

Alternative Report

To the Government of Uganda's First Periodic Report Before the United Nations Human Rights Committee

“Uganda: a situation of systematic violations of civil and political rights”

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ACRONYMS

ACHPR	African Commission on Human and People's Rights
ADF	Allied Democratic Forces
CRC	Constitutional Review Commission
CMI	Chieftaincy of Military Intelligence
DMI	Directorate of Military Intelligence
EC	Electoral Commission
FHRI	Foundation for Human Rights Initiative
FIDH	International Federation for Human Rights
HRC	Human Rights Committee
HRW	Human Rights Watch
ICCPR	International Covenant on Civil And Political Rights
LDU	Local Defense Units
LRA	Lords Resistance Army
NRM	National Resistance Movement
UDHR	Universal Declaration on Human Rights
UHRC	Uganda Human Rights Commission
UNDP	United Nations Development Programme
UPDF	Uganda People's Defense Forces

INTRODUCTION

THE FOUNDATION FOR HUMAN RIGHTS INITIATIVE (FHRI) is an independent, non-governmental and not for profit making organization established in December 1991 to enhance the knowledge, respect and observance of human rights, and to encourage exchange of information and experiences through training, education, research and networking in Uganda. FHRI is registered as a Non- governmental human rights organization under the Non- Governmental Organizations Registration Statute, 1989 and is duly incorporated under the Companies Act (Cap 85) as a company limited by guarantee and body corporate.

FHRI has observer status with the African Commission on Human and Peoples' Rights (ACHPR) and collaborates with a large number of groups at the local, regional and international level. Thus, between 2000 and 2002, the FIDH has conducted its Legal Cooperation Programme with FHRI on "The human rights of Internally Displaced Persons' in Uganda". FHRI also actively collaborates and exchanges information with various government institutions.

FHRI's current programme is based on four campaign themes. These include community empowerment to demand for political and public accountability; police and prison reform including torture, independence and integrity of the judiciary, and freedom of expression, association and assembly including the media. FHRI has also spearheaded the campaign against the death penalty for several years resulting in a national debate on the issue. In a memorandum to the Constitutional Review Commission (CRC), FHRI called for either the abolition of the death penalty or a moratorium to be exercised on its application.

During much of its history as an independent nation, Uganda was characterised with repressive and authoritarian regimes such as that of Idi Amin and Milton Obote. During these regimes human rights were abused with impunity. Torture, detention without trial, arbitrary arrests, disappearances and arbitrary deprivation of life was the order of the day. An estimated half a million people were reported murdered during these regimes while thousands more estimated to have disappeared and property worth billions of shillings arbitrarily confiscated.

The National Resistance Movement (NRM) Government under President Yoweri Museveni which has held power since 1986 has registered some improvements in Uganda's human rights record but owing to a lack of strong democratic institutions, a

legacy of repressive legislations, limited access to legal aid services, a prevalence of conflicts and generally the absence of a Constitutional and human rights culture, human rights violations still continue. Although initially hailed as progressive, the Movement Government's human rights record is largely characterized by domination, political, economic and social exclusion of large sections of the Ugandan population.

The NRM Government has made some efforts to improve Uganda's human rights record. A new Constitution was promulgated in 1995 with an extensive bill of rights that guarantees human rights protection. Human Rights Non-governmental organizations are guaranteed autonomy and independence in the Constitution. A National human rights commission, the Uganda Human Rights Commission (UHRC) with power to investigate human rights abuses and award compensation was established in November 1996.

Uganda ratified the International Convention on Civil and Political Rights (ICCPR) on 21st September 1995 and the First Optional Protocol on the ICCPR on the 14th February 1996 with reservations on Article 5. The Ugandan government is therefore under the obligation to respect and protect the internationally recognized human rights contained therein. FHRI and the FIDH present hereby an alternative report to the first Government report before the Human Rights Committee. This report highlights, article by article of the ICCPR, the violations of civil and political rights committed by the authorities and the rebels.

COUNTRY PROFILE

1.0 Physical Features

The Government Report adequately describes the physical features of Uganda (Paragraphs 1 - 5)

2.0 Demographic Characteristics

This findings of the recently concluded census (2002), presented Uganda's total population as 24.6 million persons with males being 12.1 million compared to 12.5 females. The annual growth rate is 3.3 % and this is attributed to the persistently high fertility levels.

3.0 The Economy

The Ugandan economy has an annual growth rate of 5%. Annual Gross domestic product (GDP) remains at \$330 per

cent per capita. Despite this economic progress, Uganda remains a very poor country with a debt burden of \$3 billion is the third poorest country in the world.¹

4.0 General Political Structure

The government of Uganda has experienced a number of changes right from the day when Uganda gained her independence from the British government on 9th October 1962. The first government was headed by Dr. Apollo Milton Obote who was the Prime Minister and Sir Edward Frederick Muteesa, the Kabaka of Buganda as President and the head of the Republic. However, this arrangement was abolished by Milton Obote in 1966 when he ordered the invasion of the Kabaks's Palace and exiled Sir. Edward Muteesa.

The government of the Republic of Uganda is currently governed on the principles of the concept of Movement System. The core virtues underlying the Movement Systems is that it is all embracing and all inclusive.

Enshrined in the country's Constitution, the government of Uganda stands on the following corner stones - "Of the People, For the People and By the People" These three pillars of democracy are espoused by the composition of Uganda's Government, comprising of three arms of state namely: The Executive, The Legislature and The Judiciary.

The Executive is composed of President Lt. Gen. Yoweri Kaguta Museveni, Vice President, Prof. Gilbert Bukenya, Prime Minister Apollo Nsibambi. The Cabinet is appointed by the president from among elected legislators. The Legislature otherwise referred to as the National Assembly (303 members - 214 directly elected by popular vote, 81 nominated by legally established special interest groups [women 56, army 10, disabled 5, youth 5, labor 5], 8 ex officio members; members serve five-year terms)

Although only one political organization, the Movement [President Museveni, chairman] is allowed to operate unfettered; note - the president maintains that the Movement is not a political party, but a mass organization, which claims the loyalty of all Ugandans². Political parties exist but are

prohibited from sponsoring candidates, the most important are the Reform Agenda or RA (Kizza Besigye) Ugandan People's Congress or UPC [Milton Obote]; Democratic Party or DP [Paul Ssemogerere]; Conservative Party or CP [Ken Lukyamuzi]; Justice Forum [Muhammad Kibirige Mayanja]; and National Democrats Forum [Chapaa Karuhanga].

1. UNDP World report 2002.

2. Article 269 of the Constitution of Uganda requires the suspension of political parties while the Movement organization is in governance.

Article 1. Right to Self Determination

Paragraphs 41-50 of the Government report lays down the ways in which Government has provided for the Right to Self Determination. In spite of the legislation in place, restrictions to the right to self determination exist on the ground.

Paragraph 49 of the Government report gives the impression that the people of Uganda are able to freely dispose of their wealth. The Land Act 1998 gives restrictions on transfer or any dealings on land without consent of family members³. All land matters are supposed to be adjudicated by the Land Tribunals, as per the Land Act.⁴ However these land tribunals are not functioning properly: some districts have not even got any established land tribunals and yet courts no longer entertain land disputes. In effect this hinders the people of Uganda in dealing with their property.

Further to that in case of disposing of land, determination of rental fee is by the Land Board who gets consent from the Minister responsible for lands. The set fee has been 1,000 Uganda Shillings per year (equivalent to 0.51 U S Dollars).

In a proposal to the Constitutional Review Commission (CRC), cabinet has proposed compulsory acquisition of land in cases of investment. This is contrary to the spirit of self-determination.

Article 2. Non Discrimination

The Constitution provides persons with disabilities with "a right to respect and human dignity". However, widespread discrimination by society and employers limits job and educational opportunities for such persons. There are no statutory requirement for the accessibility of buildings for persons with disabilities.

Moreover, there was a Minister of State for Disabled Persons and a Department for Disabled Persons within the Ministry of Gender, Labor, and Social Development. However, these institutions lacked sufficient funding to undertake or support any initiatives.

Finally, there is no policy framework to ensure that there is equal access to people with disabilities in matters of access to social services.

Article 3. Equal Rights of Men and Women

The Constitution provides for equal rights of both men and women in marriage during marriage and at its dissolution⁵. However, some family laws, like the marriage and divorce laws, have provisions that are discriminatory against women.

The Customary Marriage (Registration) Decree⁶ and the Marriage and Divorce of the Mohammedans Act⁷ recognize polygamy as a form of marriage and not polyandry.

Similarly, in the Divorce Act Cap 215, a husband has to prove only one ground in order to petition for a divorce from the wife whereas a wife has to prove at least two grounds in order to petition for a divorce⁸. The Divorce Act provides for alimony for the wife and not the husband⁹. In fact such provisions are unconstitutional and have been challenged by women activists. Those women have therefore urged the Government to consider a Domestic Relations Bill, which would include various grounds for divorce, including cruelty whether mental or physical by the respondent. Unfortunately, by the close of year 2003, the fate of the proposed Domestic Relations Bill was not clear: several workshops have been held to seek public views, but the approval of the proposed legislation has been delayed for more than 3 years now and many versions have been drafted. The varying perceptions of the proposed law coupled with the delay by Government to enact the proposed Domestic Relations law calls into question the Government's real commitment to women's rights. This law if enacted would provide legal remedies to some of these vulnerable women.

The law on defilement is discriminatory. The Penal Code Act Cap 106 states that any person who has sexual intercourse with a girl under the age of eighteen years is guilty of an offence and is liable to suffer death¹⁰. The same act states that any person who unlawfully and indecently assaults a boy under the age of eighteen years is guilty of a felony and is liable to imprisonment for fourteen years¹¹. The offences committed are the same although the punishments are different. Further more in practice if a boy below the age of eighteen is caught having sex with a girl below the age of eighteen, only the boy would be incarcerated and not the girl. This is clearly discriminatory as the children involved would be below 18 years and could suffer the same trauma.

Not enough law reform has been done to ensure the translation of the Constitutional principles of equality and non-discrimination into all subsequent laws that have a direct impact on the social and economic and educational

imbalances in society. The Equal Opportunities Commission, which is set up by the 1995 Constitution, and which would play a significant role in this area, is yet to be established.

Art 4. State of Public Emergency

The Government report mentions Article 10 of the Constitution as the article that provides for the state of emergency. This is untrue as Article 46 of the Constitution provides for states of emergency.

The report in paragraph 116 mentions that there was no state of emergency during the period. However in July 2002, President Museveni instituted "Operation Wembley" an offensive against crime and terrorism in the country¹². This was an ad hoc operation instituted to fight the widespread-armed robbery, murder and general lawlessness. The operation employed a shoot on sight policy and generally flouted the principle of the rule of law as suspects were shot at blank range, detained in military facilities and denied due process of law. In the view of FHRI, this was a state of emergency. This was a fundamental breach of Article 4 (3) of the ICCPR.

Article 5. Non-Derogable Rights

The violation of non-derogable human rights will be discussed in the present report in their respective sections.

Article 6. Right to Life

Internally displaced persons

Paragraph 125 of the Government report provides for efforts in place to promote the right to life. However, the failure by Government to decisively deal with rebels amounts to breach of right to life. Indeed, protected villages or camps for internally displaced persons (IDP's) have been targets of large-scale rebel attacks.

In northern Uganda, attacks by Lord's Resistance Army (LRA) forces and counterinsurgency tactics by the Ugandan government army (UPDF) have forced approximately 479.328¹³ persons from their homes.

LRA troops have launched several deadly raids during the period under review. Insurgents ambushed convoys abducted people especially women and children, looted, burnt huts and killed people. The LRA continued to raid towns, displacement camps in northern Uganda for the fifteenth year. The group appeared to have virtually no political ideology beyond violence and looting. LRA combatants and previous rebel forces in the north have abducted some 30,000 people since 1986, including nearly 6,000 persons who were still missing in 2001¹⁴.

Due to the failure of the government to provide security to the people in internally displaced camps, many IDP's were subjects to attacks throughout the year 2002 which attacks resulted into various violations of human rights as illustrated in the following table.

Date	Details of attack
Nov 18 th 2002	LRA rebels raided Pawel Camp (Pabbo and Atiak) they only looted food.
June 23 rd 2002	The number of people in this camp increased from 14000- 20000 many other new entrants were coming from smaller camps but this camp had 7 UPDF Soldiers on guard.
June 29 th 2002	About 50-80 LRA rebels attacked Purongo IDP camp 45 Km on Gulu Pakwach Road as a result 8 people were killed, 11 were injured and 27 were abducted.
July 3 rd 2002	LRA rebels attacked Alero IDP camp in Gulu, overran a UPDF detach, burnt between 1000-1500 huts, killed 2 people and abducted several.
July 8 th 2002	LRA rebels attacked Ajulu IDP camp about 15 miles on Gulu Apyeta Road and abducted 30 people. On the same day, numbering between 150-200, they raided sites 9 and 11 of the Maaji Refugee Settlement in Adjumani district. On site 11, they killed five refugees (including 3 women and a child), torched over 127 houses and 5 classrooms.
July 9 th 2002	LRA struck Wiya Nono IDP camp which has an estimated 20,000 people. 26 of these were abducted and forced to carry the loot.
22 nd July 2002	Rebels attacked and burnt huts in an Aparang IDP camp near Aparanga TV center.

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24 th /25 th July 2002	LRA rebels reportedly crossed from Atiak Sub - County in Gulu to Palabek gem Camp in Lamwono County, Kitgum District, where they abducted people and forced them to carry the loot which was mainly relief food.
Oct 12 th 2002	LRA attacked Pabo IDP camp looted properties and abducted people.
Oct 17 th 2002	LRA rebels abducted an un known number of children from Pagak and Awer IDP camps which are 18 km north west of Gulu.
Nov 12 th 2002	Rebels attacked Pabbo camp, killed 3 and abducted 10 people.
Nov 23 rd 2002	LRA rebels abducted an unspecified number of people from Paicho IDP camps.

Source UN OCHA Security Updates

In relation to security as a problem in South Western Uganda, it goes back to the fact that the principle cause of displacement in the Rwenzori region was the on going insecurity posed by the rebels of the Allied Democratic forces¹⁵. However the security situation improved somewhat during 2001 where IDP's lived. Rebel attacks on camps used to be a problem but this was reported to have subsided over 2001 and the biggest part of 2002. Rebel attacks on villages and ambushes along rural highways occurred less frequently than in previous years

Death penalty

In emphasis to paragraph 136 of the Government report, the death penalty still exists in Uganda and is applicable for 15 separate offences¹⁶ and is a mandatory punishment for six offences¹⁷. The majority of Uganda's capital offenders are awaiting execution at Luzira maximum-security prison in Kampala.

By the end of the year 2001, there were nearly 300 prisoners sentenced to death and almost 6000 suspects on remand for capital offences¹⁸. The situation did not change much for 2002 as at December 31, there were 354 prisoners on death row after conviction, 342 males and 12 females¹⁹. 3,026 prisoners were on remand for defilement which attracts the punishment, a majority of whom are aged between 21 and 25 years.²⁰

Although no known executions were carried out in 2001 in Uganda, the execution of 2 UPDF soldiers occurred in 2002. Corporal James Omedio and Private Abdullah Mohammed, both attached to the "B" company of the UPDF's 67th battalion were executed on 25th March 2002 by firing squad near Kotido town in front of a 1,000 strong crowd amongst which were children. This was due to their acts of murder which resulted in the death of Rev. Declan O'toole (31), an Irish priest on the 21st March 2002. The soldiers were tied to

trees and shot. Mohammed was shot at close range after a medical officer established that his heart was still beating²¹. The execution was as a result of a sentencing to death passed. The trial lasted about two and a half hours.

Army sources claimed that the two had confessed to the killing, saying that they did it for material gain. No appeal was granted to the two accused. The execution was strongly criticised by NGOs, church leaders, missionaries and the Irish Embassy²². A constitutional petition challenging the hastiness of the trial and the constitutionality of the death penalty was lodged and is set for hearing²³. Further, the father of one of the soldiers, Abdalla Mohammed has stated that he intends to sue the government for denying his son the right to fair trial.²⁴

Summary execution²⁵

It is the State's duty to protect a suspect or victim's life while in custody²⁶. FHRI learnt that Fazari Ligo was on the 4th August 2002 arrested by Bungokho Mutolo local administration police and Local Defense Units (LDUs) for unknown reasons. He was kept in a police cell with fellow cell mates. When he demanded to know why he was being detained, a Local Defence Unit official Abdu Nakhokho fired at and shot him. His body was then dumped in the compound of the regional hospital in Mbale. Local council officials in the area denied any knowledge about the killing but admitted that the man had died in their custody. When a follow up of this matter was made by FHRI, it was discovered that the killers were employees of the district local administration government and that official arms were used. No explanation was given to FHRI by the local authority on the details of this incident. Holding someone against his or her will is a violation of his or her right to liberty. Further, the loss of a life whilst in state custody illustrates government's failure to protect rights to liberty and security of its citizens.²⁷

Article 7. Torture and ill treatments

There is no comprehensive law in Uganda that criminalizes torture. Even if the prohibition of torture, inhuman or degrading treatment or punishment is provided for in Article 24 of the 1995 Ugandan Constitution, Article 4 of the Convention against Torture requires that there should be a national law that criminalizes torture. Further, there has been no report submitted a report to the CAT from government spelling out measures taken by government to fulfill their treaty obligations.

Moreover, there were few reports that security forces tortured suspects. The army and other security agencies namely the Local Defense Units (LDU) and the Directorate of Military Intelligence (DMI) routinely abuse human rights through arbitrary arrests, use of excessive force resulting in death, torture, detention without trial and extra-judicial executions. There were reports of police and security force intimidation of opposition supporters and at opposition rallies in the period prior to the presidential election. Major Kakooza Mutale, the Presidential Advisor on Political Affairs, actively harassed and intimidated opposition supporters, occasionally with violence.

Torture and ill treatment in detention centers

On 14th December 2001, Maria Mulindwa, a resident of Dobi Zone LC 1, Makerere III Parish, Kawempe Division was at Monica Beauty Saloon in the same location. Men in civilian clothes came to the saloon in an army car and asked her questions concerning the whereabouts. She was taken to DMI headquarters near Mulago Hospital. She was asked to state her place of residence and while at it, she was under torture by kicking and slapping her as the officers instructed her to lead them where they could find her brother Mande. She informed them that her brother had fled to Rwanda with other UPDF officers on 23rd June 2001 so she could not help them locate him. They then declared her a rebel since she knew these people. Maria was released after being kicked and threatened with death after the interrogation. She claims that she has been continuously harassed by the secretary for defense Kawempe division, Moses Mutebi. This has put her in hiding most of the time as people keep on asking about her at her place of work. Maria claims that because of this continuous harassment she tried to go with her husband to her uncles home Mr. Kaloli Nyonyintono, in Kasana village Masaka, District. A gang of people from the village came and destroyed her uncle's banana plantation and told her uncle to hand them over. This has put their relatives at risk and who from then has feared to accommodate them because of such incidences.

On 14th February 2002, at 4:00 am, Hon. Latiff Sebagala (MP Kawempe) was at his office in Kawempe division on Gayaza road organizing and dispatching of monitoring materials to the agents of the then mayoral aspirant Sebana Kizito. Five men came in a Toyota Sahara Registration No. UAB 085J, metallic gray in colour. They attacked some of his assistants, Kimera Livingstone, Ismail Bolingo and Ismail Segirinya all from Bwaise I parish. They were beaten severely and when Latiff Sebagala intervened he was slapped by one of them. He was accused of being Sebana's supporter and sabotaging government programs. They were placed onto the pickup and taken to CMI headquarters at around 4:30 am. They were threatened with death if they did not denounce their support for Sebana. They were also severely beaten and the Hon was occasionally slapped and kicked. They then left CMI and were taken to Kabaka's lake, Ndeeba, where they were intimidated and threatened with death if they did not cross over to the other Mayoral aspirant Ziritwawula's camp. They were asked if they had money on them, they found Hon. Latiff with 1.2 million shilling meant for his pilgrimage to Mecca. They took the money as well as his mobile phone. The torture continued and forced to denounce Sebana and join Movement. Among the perpetrators was Sgt. Magid Segane alias Lubanga who appeared to be leading the group. Sgt. Segane told Hon. Latiff that if he failed to change camps, they would place a heavy stone on his neck and drown him in the Kabaka's lake which practice is common to many who have fallen victim. From the Kabaka's lake, Hon. Latiff were then taken to a safe house in a place they suspected to be in Ndeeba. Sgt. Segane ordered Hon. Sebagala not to utter any of the previous night's proceedings. They were then taken to Wandegeya police station where they were dumped and accused of bribing voters. There were then subsequently released with neither charges being drawn against them or police bond issued.

Matovu Kabuye a free lance journalist aged 39 years, resident of Kasubi zone 4 Kasubi Parish Rubaga division while on his way from Mayoral campaign via Kisekka market was met by two unknown men in civilian clothes armed with a pistol. They came in a white Corona Registration No. UAD 050 and placed him under arrest. Kabuye pleaded with them to he could be taken to Kisekka police post to be charged. One of the men claiming to be Musinguzi from anti robbery squad central police station Kampala took him to Kisekka police post and signed in the police records book. He was then taken to CMI headquarters (former Kitante Road) where he was told to remove his clothes and remain naked. He was beaten and accused of being a rebel of the late Andrew Lutakome Kayira's rebel group suspected to be traveling to DRC and to Rwanda

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to which he totally professed ignorance. From CMI he was taken to Joint Anti Terrorism Team (JAT) at Kololo hill where he was interrogated and beaten. He was taken back to CMI where he stayed for four days. He was later taken to Kira Road Police Station where he stayed for one day. He was then released on police bond at the CID Headquarters. Kabuye claims to suffer from chest pains, difficulty in sight and bears bruises on his right hand as a result of the torture sustained at CMI.

Mulindwa Richard of Kawempe division LC1 Dobbi Zone, Makerere 3 Parish is a former campaign agent of Dr. Kizza Besigye in the Presidential elections 2001. In February 2001, while seated at a shop at night, 3 men came and placed him on gunpoint. He was put on a pick up where 4 other captives were. They started beating them. They were then driven via Mawanda Road, from Kalerwe heading to Kamwokya. They crossed to Kololo airstrip via Lugogo bypass heading for Port bell Road. They reached Mbuya barracks, were placed in a cell and tortured for supporting Besigye. A soldier interrogated them asking them for the whereabouts of their colleges and where they came from. They were severely beaten, undressed and water poured on them. The officer asked them why they were frustrating Museveni's campaigns. He kicked them and told them to pray because they were supporting Besigye. On the second day of their detention, Mulindwa saw through the window cell some youth among them being Asuman Mugoya, who he knew from Kibbe zone, Makerere 3 Parish Kawempe division. He had been beaten and had wounds all over his body. That night, at 8 pm they overheard officers talking and directing the soldiers to cover their eyes with cloth. They then tied their hands and placed them on a pickup. They were taken to a place they later suspected to be CMI headquarters on former Kitante Road. An officer in military uniform tortured them and told them to reveal where their fellow Besigye supporters were if they wanted to be set free. They were under detention until after Presidential elections. Two days after the day of voting, the officer came and told them that he was going to punish them for disturbing the movement. Each of them was given 10 strokes of the cane and placed in a dark corner. Thereafter the officer brought a book and asked for their personal details which included; home address, number of children and parent's names. They were blindfolded and placed on a pickup and driven to Kisenyi, while they were half naked. They were told never to de-campaign Museveni again and warned that if they defied this directive they were to re-arrest them as they had their personal addresses. Mulindwa together with his fellow captives, Kibuka Moses from Mutundwe, Muwanga from Masaka, John from Kisugu, Makindye stayed in the bush until morning. They then went to

Crest House (Besigye's Campaign Head Offices) and found one of Besigye's officials called Opoka and told him all about what had happened. Opoka told them that their case would be used as part of the evidence they were gathering for the Besigye petition case. Mulindwa was again victimized for campaigning for the Honorable Sebuliba Mutumba, MP for Kawempe during the parliamentary elections 2001. His wife Maria Mulindwa, a sister to desident army officer Col. Samson Mande was also arrested on grounds of kinship.

Paragraph 150 of the government report mentions that solitary confinement is used for only violent offenders. However, in one case, FHRI interviewed Hassan Bwambale Muhaasi, a resident of Kasese town who was arbitrarily arrested by Sergeant Katende of the Uganda Peoples Defense Forces (UPDF). He was detained in two different underground holes in military camps of Karungibanti and the 307th Brigade in Kasese. These holes were filled with water. He was held under ground for a period of more than a year from December 1999 to January 2001 on allegations that he was aiding the Allied Democratic Forces (ADF) in Congo with medical supplies. During his period of solitary confinement, he was both physically and psychologically tortured and he was never taken for charging before the Courts of law. He was released on 12th January 2001 without any charges being preferred against him²⁸ and yet he had not proved to be violent at all which was serious violation of his right.

From the time of his release, he made attempts to exonerate himself accusations leveled against him to the state but to no avail. Persons who claimed to be state agents confiscated from him pictorial and other evidence indicating parts of his body with torture marks²⁹.

Moreover, prisoners were tortured by staff and beaten by fellow inmates at the instigation of staff in Mutufu and Masafu prisons in 2001. Inmates spotted scars and scabs, especially on their backsides. Prisoners, FHRI established, were routinely beaten with little or no provocation by their supervisors in the shamba. In one case, in Nkoma Prison, one inmate was kicked and seriously injured in the head by another prisoner during fieldwork. While the officials said they have no control over individual behaviour of inmates, this particular inmate had the authority of the prison officers.

In May 2002, Chief Warder Charles Aporu forced a convict, James Rwabudulanyi to eat his faeces in Butuntumula Prison, Luwero District. The circumstances were as follows. While in the garden, the inmate sought permission to ease himself. The warder, however denied him the permission. Unable to

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hold it anymore, the inmate went into the bush and eased himself. When the warder realized that the inmates had done so, he ordered him to eat his faeces and even gave him water to wash down the faeces. By the close of the year, the warder had been charged in a court of law but the case had not been concluded³⁰.

The Uganda human rights commission office in Gulu has received a number of complaints that the detainees have been subjected to serious torture and some have needed hospitalisation following their release. FHRI talked to the investigation officer of the Uganda Human Rights Commission office in Gulu and he confirmed receipt of the complaints and mentioned that many of these matters have been investigated and letters written to the military to some they have responded and some they are still yet to respond.

The "safe houses"

Moreover, reports received by the FHRI show that there was a systematic and widespread use of torture against victims especially in 'safe houses', which are unauthorized places of detention. This is contrary to Article 23 (2) of the Constitution, which states: "A person arrested, restricted or detained shall be kept in a place authorized by law". Suspects were physically tortured by severely beating them or psychologically and mentally tortured through interrogations, threats on their lives and showing them other persons who had already been tortured. They were also held incommunicado during detention, which added onto their mental anguish and anxiety for their lives, for longer than the statutory limitation of 48 hours stipulated in the Uganda Constitution before being charged in a court of law. Suspects arrested and detained in ungazetted areas have no access to legal representation, contrary to Article 28(3) (e) of the 1995 Uganda Constitution, which guarantees legal representation at the State's expense for an offence punishable by death or life imprisonment.

A total of 452 suspects were arrested in the "Operation Wembley", Maj. Gen. Katumba Wamala, Uganda police chief and head of the Operation Wembley was quoted in the newspaper New Vision. During the July 2002 operation, 210 illegal guns were recovered. Wamala said the suspects were being screened with the aim of "having those linked to violent crimes tried by the Field Court Martial". About 20 "safe houses" are now known as having detained suspects from Operation Wembley:

1. Mengo - opposite 'Send a Cow - Uganda' (NGO), Rubaga Division Building - notified by Lukooza William Emma (victim).

This house has re-oxide main gate. It is guarded by Military Police.

2. Kololo I, just past the Danish Ambassador's residence

3. Kololo II, the house is situated near the UTV tower.

4. Kololo III, the house is situated near the airstrip, just behind the DRC Embassy.

5. Kololo, JAT, Elizabeth Avenue - notified by Mukama Steven (victim).

6. Clement Road, near the MTN Head Office.

7. Makindye Barracks go down.

8. Makajja, Hoima Road, Bussujju off Senkanyi.

9. CMI Headquarters at Yusuf Lule Road near Mulago roundabout.

10. Nanjjamankumbi I, near Dinia Mosque, Nbeebea.

11. Nanjjamankumbi II, just opposite the Ntake Bakery and is guarded.

12. Heritage Park, this place is situated along Entebbe Road, branch off at Mpala, turn to Gerenge Road - 5 km.

13. Bumga House

14. Ggaba House, this house is situated near former Cape Village, Munyonyo

15. Mbuya House, this house is situated just 300 meters after the church.

16. Kireka House

17. Kawempe House, situated just after the police station.

18. Mutingo House, situated just after the Mutengo Police Post.

19. Bugolobi House, turn off next to Shell Bugolobi, close to the Iranian Embassy with a black gate.

20. A corner flat, above a restaurant run by daughters of St Paul, close to Bimbo Ice Cream and the National Theatre in Kampala.

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At least 10 detainees from Operation Wembley died in "safe houses":

1. Kayarlenge - Wembly HQ
2. Lukndu - Mengo 'safe house
3. P. Kiwrela - Climenti
4. S. Okedi Bugema Barracks
5. Mulunza - Wembley HQ
6. Mutongole - Kayunga Loasuda
7. Kizza - Kinawataka
8. Kyalimpo - Fort Portal
9. Jona Rwechole - Kagach, Fort Portal
10. Francis Kyomuherdo - Fort Portal

Later they were transferred to Makindye Military Barracks for 3 months before being transferred to Kigo Prison on the outskirts of Kampala. It is important to note that:

- None of the Operation Wembley detainees had been arrested in conformity with international standards regarding human rights.
- None had been cautioned.
- None had been given the opportunity to telephone a family member to notify them of their whereabouts (some said that their families had no idea where they were).
- None had the opportunity at any stage to obtain legal representation.
- All had been arrested by combinations of men in army uniform and civilian clothes, but armed. It was standard practice for the people making the arrest not to identify themselves. All reported maximum force rather than minimum force had been employed in effecting their arrest. All reported being severely beaten at the time of their arrest.
- They were taken blindfold to unknown destinations, un-gazetted, illegal places of detention, army barracks and 'safe houses'.

- They had all signed forced confessions that would not be admissible as evidence in a court of law. Usually this was a statement written for them whilst a gun was pressed against their head.

- None knew when they would be appearing in court and expected a court martial proceeding.

- They believed that there are at least another 700 in Makindye Army Barracks, Kampala, where those detainees would probably receive similar treatment.

- They all described the most barbaric and degrading forms of torture and at least 30 were able to show the scars of these experiences. Many detainees had been subjected to a form of water torture called 'Liverpool' where they were laid on a bench and forced to drink copious quantities of water and then beaten severely. A number of deaths resulted from this, according to the detainees. Many were beaten with batons. They believed these to be specially imported from South Africa.

These sometimes had metal tips to maximise injury. They also reported that months later there was a strange persistent itchiness, which they thought could have been caused by a chemical of some kind.

One detainee had a number of scars in his scalp that he said were made with a panga, the marks definitely looked as though this was correct.

Several detainees showed bayonet wounds that were unmistakable in appearance. One had a bayonet wound in the buttocks.

One detainee's penis bore a pink scar, which he attributed to a barbed wire that had been tied around his penis, which then had been pulled on a long wire.

Charges include: Possession of ammunition, Robbery, Illegal possession of a weapon, Terrorism, and Murder.

The death row

There are some prisoners who have been on the death row for over 19 years. They have witnessed fellow inmates being taken to the gallows to be executed, heard the cries of protest from the death chambers, received their last notes to pass onto their friends and relatives, heard their bodies fall and nails being hammered in their coffins. The executions are carried out a floor directly above the cells of the other inmates on death row and these inmates continue to live in these tormenting conditions as they await their own turn and yet many of them are probably innocent.

Other practices

The directive of banning corporal punishment in schools has not been enforced. There have been reports of children who have been seriously battered in the pretext of disciplining the child. Corporal punishment still exists in prisons and is allowed by the present prison legislation.

In line with paragraph 152 of the government report, some Mulago Medical students have been subjected to compulsory medical examinations in contravention to the consent and non-discrimination policy. There may be consent at testing but no consent at disclosure.

Impunity

Many perpetrators of torture get away with it. Impunity whether deliberate or tolerated has the effect of eroding any gains made by the state and every effort should be made to address it. Obstruction of access to certain detention places, in particular, military detention centres helps to perpetuate torture in those places because they are beyond scrutiny.

The remedies available to victims of torture are not numerous. Whereas compensation has been awarded to victims of torture, government's compliance with respecting the awards has not been forthcoming. There has been no evidence of enforcement of the orders given especially in monetary terms.

Moreover, some regions of the country do not have a branch of the Uganda Human Rights Commission therefore causing inaccessibility to the commission and so some victims are not addressed. Also, cases handled by the commission are so few in comparison to the number of victims. In 2002 FHRI had 34 cases of torture reported none of which has been addressed today. Whereas the work of the commission is appreciated, cabinet has presented a proposal to the CRC to merge the UHRC with the Inspector General of Government (IGG). This will definitely restrict the work of the commission

Article 8. Prohibition from Slave Trade.

Although government has set up campaigns to stop the use of child labour in homes, there is still the use of children as housekeepers, they are often beaten and exploited, and some are not even allowed to go back to their homes.

Article 9. Right to liberty

Incidences of arbitrary arrests and illegal detention have continually been reported. One incident occurred on 7th February 2001 at 3.00 am when one Ahmed Mugere (37), a Local Council official in Kawempe Division Kampala, was attacked by security personnel dressed in civilian clothes led by Major Kayanja of the Chieftaincy of Military Intelligence (CMI). He was beaten at random and forced into a double cabin pick-up and taken to Mbuya military barracks. While there, he was blindfolded and again severely beaten and later thrown into a cell unconscious. In an interview with staff of the FHRI, the victim narrated that in the cell there were 101 other detainees. Thereafter, he was given strokes of the cane for 4 days while in detention, on the orders of one officer in charge Masereka.

Internally displaced camps

Alongside the operations in Sudan the army has opened a new front in domestic counter insurgency. A number of ordinary people, especially, those living in the internally displaced peoples camps outside Gulu, have been arrested by army patrols. They are typically picked up in the middle of the night in the course of patrols and held at army camps, accused of collaboration with the LRA, desertion from the army or possession of weapons. There have been reports of arbitrary arrests of IDP's from within the protected camps or while outside the camp by Uganda Government forces. The reasons for the arrests include suspicion of having links to rebels or political reasons. IDP's who are known to have relatives in the rebel ranks are sometimes targeted and or harassed they are some times held beyond the statutory period.³¹

14 internally displaced persons, all of them being relatives, were arrested by the army and were being charged with treason because they are related to one officer in the LRA rebel group, whom they have never communicated to since he was abducted in 1991. Among them is the rebel officers mother who was arrested together with her other sons by the army. All of them are camp residents of Pabbo IDP camp and were arrested by Military and arbitrarily detained at the military detach which is an un gazetted place of detention. Later they were taken to police after which they were taken back to UPDF 4th division head quarter barracks. While at the barracks they were beaten, flogged and many tied "Kandoya" all measures of soliciting information from them on the whereabouts of their brother/cousin. Their files have not been forwarded from Gulu Magistrates Court and they have never appeared in court since they were brought to Kigo prison in September 2002³²

A 27 year old man from Opit protected camp was arrested by UPDF soldiers of Itumbura detachment on the 26th April 2001 and released a day after his crime. The Army considers him to have links with LRA rebels. In his interview with Human Rights Focus on May 7th 2001, he says an officer slapped him across the face and later corporal punishment was inflicted on him by a number of UPDF soldiers. He also laments that he was tied three piece style 'Kandoya' using sisal ropes and later was hang on a nearby tree.

Another man aged 45 years and a resident of Awer protected camp narrated his story as follows: "On Saturday 22nd January at about 9:00 pm three Army men come into my hut where I stay with 7 other people. They picked me and two others to be taken to the Barracks. They claimed we were making noise by talking very loudly yet it is was after 8:00 pm. On the way to the barracks the soldiers started beating us the two people arrested with me managed to escape I remained alone and I was kicked and stepped on several times until I was unconscious".³³

In Alero IDP camp one Francis Onen was arrested on the 14th April 2002 by the military and was held at the camp detach for three days which is more than the statutory period. It is after this that he was taken to Gulu Central Police. While at the detach he was inhumanely treated by the Army was beaten flogged. Later he was taken to court and was on remand at the time of writing this report despite his file being in the court that remanded him.³⁴

Arbitrary arrests relating to the elections

Many illegal arrests also occurred in relation to the presidential elections that took place in 2001. It is widely believed that the military engaged in indiscriminate and arbitrary arrests of civilians who were not in support of the incumbent presidential candidate then. A fact finding mission carried out by FHRI in Kasese district revealed that there was gross misconduct by state officials in this regard. One incident occurred during the elections for Kasese, where the deputy RDC Byakatonda ordered a shooting to intimidate voters. Some people were also rounded up, arrested and detained for several hours on grounds of supporting the then presidential aspirant Kiiza Besigye and ADF rebels.³⁵

Arbitrary detention

Suspects arrested are not normally told the reasons for their arrest. Sometimes they have been taken to police stations and the police officers can not even charge them. The suspects

were held for prolonged periods on the orders of the Chieftaincy of Military Intelligence (CMI). FHRI asked a police officer at Central Police Station as to why they were not producing these suspects in court, he explained that they were keeping them on the orders of CMI. "We have no files on them, we only keep them here. Whenever CMI wants their suspects, they come and pick them. Sometimes they release some of them."³⁶

FHRI found Kiwanuka Musoke who had been in the Old Kampala Police Station cells for 12 days. He was accused of obtaining money under false pretences. He was arrested on the 13th April 2002. Byaruhanga Swaibu had been under detention for three weeks, since 9th April 2002 arrested from Nakulabye of suspected theft.

An incident of arbitrary arrest and intimidation occurred in Kisolosalo central zone, Kyebando Parish, Kawempe division. An agent of Sebana Kizito, a one Segujja was arrested on the 14th February 2002 by people in civilian clothes and one who was wearing army uniform and had pockets full of bullets. The perpetrators were traveling in a vehicle suspected to belong to that of the Kiboga Resident District Commissioner, Mr. Katende Luutu. The vehicle registration was UG. 0148C, white Toyota double cabin. Councilor Nyende Kizza the defense secretary LC II Kyebando Parish tried to intervene but the perpetrators drew their guns and threatened to kill him if he dared follow them. This incident was witnessed by one of Sebana's mobilisers, Mr. Abbas Kyegombe. They left with their captive.

An incident of intimidation was directed to Herbert Hamid Wagaba who was fond hanging Sebana's posters. He is a resident of Bishop Mukwaya zone, Bwaise I parish Kawempe division. Five men traveling in a double cabin suspected of belonging to the RDC of Kiboga, Katende Luutu, and driven by his driver, Katerega found him and warned him to stop putting up the posters or else he would be arrested and put in jail until the elections had taken place. He was told to climb onto the pickup but he refused. He was beaten up while being forced to get onto the pickup. He sustained head and hand injuries in the process. He eventually managed to restrain himself and ran away. He reported the case to Kanyanya police station a case recorded as assault case ref no: SD 02/14/02/2002.

Article 10. Deprivation of Liberty.

Sexual abuses and violence during arbitrary arrests

Aida Laguru a 48 year old woman arrested by the army from Pabbo camp was raped by 4 daily for three times for three days consecutively when she was arbitrarily detained at the

Gulu Military barracks. At one time an army officer ordered one of her sons to have sex with her in the presence of all the inmates of the military barrack. This happened on the bus when they were being taken out of Gulu central Prison to Gulu Military barracks.

She says that on the 17th September 2002, 9th October 2002 and on the 12th October 2002 she was picked by army men from her cell in the night and gang raped her. She complains of abdominal pains and venereal diseases which she has been treated at Kigo Prison Dispensary.³⁷

States could be held liable for failing to protect the victims and also for failing to provide redress for victims of these crimes.

Prison conditions

Out of the 15,827 prisoners in custody 10,268 of them are on remand.³⁸ This is due to police officers arresting persons without completing investigations.

The government report in paragraph 293 states that the UHRC and FHRI were able to visit military detention areas. This is not entirely true as efforts to access these areas were rendered fruitless. The delegation was forcibly sent away and thus access was not attained.

The state of places where persons deprived of their liberty in Uganda are held remained deplorable during the last years. Despite efforts to improve, conditions in many prisons remained deplorable and prisoner treatment, dehumanising and undignifying.

For the seventh year running, the merger of the two parallel prison systems run in Uganda remained elusive. Attempts to introduce a new Prisons Bill to facilitate compliance with Article 215 of the Constitution came to naught. By the end of 2003, the bill had not even been debated by cabinet.

In the meantime, the disparity in conditions between the two systems widened. Research findings have over the years consistently revealed that the central government prisons are generally better looked after than the local administration ones under the authority of local governments.

While prisons generally suffer from inadequate resources, both material, human and financial, the situation is more acute in local administration prisons. For instance, while inmates in central government prisons do not work, in local administration prisons, inmates worked in exchange for food and other

necessities like soap, salt, even medication. All inmates both remands and convicts laboured. In some cases, working conditions were poor with poor or no tools and long working hours in other instances. This was for instance reported in Agule Prison in Pallisa, Bukedea prison in Kumi, Nkoma Prison in Mbale, Rakai, Kasali and Kalisizo Local Administration Prisons.

Overcrowding

Overcrowding in 2001-2002 remained the premier causal factor in the violation of rights of offenders. FHRI found that the majority of prisons held way above the planned capacity of inmates (see table below). Due to overcrowding in prisons, inmates do not have adequate space. This denies them access to clean air, adequate floor space, sanitation, food, water, and ventilation. In a visit to Mbale main prison on 24th November 2003, it was established that 22 people had died during the year mainly due to HIV/AIDS and opportunistic diseases, accelerated by the poor living conditions in prisons.

The Officer-in Charge of Masafu Local Government Prison said that the prison faces various constraints largely due to lack of funding.³⁹

The majority of the buildings were dilapidated and in some cases, on the verge of collapse. In some cases, like Kumi and Tororo Central Government Prisons, and Masafu Local Administration Prison, some wards had been closed off because they were uninhabitable. They were leaking and in some cases the walls were collapsing. This placed more pressure on the remaining habitable structures.

The situation was even worse for staff most of whom resided in squalid, mud and wattle huts, often leaking due to rain or swampy grounds. This situation prevailed in Kayanja and Lwamagwa Prisons in Rakai District. There were widespread and confirmed complaints about poor facilitation of the staff in both local and central government prisons. They lacked uniforms, are poorly paid, reside in poor houses.

Poor sanitation, health facilities characterised the prisons that FHRI visited in the Eastern Region. Inmates have limited access to clean water. They must travel long distances to obtain water. This tempts the inmates to escape. They drink unsafe water, which causes various ailments. Inmates shared basins and jerry cans for bathing as well as long and short calls. Many suffered from skin diseases. At many prisons, bathroom visits were scheduled and limited to two a day in Bubulo and Masafu Local Administration Prisons. At Kamuge,

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an acute water problem obtained. Many inmates do not have adequate meals. At the time of FHRI's visit to Bubulo Prison, inmates had not eaten for over 24 hours. At Kumuge Prison, inmates contributed funds to buy food.

Below is a summary of the conditions of the prisons visited in Masaka and Rakai districts in May 2002 and in Eastern Uganda in April 2001.

5th May 2002 : Mutukula Prison Farm

Number of Inmates: 88

Conditions

There are 10-12 prisoners per unipot.

The floors in the unipots had gullies and the windows had no glasses.

Few prisoners had blankets while others had a collection of rags and grass for beddings.

Inmates had no uniforms.

They had three meals a days of sour posho, beans and cassava.

6th May 2002: Kakuuto Local Administration Prison

Number of Inmates: 31

Conditions

The building was cracked at the rear.

Inmates use beddings of local mats and have no blankets.

They had no uniforms and wear rags.

They were provided with three meals a day.

They are hired outside for labour.

7th May 2002: Kasali Local Administration Prison

Capacity: 60

Inmates: 51

Conditions

Ventilation was poor - there was total lack of air circulation.

The cells leaked.

There were few old blankets and mats.

Inmates had no uniforms.

They fed three times meals a day a day on posho, sweet potatoes, beans and cassava.

Inmates are hired out for their labour.

The prison has a dispensary.

Sanitation is pathetic with a bathroom akin to a neglected kraal and toilets whose floors are about to sink on anytime.

Inmates complained of overcrowding in the cell; there was hardly any space for turning.

8th May 2002: Rakai Prison Farm

Capacity: 60

Inmates: 35

Convicts: 22

Remands: 13

Conditions

The ventilation was very poor and the cells unbearably hot.

The beddings consist of few local mats and a few blankets.

They are provided with two meals a day of their own produce.

Prisoners are hired out for labour.

Sick prisoners are taken to Rakai Hospital, which is 2 miles away.

Inmates bathe once a week, at the time when they clean the ward.

Inmates use buckets as toilets.

Prisoners complained of regular beatings at the flimsiest excuse.

The staffs complained of lack of communication facilities, uniforms and transport to and from Court. It is between 5 and 7 miles to the nearest Court.

8th May 2002: Kayanja / Kagamba Prison Farm

Capacity: 200

Inmates: 38

Conditions

Beddings consist of buveera and a few blankets.

They are fed twice a day from their farm produce.

Sanitation was fair with showers, flush toilets and water tanks where rainwater is collected.

The prison is inaccessible, swampy and waterlogged during the rainy season.

9th May 2002: Lwamaggwa Local Prison

Capacity: 30

Inmates: 39

Convicts: 30

Remands: 9

Conditions

The wards have poor ventilation.

Beddings consist of papyrus mats, few buveera mattresses and no blankets.

Prisoners are provided with 2 meals a days from their own produce.

They are hired out for labour.

There is a public dispensary where sick prisoners are treated.

Water is collected from the surrounding swamp.

Prisoners bathe daily in a clean bathroom. The toilets are also clean and in good condition.

Prisoners complained of beatings by the staff.

They also complain of lack of uniforms and accommodation.

9th May 2002: Kalisizo Local Administration (Remand) Prison

Capacity: 90

Inmates: 49

Conditions

The wards are dirty and poorly ventilated.

Beddings consist of a few mats and a few blankets.

Inmates eat twice a day, posho and beans.

Prisoners are hired out for labour.

Sick prisoners are taken to Kalisizo Dispensary, a few metres

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from the prison.

Water is collected from a nearby spring. At the time, the tap water in the prison was cut off due to unpaid bills.

A bucket is used for a toilet.

Complaints about the sick being unattended to.

9th May 2002: Masaka Local Administration Prison

Capacity: 200

Inmates: 121

Remands: 16

Convicts: 91

Females: 3

Conditions

The beddings were quite fair.

Prisoners had uniforms.

2 meals are served posho sometimes without beans and porridge.

Prisoners have tap water and flush toilets.

The wards are neat and clean.

10th May 2002: Butenga Local Administration Prison

Capacity: 40

Inmates: 23

Convicts: 18

Remands: 5

Conditions

The beddings are very poor.

Inmates have no uniforms.

Prisoners feed twice a day from their farm produce.

They are hired out for labour.

The wards are generally clean with good ventilation.

10th May 2002: Kalungu Local Prison

Capacity: 200

Inmates: 39

Convict: 29

Remands: 10

Conditions The beddings are enough for everyone.

Uniforms are not enough for all inmates.

They are fed from their own farm produce.

The prisoners are hired out for labour.

They bathe daily.

Water is collected from a protected spring one mile away.

Prison Staff have no uniforms.

11th May 2002: Kyamulibwa Local Administration Prison

Capacity: 40

Conditions

Inmates have a few uniforms.

Water is collected from a protected spring and they bathe daily.

The toilet and the bathroom were in good state.

11th May 2002: Kabonera Local Administration Prison

Capacity: 40

Inmates: 14

Convicts: 12

Remands: 2

Conditions

Inmates have worn out blankets and local mats for beddings

Water fetched from a protected spring and there are allowed to bathe daily.

Prisoners have a 5-acre piece of land on which they cultivate their own food.

They are hired out for labour.

They have two meals a day.

There are delays in producing prisoners in Court.

11th May 2002 : Kiseka Local Administration Prison

Capacity: 50

Inmates: 25

Conditions

There are enough beddings for all inmates.

Inmates have no uniforms.

They feed twice a day from food grown from their shamba.

Prisoners work seven days a week.

Water is collected from a nearby amp which is health threatening.

The toilets are clean though the bathroom floor was very unhygienic.

11th May 2002: Lwengo Local Prison

Capacity: 40

Inmates: 14

Convicts: 12

Remands: 2

Conditions

The prison wards are well ventilated and airy.

Inmates feed twice a day.

Beddings are adequate for all inmates.

They use a bucket for a toilet.

Prisoners complained about lice in their wards.

Drugs are improvised from a local NGO called Yesu Akwagala.

Besides, there is a nearby dispensary.

11th May 2002: Kyazanga Local Administration Prison

Inmates: 15

Conditions

The prison has one block shared by both prisoners and the staff.

It is poorly ventilated.

Prisoners feed twice a day on meals from their shamba.

The surroundings of the prison are quite health threatening.

The place is waterlogged and infested with mosquitoes. The place should be locked and a habitable place located for the prisoners.

11th May 2002: Kabula Local Administration Prison (Rakai)

Capacity: 60

Conditions

The prison wards are cracked and poorly ventilated.

Prisoners have one meal a day.

They use spring water and bathe daily.

The prison building is cracked and dirty.

11th May 2002: Central Prison Masaka

Capacity: 206 Inmates: 649

Convicts: 87

Remands: 507

Outstation: 53

Debtors: 2

Conditions

Two cases of overstay were reported.

Prisoners have two meals a day. The food is supplied by the prison headquarters.

Prisoners have no uniforms.

Beddings are still inadequate for the prison population.

Prisoners suffer from diarrhoea, AIDS related cases, TB and scabies. The supply of drugs is very limited.

Prisoners play indoor games for recreation.

Prisoners are not beaten.

The wards are generally clean.

They flush toilets are in good condition.

Prisoner complained of lice, difficulty in application for bail and delay in defilement cases.

Female prisoners complained of lack of sanitary pads.

23 April 2001: Kapchorwa L. A. Prison

Inmates: 63

Male remands: 49

Male convicts: 7

Women: 5

Children: 2

Conditions

Prison wards are aerated with ventilators.

The fencing is poor and the warders lack arms to guard the prisoners.

Out of the 28 staffs required to guard prisoners, there were only 14. Many cases especially non-capital offenders had exceeded the 120 days mandatory bail mark..

Both staffs and prisoners lack uniforms.

Beddings are inadequate for inmates and they are infested by bedbugs and lice.

Inmates eat only one meal a day at 6:00 pm.

Inmates are always taken for treatment to hospitals. The common diseases are malaria and scabies.

They do not labour much.

23 April 2001: Ngora Prison in Kumi District

Inmates: 21

Conditions

Most of the staff houses are leaking.

Inmates have no mats but have two blankets each.

Inmates work through out the day with only a break for lunch. However, they have two meals a day; lunch at 1 pm and supper between 5 pm and 6 pm.

They constantly complain of being beaten by the staffs.

They trek 2 miles every day to collect water from the well.

Inmates are taken to hospital when they are sick.

24 April 2001: Kumi Prison

Inmates: 135

Male convicts: 39

Male remands: 93

Female convict: 1

Female remands: 2

Conditions

The prison is over congested.

Inmates have to provide own beddings.

They have no uniforms.

They are given 3 meals a day.

Inmates have own gardens.

Water is fetched 2 miles away.

The prison has a sick bay but there was no medicine.

Transport remained a problem. They had to move 7 miles to the nearest hospital.

The prison lacks adequate staff. They are currently only 32 out of the required 60 staffs to administer the prison.

25 April 2001: Nkoma Mbale Prison

Inmates: 50

Conditions

The prison is congested.

Inmates are hired to work on peoples' shambas in return for food.

Inmates also have access to medical care outside the prison.

They always subjected to beating while on duty in shambas by the staffs.

25 April 2001: Bukedea Jail

Inmates: 56

Male convicts: 17

Male remands: 30

Female remands: 9

Conditions

The jail has one woman with a child.

Beddings are shared among inmates and the blankets are old.

Prison staffs and inmates lack uniforms.

They work the whole day in shambas.

Inmates were provided with 2 meals a day but the posho was sour.

Water is a problem as the only borehole, which they share with the community is 5 km away.

26 April 2001: Kamuge Prison

Inmates: 30

Male convicts: 9

Male remands: 21

Conditions

The wards are not congested.

Inmates only eat when they produce food.

They do not work in the afternoons due to weakness from poor feeding.

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They are not beaten.

Inmates work even when they are sick. It is only when the relatives have provided them with treatment as well as Uganda Christian Outreach Ministries who provide them with drugs.

The beddings are in a sorry state as they are worn out. They do not have mats.

Inmates have no uniforms.

The staffs complain of meager salary and their quarters are grass thatched. A number of them are illiterate.

26 April 2001: Agule prison

Total: 30

Male convicts: 3

Male remands: 27

Conditions

Inmates work throughout the day and only break for lunch.

They do not have uniforms.

They have no mats and the blankets are not enough.

They are not provided with soap.

Statistics showing the number of inmates in the prisons compared to the planned capacity⁴⁰

Name of prison	Planned capacity	No of inmates at the time of the visit	Inmates on remand	Convicted inmates	Total
Kapchorwa L.A. Prison	40	61	49	7	56
Ngora Prison	40	21	7	14	21
Kumi Prison	100	135	95	40	135
Bukedea jail	40	56	39	17	56
Kamuge Prison	80	30	21	9	30
Agule Prison	30	3	0	3	3

Prison labour

Prisoners continued to be overworked especially in local administration prisons, as was the case in Bukedea, Kamuge, Bubulo, Masafu and Mutufu Local Administration prisons in Eastern Uganda, in these prisons, prisoner worked throughout the day, Monday through to Saturday. The situation was much better in Rakai and Masaka District where prison officials adhered to the rules at least in as far as working hours and prisoner treatment was concerned.

Principle 72 (1) of the Standard Minimum Rules for the Treatment of Prisoners (SMR) notes that, "*the organization and methods of work in the institutions (of Detention) shall resemble as closely as possible those of similar work our outside institutions, so as to prepare prisoners for the conditions of normal occupational life*".

According to the prison rules, working hours for inmates should not exceed 8 hours.⁴¹ However, in Bukedea, Kamuge, Bubulo, Masafu and Mutufu local administration prisons, prisoners worked in shambas (gardens) throughout the day. At Nkoma, Mbale Prison, inmates worked from 7am-5pm while in Ngora they worked from 6am-2pm and then 4pm till after

6.00 p.m. Most of these prisoners received food in return for their labour but where not compensated or paid for this work. The food was generally adequate apart from Kamuge Prison where inmates had not eaten for over 18-hours because the officer in charge had gone to look for food. They complained of continuous beatings by staff at the shambas⁴². One of inmates told FHRI that, "They give us things [food, soap, salt, paraffin and cigarettes] in return".⁴³

On 30th, January 2002 prisoners at Kawolo Local Administration Prison striked complaining about being overworked throughout the day without rest; only one meal is served per day; many prisoners have overstayed on remand, and for petty offences. However, the strike was sparked off because the Local Administration Police in the area had turned one of the prison cells into a lock-up cell for suspects who were being treated like prisoners. Suspects in police custody not be treated like prisoners.

Incarceration of juveniles with adults

The incarceration of juveniles together with adults continued. Though isolated, FHRI continues to find these cases in both central and local administration prisons. Moses, 16, was in

Masafu Prison, charged with elopement. In Mutufu, there were another three juveniles, aged between 15 and 17-years-old. This is contrary to Art 95 (6) of the Children Statute, 1996 which states, "No child shall be detained in an adult prison" Art 10 (30) of the ICCPR states "... juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status." It further is enshrined in Principle 8(d) of the SMR which says... young prisoners shall be kept separate from adults."

Article 11. Civil Suits

In addition to what has been stated in the government report, the practice in Uganda is that once a civil debtor is incarcerated, it is the creditor who has to pay for his upkeep in detention. This means that the creditor in effect loses more because he has to pay for the debtor.

Article 12. Freedom of Movement

The Constitution provides for these rights, and the Government generally respected them in practice, although there were some limits. Some local officials reportedly demanded payment of fees for permission to change a place of residence.

During the year 2001, the DMI twice imposed travel restrictions on former presidential candidate Kizza Besigye. On March 17, Besigye was stopped from boarding a plane to South Africa, and again on May 25, he was prevented from traveling to Nairobi, Kenya. He petitioned the UHRC Tribunal against the Government for wrongful restriction of movement; the case was pending at year's end. On June 30th 2001, state agents reportedly temporarily blocked Besigye while he was traveling to Mbarara to attend a victory party of his wife, Mbarara Municipality M.P. Winnie Byanyima. The Government also detained Besigye several times during the year, and in August 2001 he fled the country

Article 13. The Rights of Aliens

More than 200 aliens with no valid permits were arrested on 19th May 2003. The alleged immigrants were mainly Indians, Pakistanis and Somalis. They were locked up at Central Police Station, Jinja Road, Old Kampala, Katwe and Kawempe Police Stations⁴⁴. Some were held at the military intelligence headquarters on Yusuf Lule Road. Because of the lack of money to deport them, they stayed in detention for prolonged periods of time.

Article 14. Right to a Fair Hearing and equal protection of the Law

The administration of justice in Uganda is the responsibility of several organisations, which include the Police, the Directorate of Public Prosecutions (DPP), the judiciary, the Uganda Prisons Service and the probation and social welfare service, Ministry of Justice, and military courts.

Although once considered a useful innovation, the Local Council Courts (LC Courts) often are thought to be sources of injustice due to such factors as bribery and male dominance in rural areas. The LC courts have authority to settle civil disputes, including land ownership and payment of debts, and criminal cases involving children. These courts, often the only ones available to villagers, frequently exceed their authority by hearing criminal cases, including murder and rape. LC court decisions may be appealed to magistrate's courts, but often there are no records made at the village level, and many defendants are not aware of their right to appeal. Many defendants cannot afford legal representation. The Constitution requires that the Government provide an attorney for indigent defendants accused of capital offenses, but there rarely is enough money to retain adequate counsel. The Uganda Law Society operates legal aid clinics in four regional offices, although its services remain limited due to funding. It assists military defendants as well as civilians. The local chapter of Uganda Women Lawyers Association (FIDA-U) and the FHRI also practice public-interest law from offices in Kampala. In 1999 the Law Development Center established a legal aid clinic to address cases involving children and those accused of petty crimes. A public defense service also was established in 1999, but it did not receive any government funding; it relied solely on donor support.

In the military court system, the right to a fair trial is not ensured. Although the accused has the right to retain legal counsel, military defense attorneys often are untrained and may be assigned by the military command, which also appoints the prosecutor and the adjudicating officer. The sentence passed by a military court, which can include the death penalty, may be appealed to the High Command but not to the High or Supreme Courts. A court-martial appeals process was established in 1997.

Prolonged pre-trial detention, extra-judicial executions, poor judicial administration, lack of resources and an inefficient judiciary render the right to fair trial an illusion. Lack of confidence in the judicial process has been responsible for the ever-increasing cases of "mob justice" that exceeded 1000 by end of 2002.

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The incidence of mob justice, which undermines the principles of fair trial remained a negative blot on the legal response system despite warnings to the public to restrain itself. The general public, increasingly took the law into their hands, "punishing" suspected offenders by beating, and many times killing their victims. Both the real and the perceived

flaws of the judicial system induced the public to meet out their harsh, quick and punitive justice to suspects. "It is as if mob justice is in place as a weird solution to the problem of backlog in the courts", says Joachim Buwembo, Editor of the Sunday Vision.

MOB JUSTICE STATISTICS FOR THE YEAR 2001⁴⁵

Causes	Total Cases reported	Total number of males killed	Total number of females killed	Overall total number of people killed
Alleged to be thieves	135	130	1	131
Alleged to be robbers	40	55	0	55
Alleged to be murderers	30	33	0	33
Alleged to be involved in witchcraft	7	5	3	8
Alleged to be involved in burglary	18	20	3	23
Other cases	43	38	0	38
Total	273	281	7	288

Total number of reported cases was 273 - Total number of persons killed during the year 2001 was 288
Males = 281 - Females = 7

FHRI noted that there is unnecessary delay in the disposal of cases of juveniles in remand due to delays by the police in carrying out inquiries and diversion of cases away from the Courts by parents or relatives. Courts have not strictly adhered to the provision that juvenile cases be completed within three months and twelve months for minor and capital offences respectively, otherwise they be dismissed without any further proceedings for the same offence. Children on minor offences are still remanded sometimes in adult prisons. Society has not adequately developed positive attitudes to children who commit offences - hence diversion of juveniles from the Court process or the rigorous process of trial in Courts not strictly followed or implemented.

The judiciary though viewed as independent is under threat due to persistent criticism from the executive as "unpatriotic and corrupt".

Article 15. Non- Retroactive Jurisdiction and Double Jeopardy

Generally government has respected this right. However there have been reports when suspects released from Court have been rearrested outside Court for unknown reasons.

Article 16. Right to Recognition everywhere as a person before the Law

This right has generally been respected by government.

Article 17. Right to Privacy

Government abused this right by breaking into peoples homes and taking them away.⁴⁶ The right to privacy of some media personnel has been threatened.⁴⁷

Article 18. Freedom of Thought, Conscience and Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. There is no state religion. Even though religious groups, like other nongovernmental organizations, must register with the Government, there were no reports that the Government refused to grant registration to any religious groups. Moreover, permits were necessary for the construction of facilities, including religious facilities, and there were no reports that the Government refused to grant such permits to any religious organization. Prisoners are given the opportunity to pray on the day appropriate to their faith. Muslim prisoners usually were released from work duties during the month of Ramadan.

Paragraph 430 of the report states that Non Government Organisations Registration (Amendment Bill) 2001 (NGO Registration Bill) seeks to step up surveillance and government supervision of NGO activities to prevent abuse. In the opinion of FHRI, the NGO Registration Bill seeks to stifle NGO activities. For NGOs to operate according to the Bill, they have to register, to obtain a permit, there is a punishment imposed for failure to comply with the proposed law. The Bill also contravenes international law and practice by attempting to stop NGO's from criticizing government policy and plans.⁴⁸

Addressing paragraph 431, in 1998 approximately 100 Muslim men were detained and some were tortured, on suspicion that they supported rebel groups. Many of those detained were released. There was no clear indication that religion was the sole factor in their arrests. The release of 53 Tabliq treason suspects in March and 28 in June 2002 resolved the issue of the whereabouts of unaccounted Muslim prisoners.

Finally, some local governments have restricted the hours of operations of religious organizations that are viewed as cults, for example, prohibiting nighttime prayer meetings. The Government largely has ignored calls for these churches to be shut down and their followers returned to mainstream churches.

Article 19. The Right to hold an opinion without interference

Lawyers

On 22nd August 2003, the Law Council issued a statement stopping lawyers from participating in radio talk shows and making public comments⁴⁹. The work of human rights activists involves influencing people and the government. Lawyers have a role to educate and empower the public on matters of the law. It is totally out of the question for lawyers to seek the permission of the law council to comment, issue press statements or participate in talk shows. The regulations under the Advocates Act 1970 (As amended by Act 27 of 2002), among other things specifically bar lawyers from unlimited interaction with the media.⁵⁰ This is not only unfair but also unconstitutional as lawyers have a duty not only to the Council but to the public as well.

The media

The freedom of the media remained in a state of flux. The closure of an independent newspaper, the arrest and prosecution of journalists and editors, the continued denial of

information and continued expectations by the state that the media must practice self censorship worked in concert and collectively to stunt the media in Uganda in 2002.

Uganda's media witnessed a number of threats with Government, exhibiting signs of intolerance. There were systematic attempts to silence criticism and snuff out debate on its performance through the temporary closure of The Monitor newspaper, preferring charges of false information against journalists and editors of The Monitor and the banning of "ebimeeza" (live talk shows).

Further, while it is provided in article 41(2) of the Constitution of Uganda that "Parliament shall make laws prescribing the classes of information referred to in clause (1) of this article and the procedure for obtaining access to that information", this legislation has not yet been enacted and the media continues to operate through self censorship, a situation that has led to incidents such as the closure of The Monitor.

These recent actions by government like several others in that past are a clear illustration of the fears expressed in the general comment. Namely, that it is not enough for States to guarantee freedom of expression under the Constitution or the law. What is important are the precise regime of freedom of expression in law and in practice and the rules which either define the scope of freedom of expression or which set forth certain restrictions, as well as any other conditions which in practice affect the exercise of this right. "It is the interplay between the principle of freedom of expression and such limitations and restrictions, which determines the actual scope of the individual's right."⁵¹

On 10th October 2002, a large contingent of security officers raided the offices of Uganda's largest independent newspaper, The Monitor. The swoop by officers from the Criminal Investigation Department (CID) and regular police was prompted by a story published in the 10 October 2002 edition of the newspaper about an army helicopter that allegedly crashed in the Adilanga area of Pader District, in Northern Uganda, a report the army spokesman had denied.⁵²

Scores of security men poured into the newspaper's three offices and searched the premises, barred staff from leaving and closed the offices for one week. A witness said the officers refused to identify themselves and did not produce a search warrant. "Led by a man who only identified himself as Nabasa, they said they were acting under the police statute which allows them to conduct impromptu searches on private property," he explained.⁵³

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When the government closed The Monitor they confiscated the phones of the whole staff, all phone numbers were recorded, their sources were among them. According to the New Vision, the closure and search of the Monitor newspaper was carried out by about 50 personnel from Chieftaincy of Military Intelligence (CMI) personnel.

Staff inside the buildings were not allowed to leave, and no one was allowed to enter while security personnel rummaged through desks, seized cell phones, and conducted body searches of the staff, said eyewitnesses. Most of the confiscated phones were personal and belonged to staff that were not editorial staff. Officers removed the hard drives from a dozen computers and seized the main office server. They took all computers from The Monitor, the whole system was interrupted and required repair. Some computers remain confiscated a week after the closure. The author of the article, Frank Nyakairu, who was covering the LRA rebellion from the northern town of Gulu, was taken into government custody on October 11 till October 17 2002.

Meanwhile, on October 15, the Criminal Investigation Department interrogated three Monitor editors, Charles Onyango-Obbo, Joseph Were, and Wanyama Wangah, over publication of false news and broadcast of information prejudicial to national security. Obbo and Wanyama were later charged in a magistrate court with publishing information prejudicial to national security and likely to assist the enemy in its operation. They were also charged with publishing false news. They were released on cash bail of 500 Uganda Shillings.

Conditions attached to the re-opening of The Monitor included: completely stop reporting about the war, dismiss one of the editors and carry an apology as the only article on the first page. The paper was reopened following negotiations with government over the papers methods of reporting. The apology was run and a number of changes in the staffing effected, including the transfer of editor, Charles Obbo to Nairobi.

A system of surveillance is in place, sources have revealed to FHRI. Some Monitor staff even changed their phone numbers after the incident for fear that their calls will be monitored by security operatives. Nyakairu told FHRI that he is being followed. He has received threatening calls. He has been denied information by the army since the reopening of The Monitor. "I talked to the army yesterday. I was writing a story about the bus that has been ambushed and the army said we prefer not to speak to you anymore. Why? I am a reporter. They want us to say what they want to hear."⁵⁴

He said is afraid of future harassment and intimidation. He is scared of going through what he experienced. "Because I am in this country, I am writing for my people. This is a social obligation. I cannot just abandon it. But I talked to many people in this government. They wish I had stay in jail longer."⁵⁵

There are fears that the media will resort to self censorship, following this action by government for fear of harassment as individuals or even for fear of action that might be taken against their organizations.

No in-depth and impartial investigation was carried out so that those responsible could be identified and punished. Action seems to have commenced and ended at the arrest of three police officers, but hopes that the investigation will not stop there, and that full responsibility will be established within the management ranks of the Ugandan police force. Those who authorized the officers to employ real bullets during a demonstration should also be arrested and prosecuted.

On 12th January 2002, three journalists - James Akena from The New Vision, Archie Luyimbazi and Andrew Mujema from WBS television station and several leaders of the UPC were detained at Kampala's Central Police Station (CPS) for a few hours and later released. They were detained for covering the proceedings of the demonstration organized by the opposition party UPC.

The Anti Terrorism Act 2002

FHRI was further greatly concerned by the enactment by Ugandan parliament of the Anti-Terrorism Act, some articles of which impede press freedom. On 20 March 2002, the Ugandan parliament voted to enact the Anti-Terrorism Bill. The Bill was tabled before parliament ostensibly in response to the September 11th attacks on the United States but is also an acknowledgement of the country's internal problems. Since 1997, rebels from the Allied Democratic Forces (ADF) have carried out a number of terrorist bombing campaigns, especially in the capital, Kampala. The bombs target innocent civilians and were planted in public places like markets, bus stations and on public transport vehicles.

The bill, at first known as the Suppression of Terrorism Bill, was first introduced in Parliament in September 2001. It is now referred to as the Anti Terrorism Act 2002, it imposes stiff penalties on terrorists and their sponsors and supporters. The Act defines terrorism as, "the use of violence or threat of violence with intent to promote or achieve, religious,

economic and cultural or social ends in an unlawful manner, and includes the use, or threat to use, violence to put the public in fear or alarm”.

Aside from terrorists, the Act contains a provision stipulating that "any person who establishes or runs or supports any institution for the promotion of terrorism or disseminates material that promote it, train or mobilise for the same purpose, shall be convicted of terrorism". The Act contains a mandatory death sentence for those persons convicted of terrorism.⁵⁶

Concerning banned organisations, the Act gives the government, through the Minister of Internal Affairs, the power to declare that an organisation is terrorist in nature. This may be done through a statutory instrument. Although there was an attempt to amend this provision and place the decision in the hands of parliament, the government successfully fended off the challenge. Speaking of the Act, Internal Affairs Minister Eriya Kategaya said, "We need to have this power to move quickly and decisively against suspected terrorists before they cause more havoc." Bearing the above in mind, FHRI is fearful that the Act may be used to suppress individuals and organisations who dare to criticise the government. Indeed, the provision concerning the dissemination or promotion of terrorism is defined so widely that, when coupled with the power to ban organisations, it gives the government extensive powers to suppress both its political opponents and the media.⁵⁷

It is our contention that this definition is too wide and may be subject to abuse and the restriction of media organizations that would provide an alternative voice. Further, political activity has been banned in Uganda since 1986 and there is worry that the Bill will be used to ensure that political debate continues to be stifled.

Article 21. The right to peaceful assembly

In response to paragraph 451 of the Government report, it is important to note that police forces dispersed violently and forcefully some demonstrators.

In an incident related to the freedom of the assembly, on January 12, 2002, Jimmy Higenyi, a journalism student at the United Media Consultants and Trainers (UMCAT) Institute, was shot dead by a bullet fired by police in Kampala. The journalist was covering a demonstration organised by the Uganda Peoples Congress (UPC, the opposition) in the streets of Kampala. His report was for a student project. The

government had banned the march under Article 269 of the Constitution, which outlaws all political activity in the country. The police, overwhelmed by the crowd, began firing live bullets to break up the demonstration.

A few days later, the Inspector General of the Uganda Police, Major-General Katumba Wamala, announced that an officer and two constables had been arrested in connection with the murder of Jimmy Higenyi. "The police assumes full responsibility" in this affair, the Ugandan police chief stated during a press conference.⁵⁸

Article 22. Freedom of Association

Article 72 of the Constitution, which provides that " Subject to the provisions of this Constitution, the right to form political parties and any other political organisations is guaranteed" has not been respected. The enactment of the Political Parties and Organisations Act in June 2002 has caused controversy and is far from settled. In March 2003, the Constitutional Court nullified three Sections of this Act, respectively Sections 18⁵⁹, 19⁶⁰ and 21, after the filing of a petition by Democratic Party President Dr Paul Kawanga Ssemogerere. The Sections at stake imposed unjustifiable restrictions on the activities of political parties and organisations. They included for instance prohibition to campaign against the current presidency, to hold public meetings and to carry out "any activity that may interfere with the operation of the movement political system".

The Democratic Party celebrated this victory with a peaceful rally, which attracted violent intervention by riot police who fired tear gas and rubber bullets at the crowd.⁶¹ According to the Attorney General Hon. Francis Ayume, even though old or new party have now to register, none had done so. Therefore, the police would intervene where unregistered parties continue to operate.

Police blocked other rallies organised by the opposition . Police stopped a Conservative Party (CP) rally that was planned to be held on 1st May 2003 to celebrate Labour day. Following the organizer's request to request security, the Inspector General of Police, Maj Gen Katumba Wamala on 30th April, stated that "he was hesitant to provide security for a meeting that could turn out to be unlawful, and for the same reason therefore, he strongly advised against holding the rally in the interest of national security and peace". When the organizer arrived at the square where the demonstration was going to be held, he was denied entry.

On 31st May, the police blocked a meeting called by Lubaga South MP Ken Lukyamuzi to discuss a federal system of government at a cinema in Masaka town. The armed police sealed off the cinema and blocked a group of 30 participants. The discussion was cancelled.

Article 23. The Family

It is worthy to note that there is no legislation for domestic violence. The absence of a legal framework to deal with the problem and the fact that perpetrators of domestic violence are only charged with assault has left victims with no effective redress.

In spite of the several instruments put in place to protect children they are still abused. Children have been involved in ritual murders; the rate of defilement is on the increase, the registrar of the High Court in Uganda, Mr. Lawrence Gidudu noted that defilement accounts for 65% of the criminal cases in court⁶². More about children will be discussed in the next Article.

Article 24. Special measures taken to protect children

Recent NGO reports documented on-going recruitment of children into Local Defence Units (LDUs), which were intended to provide security to local villages. Those children were reportedly used to fight with the Ugandan People's Defence Forces (UPDF) against the Lord's Resistance Army (LRA) in northern Uganda, and even in the Democratic Republic of Congo and Sudan.⁶³ Recent reports from Coalition to Stop the Use of Child Soldiers partners on the ground indicated on-going child recruitment into the UPDF, including of children who had escaped from the LRA. Coalition members have also reported recruitment of children into local defence groups in northern Uganda, especially the Arrow Group. On a recent visit to Lugore training camp, UNICEF identified 120 children among the recruits.⁶⁴ Reliable sources also identified UPDF recruits among demobilized child soldiers in Yumbe.⁶⁵

International organizations were not granted access to many more military training camps where it was suspected that many more children were held. At least two children formerly with the LRA were detained by the government on treason charges, despite the amnesty in place.

Non-state armed group

The LRA increased abductions of children for use as combatants, sexual slaves, porters, cooks and domestic

workers in 2003. UNICEF estimated that 8,400 children were abducted between June 2002 and May 2003. Children abducted by the LRA described being forced to carry out raids, burn houses, beat and kill civilians, abduct other children, and fight against the UPDF. Girls were used as domestic servants and forced into sexual slavery as "wives" of LRA commanders.

In mid-2003 LRA abductions spread from the traditional Acholi and neighbouring areas of the north into the east. Continued abductions, recruitment and instability had a devastating effect on local populations, particularly in previously safe communities, where coping mechanisms were not yet in place. An army spokesperson reported in June 2003 that LRA soldiers had abducted 30 schoolgirls aged between 12 and 18 from a secondary school in Kabermaido district, in Northeastern Uganda.⁶⁶ On 17 August 2003, the LRA killed more than a dozen former LRA captives with machetes during an attack in a village in the Lira district, and abducted 40 children.⁶⁷ On 14 July 2003, an estimated 20,000 children marched in Kitgum to protest continued abductions by the LRA.⁶⁸

Demobilization and child protection programs

Children "rescued" from the LRA by the UPDF were kept in military confinement, sometimes for protracted periods, to gather intelligence before being transferred to the Child Protection Unit, and then to rehabilitation programs operated by NGOs including World Vision and the Gulu Save Our Children Organization (GUSCO).⁶⁹ The 120 recruits identified at the Lugore training camp were demobilized and were taking part in counselling and reintegration programs. In response to the influx of "night commuters", child protection agencies and church groups established programs to feed and shelter these children.

Article 25. The Right to take part in the conduct of public affairs

This report is generally in agreement with the Government report. However, in June 2001 a referendum was held to determine the political system in Uganda, this referendum brought the Movement system as the ruling political system. The Constitution, which provides for the other political parties⁷⁰ has also restricted their activities.⁷¹

Further to Article 269 of the 1995 Constitution, which restricts political parties to their national headquarters, the enactment of the Political Parties and Organisations Act No.

18 of 2002 further entrenched this Constitutional restriction and provided for Political parties to register in order to operate. Parties were required to register by the December 17th 2002 deadline under the Act, a requirement that the parties rejected. Political parties in Uganda challenged the constitutionality of the Act in Petition No. 5 of 2002. The Constitutional Court issued an injunction in December 2002 effectively extending the deadline for registration of parties to such time as the final determination of the Constitutional petition whose fate had not been determined by years end.

In November 2000, the Parliament passed the Presidential Elections Bill, which governs the presidential election process. In December 2000, the President signed the law. The law permits election campaigns to commence after the Electoral Commission (EC) has approved a candidate's nomination. On January 8 and 9, the presidential nominations were held. Under the Local Government Act and the Electoral law, Parliament must approve funding for each electoral exercise.

When the legislation is passed, it is submitted to the Ministry of Finance for allocation. The Government's failure to provide timely legislation for the presidential, parliamentary, and local elections impacted adversely on the exercise, and caused the EC funding to be delayed considerably and money for electoral materials to arrive late.

Article 26. The Right not to be discriminated against

This has comprehensively been dealt with in Articles 2 and 3 of the report.

Article 27. The Rights of ethnic and Religious minorities

This report is generally in agreement with the Government report, except that the Pentecostals are not included as a religion recognized in Uganda.

3. Sec 40, Land Act No. 16 1998

4. Part V, Sec 75 - 90 Land Act 1998

5. Art 31(i), Constitution of Uganda, provides: "Men and women of the age of eighteen years and above have the right to marry and to found a family and are entitled to equal rights in marriage, during marriage and at its dissolution."

6. Sec 3(i) of Decree 1973 provides that " Customary marriages may be polygamous"

7. Cap 215

8. Sec 5 states "(1) A husband may apply by petition to the court for the dissolution of his marriage on the ground that since the solemnization thereof his wife has been guilty of adultery. 2) A wife may apply by petition to the court for the dissolution of her marriage on the ground that since the solemnization thereof- (a) her husband has changed his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman; or (b) has been guilty of- (i) incestuous adultery; or (ii) bigamy with adultery; or (iii) marriage with another woman with adultery; or (iv) rape, sodomy, or bestiality; or (v) adultery coupled with cruelty; or (vi) adultery coupled with desertion, without reasonable excuse, for two years or upwards."

9. Sec. 24 provides: "In any suit under this Act, the Wife whether or not she has obtained a protection order may apply to the court for alimony pending the suit and the court may thereupon make such order as it may deem fit."

Sec. 25 (i) provides "On a decree absolute declaring a marriage to be dissolved, or on a decree of judicial separation obtained by a wife, the court may order the husband to secure to the wife such sum of money as having regard to her fortune, if any, to the ability of the husband and the conduct of the parties, it thinks reasonable."

10. Sec 123 (i) Penal Code Act provides: "(1) Any person who unlawfully has sexual intercourse with a girl under the age of eighteen years is guilty of an offence and liable to suffer death. (2) Any person who attempts to have unlawful sexual intercourse with a boy under the age of eighteen years is guilty of an offence and liable to imprisonment for fourteen years with or without corporal punishment."

11. Sec 142 Penal Code Act

12. See infra, Article 7: Prohibition from Torture

13. Gulu Rapid Assessment Report 25 - 26th September 2002 by MSFCH (Hom F Sanchez &MSFF Mr. Odiambo)

14. UN Children's Fund (UNICEF) Report on Child Abductions in Uganda.

15. Interview with Mr. Joseph Kule L.C .5. Vice Chairman, Kasese District

16. The Penal Code Act Cap 106 prescribes 15 capital offences: Rape (Secs 117,118), defilement (sec 123), murder (sec 183,188) aggravated kidnapping (Sec 235) aggravated robbery (Sec 273) and nine separate offences grouped as Treason and Offences against the State (Sec 25).

17. Defilement, rape, murder, aggravated robbery, aggravated killing and treason.

18. Uganda Prison Service, 2001.

19. Uganda Prisons Department submissions to the Constitutional Review Commission, 13th February 2003.

20. See also Monitor News paper, 16th February 2003.

21. New Vision Newspaper, 27th March 2002.

22. Mr. Martin O'Fainin, the Irish envoy to Uganda stated that as a matter of policy they are opposed to the death penalty and that it would have been better to have full investigations. Mr. Livingstone Sewanyana, Executive Director of the Foundation for Human Rights Initiative (FHRI) stated that such executions fuel conflict and that this act was a reflection of a lack of clear policies and approaches to justice. Emmanuel Cardinal Wamala, the Catholic church prelate condemned the execution.

23. See New Vision News Paper, Tuesday 11th March 2003, Pg. 2, 'petition challenging UPDF hanging fixed'.

24. See New Vision News paper, Sunday 28th April 2002, Pg. 1, ' Father of executed soldier to sue government.'

25. See also the case of Jimmy Higenyi in Section "Article 21. The right to peaceful assembly"

26. *Barbato V Uruguay* GA OR Doc A/38/40 P. 124. Here a person died while in custody and the Human Rights Committee held that the State was responsible for the death.

27. Such actions when carried out by security forces make the governments in question attributable for their actions. (This principle is taken from the decision of the Human Rights Committee *Guerero v Colombia* GA OR Doc A/37/40 P. 137).

28. FHRI interview with Hassan Bwambaale Muhaasi, Bwera Kaseese, 17th April 2002.

29. Ibid.

30. FHRI visited Butuntumula Local Administration Prison on 8th July 2002 to investigate this matter.

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31. Human Rights Focus Report Between Two Fires 2001.
32. FHRI interview with the 14 suspects of treason carried out on the 7th March 2003 at Kigo Prison.
33. FHRI interview on the 31 March 2003 at Kigo Prison.
34. FHRI interview with Francis Onen carried out on the 7th March 2003 at Kigo Prison.
35. FHRI interviews with Koseph Kule, LC V Chairperson, Kasese District, Azalia Mulerwa, Asa Mukirane and Baguma Syasughusa, 17th March 2001.
36. FHRI interview with Officers at Central Police Station, 26th April 2002.
37. FHRI interview with Aida Laguru Conducted on the 7 March at Kigo Prison.
38. Prisoners average population as at Feb 2002, from the Uganda Prison Service statistical data.
39. Prison visits, May 2002.
40. FHRI's prison visits to Eastern Uganda, 23rd - 27th April 2001.
41. Extracted from a memorandum on distressing conditions in local Administration Prisons in Eastern Uganda.
42. FHRI prison visits to Eastern Region Local Administration Prisons, 23rd - 27th April 2001.
43. Ibid.
44. Ibid.
45. Statistics from CID Headquarters, 21st November 2002.
46. See supra, Article 9: Right to liberty.
47. See infra, Article 19: Right to hold an opinion without interference.
48. Sec 3 (4) of the NGO Registration Bill reads: "An organization shall not be registered under this statute if the objectives of the organisation as specified in its constitution are in contravention of any government policy or plan or in public interest."
49. New Vision newspaper Tuesday 26th August page 12.
50. Regulation 22 (i) states: "Subject to the provisions of sub regulation 2 and 3, an advocate shall not knowingly allow articles including photographs to be published in the news media concerning himself nor shall he give any press conference or any press statements".
51. General Comment on the right to hold an opinion without interference.
52. Government has become increasingly sensitive to media reports critical of its military campaign in the north.
53. Quoted in The New Vision, 11th October 2002, Page 1
54. Interview with Mr. Frank Nyakairu, 22nd October 2002.
55. Interview with Mr. Nyakairu, 22nd October 2002.
56. Sec. 9 provides that "(1) Any person who establishes, runs or supports any institution for a) promoting terrorism, b) publishing and disseminating news or materials that promote terrorism or, c) training or mobilizing any group of persons or recruiting persons for carrying out terrorism or mobilizing funds for the purpose of terrorism, commits an offence and shall be liable on conviction to suffer death.
(2) any person who, without establishing or running an institution for the purpose, trains any person for carrying out terrorism, publishes or disseminates materials that promote terrorism commits an offence and shall be liable on conviction to suffer death."
57. Sec 9 (i) Anti Terrorism Act 2002
58. The New Vision, 18th October 2002
59. Sec 18 provides that "(1) Notwithstanding anything in this Act, during the period when the movement political system is in force, political activities may continue except that no political party or organization shall a) Sponsor or offer a platform to or in any way campaign for or against a candidate in any campaign for or candidate in any Presidential or Parliamentary election or any other election organized by the Electoral Commission b) Use any symbol, slogan, colour or name identifying any political party or organization for the purpose of campaigning for or against any candidate in any election referred to in paragraph (a). c) Open offices below the national level d) Hold public meetings, except for national conferences, executive committee meetings, seminars and conferences held at the national level and the meetings referred to in subsections 7 and 8 of section 10 of this Act. (2). a political party shall not hold more than 1 national conference in a year. (3). Any political party or organization which contravenes this section commits an offence and a) is liable to a fine not exceeding three hundred currency points and b) any member of the executive committee of the political party or organization who contributes in any way to the contravention also commits an offence and is liable to a fine not exceeding three hundred currency points or imprisonment not exceeding three years or both."
60. Sec 19 states: "Subject to clause (2) of Article 73 of the Constitution, during the period when the movement political system is in force and until another political system is adopted in accordance with the Constitution, no organization subscribing to any other political system shall carry on any activity that may interfere with the operation of the movement political system."
61. The Monitor, 23rd March 2003.
62. New Vision 30th October 2002.
63. Human Rights Watch, "Stolen Children: Abduction and Recruitment in Northern Uganda," Vol.15, No 7(A), HRW: March 2003.
64. Information obtained from UNICEF and the Uganda Coalition, June 2003.
65. Information obtained from Coalition member on the ground who requested anonymity, 26 June 2003.
66. Reuters, "Uganda rebels abduct schoolgirls in night raid", 25 June 2003.
67. Associated Press, "Ugandan rebels kill former captives", 18 August 2003.
68. The Monitor (Kampala), 20,000 Children March Against Kony", 15 July 2003.
69. Coalition interviews with child soldiers and NGO workers, Gulu, 5-6 March 2003.
70. Art 69 (2), Constitution of Uganda.
71. Art 269, Constitution of Uganda.

Recommendations

I. Harmonisation of the domestic legislation with the provisions of the ICCPR :

The FIDH and FHRI recommend that the Human Rights Committee urge the Ugandan Government to:

- Reform all legislation in order to provide equal rights for both men and women as embedded in the ICCPR and Constitution of Uganda;
- Abolish death penalty and accede to the Second Optional Protocol to the ICCPR.
- Criminalize torture in national legislation, adopting a definition of torture which covers all elements of that contained in article 1 of the CAT and submit a report to the Committee against torture, due since 1988;
- Outlaw corporal punishment;
- Improve the living standards of people deprived of their liberty, notably by enacting and enforcing the Prison Act; Insure that any counter-terrorism measure undertaken will be in strict accordance with Article 4 of the ICCPR as interpreted by the Human Rights Committee in its General Comment No. 29, of August 31, 2001;
- Revise the "Anti Terrorism Act 2002", in particular Sec 9(1), with a view to making the definition of "dissemination or promotion of terrorism" more precise, and in order to exclude any possibility of arbitrary application of the Act;
- Comply with its obligation under Articles 22 and 25 of the ICCPR and provide for a multiparty system in the Constitution.

II. Protection and promotion of civil and political rights:

The FIDH and FHRI recommend that the Human Rights Committee urge the Ugandan Government to:

- Establish the Equal Opportunities Commission set up by the Constitution ;
- Ensure the security of all people in the territory of Uganda, and particularly internally displaced people, and engage investigations in all cases of killings;
- Immediately engage impartial investigations in all the suspect cases of death of detained persons and allegations of torture and ill treatment;
- Ensure that the victims of such violations obtain redress and have an enforceable right to fair and adequate compensation;
- Ensure to hold detainees in places officially recognized as places of detention and to prescribe incommunicado detentions, as requested by the Human Rights Committee in its General Comment n° 20, para. 11. In this sense the Government should abolish the use of the so-called "safe

houses";

- Free immediately and unconditionally all person who has been arbitrary arrested or detained and, in conformity with Article 9(5) of the ICCPR, enable victims to obtain compensation;
- Treat with dignity all persons deprived of their liberty;
- Separate juvenile from adults in detention centres;
- Ensure that access to detention areas is not denied to NGOs;
- Respect the right of everyone to liberty of movement in compliance with Article 12 of the ICCPR;
- Respect the right to a fair trial, and in particular enforce the free legal aid system for all capital offenses and, provide for an appeal in Court martial;
- Engage prosecution against Local Council magistrates who exceed their competence;
- Enable the independence of the judiciary by prosecuting all cases of threats against magistrates;
- Respect the provisions of the Declaration of human rights defenders, adopted by the General Assembly of the United Nations on 9 December 1998, and particularly do not pass the NGO Registration Bill;
- Allow the media pluralism in accordance with Article 19 of the ICCPR, stopping any kind of harassment directed against the independent press;
- Respect the right to peaceful assemble;
- Ensure that persons who have not attained the age of 18 years are not compulsory recruited into the State armed forces.
- Take all feasible measures to prevent the recruitment of children under 18 into armed groups that are distinct from the armed forces of the State;
- Take all feasible measures to demobilize and rehabilitate all former child soldiers;

III. Fight against impunity

The FIDH and FHRI recommend that the Human Rights Committee urge the Ugandan Government to:

- Make a declaration under Article 34(6) of the Additional protocol of the African charter of human and peoples' rights.

Taking into account that the Rome Statute establishing the International Criminal Court (ICC) entered into force on the 1st day of July 2002 and that the government of Uganda has ratified the Rome Statute on June 14, 2002, the FIDH and FHRI recommend that the Human Rights Committee urge the Ugandan Parliament and Government to:

- Urgently enact an ICC implementing legislation in order to harmonize Ugandan domestic criminal law with the definitions and the general principles of criminal law of the

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ICC Statute and to allow for the government to cooperate effectively with the ICC.

Taking good note that the Prosecutor of the ICC, Luis Moreno Ocampo has recently announced that the government of Uganda had triggered the ICC pursuant to article 12.2 of the Rome Statute by making a State referral to the ICC for the crimes committed by the Lord's Resistance Army (LRA) in Northern Uganda, the FIDH and FHRI:

- Inform that it will send the present report to the Office of the Prosecutor of the ICC for information and that the FIDH and FHRI will be very attentive to all acts that will be taken in the near future by the ICC and will report, on the compliance of the Uganda domestic courts with the criteria set up in article 17 of the Rome Statute establishing a complementarity principle between the ICC and domestic courts.

The **International Federation for Human Rights (FIDH)** is an international non-governmental organization for the defence of human rights as enshrined in the Universal Declaration of Human Rights of 1948. Created in 1922, the FIDH brings together 116 human rights organisations from 90 countries. FIDH has undertaken over a thousand missions of investigation, trial observations, and training in more than one hundred countries. It provides them with an unparalleled network of expertise and solidarity, as well as guidance to the procedures of international organisations. The FIDH works to:

- a) Mobilise the international community
- b) Prevent violations, and support civil society.
- c) Observe and alert.
- d) Inform, denounce, and protect.

The FIDH is historically the first international human rights organisation with a universal mandate to defend all human rights. FIDH enjoys observer status with the United Nations Economic and Social Council, (UNESCO), the Council of Europe's Permanent Committee, the International Labour Organization (ILO), and consultative status with the Africa Commission for Human and Peoples' Rights. FIDH is represented at the United Nations and the European Union through its permanent delegations in Geneva and Brussels.

FIDH facilitates each year the access and use of existing international mechanisms to more than 200 representatives of its member organisations and supports their activities on a daily basis. FIDH also aims to protect human rights defenders.



Foundation for Human Rights Initiative (FHRI)

The **Foundation for Human Rights Initiative (FHRI)** is an independent, non-governmental, non-partisan and non-profit human rights organisation. It was established in December 1991 in response to the growing need for human rights awareness in Uganda.

FHRI has observer status with the African Commission on Human and Peoples Rights and collaborates with a large number of groups at the local, regional and international level.

The organisation seeks to enhance the knowledge, respect, and observance of human rights, and to encourage exchange of information and experiences through training, education, research, advocacy, lobbying and networking.

FHRI's aims and objectives are:

- a) Promoting citizen awareness of basic fundamental rights obligations guaranteed in the Uganda Constitution and other international human rights.
- b) To undertake fact-finding, research and documentation of human rights.
- c) To promote good governance, respect for the rule of law, democracy and legal protection of human rights
- d) To promote best practices in the administration of justice in Uganda.
- e) To improve the knowledge of legal rights and remedies of vulnerable groups such as women, children, the disabled, prisoners, minorities and the internally displaced persons.
- f) To establish a resource centre and archives for human rights books, journals magazines, newsletters and videotapes.
- g) To promote solidarity and partnership building with and among similar institutions on a national, regional and international basis.
- h) To promote, public interest litigation and legal aid service delivery to deserving cases.
- i) To encourage a closer a closer exchange of information and experiences between human rights organisations, individuals government and the community.