What was problematized was the initial timeframe of the relevant past, and the *prioritization* of mechanisms in line with metanormative conceptions of TJ such as development of the International Criminal Division of the High Court of Uganda and abolishing blanket amnesty. Only in retrospect was the ambiguous scope of the policy problematized as one of its pitfalls.[44] This ambiguity raises a series of questions such as: in addition to the politics of evading accountability by conflict parties, what were the technical causes of the NTJP's superficial nature? What happened to the empirical evidence generated over ten years to inform this Policy? Was evidence-based guidance provided through policy research also decontextualized? Relatedly, when and how did decontextualization occur? This study shows that the failure to strategically evade metanormativity in generating object norms (i.e., liberal legalist TJ) and methodological norms (i.e., using conventional tools and themes as signposts), guiding problem analysis in applied policy research and public policy discussions, ultimately undermined the production of evidence-based guidance for TJ strategy development.

In 2016 when the formal fieldwork began,[45] I was armed with the knowledge that the conversation about the problems of TJ had to be different than what was observed the three previous years. As Appendix A details further, I drew on my inductive observations and continued participant observations at various policy related events and conducted initial interviews with Ugandan TJ and GMAP practitioners to discuss how best to contextualize the discussion. This led to identifying key scope-related tensions and *temporal*, *experiential*, and *geo-cultural* factors *as* empirical evidence informing how to conceive of "transitional justice" as the object of study and the problems it is meant to address. In addition, I accounted for the preferred national scope of the NTJP by choosing focal communities, namely Lango subregion and Buganda subregion, as they cut across the north-south divide entrenched during colonial rule, which was repeatedly identified as a root cause of cycles of national-level political violence post-independence. Moving beyond the great north also helps to move beyond the perceived

[43] Another example includes CSOs hosting one-to-two-day meetings where the thematic areas of the Policy would serve as agenda items for participants to share their views in relation to strengthening complementarity *between* mechanisms in the interest of "holism" and "victim-centeredness." See Programme for roundtable meeting for launch of policy paper by Advocates Sans Frontiers, "Towards a Comprehensive and Holistic Transitional Justice Policy for Uganda: The Question of Compatibility and Complementarity between Transitional Justice Mechanisms," Kampala, 05 June 2014 (on file with author); Policy paper drafted by Foundation for Human Rights Initiative, "Uganda's Transitional Justice Policy: Towards a Victim-Centered Approach, Kampala," 22 May 2014 (on file with author). Another method involved CSOs identifying an issue within the Policy that required further clarification would be identified for debate such as the role of children in TJ processes. See International Center for Transitional Justice, "Round Table Meeting for Stakeholders on the Development of a Child and Youth Sensitive Transitional Justice Process for Uganda" (ICTJ, June 14, 2014). Lastly, a paper would be presented on the Policy in its entirety, offering a series of minor amendments for public debate. See Agenda at consultative meeting hosted by Foundation for Human Rights Initiative on "Uganda's Transitional Justice Policy: Towards a Victim-Centered Approach," Kampala, 22 May 2014 (on file with author).

[44] Lyandro Komakech, Member of Parliament representing, interview by author, Gulu District, Kampala, 30 March 2017; International Technical Advisor on Transitional Justice, interview by author, via Skype, 6 June 2018.

[45] This research study (#REC REF 0309-2016) was approved by the Doctoral School at the University of London's School of Oriental and African Studies on 31 May 2016. It was subsequently approved on 19 September 2016 by Mildmay Research Ethics Committee, which is a government-approved body for the protection of human subjects issuing ethical approval for research in Uganda. Registration of this approval was accepted by Uganda's National Council for Science and Technology (Ref. SS28ES) on 11 October 2016 and approved on 19 December 2016 by the Office of the President's Research Secretariat in Uganda to access focal communities.

regional scope of the adopted NTJP as it was primarily based on the Juba Peace Agreement between the GoU and the LRA in northern Uganda.

These factors, together with the national scope of the TJ Policy provided evidence-based guidance that the objective normativity delineating TJ in the Ugandan case, must be initially conceived in very broad terms to allow for contextualized problem analysis as is visually depicted in general terms in Option 2 of Appendix B. They also reinforce that the relevant past cannot be easily associated with one episode of violent conflict or period of repression. Instead, the relevant past is brought into view as participants describe it in relation to real-time societal problems they prioritize for response. Therefore, as detailed further in Appendix A, the initial object normativity helped to conceptualize TJ as *human activity concerned with addressing past mass violence, through responses in the present, to bring about desirable change.* Because TJ and GMAP are products of metanormativity, this explicit confrontation and strategic use of evidence-based object and methodological normativity is helpful to understand how affected communities understand and discuss their lived experiences of, and preferred redress for, mass atrocities.

Participants were keen on understanding the *relationships* between problematic phenomena as conventional problem categories such as "root causes" and "effects" of mass atrocities are insufficient on their own in this case. Rather, diverse problem-types were mapped as component parts of a problem-set or *system* producing harm. Accordingly, I chose to use tools from Peter Checkland's Soft Systems Methodology (SSM)[46] to facilitate analysis, such as "rich pictures" discussed further in Appendix A. To check my own assumptions and biases as a student of metanormative conceptions of TJ, I integrated tools from Kathy Charmaz's Constructivist Grounded Theory such as "memo writing" that forces the researcher to "stop and analyze [their] ideas about the codes in any—and every—way that occurs to [them] during the moment."[47] In addition, evidence-based methodological norms also shaped the methods used to generate data such as prioritizing the use of focus groups[48] and validating findings (in 2018) to gain contextual legitimacy as described in Appendix A.

Over the course of 16 months of intensive field research, I applied and continuously adapted this contextualized approach to problem analysis, which in broad terms included 132 semi-structured interviews, 16 focus groups with 160 participants, 35 events for active participant observation, 200 hand-sketched rich pictures, and 250 memos (handwritten and typed). I co-generated data with participants in five districts in Lango (i.e., Lira, Alebtong, Oyam, Omalatar, and Dokolo) and five in Buganda (i.e., Mukono, Nakaseke, Luweero, Wakiso, and the city of Kampala). The resultant problem set described in the next section is significantly different than the technical issues of administering justice in line with mainstream norms in the NTJP, which was adopted by Cabinet in June 2019.[49]

Some substantive changes were made in the adopted version to account for some of the factors mentioned above and discussed further in Appendix A. For example, the post-1986-time frame qualifying the period of atrocities being addressed was removed to account for cycles of mass violence pre-and-post independence. In addition, specific sections outlining the 'Problem Statement' and 'Policy Justifications and Rationale' were added to describe TJ's nation-wide relevance in the context of development and youth unemployment.[50] Reconciliation and nation building replaced the theme of truth-seeking as the GoU was not keen on establishing a formal truth commission.[51] However, the technical problems of administering accountability in line

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[46] Peter B. Checkland, *Systems Thinking, Systems Practice: Includes a 30-Year Retrospective* (Chichester, New York: John Wiley, 1999).

[47] Kathy Charmaz, *Constructing Grounded Theory: A Practical Guide Through Qualitative Analysis*, 2nd ed. (London: Sage Publications, 2013), 162.

[48] The terms "focus group" and "discussion group" are used interchangeably in this paper.

[49] Ministry of Internal Affairs, National Transitional Justice Policy (Ministry of Internal Affairs, June 2019).

[50] Ibid., 14–15.

[51] Ibid., 23.

with mainstream standards remained the primary problem type in the adopted Policy, which is significantly different than the social issues prioritized by participants.

Theorizing Problems for a Contextualized National Transitional Justice Policy in Uganda

The contextualized research design not only facilitated differentiating between problem types (e.g., root causes, proximate causes, and symptoms of atrocity violence), but also showed the nature of the *relationships* between atrocity-related problems and non-atrocity related problems that produced what I call a *problem set*. Any one problem set can include diverse problem types associated with different levels of impact. But the effects of the problem set as a whole in the everyday, informs the level of response required be it micro (i.e., individual), meso (i.e., communal or subnational), and/or macro (i.e., state and/or nationwide). Providing a comprehensive account of all the problem sets unearthed in this study is beyond the scope of analysis here. Consequently, this section zooms in to explain the atrocity-related problems in the macro-level problem set to show the utility in contextualizing problem analysis for evidence-based policy guidance.

In the broadest terms, the macro-level problem set includes all the problem types and levels of human activity outlined above. However, the effects of the problem set as such on everyday life in Buganda and Lango can be described generally as effects of mass violence that can work to undermine addressing the past and/or cause new forms of violence or challenges in the present. These problems manifest as what I call *modes of influence* on individual decision-making. In clinical psychology, the management sciences, political sociology, and philosophy, the term "modes of influence" has been used to describe different factors that affect how human beings make decisions.[52] The analysis illuminated four atrocity-affected modes of influence on decision-making including problematic mentalities, communication, and coordination, and moral degeneration. Although all these modes are interconnected, moral degeneration has a central role in this problem set and morality in general has a dual role at the macro-level. To appreciate the logic underpinning these theories of the problematic and associated response, it is first important to explain what "morality" refers to here.

The concept of morality in Lango and Buganda is contested. Regardless of chosen terminology be it "values," "norms," "customs," "principles," or "morals," or the implicit moral judgements in analogies and stories shared, participants were referring to guidelines that inform what is "right" and what is "wrong" in relation to human conduct.[53] As such, the use of the term "morality" here reflects systems of belief determining right-versus-wrong or acceptable versus unacceptable human conduct.

The overarching concept of "morality" in Leb-Lango translates into "*ber bedo adano*" (i.e., how someone lives their daily life). There is also another broad concept that is used in Lango, "*kwoyo kwo aber*" which means "living a good life"[54] or "living well for you or another person."[55] Living "well" here means you are improving the quality of life for yourself and those around you. However, participants were keen to describe *specific* examples of moral actions as opposed to trying to articulate an all-encompassing concept of morality.[56] In Buganda, the broadest concept for "morality" in Luganda is "*obuntubulamu*" which translates as "healthy

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[52] Nguyen Hoang-Tung and Hisashi Kubota, "Clarifying Multiple-Mode Decision Making in Conventional Psychological Models: A Consideration of the Influential Mechanism of Car Use's Characteristics on the Behavioral Use of Public Transportation," *IATSS Research* 43, no. 2 (2019), 114–121; John C. Aplin and W. Harvey Hegarty, "Political Influence: Strategies Employed by Organizations to Impact Legislation in Business and Economic Matters," *Academy of Management Journal* 23, no. 3 (1980), 438–450; Jeanine Czubaroff, "Dialogical Rhetoric: An Application of Martin Buber's Philosophy of Dialogue," *Quarterly Journal of Speech* 86, no. 2 (2000), 168–189; Talcott Parsons, *Politics and Social Structure.* (New York: Free Press, 1969); Talcott Parsons, "On the Concept of Influence," *Public Opinion Quarterly* 27, no. 1 (1963), 37–62.

[53] Author's interview with former community health worker, via Skype to Lira District, trans. Aguma, January 29, 2019.

[54] Walter Aguma, Translator from Lango subregion, interview by author, Lira District, February 02, 2019.

[55] Victor Ochen, Executive Director of African Youth Initiative Network, interview by author, Lira District, May 09, 2020.

[56] Retired Head Teacher, interview by author using translator, Akwoyo Parish, Lira District, January 31, 2019.

humanness"[57] and is attached to the "*Bantu dictum* 'humans are humans because of other humans'."[58] Under the auspices of *obuntubulamu*, "*empisa*" translates into multiple words like "behavior," "method," and "demeanor," among others. *Empisa* in this context can be interpreted as a set of virtues or "pillars" that guide moral conduct. Participants in Buganda implied or made use of both terms in our discussions about moral degeneration and morality more broadly.

It is important to note the interconnection-based ontology that underpins moral belief systems in both subregions. Interconnection-based ontologies[59] begin "by assuming interconnection as *prior* to the existence of entities."[60] Thus, human beings exist in relational terms as they are inherently "interdependent and their self is assumed to be inextricably linked with the selves of others."[61] In the context of decision-making, interconnection-based ontologies encourage consideration of the relational impacts of one's thoughts and actions. Alternatively, the separation-based ontology, underpinning mainstream human rights that shapes the dominant script, accepts a separation-based duality as fundamental in the nature of existence including divides between "culture/nature, mind/body, human/non-human, belief/reality."[62] Consequently, human beings are understood as autonomous entities that exist independent of other human beings and the environment. For many participants, such a worldview encourages self-interested decision-making as one that functions with the belief that they are not inherently connected to other people. Accordingly, to be "morally degenerated" in Buganda and Lango is to operate in self-interest without due regard on the impact of one's thoughts and actions on other people or the environment. With a basic understanding of morality in both subregions, the analysis revisits how mass atrocities affected certain modes of influence on individual decision-making logics in ways that produce further harm.

Problematic Mentalities and Moral Degeneration

The term "mentality" is used here to refer to participants' perceptions and beliefs about themselves, other individuals, and groups including those with which they affiliate. This term also reflects the language many participants used in their accounts including someone's "thinking," "mindset," or "mind." Across focal subregions, experiences of mass violence have caused effects on decision-making that encourage decreasing the number of people afforded moral consideration in everyday interactions.

In Lango, decades of mass displacement of communities across the north was due to active conflict and the GoU's Internally Displaced Person's (IDP) policy,[63] which some refer to as "forced displacement" or "internment" as citizens were essentially held prisoner by UPDF forces. The living conditions amounted to a form of "social torture"[64] including various human rights violations (e.g., rape) and suppression of mental and somatic capacities for self-

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[57] Mikael Karlström, "Imagining Democracy: Political Culture and Democratisation in Buganda," *Africa: Journal of the International African Institute* 66, no. 4 (1996), 486; Jonathon L. Earle, *Colonial Buganda and the End of Empire: Political Thought and Historical Imagination in Africa* (Cambridge: Cambridge University Press, 2017), 48.

[58] Thomas Kwasi Tieku, "Collectivist Worldview: Its Challenge to International Relations," in *Africa and International Relations in the 21st Century*, eds. Scarlett Cornelissen et al., International Political Economy Series (London: Palgrave Macmillan UK, 2012), 48–49.

[59] Tamara Trownsell, "Recrafting Ontology," *Review of International Studies* 48, no. 5 (2022), 802.

[60] Tamara Trownsell et al., "Recrafting International Relations through Relationality," *E-International Relations* (blog), January 8, 2019, accessed August 21, 2024, https://www.e-ir.info/2019/01/08/recrafting-international-relations-through-relationality/.

[61] Tieku, *Collectivist Worldview*, 41.

[62] Belkis Izquierdo and Lieselotte Viaene, "Decolonizing Transitional Justice from Indigenous Territories," *Peace in Progress*, no. 34 (2018), 2.

[63] Office of the Prime Minister, "The National Policy for Internally Displaced Persons (2004)" (Kampala: Office of the Prime Minister, 2004), accessed August 21, 2024, https://www.refworld.org/policy/strategy/natlegbod/2004/en/65045.

[64] Chris Dolan, *Social Torture: The Case of Northern Uganda, 1986–2006* (New York: Berghahn Books, 2009), 214–215.

subsistence (e.g., inability to generate income), that all helped to increase the mortality rate to an estimated "1,000 deaths per week by the mid-2000s."[65] Participants explained that in order to survive these conditions, one was forced to adopt a "camp-life mentality," which refers to short-term thinking and planning to meet basic needs even if conflicting with moral codes about how one *ought* to live.[66] For example, many young females had to resort to prostituting themselves to UPDF soldiers to earn money as their respective elders turned a blind eye. This depleted the moral authority of parents and elders in the community as they could not protect young people from such circumstances and instead relied on them to survive. Those that continue to use this form of income generation are perceived as disregarding the impacts on associated family members and the community as there is no longer armed conflict in present-day Lango. Children and youth also witnessed their elders having intercourse as they no longer had multi-room homes but shared single room grass huts. Witnessing parents engaging in sexual activity changed young people's perspectives about how they can use their own bodies and has led to "early sex" and "early marriages" and the spread of HIV/AIDS, which are all deemed unacceptable behaviors that continue to degrade the social fabric in Lango.[67] Rampant alcoholism in the camps also caused a sharp increase in alcohol consumption post-conflict, particularly amongst men and youth. The alcohol consumption itself is not immoral. Rather, a person that is consistently intoxicated from morning until evening significantly supresses their decision-making faculties altogether and therefore they cannot meaningfully contribute to the advancement of themselves, their families, or Lango.[68]

In Buganda, the most frequently cited experiences of mass violence were those experienced under the predatory regimes of northern leaders Milton Obote from Lango and Idi Amin from the West Nile. Even though both of these leaders spearheaded the mass killing of Baganda, Obote was mentioned more frequently because of his systematic dismantling of the Buganda Kingdom's government and, in turn, the cultural and political order. He began with a referendum in 1964 that seized significant portions of Buganda land awarded during colonial rule and suspended the 1962 Independence Constitution[69] to declare himself President of Uganda on February 22, 1966.[70] Under the command of Amin, who served as the Deputy Army Commander of Obote's 1st Battalion at the time, the military attacked the Kabaka's (i.e., King's) Palace in Mengo, which resulted in the Kabaka being exiled to London and thousands of civilian casualties. For many Baganda "precedent had been set for violence, murders and atrocities…to become institutionalized in Ugandan society."[71] These atrocities live in the hearts and minds of many Baganda, particularly those with living memories of authorities violating Buganda's right to self-determination and the centralized moral authority of the Kabaka. Consequently, there is "about a twenty-seven-year period where basically the influence and the strength of the cultural institutions was basically stamped out."[72] As a representative of the Nnabaregeka Foundation explained:

> what that [history] means is you have a generation, a senior generation that grew up with those values, and then if you look at someone who was born much later, they basically went through life without any of that…So our belief at the same time is that our revival of obuntubulamu will help in dealing with a

[65] Ibid., 92.

[66] Author led discussion group, Abok Subcounty, Oyam District, July 20, 2018.

[67] Author led discussion group, Abok Subcounty, Oyam District, August 17, 2017.

[68] Local Government Representative, interview by author, Lira District, November 13, 2016.

[69] Phares Mutibwa, *The Buganda Factor in Uganda Politics* (Kampala: Fountain Publishers, 2008), 39.

[70] Ibid.

[71] Ibid., 39–40.

[72] Representatives from Nnabaregeka Foundation, interview by author, Nakasero, July 13, 2018.

> lot of the social ills of society we have but will also help in rebuilding the nation.[73]

The lack of training in cultural values is thought to decrease moral consideration of others in ways that prevent rebuilding Buganda as a nation and "social ills" that cause harm such as unprotected sex, abandoning parental duties, excessive alcohol consumption, intergenerational conflicts, petty theft, prostitution, sugar daddy and sugar mama relations, and gambling, among others.[74] As moral guidance in Buganda is much more reliant on cultural values than shared religious virtues, abolishing the Kingdom equated to decimation of the centralized moral authority that characterized the nation and what it means to be a good Muganda (i.e., member of Baganda). The consequent intergenerational conflicts were also mentioned in relation to how experiences of mass violence change communication patterns that fuel moral degeneration.

Problematic Communication and Moral Degeneration

Across focal subregions participants problematized how mass violence has affected the *content* and *(in)frequency* of communication within and between conflict groups including central government. In Buganda, the abolishment of the Kingdom during Obote's reign caused much intergenerational confusion about the moral obligations of group members to the Buganda Kingdom. For example, although many Baganda, particularly in rural areas, have become increasingly frustrated with the corruption and further ethnicization of Museveni's regime, elders tend to support a "silent resistance" as opposed to outright confrontation with central government. Instead, silent resisters choose to take stock of past and present atrocities and wrongdoings to seek revenge and redress once regime change is achieved.[75] However, many youths in Buganda that have romanticized the conflict narratives passed down from their elders, understand silent resistance as violating a moral obligation to the youth. Though elders often share their experiences as cautionary tales to discourage violent confrontation with the state, many youths have expressed their thirst to fight for the Kingdom's self-determination or, at minimum, for a Muganda to be President as a moral obligation to future generations. As one young Muganda researcher explains, this is because "our children will blame us…In Buganda first, but also in other [areas]...If you don't fight, you are looked at as a coward, disrespecting other people. Being a coward is bad...I'm a coward because I feared to confront."[76] This sentiment was ever present among Baganda youth that protested in the streets in support of Bobi Wine, a Muganda who was repeatedly arrested and tortured in the run up to, and during, his campaign for presidency in the 2021 election cycle.[77]

In Lango, infrequent communication between central government and affected communities was associated with moral degeneration. The GoU's lack of response to community concerns post-conflict was causally linked to cycles of atrocity violence culminating in the enduring north-south divide, and the GoU's failure to protect communities across the north from atrocities perpetrated by LRA and UPDF soldiers. For example, the community in Barlonyo, Lira District, has repeatedly requested that the GoU change the number of deceased persons on a monument atop a mass grave from 121 to 301 in accordance with community records. One young woman in Barlonyo who witnessed the massacre stated:

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[73] Ibid.

[74] Author led discussion group, Luweero District, July 17, 2018; Author led discussion group, Buganda Museum, Kampala, July 01, 2017; Author led discussion group, Kampala, August 26, 2017.

[75] Buganda Researcher, interview by author, Kampala, February 11, 2017.

[76] Ibid.

[77] Stephanie Busari and Emanuella Grinberg, "Ugandan Pop Star-Turned-MP Gives Detailed Account of Alleged Torture," *CNN*, September 3, 2018, accessed August 21, 2024, https://edition.cnn.com/2018/09/03/africa/uganda-bobi-wine-statement/index.html.

> [W]e found that we take these problems to the government but up til now they have not done anything…so what we think, because of that poor response, we the people of Barlonyo think, it is the government who killed people in Barlonyo…it is like they are aware of what they did so they don't care about us. So, we think they did this and they killed people in Barlonyo… They don't think of us, that is the thing.[78]

The GoU's lack of communication on this issue at the time of analysis reinforces many participants' beliefs that the UPDF soldiers killed at least a portion of the civilians buried at this site.[79] As the chairperson of Barlonyo Memorial Site described, "this [lack of response] makes us think that the government might be doing this intentionally… considering what they are doing now, they're not caring about this place, [which] makes us to think this government is responsible for all these sufferings that we went through."[80] The moral authority of the central government deteriorates further in Lango because withdrawal or a lack of approachability, sociability, or some degree of "relating to other people" is in itself immoral. In addition, the Langi have a specific concept, "*obedo idwali*," which refers to a person "who doesn't wish people to come back into harmony and desires that conflict continues between two parties and wouldn't wish reconciliation and peace."[81] While the intention may not be to prevent good relations between central government and the Lango, some Langi fill the communication gap by using conflict narratives to explain central government representatives' behaviors in ways that exacerbate the intergenerational effects of atrocities.

> We will even make sure that our children know such system did not work for them. Because once their background is traced and found, they will be discriminated, they will be isolated. So, they need to work in such a way that they put very strong mechanisms in their mind, in their attitude, in their ways of life.[82]

Much like the famous saying in TJ that justice must be *seen* to be done,[83] for affected communities to feel some form of redress, identifying with Lango's moral community requires *visible/observable* attempts to relate to the people. Thus, the invisibility of central government in relation to community requests communicates that this government is not "for them" and is not trying to connect to the Lango moral community.[84]

Problematic Coordination and Moral Degeneration

The term "coordination" is used to refer to collaboration between individuals or groups to address past violence and for problem-solving in the everyday more broadly. In Lango, participants problematized the *dependency* internalized by some Langi in response to the current

[78] Self-identified Peasant Farmer, interview by author, Barlonyo, Lira District, July 17, 2017.

[79] Author led discussion group, Barlonyo Memorial Site, Lira District, July 12, 2017.

[80] Journalist, interview by author, Lira Town, November 18, 2016; Chairman of Barlonyo Memorial Site, interview by author, Barlonyo, Lira District, January 17, 2017.

[81] Author led discussion group, Barlonyo Memorial Site, July 22, 2018.

[82] Civil Society Representative, interview by author, Lira District, April 24, 2017.

[83] Linda M. Keller, "The False Dichotomy of Peace Versus Justice and the International Criminal Court (La Fausse Dichotomie Entre Paix et Justice et La Cour Penale Internationale)," SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, February 10, 2009), 9, accessed August 21, 2024, https://papers.ssrn.com/abstract=1340720.

[84] Moral community here refers to individuals that identify with same moral belief system. Though I use this term more loosely and broadly than Holly Porter does, I obtained this terminology from her publication, see *After Rape: Violence, Justice, and Social Harmony in Uganda* (New York: Cambridge University Press, 2016).

regime's underdevelopment of northern subregions since the 1980s as a counterinsurgency strategy with limitations enforced in IDP camps "in the sense that people were restricted in their movement and thus in their opportunities to seek alternative forms of livelihood."[85] At the time of analysis, dependency was linked to moral degeneration in two ways.

First, some Langi interpret underdevelopment and government handouts or Museveni's so-called "politics of poverty," as an intentional, systemic means to killing northerners or, at minimum, demobilizing them.[86] To resist such dependence on central government, youth often misuse, and elders often refuse, resources from development programs or collective reparations schemes such as the three Peace, Recovery, and Development Programs.[87] As a local leader in Barlonyo stated, "The government system, sometimes they tend to try to support the youth, giving them funding to start their own businesses. But at the end of the day, those people who are given money end up misusing the money, they end up corrupting the money, they use the money for their own benefit."[88] While rejecting GoU assistance might be understandable—even logical—to community members, the fact that this resistance can undermine the community's advancement was seen as a wrongdoing because it is a missed opportunity to emancipate oneself and the people of Lango from destitution.[89]

The impacts of mass violence on coordination and moral degeneration in Buganda manifests itself in the context of government corruption. Though Museveni reinstated the status of kingdoms and chiefdoms in 1993 and accounted for their protection in the 1995 Constitution, the plight for autonomy in Buganda continues in the form of what many participants refer to as advocating a "*federo*" (i.e., federal) arrangement so that the Kingdom can formally govern its own affairs.[90] This creates what Peter Ekeh theorizes as the two publics where the moral system that applies to one's public social network does not apply to the "civic public:"[91]

> For example when you are a member of parliament or a minister in central government and you try to embezzle funds from the Ugandan government, people will just look at you and say maybe you were right or smart because you've eaten the money of government, because they [Baganda] don't think that the money that the minister pursues or embezzles from government belongs to them [the Baganda]… But if a minister here in Buganda for example, embezzles any amount of funds he will be disciplined by the subjects by not respecting him, not respecting his children, his wife, his family. So, everybody will say you are eating our money…people believe that they are Baganda first![92]

[85] Dolan, *Social Torture*, 221.

[86] Ibid.

[87] See International Alert, "Monitoring the Impact of the Peace, Recovery, and Development Plan on Peace and Conflict in Northern Uganda" (London: International Alert, 2015), accessed August 21, 2024, https://reliefweb.int/attachments/22b12ccf-7630-3b3e-ace7-130c66a46d20/Uganda_PRDPNorthernUganda2014_EN_2015.pdf.

[88] Author led discussion group, Abok Subcounty, Oyam District, August 17, 2017.

[89] Author led discussion group, Abok Subcounty, Oyam District, July 20, 2018.

[90] Annalieke van de Wiel et al., *Compendium of Conflicts in Uganda: Findings of the National Reconciliation and Transitional Justice Audit* (Kampala: Refugee Law Project, School of Law, Makerere University, 2014), 220–222.

[91] Peter P. Ekeh, "Colonialism and the Two Publics in Africa: A Theoretical Statement," *Comparative Studies in Society and History* 17, no. 1 (1975), 91–112.

[92] Tour Guide of Buganda Parliament, interview by author, Bulange at Mengo, Kampala, December 13, 2016.

As the quote captures, if one is seen to undermine cooperation with the state by swindling government funds, it can be interpreted as the right thing to do.[93] However, if such an act is committed against the re-established Buganda Administration, it can be seen as highly immoral and punishable.[94] Resisting coordination with the GoU in this way can undermine the effectiveness of state service delivery. Paradoxically, there is increasing condemnation of government corruption coming from Buganda in the present.[95] Moreover, stories of corruption are also continuously used to explain why there is a lack of trust in government and why many Baganda want to reinstate a federal system.[96]

The illustrative examples in this section establish that participants believe experiences of mass violence have affected how people in Buganda and Lango think, communicate, and coordinate in ways that reinforce atrocity-related moral degeneration. The effect of this problem set as such, is what I call an "inward turn" in everyday decision-making, where the number of people afforded moral consideration decreases in ways that undermine efforts to redress the past and cause new types of harm in the present. Participants also identified *everyday causes* (perceived as detached from past atrocities) that accelerate atrocity-related moral degeneration.

Everyday causes of the inward turn that participants identified include forces of westernization, modernization, urbanization, and capitalism. These concepts describe pressures and conditions in daily life that encourage Ugandans to see themselves and others as atomized beings. For example, urbanization was associated with encouraging a turn inward because of how space is privatized and protected. As one businesswoman stated in an interview with a local journalist, "[s]haring with neighbours is almost non-existent, people are almost confined to their homes, and it is a for God and my family style."[97] Another example can be seen in how modernization and capitalism[98] were associated with depleting the amount of *time* individuals have with crucial sources of moral guidance like family, cultural leadership and events, and religious worship. As one working mom from Luweero District explained, "most of the parents don't have time. A husband goes out and seeks [work/income], a wife goes out and seeks [work/income], the child is sent to school. They come back at six, and all of them are tired…to look at the child and see, how is this child?"[99] As the conflict-related inward turn and these everyday accelerators produce similar effects, participants believe the latter must also be addressed to effectively redress the former. Thus, the response mechanisms identified that could

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[93] Ssemujju Ibrahim Nganda, "Corruption Endemic in Uganda," *Guardian*, March 13, 2009, accessed August 3, 2024, https://www.theguardian.com/katine/2009/mar/13/corruption-endemic-in-uganda; Tom Goodfellow, "The Bastard Child of Nobody?: Anti-Planning and the Institutional Crisis in Contemporary Kampala," Crisis States Research Centre, London School of Economics, Crisis States Working Papers Series 67, no. 2 (2010), 1–30, accessed August 21, 2024; Joshua Serufasa Zake, "Corruption Began in Buganda!," *New Vision* (media), January 23, 2002, accessed August 3, 2024, https://www.newvision.co.ug/new_vision/news/1064594/corruption-began-buganda.

[94] Tour Guide of Buganda Parliament, interview by author, Bulange at Mengo, Kampala, December 13, 2016.

[95] Author led discussion group, Kampala, July 07, 2018; Author led discussion group, Buganda Museum, Kampala, August 26, 2017; Author led discussion group (all females), Kampala, July 07, 2018; Author led discussion group, Luweero District, July 17, 2018; Author led discussion group, Kampala, August 26, 2017; Straight Talk Africa, "The Significance of Uganda's Buganda Kingdom," aired May 29, 2019, *VOA Africa*, YouTube video, uploaded May 29, 2019, accessed November 18 2019, https://www.youtube.com/watch?v=_-mBJjZQ9fA.

[96] Young Business Entrepreneur, interview by author, Kampala, October 28, 2016; Tour Guide of Buganda Parliament, interview by author, Bulange at Mengo, Kampala, December 13, 2016; Author led discussion group, Kampala, August 26, 2017; Secretary of Local Council 1, interview by author, Nakaseke District, March 19, 2017.

[97] "About the Two Faces of Christmas," *Daily Monitor*, December 14, 2018, accessed March 18, 2019, https://www.monitor.co.ug/Magazines/Life/About-the-two-faces-Christmas/689856-4896136-guqxnyz/index.html.

[98] Capitalism was also associated with Museveni's turn toward a neoliberal economy in his second term in office. This is popularly understood as the term where Museveni "sold out" the socialist beliefs that gained him popularity during the liberation struggle he spearheaded that ultimately brought him to power. Neoliberalism has also been associated with accelerating the inward turn. See Jörg Wiegratz, *Neoliberal Moral Economy: Capitalism, Socio-Cultural Change and Fraud in Uganda* (London: Rowman & Littlefield International, 2016).

[99] Parish Priest at Church of Uganda, interview with author and translator via Skype to Wakiso District, January 21, 2019.

address *both* conflict-related and everyday causes of the inward turn, strengthen and increase exposure to everyday sources of moral guidance underpinned by an interconnection-based ontology.

Participants across subregions predominantly pointed to family, culture/cultural institutions, and religion/religious institutions as the *primary* response mechanisms to reverse the inward turn. The shared emphasis on these primary sources of moral guidance is because they reinforce a preferable interconnection-based worldview that encourages consideration of the relational effects of one's actions within and beyond one's associated moral communities. In line with Tamara Trownsell's argument, moving away from separation-based ontologies, particularly those that are dualistic, can reinforce that difference is not necessarily a threat and might even become a site for learning.[100] As such, these primary mechanisms are ideal to spearhead Uganda's macro-level redress even if they are also seen as necessarily requiring inclusive, negotiated reform to fulfil this role. *Secondary* sources of moral guidance to reverse the inward turn included school, work environments, civil society/NGOs, friends, and the internet, among others. They were ascribed this secondary status because there is a higher risk that individuals can be exposed to moral belief systems that are underpinned by a separation-based ontological register. Crucially, the response systems that were rarely if ever mentioned included central government, the legal system (including the police, courts, and codified law), and political parties. This is because they were either seen as underpinned by separation-based ontology or enough people representing these systems exhibited hypocritical behaviors that are also understood as morally degenerated such as swindling funds meant for TJ and post-conflict reconstruction.[101] Therefore, these *tertiary* response systems were less desirable to spearhead macro-level redress, but instead are to be influenced by primary and appropriately functioning secondary mechanisms.

These findings reveal something new about the role of morality in sequencing TJ. Whereas moral dilemmas and claims are often cited in advocating compulsory accountability and certain forms of redress in TJ discourse, participants define macro-level justice as inclusively negotiating the moral codes that primary response mechanisms referenced above should be reinforcing to reverse the inward turn. This can be interpreted as the most fundamental "justice" in a time of transition. Moral degeneration is an essential "technique" of genocide as theorized by Raphael Lemkin, which I would argue is also used in the perpetration of other atrocities.[102] Lemkin's theory of "moral genocide" aims to "weaken the spiritual resistance of the national group."[103] Ben Mergelsberg argues that life in Uganda's IDP camps for the people of Pabbo municipality posed a threat of moral crises that families had to actively resist using their own means of social control to restore their culture.[104] Thus, it is logical that participants would point to culturally-based morality/moral belief systems as crucial TJ

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[100] Tamara Trownsell, "Fostering Ontological Agility: A Pedagogical Imperative," *E-International Relations* (blog), May 5, 2021, accessed August 21, 2024, https://www.e-ir.info/2021/05/05/fostering-ontological-agility-a-pedagogical-imperative/.

[101] Tania Bernath, "Off the Agenda as Uganda Moves toward Development: Uganda's Transitional Justice Process," in *Transitional Justice, International Assistance, and Civil Society*, eds. Paige Arthur and Christalla Yakinthou (Cambridge: Cambridge University Press, 2018), 141; also see Jackee Budesta Batanda, "Another Case of High-Level Corruption in Uganda," *Foreign Policy*, accessed April 24, 2019, https://foreignpolicy.com/2012/10/31/another-case-of-high-level-corruption-in-uganda/.

[102] See Adam Branch, *Displacing Human Rights: War and Intervention in Northern Uganda* (Oxford: Oxford University Press, 2011); Dolan, *Social Torture*. First mentioned in note 65.

[103] Raphaël Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress*, Publications of the Carnegie Endowment for International Peace, Division of International Law (Washington: Carnegie Endowment for International Peace, Division of International Law, 1944), 89, accessed August 21, 2024, https://catalog.hathitrust.org/Record/001153630.

[104] Ben Mergelsberg, "The Displaced Family: Moral Imaginations and Social Control in Pabbo, Northern Uganda," *Journal of Eastern African Studies* 6, no. 1 (2012), 73.

mechanisms. Even in Uganda's National Dialogue Process Framework, one of the first agenda items is "a national values consensus," where drafters state:

> The question of values consistently comes up in many discussions in a variety of forms. Indeed, a people that do not have shared values have no basis for building a shared culture for being each other's keeper. A National Dialogue is an opportunity to resolve this unending debate whereby we can adopt a set of values that define who we are and that can bind each one of us in a sense of justice and dignity.[105]

However, this Dialogue forum was not associated with the TJ process. In addition, and as explained above, the NTJP—although recognizing diverse entities as crucial for the effective implementation of TJ—prioritizes support to strengthen central government, civil society, and the legal system as the primary entities to facilitate macro-level intervention. This deprived the primary response systems identified here of much needed time, material, and political support to reform and spearhead reversing the inward turn.[106]

By prioritizing support to these tertiary response systems, the NTJP actively works *against* goals for the redress of participant's desire by reinforcing the internalization of a separation-based worldview. Crucially however, it is in misdiagnosing the most crucial macro-level problems for TJ to grapple with that the wrong mechanisms were prioritized for response. More specifically, addressing technical challenges to implementing TJ in line with mainstream standards and norms to enhance "legal and political accountability"[107] brings into view the legal system, central government, and civil society as the most relevant entities to facilitate redress. As participants imply, these response systems reinforce a separation-based ontology that accelerates the inward turn. Such unintended and potentially harmful consequences of decontextualized problem analysis is cause for serious consideration of the role normativity plays in research designed to provide evidence-based guidance for policy and practice in TJ and GMAP more broadly.

Recommendations for Policymakers and Practitioners in TJ and GMAP

There are myriad barriers to producing evidence-based guidance in TJ and GMAP. Some well-known challenges can include accessing and supporting affected communities in acute crisis or repressive regimes. The work of this paper tackles a more implicit barrier by providing concrete recommendations on how best to evade the metanormative or belief-based normativity delimiting TJ problem analysis to the detriment of evidence-based guidance. In general terms, it is argued here that policymakers and practitioners proactively and explicitly use evidence-based object and methodological normativity to guide problem analysis so that evidence-based guidance becomes possible, which is visually depicted in Option 2 of Appendix B.

The contextualized approach to TJ strategy development outlined here could have uncomfortable implications. This is because the atrocity crimes and human rights frameworks

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[105] Inter-Religious Council of Uganda, National Dialogue Process Secretariat, "The Uganda National Dialogue Framework," March 2018, 25.

[106] For example, participants in Buganda admitted that moral training through the cultural programs such as "*Ekisaakaate*" must be more affordable, if not free, to enrol children. Another example is facilitating familial and community dialogues in Lango and Buganda to inclusively debate how specific moral values have been affected by past atrocities and determine the way forward. A similar initiative was implemented in Lango but on a smaller scale. Cultural leaders and their respective communities worked with development partners and the Ministry of Gender, Labour, and Social Development to identify the cultural mores that help to prevent or contribute to the spread of infectious diseases and gender-based violence in Lango. See Ministry of Gender, Labour, and Social Development, "The Report on Lango Socio Cultural Factors Impacting on HIV and AIDS, Maternal Health and Gender Based Violence" (Kampala, August 2012).

[107] Ministry of Internal Affairs, *National Transitional Justice Policy*, 23.

that provide well-defined problematic phenomena characterizing TJ and GMAP would no longer serve as the foundation for policy and practice. Interestingly, this is how the field of GMAP came to fruition as Lemkin problematized certain harmful experiences as warranting urgent response and redress,[108] which led to his theories of genocide that shaped the seminal Genocide Convention.[109] In fact, there is a popular phenomenon in GMAP discourse to refer to Lemkin's work as defining a "crime without a name."[110] In essence, this paper is urging policymakers and practitioners of GMAP to treat all members of affected communities as potential "Lemkins" of their own experiences within their respective contexts. This reinforces Palmer et al.'s cautionary recommendation that in TJ, "we must be careful about how concepts are translated" across contexts as "mistranslation can have unintended—and sometimes negative—consequences."[111] Another costly consequence of not contextualizing TJ and GMAP using evidence-based guidance would be to relegate experiences being problematized as not "extraordinary"[112] enough to warrant preventative action, or for affected communities not to *see themselves* in intervention strategies created in their name and with goals that, primarily, they must sustain. Therefore, this paper recommends the following measures to apply a contextualized approach to problem analysis for evidence-based guidance in TJ and GMAP more broadly.

Abandon assumptions about the problems of TJ and GMAP

- At the formulation stage of strategy development, refrain from using metanormative frameworks (e.g., the Rome Statute of the ICC)[113] and themes (e.g., truth-seeking) to guide problem analysis.
- Refrain from assuming the full scope of relevant goals, as well as indicators that prevention is occurring or has been achieved. Although there are common (obvious) indicators across contexts, the meanings attached to events, speech, relationships, and states of affairs vary significantly enough across systems perpetrating atrocities to warrant starting from scratch in each case.

Shape research models for problem analysis using evidence-based normativity

- Explicitly conduct problem analysis *as such* as when response mechanisms and goals are the departure point, problem mapping becomes constricted.
- Use recently generated and real-time empirical data about contextual dynamics and affected communities' views to shape the object normativity and methodological normativity guiding problem analysis.
- Present your theories of the problematic back to affected communities so they can validate, correct, and/or expand on findings to enrich evidence-based guidance.

Theorize intervention strategies based on evidence-based problem analysis

- Identify response mechanisms that affected communities deem appropriate to respond to corresponding evidence-based problems.

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[108] See Lemkin, *Axis Rule in Occupied Europe*. First mentioned in note 104.

[109] See Douglas Irvin-Erickson, "Raphaël Lemkin: Genocide, Cultural Violence, and Community Destruction," in *Cultural Violence and the Destruction of Human Communities: New Theoretical Perspectives*, eds. Fiona Greenland and Fatma Müge Göçek (Abingdon: Routledge, 2020), 35–57.

[110] David L. Nersessian, "Defining a Crime Without a Name," in *Genocide and Political Groups*, ed. David L. Nersessian (Oxford: Oxford University Press, 2010), 60; James E. Waller, "'A Crime Without a Name': Defining Genocide and Mass Atrocity," in *Economic Aspects of Genocides, Other Mass Atrocities, and Their Preventions*, eds. Charles H. Anderton and Jurgen Brauer (Oxford: Oxford University Press, 2016), 28–51.

[111] Palmer et al., *Transitional Justice Methods Manual*, 18. First mentioned in note 23.

[112] Scott Straus, *Fundamentals of Genocide and Mass Atrocity Prevention* (Washington, DC: United States Holocaust Memorial Museum, 2016), 40.

[113] *Rome Statute of the International Criminal Court*. International Criminal Court, 2021. https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf.

- Identify goals (i.e., redress and/or societal change) affected communities associate with each response mechanism.
- Use problem analysis and associated responses to determine which mechanisms have/might have the capacity to contribute to preventing recurrence and why.

Disseminate findings in ways that reinforce pluralism in TJ and GMAP

- When translating findings into policy spaces (e.g., for resource providers), make use of concepts and theories of the problematic generated, regardless of how radical they seem to help pluralize and democratize what constitutes TJ and GMAP.
- *After* conducting contextualized problem analysis and mapping of relevant response mechanisms, conduct a matching exercise to determine if best practices and lessons learned from historical cases and/or metanormative conceptions are relevant and can improve intervention strategies.
- If applicable, share any best practices and lessons learned deemed relevant by strategist(s) with affected communities for scrutiny and feedback, and if deemed contextually appropriate, for participatory adaptation of best practices to suit the focal context.
- In formulating the problem statement in public policy, present the problems as they were theorized (e.g., interconnected sets), as opposed to reverting to conventional policy problem types such as "root causes," "proximate causes," "effects" of mass atrocities, rights violations, atrocity crimes, and affected community "needs," unless these categories are deemed contextually appropriate.

A contextualized understanding of the problem(s) and appropriate forms of intervention in TJ and GMAP provide policymakers and practitioners with a sober understanding of the realities facing the focal context. This can also benefit norm entrepreneurs that want to universalize adherence to their metanormative beliefs (e.g., no impunity for atrocity crimes) as they can speak to where diverse actors are at to advocate change. Most crucially however, the cost of overlooking or marginalizing diverse views and understandings of what is to be considered the work of TJ and GMAP risks making policy and practice complicit in systems perpetrating harm. The hope in advocating contextualized problem analysis for evidence-based strategy development is to prevent such an ironic, counterintuitive, and damaging outcome.

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Appendix A: Generating Evidence-based Object Normativity and Methodological Normativity for Contextualized Problem Analysis in Buganda and Lango

This appendix provides illustrative examples of how empirical evidence from focal communities and subregions, including societal dynamics and affected communities' views, shaped the object normativity and methodological normativity used in the contextualized approach applied in this study. These illustrative examples are not meant to prescribe how to generate evidence-based normativity across all cases. Rather, they demonstrate how empirical evidence *can* shape normativity in research designed to provide evidence-based guidance for TJ policy and practice.

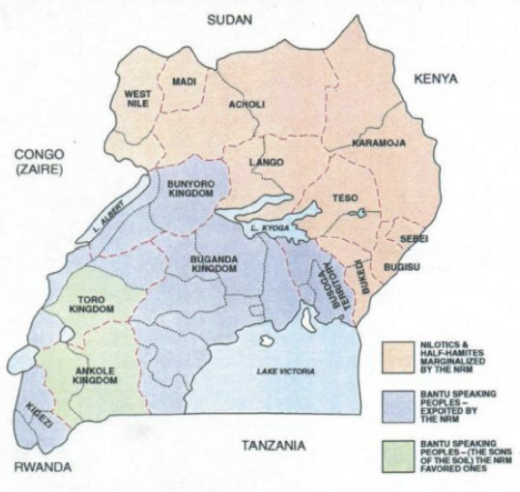
Generating Evidence-based Object Normativity

At the beginning of rigorous data generation in 2016, I drew on the outcomes of my initial interviews and on my observations as a practitioner living and working in Uganda at the height of public policy debates (2012–2015) to determine my initial evidence-based methodological norms and object norms. As the problems in the National Transitional Justice Policy (NTJP) were primarily generated in the context of the LRA war, it was presumed by many to have a regional as opposed to national scope. However, Ashad Sentongo explains:

> We [Ugandans] have not lived a day without war. Who is a victim and who is not? You get what I mean? Who of us has a history to resolve-to deal with, and the other one is okay?....So, this whole concept of "victimhood" also has to be expanded. It should not be constrained to refer to an episode in history. That is my understanding. If you constrain it to refer to an episode, others will develop a sense of exclusion and the moment people perceive that the process has excluded them, the next thing, is to react.[114]

Although *all* Ugandans might not perceive themselves as "victims," they are in diverse ways "conflict-affected," including policymakers, practitioners in civil society, and members of the executive branch of government. Thus, to move beyond the perceived regional scope of the NTJP, I chose to focus on two subregions (i.e., Lango and Buganda) that cut across the enduring north-south divide entrenched during colonial rule. The British indirectly governed the Uganda Protectorate primarily through the Buganda Kingdom. This form of indirect-rule was identified by participants as the initial cause of the ethnicization of the state and the enduring north-south divide that characterizes many national level conflicts and post-independence political violence, including the well-known LRA war.

Figure 1: Map of ethnically delineated subregions in Uganda.[115]



[114] Ashad Sentongo, interview by author, Kampala, November 3, 2016.

[115] Chamonges Kericho, *Uganda: Hurtling Toward a Rwanda-like Crisis* (Victoria: Trafford Publishing, 2006).

The national scope also brings into view three factors that cloud TJ problem analysis namely, *temporal*, *experiential*, and *geo-cultural*. The *temporal factor* refers to the cyclical nature of mass violence as the colonial state and all heads of state post-independence strategically underdeveloped subregions that were perceived threats to imperial/state authority. This pattern reinforced the north-south divide with each violent regime change as disenfranchised groups were used to "going silent" and seeking *revenge* when an aligned head of state and associated political party assumed power.[116] As such, treating the past episodically, as the NTJP initially did, risks marginalizing some experiences and forms of mass violence that might be of utmost concern to Ugandans. It also risks ignoring the interconnectivity of violent conflict over time that successively reinforced many of the inter-group divisions that persist today.

Experiences of mass violence operate at individual and collective levels, which is the *experiential factor* one must consider in contextualized problem analysis. In the diverse set of individual experiences, there are real and imagined collective experiences, particularly along ethnic lines. Consequently, ethnic identity can determine an individual's positionality in the context of addressing the past. This can create a tension between how an individual experiences violence and how their affiliated ethnic group is associated with violence, whether self-ascribed or externally imposed. TJ in Uganda then, must strike a delicate balance between these two levels of experience to develop a strategy that is meaningful, yet, tangible and feasible for macro-level intervention.

There is also a crucial *geo-cultural factor* that generates conflict-related problems around TJ *response*. Due to colonial and post-independence political violence, Uganda is divided into subnational regions, which, although diverse, continue to be dominated by one ethnic group. In the context of TJ response, these dynamics mean there is an unequal and culturally varied service delivery apparatus across the country. As some participants in Lango emphasized, it would advance a "tribal agenda"[117] and be a potential cause of (re)traumatization to impose any one ethnic group's customary justice mechanism on another ethnic group to redress past atrocities, particularly those affiliated with perpetrators. The experiential and geo-cultural factors informed my choice to focus on generating an intersubjective view of TJ problems in Lango and Buganda. To this end, I looked for common trends and patterns *across* individual accounts shared during interviews and focus groups within Lango and Buganda.

These factors, together with the national scope of the TJ Policy, provided evidence-based guidance of how to conceive of TJ as the object of study (i.e., the problems of TJ) in the Ugandan case. It reinforced that TJ must be discussed in broad terms to allow more inclusive problem analysis. It also reinforced that the relevant past cannot be easily associated with one episode of violent conflict or period of repression as is conventional practice in TJ. Instead, the relevant past is brought into view as participants describe it in relation to the societal problems they prioritize for TJ. This means that addressing conventional problem-categories such as "root causes," "proximate causes," and "effects" of mass atrocities as such, is insufficient in this case. The term "root cause" here refers to a fundamental cause of mass violence. A "proximate cause" could be understood as a "trigger" of atrocity-violence, which was of less interest but mentioned at times. A "symptom" then, refers to the physical, psychological and/or environmental effects that indicate some type of mass violence occurred. This was a common problem type particularly because of participants' customary approaches to discussing the past as only helpful if tied to present-day suffering. These object norms indeed had implications for my evidence-based methodological norms.

Generating Evidence-based Methodological Normativity

The initial evidence-based object norms helped generate additional evidence-based methodological norms about *how* to analyze the problems of TJ in my case. In addition,

[116] Former Abductee, interview by author, Lira District, November 16, 2016.

[117] Victor Ochen, Director of African Youth Initiative Network, interview by author, October 20, 2018.

interviews showed that participants found significance in describing the *interconnections* between atrocity-related problems and non-atrocity-related problems producing the same harmful effects. Although participants did not necessarily mention *all* the same problems as relevant to TJ, they tended to describe problematic phenomena as a system, with interconnected parts that produce certain harmful effects as a whole. This pushed me to use principles and methods from Peter Checkland's Soft Systems Methodology (SSM) meant to facilitate an iterative process of action research, strategy development and implementation for "problematic situations" in "human affairs."[118] Specifically, I used Checkland's three part "root definition" formula of a Human Activity System (HAS) to help generate the broadest parameters of the object of study (i.e., TJ) for more inclusive problem mapping.[119] To populate the formula initially, I conducted a thorough review of TJ theory across mainstream, critical, and radical discourses and lessons learned from historical cases to conceive of TJ as a HAS that *addresses past mass violence, through responses in the present, to bring about desirable change*.[120] This broad definition accounts for the temporal factor as it does not refer to a particular episode of atrocity-violence. It also caters for the geo-cultural factor as there are no predeterminations about what response in the present looks like.

Given the relationships between problematic phenomena were of crucial concern to participants and how they narrated the relevant past, it was helpful to use a tool that could visually depict the interconnections between problems, as well as the effects of problem-sets on individuals, communities, ethnic groups and Ugandan society more broadly. Accordingly, I used another tool from SSM called "rich pictures,"[121] which are essentially hand-sketched drawings of problem sets from diverse perspectives. These visual aids were particularly useful for analysis and validation in the Lango subregion as most participants are not fluent in English. Rich pictures also served as an additional tool for the translator to accurately explain my findings during validation exercises.

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[118] Peter Checkland and Jim Scholes, *Soft Systems Methodology in Action* (New York: John Wiley, 1990), 38–41.

[119] Peter Checkland, *Systems Thinking, Systems Practice* (New York: John Wiley, 1999), 166–168.

[120] See for example Office of the United Nations High Commissioner for Human Rights, "Rule-of-Law Tools for Post-Conflict States: National Consultations on Transitional Justice" (New York: United Nations, 2009), https://www.ohchr.org/sites/default/files/Documents/Publications/NationalConsultationsTJ_EN.pdf; Annan, *The Rule of Law and Transitional Justice*. First mentioned in note 16; International Center for Transitional Justice, "What Is Transitional Justice?" (New York: ICTJ, 2009), accessed September 2, 2024, https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf; Louise Arbour, "Second Annual Transitional Justice Lecture," (New York: New York University School of Law Center for Human Rights and Global Justice and the International Center for Transitional Justice, October 25, 2006); Oliver P. Richmond and Jason Franks, *Liberal Peace Transitions: Between Statebuilding and Peacebuilding* (Edinburgh: Edinburgh University Press, 2009); Paul Gready and Simon Robins, "From Transitional to Transformative Justice: A New Agenda for Practice," *International Journal of Transitional Justice* 8, no. 3 (2014), 339–361. Sandra Rubli, "Transitional Justice by Bureaucratic Means?" *Swisspeace* Working Paper 4 (October 2012), 3–4, accessed September 2, 2024, https://www.files.ethz.ch/isn/154626/WP4_2012.pdf; Oliver P. Richmond and Audra Mitchell, eds., *Hybrid Forms of Peace: From Everyday Agency to Post-Liberalism* (London: Palgrave MacMillan, 2011), 342–343; Chandra Lekha Sriram, "Justice as Peace? Liberal Peacebuilding and Strategies of Transitional Justice," *Global Society* 21, no. 4 (2007), 579–580; Anna Macdonald, "Local Understandings and Experiences of Transitional Justice: A Review of the Evidence," *JSRP Paper* 6 (July 2013), 1–96, accessed September 2, 2024, http://eprints.lse.ac.uk/56354/1/JSRP_Paper6_Local_understandings_and_experiences_of_transitional_justice_Macdonald_2013.pdf.

[121] Checkland and Scholes, *Soft Systems Methodology in Action*, 45.

Figure 2: Translator, Walter Aguma, with a set of rich pictures for validation of findings.[122]

The inductive observations I made as a practitioner and the evidence-based object normativity reinforced a need for an explicit step in my research design where I confront my own normative assumptions about the problems of TJ. Accordingly, I used "memo writing" and the principles of Kathy Charmaz's Constructivist Grounded Theory (CGT) to stay as close to participants' accounts as possible.[123]

The tools from SSM and CGT helped facilitate analysis of the empirical data I co-generated with participants in focal communities. However, it was crucial to think of the implications of evidence-based object normativity and methodological normativity on the methods used to generate data. For example, my initial core questions for semi-structured interviews and focus groups had to be broad enough to coincide with the broadened "roots definition" or conceptualization of TJ outlined above. Consequently, the core research questions included:

1. What problems or challenges do you currently face in daily (public/private) life?
2. Are any of these problems linked to past violence, if so, how?
3. What are the responses to these problems, if any?
4. What should be done to address these problems?

I called the ordering of the questions the "boomerang approach" as the discussion starts in the present, links to past violence, and then returns to addressing the past in the present. The flow and comfort level in subsequent interviews and discussion groups increased dramatically after adjusting the order of my core questions in line with customary approaches to discussing past atrocities.

In Buganda, knowledge production for many is implicitly based on a principle called "*obuntubulamu*," which is used differently here than in the main text. In Luganda, this concept in its most basic form, means a "belief in a universal bond of sharing that connects all humanity."[124] This means that the researcher is inevitably part of data generation, which is also an element of CGT. In addition, data generation and resultant theories are viewed as more legitimate if they are products of a group discussion where individual participants, including

[122] Validation meeting in Abok Subcounty, Oyam District, 20 July 2018.

[123] Kathy Charmaz, *Constructing Grounded Theory*, 162, 183.

[124] Johnnie Wycliffe Frank Muwanga-Zake, "Towards Validating Research Discourses among Bantu in Africa: Obuntubulamu as a Possible Transforming Agent," in *Decolonisation Pathways: Postcoloniality, Globalisation and African Development*, ed. Jimmy Spire Ssentongo (Nkozi: Uganda Martyrs University, 2018), 189–239.

the researcher, react to each other's interpretations and responses.[125] Based on the belief of human interconnectivity, individual views exist in juxtaposition to other views.[126] In addition, participants reacting to the validity of each other's interpretations can help to expose inaccuracies. Coming to this understanding through one-to-one interviews encouraged me to increase my use of focus groups and reserve my qualitative interviews for theoretical sampling to fill gaps and generate thicker descriptions of specific problems, relationships, and response mechanisms.

In Lango, while there are local ways of knowing, they were not packaged conceptually as seen in Buganda. However, through observation and reflection, I learned of an important set of norms around knowledge production that emerged in reaction to the influx of post-conflict research that has caused information exhaustion among many Langi. One of the most prevalent complaints from participants was the lack of follow-up from researchers who visit their communities. Repeatedly communicating their views on TJ-related issues without tangible outcomes or benefits encouraged many in Lango to seek real-time benefits of research about their community. In addition, convening people costs money and takes individuals away from the daily hustle of income generation. When the opportunity arises to gather and exchange views on a matter, the goal is to learn from one another in real-time and include as many members of the community as possible. Accordingly, focus groups were highly encouraged because they were seen as a space of learning through exchange in real-time. Thus, it made sense to increase my use of discussion groups to earn legitimacy of this contextualized approach among the Langi.[127]

One important note to make about conducting discussion groups across regions is that they also served as microcosms of broader power dynamics in the community. There was a tendency for women not to challenge men save for one or two very vocal participants. Even when some female participants seemed to have a response to their male counterparts, they often chose not to overtly express their views. Rather, they would opt to make comments later in the discussion to present their contributions as independent thoughts as opposed to a direct (conflicting) response to male participants. Alternatively, women participants would wait until break time to mention something to me privately over tea.

Intergenerational dynamics also influenced data generation across regions. When youth were in the presence of female or male elders in a discussion group environment, some refrained from sharing their views or would contribute when called on by their elders. Many youths were vocal and had no problems communicating their perspective tactfully and respectfully. But it was clear that like many cultures across the world, in Lango and Buganda, elders have authority in producing knowledge. To account for this in my approach, I added two all-female and two all-youth focus group in each subregion. Although this is not a fool-proof method to mitigate these power dynamics from the perspective of young women, they were effective. The substantive differences in these discussions raised many gender-specific and intergenerational issues that enriched the analysis.

Over the course of 16 months of intensive field research, I applied this contextualized approach to problem analysis, which in broad terms included 132 semi-structured interviews, 16 focus groups with 160 participants, attending 35 events for active participant observation, producing roughly 200 hand-sketched rich pictures and 250 memos (handwritten and typed). During this time, I co-generated data in five districts in Lango (i.e., Lira, Alebtong, Oyam, Omalatar, and Dokolo) and five in Buganda (i.e., Mukono, Nakaseke, Luweero, and Wakiso districts, as well as Kampala city). After initially writing up findings, I travelled back to focal communities to conduct a validation exercise, and this is how one generates knowledge legitimately in both Buganda and Lango.

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[125] Ibid., 15–16.

[126] Ibid., 15.

[127] Author led discussion group, Barlonyo Memorial Site, July 22, 2018.

In Buganda, although focus groups facilitate an exchange that can expose researchers' biases in interpreting data, it is also believed when the researcher—particularly a foreigner—conducts analysis on their own, they can interpret the data in ways that negate the benefits of generating data in a group setting. Not only is the data being interpreted by an isolated individual seen as unideal, but the worldview of the researcher can assign the wrong meaning to concepts and descriptions generated with participants. Therefore, validation is viewed as essential to increase the legitimacy of one's research.[128]

In Lango, validation also increases legitimacy of research findings but for different reasons. As mentioned here and in the main text, participants were keen on real-time benefits of the research process. There was such a strong frustration around this issue as participants were also familiar with the donor industry and the research often used to inform programs and secure material resources.[129] As such, in the spirit of "doing no harm" and to provide Langi participants with findings that might be useful in their coordination and lobbying efforts for TJ, validation was also crucial in Lango.[130] Taken together, it was ethical for me to return to Uganda and present participants with my initial theories of the problematic, which I did in 2018.

During validation-discussion-groups, some participants expressed that I accurately captured the views from the first round of fieldwork. For example, some participants in Buganda thought it was sophisticated "software" that accurately captured their views, "I think your software is super clever if it came up with morality as the major one [problem]."[131] While some participants in Lango believed I accurately depicted links between problematic phenomena produced *during* and *after* armed conflict:

> Following what has been written on the flip chart, when I started listening to the presentation and seeing how the demonstration was going on…I thought at the genesis of the presentation that Sara [Saghar] was there during the time when some of these things were happening. Probably Sara [Saghar] was present because how Sara [Saghar] presented it clearly shows or clearly portrays what we went through and what is actually going on currently in the community.[132]

Some participants in Lango also expressed that they learned something from hearing my interpretation of their views about the problematic:

> I am dearly and really appreciative for the knowledge and what has come out and what has been presented by Sara [Saghar]. Particularly Sara's [Saghar's] effort in order to come out with the findings that have been made. Really it is the truth, and it is the foundational challenges that our people are facing…those are the real challenges that people are facing, right from the time when the LRA conflict broke out in northern Uganda up to date.[133]

Another participant reiterated the value of hearing my interpretation as a researcher because I can help tease out interconnections between problems within problem-sets. This reinforced in Lango the benefits of research *during* data generation and analysis.

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[128] Muwanga-Zake, Towards Validating Research Discourses, 24–25.

[129] Author led discussion group, Abok Subcounty, Oyam District, August 17, 2017.

[130] Author led discussion group, Barlonyo Memorial Site, July 22, 2018.

[131] Author led (all youth) discussion group, Kampala, July 8, 2018.

[132] Author led discussion group, Barlonyo Memorial Site, July 22, 2018.

[133] Ibid.

> Sara [Saghar] made a presentation as if she was present during the time when the conflict was going on and yeah it has also exposed me and given me some thought of how some of these challenges come in. Because even at the time when the conflict was going on you couldn't really easily try to connect and bring up some of these challenges together, you couldn't even understand the roots of the challenges. So, with exposure of the knowledge, Sara [Saghar] is actually in a position to try to differentiate and try to connect and get the roots of some of the challenges that are being faced by the community right now.[134]

In Buganda, participants were less interested in explicitly articulating that my analysis is accurate. Instead, they nodded their heads repeatedly in agreement with what I shared and, crucially, they built upon initial findings which further enriched the analysis.

In addition to enriching the analysis through further discussions, it is explicit statements like these that indicated I achieved a respectable degree of "contextual legitimacy,"[135] upon which the contextualized approach applied in this study rests.

[134] Ibid.

[135] Gready and Robins, *From Transitional to Transformative Justice*, 55. First mentioned in note 3; Oliver P. Richmond, "Resistance and the Post-Liberal Peace," *Millennium: Journal of International Studies* 38, no. 3 (2010), 682.

Appendix B

These diagrams visually depict the implications of diverse normativity types for producing evidence-based guidance. More specifically, Option 1 shows that when belief-based guidance shapes the object normativity and methodological normativity in the research model, then problem analysis and theories of "transition" and "justice" become decontextualized. This significantly increases the chances of producing belief-based guidance for TJ interventions with the possibility of overlap with evidence-based guidance from the focal context.

Option 2 represents the contextualized approach applied in this study. It shows that when evidence-based guidance shapes the object normativity and methodological normativity in the research model, it becomes possible to ground problem analysis and generate contextually meaningful theories of "transition" and "justice." This results in evidence-based guidance for TJ interventions with the possibility of overlap with belief-based narratives of TJ such as the mainstream conception.