

Uganda Human Rights  
Commission

6<sup>th</sup>  
Annual  
Report



2003

UGA.00132.678





# 6th Annual Report





The Hon  
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P.O. Box 7  
Kampala

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# UGANDA HUMAN RIGHTS COMMISSION

The Honorable Speaker  
Parliament of Uganda  
P.O. Box 7178  
Kampala

Dear Sir,

## **RE: UGANDA HUMAN RIGHTS COMMISSION 2003 ANNUAL REPORT TO PARLIAMENT**

The Uganda Human Rights Commission has the honour to submit its sixth annual report pursuant to Article 52 (2) of the Constitution of the Republic of Uganda.

The report is divided into two parts namely; the activities carried out by the Commission (chapters 1 - 5) and the state of human rights in the Country (chapters 6-16). The former part is about the activities of the Commission in the year 2003. The latter part covers the Commission's analysis of the human rights situation in the country in the year 2003 through part of 2004.

In the Commission's view the report presents a useful assessment of the state of human rights in the country and builds on the challenges, recommendations and progress made in the previous reports. The Commission hopes that the Parliament, the Executive and all those organs to which recommendations have been made, will give due attention to respective issues raised in the report. We believe that if the recommendations are implemented, then the concept of good governance through the protection and promotion of human rights will be greatly enhanced in the country.

Yours faithfully,

Margaret Sekaggya (Mrs)  
**CHAIRPERSON**  
**UGANDA HUMAN RIGHTS COMMISSION**





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As of September 2004



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**Anne Masibo**  
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**Charles Muwunga**  
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**George P. Ufoyuru**  
Head Moroto Regional  
Office





# Abbreviations & Glossary

<b>ACHPR</b>	-	African Charter on Human and People's Rights
<b>ADF</b>	-	Allied Democratic Forces
<b>AG</b>	-	Attorney General
<b>ARVs</b>	-	Anti Retroviral drugs
<b>AUSI</b>	-	International Service Volunteers Association
<b>C.A.D.E.R</b>	-	Centre for Arbitration and Dispute Resolution
<b>CAO</b>	-	Chief Administration Officer
<b>CAT</b>	-	Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment
<b>CCF</b>	-	Christian Children's Fund
<b>CCF II</b>	-	Country Coordination Framework II
<b>CEDAW</b>	-	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CID</b>	-	Criminal Investigation Department
<b>CJ</b>	-	Chief Justice
<b>CHARMS</b>	-	Complaints Handling and Records Management System
<b>CMI</b>	-	Chieftaincy of Military Intelligence
<b>CMOCs</b>	-	Civil Military Operational Centres
<b>CSOs</b>	-	Civil Society Organisations
<b>CRC</b>	-	Convention on the Rights of the Child
<b>DANIDA</b>	-	Danish International Development Agency
<b>DPP</b>	-	Director of Public Prosecutions
<b>DISO</b>	-	Director of Internal Security Organisation
<b>DRB</b>	-	Domestic Relations Bill
<b>EAMI</b>	-	East African Media Institute
<b>ESO</b>	-	External Security Organisation
<b>FHRI</b>	-	Foundation for Human Rights Initiative
<b>FUE</b>	-	Federation of Uganda Employers
<b>GDP</b>	-	Gross Domestic Product
<b>GoU</b>	-	Government of Uganda
<b>GUSCO</b>	-	Gulu Save the Children Organisation
<b>HRBAD</b>	-	Human rights-based approach to development
<b>HRDP</b>	-	Human rights and Democratization Programme
<b>ICC</b>	-	International Criminal Court
<b>IDPs</b>	-	Internally Displaced Persons
<b>IDPCs</b>	-	Internally Displaced Peoples Camps
<b>ICERD</b>	-	International Covenant on the Elimination of all Forms of Racial Discrimination
<b>ICESCR</b>	-	International Covenant on Economic Social and Cultural Rights
<b>ILO</b>	-	International Labour Organisation
<b>IMF</b>	-	International Monetary Fund
<b>ISO</b>	-	Internal Security Organisation
<b>IGG</b>	-	Inspectorate of Government
<b>JLOS</b>	-	Justice, Law and Order Sector



LANs  
LC  
LRA  
MDGs  
MFPED  
MGLSD  
MoH  
MOD  
MWC  
NCOs  
NGOs  
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NHRIs  
N.P.A.R  
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<b>LANs</b>	- Local Area Networks
<b>LC</b>	- Local Council
<b>LRA</b>	- Lords Resistance Army
<b>MDGs</b>	- Millenium Development Goals
<b>MFPEd</b>	- Ministry of Finance, Planning and Economic Development
<b>MGLSD</b>	- Ministry of Gender, Labour and Social Development
<b>MoH</b>	- Ministry of Health
<b>MOD</b>	- Ministry of Defence
<b>MWC</b>	- Convention on the Right of Migrant Workers and Members
<b>NCOs</b>	- Non-Commissioned Officers
<b>NGOs</b>	- Non Governmental Organisations
<b>NFCEP</b>	- National Framework for Civic Education Programme
<b>NHRIs</b>	- National Human Rights Institutions
<b>N.P.A.R.T</b>	- Non Performing Assets Recovery Trust
<b>NOTU</b>	- The National Organisation of Trade Unions
<b>NOTU</b>	- National Organisation of Trade Unions
<b>NSC</b>	- National Security Council
<b>NSF</b>	- National Strategic Framework
<b>NUDIPU</b>	- National Union of Disabled Persons of Uganda
<b>OAU</b>	- Organisation of African Unity
<b>OPM</b>	- Office of the Prime Minister
<b>PEAP</b>	- Poverty Eradication Action Plan
<b>PEC</b>	- Presidential Economic Council
<b>PLHA</b>	- People Living with HIV/AIDS
<b>PMTCT</b>	- Prevention of Mother to Child Transmission
<b>POW</b>	- Prisoners of War
<b>PRSP</b>	- Poverty Reduction Strategy Papers
<b>PWDs</b>	- People With Disabilities
<b>RBA</b>	- Rights Based-Approach
<b>SAPs</b>	- Structural Adjustment Programmes
<b>SIDA</b>	- Swedish International Development Cooperation Agency
<b>SRS</b>	- Self Reliance Strategy
<b>SOA</b>	- Security Organizations Act
<b>TOR</b>	- Terms of Reference
<b>ToT</b>	- Training of Trainers
<b>UAC</b>	- Uganda AIDS Commision
<b>UHRC</b>	- Uganda Human Rights Commission
<b>ULS</b>	- Uganda Law Society
<b>UNASCO</b>	- Uganda Network of Aids Support Organisations
<b>UNDP</b>	- United Nations Development Programmes
<b>UNHCR</b>	- United Nations High Commission for Refugees
<b>UNICEF</b>	- United Nations Children's Fund
<b>UPDF</b>	- Uganda Peoples Defence Force
<b>UPF</b>	- Uganda Police Force
<b>UPS</b>	- Uganda Prison Services
<b>URCS</b>	- Uganda Red Cross Society
<b>VCCU</b>	- Violent Crime Crack Unit







# Acknowledgement

The Commission is greatly indebted to the President of the Republic of Uganda for his pragmatic direction and support for various human rights issues country wide, the Parliament for their recognition and debate of the Commission's annual reports and whose invaluable contribution and support have seen the Commission expand its influences, to the various strategic partners including religious bodies and the civil society, which provided support and continually made positive and constructive criticism which allowed the Commission to make responsive and timely interventions..

The Commission wishes to pay tribute to the funding agencies particularly the Uganda Government, Danida/EU/SIDA/ Irish basket fund, UNDP, Austria, Norway, Friedrich Ebert Stiftung who have been ever present partners in the quest to see that the activities of the Commission are executed through their financial, logistical and technical support.

The Commission wishes to acknowledge its Monitoring and Treaties Directorate which put together this report, and the many institutions, civil society organizations, NGO's and individuals who contributed views, comments and inspiration.

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# Executive Summary



This report provides an overview of the state of human rights in Uganda in the year under review. During this period, there have been achievements and challenges in the protection and promotion of human rights. The report should be read in the context of the mandate of the Commission, the history of Uganda, general underdevelopment and poverty, existence of terror campaigns, rebel activities and the unpreparedness of those responsible to keep law and order in handling these challenges, and international, regional, and national human rights instruments, obligations, and standards. The report also provides a broad overview of the achievements and challenges of the UHRC in strengthening the human rights record in Uganda.

## Positive factors to human rights in Uganda

### Uganda Human Rights Commission

- The government respected the Uganda Human Rights Commission (UHRC) to remain independent performing its constitutional functions. The UHRC is a constitutional body established to promote and protect human rights in Uganda. The Commission is established under article 51(1) of the Constitution of the Republic of Uganda, 1995 and also by the Uganda Human Rights Commission Act No.4 of 1997. The Commission's functions and powers are under article 52 and 53 respectively.
- The UHRC in its efforts to perform its functions undertook activities that directly or indirectly contributed to the following outcomes; registration of total of 2050 complaints; resolving 478 cases and counseling more than 49 people. The backlog of cases have generally reduced. The Commission also visited and inspected 418 detention centres. The Commission visited the Internally Displaced and the refugee camps. It also carried out sensitization workshops for workers, policy makers, local defense forces (LDUs) police, prisons and army; lawyers, local and central government officials, civil society organizations, the private sector and the parliamentarians. People with disabilities and the youth are some of the interest groups that benefited from the Commission's workshops. The Commission also continued to educate and sensitize the public on constitutional and human rights

issues through its publications such as the periodic and annual reports and the monthly Magazine, Your Rights

### Security forces and the judicial system

- Security agencies generally protected the right to life and property amidst challenges posed by armed robbers and the Lords Resistance Army (LRA) and other armed criminals.
- Human Rights desks which were earlier established in the Uganda Police Force (UPF), the Uganda People's Defence Force (UPDF), and the Uganda Prisons Service (UPS) to address issues of human rights violations labelled against these institutions and to promote human rights awareness and proper conduct of the officers in the performance of their functions, continued to do a commendable job in collaboration with UHRC.
- Human rights education continued in the UPF, UPDF and the UPS supported by the human rights desks in these institutions.
- Torture by police officers continued to reduce but not entirely eliminated.
- Community service, as an alternative punishment was extended to other parts of the country.
- The Chain Linked Initiative helped facilitate speedy trials in the administration of justice.
- The UPDF leadership became increasingly respectful of UHRC and for the first time it allowed the UHRC to access detention places in the military barracks to assess the condition of inmates there.

### Community

- People's awareness of their rights and human rights continued to grow, as partly shown by more complaints against violators being brought to the UHRC.
- Many abducted children were rescued by the UPDF, and handed over to concerned NGOs for rehabilitation.

### Civil society institutions

- Human rights non-government organisations (NGOs) continued to supplement the work of the UHRC by making the public aware of their rights. They contributed to the process of drafting a State Report to the Committee on Civil and Political Rights (CCPRs): a treaty body charged with monitoring State Parties' compliance with the International Covenant on Civil and Political Rights (ICCPR) and also produced an alternative shadow report to the Human Rights Committee of the United Nations.



- There was an increased involvement and interest by human rights NGOs in promoting the respect and protection of human rights. There are now NGOs being formed in almost all categories of human rights; civil, political, economic, social and cultural rights and collective/group rights.

### Government

The government of Uganda respected many of the human rights as enshrined in International human rights instruments and the Constitution. Government departments became considerably interested in human rights based approaches to policy-making, programming and budgeting.

### Other achievements include the following;

#### Basic human rights

- There are healthy discussions to find ways and means to respect, promote and protect political rights in the area of regular free and fair elections.
- Government progressively recognised the rights of women (both administratively and legislatively) and promotion of equity and equal opportunities for the marginalized groups as reflected in the proposal to establish the Equal Opportunities Commission.
- Government progressively recognised the rights of Persons with Disabilities. The country is in advanced stages of having a law to operationalise article 35 and also participated in the UN negotiations/ processes to have a Convention on disability.
- Government continued to implement the right to education through the implementation of Universal Primary Education.
- Government continued to promote and protect the right to health by improving the accessibility to health care facilities, immunisation programmes, and programmes to provide free anti retroviral drugs to the poor and vulnerable. There was hope that people living with HIV/AIDS would get Anti retroviral drugs under the Global Fund Initiative.
- Freedom of speech and expression and freedom of the press continued to be respected and enjoyed with minor restrictions. There were efforts to pass the Right of access to information law in line with Article 41 of the Constitution.

### Conflict related human rights

- Government continued to successfully fight terrorism, particularly in Northern Uganda leading to hope for peace. Many abducted children were rescued by the UPDF from the LRA.
- Ugandan People's Defence Force completed withdrawal from the Democratic Republic of Congo (DRC) thereby respecting the Lusaka Protocol.
- Uganda pursued rapprochement with the governments of Sudan and Rwanda.
- Disarmament was relatively successful (over 10,000 guns were collected in one year). There was general consensus even amongst the Karimojong that illegal arms need to be removed but that the government needs to first guarantee them (Karimojong) security.

### Cooperation with local and international bodies

- Parliament acted on recommendations of the UHRC Annual Reports .
- Government did not interfere with the independence of the UHRC and other Constitutional bodies and has implemented some of their recommendations.
- Government respected the independence and judgments of the Judiciary (i.e. the Judiciary and Constitutional Court made landmark judgments that were acknowledged by the government) and where they were not satisfied, they appealed, dissatisfactions with the outcome notwithstanding.
- Government continued to ratify major human rights instruments, including the Rome Statute that establishes the International Criminal Court
- Government continued to comply with its reporting obligations to the UN. Further to sending reports on Convention on the Rights of Child (CRC), International Convention on the Civil and Political Rights (ICCPR), Convention on the Elimination of All forms of Discrimination against Women (CEDAW), and the International Convention on the Elimination of Racial Discrimination (ICERD), the government also sent the much overdue report on the Convention Against Torture (CAT).

### Challenges to implementing human rights in Uganda

The UHRC, in its efforts to promote and protect human rights in 2003, identified the



following challenges and continued to make recommendations for a comprehensive resolution of these challenges.

### Security forces

- Personnel in the UPF remained inadequate: currently the ratio is one Policeman to 1800 people as opposed to the recommended target of 1 policeman to 1500 people.
- There was remarkable improvement in the treatment of inmates, especially regarding the right to freedom from torture, cruel, inhumane and degrading treatment.
- Police often failed to take suspects to court within 48 hours as required by the Constitution under Article 23(4)(b).
- Un-gazetted detention units (e.g., safe houses) existed, where in some cases torture was reported.
- UPDF detention units were inaccessible to the UHRC (note: it is now agreed that modalities will be put in place for visitations by the UHRC).
- Security units, independent of the UPF, continued to do police work (e.g., Chieftaincy of Military Intelligence (CMI) did continue to arrest and detain people contrary to the law.
- Infrastructure for the Police Service (which was mostly built in the 1920s when the population was low) was still inadequate, and conditions in which inmates were held remained poor. Congestion, long remands, some degree of torture, and inadequate food were reported.
- Juvenile and adult inmates continue to be detained in the same police cells, contrary to the law which requires them to be held separately.
- Police brutally dispersed a number of political meetings.
- In instances, Operation Wembley (now Violent Crime Crack Unit (VCCU) arrested, tortured and detained suspects contrary to the law.
- Some provisions of the UPDF Act (formerly NRA Statute), the Police Act, which are inconsistent with the Constitution remained unrepealed and are still enforced.

### Terrorism

- Rebel attacks in Northern Uganda led to the displacement of approximately 1.4 million people and over 2000 deaths. Many children were abducted by rebels and their rights abused by the rebels.
- Poor shelter, food, sanitation, education and security in the IDP camps persisted, leading to an increase in poverty,

vulnerability, and helplessness.

- LRA attacks in Kitgum, Pader, Gulu and spread to Lira, Soroti, and Katakwi.
- IDPs were inadequately protected from terrorist attacks by the Lords Resistance Army (LRA), leading to deaths in Internally Displaced People's Camps.
- Child soldiers were frequently killed in combat.
- Killings and Karimojong raiders continued in Karimoja and in the neighbouring communities.
- Disarmament was initially successful in Karimoja, but failed as a result of several factors including lack of planning and proper management.

### Political and Judicial system

- A Movement system of governance continued with freedom of association and assembly continuing to be restricted under the law.
- Delays in the administration of justice continued, with delays in hearing cases.
- Government did not pay compensation awards against it made by the UHRC to victims of human rights violations.
- Mob justice continued to exist.

### Other human rights issues

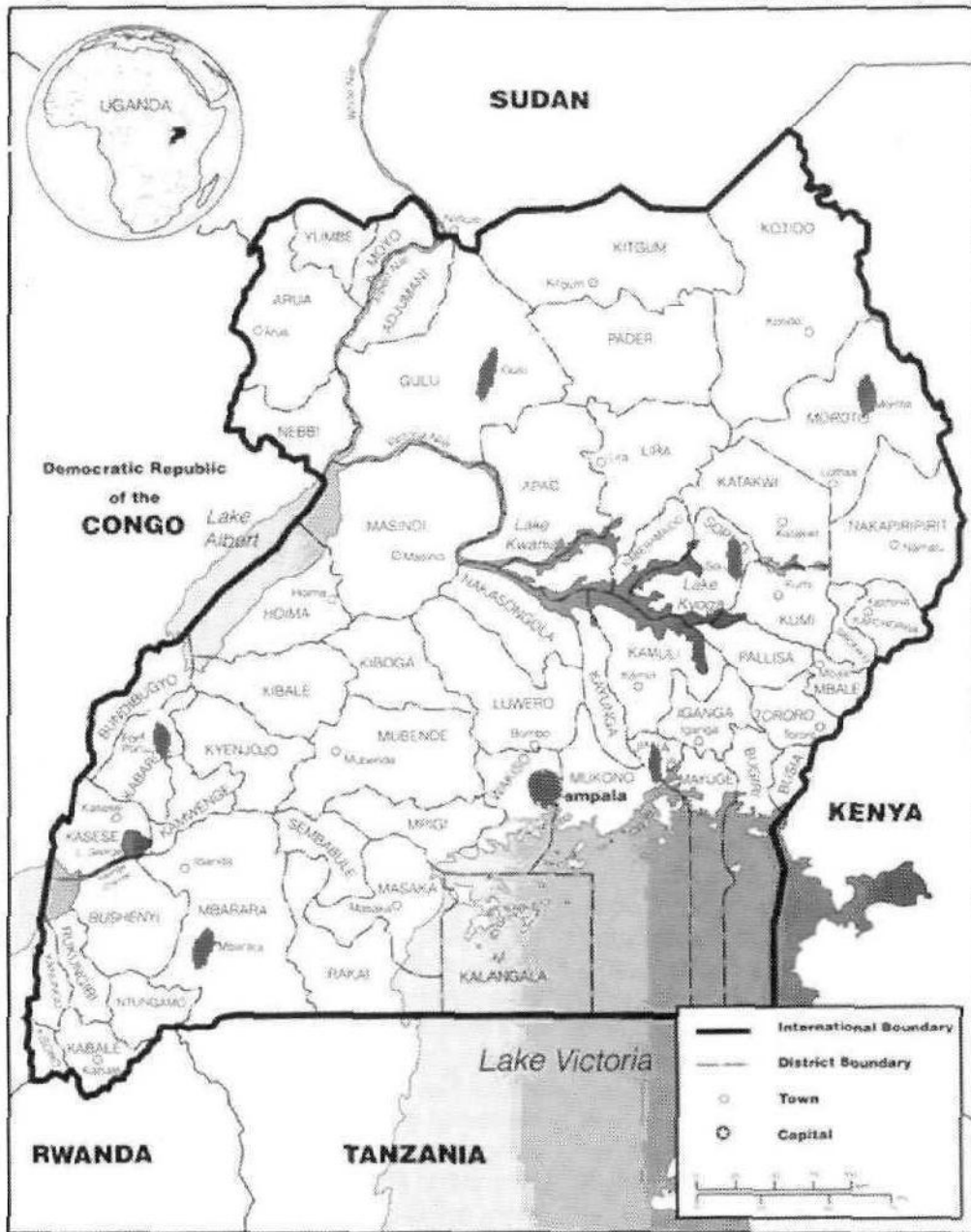
- HIV/AIDS infection remained high at 6.2%.
- Anti Retroviral drugs for people living with HIV/AIDS are accessible to a few people.
- Approximately 39% of the population lived below the poverty line. There were no adequate measures for social protection.
- Regional, social and economic inequalities existed as poverty in some regions reduced to a level of 30% while in others it increased to more than 67%.
- Ritual murders continued, and children continued to be the majority of the victims.
- Xenophobia in districts of Kibaale, Tesok Hoima and Masindi persisted. In some cases politicians provided background support.







# UGANDA



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The Sixth Annual Report  
to Parliament by the  
Uganda Human Rights Commission  
(UHRC)

UGA.00132.695



## Section 1:

# ACTIVITIES OF THE UGANDA HUMAN RIGHTS COMMISSION

## CHAPTER 01

# Complaints and Investigations

### Receiving Complaints

1.01 The Commission has a constitutional mandate to investigate alleged violations of human rights either upon its own initiative or when an individual or group of persons submits a complaint. The mandate to investigate includes visiting jails, prisons, and detention units, to inspect the conditions of inmates among others. On a daily basis, the commission receives and processes complaints. As a result of the media campaigns about the mandate and functions of the Commission, it, now, receives a vast number of complaints. The type of complaints include, inter alia, deprivation of life, liberty, violation of freedom from torture, cruel and inhuman treatment, violation of the right of a child to be cared for by a parent, access to children, employment issues, land matters etc.

1.02 Table 1.1 below shows the number of complaints handled by the Commission from 1997 to 2003. Between 1997 and

1999, there was a rise in the number of complaints lodged at the Commission. However, in 2000, the number of recorded complaints began to decline due to the Commission's adherence to its mandate. Complaints about matters outside the jurisdiction of the Commission were registered as lodgements unlike in the past when they were all registered as complaints. The number of complaints increased in 2003 because of the establishment of additional regional offices.

**Table 1.1 Number of complaints received and registered from 1997 to 2003**

Year	Total number received and registered
1997	414
1998	981
1999	1265
2000	1223
2001	669
2002	812
2003	2050

## Complaints handling

1.03 The Commission registered a total of 2050 complaints in 2003. Headquarters registered 601, Soroti registered 538, Fort Portal registered 170, Jinja registered 133, Mbarara registered 268, and Gulu registered 340. Table 1.2 is an illustration of the number of complaints targeted by headquarters in comparison to those received.

**Table 1.2 Number of complaints targeted and received**

Targeted	Complainants received	Registered		Advised
1200	1641	601		1038
		Complaints	Lodgements	
		472	129	

Most complaints revealed one violation, whereas others revealed multiple violations. This explains the variance in the number of registered complaints, and the number of human rights violations revealed. Most violations were in relation to deprivation of personal liberty, torture, cruel, inhuman and degrading treatment. During the period under review, fewer complaints about violations of children's rights were received. Table 1.3 categorises the violations revealed from the received complaints.

**Table 1.3 Categories of violations revealed in complaints**

Violation	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Liberty	7	20	21	23	24	36	10	9	16	6	9	12
Torture	4	20	10	10	13	28	7	6	7	16	17	5
Cruel treatment	2	3	2	6	5	13	4	4	6	-	-	-
Maintenance	4	9	12	13	14	12	6	13	16	8	5	8
Property	3	4	5	7	8	7	4	1	2	4	3	2
Speedy and fair hearing	1	2	1	3	4	2	1	-	1	1	1	-
Life	-	-	1	3	3	1	1	1	2	-	1	1
Education	1	1	1	-	1	3	-	3	-	1	2	1
Remuneration	1	3	1	2	2	1	2	-	-	-	-	-
Discrimination	1	-	-	3	-	3	-	-	-	1	-	-
Children's rights	-	-	-	-	1	1	-	-	1	1	-	-
<b>Total</b>	<b>24</b>	<b>62</b>	<b>54</b>	<b>70</b>	<b>75</b>	<b>107</b>	<b>35</b>	<b>37</b>	<b>51</b>	<b>38</b>	<b>38</b>	<b>29</b>

Table 1.4 is a categorisation of complainants. 275 of the complainants were men, 188 were women, and 9 were groups. The information illustrates that except for the month of June, men made most of the complaints.

**Table 1.4 Categorisation of complainants**

Complainants	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Men	14	34	25	33	31	45	16	13	18	16	18	12
Women	9	15	20	23	29	25	9	12	18	8	9	11
Groups	-	-	4	-	-	-	2	-	2	1	-	-
<b>Total</b>	<b>23</b>	<b>49</b>	<b>49</b>	<b>56</b>	<b>60</b>	<b>70</b>	<b>27</b>	<b>25</b>	<b>38</b>	<b>25</b>	<b>27</b>	<b>23</b>

Table 1.5 is a categorisation of the respondents. The greatest numbers of complaints were made against individuals, the Uganda Police Force (UPF), the Violent Crime Crack Unit (VCCU), and government departments respectively. Complaints were also made against Chieftaincy of Military Intelligence (CMI), Uganda Peoples Defence Force (UPDF), Uganda Prison Services, local governments, Internal Security Organisation (ISO), and the Attorney General in a representative capacity. The number of respondents is higher than the number of complaints received because there were instances where more than one respondent were accused in a single complaint.



**Table 1.5 Categorisation of respondents**

Respondents	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct/Nov	Total
Individuals	7	13	18	18	22	25	7	14	18	13	8	14	9	186
UPF	2	11	9	13	15	17	5	6	11	6	5	6	16	122
VCCU	2	9	8	7	7	14	5	4	4	3	5	2	7	77
Government institutions (dept.)	0	3	1	2	6	1	4	4	2	7	5	6	0	41
CMI	0	5	3	4	2	3	2	0	3	2	1	3	0	28
UPDF	0	2	1	5	3	3	1	1	4	1	4	0	1	26
Prisons	0	0	1	1	1	1	0	0	2	0	5	1	0	12
Local government	1	1	0	2	1	1	0	0	0	0	0	0	0	6
ISO	0	0	2	3	0	0	0	0	0	0	0	0	0	5
Attorney General	0	1	0	1	0	1	0	0	1	0	0	0	2	6
Admin. General	0	0	0	1	0	0	0	0	0	0	0	0	0	1
<b>Total</b>	<b>12</b>	<b>45</b>	<b>43</b>	<b>57</b>	<b>57</b>	<b>66</b>	<b>24</b>	<b>29</b>	<b>45</b>	<b>32</b>	<b>33</b>	<b>32</b>	<b>35</b>	<b>510</b>

**Investigation of complaints at UHRC**

- 1.04 When complaints are registered with the complaints division, the files that merit investigation are passed on to the investigations division. The Head of Department/Complaints and Investigations allocates the files to individual officers with investigation instructions specific to each case.
- 1.05 As shown in Table 1.7, the Commission planned to investigate 600 complaints, but investigated 830 complaints. Of these, 478 were successfully concluded while 352 are pending further investigation. Of the concluded complaints, 63 are with the Legal and Tribunals Department for legal opinion, and further management. The remaining 415 complaints were handled through various mechanisms.

**Table 1.7 Summary of investigations**

Targeted	Investigated	
600	830	
	Investigations concluded	Carried forward
	478	352
	Referred to Legal & Tribunal	Closed for various reasons
	63	415

- 1.06 **Investigations in some complaints were closed for the following reasons**
- Lack of jurisdiction – The UHRC does not adjudicate over matters when an investigation reveals that the matter complained about happened before 8th October 1995 or; matters outside the

Commission's mandate<sup>1</sup>, which include, any matter which is pending before a court or judicial tribunal; a matter involving the relations or dealings between the Government and the Government of any foreign State or international organisation; or a matter relating to the exercise of the prerogative of mercy.

- Lack of sufficient evidence – Lack of sufficient evidence is determined when violations are investigated to authenticate a matter, and the investigation reveals that no sufficient evidence exists to substantiate the allegation.
- Lack of interest – Lack of interest is determined by a complainant's failure to co-operate with investigations. Experience shows that complainants lose interest when they achieve their remedy in the course of Commission intervention, but fail to report back to the Commission.

- 1.07 **Counselling**  
The Commission expected that in the course of the year about 100 complaints might require counselling. Forty-nine people were counselled during this reporting period for stress, trauma, and depression. These arose as a result of torture, cruel, inhumane and degrading treatment (including domestic violence), illegal detention, and appalling conditions in detention cells.

- 1.08 Table 1.8 shows of the number of people who received counselling

<sup>1</sup> Article 53(4) provides for limitations incumbent on the UHRC in execution of its functions and mandate.

services and the related reasons leading to their need for counselling. Victims of torture and inhumane treatment represented the largest number of people who received counselling services; whereas victims denied of the right to a fair hearing represented the smallest number of people seeking counselling services.

**Table 1.8 Number of complainants counselled**

Complaint	Number counselled
Torture, cruel, inhuman, and degrading treatment or punishment	18
Domestic violence	12
Illegal detention	8
Property rights	8
Fair hearing	3
<b>Total</b>	<b>49</b>

**1.09 Inspection of detention centres**

The Constitution mandates the Commission to visit detention centres in order to assess and inspect the conditions of inmates and make recommendations to the government. The Commission consequently visited detention centres to determine the population of inmates, length of detention, whether the detainees were treated in conformity with Ugandan law and international human rights standards.

1.10 Previous annual reports, reported that conditions of prisoners and their human rights were improving in central government prisons, especially those within urban areas, while conditions in most local administration prisons remained poor. Therefore, in 2003, the Commission concentrated on

inspection of jails and prisons under the control of local administration. During this period, the Commission inspected 418 detention centres. Headquarters inspected 243, Soroti inspected 47, Fort Portal inspected 39, Jinja inspected 31, Mbarara inspected 34, and Gulu inspected 24.

**Key Findings**

- 1.11 • There was remarkable improvement in the treatment of inmates, especially regarding the right to freedom from torture, cruel, inhumane and degrading treatment. There were few reported cases of torture from the detention places. Those reported were mostly attributed to the "katikiros" or prefects, i.e., prisoners appointed as supervisors over fellow prisoners.
- The inmates and staff seemed to appreciate their different roles in the protection and respect of human rights. This was exemplified by the improved relationship between staff, administration, and inmates, the type of questions asked by the different partners, and the reception accorded to the Commission inspection teams.
- There is an urgent need for the government to adequately provide the basic necessities in detention places (e.g., food, drugs, uniforms, and proper sanitation facilities).
- Detention facilities need renovation as they are dilapidated, and overcrowded.
- Some courts in up-country areas do not sit regularly, which has caused overcrowding in prisons on remand due to delayed trials.
- Most prisons and police stations lack vehicles for transporting detainees to court. As a result, prisoners and staff have to walk long distances to court causing delays and there have been attempts by the prisoners to escape.

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Complainants at the UHRC waiting to register their cases

## CHAPTER 02

# Tribunal and Mediation

### Introduction

2.01 This section reports on concluded, partially heard, and pending complaints handled by the tribunals for the period under review. In addition, it also covers concluded and pending complaints considered for mediation.

### Tribunal hearing and decided cases

2.02 In total, 50 complaints were handled by Commission's tribunals, 21 at headquarters, 2 at Soroti, 7 at Fort Portal, 11 at Jinja, and 9 at Mbarara. The complaints were about freedom from torture, right to life, right to liberty, right to property, right to be cared for, and right to maintenance. The responsible government departments included the Uganda Peoples Defence Force (UPDF) and the Uganda Police Force (UPF). Awards given by the tribunal ranged from Ushs 100,000 (one hundred thousand) to Uganda shillings 59,000,000 (fifty nine million Uganda shillings). The Attorney General (AG) has not honoured over 90% of these awards. For the government to demonstrate good will and respect for

promotion and protection of human rights, it must ensure that non-appealed awards are paid without delay. Table 2.1 illustrates all hearings and cases heard by the Tribunal at the Headquarters.



**Table 2.1 Summary of cases , findings and awards by the tribunal**

No.	Complaint No.	Parties	Nature of Complaint	Government Department/	Findings of the Commission Institution	Award (Ushs) by the Commission Compliance
1.	UHRC 504/01	Embati Ophen -and- Attorney General	Violation of freedom from torture	UPDF	Complainant's right to freedom from torture and liberty was violated by the Chieftaincy of Military Intelligence when he was detained for 20 days in CMI head offices and 2 military barracks. The AG was held vicariously liable.	Awarded 23,000,000=  Government has not yet complied
2.	UHRC 197/98	Edward Wesonga -and- Attorney General	Violation of right to life	UPF	The deceased's right to life was violated by the UPF when he died in UPF custody. The AG was held vicariously liable.	Awarded 33,115,000= Government has not yet complied
3.	UHRC 98/00	Muliika Matia -and- Attorney General	Violation of right to liberty	UPF	The complainant's right to liberty was violated by the UPF when he was arrested for alleged incest and detained for 12 days in Kawempe and Mpigi UPF Station. The AG was held vicariously liable.	Awarded 100,000=  Government has not yet complied
4.	UHRC G/76/01	Akera Eric -and- Attorney General	Violation of freedom of torture and right to liberty	UPDF	The complainant's right to liberty was violated by the UPF when he was arrested for alleged rebel collaboration and detained for 43 days in Gulu barracks. The AG was held vicariously liable.	Awarded 22,000,000=  Government has not yet complied
5.	UHRC 110/98	M. Hassouna -and- Attorney General	Violation of freedom from torture and right to property	UPF	The complainant's right to liberty and right to freedom from torture were violated by the UPF when he was arrested for alleged murder. 10 days in Central UPF Station. The AG was held vicariously liable.	Awarded 18,712,967.2=  Government has not yet complied
6.	UHRC 194/02	N. Kaduyu -and- George Mugisha	Violation of right of a child to be cared for by a parent	Private individual	The respondent was ordered to pay 300,000= as backdated maintenance	Respondent has complied
7.	UHRC 112/99	C. Sajjabi -and- Attorney General	Violation of freedom from torture and right to liberty	UPF	The complainant's rights to freedom from torture and liberty were violated by the UPF when he was arrested for theft and detained. The AG was held vicariously liable.	Awarded 32,000,000=  Government has not yet complied
8.	UHRC 337/00	B. Walugembe -and- Mengo Hospital	Violation of freedom from torture and right to liberty	Mengo Hospital	The complainant's rights to freedom from torture and liberty were violated by the hospital when he was detained for not paying hospital charges.	Awarded 5,000,000=  Respondent has complied

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Table 2.1 Summary of cases , findings and awards continued

No.	Complaint No.	Parties	Nature of Complaint	Government Department/	Findings of the Commission Institution	Award (Ushs) by the Commission/ Compliance
9.	UHRC 98/01	Abdul Miiro -and- Attorney General	Violation of right to liberty	UPF	The complaint was dismissed for want of prosecution under Rule 18(2) of UHRC Procedure Rules, Statutory Instrument 16/97. The complainant did not appear for two consecutive hearings without explanation.	N/A
10.	UHRC J/117/02	Himanshu Dalia -and- Attorney General	Violation of right to liberty	UPF	The complainant's right to liberty was violated by the UPF when he was arrested for robbery and detained for 10 days in Jinja Central UPF Station. The AG was held vicariously liable.	Awarded 6,000,000=  Government has not yet complied
11.	UHRC 392/98	Pt. G. Birungi -and- Attorney General	Violation of freedom from torture, right to liberty and right to property	UPF	The complainant's rights to liberty and freedom from torture were violated by the police. He was arrested and illegally detained for 8 months in General Military Hospital Makindye and Makindye Army barracks. The AG was held vicariously liable.	Awarded 30,000,000=  Government has not yet complied
12.	UHRC 373/00	M. Mirembe -and- Dr. T. Mukubwa	Violation of right to education and for a child to be cared for by the parent	Private individual	The respondent was ordered to provide maintenance to his 11-year-old child.	The respondent failed to honour the order and his salary is being attached.
13.	UHRC 210/99	Gidudu Stephen -and- Attorney General	Violation of freedom from torture and right to liberty	UPF	The complainant's right to liberty and freedom from torture was violated by the UPF when he was arrested and detained for 3 months in UPDF 3rd Division of Mbale Military barracks and Bugema Army barracks. The AG was held vicariously liable.	Awarded 59,000,000=  Government has appealed the award given to the complainant
14.	UHRC 87/03	Edinansi Baguma -and- Stephen Baguma	Violation of right of a child to be cared for by the parent	Private individual	The complaint was dismissed for lack of interest by the complainant. She did not appear for two hearing dates without explanation.	No award made
15.	UHRC 987/00	Ssalongo Ssebanja -and- Attorney General	Violation of right to liberty	UPF	The complainant's right to liberty was violated by the UPF. The AG was held vicariously liable.	Awarded 5,500,000= Government has not yet complied

Table 2.1 Summary of cases , findings and awards continued

No.	Complaint No.	Parties	Nature of Complaint	Government Department/	Findings of the Commission Institution	Award (Ushs) by the Commission Compliance
16.	UHRC 71/00	Kawuma Angel -and- Attorney General, Spencon Construction Services Ltd.	N/A	UPF and employees of Spencon Construction Ltd.	Dismissed for lack of jurisdiction under Article 53(4)(a) of the 1995 Constitution because the matter had been heard and concluded in the High Court.	No award made
17.	UHRC S/143/01	Acan Margaret -and- PCOkin-Otim et al	Violation of freedom from torture	UPF	The complainant's freedom from torture was violated by the respondent in their individual capacities.	Awarded 5,500,000= Government has not yet complied
18.	UHRC S/42/02	S. Chepkwurai -and- Attorney General	Violation of freedom from torture	Military Police	The complainant's freedom from torture was violated by the Military Police. The AG was held vicariously liable.	Awarded 9,000,000= Government has not yet complied
19.	UHRC J/7/02	Swaibu Were -and- James Ludhozi et al	N/A	N/A	Dismissed because the complainant failed to prove on a balance of probabilities that his right to property was violated or that he was subjected to torture.	N/A
20.	UHRC 776/98	T. Rajab Miriam -and- Attorney General	N/A	UPF, CMI, ISO, Katojo Prison	The complainant's husband's right to life was violated. He went missing from Katojo Prison without any plausible explanation from the prison. The Attorney General was held vicariously liable.	Awarded 36,000,000= Government has not yet complied
21.	UHRC 394/99	Nalongo Imelda -and- Attorney General	Violation of right to life	UPF	The complaint was settled out of court following admission by the UPF that the complainant's husband died as a result of a stray bullet shot by the Police.	Settled for 26,000,000= Government has not yet complied

**Part-heard complaints**

2.03 A total of 60 complaints were partially heard by the Tribunals, 41 at headquarters, 4 at Soroti, 5 at Fort Portal, 8 at Gulu, and 2 at Mbarara. The partially heard complaints were in reference to freedom from torture, right to liberty, right to life, right of children to maintenance by a parent, and the right to know one's parent. The responsible government departments included the Uganda Police Force (UPF), the

Uganda People's Defence Force (UPDF), Chieftaincy of Military Intelligence, Military Police, Local Defence Unit, Internal Security Organisation, public servants, RDC-Kitgum, private individuals, and a school. Table 2.2 shows all partly-heard complaints lodged at the Commission headquarters during the period under review.



Table 2.2

No.	Complaint No.
1.	UHRC 38/02
2.	UHRC 35/01
3.	UHRC 83/01
4.	UHRC 11/01
6.	UHRC 28/01
7.	UHRC 2/01
8.	UHRC 2/01
9.	UHRC 2/01
10.	
11.	
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**Table 2.2 Summary of partially heard complaints**

No.	Complaint No.	Parties	Nature of Complaint	Government Department/	Origin of Complaint Institution	Status
1.	UHRC 38/2001	Richard Sonko -and- Attorney General	Violation of freedom from torture	UPF	Headquarters	Complainant's case
2.	UHRC 357/2000	Stephen Kabasaala -and- Attorney General	Violation of freedom from torture and right to liberty	CMI	Headquarters	Complainant's case
3.	UHRC 837/2000	Ismail Emukule -and- Attorney General	Violation of freedom from torture and right to liberty	UPF	Headquarters	Complainant's case
4.	UHRC 1182/1999	Peter Lukyamuzi -and- Attorney General	Violation of freedom from torture and right to liberty	CMI	Headquarters	Respondent's case
6.	UHRC 280/1998	Safi Ogwal et al -and- Kampala City Council	Violation of freedom from torture, right to property, and right to liberty	Local Defence Unit	Headquarters	Decision
7.	UHRC 227/1997	Peter Amone -and- Attorney General	Violation of the right to property	N/A	Headquarters	
8.	UHRC 288/2000	Sgt. Jackson Cherop -and- Attorney General	Violation of freedom from torture and right to liberty	UPDF	Headquarters	Respondent's case
9.	UHRC 295/1997	David Richard Senyonga -and- Luwero District Admin.	Violation of freedom from torture	Admini- stration UPF	Headquarters	Respondent's case
10.	UHRC 1225/1999	Amir Sebuyira -and- Lt. Kasule Bumpenje	Violation from freedom from torture	N/A	Headquarters	Respondent's case
11.	UHRC 260/2002	Aggrey Marsha -and- Attorney General	Violation of right to liberty	UPF	Headquarters	Complainant's case
12.	UHRC 405/2001	Chris Kamanyi -and- Attorney General	Violation of freedom from torture and right to liberty	UPDF	Headquarters	Complainant's case
13.	UHRC 375/2000	Joseph Kato -and- Capt Mazima et al	Violation of freedom from torture	N/A	Headquarters	Complainant's case
14.	UHRC 128/1997	Walusimbi Ssebagala -and- Attorney General	Violation of freedom from torture and right to liberty	ISO & UPDF	Headquarters	Complainant's case
15.	UHRC 1150/1999	Stephen Mwebaze -and- Attorney General et al	Violation of right to liberty	UPF	Headquarters	Respondent's case
16.	UHRC 767/2000	Abdul Karim Kiranda -and- Attorney General	Violation of right to liberty	UPF	Headquarters	Complainant's case
17.	UHRC 519/2001	Fred Bagoole -and- Attorney General	Violation of freedom from torture and right to liberty	CMI	Headquarters	Complainant's case
18.	UHRC 245/2003	Phoebe Kamasindi -and- David Basheija	Violation of the right of a child to be cared for by a parent	N/A	Headquarters	Complainant's case

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**Table 2.2 Summary of partially heard complaints continued**

No.	Complaint No.	Parties	Nature of Complaint	Government Department/	Origin of Complaint Institution	Status
19.	UHRC 281/2000	Emmanuel Ssenyondo -and- Attorney General	Violation of right to liberty	UPF	Headquarters	Complainant case
20.	UHRC 100/1997	Cpt. Twaha Kabuseera -and- Attorney General	Violation of freedom from torture and right to liberty	UPDF	Headquarters	Complainant case
21.	UHRC 58/2000	Rose Acen -and- Attorney General	Violation of freedom from torture and right to liberty	UPF	Headquarters	Respondent case
22.	UHRC 527/1998	Bernard Dulu et al -and- Attorney General	Violation of right to liberty	UPF	Headquarters	Complainant case
23.	UHRC 167/2000	Cpt. R. Nampogo et al -and- Attorney General	Violation of right to liberty	UPF	Headquarters	Complainant case
24.	UHRC 172/1998	Idris Kasekende -and- Attorney General	Violation of freedom from torture and right to liberty	CMI	Headquarters	Complainant case
25.	UHRC 776/1998	Rajab Tugume -and- Attorney General	Violation of freedom from torture, right to liberty and right to life	CMI	Headquarters	Decision
26.	UHRC 8/2001	Abdala Kiyaga -and- Attorney General	Violation of freedom from torture and right to liberty	CMI	Headquarters	Complainant case
27.	UHRC 505/2001	Choudry Agweno -and- Attorney General	Violation of right to liberty	UPF	Headquarters	Complainant case
28.	UHRC 686/1999	Annet Ntale -and- St. Balikuddembe Primary School	Violation of freedom from torture	School	Headquarters	Complainant case
29.	UHRC 130/2002	Mubarak Kidima -and- Attorney General	Violation of right to liberty	UPDF	Headquarters	Complainant case
30.	UHRC 249/2002	Peace Nshemereirwe -and- Attorney General	Violation of right to life	CMI	Headquarters	Complainant case
31.	UHRC 1163/2000	Collins Oribi -and- Attorney General	Violation of right to life	UPF	Headquarters	Complainant case
32.	UHRC 1128/1999	Beatrice Kabagenyi -and- Attorney General	Violation of right to liberty	N/A	Headquarters	Complainant case
33.	UHRC 502/1998	Johnson Kasajja et al -and- Attorney General	Violation of freedom from torture and right to life	UPF	Headquarters	Complainant case
34.	UHRC 845/2000	Jacob Luta -and- Attorney General	Violation of right to liberty	N/A	Headquarters	Complainant case
35.	UHRC 225/1998	Hajji Ali Mutumba -and- Mpigi District Admin.	Violation of right to life	UPS	Headquarters	Decision

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**Table 2.2 Summary of partially heard complaints continued**

No.	Complaint No.	Parties	Nature of Complaint	Government Department/	Origin of Complaint Institution	Status
36.	UHRC 1004/1999	Bamwite -and- Attorney General	Violation of right to liberty	UPF	Headquarters	Complainant's case
37.	UHRC 394/2001	Patrick Kiguli -and- Attorney General	Violation of freedom from torture	UPF	Headquarters	Complainant's case
38.	UHRC 654/1999	Edison Twebaze -and- Attorney General	Violation of freedom from torture and right to liberty	UPDF UPF	Headquarters	Complainant's case
39.	UHRC 176/1997	Ssengomwami Dick -and- Attorney General	Violation of freedom from torture	UPF	Headquarters	Complainant's case
40.	UHRC 271/2003	Jeane Francis Nakamya -and- Hon. Rev. Dr. Kefa Ssempangi	Violation of right of a child to be cared for by the parent and right to property	N/A	Headquarters	Complainant's case
41.	UHRC FP/ 74/2002	Ruth Kezaabu -and- Juma Friday	Violation of right of a child to be cared for by the parent	N/A	Fort Portal	Decision
42.	UHRC FP/ 269/2001	Sgt. Keisire -and- Attorney General	Violation of right to life	UPF	Fort Portal	Complainant's case
43.	UHRC FP/ 36/2003	Dinky Rusoke Chris -and- Attorney General	Violation of freedom from torture	UPF	Fort Portal	Complainant's case
44.	UHRC FP/ 75/2003	James Bwango -and- Kabarole District Admin.	Violation of freedom from torture and right to life	UPF	Fort Portal	Complainant's case
45.	UHRC FP/ 22/2003	James Karitanyi -and- Attorney General	Violation of freedom from torture and right to liberty	UPF	Fort Portal	Complainant's case
46.	UHRC S/ 143/2001	Margaret Acau -and- Otim et al	Violation of freedom from torture	N/A	Soroti	Complainant's case
47.	UHRC S/ 42/2002	Salim Chepkwurui -and- Attorney General	Violation of freedom from torture	Military Police	Soroti	Complainant's case
48.	UHRC S/ 94/2002	Masudi Sempala -and- Attorney General	Violation of freedom from torture and right to liberty	UPF	Soroti	Complainant's case
49.	UHRC S/ 63/2000	Moses Kirya Musisi and- Attorney General	Violation of right to property	UPDF	Soroti	Complainant's case
50.	UHRC 003/2003	Nafuna Esther -and- Samuel Wanyaka	Violation of right of a child to be cared for by the parent and right to parenthood	Public Servant	Headquarters	Complainant's case
51.	UHRC G/ 282/2000	Edward Taban -and- Attorney General	Violation of freedom from torture and right to liberty	UPDF & ISO	Gulu	Complainant's case
52.	UHRC G/ 326/1999	David Omong -and- Attorney General	Violation of freedom from torture and right to liberty	UPDF	Gulu	Complainant's case



**Table 2.2 Summary of partially heard complaints continued**

No.	Complaint No.	Parties	Nature of Complaint	Government Department/	Origin of Complaint Institution	Status
53.	UHRC G/204/2000	Rev. N. O. Ongom et al -and- Attorney General	Violation of right to property	R.D.C. Kitgum	Gulu	Complain case
54.	UHRC G/167/2000	Juk Omong -and- Attorney General	Violation of right to life	UPDF	Gulu	Complain case
55.	UHRC G/153/2000	Patrick Akora -and- Attorney General	Violation of right to property	UPDF	Gulu	Complain case
56.	UHRC G/76/2001	Eric Bosco Akera -and- Attorney General	Violation of freedom from torture and right to liberty	UPDF	Gulu	Decision
57.	UHRC G/149/2000	Julius Ogwara -and- Attorney General	Violation of right to property	UPDF	Gulu	Decision
58.	UHRC G/268/2000	Santos Nyero -and- Attorney General	Violation of right to property	UPDF	Gulu	Decision
59.	UHRC MBA/43/02	Madina Sasi -and- Richard Sasi	Violation of right of a child to be cared for by the parent	N/A	Mbarara	Complain case
60.	UHRC MBA/23/02	Penninnah Kobugabe -and- Patrick Twinamatsiko	Violation of right of a child to be cared for by the parent	N/A	Mbarara	Complain case

**Pending hearings**

2.04 A total of 91 complaints were pending hearing by the Tribunals by the end of 2003. Of these, 37 were pending at headquarters, 20 at Soroti, 4 at Mbarara, 2 at Jinja, and 28 at Gulu. The complaints were in reference to freedom from torture, right to personal liberty, right to maintenance, right to life, right to property, right to remuneration, and freedom from forced labour. The complaints were lodged against the Attorney General, District Local Administration Councils, private individuals, and a school. Commissioners were allocated 64 of the pending complaints, whereas 27 pending complaints were yet to be allocated to commissioners. Table 2.3 illustrates all complaints that were pending hearing at headquarters.

**Table 2.3 Summary of pending hearings**

No.	Complaint No.	Parties	Nature of Complaint	Origin of Complaint
1.	UHRC 688/99	Owor Pascal -and- Tororo District Admin.	Violation of freedom from torture and right to liberty	Headquarters
2.	UHRC 893/99	Nyakana Dorothy -and- Mashanyu Muhamadi	Violation of right of a child to be cared for by the parent	Headquarters
3.	UHRC 732/00	Kimuli Wilson -and- Attorney General	Violation of freedom from torture	Headquarters
4.	UHRC 1153/00	Waisswa Wilberforce -and- Mukono District Admin.	Violation of right to life	Headquarters
5.	UHRC 64/01	Florence Lukiko -and- Livingstone Lukiko	Violation of right of a child to be cared for by the parent	Headquarters
6.	UHRC 111/01	Mugisha John -and- Attorney General	Violation of right to liberty and right to property	Headquarters

**Table 2.3 Summary of pending hearings**

No.	Complaint No.
7.	MBA 383/02
8.	UHRC 446/02
9.	UHRC 34/02
10.	J/Log 12/02
11.	UHRC 5/02
12.	UHRC 31/02
13.	MBA 27/02
14.	UHRC 32/02
15.	MBA 32/02
16.	UHRC 1/02
17.	UHRC 2/02
18.	UHRC 3/02
19.	UHRC 4/02
20.	UHRC 5/02
21.	UHRC 6/02
22.	UHRC 7/02
23.	UHRC 8/02
24.	UHRC 9/02
25.	UHRC 10/02
26.	UHRC 11/02
27.	UHRC 12/02
28.	UHRC 13/02
29.	UHRC 14/02
30.	UHRC 15/02

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**Table 2.3 Summary of pending hearings continued**

No.	Complaint No.	Parties	Nature of Complaint	Origin of Complaint
7.	MBA 383/01	Twinomugisha Ronald -and- Attorney General	Violation of freedom from torture	Mbarara
8.	UHRC 446/01	Mariam Nakijjoba -and- Attorney General	Violation of freedom from torture, Violation of right to life	Headquarters
9.	UHRC 34/02	Bateganya Ramanzani -and- Sekite Sylvester	Violation of freedom from torture, Right to liberty	Headquarters
10.	J/Log 12/02	Alice Nabuloli Opolot -and- A.Z. Kanga	Violation of right of a child to be cared for by the parent	Jinja
11.	UHRC S/228/02	Twaha Sundya -and- Mbale District Admin.	Violation of right to life	Soroti
12.	UHRC 317/02	Akite Grace -and- Ebong Patrick	Violation of right of a child to be cared for by the parent	Headquarters
13.	MBA 27/03	Mukana Abraham -and- Kanyima Michael	Violation of right of a child to be cared for by the parent	Mbarara
14.	UHRC 323/03	Jude Okuku -and- Constance Ojambo	Violation of right of a child to be cared for by the parent	Headquarters
15.	MBA 32/2002	Estolia Kaitumba -and- Ezechel Barebereho	Violation of right of a child to be cared for by the parent	Mbarara
16.	UHRC 173/01	Emmanuel Ntale -and- Attorney General	Violation of freedom from torture, right to liberty and right to property	Headquarters
17.	UHRC 203/01	Osuna John Stephen -and- Attorney General	Violation of right to liberty	Headquarters
18.	UHRC 222/02	Jane F. Kasekya -and- Eric John Sabiiti	Violation of right of a child to be cared for by the parent	Headquarters
19.	UHRC 270/02	RA Pte Nangumya F. et al -and- Attorney General	Violation of right to personal liberty and freedom from torture	Headquarters
20.	UHRC 224/02	Mwebesa Myres -and- Attorney General	Violation of freedom from torture and right to liberty	Headquarters
21.	UHRC 271/03	Jeane Frances Nakamya -and- Hon. Rev. Kefa Sempangi	Violation of right to property and of a child to be cared for by the parent	Headquarters
22.	UHRC S/91/2003	Olupot Stephen -and- Attorney General	Violation of freedom from torture	Soroti
23.	UHRC S/8/2001	Egiru Apollo Stephen -and- Attorney General	Violation of freedom from torture and right to liberty	Soroti
24.	UHRC S/350/2002	Ojangole David -and- Attorney General	Violation of freedom from torture	Soroti
25.	UHRC S/361/2002	Ikamolet Peter -and- Attorney General	Violation of freedom from torture	Soroti
26.	UHRC S/224/2001	David Adelimo -and- Attorney General	Violation of freedom from torture, Right to liberty	Soroti
27.	UHRC S/220/2002	Ismael Mangusho -and- Attorney General	Violation of right to life	Soroti
28.	UHRC S/32/2001	Waniale Issah et al -and- Attorney General	Violation of freedom from torture	Soroti
29.	UHRC S/242/2002	Musisi Sam -and- Attorney General	Violation of freedom from torture	Soroti
30.	UHRC S/40/2003	Oluka Adesderio -and- Katakwi District Admin.	Violation of right to liberty	Soroti

**Table 2.3 Summary of pending hearings continued**

No.	Complaint No.	Parties	Nature of Complaint	Origin of Complaint
31.	UHRC S/173/2002	Okello Joseph -and- Attorney General	Violation of right to liberty	Soroti
32.	UHRC S/180/2003	Ajuro Teresa -and- Attorney General Onyanja Charles Ebiau	Violation of freedom from torture and right to property	Soroti
33.	UHRC 388/02	Sulaiman Kakomo -and- Attorney General	Violation of right to life	Headquarters
34.	UHRC S/46/2002	Mayu Babylon Yusuf -and- Bumbo Sub-County	Violation of right to property	Soroti
35.	UHRC 228/03	Allen Atukunda -and- Hon. Kahinda Otafiire	Violation of right of a child to be cared for by the parent	Headquarters
36.	UHRC 244/02	Harriet Nabacwa -and- Agalya Jonathan	Violation of right of a child to be cared for by the parent	Headquarters
37.	UHRC 321/02	Joyce Acan Aleper -and- Hon. Ael Ark Lodou	Violation of right of a child to be cared for by the parent	Headquarters
38.	UHRC 73/2002	Salim Chepkwuwui -and- Sgt Kato et al	Violation of freedom from torture	Headquarters
39.	UHRC S/94/2002	Sempala Masudi -and- Attorney General	Violation of freedom from torture and right to liberty	Soroti
40.	UHRC G/172/2001	Onek Atunya -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
41.	UHRC 695/99	Aziga Guma -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
42.	UHRC G/13/2002	Allele Robinson -and- Attorney General	Violation of freedom from torture	Gulu
43.	UHRC G/88/2002	Atoo Margaret -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
44.	UHRC G/113/2001	Charles Ochan -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
45.	UHRC G/577/99	Aber Aziza Juma -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
46.	UHRC G/205/2001	Titia Erastus -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
47.	UHRC M/78/2002	Turyahebwa Michael -and- Attorney General	Violation of freedom from torture and right to liberty	Mbarara
48.	UHRC 170/02	Edith Basirika Manyire -and- Henry Manyire	Violation of right to property and right to access to one's child	Headquarters
49.	UHRC 360/99	M.L. Loput -and- Attorney General	Violation of right to property	Headquarters
50.	UHRC S/63/2000	Moses S. Kirya -and- Attorney General	Violation of right to property (rent)	Soroti
51.	UHRC G/91/2001	Walter Alunyu -and- Attorney General	Violation of freedom from torture, Right to liberty	Gulu
52.	UHRC G/145/2000	Moro Keneri -and- Akena Voransio	Violation of freedom from torture and right to liberty	Gulu
53.	UHRC 98/2000	Muwonge Deo -and- Attorney General	Violation of right to liberty	Headquarters
54.	UHRC G/263/00	Martha Aluku -and- Attorney General	Violation of right to liberty	Gulu
55.	UHRC 1095/99	Ssepuyya B. -and- Attorney General	Violation of freedom from torture	Headquarters

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**Table 2.3**

No.	Co No
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**Table 2.3 Summary of pending hearings continued**

No.	Complaint No.	Parties	Nature of Complaint	Origin of Complaint
56.	UHRC G/110/2002	Odongo R. -and- Loro Demonstration School	Violation of right to remuneration	Gulu
57.	UHRC G/110/2002	Ojera D. -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
58.	UHRC G/199/2001	Okello A. -and- Attorney General	Violation of right to liberty	Gulu
59.	UHRC G/129/2001	Taban E. -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
60.	UHRC G/282/2000	Onyang K. -and- Attorney General	Violation of right to property	Gulu
61.	UHRC G/22/2000	Onek M. -and- Attorney General	Violation of right to property	Gulu
62.	UHRC G/7/2000	Juma A. -and- Attorney General	Violation of freedom from torture, right to life and right to property	Gulu
63.	UHRC G/26/1999	Ochieng T. -and- Attorney General	Violation of right to property	Gulu
64.	UHRC G/68/2000	Onyach Keneth -and- Attorney General	Violation of right to property	Gulu
65.	UHRC 203/01	Stephen Osuna -and- Attorney General	Violation of right to liberty	Headquarters
66.	UHRC 268/03	Sylvia Namaweje -and- Patrick Musisi	Violation of right of a child to be cared for by a parent	Headquarters
67.	UHRC 511/01	Sunday Ssekate -and- Attorney General	Violation of freedom from torture, Right to liberty	Headquarters
68.	UHRC 233/03	Rosemary Namayanja -and- Godfrey Ssali	Violation of right of a child to be cared for by a parent	Headquarters
69.	UHRC 41/03	Harriet Nabbona -and- Attorney General	Violation of right to life	Headquarters
70.	UHRC 382/98	Joseph Komakech -and- Ocoti Charles et al	Violation of freedom from torture	Headquarters
71.	UHRC 409/01	Joan Tumuhairwe -and- Attorney General	Violation of right to liberty	Headquarters
72.	UHRC G/128/01	Jacob Nyeko -and- Gulu Local Admin.	Violation of right to property	Gulu
73.	UHRC G/163/2003	Kony William Odera -and- Attorney General	Violation of right to property	Gulu
74.	UHRC G/5/2003	Rose Ayena -and- Attorney General	Violation of right to property and right to liberty	Gulu
75.	UHRC G/166/2003	Charles Okot -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
76.	UHRC 131/2003	George Okello et al -and- Attorney General	Violation of right to property	Gulu
77.	UHRC 181/2003	Maurencio Paito -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
78.	UHRC G/182/2003	Opoko Cizano -and- Attorney General	Violation of freedom from torture and right to liberty	Gulu
79.	UHRC G/168/2003	Ojul P'Otobi -and- Attorney General	Violation of right to property and right to liberty	Gulu
80.	UHRC 268/02	Gertrude Mugalu -and- Sam Male Sebuliba	Violation of right of a child to be cared for by a parent	Headquarters

**Table 2.3 Summary of pending hearings continued**

No.	Complaint No.	Parties	Nature of Complaint	Origin of Complaint
81.	UHRC 251/03	George Kutosi -and- Attorney General	Violation of right to life	Headquarters
82.	UHRC G/968/2000	Richard Adoli -and- Lira District Admin.	Violation of rights to work and right to liberty	Gulu
83.	UHRC J/10/2003	Edirisi Onulago Maluku -and- Attorney General	Violation of right to life	Jinja
84.	UHRC 388/02	Sulaiman Kakoma -and- Attorney General	Violation of right to life	Headquarters
85.	UHRC 283/03	Celine Akemo -and- Joseph Esabu	Violation of right of a child to be cared for by a parent	Headquarters
86.	UHRC 174/03	Annet Mucunguzi -and- Attorney General	Violation of right to liberty	Headquarters
87.	UHRC S/173/2002	Jospeh Okello -and- Attorney General	Violation of right to liberty	Soroti
88.	UHRC/ S/40/2003	Oluka Asederio -and- Katakwi District Admin.	Violation of right to liberty	Soroti
89.	UHRC 180/2003	Ajero Teresa -and- Attorney General and Charles Onyanja	Violation of freedom from torture and right to property	Soroti
90.	UHRC S/235/2003	Rogers Wekomba -and- Attorney General	Violation of right to property	Soroti
91.	UHRC S/46/2002	Mayu Yusuf -and- Mbale District Admin.	Violation of right to property	Soroti

**Note:** Many of the complaints pending hearing have since been heard and concluded in the course of the year 2004 when this report was being compiled.

**Mediation**

2.05 In total, 461 cases were considered for mediation. The Commission headquarters considered 125, Soroti considered 195, Fort Portal considered 89, Jinja considered 13, and Mbarara considered 39. The complaints were in reference to cruel, inhuman and degrading treatment, right of a child to be cared for by a parent, right to education, and right to a fair hearing. Table 2.4 illustrates all complaints considered for mediation at headquarters.

**Table 2.4 Complaints under mediation**

No.	Date Referred	Complaint No.	Violation	Status
1.	1/10/2002	UHRC 302/02	Right of a child to be cared for by a parent	Resolved
2.	3/10/2002	UHRC 305/02	Right of a child to be cared for by a parent	Referred to the tribunal
3.	8/10/2002	UHRC 311/02	Right of a child to be cared for by a parent	Resolved
4.	24/10/2002	UHRC 317/02	Right of a child to be cared for by a parent	Referred to the tribunal
5.	4/11/2002	UHRC 320/02	Right of a child to be cared for by a parent	Pending
6.	4/11/2002	UHRC 321/02	Right of a child to be cared for by a parent	Referred to the tribunal
7.	4/11/2002	UHRC 322/02	Right of a child to be cared for by a parent	Pending
8.	6/11/2002	UHRC 325/02	Right of a child to be cared for by a parent	Resolved
9.	12/11/2002	UHRC 335/02	Right of a child to be cared for by a parent	Resolved
10.	12/11/02	UHRC 337/02	Right of a child to be cared for by a parent	Pending



**Table 2.4 Co**

No.	Date
11.	13/11
12.	19/11
13.	27/11
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17.	13/1/
18.	19/1/
19.	19/1/
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21.	6/1/
22.	6/1/
23.	6/1/
24.	14/
25.	14/
26.	14/
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**Table 2.4 Complaints under mediation continued**

Origin of Complaint	No.	Date Referred	Complaint No.	Violation	Status
Headquarters	11.	13/11/2002	UHRC 341/02	Right of a child to be cared for by a parent	Resolved
Gulu	12.	19/11/2002	UHRC 349/02	Right to education	Pending
Jinja	13.	27/11/2002	UHRC 361/02	Right of a child to be cared for by a parent	Pending
Headquarters	14.	4/12/2002	UHRC 188/02	Right of a child to be cared for by a parent	Resolved
Headquarters	15.	6/12/2002	UHRC 374/02	Right of a child to be cared for by a parent	Resolved
Headquarters	16.	11/12/2002	UHRC 377/02	Right to education, Right of a child to be cared for by a parent	Pending
Headquarters	17.	13/12/2002	UHRC 384/02	Right of a child to be cared for by a parent	Resolved
Headquarters	18.	19/12/2002	UHRC 399/02	Right of a child to be cared for by a parent	Resolved
Headquarters	19.	19/12/2002	UHRC 400/02	Right of a child to be cared for by a parent	Resolved
Soroti	20.	19/12/2002	UHRC 401/02	Right to property, Right of a child to be cared for by a parent	Resolved
Soroti	21.	6/1/2003	UHRC 3/03	Right of a child to be cared for by a parent	Resolved
Soroti	22.	6/1/2003	UHRC 6/03	Right of a child to be cared for by a parent	Resolved
Soroti	23.	6/1/2003	UHRC 13/03	Right of a child to be cared for by a parent	Pending
Soroti	24.	14/1/2003	UHRC 29/03	Right of a child to be cared for by a parent	Resolved
Soroti	25.	14/1/2003	UHRC 14/03	Cruel, inhuman and degrading treatment, Right of a child to be cared for by a parent	Resolved
Soroti	26.	14/1/2003	UHRC 30/03	Right of a child to be cared for by a parent	Resolved
Soroti	27.	15/1/2003	UHRC 33/03	Right of a child to be cared for by a parent	Pending
Soroti	28.	20/1/2003	UHRC 40/03	Right of a child to be cared for by a parent	Resolved
Soroti	29.	22/1/2003	UHRC 42/03	Right of a child to be cared for by a parent	Pending
Soroti	30.	28/1/2003	UHRC 45/03	Right of a child to be cared for by a parent	Pending
Soroti	31.	29/1/2003	UHRC 48/03	Right of a child to be cared for by a parent	Pending
Soroti	32.	29/1/2003	UHRC 46/03	Right of a child to be cared for by a parent	Resolved
Soroti	33.	31/1/2003	UHRC 54/03	Right of a child to be cared for by a parent	Pending
Soroti	34.	4/2/2003	UHRC 64/03	Right of a child to be cared for by a parent	Resolved
Soroti	35.	17/2/2003	UHRC 85/03	Right to a fair hearing, Right of a child to be cared for by a parent	Resolved
Soroti	36.	17/2/2003	UHRC 87/03	Right to Property, Right of a child to be cared for by a parent	Referred to the tribunal
Soroti	37.	18/2/2003	UHRC 93/03	Children's rights, Right of a child to be cared for by a parent	Pending
Soroti	38.	19/2/2003	UHRC 94/03	Right of a child to be cared for by a parent	Resolved
Soroti	39.	19/2/2003	UHRC 64/02	Right of a child to be cared for by a parent	Pending
Soroti	40.	20/2/2003	UHRC 96/03	Right to education, Right of a child to be cared for by a parent	Resolved
Soroti	41.	24/2/2003	UHRC 107/03	Right of a child to be cared for by a parent	Referred to the tribunal
Soroti	42.	25/2/2003	UHRC 108/03	Right of a child to be cared for by a parent	Pending
Soroti	43.	25/2/2003	UHRC 109/03	Right of a child to be cared for by a parent	Pending
Soroti	44.	25/2/2003	UHRC 112/03	Right of a child to be cared for by a parent	Pending
Soroti	45.	25/2/2003	UHRC 365/2000	Right to education, Right of a child to be cared for by a parent	Resolved
Soroti	46.	28/2/2003	UHRC 113/03	Right of a child to be cared for by a parent	Pending
Soroti	47.	28/2/2003	UHRC 114/03	Right of a child to be cared for by a parent	Resolved

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**Table 2.4 Complaints under mediation continued**

No.	Date Referred	Complaint No.	Violation	Status
48.	28/2/2003	UHRC 115/03	Right of a child to be cared for by a parent	Resolved
49.	3/3/2003	UHRC 119/03	Right of a child to be cared for by a parent	Resolved
50.	3/3/2003	UHRC 120/03	Right of a child to be cared for by a parent	Resolved
51.	4/3/2003	UHRC 123/03	Discrimination, Right of a child to be cared for by a parent	Pending
52.	4/3/2003	UHRC 135/03	Right of a child to be cared for by a parent	Resolved
53.	4/3/2003	UHRC 136/03	Right of a child to be cared for by a parent	Pending
54.	11/3/2003	UHRC 143/03	Right of a child to be cared for by a parent	Pending
55.	17/3/2003	UHRC 157/03	Right of a child to be cared for by a parent	Resolved
56.	21/3/2003	UHRC 168/03	Right of a child to be cared for by a parent	Pending
57.	24/3/2003	UHRC 173/03	Right of a child to be cared for by a parent	Resolved
58.	25/3/2003	UHRC 175/03	Right to education, Children's rights	Pending
59.	25/3/2003	UHRC 177/03	Right of a child to be cared for by a parent	Referred to the tribunal
60.	25/3/2003	UHRC 178/03	Right to education, Right of a child to be cared for by a parent	Resolved
61.	25/3/2003	UHRC 189/03	Right of a child to be cared for by a parent	Pending
62.	25/3/2003	UHRC 194/03	Children's rights	Pending
63.	15/4/2003	UHRC 205/03	Gender discrimination, Right to access to child	Pending
64.	15/4/2003	UHRC 206/03	Right of a child to be cared for by a parent	Pending
65.	24/4/2003	UHRC 207/03	Right of a child to be cared for by a parent	Pending
66.	2/5/2003	UHRC 214/03	Right of a child to be cared for by a parent	Pending
67.	2/5/2003	UHRC 215/03	Right of a child to be cared for by a parent	Resolved
68.	12/5/2003	UHRC 225/03	Right of a child to be cared for by a parent	Pending
69.	12/5/2003	UHRC 226/03	Right of a child to be cared for by a parent	Pending
70.	12/5/2003	UHRC 227/03	Right of a child to be cared for by a parent	Resolved
71.	12/5/2003	UHRC 228/03	Right of a child to be cared for by a parent	Referred to the tribunal
72.	21/5/2003	UHRC 231/03	Right of a child to be cared for by a parent	Pending
73.	21/5/2003	UHRC 233/03	Right of a child to be cared for by a parent	Referred to the tribunal
74.	26/5/2003	UHRC 238/03	Right of a child to be cared for by a parent	Resolved
75.	26/5/2003	UHRC 239/03	Right of a child to be cared for by a parent	Pending
76.	26/5/2003	UHRC 232/03	Right to education and right of a child to be cared for by a parent	Pending
77.	26/5/2003	UHRC 237/03	Right to education, Right of a child to be cared for by a parent	Resolved
78.	30/5/2003	UHRC 240/03	Right to education, Right of a child to be cared for by a parent	Pending
79.	30/5/2003	UHRC 245/03	Right of a child to be cared for by a parent	Referred to the tribunal
80.	30/5/2003	UHRC 242/03	Right of a child to be cared for by a parent	Pending
81.	30/5/2003	UHRC 246/03	Right to education, Right of a child to be cared for by a parent	Resolved
82.	30/5/2003	UHRC 247/03	Right to know parents	Resolved

No.	Date
83.	30/5/03
84.	10/6/03
85.	10/6/03
86.	10/6/03
87.	10/6/03
88.	10/6/03
89.	10/6/03
90.	10/6/03
91.	10/6/03
92.	10/6/03
93.	10/6/03
94.	8/7/03
95.	15/7/03
96.	17/7/03
97.	21/7/03
98.	21/7/03
99.	29/7/03
100.	31/7/03
101.	31/7/03
102.	12/8/03
103.	13/8/03
104.	14/8/03
105.	18/8/03
106.	26/8/03
107.	27/8/03
108.	27/8/03
109.	27/8/03
110.	1/9/03
111.	3/9/03
112.	9/9/03
113.	9/9/03
114.	11/9/03
115.	16/9/03
116.	23/9/03
117.	30/9/03
118.	1/10/03
119.	1/10/03
120.	10/10/03

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**Table 2.4 Complaints under mediation continued**

No.	Date Referred	Complaint No.	Violation	Status
83.	30/5/2003	UHRC 252/03	Right of a child to be cared for by a parent	Resolved
84.	10/6/2003	UHRC 259/03	Right of a child to be cared for by a parent	Resolved
85.	10/6/2003	UHRC 262/03	Right of a child to be cared for by a parent	Resolved
86.	10/6/2003	UHRC 263/03	Right of a child to be cared for by a parent	Pending
87.	10/6/2003	UHRC 269/03	Right of a child to be cared for by a parent	Resolved
88.	10/6/2003	UHRC 268/03	Right of a child to be cared for by a parent	Referred to the tribunal
89.	10/6/2003	UHRC 271/03	Right to education, Right to property, Right of a child to be cared for by a parent	Referred to the tribunal
90.	10/6/2003	UHRC 276/03	Right of a child to be cared for by a parent	Resolved
91.	10/6/2003	UHRC 277/03	Right of a child to be cared for by a parent	Pending
92.	10/6/2003	UHRC 279/03	Right of a child to be cared for by a parent	Pending
93.	10/6/2003	UHRC 282/03	Right of a child to be cared for by a parent	Pending
94.	8/7/2003	UHRC 295/03	Right to know parents	Pending
95.	15/7/2003	UHRC 304/03	Right of a child to be cared for by a parent	Resolved
96.	17/7/2003	UHRC 307/03	Right of a child to be cared for by a parent	Resolved
97.	21/7/2003	UHRC 310/03	Right of a child to be cared for by a parent	Pending
98.	21/7/2003	UHRC 309/03	Right of a child to be cared for by a parent	Pending
99.	29/7/2003	UHRC 317/03	Right of a child to be cared for by a parent	Pending
100.	31/7/2003	UHRC 322/03	Right of a child to be cared for by a parent	Referred to the tribunal
101.	31/7/2003	UHRC 323/03	Right to education and right of a child to be cared for by a parent	Referred to the tribunal
102.	12/8/2003	UHRC 336/03	Children's rights	No jurisdiction and retired
103.	13/8/2003	UHRC 338/03	Right of a child to be cared for by a parent	Resolved
104.	14/8/2003	UHRC 340/03	Right of a child to be cared for by a parent	Resolved
105.	18/8/2003	UHRC 268/03	Right of a child to be cared for by a parent	Pending
106.	26/8/2003	UHRC 346/03	Right of a child to be cared for by a parent	Resolved
107.	27/8/2003	UHRC 350/03	Right to education	Resolved
108.	27/8/2003	UHRC 351/03	Right to education	Pending
109.	27/8/2003	UHRC 353/03	Right of a child to be cared for by a parent	No jurisdiction and retired
110.	1/9/2003	UHRC 359/03	Children's rights	Pending
111.	3/9/2003	UHRC 360/03	Right of a child to be cared for by a parent	Pending
112.	9/9/2003	UHRC 363/03	Right of a child to be cared for by a parent	Pending
113.	9/9/2003	UHRC 366/03	Right of a child to be cared for by a parent	Resolved
114.	11/9/2003	UHRC 365/03	Children's rights	Resolved
115.	16/9/2003	UHRC 370/03	Children's rights	Resolved
116.	23/9/2003	UHRC 377/03	Right of a child to be cared for by a parent	Resolved
117.	30/9/2003	UHRC 381/03	Right to education, Right of a child to be cared for by a parent	Resolved
118.	1/10/2003	UHRC 386/03	Right of a child to be cared for by a parent	Pending
119.	1/10/2003	UHRC 388/03	Right of a child to be cared for by a parent	Resolved
120.	10/10/2003	UHRC 392/03	Right of a child to be cared for by a parent	Resolved



**Table 2.4 Complaints under mediation continued**

No.	Date Referred	Complaint No.	Violation	Status
121.	14/10/2003	UHRC 395/03	Right to education	Resolved
122.	21/10/2003	UHRC 405/2003	Right of a child to be cared for by a parent	Resolved
123.	3/11/2003	UHRC 414/03	Right of a child to be cared for by a parent	Resolved
124.	3/11/2003	UHRC 421/03	Right of a child to be cared for by a parent	Pending
125.	10/11/2003	UHRC 423/03	Right of a child to be cared for by a parent	Resolved
126.	14/11/2003	UHRC 426/03	Right to education	Pending

2.06 It can be noted from table 2.4 that issues of right of a child to be cared for by a parent are prevalent and should be addressed appropriately. Many people seeking support for children from partners still find it difficult to utilise Family Courts, which are said to be slow and not widely known.

### Concluded complaints by Mediation

2.07 The Commission concluded 143 complaints that were considered for mediation. Headquarters concluded 69, Fort Portal resolved 48, Jinja resolved 9, and Mbarara resolved 17. The nature of the complaints was largely family oriented. Children represented by their next of kin submitted the largest number of complaints. The complaints were in reference to protection from torture, rights of children, maintenance, right of access to children, right to education, right to personal liberty, and right to fair hearing. The period of mediation ranged from one week to seven months. A number of complainants easily lost interest in their case. They seemed more interested in either retaliation or reconciling with the respondents rather than pursuing the case further to logical conclusion. Conversely, some complainants' cases were continuous. Partly almost 90% of the complainants were unemployed or casual labourers who had no permanent residence, no stable income, and several children. Table 2.5 illustrates the resolved complaints by the tribunal at headquarters.

**Table 2.5 Summary of concluded complaints by the tribunal**

No.	Complaint No.	Violation	No. of Children	Complaint on behalf of	Status/ Duration to Resolve
1.	UHRC 302/02	Right of a child to be cared for by a parent	One	Brian Agena (6 yrs)	Resolved on merit/ One week
2.	UHRC 293/2002	Right to parentage, Right of a child to be cared for by a parent	Two	Nanfuka Lillian (16 yrs) Nakabuye L. (12 yrs)	Resolved on merit/ Three weeks
3.	UHRC 83/2002	Right of a child to be cared for by a parent, Right to access to child, Inhuman treatment	One	N/A	Resolved on merit/ Seven months
4.	UHRC 311/2002	Right of a child to be cared for by a parent	One	Mbago Erasmus (10 mo)	Resolved on merit/ One month
5.	UHRC 341/2002	Right of a child to be cared for by a parent	One	Zahara Layirah (1 yrs)	Resolved on merit/ Two weeks
6.	UHRC 214/2002	Right of a child to be cared For by a parent	One	Kyomuhendo Maxencia (Complainant)	Resolved on merit/ Five months
7.	UHRC 374/2002	Right of a child to be cared for by a parent, Right to education, Right to property	One	Brian Owen (10 yrs)	Resolved on merit/ One week



**Table 2.5 Summary of concluded complaints continued**

No.	Complaint No.	Violation	No. of Children	Complaint on behalf of	Status/ Duration to Resolve
8.	UHRC 397/2002	Right of a child to be cared for by a parent, Right to education	One	Nuwangira H. (7 yrs)	Resolved on merit/ One week
9.	UHRC 006/2003	Right of a child to be cared for by a parent, Right to parenthood	One	Nannono Sharon (7 mo)	Resolved on merit/ One week
10.	UHRC 400/2002	Right of a child to be cared for by a parent, Right to education	Two	Kiggundu B. (12 yrs) Nakate Alice (10 yrs)	Resolved on merit/ Three weeks
11.	UHRC 399/2002	Right of a child to be cared for by a parent	Two	Anna Nafula (7 yrs) Ochiluo S. (4 yrs)	Resolved on merit/ Four weeks
12.	UHRC 40/2003	Right of a child to be cared for by a parent, Right to parenthood	One	(8 mo)	Resolved on merit/ One week
13.	UHRC 384/2002	Right of a child to be cared for by a parent	One	(Minor)	Resolved on merit/ Two months
14.	UHRC 29/2003	Right of a child to be cared for by a parent, Right to parenthood	Two	Namugerwa Ruth (4 yrs) Nantogo Faith (1yr)	Resolved on merit/ Three weeks
15.	UHRC 393/2002	Right of a child to be cared for by a parent	One	Joshua Jemba (2 yrs)	Resolved on merit/ Two months
16.	UHRC 390/2002	Right of a child to be cared for by a parent	One	Otim Robinson (2 yrs)	Resolved on merit/ Two months
17.	UHRC 30/2003	Right of a child to be cared for by a parent, Right to parenthood	Ten	N/A	Resolved on merit/ Two months
18.	UHRC 47/2002	Right to education, Right of a child to be cared for by a parent	Two	Juliana Karugi Mukantwale V.	Resolved on merit/ One week
19.	UHRC 86/2003	Right to liberty, Torture, Right of a child to be cared for by a parent, Right to parenthood	Two	Mulabe (4 yrs) Brian Waiswa (1 yrs)	Resolved on merit/ Two months
20.	UHRC 383/2003	Right of a child to be cared for by a parent	Two	Kigozi Sophia (3 yrs) Nakigozi N. (1 yrs)	Resolved on merit/ Two months
21.	UHRC 407/2002	Liberty, Right of a child to be cared for by a parent, Right to education	Six	G. Kambaza (17 yrs) Nambi Esther (15 yrs) Nasuna C. (13 yrs) Jimmy Kibuka (12 yrs) Kavulu M. (10 yrs) Nabitaka (8 yrs)	Resolved on merit/ Two months
22.	UHRC 46/2003	Right of a child to be cared for by a parent, Right to parenthood	One	Wakasa G. O.	Resolved on merit/ One month
23.	UHRC 94/2003	Right of a child to be cared for by a parent, Right to parenthood	Four	W. Kisambira (10 yrs) Simon Kisubi (8 yrs) Timothy Igaga (6 yrs) Dorotia Naigaga (4 yrs)	Resolved on merit/ One week



Table 2.5 Summary of concluded complaints continued

No.	Complaint No.	Violation	No. of Children	Complaint on behalf of	Status/Duration to Resolve
24.	UHRC 85/2003	Right of a child to be cared for by a parent, Right to parenthood, Right to a fair hearing	One	Abdullah Siika (1 yr)	Resolved on merit/ One week
25.	UHRC 298/2002	Right to liberty Right to property, Right to access to child	Two	Isaac Okanya (12 yrs) Nampijja M. (10 yrs)	Resolved on merit/ Five months
26.	UHRC 64/2003	Right of a child to be cared for by a parent, Right to parenthood	Six	Nanfuka Betty (23 yrs) Kakande Drake (20 yrs) Lukenge Davis (17 yrs) Nabatta Aida (15 yrs) Kalule Eddy (14 yrs) Birungi Hilda (12 yrs)	Resolved on merit/ Two weeks
27.	UHRC 96/2003	Right to education, Right of a child to be cared for by a parent, Right to parenthood	One	Etonu Isaac (13 yrs)	Resolved on merit/ Three weeks
28.	UHRC 119/2003	Right to know parents, Right of a child to be cared for by a parent	One	Ndugwa A. (32 yrs), Son of respondent	Resolved on merit/ One week
29.	UHRC 389/2002	Right of a child to be cared for by a parent, Right to education	Two	Eliz M. Katorobo (5 yrs) G. B. Katorobo (18 yrs)	Resolved on merit/ Three months
30.	UHRC 120/2003	Right to education, Right of a child to be cared for by a parent, Right to parenthood	NA	Wasswa Kanaba, Brother of respondent Recommendations	Resolved on merit/ One week
31.	UHRC 114/2003	Right of a child to be cared for by a parent, Right to parenthood	Four	Nambasa S. (7 yrs) Kityo H. (4 yrs) Nkata D. (2 yrs) Nansikombi S. (1 yrs)	Resolved on merit/ Three weeks
32.	UHRC 135/2003	Right of a child to be cared for by a parent, Right to parenthood	Five	Safina Nabakooza Abu Baker Lukyamuzi Hadija Nasazi Amir Kakoza Naswiba Nabuurna	Resolved on merit/ One week
33.	UHRC 178.2003	Right of a child to be cared for by a parent, Right to parenthood	One	Nanteza Fatuma (8 yrs)	Resolved on merit/ One week
34.	UHRC 335/2002	Right to education	One	Ibrahim Bukenya	Resolved on merit/ Four weeks
35.	UHRC 222/2002	Right of a child to be cared for by a parent	One	B. P. Karamukya	Resolved on merit/ Seven months
36.	UHRC 115/2003	Right of a child to be cared for by a parent, Right to parenthood	Two	Fazil Mwebaze (5 yrs) Halima (1 yr)	Resolved on merit/ One month
37.	UHRC 259/2003	Right of a child to be cared for by a parent	Three	(Minors)	Resolved on merit/ Two weeks

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**Table 2.5 Summary of concluded complaints continued**

<b>Status/ Duration to Resolve</b>	<b>No.</b>	<b>Complaint No.</b>	<b>Violation</b>	<b>No. of Children</b>	<b>Complaint on behalf of</b>	<b>Status/ Duration to Resolve</b>
Resolved on merit/ One week	38.	UHRC 173/2003	Right of a child to be cared for by a parent, Right to parenthood	Six	Mbulamaye T. (12 yrs) Perepetwa Y. (8 yrs) Namajja F. (6 yrs) Nankoma M. & Mugala (twins, 4yrs) Ndegemo T. (2 yrs)	Resolved on merit/ Two weeks
Resolved on merit/ Five months	39.	UHRC 157/2003	Right of a child to be cared for by a parent, Right to parenthood	One	Edgar Ssenyonga (5 yrs)	Resolved on merit/ Three weeks
Resolved on merit/ Two weeks	40.	UHRC 177/2003	Right to education, Right of a child to be cared for by a parent, Right to parenthood	One	Wazimbe Farouk, Respondent's son	Resolved on merit/ One month
Resolved on merit/ Three weeks	41.	UHRC 202/2003	Right of a child to be cared for by a parent, Right to parenthood, Child rights	Five	Nabbosa .M (14 yrs) Nakibuuka A. (12 yrs) Nalumu S. (10 yrs) Nalujja P. (8 yrs) Nakiyingi M. (6 yrs)	Resolved on merit/ One week
Resolved on merit/ One week	42.	UHRC 215/2003	Right of a child to be cared for by a parent	One	Gloria Mugisa (5 yrs)	Resolved on merit/ two weeks
Resolved on merit/ Three months	43.	UHRC 227/2003	Right of a child to be cared for by a parent, Right to parenthood	One	Aida Mudondo (7 mo)	Resolved on merit/ One week
Resolved on merit/ One week	44.	UHRC 238/2003	Right of a child to be cared for by a parent	One	E. Kayemba (16 yrs)	Resolved on merit/ Two weeks
Resolved on merit/ Three weeks	45.	UHRC 246/2003	Right of a child to be cared for by a parent	One	Wilson Odow (15 yrs)	Resolved on merit/ One week
Resolved on merit/ One week	46.	UHRC 237/2003	Right of a child to be cared for by a parent, Right to education	Two	Nambuya I. (16 yrs) Babuyaka D. (17 yrs)	Resolved on merit/ Three weeks
Resolved on merit/ One week	47.	UHRC 259/2003	Right of a child to be cared for by a parent, Right to parenthood	Six	Namawajji C. (16 yrs) Naluwagga L. (15 yrs) Ntabudde A. (13 yrs) Sekitoleko J. (12 yrs) Nabawanuka F. (10 yrs) Mutimba E. (6 yrs)	Resolved on merit/ Two weeks
Resolved on merit/ Four weeks	48.	UHRC 247/2003	Right of a child to be cared for by a parent	Two	Nicholas Mugenyi Bright L. Mugenyi	Resolved on merit/ Two weeks
Resolved on merit/ Ten months	49.	UHRC 276/2003	Right of a child to be cared for by a parent,	One	(Minors)	Resolved on merit/ Three weeks
Resolved on merit/ One month	50.	UHRC 283/2003	Right of a child to be cared for by a parent	One	Celina Akamo	Resolved on merit/ Two week
Resolved on merit/ Two weeks	51.	UHRC 003/2003	Right of a child to be cared for by a parent, Right to parenthood	Two	Mugide Tracy (4 yrs) Nakayinza Triza (3 yrs)	Resolved on merit/ Six months
	52.	UHRC 262/2003	Right of a child to be cared for by a parent	One	(6 yrs)	Resolved on merit/ One month

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**Table 2.5 Summary of Unconcluded complaints continued**

No.	Complaint No.	Violation	No. of Children	Complaint on behalf of	Status/ Duration to Resolve
53.	UHRC 304/2003	Right of a child to be cared for by a parent	Two	N/A	Resolved on merit/ One week
54.	UHRC 192/2003	Right of a child to be cared for by a parent	One	Scovia (2 mo)	Resolved on merit/ One month
55.	UHRC 307/2003	Right of a child to be cared for by a parent	Three	(14 yrs) (15 yrs) (17 yrs)	Resolved on merit/ One week
56.	UHRC 252/2003	Right of a child to be cared for by a parent	One	(Minor)	Resolved on merit/ One month
57.	UHRC 338/2003	Right of a child to be cared for by a parent	One	Allan Kauma (22 yrs)	Resolved on merit/ Three weeks
58.	UHRC 340/2003	Right of a child to be cared for by a parent, Right to access to child	One	(4 yrs)	Resolved on merit/ One week
59.	UHRC 346/2003	Right of a child to be cared for by a parent	One	A. Tumwebaze (20 yrs)	Resolved on merit/ One week
60.	UHRC 350/2003	Right of a child to be cared for by a parent	Four	N/A	Resolved on merit/ Two weeks
61.	UHRC 358/2003	Right of a child to be cared for by a parent	Two	Brenda Anita (4 yrs) Sumbua Nvimiri (2 yrs)	Resolved on merit/ Three weeks
62.	UHRC 370/2003	Right of a child to be cared for by a parent	One	(Minor)	Resolved on merit/ Two weeks
63.	UHRC 377/2003	Right to education	One	Jackline Akite (22 yrs)	Resolved on merit/ Two weeks
64.	UHRC 381/2003	Right of a child to be cared for by a parent	Two	(Minors)	Resolved on merit/ One month
65.	UHRC 392/2003	Right of a child to be cared for by a parent, Right to education	Five	Namakula J. (24 yrs) Ssemakula D. (22 yrs) Ssemakula G. (15yrs) Ssemakula W. (14 yrs) Namigadde S. (12 yrs)	Resolved on merit/ One week
66.	UHRC 366/2003	Right to education	One	Ojera Mark (22 yrs)	Resolved on merit/ One month
67.	UHRC 269/2003	Right of a child to be cared for by a parent	One	(2 mo)	Resolved on merit/ One week
68.	UHRC 365/2003	Right of a child to be cared for by a parent, Right to parenthood	One	Henry Sserumaga (3yrs)	Resolved on merit/ One month
69.	UHRC 14/2003	Right of a child to be cared for by a parent	One	Akram Dumba (5 yrs)	Resolved on merit/ One week

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Table 2.5 S

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**Table 2.5 Summary of concluded complaints continued**

No.	Complaint No.	Violation	No. of Children	Complaint on behalf of	Status/ Duration to Resolve
70.	UHRC 414/2003	Right of a child to be cared for by a parent	Two	Nangonzi S. (4 yrs) Buyungo J. (10 yrs)	Resolved on merit/ One week
71.	UHRC 405/2003	Right to education	One	Birungi Juliet (20 yrs)	Resolved on merit/ One week



## CHAPTER 03

# Civic Education

### Introduction

3.01 During the reporting period, the Commission used civic education and training as an important strategy to promote awareness and respect, protection and promotion of human rights. Civic education fulfilled the Commission's constitutional mandate to create and sustain awareness amongst Ugandans of their rights and civic responsibility and obligations. In this period, the Commission held several workshops and seminars mainly targeting security forces, including the army and the police; the youth; district leaders and the general public.

### Human rights sensitisation for non-commissioned officers of the Uganda Police Force.

3.02 The Commission headquarters organised and conducted four two-day human rights workshops for non-commissioned officers (NCOs) of the Uganda Police Force (UPF). The workshops were held in Kalangala, Masaka, Rakai, and Sembabule and attended by 175 NCOs. Table 3.1 shows the number of workshops conducted

and the number of officers who attended. Furthermore, both Mbarara and Soroti regional offices conducted workshops that targeted police officers.

The workshops aimed at providing police officers with human rights knowledge and the skills to police humanely, thus enabling them to execute their duties within the confines of rights-based policing. The specific workshop objectives were to discuss the following:

- The concept of human rights and the responsibilities of the police
- The concept of community policing and identifying humane methods of policing
- The rights of suspects from their arrest to incarceration and the responsibility of the police
- The rights of vulnerable groups and the responsibility of the police
- Specific international human rights standards that are relevant to police work
- The UN code of conduct for law enforcement officers



Activities to promote and protect human rights

Recommendations

3.03 At the end of the workshops, participants provided a list of recommendations for UPF management and the Uganda Human Rights Commission.

Participants recommended that UPF management does the following:

- Recruit additional female police officers to appropriately handle women's issues
- Improve the condition of police cells to better protect the rights of suspects
- Provide basic literature to all police units for easy access by police officers
- Establish mini-libraries at all district headquarters to provide human rights Materials.
- Increase man power for Community Liaison offices

Participants recommended that the Uganda Human Rights Commission do the following:

- Advise the government to facilitate the police in performing their duties

- Improve the welfare of the police officers
- Translate human rights materials into local languages as a means to increase awareness and understanding
- Provide a motor boat to each police post on the islands
- Establish remand homes in every region of the country
- Improve conditions in all detention facilities

3.04 Participants requested the government and local governments to construct remand homes to further protect the rights of child offenders. On their part, participants took on the responsibility to disseminate the knowledge they acquired to police officers who did not attend the workshops. They also condemned inhumane activity and resolved to eliminate it. They agreed to encourage police officers to do their work ethically and professionally, and to improve their accountability to the public.

**Table 3.1 Summary of the workshops for NCOs**

No.	Date	Venue	No. of participants	Presentations
1.	20-21 Nov 2002	Rakai, Serena Hotel Kyotera	40	<ul style="list-style-type: none"> <li>• Human rights and the Uganda Police Force</li> <li>• Introduction to the concept of community policing</li> </ul>
2.	19-21 Feb 2003	Sembabule, Hotel Rainbow	50	<ul style="list-style-type: none"> <li>• The rights of suspects from arrest to their incarceration and their demands on the police</li> </ul>
3.	19-21 Mar 2003	Kalangala, Ssesse Islands Hotel	50	<ul style="list-style-type: none"> <li>• International human rights standards relevant to policing</li> <li>• The rights of vulnerable groups (women, children, aged, disabled, refugees, and minorities) and their demands on the police</li> </ul>
4.	16-17 June 2003	Masaka, Social Center	35	<ul style="list-style-type: none"> <li>• The UN code of conduct for law enforcement officers.</li> </ul>

**Sensitisation on Rights Based Approach for the Uganda Prisons Service**

3.05 The Commission headquarters conducted two sensitisation workshops on the rights based approach for Uganda Prisons Service administrators and policy makers. Further, Soroti regional office conducted sensitisation workshops to convey human rights issues to prison officers.

3.06 The theme of the first two-day workshop organised by headquarters

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was, "Integrating human rights in the policy-making process in the Uganda Prisons Service". The workshop had two objectives. First, was to examine the existing policies in the UPS and identify areas where human rights could be integrated. Second, the workshop was intended to empower prison officers with the knowledge and skills required to mainstream human rights in the policy and administrative framework of the Uganda Prisons Services. Prison officers who participated in the workshop were trained to do the following:

- Explain the role of prison administrators and policy makers in the implementation and observance of human rights
- Describe the policy-making process and framework
- Mainstream human rights in the policy-making process and framework for the Uganda Prisons Service
- Develop a human rights monitoring, evaluation, and reporting mechanism in the Uganda Prisons Service

3.07 The participants examined the welfare policy of prisoners and staff, the rehabilitation policy, and the farming policy. They, then, identified human rights issues before suggesting remedies to alleviate the problems. The participants were also urged to apply the same knowledge and skills to all policies in the Uganda Prisons Service. This would ensure that all policies conform to human rights standards.

3.08 The second two-day workshop held for prison officers drew participants from human rights committees in the southern, western, and southwestern prison regions. The workshop, whose theme was, "Applying a Rights-Based Approach to Prisons Management" was attended by 40 participants drawn from

Masaka, Rakai, Mbarara, Bushenyi, Kasese, and Fort Portal. The targeted participants received prior sensitisation on human rights and were chairpersons and secretaries of the Human Rights Committees in their units.

3.09 The goal of the workshop was to empower prison officers with human rights knowledge and skills, to enhance respect for human rights, and to promote and protect human rights in the Uganda Prisons Service. Prison officers who participated in the workshop were asked to do the following:

- Critically examine the state of human rights in the operation of the Uganda Prisons Service with particular focus on discipline, health, labour, and welfare
- Discuss the rights-based approach and how to apply it to prison management
- Develop guidelines and benchmarks for monitoring, evaluating, and reporting on the state of human rights in the Uganda Prisons Service
- Develop a work plan for human rights committees for monitoring, evaluating, and reporting on human rights in the Uganda Prisons Service

#### Recommendations

- 3.10 At the end of the workshop, participants made the following recommendations:
- The rights-based approach ought to be applied to all sectors of the economy
  - Inmate labour should be legalised, and the proceeds accrued from inmate labour be used to improve the welfare of prisoners (e.g., bedding, diet, and clothing).
  - The UHRC needs to provide more literature on the rights-based approach to prisons staff.
  - Participants should share the rights-based approach with their colleagues and staff who did not attend the workshop.

**Table 3.2 Summary of workshop for the UPS**

No.	Date	Venue	No. of participants	Presentations
1.	11 April 2003	Kampala, Ridar Hotel Seeta	35 policy makers	<ul style="list-style-type: none"> <li>• The role of administrators and policy makers in the implementation and observance of human rights in the Uganda Prisons Service</li> <li>• The policymaking process and framework</li> <li>• Developing a human rights monitoring, evaluation, and reporting mechanism in the Uganda Prisons Service</li> </ul>



No.	Date
2.	25-200

3.11 The ad... ca... Ri... Ne... Co... by... an... Ug...

3.12 Th... ec... an... va... le... w... w... or... hu... w... fr... an... O... h... d... p... ri... n... r... c... n... c...

Reco... 3.13 A... r... • C... U... r... • C... t... c...

**Table 3.2 Summary continued**

No.	Date	Venue	No. of participants	Presentations
2	25-26 Sept 2003	Mbarara, Pelikan Hotel	40 members from the Human Rights Committees in the southern, western, and south-western prisons regions	<ul style="list-style-type: none"> <li>• The rights-based approach, a general overview</li> <li>• Guidelines on applying the rights-based approach to prisons management monitoring, evaluation, and reporting on human rights in prisons.</li> <li>• A critical analysis of the state of human rights in UPF management, focus on health of inmates and prisons staff, focus on discipline of inmates and staff, focus on the welfare of both inmates and UPF staff, focus on labour and work in prisons</li> <li>• Guidelines on developing a work plan</li> </ul>

**Sensitisation on human rights at work**

3.11 The Commission held a workshop advocating for the rights of workers called "Workers' Rights Are Human Rights". This workshop was held in November 2002 at the International Conference Centre and was attended by 60 participants, including leaders and members of workers' unions in Uganda.

3.12 The goal of this workshop was to educate participants on human rights, and provide them with the skills and values necessary to strengthen their leadership abilities. As a result of the workshop, participants were equipped with the skills to explain the meaning, origin, characteristics, and limitations of human rights. They were also provided with the skills to discuss workers' rights from a gender perspective, discuss articles from the International Labour Organisation (ILO) Convention and how they relate to workers' rights, discuss the role of government in the protection and promotion of workers' rights, discuss conflict handling mechanisms and management of resolution and transformation of conflict at work places, and identify the missing link in lobbying and advocacy campaigns.

**Recommendations**

3.13 At the end of the workshop, participants made the following recommendations:

- Government should recognise trade unions and ensure that employers too recognise them
- Government should not only promote tripartite dialogue, but also promote dialogue that involves stakeholders

beyond government, employers, and workers

- Government should ratify the core ILO Conventions on fundamental human rights, and specifically workers' rights
- Parliament should enact labour-friendly laws that draw from the ILO Conventions and the Constitution of Uganda and accordingly amend existing labour laws that contravene the provisions therein
- Members of Parliament who represent workers should lobby their fellow MPs to advocate for support of workers' rights in Parliament
- Government should institute an independent monitoring team (composed of stakeholders) to monitor government, IMF, and World Bank policies and activities before, during, and after implementation of the amended laws
- UHRC should place more focus and emphasis on the promotion and protection of workers' rights
- UHRC should hold meetings with leaders of trade unions to develop a strategy for promoting and protecting workers' rights in partnership
- UHRC should commence sensitisation on workers' rights countrywide to convince people that workers' rights are human rights, and thus should be recognised and respected
- UHRC should meet with the Ministry of Finance deregulation project to sensitise them on workers' rights, specifically the progressive legal provisions (e.g., the need for 12 weeks of maternity leave)
- The National Organisation of Trade Unions (NOTU) should urge the government to enact relevant labour



laws and sensitise workers on their rights and obligations

- Education on workers' rights should be incorporated in the school curriculum at an early stage
- Trade union leaders should urge employers to address gender concerns in the work place
- Trade union leaders and members should make an effort to acquire advocacy skills, the necessary resources (e.g., funds and manpower), and network with other advocacy organisations to improve their campaign for workers' rights
- Trade union leaders should carry out a public relations campaign to overcome the negative attitudes towards trade unions
- Trade union leaders should be organised, strong, exemplary, and democratic to be effective at their job
- Trade unions should use the Conflict Partnership Approach (since it is the most effective approach) in resolving industrial relations conflicts

#### **Sensitisation on the rights at work for employers and employees**

3.14 The Commission held a second workshop advocating for rights at work called, "Human rights at work: An obligation of the Employers and Employees". The workshop was held in September 2003 at the International Conference Centre. Several recommendations were made in response to the first workshop on workers' rights for the Commission to conduct a workshop that included workers, employers and the government. Therefore, this workshop included the three stakeholders and focused on ways to protect and promote the right to work and rights at work. 50 participants comprising of employers, trade unionists and officers from the Ministry of Gender, Labour and Social Development attended.

3.15 This workshop was organised to provide employers and employees with human rights knowledge, and thus enable them to better understand and strengthen their position and relationship to one another. Therefore, the objectives of this workshop were to discuss the rights at work and the challenges of observing them, to discuss the minimum wage issue and how best it can be implemented, to discuss the existing legal and institutional framework protecting rights of employers and employees, to

examine Uganda's compliance with state obligations in ensuring rights of employers and employees, and to make appropriate recommendations for promoting rights of employers and employees.

#### **Recommendations**

- 3.16 At the end of the workshop, participants made the following recommendations:
- Workers should form strong, democratic trade unions and increase their membership
  - Workers should know their obligations and respect them
  - Workers should know their rights, insist on those rights and protect them
  - Existing legal institutions should be strengthened and better facilitated
  - NOTU and its affiliates should put emphasis on capacity building to better enforce their responsibilities
  - A standing tripartite committee should be established to follow up on stakeholders' responsibilities
  - UHRC should follow up with employers who screen applicants for HIV and deny them employment based on positive test results
  - Stakeholders should ensure that information is disseminated to the populace
  - Stakeholders should be responsible for observing and creating awareness about human rights at the workplace
  - The tripartite committee should carry out research to justify the need for a minimum wage
  - There should be increased lobbying and advocacy for a minimum wage among policy makers, donors and parliament
  - NOTU and the UHRC should secure the political support of the Executive on minimum wage
  - There is need to sensitise beneficiaries about minimum wage
  - UHRC should educate workers (at the grass-roots and in local languages) about their rights and obligations
  - There should be increased coordination between key players on human rights issues
  - Human rights should be integrated in the school syllabus
  - Government should adequately facilitate or fund the Industrial court so it can function effectively
  - The Industrial court should be funded by the Consolidated Fund
  - A negotiation and dispute resolution mechanism for public service should be established
  - Labour bills must be tabled in





- parliament with immediate effect
- Workers and labour officials should be represented on the Investment Board and Immigration Board, and the Uganda Human Rights Commission
- Committees that can enforce or find solutions to workers' rights violations should be established
- Outdated labour laws should be repealed (e.g., the law that sets the minimum wage of Uganda shillings 6,000)

**Table 3.3 Workshops on rights at work**

No.	Date	Venue	No. of participants	Presentations
1.	14-15 Nov 2002	International Conference Centre	60	<ul style="list-style-type: none"> <li>Understanding the concept of human rights</li> <li>Workers' rights and obligations: The gender perspective</li> <li>The role of government in the promotion of workers' rights</li> <li>Conflict handling mechanisms: Management of resolution and transformation of conflict at work places</li> <li>Labour laws and ILO Conventions: Their relevance to workers</li> <li>Lobbying, advocacy and campaigning skills: <i>The missing link</i></li> </ul>
2.	18-19 Sept 2003	International Conference Centre	50	<ul style="list-style-type: none"> <li>The right to work and rights at work: Meaning and challenges</li> <li>Rights commonly violated at workplaces: Who should account?</li> <li>Minimum wage politics in Uganda: The perspective of the government, the employer and the employees'</li> <li>The existing legal and institutional framework protecting workers and employers: Is it sufficient?</li> <li>Monitoring government's compliance with workers' rights: What is expected of government?</li> </ul>

**Constitution Day Conferences**

3.17 Every year the Commission commemorates the promulgation of the 1995 Constitution with a conference that critically examines Uganda's progress towards constitutionalism. During this reporting period, the commission commemorated the 7th and 8th anniversaries of the promulgation of the 1995 Constitution of Uganda.

**Constitution Day Conference 2002**

3.18 In October 2002, the Commission held a two-day conference at Hotel Africana in Kampala called, "Revisiting the Contentious Issues in the 1995 Constitution". 150 participants, including government officials,

politicians, diplomats, NGO personnel, security officers, researchers, religious and cultural leaders, journalists and human rights activists attended the conference.

3.19 The constitutional review process prompted this conference. It was envisaged that the recommendations made by the conference participants would be submitted to the Constitution Review Commission for consideration.

3.20 The contentious issues discussed during the conference were:

- The death penalty
- Dual citizenship
- Federalism versus Unitarianism under democratic decentralisation,



- The national language
- Political systems

#### Recommendations

- 3.21 At the end of the conference, participants compiled the following recommendations by consensus.
- **The death penalty** should be retained but not mandatory as in the present Penal Code. It should be left to the discretion of the presiding judge, and be reserved for selected serious crimes. The debate on whether or not to totally abolish the death penalty should continue at all levels of society, and the legal and constitutional stand on this issue should be periodically reviewed in light of the changing views of the people.
  - Dual citizenship should be handled with great care and caution. It should not be open to anyone who applies for it. First, it should be available to Ugandan citizens who become citizens of other countries but still owe total loyalty to Uganda. Dual citizenship should not include former Ugandan citizens who joined security agencies or politics in other countries. Total allegiance to Uganda is questionable by people involved in security agencies or politics because loyalties are divided. Under the Uganda Immigration laws, allowance should be made to grant dual citizenship to nationals of other countries on fixed conditions.
  - **Federal and Unitary systems** of government are a topic of great importance, and therefore should be under debate at all levels of society. Whether Uganda adopts a federal or unitary form of government, the principle of democratic decentralisation should be respected.
  - **National language** is a controversial topic that is currently as strong as it was during the Constitution-making process. The consensus was to develop various languages for Uganda's various levels of contact and communication. This is done best by government policy rather than the Constitution. English should remain the official language to connect Uganda with the world. French should be promoted in secondary schools to enable Ugandans to effectively interact with French-speaking Africans and beyond. Swahili should be developed as the language for the East African Community. All local languages in Uganda should be

developed to meet the requirements of each community. Gradually through proper language policy in government a national language or languages will develop. Sign language for the deaf and Braille for the blind should be fully adopted as national languages for those two categories of people and promoted accordingly.

- **Political systems** in Uganda should be decided by the people. For this reason the Political Organisations Act should be amended to allow the Movement and the multiparty political system to campaign equally. With equal representation, the people can vote for the political system that best represents their needs.

#### Constitution Day Conference 2003

- 3.22 The 8th anniversary of the Constitution was marked in October 2003 at Hotel Africana in Kampala under the theme, "Constitutionalism and Multiparty Governance in Uganda". A total of 120 participants attended the conference. The attendees were comprised of politicians, especially multipartists and movementists, diplomats, members of parliament, human rights activists, student representatives, NGO personnel, religious and cultural leaders, members of the security forces, journalists and researchers. Table 2 below is a summary of the conferences that were conducted.

#### Recommendations

- 3.23 At the end of the conference, participants drafted the Kampala Declaration 2003, which among other things recommended the following:
- Ugandans should adequately know their history in order to learn and remember the lessons it offers
  - Constitutional Day Conferences be spread throughout the country and be extended to all major stakeholders in the government
  - The diversity of religion, ethnicity, region, and ideology in Uganda should be used positively to promote patriotism, nation-building, unity, solidarity, and core values
  - Tolerance needs to be promoted amongst the people
  - It should be conveyed to the people that democracy provides for equitable allocation of resources
  - Democracy needs to be regarded as a process (not an event) that requires nurturing
  - Social and political organisations as

Table 3.4

No.	Date
1.	16/10/2003



- well as political parties are important components of Democracy
- People need to be educated about democracy and what is required from a nation
  - A strong civil society is the foundation and principle facilitator to a culture of democracy
  - Marginalized and vulnerable people need to be empowered so democracy is perceived and understood as the foundation of justice for all
  - Solid institutions for democracy in Uganda must be maintained, strengthened and respected
  - The root-causes of institutionalised injustice and effective solutions to these injustices need to be discovered
  - The state needs to create a national and homogeneous army as provided for in the constitution
  - A national consensus needs to be developed in order to create a sustainable political system
  - The common good of all Ugandans should be the foundation of any political party, organisation, movement or ideology
  - A culture of full tolerance needs to be developed so that no group is marginalized
  - Every major achievement and value of the past should serve as a base for our future governance (i.e., the LC system, affirmative action, the autonomous constitutional commissions, democratic decentralisation of power, services and finances, utilising armed forces for the

protection of democracy but not as an instrument of terror against the people, and periodic and regular elections that are free and fair)

- As a conflict-prone nation, we should invest more in legal and peaceful means of mediation, negotiation, arbitration and reconciliation to resolve all our problems

3.24 The conference also compiled a list of crucial questions and issues that should serve as topics in future conferences and seminars:

- Proper identification of root-causes and solutions to issues in Uganda, rather than dealing with effects and consequences of what happened in the past
- Putting people at the centre of every political agenda: what it means and what it demands
- Identifying truly progressive and liberating forces that are pro-people, pro-democracy and pro-development
- Studying the vital importance of patriotism in Uganda and how it can be facilitated
- Studying the development of Uganda so that people have access to the basic requirements: food, safe water, clothes, shelter and affordable fuel
- Education on positive living and unity in diversity, appreciating what is different but legitimate
- Promotion of good, effective and democratic leadership at every level of our society

**Table 3.4 Constitution Day Conferences (Table of topics)**

No.	Date	Theme	Venue	No. of participants	Presentations
1.	16-17 Oct 2002	Revisiting the Contentious Issues in the 1995 Constitution	Hotel Africana	150	<ul style="list-style-type: none"> <li>• The Death Penalty: A case for its total and partial abolition</li> <li>• The Death Penalty: A case for partial abolition</li> <li>• A case for dual citizenship</li> <li>• A case against dual citizenship</li> <li>• A case for Federalism under democratic decentralisation</li> <li>• A case for unitary system under democratic decentralisation</li> <li>• A case for one or two national languages</li> <li>• A case for all local languages to become national languages</li> <li>• A case for adoption of one political system: The multiparty system</li> <li>• A case for continued political choice of political system through the referendum: Movement system and multiparty system</li> </ul>

**Table 3.4 Constitution Day continued**

No.	Date	Theme	Venue	No. of participants	Presentations
2.	2-3 Oct 2003	Constitutionalism and Multiparty Governance in Uganda	Hotel Africana	120	<ul style="list-style-type: none"> <li>• Politico-religious groups and other pressure groups in Uganda 1880s-1950s: Lessons for the future</li> <li>• Formation and impact of political parties in the 1950s up to independence: Lessons for democracy</li> <li>• A critical analysis of multiparty politics in Uganda between 1962- 1972 and 1980-1985</li> <li>• Opposition party politics from 1962- 1972 and 1980-1985: Lessons for multiparty democracy</li> <li>• Movement politics and governance 1980-2003: Lessons for democracy</li> <li>• The way forward for constitutionalism in future multiparty governance in Uganda</li> </ul>

**Constitution education for the youth**

3.25 The Commission implemented the last two phases of the Constitution Education Project during the reporting period. This project aimed at empowering the youth with information that would reduce their vulnerability, especially to political and social manipulation. After the workshops, the youth were expected to accept and appreciate the values of constitutionalism and act as agents of change in their communities.

3.26 The workshop's development objectives were to create responsible citizens from a vulnerable group. This was achieved by, facilitating behavioural and attitudinal change in regard to the values of the Constitution. The youth were also empowered to monitor and report on the state of human rights, democracy, and constitutionalism in their communities.

3.27 The objectives of the workshop required the participating youth to do the following:

- Describe the National Constitution in addition to explaining its provisions
- Describe the history of Constitution making in Uganda
- Describe the rights and civic duties of the youth enshrined in the Constitution
- Identify the contentious issues in the Constitution
- Identify achievements for youth rights in the 1995 Constitution

**Constitution youth project by region**

3.28 In the fourth phase, the Commission decentralised the responsibility of the implementation of the project to its regional human rights offices. This was possible since five regional offices had been opened, Gulu in the northern region, Soroti in the eastern region, Mbarara in the southern region, Fort Portal in the western region and Jinja in the southeast region. Since the regional offices were in proximity to the targeted youths in their region, it was more appropriate for regional offices to spearhead the implementation of the project in their region, and be supported by staff from headquarters.

3.29 Phase four was carried out between November 2002 and January 2003 by the regional offices. The institutions covered during phase four were determined by previous coverage and planned targets.

**Implementation of the United Nations Volunteer (UNV) Project**

The Uganda Human rights Commission is implementing a three-year United Nations Volunteer (UNV) project. The project started in 2003 involving Uganda Amnesty Commission, and the Ministry of local government and the Uganda Human Rights Commission to protect and promote human rights. It is being implemented through increased local voluntary activities and improved interaction of human rights institutions with CBOs, NGOs and the local

**Table 3.5**

No.	Date
<b>SOROTI</b>	
1.	27
2.	26
3.	29
4.	2 D
<b>FORT PORTAL</b>	
5.	2-3
6.	4 D
7.	5 D
8.	6 D
<b>JINJA REGION</b>	
9.	8 N
10.	3 D
11.	4 D
12.	9 D
<b>MBARARA</b>	
13.	7-8
14.	10
15.	11
16.	13



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population. At the time of writing this report, it had been extended to Kasese, Kabarole, Bundibugyo, Mbale (western Uganda), Soroti (eastern Uganda) and Gulu (northern Uganda). So far 10 (ten) training sessions on human rights education, the promotion of the amnesty law and local council guides had been planned and executed by volunteers (national and international) in partnership with the relevant implementing agencies.

**Table 3.5 Training workshops conducted by the regional offices**

No.	Date	Institution	No. of participants	Venue	Topics covered	
<b>SOROTI REGIONAL OFFICE</b>						
1.	27 Nov 2002	Sironko district youth councillors	95	Sironko Pentecostal Church	<ul style="list-style-type: none"> <li>• The Constitution, its background, structure, and relationship to other laws</li> <li>• Contentious issues in the Constitution</li> <li>• The rights and duties of a citizen</li> <li>• The Uganda Human Rights Commission and the protection of human rights</li> <li>• Visible gains made by the youth through the Constitution and challenges ahead.</li> </ul>	
2.	26 Nov 2002	Kapchorwa district youth councillors	129	Noah's Ark Hotel, Kapchorwa		
3.	29 Nov 2002	Moroto district youth councillors	112	Italian Embassy Hall, Moroto		
4.	2 Dec 2002	Kaberamaido district youth councillors	115	Kaberamaido District Community Centre		
<b>FORT PORTAL REGIONAL OFFICE</b>						
5.	2-3 Dec 2002	Canon Apollo Core Primary Teachers College, Fort Portal	340	College Hall		
6.	4 Dec 2002	Kasese district youth councillors	96	Virina Gardens		
7.	5 Dec 2002	Kyenjojo district youth councillors	133	Basiima Hall, Kyenjojo		
8.	6 Dec 2002	Kibale district youth councillors	76	Kibale District Headquarters		
<b>JINJA REGIONAL OFFICE</b>						
9.	8 Nov 2002	Kayunga district youth councillors	65	Katikomu Social Center, Kayunga		
10.	3 Dec 2002	Bugiri district youth councillors	108	Hiltop Hotel, Bugiri		
11.	4 Dec 2002	Busia district youth councillors	100	Community Hall, Busia		
12.	9 Dec 2002	Pallisa district youth councillors	98	Red Cross Hall, Pallisa		
<b>MBARARA REGIONAL OFFICE</b>						
13.	7-8 Dec 2002	Kabale Uganda College of Commerce	103	College Hall		
14.	10 Dec 2002	Kanungu district youth councillors	102	Kanungu Council Hall		
15.	11 Dec 2002	Rukungiri district youth councillors	100	Riverside Hotel, conference hall		
16.	13 Dec 2002	Rakai district youth councillors	101	Town Hall		

3.30 The Gulu regional office was unable to conduct training workshops during the phase of November and December 2002 because of regional insecurity. However, the Gulu regional office conducted the training workshops in January 2003 when the security situation improved.

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**Table 3.6 Workshops conducted by Gulu Regional Office**

No.	Date	Institution	No. of participants	Venue	Topics covered
1.	20 Jan 2003	Yumbe District Youth Councilors	274	District Resource Centre	<ul style="list-style-type: none"> <li>• The Constitution: its background, structure and relationship to other laws</li> <li>• Contentious issues in the Constitution</li> <li>• The rights and duties of a citizen</li> <li>• The Uganda Human Rights Commission and the protection of human rights</li> </ul>
2.	21 Jan 2003	Muni NTC, Arua District	400	College Hall	
3.	23 Jan 2003	Apach District Youth Councilors	131	Church of Uganda Women's Hall	
4.	25 Jan 2003	Ngetta National Teachers College, Lira District	408	College Hall	
5.	31 Jan 2003	Gulu District Youth Councilors	106	District Council Hall	

**Constitution youth project in Kampala**

3.31 The last phase was implemented in December 2002 in the Kampala region. Unlike other districts where the project had already been implemented, Kampala was not considered one district. Because Kampala district has five local government divisions, the commission equated them to districts for purposes of implementation. In effect, five one-day workshops for the youth in Kampala were held in Nakawa, Makindye, Lubaga, Central, and Kawempe divisions. As before, these workshops were for youth leaders from the National Youth Council and the Local Government Councils.

**Table 3.7 Summary of constitution education workshops in Kampala Region**

No.	Date	Institution	No. of participants	Venue	Topics covered
1.	16 Dec 2002	Nakawa Division youth councillors	106	Naguru Community Centre	<ul style="list-style-type: none"> <li>• The duty and advantage of knowing the Constitution</li> <li>• The innovations in the 1995 Constitution: Views on them</li> <li>• Contentious issues in the 1995 Constitution: Views for the Constitutional Review Commission</li> <li>• The Constitution and the Youth: Achievements, challenges and the way forward</li> </ul>
2.	17 Dec 2002	Makindye Division youth councillors	68	Police Children's School Hall	
3.	18 Dec 2002	Lubaga Division youth councillors	96	Mothers' Union Hall Namirembe	
4.	19 Dec 2002	Central Division youth councillors	105	Bat Valley Primary School Main Hall	
5.	20 Dec 2002	Kawempe Division youth councillors	87	Uganda Association for the Mentally Handicapped Conference Hall	

**Issues raised by the youth**

3.32 The following is a list of major issues voiced by the youth:

- A copy of the Constitution is expensive, and thus inaccessible by the youth, especially in rural areas
- The Constitution is in English and most youth cannot read it
- The youth and general population are unaware of the constitutional provisions, other laws, human rights

and duties

- Most youth have limited access (affordability) to secondary, post-secondary, tertiary and university education
- There is an inadequate amount of technical and vocational training
- There is a high rate of unemployment among the youth and most advertised jobs require a high level of experience
- A social security system that ensures



employees retire at the required age of 60 years and opens these jobs to the youth

- There is a lack of economic empowerment of the youth
- The youth should be more involved in the decision making process, especially at the national level
- The youth have minimal representation in parliament, yet they represent the largest constituency
- The National Youth Council is not facilitated, and the roles of the youth council members are not clearly defined as a result of the youth council's parallel structure
- Election campaigns and elections days are accompanied by violence, vote buying and intimidation
- Youth elections take place during the term, so youths attending school can not participate
- A high rate of defilement exists, and the law on defilement discriminates against boys
- Insecurity and insurgency in parts of the country lead youth to join the rebellion due to promises of jobs and money, and in affect many youth have experienced gross human rights violations associated with war
- Affirmative action is giving girls an unfair advantage, especially in accessing university and tertiary education
- The provisions on age limit for public office are discriminatory (e.g., the Presidency and District Chairmanship)
- Corruption is a major problem, and government seems unwilling to fight it
- People are illegally detained, especially in safe houses (ungazetted places of detention) where a significant number of the detainees are youths
- Prison conditions are poor and violate the human rights of prisoners
- Several youth are detained on charges of defaulting on graduated tax

**Recommendations**

- 3.33 The following is a list of recommendations voiced by the Kampala youth:
- More sensitisation workshops should be held for youths nationwide
  - UHRC should strive to educate every Ugandan about the Constitution, constitutionalism and human rights
  - A certificate of attendance should be issued to all workshop participants to help authenticate their effort to educate the populace about human rights
  - Free or subsidised copies of the

Constitution should be available to the youth, preferably abridged and translated versions

- UHRC should open offices in each district
- UHRC needs a toll-free telephone line so Ugandans are encouraged to report human rights violations
- UHRC should conduct radio programmes on FM stations, as they are more popular than Radio Uganda
- UHRC needs to establish a Youth Desk at the Commission to handle all human rights matters pertaining to the youth
- UHRC should have at least one youth member on the staff
- Youth representation needs to be increased, especially in the political and administrative arena (e.g., the East African Legislative Assembly, National Parliament, and District and Local Councils)
- Government needs to end the insurgencies in the northern Uganda
- Government should create more employment opportunities for the youth and consider the possibility of exporting willing labour
- Legal provisions that enforce the age limit to public office discriminate against the youth and should be amended
- Counselling centres should be established nationwide, preferably at the sub-county level to be of assistance to youth in Uganda

3.34 The following is a list of recommendations voiced by youth councillors:

- UHRC should urge the government to publish the Constitution in various local languages, so it can be utilized by non-English speaking Ugandans
- The Local Government Act of 1997 should be amended to include a secretary for human rights on the executive of the Local Councils
- Government should provide adequate financial assistance to the youth and ensure that the youth have access to the "entandikwa" funds (soft loans)
- Youth leaders should be elected by a secret ballot process
- Government should reconcile the existing youth structures and clearly state what ministry is responsible for supporting youth councils, work and activities
- A youth should head the youth division of the Ministry of Gender, Labour and Social Development to best represent their needs and problems

3.35 By the end of the project, 57 of the



projected 76 workshops were conducted in 44 of the 56 districts in Uganda. As a result, 8582 youth were educated on the Constitution.

**Training of Trainers (ToT) in human rights - Political Commissars**

3.36 Between October and November 2002 the Uganda Human Rights Commission in collaboration with Save the Children-Denmark, the Centre for Conflict Resolution and the Mass Communications Department at Makerere University prepared an Interim Resource Manual for training of trainers for the Uganda Peoples Defence Forces (UPDF). In December 150 Political Commissars in Gulu were trained as Training of Trainers (ToT) in human rights. The ToT workshop was held at the UPDF 4th Infantry Division Headquarters, Gulu. The Political Commissars were drawn from UPDF divisions countrywide. (See photo 2 at the end of chapter: Commissioner...)

3.37 The goal of the ToT was to equip Political Commissars with human rights knowledge, and training of trainers' skills and methodology. This would enable the ToT participants to conduct Human Rights training for army officers and personnel in their respective brigades.

**Monitoring Political Commissars conducting human rights workshops**

3.38 At the end of the ToT in Gulu, it was

decided that ToT Political Commissars would train fellow officers and personnel at brigade level in the UPDF.

In addition, it was decided that the UHRC and the UPDF Human Rights Desk Officers would constitute a monitoring team to supervise the Political Commissars as they conducted human rights workshops.

Between March and June 2003 the UHRC/UPDF teams monitored 21 Political Commissars' trainings in Mbarara, Masaka, Entebbe, Gulu, and Karamoja.

3.39 The objectives of monitoring the Political Commissars were to assess their level of knowledge, their ability to impart knowledge to the trainees, and their ability to select and use appropriate and effective teaching methodologies.

3.40 The monitoring teams were specifically interested in the Political Commissars' level of performance in the following competencies:

- Human rights knowledge
- Skill acquisition in training
- Methodology
- Level of preparedness
- Selection and use of teaching/learning aids
- Time management

**Table 3.8 Number of Political Commissars monitored in the five divisions**

Date	Division One	Division Two	Division Three	Division Four	Division Five	Comments
Between 29 March and 20 June 2003	5	3	7	3	3	Generally, most Political Commissars had adequate human rights knowledge. However, they lacked the skills to impart the appropriate methodology knowledge and to select for their trainees.

**Human rights research**

3.41 The department spearheaded a research survey to examine the status of health rights of patients and their attendants in private and public health facilities in Uganda, specifically in Apac, Kampala, Kamuli, and Sembabule districts. Information concerning the rights of patients and their attendants, including the extent that rights were





being violated or respected, was assessed and documented. The study also highlighted the constraints that patients and their attendants faced in health facilities throughout the country.

There were a total of 1,383 respondents, 376 were health workers, 843 were patients and attendants, 157 were members of the public, and 7 were key informants (i.e., 4 district directors of health services and 3 district drugs inspectors).

3.42 The following is a list of the study's objectives:

- To learn about the attitudes of patients and attendants towards health service providers and vice versa
- To determine the causes and consequences of the neglect of rights of patients and attendants in medical centres
- To gain an understanding of the health services of the target population
- To learn about the attitudes toward paying for basic health services
- To inform government policy makers, NGOs and all relevant stakeholders about the current status of patients' health rights and their attendants in health facilities in Uganda

3.43 The following is a list of health rights that were found to be the most respected:

- The right to privacy
- The right to confidentiality
- The right to informed consent (mainly in respect of People Living with HIV/AIDS)
- The right to equal treatment (non-discrimination)
- The right to immunisation (in respect of children)

3.44 The following is a list of health rights that were found to be the most violated:

- The right to access drugs and food (including drinking water)
- The right to prompt treatment in public health facilities
- The right to treatment despite affordability
- The right to treatment in emergency situations
- The right to optimal care/holistic treatment

3.45 The general recommendation was that both central and local governments prioritise health services in their budgets. Other recommendations were

made to specific government ministries, bodies or organisations.

- 3.46 The results from this report will provide a wealth of information to the government, NGOs and all stakeholders, international and local that are involved in the promotion and protection of human rights, particularly health rights. The findings of the survey, though conducted in selected districts, are representative of the general situation in Uganda. The following stakeholders will be targeted to benefit from the research: the Ministry of Health, the Ministry of Gender, Labour and Social Development, the Ministry of Finance, Planning and Economic Development, women's and children's rights organisations, the National Union of the Disabled Persons, and all NGOs and development agencies working in health-related sectors.

#### **Human rights publications**

3.47 One way the UHRC disseminates human rights information is through Your Rights magazine, a monthly publication published by the Commission. Every month 4000 copies of the magazine are produced. During the period under consideration, Your Rights magazine covered the following topics:

- HIV/AIDS and human rights
- Revisiting contentious issues in the Constitution (commemorating the 7th anniversary of the 1995 Constitution)
- Security and human rights focusing on Operation Wembley
- Children's rights
- Freedom from torture, inhuman, and degrading treatment or punishment
- The rights-based approach to development

#### **Coordination for the National Framework for Civic Education Programme**

3.48 The Uganda Human Rights Commission hosts the newly established National Framework for Civic Education Programme (NFCEP).

3.49 The NFCEP was instituted when civic education providers agreed to a broad-based national civic education framework. This was expected to consolidate the important role of equipping citizens with relevant knowledge to contribute to and participate actively and meaningfully in the socio-economic, political, and development process. It was designed



to end the pursuit of individual civic education programmes, and serve as a means for donors to channel funds for civic education delivery in Uganda. The programme has adopted a rights-based approach and will emphasise human rights, domestic law, regulations, and principles of participatory government. This will serve as a means of implementation and the realisation of the community's values and priorities.

3.50 The Commission will continue to collaborate with the National Civic Education Programme in addition to implementing the UHRC's civic education activities.

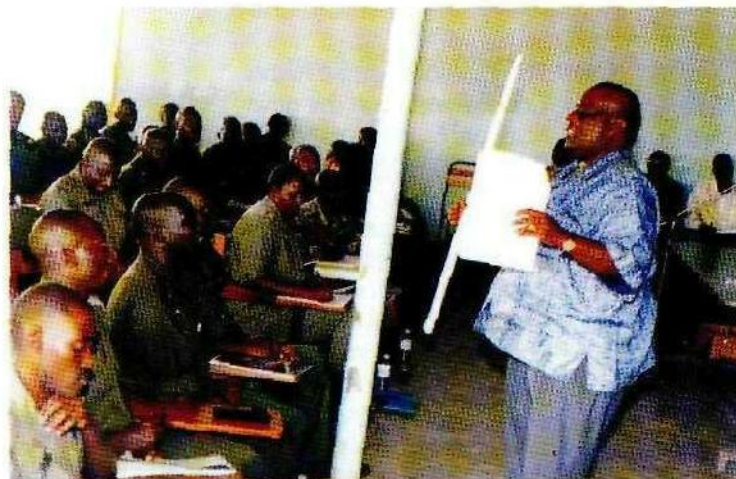
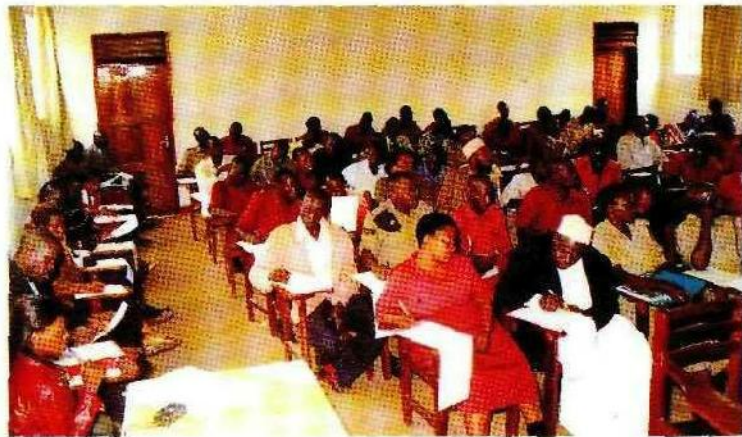
**Human rights in the journalism syllabus**

3.51 The Minister of State for Higher Education, Dr. Beatrice Wabudeya launched a standard syllabus of the National Diploma in Journalism for all

journalism-training institutions in Uganda on 7th November 2003 at Hotel Africana. The programme was led by the Eastern Africa Media Institute and developed by the Media Syllabus Development Committee of stakeholders (funded by Friedrich Ebert Stiftung). The Uganda Human Rights Commission was an active member. The Syllabus contains a core module on Media Ethics, Law and Human Rights. The human rights component comprises the following:

- The concept of human rights
- Historical perspective of human rights
- International human rights instruments
- African concepts and instruments of human rights
- Promotion and protection of human rights in Uganda
- Categorisation and analysis of human rights
- The role of journalists in promoting and protecting human rights

*Special Police Constables of the Uganda Police Force undergoing a human rights sensitisation seminar at Youth Sharing Hall Nsambya, organised by the Department of Education Research and Training, UHRC*



*Commissioner C.K. Karusoke sensitising the UPDF about Human Rights at Kabamba Military Training School. The Education, Research and Training department conducted many such seminars for security organs.*

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# Monitoring the the state of Human Rights

## **Introduction**

4.01 The Commission is responsible for monitoring human rights throughout Uganda, drafting annual and periodic reports, monitoring all bills submitted to Parliament to determine if they comply with the constitution and human rights standards, and monitoring the government's compliance with ratified international human rights treaties. An in-depth account of these activities is found in chapters six and seven. The following categories provide a summary of the activities the Commission was involved in during the period under review.

## **Promoting the human rights-based approach**

4.02 The Commission actively promoted the human rights-based approach to development (HRBAD). Nine workshops were conducted to explain the meaning, relevance, and applicability of HRBAD. The participants included government officials, lawyers, NGO personnel, and civil society members. As a way forward, the department is in the process of drafting

a brochure on the rights based-approach (RBA) that will be distributed to all stakeholders. (Refer to Chapter 14, Poverty eradication and human rights)

## **Monitoring Karamoja and disarmament**

4.03 The department was engaged in assessing the progress of disarmament programme in Karamoja initiated by President, H.E Yoweri Kaguta Museveni. The Commission also monitored issues relating to civil military operation centres, the security situation, access to food and rights of IDPs .

## **Monitoring the rights of IDPs and refugees**

4.04 The commission conducted field visits to refugee settlements in Nakivaale and Orukinga in Mbarara district, and Kyaka 1 and 2 in Kyenjojo district. Problems that existed in these settlements included ethnic tensions, population reduction due to fear of repatriation, the policy of self reliance compromised

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See chapter 6 – Karamoja disarmament programme



due to lack of available land, conflict between refugees and the local population over land, absenteeism from school, and high incidence of malaria.

- 4.05 The Commission worked with the office of the Prime Minister and the Department of Disaster Management to develop the National Policy on Assistance and Protection of IDPs. A strategic plan was adopted for implementing this policy. (Refer to the chapter on Conditions of IDPs and Refugees)

#### The production of periodic and annual reports

- 4.06 The 2001/2002 Commission Annual Report was officially launched on 9th April 2003. This followed the Commission's official presentation of the report to the speaker of parliament of the Republic of Uganda. The popular version of the 2001/2002 Commission Annual Report was translated into five local languages (Runyakitara, Luganda, Ateso, and Luo) and published in local papers. The commission is in the process of publishing the following periodic reports: Karamoja Disarmament, Right to Food, Public Hearing on Disabilities and the State of Internally Displaced Persons (IDPs) in Uganda.

#### Xenophobia in Kibaale

- 4.07 The Commission is dynamic in responding to emerging human rights issues. In June 2003, a Commission team visited Kibaale district in response to several press reports of ethnic clashes between the "abafururuki" immigrants and the indigenous Banyoro over land. The conflict resulted in the killing of two people by immigrants in Kabamba Village.
- 4.08 A number of people were interviewed, including the Chief Administrative Officer, Mr. Simon Kimono, the LCI Chairman of Kabamba Village, police officers from the Kabamba Police Post, the residents of Kabamba Village, and the Isunga Police Station DPC, Mr. Okuja Dennis. In the end, investigations revealed that the root cause of the conflict emanated from misinformation.

#### Recommendation

- 4.09 The primary recommendation made by the Commission was to solve the land issue through the following

measures:

- Allocate land to the people without discrimination
- Pre-empt further chaos or reprisals
- Guard against opportunistic groups
- Disseminate correct information

#### The rights of people with disabilities

- 4.10 In June 2003, the commission organised an International workshop titled, "Promoting the Rights of People with Disabilities: Towards a New UN Convention". The purpose of the workshop was to discuss the development of a United Nations Convention to promote and protect the rights of persons with disabilities. The workshop was attended by representatives of National Human Rights Institutions (NHRI), governments, and NGOs from several African countries including Kenya, Niger, Malawi, Mauritius, Rwanda, South Africa, Tanzania, Uganda, and Zambia.

#### Outcomes

- 4.11 As a result of the workshop, a final declaration was adopted by consensus. The declaration incorporated all comments, recommendations, and amendments made during and after the workshop.

#### Recommendations

- 4.12 The declaration, *inter alia* made recommendations on the content of the proposed United Nations Convention. Additional recommendations are listed as follows:
- The preamble to the convention should:
  - Stress the need for a comprehensive rights based convention,
  - Recognise the value and applicability of existing international human rights instruments on disability, and in particular the United Nations Standard Rules of Equalisation of Opportunities for People with Disabilities, the African Charter on Human and Peoples' Rights (Art 18(4)), and their link to the Convention,
  - Recognise the impact of dual or multiple discriminations faced by women, children, refugees, and minorities, including persons with multiple disabilities and minorities of marginalized status,
  - With regard to the definition of "disability" the Convention should:
  - Provide a minimum standard that



States may build upon

- Include a definition that is premised on an understanding that disability is a social construct resulting from discrimination, prejudice, and exclusion
- The Convention should include all forms of disabilities (e.g., physical, sensory, intellectual, psychiatric, permanent, temporary, episodic and perceived)
- NHRIs should inform their governments about the importance of developing a comprehensive and integral rights based Convention and recommend that they actively support its development
- The Convention should have an effective monitoring mechanism, which includes the possibility of conducting inquiries into systemic violations
- The Convention should support the establishment of effective national monitoring mechanisms with respect to the *Principles Relating to the Status of National Institutions* (the *Paris Principles*)
- Any expert committee established under the Convention should include persons with disabilities
- State parties should be obliged by the Convention to take legislative and policy action
- The Convention should recognise the responsibility of state parties to create a barrier free society through the establishment of an effective enabling

environment

- The Convention should recognise the vulnerability of persons with disabilities in situations of crisis, such as conflict and natural disasters
- NHRIs should raise awareness in their respective societies about the importance of developing the proposed Convention and ensure the implementation of existing International and Regional human rights standards of persons with disabilities
- NHRIs should consult with persons with disabilities, disabled peoples' organisations, and relevant NGOs about the development of the proposed convention
- NHRIs should establish a disability rights component in their work, including their complaint handling procedures, and appropriately represent persons with disabilities in their institutions
- NHRIs should develop human rights plans of action that incorporate the rights of persons with disabilities
- NHRIs should develop monitoring indicators (to show the impact and access of persons with disabilities to NEPAD initiatives) and participate in the monitoring and evaluation processes
- NHRIs should accept the proposed declaration to establish an informal network of NHRIs' disability focal points. Note: chapter 6-16 expands on the monitoring function of the commission.



A Human Rights Based Approach to Development workshop for policy makers organised by the Monitoring and Treaties Department, UHRC



Commissioner J. M. Aliro Omara (Standing) guides a group of UHRC staff members at one of the training sessions on HRBA

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# Finance and Administration

## Introduction

- 5.01 Both the Government of Uganda and donors fund the Commission. The government funds 100% of the wage bill and 8.6% of the non-wage bill. The donors fund most of the non-wage activities of the Commission. From 1997/1998 to 2002/2003, the government has consistently increased funding to the Commission. However, irrespective of the government's increase in funds released, the Commission's budget remains notably under-funded (as illustrated by table 5.1). For example, in 2001/2002 the government released Uganda shillings 1.7 billion instead of the required Uganda shillings 6.9 billion; and in 2002/2003 the government released Uganda shillings 2.6bn instead of the required Uganda shillings 8.9 billion. In 2003/2004 the government released Uganda shillings 2.5 billion (down 1 million from the previous financial year) instead of the required Uganda shillings 8.6 billion.
- 5.02 Donor contributions in 2001/2002 and 2002/2003 were Ushs 2.69 billion, an increase relative to previous years. This

increase was in response to the regional offices that opened in Gulu, Soroti, Mbarara, Fort Portal and Jinja. However, for the 2003/2004 financial year, donor contributions decreased from Uganda shillings 2.69 billion to Uganda shillings 2.01 billion. In the past, donors funded specific projects, but presently donor funds are allocated to programmes initiated by the Commission and the government. The Commission was also moved from the Justice, Law and Order Sector to the Public Administrative Sector. This move also affected the level of funding allocated to the Commission because the budget under the Justice, Law and Order Sector is greater than the budget under the Public Administration Sector.

- 5.03 In addition, discrepancies exist between what donors pledge and what the government claims is contributed by donors. For the 2004/2005 financial year, donor agencies reported a contribution amounting to Uganda shillings 1,612,123,453 to the Commission, but the Ministry of Finance, Planning and Economic



Development reported donor contributions to be Uganda shillings 3.7 billion. The described budget constraints did adversely affect the operations of the Commission.

**Table 5.1 Summary of the Commission's funding for the 1997-2004 financial years (Uganda shillings millions)**

Financial year	Recurrent/ Activity	Capital Development	Total GoU release[1] 1997 base	Incremental increase to	UHRC requirement [2]	Donor funding per financial year [3]
1997/98	-	-	1,456	0%	5,367	101
1998/99	1,400	100	1,400	-4%	2,698	1,980
1999/00	1,541	150	1,541	10%	2,646	1,217
2000/01	1,763	55	1,763	14%	2,845	963
2001/02	1,718	95	1,718	-3%	6,961	2,695
2002/03	2,630	613	2,630	53%	8,984	2,695
2003/04	2,580	42	2,580	-2%	8,602	2,010
<b>Totals</b>	<b>11,632</b>	<b>1,055</b>	<b>13,087</b>	<b>-</b>	<b>38,103</b>	<b>11,661</b>

### Parliament's recommendations on the UHRC budget

5.04 The Commission presented its budget estimates to the Legal and Parliamentary Committee during the 2002/2003 financial year. The Committee acted by submitting a number of recommendations to the Ministry of Finance, Planning and Economic Development. To date, most of the Committee's recommendations have not been implemented. In its recommendations, the Committee made the following observation;

- The shift of the UHRC from the Justice, Law and Order Sector to the Public Administration Sector was arbitrary. One reason to justify the shift was that the Ministry of Finance, Planning and Economic Development purported that they could not oversee the operations of the UHRC if it remained under the Justice, Law and Order Sector. However, the Committee proposed that the transfer of UHRC to the Public Administration Sector be reversed.
- The Commission's independence may be compromised by its being in the Public Administration Sector considering the latter is monitored by the Commission. Its presence in the sector has made the UHRC ineligible for the 5% automatic annual increase given to institutions under the Justice, Law and Order Sector.
- Awards granted by the UHRC should be executed by the High Court. In most cases the government did not acknowledge the awards. In turn, the aggrieved parties abandoned their

complaints due to a lack of resources for legal representation.

- The UHRC headquarters will be redeveloped with a grant provided by the Swedish International Development Agency. The grant money has been available for the UHRC redevelopment scheme since last year. Construction work is expected to start in 2004. Before this is implemented, the UHRC headquarters needs to temporarily relocate and a rental sum of Uganda shillings 8.4 million for office space is required. The Commission also needs a provision of Uganda shillings 90 million per annum to pay rent for its regional offices.
- The Commission needs reliable vehicles to efficiently execute its duties upcountry. The Commissioners' terms of service entitle each Commissioner to a vehicle. The current vehicles are approximately 7 years old and cost the Commission an average of Uganda shillings 35m in repairs per month. The Commission requested Uganda shillings 757,130,920, from the MFPED. For this, the MFPED proposed to provide Uganda shillings 40 million. This amount cannot procure a single vehicle. It is cost effective to purchase new vehicles rather than repairing old vehicles. In this respect, the Commission needs to be facilitated to purchase new vehicles, if only in the interest of saving.
- The UHRC's 2002/2003 budget was greatly affected by the following expenditures from the non-wage component:



- Transfer to meet salary bill: Uganda shillings 110,237,000 for the necessary increase in the establishment
- *Conference of African Human Rights Institutions*: Uganda shillings 149,847,000 which MFPED had approved but not catered for
- Gratuity to Commissioners: Uganda shillings 98,340,000 which was also ignored in the budget

No supplementary budget was provided to ensure that the operations were not impaired.

#### Donor funding

5.05 The Ministry of Finance, Planning and Economic Development indicated that the UHRC would receive USD \$5.25m as illustrated in table 5.2.

**Table 5.2 Donor support for the 2003/2004 financial year**

Country/Donor	Area of assistance	US\$ millions
Austria	Financial assistance to magazines – “Your Rights”	0.14
Austria	UHRC – capacity building	0.00
DANIDA	UHRC	0.40
DANIDA	Human rights and democratisation (HRDP)	2.10
European Union	I human rights, democracy, and good governance	1.77
Ireland	UHRC	0.24
Norway	UHRC	0.20
Sweden	Human rights communication	0.40
UNDP	UHRC – capacity building and human rights	0.00
<b>Total</b>		<b>5.25</b>

5.06 Contrary to the information provided in table 2, the UHRC is only aware of Ushs 1,612,123,453 for the 2003-2004 financial year. Table 5.3 is a breakdown of the donors and their respective contributions as known by the UHRC.

**Table 5.3 Donor support for the 2003-2004 financial year as known by the UHRC**

Country/Donor	Area of assistance	Ushs
DANIDA	Human rights and democratisation Programme (HRDP)	1,000,000,000
UNDP	Country Coordination Framework II (CCF II)	95,130,213
Austria	Financial assistance to magazines – “Your Rights”	3,693,240
SIDA	UHRC – renovation of Headquarters	513,300,000
<b>Total</b>		<b>1,612,123,453</b>

5.07 The Commission indicated that misrepresentation could be responsible for the difference in funding (i.e., USD \$5.25m projected by the Ministry of Finance and Ushs 1,612,123,453 by donors). As a result, the Ministry of Finance should immediately rectify this discrepancy. It was also observed that donors fund particular areas of interest; therefore, received funds cannot be reallocated.

5.08 The Committee notes that in 2002/2003 the UHRC submitted a budget proposal of Ushs 4,318,968,328. The government only approved Ushs 2.69bn, rendering a deficit of Ushs 1,628,968,320.

5.09 In 2003/2004 the UHRC's budget was Ushs 10,077,349,666, and the provision by the Ministry of Finance was Ushs 3.1bn, rendering a deficit of Ushs 6,897,340,66.

#### Recommendations

5.10 The Commission made the following recommendations in reference to finance and administration.

- The UHRC ought to remain under the Justice, Law and Order Sector. It is understood that the recommendations by the Parliamentary Committee in this regard have been accepted, and it is hoped that this will be reflected in the 2004/2005 budget.





- Awards granted by the UHRC to victims of human rights abuse must be respected and executed by the government. Appeals against these decisions undermine the purpose of establishing the UHRC tribunals. Moreover, these appeals are expensive and time consuming.
- It is essential to provide Ushs 98.4m intended to pay for relocation during the renovation of the Commission headquarters and pay rent for its regional offices.
- The Commission needs to be facilitated to acquire new vehicles. Commissioners are entitled to chauffer driven cars as stated in the terms of service in their contracts that commenced in December 2002. Thus, the required Ushs 757,130,920 should be released for this purpose, particularly to alleviate the expense accrued by repairing the old vehicles.
- The UHRC ought to receive the USD \$5.25m as reported by the Ministry of Finance to perform its duties effectively. The Committee also recommended that Parliament approve the UHRC's budget so it can execute its constitutional mandate.

5.11 The Commission is funded from the consolidated fund, which is administered by the Ministry of Finance. It is understood that the Committee's provision of the Commission's financial requirement (see details below) should be presented to the Ministry of Finance and then forwarded to Parliament without reduction. However, observation shows that the Minister presents reduced provisions, and Parliament has no power to increase them. In effect, the entire process is reduced to a "vote" procedure.

#### Budgetary provisions

5.12 The Committee recommended that the Commission's budget be approved as illustrated in table 5.4.

**Table 5.4 Budget provisions by the Legal and Parliamentary Committee for the 2003-2004 financial year**

Budget category	Budget amount (Ushs)
Development	11,159,975,000
Recurrent (statutory)	2,580,000,000

5.13 In view of the recommendations illustrated in table 5.4, it is noteworthy that at the time of producing this report the Commission had presented its 2004/

2005 budget estimates to the Committee. Again, the recommendations by Parliament for the previous year had not been attended to. Instead of releasing 2.5 billion shillings as recommended by the Legal and Parliamentary Affairs Committee, only Uganda shillings 40 million was released for capital expenditure for the 2003/2004 financial year. Therefore, we have to report that the problem of vehicles, discrepancies in donor funds, and general inadequacy in government funding has not been resolved. The UHRC continues to be under funded, and thus unable to perform its constitutional obligations.

#### Staffing: streamlining the job descriptions report

5.14 In an attempt to streamline administration, the Commission hired a consultant to analyse the existing Commission structure and assist in streamlining job descriptions. The final report on developing job descriptions has been presented to the Commission. However, the Commission is still critically examining the detailed report before it implements any modalities.

5.15 Commission members, including the Chairperson, Commissioners, and members of staff have grown from 35 in 1997 to 101 in 2003. The current growth of human resources at the UHRC is illustrated below.

**Table 5.5 UHRC general establishment analysis outline report as at December 2003**

Staff category	Titles	No.
<b>Commis- sion</b>	Chairperson	1
	Commissioners	6
	Secretary	1
<b>Senior staff</b>	Heads of Department	5
	Accountant	1
	Planner	1
	Public Relations Officer	1
	Personnel Officer	1
	Senior Human Rights Officer	1
	Human Rights Officers	8
	Personal Assistant to Chairperson	1
	Assist. Public Relations Officer	1
	Investigations Officers	2
	Research Assistants	12
	Assistant Librarian	1
	Library Assistant	1
Systems Administrator	1	



**Table 5.5 UHRC general establishment continued**

Staff category	Titles	No.
<b>Intermediate staff</b>	Senior Personal Secretary	1
	Personal Secretaries	7
	Senior Accounts Assistants G.1	3
	Senior Accounts Assistant G.11	2
	Stenographer Secretaries	6
	Data Entry Clerk	-
	Office Superintendent	1
	Office Assistants	5
	Store Keeper	1
	Assistant Records Officer	1
	Records Assistant G.1	1
	Receptionist	1
Court Clerk	1	
<b>Support staff</b>	Senior Office Attendant	1
	Senior Driver	1
	Drivers	19
	Office Attendants	4
	Process server	1
	Cateress	1
	Kitchen Staff	2
	Gate Keeper	1
<b>Total</b>		<b>105</b>

**Progress in staffing matters**

- 5.16 The Commission was honoured to be re-appointed in totality for the second term. The Commission members are greatly thankful to the government. This re-appointment is a clear demonstration of the continued trust and utmost confidence in the Commission members, and we would like to offer our utmost congratulations.
- 5.17 In addition, the Commission appointed an Institutional Development Advisor (IDA). He is spearheading the development of the Commission Corporate Plan (2004-2009). Also appointed were Regional Human Rights Officers for the southwestern region (Mbarara) and the eastern region (Soroti), an Assistant Librarian, a Research Assistant in the Monitoring & Treaties Department, and 20 volunteers.
- 5.18 The mentioned recruitments helped mitigate the Commission's staffing needs. Nevertheless, the Commission also witnessed a remarkable turnover since its establishment. In the meantime, all the necessary arrangements to recruit new staff are being finalised, and we hope to fill all vacant posts by January 2004.

**Training needs assessment**

- 5.19 Capacity building within the Commission service is a priority that is fully recognised. A comprehensive training plan is underway and substantial progress is expected to occur over the next three months, especially after its incorporation into the Commission's corporate plan.
- 5.20 However, for the period under review, two members of staff, were granted study leave to pursue masters degrees in human rights. Among others, Heads of Department and selected senior staff attended numerous Executive Management Programmes. Budget holders also attended a training workshop on the new Public Finance and Accountability Act.

**Publications**

- 5.21 The Commission has continued to maintain a current and informative website. During the period under review, the following improvements were made on the UHRC Website.
- A complaint's form was activated making it possible to receive complaints online through the official e-mail address mail to:uhrc@uhrc.org.
  - The official e-mail address for the Commission was added to the website, making it possible to contact the Commission online.
  - Contact addresses for the three new regional offices, namely Mbarara, Fort Portal and Jinja were added to the UHRC website.
  - Additional links to sites that deal with human rights in general or with particular aspects of human rights were added to the UHRC website.
  - The library update module was activated, making it possible to post new arrivals in the Library and Documentation Centre.
  - An archive section was created on the UHRC website, making it possible to access documents that expire on the website.
  - The web statistics counter was created for purposes of evaluating the site. It is now possible to know how many people visit the Commission's site on daily or monthly basis.
  - The following sections were updated: UHRC donors  
Legal and Tribunal Department  
Monitoring and Treaties Department  
Complaints



can be easily posted by UHRC maintenance staff without utilising a third-party like Metrocomia LTD.

### **Systems Administration Unit development**

5.23 During the year, the Complaints Handling and Records Management System (CHARMS) became fully operational at the UHRC head-office. All complaints and lodgement data have been uploaded in to the system. As such, the Commission will be able to conveniently generate key statistical data for various analyses. CHARMS will be launched at the regional offices in Fort-Portal, Soroti, Mbarara, and Jinja to be fully operational by mid 2004.

5.24 Installation of Local Area Networks (LANs) at the regional offices has been implemented. The regional offices in Mbarara, Jinja, and Fort Portal already have Local Area Networks. The Soroti and Gulu regional offices will have a Local Area Network in the early part of 2004.

5.25 The regional offices were also provided with dial-up Internet service using "free-net" from Uganda Telecom LTD. The goal is to upgrade from dial-up to wireless/satellite based Internet technology when advanced, widely spread Internet infrastructure is available and cost effective. All this has been done to provide effective communication between the regional offices and headquarters.

### **Newspaper pullouts**

5.26 When the Commission published the 2001-2002 annual report, it was pertinent to simplify and translate the report so it was easily accessible by the general population. The highlights of

the report and a summary of the recommendations were published in an eight-page supplement in the national and regional newspapers. The summary was published in English and translated into Luo, Luganda, Ateso, Runyankore, Rukiga, Runyoro, and Rutooro to cover the four major regions of Uganda.

### **Pronouncements on human rights issues**

5.27 The Commission pronounced itself on two extraordinary occasions when it felt that human rights were grossly at stake. These 2 incidents involved:

- The LRA incursion in Teso
- The armed conflict in Northern Uganda

5.28 On the 12th October 2002, the Commission issued a press statement expressing grave concern about the war in Northern Uganda, which, was responsible for displacing thousands of people, many of whom settled in camps. The Commission reiterated its concerns about the human rights violations that continued in northern Uganda as a consequence of the war. It appealed to the government not to disregard negotiations as a possible alternative to war.

5.29 On the 15th September 2003, the Commission issued a press statement condemning the atrocities and displacements caused by the LRA to the civilians in Teso. The LRA entered Teso region through Katakwi District spreading to the neighbouring districts of Soroti, and Kaberamaido. The rebels had committed atrocities on the innocent civilian population in utter violation of human rights and all acceptable methods of conducting warfare.



# THE STATE OF HUMAN RIGHTS IN UGANDA

## The state of Human Rights in Northern Uganda

### Introduction

6.01 Insecurity in Northern Uganda has persisted for the last 18 years. During the period under review, Northern Uganda became increasingly insecure due to a rise in terror campaigns by the Lords Resistance Army (LRA). For most of the last 18 years the LRA largely operated, and caused atrocities in Gulu, Pader and Kitgum districts. However, from August 2002 into June 2003 the LRA spread to Lira, Katakwi and Soroti districts committing crimes against innocent civilians by abduction, rape, mutilation, conscription, torture, murder and destruction of property. Consequently, the population in these areas fled from their places of habitual residence to settle in camps, which became known as Internally Displaced Peoples Camps (IDPCs). In their counter-insurgency response, the Uganda Peoples Defence Force was also accused of human rights violations. For example, 40% of the complaints still under investigation at the regional office in Gulu are against the UPDF.

### LRA atrocities in Kitgum, Pader and Gulu

6.02 Kitgum, Pader and Gulu have been the LRA area of operation with untold suffering for the people. Many children in the LRA captivity continued to undergo violence and experienced other associated atrocities. In the camps children and adults alike live in perpetual hardship characterised by shortage of food and inadequate social services. This kind of environment has inevitably led to psychosocial problems within the general population. To date, thousands of people have died and the socio-political, economic and cultural structure has been negatively affected. Even when the war ends, it will take a considerable amount of time to normalise the region and to raise the level of their enjoyment of human rights and protection.

### Human cost of insurgency in Kitgum, Pader and Gulu

6.03 There is a lack of accurate and reliable data on the human cost of the insurgency in northern Uganda. It is known, however, that thousands of people have been killed since the

Table 6.1

Year
2001
2002
Subtotal
2003
<b>Total</b>

6.

Table 6.2

Date
02 Apr 200
02 Apr 200
07 Apr 200
21 Apr 200
21 Apr 200
18 Apr 200
23 Apr 200
02 May 200
05 May 200
06 May 200
11 May 200



insurgency erupted in August 1986. Exact figures will never be known since incidences go unreported and those that are reported might not be independently verified. Nevertheless since the launch of the Operation Iron Fist by government against the LRA the loss of lives in this region has progressively increased (See Table 1). The Commission in its 2001/2002 annual report indicated that human loss had been increasing since Operation Iron Fist. (See Table in table 6.1.)

rebels, verification of casualties is very challenging. It is therefore common to rely on the few incidences reported in the newspapers and on the army for information. Overall, several casualties go unreported. For example, according to information collected at the UHRC regional office in Gulu, 74 civilians were killed, 33 were injured and 489 were abducted between April and October 2003. Between February and June 2003, 297 rebels were reported killed by the UPDF (see Table 6.2).

Some Reported cases of civilians, rebels and UPDF casualties and deaths

6.04 As indicated above, it is very difficult to assess the human cost of this war. In the face of regional insecurity, restricted mobility of civilians and high mobility of

6.05 According to the statistics obtained from the UPDF, 928 LRA rebels and 88 UPDF soldiers were killed between January 2003 and January 2004. The statistics in Table 1 show that in three years thousands of people were killed and injured.

**Table 6.1 Human cost of the LRA insurgency**

Year	UPDF killed	UPDF injured	Rebels killed	Rebels captured	Civilians killed	Civilians rescued/released	Civilians injured	Civilians abducted
2001	40	-	60	-	98	264	125	52
2002	171	-	436	-	670	737	172	1,775
Subtotal	211	-	496	-	768	1,001	297	1,827
2003	88	141	928	791	-	7,299	-	-
<b>Total</b>	<b>299</b>	<b>144</b>	<b>1,424</b>	<b>791</b>	<b>768</b>	<b>8,300</b>	<b>297</b>	<b>1,827</b>

6.06 Table 6.2 shows that in the period between April and October 2003, 74 people were killed, 33 were injured, 489 were abducted, and 7 vehicles and 300 huts were destroyed in the LRA insurgency. Table 6.2 further shows that these incidents occurred on a monthly basis apart from July, August and September. Given the number of lives lost, amount of property destroyed and the frequency of rebel attacks, the war continued to be extremely costly to the people living in the affected areas.

**Table 6.2 Rebel activity and its cost in the period from April to October 2003**

Date	No. of people killed	No. of people injured	No. of people abducted	Property destroyed	Place
02 Apr 2003	1	-	-	1 Vehicle	Kalongo-Patongo Camp, Pader District
02 Apr 2003	-	-	-	2 Vehicles	Minakulu Camp, Gulu District
07 Apr 2003	14	-	-	-	Gulu-Adjumani Camp, Gulu District
21 Apr 2003	15	-	-	-	Owako Camp, Gulu District
21 Apr 2003	16	-	-	-	Palukere Camp, Gulu District
18 Apr 2003	1	Unspecified	-	-	Amuru Camp, Gulu District
23 Apr 2003	-	-	300	-	Aromo Camp, Lira District
02 May 2003	-	1	-	-	Lubri Camp, Gulu District
05 May 2003	-	-	Unspecified	Unspecified	Atanga Camp, Pader District
06 May 2003	-	-	Unspecified	-	Kirombe Parish, Gulu District
11 May 2003	-	-	41	-	Lacor Minor Seminary, Gulu District

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**Table 6.1 Human cost continued**

Date	No. of people killed	No. of people injured	No. of people abducted	Property destroyed	Place
18 May 2003	6	-	-	-	Patongo Camp, Pader District
13 May 2003	1	Unspecified	-	-	Opit Road, Gulu District
06 June 2003	4	19	-	1 Bus	Anagagura Camp, Pader District
18 June 2003	10	-	70	200 Huts	Akong Village, Apach District
20 June 2003	-	-	70	3 Vehicles, 100 Huts	Ibule and Amugo Trading Centres
03 Oct 2003	1	-	-	-	Alero Road, Gulu District
06 Oct 2003	-	1, 1 raped	-	-	Rwot Obilo, Gulu District
10 Oct 2003	1	Unspecified, 1 raped	-	-	Pajule, Pader District
11 Oct 2003	2	-	-	-	Awach, Sub-County
19 Oct 2003	2	5	-	-	Awach Road, Gulu District
12 Oct 2003	-	4	8	-	Parabongo Camp, Gulu District
24 Oct 2003	-	1	-	-	Matidi Mucwini Road, Kitgum District
<b>Total</b>	<b>74</b>	<b>33</b>	<b>489</b>	<b>6 Vehicles, 1 Bus, 300 Huts</b>	

**Table 6.3 LRA casualties from Feb. to June 2003**

No.	Location	District	No. of LRA casualties
1.	Aswa Valley	Gulu	20
2.	Taidona	Gulu	24
3.	Gurugiru	Gulu	20
4.	Laminapito	Gulu	20
5.	Telela Adwong	Kitgum	15
6.	South Latanya Hills	Kitgum	20
7.	Kalawinya	Kitgum	15
8.	Lapul	Pader	30
9.	Akara Hills	Pader	20
10.	Aromo in Lira	Lira	3
11.	Acet in Omoro	Gulu	4
12.	Awere in Pader	Pader	2
13.	Arumu	Gulu	4
14.	Ato Hills	Gulu	3
15.	West Pabbo	Gulu	2
16.	Abumu	Gulu	19
17.	Omiya Pachwa	Kitgum	3
18.	Omiya Anyima	Kitgum	26

No.	Location	District	No. of LRA casualties
19.	Lira Kato	Kitgum	6
20.	Labing	Kitgum	8
21.	Lira Paluo	Kitgum	19
22.	Lira Kato	Kitgum	6
23.	Labing	Kitgum	8
24.	Lira Paluo	Kitgum	19
25.	Omunyure	Kitgum	10
26.	Oryang	Kitgum	24
<b>Total</b>			<b>297</b>

Source: UHRC Gulu Regional Office

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## Children in the Northern Uganda Insurgency

6.07 It is estimated that the Lord's Resistance Army has abducted 10,000 children since the inception of its rebellion. Most of the so-called "combatants" in the LRA are children who were abducted or fathered by rebel commanders. When reports are released about LRA casualties or prisoners of war (POW), the victims most surely comprise children abducted by the LRA and inducted as soldiers. During the period, concern was raised by human rights groups about the UPDF's recruitment of child soldiers captured from the LRA.

### Child soldiers

6.08 The Commission was concerned with reports of recruitment of children in the UPDF and continued to investigate the allegations. The UPDF's position is that it does not recruit child soldiers nor does it reintegrate child soldiers from the LRA into the force. The UPDF

further states that if children do exist in the force, they would be identified and sent home. While the UPDF continued to deny recruitment of children in the UPDF, the Commission witnessed young boys within the "Amuka", a local militia fighting the LRA in Lira. These boys certainly knew they should not be in the militia and tried to falsify their ages when questioned. The UPDF may not have been directly responsible for recruiting children into the Amuka militia, but they owe a duty to ensure that they are detected and removed. They should not get arms and engage in combat. Evidence however, suggests that the UPDF was together with Save the Children, Uganda, in ensuring that children rescued from the LRA were taken to reception centres, counselled and reintegrated back into society. This is in line with the Commission's recommendation that all child POWs be rehabilitated and given amnesty. Table 6.4 below shows the number of rehabilitated children since 1995.

**Table 6.4 Number of children rehabilitated by World Vision, Gulu and GUSCO**

Year	Male	Female	Total	Organisation
1995	464	84	548	World Vision, Gulu
1996	1170	120	1290	World Vision, Gulu
1997	1297	165	1462	World Vision, Gulu
1998	1181	239	1420	World Vision, Gulu
1999	437	81	518	World Vision, Gulu
2000	198	48	246	World Vision, Gulu
2001	231	32	263	World Vision, Gulu
2002	860	142	1002	World Vision, Gulu
31 Oct 2003	1151	237	1388	World Vision, Gulu
31 Oct 2003	4,505	1,915	6,420	Gulu Save the Children Organisation (GUSCO)
<b>Total</b>			<b>14,557</b>	

### LRA in Teso region

6.09 On 15th June 2003, the LRA entered Teso sub-region from eastern Lira and engaged in heinous crimes against civilians in Kapelebyong County in Katakwi District. By the time UPDF commanders dispatched additional soldiers, the LRA had caused substantial havoc and disruption to the socio-economic activities in the region. People had been killed and abducted, property was destroyed, transport and crop production was disrupted and thousands were displaced. At the time of writing this report, however, security was established in most parts of Teso, with the effective deployment and performance of the UPDF, local leaders and the local militia called, "arrow boys". (Table 6.5 shows LRA ambushes of vehicles from June to November 2003). In all, 51 people were killed in vehicle ambushes and more than 31 people were injured. It was estimated that LRA rebels in Teso region killed 25 people and abducted 600,000 people in the period of five months of LRA distabilsation.



**Table 6.5 Ambushes by LRA in Teso from June to November 2003**

Date	Type of vehicle destroyed	No. killed	No. injured	Place
23 June 2003	Dyana pickup	7	7	Otuboi County, Soroti-Lira road
24 June 2003	Gateway bus	2	6	Oculoi County, Soroti-Lira road
4 Aug 2003	Ambulance	4	3	Kapelebyong County, Oditel road
15 Aug 2003	3 WFP trucks	-	-	Soroti District, Moroto Road
1 Sep 2003	Gateway bus	25	3	Atirir Trading Centres, Soroti-Lira Road
4 Sept 2003	Toyota lorry	2	1	Katine Trading Centre, Soroti-Lira Road
14 Sep 2003	Lorry	2	7	Asinge Village, Amuria road
15 Sept 2003	Bicycles	2	-	Apansa Village, 14kms north of Soroti Town
16 Sept 2003	UPDF vehicle	-	4	Abilesas-Asamuk sub- County, 20kms north of Soroti Town
30 Sept 2003	Fuso Truck	2	-	Soroti District, Lira road
28 Oct 2003	Pick up	-	-	Amilimil Village, Amuria-Katakwi Road
17 Nov 2003	Lorry	1	Several	Obalanga sub-County, Katakwi District
22 Nov 2003	Taxi	5	Several	Ongino-Amuria road
<b>Total</b>		<b>51</b>	<b>31 (estimate)</b>	

Source: UHRC Soroti Regional Office

### LRA in Lira

6.10 The LRA began its serious forays into the Eastern part of Lira district from around August 2002 and continued these forays until it used the area to enter into Teso region. Because of serious atrocities in the form of indiscriminate killings people in the area fled their homes and settled into camps many of which originally were in Lira town. Initially about 16 camps were set up to accommodate an estimated 144,086 (see table 7.1) people. Some of these camps, however, became targets of LRA attacks exposing the inadequacy of UPDF protection of the camps. Massacres in Abia and Barlonyo in the months of January and February seriously illustrated the vulnerability of the IDPs to insecurity from the LRA.

6.11 The LRA did not only kill in Lira but carried out abductions and destruction of property. During the part of the period under review the UHRC recorded abductions of 211 children of whom 174 were boys and 35 girls.

### Everybody is affected by the insurgency in Northern Uganda

6.12 The spread of the LRA eastwards into Teso brought into focus the obvious fact that the insurgency in Northern Uganda is a national problem. Hitherto,

many people in other parts of Uganda did not view the insurgency seriously, viewing it as an Acholi problem. As LRA atrocities escalated, the initial concern came from the Ugandan public. When the poor conditions in IDP camps became increasingly exposed some Ugandans from all regions of the country began to show concern and provided assistance and also demanded an end to the war. Public pleas urged the UPDF to improve action against the LRA, although worrying weaknesses in the protection of civilians from the LRA continued.

6.13 There is need to maintain this improved national concern and continued pressure on government to end the insurgency, because it continues to adversely affect Uganda as a nation: the people killed and abducted are not only from Northern Uganda but also from other parts of Uganda (See Table 6.6). The economic cost of the war is for Uganda as a nation and not only people in Acholi.





**Table 6.6 Abducted children by districts**

No.	District	Male	Female	Total
1.	Gulu	3,357	436	3,793
2.	Kitgum/Pader	2,754	541	3,295
3.	Apac	390	65	455
4.	Lira	174	35	211
5.	Adjuman	147	17	164
6.	Moyo	21	1	22
7.	Nebbi	17	11	28
8.	Masindi	7	0	7
9.	Busia	1	0	1
10.	Hoima	0	1	1
11.	Luwero	4	0	4
12.	Mbale	4	0	4
13.	Pallisa	2	1	3
14.	Soroti	2	2	4
15.	Katakwi	46	15	61
16.	Nakasongola	1	0	1
17.	Kampala	3	0	3
18.	Kumi	5	0	5
19.	Mukono	2	0	2
20.	Masaka	0	1	1
21.	Kotido	4	1	5
22.	Arua	25	2	27
23.	Yumbe	1	0	1
24.	Sudan	8	17	25
25.	Fort Portal	1	0	1
26.	Kiboga	1	0	1
27.	Democratic Republic of Congo	9	0	9
28.	Kenya	0	2	2
29.	Rwanda	1	0	1
	<b>Total</b>	<b>6,989</b>	<b>1148</b>	<b>8,137</b>

### The economic impact of rebel activity in Northern Uganda

6.14 The conflict in northern Uganda continued to impact on the economy. By May 2004 an estimated 1.4 million people were in IDP camps in northern Uganda. These no longer contributed to the Gross Domestic Product (GDP). They do not engage in economic production or pay tax, and have been relegated to a people dependent on national and foreign aid. While poverty

levels in Uganda averaged 35%, the poverty level in northern Uganda averaged 67% compared to some other regions' average of 20%. The economy was further affected relatively as a result of the government diverting resources, generated without equitable contribution by the north, to fight the northern insurgency. During the period under review the government diverted an average of 20% of various ministry budgets to finance the war in the north.



Therefore, it is within national economic interest to end the conflict in northern Uganda.

### **The Amnesty and International Criminal Court factor**

6.15 In January 2000, President Museveni signed The Amnesty Act. This law provides a full pardon for people who were involved in acts of insurgency, including LRA members. Many former rebels are benefiting from the Act. However, during the year, active LRA members did not show interest in taking advantage of the Act. In fact, the LRA did extend and intensify its atrocities since the Amnesty was in place. As a result, the government has proposed to amend The Amnesty Act to exclude selected LRA leadership.

### **The Amnesty to Rebels versus Investigations by the International Criminal Court**

6.16 In January 2000 the Amnesty Act became law after Presidential assent. The main purpose of the law was to encourage a peaceful resolution of rebellion particularly by the LRA in Northern Uganda. Accordingly, the Amnesty Act offered full pardon for all persons involved in insurgency on condition that they abandoned acts of rebellion and sought for amnesty. Indeed many rebels took advantage of the amnesty and came out in 2003. However, the majority of the LRA rebels particularly its active leadership showed no serious interest and continued not only in rebellion but committed grave abuse of human rights. Evidence is plenty to show that since the Amnesty Act of 2000, the LRA committed more atrocities on innocent civilians.

6.17 In the year 2003, the Government made clear its intention of amending the Amnesty Act, to exclude the LRA leadership from possible pardon. In December 2003 government announced that Joseph Kony and his other top leaders of the LRA would be referred to the International Criminal Court (ICC) for prosecution. In January 2004 President Museveni met Mr. Luis Moreno Ocampo, the ICC President and the two agreed that Kony and all the crimes committed in Northern Uganda should be investigated by the ICC with a view to prosecution. This understanding between the President and the ICC drew mixed reactions. So did the

proposal to amend the Amnesty Act to exclude the top leaders of LRA from eligibility to amnesty.

6.18 The mixed reactions were and are still based on two opposing arguments. One viewpoint is based on fears that investigation of the LRA leadership by the ICC or excluding them from possible amnesty may jeopardise the possible peaceful resolution of the Northern Uganda insurgency. This viewpoint also fears that this may lead the LRA to intensify its atrocities. The other view which, is equally strong, is that those who violate human rights must not do so with impunity whether that impunity is conferred by law or otherwise. Human rights demands that such people must be prosecuted and punished, whether under national or international law. The holders of this view further argue that the LRA leaders have no sense of peace, no respect for human rights and humanitarian law or even the importance of the amnesty being offered to them. They should therefore be pursued locally and internationally and brought to justice.

6.19 By the time of preparing this report, government was in the process of preparing a bill for presentation to Parliament to pave way for the ICC investigations, which means the concerns of those who oppose the investigations have the prospect of being ignored.

6.20 For along time now many people in Northern Uganda have advocated for and pushed for community justice. That is what resulted into the Amnesty Law, which, provides for blanket amnesty. As this issue is debated by Parliament, this underlying issues must not be lost. In the event of an amendment to the Amnesty Law consideration could be given to appropriate alternative methods of justice so as to accommodate the wishes of those victims and the Northern Uganda people who prefer community justice as a means of settling the conflict there. The fact that many of the LRA are beginning to abandon rebellion must be borne in mind during these debates. What would be the reactions of those still in the bush who are considering coming out if they hear that they are being sought for arrest and prosecution? That is a question worth asking and answering appropriately.



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6.21 The strongest argument for arresting and prosecuting the LRA leaders is the no impunity argument which is that human rights must not be violated with impunity – the perpetrators must be prosecuted and punished. Indeed the LRA has committed some of the worst human rights violations in Uganda. The question to be considered by Parliament and the Executive branch of government is whether by granting them amnesty to encourage them to come out of rebellion, the human rights principle of no impunity for violations would be absolutely offended. To come up with an appropriate answer government may need to consider whether punishment for violations of human rights necessarily always means prosecution, conviction and imprisonment or execution in the case of capital offences.

6.22 The current Amnesty Act requires that before a rebel is pardoned, he or she must first own up, then renounce and abandon rebellion. In legal terms these acts amount to an admission of guilt. Renouncing and abandoning rebellion equals to pleading guilty and repenting. Punishment for pleading guilty is not necessarily only imprisonment. Punishment can consist of pardon as a means of achieving restorative justice. Restorative justice where it saves lives and opens the door for peace and reconciliation could arguably satisfy the demands of no impunity for violations. It could also arguably meet the objectives of criminal punishment, which is to restore offenders to a new peaceful way of life.

6.23 Government may also wish to consider the fact that human rights are essential values. It is not necessarily consisting of rules only. Rules are proclaimed to protect these values but where the rules would lead to the infringement of these values they should be reconsidered. For example human rights values call for the protection of the right to life. Therefore, if the amnesty by government and non-prosecution by the ICC together with availability of an alternative justice system by the local communities can lead to more lives being saved, those prospects should be seriously considered.

6.24 The above comments are meant to help to put into perspective some of the issues that should be considered in the

debates whether the door to amnesty should be closed to some of the LRA leadership or whether they should be pursued and prosecuted by the ICC. As regards the ICC, the Rome Statute clearly leaves to member states the power of assuming criminal jurisdiction over crimes such as have been committed by the LRA. Government could assume this jurisdiction and pursue alternative justice through amendment of the Amnesty Act to allow for such punishments that meet the no-impunity requirement but does not jeopardise the prospect of peace and reconciliation.

### **Karamoja Disarmament Programme and its collapse**

6.25 The Karamoja Disarmament Programme was launched in December 2001 on the orders of President, Yoweri Kaguta Museveni. In spite of this programme Karamoja continued to be a volatile region in the year 2003. While some progress was achieved in the disarmament with over 10,000 guns collected, this progress has not been sustained. The capacity of the state to provide security in Karamoja and sustain the disarmament programme has been wanting, thus the Karamojong have rearmed during the period under review.

6.26 Since the collapse of the disarmament programme, Karamojong rustlers have engaged in several raids. Between January and August 2003, a total of 53 raids were recorded by the UHRC. The consequences of the raids were 114 people killed, 10 people injured and 2,283 cattle, 940 goats, 14 donkeys and 2 camels stolen. On 18th November 2003 Matheniko warriors fought with the UPDF. This resulted in the death of two soldiers and several Matheniko warriors. Shortly thereafter on 23rd November 2003, over 800 warriors from the Pian clan planned to raid the Pokot clan. In the response, however, Pokot warriors attacked the Pian and several warriors were killed. These are but a few examples to illustrate the turbulent situation in Karamoja, which continue to affect the enjoyment of human rights.

### **Negative effects of the failed disarmament exercise**

6.27 Ambushes were uncommon in Karamoja before the disarmament exercise was implemented, and it was not until the disarmament exercise

collapsed that those ambushes emerged. The cause of increased insecurity was attributed to vulnerability caused by partial disarmament. Partial disarmament left some people armed and others unarmed. This led to a shift in power dynamics and regional security. Warriors that were unarmed became increasingly vulnerable to attack, and their herds were depleted. As a result, poorly armed warriors started laying ambushes as an alternative means to accumulate assets. In Moroto district, for example, the Commission registered 12 ambushes and 22 armed robberies resulting in 20 deaths between January and August 2003.

6.28 Thousands of Karamojong have been displaced due to an increase in raids after the disarmament exercise. Heightened insecurity has forced people to settle in safe areas such as trading centres, UPDF detachments and LDUs. The largest number of IDPs, totalling over 45,000 people in 11 camps are found in Katakwi district, specifically Ngariam, Usuk and Kapelebyong sub-Counties.

#### The UHRC action on the situation in Karamoja

6.29 During the reporting period, the Commission visited Karamoja on multiple occasions to make assessments. The assessments revealed that the state of security in Karamoja continued to be volatile, i.e., the region experienced intermittent periods of peace and violence. Due to the level of insecurity, there is need for continued humanitarian assistance, especially to secure food and improve the condition of IDPs. Lastly, the Commission also learned that the Karamojong have developed a loss of confidence in the government on the account of the failed disarmament and the ensuing increased insecurity.

#### UHRC action on the situation in Northern Uganda

6.30 To better follow up the issues in Karamoja and participate in finding solutions to the human rights problems in Karamoja, the UHRC has opened a sub-regional office in Moroto to serve the districts of Moroto, Kotido, and Nakapiripirit.

6.31 The Commission also established new Civil Military Operation Centres in Soroti, Katakwi, Kaberamaido and Kumi

districts to assist cooperation between the army and civilians. These were also intended to address human rights violations by soldiers during operations. It was also meant to foster understanding and peace between the Karamojong and its neighbours, as well as handle the xenophobia against the Acholi in Teso that resulted from LRA incursions.

6.32 The CMOCs have the following terms of reference:

- Sensitise and mobilise people on issues of peace and security.
- Create a good relationship between the army and the public.
- Receive reports on raids and attacks on the people in the mentioned districts could take action.
- Receive reports on soldiers who violate human rights and take action.
- Submit reports to relevant authorities.
- Monitor human rights and humanitarian issues in the mentioned districts.
- Assume functions of conflict resolution among ethnic groups where appropriate.
- Compile statistics and returns on the above functions and submit them to the UHRC.

#### Conclusion

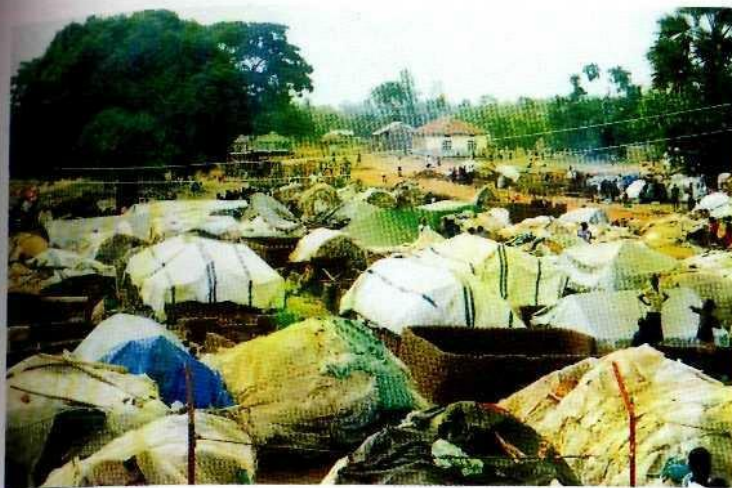
6.33 The insecurity in Northern Uganda, which escalated in 2003 into 2004, calls for greater responsibility on government to find a final solution to the conflict. While it does this it has the added responsibility of providing security for the people affected by the war. That is not a moral but a legal obligation. Any failure to provide such protection is a breach of its responsibility under human rights law which, require a government to protect life and property and provide services for people under its jurisdiction.

6.34 As has often been repeated, all avenues for peace should be left open and pursued with determination. There should be no undermining of efforts of those who are pursuing a peaceful process to end the war. Instead they need encouragement and support.

6.35 The volatile situation in Karamoja should not be ignored. New efforts, learning from past mistakes should be launched to establish peace, security and effective governance in Karamoja. As stated before by the Commission, Karamoja requires a comprehensive



plan, which addresses all the issues of underdevelopment and the needs of Karamoja.



A congested IDP camp in Lira district. The insurgency in northern Ugandan has led to the displacement of more than a million people.



Commissioner V. E. Bichetero being thanked by Lt. Col. Mulindwa of UPDF after the UHRC donated two bulls for slaughter to the Karamajong LDUs on training in Moroto.



Nathan Byamukama addressing Karamajong LDUs training at Moroto Barracks in 2003.

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# The state of Internally Displaced Persons and Refugees

## Internally Displaced Persons:

### Introduction

7.01 For several 18 years since 1987, sections of the Ugandan population have suffered displacement from their homes of habitual residence. *Insurgencies have been the major cause of such displacement. The areas that have been affected are Northern, North Eastern and Western Uganda. The actors responsible for this displacement include the Lord's Resistance Army (LRA), the Allied Democratic Forces (ADF) and the Karamojong rustlers. While several of these actors have been contained and some people have returned to their homes, it is the LRA under Joseph Kony that continues to cause havoc in Northern Uganda. They entered Teso region through Katakwi District in June 2003 and spread to Soroti, Kumi and Kaberamaido districts.*

7.02 The entire northern region of Uganda has experienced civil conflict and insecurity for approximately 15 years. This region is comprised of 16 districts,

Yumbe, Moyo, Arua, Adjumani, Nebbi, Gulu, Kitgum, Pader, Lira, Apac, Kotido, Moroto, Soroti, Katakwi, Kumi and Nakapiripirit, and has a population of 6.5 million people that represents 35% of the Ugandan population.

7.03 The LRA's methods of warfare during 2003 into 2004 were to continue committing atrocities against unarmed civilians. It was also continued practice for the LRA to abduct and recruit children to become child soldiers and rebels' wives. They also violated human rights by killing and maiming defenceless civilians, torturing victims, and destroying property.

7.04 As a result of LRA terror campaigns, the northern region has experienced high levels of internal displacement. All things considered, over 800,000 people were displaced during 2003 and over 10,000 children abducted. By May 2004, over 1.4 million people were displaced. Insecurity and displacement had also led to a reduction in social services, especially in the education sector.

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7.05 In addition, security in Teso region was adversely affected by Karamojong raids and ambushes. Terror engaged in by the Karamojong had forced 88,623 people to seek refuge in 58 IDPCs in Katakwi district, specifically Magoro, Kapelebyong, Acowa, Usuk, Katakwi, and Obalanga sub-counties. Furthermore, Teso region was recently infiltrated by the LRA. As a result, social services in the region were affected two-fold, especially education and health.

7.06 Lastly, IDPCs are located in areas that provide limited access to arable land and social services. This combined with heightened insecurity and the devastation of socio-economic infrastructure has severely constrained food acquisition strategies by IDPs. In effect, humanitarian assistance has become a crucial component to food security in the region.

#### The number of IDPs in Uganda

7.07 While statistics continue to fluctuate, it is estimated that by May 2004 1.4 million have been displaced. The tables below demonstrate the number of IDPs in different regions of Uganda.

7.08 In Lira there were initially 16 camps with an estimated population of 144,086 IDPs as shown by Table 7.1.

**Table 7.1 IDP population in Lira as of February 2004**

No.	Sub-County/Division	Population
1.	Railways Division	3,444
2.	Ojwina Division	6,004
3.	Adyel Division	21,688
4.	Central Division	3,546
5.	Adekokwok Sub-County	4,488
6.	Adwari Sub-County	654
7.	Institutions	1,461
8.	Lira Sub-County	5,442
9.	Aloi Sub-County	906
10.	Olaka Camp	30,233
11.	Gombolora Lira Camp	4,878
12.	Living with relatives	9,537
13.	Lira p7 Camp	2,081
14.	Ogur Health Center Camp	23,319
15.	Abia Camp	5,647
16.	Apala Camp	26,250
<b>Total</b>		<b>144,086</b>

Source: Lira District Administration

**Note:** the camps illustrated in table 6.1 exclude the so-called unofficial camps in places like Barlonyo, Okwang, Amugo, Abako, Orum and Okwongo (all in outlying trading centres where the army has detachments). The figures of displacement are therefore higher than recorded in February 2004.

7.09 In Gulu there were 32 camps with an estimated population of 385,805 IDPs. See Table 7.2.

**Table 7.2 IDP population in Gulu as of September 2003**

No.	Name of camp	Population
1.	Ongako	6,660
2.	Awer	10,855
3.	Alero	11,520
4.	Patiko/Ajulu	10,550
5.	Purongo	8,180
6.	Aparanga	2,240
7.	Acet	15,670
8.	Labongogali	6,860
9.	Parabongo	8,380
10.	Koch Goma	9,440
11.	Pagak	13,055
12.	Tetyapadhoa	7,255
13.	Anaka	33,105
14.	Oroko	2,040
15.	Palaro	11,260
16.	Bibia	5,060
17.	Atiak	23,950
18.	Awach	15,115
19.	Paicho	12,965
20.	Otwal	15,520
21.	Lalogi	18,740
22.	Amuru	35,670
23.	Pabbo	46,400
24.	Opit	16,840
25.	Awere	13,075
26.	Unyama	11,225
27.	Guru Guru	4,470
28.	Kaladima	1,880
29.	Agung	1,780
30.	Wii-Anaka	1,785
31.	Olwio	2,130
32.	Wiya Anono	2,130
<b>Total</b>		<b>385,805</b>

Source: Office of the Prime Minister

7.10 In Pader there were 20 camps as of September 2003 with an estimated population of 204,780 IDPs as shown by table 7.3.



**Table 7.3 IDP population in Pader as of September 2003**

No.	Name of camp	Population
1.	Acholibur	9,883
2.	Porogali	5,873
3.	Atanga-Laguti	24,403
4.	Pajule-Lapul	26,435
5.	Rackoko	7,199
6.	Corner-Kilak	7,563
7.	Awere Bolo	5,769
8.	Puranga	7,741
9.	Lira Palwo	10,682
10.	Patongo-Omot	21,326
11.	Lokole	7,515
12.	Adilang	11,298
13.	Lapono	7,497
14.	Paimol-Omia Pacwa	11,529
15.	Paimol-Kokil	5,745
16.	Parabongo	10,896
17.	Wol	9,990
18.	Omot	9,277
19.	Pader Town Council	4,159
20.	Arum	4,780
<b>Total</b>		<b>204,780</b>

Source: Office of the Prime Minister

7.11 In Kitgum there were 7 camps as of September 2003 with an estimated population of 81,223 IDPs as shown by table 7.4.

**Table 7.4 IDP population in Kitgum as of September 2003**

No.	Name of camp	Population
1.	Agoro	13,687
2.	Lokung	3,642
3.	Padibe	2,360
4.	Palabek-Gem	31,113
5.	Palabek-Kal	12,613
6.	Popika A	23,560
7.	Popika B	7,937
<b>Total</b>		<b>81,223</b>

Source: Office of the Prime Minister

7.12 In Teso region there were 79 camps as of September 2003 with an estimated population of 564,855 IDPs as shown by table 7.5.

**Table 7.5 IDP population in Teso as of September 2003**

No.	Location	No. of camps	Population
1.	Soroti Municipality	32	245,860
2.	Kumi	11	59,207
3.	Kaberamaido	12	92,961
4.	Katawil	24	166,000
<b>Total</b>		<b>79</b>	<b>564,855</b>

Source: Office of the Prime Minister

**Conditions of the IDPs: the case of Lira**

7.13 The condition of the IDPs mentioned in tables 1-5 is similarly poor. When the Commission visited some camps in Lira, it was noted that IDPs were faced with serious humanitarian problems. There was an acute shortage of food, water, accommodation, sanitation facilities and drugs. Many children were not attending school, including candidates at primary, 'O' and 'A' levels. The following is a list of serious humanitarian concerns compiled by the Commission that required immediate attention.

- **Urgent need for shelter:** In the assessment that took place in Lira, it was noted that IDPs in Lira Town were living in various places throughout the municipality. These places included St. Augustine's Church compound, Ambalal Primary School, Ojwina Division headquarters, Lira P7 School, the Lango Cultural Centre, Labour Line Railway B, the Starch factory, Teso Bar and Kirombe West. IDP residents were in temporary shelters. The quality, protection and usefulness of these shelters were highly questionable. At Olaka camp, which was an established camp reasonably stable materials were used to construct shelters. However, other camps used cardboard, polythene papers or tarpaulins to construct shelters. In camps such as Apala and Abia, IDPs lived under trees or structures without roofs. The need for shelter must have been acute when the rainy season started. The fact that most people were forced to flee their homes without bedding and clothes further exasperated the problem.

- **Lack of attention to the vulnerable:** Many vulnerable people, particularly the elderly and children complained about lack of bedding and clothes. As witnessed by the Commission, a system to address the specific needs of





vulnerable people did not exist in the camps. The Commission also noted that the on-set of rains would place the IDPs at grave risk of an ill-facilitated camps.

- **Shortage of food:** All the camps complained about poor access to sufficient food. The known food source was the World Food Program, which distributed its food through the Christian Children's Fund (CCF). The World Food Program official in Lira said that they met between 40-50% of the food needs of the IDPs. This information was based on a verification criteria established by the World Food Program. The Commission's assessment was that food shortage was a major problem in all the camps, particularly those in the municipality. The Commission also witnessed families feeding only on boiled maize for lunch. It also saw several cases of malnutrition, especially among children.

- **Water and sanitation:** Commendable efforts had been undertaken by NGOs to provide water and sanitation facilities in some camps. Unfortunately, the existing facilities proved inadequate in all the camps we visited because of the big population. Water sources in the established camps were boreholes or shallow wells, which occasionally ran dry due to over use. (See photo at the end of chapter: Nathan Byamukama...)

There were also an insufficient number of pit latrines in the camps. Consequently, the latrines quickly filled up and sanitation remained an ongoing problem. For example, the school pit latrines in Apala were taken over by IDPs and used to an overflowing level. At Olaka camp some people had to walk long distances to access pit latrines. Given the circumstances, several people (especially children) use the surrounding bushes.

- **Education:** Several children in IDP camps did not have access to education, thus their right to education were severely violated. In many camps, children no longer went to school because education facilities and resources did not exist. Olaka is the only place where local efforts were noticed in the provision of temporary learning centres, which were yet to be completed and made operational. Overall, the Commission did not witness any policy to effectively deal with this problem.

- **Health Services:** Most of the camps reported that medical personnel, particularly nurses visited the camps 2 or 3 times a week, but they also emphasised absence of drugs. Several deaths were reported due to malaria and malnutrition as well. At Apala camp, for example, the Commission was told that five elderly people died under trees due to starvation. At the same camp, the team rescued a woman who took poison but remained without access to medical services for lack of transport between the camp and Lira Hospital.

- **Security:** IDPs living in camps within the municipality felt more secure than IDPs living in the countryside. The IDPs in the countryside were more vulnerable to attack because they go back to their village homes to collect food. The Amuka local militia is present, but it was alleged that some are dissenting due to non-payment and harsh punishment by their commanders. Nevertheless there was a sense of hope that the LRA were soon to be driven out of Lira district.

#### Overall observations

- 7.14 • Food and shelter needs had reached emergency proportions, and it was necessary to take immediate action to alleviate these needs. Over the months following the visits some efforts by international agencies, NGOs and government were made to mobilise assistance.
- A comprehensive assessment of the conditions in camps was needed. Since conditions varied according to each camp, each camp required different levels of intervention.
  - A gap analysis showed that there were major weaknesses in shelter provision, child protection, health care services, food, and accessibility to camps in the countryside. In settled camps, there were also no attempts to promote income-generating activities. These gaps needed to be addressed.
  - The majority of IDPs did not believe the government provides services to them. The Commission in its report to government requested the government provides a direct budget for the humanitarian needs of IDPs. It is the responsibility of the government to address the needs of IDPs.
  - The Commission visited the Barlonyo on 21 February 2004 where over 200 people had been massacred by the LRA but the place was abandoned without



proper burial of the dead. The Commission called for an immediate burial of these bodies of people. The government soon after ordered for the burial, which was attended by President Museveni.

## Refugees:

### Conditions of refugees in refugee camps

7.15 Uganda has hosted refugees since the 1940s when Polish refugees arrived as a result of World War II. There are approximately 210,000 refugees in Uganda, comprised of Sudanese, Congolese, Rwandese, Ethiopians, Somalis, Sierra Leones, Eritreans, Senegalese, Kenyans and Burundians. The non-urban refugees occupy 66 settlements located in Adjumani, Arua, Moyo, Masindi, Hoima, Kyenjojo and Mbarara districts. Livelihood conditions for the refugee populations vary from settlement to settlement. The determining factor is access to productive land in areas with sufficient rainfall. At the moment, approximately 154,650 refugees receive food assistance from the WFP. Food and income acquisition strategies as well as coping mechanisms for the refugees are diversified but many times unsustainable.

### The Self Reliance Strategy

7.16 The Self Reliance Strategy (SRS), previously known as the integration

policy is an initiative by the government and the UNHCR aimed at making refugees self-sufficient and integrating their services into the district service delivery system through the District Development Plan. The policy was officially launched in January 2002.

At the time of writing this report, about 25% of the refugee programmes were forwarded to the district. By 2005 the government wants over 90% of the refugee programme to be incorporated into the district service delivery system. Its success, however, depends on the availability of land.

The following is a list of the SRS's key objectives.

- Enable the refugees to be self-sufficient in food production and sell the surplus as a means to generate revenue and meet other needs.
- Integrate refugee services into district development plans and national development programmes.
- Build the capacity of the districts so they can maintain the additional responsibility of hosting refugees.
- Promote peaceful co-existence between refugees and nationals through sharing of services and infrastructure.
- Promote sustainable development for refugee hosting areas.

Table 7.6 Refugees in Uganda as of

September 2003

Name of settlement	District	Population size	Area (sq miles)	Country of origin
Nakivale	Mbarara	15,005	84	Rwandese, Eritrea, Somalia, Kenya, Ethiopia
Oruchinga	Mbarara	4,229	16	Rwandese, Eritrea, Somalia, Kenya, Ethiopia
Ibuga	Mbarara	1,000	13	Rwanda
Kahunge	Kamwenge	383	75	Rwanda
Rwamwanja	Kamwenge	00	75	Rwanda
Kyaka I	Kyenjojo	3605	54	Rwanda, DCR
Kyaka II	Kyejonjo	3910	200	Rwanda, DCR
Kyangwali	Hoima	17,100	54	DRC, Sudan, Kenya, Somalia, Ethiopia, Burundi
Rhino	Arua	25,616	225	Sudan
Kiryandongo	Masindi	14137	50	Sudan, Rwanda, DRC
Koboko T C	Arua		18.8	
Imvepi	Arua	16,912	400	Sudan, DRC
Pakelle	Adjumani	61,590	650 sq km	Sudan
Urban refugees		211		Mixed
<b>Total</b>		<b>209,862</b>		

Source: Office of the Prime Minister

Table 7.6

Age
Sex
Nationality
Rwandese
Kenyan
Somali
Ethiopian
Congolese
Burundian
Sudanese
Subtotal
Total

Source: Ca



### Situation in Nakivale and Kyaka settlement camps

7.17 The Commission carried out field visits in September 2003 to refugee settlements in the Western Uganda. This was in accordance with the Commission mandate to monitor the government's compliance with *International treaty obligations on human rights*.

7.18 The following is a list of settlements visited by the Commission.

- Nakivale in Mbarara district

- Orukinga in Mbarara district
- Kyaka I in Kyenjojo district
- Kyaka II in Kyenjojo district

7.19 The main objective of these visits was to note the status of the refugees' human rights in the camps. In doing so, the Commission determined the condition of the camps, ascertained complaints of refugees, made recommendations to the relevant authorities, and followed up on the recommendations raised in the previous visit and the 2001-2002 Commission Annual Report.

Table 7.6 Nationality breakdown of Nakivale resettlement camp as of December 2002

Age	0-4		5-17		18-59		60+		Subtotal		Total
	M	F	M	F	M	F	M	F	M	F	M+F
Rwandese	2,253	1,997	2,064	1,857	2,122	1,911	65	54	6,504	5,819	12,323
Kenyan	6	9	16	5	31	15	1	-	54	29	83
Somali	65	58	129	133	219	225	6	2	419	418	837
Ethiopian	3	2	6	3	24	11	-	-	33	16	49
Congolese	156	163	198	206	221	228	18	18	593	615	1,208
Burundian	20	22	32	31	59	50	-	-	131	103	234
Sudanese	03	03	08	16	14	12	-	-	25	31	56
<b>Subtotal</b>	<b>2,506</b>	<b>2,254</b>	<b>2,453</b>	<b>2,251</b>	<b>2,710</b>	<b>2,452</b>	<b>90</b>	<b>74</b>	<b>7,759</b>	<b>7,031</b>	<b>14,790</b>
<b>Total</b>	<b>4,760</b>		<b>4,704</b>		<b>5,162</b>		<b>164</b>		<b>14,790</b>		

Source: Camp officials

7.20 As seen in table 7.6, the Nakivale resettlement camp had 14,790 refugees at the time of the visit. However, it is important to note that the Office of the Prime Minister (OPM) and the Uganda Red Cross Society (URCS) commonly reports different figures; hence, the reported number of refugees fluctuates regularly. Difficulties in monitoring the movement of refugees also contributes to the fluctuation of refugee figures throughout the country. For example, it was reported by a camp official, that a number of refugees escaped from resettlement camps to avoid a suspected "forced repatriation" to Rwanda. During the Commission's visit, the OPM and URCS were compiling a list of refugees that escaped. It was later confirmed that the refugees fled to Masaka, Rakai, Kiboga, and Kamwenge districts.

#### Services

7.21 The Uganda Red Cross Society signed a Tripartite Agreement with the

government of Uganda and the United Nations High Commission for Refugees (UNHCR) to be the acting partner responsible for implementing a multi-sector programme in Nakivale and Kyaka II. The activities under the multi-sector programme was to be implemented under the following areas:

- Community services
- Education
- Health
- Water and Sanitation
- Distribution of food and non-food items

#### Administration of resettlement camps

7.22 Resettlement camps have refugee welfare councils for the purpose of easy administration in all 20 zones. These councils are equivalent to local councils in communities outside the settlement.

7.23 The settlement commandant had ensured that refugees live in accord with themselves and with the host communities. Despite many challenges,



the settlement commandant encouraged mobilisation and sensitisation of refugees and host communities.

- 7.24 The Commission noted problems around freedom of movement for the refugees, which led to the camp commandant to almost be seriously attacked by the refugees. He was hijacked and almost beaten by Somali refugees. The reason for the attack was that Mr. Mugenyi had asked all refugees to inform the authorities whenever they wanted to go outside the camp. The refugees who refused to abide by the new rule were locked up in police cells. In response, fellow refugees attacked the police post to coerce the release of those detained. This prompted the camp commandant to ask the police post to be reinforced with additional police personnel and relocate the refugees in question to detention places outside the camp. This was unacceptable to the Somali refugees, so they planned to punish the commandant by hijacking his car and beating him. However, their plan was not successful because the camp administration put measures in place to contain the situation.

#### **Repatriation of Rwandese refugees**

- 7.25 The governments of Uganda and Rwanda together with the UNHCR, signed a Tripartite Agreement in July 2003. Under this agreement all refugees from Rwanda are free to choose whether to be repatriated to Rwanda or to remain in Uganda. It is clear in the Tripartite Agreement that repatriation must be exclusively voluntary. By the end of July 2003, 41 families had been repatriated, and by the end of August 2003, 31 families filed for repatriation. Article 2 (Voluntary repatriation of Rwandan refugees in Uganda) of the tripartite agreement clearly states that,

*"The contracting parties fully recognise the essentially voluntary character of the solution of voluntary repatriation and reaffirm that no Rwandan refugee will be compelled to return against his/her will".*

- 7.26 This notwithstanding, refugees believed the repatriation would be forceful. According to the camp commandant, this misunderstanding resulted in several Rwandan refugees escaping from resettlement camps to the districts of Masaka, Rakai, Kiboga and Kamwenge. The Commission advised that a campaign be put in place to

counter disinformation on forceful repatriation. At the time of writing this report, most Rwandese refugees had been repatriated.

#### **The Nakivale Settlement Camp**

- 7.27 According to the settlement commandant, Nakivale settlement encourages the self-reliance policy. According to this policy, each refugee family is given one hectare of land for agricultural use. Refugees were also supplied with agricultural implements such as hoes, pangas and seeds among others. In agreement, refugees are given a grace period of two successful harvest seasons and then rations are cut off.
- 7.28 The policy of self-reliance, however, had a number of problems associated with it. It was difficult to provide every refugee family with land because of land shortage. Nakivale settlement camp has this problem because it was largely taken over by encroachers from the local community, leaving very little land available for the large number of refugees. In addition, Nakivale settlement accommodates refugees from several different backgrounds. Some refugees are predominantly pastoralist (e.g., the Tutsi, Somalis, and Ethiopians), while other refugees are farmers (e.g., the Congolese and Hutu). It is difficult for people with different ways of generating subsistence to coexist. Naturally, the pastoralists wanted more land than what is available. Even if land was plentiful, the nature of the two occupations is difficult to co-sustain as the animals trespass in gardens tended by refugees and locals. Still, by nature of being herdsmen implies a great need for water resources and covering long distances, even outside the settlement. This has caused conflict with the locals as well as other refugee farmers.

#### **Encroachment**

- 7.29 Nakivale refugee settlement was gazetted in 1962 and consisted of 85.5 sq miles of land. By the mid 1990s, encroachment reduced the settlement to 6 sq miles of land. The encroachers were local politicians and Tutsi refugees who were repatriated but kept commuting back. The problem of encroachers became so eminent that the government was forced to intervene. In March 2003, the government through a cabinet memo



instructed camp commandants to protect all government land and revoke illegal land titles. Accordingly, the Nakivale settlement commandant is redistributing land that was occupied by encroachers. By the time of the Commission's visit, over 64 refugee families were resettled on land originally gazetted in 1962.

### Health

7.30 There is one health centre in Nakivale settlement camp. Given the number of refugees and the limited facilities and resources available, the health centre is overstretched. Furthermore, an influx of new asylum seekers from Rwanda has escalated the problem. The common illnesses are malaria and other fevers.

### Security, law, and order

7.31 There is a police post located inside Nakivale settlement camp, and another police post is within close proximity of the camp. In general, security is guaranteed.

### Education

7.32 Education facilities in Nakivale settlement camp are utilised by refugees and nationals. In general, enough education facilities were available but these have become constrained due to an increase in asylum seekers. Policy is also in place to encourage female children to attend school. At the same time, absenteeism is a problem because of malaria.

### Domestic violence

7.33 Cases of domestic violence were reported in Nakivale settlement camp. These were mainly linked to frustrations that develop from fear of 'forced' repatriation.

### Kyaka II refugee resettlement camp

7.34 When the Commission visited Kyaka II refugee resettlement camp in September 2003, there were 5,116 refugees from the Congo, Rwanda, and Kenya. These refugees were recognised by the government, Red Cross, and UNHCR. There were also 2000 refugees from Rwanda that were not recognised.

**Table 7.7 Breakdown of refugees in Kyaka II by age as of September 2003**

Age	0 - 4		5 - 17		18 - 59		60+		Total
	M	F	M	F	M	F	M	F	
<b>Nationality</b>									
Congolese	336	294	439	422	575	571	41	30	<b>2,708</b>
Rwandese	367	394	360	338	452	450	22	14	<b>2,397</b>
Kenyan	02	-	-	-	08	01	-	-	<b>11</b>
<b>Total</b>	<b>705</b>	<b>688</b>	<b>799</b>	<b>760</b>	<b>1,035</b>	<b>1,022</b>	<b>63</b>	<b>44</b>	<b>5,116</b>

Source: Camp officials

**Table 7.8 Breakdown of refugees in Kyaka II by population**

Nationality	Opening population	New arrivals	Births	Mandate care	Death	Closing population
Congolese	2,307	380	02	07	-	<b>2,708</b>
Rwandese	2,392	-	05	-	-	<b>2,397</b>
Kenyan	11	-	-	-	-	<b>11</b>
<b>Totals</b>	<b>4,710</b>	<b>380</b>	<b>07</b>	<b>07</b>	<b>-</b>	<b>5,116</b>

Source: Camp officials

**Table 9 Breakdown of refugees in Kyaka II by family size**

Family size	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
<b>No. of families</b>	761	246	197	193	150	94	52	33	21	14	09	05	02	02	-	01

Source: Camp officials



## Health services and the Right to Health

- 7.35 Kyaka II has a well-established health unit with sufficient clinical staff. In the past, the major problem was that buildings were in poor condition, but the health unit in Kyaka II is now under *intensive rehabilitation*. Thus far, the unit has been extended to include a wing each for women, men and outpatients. The centre also has an ambulance. However, in addition to rehabilitating the health unit, the supply of drugs needs to be replenished.
- 7.36 The most common illnesses among patients at Kyaka II health unit are malaria, Sexually Transmitted Diseases, diarrhoea and measles. This calls for a concerted sensitisation to reduce the incidence of these diseases, which are preventable.
- 7.37 Shortly before the Commission's visit, a group of 2000 Rwandan refugees had arrived at Kyaka II settlement camp. Their arrival at Kyaka II had significantly constrained the settlement's resources. *If they were to remain at Kyaka II camp*, additional resources was required to accommodate their demand.

## Education

- 7.38 Three active primary schools were established by the UNHCR. On behalf of the UNHCR, post primary school education is provided by a charity organisation called, Harry Pilkington Charity.

## Infrastructure

- 7.39 The road network is in poor condition, and at times, roads are impassable. Yet, there are plans to upgrade the road connecting Kyaka II camp to Kamwenge district.

## Water

- 7.40 Kyaka II settlement has approximately 24 boreholes. By the time of the visit, only six boreholes were in operation. However, the team did learn that funds were available to construct protected water springs.

## Sanitation

- 7.41 There are sufficient latrines to cater for the people in the settlement.

## Security

- 7.42 The security situation in Kyaka II is conducive. This can be attributed to the nature of the settlement, as it is similar to a local/national community. In this case, it was noted that the locals

and the refugees co-exist well, and that they share facilities and markets.

## Refugee movements

- 7.43 Movement permits and identity cards are issued from the Kampala office. The policy however severely restricts the refugees' freedom of movement.

## Human rights and sensitisation

- 7.44 The Commission team learnt that settlement officials carry out sensitisation workshops for refugees, especially on government policy, duties and responsibilities. Variations of other workshops are also conducted on community services and sanitation.

## Agriculture and self-reliance

- 7.45 On arrival, each refugee family is allocated one hectare of land for agricultural use, farm implements, high quality seeds, food rations for one month and plastic sheeting. Since the soil is good, half of the refugee population generates enough food to be self-sufficient and maintain a balanced diet, while the other half, numbering approximately 2,400, still requires food assistance. To assess the food situation and ascertain food rations, Kyaka II settlement established Joint Food Assessment Mission.

## Kyaka I refugee resettlement camp

- 7.46 Kyaka I is divided into two parts, Kazinga and Ruhangire. The former was predominantly for pastoralist Rwandese refugees who returned to Rwanda after the victory of the Rwandese Patriotic Army (RPF) in 1994. The latter, was occupied by Congolese refugees who came to Uganda in the 1960s. Currently, the refugees in Kyaka are mostly integrated. The settlement has two major schools and two health units. The health units provide services to refugees and nationals, but the supply of drugs is inadequate. The settlement also lacks water facilities.

## Problems in Kyaka I

- 7.47 The major problem in Kyaka I is attributed to the conflict between settlement officials and the local population. It revolves around the utilisation of land that became unoccupied after Rwandese refugees left. As a means to get votes, it was alleged that politicians misled the local population to believe that the unoccupied land had been de-gazetted and was available for repossession. On the other hand, settlement authorities

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## Introduc

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insist that local encroachers are illegal and should vacate the land or be removed. The land wrangles between the locals and the resettlement officers intensified to the extent that the resettlement commandant had to abandon his workstation and relocate to Kyaka II.

## Kiryandongo Refugee Settlement

### Introduction

7.48 In early September 2003, it was reported that Ugandan security forces forcibly moved 16,000 Sudanese refugees from Kiryandongo refugee camp to new locations in the West Nile region (which is close to the conflict area) of the country. The government of Uganda initiated the relocation in an effort to find land for refugees originally displaced from the Achol-pii camp in northern Uganda in August 2002. The large number of Sudanese refugees had earlier been temporarily relocated to a camp in central Uganda after an attack by the Lord's Resistance Army (LRA) rebels. The Kiryandongo camp was said to be overcrowded and could not host the large number of refugees. The Government of Uganda decided to relocate them again to two new sites in the West Nile region - Madi Okollo, a former refugee camp that has been recently rehabilitated, and Ikafa, a move that was resisted by the refugees themselves and the UN refugee agency - UNHCR.

7.49 The start of the transfer was blighted by violent clashes between Ugandan security personnel and stone-throwing refugee youths who were objecting to the location of their proposed new home. The International and local media reported that three refugees died in the clashes but this allegation was strongly denied by Ugandan authorities who claimed that the relocation was organised on voluntary terms.

7.50 Against this background, the Uganda Human Rights Commission visited Kiryandongo area including the Police station, hospital, remand prison, police post, Madi okollo refugee camp, Ikafa refugee settlement and the Kiryandongo refugee settlement to ascertain the authenticity of the allegations.

### Kiryandongo Police Station:

7.51 The team found no refugee in Police custody. However, records at the

station indicated that on 1st September 2003, the regular police From Masindi together with the Mobile Police Patrol Unit detained 22 Sudanese refugees as suspects. They were charged with various criminal offences of rioting and malicious damage to property. However the Police denied having received any report of death during the exercise. They reported that a 40-year-old woman, Santana Ayaa had sustained serious injuries having been shot in the stomach with rubber bullets, which was lodged into her stomach. She was reported to be out of danger. Kiryandongo hospital reportedly only received the aforementioned woman at the hospital as a result of the Police operation. Ayaa denied knowledge of any death as a result of this incident.

### Kiryandongo Remand Prison (Local Administration)

7.52 The Officer in Charge, Sergeant Lawrence Bagadira, No. 707 reported that on the 2nd September 2003, he received 23 Sudanese refugees who were remanded by court. Okot Oyet and William Oketa were convicted and sentenced for three months imprisonment. The UHRC officers found that on the 15th September there were 12 prisoners in custody including two convicts. Bongomin Joseph, Mole Baro, Taban George and Owen Tonny Omegi had been indicted and were released on bail. On whether any refugees had been killed, the prisoners in custody said they heard unconfirmed reports and could not verify the reports.

7.53 According Bongomin Joseph, the confusion was attributed to lack of information and communication between the refugees and the concerned organs, which resulted into confusion. According to him there was lack of adequate information regarding the relocation exercise and that they were taken by surprise when on the morning of 1st September 2003, they were awoken by heavily armed riot police and other security personnel. Bongomin also noted that the Police acted on false information - that the refugees had firearms in their possession and that the refugees were prepared to fight and resist forceful relocation. The refugees also felt that a military approach was used to deal with a civil problem.

7.54 Richard Arop, a Sudanese refugee



reported that on 1st September 2003,

Ugandan police entered the camp at night, started shooting in the air and used tear gas. Refugees unwilling to relocate were arrested and the refugees' huts were set afire as soon as they were vacated. Refugee descriptions of the move, that is, having their homes burned and being herded into crowded trucks with no food or water for the long journey, suggests that the move was inhumane. They were allegations that during the operation, a child fell and died in a pit latrine and that her body was buried in the pit latrine. UHRC officers' enquiries on the whereabouts of the dead body and location of the pit latrine proved futile, as none of the persons making the allegations knew of its whereabouts.

7.55 According to Edward Byakagaba, the District Councillor for Kiryadongo sub-county, the refugees had been addressed by the Chairman LC 5, Masindi District and the Commissioner for refugee affairs in the OPM on the Government's plans to transfer them to West Nile. However the refugees protested and rejected the plan to be moved because of the insecurity in that region. According to Byakagaba, the refugees exhibited violent behavior. In August 2003, attempts to address the refugees on the same issue by the Resident District Commissioner (RDC) proved futile, as refugees stoned his motorcar causing severe damages to it.

7.56 David Katesigwa, Assistant RDC, Kibanda County, Masindi District noted that due to the big numbers of refugees, the area administration and the settlement staff were worried of an impending outbreak of serious diseases, like cholera due to congestion and poor sanitation. That the refugees were informed of the plans and it was therefore not true that they were taken by surprise.

#### **Kiryandongo Refugee Settlement**

7.57 The UHRC team visited the Kiryandongo refugee settlement and the place was highly congested, very unhygienic as human excreta were exhibited everywhere and all the huts had been burnt down.

The camp commandant, Mr. Omondi Walter informed the UHRC team that the refugees' stay in the camp was intended to be temporary and transitional as arrangements were

being made to resettle them else where. Consequently, nothing of a permanent nature was put in place as they were only camping in the settlement on transit to another settlement. That the refugees were well informed of the arrangements to move them to another settlement. He further pointed out that Kiryandongo refugee settlement has its full capacity of 12,000 refugees and those who were due for relocation were about 17,000 and therefore it was impossible for them to be settled in Kiryandongo refugee settlement.

#### **Kiryandongo Refugee Police Post**

7.58 This is a Police post attached to the refugee settlement. The Officer in Charge, Corporal Achaye Stephen, reported that the anti riot police, regular police and some army officers were involved in this exercise. Achaye denied having received any report of any refugee during the exercise.

#### **Madi Okolo Refugee camp**

7.59 The team was received by Senior camp Commandant, George Kasya. The camp is about 30 km from Nebbi District headquarters on Arua road. It covers about 20 sq. km, which can be extended as the need arises. The camp is totally a new establishment and at the time of writing this report there was hardly any infrastructure or development. The camp was holding a total of 7,178 Sudanese refugees. These were among the refugees who were in Acoli-Pii camp and later moved to Kiryandongo refugee settlement.

7.60 They were also a contingent of security personnel of UPDF soldiers and regular police officers protecting the camp. However the UHRC team was informed that the team would be withdrawn leaving behind the Police for Security.

7.61 When interviewed about the death reports, the refugees said they only heard unconfirmed reports but had not verified them. The refugees had already constructed temporary shelters and had planted some crops on the allocated lands. The Commandant reported that he had so far settled 600 families out of about 2500 families. These had been allocated plots of land and given farming implements. However the refugees interviewed believed that the area was insecure for their stay.





### **Ikale Refugee Settlement**

7.62 This is located in Yumbe district. The camp commandant Esau Banyende was reluctant to give any information to the investigating team but expressed reservation about the numbers and the facilities available. However the team observed that the refugees were still congested in this area while they were waiting to be settled in the camp. He denied receiving any death or serious injuries reports to that effect.

### **Findings**

7.63 It was established that no refugee or any other person was killed during the exercise. Anti Riot Police forces and the regular Police forces were fully involved in the exercise and there was no evidence found implicating the army of direct involvement in the exercise of organizing, screening and relocation of the refugees.

7.64 It is the Uganda Human Right Commission's opinion that reasonable force was actually applied to assemble the refugees to a place where they could be screened and then have them loaded on trucks, which were escorted by the regular police and the army.

7.65 The refugees acted on unverified reports by some elements in the refugee committee that they were being taken to areas prone to LRA rebel attacks. This was indeed the major cause of fear, hence the resistance.

7.66 It was established that Kiryandongo refugee settlement was an established settlement with a capacity of people, its facilities, such as the size of land, the specified population can reasonably hold.

7.67 The refugees in question were allocated at Kiryandongo as a temporary transit camp after the Kony rebel attack of the Achol Pii settlement.

7.68 Due to the overwhelming numbers at the Kiryandongo refugee settlement, the living conditions, hygiene and sanitation were deteriorating by the day.

### **Conclusion**

7.69 It would appear there is a need for better management, monitoring and evaluation of activities and/or operations carried out. The detection of problems at an early stage is crucial. Evidently this needs co-operation

between all parties involved; Government, the UN agency on refugees, field staff and refugees alike.

### **Recommendations**

7.70 While there is a margin of appreciation in Uganda's open door policy to refugees, it is important that the combined effects of the various reception measures allow for a stay in dignity and guarantee that rights are respected.

7.71 Refugees are victims of violence and war and are compelled to leave their country of asylum in fear of persecution they are thus a marginalized and a vulnerable group of people. Therefore their fear and uncertainty of physical safety or freedom should be duly taken into account when conducting any operations that affect them. Refugee protection is a truly humanitarian ideal.

7.72 Government plans that directly affect refugees should be clearly communicated and extensive consultation should be undertaken to ensure well-coordinated actions and decisions. Full information must be given to the refugees and their safety guaranteed in such circumstances. Resettlement arrangements should seek to balance the rights and benefits granted to refugees and the obligations and contributions, which may reasonably be expected of them.

7.73 Government should put in place a clear and workable refugee policy that includes refugee protection in Uganda and takes into account Uganda's socio-economic levels, thus minimising on crises such as this one.

7.74 That the international and NGO community should support the Government of Uganda in finding durable solutions to refugee protection and addressing issues of humanitarian needs, that is, supporting social services that benefit both refugees and nationals, in order to encourage more integration into local communities

### **Major challenges to the Refugee Self Reliance Policy**

7.75 The success of SRS is closely linked with the availability of land. The land is given by local communities in expectation that funding for the refugees will also provide infrastructure development and services to their communities. Unfortunately, funding has reduced for



the refugee programme, and extending services and infrastructure to the refugee hosting communities is constrained, limiting the extension of services to the local community.

7.76 Furthermore, as the number of refugees increase, the amount of available land decreases. Self-reliance cannot be achieved when the number of refugees is more than the available resources. Old settlements have problems of poor soils, water logging and rockiness.

7.77 Insecurity creates has been disruptive to the strategy; some areas that host refugees, especially Adjumani, share a boundary with the Acholi sub-region. This sub-region is where the LRA has focused its activities for the last 17 years. Occasionally, rebel activity spills over to Adjumani and disrupts the refugee settlements. The resultant insecurity denies refugees the opportunity to completely benefit from the SRS programme

### **Specific challenges to refugee protection in Uganda**

#### **The ever-increasing number of refugees**

7.78 Uganda is commended for its open-door policy towards refugees, however, it is struggling with the ever-increasing refugee population.

7.79 The foundation of the Ugandan refugee policy is the local integration policy, whereby refugees are allocated land to produce food and be self-sufficient. Therefore, the capacity of Uganda to effectively host and protect refugees is determined by the quality and quantity of available land. If the number of refugees becomes greater than the amount of available land, then Uganda will be forced to rethink its policy of local integration. This would certainly affect the quality of asylum and protection afforded to refugees by the Uganda government.

#### **The Congolese asylum seekers on the western border of Uganda**

7.80 Due to the conflict between the Hema and the Lendu in eastern Congo, approximately 20,000 to 30,000 asylum seekers entered Uganda. Unfortunately, they refused to go to designated refugee settlements, yet existing policy requires refugees to settle in designated areas. As a result, this group was not receiving assistance from the UNHCR.

They were reported to be a threat to Uganda's national security because they kept moving between the Democratic Republic of Congo and Uganda. This presented a problem not only for national security but also on the protection of the rights of refugees.

#### **The repatriation of Rwandese refugees**

7.81 Uganda recently signed a Tripartite Agreement for the repatriation of Rwandese refugees in Uganda. Approximately one year prior to the Tripartite Agreement, the UNCHR signed an agreement with countries in the region regarding the same caseload. In effect, over 5,000 Rwandese refugees who opposed repatriation crossed over from Tanzania to Uganda. The status of these refugees remains undecided, for a long time, which, meant they could not receive assistance and mainly lived in appalling conditions.

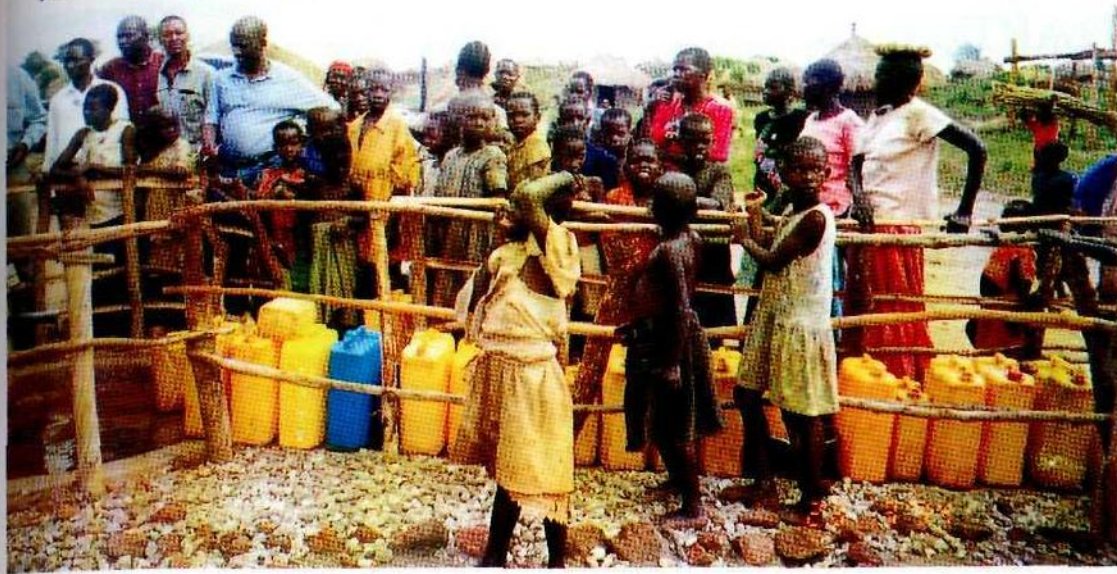
#### **The lack of adequate domestic refugee legislation**

7.82 The quality of protection accorded to refugees depends upon the implementation of International legal standards for the protection of refugees on the domestic level by means of national legislation. The premier legislation on refugees in Uganda is the Control of Alien Refugees Act, 1960. Basic principles of Refugee law and protection e.g. principles of non-refoulement (not to be returned to a country where one may face persecution) are not embedded in the Act. The distinctive issues that affect women, children, the aged, PWDs are not taken into account. There is also a lack of a clear and independent appeals procedure on rejected cases. In 2002 Annual report, the Commission extensively discussed these problems and called for a revised law on refugees.

7.83 Currently there is a refugee bill that has been drafted, that would create governmental structures to govern the handling of asylum seekers and refugees. However, the draft has not been moved through the various stages of enactment of new legislation. This draft would if passed, measure up to the provisions of the Uganda's Bill of Rights and International human rights standards on refugees. There is therefore the need for a speedy enactment of a new law on refugees.



*Nathan Byamukama, (light blue t-shirt) Head of Department, Monitoring and Treaties Department, flanked to his right by Dan Assasira (UHRC) and Tom Obel (UHRC) as they observe children at Bara-olaka IDP camp line up for water. This is one of the few camps with clean water.*



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## CHAPTER 08

# Responses by Parliament to recommendations made by the commission on human rights

### Introduction

8.01 The Constitution requires that the UHRC prepares annual reports to Parliament on the State of human rights in the country. The Commission is also expected to make recommendations to Parliament on how to improve human rights in the country. For a long time these requests were not being discussed by Parliament but in the year 2002, Parliament in its plenary considered all the past reports and pronounced itself on the findings and recommendations of the Commission.

8.02 On the 15th October 2002, the Commission appeared before Parliament's Legal and Parliamentary Committee to present and discuss the *summary of the three annual reports for the years 1997-1998, 1998-1999, 1999-2000, and 2000-2001*. After the presentation and discussions, a number of institutions were subsequently called in to react to the issues and recommendations. Following this interaction the Committee invited certain ministries, the Judiciary, NGOs and the Amnesty Commission to

respond to the issues raised by the Commission. The following were invited by the Committee to respond to issues in the Commission annual reports:

- The Minister of Justice and Constitutional Affairs
- The Minister of Internal Affairs
- The Minister for Security
- The Minister for Disaster and Preparedness
- The Minister of Gender, Labour and Social Development
- The Administration of Justice, Chief Justice
- The Amnesty Commission
- The Minister in Charge of Pensions
- The Minister of Foreign Affairs
- The Minister of Internal Affairs
- The Non Governmental Organisations

### Responses by the institutions invited by the Committee

#### Minister of State for Security on "Safe Houses"

8.03 On 17th October 2002, Honourable Muruli Mukasa, the former Minister of State for Security answered questions



pertaining to illegal detention places called "safe houses". The Minister responded that they were mainly used in 1997 and 1998 because of the various bombings conducted by terrorists in Kampala. He explained that there were not many trained people to handle such suspects. He explained that "safe houses" have been phased out and suspects who had been so held transferred to Kigo prison, a gazetted detention centre.

### **Minister of State for Security on Torture**

8.04 The Minister admitted that torture was originally used as a method to extract information from suspects. However, training in other methods of extracting information had been conducted and torture had been checked. The Committee was also informed that ISO was not aware of any deaths in places of detention due to torture because it was no longer used. The Committee was further informed of the two deaths complained of were due to natural causes as confirmed by the post mortem report on them.

### **Observations by the Commission**

8.05 The Commission has continued to put pressure on the government to eliminate torture. The government has begun to respond and show concern. This was evidenced by the government's response to numerous reports of torture processed by the Commission. On 29th January 2004, the Commission met members of the National Security Council (NSC), namely the Minister of Internal Affairs, the Minister of State for Security, Directors of the Internal Security Organisation (ISO) and External Security Organisation (ESO), Chieftaincy of Military Intelligence (CMI), and the Uganda Police Force (UPF). It was agreed that steps be taken to eliminate torture and punish those staff who practise it.

8.06 Another meeting to discuss torture by security forces was held on 5th July 2004 and resolved that an action plan against torture be launched. This meeting was attended by the Army Commander, Lt. General Aronda Nyakairima, the Commissioner of Prisons, Mr. Joseph Etiima, the Director of Public Prosecutions, Mr. Richard Butera, and the Deputy Commissioner of Prisons, Dr. J. Byabashaija. The

Commissioner of Police, Mr. Godfrey Bangirana, represented the Inspector General of Police, Major General Katumba Wamala. The meeting was initiated by the Commission and the Director of Public Prosecutions (DPP) and was chaired by the Commission's chairperson, Mrs. Margaret Sekaggya. Issues ranging from torture by security organisations, the use of safe houses by CMI and the Violent Crime Crack Unit (VCCU), and corruption in the Court Martial were discussed.

- 8.07 The following recommendations were made from the meeting on 5th July 2003.
- There is need for combining efforts and resources to train security officers in interrogation techniques and human rights.
  - Where the Commission has investigated and proved cases of torture, reports should be sent to the relevant security organisations on a weekly basis.
  - Monthly meetings should be held to assess the progress against acts of torture.
  - A re-evaluation of VCCU and its personnel is necessary, and the public should be informed of the law that VCCU operates under.
  - A mechanism ought to be developed to inform the public about the actions taken against the perpetrators of torture.
  - The public should be informed about the action plan against torture, and victims of torture should report to the Commission for action.
  - The Director of ISO should be invited to every monthly meeting.
- 8.08 This was for the first time a positive step: first, it was acknowledged that torture is practised by security organs; and second, concrete steps for its elimination had been identified.

### **Minister of State for Security on the Constitutional requirement that suspects must be charged before court within 48 hours**

8.09 The Minister agreed that the 48-hour constitutional rule is a constitutional requirement, and security organisations do not wish to violate the Constitution. He added that sometimes circumstances dictate and makes it impossible to follow the rule. His appeal was for a change in the law exempting certain crimes from the rule.

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The Commission however does not agree with the Minister that the solution to this problem is to change the law. The problem exists largely because the police is incapacitated and it is ill equipped. Furthermore, the people who mostly held suspects for long are the intelligence services who in law have no power of arrest and detention.

**Minister of State for Security on Cooperation with UHRC**

8.10 The Minister reported that at the beginning there was little cooperation between security agents and UHRC. However, after attending a number of workshops organised by UHRC, the relationship improved and a number of interactions had been made. The Committee was informed that with the good relationship between UHRC and his Ministry, UHRC should not wait for permission to make impromptu visits to places of detention as it is UHRC's constitutional duty. He said where UHRC's presence is likely to interfere with security they may not be allowed access. The Commission however continued having access to these places until sometimes in May 2004 when it finally gained access to a number of places controlled by the army and the intelligence services.

**Observations by the Commission**

8.11 The Commission was unable to access military detention centres when Major General Kazitwi was Army Commander. The Commission, however, reports with appreciation the cooperation of the current Army Commander, Lt. General Aronda Nyakairima who has shown interest in security and respect for human rights. Having inherited a force that was under close surveillance by the Commission, he on his own initiative visited and held discussions with the Commission on 6th May 2004. He appreciated the Commission's role and pledged cooperation with it in its work. He thereafter directed that the Commission was free to inspect military detention centres. Visits were contingent on the Commission providing notice to military detention centres prior to their visit. That is, a 48-hour notice was required for the first visit, a 24-hour notice for the second visit, a 12-hour notice for the third visit, and the fourth visit did not require notice. The Lt. General explained that the notices were required for security purposes.

8.12 Following that meeting, the Commission conducted inspections on 7th, 14th, and 17th May 2004 in Bombo Army Headquarters, Kakin Barracks, Mbuya Military Hospital, Makindye Military Barracks, Chieftaincy of Military Intelligence (CMI) Headquarters, and Summit View Army Detach. The inspections were to assess the condition of inmates in the places of detention and make recommendations accordingly. Details of these recommendations have been compiled as a special report and will be provided in the 2004 UHRC Annual Report.



Lt. Gen Aronda has shown interest in security and protection of human rights

**Minister of State for Security on "Operation Wembley"**

8.13 The Minister reported that Operation Wembley was an operation established to curb armed robbery and was initially intended to end by 30th October 2002 when it was expected that the rate of robbery would be reduced. On handling of suspects, the Minister reported that the facilities on Clement Hill road, where operation Wembley suspects are kept, are only a reception centre and not a detention centre. Since the opening of a centre at Makindye, there are no suspects detained at Clement Hill. Operation Wembley is a police operation that is responsible for taking suspects to court. However, the suspects are screened first and only those who qualify under the NRA Statute are taken to the Court Martial.

8.14 The Minister also reported that there were cases where suspects were arrested by the police but collected for interrogation by other security organs when the suspect is being investigated for more than one crime and because

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different security agencies are trained to handle different crimes.

8.15 The Minister explained that the Joint Task Force responsible for "Operation Wembley" taps on the strength of each security organ and does not derail the powers of the police. Those resources are pooled to ensure that each task is done. The police had lost manpower over time and other security organs were assisting. If the police had adequate capacity, then other security organs would have no reason to do police work.

The Minister's explanation did not refute the findings revealed that Wembley suspects are illegally detained and tortured. The centre at Makindye is a military police facility where these suspects are detained, maybe for over a year without being charged.

#### **The Minister of State on Disappearances**

8.16 The Minister reported that ISO and ESO were not aware of any disappearances. The cases quoted in the UHRC report that "the DISO of Bushenyi had two people handed over to him by the army," (referred to people originally arrested in combat). The DISO was only to facilitate transfer to the police station. In the case of the DISO of Kisoro, the suspect was involved in treasonable acts and was handed over to the proper authorities.

#### **The Chief Justice on Illegal detentions, Delayed trials, and the Plight of prisoners**

8.17 On 23rd October 2002, Chief Justice, Benjamin Odoki, appeared before the Committee and answered questions pertaining to illegal detention, delayed trials and the Plight of Prisoners

The Minister's explanation does not account for several other persons mentioned in the reports, who have disappeared and have not been located by relatives.

#### **The Chief Justice on Illegal detention**

8.18 The UHRC reported about illegal detentions and the Chief Justice responded that the Judiciary has a mandate to administer justice by collaborating with other institutions (e.g., the police, prisons, UHRC, etc.). With the role of watch dogs, the Judiciary may not be able to intervene directly in matters of illegal detentions and would have to sometimes withdraw itself from the situation if there is conflict.

8.19 The Chief Justice further stated that the Court does not have to wait until a matter is formally presented, and has the power to conduct its private investigations. An example given is prisons having the problem of long remand cases. Judges have the power to ensure that such cases are produced in court and released. However, the responsibility was given to UHRC under the Constitution to handle matters of illegal detentions.

#### **The Chief Justice on Delayed trials and the Plight of prisoners**

8.20 The Chief Justice, in response, stated that UHRC did not intend to place blame on the Judiciary through the UHRC reports but to point out a major problem and to present a workable solution.

8.21 Delayed trials have been one of the major problems faced by the Judiciary as a symptom of deficiency of resources in the institution. A good standard is when trials are conducted and investigations are carried out in a timely fashion. The institution has often asked the government for money to clear the backlog of cases but the requests were denied.

8.22 The Chief Justice also reported that the Judiciary is short of Judges due to deployments into other tribunals and probes. He added that six posts of Chief Magistrates had fallen vacant and yet they were at the time only twenty-nine Chief Magistrates compared to the fifty-six districts in Uganda. He advised the Committee that Parliament should extend the quota so that the Judiciary can recruit more magistrates. The few judges that are available are overwhelmed with a high frequency of cases.

8.23 The Committee members, however, indicated that there are two aspects of delay, the criminal aspect and the civil aspect. On the civil aspect, the problem of unprepared parties and their lawyers was emphasised. On the side of criminal justice, problems unique to the UPF result in delay. However, it was suggested that the issue of volunteer judges and magistrates should be considered in order to handle the backlog of cases. The Commission notes that these problems have since been addressed through the efforts of the Justice law and Order Sector and more judges and



magistrates have since been appointed.  
However the problem still persists due to the backlog.

### **The Chief Justice on the 48-Hour Constitutional Rule**

8.24 The Chief Justice reported that the 48-Hr Constitutional Rule is a concern with the courts. There is a need to build capacity within the police, and that they should not arrest before investigations have been conducted since the 48-Hr Constitutional Rule is a high standard that should not be breached by the police. He added that the public needs to be sensitised to be able to cooperate with the police.

### **The Chief Justice on Corruption in the Judiciary**

8.25 The Chief Justice reported that the role of the Judiciary is to devise a standard to balance the scales of justice. Since the Judiciary often handles cases of different categories of people, each situation is case-sensitive. He added that investigations had begun to take place in the Judiciary to check acts of corruption. After the investigations a report will be written and strategies will be developed for fighting corruption in the Judiciary.

### **The Chief Justice on the laws inconsistent with the Constitution**

8.26 Laws inconsistent with the Constitution should be amended. The Judiciary should act quicker on this issue, as the government is often too slow in the amendment of legislations involving legal matters. He urged members of the Committee to support the Judiciary by pushing this matter to Parliament.

8.27 The Chief Justice refrained from making any comments on Operation Wembley and stated that its acts should be within the provisions of the law. When the acts are challenged, the courts are ready to follow necessary proceedings.

### **The Minister of Justice on Constitutional Education**

8.28 On 24th October 2002, Minister of Justice, Honourable Janet Mukwaya, appeared before the Committee and answered questions pertaining to constitutional education, jurisdiction of courts, the domestic relations bill, electoral commission, and employment of judges in other Commissions.

8.29 The Committee expressed the need for

people to be aware of their rights. Translation of the Constitution into local languages allows for better understanding of human rights and responsibilities. In response, the Minister communicated to the Committee that the Constitution had been translated into some local languages but due to lack of funds, the ministry has failed to print more in translations. She further explained that UHRC has the Department of Education Research and Training, which has been fully involved in Constitutional Education (though it had not been fully reflected in the Commissions annual reports).

### **The Minister of Justice on the Jurisdiction of Courts**

8.30 On UHRC's recommendations that jurisdiction of courts should be revisited because the original jurisdiction assigned to some of them is limited, the Minister stated that the issue had already been revisited and the ministry had come up with a formula that will cut across boards, and one of the revisits was on redefining the punishment for defilement in the Penal Code Act. She reported that the Fire Arms Act was also being revisited, including the Magistrates Court Act and the Trials on Indictment Decree. All the issues raised would be covered.

These promises have not yet been fulfilled by the time of writing this report.

### **The Minister of Justice on the Domestic Relations Bill**

8.31 A member raised concern about the Domestic Relations Bill (DRB) and when it would be tabled before Parliament. In response, the Minister reported to the Committee that she found ten bills in place and has managed to work on most of them. She reported that the DRB is on course and would be handled after she has cleared the two bills, which were pending before the house. She added that she would not bring a bill that would cause trouble in Parliament but would like to reconcile the wishes of the women and other groups. (See chapter 11, section 11.7 on the DRB)

### **The Minister of Justice on the Electoral Commission**

8.32 Members of the Committee expressed concern about the Electoral Commission and asked what would happen in the current situation where there was no Electoral Commission in

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### **The Minister of Justice**

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### **Amnesty Rebels**

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place. In response, the Minister stated that something was being done about the situation, and soon, the Commission would have members and be fully operational.

The Electoral Commission is now fully in place and operational.

### **The Minister of Justice on employment of Judges in other Commissions**

8.33 On the employment of judges in other commissions, the Minister responded that there are some laws that provide that a person qualified to be a judge should head such commissions. She also informed the Committee that people need to realise other people can make good judges and be able to head these commissions.

### **Amnesty Commission on Amnesty to Rebels**

8.34 On 24th October 2002, Commissioner Al-Hajji Ganyana Miir (Amnesty Commission) appeared before the Committee and answered questions pertaining to Amnesty to rebels.

8.35 A Member of the Committee inquired whether there were cases of people who were rearrested even after being granted amnesty. In response, the Commissioner explained that there was no evidence of re-arrests. He added that the system of scanning pictures has also helped in identifying the returnees. The Commissioner explained that the Amnesty Commission has a monitoring system in place and cases of returnees were first taken to the Local Council Chairman who then introduces them to the Amnesty Commission.

8.36 A Member asked whether the Amnesty Commission had any impact in areas where they have opened regional offices. In response, the Commissioner reported that the Commission had devoted much time towards sensitisation both at county and sub-county level.

8.37 When asked on whether the operations of the Amnesty Commission faced any challenge due to the apparent conflict between the Anti-Terrorism Act and the Amnesty Act, the Commissioner responded that the Commission did not face any such challenge because the two laws defined were at different levels. He added that his Commission was encouraged by Honourable Eriya Kategaya to grant amnesty to anyone

who returned and to leave the rest to the State to handle.

8.38 A Member inquired whether the Amnesty Commission was on the peace negotiation team in Northern Uganda. In response, the Commissioner stated that the Commission was not part of the peace negotiation team in Northern Uganda. The Committee also wanted to know whether the Amnesty Commission plays a pro-active role, especially in rebel identification. In response, the Commissioner admitted and reported that the Commission has often gone to places like Juba, Benin, and Kenya to encourage the rebels to return home and seek for Amnesty.

8.39 A Member of the Committee inquired whether the juvenile rebel returnees are treated differently from the adults. In response, the Commissioner explained that initially they were held together with the adults until UNICEF came to the assistance of the Commission. The juveniles were then separated from the adults and the issuance of the amnesty certificates to them was also stopped.

8.40 A member inquired whether it was true that the Amnesty Commission was persuading a former rebel leader, Alice Lakwena, to return home. In response, the Commissioner stated that it is true that Lakwena was in one of the camps in Kenya. The Commission appealed to her to return home but it was denied.

### **The views of the Non-Governmental Organisations**

8.41 Several non-governmental organisations (NGOs) appeared before the parliamentary Committee to express their view on the recommendations of the Uganda Human Rights Commission Reports and to give general observations on areas that concern their respective mandates. These NGOs include the East African Media Institute, the Uganda Law Society, the Foundation for Human Rights Initiative, and the National Union of the Disabled Persons of Uganda.

### **The East African Media Institute on the media**

8.42 On 25th October 2002, Mr. David Ouma Balikowa, President of the East African Media Institute (EAMI), appeared before the Committee and answered questions pertaining to press laws. He said that the UHRC reports listed laws



that are inconsistent with the Constitution.

The laws included the Press and Journalists Statute 1995. It was proposed that an independent Media Council should be set up to conform to the Constitution and to be widely accepted according to International practice.

- 8.43 Some sections of the Penal Code and the Anti-Terrorism Act were cited to be anti-media and recommended for review. He pointed out that Article 41(2) of the Constitution had not been operationalised and that was the concern about Section 9(1)(b) and 2 of the Anti-Terrorism Act 2002. Section 9(2) hands journalists a death sentence on conviction for publishing or disseminating material that promote terrorism. This provision endangers the press in Uganda, where armed conflict is a common occurrence and the definition of terrorism is so fluid. It was noted that the Press and Journalists Statute 1995 puts too much power in the hands of the Minister, and thus there is a need of a law for Internal Regulatory Machinery. The Committee called upon the media to always participate in considering bills while they are in the Committees.
- 8.44 EAMI was advised to structure the different provisions under the Penal Code proposed for review differently so that each provision can be handled separately. It was further suggested that the proposed non-statutory Media Council should cover both the broadcasting and Media Councils to cater for the press and electronic media.

### Observations by the Uganda Law Society (ULS)

- 8.45 ULS indicated that a comprehensive report had been written on the UHRC annual reports to be forwarded to the Committee. ULS also appreciated the efforts of UHRC in the observance of human rights. *There seems to be a total lack of commitment by the government to implement the recommendations of UHRC. This is a great mishap to the establishment of the Commission. The issues have been recurring for more than three years.*
- 8.46 The UHRC reports indicate that the greatest violation of Human Rights is perpetuated through government and government arms. It is elaborated on

page 17 of the 2000-2001 UHRC Annual Report that state agencies reported high violations of human rights. For instance, in the UPS there is continuous violation of prisoners' rights (e.g., overcrowding in prisons, hard labour on one meal a day, and using prisoners to exhume dead bodies in Rukungiri).

- 8.47 The report also mentions the appalling status of police cells despite the fact that police officers are trained in good handling of suspects. The ULS also advised that UHRC needs to change its modalities to avoid duplication of work with other institutions and to avoid getting involved in trivial issues.
- 8.48 The ULS indicated in their opinion that Operation Wembley is an abuse of the established courts. However, the opinion of the Attorney General on this has to be respected, but is cautioned to be ready for any accruing liabilities. The ULS proposed that expeditious ways of ensuring review of unconstitutional and inconsistent laws plus those demanded by the Constitution should be explored.

### Observations by the Foundations for Human Rights Initiative (FHRI)

- 8.49 FHRI were concerned that recommendations in the UHRC reports have not been implemented in a timely manner and made the following comments.
- The other human rights organisations perform supplementary work to that of the UHRC and should be allowed audience in Parliament.
  - The Committee informed FHRI that the UHRC reports are debated by Parliament because it is a statutory Commission. FHRI was however, encouraged to discuss Human Rights issues with the Committee on Legal and Parliamentary Affairs that is mandated to do so.
  - FHRI further suggested that UHRC should try and focus more on Human Rights issues instead of handling activities outside their mandate. They also noted that some members of the public prefer to report their complaints to NGO's rather than going to UHRC due to the long wait for complaints to be resolved.
  - FHRI indicated working closely with UHRC, especially in the monitoring of the government's compliance with



international treaties and prisons training programmes. They submit their reports to UHRC for supplementary information and promise to send to the committee a written submission on UHRC reports.

### **Observations by the National Union of Disabled Persons of Uganda (NUDIPU)**

8.50 NUDIPU noted that UHRC reports have given focus to issues of Persons with Disabilities (PWDs), and they appealed to the relevant institutions to seriously consider the recommendations in the 2000-2001 reports on page 52-54. NUDIPU recommended that more specialised teachers and specialised equipment be availed to allow PWDs access to education. It was also noted that Makerere University has scheduled admission of PWDs where last year 42 were taken and 50 are to be admitted this year.

8.51 NUDIPU raised concern on representation of PWDs in government bodies, which is constitutional and is mainly implemented in political areas only. It was noted that NUDIPU relies heavily on donors, but they need additional funding. Therefore, it was recommended that the Anti-Poverty Programme provide some affirmative action so that the disabled can generate some money. It was suggested that a percentage should be set as a policy for the government departments to aid the disabled.

8.52 The PWDs should also have the opportunity to take part in decision-making in Uganda. They appealed for barriers to be removed through legislation and allow access to facilities and information.

### **Minister in charge of Pensions on the Pension and Validation Exercise**

8.53 On 28th October 2002, Honourable Benigna Mukibi, Minister in Charge of Pensions, appeared before the Committee and answered questions pertaining to pensions and effects of the revalidation exercise.

8.55 The Minister indicated that the major issues pertaining to pensions are non-payments, delays, and future plans to ensure improvement of pensions. She added that there was a census of pensioners in 1997, which led to the cleaning of the pay role and the reform

programme to revalidate pensions.

8.56 It was noted that some pensioners are removed from the payroll as proper documents were required. Those with satisfactory documents will be reinstated. She explained that the pension cases from 2001 that have been paid through the banks and not the CAO characterised by delays and abuses. As a result of this, pensioners were required to submit their bank accounts and those who did not by February 2001 were not paid. The Minister explained that the system had been computerised to ease work, and there has been improvement in the method of prompt payment (by the 28th of every month). In the case of the East African Community workers, the Minister reported that the outstanding debt owed to the East African Community workers is 7.7 billion. The Ministry is subject to pay when funds become available.

### **Minister in charge of Pensions on local government pensioners**

8.57 The Minister indicated that her department deals solely with pensioners of the central government. She proposed that local governments should use the same law that allowed improvement in pension payments in the central governments. Also, there are outstanding claims of up to 17 billion in pension in local governments to be used for that purpose this financial year.

### **Minister in charge of Pensions on defence pensioners**

8.58 The Minister reported that her administration was transferred to the Ministry of Public Service from the Ministry of Defence (MOD). There was a problem of implementation and administration of defence pensions under a different legal framework. She explained that for that financial year, the money would be given to the Ministry of Public service who had recommended that it be returned to the MOD until the law is reviewed.

### **Additional issues regarding pensions**

8.59 It was reported that there are outstanding debts of 100 billion in pension since 1988. 14.7 billion and 6 billion for the last financial year and this financial year, respectively, were provided for the debts.

- The criterion for payment has been to pay the oldest first, and this year,



pensioners born from 1932 are being paid.

- The Pensioners Cooperative Society works closely with the Ministry, especially for dissemination of information. The Minister has visited Masaka, Busia, Kabarole, Hoima, Lira, Kasese, and Apac to assess pension *management*.
- Eligibility for pension payment is based on number of years in the service, salary, and letters of appointment.
- The department also verifies written postings, promotions, and confirmations. For teachers, their qualifications are considered. The Minister indicated that pensions are only for public officers and the rest are catered by the National Social Security Fund. However, the possibility of liberalisation is being explored.
- The Ministry initially wanted to put in place a proper payroll and system. Otherwise, decentralisation is one of the issues proposed in the Reform Programme.
- The Ministry and other institutions that handle retirement benefits, such as the NSSF, consult with each other.
- Officers originally serving in the Central Government and who were decentralised to local authorities will be paid fully. There have been cases of *duplication in names*, but these are being rectified as the payroll system is being audited. The discrepancy is mainly at a district level but is being resolved.

#### **Ministry of Foreign Affairs on the Ratification of International Instruments**

8.60 On 29th October 2002 Honourable Kahinda Otafire, Minister of state for Foreign Affairs, appeared before the *Committee and answered questions* pertaining to the ratifications of Treaties and International instruments.

#### **Problems of reporting**

8.61 The Minister informed the Committee that there is a line Ministry for every instrument. He asked for more time to consult and know why these ministries have not recommended what is in their line for ratification. Even though there are *ministries who try to report*, sometimes it is beyond their capacity to follow through (there are very few officers capable of internalising and reporting on these conventions). There is an inter-ministerial team handling this issue since the government has no programme to insure human rights.

8.62 The Minister informed the Committee that the structure of Uganda's Ministry of Foreign Affairs is based on the old British system, which deprives the Ministry of manpower and other resources. For instance, the Ministry has only two lawyers, and they are *inadequate to handle the workload*. There is need for a fully staffed office to handle reporting obligations on human rights within the Ministry. The Ministry was advised to include the provision of an inter-ministerial committee in its next budget.

#### **Situations in which Uganda abstains**

8.63 The Minister stated that Uganda ratified the Rome Statute that establishes the International Criminal Court on 11th June 2002, but with reservations on the way it is proposed to operate. The Minister has also submitted a name of a judge for the ICC. He added that Uganda supported Zimbabwe on the principle of the land issue, though not necessarily supporting the methods. Uganda had good relationships with Cuba but also has relations with other States that are not necessarily friendly to Cuba. Uganda abstains from matters that concern both parties as in the United Nations.

#### **The role of the Ministry of Foreign Affairs in reporting**

8.64 The Minister reported that the Ministry of Foreign Affairs has a coordinating role on the Conventions. However, the problem is the structure of the Ministry. It has no operational integration between government departments. It was recommended that there should be a partnership so each ministry has a *Foreign Affairs Desk*. The Ministry of Foreign Affairs should also have a desk for different areas, namely tourism, marketing, and investment.

- The Commission would like to note, however, that the Ministry of Foreign Affairs made significant strides in the reporting process during the period under review. According to Ministry officials, the Ministry embarked on a special assignment to meet state reporting obligations. An Inter-Ministerial team has been nominated with two officers, each from line



ministries. This team is responsible for reporting during the next few years.

- At the time of writing this report, the team had produced reports to the UN on the following instruments:
  - International Covenant on the Elimination of all Forms of Racial Discrimination (ICERD)
  - Convention on the Rights of the Child (CRC)
  - Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT)
  - African Charter on Human and People's Rights (ACHPR) which still has two reports overdue
  - Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) where two reports are overdue
  - International Covenant on Economic Social and Cultural Rights (ICESCR) with 3 overdue reports
- Further more, the Government of Uganda in compliance with Article 40 (ICCPR) presented a report to the UN Human Rights Committee on the measures adopted to give effect to the rights contained in the Covenant and the progress made in the realisation of those rights. After considering the report, the committee hailed the government on several areas which ratify the Optional Protocol to the Covenant, on establishment of the Uganda Human Rights Commission (UHRC) and on the courts declaration that corporal punishment was unconstitutional.

However, the Committee was concerned with the following: the prospective undermining of the independence of the UHRC; the existence of customs and traditions like polygamy that undermined the principle of equality of men and women; the existence of female genital circumcision; the persistence of domestic violence; the failure to take steps to ensure the right to life; property and security, especially for the people living in Internally Displaced People's Camps (IDPCs); the imposition of the death penalty for crimes such as murder; aggravated robbery; treason

and terrorism; the effectiveness and extent to which people living with HIV/AIDS (PI.WHA) accessed medical services, including anti retroviral drugs; the fate of former child soldiers; the torture and ill treatment of detainees by the military and other law enforcement agencies; the practice of detaining people for contractual debts; delays in court proceedings; the limitations imposed on the opposition; and forced early marriages. The general recommendation on all these concerns was that the government ought to take immediate measures to address these concerns. (See Appendix)

### Respecting the Ottawa Treaty

- 8.65 On the Ottawa Treaty, the Minister explained that government banned production and use of land mines. Uganda does not produce land mines but has the capacity for mine clearing. The limited use of mines is acceptable, in cases such as sealing off borders to prevent the LRA from further encroachment.

### Ministry of Internal Affairs on prison conditions

- 8.66 On 31st October 2002, Honourable Sarah Kiyingi, Minister of State for Internal Affairs, together with the Commissioner General of Prisons and senior police officers appeared before the Committee.
- 8.67 The Commissioner stated that the prisons department had already appeared before the Parliamentary Committee for Legal and Parliamentary Affairs to respond to the 1998 UHRC Annual Report. He added that according to the 1999 and 2000-2001 Annual Reports, the department was facing problems, which have either persisted or received no attention.
- 8.68 The Uganda Prisons Service thanked UHRC, which was found to be well established and well managed. The Commissioner added that the reports have pointed out the weaknesses in prisons, and also helped to articulate the problems of the Prisons Service to the government. The Commissioner whole-heartedly endorsed all the recommendations made by UHRC, which are relevant to the Uganda Prisons Service.

### Overcrowding

- 8.69 The Commissioner reported that according to the UHRC 2000-2001 report, the main cause of over



number of prisoners over the years. The holding capacity has drastically reduced due to lack of renovations and maintenance of the buildings, limited life span of the prisons that were built as temporary structures, and vandalising that took place during wars. He added that the Prisons Service completely supports the UHRC for the government to construct additional prisons.

#### **Poor living conditions for prisoners**

8.70 The Uganda Prisons Service conceded that the living conditions of prisoners were still very poor. For instance, most prisoners still live in dilapidated buildings, they lack uniforms and beddings, health care delivery is limited by funds, and there is lack of transport between most units putting lives in danger—especially when they fall sick and remands have to walk long distances to courts despite weather and physical conditions.

#### **Understaffing and conditions of prison staff**

8.71 The Commissioner reported that in the restructuring programme carried out by the Ministry of Public Service, the authorised establishment for the Uganda Prisons Service was to be 8,090 in personnel. The current staff is 2,824, reflecting only 35% of the establishment. He reported that understaffing puts a lot of strain on the prison staff, considering their poor remuneration, lack of transport, etc. On remuneration and other related conditions of service, the Uganda Prisons Service is aware of UHRC concern for the conditions of prison staff.

#### **Inadequate transport**

8.72 Though the conditions in prisons improved slightly according to the last report, the problem is still prevalent. Out of the forty-seven prison units in the country, only ten of them have some means of transport. The Commission reported that the situation at the prisons headquarters and the Regional Prisons Commanders are not any better.

#### **Long stay on remand**

8.73 The Commissioner stated that statistics show constitutional provision for bail after 120 days for minor offences and 360 days for capital offences has greatly helped to reduce long-term imprisonment. The Chain Linked Initiative has also contributed to re-enforce and improve the case flows. He

also added that there is a problem with cases committed to the High court for hearing. The law is silent on these cases, and statistics show that this is where the longer stay in prison is registered. The recommendation of the UHRC for legislation is to allow bail to committals after a properly specified period.

#### **Torture of Prisoners**

8.74 According to the UHRC report, the current leadership of the Uganda Prisons Service seriously condemns any acts of torture to prisoners. Any staff members who have been found to participate in torturing prisoners have been severely reprimanded.

8.75 Training of prisons staff on human rights began in 2000 under the sponsorship of Raoul Wallenberg Institute of Human Rights and Humanitarian Law of Land. The general aim of the programme was to improve the Prisons Service conditions and to promote positive attitude by the prisons staff towards the inmates. This was to observe, protect, and respect prisoners' human rights.

#### **Inadequate funding**

8.76 The issue of inadequate funding at Uganda Prisons Service has been long standing and no promising resolution has been reached. The service has consistently submitted to the Ministry of Finance, Planning and Economic Development budgets to address transport, housing, uniforms, allowances, etc. However, due to constraints in the national budget, the financial plight of the Prisons Service has never been addressed. This problem has affected the much-needed programmes for the rehabilitation and reintegration of offenders back into society as better citizens.

### **Uganda Police Force**

#### **Overcrowding**

8.77 Overcrowding in police cells has come as a result of police failure to have suspects released before the lapse of the 48-Hr Constitutional Rule as afforded by law. The reasons for non-compliance were given as follows.

- In the case of deportees, the Ministry delays in providing air travel for deportation.
- There are delays in sanctioning charge sheets by the Director of Public Prosecutions or Resident State Attorney as required by law.



- DPP or RSA can sanction prosecution on the basis of prima facie evidence before the charge sheet, but in some cases, arrests may be effected before investigations are done.
- A number of cases need consent from the DPP in order to proceed. The problem lies in the investigations of crimes committed far from Kampala (where the DPP is located).
- In cases that require attention of experts and laboratory investigations, delays in receiving expert opinion prevent timely charging of suspects.
- Investigators in areas with a high number of criminal cases have problems processing cases within 48 hours.
- Fear of releasing on police bond suspects accused of serious offences.

#### Poor sanitation

- 8.88 He said sanitation has improved relative to the problems already mentioned above.

#### Lack of beddings

- 8.89 Facilities in the police cells are constrained and when the number of inmates increases, the issue of bedding shortage automatically arises.

#### Torture of suspects

- 8.90 That the police condemn torture in the strongest terms, as a barbaric practice. The police know it is illegal and in no circumstances is the practice justified. A number of steps have been taken in order to bring the practice to an end.

#### Illegal arrests

- 8.91 On the issue of illegal arrests, the police management has stressed to police personnel to refrain from conducting arrests before investigations are complete. This will reduce complaints relating to unlawful arrests. Officers who have made such illegal arrests have been subjected to Police Disciplinary Court.

#### Third party arrests and torture

- 8.92 Police officers reported that there are suspects who are victims of torture or illegal arrests by persons other than the police. Often the police have received suspects who have already been illegally detained and tortured by the public (e.g., mob justice).

#### Conclusion

- 8.93 The Commissioner acknowledges Parliament's discussion of its reports and follow-up on the recommendations with the relevant bodies mentioned in thereport. Since the discussions ended, positive and negative developments have since emerged. Nevertheless, the Commission is convinced that regular and prompt debate and follow-up on the Commission's recommendation including the one discussed in this chapter would enhance accountability and human rights respect and protection in the country.



## CHAPTER 09

# Freedom from Torture: The end of Operation Wembley and the rise of the Violent Crime Crack Unit

### Introduction

9.01 Freedom from torture has been one of the most abused rights if we go by the trend of complaints registered at the Commission. Since 1997, the incidence of complaints has increased from 30 in 1997 to 158 in 2003. The trend of these complaints registered at the Commission is shown in table 9.1.

Whereas the incidence of torture should cause concern, it is also possible that the increase is due to other factors that are not necessarily related to a faulty law and order situation.

First, the increase may be a result of increased publicity and use of Commission services. In the table, the ranking of torture in 1997, 1998, and 1999 was 4th and 5th out of the complaints registered at the Commission.

In addition, as the Commission decentralised its services, more complaints of torture were recorded at the regional offices. This amplified the incidence of the complaints handled at

the Commission headquarters and regional offices. However, since 2000, there is reason for concern in the figures. Not only did the figures increase, the ranking of torture in comparison to other complaints also increased to 2nd highest. (see Table 9.1 next page)

9.02 The higher percentage of complaints against security organs in 2003 was against the Police and UPDF followed by VCCU. The UPDF was the number one respondent in complaints received in the Gulu Regional Office. Probably *this is due to the on-going war in northern Uganda in which soldiers come in contact with civilians and conduct arrests. (see photo at the end of Chapter: A UPDF Officer..)*

9.03 The Commission observed that most of the torture complaints are closely linked to alleged violation of the right to personal liberty. Security organs continue to use torture as a way of extracting information from those detained and for other related illegal purposes, including punishment for

Table 9.1

No.	Year
1.	1997
2.	1998
3.	1999
4.	2000
5.	2001
6.	2002
7.	2003

Total

Table 9.2

Security organ

Police
VCCU
CMI
UPDF
ISO
Prisons

### Legal and prohibitions

9.04	Torture is prohibited by the Ugandan Constitution, the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the European Convention on Human Rights.
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being uncooperative or even obtaining admissions to crimes. The use of torture was closely linked to the use of illegal detention places, detention beyond 48 hours as stipulated by law and the involvement of other security organs in police functions. (see Table 9.2 below)

**Table 9.1 Figures for torture complaints registered by the Commission**

No.	Year	No. of torture complaints	Ranking of torture: 1st representing highest violation	No. of complaints	Percentage of torture violations
1	1997	30	5th	414	21%
2	1998	109	4th	981	11.1%
3	1999	158	4th	1,265	12.4%
4	2000	152	2nd	1,223	7.9%
5	2001	210	2nd	669	14.6%
6	2002	114	2nd	812	14%
7	2003	158- HQ	2nd	601	26%
		57- Gulu	2nd	340	16.8%
		37- Fort Portal	2nd	170	21.8%
		33- Jinja	1st	133	24.8%
		85- Mbarara	1st	268	31.7%
		76- Soroti	3rd	538	14.1%
<b>Total</b>		<b>446</b>	-	<b>2050</b>	<b>22%</b>

**Table 9.2 State organs accused of torture before the UHRC in 2003**

Security organ	UHRC HQ	R e g i o n a l O f f i c e s					Total
		Gulu	Mbarara	Jinja	Soroti	Fort Portal	
Police	122	16	44	35	40	7	264
VCCU	77	-	1	15	-	2	95
CMI	28	-	-	-	-	-	28
UPDF	26	124	14	4	19	14	201
ISO	5	-	-	-	-	-	5
Prisons	12	3	7	2	5	7	36

### Legal and human rights basis for the prohibition of torture

9.04 Torture is prohibited by Article s 24 and 44. Article of the Constitution of Uganda in the following terms: "No person shall be subjected to any form of torture, cruel, inhuman and degrading treatment or punishment." Article 44 lists freedom from torture as one of the rights that are absolute and non-derogable. Moreover, Article 20 (2) of the constitution requires all persons, government agencies, and organs to respect the rights contained in the constitution. Further support for the prohibition of torture is derived from the International Convention Against Torture (CAT) of 1984 to which Uganda is a party. Under the CAT, the government of Uganda is required to report to the United Nations Committee Against Torture the steps it has taken towards eliminating torture.

9.05 Uganda has thus far, submitted no reports in compliance with the reporting requirements of the CAT. Four reports were outstanding by the time this report was written. However, the Commission is informed that steps have been taken by the government to address the reporting backlog under CAT.

9.06 Under the CAT, torture is committed when suffering and pain is "...inflicted by or at the instigation of, or with the consent or acquiescence of a public official or other person acting in official capacity." This definition has been expanded by the Uganda Human Rights Commission Tribunal when interpreting Article 24 of the Constitution of Uganda in *Fred Tumuramye vs Gerald Bwete and others* (UHRC 264/99) where it was held that under the Constitution of Uganda



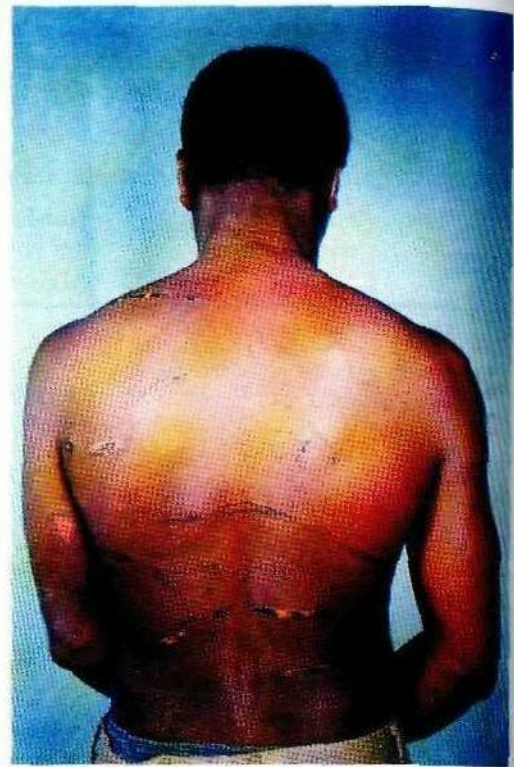
an individual can be guilty of violating the freedom from torture.

**The state of protection of freedom from torture**

9.07 In 2003 the incidence of torture remained high among the human rights violations reported to the Uganda Human Rights Commission for investigation during the reporting period. Compared to previous years, in 2003, torture reached 22% the highest ever recorded since the establishment of the Commission.

9.08 Related to the high number of complaints received, torture featured predominately among the cases handled by the UHRC Tribunal. Out of the 21 complaints resolved by the Uganda Human Rights Commission Tribunal in 2003, 11 involved *freedom from torture*. Torture was established in 9 of the complaints and compensation was ordered in favour of the complainants. Out of these seven were cases that found the government liable for violating complainants' *freedom from torture*. Table 9.3 below shows the compensation awards by the UHRC against government for torture.

9.09 These awards should raise concern for government about the conduct of its agents. In 2003 alone the compensation awards totalled Uganda shillings 185,212,967 all in respect of torture by government organs. Four of the complaints were against the Police, 1 against the Military Police, and one against the UPDF. The practice of



*Torture victim. The person in the picture claims to have been tortured by security agents.*

torture is having deep financial implications for the Government and this should cause the Government to look closely at the functioning of its security organs. The above amount is in addition to the outstanding UHRC awards against government for torture in the previous years. From 1999 to 2002, compensatory awards amounting to Uganda shillings 140,969,850 were made by UHRC against the government for torture.

**Table 9.3 Awards for torture committed by the government agents in 2003**

No.	Complaint No.	Parties	Government Institution	Date of decision	Award (Ushs)
1.	UHRC 210/99	Gidudu -and- Attorney General	Police	26 Feb 2003	59,000,000
2.	UHRC 76/01	Akera Eric Bosco -and- Attorney General	UPDF	31 March 2003	22,000,000
3.	UHRC 112/99	Nsereko Sajjabi -and- Attorney General	Police	11 April 2003	32,000,000
4.	UHRC 110/98	Mahmood Hassouna -and- Attorney General	Police	30 June 2003	18,712,967
5.	UHRC 504/01	Embati Ophen -and- Attorney General	UPDF	7 Oct 2003	22,000,000
6.	UHRC 58/00	Acen Rose -and- Attorney General	Police	26 Nov 2003	22,500,000
7.	UHRC S/42/02	Salim Chepkwui -and- Attorney General	Military Police	-	9,000,000
<b>Total</b>					<b>185,212,967</b>

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**Table 9.4 Awards by the Uganda Human Rights Commission Tribunal for torture committed by government agents from 1999–2003**

No.	Complaint No.	Parties	Government Institution	Date of decision	Award (Ushs)
1.	UHRC 180/98	Kauta-and-Attorney General	Government*	19 April 1999	10,000,000
2.	UHRC 89/97	Gitta -and-Attorney General	Government	25 July 1999	8,000,000
	UHRC 202/98	Pte Sam Muwonge -and-Attorney General	Ministry of Defence	27 Sept 2000	4,900,000
3.	UHRC 29/98	Zimula -and-Mukono District Admin.	Local Government	24 Oct 2000	4,800,000
4.	UHRC 882/98	Ronald Lutalo -and-Attorney General	Government	3 April 2001	10,000,000
5.	UHRC 397/99	Stephen Erau -and-Attorney General	Government	28 June 2001	8,500,000
6.	UHRC 340/97	Semwanga -and-Mubende District Admin.	Local Government Admin.	20 Aug 2001	25,000,000
7.	UHRC 727/98	Opiny -and-Lira District Admin.	Local Government	3 Sept 2001	5,269,850
8.	UHRC 980/98	Okello -and-Attorney General	Government	5 Dec 2001	1,500,000
9.	UHRC 413/99	Kamengo -and-Attorney General	Government	5 Dec 2001	33,000,000
10.	UHRC 392/98	Pte Birungi -and-Attorney General et al	UPF	17 May 2002	30,000,000
<b>Total</b>					<b>140,969,850</b>

\*Unspecified government institution

**Table 9.5 Awards for torture committed by private companies and individuals from 1999–2003**

No.	Complaint No.	Parties	Respondent	Date of Award	Amount (Ushs)
1	UHRC 337/97	Iripot and-Aboket	Private individual	17 Sept 1999	500,000
2	UHRC 22/97	Mpondi -and-Nganwa High School	School Administration	27 March 2000	2,500,000
3	UHRC 264/98	Tumuramye -and-Bwete	Private individual	1 Oct 2001	4,500,000
4	UHRC 337/00	Walugembe Badru -and- Mengo Hospital	Hospital Administration	12 Sept 2003	5,000,000
5	UHRC 1125/99	Sebuya Amir and-Lt. Kasule Bumpenje	Private individual	17 Dec 2003	5,500,000
6	UHRC S/143/01	Acan Margaret -and-PC Okin-Otim et al	Police Officers	-	5,500,000
<b>Total</b>					<b>23,500,000</b>

9.10 The Commission wishes to bring to the attention of Parliament that the government has not been consistent on settling its liabilities against these awards. While the government has made some payments, up to 98% of the decisions have not been complied with. As long as the government is not meeting the liabilities it incurs as a result of human rights violations it will have no incentive to control the acts of its agents or work towards a complete eradication of practices such as torture.



- 9.11 By the end of December 2003, 34 complaints (partially heard) involving alleged violations of freedom from torture were pending before the UHRC Tribunal.

### Factors contributing to the high incidence of torture

#### Violent Crime Crack Unit (formerly Operation Wembley)

- 9.12 The human rights concerns under Operation Wembley were exposed in the Commission's 2001-2002 Annual Report. Operation Wembley was launched in June 2002 in response to increased insecurity in Kampala arising from armed robberies and murders. The operation was a joint collaboration between different security organs including the Police, Chieftaincy of Military Intelligence (CMI), and the Internal Security Organisation (ISO). Volunteers, retired army officers, and Uganda Peoples Defence Forces soldiers were also among the operatives. The collaboration was headed by the Inspector General of Police, Katumba Wamala, and the then Deputy Director of Internal Security Organisation, Colonel Elly Kayanja, was appointed by the President as commander, of the operation.
- 9.13 The successes of the operation were laudable as it resulted in a degree of calm and a noticeable improved security in Kampala. Within a few months of its formation, the operation arrested a large number of criminal suspects and managed to infiltrate their networks. Several arms were recovered. While the operation recorded good success, there were concerns about its violation of rights. Some of the issues of concern were the paramilitary approach, which ignored procedures of law and human rights standards. Particularly, methods of arrest and illegal detention were a point of concern as well as the shoot-to-kill policy, which put lives at risk and disregarded the presumption of innocence of suspects. The establishment of the General Court Martial, as a special court, to try the suspects was also an issue of concern.
- 9.14 In August 2002, following the public outcry about the irregular and illegal methods of Operation Wembley, the President called off the operation. In its place, the Violent Crime Crack Unit

(VCCU) was established under a different leadership and staffing to take over the Operation Wembley functions. The Inspector General of Police chairs VCCU and it is commanded by a police officer, Mr. David Magara.

- 9.15 From the Commission's standpoint, the change of name, leadership, and staffing was a hope to rectifying the anomalies that had been observed under Operation Wembley. Unfortunately the methods of operation have changed little. Many of the human rights concerns brought about by Operation Wembley continued under the VCCU. **In 2003 the Commission registered 48 complaints against the VCCU, compared to 44 complaints registered against Operation Wembley in 2002.**

#### Legality of VCCU and its operations

- 9.16 There is no clear legal authority establishing the VCCU and whenever one inquires from its leadership one is referred to the appointing authority. The Police, which is supposed to be in-charge of VCCU explains that under Article 212 (d) of the Constitution it has a duty to cooperate with civilian authority and other security organs established under the constitution. This is used to justify the composition of the VCCU, which includes CMI and ISO operatives. Such cooperation was also evident in 1999 to fight acts of terrorism around Kampala, when it also raised a number of human rights concerns in the form of torture and illegal detentions.

#### VCCU method of work: unlawful arrests and illegal detentions

- 9.17 The Uganda Constitution in Article 23 provides legal safeguards for the right to personal liberty. It is a right which can only be taken away under strictly defined circumstances under Article 23. It provides for fair treatment of suspects under arrest namely that they must be taken to court, allowed visitors, lawyers, medical treatment and informed of the reasons for arrest and detention.
- 9.18 The Commission wishes to report that the arrests and detention methods by the VCCU have in most cases not conformed to constitutional requirements. Many suspects were arrested under unclear circumstances and were never informed of the reasons for their arrest or detention.



Almost all suspects arrested by the VCCU were for a considerable time detained in ungazetted places. In the same vein, there are people who were detained for long periods without appearing before a court of law as required by the constitution. The Commission was able to investigate their work methods and found out that some of the VCCU detainees have been under detention for well over a year without any charge before a court of law. In May this year, the Commission inspected detention facilities at Makindye Military Barracks well over 108 had been detained for well over a year and had never appeared in any court. The explanation from the officials there was that most of these were self-confessed criminals but could not be taken to court because they were improperly arrested, no proper investigations were done and therefore no collected evidence existed. All the same the officials argued that the persons could not be released because they would go back to their old ways.

9.19 The work methods of the VCCU clearly violate the rights of suspects. It is open to abuse. For example, torture is being used to extract information or confession. Known torture methods are beatings, kicks, suspension of weighty objects tied on male genitals, blindfolding and threats of death, pouring water on nude bodies. At Makindye the Commission saw many suspects with gruesome torture marks. One suspect had a completely deformed leg, his knee joint having been knocked out of shape. Others had massive scars on their backs caused by beatings or drips from hot molten plastic jerricans. The Commission was told by the detainees that these tortures never took place at Makindye but at facilities operated by the VCCU. The detainees on the other hand were very praising of their minders at Makindye military police for looking after them very well.

9.20 Some victims of VCCU told the Commission that threats of retribution or of death scare many victims of VCCU from reporting or seeking help. It emerged that torture is used not only to extract information or confessions but also deliberately as an expression of power to humiliate and break the spirit of those arrested. Statements such as "our guns are not flowers for decoration", "we are licensed to kill by the President

and the Republic of Uganda" if true are illustrative of the attitude of some of these operatives.

9.21 The Commission appreciates the limitations under which the police function. However, the Commission is also concerned about violations and threats to human rights that tend to occur when the police enlist the support of other security organs. Predominantly, the Commission has decried the continued usurpation of police authority by other security organs, which ostensibly act to support of the police. Most of the irregular and illegal methods in the operations of VCCU may be attributed to the extensive involvement of military personnel, who are trained for combat and not for criminal investigation. It is also to be noted that, though much effort has been put into incorporating human rights in the training and operations of the police, there is still much to be done for the military organs to get them to the level of awareness and consciousness of the police.

9.22 Whereas the source of authority and justification for the operations of the VCCU are not in dispute, there are surrounding issues about the legality of the unit that need close attention. VCCU continues to operate as a loose arrangement 'housed' by the police. However, the VCCU method of work is not ordinarily used by the police, which put to question the effectiveness of police control of the operations. The conduct of some military personnel, volunteers, informers, retired army men within the operation is not in conformity with police practice. It is doubtful whether the police is aware of or in control of the entire manpower capacity of the Unit. Beyond the human rights implications flowing from the methods of work adopted under the VCCU, the Commission has received increasing reports of impersonation of VCCU personnel. People with criminal intentions are imitating VCCU methods of work, thus making it difficult to follow up complaints that are attributed to VCCU. The VCCU reportedly used to seek punishment and retribution in civil matters. Cases before the Commission are common where VCCU operatives are said to have been used to settle personal disputes relating to non-payment or failure to service loans, land disputes, etc.



9.23 In the absence of a separate defined legal authority and personality for VCCU, the UPF is liable for all actions and omissions that arise as a result of VCCU operations. It is therefore incumbent upon the Inspector General of Police to ensure that all assistance enlisted to assist the police should function within the governing laws and procedures. **The Inspector General of Police should be able to design guidelines for proper collaboration with other security organs with particular emphasis on structures and codes that conform to the law.**

9.25 Torture by government agents continued seemingly unabated in spite of government assurance that there is no institutionalised sanction of its use. Going by the complaints at the Commission, torture seems to be a method of work in some security organs. It is either presented as part of the training, or a learned practice that is indispensable in the operations of some security organs. On several occasions, the Commission has been given the assurance that torture is not condoned by any security organ and some steps have been taken by some of these organs, notably the UPF and the Prisons service to internally curb the practice. But, the apparent increase in the torture cases should raise concern in government. Many of the victims of torture are poor petty offenders who end up seriously injured. Forms of torture are used to immobilise victims but leave almost unnoticeable external torture marks. Predominantly, victims say they are beaten with metal objects on the limb joints and then detained in unknown places for a long period of time to heal and reduce visible marks of torture before release.

9.26 It is not sufficient for government to always state that torture is not official policy, and that officials who engage in it have no official permission. Government is under legal obligation, national and international, to take effective measures to prevent torture. These effective measures must include legislative, administrative and judicial measures. Consequently, the government is under a legal duty to investigate and punish offenders. The Commission is not satisfied that there is a strong will to investigate, prosecute and punish offenders who engage in torture in their official capacities. Until

such measures are openly championed by the authorities and implemented it will be difficult to check torture by security agents.

### Recommendations

9.27 • The government should show strong commitment and practice to deal with perpetrators of torture within the security organs. The continued use of torture with apparent impunity leaves the impression that torture is condoned institutionally. As a commitment for the eradication of torture, the government should budget adequately to meet the judgment debts arising out of torture cases. Institutions whose officials have been implicated and found guilty of violating the freedom from torture should present before Parliament plans they have taken to clean up their institutions of practices of torture.

- Collaboration of the Police with other security organs in performing some of its functions have become an acceptable way of operation in the absence of adequate capacity for the police to handle the law and order challenges faced by the country. The Commission has maintained over time that such collaboration should not result in the usurpation of police power. The police should remain and be in control of law-and-order operations even when they work with other security organs. Such working together should respect laws and procedures. Use of excessive force and battlefield tactics should not be associated at any time with the performance of police functions. There should be adherence at all times to Article 221 of the Constitution, which obliges security organs to "observe and respect human rights and freedoms in the performance of their functions". The Inspector General of Police should undertake to train other security organs in the codes of the police and emphasize respect for human rights before engaging them in police operations and collaborative operations.

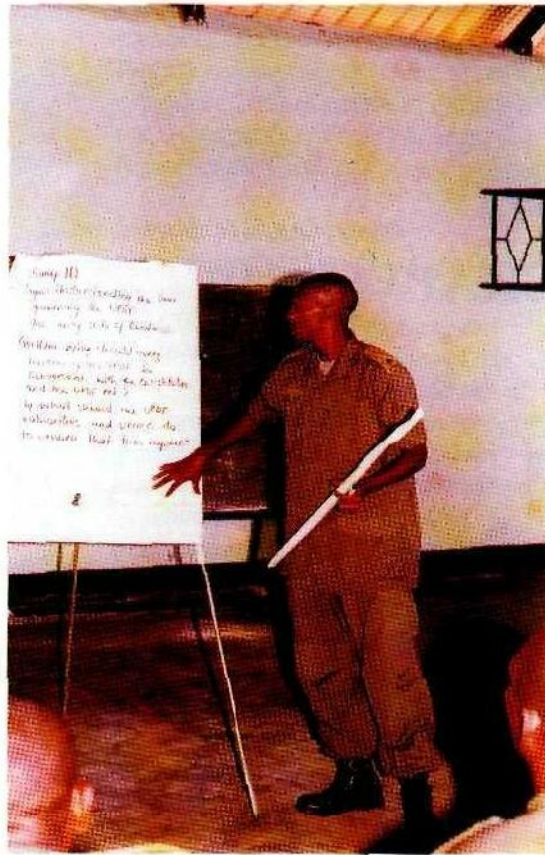
- Police working with other security organs has been justified on grounds that the police is under-capacitated. The commission, once again, recommends that the government should take deliberate measures to increase the capacity, both financial and human, of the police force.



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- VCCU is an ad-hoc arrangement to facilitate the collaboration of security organs in response to the security problems in Kampala and neighbouring districts. It was constituted with presidential authority to work under a legally constituted government organ, the Police. Nonetheless in practice, it is an arrangement that is separate in its makeup and staffing from the police. The VCCU mandate should be clarified publicly and its operations made transparent within the limits of the law and the authority of the police.

- Complaints received at the UHRC Gulu Regional Office suggest that the war in Northern Uganda has exposed many people there to the risk of torture by soldiers who set up bases in the countryside in areas where there are civilians. The government should address this.



A UPDF officer presenting a group discussion on Torture at a sensitisation workshop organised by the Department of Education, Research and Training.



The above picture is Alele Robinson's, a victim of torture, cruel and inhuman and degrading treatment meted on him while serving a prison sentence at Lira Government prison. As a result he suffers a disability of 30% on his right leg and he underwent severe pain and suffering.

The UHRC tribunal awarded him a sum of 20m as general damages and 4m as exemplary damages as sufficient for the vicious oppressive and arbitrary act of the prison warden.



## CHAPTER 10

# The Constitution Amendment Process and the Proposal to abolish UHRC

10.01 A Constitutional Review Commission that was established under the Commissions of Inquiry Act (Cap 166) in the year 2001 was still continuing with its work in the year 2003. It was mandated to review parts of the Constitution after gathering countrywide opinions. The CRC was given over 20 Terms of References (TOR) some of which had a direct impact on human rights in the country and the Uganda Human Rights Commission in particular. The CRC was mandated to examine and review aspects in the constitution that concern sovereignty of the people, political systems, good governance, systems of governance, separation of powers, electoral systems, courts of law, constitutional bodies (including the UHRC), independence of banks, national language, citizenship, bill of rights among others.

10.02 Among the TORs of the Constitutional Review Commission which related to human rights and UHRC were the following:

"(j) to review the relationship between the Inspectorate of Government and the other

institutions or organs designed to make the government and public institutions transparent and accountable and recommend improvements in their efficiency and effectiveness and coordination"

- (k) to review the Constitutional bodies and assess their desirability and affordability and to delineate their functions and powers in order to reduce duplication and conflict.....
- (p) to review provisions relating to the rights of children and young people and propose comprehensive and effective measures to protect children and young people against violence and abuse:...
- (r) to review the Bill of Rights and consider, in particular, whether the death penalty should be abolished or whether the age of minority should be increased from 16 to 18 for purposes of employment;
- (s) to consider and propose a programme and modalities for efficient, effective and expeditious implementation of the Constitution

10.03 The Uganda Human Rights Commission made two submissions to the CRC: the first submission was on general constitutional amendments and





particularly on those issues that had a direct bearing on human rights. Second submission was in reaction to the Cabinet's proposal to the CRC that UHRC should be abolished and merged with the IGG. While the CRC had already made its reports and recommendations at the time of writing this report, these comments, are still relevant because Parliament is yet to discuss the Government White Paper on the CRC report. These comments therefore can fill the gap in areas that might not have been or were inadequately captured in the CRC report.

### **General Observations on the Constitutional Review Process**

10.04 At the beginning, the political legitimacy of the CRC was questioned by sections of the civil society on the basis that it was answerable to the appointing authority, who was the Minister of Justice and Constitutional Affairs rather than to parliament, and therefore by this argument, the CRC was just an appendage of the executive and would not be independent. However, with time, this criticism faded and substantive constitutional rather than procedural issues began to preoccupy the debate. The mandate of the Commission subsequently became elastic to the extent that they had the leverage to consider any matter on the Constitution and constitutionalism such as good governance, human rights, and the rule of law. However the debate, either because of public interest or political manipulation, was in the main limited to three major issues namely:

- (i) Political systems and its related areas of political transition and referendum (movement Vs Multiparty systems) i.e. article 269, 73, and 74 of the Constitution
- (ii) (un)limited presidential term (article 105..) and
- (iii) Federalism (popularly known as federo) viz aviz decentralization

10.05 The commissions major recommendation is that while these issues are essential and probably more controversial, there is need to interest the public in giving equal attention and participation to other areas of the Constitution and on issues of good governance and human rights such as affirmative action, dual citizenship, powers of the executive, parliament and the judiciary, qualifications of

members of parliament and the rights and obligations of the citizens (Bill of Rights) among others. These should be considered as important in debating the Government White Paper on the Report of the CRC.

10.06 In order to ensure people's participation and involvement of people of all walks of life in the country, the CRC endeavored to carry out public hearings in all regions of the country. However, in some places of Northern Uganda affected by insecurity, the CRC was either unable to carry out any public hearing (e.g. Pader district) or where it did carry out public hearing/consultation it was not as meaningful as was the case in areas which were/are peaceful. In such process that impacts on the rights of the citizens.

10.07 The Commission therefore recommends that ways and means be devised to ensure that people living in IDP camps and those who were unable to participate because of conditions beyond the CRC or people's control be given the opportunity through either their members of parliament, their local leaders, the civil society or all the three to meaningfully participate and their views be incorporated so that they too feel they were part of the process of constitution review.

10.08 Regarding the general comments on Constitutional amendment the Commission made comments on the following:

- National Objectives
- Political Systems and Freedom of Association
- Dual Citizenship
- Age of Majority
- Fair Hearing and Field Court Martial
- Death Penalty
- Independence of the Uganda Human Rights Commission

### **National Objectives:**

10.09 It is usually argued that National objectives of State Policy are not part of the enforceable provisions of the Constitution. Yet most rights of economic social and cultural nature such as right to food, health, water, shelter, clothing and development and strategies for their realisation, are well spelt out in that part of the Constitution (see the National Objectives And Directive Principles of State Policy).It



means that that if this is the case these constitutional provisions on economic social and cultural right in the National Objectives is nothing more than symbolic. It waters down State obligation to protect the economic social and cultural rights of its citizens.. A pronouncement of national policy alone is not sufficient to ensure for example, entitlement to health, food, shelter, clothing and equitable allocation of resources. These rights need legal protection and enforcement within the meaning of the obligations under the International Covenant on Economic Social and Cultural Rights that Uganda is a party to.

10.09.1 To make these rights more meaningful and enforceable, the Commission recommends that the economic, social and cultural rights in the *National Objectives And Directive Principles of State Policy* be transferred to the enforceable chapters of the Constitution and be specifically incorporated within the Bill of Rights (Chapter Four) and also specify that parliament would make laws to implement policies and programmes that operationalise the economic social and cultural rights..

10.09.2 In this regard Objectives XII on equitable development; XiV on social justice and economic development; XIV (b) on education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits; and XXII. (c) on proper nutrition, among others, should all be part of Chapter Four of the Constitution among others.

10.09.3 Furthermore, the *National Objectives and Directive Principles of State Policy* are very helpful points of reference as they provide basic guidance to national planning. The National Planning Authority should consider these directive principles as enforceable at the policy making level because they contain pertinent guidelines procedures for implementing basic human rights.

#### Recommendations

10.09.4 • The National Planning Authority established by Article 125 of the Constitution should prioritise and propose legislation for enforcing the National Objectives and Directive

Principles of State Policy (most of these objectives refer to economic, social and cultural rights).

- The National Planning Authority should be given power to decide on national priorities that form the basis of budgeting.
- Payments made under the Consolidated Fund should be made through a well-constituted Planning Authority, which is totally independent.
- Government is usually managed within a defined political manifesto and issues touching on human rights should be given a strict preserve within the framework of allocations out of the Consolidated Fund.

#### Political systems and Freedom of Association

10.10 Freedom of association is a human right that is universally recognised and instituted in several international, regional human rights instruments, and national laws. This right is recognised in Article 29 of the 1995 Constitution but the same Constitution contains a number of provisions that inhibit the enjoyment of this right. (see also Chapter 16 for more details)

#### Recommendations

10.10.1 The restrictions placed on freedom of association by Articles 73(1), 269, and 270 of the Constitution are inconsistent with Article 29 and fail the test of permissible limitations on freedom of association under International human rights law. The Commission recommended that the Constitutional amendments should address these limitations.

#### Dual citizenship

10.11 After considering both sides, the Commission recommended that dual citizenship should be allowed for Ugandans, but with appropriate legal safeguards for national interests.

#### Age of majority

10.12 The Commission recommended that the age of majority should be the same when a child becomes an adult for purposes of citizenship, criminal responsibility, right to vote, work etc.

#### The Death Penalty

10.13 Article 22 of the Constitution protects the right to life. It prohibits intentional deprivation of life except in execution of a criminal sentence passed in a fair trial by a court of competent jurisdiction



is confirmed by the highest appellate court. Although Uganda ratified the *International Covenant on Civil and Political Rights* in 1995, it has not signed nor ratified the UN Second Optional Protocol on Civil and Political Rights requiring abolition of the death penalty.

10.13.1 According to Article 6(2) of the ICCPR, the death penalty may be imposed for most serious crimes. While serious crimes are not defined, the UN Human Rights Committee explains that the expression should be read restrictively to mean that the death penalty is an exceptional measure. Serious crimes may differ from one country to another but the death penalty where practiced should be imposed in crimes with extremely grave consequences (e.g., causing loss of life).

10.13.2 If the death penalty must be retained, it should apply in extremely few crimes. It is therefore recommended that the death penalty should be applied to selected offences and in exceptional circumstances. It should not be imposed for politically related or motivated offences (e.g., treason). It is also proposed that the death penalty should not be applied retrospectively i.e. extended to cover offences it did not previously apply to.

10.13.3 Article 22 of the Constitution allows an accused the right of appeal to the highest appellate court against the death sentence. This offers a cautious but important safeguard for the accused in capital offences. Accused persons sentenced to death by the Court Martial Appeal Court or the Field Court Martial do not have this right of appeal or right to petition for pardon. This is not clearly discriminatory but denies such accused persons the opportunity of challenging any miscarriage of justice.

### Recommendations

- 10.13.4 • **The death penalty should not apply to politically related offences, like treason and should not be introduced for new offences.**
- **Accused persons sentenced to death by the Court Martial Appeal Court or Field Court Martial should have the right of appeal to the Supreme Court. Fair trial guarantees should be ensured in these courts.**
  - **Referrals from the Field Court Martial on any question of interpretation of**

the Constitution should be allowed up to the highest court in order to foster full right to due process of law for an accused.

- **Accused persons that have been convicted and sentenced by the Field Court Martial should have the same right, as any other person sentenced to death by civilian courts, to apply for prerogative of mercy.**

### Independence of the Uganda Human Rights Commission

10.14 In Paris, the 1993 World Conference on Human Rights adopted the Paris Principles on the effective National Human Rights Institutions (such as the Uganda Human Rights Commission) which were subsequently endorsed by the United Nations. One of the major principles for an effective human rights institution is "independence" The Paris principles explain that "*An effective national human rights institution will be one which is capable of acting independently of government, of party politics, and of all other entities and situations which may be in position to affect its work*". Independence also means independence through legal, operational, and financial autonomy. While the Commission has not had problems with the first category of independence, it has concerns that the second category has potential to jeopardise its work and independence.

10.14.1 Article 55(2) of the Constitution stipulates in the first instance that salaries and allowances of the Members of the Commission shall be prescribed by Parliament. Secondly, it is provided in the same Article 55(1) that the Commission is self-accounting-its administrative expenses and all operational expenses shall be charged on the Consolidated Fund. This provision is intended to maintain the autonomy of the Commission provided for in Article 54.

10.14.2 The Constitutional provision in Article 55 was intended to ensure that the Executive does not interfere with the Commission in its duties through financial limitations or conditions. However, in practice, the Ministry of Finance is in full control of the financial allocation to the Commission. The Secretary to the Treasury appoints the Accounting Officer and decides on the level of its operations by determining the amount



of resources UHRC gets. The Commission submits its annual financial budget and the ministry decides how much to give in an arbitrary fashion. What is voted initially may also be reduced in the course of the year. The periodic releases further affect planning and operations as it sometimes comes too late in the month to allow the Commission to deal with problems on a timely basis.

10.14.3 The framers of the Constitution anticipated these types of problems. Article 155(2) of the Constitution states that the Commission shall submit to the President, at least two months before the end of each financial year, estimates of administrative and development expenditure for the following year. The Article further provides that the President shall lay these estimates before Parliament without revision but with only recommendations.

10.14.4 In practice, the Minister of Finance, on behalf of the President, duly presents these estimates to Parliament as they were submitted by the Commission with his recommendations. Under the provisions of Article 93 of the Constitution, Parliament shall not amend the financial estimates bill, which makes provision for "the imposition of a charge on the Consolidated Fund, or the alteration of any such charge other than by reduction" unless the Minister introduces it.

10.14.5 With respect to human resources, Article 57 stipulates that "the appointment of the officers and other employees of the Commission shall be made by the Commission in consultation with the Public Service Commission." It is understood that the consultation is for purposes of obtaining necessary advice and not for purposes of controlling recruitments by the Commission. It is in the interest of the Commission to obtain appropriate opinions even if they may not be accepted. The Commission's recommendation is that Article 57 should clearly state that the opinion of the Public Service Commission remains an opinion, and it is not intended to control the Human Rights Commission through its manpower resources.

### Recommendations

10.14.6 *In order to protect, preserve and*

enhance the independence of the Commission, and the Commission proposes the following amendments to the following articles of the Constitution :

- Article 55 (1) should be amended to include "development expenses"
- Article 155(3) should be amended to insert the words "in the year's budget" between the words "Article" and "without"; and the words "for any reduction" between the words "recommendations" and "that"
- Sub-Clause 155(3) should include the following provision, "such estimates of the self-accounting Commission or organisation set up under this Constitution shall be released in total, once after approval by Parliament"
- Article 57 should be amended to clearly state that non-compliance or failure to accept advice after consultation shall not nullify any appointment
- Article 54(4) should be amended to provide for security of tenure for Commissioners. The option of a Commissioners and Chairperson serving for six years renewable may serve to negatively influence the independence of Commissioners

### The Cabinet Proposal to abolish the UHRC

10.15 Among numerous proposals to the CRC was one from the Cabinet. The cabinet proposals were received by the CRC on 23rd September 2003 and they sparked off a new controversy. One of the major proposals from the cabinet was the proposal to abolish the UHRC and transfer its functions to the Inspectorate of Government. This proposal generated a lot of debate in which most people in did not approve of the cabinet proposal. ( see a cross section of views from the media)

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# EU opposes plan to kill rights body

By Badru D. Mulumba

KAMPALA - Donors are not happy with Cabinet plans to scrap the Uganda Human Rights Commission. The EU head of delegation here, Mr Sigurd Ming, said

## 'Cabinet proposals subject to debate'

By Jude Luggya

INTERNAL affairs minister Dr. Ruhakana Rugunda has said Cabinet's proposals to scrap the Constitutional Review Commission are subject to debate.

"These proposals are not biblical, they are not a dogma and are not the law," Rugunda said.

He was on Friday speaking at the 5th constitutional conference organised by the Uganda Human Rights Commission at Hotel Africana in Kampala.

## Human rights are priority

Human rights are a priority in the development of the Uganda Human Rights Commission. The Commission is currently reviewing its mandate and structure. The Commission is also looking at the role of the Human Rights Commission in the development of the country.

## University don opposes scrapping UHRC

A Makerere University academic has opposed a Cabinet proposal to scrap the Uganda Human Rights Commission. The Commission reports Justice Mwanuzi. The academic, a Master of Arts in Human Rights programme co-ordinator, questioned the rationale of scrapping the rights body. "What are we going to have if we don't have it?" he asked. He was speaking at a reunion of the Makerere University Human Rights Students Association (MURUSA) at the Parliamentary Gardens on Monday.

The New Vision, Wednesday, October 15, 2003

The UHRC is a success story and a model for the whole of Africa

# Why UHRC must stay

YOUR PLATFORM

By Nathan Byamukama

The New Vision, Saturday, October 18, 2003

NATIONAL NEWS 5

# Lawyers root for UHRC

By Henry Muteba

THE Uganda Law Society opposed the Cabinet proposal to scrap the Uganda Human Rights Commission (UHRC) and it was the office of the Inspector General of the Government (IGG) that took the society through the legal process, said the society's secretary, said. The society is the only one in the country which has the right to sue the Government and its institutions and of human rights.

REGIONAL NEWS



The New Vision, Tuesday, Sept

# Activist wants UHRC stay

By Richard Okumu

THE Uganda Prisoners' Aid Foundation (UPAF) has rejected and condemned the Government proposal to scrap the Uganda Human Rights Commission (UHRC). The foundation said the proposal was an attempt to democracy. It

said it was an attempt by the Government to evade the functions of the commission, which is to protect people's rights and freedoms.

"The proposal is a deliberate move to stifle people's rights and freedoms," the UPAF chairperson, J.K. Sirabemusa, said in a statement recently.

Sirabemusa said UPAF was disturbed by the proposal to transfer the UHRC functions to the IGG's office.

"The Human Rights Commission performs functions unique to itself, which it has performed exemplary," Sirabemusa said.

"The establishment of the commission created a constitutional

referral for all kinds of human rights cases," he said.

He said cases that were referred to the commission had been investigated and addressed to the satisfaction of the commission.

The foundation called on the Constitutional Review Commission to reject Cabinet proposals that infringe on people's rights.

The New Vision, Saturday, Sept 24 Sunday Monitor

COMMENT

Under 12

# Retain UHRC - donors

Donors are urging the Government to retain the Uganda Human Rights Commission (UHRC). The donors are concerned that the proposed changes to the UHRC will weaken its mandate and structure. They are also concerned that the proposed changes will lead to the abolition of the UHRC.

Human rights cases are usually sensitive, often involving security agencies that governments use to blunt opposition. The general view is that already, the IGG is incapable of taking sharp bites against wayward politicians.

By Mike Mbayire

One of the many Cabinet proposals to the Constitutional Review Commission (CRC) that started civil society and the diplomatic community alike was the proposal to scrap the Uganda Human Rights Commission (UHRC).

For a government that continues to enjoy a relatively high human rights record, it's surprising that the executive would want to scrap the UHRC.

When people talk of democracy and good governance, the absence of the UHRC is a major concern. The UHRC is a key institution in the promotion and protection of human rights in Uganda. It is also a key institution in the promotion and protection of human rights in the region.

# Who wants to kill human rights body?

A cross-section of views in the media about the Cabinet proposal to abolish the UHRC



10.15.1 The Commission too did not agree to the cabinet proposal to abolish the Commission and transfer its services to the IGG. The Commission's position was submitted to the CRC (see appendix 01). The Commission's submission was based on the importance of National Human Rights Institutions *internationally, regionally and even nationally*. In the spirit of Constitutionalism and respect for promotion and protection of human rights, it is recommended that instead of weakening the Commission, legislative, administrative and financial measures are necessary to strengthen it.

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## CHAPTER 11

# Domestic Violence

### Introduction

11.01 Domestic violence constitutes both physical and/or psychological conduct intended to harm any member of the family. There is an information gap about domestic violence because violence in the family is often unreported, or if reported, is treated by police as a matter to be settled domestically. The extent of damage, inflicted on the children, wife, husband and members of the extended family, including the elderly and stepchildren is varied. Such violence may take the form of beatings and (causing severe bodily harm), rape or even verbal attacks. For children it may include incest, extreme physical punishment and torture.

This has, in some cases, led to outright deaths and permanent disability. It also has a negative effect on the cohesion of families. Domestic violence cuts across gender, class, income, culture and religion. It has also been established that some of the offenders in domestic violence were themselves victims in childhood.

### Causes and negative impact of domestic violence

11.02 There are many theories to explain the existence and extent of domestic violence. Some theories focus on individuals and look for personal explanations such as illness, stress, poverty, frustration, underdevelopment and violent families of origin. Others look at domestic violence from a general social context. It is seen as a reflection of the broad structures of sexual and economic inequality in society and embedded in a patriarchy where the values, traditions, religions, customs, habits and beliefs are based on gender inequality. Hence, as much power is concentrated in the hands of men, violence erupts when any member of the family challenges the male dominance in the family.

11.03 In these domestic troubles, women and children remain vulnerable and are usually the biggest casualties. Women are physiologically susceptible at home. The, social, cultural and legal discrimination structurally compounds their vulnerability as a social category.



For example, this has rendered them vulnerable to HIV/Aids. Domestic violence also deprives women of integrity by eliminating their ability to consent to sex, negotiate safer sex and determine the number and spacing of their children. In many cases, the threat of abandonment or eviction constrains economically dependent women to remain in abusive relationships, thereby exacerbating their vulnerability to HIV infection.

11.04 The Penal Code contains some provisions relating to acts like incest, assault, assault occasioning bodily harm, rape, and defilement (under which most domestic violence cases would be categorised). Some domestic violence related cases may be dealt with under the civil law of torts. These laws notwithstanding, domestic violence has been prevalent and is tolerated by society. Whatever the cause, there is need to address domestic violence in depth and explore measures to protect the vulnerable in domestic relations.

### The problem of domestic violence in Uganda

11.05 The Commission is yet to conduct a scientific study on the problem of

domestic violence in Uganda but several studies by some NGOs have shown that the problem is prevalent in Uganda. A study conducted in Uganda by the Human Rights Watch indicated that 41% of Ugandan women suffered from domestic violence in 2000<sup>1</sup> That is a large number of Women indicating the seriousness of the problem.

11.06 In the year 2003, the Commission tracked newspaper reports on domestic violence, which revealed a worrying extent of the incidence. The findings from the Monitor and New vision indicated that 120 cases of domestic violence were reported.

The reports ranged from assault, defilement, incest and murder. This implies that in 2003, at least one case of domestic violence was reported every three days in these two papers. But several cases are reported in vernacular newspapers (which are close to the rural population and these were not tracked).

Many incidents go unreported. Therefore, it is safe to assume that properly tracked, statistics would show a disturbing prevalence of domestic violence in Uganda.

**Table 11.1 Domestic violence cases as reported in the media in 2003**

Date	Newspaper	Page	Title of article	Summary of case	Region
2 Jan 2003	New vision	6	Police exhume body of 13-year old boy	Police exhume body for post-mortem after reports from neighbours that the boy had been beaten to death by his father and step mother	Mbarara
8 Jan 2003	New Vision	6	Man faces defilement	Man, 26, committed to High Court over defiling his 13year old step sister	Mpigi
8 Jan 2003	Monitor	8	Man kills daughter	A man beat his daughter to death on suspicion that he was not her biological father	Wakiso
13 Jan 2003	Monitor		Laws to net wife – beaters	LCs asked to enact by-laws against wife beaters in Pallisa (call made by RDC)	Pallisa
22 Jan 2003	New Vision	3	Man jailed 15 years for kidnap	Court sentenced man for kidnapping his daughter with intent to take her for ritual sacrifice	Masaka
23 Jan 2003	New Vision	6	Man, 59, on defilement of 5 year old child	Man took advantage of his niece and defiled her in a bush	Masaka
24 Jan 2003	New Vision	8	Mother held over son	Woman arrested for burning the hands of her 4-year-old son who had stolen and eaten a piece of fish	Masaka

<sup>1</sup> Just die quietly: Domestic violence and women vulnerability to HIV in Uganda.





**Table 11.1 Domestic violence cases continued**

Date	Newspaper	Page	Title of article	Summary of case	Region
28 Jan 2003	Monitor	7	Wife burns husband's car over woman	Woman burnt her husband's car to ashes after finding it parked outside his concubines house	Kampala
Feb 2003*	New vision	-	Families shun captives	Children rescued from rebels are rejected by their families and friends	Gulu
1 Feb 2003	Monitor	6	Woman arrested over child kidnap	Woman held over trying to kidnap her co-wife's child with intentions to murder the child	Mpigi
2 Feb 2003	Monitor	4	Mukono murder suspect arrested	A man killed a woman by pouring acid on her after suspecting her oh having bewitched his daughter	Mukono
3 Feb 2003	Monitor	5	Mzee held	67 year old man arrested for defiling his 4-year-old daughter	Mukono
3 Feb 2003	New Vision	-	Emotional scars of child abuse	Follow up on the psychological effect, torture had on an 8 year old girl who was tortured by her aunt two years ago for stealing Ushs100	Jinja
5 Feb 2003	Monitor	7	Hubby jailed over dead wife	Man jailed for murdering his wife during a domestic fight	Mbarara
6 Feb 2003	Monitor	6	Husband kills wife with acid	Man arrested over pouring acid on his wife, which led to her death	Kampala
7 Feb 2003	Monitor	19	When she asks him for a beating	Revelation by a reporter on how some women provoke their husbands; after the fight, as the woman nurses her injuries, the man feels guilty and gives in to all her demands	-
10 Feb 2003	Monitor	4	Police hold suicide kid	Police detain 15-year-old who swears to commit suicide if parents don't pay his school fees	Kampala
11 Feb 2003	Monitor	12	Police bullet ends two young lives	Account of how a policeman turned a domestic fight into a village nightmare with his gun	Tororo
18 Feb 2003	Monitor	6	Man held over family deaths	A man is held after he claimed that his children died, yet the doctors report showed to the contrary	Mukono
24 Feb 2003	Monitor	6	Sironko CAO held for battering wife	CAO jailed for beating up his wife during a domestic quarrel	Sironko
25 Feb 2003	New Vision	7	Violence blamed on old African culture	UHRC commissioner Eragu says African culture tolerated some degree of domestic violence	Kampala
Mar 2003*	New Vision	-	Inequality leads to violence-Migereko	Energy minister blames domestic violence on unequal partnership in homes during women's day celebrations	Jinja
Mar 2003*	New Vision	-	Woman burnt with acid	Two brothers attacked their sister in law	-
Mar 2003*	New Vision	-	Say no to woman beaters	Women who stand up and say no to their abusive husbands and report them to police, violence goes down	-
Mar 2003*	New Vision	-	Violence up	Entebbe police say they handle about 90 domestic violence cases monthly	-

**Region**  
Mbarara  
  
Mpigi  
  
Wakiso  
  
Pallisa  
  
Masaka  
  
Masaka  
  
Layuge

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**Table 11.1 Domestic violence cases continued**

Date	Newspaper	Page	Title of article	Summary of case	Region
Mar 2003*	New Vision	-	Kawempe wife shares bedroom woes on radio, gets beating	Woman claimed on radio that her husband had lost his prowess due to his many women	Kampala
Mar 2003*	New Vision	-	Ayume warns on domestic violence	Attorney General decries high domestic violence levels during the women's day celebrations	Koboko County
Mar 2003*	New Vision	-	Domestic violence is a culture problem	Special report that says domestic violence is supported by culture, which views women as the weaker sex	West Nile
Mar 2003*	New Vision	-	Father burns	Police hold a man who burnt his 9-year-old son with hot porridge	Kayunga
Mar 2003*	New Vision	-	Kamuli kids burnt	Police searching for a man who burnt his two children for allegedly stealing Ushs 400	Kamuli
Mar 2003*	New Vision	-	Violence up	Entebbe police handle about 10 domestic violence cases monthly	Entebbe
Mar 2003*	New Vision	-	Co-wives fight to make husband's bed	Man fell sick and was admitted to Jinja hospital; his wives fought over who was going to make the bed	Jinja
Mar 2003*	Monitor	-	-	Man, 43, gets 12-year term for defiling his 8-year-old niece	Masaka
Mar 2003*	New Vision	-	Kawempe wife shares bedroom woes on radio, gets beating	Woman claimed her husband had lost prowess on radio, so her husband beat her for shaming him	Kampala
4 Mar 2003	New Vision	-	Wife bites husband's private parts	Angry wife attacked sleeping husband on the suspicion of him being promiscuous	-
7 Mar 2003	New Vision	-	Kabale man accused of neglecting family	Man arrested on grounds of child neglect and family desertion because he resorted to staying with a concubine	Kabale
7 Mar 2003	New Vision	-	Kawempe wife tries to burn house	Woman tried to burn house in which she thought her husband was sleeping with another woman	Kampala
5 Apr 2003	Monitor	3	Woman tortures own kid, arrested	Police hold a woman who tied her child on a bedpost overnight for being disobedient	Kampala
11 Apr 2003	Monitor	5	Woman held over suspected child poisoning	Police hold a woman who is suspected to have poisoned her niece (who died in hospital) and two nephews	Kasese
14 Apr 2003	Monitor	5	Police hold woman over rivals death	Woman suspected of murdering her rival by lancing her porridge with poison, and the murderer's child also died due to the poison	-
14 Apr 2003	Monitor	5	Acid woman jailed for life	A woman poured acid on her rival, thus disfiguring the rival	Mbarara

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### Table 11.1 Domestic violence cases continued

Region	Date	Newspaper	Page	Title of article	Summary of case	Region
Kampala	18 Apr 2003	Monitor	3	We no longer torture suspects, says Muruli	Minister of State for Security tells Parliament Committee that security forces have abandoned the use of crude and harsh methods to extract information from suspects	Kampala
Koboko County	24 Apr 2003	Monitor	-	Suspected wife killer jailed	Man strangled wife on suspicion that she had an affair with a neighbour	-
West Nile	May 2003*	New Vision	-	Wife killer jailed for 'seconds'	Fisherman confesses to killing wife after misunderstanding on way to bar, and was sentenced to duration of court session	-
Kayunga	8 May 2003	Monitor	4	Man scalds wife with acid	Husband abandons wife for another woman and poured acid on his wife when she tried to stop him from selling their land	-
Kamuli	14 May 2003	New Vision	8	Father held over sex with daughter	Man separated from his wife and impregnates his 14-year-old daughter	-
Entebbe	17 May 2003	New Vision	3	Teacher on child neglect	Teacher detained on charges of child neglect and family desertion (wife and six children)	Kabale
Jinja	19 May 2003	New Vision	4	Man jailed for Child Sex	26-year-old charged with defiling his 4-year-old niece	Kampala
Masaka	23 May 2003	New Vision	6	Father held	Man killed his 4-year-old daughter and sucked her blood to get rich is held by police	Luwero
Kampala	24 May 2003	New Vision	4	Husband sent to jail	A man stabbed his wife of 20 years to death	-
-	24 May 2003	New Vision	-	Murder case	A 21-year-old woman jailed for starving her step daughter to death	Kampala
Kabale	25 May 2003	New Vision	Pull out	My father raped, defiled me for six years	Testimony by girl on how her father defiled her for four years after divorce from mother	-
Kampala	26 May 2003	New Vision	-	Man held on wife's death	A man beat his wife to death after the couple quarreled over money for household items	Bushenyi
Kampala	26 May 2003	New Vision	-	Woman for Murder Trial	Wife hacked sleeping husband to death with a panga over allegations of adultery	Mpigi
Casese	26 May 2003	New Vision	4	Couple held on murder	Mother, with help from new husband, allegedly killed her child borne from her previous marriage	Kampala
-	27 May 2003	New Vision	18	Cows are the cause of wife battering among the Karamojong	Report identifies cows (bride price) as cause of domestic violence in Karamoja since the woman becomes the husband's property	Karamoja
-	27 May 2003	New Vision	7	Tortured Tororo child in agony	8-year-old boy was burnt by his guardian over eating a handful of groundnuts without permission	Tororo
barara	30 May 2003	New Vision	4	Man jailed	Man sentenced on manslaughter after he killed his wife	Kampala
-	June 2003*	New Vision	4	Sugar Mummy kills tom boy	A jilted woman burnt and killed her tomboy over a misunderstanding, but she was killed by a mob	Luweero



**Table 11.1 Domestic violence cases continued**

Date	Newspaper	Page	Title of article	Summary of case	Region
6 June 2003	New Vision	6	Masaka wife killer jailed for 6 years	Man beat his wife to death after catching her having sex with a neighbour	Masaka
6 June 2003	Monitor	5	Father wanted for defilement	Man defiled and impregnated his 16-year-old daughter (he defiled her for a long time)	Ibanda
12 June 2003	Monitor	3	City man kills wife	A man stabbed his wife to death after a family quarrel	Kampala
20 June 2003	Monitor	6	Masaka police lead in domestic violence	Masaka police commander receives more cases of domestic violence from the police barracks than from the civilian homes	Masaka
23 June 2003	New Vision	4	LC accused of raping Mother	Man raped his widowed mother several times to chase her away from the land her husband left her	Kayunga
24 June 2003	New Vision	22	What causes domestic violence	Study by a team of Ugandan and American researchers on the root of domestic violence in this area	Rakai
24 June 2003	New Vision	4	Mother fined	Woman who gave poison to her step-son was fined Ushs 50,000 by Grade One Magistrate	Mbale
25 June 2003	New Vision	4	Acid man to suffer death	Guard killed a housewife with acid	Kampala
25 June 2003	New Vision	6	Father abandons cleft lip baby	17-year-old girl takes the father of her cleft-lip baby to court over abandonment	Kibaale
25 June 2003	New Vision	6	Woman held over baby	Police arrest a 20-year-old woman who dumped her new born baby because she had no support	Kampala
27 June 2003	New Vision	3	Man pours acid on wife	A man poured acid on his wife and her male friend on suspicion of them having an affair	Kayunga
27 June 2003	Monitor	6	Woman in jail over burnt kid	Woman arrested for burning private parts of 6-year-old boy with candle (she allegedly was trying to cure him from an STD)	Mbarara
July 2003*	New Vision	3	Police arrest housewife	Wife burnt husband after beating him in a drunken fight	
8 July 2003	New Vision	3	Wife tried over murder	Woman killed her husband after he refused to give her money for treatment (she was pregnant)	Kampala
10 July 2003	Monitor	-	Cop shoots two dead, kills self	Cop shot his girlfriend, her lover, and himself after he caught the two in bed	Mbarara
11 July 2003	Monitor	4	Wife sues Mayor	Woman sues her husband, the Mayor of Masaka town, for evicting her from their matrimonial home	Masaka
19 July 2003	New Vision	-	Teacher for gallows	Woman teacher poured acid on her sleeping husband, and he later died	Kampala
22 July 2003	Monitor	5	Man hacked over woman	A man hacked his friend to near death after finding the latter sleeping with his (the former) wife	

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Table 11.1  
 Date  
 22 July 2003  
 24 July 2003  
 26 July 2003  
 30 July 2003  
 25 Aug 2003  
 25 Aug 2003  
 29 Aug 2003  
 31 Aug 2003  
 4 Sept 2003  
 4 Sept 2003  
 4 Sept 2003  
 5 Sept 2003  
 6 Sept 2003  
 17 Sept 2003  
 22 Sept 2003  
 25 Sept 2003  
 27 Sept 2003

**Table 11.1 Domestic violence cases continued**

Region	Date	Newspaper	Page	Title of article	Summary of case	Region
Masaka	22 July 2003	New Vision	19	Woman set ablaze in house	Man locked his wife in their house and set it on fire after days of threatening to kill her	Mbarara
Ibanda	24 July 2003	New Vision	-	Man jailed	A man hacked to death his wife over alleged mistreatment	Kampala
Kampala	26 July 2003	New Vision	21	Jinja woman throws baby at taxi man	Woman who was abandoned by her boyfriend finds him and throws their child in his lap	Jinja
Masaka	30 July 2003	Monitor	17	Torture boy who came back to life	Report on a boy who had been tortured by his parents and the extent of his recovery	Kampala
Kayunga	25 Aug 2003	Monitor	4	Husband killer doomed to hang	Woman and two men sentenced to death over murder of woman's husband after he told her he was getting another wife	-
Rakai	25 Aug 2003	Monitor	5	Jilted wife commits suicide	Woman killed herself by setting the house on fire after she found that her husband was unfaithful	Bushenyi
Mbale	29 Aug 2003	New Vision	6	Defiler freed over old age	Court released a 90-year-old who defiled his granddaughter	Jinja
Kampala	31 Aug 2003	New Vision	4	Kid stabbed	Stepmother stabs a kid in the eye for allegedly stealing potatoes	Jinja
Kibaale	4 Sept 2003	Monitor	-	Mengo woman remanded	House wife tried to burn her husband to death in a house	Kampala
Kampala	4 Sept 2003	Monitor	-	Clan evicts widow with 7 children	Clan elders evict a woman and her seven children from a piece of land after her husband died	Busia
Kayunga	4 Sept 2003	New Vision	-	Father banishes daughters for rejecting circumcision	Sabiny parent banishes two of his daughters who fled to Kenya to avoid circumcision	Kapchorwa
Mbarara	5 Sept 2003	Monitor	-	Incest, defilement and rape; a victim's story	A girl narrates how her father defiled her for years and impregnated her, and her brothers knowingly turned a blind eye	Kampala
Kampala	6 Sept 2003	New Vision	-	Wife burns co-wife's house	Woman in Busia burnt co-wife's house after the husband bought the co-wife a new mattress	Busia
Mbarara	17 Sept 2003	Monitor	-	Love's labour dumped	Special report on children who have been abandoned and left by their parents, either at birth or in infancy	Kampala
Masaka	22 Sept 2003	New Vision	1	Mother held on murder	Woman arrested for murdering her crippled 15-year-old daughter (the woman was apparently frustrated over failure to get assistance from the father of the child)	Masaka
Kampala	25 Sept 2003	New Vision	-	Man held	Man arrested after he injured his wife in a fight, which led to her death	Mukono
	27 Sept 2003	New Vision	-	Mother to hang for killing son	Court sentences a woman to death for burning her son to death because he refused to go to school	Jinja



**Table 11.1 Domestic violence cases continued**

Date	Newspaper	Page	Title of article	Summary of case	Region
Oct 2003*	Monitor	-	Police hunt wife killer	Man strangled his wife to death after a domestic quarrel	-
	Monitor	-	Man held wife's death	Man accused of murdering wife in fight	Kabale
11 Oct 2003	New Vision	-	Man chops wife's arm	Man cut off his wife's arm because he thought she was having an affair	Rakai
21 Oct 2003	New Vision	-	Man guilty	Man sentenced for battering his wife over delayed lunch	Jinja
21 Oct 2003	New Vision	-	Most women crimes domestic	Compilation and research by vision reporter that shows that most crimes committed by women are home-related	Kampala
21 Oct 2003	New Vision	-	Domestic violence claims 18 in Tororo	District police reveal statistics of 18 people killed over the last three years	Tororo
21 Oct 2003	New Vision	-	Two charged	Grade 2 Court committed two men who murdered their wives in 2001	Mukono
28 Oct 2003	Monitor	-	Jilted man kills family	Man killed his wife and two children because his wife denied him sex for a month	-
28 Oct 2003	Monitor	-	Woman held over husband's murder	Man died after his wife beat him in a domestic brawl	Masindi
1 Nov 2003	Monitor	-	Man held for torturing son	A man held on attempted murder for torturing his 10-year-old son who had allegedly stolen the father's money	Kabale
3 Nov 2003	New Vision	-	Trapped by HIV/AIDS at a tender age	18-year-old girl tells how she ran away from home at 13 because of misunderstandings with her parents and then eloped with an HIV positive man	-
4 Nov 2003	Monitor	-	Man held for child torture	Man tortured his child for allegedly stealing money	Kabale
4 Nov 2003	New Vision	-	Father held	Man beat and burnt his son for stealing Ushs 78,000 (man was arrested on a tip off from the parish chief)	Kabale
12 Nov 2003	Monitor	-	Man held for wife assault	Man beat his wife	Jinja
12 Nov 2003	New Vision	-	Woman held	Police arrest a 30-year-old woman who allegedly strangled her one year old daughter	Kitgums
14 Nov 2003	New Vision	-	Teacher on acid charge	A woman poured acid on another woman on suspicion of the latter having an affair with the formers husband	Kampala
14 Nov 2003	New Vision	-	Man killed in city fight	A woman killed her husband by stabbing him during a fight (she claimed self-defense)	Kampala
21 Nov 2003	New Vision	-	Wife killer jailed for life	A soldier shot and killed his wife and mother-in-law during a domestic quarrel	Lira

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Table 11.1 Domestic violence cases continued

Date	Newspaper	Page	Title of article	Summary of case	Region
24 Nov 2003	Monitor	-	Father soils son, nabbed	A man smeared his child with human excreta in order to scare away health workers from immunizing boy	Mbarara
12 Dec 2003	New vision	5	Stop violence	A councilor asks Katwe residents to support efforts by an NGO to stop domestic violence	Kampala
19 Dec 2003	New vision	9	Woman ,lover held over man's murder	Police hold wife and her lover in connection with the murder of her husband	Pallisa
20 Dec 2003	Monitor	5	Woman cuts off hubbys penis	Lady chops off her husbands penis because he had an affair	Kayunga
22 Dec 2003	New vision	3	Man jailed for incest	Father jailed for defiling his daughter	Mbarara
24 Dec 2003	Monitor	4	City lawyer evict woman	Woman thrown out of matrimonial home on court orders because her husband sold the house prior to their divorce without her knowledge	Kampala
24 Dec 2003	New vision	4	Mother held over murder	Police detain woman, 20, who killed her 2-year-old child	Mukono
24 Dec 2003	New vision	5	Mbarara man for hanging	Man to hang for murdering his 9-year-old daughter	Mbarara

**Legal basis against Domestic Violence**

11.07 Most international human rights instruments that Uganda has ratified (namely International Covenant on Economic, Social, and Cultural Rights, International Covenant on Civil and Political Rights, Covenant on Elimination of all forms of Discrimination Against Women, Covenant on the Rights of the Child, and Convention on the Right of Migrant Workers and Members (MWC) in 1987,1995,1985,1990 and 1995 respectively) emphasise the protection of the family.

11.08 International and Regional human rights instruments universally guarantee the right to private life. This value is acknowledged by the United Nations, in the proclamation of 1994 as the International Year of the Family. However, the right to a private family does not include the right to abuse family members. The common notion and the continued support of a male-dominated family is a major challenge to eradicating domestic violence. The right to be free from domestic violence or the threat of domestic violence is a fundamental and universal human right. Issues associated with domestic violence are addressed in the

Declaration on the Elimination of Violence Against Women (1993), the Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, and the Declaration on the Special Reference to Foster Placement and Adoption Nationally and Internationally (1996).

11.09 Although Uganda has ratified international and regional human rights treaties that protect women (rights specifically against violence and the right to health), the unchecked domestic violence, and the lack of access for many women to HIV/AIDS services are clear indications that the government is not yet meeting expectations.

**The Convention on International Protection of Women Against Domestic Violence: A few highlights**

11.10 • The first major recognition of women's rights as human rights occurred in the 1970s when the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) was drafted and adopted by a majority of member states of the UN.  
 • The CEDAW identifies measures to be taken to eliminate discrimination against women in a range of fields and



- requires States who have signed and ratified the *Convention to report periodically* to the UN Committee on the Elimination of Discrimination Against Women. (The primary focus of the CEDAW was originally on political and economic discrimination and issues that emerged in the public spheres of women's lives.)
- Feminist critiques of the human rights discourse have argued that by neglecting to acknowledge human rights abuses occurring in the private sphere, such as domestic violence, rape and sexual abuse, the Convention only reinforced existing patriarchal structures and perpetuated a public/private dichotomy that further oppressed women, on an International level.
  - The Declaration on the Elimination of Violence Against Women provides a concise summary of the meaning and standard applied to the concept of due diligence.
  - The Preamble asserts that violence against women is a manifestation of historically unequal power relations in society, and therefore its eradication requires an analysis of not only violent acts but of the social conditions, institutions, and norms that perpetuate them.
  - A State Party to the Declaration has a responsibility to actively intervene and exercise due diligence in the prevention of such acts, as well as refrain from engaging in or encouraging acts of violence against women.
  - The concept of due diligence provides advocates for victims of domestic violence with a platform to argue that human rights abuses are being condoned and perpetuated by the State through their complicity.
  - The World Conference on Human Rights in Vienna (1993) accepted that the rights of women and girls are "an inalienable, integral and indivisible part of universal human rights".
  - In December 1993, the United Nations General Assembly adopted the Declaration on the Elimination of Violence Against Women. This is the first International human rights instrument to deal exclusively with violence against women and served as the basis for many other parallel processes.
  - In 1994, the Commission on Human Rights appointed the first UN Special Rapporteur on Violence Against Women, entrusting her with the task of

analysing, documenting, and holding governments accountable for violations against women.

- The Fourth World Conference on Women in Beijing (1995) included elimination of all forms of violence against women as one of its twelve strategic objectives and listed concrete actions to be taken by governments, the United Nations, and international and non-government organisations. (Gender-based violence is not specifically mentioned in the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).)
- In 1992, the Committee overseeing CEDAW implementation adopted General Recommendation 19, which states that *inhibiting a woman's ability to enjoy rights and freedoms on a basis of equality with men is discrimination*.
- Under the new Optional Protocol to CEDAW (adopted by the UN General Assembly in October 1999), ratifying states recognise the authority of the Committee to receive and consider complaints from individuals or groups within that state's jurisdiction.
- On the basis of such complaints, the Committee can then conduct confidential investigations and issue urgent requests for a government to take action to protect victims from harm, bringing the Convention into line with other human rights instruments such as the Convention Against Torture.
- This growing momentum has compelled a better understanding of the causes and consequences of violence against women, and positive steps have been taken in some countries, including amending laws that deal with women and domestic violence.
- Some regions have developed their own conventions on violence against women (e.g., the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, and the African Convention on Human and People's Rights, including its Additional Protocol on Women's Rights).

### Conclusion

- 11.11 On the basis of the aforementioned, it is recommended that a law on domestic violence be put in place. As of now, the Administration of Justice and the Uganda Police Force consider domestic violence a domestic matter. This has been the case worldwide.





However, since the 1990s, several factors have contributed to significant changes in domestic violence legislation in many countries. Women's successful campaigning raised the profile of the issue of Violence Against Women, and several United Nations conferences (Vienna 1993, Cairo 1994, and Beijing 1995) recognised women's rights as an inalienable part of universal human rights. As a result of the new awareness generated, laws on domestic violence were adopted in many countries. At the time of writing this report, over 44 countries adopted specific legislation on domestic violence.

- 11.12 The signing of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women in 1994 provided the momentum to enact such legislation. The South African Domestic Violence Act of 1998 contains a particularly innovative feature, granting a temporary protection order in cases where the court is satisfied that the actions of the aggressor pose 'imminent harm' to the complainant. This order affords protection of the health, safety, and well being of the applicant. It also includes a provision for the aggressor to be evicted from the matrimonial home, while continuing to provide monetary relief to the applicant.
- 11.13 In Uganda, a task force has been created to address issues of domestic violence and the proposed legislation against domestic violence. The task force meets under the chairmanship of the Uganda Law Reform Commission, comprising the police, human rights non-governmental organisations, the Director of Public Prosecutions, and the faculty of law (Makerere University). In addition to utilising the available research, the task force conducted further research in five districts in Uganda. The findings will be used to initiate further discussion on the proposed legislation against domestic violence. The speedy enactment of the Domestic Relations Bill will put Uganda in the category of those countries that have complied with the rights of women under International human rights instruments. The country awaits this legislation.

### The Domestic Relations Bill 2003:

## A Human Rights Perspective

### Introduction

- 11.14 It is expected that the Domestic Relations Bill would help protect families from domestic violence. The Bill has 110 clauses and 11 parts. It is intended to "reform and consolidate the law relating to marriage, separation and divorce; to provide for the types of recognised marriages in Uganda, marital rights and duties, grounds for breakdown of marriage, rights of parties on dissolution of marriage and for other connected purposes".<sup>2</sup>
- 11.15 The process that has brought about the draft has had relative consultations in which major stakeholders were consulted. The UHRC subjected this draft to a stakeholders' consultation workshop. The following comments highlight views which are informed by the human rights principles embedded in the understanding and interpretation of human rights instruments -both regional and international, as ratified by Uganda and the rights in the Constitution of Uganda and to a certain extent the cultural, political, economic and social perspectives in this country (Uganda). Members of Parliament are due to debate this bill and should address some of these issues.

### Issues to address:

- 11.16 **Marriage not defined.** In Part I of the Bill, clause 3 offers interpretations of the major terms used in the Bill. However the bill misses one major term namely "marriage". Yet the whole purpose of the Bill is "to consolidate the law relating to marriage.." This definition is important because it is the understanding or misunderstanding of it that is at the center of domestic

<sup>2</sup> It is not useful to just consolidate these laws when some of them are inconsistent with the Constitution. For example, of the laws mentioned in the Bill to be consolidated, The Divorce Act (Cap 249) has already had some provisions nullified in the Constitutional Court ruling of 10th March 2004 and many more can follow.

<sup>3</sup> It should have added, and it is recommended here, the words "in conformity with the Constitution and relevant human rights instruments on marriage, women and children, that Uganda is a party to". After all it is partly said under Clause 7 that "The Bill in sum gives effect to the principle in article 31 (1) of the Constitution that men and women are entitled to equal rights in marriage, during marriage and at its dissolution"



relations. Is marriage for example only seen as an institution of law where it is a private law contract between persons of different gender (i.e. man and woman) of a certain minimum age agreeing to follow certain procedural guarantees required for its legal validity? Or is it the right and freedom of two consenting adults to enter into marriage against interference by State organs and private parties? The definition is important in the context of new developments of where for example there are "marriages" between partners of the same sex. Whatever the controversy, the Ugandan understanding ought to be clarified in the law.

- **Definition of "Family" is incomplete - does not cover 'illegitimate' children:** The Bill defines "family" to mean "a husband and wife and their children, including adopted children if any. The definition as it is now, seems to cover the children born of the existing marriage. A child born out of the wedlock or dissolved marriage cannot be part of "their" child nor an "adopted" one. They are children (or a child) of one of the parties in marriage. **It is suggested that for avoidance of any doubt, the definition should specifically mention and include the "illegitimate child" (i.e. born out of wedlock). This would protect (in terms of rights) the often-vulnerable children born out of wedlock. Alternatively we could use the ICCPR language of "any children". (i.e.... any (of their) children born of any of the parties!).** Another issue is what happens to single parents or widows or widowers with their children? Don't they have families? **The law needs to navigate this area too since it recognises the protection of children under clause 96.**
- **Minimum age of marriage at 18 is not easy to enforce:** Clause 14 is about the minimum age of consent. It states: "A person shall not have the capacity to marry unless he or she has attained eighteen years of age". While this age means a lot to a group of Ugandans and has also been agreed upon in the Constitution, it is also true that there has been a section of Ugandans who have argued that this age has been unfair and has bogged down the institutions involved in the administration of criminal justice<sup>4</sup>. The

biggest number of detainees who have contributed to congestion in prisons are on defilement!. In other words the existence of defilement law and the maximum punishment of death that it carries has not prevented the crime. Furthermore, Article 23 of the International Covenant on Civil and Political Rights only recognises "marriageable age" "... It states under art 23 (2) that "The right of men and women of marriageable age to marry and found a family shall be recognised". While it was left to State Parties to determine their own "marriageable age", **it would be advisable for the government to consider the new challenges so far on enforcement of defilement law in the light of the United Nations General Assembly recommendation of 1965 where the lower limit for capacity to marry was put at the age of 15<sup>5</sup> years.**

- **Consent for marriage should not only be "free" but "full":** Clause 15 (1) states that "a marriage shall not be celebrated, solemnised or contracted in Uganda without the free consent of either party to the intended marriage". To be free in consent does not necessarily mean that the consent is full. Full consent means among other things that the consent is "informed". Certain conditions on one of the parties might inhibit his or her full consent. In which case then the freedom to consent was not backed by adequate information as to the benefits or problems in marriage. **In this case it is proposed that the law adopts the ICCPR language on marriage that: "No marriage shall be entered into without the free and full consent of the intending spouses"<sup>6</sup>. It is further suggested that wherever the word "free consent" is used, it is followed by "full consent. (So clause 16 is herein affected). This might also require that article 31(3) of the Constitution is amended to include full consent.**
- **Presumption of marriage under cohabitation contravenes article 23 (3) of ICCPR and article 31 (3) of**

<sup>4</sup> I remember that Justices Kikonyogo and Sebutinde have had their misgivings on the age of 18.

<sup>5</sup> see GA Res. 2018 (XX) of 1st November 1965, Principle II

<sup>6</sup> see art 23 (3) of ICCPR



**the Constitution:** Clause 13 of the Bill requires that if man and woman have cohabited for ten years or more "they shall be presumed to be married to each other if the parties have the capacity to get married...the parties shall be presumed to have consented to the marriage". Now, that kind of presumption is neither consent nor is it free and full as required by the ICCPR and the Constitution. Besides it is in conflict with clause 15 above.

- **Marriage gifts should not be confused with Bride Price: Pride price should be equated to dowry and given equal weight and left to particular cultures to maintain, abolish or adopt as they see fit.** While "marriage gifts" are defined to include bride price and bride wealth. It is a misnomer to link "gifts" to any "price" for anything. This is a very controversial area, which would require progressive realisation. To put in law as a prohibition would injure some cultures. Not to make it an essential requirement either is to belittle those who thought it gave them value as women.

**It is recommended that the aspect of "marriage gifts" under clause 20 is left out or written in a manner that allows those who value it to continue provided it does not disadvantage any of the parties in marriage.** The arguments based on pride price being the cause of domestic violence seem to be unscientific in the face of experiences. The real problem in families is patriarchy which requires a bigger strategic programs (legislative and administrative policies) to combat it.

- **Impotence, should not be a ground for nullification of marriage because it is discriminatory and punishes the man:** Clause 22 raises the mentioned grounds for nullification of marriage (voidable marriage). It states that "Where one of the parties to a marriage (is).... (d) permanently impotent, The injured party may, at his or her own option, apply to a competent court to nullify a marriage". It is recommended that the ground of "permanent impotency" be deleted. This is because only one party-the man-suffers it. Secondary, must sexual intercourse be the major defining factor in marriage and end without it (sexual intercourse?). If for example

importance came out of some disability acquired after years of marriage and children are born, must the family be allowed to disintegrate because of absence of sex? The State should not legislate on what happens in people's bedrooms, if the parties cannot deal with it then the marriage has irretrievably broken down and should seek divorce.

- **Requiring a Man to prove he is economically capable (under clauses 31) to marry other wives is a contradiction in terms, discriminatory and ignores the principle of equality in marriage.**

This clause assumes that a man, a practice that the law seeks to avoid in the first place, dictates marriage in Islamic or customary arrangements. To that extent it is a contradiction to article 31 of the Constitution and article 15 and 16 of CEDAW and the rights of woman in general. Since marriage is supposed to be out of free and full consent of the two adults **who think** and are rational, it should be assumed that the questions of economic capacity are irrelevant.

Secondly, it is discriminatory because it targets the man only. If the woman in question, for example, has the economic capabilities wouldn't he be allowed to marry the man? Why shouldn't she (or allowed to) also declare to the District Registrar of Marriages her economic capabilities? In the case of polygamy (under Islamic or Customary arrangements) it is recommended that equality require that this requirement of "... showing that he is economically capable of maintaining his wives and children at least at the same level of maintenance as at the time of application" (clause 31 (1) (a)) is available to both men and women intending to marry.

**It is recommended that it could read as "where man and woman want to enter into polygamous marriage they should apply to DRB showing that they are economically capable of living together without disadvantaging other wives and children...."** I must add here that this is only useful if we should not really advocate for abolition of polygamy altogether.

<sup>7</sup> see for example Mzee Gureme's article in The Monitor of 9th of March 2004.



- In light of the fore going, the UN Human Rights Committee notes<sup>8</sup> with concern the continued existence of existence of customs and traditions in the State party that affects the principle of equality of men and women and that *may impede the full implementation of many provisions of the Covenant.*

Polygamy is incompatible with UN General Comment No. 28, which expressly mentions that polygamy is incompatible with equality of treatment with regard to the right to marry. The *Committee further recommends that the State Party should take legislative measures to outlaw polygamy in addition to strengthening its ongoing awareness-raising campaigns.*

- **Objections under clause 37 (2) and clause 40 under which marriage should not take place should be listed.** If left as it is, it would be greatly abused or even ignored to the detriment of the State and the individuals in marriage<sup>9</sup>.

**It is recommended that the grounds for objections are listed to avoid unfounded grounds just for purposes of disrupting those trying to "found a family". These grounds can be if one party is:**

- o Legally incapable (e.g. already married or under age)
- o Is of unsound mind at the time of marriage (thus needs some treatment first)
- o Is drunk or is under the influence of drugs
- o Has certain diseases (!!!) etc

- **Issues ignored in the Bill**

- (a) Women taking family name and at times nationality of their husbands and not vice versa is discriminatory-It is happening but it is not addressed in the law
- (b) Obligation for wives to obey their husbands can be slavery-It is done yet not addressed in this law
- (c) Obligations for wives to relocate as their husbands see fit-It is unfair a requirement for consultation in such matters need to be addressed.
- (d) Rights in marriage such as those based on division of labour based on differing rights and responsibilities with regard to issues of child raising, guardianship,

custody, trusteeship, adoption, administration of assets, exercise of profession or maintenance are not mentioned by the Bill.

- (e) Those women who are refused by their husbands to work are not protected by the this law
- (f) Reproductive rights are not covered in the Bill. If a man wants 10 children and the woman wants 2-how does the law resolve this? The DRB should address this.
- (g) Wives, housewives in particular, who continue to work throughout pregnancy without rest are not protected. The ILO conventions and the Constitution protect those who are in formal employment not the peasant /rural women. DRB should protect them
- (h) The responsibility of society in protecting the family is lost in the bill

### Conclusion

11.16 The Domestic Relations Bill seems to protect women and, to a lesser extent, men at the dissolution of marriage. There is too much emphasis on formalities and procedures to ensure the parties "get something" at the dissolution of marriage. Moreover, the components of the DRB appear to be artificial. Article 23(1) of the ICCPR states clearly that, "*the family is the natural and fundamental group/unit of society and is entitled to protection by society and the State*". The natural element of the family is broken down and not given protection. Under Article 23, the State rendered its position without rendering society's roles and obligations to maintenance of the family. The African Charter on Human and Peoples Rights sees the (African) family as "the natural unit and basis of society" and the "custodian of morals and traditional values"<sup>10</sup>. Individual obligations to a family under Article 27 and 29 of the ACHPR would be instructive if incorporated into the legal system (e.g., the DRB) of Uganda.

<sup>8</sup> The concluding observations of the UN Human Rights Committee Paragraph 9, No. CCPR/CO/80/UGA

<sup>9</sup> The State too should intervene to raise these objections-Others though might say it contravenes article 23(2) of ICCPR

<sup>10</sup> Article 18(1),2 of the ACHPR



11.17 Without a legally protected definition of "the family", the elements that constitute the family are open to interpretation (e.g., surrogate mothers and their children, and partners of the same sex). This brings into question whether the meaning of "the family" is static, degenerating or expanding. As it stands, the DRB does not protect "the family", and therefore it is necessary to clearly define "the family" as it pertains to Ugandans. Even the whole question of adultery will lose meaning when pregnancy is carried out artificially. What form of protection do we give the African family to protect it from extinction? Certainly the DRB as it is, does not offer that protection!



## CHAPTER 12

# Administration of Justice and Human Rights

### Introduction

12.01 Justice is simply defined as "*upholding of rights and the punishments of wrongs.*"

The basic legislation in Uganda identifying crimes and their corresponding punishments is the Penal Code Act. This Act broadly classifies offences into the following categories:

- Offences against the state (treason, sedition, etc.)
- Offences against the person (murder, assault, etc.)
- Offences against property (theft, robbery, etc.)
- Offences against morality (rape, adultery, etc.)

12.02 In addition, numerous specialised legislation exist for specific crimes (e.g., Anti Terrorism Act, and the Prevention of Corruption Act). The basic punishments provided in the Penal Code Act are fines and/or imprisonment, depending on the crime committed. To ensure that justice is done, a number of institutions are involved.

### The Major components in the Administration of Justice: Components as provided in the Constitution are:

The Administration of Justice is laid down in the following Articles;

- Article 126(2) that states that in adjudicating cases of both a civil and criminal nature, the courts shall subject to the law, apply the following principles:  
Justice to be done to all regardless of social or economic status-equality; Justice shall not be delayed [accessible justice]; Adequate compensation shall be awarded to victims; Reconciliation between parties shall be promoted; Substantive justice shall be administered without undue regard to technicalities (a current problem is the delay in executing the orders for awarding compensation for the victims)
- Article 28(1) provides for the right to a fair, speedy and public hearing before and independent and impartial tribunal established by law for persons charged with criminal (and civil) offences.

UGA.00132.811



know the offence charged (in a language understood by the suspect); Adequate time and facilities to prepare a defence; Right to legal representation which shall be provided by the state if the punishment is death or life imprisonment; Right to an interpreter during court proceedings when necessary; Facilities to examine witnesses

- Article 127 empowers parliament to establish laws to promote participation in the administration of justice.
  - Article 24 prohibits torture. Article 44 prohibits derogation from the enjoyment of freedom against torture, the rights to a fair hearing, and the right to an order of habeas corpus (all of which relate to the criminal justice system).
  - Article 23(2) requires that a person be detained in a place authorised by law.
  - Article 23(3) requires that a person detained must be presented before courts within 48 hours from time of arrest.
  - Article 23(5) allows the right to access to a lawyer, next of kin and medical assistance when detained.
  - Article 23(6) allows the right to apply for bail and automatic right to bail when a suspect has been detained for a certain period of time before trial. The following are relevant legal/human rights instruments in the administration of justice, which all the bodies involved in the administration of justice, should endeavour to respect, protect, and fulfil.
  - The law accords special protection to certain persons in the administration of justice, namely child offenders. Article 34(6) of the Constitution states that a child offender in lawful custody shall be kept separate from adult offenders. The Children's Statute establishes special courts – Family and Children's Courts- for under age suspects
- 12.03 There are several issues, which should be appreciated about the right to equal access to justice and its relevance to the administration of justice. Equal access to justice is a human right, which is necessary to ensure non-discrimination and specific attention to the vulnerable. Through the Commission's experience two major issues of human rights concerns emerge. They are listed as follows.
- In most cases, justice is not considered a right.
  - In the process of administering (criminal) justice, there is a group of

people who are vulnerable to discrimination based on their social status and ethnicity (i.e., colour, age, class, gender, etc.).

This chapter addresses the administration of justice with a focus on the aforementioned issues and makes recommendations to improve access to justice by the poor and vulnerable.

### **Organs in the Administration of Justice**

12.04 The administration of justice is a shared responsibility, which extends beyond resolving cases. It includes the administration and management of services that facilitate the processing of cases, before, during and after court. It goes beyond the conventional sense. Traditionally it has been the responsibility of a chain of institutions, namely the Ministry of Justice, the Courts of law, the Uganda Police Force (UPF), the Director of Public Prosecutions (DPP), and the Uganda Prisons Service (UPS). For example, the Ministry of Justice plays an important role in securing the budget for the Courts of Law in Parliament; the UPF deals with crime before charging the offender in court; the DPP adduces evidence in courts during trials, and private advocates plead on behalf of their clients in court; and the UPS handles remands and convicts committed by courts.

12.05 The concept of justice also extends to the services rendered by other bodies with quasi-judicial functions (i.e., the Uganda Human Rights Commission, the Land Tribunals, the Non Performing Assets Recovery Trust (N.P.A.R.T), the Tax Appeals Tribunal, the Centre for Arbitration and Dispute Resolution (C.A.D.E.R) and the Law Council). For the purpose of this report, only traditional institutions involved in the administration of criminal justice (i.e., the UPF, the DPP, the Courts of Law, and the UPS) are examined. The intention is to identify problems involved in affording justice to the vulnerable.

### **The Administration of Criminal Justice in Uganda**

12.06 The administration of criminal justice in Uganda encompasses three stages, (i) investigations and arrest, (ii) trial before courts, and (iii) punishment (fines and/or imprisonment). The three main institutions responsible for these stages are the UPF, the Courts and the UPS respectively. Rights-based



administration of justice requires that the three stages of administration are respected and performed effectively as provided by law. Any thing less would be a violation of the rights of the suspects and victims. It is in this regard that the government introduced the Justice, Law and Order Sector as a strategy to promote sector-wide budgeting. This is to ensure that resources are proportionately allocated to promote the linkages. Consequently, programmes such as the Chain Linked Initiative, which involves the cooperation between the key criminal justice agencies i.e. the Police, the Judiciary, and the DPP, prisons and probation services; and programmes such as the community service and backlog reduction have contributed to the efficiency of the administration of justice. However, there are still challenges facing the full realisation of this programme, for instance, slow reporting of criminal cases by the public to the police, non-adherence to established investigation procedures<sup>1</sup>, insufficient compliance with constitutional standards for time limits for holding accused persons and for treatment of offenders; a high frequency of case adjournments, a shortage of personnel, lack of representation of accused persons and a high incidence of remands.

### **The role of the Uganda Police Force in the Administration of Justice**

12.07 The functions of the police under Article 212 of the Constitution can be summarised as to maintain law and order, protect life and property, prevent and detect crime, and cooperate with civilian authority and other security organs established under the Constitution and by the general public. Section 4 of the Police Act outlines the functions of the police as follows:

- To protect the life and property of all people
- To maintain security within Uganda
- To enforce the laws of Uganda
- To ensure public safety and order
- To prevent and detect crime in the society
- Any other functions that may be assigned

In addition to these functions, Sections 21-43 further define the functions of the police and the performance of their duties.

### **Major challenges to the Police**

12.08 The concerns of the UPF in the administration of justice include poor logistics and low recruitment (ratio is 1 Police man to between 1663 and 1800 people instead of the recommended 1 to 500, the international efficiency standard). The UPF has asked for the number of officers to increase to at least 30,000. By the time of writing this report, this had not been achieved nor agreed to by the government. Drawbacks also include, delays in police investigations. These delays deprive court of the fresh and best evidence. Delays are largely due to lack of funds, logistics and skilled personnel. Many people are denied justice through long detentions of suspects in police custody. The delays may also be attributed to the few number of magistrates with jurisdiction in certain offences, insufficient transport facilities in the police force, corruption, the delay to furnish evidence by other bodies such as the military, local administration police, local council members, and private persons who carry out arrests. Other concerns also include high turnover in Police personnel (losses of approximately 300 officers per year); human rights training that only targets new recruits and not old personnel; mob justice (failure of police to curb the problem); torture (though this is being addressed by the establishment of human rights and complaints desk and the increased consciousness of superior officers); poor funding; poor transport (failure to produce prisoners on time at court; incarceration of minors (juveniles) with adults (only 3 functional remand homes); and political influence in police work.

### **Recommendations**

12.09 While the police managed to procure some equipment necessary for its effective performance, the force remains under equipped. Security challenges, problems of maintaining law and order, and detecting crime remain problematic and, at times, increased. Consequently, security organs under ISO, CMI, and VCCU continue to engage in police work in an unprofessional manner. This has cost the government an excessive amount of money in damages. While the Commission has no problem with recruitment of various security organisations, the mandate of these organisations must be clear, specific, and legal. The capacity of the Police to





perform its functions must be enhanced by the government giving it enough personnel, equipment and training. The Police must be supported effectively and given confidence.

### The Directorate of Public Prosecutions

12.10 The Directorate of Public Prosecutions (DPP) is established under Article 120 of the Constitution. Its functions are stated in Article 120(3). They include directing the police to investigate any information of a criminal nature, instituting criminal proceedings against any person or authority in any court with competent jurisdiction other than a court martial, taking over any proceedings of a criminal nature, and discontinuing criminal proceedings at any stage before judgment is delivered, giving advice and guidance to the CID in particular and other government departments in general on the conduct of criminal investigations or decision to prosecute and what charges to prefer, collaborating and pursuing appropriate, prompt and successful investigation and prosecution of complaints of a criminal nature and cases with institutions involved in identifying, investigating and prosecuting criminal complaints and cases. The DPP's major concerns relate to problems such as insufficient number of Prosecutors, Resident State Attorneys and insufficient funding, which lead to backlog of cases and delays in Prosecutions resulting in long remands and congestion in prisons.

### The role of the Courts of Law in the Administration of Justice

#### Major concerns

12.11 Article 126(1) of the Constitution states that the courts established under the Constitution shall exercise judicial power. Court structures in Uganda are constituted in a hierarchy with the Supreme Court at the top and the LC Courts at the bottom. This hierarchy is outlined in Article 129(1), which states that the Courts of Judicature shall consist of the following:

- Supreme Courts
- Court of Appeal (which also acts as the Constitutional court)
- High Court and
- Subordinate Courts (i.e., Magistrates Courts and L.C. Courts) There are also specialised courts to administer justice for certain categories of people (e.g., the Family and Children's Court and the General Court Martials).

12.12 The following is a list of legislation that exists to operationalise the business of courts in Uganda:

- Judicature Statute
- Magistrates Court Act
- Criminal Procedure Code Act
- Trial on Indictments Decree
- Children's Statute
- Resistance Committees Statute (Judicial powers)

12.13 The major areas of concern continue to be, general technicality of both civil and criminal proceedings for litigants and the more mundane problems of staffing, backlog of cases and inadequate access to justice for the poor because of problems of legal fees and the inefficient legal aid system. Also of concern are lack of interpreters (including those of sign language), delays in typing records so that parties may get copies of judgements or proceedings expeditiously enough to move to the next stage e.g. appeals, intimidating court atmosphere, distrust of the judicial system, adherence to strict rules of interpretation by judges, reluctance to invoke provisions of international human rights instruments, and absence of a formal training school for judicial officers.

#### Local Council Courts

12.14 They were established in 1988 under the law. This is a serious effort to make justice more accessible through the judicial process and this is done through procedure for instituting proceedings (orally or otherwise). Cases certainly take a shorter time to be settled and the proceedings are simpler. Furthermore, the Ministry of Local Government has developed Local Council Court Guides, aimed at training LC I and II on the administration of Justice by acquainting them with the Local Council Statute, the Constitution and other relevant laws. *However, at the time of writing this report the guides had not been implemented. There is therefore need to speed up the implementation of these Guides.*

#### Challenges in the Local Council Courts

12.15 There is general ignorance of the law on the part of those who administer it in these courts. There is basic training and therefore insufficient for those who administer justice. In some cases there are no records of proceedings, on the basis of which to access the case on appeal. Where they exist, the records are too brief to be based on when



appealing. These courts aren't funded and they are on the basis of voluntary work and their membership therefore, tends to undermine their efficiency and effectiveness. It makes the members vulnerable to corruption, as persons without integrity may gain access to these committees. Since they are not funded, the effectiveness of the courts is affected because requirements such as stationery, stamps, and interpreters may not be available. In some instances, these courts have exceeded their jurisdiction by taking matters that they are not legally required to handle.

12.16 The JLOS has continued with several commendable initiatives to improve on the administration of justice. However the sector still faces legal and structural impediments, which frustrates these initiatives. Frustrations like limited prison and police capacity, limited jurisdiction of magistrate's courts over certain offences are some of them. According to Mr. Gidudu, the major solution to some of these is expanding the jurisdiction of the magistrate court. For example Mr. Gidudu cited the problem of congestion in Mbale prison due to the prevalence of defilement cases which a capital offence triable only by the High Court. He said, "in fact in Mbale prison, the majority of remands are capital offenders which is quite strange. Out of the prison population of 785 inmates (out of the approved capacity of 376) by October 2003, 632 of them are capital offenders! Only 153 cases are for Magistrates to try. If defilement was triable by Magistrates, then Mbale remand prison would have fewer inmates because most convicted would serve sentences at prison farms elsewhere".

12.17 Under the Chain Linked Initiative, case management committees in all magisterial areas have been established to provide the environment for coordination, communication, and cooperation of criminal justice agencies. According to Mr Lawrence Gidudu, a Registrar of the High Court of Uganda, through the Chain- Linked Initiative (courts, prosecution, police, prisons, advocates, probation services and civil leaders of various levels) they regularly discuss and agree on means of effective and efficient dispersals of cases with available resources. Mr. Gidudu gave an example of the Mbale Chief Magistrates Court. (In September 2003, 906 cases were terminated by the

Director of Public Administration through this Initiative.

### Conclusion and recommendation

12.18 The Commission agrees with the recommendation of the Chief Registrar that the law relating to defilement and rape needs to be amended so these cases are tried by the Chief Magistrates (as is the case in neighbouring countries). This can be done without minimising protection of young girls who are defiled by adults. In the case of sex between consenting adolescents, the offences should not be a capital offence. In the case of the former, if children below 14 are defiled, the defiler should be tried by the High Court. In the case of the latter, it should be automatically be considered a non-capital offence and tried by a magistrates court.

### The role of the Uganda Prisons Service in the Administration of Justice

12.19 The Uganda Prisons Service is established under Article 215(1) of the Constitution. Its core duties are listed as follows:

- Safe custody of prisoners
- Production of prisoners to court
- Humane treatment of prisoners
- Rehabilitation of prisoners

12.20 The UPS continued to have problems that inhibit effective administration of justice. These include low recruitment ratio (of 1 officer to 8 prisoners to 8 instead of 1 to 3 efficiency international standard), incarceration of minors with adults (few remand homes), overcrowding (prison population has grown at a rate of 10% per annum without corresponding growth in prison accommodation), and rampant violations of rights (e.g., torture in Local Government Prisons).

12.21 According to UPS data and the Criminal Justice Baseline Survey, the current rate of imprisonment in Uganda has risen to approximately 101 per 100,000. Given the current rise in crime, the number of prisoners is expected to steadily grow. By July 2003, the prison population reached almost 18,000 in a living space for only 8,000 and the ratio was approximately 1 warder to 8 prisoners. Uganda Prisons Service consists of 2,900 personnel instead of the 8,000 personnel required.



12.22 The UPS in 2003 had 46 functional prisons of various capacity levels, including prison farms located throughout the country. Most prisons were built in the 1920s, a time when the rate of imprisonment in Uganda was less than 20 per 100,000. These facilities were adequate until the 1970's. By October 2003, the population of inmates stood at 17,929. In 1999, a Human Rights Committee was formed at the Prisons Headquarters, which has helped to conduct the human rights activities with the Commission.

### Overcrowding

12.23 In the 1960s, the total capacity of prisons was 13,000 prisoners. Today, it can go over 18,000 prisoners, especially in reception Centres – Urban Prisons. The number of prisoners has been increasing over the last years. For instance, from 1988 the number has increased over 10 %. Table 12.1 clearly illustrates overcrowding in prisons.

**12.1 Inmate populations from 1988 to 2002**

Year	Inmate population*
1988	12,156
1989	12,845
1990	11,617
1991	11,487
1992	11,670
1993	10,060
1994	11,487
1995	11,282
1996	11,252
1997	13,510
1998	15,244
1999	16,225
2000	15,614
2001	15,233
2002	16,459

\*Refers to average population  
Source: Uganda Prisons

12.24 There is comparatively marked improvement in prison conditions, but improvements are still necessary in areas of accommodation, meals, beddings and health. Though the medical budget for prisons was increased to 20% in 2003-2004 annual budget, the prisoners continue to die in custody.

12.25 There has been improvement in the

construction of new structures to assist in decongestion, and also improve prison conditions. For example, with the assistance of the Swedish Government, under the Justice Law and Order Sector programme, the UPS constructed eight female wings with modern amenities to accommodate female needs. This has increased holding capacity by 600 (i.e., from 8530-9130) inmates. Furthermore, Masaka and Masindi prisons have been renovated. New wards have also been constructed at Munaina, Mbarara and Kotido prisons.

12.26 The Swedish Government funded Training of Trainers (in human rights) for prison officials. The British Council has implemented the training of prison staff on the Human Rights Training Manual, which was developed together with the UHRC.

### An overview of reported deaths in prison stations from January to August 2003

12.27 A total of 287 Prisoners died out of 17,929 inmates by August 2003, representing a percentage of about 1.6%. Of these 287, Upper prisons (Luzira) and Murchison Bay topped the list, with 81 and 35 prisoners, respectively, between January to August 2003 alone. Others on top of the list were Masindi (21), Mbale (21), and Masaka (20). Prison Stations with the least reported cases of prison deaths were Kotido, Ibuga, Bufubula, Kumi, Mutukula, Adjumani, Bulaula, and Apac all reporting only one prisoner dying in the period January – August 2003.

12.28 Of the 287 deaths, 108 were convicts (37.6%) and 179 (62.4%), remands. Cardiac arrest topped the list of causes of death, accounting for 35 deaths, followed by pneumonia (20 deaths) and pulmonary tuberculosis (21 deaths). 83 of the death cases had no clearly stated causes (table 12.3).

12.29 Statistics show that most of the mortality cases among prisoners in 2003 occurred in hospitals, 235 deaths, which is 81.8% of the total death cases. Other deaths were reported as follows, 10 in sickbay (3.48%); 5 in the clinic (1.7%); 2 in the dispensary (0.69%); 24 in undisclosed places (8.36%); and 2 in the shamba (0.69%).

### The contribution of the Justice, Law and Order Sector in areas of detention

12.30 The Justice, Law and Order Sector seek



to improve the infrastructure and management of prisons, police stations by reconstruction and rehabilitation programme, and the prisoner to warden/police ratio. In the past two financial years, an average of 500 wardens/wardresses have been recruited under the JLOS reform programme. The police have recruited a minimum of 500 constables in the past two years. This though, is far below the required efficiency standard of 1 policeman to 500 persons, given the increase in prisoner population.

12.31 As mentioned earlier, the construction of new female wings at eight prisons resulted in to better accommodation of the rising female number of prisoners. In October 2003, more than 600 inmates were overcrowded Kakiika prisons. This was decongested through the commission of two new remand wards at Mbarara remand prisons and transfer of 400 inmates, thereby reducing Kakiika prison population to 200 inmates.

12.32 Uganda Police Force in collaboration with the Malawi Police Service is establishing model police stations to serve as evidence-based initiatives for a rights-based approach to arrests and detentions. The stations, one urban and one rural, shall serve as an example of the ideal prisoner detention facility, the processing of suspects, and the monitoring of human rights standards.

12.33 The Justice, Law and Order Sector, through the Uganda Law Reform Commission, has also sought amendment of key legislations including the Magistrate's Court Act (Section 207); the Penal Code Act (Section 129); and Trial on Indictments Act (Section 2(c)). They have proposed to increase jurisdiction of Chief Magistrate's so as to quicken trials of certain crimes and decongest remand prisons. These crimes represent 50% of cases on remand contributing to congestion in prisons.

### Other Security Organs in the Administration of Justice

12.34 There are several security organisations in the country, which contribute positively or negatively to the administration of Justice. These include the International Security Organisation, the External Security Organisation, the Chieftaincy of Military Intelligence and

the VCCU. As in most democratic countries with intelligence organs, the organs ought to be, established by parliamentary legislation or by the Constitution. In the case of Uganda, the Constitution under Article 218(2) prohibits establishment of any security organisation without a Parliamentary Act. This is to ensure accountability and conformity with the Constitution and the law that establishes it.

12.35 In Uganda, security organs (ISO, ESO, CMI and, the VCCU) feature prominently in the administration of justice in matters of state security and politics. Some of these however derive their authority from the executive rather than from a well-known law but often wield extra judicial power by using unorthodox methods of investigation, detention, and punishment of suspects.

### The Internal Security Organisation (ISO) and External Security Organisation (ESO)

12.36 These are organisations established under Article 218 of the 1995 Constitution and under section 2 of the Security Organisations Act (cap 305). The major functions of these Organisations are:

- to collect, receive, and process internal and external intelligence data on the security of Uganda
- to advise and recommend to the President or any other authority according to President's directive on the action to be taken (Sect. 3 of the SOA)

12.37 According to the law, no employee of both organisations is supposed to arrest, detain or confine any person unless the President or any other person appointed by him has sanctioned the action. When necessary the Director Generals of both Organisations can direct the police to arrest and detain any person in relation to the intelligence gathered, but not for more than 48hrs pending a report by the Director General and the decision by the President (Sec. 4 SOA). However, most complaints at the commission indicate that the ISO, for instance engages in arrest without seeking authority from police. These arrests overwhelm the administration of justice as some people get detained without being produced in court at all. When they are eventually presented in court it is after the constitutional requirement



of 48 hours. They have been held in cells manned by organs other than the police or worse, in other places known as safe houses.

### **The Violent Crime Crack Unit (VCCU) and Operation Wembley**

12.38 These are not new organisations, but special operations conducted by security organs. They are not created by any specific law but were created by the President in the wake of much crime in and around Kampala. In response, the President created Operation Wembley that was effective in fighting these crimes. Consequently, Operation Wembley was renamed Violent Crime Crack Unit which continues to exist to date. While the head of ISO initially led it, it is the UPDF, which currently coordinates it. The concern, as seen in chapter 9 on torture, is that the VCCU operates without respect to the procedural safeguards guaranteed by the Constitution to suspects.

### **The Uganda Peoples Defence Forces (UPDF)**

12.39 The UPDF is composed of the Regular Force, Regular Reserve and any other Force as may be described by the UPDF Council. (See Sec. 3 UPDF Act and Article 209 of the 1995 Constitution). The major roles of the UPDF are:

- Preserving and defending the sovereignty and territorial integrity of Uganda
- Co-operating with the civilian authority in emergency situations and in cases of natural disaster
- Fostering harmony and understanding between the defence forces and civilians
- Engaging in productive activities for the development of Uganda

12.40 Issues of Justice relating to UPDF are usually limited to detention of the soldiers; when the Commission visited the detention centres, the Commission found out that soldiers had been detained in military detention centres without appearing in the Court Martial and others had not got their salaries since they were detained for about two or three years.

12.41 **The Court martial should expedite court proceedings, because Justice delayed is Justice denied.**

### **The Chieftaincy of Military Intelligence (CMI)**

12.42 The Chieftaincy of Military Intelligence is under the UPDF. The Uganda People's Defence Forces Act (307), Police Act (Cap 303), and Security Organisations Act (Cap 305) have no reference at all to such an organisation as the Directorate/ Chieftaincy of Military Intelligence. However, if this force is part of the army, then it could be in line with Section 3(1)(c) of the UPDF Act, which provides that the army may consist of other forces as prescribed by the UPDF council. It is therefore an arm of the UPDF. The CMI's functions have not been clearly defined for the public to know. Concern however is that many times it does the work of the Police. They arrest and detain people including civilians who are in most cases held contrary to the law. For the benefit of all and for accountability purposes, the mandate of the CMI together with other organs should be sufficiently clear and published for all people to know.

### **Private Security Organisations**

12.43 In Section 73 (1)(p), the Police Act passes regulations by the responsible Minister for the control of private security firms, and these regulations under Section 72, Police Act control the establishment of these private security organisations. Such private security organisations include Saracen and Interid, and they also carry out intelligence work. The primary role of these private security organisations' appears to protect people's life and property and ensuring the security of people who employ them. Though these organisations could therefore be said to be part of the police, there is no clear legal backing for their creation. Also, it is not clear how these organs carry out their work without violating human rights such as the right of privacy.

### **The Arrow and Amuka Militia**

12.44 These are local militias, recruited in Teso and Lango regions respectively to fight the LRA incursions. They have significantly played an important role in containing the barbarity of the LRA in those areas. Nevertheless, the Commission has continued to receive complaints that some of these groups have misused their guns to settle personal vendettas. Again, it is important that such militias are properly

This carries out some "private" intelligence  
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trained and controlled to prevent them from violating rights. Their legal foundation should also be clear for purposes of accountability.

### Conclusion on Security Organisations

While it is prologative of the executive to establish any security organisation under any name, it is imperative that any security organisation is established in accordance with the law and its functions clearly stipulated and made public for easy accountability.

### Mob justice in the Administration of Justice

12.45 Many people continue to be killed by mobs. In 2003 alone, the police reported that 277 people were killed through "mob justice". There could be more cases that go unreported. Mob justice can be loosely defined as, "justice unlawfully executed by groups

of people in society who do not represent or have not been delegated legal authority to do so" (Your Rights Magazine, June/July 2000). To be specific "Mob Justice" as it is popularly called is not justice at all. Yet, it is increasingly becoming a way of dealing with suspected criminals in the country. Mob justice usually arises out of accusations (of theft, witchcraft, murder, burglary, among others, see Table 12.2). It is now widely believed that it might be part of "community based security provision" in the country and a product of people's distrust of the judicial system. Press stories on mob justice continue to be frequent and follow more or less the same patterns with headings such as "Smeared with Fuel and Set Ablaze", "Lynched", "Stripped Naked", or "Severely Beaten". In other instances, plantations are cut down and families chased away.

**Table 12.2 Mob justice in 2003**

Cause of lynching	No. of cases reported	No. of persons killed		Total no. of victims
		Males	Females	
Theft	123	140	-	140
Robbery	29	35	-	35
Murder	30	33	5	38
Witchcraft	9	6	3	9
Burglary	28	28	-	28
Others	24	26	1	27
<b>Total</b>	<b>243</b>	<b>268</b>	<b>9</b>	<b>277</b>

Source: Excerpts from the "CID Annual Crime Report"

**Table 12.3 Districts where mob Justice is most prevalent (2002 and 2003)**

District	2002	2003	Average
Katwe	14	16	15
Masaka	20	13	16.5
Tororo	8	12	10
Rakai	11	11	11
Mukono	19	11	15
Mubende	14	10	12
Mbale	12	8	10
Iganga	6	8	7
Kamuli	13	8	10.5
Jinja	9	8	8.5
Kaberamaido	-	7	3.5
Kasese	2	7	4.5
Sembabule	2	7	4.5
Mpigi	9	7	8
Wakiso	4	11	7.5
<b>Total</b>	<b>143</b>	<b>144</b>	<b>143.5</b>



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**Table 12.4 Regional incidences of mob justice (2002 and 2003)**

Region	2002	2003	Average
Central	73	41	57
Greater Kampala	45	37	41
Southern	40	31	35.5
South Eastern	48	29	38.5
Eastern	34	28	31
Northern	11	20	15.5
Western	-	14	7
South Western	-	11	5.5
Mid Western	10	11	10.5
Mid Eastern	4	9	6.5
North Western	5	8	6.5
North Eastern	3	4	3.5
<b>Total</b>	<b>273</b>	<b>243</b>	<b>258</b>

**Causes of mob justice**

12.46 No specific comprehensive study has been carried out on the causes of mob justice. However, causes have been cited to revolve around the problems in the administration of justice such as the following;

- **Corruption and inefficient Police and Judicial System:** It is believed that corruption, inefficient police and judicial system has compromised public faith in the judicial sector and has led to groups and individuals enforcing 'law' on their own initiative by taking the law into their own hands. The frustration and lack of trust in the police and judiciary may be due to corruption and inability by the police and the judiciary to gather and process sufficient evidence for suspects to be punished in a way that corresponds to the public perception of justice.
- **Ignorance of the law:** mob justice has been connected to ignorance of basic law due to high levels of illiteracy in local communities, particularly in the rural settings.
- **Inadequate police:** with the Structural Adjustment Programmes (SAPs) and a reduced Government expenditure, the State's law enforcement organs are not equipped to effectively and efficiently do their work. As a result, the public participates in mob justice because they consider it the most effective response to insecurity. During a presentation at a UHRC consultative workshop in preparation for the 2003 Annual report, Mr. Kamya of the Uganda Police Force informed

participants that, "the prevalence of mob justice is mainly caused by inadequate presence by police".

- **Mob justice, a cheap alternative:** forwarding suspects to court or to police units can be costly, especially in rural areas where police stations and police posts are difficult to access. The additional costs of giving evidence and the lengthy legal process encourage the public to resort to mob justice. Under mob justice, suspects are

either punished immediately or set free. In most cases, mob justice prevails. If the legal system in Uganda continues to be burdened by few High Court Judges and Magistrates, irregular Court sessions, few state attorneys, a backlog of cases, and an ill-equipped police force, the public will continue to take the law into their own hands.

- **A Link to Culture:** Mob justice has social and cultural linkages. It is an expression of norms and values prevalent in local communities. Victims of mob justice are culturally regarded as thieves or troublemakers in society, and their elimination is considered a service to the community. In his presentation to the Commission Workshop at Entebbe, Mr. Kamya of the Uganda Police Force argued that mob justice is deeply rooted in culture and requires further study. Usually, the poor and disadvantaged are more vulnerable to petty crimes such as theft and robbery, hence linked to trouble-making in society. Consequently, the poor are more likely to face mob justice.
- **Reluctancy/failure to arrest perpetrators:** The fascist regime of Idi Amin in the 1970s led to a breakdown in the social, economic, political and cultural structures of society. Moral decay was ultimately part of this breakdown. Amin's regime was characterised by extra-judicial killings, murder at the firing squad, in the public. In time, society became desensitised to the public killings. This change in public morality led to practices such as mob justice, for it was condoned by the government. Some policemen themselves may have a supportive



attitude to some of these lynchings.

- Those who engage in mob justice are rarely arrested and prosecuted, resulting in its continued prevalence.

### The Commission's concerns about mob justice

12.47 In the 1998 Report, the Commission pointed out the problem of mob justice, and asserted that it was on the rise. It recommended that individuals should refrain from taking the Law into their hands. It was further recommended that when mob justice occurs, the police should endeavour to conclusively investigate the case so that justice can be attained.

12.48 The Commission in its 1999 annual report continued to sight the phenomenon of mob justice as a common feature among members of the public. It quoted an analysis of media reports carried in *Bukedde* newspapers from January to April 1999. These reports indicated that out of 38 victims subjected to mob justice, 24 victims lost their lives. It was noted that mob justice continued to rise, and recommended the need for it to be checked in order to discourage the public from taking the law into their hands.

### Human rights aspects in mob justice

12.49 Mob justice violates the right to life. It promotes torture, degrading, and inhuman punishment. It undermines the principle that every one is presumed innocent until proved guilty. The practice violates the right to a fair hearing, which is a non-derogable right under the Constitution of Uganda. It is important to note that some of the victims of mob justice are innocent. This is an eminent reason why the State should be interested in controlling mob justice and any associated behaviour.

### Recommendations

12.50 The Uganda Human Rights Commission has made several recommendations regarding mob justice in its previous reports. The Commission continues to recommend the following.

- There is need for additional High Court Judges and Magistrates to resolve the backlog in the Judiciary and assist new cases in court. This would ensure a speedy delivery in the Administration of Justice and restore the Judiciary's image in the eyes of the public.

- The Judiciary should be funded enough so it can deliver Justice in time.
- Institutions (including the UPF and the Judiciary) handling suspects and Justice ought to be free of corruption in order to restore a positive public image.
- The capacity of JLOS and its programs must be increased to ensure the efficiency of the organs involved in the administration of justice.
- There is a need to recruit a sufficient number of Judges, Magistrates, State attorneys and Police officers to facilitate in the administration of Justice.
- The police must endeavour to arrest and bring to book all the suspects of mobjustice.

### Poverty's implications on justice for the poor

12.51 It is important to note that the poor are particularly vulnerable to human rights violations and abuses by governmental authorities and private individuals. The most important tool to defend themselves against these abuses is court (ordinary court or UHRC court) protection. Usually, for economic or other reasons, the poor lack the capability to obtain court protection. Even if free legal aid is available, they may lack the necessary information and self-confidence to seek redress from the courts. Thus, the State should actively promote free access of the poor to courts, tribunals, and other dispute resolution mechanisms as a remedy against human rights violations.

12.52 Furthermore, poor people are accused of criminal behaviour more often than the non-poor. Whether or not having actually committed a crime, the poor should have the right to enjoy the minimum guarantees of a fair trial, such as the presumption of innocence. Experience shows that poor people are more likely than others to be discriminated against and deprived of these minimum guarantees.

12.53 To improve the Justice system in the process of fighting poverty, the government should take the following measures. Programmes should be aimed at improving the free and equal access of the poor to courts, tribunals, and other dispute resolution mechanisms and their right to a fair trial in both civil and criminal proceedings. The major goal of governments should be to ensure that adequate justice mechanisms are available in sufficient number, and that they are accessible to





the poor and acceptable in terms of quality. With these objectives in mind, governments may establish innovative, quality, and non-formal dispute resolution mechanisms that are accessible to the poor and consistent with all relevant human rights principles.

### Challenges to the Administration of Justice

- 12.54 *Lack of logistics, illegal detention and irregular court decisions:* the Commission in prior reports noted that there were many people who were being detained beyond the constitutional 48 hours. In its 2001-2002 report, the commission noted that illegal detention was still prevalent and was caused by reasons such as inadequate transport and irregular court sessions. The concerned institutions took some measures. For instance, the number of magistrates was increased from 29 to 50 to deal with backlogs in the courts of law. However, the government has yet to provide adequate transport to ensure prisoners get to the courts.
- 12.55 *Overcrowding:* there is continued over-crowding in most places of detention. During the review period, the visiting Commission noted that the number of inmates far exceeded the maximum capacity of the detention centre, as shown in table 12.5.

**Table 12.5 Maximum and actual number of inmates in some prisons in the 2000-2001 UHRC Annual Report**

	<b>Kakiika Central Government Prison</b>	<b>Masaka Prison</b>	<b>Arua Prison</b>	<b>Paidha Local Administration Prison</b>
Inmates capacity	130	209	200	80
Actual inmates	688	766	404	130

- 12.56 *Torture:* the Commission recommends that the government should expand the places of detention. Furthermore, the Commission notes that there is a continued reliance on torture as a means of extracting information by the security agencies.

### Conclusion and general recommendations on the Administration of Justice

- 12.57 There are several measures that can be taken to promote poor people's right of access to justice:
- Introduce information campaigns on the right of access to justice in villages, slums, and other areas where the poor live
  - Increase the number of courts, tribunals, and non-formal dispute resolution mechanisms
  - Increase the number of judges, magistrates, and law enforcement personnel, especially in poor areas
  - Increase the salary of judges and law

enforcement personnel

- Establish more law clinics for the poor
- Extend legal aid programmes for the poor in both civil and criminal proceedings
- Establish training programmes for judges, lawyers and law enforcement personnel on the right of the poor to non-discrimination
- Improve the enforcement of judgments by relevant authorities
- Improve the poor people's physical access to courts, non-formal dispute resolution mechanisms, and law enforcement officers, especially in remote rural areas
- Eliminate corruption in the administration of justice
- Help poor victims of crime bring offenders to justice
- Minimise involvement of other security organs in the police work or train those in police work about the professional requirements of the police

### Heads of some of the Institutions involved in the administration of justice.



His Lordship, C.J., Benjamin Odoki (Judiciary)

Maj. Gen. Katumba Wamala (UPF)

Col. Nobel Mayombo (CMI)

Col. Elly Kayanja (ISO)

Com. Gen. Prisons Joseph Etima (UPS)

Sol.General L. Tibaruha (MoJ)

Richard Buteera (DPP)

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## CHAPTER 13

# The Rights of Workers

### Introduction

13.01 The rights of workers have attracted dismal action from the government and private sector actors. Even with the work of the Commission, little impact has been made towards realising the rights of workers. This dismal performance is attributed to a number of factors, some of which transcend the country borders, while others are internally generated. Globalisation and propaganda take the biggest blame for the crippled realisation of rights in national settings. However, a sizeable share of the blame is attributed to national apathy on the part of the government's lack of regard for workers and appreciation of their place in a free market economy. Globalisation has allowed governments to do nothing about the rights of workers. Governments have sacrificed the rights of their biggest resource, the workers, in favour of foreign investment and the liberal economy.

13.02 The state of labour in Uganda is similar to that previously described. Since the late 1980s, Uganda has implemented a

variety of economic recovery prescriptive measures in the form of trade liberalisation, privatisation, public enterprise reforms, and the attendant civil society reforms. These have succeeded in fostering economic growth and macro economic stability. Yet, they have not elevated Uganda from the ranks of poor countries. According to the results from the Uganda Bureau of Statistics Socio-Economic Survey (November 2003), 39% of the Ugandan population is living below the poverty line. Another study conducted in 2002 by Uganda Participatory Poverty Assessment Process revealed the unacceptable conditions under which workers in Uganda are operating. Poor work conditions are informally institutionalised, and need high-level structural intervention that recognises the importance of labour in economic growth.

### Sources of workers rights in Uganda

13.03 Work rights are generally derived from written laws including the Constitution, Acts of Parliament and regulations.

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Uganda has legal obligation to ensure that its laws and practices are in conformity with International conventions such as the International Covenant on Economic Social and Cultural Rights and the ILO Conventions. The primary sources of workers rights in national laws are enumerated in table 13.1.

**Table 13.1 Sources of domestic law**

No.	Law	Year	Rights guaranteed	Current developments
	Constitution of the Republic of Uganda	1995	<ul style="list-style-type: none"> <li>- Freedom of association – Art 29(1)(c)</li> <li>- Right to work under satisfactory, safe and healthy conditions – Art 40(1)(b)*</li> <li>- Equal pay, equal work without discrimination – Art 40(1)(c)*</li> <li>- Rest, reasonable working hours, periods of holidays, remuneration for public holidays – Art 40(1)(c)*</li> <li>- Form and join trade union – Art 40(3)(a)</li> <li>- Collective bargaining and representation – Art 40(b)</li> <li>- Right to withdraw labour – Art 40(3)(c)</li> <li>- Protection of pregnant women and maternity – Art 40 (4)</li> <li>- Right to practice profession and carry out lawful occupation – Art 40(2)</li> </ul>	<ul style="list-style-type: none"> <li>- Parliament required to enact laws for rights (indicated with* on the left)</li> </ul>
	Employment Act Cap 219 (formerly Employment Decree No. 4 of 1975 and the Employment Regulations, Statutory Instrument No. 41 of 1977)	1975, 1977	<ul style="list-style-type: none"> <li>- Provides for terms and conditions of work including hours of work, rest and annual leave, maternity, written and oral contract, protection of women and children from certain employment &amp; rights at termination of employment</li> <li>- Provides for enforcement by Labour Officers through a complaints system under the Ministry of Gender, Labour and Social Development</li> </ul>	<ul style="list-style-type: none"> <li>- Act is being revised to bring it in line with the Constitution and international conventions</li> <li>- Draft principles to be tabled before Cabinet</li> <li>- Draft Employment Bill in place</li> <li>- Enforcement was centralised to districts by the 1995 Constitution and the Local Governments Act 1997</li> </ul>
	Trade Unions Act Cap 223	1976	<ul style="list-style-type: none"> <li>- Recognises trade unions – Sec 19 and 56</li> <li>- Provides for democratic running of unions (elections, meetings and financial accountability)</li> </ul>	<ul style="list-style-type: none"> <li>- Law being revised</li> <li>- Draft principles to be tabled before Cabinet</li> <li>- Draft Labour Unions Bill in place</li> </ul>
	The Minimum Wages Advisory Boards and Wages Council Act Cap 221 (formerly Cap 196)	1964	<ul style="list-style-type: none"> <li>- Requiring the provision of a minimum wage</li> <li>- Minimum wage was fixed at Ushs 6,000 by Statutory Instrument No. 38 of 1984</li> </ul>	<ul style="list-style-type: none"> <li>- No operational minimum wage</li> <li>- Minimum Wage Advisory Board was appointed in 1995 to examine situation and propose minimum wage</li> </ul>
	The Workers Compensation Act Cap 225 (formerly Cap 8)	2000	<ul style="list-style-type: none"> <li>- Provides for protection of workers from accidents, occupational diseases and death</li> <li>- Provides for compensation and insurance by employers</li> <li>- Provides for enforcement through prosecution by Labour Officers and the Ministry of Gender, Labour and Social Development</li> </ul>	

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**Table 13.1 Sources continued**

No.	Law	Year	Rights guaranteed	Current developments
6.	Trade Disputes (Arbitration and Settlement) Act 224 (formerly Cap 200 as amended)	1974	<ul style="list-style-type: none"> <li>- Provides for settlement of disputes between workers and employers</li> <li>- Provides for dispute settlement mechanisms including conciliation and reference to Industrial Court</li> <li>- Awards before conciliation and the Court are part of contract of employment</li> <li>- No appeals allowed from awards</li> <li>- Provides for limited freedom to withdraw labour (strike)</li> </ul>	- Under review
7.	Factories Act Cap 220 (formerly Factories Act and subsidiary legislation Cap 198 of 1964)	1964	<ul style="list-style-type: none"> <li>- Provides for registration of factories and factories inspection mechanism to ensure health and safety</li> <li>- Provides for administration of the law by Factory Inspectors under the Ministry of Gender, Labour and Social Development to inspect, enforce and advise on health and safety standards</li> </ul>	
8.	The National Social Security Fund Act Cap 222 (formerly Act No. 8)	1985		

**Table 13.2 Sources of International Human Rights law**

No.	Treaty	Year	Rights guaranteed
1.	International Covenant on Economic Social and Cultural Rights of 1966	1987	<ul style="list-style-type: none"> <li>- Just and favourable conditions of work including fair wages, equal remuneration for equal work, non-discrimination, decent standard of living – Art 7</li> <li>- Safe and healthy working conditions – Art 7</li> <li>- Right to work – Art 6</li> <li>- Equal opportunity for promotion based on seniority and competence</li> <li>- Rest, leisure, limitation of working hours, periodic holidays with pay, remuneration for public holidays</li> <li>- Freedom to form and join a trade union – Art 8</li> </ul>
2.	International Convention on the Elimination of Discrimination Against Women	-	<ul style="list-style-type: none"> <li>- Same employment opportunities, same criteria for selection</li> <li>- Equal remuneration and benefits, equal treatment for work of equal value and evaluation of quality of work</li> <li>- Protection of health and safety in working conditions</li> <li>- Free choice of employment and profession, promotion, job security, right to receive vocation training and retraining</li> </ul>
3.	Convention on the Rights of the Child	-	- Art 32, 34, 35 & 36
4.	International Covenant on Civil and Political Rights of 1966		- Art 8
5.	Convention on the Elimination of Racial Discrimination		- Art 5

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## International labour standards

13.04 Uganda has ratified several conventions of the International Labour Organisation. In June 1998, the International Labour Conference adopted the Declaration on Fundamental Principles and Rights at Work and the Action Plan. Although the declaration does not have binding force on State Parties, it has illuminated the important rights at work. In the Declaration, State Parties are to respect, promote, and realise workers' rights and principles pertaining to non-discrimination in employment and occupation. The Declaration further underlines the responsibility of State Parties as endorsing and maintaining freedom of association and effective recognition of collective bargaining, and the elimination of all forms of forced labour. These standards are reflected in binding ILO Standards many of which Uganda is a party. The following table reflects the status of Uganda with regard to the relevant conventions.

Table 13.3 ILO Conventions and Uganda's ratification status

No.	Convention	Year	Rights guaranteed	Status	Date ratified
1.	Convention No. 29	1930	Abolition of forced labour	Ratified	4 June 1963
2.	Convention No. 87	1948	Freedom of association, Rights to organise	Not ratified	-
3.	Convention No. 98	1949	Right to organise, Right to Collective bargaining	Ratified	4 June 1963
4.	Convention No. 100	1951	Equal Remuneration	Not ratified	-
5.	Convention No. 105	1957	Abolition of forced Labour	Ratified	4 June 1963
6.	Convention No. 111	1958	Abolition of discrimination in the workplace (employment and occupation)	Not ratified	-
7.	Convention No. 182	1999	Elimination of the worst forms of child labour	Ratified	21 June 2001
8.	Convention No. 138	1973	Minimum age of entry to employment	Ratified	25 Mar 2003

### The rights at work discussed in by previous Annual reports

13.05 In its previous reports, the Uganda Human Rights Commission has drawn attention to various issues affecting the rights of workers. In the 2000-2001 Annual report rights at work were extensively dealt with. It was pointed out that failure by Government to fix the minimum wage for workers has caused disparities in levels of remuneration between workers in the private sector and those in the public sector. Workers in the public sector continue to work under conditions that do not guarantee them a basic standard of living. This is aggravated due to the fact that existing labour laws are not enforced, causing employers to violate workers' rights. In earlier reports, the Commission noted the violation of the right to rest and leisure. In most private sector settings, it was a rule for workers to work during weekends and public holidays without overtime allowances. Safe and healthy working conditions for employees were also regarded as a privilege by some employers. The same employers denied protective wear for workers in

hazardous working environments. This exposed workers to infections such as HIV and cancer, and inevitably the termination of their service.

### The Uganda Human Rights Commission and the promotion and protection of the Rights of Workers

13.06 UHRC's intervention with workers' rights derives from its general mandate for promotion and protection of human rights in Uganda as stipulated in Article 52 of the Constitution. The Commission has predominantly engaged its mandate to monitor general trends on the realisation of workers' rights in the country and reporting on them in its annual reports. The Commission has convened workshops and conferences to discuss workers' rights. These workshops have served to promote the rights of workers through raising awareness and contributed in identifying crucial trends in the realisation of the rights. Awareness has also been advanced through publications focusing on the rights of workers.



13.07 During the reporting period the Commission held two workshops focusing on workers' rights. From 14-15th November 2002, the Commission organised and convened a workshop on the theme "Workers' Rights are Human Rights". The workshop brought together leaders and members of workers' unions. The second workshop took place on 18th and 19th September 2003 on the theme "Human Rights at Work: An Obligation of the Employers and Employees". This workshop was a follow-up to the first, which recommended that a workshop be organised and attended by workers, employers and the government to discuss worker's rights. The information on the rights of workers presented in this report was mostly derived from the presentations, discussions, and recommendations made during these workshops.

13.08 In the interest of optimally applying the time, human, and financial resources of the Commission, an internal policy was implemented to limit the involvement of the Commission in the area of investigating and arbitrating labour matters. There was a need for the Commission to address labour matters to the institutions primarily responsible for handling such matters (i.e., the Ministry of Gender, Labour and Social Development and the Industrial Court). As such, the Commission has limited its role to promotion. Nonetheless, the Commission registered 12 complaints on workers' rights during the reporting period, and these cases were appropriately referred to other institutions.

#### **The current state of workers' rights**

13.09 Un-employment and underemployment in Uganda is of great concern. The labour force in Uganda has been growing by an estimated 380,000 people each year. The Population and Housing Census of November 2002 put Uganda's labour force at 11.3 million, representing 45% of the total population of 25.2 million people. Out of this, more than nine million people are either self-employed or unpaid family workers. Of those nine million people, the majority ought to be classified as unemployed or underemployed. From that perspective, there are approximately 2.3 million formally employed people. The increasing magnitude of unemployment/under-employment in Uganda is partially due

to the insufficient capacity of the economy to absorb new labour released from the growing educational institutions. Labour opportunities are mainly available in the agriculture and informal sectors. According to the Labour Directorate of the Ministry of Gender, Labour and Social Development, the formal sector is only able to absorb approximately 20,000 people per annum. This results in a great number of unemployed skilled labour.

13.10 The situation of unemployment and under-employment has not been improving. Liberalisation reduced the capacity of the government as an employer. Yet, privatisation of previously nationalised business coupled with downsizing of the public service has produced a surplus of labour. It was anticipated that private investment would absorb the labour force, though the growth rate of private investment has proved inadequate. As a result, the level of formal employment remains significantly low.

13.11 Investors are using the 'freedom' obtained under liberalisation to reduce costs on labour in a bid to enhance efficiency, competitiveness and profitability. This has led to massive lay-offs and redundancy. The uncertainty of obtaining alternative employment has increased the vulnerability of workers. Due to the growing unemployment levels, workers are losing bargaining power to guarantee payment of their monthly salary. Workers continue to work under appalling and unsafe conditions in order to earn a living. Employers are exploiting employees by subjecting them to poor working conditions. This includes (but is not limited to) inadequate pay, threats of dismissal, and working under unclear terms. Employers are also unwilling and unprepared to positively address labour issues raised by workers. These issues are exacerbated because labour laws are not enforced, and thus the welfare, safety, and protection of employees are marginalized. Needless to say, the relationship between employers and employees is poor.

13.12 A large proportion of Uganda's labour force is unskilled and uneducated. This labour is mostly engaged in the agricultural and informal sector. Generally, productivity is low, and the



minimum wage in Uganda. Yet, the circumstances resulting from liberalisation warrant that a minimum wage be set. According to the Directorate of Labour, a minimum wage was last fixed at Ushs 6,000 in 1984 under Statutory Instrument No. 38. The Uganda Human Rights Commission in all its previous reports urged the government to address the need for a minimum wage. The continued absence of a minimum wage is in violation of the ILO Convention No. 26 on the Minimum Wage Fixing Machinery 1963 (ratified by Uganda), and the Minimum Wages Advisory Board and Wages Council Act of 1964 Cap 221. Under the Convention, the Government of Uganda is required to create and maintain machinery for fixing minimum wages for workers (specifically in the informal sector where wages are exceptionally low, and no mechanisms exist to regulate wages by collective agreement or any other means). Cap 221 of 1964 was enacted to respond to this obligation, and statutory minimum wages were set in that regard.

13.14 The minimum wage is intended to guarantee an acceptable standard of living for all workers. It is not intended to provide a luxurious lifestyle, but to enable workers to attain basic necessities. The government's obligation to improve living conditions for the people of Uganda is a constitutional mandate. Although a Minimum Wage Advisory Board was established in 1995, its effectiveness in improving the standard of living is yet to be determined.

13.15 The government should seriously consider the establishment of a minimum wage given the circumstances that are prevailing in Uganda. For instance, 39% of the population lives below the poverty line, and only 2.8 million of the 11.3 million workers are effectively (formally) employed. This alone justifies the need to legally enforce and monitor a minimum wage.

13.16 The minimum wage will ensure social justice to workers and prevent situations of industrial unrest, which make the country uncompetitive. Setting a minimum wage will therefore serve a dual purpose. Among the benefits to be drawn from setting a

minimum wage are that it sets a basic minimum below which workers of certain category cannot work. It will provide protection for workers who are unable to bargain for better terms and conditions of service. It would further provide a benchmark wage from which employers and employees can negotiate. It would also provide a guide to investors about the labour costs they would incur as they plan their investments. Ultimately, it would reduce injustices and exploitation of workers at the hands of unscrupulous employers. It needs no emphasis to state that the purpose of work is to gain a source of livelihood and an adequate standard of living. National policies that do not protect adequate standard of living for workers violate human rights.

### **National Employment Policy**

13.17 Uganda became a party to the ILO Employment Policy Convention No.122 of 1964 in 1967. The government's central responsibility under the Convention is to put in place a national employment policy that promotes full, productive, and freely chosen employment. Currently Uganda has not approved written labour policy. The country continues to be guided by pronouncements and obsolete and constitutionally non-compliant laws. Efforts to develop a National Employment Policy started in 1996 under the leadership of the Ministry of Gender, Labour and Social Development (MGLSD), partnering with the Federation of Uganda Employers (FUE) and National Organisation of Trade Unions (NOTU). At the time of writing this report, the Draft National Employment Policy was before the Presidential Economic Council (PEC).

13.18 The Commission notes with concern the length of time that it has taken to finalise the development of this policy. The government's unwillingness to design and execute a National Employment Policy in a timely manner reflects a lack of commitment to labour rights. This is unacceptable in view of the government's responsibility under International conventions and the Constitution. The government seems to have compromised the welfare of workers for the interest of investors and the private sector. Labour issues are not only about the welfare and interests of workers. The status of labour is also closely related to the performance of



the economy and eradication of poverty.

Therefore, if the government wants to adhere to its commitment to maximise the performance of the economy and eradicate poverty, it must recognise the importance of effective labour policy. We agree with Dr. David Ogaram, the Commissioner for Labour, Employment and Industrial Relations in the Ministry of Gender, Labour and Social Development when he says, "the quantity and quality of the labour force in terms of numbers, skills, discipline and motivation in any country is of direct and prime importance to productivity. Productivity can only be as good as the labour employed." Therefore, labour policy should be a priority in the Poverty Eradication Action Plan.

- 13.19 As mentioned earlier, the policy was drafted in 1996 by the Ministry of Gender, Labour and Social Development (MGLSD) and submitted to Cabinet in 1998. Cabinet decided that the draft policy be sent to the Ministry of Finance, Planning and Economic Development (MFPED) for appropriate planning. A consultant was consequently hired by the MFPED to review the draft policy. In 2000, the consultant derived another draft policy titled *The Employment Strategy Framework*. Simultaneously, Cabinet returned the responsibility of the policy draft to the MGLSD. The MGLSD reviewed both drafts, and a consolidated draft policy was sent to the Presidential Economic Council for comment as required by Cabinet. Unfortunately the draft policy process of approval and implementation has since stalled.

#### **Labour law and Administration**

- 13.20 Labour laws and administration in Uganda are primarily affected by two factors. First, many of the labour laws are obsolete and do not conform to the Constitution and International labour Conventions (as endorsed by Uganda). Second, legislations that exist and are pertinent and lawful are not enforced. This is due to poorly facilitated enforcement mechanisms and sheer lack of will for fear of political attitudes towards the rights of workers.
- 13.21 Positive developments have been made in the area of reviewing labour laws. According to the Labour Directorate, the review process started in 2000 with a focus on the Employment Act Cap 219, the Trade Unions Act Cap 223, the

Trade Disputes (Arbitration and Settlement) Act 224, and the Factories Act Cap 220. At the time of publishing this report, draft principles for the laws under revision (and corresponding draft bills) were ready to be tabled before Cabinet. The task of reviewing the drafts was contracted to consultants appointed by the Ministry of Gender, Labour and Social Development (MGLSD) in August 2000. In 2001, the consultants submitted their proposals to the MGLSD, which were reviewed at a joint meeting attended by the government, employers, and employees. Draft bills were then prepared and submitted to Cabinet for consideration. However, on the advice of the Deregulation Unit of the Ministry of Finance, Planning and Economic Development, the Bills were rejected. As stated in the Deregulation Unit's "Policy and Strategy Framework for Labour Relations," there was a justified fear that the Bills would negatively affect the economy. The Deregulating Unit's underlying concern was that the cost of production could rise and render Uganda's economy uncompetitive. This position devalues the contribution of labour in the development of the economy. It views labour as a commodity left to the self-regulation of the free market, and not as a core factor of production. It seriously undermines the rights of workers and as said earlier demonstrates the weak political commitment to the rights of workers.

#### **The Deregulation Unit**

- 13.22 The administration of labour laws and the realisation of labour rights in Uganda have been hindered by the positions advanced by the Deregulation Unit in the Ministry of Finance, Planning and Economic Development and the IMF/World Bank. These organisations have consistently advanced anti-labour positions in their planning and regulatory roles. Their interpretation of labour rights in a liberalised economy has been contrary to the position advanced by workers, workers unions and the MGLSD, which are based on international labour standards. The position of MFPED has been to externalise the costs of labour from the production process. Consequently, the ministry denies responsibility for improving the welfare of workers.





### Poor facilitation of labour law enforcement mechanisms

13.23 Uganda's apex institution for labour administration is the Directorate of Labour, whose mission is to formulate and implement policies, legislation, and plans of the government relating to labour. It oversees matters of labour productivity, industrial peace, safety, and health at work. Prior to 1995, the functions of the directorate were divided into the Department of Labour, Employment and Industrial Relations, and the Department of Occupational Safety and Health. Under relevant laws, Labour Officers, Labour Inspectors, and Commissioners are "authorised officers" for the purpose of administering and enforcing labour laws. The Industrial Court is another institution in the administration of labour laws. It was established under the Trade Disputes (Arbitration and Settlement) Act. Its specific mandate relates to hearing and arbitrating on all trade disputes referred to it by the Minister responsible for labour, or directly by disputing parties. The Court is composed of workers' representatives, employers, and independent representatives. The Court was intended to provide an effective and accessible mechanism for settlement and arbitration of work-related disputes.

13.24 Labour administration in Uganda is ineffective due to an inadequate institutional framework and poor facilitation of labour law enforcement mechanisms. Sources in the MGLSD assert that, the labour division has been historically marginalized. It has been consistently under resourced, making it difficult to execute given functions. Staffing of labour administration mechanisms is inadequate. At the time of writing this report, Labour Officers were found in only 26 of the 56 districts. Following restructuring and decentralisation in 1995, only one position of Labour Officer exists in some districts. The Labour Officer is expected to carry out the directorate's core functions relating to labour, employment and industrial relations, as well as occupational safety and health. Of the 26 districts with Labour Officers, only two districts-Jinja and Mbale-have an occupational safety and health position. Most districts do not have an Industrial Relations Officer, Factories Inspector, or Employment Officer. Labour Officers are housed in appalling conditions characterised by inadequate

and substandard office space. They are also without office equipment, transport, and have no support staff (e.g., a secretary or office messenger). Basically this reflects the low-priority government attaches to labour issues in the country.

13.25 In addition, the roles of various institutions in Uganda are not clearly defined, and this significantly contributes to ineffective law enforcement. Although the primary mandate for labour administration lies with the Directorate of Labour in the Ministry of Gender, Labour and Social Development, other institutions such as the Uganda Human Rights Commission, the Inspectorate of Government, the Directorate of Ethics and Integrity, and ordinary courts have been called to intervene in labour matters at varying degrees. In certain circumstances, these institutions have addressed labour issues within the jurisdiction of their mandates. However, this decentralised mandate is partially responsible for the lack of cohesion and efficiency in the administration of labour laws.

### Decentralised labour services

13.26 In 1995, labour administration was decentralised in accordance with decentralisation policy. Although decentralisation is good for getting services closer to the people, it has posed serious challenges to the administration of labour laws in Uganda. With restructuring, districts are both employers and clients of the Local Labour Administration Services. This placed the district Labour Officers in a difficult situation. The detachment of district labour administration from the centre led to problems with law enforcement in districts. The role of labour in the development of the districts is not appreciated, and thus gets limited support by Local Government structures. In some districts where the Chief Administrative Officer is aware of the importance of labour issues, his or her efforts are met with resistance from district council representatives. Since district council representatives make the decisions at the district level, they have the power to marginalise labour issues. Labour Officers also compromise their position as inspectors and law enforcers because their supervisors (the local councillors) are enterprise owners. When a Labour Officer investigates



cases of non-compliance with the law, he or she is penalised by suspension of salary, demotion, or harassment.

### **Political interference with labour law enforcement**

13.27 In a discussion with the Ministry, on the existing legislative and policy framework for realising the rights of workers, it emerged that although the current labour laws are obsolete, they have "enough bite in them to make a satisfactory difference in working conditions." It was emphasised that the reason existing laws are not effective is external to the labour administration. Rather, it is due to political interference in implementation of existing laws. According to an official from MGLSD, investors flagrantly flout the laws and politically pursue officers who attempt to make them comply. Persistent interference at the political level in total disregard of what the law is, makes labour laws irrelevant; thus, the well-being of workers is subject to the interests of investors and their capacity to appeal to their political connections.

### **Trade unions**

13.28 The problems faced by workers in Uganda would be partly addressed if there were a strong labour movement in Uganda. Although the right to join and form trade unions is recognised in the Constitution and under the Trade Unions Act, Trade Unions are ill accepted by employers. They are mostly known for agitation and employers have not yet appreciated their role in improving productivity. As a result many employers are reluctant to allow workers to organise in trade unions and in fact take steps to clamp down trade union activities. As noted, in one of the workshops on work rights organised by the Commission, the weakness of trade unions today is a result of a new breed of employers who take particular dislike for labour unions. Many employers have totally rejected demands of workers to form unions and these are particularly in the hotel and textile industry, to mention but a few. This is against the law but the workers are helpless because of government preference of supporting investors irrespective of how they treat workers. Moreover labour unions cannot accomplish much under the existing legal and economic environment. A weak economy, coupled with weak regulatory and enforcement mechanisms, has

prevented many workers from joining or actively participating in labour unions. This further reduces the ability of the labour force to implement its interest in a liberalised economy.

### **Recommendations**

- 13.29 • The appalling circumstances that workers operate under are a contributing factor to poverty, even though the economy is following an upward trend. The government should seriously re-consider its position on workers in its deregulation measures. Other than discounting proposals made to improve labour conditions on the grounds of being costly to liberalisation, the government should incorporate labour matters in economic policy. Contradiction in interpretation by the IMF/World Bank, the Ministry of Finance, Planning and Economic Development, the Ministry of Gender, Labour and Social Development, and workers on the application of international labour standards ought to be addressed urgently. The functions of the Deregulation Unit should be streamlined to enable the government to fulfil its commitments, to respect, protect and fulfil the rights of workers. In addition, economics development without respect of human rights is no development.
- The process of enacting new labour laws ought to be hastened. These laws need to conform to the ILO Convention and the Constitution. It is also necessary that new labour laws take into account the concerns of employers and well-intentioned investors. Dialogue on how best to address the interest of major stakeholders should be fostered under the leadership of the Ministry of Gender, Labour and Social Development.
  - The crisis in labour administration at district levels ought to be addressed urgently. The government should consider re-centralising labour administration services. Alternatively, district Labour Officers should be appointed with residual powers at the central labour administration level.
  - The government should employ an adequate number of Labour Officers for all districts without delay and facilitate their work.
  - The government should devise measures to employ the abundance of



labour through the creation and promotion of labour intensive work. This would absorb large numbers of unemployed people, and provide greater opportunity to attain an earned income. The private sector and government agencies should also adopt labour intensive plans for accomplishing public works.

- The government should prioritise labour as a factor of production in order to optimise its contribution to economic development. It should focus on creating opportunities to engage skilled labour that is generated from the increasing educational institutions. It is also imperative that the government is committed to financing and resourcing mechanisms for the administration of labour laws. Free market forces have never fairly regulated labour issues. To protect the well being of the labour force, labour laws must be monitored and enforced. The government's role extends beyond macro-economic stability. Thus, it must be concerned with labour relations in the current macro-economic policy. Macro-economic stability is intended to

improve the well being of the people. Since macro-economic stability alone does not deliver total benefits to all the people (labour force), the government must look beyond macro-economic growth and address living and working conditions from a multidimensional perspective. Social protection is a cardinal legal responsibility and cannot wholly be left to market forces.

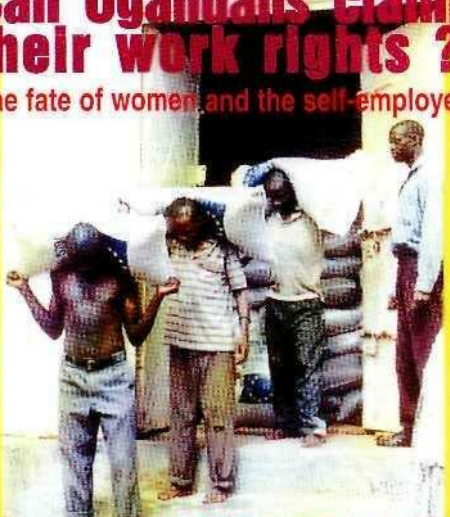
- Market forces must be regulated to eliminate unfairness in economic development and in the interest of the labour force.
- It is important and instructive that the government encourages and supports the revival and strengthening of the labour movement in the country in order to create an environment, conducive to greater economic growth and well being of the workforce. Government should know that contrary to old beliefs, unions are not economically disruptive all the time. Studies have been conducted including in this country to show that unions can be a great boost to productivity because it is an amicable fora for satisfactory resolution of issues between employers and employees.

**YOUR RIGHTS**

THE UGANDA HUMAN RIGHTS COMMISSION MONTHLY MAGAZINE

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## CHAPTER 14

# Poverty Eradication and Human Rights

### Introduction

14.01 There is a strong linkage between poverty and human rights. Poverty is a result of denial of human rights. The Ministry of Finance Planning and Economic Development (MFPED) defines poverty as "a lack of basic needs and services such as food, clothing, beddings, shelter, paraffin, basic health care, roads, market, education, information and communication." The definition is to a great extent agreeable from a human rights perspective; needs are human rights. Poverty implies the non-respect, non-promotion, non-protection and non-fulfilment of human rights. People are not poor because they are born poor; they are poor because of unequal opportunities; they are poor because in the work place some people are cheated, denied, exploited, violated, marginalized and/or disempowered. People therefore lose the right to property, work and employment, food, healthcare, housing,

education and clothing which in turn result in various degrees of poverty and enhances inequalities in societies. With insufficient or no income at all to finance a livelihood, people become unable to enjoy human rights, including civil and political rights. The poor continue to be susceptible to all violations and at times, are major violators and major participants in crime. Poverty tends to strike when vulnerable groups- the women, children, persons with disability, and people living with HIV/AIDS. It is important to address the conditions and institutions that impoverish people with a view to meeting human rights obligations.

### The state of poverty in Uganda

14.02 Poverty levels in Uganda have not been consistent and have vacillated back and forth from high to low levels. The Northern and Eastern parts continue to experience increasing poverty levels, while the Central and Western experience favourable declines in poverty levels. The concentration of high poverty in the Northern and

Deepening the Understanding of Poverty:  
Second Participatory Poverty Assessment  
Report, MOFPED, Kampala, Dec. 2002, p.11

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Eastern regions has created suspicions and accusations that government has marginalized those regions in reference to others, contrary to the spirit of the Constitution of Uganda. According to previous reports, poverty fell from 56% in 1992 to 34% in 2000. However, since 2000 poverty levels have not improved. Instead of consistently reducing in line with the growth of the economy, they are rising again as if the current economic progress had no direct benefit to the people's income. Income poverty increased from 34% to 38% between 2000 and 2003 (MOFPED, May 2004: Draft PEAP p.16). This is a high incidence showing that a substantial part of our population is not satisfactorily enjoying their human rights.

### Human rights based approach to poverty eradication

14.03 In recent times, the Human Rights-Based Approach to Development (HRBAD) has been hailed as the most effective approach thus far in delivering development programmes for the poor. It is essential in poverty reduction to empower the poor. One major fundamental way of empowerment occurs when the concept of rights is introduced in all policies and programs that are intended for the poor and the eradication of their conditions. When the concept of human rights is introduced into the context of policy making, the rationale of poverty reduction is no longer to meet the *needs*, but to provide *rights* or entitlements of the poor. Then poverty reduction becomes more than charity and more than a moral obligation; it becomes a legal obligation and therefore a right.

14.04 Every right is legally expected to be respected, protected, and fulfilled.

- The *duty to respect* requires the duty bearer not to breach directly or indirectly the enjoyment of any human right. No individual should directly or indirectly engage in a project, a programme and a policy whose indirect or direct objective is to impoverish human beings.
- The *duty to protect* requires the duty bearer to take measures that prevent third parties from abusing the right. Apart from making sure that individuals restrain themselves from impoverishing their fellow human beings (other parties for example businessmen, investors and others) should be restrained either

morally or by law from impoverishing others.

- The *duty to fulfil* requires the duty bearer to adopt the appropriate legislative, administrative, and other measures towards full realisation of human rights. This duty includes the duty to directly provide and assist in situations outside the control of the affected people. The government can take deliberate efforts to provide whatever it takes to eradicate poverty.

### HRBA and the Right to Development

14.05 HRBA is basically understood to be a process of human development (based on international human rights standards) and is aimed at promoting and protecting human rights. The human rights-based approach is a relatively new concept. It derives its authority from the international recognition of the linkage between human rights and development, which was made by the United Nations in 1986 with the adoption of the Declaration on the Right to Development. Currently, a few organisations are using it; mostly UN agencies and international CSOs. For example, UNDP pursues a deliberate policy of integrating human rights policies in its development policies and programmes. Though the HRBAD is new internationally, it is newer in Uganda.

The Uganda Human Rights Commission in its mandate to monitor the government's compliance with international treaty obligations undertook to publicise and spearhead the implementation of a Human Rights Based Approach to Development (HRBAD) in the programming and all policy-making institutions. The Commission's view is that poverty can not be banished without the realisation of human rights, and the Commission also agrees with the UNDP report that "*a decent standard of living, adequate nutrition, health care, education, and decent work and protection against calamities are not just development goals—they are also human rights*" (Human Development Report 2000, p. 8). Parliament and other branches of government should be aware of this development and give it the necessary support particularly when scrutinizing government policies and programmes.

### Poverty Eradication Action Plan (PEAP) and HRBA

14.06 The PEAP is Uganda's national



planning framework for poverty eradication.

The first pillar of PEAP is aimed at creating conditions for sustainable economic growth and structural transformation. The second pillar for PEAP is about good governance and security, the third pillar is about increasing the ability of the poor to raise their incomes, the fourth is about increasing the quality of life of the poor through human capital improvement, health improvement, access to safe water and adequate sanitation. This plan has undergone periodic revision since 1997.

It was revised in 2000 and Uganda is expecting the third PEAP in 2004. PEAP is in line with the World Bank and IMF request to their clients in the developing countries to prepare Poverty Reduction Strategy Papers (PRSPs), which continue to guide the donor-recipient relationship. The 2004 PEAP will therefore be another PRSP for Uganda. The country is targeted to eradicate absolute poverty by less than 10% by 2017<sup>7</sup>. However, it is the Commission's conviction that unless questions of approach are resolved, poverty might still be prevalent by the year 2017. The Commission is convinced that the way forward is adopting a human rights-based approach to poverty eradication. The Commission acknowledges the consideration that the current PEAP process took cognisance of the promotion of a HRBA. It is hoped that the proceeding years will see a full utilisation of a HRBA in government and civil society organisation in the country. (See photo at the end of chapter: Mr Wilfred Asimwe...)

#### Legal basis for development policies and programmes

14.07 While Documents that spell out poverty eradication strategies, such as PEAP, are not legal instruments, which can be enforced. The Commission recommends that poverty reduction plans and programs must be consistent with and based on the Uganda's national and international human rights commitments. This is mainly to enhance the strategy or plan's effectiveness and to ensure that the strategy or plan is not unlawful and does not violate human rights. The

basis is on the obligations under the Uganda Constitution and the international instruments of which Uganda is a party.

14.08 The Commission wishes Parliament and other branches of government to note the following provisions of the Constitution which clearly spell out that human rights are the ultimate targets of achievement.

- Article 20 recognises that human rights and freedoms of Ugandan are inherent and not given by the State and that the rights and freedoms **shall be respected, upheld and promoted by all organs and agencies of Government and by all persons**. These rights include those of economic, social, and cultural nature such as health, education, employment, and the right to development.
- Article 21 recognises the right to equitable development. **Chapter 4 of the Constitution** recognises rights as clear benchmarks for human development (e.g., health, education, access to justice, rights of children, women, persons with disabilities, and fair hearing).
- Article 50 recognises that the rights in Chapter 4 are obligations that should be respected and not violated. Violations can be taken to court for redress.
- Article 45 recognises that rights, other than from chapter 4 of the Constitution, such as those in International instruments ratified by Uganda, should be respected, upheld, and promoted.
- Article 52(f) empowers the UHRC to monitor whether Uganda is complying with international treaty and convention obligations ratified by her (see the international human rights instruments).

14.09 The Constitution also outlines National Objective & Directive Principles of State Policy. Although this part of the Constitution is not justiceable, it nevertheless is statement of intent to the commitment and achievement of human rights targets. The following is a list of the relevant obligations.

- Objective X obliges the State to take steps to involve people in the formulation and implementation of development plans and programs, which affects them.
- Objective XI requires the State to pass a law establishing measures that protect and enhance the right of the people to

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equal opportunities in development.

- *Objective XI* requires the State to promote balanced and equitable development through a coordinated and integrated approach that ensures development in all areas and balanced development between urban and rural areas.
- *Objective XX* requires the State to ensure provision of basic medical services to the population.
- *Objective XXII* requires the State to promote right to adequate food and nutrition.
- *Objective XXVI* requires the State to ensure that public officials are accountable to the people.
- *Objective XIV* requires the State to fulfil the fundamental rights of all Ugandans to social justice and economic development and to ensure that all development efforts are directed at maximum social and cultural well being of the people. It calls the state to ensure that all Ugandans shall enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security, pension, and retirement benefits.

14.10 In *Objective I (I)*, where it states that "The following objectives and principles shall guide all organs and agencies of the State, all citizens, organisations and other bodies and persons in applying or interpreting the Constitution or any law in taking and implementing the Constitution any policy decisions for the establishment and promotion of a just, free, and democratic society".

#### **Indicators and benchmarks for HRBA to Poverty Eradication**

14.11 Realistically, human rights obligations cannot be fulfilled immediately. Constraints of availability of resources, for a country such as Uganda, are of legitimate concern. HRBA recognises the principle of "progressive realisation" which accepts that the realisation of human rights may occur in a progressive manner. This allows the setting of priorities at any point in time (on which rights should be handled at which particular time), rather than addressing all human rights when there are no resources to handle them. Nevertheless, it is known that in the name of "progressive realisation" human rights can be reduced to mere rhetoric rather than reality. Therefore, whichever policy is in question, it must

show all the rights are planned for, though implementations may be at different periods. Furthermore, the process of setting priorities must engender effective participation of all the people with the other rights not diminished and to at least, maintain their initial level of realisation. This also has to be reflected in budgeting.

#### **Value added by HRBAD**

14.12 The value added by HRBA to poverty reduction consists from the manner it departs from the existing economic strategies and from the manner it reinforces them. The following are some elements of the process.

- **The value of introducing an International legal obligation**—Introducing an International legal obligation adds legitimacy to the demand for making poverty reduction the primary goal of policy-making. This adds strength to the exiting initiatives by drawing attention to the fact that poverty signifies non-realisation of human rights, and thus the adoption of poverty eradication strategies becomes **not only desirable but obligatory** on the part of the state that have ratified these international instruments.
- **The value of equality and non-discrimination**—This strengthens the fact that poverty largely emanates from overt and covert discriminatory practices at the international, national, and local levels. This recognition shifts poverty reduction strategies from a tendency to focus on narrow economic issues towards a broader strategy that addresses socio-cultural and political-legal institutions that sustain the structures of discrimination.
- **The value of interdependence of Rights**—This dispels the old argument that poverty is a product of economic concerns alone. This approach emphasises that there is an extricable link between the rights from civil political rights to economic, social and cultural rights to group rights. A human rights approach demands that civil and political rights are integrated as components for poverty reduction strategies.
- **The value of participation**—This value is intended to depart from the old stereotype development strategy where theorists preconceive decisions, programmes and theories and just

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hand them down to the poor. Participation includes meaningful consultation for the poor and otherwise marginalised groups in aspects of decision-making.

**This strengthens the fact that participation is not just a methodology or means to other ends, but as a human right that must be realised for its own sake.**

- **The value of accountability**—Rights imply duties and duties (obligations) demand accountability. Therefore, HRBA institutional and legal/administrative arguments must ensure that accountability is built into any poverty eradication strategy. The approach requires that duty holders, including States and intergovernmental organisations, be held accountable for their conduct in relation to International human rights obligations and to the Constitution of the Republic of Uganda. To determine the State's association and responsibility to cases is one function of a proper monitoring and accountability system that the strategy should address.

#### **The role of the Uganda Human Rights Commission**

- 14.13 The role of the Commission in promoting the HRBA is based on its Constitutional mandate of monitoring government's compliance with international treaty obligations and of promoting Constitutionalism.
- 14.14 In August 2002, the Uganda Human Rights Commission hosted the Fourth Conference of the African National Institutions for Human Rights under the theme "Rights-Based Approach to Development". The conference adopted a declaration, "The Kampala Declaration of African Institutions," in which African governments were called upon to adopt a Human Rights Based Approach to development with a focus on poverty eradication, Universal Basic Education, the right to Health, and the right to an Adequate Standard of Living.
- 14.15 In April 2003, the Uganda Human Rights Commission embarked on a process of promoting the HRBD to development. Through this programme the UHRC has focused on raising levels of awareness on the HRBD and identifying entry points for HRBD in the Poverty Eradication Action Plan (PEAP)

of government. The PEAP has recently been revised and a revised PEAP 2004 has been produced but not yet made public at the time of writing this report. The revised PEAP 2004 will enable all sectors to implement their policies and programme of poverty eradication on the basis of promoting human rights for development and specifically fulfilling human rights obligations to eradicate poverty.

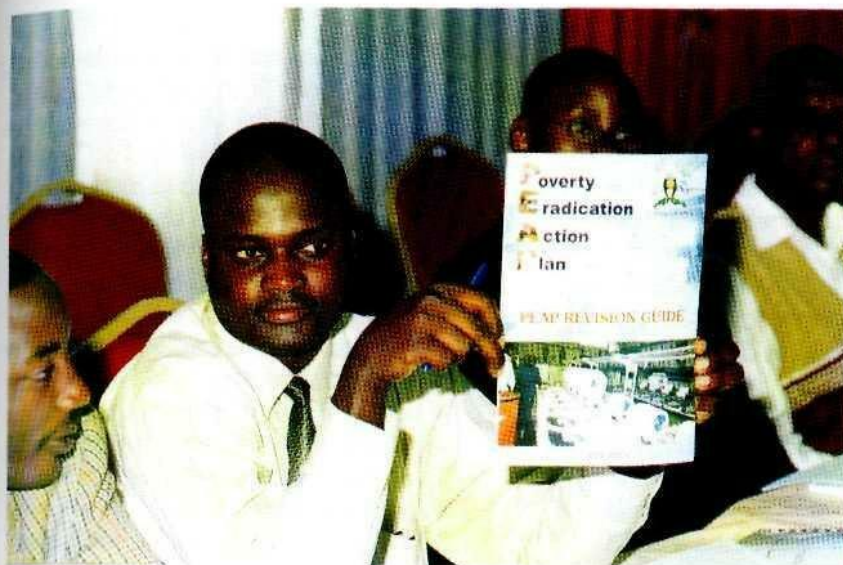
- 14.16 The Commission through its Department of Monitoring and Treaties has carried a number of sensitisation meetings with relevant Government and non-Governmental organisations with the help of UNDP funds<sup>3</sup>. Some of the government ministries have already moved to tailor their policies on the principles of a HRBA. We hope to continue with more sensitisation and are confident that many more institutions will follow.

#### **Recommendations**

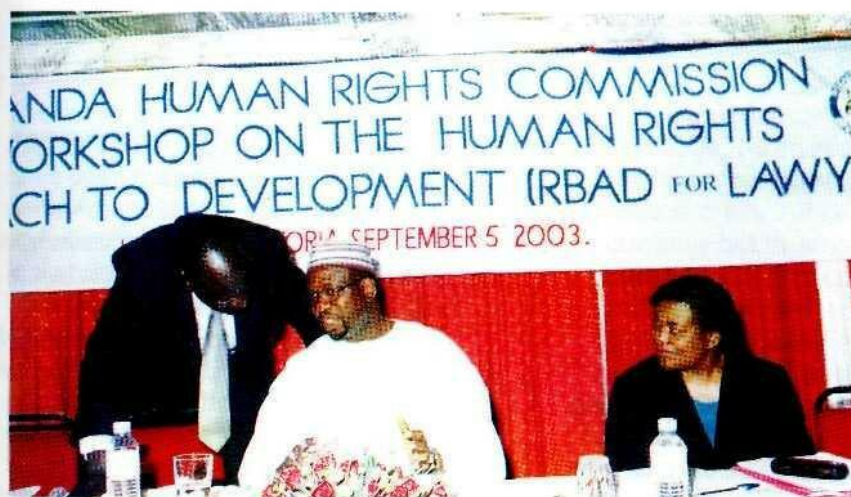
- 14.17 • PEAP should be reviewed to comply with international obligations in international human rights instruments, and the Constitution of the Republic of Uganda.
- Government ought to appreciate that poverty is a denial of rights and a product of unfulfilled obligations.
  - Each sector in the process of poverty eradication must fulfil its International human rights obligations and relevant Constitutional obligations.
  - Human rights should be mainstreamed in all sectors involved in poverty eradication, and the programmes and policies should be sensitive to human rights norms, values, and obligations.
  - Human rights ought to be a crosscutting issue in development and poverty eradication.
  - Planning, programming, and implementation in policy formulation by each sector should use a human rights based approach.







Mr. Wilfred Asimwe (UHRC) showing participants a brochure on Poverty Eradication Action Plan at one of the sensitisation seminars on poverty eradication. He is flanked by Mr. Arthur Beingana (L) Mr. Nicholas Bisase (R), Mr. Michael Okwalinga (extreme right, all from UHRC. The department of Monitoring and Treaties conducted many such workshops for various stakeholders.



Commissioner J. M. Aliro Omara (bending) confers with Mr. Daouda Toure (UNDP) Resident Representative at one of the workshops on HRBA organised for lawyers. Looking on is UHRC Chairperson- Mrs. Margaret Sekaggya

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## CHAPTER 15

# The right to Health and the right of Persons living with HIV/AIDS

### Introduction

15.01 "The right to health" belongs to the category of economic, social, and cultural rights, such as the rights to education, property, development, work, environment, food, and housing. These rights represent the social liberties ensured "through the state". The right to health includes right to health care and right to health protection and medical services. These rights are to ensure good health for all people. Health as a right implies that individuals and/or groups have claims on the State and the World system, and also implies responsibilities on themselves as individuals.

### Understanding the Right to Health

15.02 The right to good health does not mean that a person has a right to demand good health from the government. The international recognition of the right to health does not imply that people have a right to be healthy. This is because neither the government nor individuals themselves can assure a specific state of health, which is determined by uncontrollable

factors (e.g., hereditary, environmental, economic, social, and cultural conditions). The state cannot be accountable to lack of good health. It is in this vein that it is said that economic, social, and cultural rights are not justiceable. The intervention of government on the health of individuals is limited to a certain degree; the government cannot guarantee every one's health care or status. *The right to health simply means that the state is to ensure measures which people can be able to safeguard their health care.*

### Obligations under the Right to Health

15.03 The role of the Commission is to ensure that the right to health, as in all human rights, is respected, protected, and fulfilled. No persons (including the states and its organs) should directly or indirectly engage in a project, a programme, and a policy whose indirect or direct objective is to negatively affect the good health of the people. Secondly, other people or institutions that are not direct employees of the State must also be regulated from abusing the right to



health. In other words, private hospitals, clinics, pharmaceutical shops, and companies morally, ethically, or by law should be kept from endangering the good health of their clients. People are to be protected from the unscrupulous conducts in service provisions related to health. To fulfil the duty, the duty bearer (the State or any relevant bearer) is required to adopt the appropriate legislative, administrative, and other measures towards the full realisation of the Right to Health. This duty includes the duty to directly provide and assist in situations such as conditions outside the control of the affected people where the government can take deliberate efforts to provide whatever it takes to improve on the enjoyment of the Right to Health. Therefore, the government, for instance, struggles to stop the spread of Ebola, HIV/AIDS, and malaria and to ensure immunisation and construction of more health facilities to fulfil its obligation under the Covenant on Economic, Social, and Cultural Rights.

#### Major killer diseases

15.04 The major diseases that have affected the realisation of the Right to Health have been malaria and HIV/AIDS, plus communicable and immunisable diseases. During the year, a number of initiatives were taken to eradicate the first two diseases. In the case of malaria, there were proposals of using DDT to eradicate malaria. This has been a controversial decision as some groups claim that the use of DDT is hazardous, while other groups claim that it is safe and are encouraging the government to use it. The Commission suggests that adequate research be done and information be provided to the public about DDT usage in the environment. If people are to use DDT, people must be given all relevant information so that they can exercise their right to informed choice

#### Relevance of UHRC to the HIV/AIDS campaign

15.05 The Commission appreciates the challenges the HIV/AIDS scourge has created especially in the enjoyment of human rights. The Commission realises the need for a concerted, multi-pronged, and multi-sector approach to address the challenges to ensure full enjoyment of human rights in the circumstances.

15.06 The Commission has conducted some

education, information dissemination, sensitisation, research, complaints management, and the monitoring of compliance with international human rights standards on HIV/AIDS. It has organised a series of workshops bringing together PLHA and all stakeholders (including bodies and organisations) working with PHLA to discuss issues of human rights and HIV/AIDS.

15.07 It is in the general mandate (Article 52 of the Constitution) of the Uganda Human Rights Commission that HIV/AIDS is addressed. The Commission's major interventions derived from its mandate to address HIV/AIDS concerns are investigating complaints relating to HIV/AIDS; researching into HIV/AIDS and human rights, information and education about HIV/AIDS; presenting recommendations to parliament; and also monitoring government's compliance with International human rights treaty obligations, specifically on the right to health.

#### Handling complaints

15.08 The UHRC receives complaints of human rights violations including those related to HIV/AIDS. The Commission currently has three complaints unresolved under investigations; two of which are related to discrimination on the basis of HIV/AIDS and one of alleged medical experimentation without complainant's consent. The Commission believes, based on research, that there are many more complaints related to HIV/AIDS but people are unaware of the institution from which to get help. Therefore, during 2004 UHRC intends on implementing the Vulnerable Persons Framework and Action Plan in which the issue of HIV/AIDS will be addressed to let the public know how to utilise the services of the Commission relating to human rights related to HIV/AIDS.

#### Sensitisation

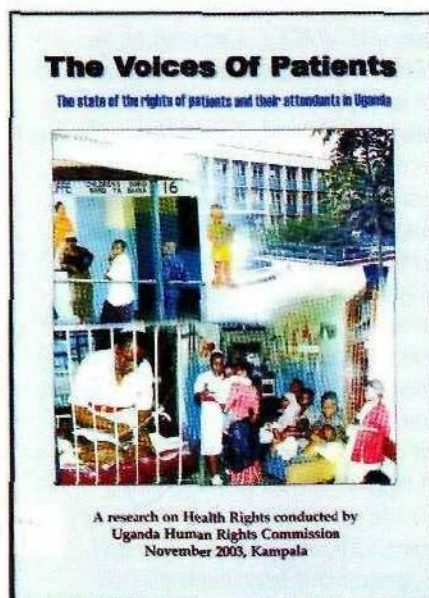
15.09 UHRC carried out sensitisation workshops in Masaka, Soroti and Fort Portal. The major objective was educating the public, stakeholders, government officials and NGOs, and Civil Society leaders about HIV/AIDS and related issues. Participants including persons living with HIV/AIDS were sensitised about their rights and responsibilities to society in which they live. In these workshops the nature of



violations were examined and opportunities and responsibilities of everyone (employers, parents, married couples, church etc) discussed. The UHRC carried out these workshops together with the Uganda Aids Commission, TASO, Uganda Network of AIDS support organisations (UNASO), and AIDS Information Centre. In many other workshops the Commission was invited to share its experience on the enjoyment of the right to health; specifically for people with HIV/AIDS.

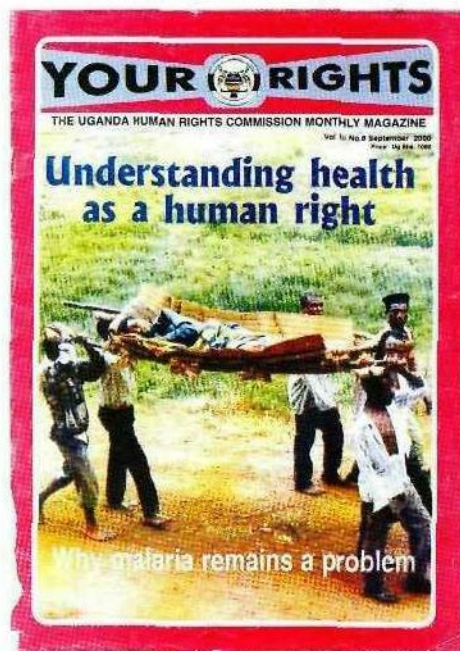
### Research

15.10 UHRC has always been interested in the area of HIV/AIDS and Health Rights since its inception. Many papers have been written and others published in the UHRC Magazine on the right to health. UHRC carried out research during the year that has been published. It is entitled *The Voices of patients; The state of the rights of patients and their attendants in Uganda*. The issue of HIV/AIDS was part of the research, and issues of consent, information, dignity, discrimination, confidentiality in relations to the rights of PHA in Uganda were examined with particular reference to interviewed patients in hospitals of Rubaga, Mulago, and Mengo.



### Information dissemination

15.11 The Commission generates information on HIV/AIDS. This information is contained in publications, namely Your Rights Magazines, paper presentations and the Annual Reports. This information is distributed free of charge to the public.



This magazine and report (below) have more information on the right to health

### Previous recommendations to Parliament

15.12 The Constitution requires the UHRC to submit annual reports to Parliament on the state of human rights and freedoms in the country. The Commission has used this opportunity to submit several recommendations aimed at improving the human rights situation. Several recommendations have been made in various UHRC Annual Reports such as the following.

- The Commission in its 2000-2001 Annual Report recommended that "Government should adopt a national Health insurance policy through which the Anti retroviral drugs for every body should be subsidised." (UHRC 2000-2001 pg. 74)
- There is need for coordination and cooperation with other sub-Saharan African countries to raise the awareness of the issue on the implications of intellectual property rights within the WTO to the Health Sector in general and specifically on HIV/AIDS and Malaria, which affects mostly sub Saharan Africa.
- In its 1998 Annual Report UHRC highlighted the prohibitive cost of the antiretroviral drugs to the majority of the poor Ugandans. The cost was at approximately US\$200 a month for double therapy and over US\$ 500 a month for triple therapy. The

See e.g., Your Rights Magazines Vol No. 5 October 2002; Vol. No. 8, September 2000  
See UHRC Annual Report 198 p. 42-43

Commission called for government subsidy to make drugs affordable.

- In its 1999 Annual Report, the UHRC repeated its plea<sup>3</sup>.

### **The Ugandan Constitution and the Right to Health: Objective Principles**

15.13 The Ugandan Constitution, in the National Objective and Directive Principles of State Policy, serves to inform the people that protection of their health is the official policy of the government and is reflected in the official law of the land. In the Ugandan Constitution, the right to health is part of the preamble of the Constitution under the national Objectives and Directive Principles of State Policy. The following is a list of the relevant obligations that binds the government to protecting the right to health.

- *Objective XIV* requires the State to fulfil the fundamental rights of all Ugandans to social justice and economic development and shall ensure that all development efforts are directed at maximum social and cultural well being of the people. In addition, all Ugandans shall enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security, pension, and retirement benefits.
- *Objective XX* obliges the State to take all practical measures to ensure provision of basic medical services to the population.
- *Objective XXII* requires the State to promote the right to adequate food and nutrition.
- *Article 34(3)* obliges the State to assure that no child shall be deprived by any person of medical treatment, education or any other social or economic benefit by reason of religious or other beliefs. However, there are people who resist immunisation of children under false beliefs. This is a violation to Article 34(3); and consequently, legal action is permitted against any person or body that deprives another of the rights afforded under Article 34(3). It is the responsibility of the government to assure citizens of the safety of immunisation and see that all children benefit. It is also in the interest of the government to enforce child immunisation. For instance, if an immunisable disease emerges among children in the future, then everyone will question the government's

responsibility in immunisation. In this case, the government will be at fault in the protection of the right to health. In the same vein, if the disease emerges in spite of immunisation, the government should take responsibility in investigating the authenticity of the vaccine or the professionalism of its doctors.

### **Human rights concerns in HIV/AIDS**

- 15.14 Persons affected by HIV/AIDS are many times left vulnerable with a number of laws, policies, decisions and actions denying them equal access to fundamental rights and freedoms, in spite of pillars of equality and non-discrimination in our national principles that are guaranteed by the Constitution and international law. This has always hindered the people living with HIV/AIDS to fully enjoy their rights and live with dignity, it is the challenge that must be discussed and addressed.
- 15.15 There are a number of human rights challenges that ought to be confronted.

### **Discrimination and stigmatisation**

- 15.16 At the Community level, stigmatisation is a barrier to people with HIV/AIDS in disclosing their sero-status and getting access to available support, care services, and HIV prevention, such as voluntary counselling and testing (VCT) that encourage people to adopt safer behaviour.

### **Discrimination in marriage**

- 15.17 Society and religious sectors have denied HIV/AIDS infected persons the right to marriage. There are instances when some jurisdictions have required mandatory HIV testing before granting marriage certificates. Some families become broken when women are diagnosed with HIV/AIDS. One example is when a husband has died of HIV/AIDS, the wife is sent back to her family or village of origin. The relatives of the man take what's left of the family property to the disadvantage of the widow and her children. The victim's wife therefore loses her right to property.

### **Discrimination in institutions of learning, hospitals, and churches**

- 15.18 In institutions such as schools, children infected and affected by HIV/AIDS have been discriminated against and stigmatised by their fellow students and teachers. In hospitals health care service providers have shown negative

<sup>3</sup> See UHRC Annual Report 1999 p. 34



attitudes towards people living with HIV/AIDS. Often, persons living with AIDS are denied treatment and may be abused, harassed, and/or mistreated. They lose their right to health and even education along with total dignity. Health-care seekers (patients) stigmatise and discriminate health care providers who are infected or presumed to be. People shy away from being treated by such health care providers presuming that such persons may maliciously infect them.

15.19 Similarly, in religious institutions such as churches and mosques HIV/AIDS is perceived as a curse and punishment from God to those who are sinful, adulterous, and fornicators. They blame persons living with AIDS for their fate, and they have even advocated against the use of condoms.

### Discrimination in work places

15.20 In the workplace, the situation is not different in that employers have in some cases requested for mandatory HIV testing before recruitment, and people have been denied employment because of their HIV/AIDS status. Others have also lost their jobs due to their sero-status. Also, when an employee gets ill it is presumed or rumoured that he or she has HIV/AIDS, he or she is immediately replaced. Persons living with AIDS have in some cases been denied promotion on the basis of sero positive status. There is fear that the persons living with AIDS will get ill and die soon. The domestic laws are insufficient in the protection of persons with HIV/AIDS. The Constitution of Uganda has to specify that there should never be discrimination on the basis of health status. This implies that article 21(2) on discrimination needs to be amended to include "health status". The other laws such as the Employment Act Cap 219, the Factorise Act, Cap 220, The National Social Security Fund, the Trade Unions Act, Pensions Act, the Workers Compensation Act need to be reviewed to ensure that they are sensitive to particularities of people living with HIV/AIDS.

### The rights of persons living with HIV/AIDS

15.21 All persons living with HIV/AIDS and affected by HIV/AIDS are rightfully entitled to the four principles that serve as the foundation of human rights and freedoms. The four principles are as follows.

- All human beings are equal in dignity, irrespective of race, tribe, gender, religion or belief, social or economic status etc.
- All human beings are entitled to equality of rights irrespective of any condition in life.
- All human beings are entitled to the indivisibility of rights, the whole range of rights and freedoms in their interdependence, inter-relationship and interconnectedness: civil and political and rights; economic social and cultural rights; and solidarity rights.
- Every vulnerable, marginalised, and isolated group or section of community is entitled to special rights and to special emphasis of certain rights in order to be fully empowered in the fight against vulnerability, marginalisation, and isolation.

### Specific rights of persons living with HIV/AIDS

- 15.22 There are specific rights that require special emphasis in relation to HIV/AIDS:
- The right to non-discrimination and equality before the law
  - Human rights of women
  - Human rights of children
  - The right to marry, found a family, and the protection of the family
  - The right to privacy
  - The right to enjoy the benefits of scientific progress and its application
  - Freedom of movement
  - The right to liberty and security of person
  - The right to education
  - Freedom of expression and information
  - Freedom of assembly and association
  - Right to participate in political and cultural life
  - The right to the highest attainable standard of physical and mental health
  - The right to an adequate standard of living and social security services
  - The right to work

Government policies and programmes should ensure these rights.

### The Government's compliance, progress and challenges

15.23 Uganda is internationally recognised for its role in the fight against HIV/AIDS. Uganda has indeed taken tremendous steps towards combating HIV/AIDS. The Millennium Development Goals (MDGs), particularly goal 6 require member states to halt by 2015 and reverse the spread of HIV/AIDS. The HIV/AIDS prevalence rate in Uganda has been reduced to 5% demonstrating



that indicator 18 of the MDGs is being achieved. The personal dedication of President Yoweri Kaguta Museveni needs to be hailed. The selfless efforts of PHAs individually, through their networks and associations, and the persistent messages and intervention of

collected from antenatal attendees in Uganda. It is estimated that in 2002, 70,170 new HIV infections occurred in Uganda, of which 540 were adults (representing 77.25% of total infections) and 15,630 were children (representing 22.27% of total infections).

**Table 15.1 Illustration of HIV infection among antenatal attendees in Uganda**

Year	1994	1996	1997	1998	1999	2000	2001	2002
Infection	18.5%	15.25%	14.7%	9.51%	8.3%	6.1%	6.5%	6.2%

Source: *The Revised National Strategic Framework for HIV/AIDS Activities*

HIV/AIDS service providers are to be applauded. The attention directed to the impact of the epidemic in Uganda by international partners and governments needs to be recognised as well.

15.24 Progress has mostly been measured on the basis of the inputs directed towards areas of concern including prevention, care and treatment, awareness and establishment of coordinating mechanisms, among others. Many resources have been focused on the fight against HIV/AIDS. However, it is not easy to evaluate the direct impact of the resources invested on the epidemic. Progress has also been modelled based on data from antenatal clinic sentinel surveillance among pregnant women. While both methods provide a measure of the epidemic, they do not provide an accurate state of the epidemic in Uganda for effectively planning, monitoring and evaluating intervention. Plans are underway to conduct a National HIV/AIDS Sero-Behavioural Survey. This is a welcome step, which should be institutionalised as part of the National framework for responding to HIV/AIDS. The survey is intended to rectify some of the shortcomings of the sentinel surveillance data. It will cover a nationally representative sample, including regional level and rural-urban estimates.

15.25 In 2003, the state of HIV/AIDS in the country was characterised by declining trends of infection, high awareness levels among the general population, and indications of positive behaviour change. According to the HIV/AIDS Surveillance Report of the STD/AIDS Control Programme of the Ministry of Health (June 2003), the prevalence of HIV in Uganda has been declining since 1995. This was based on data

in Uganda (2003/04-2005/06), February 2004, Uganda Aids Commission

15.26 The total number of AIDS cases reported by December 2002 was 60,974 (56,451 adults and 4,523 children under age 12 years) (MOH-STD/AIDS Surveillance Report, June 2003). However, the figures do not accurately represent the actual conditions due to under-reporting and inconsistent comprehensive monitoring mechanisms. Therefore, the prevalence of HIV/AIDS is most likely much higher than reported.

15.27 Though the recorded decline in HIV/AIDS prevalence is noted, the magnitude of the epidemic remains a major concern (MOH-STD/AIDS Surveillance Report June 2003). According to the Uganda AIDS Commission, HIV/AIDS prevalence is lagging behind projected levels of decline—the estimated prevalence rate of 6.2% in 2002 shows a slower reduction rate as compared to the 25% reduction target of the 2000/01-2005/06 National Strategic Framework.

15.28 Other achievements identified by the mid-term review of the National Strategic Framework 2000/01-2005/06 in the area of prevention include: increased use of condoms particularly in urban areas; establishment of Voluntary Counselling and Testing services in 51 out of 56 districts; reduction in the risk of blood-borne transmission by 50%; and the implementation of the prevention of maternal-to-child transmission (PMTCT) programme in 35 districts.

15.29 Voluntary Counselling and Testing is a central component of the national HIV/AIDS Prevention strategy. The extension of services to more districts is



a positive development, but the challenge lies in the limited accessibility to these services in some districts. Likewise, the PMTCT coverage and accessibility also remain poor (UAC, Revised National Strategic Framework for HIV/AIDS Activities in Uganda 2003/04 – 2005/06). Other negative developments specific to the NSF are the poor reception of the female condom and the slow progress in developing a vaccine against HIV/AIDS.

**Anti Retroviral Therapy: the Right to Life and the Right to Health**

15.30 The mid-term review of the NSF states the progress in prevention and care. The increased accessibility to Anti Retroviral Therapy (ART), along with its reduced cost in the past years, has been one of the positive developments in the care and treatment of HIV/AIDS. ART delays the progression of HIV/AIDS, provides a longer life expectancy, and thus reduces morbidity among HIV/AIDS patients. The reduced cost of ART promises drastic reduction in morbidity among HIV/AIDS sufferers. In the absence of a vaccine against HIV/AIDS and in view of current developments for addressing HIV/AIDS, the government should take up the promotion and provision of ART.

**Table 15.2 Development of the ART timeline in Uganda**

Year	ART Development
1992	ART introduced at the Joint Clinical Research Centre under the study of AZT
1996	Introduction of the Triple Therapy
1998	Pilot Drug Access Initiative in Uganda in collaboration with UNAIDS
2000	ART integrated in the Ministry of Health National Programme for Comprehensive HIV/AIDS Care and Support

15.31 ART is a ray of hope for the ailing HIV/AIDS population. Progressive steps have been taken towards incorporating ART into the national response to HIV/AIDS.

**Major steps taken by the government**

15.32 The following policies and developments were established during the period under review:

- The ART Policy
- System for ART administration and

delivery

- The National Strategic Framework for the Expansion of HIV/AIDS Care and Support (ART Policy included)
- Clinical Guidelines on ART
- Orphans and Vulnerable Policy
- Equal Opportunities Policy
- Overarching HIV Policy
- National Policy on HIV/AIDS in the World of Work
- Condom Policy
- IDP Policy (final stages)
- Voluntary Counselling and Testing (VCT) Policy and Guidelines
- Funds were identified for procuring Anti Retroviral Drugs

15.33 The Art Policy aims to provide a consistent framework for all implementers in expanding and providing ART services. This policy is grounded in the following principles: equity and universal access; respect for human rights; gender responsiveness; priority use of ART to ensure immediate access; and expansion and integration of ART delivery into the health system without diversion of resources.

15.34 Given the available resources, the implementation of ART has been relatively successful (although much is yet to be achieved). By December 2003, ART was operational in 28 of the 33 ART accredited health facilities. These facilities include: Northern Uganda (Arua Hospital, Gulu Hospital, Lacor Hospital, Gulu Independent Hospital, Kitgum St. Joseph Hospital, Lira Hospital and Kaabong); South Western Uganda (Fort Portal Hospital, Kabale Hospital, Mbarara Hospital, Hoima Hospital); Central Uganda (Masaka Hospital, Mildmay Centre, Joint Clinical Research Centre, New Mulago Hospital, Mbuya Church HIV/AIDS Initiative, Nsambya Hospital, Mengo Hospital, Rubaga Hospital, Kololo Hospital, Kadie Hospital, International Medical Centre, Victoria Medical Centre, Case Medical Centre, African Air Rescue, Bank of Uganda Clinic, The Surgery, Kibuli Hospital).

15.35 In reference to ART funding, 80% of ART users were self-funded at the time of reporting. However, steps have been taken to subsidise the costs of ART to qualified PLHA. For instance, one site committed to providing free ART to 1000 patients under a collaborative venture between the government and the AHF. Additionally, two sites are





providing MTCT plus under a joint venture between the government, GTZ, and Medicines San Frontiers-France (MSF-F).

## Areas requiring special focus in responding to HIV/AIDS

### People Living with HIV/AIDS (PLHAs)

15.36 PLHAs are instrumental to the struggle against HIV/AIDS in Uganda. Without their openness it is likely that the disease would still be having an uncontrollable toll on the Ugandan population. It is however disheartening to note that PHAs have not received commensurate protection from society. The most violated rights include the right to health, the right to work, the right to education, and sexual and reproductive rights. The cost of ARVs has been a major problem to PHAs. The cost makes the access to ARVs impossible to maintain. There are enormous employment-related problems as stated earlier. More focused government and non-government attention needs to be put on the effect of HIV/AIDS on education. There is an increasing number of school dropouts as a result of HIV/AIDS.

15.37 In the study done by the Health Rights Group, 17.6% of the respondents (437) had been denied school fees after testing positive for HIV/AIDS, 22% could not continue with education due to lack of resources, 25.5% dropped out of school because of stigma as they were being ridiculed by fellow students, and 34.9% dropped due to other reasons. Denial of school admission was also cited as one reason that limits the right to education for HIV positive school going children. Out of 78 respondents who cited denial of school admission, 25 (32.1%) were from the primary level, 49 (62.8%) from secondary school, 2 (2.6%) from college and 2 (2.6) from tertiary level.

### HIV/AIDS in the workforce

15.38 The impact of HIV/AIDS in Uganda affects the most productive age group of the population, comprising mostly 15-49 year olds. Uganda AIDS Commission (UAC) estimates that 80 % of the reported HIV/AIDS cases are within the 15-45 age group [Revised National Strategic Framework for HIV/AIDS Activities in Uganda]. HIV/AIDS have both direct and indirect effects in the workplace, the biggest impact being

productivity. Absence due to illness of workers or close relatives, taking leave to bury dead relatives, more resources go into medical and welfare costs to cover new health challenges caused by HIV/AIDS, loss of workers and changes in staffing composition have consequences on production. Another major issue the increased disregard the rights of HIV/AIDS-infected workers, which led to an increased employment insecurity and discrimination. Unethical and illegal recruitment and practices, such as mandatory HIV screening and relieving HIV positive workers of their responsibilities under the pretext of inability to meet employment objectives, are some of the issues that need urgent attention.

15.39 In a study by the Health Rights Action Group, people living with HIV/AIDS cited the right to gainful employment as the second most violated right after the right to association<sup>4</sup>. Of the 409 respondents, 152 (representing 37.2%) had stopped working due to body weakness, 5 (representing 3.2%) were dismissed from work, and 50.3% ceased to work for other reasons. Other abuses suffered by people living with HIV/AIDS at the workplaces included denial of promotion (11.3%), given less work given in comparison to other workers (5.2%), no responsibilities (3.1%), and denial of fringe benefits (4.1%). The majority (76.3%) had faced other abuses to their rights at work.

15.40 During the period under review, a number of positive steps were taken towards prioritising HIV/AIDS in the workplace. The Ministry of Gender, Labour and Social Development developed the National Policy on HIV/AIDS and the World of Work in December 2003. The goal of the policy was to "provide a framework for prevention of further spread of HIV/AIDS and mitigation of the socio-economic impact within the World of work in Uganda."

15.41 The Ministry of Public Service also carried out a study on the impact of HIV/AIDS in the public service. In addition, the Self-Coordinating Entity of Line Ministries (housed by the Ministry of Public Service) is coordinating the

<sup>4</sup> The Health Rights Action Group, Kampala, Uganda. The Status of Human Rights Among People Living with HIV/AIDS in Uganda and their Involvement in Initiatives targeting communities, April 2004



mainstreaming of HIV/AIDS in the various line ministries.

### **Internally Displaced Peoples (IDPs) and the Right to Health**

15.42 Instability in parts of northern Uganda increased the phenomenon of internal displacement as more people fled their homes in fear of attacks from the Lords Resistance Army (LRA) rebel group. The result was the concentration of many people in internally displaced peoples camps (IDPCs). The IDPCs were breeding places for many conditions that caused ill health including HIV/AIDS. There was increased prevalence of HIV/AIDS in IDPCs relative to other places. This could be attributed to instability, which led to the degeneration of the social and moral structure in the areas of insurgence. In the 2003 HIV/AIDS Surveillance Report, the Ministry of Health reported a prevalence rate of 11.9% in St. Mary's Hospital Lacor Gulu, representing the highest rate in non-urban surveillance sites. There seem to be a high correlation between instability and increase in HIV infection. For example, since 1993 (not including 1994 and 1995) Lacor Hospital in Gulu has continued to register the highest rates of HIV infection among the antenatal attendees compared to other sites, both rural and urban.

15.43 Although there have been some interventions spearheaded by international and national humanitarian organisations including the World Food Programme, World Vision International, and AVSI, there has been little government effort to address HIV/AIDS in these areas.

15.44 Just like other areas of humanitarian concern for IDPs, there is need for more focused interventions and coordination of the HIV/AIDS response by the government. IDPCs should be targeted in a comprehensive response following the multi sector response and the goals stipulated under the National Strategic Framework for HIV/AIDS Activities. The areas of the north should be prioritised for interventions aimed at reducing HIV/AIDS prevalence, as well as a mitigating the effects through care and treatment.

### **HIV/AIDS and human rights**

15.45 There is a strong link between HIV/AIDS with lack of enjoyment of Human Rights. By its very nature, the disease,

whose vaccine or drug is not, yet in sight is a debilitating one. The impact of HIV/AIDS on social and economic livelihood in Uganda has been immense and accounts for the minimised realisation of human rights. HIV/AIDS inhibits the enjoyment of a number of human rights such as health, education, life, work, and food among others. Since its discovery in 1982, Uganda has been in the spotlight for its positive action towards curbing the spread of the epidemic. National action for combating the spread of HIV/AIDS has drawn on the resource of multiple players from the government, international community, non-governmental, private sector, and civil society. Openness about the epidemic together with the political will of the President have been applied through the multi-sector approach to the prevention of HIV/AIDS to bring about the successes registered.

### **Anti Retroviral Therapy as a means for realising the right to life and health**

15.46 The mid-term review of the NSF states that there was progress in the area of care and prevention. The increased accessibility to Anti Retroviral Therapy in the past years has been one of the positive developments in the care and treatment of HIV/AIDS. ART delays the progression of HIV/AIDS and hence provides a longer life expectancy for people living with HIV/AIDS. The reduced cost of ART promises drastic reduction in morbidity among HIV/AIDS sufferers. In the absence of a vaccine against HIV/AIDS and in view of current developments for addressing HIV/AIDS, government should take up the promotion and provision of ART. At the time of writing this report, the government had introduced ARVs to be distributed free of charge. **However, while the target of people to receive the drugs is 62,000, the ARVs available were for 3000 people.** It is therefore safe to say that the drug remains unavailable, inaccessible and unaffordable to the majority of Uganda for now and more years to come. This situation needs immediate government and international community attention

### **Challenges in addressing HIV/AIDS: accessibility and affordability of drugs-ARVs**

15.47 The ultimate goal of the National Policy on ART is to attain universal access.



Under the national policy, access will be expanded through phases. Generally, access to publicly provided ART is governed by eligibility criteria. Access to purchase the drugs is subject to the fulfilment of the ART guidelines. "Preferential access to ARV drugs at no charge" represents the priority categories to benefit from government-funded ART. These include post-exposure prophylaxis, Prevention of Mother to Child Transmission (PMTCT), participants of research projects, and PMTCT.

15.48 Although the cost of ARVs has gone down drastically since its introduction in 1996 the cost of ART remains too high for average Ugandans and for government. A combined effort of private and public efforts to access ART does not match the magnitude of the existing need. According to the Ministry of Health-National ART Programme, by December 2003 there were approximately 1 million PHAs and over 100,000 people in immediate need of ART. Of these, 15,000-17,000 were on ART, representing 10%.

15.49 By December 2003, the cost of ARVs per month was in the range of \$28-60 for generics and \$86-560 for brands. Under the scale up plan, the MOH National ART Programme anticipates that 60,000 people by the end of 2005 and 100,000 people by 2007 will have access to ART. The programme further anticipated that under phase I all the 11 Regional Hospitals of Uganda would be providing ART by the end of 2003. Under Phase II, all 56-district hospitals would provide ART by the end of 2004. Phase III would see the testing and adoption of the model for rapid scaling up of quality care. Phase IV will see to the provision of ART services by all health care facilities (totalling 214), and the final phase would involve making ART accessible at community level.

15.50 ART involves high investment and recurrent costs that could interfere with provision of routine public health care services. On the part of the government, the commitment to provide ART is welcome; however, caution should be taken. The financial implications of the venture to provide ART are high. It is questionable how the ART programme will be sustained on a long-term basis; the therapy is a life long basis.

15.51 There is a fear of emergence of resistance to ART as a result of various factors, including improper/inconsistent use. Poor quality drugs are likely to infiltrate the market with negative implications for the effectiveness of ART. This is also likely to cause problems of monitoring proper prescriptions and usage in private health units. In fact, there are already serious adherence issues that are brought about by the ability of patients to pay for their drugs. These patients and the ARV suppliers are not easily monitored. There is also a likelihood of the 'free' drugs in the public health system to be racketeered into the private market. This will have inevitable consequences to the availability of ART to eligible patients.

### Recommendations

- 15.52 • While there has been hope generated by promises of free ARVs through the global fund, the process has been delayed by procurement and release of funds thus affecting the plan of the Ministry and the expectations of the people. It has not to date enhanced the accessibility of the drugs to the majority of the people who need it. Since the signing of the Global fund agreement in March 2003 by which President George W. Bush pledged \$15 bn, insufficient funds had been released by March 2004. Furthermore the first batch of the ARV according to Director of Medical Services Prof F. Omaswa only caters for 3000 people out of the targeted 62,000. There is need to step up efforts of making drugs available to meet the plan.
- The benefit of using ARVs is not questionable however there is an imminent danger of marginalizing primary health care system in favour of free distribution of ARVs thus relegating malaria, and other killer diseases to non-priority positions. Ministry of Finance should ensure that budgeting for ARVs does not interfere with the availability, accessibility of resources for carrying out other mandate of the ministry of health and other institutions involved in distribution of ARVs.
  - As the government works out procedures for free distribution, it should also work out measures to ensure that the private pharmaceutical companies subsidise to enable middle-income people access these drugs. This can be done through provision of import tax incentives to those companies to sufficiency and affordability of these drugs.



- The MOH should put in place a mechanism for monitoring the administration of ART by all sites including private dealers and clinics to ensure quality of drugs and compliance with drug regulations. Plans should also be institutionalised for evaluating and monitoring the impact of the ARVs on the general trends of the epidemic.
- Government should be cautious about the effects of unsustainable access and *use of the ARV on the users*. Full information and support systems should be put in place to ensure proper use of the drugs by users.
- The free distribution of ARVs should focus on the most vulnerable groups especially the poor and living in areas such as the war-torn northern Uganda to mitigate the effect of morbidity and mortality on an already distressed population.
- Ministry of Health and Parliament should work towards the enactment of *the law and also revising the existing ones* to take into considerations special conditions of prevention, care and support people infected or affected or vulnerable to HIV/AIDS.
- The parliament should use the Constitutional review process, to amend article 21 of the Constitution on discrimination to provide health status as a ground protected from discrimination.

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## CHAPTER 16

# Freedom of Association and Assembly

### Introduction

- 16.01 This section contains observations and comments regarding freedom of association and freedom of assembly during the year 2003. They are made bearing in mind the new political developments in the country. In making the comments the Commission is conscious of its mandate under the Constitution which calls upon it to monitor whether or not government did comply with its legal obligations under international human rights instruments (see Article 52 (1) (h) of the Constitution)
- 16.02 In 1995 Uganda ratified the International Covenant on Civil and Political Rights (ICCPR) thereby agreeing to accord its citizens, through legislation and practice, the rights and freedoms outlined in the Covenant. Freedom of assembly and freedom of association are among these rights (*see italic*). At a regional level, Article 11 of the African Charter on Human and People's Rights (ACHPR) also emphasises the obligation to respect and promote the freedoms of

Association assembly. At a domestic level these rights have been ably provided for under the Constitution (*see italic*). Nevertheless, the enabling laws such as the Police Act and the Political Organisations Act which would have operationalised the enjoyment of the constitutional rights to freedom of assembly and association, ironically contain some inhibitions to the enjoyment of these rights. This contradiction needs to be ironed out by amending these laws to conform to the Constitution.

### Relevant Articles of the ICCPR

#### Freedom of Association (Article 22)

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interest of national security or public safety, public order, the protection of public health or morals or the protection



of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

#### **Freedom of Assembly (Article 21)**

The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in democratic society in the interest of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

#### **Political Rights (article 25)**

Every citizen shall have the right and opportunity without any of the distinctions mentioned in article 2 and without unreasonable restrictions;

- (a) to take part in the conduct of public affairs directly or through freely chosen representatives
- (b) to vote and to be elected at genuine periodic elections which shall be universal and equal suffrage and shall held by secret ballot guaranteeing the free expression of the will of the electors

#### **Other Relevant Instruments**

Article 11 of the African Charter on Human and People's Rights (ACHPR) states: Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided by Law, in particular those enacted in the interest of national security, the safety, health, ethics and rights of others.

Article 20 (1) of the Universal Declaration on Human Rights (UDHR) states: Everyone has a right to freedom of peaceful assembly and association

#### **Relevant Articles of the Uganda Constitution**

##### **Article 29 (1): Every Person shall have the right to-**

- (d) freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition,
- (e) freedom of association which shall include the freedom to form and join associations or unions and political and other civic organisations.

##### **Past observations and comments of UHRC on freedom of association and freedom of assembly**

16.03 The Commission has since 1997, consistently pointed out that the true meaning and enjoyment of freedom of association has remained controversial in Uganda despite its clear guarantee under the Constitution. In the 1997 Annual Report, the Commission reported to Parliament about the apparent contradiction in the Constitution, which allowed the formation and existence of political parties but severely restricted their activities. It then recommended to Parliament that the expected Political Organisation Act should address that contradiction.

16.04 In that report it was observed that the Police had the practice of interfering with freedom of assembly and the right to participate in peaceful activities (including the right to demonstrate) to influence government policies. The Police, time and again, declared even the well-intentioned and peaceful assemblies unlawful. All these were being done in spite of the clear guarantees of these rights by the Constitution.

16.05 In the 1998 Annual Report the Commission again addressed Parliament on these rights and reminded it of its earlier observations about Article 269 of the Constitution in addition to observations about the then expected referendum on a Political system for Uganda. The Commission called upon government to ensure freedom of association during the process leading to the referendum. In particular it stressed the importance of ensuring that all sides to the referendum had a fair opportunity to present their views to the voters. That would not be possible without full enjoyment of the freedom of association and freedom of assembly.

16.06 In the 2001 –2002 Annual Report the Commission made observations about the Political Parties and other Organisations Act 2002 and pointed out that sections of the Act did not resolve the controversy about the enjoyment of freedom of association and assembly in Uganda. The act retained restrictions on political parties which were contrary to international human rights law. In its attempts to help the debate, the Commission addressed Parliament in the Report on the meaning of freedom of association as understood in human rights law.



### Positive development during 2003.

16.07 In the year 2003 some positive developments emerged indicating progress towards solving the controversy relating to freedom of association. Some of these developments were:-

- On 21 March 2003 the Constitutional Court in a decision nullified sections of the Political Parties Act, 2002 (PPA 2002) which infringed on freedom of association.
- On 26 March 2003 the National Executive Committee (NEC) of the National Resistance Movement (NRM) proposed that political pluralism opening up party political competition should be restored in Uganda and sets up a committee (headed by Dr. Cripus Kiyonga) to chart out a roadmap for transition.
- The 4th Movement National conference which took place on 30th March 2003 recommended a return to multiparty politics but insisted on referendum to allow voters decide whether Uganda should move to multiparty politics. This is effect left the controversy over freedom of association in the context of party politics in the hand of voters.
- During the year 2003 a Constitutional Review Commission (CRC) continued to receive views on possible amendments to the Constitution. On 10th December 2003, the CRC presented its report. Among many recommendations, it advised that the Constitution should be amended to allow return to multiparty politics in Uganda (see p4-36)

### Persistent infringement of the freedom of association and freedom of assembly

16.08 Freedom of association and freedom of assembly are closely related. One of the rights cannot fully be enjoyed and exercised without the other. If there are to be restrictions to these rights, the restrictions should not be so unreasonable as to deny the very essence, content and enjoyment of these rights. The restrictions should not only be legal but also be those acceptable in a democratic society. Both rights are crucial for the enjoyment of civil and political rights in a democratic society. As political rights, freedoms of association and assembly are indispensable for the existence, practice and functioning of democracy. Political interests can be effectively championed and realised only in

community with others (as political party, professional interest group, organisation or other association).

16.09 While these two rights (association and assembly) are ably protected in Uganda law and generally respected, their political angle continued to be severely restricted and infringed during the year 2003. This was a continuation of the politics and the dominant perception since 1986 that political parties are a danger to peace, unity and development which perception was entrenched in the 1995 Constitution restricting the rights of political parties. These restrictions were still in place in the year 2003 because they were in effect transplanted from the Constitution into the Political Parties and Organisations Act (PPOA) 2002. Although the Police Act also provides limitations to these rights (see table 4), it is the PPOA that the Police persistently invoked to disperse what they describe as illegal meetings. (See relevant sections in Table 3)

### 16.10 Examples of Dispersed Political gatherings

- On Sunday 26th January 2003, Police foiled a planned Democratic Party Rally at Kalisizo Town in Rakai District. Rakai District Authorities called in Anti Riot Police personnel and the Army at the venue, where DP President Dr. Paul Ssemogerere was to address a gathering, reportedly disguised as a Football match.
- On 10th May 2003 the Police dispersed DP supporters attending a Graduation Party on suspicion that it had turned into a Political Rally. Dr. Ssemogerere, DP President General and the Organising Secretary Damiano Lubega were denied the opportunity to address the ceremony at the Graduation Party of Abraham Kezimbira at Guula, Bugurumbya in Kamuli District. Over 30 DP and UYD Members reportedly accompanied the DP leaders.
- On 18th March 2003, The Government warned DP pressure Group, The Popular Resistance Against Life Presidency (PRALP) against holding a Rally in Masaka Town that day as planned and when they insisted later they were dispersed.
- On 8th October 2003, Police used teargas to disperse students at a public debate in Makerere University because



the organisers were members of the opposition groups not reorganised by the law and had no permission from the university authorities

- On 13th October 2003 Police warned the Popular Resistance Against Life Presidency (PRALP) to desist from holding Political Rallies without permission or else face tough action.

Note: At the time of writing this report, the incidences of dispersing political rallies by the police were increasingly becoming common with worrying frequency. The Commission will address in more detail these incidences in the 2004 Annual report.

### Sections of the PPOA 2002 invoked by Police

According to the Political Parties and Organisation Act 2002 a public meeting held by a political party or organisation during the period when the movement political system is in force is prohibited under section 18 (1) (d) of the Political Parties and Organisation Act except:

1. National conference, executive committee meetings, seminars and conferences held at the national level
2. The holding of meetings at the national level by founding members under section 10 (7) for the purpose of forming a political party or organisation.
3. A duly registered political party or organisation is allowed within one month after registration and issue to it of a certificate of registration to hold only one meeting in each district to elect members to the national conference for the purpose of electing its first members of the executive committee under section 10 (8) of political parties and organizations Act. Procedure of Police at unlawful public Assembly or Rally Contrary to section 18(1) or 10 (7) or 10(8) of the political parties and organisations Act 2002.

Therefore according to the police, they will disperse a meeting when they: -

- a) Receive information to the effect that a public meeting or conference is about to be held contrary to the Political Parties and Organization Act or
- b) Have reasonable grounds to believe

that a public meeting or conference is about to be held contrary to the Political Parties, and Organizations Act 2002 then,

- 16.11 The above provisions are in contention as those who agitate to hold these rallies argue that they do not need permission to hold them. All they need, they argue, is to inform the police that such meetings are to be held. This position has been strengthened by the Constitutional Court ruling, which nullified parts of the PPOA 2002 and especially section 18 mentioned above.
- 16.12 The police on the contrary continue to argue that for a group of people to hold such meetings or rallies, they need permission from the police and they must be a registered group of legal political organisations. Therefore, sections 18 (1), 10 (7) and 10 (8) of the PPOA 2002 continue to severely limit the freedoms of political parties contrary to Uganda's legal obligation under the ICCPR. Their continued existence and application by the police curtailed the enjoyment of the two rights. It was obvious that peaceful demonstrations and meetings organised by the opposition political parties were forcefully dispersed by the police as pointed out above.

### Legal limitations under the Police Act Cap 303

**Section 32 to 37 of the Police Act, cap 303.** Section 32 is about power to regulate assemblies and processions. It states:

- (1) Any officer in charge of police may issue orders for the purpose of -
  - (a) regulating the extent to which music, drumming or a public address system may be used on public roads or streets or at occasion of festivals or ceremonies;
  - (b) directing the conduct of assemblies and processions on public roads or streets or at places of public resort and the route by which and the times at which any procession may pass.
- (2) If it comes to the knowledge of the inspector general that it is intended to convene any assembly or form any procession on any public road or street or at any place of public resort, and the inspector general has reasonable grounds for believing that the assembly or procession is likely to cause a breach of the peace, the inspector general may, by notice in writing to the person responsible





for convening the assembly or forming the procession, prohibit the convening of the assembly or forming of the procession.

- (3) The inspector general may delegate in writing to an officer in charge of police all or any of the powers conferred upon him or her by subsection (2) subject to such limitations, exceptions or qualifications as the inspector general may specify.

**Note:** S32 above gives the discretion to the IGP and any officer in charge of police to regulate or direct the conduct, prohibit, stop or disperse any assembly. However, the IGP's directives must be in writing. Most of the meetings however were dispersed without any prior directives in writing.



Maj. Gen. Katumba Wamala,  
Inspector General of Police

### Conclusion and Recommendations

16.13 With the country in transition to multiparty system of politics, it is important and necessary that freedom of assembly and association are not curtailed by unnecessary restrictions. Legal and administrative constraints, which limit the rights of political parties or organisations to effectively participate in the affairs of the country, and to influence government decisions, should be eliminated. It is important to note that democracy in a country like Uganda, is a learning process and in learning one needs to be allowed relative self-regulation. People might not always need the law or the police to tell them what to do. It is not always true that when people are left alone to exercise the freedoms of association and assembly they will always cause anarchy. On the contrary they might learn how to avoid anarchy on their own, if the State and the police in particular protected them from third party interferences.

### Recommendations

16.14.1 The Commission reiterates in this report its previous recommendations in this report but adds new ones. Most of the previous recommendations are as relevant today as they were several years ago. They are suggestions about political rights that have remained contentious today i.e. freedoms of assembly, association, free and fair elections and referendum and on how resolving political differences for purposes of good governance should be handled.

### Recommendations on freedom of Assembly

16.14.2 Laws that unnecessarily impose restrictions on these rights ought to be reviewed and replaced with laws that promote the enjoyment of the rights. There can be no true democracy, good governance without meaningful participation and empowerment of all organisations including the civil society on the basis of non-discrimination. In this regard, the Police Act, The Political Parties and Organisations Act and all the laws on elections need to be reviewed to conform to international and regional human rights standards which Uganda is legally bound to promote and protect.

16.14.3 It is vital that local leaders and all state organs particularly the Police, other security organs, and the Ministry of Internal Affairs, fully understand the implications of freedom of Association and Assembly and respect it as stipulated in the Constitution and other laws of the country.

### 16.14.4 Recommendations in case of a Referendum on Political pluralism

- The planning, organisation and management of the referendum process must ensure that all sides to the referendum have a fair opportunity to present their views to the electorate.
- Government must ensure that there is sufficient security for all persons during and after the process.
- The Electoral Commission should ensure that the law is applied to all parties equally and malpractices and violations exposed and dealt with in accordance with the law.



and public order throughout and after this process.

16.14.5 **Recommendation on Resolving Political Differences:**

- All sections of society should uphold the law, which is the cornerstone of any democratic society.
- Any individual or group of individuals which is not satisfied with any provision in the Constitution should use the constitutionally laid down procedures to achieve the desired change.
- In formulating amendments to the Political Organisations law, Government should take into account the views expressed by all members of society with a view to reducing tensions between the supporters of different political parties.

16.14.6 **Recommendation for free and fair Elections**

- Electoral Commission should find ways of providing professional civic education to voters.

- More funds should be allocated for civic education
- Organisations involved in civic education should be equipped with skills for this exercise.
- Civic education should be a continuous exercise.
- Budget allocations for civic education during elections should include police training to enable them handle their part.
- Electoral commission should, where appropriate, be legally empowered to enforce laws, rules and regulations during electoral processes.
- Citizens are called upon to desist selling or buying of votes.
- The Electoral Commission should devise a system of monitoring candidates expenditure during elections in order to help fight corruption which has been characterising the electoral process.

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# APPENDIX 01

## COMMENTS ON CABINET'S PROPOSAL FOR THE ABOLITION OF THE UGANDA HUMAN RIGHTS COMMISSION

13 October 2003

These comments are in respect to proposals No.3.10 of the "Proposals of the Government of the Republic of Uganda for the amendment of the Constitution, September, 2003". This proposal recommends the abolition of the Uganda Human Rights Commission on the grounds that "Government is of the view that there are at present too many Commissions under the Constitution involving a lot of costs to Government and performing functions which can more economically be performed by other Institutions under the Constitution". The comments are additional to the submissions made to the Constitutional Review Commission on 24-8-2001 by the Uganda Human Rights Commission on the specific issue of whether or not the Commission should be abolished.

### 2. Brief background

The International Bill of Human Rights which consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and several other Covenants ratified by the UN member States require State Parties to enact laws and undertake measures to ensure that persons are protected from infringements against human rights by either private entities or governments. In addition, these international instruments to which Uganda is a signatory and therefore a party require that everyone should be entitled to effective protection and remedies by a competent, independent and impartial tribunal and other State Institutions established by law.

For several years the UN has been promoting independent and effective human rights institutions recognising that these institutions are the best way to ensure respect for human rights in the domestic sphere.

The 1993 World Conference on Human Rights, at which Uganda participated actively, came out with the Vienna Declaration and Programme of Action in which the conference "re-affirmed the important and constructive role played by National Human Rights Institutions for the promotion and protection of human rights, in particular their advisory capacity to competent authorities, their role in remedying human rights violations, in the dissemination of human rights information and education in human rights" (see part 1, par 36). Today, National Human Rights Institutions have become part of the human rights movements world wide. To strengthen these institutions, the UN General Assembly in 1993, supported by Uganda, by resolution adopted the Paris Principles setting up standards for national human rights institutions and these Principles require, among others, that national institutions should be independent and effective.

The current constitutional structure of the Uganda Human Rights Commission meets the requirement of the Paris Principles and effectively answers to the will of the Ugandan people who recommended to the Odoki Constitutional Commission that Uganda should have a permanent human rights commission for the protection and promotion of human rights. Today, the Uganda Human Rights Commission is regarded worldwide and particularly in Africa, as a model. In evaluating the Cabinet proposal on the UHRC, we invite the Constitutional Review Commission to consider this brief background and our earlier elaborate submission on the role of National Human Rights Commission.

### 3. Merging the UHRC with IGG

Cabinet is proposing to abolish the UHRC and transfer its functions to the Inspectorate of Government. It will be recalled that when the office of the IGG was created in 1986 its mandate

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included the protection of human rights but this was removed by the 1995 Constitution which created the UHRC. During the period when these two mandates were merged, the human right mandate received scant attention. Article 225 (i) of the Constitution gave the IGG functions which include promotion of the rule of law in administration, elimination of corruption, promotion of good governance in public offices, enforcement of the Leadership Code and generally carrying out functions which are traditionally undertaken by an Ombudsman.

The question is whether the functions of the UHRC should be merged with the IGG's functions. While there may be some similarities between the functions of the IGG (Ombudsman) and that of a National Human Rights Commission, the roles of the two institutions are essentially different. From an operational and organizational level the following key differences can be cited:

- (a) The role of the Ombudsman (IGG) is to promote general fairness in public administration. A human Rights Commission specifically focuses on human rights (Civil, Political, Economic, Social, Cultural Rights) extending beyond government to include public life e.g. private employers and issues to do with discrimination (see Articles 52 and Article 225 of the Constitution).
- (b) In general the Ombudsman (IGG) deals with individual complaints while Human Rights Commission although also dealing with individual complaints, have broader range of functions and powers including educational, promotional activities including review of legislations measured against human rights standards.
- (c) Human Rights Commissions apply accepted International Standards as the explicit or implicit basis of their work. On the other hand Ombudsman's principal basis is generally domestic legislation with International Standards being at most of indirect relevancy. The Ombudsman handles "justice" from the confines of administrative practice rather than on the basis of international human rights law.

(d) At the organisational level, while a single official heads offices of the Ombudsman, Human Rights Commissions by the nature of their work are multi-member bodies.

(e) Where countries have had a semblance of merged Ombudsman (corruption and administration) and the Human Rights Commission functions (such as in Ghana) it has been the mandate to fight corruption and injustice in administration that has shifted to the human rights institutions not vice versa. The good practice however, is to maintain the Ombudsman functions and human rights functions in the hand of separate institutions for effective implementation of these very important mandates. Thus for example while Tanzania has had an Ombudsman since 1966, it has now set up an independent Human Rights Commission recognising that both mandates would be too wide for a single institution to handle effectively.

#### 4. The costs argument

The reason advanced by the Cabinet for the abolition of the Commission is to reduce costs to government Cabinet by reducing the costs of running two government institutions. Apart from the fact that their respective mandates are widely different as earlier shown, and may not easily lend themselves to be managed effectively side-by-side, the proposed merger may not bring about the hoped for costs reduction.

It is well known that since their creation/establishment, all of Uganda's Constitutional Institutions have been seeking from government more resources to fully carry out their functions as prescribed by the Constitution. The UHRC, like, other Constitutional Institutions, has proved over the period of its existence, that in spite of its limited resources, it could achieve many results, thanks in the large part to the dedication of its staff and to the active support and participation of human rights community partners.

Under these circumstances, it is fair to ask what savings will really be achieved as a result of the proposed amalgamation of the functions of the UHRC with that of the IGG. In order for substantial savings to result, one would have to assume that the IGG as structured currently is capable of absorbing the



functions of the UHRC without additional resources. No business case has been made or prepared to demonstrate that the merger will save substantial costs without adversely affecting the work of the IGG and the effectiveness of the functions currently managed by the UHRC.

The proposed amalgamation leaves the door open to the possible integration of UHRC staff into the IGG structure. For certain, as has been stressed by the IGG himself in his letter of 7 October 2003 to the Constitutional Review Commission, the IGG as is now constituted is not capable of managing the human rights mandate without additional influx of resources into the IGG. If that is the case, which we think it is, then the *hoped for savings many not be* important and substantial, since 52% of the UHRC budget is taken up by salary and wages, a large part of which would go to the IGG as part of the transfer of responsibility. The remaining 48% of the budget would still be required to support the operationalisation of the human rights mandate.

The question of abolishing an institution on account of its costs to government should always be properly rationalised. The UHRC is a Constitutional Commission established through the will of the people of Uganda crystallised by Uganda's appalling human rights record. The idea for its establishment came from the people and they are the ones who bear the costs. The Commission's service has been centered on the people especially the vulnerable, the abused, the helpless. This is a vital factor that must be borne in mind when considering this issue.

We believe that in our Nation, as in all other Nations, there will always be need for an independent Human Rights Institution or Commission to monitor, protect, defend and promote human rights. Human Rights Institutions are now part and parcel of the human rights movement worldwide. This is the reason every nation is coming up with a permanent human rights institution, which has become a must for every nation, just as the Judiciary and the Ombudsman is a necessity in every country. Consequently the arguments of costs to government may never in itself be good enough to settle the fate of the UHRC.

The argument of costs to government

does fail to recognise the value attached to a permanent human rights institution. The UHRC, as a national human rights institution has been recognised nationally and internationally as an institution that has brought positive change, an institution of great and growing value. Human Rights protection and promotion cannot be marginalized on the basis of reducing costs to government. While we agree that prudent management of government resources is always a must, cutting costs should never be undertaken for its sake. In deciding what national institutions should be retained or abolished costs alone should not be the pre-eminent factor to determine whether an institution should exist or not. An institution may cost money but its vital necessity ensures that it continues to be financed and supported.

The Cabinet's argument of abolishing the UHRC to cut costs is tantamount to reducing the importance of full coverage of human rights. Human rights work promotes good governance and good governance is expensive. Protection of peoples human rights as is recognized in the National Objectives and Directive Principles of State Policy should be the primary objective of any good government and cannot be marginalized on the argument of reducing costs to government. Indeed all government programmes should be targeted to the fulfilment of human rights and this is clear from Objective V of the National Objectives and Directive Principles of State Policy of the Constitution which states:- "The State shall guarantee and respect institutions which are charged by the State with responsibility for protecting and promoting human rights by providing them with adequate resources to function effectively" The existence of an effective UHRC should therefore be one of the corner stones of state policy and programs.

We believe that the question of costs should not be the only factor to be considered when determining whether the UHRC should remain a separate entity or it should be merged with the IGG. Its importance and service to the people should also be a primary consideration. And since the reason advanced is reduction of costs, there should be consideration of better alternatives. For example, the existing

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structure and operations of the UHRC could be rationalised to make it deliver services effectively without undue expansion to its financial needs. Currently the UHRC is developing a new Corporate Plan and is bearing this in mind. Government could take more interest in this proposed plan by supporting programmes that are more focused and beneficial to the people. Adding more functions to an IGG which itself is not sufficiently funded may result in some savings but mean the marginalization of the protection and promotion of human rights in Uganda.

#### 5. International obligation

For several years, the United Nations has been actively promoting independent and effective human rights institutions, recognising that this is the best way to ensure respect for human rights in the domestic sphere. The most important standards in this regard are the Paris Principles relating to the status of domestic Human Rights Commission, which call for the establishment of independent Human Rights Commissions with broad mandates to protect and promote human rights. These Principles were developed at a UN international workshop held in Paris in 1991 and were subsequently endorsed by the UN General Assembly in 1993 at which Assembly Uganda actively participated.

As part of a UN General Assembly Resolution, the Paris Principles may be considered as a source of international law. The Paris Principles have not been directly incorporated into Ugandan law; however, an argument can be made that they form part of customary international law. For international law to be customary international law there must be evidence of sufficient and settled state practice and consistent and uniform usage, accepted as law by the state as *opinio juris*. The foreword to the UN's handbook on national institutions indicates that the UN's Resolution itself represents such evidence.

...the international community has to come to agreement as to the optimal structure and functioning of these bodies. A landmark in this process was formation of the (Paris Principles)...

It is presumed that legislation and policy is meant to be consistent with international law and that the

Constitution intends to respect international law values and principles and to comply with Uganda's international obligations. Jurisprudence in the Common Law system made it clear that an interpretation of domestic laws that reflects values and principles contained in international law is to be preferred (The Supreme Court of Canada in *Baker v. Canada* [Minister of Citizenship and Immigration]). With respect to human rights statutes in particular, a Canadian Court of Appeal has noted that a national or province's human rights legislation gives effect, in a general sense, to its international obligations (*Canadian Odeon Theatres Ltd v. Saskatchewan Human Rights Commission and Huck*).

The Paris Principles call for independent human rights commissions, established under law, to be vested with broad mandates and competence (including adequate resources and pluralist representation) to promote and protect human rights. Functions and powers are to include an ability to monitor and hear any human rights matter, promote research and examine legislation, advise government, publicize findings, work with other organisations responsible for human rights and engage in human rights education.

Pursuant to the Paris Principles and informed by the experience gained by the UN Centre for Human Rights in providing technical assistance to governments in this area, the UN Office of the High Commissioner for Human Rights has prepared a Handbook on the Establishment and Strengthening of National Institutions for Promotion and Protection of Human Rights (the "Guidelines").

Under the Background and Overview section of the Guidelines, the UN formulated a definition of a human rights commission or institution as "a body" which is established by Government under the constitution or by law or decree, the functions of which are specifically defined in terms of the promotion and protection of human rights. Such institutions would perform particular common functions including: educational and promotional activities; the provision of advice to government on human rights matters; and the investigation and



resolution of complaints of violations committed by public and /or private entities. The UN Guidelines stipulate that this definition, along with the functions and powers outlined in the Paris Principles, operates to exclude (and sets out a human rights commission or institution as distinct and separate from) the judiciary, the legislature, social welfare structures, and other governmental instrumentalities.

The UN Guidelines specifically set out what elements or conditions are necessary for effective functioning of domestic human rights commissions and institutions. These include: independence, defined jurisdiction and adequate powers, accessibility, co-operation, operational efficiency (including sufficient resources) and accountability. The guidelines also describe in detail commission tasks of promoting awareness and education about human rights and, advising and assisting government. As well, the guidelines stipulate and describe in detail that "One of the most common functions vested in a human rights commission is to receive and investigate complaints from individuals (and, occasionally, from groups) alleging human rights abuses committed in violation of existing (domestic) law. The Guidelines go on to say that "In some cases, a special tribunal will hear and determine issues outstanding from an unresolved complaint."

A review of the present Constitution as it relates to the Uganda Human Rights Commission (UHRC), clearly indicates that in adopting Chapter 4, the Constituent Assembly intended to comply with the Paris Principles. The UHRC was established as a body independent of Government (Article 54) with specific functions to promote and protect human rights. As specified by the Paris Principles, the UHRC, under Article 52 of the Constitution, investigates and resolves human rights complaints, provides advice to Government, does research, public and civic education and monitors the country's compliance with international human rights instruments. In this respect, the existence of the UHRC reflects Uganda's commitment to support international human rights standards which therefore should not be negated on the argument of

reducing costs to government.

## 6. Conclusion

We would like to re-emphasize what we submitted to CRC on 24 August 2001 underlying the necessity of a national human rights institution, a necessity which has been recognised by very many African States based on the realisation that traditional courts and institutions have not been able to raise issues of human rights to the desired pedestal. Consequently the trend in Africa is to establish independent national human rights institutions. To day there are over 22 Human Rights Commissions in Africa including new ones by our neighbours Rwanda, Kenya and Tanzania. The UHRC, on request, based on its track record, was always invited to help set up some of these institutions as was the case in Rwanda, Kenya, Liberia and Sierra Leone. National human rights institutions are gaining ground in Africa and are being established to respond to the new emphasis on human rights and good governance.

The African Union, with Uganda as an active participant has been emphasising the importance of independent and effective human rights institution for member States. The OAU (as it then was) in the Grand Bay (Mauritius) Declaration and Plan of Action April 1999 urged member States "to establish national human rights institutions and to provide them with adequate financial resources and ensure their independence." (see para 15 of the Declaration). In the same breadth the first All Africa Ministerial Conference on Human Rights in Africa, 8 May 2003, Kigali Rwanda, again came up with a Declaration on human rights in Africa re-affirming the Grand Bay Declaration by calling on all member States to establish effective national human rights institutions. All these go to show the importance Africa, including Uganda should attach to the establishment or strengthening of human rights institutions as opposed to dismantling them.

### Margaret Sekaggya (Mrs)

Chairperson, Uganda Human Rights Commission

No. Date Venue

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# APPENDIX 02

## PRESS RELEASE ON THE WAR IN NORTHERN UGANDA

32 NOTICES

The New Vision, Monday, October 28, 2003



### UGANDA HUMAN RIGHTS COMMISSION

Plot 20/22/24 Buganda Road,  
Tel: 256 41 348006/8; 348014,  
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#### UGANDA HUMAN RIGHTS COMMISSION EXPRESSES GRAVE CONCERN ABOUT THE NORTHERN UGANDA

##### 1. Background

1.1. As a national human rights organisation with the constitutional mandate to monitor issues of human rights in Uganda, the Uganda Human Rights Commission now strongly believes that the war raging in the North of the country is the single and most challenging conflict Uganda has experienced since independence because of its protracted nature and the devastating human suffering, loss of life and destruction in the Northern Uganda. In addition, despite the war being confined to Northern Uganda, it has to a considerable degree had negative effects on the rest of the country.

1.2. For about the last 16 years the war in Northern Uganda has caused massive population displacements on account of thousands of people being terrorized and forced to flee for the lives many of whom settled in camps which themselves at times have not been secure. Due to the war the population of the internally displaced persons exceeds the number of refugees in Uganda by far. There are scattered displaced persons in the districts of Gulu, which has approximately 385,000, Kitgum 125,000 and Pader 70,000. Of recent, Lira and Apac have also been attacked by the LRA which attacks have also generated IDPs in those districts. There is evidence however, to point to the possibility that these displacement figures could have significantly increased after the start of the "Operation Iron Fist" which had one of its impacts as the dispersal of the LRA into the villages of Kitgum, Pader, Gulu, Lira and Apac districts.

##### 2. Expression of Concern

2.1 The UHRC wishes to associate with the people of Northern Uganda on the catastrophe befalling them and untold suffering they continue to bear arising out of this war. It further expresses grave concern and sadness at the current atrocities being meted on the residents of Gulu, Kitgum, Pader, Lira and Apac. It particularly notes with utmost concern the cruel and indiscriminate acts of the LRA against innocent civilians whom they continue to abduct, torture, kill and force into their ranks.

2.2 Our Constitution in Article 22, guarantees the right to life as fundamental. The Commission has therefore been gravely concerned and alarmed by reports from its Gulu Regional Office and electronic and print media reports of atrocities and most heinous war crimes and crimes against humanity being meted onto innocent civilians by the Lords Resistance Army (LRA). Since the beginning of this year, there have been over 700 deaths attributed to the LRA with such brutality as to turn the conscience of any human being. The Commission wishes to point out to the LRA that the shocking human rights violations it has been committing including killings, maiming, rape and other dehumanising acts akin to cannibalism cannot in any way be a legitimate method of prosecuting any war. The Commission condemns such acts in the most strongest terms.

##### 3. Government Intervention

3.1 The Commission has noted with appreciation the renewed commitment and action on the part of government to deal with the Northern war which is exemplified by no other fact that H.E. the President Yoweri Museveni has been overseeing the prosecution of the war himself and the extra commitment of more personnel and equipment. This new vigour however, have not at times been timely to save lives and property.

For example, for close to 2 months the LRA roamed and freely committed atrocities in parts of Lira, Apac and Pader districts without the protection of govern-

ment. That was the grave concern to the Commission on account of the grievous violations of human rights that went on. Government should be reminded that protection of the population is a primary responsibility of the State and to that end government should create the capacity to protect the people in areas threatened by the LRA.

3.2 The Commission also noted with concern that in its renewed commitment, soldiers committed violations of human rights. Reports reaching the Commission indicate that there have been cases of UPDF abuses ranging from extrajudicial killings, rape, unlawful detentions and imposition of undeclared curfews. Such acts do not further the interest of solving the war and should not only be eliminated but punished.

##### 4. Humanitarian Law

4.1 The Commission in passing wishes to emphasize the importance of observing humanitarian law in the Northern war. The prime aim of humanitarian law is to afford protection to the civilian population as a whole against attack (whether targeted or indiscriminate) and against acts of violence and abuse of all kinds. The horrific incidents and unedifying tactics being employed by the LRA clearly underscore the need for government to step up its vigilance and campaign to achieve sustainable peace in Northern Uganda. The Commission reminds the LRA that as an organisation with a fighting force, it is legally duty bound to respect humanitarian law. The following are some key areas of humanitarian law, which require attention especially as they seem to be ignored by the LRA and at times government forces.

- Civilians who do not take part in fighting should not be attacked or abused in anyway by the belligerents.
- Civilian objects should not be attacked.
- Prisoners of war, the wounded and the sick should never be killed.
- Killing, torture of all kinds is prohibited.
- Dehumanising or degrading treatment (e.g. rape, cannibalism or other outrages upon human dignity are prohibited).
- Destruction without military necessity is prohibited.

4.2 The Commission wishes to bring it to attention that international law criminalizes atrocities such as those being committed in Northern Uganda. Of particular note is the development of trends since the Nuremberg and Tokyo trials at which several individuals were successfully prosecuted for breach of fundamental norms of international humanitarian law, to the recent atrocities in Rwanda and Yugoslavia, which have seen the establishment of tribunals in which individuals have been prosecuted and found guilty of crimes against humanity. In realm of international law war crimes against civilians cannot be justified in whatever circumstance.

##### 5. Condemnation

5.1 The Commission wishes to reiterate its grave concerns about the violations of human rights which continue to visit the people of Northern Uganda as a consequence of the war there. The reality of this war is that it has challenged all principles of humanitarian law contained in the Geneva Convention of 1949 and of 1977. Additional Protocol which Uganda is a State Party and also applies to non-state actors like the LRA. In the light of this, the Commission condemns the irreparable loss and serious human rights violations being committed by the LRA in the name of fighting for a political cause. It also condemns acts of extrajudicial killings, unlawful detentions and unconstitutional conduct engaged by some UPDF soldiers in pursuit of the war against the LRA. Government has a

duty to act constitutionally at all times irrespective of the provocations and difficulties its agents are confronted with.

For example, the raiding of Gulu prison by the LRA to snatch legally detained prisoners causing death of a prisoner was highhanded. It cannot be justified by the reasons so far given by the army for that behaviour.

##### 6. Appeals

6.1 The Commission recognises the difficulties that the government faces in the fight against the LRA. The government has pursued two routes of ending the LRA- the use of force, and peace talks. The use of force has so far not succeeded in ending the war and has had the negative effect of increased atrocities and suffering by the people in the war zones. This however, is now the choice by the government on the ground that the LRA is not interested in peace. Other than abandoning the peace route is that the LRA has a political agenda and for that matter there is a need to talk to from the LRA as an organisation.

6.2 The Commission recognises that government, currently made efforts towards peaceful resolution of the war by instituting the amnesty law, establishing a peace committee and by allowing any and every party to make contact and negotiate with the LRA. All these efforts have not succeeded in ending the war. The Commission further notes that the human rights violations have hurt the sentiments and convictions of people who have been advocating that the war should be resolved through talks. Nevertheless, the Commission maintains its all time position that peace avenues in pursuit of peace should be explored to a defensible degree; it can be said that the current negotiations has never been pursued with a seriousness it deserves. It can be argued that the strategies for negotiation so far tried have been properly thought through and planned method in our view has not been pursued aggressively it deserves.

Our first appeal therefore is for government to completely close the door to possible negotiations. Even if it means negotiation with a faction or even multiple individuals that could save lives.

6.3 The second appeal goes to government to itself meaningfully to the humanitarian law by providing assistance and protection of internally displaced persons. There is now a draft policy on the matter, however, has not been discussed and approved by government. This should be approved and implemented.

6.4 The Commission calls upon the LRA to stop committing atrocities against civilians, stop killing, abducting and destroying property belonging to civilians. The LRA should also consider engaging in peace talks by making their demands for discussion with a view to ending the war.

6.5 Finally the Commission calls upon all Ugandans to see the war and the situation in Northern Uganda as a national problem, cooperate with all government agencies and support all efforts towards restoration of peace in Northern Uganda.

Robert Kirenga  
Senior Human Rights Officer/Aq. Public Relations  
UGANDA HUMAN RIGHTS COMMISSION





## UGANDA HUMAN RIGHTS COMMISSION

### PRESS STATEMENT ON LRA INCURSION IN TESO



The Lords Resistance Army (LRA) of the Teso region through Katakwi districts of Soroti and They have caused mayhem and perpetuate atrocities on the innocent population in utter violation of human rights methods of conducting warfare.

These activities, hundreds of civilians are being killed in horrific ways; mainly children, have been abducted; including homesteads, foodstuffs and livestock. Hundreds of thousands of people their homes to seek relative safety in Katakwi and other places in Katakwi, Soroti and Kumi.

Over 250,000 people have reportedly been displaced. The greater numbers of internally displaced persons (IDPs) are found in Soroti currently hosting about 120,000 people also another 104,000 in Katakwi districts of Soroti and Kumi.

Internally displaced persons are faced with humanitarian problems, which include shortage of food, water, accommodation, health facilities and lack of drugs. Many students are unable to attend primary, 'O' and

levels are not at school.

#### Expression of concern

The Uganda Human Rights Commission (UHRC) wishes to identify itself with the people of Teso in this catastrophe imposed on them by LRA rebels, at this time when they have been striving to rebuild their lives, after the insurgency led Uganda People's Army (UPA). UHRC is particularly concerned at the atrocities being meted out to the people by the LRA and is appalled by the deliberate cruel, inhuman and degrading acts by LRA targeting defenceless civilians especially the vulnerable, whom they continue to torture, rape, kill, abduct and force into their ranks.

The Constitution of Uganda guarantees the right to life and security as fundamental. The Commission is therefore alarmed by reports of its Soroti Regional Office and the media about the atrocities and the most heinous types of war crimes against humanity being meted out to innocent civilians by the LRA. The Commission notes with deep concern and condemnation the methods employed by the LRA of horrific killings, maiming and other terrorist tendencies, and strongly condemn such barbaric acts. What ever the cause of the conflict may be, there is no reason for such inhuman and most primitive behaviour on one man by another in this millennium.

#### Government intervention

The Uganda Peoples Defence Forces and Arrow

Group in Teso are committed to restoring normalcy in Teso region. The Government's commitment in this endeavour is underlined by H.E. the President's decision to pitch camp in the region and oversee the war like he is also doing in the north. Provision of total security to the people of Uganda is a constitutional obligation and responsibility of Government. More human and financial resources need to be committed to ensure realisation of safety and protection of lives and property of the citizens. We believe the UPDF is capable of flushing the rebels not only out of Teso region but also in Northern Uganda so that people there can begin to enjoy peace that prevails in other parts of the country. The sooner this happens, the better for the people of this country.

In order to prevent a humanitarian catastrophe, the Commission urges relevant Government Departments and Humanitarian Agencies to step up their mobilisation efforts for more humanitarian relief to alleviate the acute suffering of the internally displaced people.

Ultimately, the solution lies in restoring peace in Northern and North Eastern Uganda.

Justus Muhanguzi  
Ag. Public Relations Officer,  
Uganda Human Rights Commission.

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# APPENDIX 04

## PUBLIC OUTREACH CALENDAR – MAJOR SEMINARS, WORKSHOPS, PRESENTATIONS, AND LECTURES

Forum	Topic representative	UHRC		
1.	13/01/03 19/01/03	Geneva	Anti Racism Information Service Workshop	Alternative Report Drafting on the Convention on the Elimination of Racial Discrimination Mr. S. Ossiya
2.	19/01/03	Teso	Presentation, Radio Talk Show	Presentation on the Concept of Human Rights, Voice of Teso Talk Show Mr. B. Mugisho SRO
3.	21/01/03	Ministry of Labour, Gender and Social Dev't, Kampala	Seminar	National Policy on Culture Comm. J.M. Waliggo
4.	22/01/03	Lwadda Primary School, Wakiso District	Paper Presentation - Human Rights Workshop	The Role of Local Leaders in the Promotion and Protection of Human Rights Mrs. D. Kabu
5.	22/01/03	Gombe, Wakiso	Paper Presentation	"The Role of Local Leaders in the Promotion and Protection of Human Rights" Mrs. D. Kabu
6.	22/01/03 to 24/01/03	Nile Resort Hotel, Jinja	National Seminar	Are Uganda's PEAP, PMA and Draft Food and Nutritional Policy Consistent with the Right to Food Principles? Comm. Aliro Omara
7.	24/01/03	Namatana Primary School, Mbale District	Paper Presentation & Senior Police Officers Workshop	Human Rights and Uganda Police Force: Their Protection and Promotion Mrs. D. Kabu
8.	22/01/03 to 24/01/03	Nile Resort Hotel, Jinja	Presentation, Ministry of Agriculture, UHRC, & Makerere University National Seminar	Implementation of the Right to Adequate Food for the International Project on the Right to Food and Development (IPRFD) Comm. V.E. Bichetero
9.	22/01/03 to 24/01/03	Nile Resort Hotel, Jinja	Officiating/ Ministry of Agriculture, UHRC, & Makerere University National Seminar	The Implementation of the Right to Food for the International Project on the Right to Food and Development (IPRFD) Chairperson Mrs. M. Seka
10.	28/01/03	UNAFRI Secretariat, Naguru, Kampala	Workshop	Trafficking in Women and Children Investigation Officer
11.	30/01/03	Femrite, Kampala	Book Launch	Launching the book entitled, "Tears of Hope, Rural Women Stories" Comm. J.M. Waliggo
12.	04/02/03 07/02/03	Abuja, Nigeria	World Bank, Nigerian Judiciary Conference	The Role of Law Administration of Justice and Respect of Human Rights in the Promotion of Development in Africa Comm. Aliro Omara
13.	06/02/03	07/02/03	Mbale District	UHRC/CSO Workshop Peace Building in Karamoja Mr. N. Byarna
14.	07/02/03 to 12/02/03	Kabale, Kanungu, Rukungiri, & Rakai	Workshops	Human Rights Comm. M. Wangadya

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	Date	Venue	Forum	Topic representative	UHRC
	13/02/03	Soroti Regional Office	Facilitation, Regional Workshop	People Living with HIV/AIDS	SRO Staff Commissioners: V.E. Bichetero Mrs. D. Kabuye Mr. R. Kirenga Mr. F. Kayiso Mr. J. Muhanguzi Ms. R. Kernigisa
Mr. S. Ossiy...	13/02/03	Soroti Regional Office	Paper Presentation, Regional Workshop	Respect and Defence of the Human Rights and Freedoms of People Living with HIV/AIDS: A Responsibility for All	Comm. J.M. Waliggo
Mr. B. Mugisha SRO	13/02/03	Soroti Regional Office	Paper Presentation, UHRC, UNICEF, & UNDP Workshop	AIDS Awareness	Comm. V.E. Bichetero
Comm. J.M. Waliggo	14/02/03	Pan African Club, Kamwokya	Paper Presentation	Is Homosexuality a Human Right?	Mr. Nathan Byamukama
Mrs. D. Kabuye	13/02/03 14/02/03	Soroti District	Workshop for People Living with HIV/AIDS	Human Rights Sensitisation	Mrs. D. Kabuye
Mrs. D. Kabuye	13/02/03 14/02/03	Soroti Regional Office (SRO)	HIV/AIDS Workshop	Persons Living with AIDS (PWAs)	Comm. J.M. Waliggo Comm. V.E. Bichetero HRO - Soroti
Comm. Aliro Omara	21. 16/02/03	Busia	Paper Presentation at a Women's Councillors Meeting	The Possible Impact of the Domestic Relations Bill - Rights and Obligations of Women	Ms. R. Musoke
Mrs. D. Kabuye	22. 16/02/03 to 20/02/03	Kampala District	Youth Workshops	Constitution and the Youth	Education, Research & Training Depart Staff
Comm. V.E. Bichetero	23. 20/02/03	Mbale Sports Club, Mbale	Presentation, Mbale Civil Society Network Stakeholders Workshop	The Rights and Laws of Civil Society Organisations and Local Governments in the Development Process Under the 1995 Constitution	Mr. Bernard Mugisha
Chairperson Mrs. M. Sek...	24. 17/02/03 to 21/02/03	Arua District	International Conference	Small Arms Proliferation	Comm. Aliro Omara
Investigation Officer	25. 19/02/03 to 21/02/03	Sembabule District	Workshop for Non-Commissioned Officers	Community Policing and Human Rights	Regional Office Staff
Comm. J.M. Waliggo	26. 23/02/03	Hotel Equatoria, Kampala	Paper Presentation/Workshop	Leadership, Peace, Justice, and Development	Mr. N. Byamukama Mr. Robert Kirenga
Comm. Aliro Omara	27. 24/02/03	Action Aid Uganda, FHRI & Danida	National Workshop	Review of the Draft of IDP Assistance and Protection Policy	Monitoring & Treaties Department Staff
Mr. N. Byam...	28. 25/02/03	UHRC Boardroom, Kampala	Workshop	Civic Education	Comm. J. M. Waliggo
Comm. M. Wangadya	29. 25/02/03 to 27/02/03	Grand Imperial Hotel, Kampala	UHRC & The British Council Workshop-Paper Presentation	Experience of Public Hearings on the Rights of Persons with Disabilities	Comm. Aliro Omara
	30. 25/02/03 to 27/02/03	Grand Imperial Hotel, Kampala	UHRC & The British Council Workshop-Paper Presentation	General Overview: Formal Hearings in National Human Rights Institutions	Mr. N. Byamukama



No.	Date	Venue	Forum	Topic representative	UHRC
31.	25/02/03 to 27/02/03	Grand Imperial Hotel, Kampala	UHRC & the British Council, International Workshop	Public Inquiries and Formal Hearing	Ms. E. Edroma
32.	27/02/03	Mbarara	Presentation, Radio Talk Show	How to Lodge a Complaint and how a Complaint is Handled	Mr. A. Beingana
33.	01/03/03	Lubaga & Kawempe Division HQs, Kampala	Kampala District Divisional Workshop	Women's Consultation on Constitutional Education	Comm. J. M. Waliggo
34.	01/03/03	Makindye Division, Kampala	Presentation, Women Leaders Workshop	Preparation of a Memorandum to Constitutional Review Commission by Women Members of Parliament	Comm. M. Wangadya
35.	01/03/03	Lubaga Division, Kampala	Presentation, Women Leaders & Councillors Seminar	Issues to present to Constitutional Review Commission	Chairperson Mrs. M. Sekaggya
36.	01/02/03 02/03/03	Wera Rural Youth Centre, Katakwi	Facilitation, IDPs Workshop by HRDP (Danida)	A Discussion of the Revised Version of the IDPs Draft Policy (Prime Minister's Office)	Mr. B. Mugisha Mr. S. Ossiya
37.	10/03/03	Radio One Studio, Kampala	Radio Talk Show-Spectrum	Presentation on Women's Rights	Mr. W. Asimwe
38.	14/03/03	International Conference Centre, Kampala	Paper Presentation, Workshop	Understanding the Concept of a Human Rights Based Approach to Development	Mr. N. Byamukama
39.	14/03/03	New York	Paper Presentation	Constitution Making	Comm. J.M. Waliggo
40.	14/03/03	-	Seminar	Human Rights work in Uganda: Beyond Workshops	Mr. Robert Kirenga
41.	15/03/03	Hotel Africana, Kampala	Publication Launch	Launch of the "War of Words Publication" by the Acholi Religious Leaders Peace Initiative	Chairperson Mrs. M. Sekaggya
42.	18/03/03	Kibaale District	Training Workshop	Human Rights Training for Police Officers and Local Administrative Officers	Comm. Aliro Omara
43.	18/03/03	Kabaale District	Presentation, Radio Talk Show	The Function and Powers of the Commission	Mr. A Beingana Mr. F. Katendeko
44.	19/03/03	-	Paper Presentation	Monitoring the Implementation of the Right to Adequate Food in Uganda	Mr. N. Byamukama
45.	19/03/03	Bamako,	Mali	Presentation, Right to Food Monitoring the Implementation of the Right to Food in Uganda: A Case of the UHRC	Mr. N. Byamukama
46.	19/03/03 to 21/03/03	Kalangala District	Paper Presentation - Police Training Programme	International Minimum Standards on the Treatment of Suspects: Community Policing and Human Rights	Comm. V.E. Bichetero
47.	19/03/03 to 21/03/03	Kalangala District	Presentation, Training Workshop	Community Policing and Human Rights: The International Minimum Standards on Treatment of Suspects	Comm. V.E. Bichetero
48.	21/03/03 22/03/03	Kisoro District	Non-Commissioned Police & Prison Officers Workshop	Human Rights	Comm. A Omara Ms. S. Nakhumitsa Ms. A. Nahabo



No.	Date	Venue	Forum	Topic representative	UHRC
49.	25/03/03	International Conference Centre, Kampala	3rd Medical Women's International Association (MWIA) Regional Conference	Engendering Health: Health and Human Rights	Chairperson Mrs. M. Sekaggya
50.	28/03/03	Mwana Highway Hotel, Iganga	NGO/CBOs Consultative Workshop	Representation of NGOs/CBOs Operating in Iganga and Jinja District	Ms. Rachel Odoi (HRO-Jinja)
51.	24/03/03 to 30/03/03	Eldoret, Kenya	Lecture	Inculturation	Comm. J.M. Waliggo
52.	02/04/03	Botanical Beach Hotel, Entebbe	Inception Workshop for Stakeholders	The UN Volunteer Support to the Promotion of Human Rights	Ms. R. Kernigisha ER&T Depart Staff
53.	02/04/03	Botanical Beach Hotel, Entebbe	UNDP/UNV Workshop	Inception of the UNDP/UNV Support Project to the Promotion of Human Rights in Uganda	Chairperson Mrs. M. Sekaggya
54.	02/04/03	St. Francis S.S. School, Nyenga	Sensitisation Workshop	Human Rights Sensitisation to Students of Senior 4, 5, and 6	Ms. Rachel Odoi (HRO- Jinja)
55.	24/03/03 to 04/04/03	New York	The United States Institute of Peace Conference	Constitution Making, Peace Building, and National Reconciliation	Comm. J.M. Waliggo
56.	04/04/03	Hotel Africana, Kampala	Presentation/ Consultative Constitutional Review Workshop	Dual Citizenship and the Age of Majority	Ms. E. Edroma
57.	08/04/03	Imperial Botanical Beach Hotel, Entebbe	Legal Aid Practitioners Seminar	Access to Justice for All	Ms. E. Edroma
58.	09/04/03	Hotel Africana, Kampala	UHRC Annual Report Launch	Presentation of the UHRC 2001-2002 Annual Report to the Speaker of Parliament	Chairperson Mrs. M. Sekaggya
59.	17/04/03	Grand Imperial Hotel, Kampala	Members of Parliament Workshop	The On-Coming Convention on the Rights and Dignity of People with Disability	Comm. V.E. Bichetero
60.	30/04/03	Uganda Debt Network	Paper Presentation/ National Dialogue on Workers	The Criteria for a Just Wage System in Uganda	Comm. J.M. Waliggo
61.	08/05/03	Kigali, Rwanda	Human Rights Ministerial Meeting & Paper Presentation	Strategies for Enhancing the Promotion and Protection of Human Rights in Africa	Chairperson Mrs. M. Sekaggya
62.	09/05/03	-	Northern Region Dialogue Workshop	Human Rights Perspective of the Conflict in Northern Uganda	Comm. C.K. Karusoke
63.	16/05/03	Speke Hotel, Kampala	UHRC & OPM Workshop	The Internally Displaced Persons (IDPs) Policy	Staff, Monitoring & Treaties Department
64.	22/05/03	Mothers' Union Hall, Namirembe	A Human Rights Training Workshop & Paper Presentation	Human Rights and the Local Leaders: Monitoring Human Rights Violations	Mrs. Dorah Kabuye Mr. Robert Kirenga
65.	27/05/03 to 28/05/03	-	Presentation, Government Contracts, & Contractual Obligations Workshop	The Violation of Human Rights by Government Agents	Chairperson Mrs. M. Sekaggya



No.	Date	Venue	Forum	Topic representative	UHRC
66.	29/05/03 30/05/03	Hotel Africana, Kampala	Monitoring & Treaties Department Workshop	Adopting a Rights Based Approach to Development	Chairperson Mrs. M. Sekaggya
67.	29/05/03 30/05/03	Hotel Africana, Kampala	Stakeholders Workshop	A Human Rights Based Approach in Developing Planning	Staff, Monitoring & Treaties Department
68.	04/06/03	New York	Conference	Constitution Making, Peace Building and National Reconciliation	Comm. J.M. Waliggo
69.	04/06/03	-	Justice, Law and Order Sector Conference	A Human Rights Based Approach to the Justice, Law and Order Sector	Chairperson Mrs. M. Sekaggya
70.	04/06/03	-	Paper Presentation at Justice, Law and Order Sector Conference	A Human Rights Based Approach to the Justice, Law and Order Sector	Chairperson Mrs. M. Sekaggya
71.	05/06/03 06/06/03	Speke Resort & Country Lodge, Munyonyo, Kampala	International Workshop for African National Human Rights Institutions	Promoting the Rights of People with Disabilities: Towards a New UN Convention	Mr. N. Byamukama
72.	10/06/03	Entebbe Botanical Resort Hotel, Entebbe	Paper Presentation/ Legal Aid Practitioners Seminar	Human Right, Regional and International Conventions and Standards	Chairperson Mrs. M. Sekaggya
73.	14/08/03	Hotel Equatoria, Kampala	Officiating, HRBAD Workshop	Introduction of the Human Rights Based Approach (HRBAD) to Policy Makers: Health Education, Finance, Justice, Agriculture, Gender, Works & Housing etc.	Chairperson
74.	14/08/03	Hotel Equatoria, Kampala	HRBAD, Policy Makers Workshop & Paper Presentation	Understanding the Rights Based Approach	Comm. Aliro Omara
75.	14/08/03	Hotel Equatoria, Kampala	HRBAD, Policy Makers Workshop & Paper Presentation	Integrating the Human Rights Based Approach in Policy Making: Case Study of the PEAP	Mr. N. Byamukama
76.	14/08/03	Hotel Equatoria, Kampala	HRBAD, Policy Makers Workshop & Paper Presentation	Key Players in applying the Human Rights Based Approach and the Role of the UHRC	Mr. Hudson Anika
77.	26/08/03	St Mary's College, Kisubi, Kampala	Presentation & Training Workshop	Human Rights, Roles and Responsibilities of Students and the Steps being taken by the Government in the Promotion and Protection of Human Rights in Uganda	Ms. Rose Mary Kernigisha Mr. Kamadi Byonabye (ER&T Department)
78.	27/08/03	Hotel Equatoria, Kampala	EASSI, Public Dialogue	Women's Land Rights in the Era of the HIV/AIDS Pandemic	Ms. Patricia Achon
79.	30/08/03	Khartoum, Sudan	Conference	Internal Displacement in IGAD Region	Comm. Aliro Omara
80.	01/09/03	Makerere University Institute of Public Health, Mulago	Lecture & Presentation	Uganda Human Rights Commission and the Struggle Against HIV/AIDS	Mr. N. Byamukama
81.	02/09/03	Hotel Equatoria, Kampala	Uganda Debt Network Seminar	Global Governance	Ms. Patricia Achon
82.	05/09/03	Hotel Equatoria, Kampala	Workshop Presiding	Rights Based Approach to Development for Lawyers	Chairperson Mrs. M. Sekaggya



No.	Date	Venue	Forum	Topic representative	UHRC
83.	05/09/03	Hotel Equatoria, Kampala	Workshop	The Rights Based Approach to Development for Lawyers	Chairperson Mrs. M. Sekaggya
84.	05/09/03	Hotel Equatoria, Kampala	Workshop	Human Rights Based Approach to Development for Lawyers	Staff, Monitoring & Treaties Department
85.	05/09/03	Hotel Equatoria, Kampala	Paper Presentation	Human Rights Based Approach to Policy Making: A Case of Pillar Two of PEAP	Mr. N. Byamukama
86.	05/09/03	Hotel Equatoria, Kampala	Paper Presentation	Lawyers as Stakeholders in the Human Rights Based Approach	Mr. Hudson Anika
87.	06/09/03	Kabira Country Club, Kampala	Fundraising Drive, Sanyu FM 2000	Fundraising Drive for Building of SOS Children's Home in Gulu	Entire Commission: Chairperson Mrs. M. Sekaggya Commissioners Senior staff Support staff
88.	09/09/03	Fort Portal	HIV/AIDS Workshop	Rights and Freedoms of People Living with HIV/AIDS: A Responsibility for All	Staff, Education, Research & Training Department
89.	09/09/03	Hotel Africana, Kampala	Paper Discussion, Always Be Tolerant (ABETO) Workshop	Terrorism, Peace, and Conflict	Chairperson Mrs. M. Sekaggya
90.	09/09/03 to 11/09/03	Fort Portal	Presentation, HIV/AIDS Workshop	Rights of Persons Living with HIV/AIDS	Comm. Aliro Omara
91.	12/09/03 to 15/09/03	Bundibugyo & Kabarole	Paper Presentation, UN Volunteers' Workshop	Uganda Human Rights Scenario and Challenges	Comm. C.K. Karusoke
92.	18/09/03	International Conference Centre, Kampala	Officiating, Employers' & Employees' Rights Workshop	The Rights of Employers and Rights of Employees	Chairperson Mrs. M. Sekaggya
93.	15/09/03	Radio Uganda Studio	Radio Talk Show, Radio Uganda News Hour Programme	Her Opinion of the Death Penalty and Her Role as Commissioner in Charge of the Legal and Tribunal Department	Comm. M. Wangadya
94.	18/09/03	International Conference Centre, Kampala	Facilitation, Employers' & Employees' Rights Workshop	Human Rights at Work: An Obligation for Employers and Employees	Staff, Education, Research & Training Department
95.	18/09/03	International Conference Centre, Kampala	Presiding, Employers' & Employees' Rights Workshop	Human Rights at Work: An Obligation for Employers and Employees	Chairperson Mrs. M. Sekaggya
96.	18/09/03	International Conference Centre, Kampala	Presentation, Employers' & Employees' Rights Workshop	The Right to Work and Rights at Work; Meaning and Challenges	Comm. J.M. Waliggo
97.	19/09/03	International Conference Centre, Kampala	Presentation, Employers' & Employees' Rights Workshop	Monitoring Uganda's Compliance with Workers' and Employers' Rights; What is Expected of Government	Mr. N. Byamukama
98.	20/09/03	Pelican Hotel, Mbarara	Officiating, Journalist Training Workshop	Human Rights and Democracy	Comm. M. Wangadya



No.	Venue	Topic representative
99.	Radio Uganda Studio	Judicial Legislative and Executive Powers of Local Councils and the Possible Amendments of the Local Gov't Act
100.		Disarmament Programme in Karamoja, Civil Military Centres in Karamoja and the Commission's Activities in Karamoja
101.	Addis Ababa, Ethiopia	Working with Partners: The African Commission on Human and People's Rights Relationship with National Human Rights Institutions
102.	Pelikan Hotel, Mbarara	Prisons Management: The Rights Based Approach, A General Overview
103.	Pelikan Hotel, Mbarara	Guidelines on Applying the Rights Based Approach to Prisons Management; Monitoring, Evaluation, and Reporting on Human Rights in Prisons
104.	Hotel Africana, Kampala	Constitutionalism and Multiparty Governance in Uganda
105.	Hotel Africana, Kampala	Politico-Religious Groups and Other Pressure Groups in Uganda: 1880s -1950s Lessons for the Future
106.	Hotel Africana, Kampala	Formation and Impact of Political Parties in the 1950s and Early 1960 Prior to Independence Lessons for Democracy
107.	International Conference Center, Kampala	Prayers for Peace and Non-Violence in Honour of Dr. Sergio Viera de mello, Former UN High Commissioner for Human Rights





# APPENDIX 05

## UHRC IN THE PRESS

### MONITOR

No.	Date of reporting	Title of article
1.	07 Oct 2002	Young MPs Steal Human Rights Job
2.	09 Oct 2002	MPs want Ministers Censored
3.	10 Oct 2002	UHRC Brief by Commissioner Wangadya
4.	15 Oct 2002	Legal & Tribunal Cause List
5.	29 Oct 2002	Press Release: Uganda Human Rights Concern about Northern War
6.	07 Nov 2002	Job Vacancy Advert
7.	10 Nov 2002	Law on sex work coming
8.	12 Nov 2002	UHRC term expires
9.	18 Nov 2002	Commission term expires
10.	29 Nov 2002	Museveni reappoints Sekaggya
11.	01 Dec 2002	Commemoration of World Aids day
12.	10 Dec 2002	Commemoration of Human Rights day
13.	24 Dec 2002	Brig. Kaihura defends UPDF rights record
14.	14 Jan 2003	UHRC got 800 cases in 2002
15.	24 Feb 2003	Photograph of chairperson and Archbishop of Uganda, Wamala E
16.	08 Mar 2003	CMI, ISO cited in rights abuse
17.	08 Mar 2003	Celebration of International Women's day
18.	12 Mar 2003	Gov't. must act on CMI, ISO now - Sekaggya
19.	14 Mar 2003	Letter: Human Rights body too slow
20.	17 Mar 2003	Photo: Chairperson launching booklet on peace in N. Uganda
21.	03 Apr 2003	Torture victim to get Shs.22m
22.	12 Apr 2003	Torture victim gets shs 30m
23.	13 Apr 2003	Gen Ali intervenes over defilement case
24.	23 Apr 2003	UHRC protests funding
25.	23 Apr 2003	Sekaggya lobbies for rights bodies
26.	23 Apr 2003	UHRC protests funding
27.	09 May 2003	UPDF blocks rights body
28.	11 May 2003	Rights body calls for a cease fire
29.	12 May 2003	Editorial: What is the UPDF hiding
30.	09 June 2003	PWD want slots on Commission
31.	22 June 2003	Police warned on torture
32.	26 June 2003	Human Rights body awards Shs. 19M
33.	01 July 2003	Rights Commissioners appointed
34.	06 July 2003	Kenyans praise Uganda Police
35.	14 July 2003	We are serious, AG warned
36.	16 July 2003	Stop engaging children in war
37.	20 July 2003	Amin goes in coma
38.	21 July 2003	Amin's wife rushes to S. Arabia
39.	22 July 2003	HRC not involved
40.	30 July 2003	Human Rights Review
41.	01 Aug 2003	Tribunal Cause List August 2003
42.	05 Aug 2003	Byamukama wants to beat me



43. 06 Oct 2003 Tribunal Cause List August 2003
44. 07 Aug 2003 Wesonga Awarded U Shs33m
45. 07 Aug 2003 Entebbe Crooks get community service
46. 10 Aug 2003 Torture Victims Wife tells ordeal
47. 14 Aug 2003 Sex allegations rock Christian charity
48. 14 Aug 2003 Letter: Rights commission should help me out
49. 21 Aug 2003 No Complaints about Odida
50. 26 Aug 2003 May God Bless Amin's Soul
51. 01 Sept 2003 Press statement: LRA incursion in Teso
52. 01 Sept 2003 Tribunal Cause List for the month of September 2003
53. 01 Sept 2003 Press statement on the LRA incursion in Teso
54. 06 Sept 2003 Mengo Hospital to pay for torture
55. 19 Sept 2003 A tortured Achen shows her scars
56. 20 Sept 2003 Tribunal throws out government request
57. 21 Sept 2003 Ugandans have a right to peace
58. 24 Sept 2003 Cabinet approves president for life
59. 25 Sept 2003 Nabisunsa donates to the Displaced
60. 01 Oct 2003 Prison Official backs inmates
61. 01 Oct 2003 Tribunal Cause List for the month of September 2003
62. 02 Oct 2003 Prisons warned on rights abuse
63. 05 Oct 2003 UPDF accused of torturing ex-captives
64. 06 Oct 2003 Gays threaten to form party
65. 06 Oct 2003 Press Release
66. 07 Oct 2003 Wake the House before it's too late
67. 08 Oct 2003 Constitutional day Supplement
68. 08 Oct 2003 Tortured by LDU
69. 18 Oct 2003 Opposition welcomes govt. dialogue
70. 18 Oct 2003 Rights body says 'no' to third term
71. 21 Oct 2003 Human Rights are a priority
72. 29 Oct 2003 LRA war blamed on lack of free press
73. 01 Nov 2003 Police plead with detainee
74. 04 Nov 2003 Tribunal cause list for November
75. 08 Nov 2003 Photo: Former Minister Foreign affairs Mr. Eriya Kategaya addresses  
participants at a seminar, the Chair person UHRC looks on
76. 09 Nov 2003 Does govt. have endless torture fund
77. 11 Nov 2003 Do not forget govt. Plans for constitution
78. 12 Nov 2003 Talk to Kony UK tells govt.
79. 12 Nov 2003 No turning back for Museveni Pals
80. 13 Nov 2003 Museveni Colleagues at point of no return
81. 19 Nov 2003 Eating Museveni's mustered seed at Atlanta break fast
82. 21 Nov 2003 LDUs sued for Torture
83. 28 Nov 2003 Woman awarded 22 millions in Torture compensation
84. 28 Nov 2003 Rights body is example of fundamental change
85. 01 Dec 2003 UHRC World Aids Day Supplement
86. 01 Dec 2003 EU opposes plan to kill rights body



**NEW VISION**

<b>No.</b>	<b>Date of reporting</b>	<b>Title of article</b>
1.	10 Oct 2002	Summons out for Kategaya, Amama
2.	11 Oct 2002	7th Constitutional Day Celebration
3.	17 Oct 2002	UHRC wants Access to Barracks
4.	23 Oct 2002	Women 's rights only lip service
5.	23 Oct 2002	Ugandans should know their rights
6.	28 Oct 2002	UHRC concern about Northern Uganda
7.	29 Oct 2002	Decriminalize Media Laws
8.	02 Nov 2002	Prisons supplied with chicken feed for maize flour
9.	09 Nov 2002	Food Probed
10.	11 Nov 2002	Saleh asked
11.	03 Dec 2002	Rights Commission re-appointed
12.	03 Dec 2002	School boy drags police man
13.	03 Dec 2002	UHRC to monitor prisons
14.	10 Dec 2002	<i>Human Rights body advises Moroto LDU's</i>
15.	11 Dec 2002	Human Rights Day Celebrations "Are we any better on rights?"
16.	16 Dec 2002	Change Law says UHRC
17.	30 Dec 2002	Photo captioned "UPDF training in UHRC"
18.	23 Jan 2003	Implementation of the right to food
19.	16 Feb 2003	Don't shun HIV patients Waliggo
20.	16 Feb 2003	Soroti Aids Workshop
21.	22 Feb 2003	NSSF urged
22.	25 Feb 2003	Op Wembley Irks rights body
23.	25 Feb 2003	Violence blamed on old African cultures
24.	27 Feb 2003	Sekaggya decries
25.	03 Mar 2003	Photo of chairperson and family
26.	11 Mar 2003	<i>Letter: Bravo Human Rights Commission</i>
27.	25 Mar 2003	K'jong to fail to use Shs. 600m
28.	28 Mar 2003	Letter: Public Smoking
29.	10 Apr 2003	Photograph of Chairperson
30.	12 Apr 2003	Impotent torture victim gets Shs 32m
31.	23 Apr 2003	Photo: Commissioner Adrian Sibbo and Veronica Bichetero before parliament
32.	24 Apr 2003	Promote rights bodies
33.	25 Apr 2003	UHRC swears in
34.	25 Apr 2003	UHRC swears in
35.	26 Apr 2003	Schools close over Pokot attack
36.	30 Apr 2003	Odoki Urges
37.	03 May 2003	Teach K'jong
38.	06 May 2003	Debate UHRC report, MPs told
39.	07 May 2003	Merge Commissions Ps
40.	10 May 2003	UHRC bitter
41.	12 May 2003	Cease fire UHRC tells govt, Kony
42.	24 May 2003	Impotent man to face UHRC
43.	05 June 2003	Does H R have a PRO
44.	20 June 2003	No Change



45. 23 June 2003 Know your rights
46. 01 July 2003 Train security Agents – Sekaggya
47. 02 July 2003 They said it
48. 04 July 2003 New drive to disarm K'jong coming
49. 06 July 2003 Cops hailed
50. 08 July 2003 Rights body advices
51. 14 July 2003 UHRC should go to the people
52. 17 July 2003 Kigo inmates tortured UHRC
53. 17 July 2003 Karimojong warriors acquire more guns
54. 29 July 2003 We didn't say there's torture in Kigo
55. 29 July 2003 The regulatory work of UHRC
56. 29 July 2003 Reasons for UHRC establishment
57. 04 Aug 2003 Out reach programmes to all Uganda
58. 04 Aug 2003 Tribunal Cause List July 2003
59. 07 Aug 2003 Pay Disparities irks DPP
60. 08 Aug 2003 Wesonga Awarded U Shs33m
61. 22 Aug 2003 No state benefits for Amin's family
62. 22 Aug 2003 No state benefits for Amin's family
63. 29 Aug 2003 Cabinet rejects plan to reduce parliament
64. 01 Sept 2003 Press statement on the LRA incursion in Teso
65. 01 Sept 2003 Tribunal Cause List for the month of September 2003
66. 04 Sept 2003 Sh. 6b for Civic Education
67. 08 Sept 2003 HR officer supports Grade II Courts
68. 10 Sept 2003 US favours Kony talks
69. 13 Sept 2003 UHRC orders hospital to pay torture victim
70. 21 Sept 2003 Ugandans have a right to peace
71. 22 Sept 2003 Commission rejects merger
72. 23 Sept 2003 Museveni delaying minimum wage-MP
73. 23 Sept 2003 Rights body not happy
74. 24 Sept 2003 Cabinet presents proposals
75. 30 Sept 2003 Activists want UHRC to stay
76. 30 Sept 2003 RDC says
77. 30 Sept 2003 Union tipped
78. 01 Oct 2003 UHRC guides on rights
79. 01 Oct 2003 98%wives raped
80. 02 Oct 2003 *Tribunal Cause List for the month of October 2003*
81. 04 Oct 2003 Anti-Kony resources
82. 04 Oct 2003 CMI denies execution
83. 06 Oct 2003 Waligo advices politicians
84. 06 Oct 2003 Cabinet proposals subject to debate
85. 08 Oct 2003 Ayume ordered to file defence
86. 08 Oct 2003 Impotent Torture victim gets Sh.22m
87. 08 Oct 2003 Constitutional day supplement
88. 09 Oct 2003 Is UHRC really a burden to the tax payer
89. 11 Oct 2003 UHRC Condemns Kony
90. 13 Oct 2003 Rights body corrupt
91. 14 Oct 2003 Officer called
92. 14 Oct 2003 UN oppose proposal to scrape rights body



- |      |             |  |
|------|-------------|--|
| 93.  | 14 Oct 2003 | University don opposes scraping of UHRC  |
| 94.  | 15 Oct 2003 | Press Statement  |
| 95.  | 15 Oct 2003 | Why UHRC must Stay   |
| 96.  | 16 Oct 2003 | Human Rights body summons Luwero   |
| 97.  | 16 Oct 2003 | We are not at cross purposes with the IGG as reported                              |
| 98.  | 18 Oct 2003 | Parties team named   |
| 99.  | 18 Oct 2003 | Lawyers root for UHRC  |
| 100. | 21 Oct 2003 | Activists plead for rights body  |
| 101. | 21 Oct 2003 | Photo: Commissioner Constantine Karusoke interviewing internally displaced persons |
| 102. | 22 Oct 2003 | We don't get that much at UHRC   |
| 103. | 26 Oct 2003 | Kanungu report names ex-RDCs   |
| 104. | 27 Oct 2003 | Why teach Human Rights   |
| 105. | 29 Oct 2003 | Supplement on the high lights of the Commission's<br>Annual Report 2001-2002       |
| 106. | 03 Nov 2003 | Tribunal cause list for November.  |
| 107. | 03 Nov 2003 | KCC to launch safety project   |
| 108. | 07 Nov 2003 | Is there a stalemate in Uganda's politics  |
| 109. | 08 Nov 2003 | Kategaya insists on Museveni -retiring   |
| 110. | 08 Nov 2003 | British envoy pleads for rights body   |
| 111. | 08 Nov 2003 | Rights Office in Teso  |
| 112. | 16 Nov 2003 | Cops flee over rights violation  |
| 113. | 19 Nov 2003 | Is the secretary to the treasury above the law                                     |
| 114. | 19 Nov 2003 | Job announcement   |
| 115. | 22 Nov 2003 | Mps skip workshop  |
| 116. | 24 Nov 2003 | UHRC plea on poverty   |
| 117. | 25 Nov 2003 | Government pays 36M  |
| 118. | 27 Nov 2003 | Woman awarded 22 M   |
| 119. | 29 Nov 2003 | Security Alert   |
| 120. | 01 Dec 2003 | Katojo Prison ACP failed to rescue inmates from ADF-UHRC                           |
| 121. | 01 Dec 2003 | Aids Day Supplement  |
| 122. | 03 Dec 2003 | Police, CMI top Torture list   |



## APPENDIX 06

### UHRC GENERAL ESTABLISHMENT AND DEPLOYMENT AS OF DECEMBER 2003

#### The Commission

- |                               |   |  |
|-------------------------------|---|--|
| 1. Mrs Margaret Sekaggya      | - | Chairperson  |
| 2. Mr. Adrian M. Sibbo        | - | Commissioner i/c Finance and, Administration<br>Department and Eastern Regional Office (Jinja)       |
| 3. Prof. Rev. Fr. J.M Waliggo | - | Commissioner i/c Education, Research and Training<br>Department and Eastern Regional Office (Soroti) |
| 4. Mr. C.K Karusoke           | - | Commissioner i/c Complaints and Investigations<br>Department; and Northern Regional Office (Gulu)    |
| 5. Mrs. V.E Bichetero         | - | Commissioner Complaints and Investigations<br>Department and i/c Central Regional Office             |
| 6. Mrs M.F Wangadya           | - | Commissioner i/c, Legal and Tribunals Department<br>and Southern Regional Office (Mbarara)           |
| 7. Mr. J.M. Aliro Omara       | - | Commissioner i/c Monitoring and Treaties<br>Department and Western Regional Office<br>(Fort-Portal)  |

### GENERAL STAFF LIST

#### A. Finance and Administration Department

Name		Designation
8. Mr. Aneri Mandete Wangolo	-	Secretary
9. Mr. Nuer J. Higenyi	-	Ag. Head of Department/Personnel Officer
10. Ms Margaret N. Luwaawo	-	Senior Personal Secretary
11. Mr. John Hissa	-	Accountant
12. Mr Hudson Rogers Anika	-	Planner
13. Mr. Justus K. Muhanguzi	-	Ag. Public Relations Officer
14. Ms Rose Karugonjo	-	Ag. Human Rights Officer
15. Mr. Ronald Lawrence Awola	-	Senior Accounts Assistant Grade I
16. Mr. John Mutuma	-	Senior Accounts Assistant Grade I
17. Mr. Christopher Turigye	-	Senior Accounts Assistant Grade I
18. Ms Margaret Ejang	-	Senior Accounts Assistant Grade I
19. Ms Victoria Nannozi	-	Personal Secretary
20. Mrs Stella Kirenga	-	Personal Secretary
21. Mr. Peter Ssetumba	-	Systems Administrator
22. Mrs. Patricia Achan Okiria	-	Research Assistant
23. Ms Grace O. Saka	-	Senior Accounts Assistant Grade II
24. Mr. Francis Kabwisho Borgia	-	Office superintendent
25. Mr. Andrew Ssali	-	Library Assistant
26. Mrs. Margaret Rubaire	-	Assistant Librarian
27. Mr. Isabirye J. Naigambi	-	Assistant Records Officer
28. Mr. Joseph Ndebwoha	-	Store Keeper
29. Mrs Christine Gakumba Oroma	-	Cateress
30. Mr. Samuel K. Kamya	-	Senior Office Attendant
31. Mr. Fredrick Nakabale	-	Senior Driver
32. Ms Harriet Rwakabbira	-	Receptionist/Telephone Operator
33. Mr. Robert Mugenyi	-	Office Attendant
34. Mr. Paul Luboyera	-	Office Attendant
35. Ms Faith Babirye	-	Office Attendant
36. Ms. Oliver Namukwaya	-	Office Attendant
37. Ms Margaret Nantume	-	Kitchen Attendant
38. Ms Sauba Namakula	-	Kitchen Attendant
39. Mr. Tomson Obel	-	Driver
40. Mr. Dan Assasira	-	Driver
41. Mr. Hassan Kamyuka	-	Driver
42. Mr. Bernnet Sekibuule	-	Driver



43. Mr. Maxwell Onyait	-	Driver
44. Mr. Timothy Munialo	-	Driver
45. Mr. Katete Fred	-	Driver
46. Mr. Kabuye Patrick	-	Driver
47. Mr. Robert Kiranda	-	Driver
48. Mr. Badru Gasingyika Kafulleka	-	Driver
49. Mr. Paul Byaruhanga	-	Driver
50. Mr. Saidi Maganda	-	Driver
51. Mr. Silvester Ssenyanja	-	Driver
52. Mr. Stephen Wanyina	-	Driver
53. Mr. Odida Felix	-	Gate Attendant
54. Ms Lynnette Nalukwago	-	Volunteer

#### **B. Education, Research and Training Department**

<b>Name</b>		<b>Designation</b>
55. Mrs. Dorah Bolla Kabuye	-	Head of Department
56. Ms Rose Mary Kemigisha	-	Editor
57. Ms Elizabeth Bosa	-	Personal Secretary
58. Mr. Kamadi Byonabye	-	Volunteer
59. Ms Joan Mulindwa	-	Volunteer
60. Mrs Dorothy Kabugo	-	Volunteer

#### **C. Monitoring and Treaties Department**

<b>Name</b>		<b>Designation</b>
61. Mr. Nathan Byamukama	-	Head of Department
62. Mrs Sarah Baite Kitonsa	-	Human Rights Officer
63. Mr. Wilfred Asimwe Muganga	-	Research Assistant
64. Mrs Fiona Naggagga Musoke	-	Research Assistant
65. Mrs Felistas Odyek	-	Personal Secretary
66. Mr. Tom Kibuktu Kitaka	-	Volunteer
67. Mr. Dan Hudson Ssebuliba	-	Volunteer
68. Mr. Sam Mutabazi	-	Volunteer

#### **D. Complaints and Investigations**

<b>Name</b>		<b>Designation</b>
69. Mr. Burhan Byenkya	-	Head of Department
70. Ms Ann Masibo	-	Human Rights Officer
71. Mr. Mike Opolot Okwalinga	-	Human Rights Officer
72. Mrs Christine B. Nsubuga	-	Human Rights Officer
73. Mr. Bernard Turyashemererwa	-	Investigations Officer
74. Ms Rose Karugonjo	-	Ag. Human Rights Officer
75. Mr. Nicholas B. Mambule	-	Research Assistant
76. Mrs Agnes F. Kitui	-	Personal Secretary
77. Ms Mary Immaculate Nyanzi	-	Personal Secretary
78. Ms Hope Twongyeirwe	-	Records Assistant
79. Mr. Jimmy Torach	-	Volunteer
80. Mrs Annette Byamugisha	-	Volunteer

#### **E. Legal and Tribunals**

<b>Name</b>		<b>Designation</b>
81. Ms Edroma Evelyn Brenda	-	Head of Department
82. Mrs. Cissy Kagaba Nabazinga	-	Research Assistant
83. Mrs. Harriet Bafumba Mulobole	-	Research Assistant
84. Mrs Celine A. Omoding	-	Personal Secretary
85. Mr. Godfrey Katangula	-	Process Server
86. Mr. Charles Nandah Wamukota	-	Volunteer
87. Mrs Racheal Boma Akullo	-	Volunteer

#### **F Soroti Regional Office**

<b>Name</b>		<b>Designation</b>
88. Mr. Ogwal Francis	-	Regional Human Rights Officer
89. Mr. Ufuyuru George	-	Investigations Officer
90. Ms Jane Asio	-	Stenographer Secretary
91. Ms Namulondo Lydia	-	Office Assistant



- |     |                    |   |           |
|-----|--------------------|---|-----------|
| 92. | Mr. Sagula Samson  | - | Driver    |
| 93. | Ms Enagu Betty     | - | Volunteer |
| 94. | Mr. Ongodia Jamina | - | Volunteer |

**G. Mbarara Regional Office**

- |      | <b>Name</b>          |   | <b>Designation</b>            |
|------|----------------------|---|-------------------------------|
| 95.  | Ms Neema Bagalaliwo  | - | Regional Human Rights Officer |
| 96.  | Ms Nakumitsa Sarah   | - | Investigations Officer        |
| 97.  | Ms Nambeera Mouda    | - | Stenographer Secretary        |
| 98.  | Mr. Obic Dennis      | - | Office Assistant              |
| 99.  | Mr. Katiiti Deus     | - | Driver                        |
| 100. | Mr. Katungye Vincent | - | Volunteer                     |
| 101. | Mr. Nganwa Ronnie    | - | Volunteer                     |

**H. Fort-Portal Regional Office**

- |      | <b>Name</b>              |   | <b>Designation</b>            |
|------|--------------------------|---|-------------------------------|
| 102. | Mr. Arthur Beingana      | - | Regional Human Rights Officer |
| 103. | Ms Meredith Lwanga       | - | Research Assistant            |
| 104. | Ms Mwesigwa Kaahwa       | - | Stenographer Secretary        |
| 105. | Mr. Robert Odeke Omongin | - | Office Assistant              |
| 106. | Mr. Mugabe Issa          | - | Driver                        |
| 107. | Ms. Twembi T             | - | Volunteer                     |

**I. Jinja Regional Office**

- |      | <b>Name</b>         |   | <b>Designation</b>                |
|------|---------------------|---|-----------------------------------|
| 108. | Mr. Charles Muwunga | - | Ag. Regional Human Rights Officer |
| 109. | Ms Kainza Harriet   | - | Research Assistant                |
| 110. | Ms Ndagire Juliet   | - | Stenographer Secretary            |
| 111. | Ms Mbareeba Deo     | - | Driver                            |
| 112. | Ms Nakato Alex      | - | Volunteer                         |
| 113. | Mr. Emokor Samuel   | - | Volunteer                         |
| 114. | Mr. Kakerewe Isifu  | - | Volunteer                         |

**J. Gulu Regional Office**

- |      | <b>Name</b>           |   | <b>Designation</b>            |
|------|-----------------------|---|-------------------------------|
| 115. | Mr. Oneka Joseph      | - | Regional Human Rights Officer |
| 116. | Mr. Androa Anthony    | - | Investigations Officer        |
| 117. | Ms Akello Ann Grace   | - | Stenographer Secretary        |
| 118. | Mr. Ogwal Joel        | - | Office Assistant              |
| 119. | Mr. Patrick A. H Egir | - | Driver                        |
| 120. | Ms Achan E.           | - | Volunteer                     |
| 121. | Ms Achiro J. A        | - | Volunteer                     |





# APPENDIX 07

## CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE (UN)

**UNITED  
NATIONS**



**INTERNATIONAL  
CONVENANT ON  
CIVIL AND  
POLITICAL RIGHTS**

**CCPR**

Distr.

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4 May 2004

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**Concluding observations of the Human Rights Committee : Uganda. 04/05/2004.  
CCPR/CO/80/UGA. (Concluding Observations/Comments)**

Convention Abbreviation: CCPR

HUMAN RIGHTS COMMITTEE  
Eightieth session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee, Uganda

1. The Committee considered the initial report of Uganda (CCPR/C/UGA/2003/1) at its 2177th, 2178th and 2179th meetings (CCPR/C/SR.2177-2179), held on 22 and 23 March 2004 and adopted the following concluding observations at its 2191st meeting (CCPR/C/SR.2191), held on 31 March 2004.
    5. The Committee welcomes the ruling of the Supreme Court in *Kyawanywa v. the Attorney-General*, declaring corporal punishment as unconstitutional.
  2. The Committee welcomes the detailed and comprehensive initial report of Uganda. It commends the frankness of the report, which admits shortcomings in the implementation of the Covenant in the State party, and the fact that the report was prepared after consultation with civil society. However, the Committee regrets the delay of over seven years in the submission of the report.
    6. The Committee is concerned about the uncertain status of the Covenant in domestic law (art. 2).  
*The State party should clarify the status of the Covenant in domestic law.*
    7. While acknowledging the important role of the Uganda Human Rights Commission in the promotion and protection of human rights in Uganda, the Committee is concerned about recent attempts to undermine the independence of the Commission. It is also concerned about the frequent lack of implementation by the State party of the Commission's decisions concerning establishment in 1996 of the Uganda Human Rights Commission, which is endowed with powers to address human rights violations and seeks to adhere to the Paris Principles.
  3. The Committee welcomes the ratification by the State party of the Optional Protocol to the Covenant in November 1995.
  4. The Committee also welcomes the
- A. Introduction**
- B. Positive aspects**
- C. Principal subjects of concern and recommendations**

UGA.00132.878



both awards of compensation to victims of human rights violations and the prosecution of human rights offenders in the limited number of cases in which the Commission had recommended such prosecution (art. 2).

The State party should ensure that decisions of the Uganda Human Rights Commission are fully implemented, in particular concerning awards of compensation to victims of human rights violations and prosecution of human rights offenders. It should ensure the full independence of the Commission.

8. The Committee notes the adoption of the Anti-Terrorism Act of June 2002, pursuant to Security Council resolution 1373 (2001). It is concerned that section 10 of the Act criminalizes a "terrorist organization" without any reference to a particular criminal offence committed by or through such an organization. It is also concerned that section 11 of the Act does not establish objective criteria for determining membership in a "terrorist organization" (arts. 2 and 15).

The State party should review the Anti-Terrorist Act with a view to ensuring that the provisions set out in sections 10 and 11 are in full conformity with the Covenant.

9. The Committee notes with concern the continued existence of customs and traditions in the State party that affect the principle of equality of men and women and that may impede the full implementation of many provisions of the Covenant. In particular, the Committee deplores the fact that polygamy is still recognized by law in Uganda; in this context, it refers to its general comment No. 28, which states that polygamy is incompatible with equality of treatment with regard to the right to marry. The provisions in the proposed Domestic Relations Bill which would discourage the practice of polygamy are not sufficient (arts. 3 and 26).

The State party should take legislative measures to outlaw polygamy in addition to strengthening its ongoing awareness-raising campaigns.

10. The Committee takes note that the State party has acknowledged the persistence of female genital mutilation

in some areas of the country, despite article 33, paragraph 6, of the Constitution which prohibits cultures, customs and traditions which are against the dignity, welfare or interest of women. The Committee regrets that the State party has not taken all the necessary measures to eradicate this practice (arts. 3, 7 and 26).

The State party should take appropriate measures, as a matter of priority, to outlaw and penalize female genital mutilation and to effectively eradicate it in practice.

11. The Committee is concerned about the persistence of domestic violence and the lack of investigation, prosecution and punishment of perpetrators (arts. 3, 7 and 26).

The State party should adopt effective measures to prevent domestic violence, punish offenders and provide material and psychological relief to the victims. It should also train law enforcement officials, in particular police officers, to deal with cases of domestic violence.

12. The Committee regrets that the State party has not taken sufficient steps to ensure the right to life and the right to liberty and security of persons affected by the armed conflict in northern Uganda, in particular internally displaced persons currently confined to camps (arts. 6 and 9).

The State party should take immediate and effective measures to protect the right to life and liberty of the civilian population in areas of armed conflict in northern Uganda from violations by members of the security forces. In particular, it should protect internally displaced persons confined in camps, which are constantly exposed to attacks from the Lord's Resistance Army.

13. The Committee is concerned about the broad array of crimes for which the death penalty may be imposed. It finds incompatible with the Covenant that the death penalty is mandatory for the crimes of murder, aggravated robbery, treason and terrorism resulting in the death of a person, and the imposition of death sentences by field courts-martial without the possibility of appeal or to seek pardon or commutation of the sentence. The Committee also expresses its concern about the long periods of time which convicted



prisoners spend on death row (almost 20 years in one case) (arts. 6 and 14).

The State party is urged to limit the number of offences for which the death penalty is provided and to ensure that it is not imposed except for the most serious crimes. The State party should also abolish mandatory death sentences and ensure the possibility of full appeal in all cases, as well as the right to seek pardon or commutation of the sentence.

14. While the Committee takes note of the measures taken by the State party to deal with the widespread problem of HIV/AIDS, it remains concerned about the effectiveness of these measures and the extent to which they guarantee access to medical services, including antiretroviral treatment, to persons infected with HIV (art. 6).

The State party is urged to adopt comprehensive measures to allow a greater number of persons suffering from HIV/AIDS to obtain adequate antiretroviral treatment.

15. The Committee is concerned about the magnitude of the problem of abduction of children, in particular in northern Uganda. While acknowledging the measures taken by the State party to mitigate it, the Committee is concerned that available data do not show a decrease in the number of abductions. It is also concerned about the fate of former child soldiers (arts. 6, 8 and 24).

The State party should take the necessary steps, as a matter of extreme urgency and in a comprehensive manner, to face the abduction of children, and to reintegrate former child soldiers into society.

16. While the Committee notes that several measures have been taken to prevent the excessive use of force by law enforcement officials, it remains concerned about situations in which they have allegedly extrajudicially executed civilians, such as the September 2002 incident in Gulu, or the one that took place during operation "Wembley" in June 2002 (art. 6).

The State party should ensure that law enforcement officials are prosecuted for any disproportionate use of firearms against civilians. Additionally, it should continue its efforts to train police

agents, members of the military and prison officers to scrupulously respect applicable international standards.

17. The Committee takes note of the explanation provided by the delegation about the outlawing of "safe houses", places of unacknowledged detention where persons have been subjected to torture by military personnel. Nevertheless it remains concerned that State agents continue arbitrarily to deprive persons of their liberty, including in unacknowledged places of detention, in particular in northern Uganda. It is also concerned about the widespread practice of torture and ill-treatment of persons detained by the military as well as by other law enforcement officials (arts. 7 and 9).

The State party should take urgent and effective measures to prevent arbitrary detention and torture by State agents. It should thoroughly investigate any alleged case of arbitrary detention and torture, prosecute those held responsible and ensure that full reparation is granted, including fair and adequate compensation.

18. The State party has acknowledged the deplorable prison conditions in Uganda. The most common problems are overcrowding, scarcity of food, poor sanitary conditions and inadequate material, human and financial resources. The treatment of prisoners continues to be a matter of concern to the Committee. There are reported incidents of corporal punishment for disciplinary offences. Solitary confinement and deprivation of food are also used as disciplinary measures. Juveniles and women are often not kept separate from adults and males. The Committee has taken note of the measures implemented by the State party to counteract these shortcomings, including the introduction of community service as an alternative to imprisonment. However, it notes that they are inadequate to overcome the problems. It is also concerned about the high percentage of persons detained on remand (almost 70 per cent of inmates) (arts. 7 and 10).

The State party should terminate practices contrary to article 7 and bring prison conditions into line with article 10 of the Covenant and the United Nations Standard Minimum Rules for



the Treatment of Prisoners. It should also take immediate action to reduce overcrowding in prisons as well as the number of persons detained on remand.

19. The Committee is concerned at the practice of imprisoning persons for contractual debts, which is incompatible with article 11 of the Covenant.

The State party should abolish imprisonment for debt.

20. The Committee has observed with concern the forced employment of children in activities harmful to their health and well-being, as well as the ineffectiveness of the measures adopted to deal with this problem (arts. 8 and 24).

The State party should adopt measures to avoid the exploitation of child labour and to ensure that children enjoy special protection, in accordance with article 24 of the Covenant. It should also provide for effective sanctions against those involved in such practices.

21. The Committee is concerned about shortcomings in the administration of justice, such as delays in the proceedings and in pre-trial detention, the lack of legal assistance provided to non-capital offenders and the conditions in which a confession may be secured. Despite the measures taken by the State party to address these situations, the Committee regrets that their continued existence contributes to a widespread sense of impunity as well as impairing the full enjoyment of guarantees (art. 14).

The State party should take steps to remedy shortcomings in the administration of justice in order to ensure full respect for the judicial guarantees enshrined in the Covenant. It should revise its legislation and practices, in particular with regard to the above-mentioned concerns.

22. The Committee is concerned that peaceful demonstrations organized by opposition political parties have been forcibly dispersed by the police and that freedom of movement of political opponents has also been restricted in certain cases. It remains concerned at the constraints which limit the right of

political parties to participate in periodic elections, to criticize the Government and to take part in the decision-making process. Notwithstanding the fact that the delegation referred to the State party's wish to organize multiparty elections in 2006, the Committee remains concerned that no specific information has been provided about the practical measures envisaged to attain this goal (arts. 22 and 25).

The State party should ensure the full enjoyment of the right to freedom of association, in particular in its political dimension. The Committee considers that the State party should ensure that the general elections scheduled for 2006 effectively allow for multiparty participation.

23. The Committee is concerned at the practice of early and forced marriage in the State party, despite the minimum age for marriage of 18 years (art. 23).

The State party should take effective steps to do away with this practice and to sanction those involved in its occurrence.

24. The State party should widely publicize the present examination of its initial report by the Committee and, in particular, these concluding observations.

25. The State party is requested, pursuant to rule 70, paragraph 5, of the Committee's rules of procedure, to provide, within one year, information on the implementation of the Committee's recommendations regarding paragraphs 10, 12 and 17 above. The Committee also requests the State party to provide in its next periodic report, to be presented by 1 April 2008, information on the other recommendations made on the implementation of the Covenant as a whole.

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