



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Initial Report

UGANDA*

[14 February 2003]

* This report is issued unedited, in compliance with the wish expressed by the Human Rights Committee at its sixty-sixth session in July 1999.

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The Research was carried out by an inter-departmental Committee comprising of officers from the following Government Departments: The Ministry of Foreign Affairs, The Ministry of Justice & Constitutional Affairs, The Ministry of Internal Affairs and The Ministry of Gender, Labour & Social Development.

Other Government Departments that were consulted included: The Uganda Human Rights Commission, The Ministry of Finance, Planning and Economic Development, The Uganda Judiciary, Uganda Prisons Service, the Uganda Police and the Office of the Inspector General of Government (IGG), Chieftaincy of Military Intelligence (CMI) The Electoral Commission and The Judicial Service Commission.

The Report was presented to various members of civil society in a Public Debate which included representatives of the following Human Rights NGOs and Diplomatic Missions:

1. The Foundation for Human Rights Initiative (FHRI)
2. The Human Rights and Peace Centre (HURIPEC)
3. The Human Rights Network (HURINET)
4. FIDA (Uganda)
5. Makerere University Faculty of Law
6. The Parliament of Uganda - Committee on Presidential & Foreign Affairs
7. The Human Rights Development Programme (DANIDA)
8. Embassy of Ireland
9. Embassy of Sweden

PHYSICAL FEATURES

1. Uganda is situated in East Africa and lies astride the equator. The Country shares borders with Sudan in the North, Tanzania to the South Rwanda to the South West, Kenya in the East and the Democratic Republic of Congo to the West.
2. The country's total surface area is 240, 000 sq. km. 50,000 sq. km is open water and swamp. Lake Victoria, the world's second largest lake, is found in the southern part of Uganda and Kenya and Tanzania share it.
3. The average altitude of the land is 1,200m however Uganda also has mountain peaks like Mt. Elgon in the East at 4,321m, Mt. Muhavura in the South at 4,127m and Mt. Rwenzori in the West at 5,119m.
4. Temperatures in Uganda never vary greatly except in the mountainous regions. Minimum temperatures occur in July and August averaging 18 degrees centigrade, while maximum temperatures usually occur in February averaging 32 degrees centigrade. Any variations in temperature will usually occur as a result of altitude or close proximity to Lake Victoria.
5. 10, 000 sq. km. of Uganda's surface is forest. The remaining surface of is mainly open grassland giving way to semi-desert in the North Eastern region of Karamoja.

DEMOGRAPHIC INDICATORS

6. In 1999, Uganda's population was estimated at 20.4 million an estimate based at a growth rate of 2.5% per annum.

Table 1

Projected demographic indicators for Uganda, 1998

| | |
|-------------------------------|--------------|
| Female | 10.4 million |
| Male | 10 million |
| Rural population | 85.6% |
| Urban Population | 14.4% |
| Female life expectancy | 50.5 years |
| Male life expectancy | 45.7 years |
| Annual population growth rate | 2.8% |
| Crude birth rate | 50% |
| Crude mortality rate | 17% |
| Literacy rate (females) | 50.2% |
| Literacy rate (males) | 73.2% |
| Income per capita | US\$ 320 |

Source: Uganda Human Development Report 1998; Women and Men in Uganda: Facts and Figures 1998.

UGANDA'S INDIGENOUS COMMUNITIES

7. Uganda is composed of 56 different indigenous communities. These groups are segregated under four major ethnicities, which are, the Bantu, the Nilotics, the Nilo Hamites and the Luo.

The economy

8. Uganda's economy is predominantly agro-based. Agriculture contributes approximately 51% of the GDP. Agriculture contributes about 90% of export earnings and employs 80% of the labour force. Industry contributes 10% and manufacturing, 4%.

9. Since 1997, there has been an annual growth rate of 6.5%, a rise in educational enrolment from 60% to 80%, a decrease in infant mortality from 122/1000. Government Revenue collection has improved with the Uganda Revenue Authority (URA) collecting 522.23 billion shillings in taxes in 1994/95, up from 135.95 billion in 1990/91.

Socio-economic indicators

10. In 1987, the Government of Uganda embarked on an economic recovery programme, which includes the promotion of the fiscal and monetary management, provision of improved incentives to the private sector, liberalisation of the economy and development of human capital through investment in education and health.

11. The Government recently concluded a multi-dimensional and multi-disciplinary participatory approach called National Long Term Perspective Studies (NLTPS) Uganda Vision: 2025 Project. This exercise has formulated a goal for long-term sustainable development for the country.

Table 2

Uganda's socio-economic indicators

| Year | 1996/97 | 1997/98 | 1998/99 | 1999/00 | 2000/01 |
|---|---------|---------|---------|---------|---------|
| Annual GDP growth rate | 4.5 | 5.4 | 7.4 | 5.1 | |
| Agric as % of GDP | 44.2 | 42.7 | 42.5 | 41.6 | |
| Manufact. as % of GDP | 8.6 | 9.3 | 9.7 | 10 | |
| Annual revenue collection | 747.03 | 799.51 | 951.273 | 987.805 | |
| Annual enrolmn. In sch. Primary (in millions) Secondary (in millions) | 5.3 | 5.8 | 6.5 | 6.9 | |
| Infant mort. Per 1000 births | | | 84 | | |

Note:

Data for primary and secondary enrolment are based on calendar years.

Data for infant mortality are extracted from the survey that takes place every five years.

Data for primary school enrolment is currently not available.

The GDP data are extracted from the Background to the Budget (1993/94 and 2000/01).

BUDGET**Table 3**

**Medium term expenditure framework 1999/00-2003/04
(excluding arrears, promissory note, taxes and appropriation in aid)
in billions of Uganda Shillings**

| SECTOR/VOTE Total in U Sh billions (All figures exclude appropriation in aid recurrent and developing) | 1999/2000 revised outturn | Non-wage recurrent | Dom. devel. | Donor project | Tot. excl. donor project | Tot. incl. donor project | 2000/01 Approved budget | Non-wage recurrent | Dom. Devel. | Donor project | Tot. excl. donor project | Tot. incl. donor project |
|---|---------------------------------|-----------------------|----------------|------------------|-----------------------------------|-----------------------------------|-------------------------------|-----------------------|----------------|------------------|-----------------------------------|-----------------------------------|
| Wage | | | | | | | Estimates wage | | | | | |
| SECURITY | 107.78 | 78.86 | 4.36 | 0.00 | 191.00 | 191.00 | 122.34 | 76.32 | 11.10 | 0.00 | 209.75 | 209.75 |
| ROADS AND WORKS | 1.32 | 28.70 | 70.63 | 127.25 | 100.65 | 227.90 | 1.87 | 36.49 | 99.68 | 176.94 | 138.04 | 134.96 |
| AGRICULTURE | 2.71 | 6.30 | 9.10 | 54.50 | 18.12 | 72.62 | 4.56 | 7.78 | 11.80 | 78.30 | 24.13 | 102.44 |
| EDUCATION | 152.50 | 104.00 | 66.75 | 31.24 | 323.26 | 354.51 | 198.87 | 113.31 | 89.66 | 42.12 | 402.04 | 444.16 |
| HEALTH | 26.49 | 38.41 | 16.61 | 114.67 | 81.72 | 196.39 | 36.70 | 57.42 | 21.87 | 135.05 | 115.99 | 251.04 |
| WATER | 0.39 | 4.54 | 13.47 | 63.02 | 18.40 | 81.42 | 0.39 | 1.63 | 34.37 | 97.48 | 36.39 | 133.87 |
| JUSTICE/LAW AND ORDER | 34.27 | 48.74 | 7.51 | 2.01 | 90.52 | 92.53 | 39.74 | 43.56 | 11.26 | 4.70 | 94.46 | 99.16 |
| ACCOUNTABILITY | 1.53 | 8.36 | 0.21 | 1.55 | 10.10 | 11.65 | 1.95 | 14.33 | 0.27 | 1.10 | 16.56 | 17.66 |
| ECONOMIC FUNCTIONS AND SOCIAL SERVICES | 2.60 | 9.26 | 45.02 | 123.65 | 56.88 | 180.53 | 5.33 | 17.32 | 72.72 | 222.52 | 95.37 | 317.89 |
| PUBLIC ADMINISTRATION | 50.48 | 189.49 | 11.40 | 4.45 | 251.37 | 255.82 | 57.38 | 187.89 | 20.05 | 11.29 | 265.32 | 276.61 |
| INTEREST PAYMENTS DUE | 0.00 | 30.20 | 0.00 | 0.00 | 30.20 | 30.20 | 0.00 | 44.90 | 0.00 | 0.00 | 44.90 | 44.90 |
| CONTINGENCY FUND/ unallocated | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5.67 | 7.95 | 0.00 | 10.26 | 13.62 | 23.88 |
| TOTAL LINE MINISTRIES (incl. Contingency/unallocated) | 169.42 | 332.71 | 210.76 | 521.96 | 712.89 | 1 234.85 | 198.60 | 336.84 | 255.89 | 772.86 | 791.34 | 1 564.20 |
| TOTAL DISTRICT PROG. | 196.15 | 117.22 | 29.14 | 0.00 | 342.51 | 342.51 | 256.22 | 144.87 | 109.60 | 0.00 | 510.68 | 510.68 |
| STATUTORY INTEREST | 365.57 | 449.93 | 239.90 | 521.96 | 1 055.40 | 1 577.36 | 454.82 | 481.71 | 365.49 | 772.86 | 1 302.02 | 2 074.88 |
| STATUTORY EXCL. INTEREST | 14.53 | 66.74 | 5.37 | 0.39 | 86.63 | 87.02 | 18.16 | 81.92 | 6.56 | 6.91 | 106.63 | 113.55 |
| GRAND TOTAL (incl. Contingency/unallocated) | 380.09 | 611.37 | 245.27 | 522.35 | 1 236.73 | 1 759.07 | 472.97 | 670.73 | 372.05 | 779.77 | 1 515.75 | 2 295.52 |

The general political structure

12. Pre-colonial Uganda (before 1894) was characterised by administration in centralised and decentralised societies. In the South, Central and Western parts they had a system of government modelled on a monarchical structure, notably kingdoms. The eastern and northern parts had chiefdoms and principalities. In almost all societies, administration was hereditary.

13. During the colonial era, under British Administration (1894-1962) the power of the kings and chiefs was reduced and the system of indirect rule was introduced. Uganda was declared a Protectorate of Britain.

14. In 1962, Uganda gained its Independence with its first political system being a Multi-party system adopted under the 1962 Independence Constitution, later replaced by the 1967 Constitution under President Apollo Milton Obote, who was overthrown by General Idi Amin. There was no existence of political parties during General Amin's regime. The Uganda National Liberation Front (UNLF) overthrew him in 1979.

15. The Uganda National Liberation Front created an "umbrella" political system, which disintegrated in May 1980, which saw Dr. Apollo Milton Obote, reinstated as president of the Republic of Uganda. Dr. Obote lost the presidential seat again in a coup-de-état in June 1985 led by Gen. Tito Okello Lutwa, who took over the government. Six months later, in January 1986, the National Resistance Army led by Yoweri Kaguta Museveni, overthrew the Tito Okello Lutwa government. Yoweri Museveni is currently the President of the Republic of Uganda.

16. 1994/95 saw the election of a Constituency Assembly and the Amendment and rewriting of the old 1967 Constitution, resulting in the 1995 Constitution of the Republic of Uganda. The rewriting of the Constitution saw the legitimisation of the National Resistance Movement as a system of government under which every Ugandan citizen is a member.

17. In 1996, Uganda carried out another general election, which brought President Yoweri Museveni into power as a democratically elected president, and ushered in a new Parliament of the Republic of Uganda for 5 years. In 2001, incumbent President Museveni, won the presidential election again, for the term 2001-2006, making him the longest serving president of the Republic of Uganda. In June 2001, the people of Uganda elected the seventh Parliament, also mandated to sit for 5 years.

General legal framework

18. The legal existence of an independent Judiciary and the separation of powers of the executive, judicial and the legislative arms of the Government are provided for under the Constitution of the Republic of Uganda.

19. The laws that operate in Uganda include, statutory and case law, common law and doctrines of equity. The highest form of recognised law is statutory law. Under the 1995 Constitution of the Republic of Uganda, Article 2 (2) provides that *"If any other law or any custom is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail, and the other law or custom shall, to the extent of the inconsistency be void."*

20. The court system in Uganda is dual, carrying both formal and informal qualities. The informal court system was established by the 1987 Resistance Committee Courts (Judicial Powers) Statute, while the formal judicial system was established by the Constitution. The Resistance Committees now go under the name of Local Council courts.
21. In addition clause 1 (d) of Article 129 of the Constitution empowers Parliament to establish “*such subordinate Courts, ... including Qadhis Courts for marriage, divorce, inheritance of property and guardianship, as may be prescribed by Parliament.*” At present Qadhis Courts do not exist.
22. Magistrates’ Courts are created by and regulated under the Magistrate’s Courts’ Act, 1970. They are divided into four Grades, namely, the Chief Magistrates; Magistrate Grade I; Magistrate Grade II courts are for training purposes.
23. The informal court system starts at the village level with the Local Council (LC) Court comprising of between five and nine members. The LC Court is given limited powers to try specified cases, for example petty thefts and domestic matters of a simple issue.
24. Under the formal court system, there are Magistrate Grade II Courts at the county level, which function as Family and Children’s Courts as provided for under Sections 14 and 16 of the 1996 Children Statute of the Republic of Uganda. At district level is found the Chief Magistrate’s Court.
25. Next in line of hierarchy is the High Court with regional representation, followed by the Court of Appeal, which doubles as the Constitutional Court and handles appeals from the High Court. The highest Court in the land is the Supreme Court at National Level.
26. Appeals are the main links between the informal and formal courts. Appeals from the LC III Courts for instance are taken to the Grade I Magistrate’s Court. The Chief Magistrates control a magisterial area ranging between two to four districts.
27. There are also special courts like the General Court-Martial, which had long been defunct and was revived in 1987. It deals specifically with military personnel. The other courts include the Industrial Court, which handles matters regarding employer and employee relationships, Trade Union matters and the like, and finally, there are the Land Tribunals.

Total number of courts and the Districts in which they are distributed

| COURT | LOCATION | No. of CIRCUITS | Total No. of Courts |
|------------------|----------|-----------------|---------------------|
| Supreme Court | Kampala | 7 | 1 |
| Court of Appeal | Kampala | 7 | 1 |
| High Court | Kampala | 7 | 1 |
| Commercial Court | Kampala | 7 | 1 |

| COURT | LOCATION | No. of CIRCUITS | Total No. of Courts |
|-----------------------------|-------------|--------------------|---------------------|
| Chief Magistrates' Courts | Jinja | | 27 |
| | Iganga | | |
| | Mbale | | |
| | Tororo | | |
| | Soroti | | |
| | Moroto | | |
| | Lira | | |
| | Gulu | | |
| | Moyo | | |
| | Arua | | |
| | Nebbi | | |
| | Masindi | | |
| | Luwero | | |
| | Fort-Portal | | |
| | Mubende | | |
| | Mpigi | | |
| | Mbarara | | |
| | Bushenyi | | |
| | Kasese | | |
| | Rukungiri | | |
| Mukono | | | |
| Masaka | | | |
| Kampala | | | |
| Nakawa | | | |
| Entebbe | | | |
| Kabale | | | |
| Magistrates Grade I Courts | | | 52 |
| Magistrates Grade II Courts | | | 426 |

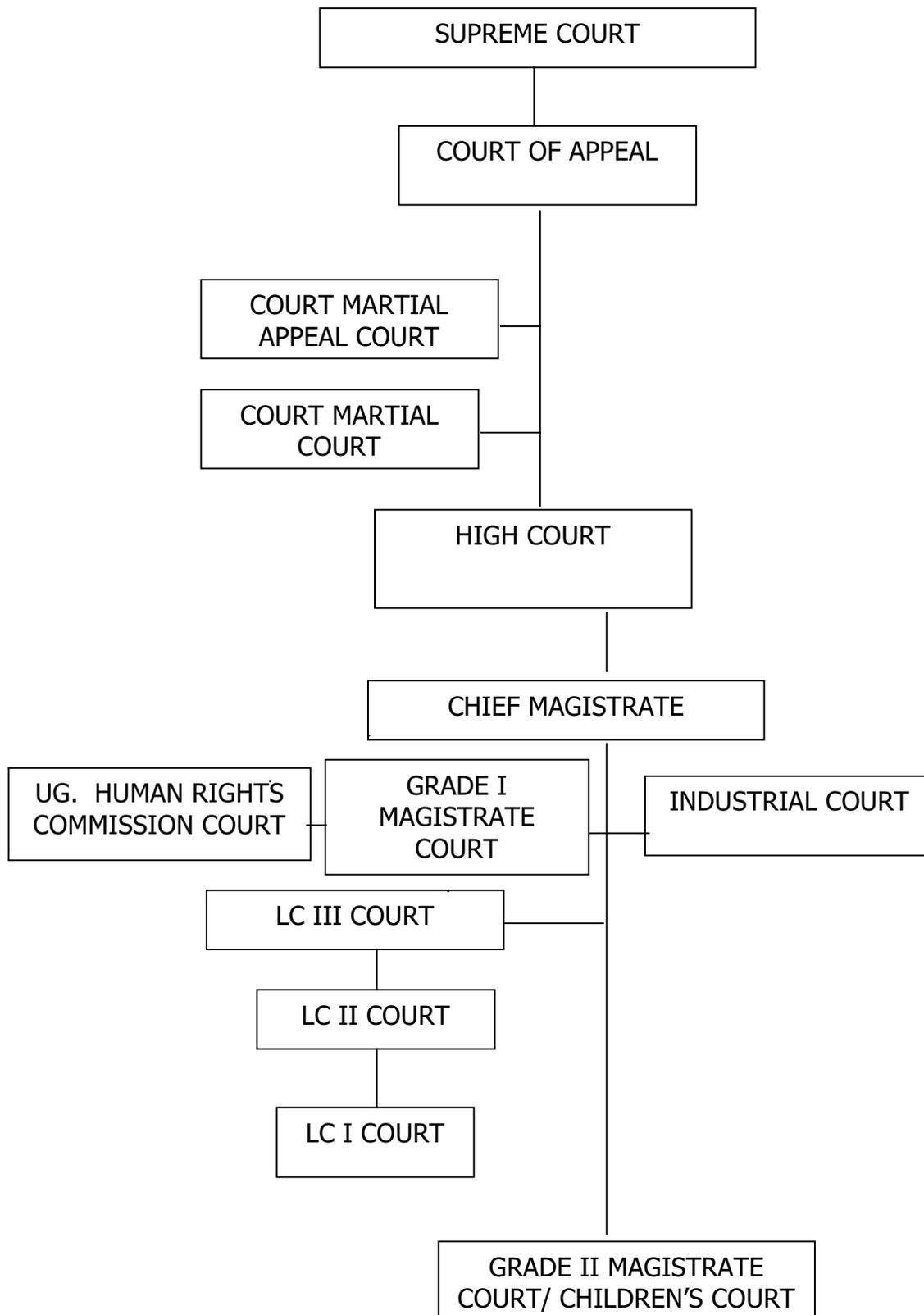
Location of Magistrate Grade I and II Courts country wide is determined under the Magistrates' Courts (Magisterial Areas) Instrument, 1997.

Total No. of judges and magistrates in the court system disaggregated by sex

| COURT | MALE | FEMALE | TOTAL |
|----------------------|------|--------|-------|
| Supreme Court | 7 | 0 | 7 |
| Court of Appeal | 4 | 4 | 8 |
| High Court | 23 | 7 | 30 |
| Registrars | 14 | 6 | 20 |
| Chief Magistrates | 20 | 9 | 29 |
| Magistrates Grade I | 47 | 24 | 71 |
| Magistrates Grade II | 227 | 21 | 248 |

Source: Uganda Judiciary.

The hierachy of the court system in Uganda



Source: Uganda Judiciary.

Brief background of Uganda's human rights record

28. For nearly three decades, the people of Uganda had suffered diverse forms of violations and human rights in contravention of the provisions of the Constitutions of Uganda (1962 and 1967) as well as the United Nations Universal Declaration of Human Rights and the African Charter on Human and People's Rights, to both of which Uganda is party. Uganda's political, social and economic history is chequered with several incidences of human rights violations, most notorious of which were the Amin dictatorship (1971-79) and the Obote II era (1980-85).

29. With the taking over power in 1986 by the current NRM Government, Uganda was put on a new road, seeking to repair the poor reputation this country had acquired, by denouncing human rights violations and rebuilding respect for democracy and good governance as well as the rights of its people.

30. It was decided by the Government that after so many years of human rights abuse, the Movement Government should not only believe, but be seen to believe in the accountability of human rights violators, and to attempt to give redress to the victims of these violations.

31. In 1986, therefore, the Minister of Justice/Attorney General appointed a Commission of Inquiry into violations of Human Rights under Legal Notice No. 5 of 1986. This Commission was set up to inquire into various aspects of the violations of human rights which occurred in Uganda during the period from 9/10/1962 to 25/1/1986, and to write a Report.

32. The Legal Notice was issued on 16th May, 1986, pursuant to the provisions of the Commission of Inquiry Act (Cap 56). The Commission was to be under the Chairmanship of Justice Arthur Oder, then a Judge of the High Court. (Justice Oder was in 1990, promoted to Justice of the Supreme Court). Along with the Chairman, five other Commissioners were appointed.

33. The Commission was commissioned on 13th June, 1986 by the Minister of Justice. It was to inquire into all aspects of violations of Human Rights, breaches of the rule of law and excessive abuses of power committed against persons in Uganda by regimes in Government, their servants, agents or agencies by whatever name called and find and recommend possible ways of preventing the re-occurrence of the aforesaid matters.

34. Ordinary Ugandans welcomed the Inquiry with enthusiasm, regarding it as an indication of the Government's commitment to upholding human rights and the rule of law.

35. The Report was written and it consisted of two parts. The first contains the Commission's findings, conclusions and recommendations and is 720 pages long (630 pages of text, 90 pages of appendices and tables). The second part of the report contains records of evidence and exhibits received from witnesses and is approximately 13 volumes of 800-900 pages each. In addition to this, the Commission produced a pamphlet for the purpose of dissemination amongst the general public, in a simplified form, of the highlights of the findings, conclusions and recommendations of the Report.

36. It is important to note that this was not the first Commission of inquiry in the history of Uganda. Former Presidents Amin and Obote set up Commissions of inquiry, and then proceeded to treat them analogously. For example, in 1975, President Amin instituted a Commission of inquiry into missing persons, while President Obote in his own turn set up one in the murder of Dr. Ibanda. To date, the findings of these commissions have yet to yield results.

37. Nevertheless, a year after the Commission had commenced work, it became clear that its work would take longer than had originally been envisaged. The Commission's mandate was therefore reviewed and modified to enable it to recommend for prosecution of persons implicated in the course of the inquiry. This step was considered necessary to encourage public interest in the work of the commission, and to show the government's resolve to restore the rule of law. By committing to court past perpetrators of crime, the government and the commission hoped it would deter potential criminals in the future.

38. During the writing of the 1994 Constitution, the Constituent Assembly realised that it was necessary to create and empower a permanent body for the promotion and protection of human rights. Article 51 of the Constitution was therefore written specifically for this purpose.

GOVERNMENT INSTITUTIONS THAT PROMOTE AND PROTECT ALL PEOPLE'S CIVIL AND POLITICAL RIGHTS

The Uganda Human Rights Commission

39. Article 51 of the Constitution of the Republic of Uganda creates the Uganda Human Rights Commission with quasi-judicial functions.

40. Article 53 (1) and (2) of the 1995 Constitution of the Republic of Uganda the Commission is given the powers to:

- (a) Investigate on its own initiative or that of an individual or group of persons any complaint regarding the abuse of human rights.
- (b) Release a detained or restricted person.
- (c) Pay or order the payment of compensation.
- (d) Any other legal remedies or redress.

PART I

ARTICLE 1: THE RIGHT TO SELF-DETERMINATION

41. The Parliament of Uganda is its highest legislative body. All enactments of the new laws, amendments of existing laws are carried out by the Parliament.

42. Uganda's society is built on the principles of social equality, family values and fraternal regard for each other. The 1995 Constitution of the Republic of Uganda states in Article 1(1), "*All power belongs to the people who shall exercise their sovereignty in accordance with the Constitution.*" Clause 4 states, "*The people shall express their will and consent on who shall govern them and how they shall be governed through regular free and fair elections of their representatives through referenda...*"

43. In Uganda the rights of freedom of speech, of expression, religion and the like are inherent and guaranteed under Article 4 of the Constitution.

44. Election is by voting held by adult suffrage, which is also the mode of electing Members of Parliament. The Parliament is headed by the Speaker. The majority of the members of the Cabinet are members of Parliament. The Parliament frames plans and policies based on the economic, social and cultural development of its people. The political, social, economic and cultural objectives of the State are enshrined in the 1995 Constitution of the Republic of Uganda.

45. Article 59 of the Constitution gives every citizen of Uganda above 18 years the right to vote and elect the person of their own choice. The Article states:

(a) *Every citizen of Uganda of eighteen years of age and above has the right to vote.*

(b) *It is the duty of every citizen of Uganda of eighteen years of age or above, to register a voter for public elections and referenda.*

46. According to the 1995 Constitution, the Republic of Uganda is a democratic broad-based government, guided by the principle of decentralization and devolution of Government functions and power to the people.

47. Article 69 (1) of the Constitution empowers people to choose and adopt the political system of their choice. The political systems referred to are:

(a) *The Movement Political System*

(b) *The Multiparty Political System*

(c) *Any other democratic and representative political system.*

48. Voting in Uganda is by secret ballot. During the Reporting period, Uganda has held two Presidential elections (1996 and 2001). The country has also had two local government elections and two Parliamentary elections in the same period of time. Both the 1996 and 2001 Presidential elections returned incumbent Yoweri Kaguta Museveni as President. Under Article 74 of the Constitution (1995), a referendum was held in the year 2000 to decide on the change of the Political System. The results of the referendum gave the Movement the mandate to continue as the Political System of Uganda for the next five years.

49. The people of Uganda have the right to freely dispose of their natural wealth such as movable and immovable property. Under Article 216 of the 1995 Constitution, every person has the right to own property. Under Article 216 of the Constitution, every person has the right to own property either individually or in association with others. Article 26(2) covers the conditions under which this right may be revoked. With regard to protection from deprivation of property, a person may be deprived of his/her property if the taking of the property is necessary for public use or in the interest of defence, public safety, order or public health.

50. The protection and promotion of fundamental and other human rights and freedoms is enshrined in Chapter 4, Articles 20-47 of the 1995 Constitution of the republic of Uganda. Article 20 states, “*Fundamental rights and freedoms are inherent and not granted by the State.*”

PART II

ARTICLE 2: NON-DISCRIMINATION

51. Uganda is party to the six basic International Human Rights Instruments. Prior to ratification of any international covenant, copies of the relevant covenants are distributed by the Ministry of Foreign Affairs to the various line Ministries that are considered stakeholders in the ratification.

52. The line Ministry then prepares a Cabinet Memo giving reasons for the ratification. Once Cabinet approves it, the Covenant is ratified by the Minister of Foreign Affairs, and the provisions contained are incorporated into domestic law.

53. The approval of Parliament is only necessary if and when the adoption of a Covenant will require reviewing of the Constitution. The treaties/Conventions must be ratified following the procedure laid down in the Ratification of Treaties Act, 5 of 1998. In the Act, all Treaties are ratified as follows:

(a) *The Cabinet in the case of any treaty other than the one referred to in Paragraph (b) of this section;*

(b) *By Parliament Resolution:*

(i) *Where the treaty relates to armistice, neutrality or peace; or*

(ii) *In the case of a treaty in respect of which the Attorney General has certified in writing that its implementation in Uganda would require an amendment of the Constitution.*

Subject to Section 3 of the Ratification of Treaties Act, the instrument of ratification of a treaty shall be signed, sealed and deposited by the Minister responsible for Foreign Affairs.

54. After ratification, a Bill is drafted. The Bill usually sets out the whole Convention or Human Rights Instrument in the Schedule and gives the Instrument or Convention the force of law. The Bill is then taken to Cabinet for approval and then to Parliament for enactment into law.

55. Article 165 of the same Constitution creates the Public Service Commissions and statutory enterprises. Consequently, Uganda has a multi-racial workforce particularly in the private sector. Non-Ugandans may participate in the Public Sector but on contractual terms. However, occupation of certain positions and offices is the prerogative of Uganda-born citizens, such as the Office of the Head of State, the Speaker of Parliament and officers of the armed forces.

56. The Constitutional provisions for Uganda citizenship are found in Chapter three of the Constitution (1995) Article 9 states, "*Every person who on the commencement of this Constitution, is a citizen of Uganda shall continue to be such a citizen.*" The categories of people legible for Ugandan citizenship are listed under Articles 10-13 of the Constitution (1995) and they include: citizenship by registration, and citizenship by naturalization. The acquisition of dual citizenship is prohibited under Article 15 of the Constitution.

57. In September 2001, Uganda was among the states parties who attended the World Conference Against Racism, Racial Discrimination, Xenophobia and other related intolerances. For additional information on Racial Discrimination, the reporting Party would like to refer the Committee to Uganda Second Periodic Report on the Elimination of All forms of Racial Discrimination (CERD) under Articles 2 (1) and 5 (a), Uganda's Third Periodic Report on the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) under Articles 9 and 15 and Articles 2 (1) and 2 (2) of Uganda's Initial Report on the Rights of the Child (CRC).

58. In an effort to promote awareness among the public and the relevant authorities, of the rights contained in the various human rights instruments, the government of Uganda has taken the following steps among others:

59. Under the education sector, the Uganda Human rights Commission has a specific constitutional mandate to carry out human rights education. A proposed human rights syllabus for primary schools is yet to be accepted by the ministry of Education and Sports and hence incorporated in the primary school curriculum.

60. To further enforce this, the right to education is guaranteed under Article 30 of the 1995 Constitution of the Republic of Uganda, and under the Universal Primary Education scheme (U. P. E.).

61. At the University level, the Makerere University Faculty of Law carries out a programme under the Human Rights and Peace Center (HURIPEC) which was established to integrate students into actively participating in human rights activities in the different human rights

organizations in the country. The work of the Human Rights and Peace Center is to develop an inter-disciplinary course for students from various faculties, not just the Law students. This will help in the process of building a community of human rights activists within the University as a launch pad for the future. Recently, the faculty initiated the Masters in Human Rights, as a course option. However, the study of Human Rights is not yet available to all University students.

The role of NGOs

62. Various NGOs have also taken up the challenge of promoting awareness and in the treatment, rehabilitation, and counselling of victims of various forms of human rights abuse. Some of these include Inter-Aid for the resettlement of refugees through the urban refugee project, African Center for Tortured Victims (ACTV), caters for the treatments, rehabilitation and the like of selected tortured victims and to increase awareness about torture and its consequences. Foundation for Human Rights Initiative caters for education, research, advocacy, lobbying and networking. Legal Aid project provides free legal services for those who cannot afford to pay practicing advocates while FIDA assists in the enlightening of their various rights and duties.

Dissemination

63. The Government of Uganda has worked hand in hand with the various NGOs to disseminate human rights information to the public as follows:

(a) Chapter Four of the 1995 Constitution of the Republic of Uganda is dedicated to the protection and promotion of the fundamental and additional human rights and freedoms. A copy of the Constitution can be purchased at any authorized bookstore.

(b) Pamphlets, Newsletters and various pieces of human rights literature are printed and distributed during several educative public seminars that are held several times a year, normally managed by the various NGOs in conjunction with related government ministries and organizations.

(c) Conferences, workshops, meetings and the like are regularly organized jointly with the government bodies and the NGOs in order to discuss how best to communicate to the percentage of the population that is still unaware of its rights.

(d) Music, Dance and Drama have proven to be the most straightforward and effective means of communication especially for the illiterate section of different drama societies around the country.

(e) The media and press have been instrumental in bringing to life the idea of the various human rights instruments and their use to the people. The Uganda Human Rights Commission, for example, has radio programs on Civic Education and basic human rights, seminars, workshops, essay competitions and the like.

(f) The rights and freedoms contained in the constitution are enforceable by the courts of Law at all levels in Uganda Parliament makes the Law providing for participation of the people in the administration of justice by the courts. Judicial power is derived from the people and is exercised by the Courts. Established by the 1995 Constitution of the republic of Uganda, in the name of the people and in conformity with the law and with the law and with values, norms and aspirations of the people.

64. Uganda is a Party to the International Covenant on the Elimination of All forms of Racial Discrimination (CERD) and the International Covenant on the Elimination of All forms of Discrimination Against Women (CEDAW).

65. Article 21(1) of the 1995 Constitution of the Republic of Uganda states, “*All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.*”

66. Protection of the right to freedom of conscience, expression, movement, religion assembly and association are all enshrined in article 29 of the 1995 Constitution. Which states that every person shall have the right to

(a) *freedom of speech and expression, which shall include freedom of the press and other media;*

(b) *freedom of thought, conscience and belief which shall include academic freedom in institutions of learning;*

(c) *freedom to practise any religion and manifest such practice which shall include the right to belong to and participate in the practices of any religious body or organisation in a manner consistent with this Constitution;*

(d) *freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition; and*

(e) *freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organisations.*

67. Any person who feels that this right has been infringed upon is free to seek an effective remedy or redress in the courts of law. The authorities that have jurisdiction in matters of human rights are the courts of law (under Article 50 (1) (a) and 53 (1) and (2)). An individual may apply to court for redress, which may include compensation or an order of court, directing the violator to stop his/her acts of human rights abuse.

68. Under Article 53 of the Constitution, the Uganda Human Rights Commission may order the following remedies;

- (a) Order the release of a detained person
- (b) Order payment of compensation
- (c) Any other legal remedy or redress.

69. A victim is normally awarded monetary compensation.

ARTICLE 3: NON-DISCRIMINATION: EQUAL RIGHTS OF MEN AND WOMEN

70. Uganda is a state party to the Covenant on the Elimination of All forms of Discrimination Against Women (CEDAW) and submitted its third Periodic Report to the Committee in December 1999.

71. Since the submission of the Initial and Second Periodic Report to the Committee, Uganda has made bold steps in articulating its commitment to the protection of children's rights and addressing gender issues in the 1995 Constitution.

72. The two Reports that Uganda compiled under CEDAW were submitted under the 1967 Constitution. Sex was not listed as one of the prohibited grounds for discrimination under that Constitution. However, under the new Constitution (1995), sex is included under the discrimination clause (Article 21(3)), which states, *"To discriminate means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed, or religion, or social or economic standing, political opinion or disability."*

73. Freedom from discrimination is enshrined in Article 21 of the Constitution of Uganda (1995). Article 21 (2) states, *"Without prejudice to clause (1) of this Article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion or social or economic standing, political opinion or disability."*

74. Article 32 (1) of the Constitution also states, *"Notwithstanding anything in this constitution, the State shall take affirmative action in favour of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them."*

75. Article 33 of the Constitution specifically provides for the rights of women. It states:

- (a) *Women shall be accorded full and equal dignity of the person with men.*

(b) *The State shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them realize their full potential and advancement.*

(c) *The State shall protect women and their rights, taking into account their unique status and natural maternal functions in society.*

(d) *Women shall have the rights to equal treatment with men and that right shall include equal opportunities in political, economic and social activities.*

(e) *Without prejudice to Article 32 of the Constitution, women shall have the right to affirmative action.*

(f) *Laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status are prohibited by this Constitution.*

76. In comparison with past Constitutions of the country, the 1995 Constitution gives more concrete recognition to women. Under the National Objectives and Directive Principles of State Policy in the 1995 Constitution, discrimination on the basis of gender is prohibited. The Constitution shall ensure Gender balance and fair representation of marginalized groups on all Constitutional and other State bodies. Some of these bodies include: The Ministry of Gender, Labour and Social Development, National Women's Council, the Ministry of Health and the Family Planning Association of Uganda.

Women's political participation

77. The political sector is one of the key areas in decision-making, and it is constituted by two major components, namely the legislature and the executive. The national executive consists of the President and the Vice President, and the Ministers. However, there are some members of the executive who are *ex-officio* members of Parliament. The current national executive is composed of 15 women and 51 men.

78. Since 1986, the Government has pursued a policy of affirmative action to increase the membership of Special Interest Groups (SIGs) among the executive and legislative bodies. These groups include the women, the Army, persons with disabilities (PWD), the workers, and the youths.

79. In National Politics, there is affirmative action for special seats for women from then districts over and above the option to compete with men in the Constituencies. According to Article 78 (1) (b) of the constitution, "*Parliament shall consist of one woman representative from every district.*"

Table 4.0**Sex distribution of members of the National Executive, Uganda, August 2001**

| Position in the executive | Number | | | Percentage | |
|---------------------------|--------|-----|------------|------------|-----|
| | Women | Men | Both sexes | Women | Men |
| President | 0 | 1 | 1 | 0 | 100 |
| Vice President | 1 | 0 | 1 | 100 | 0 |
| Prime Ministers | 0 | 3 | 3 | 0 | 100 |
| Ministers | 3 | 18 | 21 | 14 | 86 |
| Ministers of state | 12 | 32 | 44 | 28 | 72 |
| Total | 19 | 50 | 70 | 28 | 72 |

Source: Office of the President.

80. Since the submission of the initial, second and third periodic Reports to the Commission on Human rights, the Government has taken measures to eliminate discrimination against women in local governance through affirmative action.

81. The Government has adopted the principle that the village, parish, sub-county and district levels should have 1/3 of the council being represented by women. In 1999, there were 52 women out of the 280 political leaders in the executive and legislature at the national level. Thus women constituted about 19 percent of the politicians at this level.

Table 4.1**Sex distribution of members of the National Executive, Uganda, August 2000**

| Position | 1996 | | 1997 | | 1998 | | 1999 | | 2000 | |
|-------------------|------|------|------|------|------|------|------|------|------|---|
| | W | M | W | M | W | M | W | M | W | M |
| Cabinet | 7 | 47 | 7 | 47 | 7 | 47 | 7 | 45 | | |
| Parliament | 51 | 226 | 51 | 226 | 51 | 226 | 51 | 222 | | |
| Top Civil Service | 59 | 215 | 60 | 213 | 60 | 213 | 58 | 213 | | |
| Judiciary | 13 | 44 | 15 | 51 | 15 | 51 | 16 | 57 | | |
| Local Authorities | 5 | 73 | 12 | 105 | 12 | 105 | 12 | 105 | | |
| Total (numbers) | 135 | 605 | 146 | 642 | 146 | 642 | 146 | 642 | | |
| Percent | 18.2 | 81.8 | 18.5 | 81.5 | 18.5 | 81.5 | 18.5 | 81.5 | | |

Source: Women and Men in Uganda: Facts and Figures, 1988 (MGLSD)

Women and Men in Uganda: Facts and Figures, 2000 (MGLSD)

Cabinet includes Ministers and Ministers of State.

Local Authorities include Resident Districts Commissioners (RDCs), Chief Administrative Officers (CAO), and Local Council.V Chairpersons.

82. The major factors believed to affect the level of women participation in the political arena include: Comparative lack of the necessary financial resources to compete in the mainstream constituencies, negative attitudes of the general population towards participation of women in politics; and the socialization processes in most communities where women are not encouraged to aspire to become leaders. Finally there is lack of exposure and techniques in formal leadership skills.

Women and men in top decision making positions in Uganda

The Civil Service

83. The Civil service means service in any civil capacity of the government, the emoluments for which are payable either from the consolidated fund or out of money provided by Parliament. The Civil service is divided into six major components namely:

- (a) Government Ministries;
- (b) The judiciary
- (c) The Foreign Service
- (d) The Education Service
- (e) The police and the Prisons Service
- (f) The District Public Service

84. Available data indicate that there are over 17,000 persons in decision making positions in Uganda, and of these women constitute 40%. This however is a low level of participation, given that women constitute 50% of the total population. Women's participation is highest in the political sector, where they constitute 44% of the political leaders. The women constitute 12% of the non-political decision makers at the national level.

85. As of December 1999, there were very few women occupying the decision-making positions in the Government Ministries. Out of a total of 166 persons in decision-making positions in Government Ministries, only 40 persons (16%) were women.

Table 4.2**Sex distribution of decision makers in the Government Ministries, Uganda,
August 2001**

| Leadership position | Number | | | Percentage | |
|------------------------|--------|-----|------------|------------|-----|
| | Women | Men | Both sexes | Women | Men |
| Permanent Secretaries* | 6 | 27 | 33 | 18 | 82 |
| Directors | 4 | 45 | 49 | 8 | 92 |
| Under Secretaries | 5 | 13 | 18 | 28 | 72 |
| Commissioners | 11 | 55 | 66 | 17 | 83 |
| Total | 26 | 140 | 166 | 16 | 84 |

Source: Ministry of Public Service.

* Includes Head of Civil Service/Secretary to Cabinet who is female.

86. Among the Government ministries, the proportion of women varies with rank. Table 3.2 shows that in 1998, there were seven women out of the 33 Permanent Secretaries, constituting 18 percent of the cadre.

87. The highest level of women participation is observed among the Under Secretaries, where women constitute 28%. This high percentage could be attributed to the fact that such posts can be attained by persons whose training tends towards the arts or humanities subjects, which is the area where many women are participating.

88. It is also to be understood that in the past when there was no affirmative action for women, several men would get promoted. These are the men who are currently at the top of the Civil Service. It also explains why most of the women Civil servants are currently in the

89. The lowest level of women participation is observed among the Directors. This low level of women is attributed among other reasons, to the fact that the position of Director usually requires highly technical qualifications and many years of experience, and the number of women with such requirements is in most cases low.

The Judicial Service

90. In the non-political service, women's participation is highest in the judicial Service, with 16 women out of a total of 73 persons occupying decision-making positions in the judiciary. The decision makers in the judiciary have been defined to include the rank of a Judge or Senior Officers and Chief Magistrates. The proportion of women is higher among the decision makers in higher ranks of the judicial service. The three top most positions of the judiciary namely the Chief Justice, and the Principle Judge are men, but in a recent reshuffle of judges, Uganda saw the position of Deputy Chief Justice go to a woman. Table 2.2 below shows the sex distribution of decision makers in the judicial service, August 2000.

Table 4.3

Sex distribution of decision makers in the judicial service, Uganda, 2001

| Title | Number | | | Percentage | |
|----------------------|--------|-----|------------|------------|-----|
| | Women | Men | Both sexes | Women | Men |
| Chief Justice | 0 | 1 | 1 | 0 | 1 |
| Deputy Chief Justice | 1 | 0 | 1 | 0 | 1 |
| Principal Judges | 0 | 1 | 1 | 0 | 1 |
| Judges | 6 | 33 | 40 | 18 | 83 |
| Chief Magistrates | 9 | 21 | 30 | 30 | 70 |
| Total | 16 | 57 | 73 | 22 | 78 |

Source: Ministry of Justice and Constitutional Affairs.

The Foreign Service

91. Another component of the Civil Service is the Foreign Service. The decision-making positions in the Foreign Service are the High Commissioners/Ambassadors, Minister Counsellors and the Counsellors.

92. By July 1999, there were seven women out of the 63 persons in the top decision making positions in the Foreign Service apart from the position of Permanent Secretary. As of 27 November 2001, out of 38 established positions of Ambassadors, women held only 4, two of whom were Political appointees. The number of Minister Counsellors who were women increased from 1 in 1999 to 3 in 2001, and among the Counsellors, the women increased from 3 to 8, while that of the men doubled from 8 to 16.

Table 4.4

Sex distribution (%) of decision makers in the Foreign Service, Uganda, as of 1st December 2001

| Title of Position | Number | | | Percentage | |
|----------------------|--------|-----|------------|------------|------|
| | Women | Men | Both sexes | Women | Men |
| Ambassadors | 4* | 32 | 36 | 11 | 89 |
| Minister Counsellors | 3** | 10 | 13 | 23 | 77 |
| Counsellors | 8 | 16 | 24 | 33 | 67 |
| Total | 15 | 58 | 73 | 20.5 | 79.5 |

Source: Ministry of Foreign Affairs.

* Two of who are political appointees.

** One of who is on contract.

93. In the Foreign Service, the trend is that the proportion of women is higher for the lower level officers, increasing to as high as 33% among the Counsellors.

District based decision makers

94. Among the district based decision makers (political leaders and civil service), the men constitute 57%. The women constitute 14% of decision-making positions at the Central Government level. At the local Government level, women occupy 42% of the Decision Making positions.

Table 4.5

(%) Of women among the decision makers, Uganda 1999

| Administrative Level | Major Sector | | |
|----------------------|--------------|---------------|-------------|
| | Political | Non-political | All sectors |
| Cent. Government | 19 | 13 | 14 |
| Local Government | 45 | 10 | 42 |
| All Levels | 44 | 12 | 39 |

Source: Women and Men in Uganda: Facts and Figures.

Government and non-governmental bodies responsible for undertaking the review of legislation and practice affecting the enjoyment of rights by women

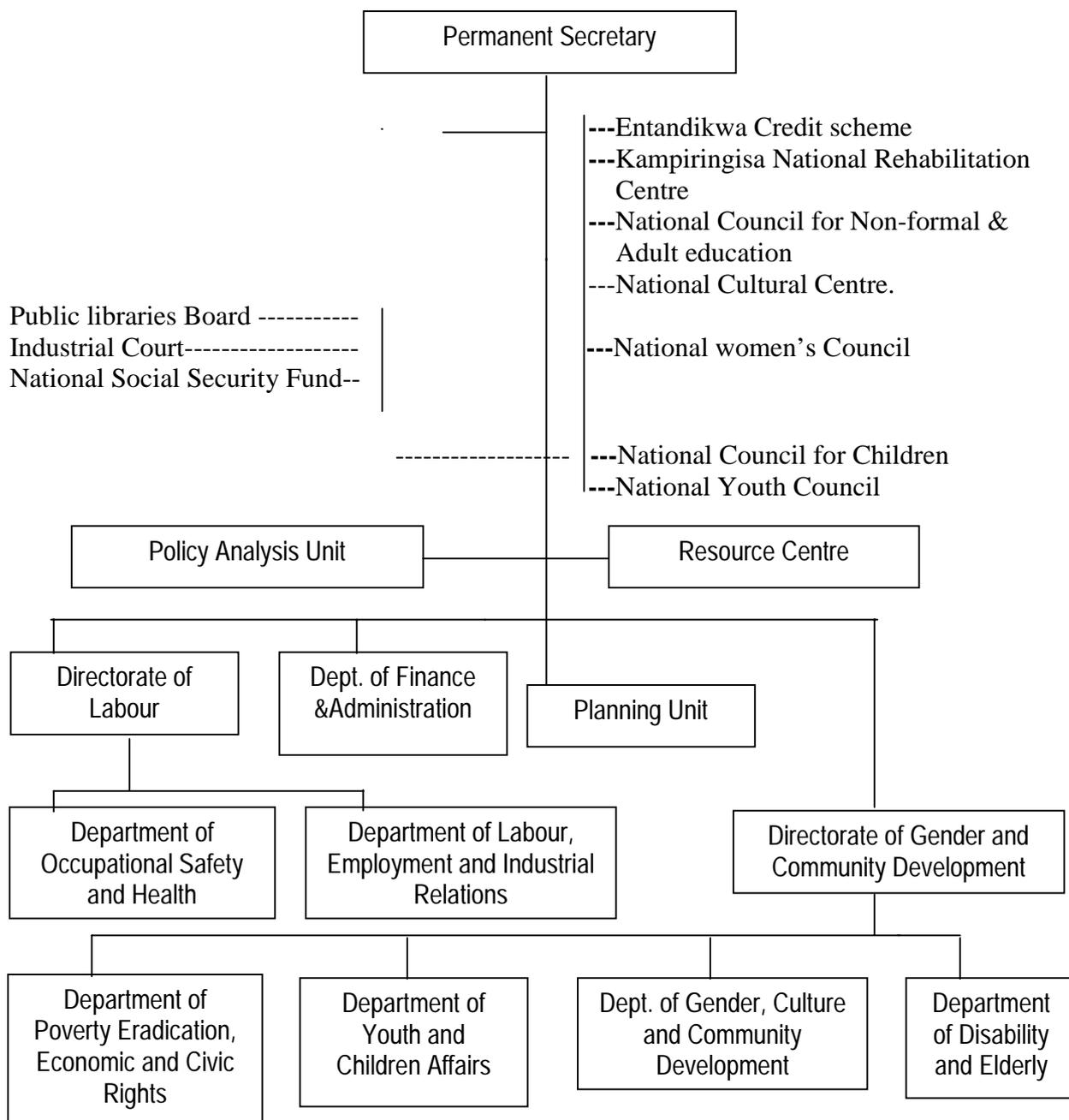
The Ministry of Gender, Labour and Social Development

95. The ministry of Gender, Labour and Social Development is the national machinery for advancement of women and gender mainstreaming. The mission of the Ministry of Gender is the promotion of employment, labour productivity, industry, peace, protection of rights and freedom and empowerment of communities, particularly the illiterate, marginalized and vulnerable groups.

The National Women's Councils

96. The National Women's Council Statute (1993) establishes the Women's Councils. The councils are local for women through which they are mobilized for civic and development activities in their local areas. In line with the Local Council structure, the women's council is a six-tier structure beginning at the village level, through the district, up to the national level. Women participation is highest in the political sector at the LC III level.

Structure of the Ministry of Gender, Labour and Social Development



Source: Ministry of Gender, Labour and Social Development.

ARTICLE 4: STATES OF PUBLIC EMERGENCY

97. In Uganda a state of public emergency may be activated and declared in the event of war, external aggression in to economic strife caused by internal insurgency on natural disasters or in circumstances which render necessary the taking of measures for seeing public safety public order and the defense of the country.

98. Article 10 (the Uganda constitution provides that the President may in consultation with the cabinet by proclamation declare that a state of emergency exists in Uganda or and part of Uganda if the President satisfied that circumstances existing in Uganda or in that part of Uganda.

(a) In which Uganda or that part of it is threatened by war or external aggression or

(b) In which the security or economic life of the country or that part is threatened by internal insurgency or natural disaster OR

(c) Which render necessary taking measures, which are required for seeing the public safety, the defense of Uganda and the maintenance of Public order and supplies and services essential to the life of the country.

Under the above provisions a State of emergency must be officially be proclaimed.

99. Also while the President may or may not consult his executive of his intent to declare an emergency, the constitution makes it mandatory for him to seek the approval of parliament before a declaration is made.

100. Article 110 (3) provides that the President shall cause the proclamation declaring the state of emergency, to be laid before parliament for approval as soon as is practicable and in any case not later than fourteen days after it was issued.

101. Parliament then determines the matter by majority of votes of the members present and voting in accordance with Article 89 of the constitution. The involvement of Parliament in ensures that the principles of democracy and good governance are upheld even in times of emergency. Parliament is also vested with powers of enacting laws which may be necessary for effective measures for dealing with any state of emergency.

102. In accordance with Article 110 (2) a state of emergency shall remain in existence for not more than ninety days and shall then expire. It may also be revoked by proclamation if the reasons for its existence expire. However, where circumstances dictate, it may be extended strictly by Parliament for a period not exceeding ninety days at a time.

103. This ensures that the executive does not arbitrarily suspend its constitutional obligation under the pretext of the existence of a state of emergency. The executive is also under a duty to inform Parliament of measures taken for the purposes of emergency.

104. Clause 6 of Article 110 provides that during any period when a state of emergency declared under this article exists, Parliament will at such intervals as Parliament may decide, present regular reports on action taken by or on behalf of the President for the purposes of the emergency.

105. By this provision, Parliament assumes the role of watchdog and supervision on the conduct of human rights during the state of emergency. In accordance with the Article 49 (1), the minister responsible must submit before Parliament a report indicating number of persons deprived of their personal Liberty under a state of emergency and measures taken in compliance with findings and recommendations of the Uganda Human Rights Commission for any violated rights and freedoms. Article 48 of the Constitution gives the Uganda Human Rights Commission powers to review all cases of all persons detained under emergency regulations.

106. The Uganda Public also has a right to know of persons negatively affected by such states of emergency hence the minister responsible must in accordance with Article 49 (2) Publish every month in the Uganda gazette and in the media, the number and names and addresses of the persons restricted or detained, the number of cases reviewed by the Uganda Human Rights Commission and action taken in compliance with the findings of the Uganda Human Rights Commission.

107. The Constitution allows for derogation from Rights and freedoms guaranteed under chapter 3 and more especially the right to personal liberty, freedom from discrimination, freedom of movement and the right to equality before the law and equal protection of the law in a State of emergency.

108. Article 46 (1) provided that An Act of parliament shall not be taken to contravene the rights and freedom guaranteed under the constitution if that Act authorizes the taking of measures that are reasonable justifiable for dealing with a state of emergency. There are however certain Rights that cannot be derogated from and these include freedom from torture, cruel, inhuman or degrading treatment or punishment, freedom from slavery or servitude, the right to fair hearing and right to an order of habeas corpus. However certain constitutional principles must be complied with.

109. Hence under article 49, where a person is restricted or detained under a law made for the purpose of a state of emergency, article 37 shall apply and state as follows.

(a) He or shall within twenty four hours after the commencement of the restriction or detention, be furnished with a statement in writing specifying the grounds upon which he or she is restricted or detained.

(b) The spouse or next of kin of or other person named by the person restricted or detained shall be informed of the restriction or detention and allowed access to the person with in seventy two hours after the commencement of the restriction or detention.

(c) Not more than thirty days after the commencement of restriction of his or her restriction or detention, a notification shall be published in the gazette and in the media stating that he or she has been restricted or detained and giving particulars of the provisions of law under which his or her restriction or detention is authorised and the grounds of his or her restriction or detention.

110. Where a person deprived of his/her personal liberty under a state of emergency brings his/her case before the Uganda Human Rights Commission. Article 48 (1) of the Constitution states that, where a person is restricted or detained under the above provisions, the Uganda Human Rights Commission shall review the case not later than 21 days after the commencement of the restriction or detention and after that at intervals of not more than 30 days.

111. Every person detained or restricted shall be afforded the right to consult a lawyer of his/her choice who shall make representations to the Uganda Human Rights Commission for review of his/her case and of the right to appear in person or by a Lawyer at the hearing or review of the case.

112. On a review of the case, the Uganda Human Rights Commission may order the release of that person or uphold the grounds by the restriction or detention. Aggrieved persons may also enforce their rights and freedoms in courts of Law in accordance with Article 50.

113. During times Public emergency state authorities such as military, police and Intelligence service and must observe and protect the rights and freedoms of Uganda's citizens.

114. Article 221 of the Uganda constitution provides that it shall be the duty of Uganda People's Defense forces and any other armed forces established in Uganda, the Uganda Police force and any other police force, the Uganda prisons service, all intelligence services and the National Security Council to observe and respect human rights and freedoms in the performance of there factions.

115. The UPDF under article 209 enjoined to cooperate with the civilian authority in emergency situations and in cases of natural disasters while the Uganda Police force is required to protect life and property among other things.

116. Uganda has not under gone a state of emergency during the reporting period. The country did however witness the state of emergency in 1966. The 1966 crisis was activated by Political rifts and ethnic differences which polarized the conduct of national affairs. The state of emergency was declared over the Buganda region and was renewable after every six months.

117. The third period witnessed the most violet abuse of human rights from a combined force of executive, military and Police. The period was characterized by a disregard of the rule of law, including the constitution, which guaranteed the protection of rights and freedoms of the individual. Several people were arrested including five ministers while others were killed or forced to flee the country. Police was ordered to detain 50-93 people at any one given time without assigning reason therefore. The armed forces were gradually moulded into fictionalized apparatus used by Political leaders. The Army became a Political weapon involved in protecting factional rather than national interest resulting in the violent abuse of human rights.

118. The Authority of the armed forces during this period was unquestioned and was exercised arbitrarily hence inflicting a kind of martial rule. The authorities did however get away with record because Uganda was then not a state party to the 1966 ICCPR. The rule of law is however today prevalent in Uganda and constitutional provision may clear and well entrenched in regard to the protection of human rights.

119. The most cardinal principle in the protection of these rights is that the fundamental rights and freedoms of the individual are inherent and not granted by the state. Hence the rights of the individual and groups as enshrined in the constitution shall be respected, upheld and promoted by all organs and agencies of Government and by all persons even during the state emergency.

ARTICLE 5: NON-DEROGABLE HUMAN RIGHTS

120. Uganda under takes to honour treaty obligations and to this end endeavours to interpret the various articles contained in the covenant in good faith with a view to realising the covenant's objectives.

121. This commitment is reiterated under principle xxviii of Uganda's foreign policy objectives enshrined in the constitution. Among other things, the foreign policy of Uganda shall be based on the principles of respect for international law and treaty obligations and opposition to all forms of domination, racism and other forms of oppression and exploitation.

122. The Uganda Constitution also imposes a general duty on the state to bring domestic laws into conformity with obligations under international law, however rules and obligations imposed by international law will not be binding on Uganda except if ratified and translated into national law. Hence under article 123 (2) parliament shall make laws to govern ratification of treaties, conventions agreement or other arrangements committing Uganda on the International sphere.

123. Uganda ratified the ICCPR in 1996 and translated a great deal of obligations imposed by the covenant into national law. Hence Chapter IV of the Uganda Constitution is a reflection of legal provisions contained in the International Bill of rights.

124. Above all, Uganda recognises even those rights and freedoms not explicitly provided for in the Constitution. Article 45 of the Constitution provides that the rights, duties declarations and guarantees relating to any fundamental and other human rights and freedoms specifically mentioned in the Constitution shall not be regarded as excluding others not specifically mentioned. This concerns those rights and freedoms not specifically mentioned in the covenant.

PART III

ARTICLE 6: THE RIGHT TO LIFE

125. The Constitution of Uganda in article 22 protects the right to life. This article provides that no person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction.

126. The Penal Code, Cap 106 makes it an offence punishable by death for any person who, with malice aforethought causes the death of another by an unlawful act or omission. The Penal Code makes attempted murder, entering a suicide pact and killing unborn child offences. It may therefore be noted from the foregoing provisions that the right to life is highly protected under Uganda's national legislation.

127. A number of Ugandans have lost and continue to lose lives due to rebel activities in parts of the country especially the Northern and Western parts. The Lord's Resistance Army (LRA) has since the mid 1980s caused untold suffering and loss of lives to the people of Northern Uganda, especially in the districts of Gulu and Kitgum. The Allied Democratic Front (ADF) rebels have also killed a number of people in the districts of Kasese, Bundibugyo and Kabarole in the Western part of Uganda.

128. The Government has adopted a number of strategies aimed at persuading the different armed groups to give up rebellion. Significant among these is the enactment of the Amnesty Act, 2000. The main objective of this Act is to provide for amnesty to Ugandans involved in acts of a war like nature in various parts of the country.

129. Under section 3 of the Amnesty Act, amnesty is declared in respect of any Ugandan who has at any one time since 1986 engaged in or is engaging in war or armed rebellion against the Government of Uganda. A person granted amnesty shall not be prosecuted or subjected to any form of punishment for the participation in war or rebellion or for any crime committed in the cause of war or armed rebellion. An Amnesty Commission is established under the Act to administer the grant of amnesty and to help the former rebels to integrate in their communities.

130. The Amnesty Commission has been assigned its mandate under Section 9 of the Amnesty Act, 2000. The Commission is charged with fulfilling the following functions:

- (a) Monitoring Programmes of demobilization, reintegration and resettlement of reporters.
- (b) Coordinating a programme of sensitisation of the general public on the Amnesty Law.
- (c) Considering and promoting appropriate reconciliation mechanisms in the affected areas.
- (d) Promoting dialogue and reconciliation within the spirit of the Act.
- (e) Performing any other functions stipulated in the Act.

131. As a result, to date, 5000 reporters have responded to the Amnesty extended by the Government. The Amnesty promotion undertaken by the Amnesty Commission has had some effect on the population. These include:

(a) Increased awareness about the law as a result of the consistent use of a variety of media including talk shows, publications, visits to prisons and local leaders.

(b) Nearly 5,000 reporters have responded to the Amnesty law, of these, 2500 have received Amnesty Certificates and the Commission has rejected only a few applications.

(c) The Amnesty Act has been translated into six languages, namely: Luganda, Runyakitara, Swahili, Lugbara, Ateso and Luo.

(d) A team headed by the Amnesty Commission has visited the Sudan to promote Amnesty with success. Contacts with key partners in the Sudan have since continued.

132. The Government of Uganda has held talks with the Government of Sudan, largely suspected of funding and facilitating the rebels fighting the Uganda Government. The talks have succeeded in the restoration of diplomatic ties between the two countries. In fact during the Smart Partnership Dialogue held in Kampala from 18-21 August 2001, the president of Sudan publicly announced that his Government will no longer support rebels fighting the Uganda Government.

133. In spite of the progress made in the promoting Amnesty, the Commission is still faced with some problems, which hamper its activities, and they include:

(a) Inadequate funds and logistics for implementation of amnesty promotional activities such as publications, transport to assess the target group, payment for airtime in the media.

(b) The mandate of the Commission expires every six months, making planning difficult.

134. Government has also invested greatly in immunisation and proper nutrition programmes and this has greatly reduced infant mortality. There are periodical countrywide immunisation against polio and measles.

135. So many lives have been lost to the AIDS pandemic in Uganda. Government has put in place a number of strategies and set aside funds to combat the scourge. The Uganda AIDS Commission was set up by law in 1992 to coordinate the multisectoral efforts to control and prevent HIV/AIDS in Uganda, and it has put in place several programmes and activities aimed at reducing the incidence of HIV/AIDS. This has provided some positive results. In fact recent statistics show that the rate of HIV infection especially among pregnant women has greatly declined. Government has also received donor funds and purchased anti-retroviral drugs which prolong the life of AIDS sufferers. The drugs are still expensive though, and are therefore out of reach for the majority of AIDS sufferers.

Information on health statistics

| Indicator | Statistical value FOR 2000 - 2001 |
|--|--|
| Life Expectancy (At birth in years) | 52 years (WHO Annual Report) |
| Infant Mortality rate | 88 Per 1000 (DHS 2001) |
| Maternal Mortality Rate | 505 Per 100,000 Live births (DHS 2001) |
| Total Fertility Rate (age 15 - 49) | 6.9 expressed per woman (DHS 2001) |
| Crude Death rate | |
| Male | 18.7 |
| Female | 16 |
| Both sexes | 17.3 (1991 Population and housing census) |
| Adult Mortality Rate per 1000 Population | |
| Male | 9.7 |
| Female | 8.6 (DHS 2001) |
| Under weight | 23% of children under five years (DHS 2001) |
| Total number of Govt. Hospitals (These are in three categories, namely national referral and district/rural hospitals) | 57 (MOH - RESOURCE CENTRE) |
| Total number of health units | 1,637 (MOH - RESOURCE CENTRE) |
| Population per health unit | APPROX. 13, 561 (MOH - RESOURCE CENTRE) |
| Population per doctor | 18000 (MOH - HUMAN RESOURCE DEVT. CENTRE) |
| Population per hospital bed | 870 (MOH -Resource Centre) |
| Population within 5km radius of A health facility (physical Accessability) | 49% do access water beyond 1.5 km MOH - ENVIRONMENTAL DIVISION) |
| Longest Distance to safe water | 55% access to safe water within 15Km (MOH - ENVIRONMENTAL DIVISION) |
| Safe Laterine Coverage | 46.4% MOH - ENVIRONMENTAL DIVISION |

136. Uganda is one of the countries that have not yet abolished the death penalty. However, sentence of death is imposed only in the most serious offences. These offences are specified in the Penal Code Chapter 106 of the Laws of Uganda and these include murder, rape, defilement, aggravated robbery and treason.

137. Article 26 of the Constitution provides that a person charged with any criminal offence shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal. Under article 28 (3) a person charged with a criminal offence shall-

(a) be presumed to be innocent until proved guilty or until that person has pleaded guilty;

- (b) be informed immediately, in a language that he or she understands of the nature of the offence;
- (c) be given adequate time and facilities for the preparation of his or her defence;
- (d) be permitted to appear before the court in person or, at that person's own expense, by a lawyer of his or her choice;
- (e) in the case of any offence which carries a sentence of death or imprisonment for life, be entitled to legal representation at the expense of the State;
- (f) be afforded, without payment by that person the assistance of an interpreter if that person cannot understand the language used at trial;
- (g) be afforded facilities to examine witnesses and to obtain the attendance of other witnesses before the court.

138. A person can only be sentenced to death if the court follows the proceedings laid down in Article 26. It is only the High Court which has jurisdiction to try capital offences whose punishment is death. A person convicted and sentenced to death may appeal to a higher court against the conviction and sentence (section 131 of the Trial on Indictments Decree, 1971).

139. A person sentenced to death may be pardoned or have his sentence commuted to a lower sentence. Under article 121(4) of the Constitution, the President may, on the advice of the Advisory Committee on the Prerogative of Mercy grant to any person convicted of an offence, a pardon either free or subject to lawful conditions. In Uganda the President occasionally exercises this power.

140. Under Ugandan Law, it is a requirement that a convict should initiate the petition in person which is submitted not directly to the President but to the Attorney General who then convenes the Committee on the Prerogative of Mercy. The Committee then sits and considers all the petitions submitted to it with a view to making appropriate recommendations to the President on deserving cases. It is then that the president can exercise his prerogative of mercy pardons the convict. For example in September, 2001, a person known as Abdullah Nassur, who had been on death row for twenty years was pardoned by the President and he is now living a normal life with his family.

141. In Uganda's national legislation a sentence of death is not imposed on a pregnant woman or on a person below the age of 18 years. Section 102 of the Trial on Indictments Decree, 1971 provides that where a woman convicted of an offence punishable by death is found to be pregnant, the sentence to be passed on her shall be a sentence of imprisonment for life instead of death. Section 104 of the same legislation states that a sentence of death shall not be pronounced or recorded against a person, who at the time of committing the offence, he or she was under the age of 18 years. In these circumstances, the person shall instead be detained for such a period of time as the Minister may order.

142. Even though the Death Penalty is still part of the Ugandan law, the Government of Uganda set up the Constitutional Review Commission to streamline aspects of Ugandan law that are contradictory. The Commission has, among other things, been mandated to review the issue of the death Penalty.

ARTICLE 7: PROHIBITION AGAINST TORTURE

143. Uganda ratified the Convention against Torture in 1986 and is currently in the process of compiling the Initial Report to the Committee on Human Rights. Uganda also ratified the First Optional Protocol on the ICCPR with reservations on Article 5.

144. Article 24 of the 1995 Constitution of the Republic of Uganda prohibits any form of torture, cruel inhuman and degrading treatment or punishment. Further, under Article 44 of the 1995 Constitution of the Republic of Uganda, torture is made non-derogable.

145. The Penal Code, Cap. 106 that governs crime in Uganda, specifically provides for some components of torture. It specifically provides for some components of torture e.g. Assault, grievous bodily harm, actual bodily harm and attempted murder. Nevertheless, there is no law defining torture in Uganda per se.

146. Offenders may be apprehended, tried and convicted if the crime has been categorized as assault, grievous bodily harm, actual bodily harm or attempted murder. The victims of torture however, are often left in a position where they feel that the offender has not received a punishment that fits the crime.

147. Despite the fact that the Constitution clearly prohibits torture, findings by the Uganda Human Rights Commission in its Annual Reports of 1997, 1998 and 1999 indicate that there are still many cases of torture especially in places of detention such as the police cells, prisons and military detention centres.

Examples of cases of torture found by the Commission

148. George Kauta then aged 14 can best illustrate the kind of mistreatment prisoners can be subjected to in prison. George Kauta had been arrested and remanded in Bugungu Young Persons Prisons on a charge of defilement. While in prison he was constantly beaten, including on one occasion when he was given 21 strokes of the cane which was referred to as “food for fools”. Prison officials including the O.C. Ishaka, Magemeso administered these beatings. Kauta became mentally disturbed and delirious. The matter eventually reached the Commission and the prison officials admitted torturing Kauta. They were ordered to pay Ushs.10 million as compensation for the torture meted out on Kauta.

Solitary confinement

149. Solitary confinement has existed in Uganda prisons since independence in 1962. The government of Uganda has been using this as a control measure of its convicts. However, the Government of Uganda has acknowledged that prolonged solitary confinement is a form of torture and has therefore taken steps to rectify the situation in the Prisons Bill.

150. The Prisons Bill prohibits the use of solitary confinement except in the case of extremely violent offenders.

Medical and scientific experimentation

151. Uganda does not have legislation in respect of torture related to scientific and medical experimentation without the free consent of the persons concerned. However, government policy dictates that consent must be obtained from a person being subjected to medical or scientific experimentation.

152. For instance, in 1999 the Government of Uganda refused the experimentation of HIV vaccines on persons until their consent had been obtained. Government insisted that experiments were to be carried out on a voluntary basis. Government also refused the use of experiments on vulnerable persons incapable of giving valid consent, such as the mentally sick, convicts and children.

Remedies available to persons who have suffered torture

153. Article 50 of the constitution of the Republic of Uganda empowers any person who feels that their right have been violated to seek for redress. Article 51 of the same Constitution establishes the Uganda Human Rights Commission, which, under Article 53 is empowered to order a violator of human rights to compensate torture victims. The Uganda Human Rights Commission may of its own accord investigate a human rights offence provided that it is not, at the time, being heard in the courts of law.

154. Parallel to the Uganda Human Rights Commission, under Article 223 the 1995 Constitution establishes the Inspectorate of government, whose mandate includes entertaining complaints from individuals in respect of human rights violations initiated by government officers or state actors.

155. The process of investigation carried out by the Uganda Human Rights commission is as follows:

(a) The Commission receives a complaint from the general public through the department of Complaints and investigations.

(b) When it is found that there is need to do a further investigation, an official is assigned to investigate the complaint.

(c) The Commission however, may, of its own volition make on-site visits to a purported scene of abuse, with the aim of establish the factual situation of an alleged human rights violation.

(d) If a violation is discovered to have taken place, the Commission may allow mediation between the victim and the violator. Alternatively, the Uganda Human Rights Commission may decide to bring the case before a Tribunal Hearing.

(e) When it is established that a violation was actually enacted, using its powers under Article 53 of the 1995 constitution, the commission may order for compensation of the victim. The compensation is usually of monetary value. It also recommends prosecution by the DPP.

156. The Uganda Human Rights, Commission has afforded itself the use of the definition of torture as it appears in the CAT and handles the offence of torture wholly from the Convention's viewpoint. Since its inception, the Commission has handled 689 torture cases. The highest amount of money awarded to a victim as compensation so far has been U. Shs. 33 million (approx. US \$18,500). The Uganda Human Rights Commission in its recommendations to Government, called for a statutory definition of torture to cover abuses other than those by Government officials.

157. The Uganda Human Rights Commission has adopted a definition which is wider than that in the Convention Against Torture to cover torture committed by individuals in their private capacities.

158. Regarding dissemination of information and protection from torture, the government of Uganda invested in the training and sensitisation of all senior law enforcement officers. The Uganda Human Rights Commission is continually holding training workshops for senior Police and army officers and the general public. Since the Commission was established in 1996, National and international NGOs have conducted several training and dissemination workshop in which torture prevention was a major aspect. The impact of this training is beginning to bear fruit, particularly in the improving relationship between the military departments and Human Rights bodies in the country.

159. The Commission faces several challenges in the course of its duties, which include:

(a) Adequate funding

(b) Shortage of trained investigation personnel. Both to quicken the pace and to ensure that thorough investigations are carried out.

160. The Government of Uganda has moved The Prison Bill 2001, one of whose objectives is to outlaw corporal punishment and long periods of solitary confinement. In this respect a Proposal is being drawn up to amend the penal Code Cap. 106 to bring it in conformity with the Constitution, because the Penal Code still allows Judges and Magistrates to impose Corporal punishment therefore, Judicial officers have continued to erroneously prescribe it.

161. Under the Children Statute (1996), corporal punishment in schools is made an offence. In addition, there has been a Ministerial directive that there should not be any corporal punishment in schools.

162. The Ministry of Education banned corporal punishments in all schools in Uganda under circular Ref CE/C/23, 1997. The circular highlighted among others that where the guidelines are ignored or abused, the culprits would criminally be held responsible for their actions and would

have to face the law; including the professional Code of Conduct. Under the directive, every school was to immediately review its school rules and code of punishment with a view to introducing more professional and acceptable sanctions to replace the stereotypes of manual labour and caning.

163. As a result of this circular, all punishments administered in schools were to be recorded in a punishment book, clearly indicating the type of offence, type of punishment, authorization and the particulars of the person administering the punishment.

164. Under the guidelines on policy, roles and responsibilities of stakeholders in the implementation of Universal Primary Education (UPE) No. 34 (iii) (1998) administration of corporal punishment is prohibited.

165. There is still a big debate in the country about this decision with some teachers, parents and even students arguing for its retention. It has therefore been found necessary to sensitise the public about the dangers of corporal punishment, through efforts by the Ministry of Gender, Labour and Social Development, the Child's rights NGOs, the Uganda Human rights Commission and other concerned organizations. Human rights have also been incorporated in the school curriculum, from primary school level upwards.

166. On February 25th 2002, Acting Principle Judge of the High Court, Gideon Tinyinondi halted the execution of a corporal punishment slammed on a man convicted of attempting defilement. Fred Mujuni, 23, of Masooli Village, pleaded guilty to charges of attempted rape of a five - year old infant. In the case of Uganda vs. Mujuni, Lady Justice Julia Sebutinde convicted Mr. Mujuni to five years in jail plus 10 strokes of the cane. However, the Acting Principle Judge wrote to Luzira State Prison authorities on February 25th 2002, directing them to stay the corporal punishment until they were advised by the Court again. The Ag. Principal Judge stated in his communication that the corporal punishment of 10 strokes was unconstitutional because it contravened Article 24 of the 1995 Constitution.

Admissibility of confessions obtained through torture

167. The Criminal Procedure Code Cap 306 expressly prohibits admissibility of evidence or confessions obtained through torture. However, evidence obtained through information obtained by torture is admissible, and the police have been known to exploit this loophole. The Courts of law have strictly adhered to the practice of not admitting evidence obtained through torture. This principle was upheld in the case of Festo Asenwa and Kakooza vs. Uganda (1998), where the Supreme Court of Uganda held that the evidence obtained from an accused person through torture is not admissible.

ARTICLE 8: PROHIBITION OF SLAVE TRADE

168. Article 25 of the Constitution provides that no person shall be held in slavery or servitude and no person shall be required to perform forced labour. Under this article, forced labour does not include-

- (a) Any labour required in consequence of the sentence or order of a court;

(b) Any labour required of any person while that person is lawfully detained which, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which the person is detained;

(c) Any labour required of a member of a disciplined force as part of that member's duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour which that person is required by law to perform in place of that service;

(d) Any labour required during any period when Uganda is at war or in case of any emergency or calamity which threatens the life and well being of the community, to the extent that the requiring of the labour is reasonably justifiable in the circumstances of any situation arising or existing during the period or as a result of the emergency or calamity, for the purpose of dealing with that situation;

(e) Any labour reasonably required as part of reasonable and normal communal or other civic obligations.

Economic exploitation including child labour

169. The law in Uganda prohibits forced or bonded labour, including forced or bonded labour by children, but lack of resources has prevented the Government from enforcing this prohibition effectively.

170. Uganda has a population of 23 million, 78% of whom are children and youth. Over 50% of these young people live below the poverty line and therefore are vulnerable to all kinds of abuses. The state has made provisions in the 1995 Constitution, the Children Statute (1996) and the Employment Decree No. 4 of 1975 restricting employment of children below the age of 18.

171. In 1998, a Memorandum of understanding was signed between the Government of Uganda and the International Labour Office to implement the International Programme on the Elimination of Child Labour (IPEC).

172. Uganda also ratified both ILO Conventions, No.182 (1999) on the Worst forms of child labour and No. 138 (1973) on the Minimum age for admission to Employment on 1st May 2001 and the ILO Convention No. 138 (1973) on 182 (1999) on the Worst Forms of Child Labour. Additional legislative machinery include the ILO Conventions No. 5 (Minimum Industry), No. 123 (Minimum Age - Underground work) and No. 124 Medical Examination of Young Persons.

173. According to the 1995 Constitution of the Republic of Uganda, Article 34 (4) states, "*Children are entitled to be protected from social, economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous to their health or physical, mental, spiritual, moral and social development.*" In terms of labour legislation, the employment Decree No. 4 of 1975 in Sections 49 to 56 prevents employment of children below the age of 12 and regulates employment of children under the age of 18. Section 49 states that a person under the apparent age of 18 years shall not be employed otherwise than as provided in the Decree.

174. Section 9 of the Children Statute of the Republic of Uganda, 1996, states, “*No child shall be employed or engaged in any activity that may be harmful to the child’s health, education, mental, physical or moral development.*” Section 50 of the Employment Decree No. 4 of 1975 reinforces this by stating, “*No person may employ a person of the apparent age of 12 except on such light work as the Minister may from time to time by statutory order prescribe.*”

175. Enforcement of this legislation remains a challenge. Enforcement is ineffective due to inadequate staff and logistical support to enable labour officers to undertake regular inspections. Special problems also exist in the informal sector, domestic service where most working children are found. Traditionally, these sectors are outside the purview of law. They are therefore not easily accessible to the labour inspectors.

176. Uganda’s economy is agro-based with 78% of the farmers being women who are found in rural areas. In 1998, the Ministry of Health reported that 66% of the population were living in absolute poverty.

177. The HIV/AIDS pandemic has reached mammoth proportions and has claimed millions of Ugandan lives over the past fifteen years. The consequences of the scourge have included the deaths of several heads of families; affecting the culture of the extended family, causing financial difficulty, which in turn has crippled its ability to take on and look after the younger generation.

178. The large size of the population makes it difficult for the Government to enforce prohibitions on child labour. One half of the population of Uganda is below the age of eighteen years. Children in rural areas wake up extremely early, to collect water at public wells or streams, collect firewood and then proceed to the family shamba (garden) to dig before going off to school. Inadequate expertise in the area of child labour inspection and weakness of the measures to facilitate the verification of age of working children has been recognised to have been a hindrance to effective enforcement.

179. Servicing of Uganda’s foreign debt has continued to consume 20% of the country’s revenue, which would be put into programmes to do with childcare. Regardless of the Ministry of Finance figures which indicate that the country’s economy grew by 7%, the situation on the ground is still alarming, with poverty grossly affecting the standard of living of a large number of the population. Current estimates, based on the 1991 census figures suggest that there are 1.3 million orphaned children. This large number of orphans results from previous civil wars, internal displacement of persons and AIDS.

180. According to one Ministry of Health report, in the district of Rakai, most of the households are headed by children who are constantly being socially and economically exploited. These children end up doing odd jobs that are harmful to their health, education, mental, physical and moral development, in order to somehow make ends meet. Ignorance of the law has also been identified as a significant factor contributing to its violation. The vast majority of the people affected by child labour are the rural, poor and illiterate.

181. Children are driven with increasing frequency from their rural homes, which are regarded as areas of hopelessness only to find that they face an even greater danger of the urban centres. They get involved in child prostitution, petty theft for hoodlums, abuse of drugs and often get into trouble with the law.

182. Most working children are employed in the informal sector, often on the subsistence farms of extended family members or as domestic servants. Poverty-ridden relatives in the rural areas will send their children to work for urban families in order not to worry about having to feed them. In the urban areas, it is not uncommon to find young children, especially those between the ages of 7 and 14 years being brought from the rural areas to act as baby-sitters, often for little or no pay at all. These children often work from dawn till dusk doing heavy manual jobs as well as sometimes being beaten by dissatisfied employers.

183. Often, these children do not get the opportunity to go to school, and the heavy jobs that they perform for example carrying jerry cans of water on their heads, retards their physical growth. The difficulties these children face also affect their morale.

184. Some cases have been reported in which male employers (sometimes blood relatives of the children) take advantage of their vulnerability and economic dependence and sexually exploit them. In urban areas, most children peddle small items on the streets, are involved in commercial sex, or beg for money.

185. Some of the largest sectors also employ child labour. In tea estates for example, even though adults do most of the tea harvesting, some children are also employed. Smuggling, identified as one of Uganda's larger informal industries, illegally employs child labourers at the borders with Kenya and Tanzania. Children walk back and forth across the unguarded borders transporting small amounts of coffee, fuel, sugar and other commodities. The Ministry of Gender, Labour and Social Development is charged with enforcing the law on labour but it has insufficient resources to do so.

Government efforts to rectify the situation

186. With the technical cooperation of the ILO/International Programme on the Elimination of Child Labour, (ILO / IPEC) which was launched in 1998, the Government's intervention measures have received greater impetus.

187. A National Steering Committee on Child Labour composed of Line Ministries, the Federation of Uganda Employers and the National Organisation of Trade Unions, NGOs and other partners was established to guide and oversee the implementation of the child labour programme activities.

188. A child Labour Unit has also been created under the Ministry of Gender, Labour and Social Development to become the Government's focal point to the issue of child labour. Pilot strategies have been formulated to reach out to specific children in the worst forms of child labour, and their communities in partnership with the Federation of Uganda Employers, the National Union of Plantation Workers and several NGOs.

189. Under ILO/IPEC National Programme on the Elimination of Child Labour, Government will develop a national Policy on child labour consistent with the key ILO Conventions on Child Labour, expand education to more children and promote retention in school under the Universal Primary Education Programme. Government will also put in place and enhance appropriate structures to integrate efforts of the various players and enforcement mechanisms to monitor the situation of child labour.

190. Another programme under the ILO/ IPEC Regional Programme on prevention, withdrawal and rehabilitation of children engaged in hazardous work in the Commercial Agricultural sector in Africa was launched in December 2001. A planning workshop was held and identified social partners and a country implementation strategy for elimination of child labour in Commercial Agriculture, particularly tea, tobacco and coffee sectors have been developed.

191. Government works in partnership with NGOs to tackle the problem of child labour. Specific areas in this partnership include:-

(a) Withdrawal of children from hazardous work and reintegrating into educational system.

(b) Children who cannot be reintegrated into school systems are equipped with practical skills for survival.

(c) Advocacy to mobilize communities to take action against child labour through the media and establishment of Community Action Child Labour Clubs.

192. Through these efforts, children are being withdrawn and rehabilitated from domestic work, commercial sexual exposure, agricultural plantations and informal sector activities.

Slavery, illicit transfer and no return

193. Section 231 of the Penal Code Act of Uganda (1995) states, “*any person who conveys any person beyond the limits of Uganda without the consent of that person or some person legally authorised to consent on behalf of that person is said to Kidnap that person from Uganda.*”

194. Section 234 of the Penal Code Act states, “*any person who kidnaps or abducts any person from Uganda or from the lawful guardianship is guilty of a felony and is liable to imprisonment for 10 years.*”

195. Section 241 of the 1995 Penal Code Act of the republic of Uganda goes on to state, ‘*Any person who imports, exports, removes, buys or sells or disposes of any person as a slave or accepts, receives or detains against his will any person as a slave is guilty of a felony and is liable to imprisonment for fifteen years.*’

196. It has been reported that the Lord’s Resistance Army (LRA) uses the principle means of recruitment, the kidnapping of children whom they enrol by force in the fighting. Members of the LRA abuse, rape and defile the innocence of these children and resort to all forms of violence to compel them to fight. Young girls are forced to serve as ‘wives’ to the LRA Commanders and the fighters. Further Reports state that some of the abducted children are sold as slaves in exchange for firearms in the Northern Sudan.

197. War and its associated abductions and other violations carried out by rebel groups, affects marginalized groups like children more than older people. Children are separated from their families if they are not killed with them and they are used as slaves, subjected to torture, or sexually exploited.

198. Uganda is currently involved in an internal armed conflict against different rebel groups in the country. These groups are known to recruit children below the age of eighteen years. 90% of the Lord's Resistance Army (LRA) soldiers, a rebel group in Northern Uganda are below the age of 18 years. They are constantly traumatised by war.

199. It is reported that the rebel group targets children between the ages of 12 and 16 years. These children are targeted because they are more easily intimidated and indoctrinated than the older adolescents are. Adults and younger children are also abducted. In Kitgum alone, 4000 children have been abducted over the past six years.

200. It is further reported that 70% more boys than girls are abducted and still more boys than girls manage to escape, according to the World Vision Country director. In December 1998, over 80 children were freed from the LRA by Government forces. 7 of them were taken to the hospital.

201. In October 1996, the LRA abducted 21 schoolgirls from a school in Aboke (Northern Uganda). Sr. Fosera Rachelle the headmistress of the school requested creation of mediation to obtain the liberation of the girls. It is reported that these girls have been given as "spouses" to Commanders of the LRA.

202. The main sources of this information are the traumatised children recovered by the Uganda people's Defence Forces, and rebel reportees who have responded to the Presidential amnesty. The sources constantly disclose how Ugandan children are subjected to hard labour and sexual abuse in form of rape and defilement.

203. It is further reported that while the children who are trekked across the border into the Sudan itself for yet unknown lands, those who try to escape are mercilessly tortured or killed. The sources add that the children who are sold in exchange for guns and ammunition are subsequently transported to unknown places in airplanes. The Chief markets for these trades are allegedly Gong and Katiri in Sudan.

204. Narrating her ordeal, one Ms. Lakot, an escapee aged 12 years, with whom a Commander named Otto Kidega had a child named Faida, said in December 1994, while she was the wife to the Commander in Katiri, 110 children abducted from Uganda were bathed and later flown in a small plane to a place or places she did not know. The children were traded in exchange for 109 loaded automatic weapons.

205. The Uganda Human Rights Commission reported in its 1998 Annual report that since 1997, the LRA has abducted an estimated 10,000 children from the Republic of Uganda. This is corroborated by the UNICEF statistical estimates. Of these, a total of 5,847 have either escaped or been rescued and have been re-integrated in the community through the services of World Vision Trauma and Counselling Centre and Gulu Support Children's Organisation (GUSCO), both based in Gulu town.

Efforts by the Government to rectify the situation

206. The Uganda Government has taken all these complaints and reports into account. Uganda has responded to the issue by appealing to the rebels, to the Government of Sudan and to the United Nations to help in ending this alarming situation.

207. On December 8th 1999 Ugandan President and the President of Sudan Omar-el-Bashir signed an agreement aimed at re-establishing diplomatic relations and promoting peace in the region. Among the pledges contained in the document, the two presidents agreed to locate and return abductees to their families. Uganda re-opened its Foreign Mission in Uganda in October 2001.

208. Since January 18th 2000, the Sudanese Government has facilitated the release of 75 Ugandans abducted by the LRA including 54 children who were handed over to UNICEF in Khartoum.

209. The Government of Uganda ratified the Optional protocols on the Convention on the Rights of the Child, on the sale of the child, child prostitution and child pornography and on the involvement of children in armed conflict. The Protocols entered into force on January 18th 2002.

210. The Parliament of Uganda has enacted an Amnesty Act whose aim is to give amnesty to those who give up rebellion.

211. The government of Uganda recognises the need to strengthen local community capacity to help war affected children to follow up within the community on their progress, particularly the training and developing of capacity of community volunteer counsellors. Over 200 community volunteers have been trained by AVSI.

Conscription into the armed forces

212. The 1995 Constitution of Uganda states in Article 17 (1) (e) that it is the duty of every citizen in Uganda *“to defend Uganda and to render national service when necessary”*.

213. Article 210 of the Constitution of The Republic of Uganda makes Parliament responsible for making laws regulating the Uganda People’s defence forces (UPDF). For conscription into the army, as well as voluntary entry into the army, the minimum age is 18 years.

214. The National Resistance Army (conditions of Service) (men) Regulations S.I No. 7 of 1993 in regulation 5 (4) thereof provides that a recruiting officer shall not enrol a person under the apparent age of 18 years.

215. A recruiting officer who contravenes the said regulation 5 (4) would be guilty of conduct prejudicial to the good order and discipline of the Army Statute with the maximum punishment of dismissal with disgrace from the Army.

ARTICLE 9: RIGHT TO LIBERTY

216. The right to liberty and security of person is enshrined in Uganda's domestic legislation. Article 23 of the Constitution provides that no person shall be deprived of personal liberty except in the following cases-

- (a) in execution of the sentence or order of a court whether in Uganda or another country or of an international court or tribunal in respect of a criminal offence of which that person has been convicted; or of an order of a court punishing the person for contempt of court;
- (b) in execution of the order of a court made to secure the fulfilment of any obligation imposed on that person by law;
- (c) for the purpose of bringing that person before a court in execution of the order of a court or upon reasonable suspicion that the person has committed or is about to commit an offence under the laws of Uganda;
- (d) for the purpose of preventing the spread of an infectious or contagious disease;
- (e) in the case of a person below 18 years, for the purpose of the education or welfare of that person;
- (f) in the case of a person who is reasonably suspected of being of an unsound mind or addicted to drugs or alcohol, for the purpose of the care and treatment of that person or the protection of the community;
- (g) for the purpose of preventing the unlawful entry of that person into Uganda or for the purpose of effecting expulsion, extradition or other lawful removal of that person from Uganda;
- (h) as may be authorised by law, in any other circumstances similar to any of the cases specified in paragraph (a) to (g) above.

217. Every individual in Uganda therefore has a constitutional protection as to personal liberty and a person will not be deprived of his or her liberty or be arrested or detained except as authorised by law.

218. The constitution further provides that a person arrested, restricted or detained shall-

- (a) be kept in a place authorised by law;
- (b) be immediately informed, in a language that the person understands, of the reasons for the arrest, restriction or detention and of his or her right to a lawyer of his or her choice;
- (c) if not earlier released, be brought as soon as possible but in any case not later than 48 hours from the time of his or her arrest.

Problems faced by the Police Department in enforcing the 48 Hour Rule

219. The Criminal Investigation Department (CID), especially, is faced with the problem of enforcing the 48 hour rule. Among the problems they face are:

(a) With regard to deportees, sometimes the line Ministry concerned with availing funds for the one-way air ticket to send them to their countries of origin, takes long to do so. For instance, as of the May 2002, there were Seven foreign nationals who had been in custody for three months. (Five Srilankans, one Nigerian and 1 Pakistani.)

(b) Delays in sanctioning the charge sheets by the Director of Public Prosecutions (DPP) or Resident State Attorney (RSA) as required by law, before charging suspects in Court.

(c) The need to have Prima Facie Evidence before the Charge Sheet can be sanctioned by the DPP or RSA is a problem. Worse still is that in violent cases, such as Capital offences, the arrests may be effected before investigations are done. Furthermore, some of the suspects may be the ones willing to identify and assist in tracing the other suspects at large or recovery of vital exhibits, yet these may require travelling long distances for example in the case of Treason and Terrorism.

(d) Some cases require the consent of the Director for Public Prosecutions (DPP) in person whose presence cannot be guaranteed all the time, and yet the investigations may be carried out far away from Kampala where the office of the DPP is located. Examples of such cases include cases of Abuse of Office of Corruption.

(e) Sometimes, there may be a lot of Public interest in the case and in the event that a suspect absconds when released on police bond, it reflects badly on the police Department. The Police are therefore sometimes unwilling to release a suspect. The suspect may sometimes have no guarantee to answer Police Bond, leading to delay of release for some who would otherwise benefit under the arrangement.

(f) In some drug cases, the X-ray may reveal that exhibits are still in the digestive systems of the suspects. It therefore may require holding the suspect longer in order for the exhibits to be delivered. Furthermore, in the case of Narcotic offences, the suspects may be required to trace accomplices, which in most cases may take more than 48 hours.

(g) There are very few Police Surgeons and Forensic Experts in the criminal laboratories, often leading to a delay of expert evidence like medical examinations, results from criminal laboratories and the like, which may be necessary before charging the suspects in such cases of a capital nature.

(h) There is often the problem of overload for the investigators to process cases within 48 hours, especially where there are very many suspects who may have been brought in from conflict areas. Examples of these are the Bisheruka Treason case or the Treason case by the West Nile Bank front Rebels. Some of these problems are compounded by witnesses (soldiers) who effect arrests and then are not available to give evidence, due to being on active duty in conflict areas.

Deprivation of liberty on suspicion of committing or about to commit an offence

220. In Uganda, a Police officer may arrest without warrant any person he or she reasonably suspects of having committed or is about to commit a cognisable offence. A cognisable offence is defined in section 2 of the Criminal Procedure Code as an offence which on conviction is punishable with imprisonment of one year or more. A Police officer may arrest without a warrant any person who commits a breach of the peace in his presence or a person who obstructs a police officer while in execution of his duty or who has escaped or attempts to escape from lawful custody.

221. Persons arrested by a police officer without a warrant of arrest must be taken before a magistrate or officer in charge of a police station as soon as possible.

222. Where the officer is of the opinion that it is not possible to take the arrested person before a magistrate within the constitutionally required 48 hours, he must inquire into the case and release the prisoner on bond with or without sureties, if he is satisfied that the offence is not of a serious nature (murder, treason, rape). If however, a police is satisfied that there is not sufficient evidence against the prisoner, he may set him or her free altogether. The Police officers therefore have a discretionary power to discharge a person arrested if in their opinion, they find no sufficient evidence to warrant charging that person with a no offence.

223. According to section 32 of the Criminal Procedure Code, a magistrate may personally arrest or cause to be arrested any person who commits an offence in his presence in the local limits of his jurisdiction. He may likewise arrest or direct the arrest in his presence, within the local limits of his jurisdiction, of a person for whose arrest he is competent at the time and circumstances to issue a warrant. Section 36 creates an obligation on everyone to assist a police officer or magistrate who, in execution of his duties, reasonably asks for such assistance.

Arrest by a private person

224. A private person may arrest any person who in his view has committed a cognisable offence or whom he reasonably suspects of having committed a felony (Section 28 CPC). This power of arrest is given to anybody. When one finds a thief breaking into one's house in broad day-light one does not dash to the nearest police station or a chief to ask a police officer or the chief to come and arrest the intruder. Normally a person would, with due regard to his own safety, of course, set upon the criminal and grapple with him. Like the Police officer, a private individual is expected to exercise this power of arrest reasonably.

225. The owner of property or his servants may arrest any person found committing an offence in respect of such property. And a person arrested in this manner must be handed over to a Police officer who shall release him if he is not satisfied that an offence for which he has power to arrest has been committed.

Reasons for arrest

226. It is a pre-condition of lawful arrest that the person arrested should know the nature of the charge or suspicion for which he is arrested. And it is the duty of the person arresting to inform the arrested person the reasons for the arrest unless, of course, the arrested person creates a Situation whereby it would be impossible to inform him, say, by a counter-attack or by running away.

227. In spite of the above legal provisions clearly laid down the right of an arrested person and where an arrested person should be taken once arrested, cases still abound of the abuse of the above process.

228. There are a number of cases reported to the Uganda Human Rights Commission of unlawful arrests and detention of arrested persons in ungazetted places. In the 1997 Uganda Human Rights Commission (UHRC) Report, the Commission pointed out at length that complaints about deprivation of personal liberty often arose because the police tended to arrest and detain people without sufficient preliminary investigations. Suspects were therefore arbitrarily detained, frequently beyond the 48 hours allowed by the law, while police carried out investigations.

229. An example of arbitrary arrest which was reported to the UHRC is the case of Muganzi Idd.

230. Idd was walking along the road in Kitovu Trading Centre. A police vehicle drove past splashing him with rainwater. He spat in disgust. He was arrested, bundled onto the pick up and severely beaten. He was thereafter taken to Lyantonde Police Station where he was detained for up to three days. The police accused Muhumuza of hitting their car with a stick, after it had splashed water on him. They further alleged that he then threw the stick away. The police went on to admit that their vehicle suffered no damage. In the Commission's opinion, the arrest and subsequent detention of Muganzi by the Police was unreasonable, high handed and an arbitrary use of Police power to deny an individual his liberty. It was a misuse of Police authority to intimidate and punish the complainant for an act which in itself did not constitute a criminal offence.

231. In the Commission's view and judging from the number of complaints lodged in this respect, the police need to address the culture of arresting and detaining suspects before carrying out sufficient preliminary investigations. This culture has violated the rights of very many innocent people, particularly those of ordinary citizens who are often not in a position to assert their rights.

The Uganda People's Defence Forces (UPDF)

232. In 1998, the Commission received and investigated 36 complaints against the UPDF, 20 of which alleged deprivation of person liberty. A clear pattern emerged indicating that the army had arrested a number of people, detained them for long periods, and released them without trial. This is contrary to the law. First, the army as an institution has no legal powers to arrest.

Second, army installations are not gazetted places of detention. Finally, this is contrary to the law because many people were detained for long periods without appearing before any court of law.

233. The Commission investigated a complaint filed on behalf of one S. Muhonge (a soldier) who had been arrested on 20th January, 1997 by soldiers of the UPDF, Hima Production Farm (31st Battalion), on suspicion that he was a rebel collaborator. He was detained for 33 days. The army eventually admitted that Muhonge was innocent and his detention for 33 days was therefore illegal. Many individuals have reported to the Commission that the army detains people for long periods on the grounds that they are suspected rebels.

234. In another complaint, one Major Ntegyereize Benon complained of his arrest and detention by the army on claims that he had stolen and sold military scrap. He was detained from 20 February 1998 to 5th June 1998, a period of 106 days. He was neither taken to Police nor produced before any court. The complainant eventually gained his liberty after a writ of habeas corpus issued by the High Court. Visits by the Commission to army detention centres confirmed that many soldiers had been detained for long periods without trial. It should be pointed out that soldiers accused of violating the law have rights and should be treated in accordance with the law.

235. The Commission deduced from its findings that long and illegal detentions by the army occurred largely because the decision-making process on how to handle detainees is extremely slow. It was also clear that some persons are detained by the army on mere suspicions and/or unsubstantiated allegations. Soldiers particularly have been subjected to long detention in barracks without trial.

Detention in “safe houses”

236. In 1998, following a spate of bomb attacks on innocent civilians and threats on western embassies in Kampala, the Government expressed grave concern and the public over the terrorists carrying out these activities. There was also a need to strengthen security in Kampala immediately before and during the visit of then President Bill Clinton of the United States of America in March 1998. These events, together with increased activities of the Allied Democratic Front rebels, led to a series of arrests mainly around the city of Kampala. The Moslem community was particularly affected by the arrests.

237. Many complaints were filed with the UHRC asking it to locate those that had been arrested. These arrested were not allowed access to relatives, friends or lawyers as required by the Constitution.

238. Through its investigations, the Commission was able conclude that the arrest were the work of the security forces. The same investigations also revealed that the persons who had been arrested were being detained in secret places and not Police stations as required by law. They were confined in illegal detention places called “safe houses”.

239. The Commission investigated a number of complaints related to detention in “safe houses”. One such complaint was that of one Mohammed who was arrested at 5.30 a.m. on 16th September 1998 in Kampala. He was forced to lie down in a car and blindfolded with an army jacket; two men sat on him, one on his head and the other on his legs. He was driven around for sometime and eventually ended up in a new storied residential house. His shoes were removed and he was led into a room which had small windows next to a toilet where he found two other people. He was detained in the room for eight days after which he and the others were handcuffed, blindfolded and forced to lie under the seats of a van as they were driven to another house. Upon arrival at the second house, each of them was led to separate rooms and interrogated by people who identified themselves by persons who identified themselves as American or US Federal Bureau of Investigations (FBI) agents.

240. They were later handcuffed in pairs and left to spend the night on the cold floor. In the early morning of 26 September, they were again blindfolded, forced under the seats of a van and taken back to the first house, where they were held until 27 September when they were questioned on allegations of terrorism by men who claimed to be from Central Police Station, Kampala. On Monday, 28 September, he and some other detainees were declared free people but nevertheless remained detained in the house until 30 September when they were again blindfolded, put into a van and driven up to around Lugogo Indoor Stadium when their blindfolds were removed. They were then driven to Kiira Road Police Station, locked up in a cell and released the following day at 12.00 noon.

241. The Commission took up the issue of these arrests and detentions with relevant government officials, including the Minister of Internal Affairs, and the Minister of State for Security. In addition, in June 1998, the Commission issued a public statement which emphatically pointed out the illegality of such methods of arrests and detention and asked Government to put a stop to the practice.

Administration of Justice

242. The Administration of Justice in Uganda is painfully slow. The Judiciary which is responsible for learning and determining cases is inadequately under staffed and under funded. It cannot effectively respond to the rising rate of crime. Courts of judicature are under staffed, particularly in the lower courts. This problem is compounded by irregular High Court sessions. The Directorate of Public Prosecutions, which is responsible for prosecuting cases, is inadequately staffed and under funded which has contributed to the delay of Justice. For example, one Resident State Attorney was responsible for the Districts of Arua, Adjumani, Moyo and Nebbi. It was increasingly difficult for these officials to effectively carry out their duties in all these districts because of problems associated with funding and transport.

243. As a result of these constraints, prisoners stay very long periods on remand. In its annual report of 1999, the UHRC reports of prisoners who have been on remand for long periods.

Efforts to rectify the situation

244. The Government of Uganda has taken certain steps to address these bottlenecks. In 1998, special funds were allocated to the Judiciary, Police and prisons to clear the backlog of cases, which had accumulated unheard over a long period of time.

245. The appointment of more judges has also enabled the Judiciary to deploy High Court judges in more regions of the country. The Directorate of Public Prosecutions was also strengthened by the recruitment of more State Attorneys and prosecutors. However, many people are still ignorant of their rights. A legal Aid project exists but is still not effective enough. The Uganda Human Rights Commission provides services free of charge.

246. The Judicature (Amendment) Act, 2001 was passed in November 2001. One of the objectives of this legislation is to empower the High Court to exercise its inherent powers to prevent abuse of the process of the court by curtailing delays, including the power to limit and stay delayed prosecutions and to see that substantive justice shall be administered without undue regard to technicalities.

Remedies where a person's liberty is curtailed

247. Under article 23 (7) of the Constitution, a person unlawfully arrested, restricted or detained by any other person or authority shall be entitled to compensation from that person or authority whether it is the state or an agency of the state or other person or authority. The Civil Procedure and Limitation (Miscellaneous) Provisions Act, 1969 requires that if any person intends to commence an action against Government, that person must give Government 45 days notice.

248. Under the Government Proceedings Act, CAP 69, if a person is wronged by a person who works with Government or any institution of Government, the aggrieved person shall institute proceedings against the Attorney General (sections 4 and 11).

249. There are a number of legal suits against the Attorney General in respect of illegal arrests and malicious prosecution by persons whose personal liberty was deprived. However, a number of factors limit many persons to take up actions against Government. Many people in Uganda are illiterate and therefore not aware of certain rights so they suffer in ignorance. To successfully pursue a matter in court, one needs the services of a lawyer. Legal services in Uganda are way out of reach of the means of an ordinary person therefore a number of people do not get compensated for abuse of human rights because they cannot afford legal services. Cases also take so long in court and this also discourages many would be complainants.

Habeas corpus

250. Under Article 23 (9) of the Constitution, the right to habeas corpus is inviolable and shall not be suspended. Under section 36 of the Judicature Statute, 1996, the High Court may at any time where a person is deprived of his or her personal liberty otherwise than in execution of a lawful sentence, upon complaint made to it by the arrested person or his agent, the High Court shall direct the person in whose custody the arrested person is to produce the detained person in court and shall inquire into the reason for the detention.

The Uganda Police Human Rights and Public Complaints Management System

251. This is a procedure created by law, whose purpose is to provide the members of the public who have complaints against the conduct of Police Officers to report them to Police Management. This system is established at all police Units including the Force Headquarters.

252. At Police headquarters, complaints are managed by the human rights and Complaints Desk under the Legal department.

253. Types of complaints handled:

- (a) Oppressive treatment of members of the public by the Police
- (b) Intimidation of members of the public by Police Officers
- (c) Corrupt behaviour of a Police Officer
- (d) Neglect or Non-performance of duty

Who receives a complaint?

254. For cases of corruption, oppression or intimidation of a member of the public, that complaint must be reported to the most senior Police Officer at the police station where the Police Officer against whom the complaint is made works or to the Inspector General of Police.

255. For other complaints, members of the public are advised to report to any Senior Police Officer at the Police Station where the Police Officer against whom the complaint is made, works.

The number of complaints received by the Uganda Police Human Rights/Complaints Desk

| Year | No. of cases |
|-------|--------------|
| 1998 | 250 |
| 1999 | 620 |
| 2000 | 630 |
| 2001 | 317 |
| Total | 1 917 |

Source: Uganda Police.

ARTICLE 10: DEPRIVATION OF LIBERTY

256. In Uganda persons deprived of their liberty have a right to access to next of kin, doctor or lawyer. (Article 23 (5) of the Constitution)

257. The Prisons Rules, S.1 313 - 6 provide detailed procedures of how convicted/remand prisoners should be treated.

258. Rule 3 of the Prisons Rules lays down three basic principles, which should guide the treatment and discipline of prisoners and these are:

- (a) Discipline and order shall be maintained with fairness but firmness, and with no more restriction than is required for safe custody and to ensure a well-ordered community life;

(b) In the control of prisoners, prison officers should seek to influence them, through their own example and leadership, so as to enlist their willing co-operation; and

(c) At all times the treatment of convicted prisoners shall be such as to encourage their self-respect and sense of personal responsibility, so as to rebuild their morale, to inculcate in them the habit of good citizenship and hard work, to encourage them to lead a good and useful life on discharge and to fit them to do so.

259. Rule 23 provides that in every prison, a proper place for the care and reception of sick prisoners shall be provided. A medical officer is supposed to see every prisoner once a week, and inspect the whole prison once every month to see the cooking and sanitary equipment in the prison (Rule 27).

260. A Medical Officer is required to advise the officer in charge of a prison on which prisoner should be transferred to hospital, mental hospital or leper settlement. (Rules 28 and 29).

261. A Medical officer is also supposed to take all necessary measures necessary to prevent the spread of infection or contagious diseases.

262. Prisoners shall sleep in communal wards or in separate cells; male and female prisoners shall be kept absolutely separate from each other and confined in separate buildings.

263. Women prisoners shall in all cases be attended by women prison officers.

264. Rule 34 of the prisons rules requires the prison and every room in the prison to be kept clean, including utensils, clothing and bedding.

Treatment of prisoners

265. Rule 46 restrains prisons officers from striking or using force unnecessarily while dealing with prisoners.

266. The prison administration is required to provide each prisoner with the following;

(a) Clothing,

(b) Bedding adequate for warmth and health,

(c) Sufficient food.

267. Prisoners are also entitled to take regular physical exercise, communications with lawyers, relatives and friends. Prisoners may also write and receive letters subject to certain conditions.

268. Rule 63 permits Ministers of religion to visit prisoners at such times as agreed upon by the officer in charge to conduct religions services.

269. Rule 64 requires the officer in charge to take all steps that he considers practicable to arrange evening educational classes for the prisoners in his charge and shall permit prisoners in their leisure time to study by means of courses approved.

270. Wherever possible there shall be a library in each prison and prisoners shall be permitted to draw books from the library in accordance with such directions, as the Commissioner shall from time to time make.

271. The officer in charge may arrange for lectures, concerts and debates for prisoners to take place outside the hours of labour.

272. At each prison, facilities will be provided for physical trainings, games, and for recreation both physical and mental, particularly in the case of the young prisoners and prisoners serving long sentences.

Rights of prisoners

273. The prisons rules also provide that every prisoner, on admission to prison shall be provided in his or her cell or ward with full information regarding rules governing the treatment of prisoners, privileges, earning schemes, etc. (Rule 44)

274. The officer in charge is enjoined to see that every prisoner who can read has the information, and those who cannot read; the information shall be explained to them.

275. Where a prisoner has a complaint against the prisons authorities, he or she may make complaints to a visiting justice, the Commissioner of prisons, officer in charge or petition the President. A visiting justice shall enter in the Minute Book or such other book provided for that purpose the name and number of any prisoner who has complained to him or her, the nature of the complaint and the recommendations, if any.

276. The officer in change is also required to submit, without delay to the commissioner any petition or complaint received from a prisoner.

Classification/Separation of prisoners

277. For the purpose of facilitating the training of prisoners and to minimise the danger of contamination, prisoners shall be classified having regard to age, character and previous history in the following cases: -

(a) Young prisoner class which shall consist of young convicted criminals of whatever age who, in the opinion of the officer in charge should not, having regard to their age and character, be classified with adult prisoners. The Children Statute, 1996 does not allow persons below 18 years to be detained in adult prisons.

(b) Star class which consists of convicted criminal prisoners who are not in young prisoner class who are first offenders or well-behaved persons with no vicious tendencies or habits.

(c) Ordinary class, which shall consist of all convicted criminal prisoners who are not in the young prisoner class or star class.

(d) Unconvicted class, which shall consist of all debtors, persons on remand or awaiting trial, vagrants, or persons detained for safe custody, who have not been convicted.

278. Rule 7 (3) of the prisons Rules provides that arrangements shall be made at all prisons to provide, so far as practicable, for the effective segregation from each other at all times of the various classes of prisoners.

279. If a prisoner is found guilty of a minor prison offence, he may be given one or more of the following punishments.

- (a) Confinement in a separate cell on a penal diet for not more than three days,
- (b) Forfeiture of privileges like reduction in stage,
- (c) Forfeiture of earnings.

280. A prisoner found guilty of an aggravated prison offence may suffer the following punishment: -

- (a) Twelve strokes of the cane, if the prisoner is below 45 of age and not being under death sentence.
- (b) Confinement in a separate cell for up to seven days on a penal diet,
- (c) Forfeiture of remission,
- (d) Forfeiture of earnings.

281. Rule 77 prohibits confinement of a prisoner in a separate cell for an aggregate of more than ninety days in one year.

282. Rule 83 prohibits the placing of a prisoner in handcuffs, leg irons or other mechanical restraint, as a punishment and a prisoner shall only be restrained to prevent his or her escape or to prevent injury to him or herself.

283. Rule 104 stipulates how unconvicted prisoners should be treated. For example they shall be kept apart from convicted prisoners, they may be allowed to be employed (if it is practicable and safe) and the money from the employment kept for them and they shall be allowed to see a medical officer of their choice and they may wear their own clothes.

Discipline of prisoners

284. Rule 67 lists down offences that may be committed by prisoners while in the prison which may lead to a prisoner being punished. Examples of these offences are talking loudly, quarrelling with other prisoners, disrespect to prison officer, etc. these are minor offences.

285. Aggravated prison offences include mutiny, escape or attempt to escape, wilful destruction of property and making false or groundless accusations against a prison officer.

Detention in places other than prisons

286. With the enactment of the Children Statute, 1996, child offenders are no longer detained in adult prisons. Section 92 of the Children Statute provides that a child charged with an offence, if not released on bail shall be remanded to a remand home named in the order and the remand home shall be within a reasonable distance of the court.

287. Where a child is sentenced to a term of imprisonment, he or she shall be detained in a National Rehabilitation Centre for children or such other centres as may be established for the rehabilitation and retraining of children. This centre has not been established yet and pending the establishment, the school known as Kampiringisa Boys' Approved School shall be used as the detention centre.

288. From the findings of the UHRC (1998 Annual Report) this provision was not implemented by any local council; the lack of such homes is a major cause for detaining juvenile prisoners in adult prisons.

289. To compound the problem, the few remand homes available were reduced by the phasing out of Bugungu Reformatory Centre in 1998. This left only four regional remand homes and one National Rehabilitation Centre, namely- Naguru Remand Home, Fort Portal Remand Home, Mbale Remand Home, Kabale Remand Home and Kampiringisa National Rehabilitation Centre. The shortage of these facilities means children will continue to be detained with adults contrary to the law.

290. The general conditions of remand homes during 1998 remained unsatisfactory, although some rehabilitation works were carried out on some of them. For the first time since 1959, Mbale Remand Home was comprehensively rehabilitated by March, 1998.

291. In the 1997 Report, the Commission highlighted the problem of absence of perimeter fencing for remand homes. This problem was not addressed in 1998, thereby continuing to expose inmates and prison officials to security risks. For instance, on 27 February 1998, armed thugs attacked Kampiringisa National Rehabilitation Centre, killing a guardian and an inmate. Two other inmates were also injured during the attack. The attackers set free all the inmates, most of who were on treason charges.

292. The problem of keeping juvenile offenders in prisons with adults still persists. This is largely due to the fact that there are only four remand homes and one Rehabilitation Centre in Uganda and these are not evenly distributed throughout the country. For example the whole of West Nile, the North and North Eastern parts of the country has no separate facilities for juvenile offenders. As a result the Commission found that contrary to the law, juvenile offenders in most part of the country were still being held in the same premises with adults. This is harmful for the juveniles and this also creates congestion in adult prisons. For example, the Commission visited Jinja Main Prison on 10th November 1998 and found 40 juveniles on treason charges detained there. The Commission also found a similar problem of juveniles detained with adults in Arua, Gulu, Moroto, Kapchorwa and Rukungiri districts.

Military Detention Centres

293. UHRC and other human rights groups find it difficult to access these Centres because the UPDF insists that any visit by these bodies would only be possible on advance notice and prior permission from the Army Commander. The requirement for advance notice prior to inspection defeats the purpose of the visits since stage-managed situations cannot be ruled out.

294. During 1998, the UHRC received information that certain people were being illegally detained at Mbuya Military barracks. It accordingly sought permission to visit Mbuya barracks to verify this information, Permission was never given. The only time the Commission was able to visit some military barracks was when its officials joined the Foundation for Human Rights Initiative (an NGO) which had been granted permission to visit Makindye, Mbuya and Bombo Military barracks. From these three visits, the Commission was able to assess the conditions in these facilities.

295. One major complaint from inmates was the long period of detention without trial. The commanding officers attributed the long delays to the protracted system of investigation in the army which involved investigations by two army departments namely: Special investigations Branch and the Chieftaincy of Military intelligence. These two departments independently investigated the same issue and thereafter met to reconcile their findings. In addition, the Military Courts had just been restructured and a Court of Appeal established. The Judicial officers to man these courts had by then not even been appointed.

296. These Military Courts do not accord accused persons the right to bail and the right to appear before the court regularly to know the fate of their case. Accused persons are detained until such a time that the court is ready to hear the case. The Commission believes that this contravenes the provisions of the Constitution regarding bail and detention of suspects.

297. In these military centres it is not easy to establish whether detainees are given the chance to see lawyers and relatives as required by the Constitution.

Police Stations

298. Torture in police cells is a rampant problem. In 1998, the UHRC visited a number of police cells and found evidence of torture and holding inmates beyond the 48 hours required by law.

299. Conditions in police detention cells are not good and these are mainly congestion, poor ventilation, and lack of beddings and poor toilet facilities.

300. For example at Mpigi Police Station, a cell measuring 3 x 5ft had 35 inmates, one of whom was a mentally ill boy who was causing a lot of disturbance in the cell. The cell was dark and filthy. Inmates complained of lice and bedbugs. The 35 inmates had not bathed because the station lacked the necessary facilities. Also lacking were toilet facilities within the cells which meant that inmates had to use a bucket as a toilet during the day and night. Despite the congestion in the cell, the suspects complained they had not been allowed out for fresh air.

301. The situation in Rukungiri Police Station visited on 13 October 1998 was similar to that of Mpigi Station. At the station were 33 suspects who had been crammed in two small cells. The cells were poorly ventilated and dirty with no lights. There was no provision for female detainees and juveniles at this station. The only female suspect at the time was being kept in an office while five juveniles had been locked up together with adults. The explanation by the Officer-in-charge was that there were no remand homes in Rukungiri and that the juveniles were waiting transfer to Kabale Remand Home.

302. The major constraints to running of the police cells and prison services are inadequate and poor housing, meagre salaries and allowances, lack of transport and necessary equipment and lack of personnel to carry out specialised functions. Prisoners in Uganda live in appalling conditions.

303. The Uganda Human Rights Commission in its 1998 and 1999 Annual Reports report the following findings.

Prisoners' labour

304. In most prisons in Uganda, prisoners are subjected to long periods of hard labour in the fields. On average they work from 7.00 am to 4.00 p.m. without breakfast and lunch. The illegal and exploitive practice of hiring prisoners' labour to private individuals continues to be a common feature. Hard labour is enforced on all inmates including those on remand who, according to the law, should not be subjected to hard labour.

Punishment

305. Enforced hard labour on non-convicts is rampant and therefore tantamount to painful punishment without conviction and sentence from the courts of law.

306. In Paidha Local Administration Prison Nebbi district, the Uganda Human Rights Commission found 14 inmates who said they were sick, locked up in a room approximately 4x4ft with a very small ventilator. They had been detained in this room as a punishment for declining to go to work but claiming to be sick. When the door was opened, they were all drenched in sweat. Two of them had collapsed, most probably from lack of air.

Poor and de-humanising living conditions

307. Living conditions in most prisons, especially those run by local governments is pathetic. This is due to insufficient funds, allocated to the prisons services. The following basic facilities are usually found lacking or in very short supply. These include: Uniforms, beddings, sufficient food, toilet facilities, and no medical personnel. The prisoners use buckets as toilets.

Average prison population as of June, 2001

| Uganda Government prison | Approved accommodation* | Convicted | | Unconvicted | | Deta | Others | Previous months | Total in custody |
|---|-------------------------|-----------|----|-------------|-----|------|-----------------|-----------------|------------------|
| A. Long & Medium term (Revisits) | 3.6 M | M | F | M | F | | | | |
| Upper Prison | 668 | 686 | | 1 229 | | | | 1 902 | 1 915 |
| Tororo | 546 | 129 | 3 | 180 | 4 | | | 294 | 316 |
| Isimba | 224 | 210 | | | | | | 219 | 210 |
| Mbarara | 87 | 64 | | 67 | | | | 127 | 131 |
| Adjumani | 132 | 128 | 6 | 111 | 7 | | | 272 | 252 |
| Total | 1 657 | 1 217 | 9 | 1 587 | 11 | | | 2 814 | 2 824 |
| B. Long & Medium Term (1st offenders) | | | | | | | | | |
| Ibuga Prison | 140 | 242 | | | | | | 242 | 242 |
| Amita | 16 | 31 | | 23 | | | | 49 | 54 |
| Patiko | | 20 | | | | | | 20 | 20 |
| Ruimi | 369 | 368 | | 2 | | | | 322 | 370 |
| Mutukula | 32 | 94 | | 2 | | | | 94 | 96 |
| Kiburara | 356 | 208 | | | | | | 201 | 208 |
| Loro | 32 | 119 | | | | | | 131 | 120 |
| Namalu | 68 | 14 | | | | | | 15 | 14 |
| Ragem | 24 | 84 | | 3 | | | | 100 | 87 |
| Kyankwanzi | | | | | | | | | |
| Kigumba | | | | | | | | | |
| Mubuku | 241 | 85 | 4 | 124 | 2 | | | 243 | 215 |
| Total | 1 278 | 1 265 | 4 | 154 | 2 | | | 1 417 | 1 426 |
| C. Reception Centres & Medium Term (Star) Short Term (Ordinary) | | | | | | | | | |
| M/Bay Prison | 602 | 424 | | 1 060 | | | D - 6 | 1 420 | 1 490 |
| Jinja (M) | 336 | 184 | 5 | 35 | 16 | | L - 3 D - 1 | 253 | 244 |
| Mbale (M) | 376 | 87 | | 776 | | | L - 3 | 888 | 866 |
| Soroti | 408 | 69 | 5 | 243 | 17 | | L - 4 | 327 | 338 |
| Moroto | 178 | 14 | 3 | 41 | 4 | | | 60 | 62 |
| Lira | 93 | 48 | 1 | 270 | 26 | | L - 1 D - 1 | 323 | 347 |
| Gulu | 140 | 97 | 8 | 361 | 20 | | D - 2 | 464 | 488 |
| Arua | 148 | 143 | 8 | 417 | 23 | | D - 2 | 575 | 593 |
| Masindi | 264 | 91 | 8 | 405 | 10 | | L - 4 | 529 | 518 |
| F/Portal | 281 | 104 | 16 | 579 | 11 | | L - 74 D - 1 | 766 | 785 |
| Masaka | 206 | 96 | 4 | 436 | 8 | | | 479 | 544 |
| Kitalya | 246 | 355 | | | | | | 195 | 355 |
| Kigo | 468 | 112 | 7 | 398 | 19 | | D - 1 | 547 | 537 |
| Ndorwa | 71 | 77 | 4 | 272 | 13 | | | 375 | 366 |
| Total | 3 817 | 1 901 | 69 | 5 293 | 167 | | 103 | 7 201 | 7 533 |

| Uganda Government prison | Approved accommodation* | Convicted | | Unconvicted | | Detainees | Others | Previous months | Total in custody |
|--------------------------------------|-------------------------|-----------|-----|-------------|-----|-----------|----------------|-----------------|------------------|
| D. Special Penal Institutions | | | | | | | | | |
| Kampala (R) Prison | 309 | 37 | | 454 | | | D - 1 | 478 | 492 |
| Jinja (R) Prison | 314 | 27 | | 449 | | | D - 1 | 477 | 477 |
| Kampala (W) | 76 | | 63 | | 117 | | D - 1 L - 1 | 171 | 182 |
| Bugungu Y P | 162 | 141 | | 56 | | | | 204 | 197 |
| Reform School | | | | | | | | | |
| Mbale (w) | 91 | | 17 | | 18 | | | 35 | 35 |
| Kotido | | | | | | | | | |
| Total | 952 | 205 | 80 | 959 | 135 | | 4 | 1 365 | 1 383 |
| New Prisons | | | | | | | | | |
| Apac Prison | 52 | 54 | 1 | 128 | 16 | | | 157 | 199 |
| Kumi | 52 | 45 | 1 | 79 | 1 | | | 126 | 126 |
| Kamuli | 51 | 39 | 1 | 49 | | | | 92 | 89 |
| Bufulubi | 127 | 226 | | 9 | | | | 210 | 235 |
| Muinaina | 54 | 30 | | 10 | | | | 40 | 40 |
| Bulaula | 157 | 141 | | | | | | 110 | 141 |
| Nakasongola | 31 | 49 | | 76 | 2 | | | 111 | 127 |
| Rukungiri | 23 | 43 | 6 | 105 | 1 | | D - 1 | 153 | 156 |
| Bushenyi | 110 | 44 | 2 | 339 | 9 | | D - 2 | 373 | 396 |
| Kaliika | 117 | 43 | 1 | 349 | 10 | | D - 2 | 681 | 405 |
| Gilgil | 52 | 51 | | | | | | 51 | 51 |
| Total | 826 | 765 | 12 | 1 144 | 39 | | 5 | 2 104 | 1 965 |
| Totals | 8 530 | 5 353 | 174 | 9 137 | 354 | | 113 | 14 901 | 15 131 |
| Grand total | | 5 527 | | 9 491 | | | 113 | 14 901 | 15 131 |

| | |
|-----------------------|--------|
| Convicted Prisoners | 5,527 |
| Unconvicted Prisoners | 9,491 |
| Detainees | |
| Others | 113 |
| Grand total | 15,131 |

Note: Others include judgement debtors and lodgers (inmates from other stations).

- Over all population went up by 1.5%
- Whereas some prisons are over congested, other prisons are under capacity. Since transfers of remands to farm prisons cannot easily be done, congestion level has to be calculated per prison but not on total population vs. total accommodation capacity. The summary is as below:-
- Excess over capacity = 7,418
- Under capacity = 837

The main problems experienced in prisons in Uganda include:

- (a) Overcrowding
- (b) Lack of enough meals
- (c) Lack of recreation
- (d) Hard labour
- (e) The fact that remands and convicts are detained together

Efforts being taken by the authorities and Government to improve the prison situation in the country

308. **Decongestion of Prisons:** There is evidence of Government's efforts and goodwill to improve the general living conditions of inmates, mainly as a result of donor funding:

- (a) **DANIDA** has repaired and renovated the entire Masaka Prison except the staff quarters.
- (b) **The Netherlands Government** has constructed a modern women's wing, renovated the poultry house and constructed VIP latrines at Arua prison.
- (c) **GTZ** has replaced the storage water tank and sewerage system, constructed a modern kitchen and repaired some staff houses at Fort Portal Prison, Katojo. It has also rehabilitated the water and sewerage system of Soroti Prison.
- (d) **The British Government** has provided some assistance to Luzira, mainly rehabilitating Murchison Bay Prison.
- (e) **The Irish Government** rehabilitated the toilet systems at Kakiika Prison, Mbarara.
- (f) **The French Government** is supporting the installation of bio-gas facilities at Luzira Prison.
- (g) **The Austrian Government** began full rehabilitation of the existing structures of Masindi Prison and is to construct a new prison at another site.
- (h) **The Italian Government** was to renovate the women's wing at Gulu Prison.
- (i) **The International Committee of the Red Cross (ICRC)**, Uganda Prisoners' Aid Foundation and the French and Irish Governments have given substantial assistance: blankets, uniforms and mats to various prisons.
- (j) **The Uganda Government** has partially rehabilitated Jinja Main Prison, Jinja Remand Prison and Bugungu Young Persons Prison. Government also provided funds, which enabled the Prisons Services to purchase some vehicles and repair farm equipment and vehicles.

(k) In spite of the improvements mentioned above, many of the Central Government Prisons still have problems of poor living conditions and poor facilities which require urgent attention.

- (i) Special funds have been provided to the judiciary to solve the problem of backlog cases. A number of judges were as a result recruited and a number posted to up-country stations to speedily handle criminal cases. The Committee is referred to the Report under Article 14 for statistical information on the backlog of cases for both High Courts and Magistrates Courts in the year 2000.
- (ii) The Community Service Act was enacted in 1997 to provide for alternative sentencing. The Act provides that where a person is convicted and sentenced to imprisonment for two years, the convict shall instead of being sent to prison, be ordered to perform Community Service in his or her area of residence under the supervision of the local authorities. (See Comm. Serv. Act).
- (iii) Pilot Courts have started issuing Community Service Orders. These are: Masaka, Mukono, Mpigi and Masindi. Government has provided funds and donors have also supported this programme by providing funds for sensitising the community about this scheme. The first convicts to serve under Community Service were in Mukono District and this happened in October 2001.

Distribution of establishments showing those that have female amenities

| S/no | Prisons with women facilities | S/no | Prisons without women facilities |
|------|-------------------------------|------|----------------------------------|
| 1. | Tororo | 1. | Upper prison |
| 2. | Adjumani prison | 2. | Isimba prison |
| 3. | Mubuku prison | 3. | Mbarara prison |
| 4. | Jinja (m) prison | 4. | Ibuga prison |
| 5. | Soroti prison | 5. | Patiko prison |
| 6. | Moroto prison | 6. | Amiita prison |
| 7. | Lira priosn | 7. | Ruimi prison |
| 8. | Gulu prison | 8. | Mutukula prison |
| 9. | Masindi prison | 9. | Kiburara prison |
| 10. | Fort portal prison | 10. | Namalu prison |
| 11. | Masaka prison | 11. | Loro prison |
| 12. | Masaka prison | 12. | Ragem prison |
| 13. | Kigo prison | 13. | M/bay prison |
| 14. | Ndorwa prison | 14. | Mbale (m) prison |

| S/no | Prisons with women facilities | S/no | Prisons without women facilities |
|------|-------------------------------|------|----------------------------------|
| 15. | Luzira (w) prison* | 15. | Kitalya prison |
| 16. | Mbale (w) prison* | 16. | Kampala (r) prison |
| 17. | Apac prison | 17. | Jinja (r) prison |
| 18. | Kumi prison | 18. | Bugungu (yp) prison |
| 19. | Kamuli prison | 19. | Bufulubi prison |
| 20. | Nakasongola prison | 20. | Minaina prison |
| 21. | Rukungiri prison | 21. | Bulaula prison |
| 22. | Bushenyi prison | 22. | Gilgil prison |
| 23. | Kakiika prison | | |

* For female inmates only while the rest hold both sexes.

Available Programmes

309. **Social Rehabilitation and Re-integration:** While in Prison, Prisoners are counselled and helped to reconcile with the victims. Before release, social workers make contacts on behalf of the Prisoners with the outside world on how to receive them and how to help them resettle back into the community in order not to commit any more offences. Of the first 25 prisoners who attended the counselling sessions, only one has been back to prison. Some Prisons have no Social Workers, especially Farm Prisons.

310. **Functional Adult Literacy:** Where facilities and resources permit, convicted prisoners who need to learn how to read and write are taught e.g. Luzira Group of Prisons, Bulaula, Kigo, Arua, Masindi, Jinja (M), Mbale (M/W), have this programme.

311. **Formal Education:** In 2000 formal Primary Education P. 1 - P.7: 100 pupils registered for PLE in Upper Prison Luzira. In the same year 50 prisoners registered for secondary ordinary level exams. 30 sat for PLE, 2 failed, 7 sat for the O'Level exams without any failure. Several Prisoners are involved in Bible Correspondence courses.

312. **Vocational Skills Training:** The following trades are offered to prisoners where facilities and resources are available:

- Carpentry
- Metal works
- Tailoring
- Building Construction
- Brick Making

- Plumbing
- Weaving and knitting
- Crafts (water hyacinth project)
- Bakery/Cookery
- Shoe making.

313. **Farming:** Prison Farms teach Prisoners Agriculture. Both animal and crop farming knowledge is offered where the facilities are in place. Others include fish rearing and tree nursery planting.

314. **Religious/Spiritual Programmes:** Inmates are free to belong to any belief or creed of their own choice Religious Ministers are allowed in to minister to Prisoners.

315. **AIDS/HIV Control Programmes:** Both Prisoners and staff have participated in various AIDS/HIV Seminars and workshops on the Treatment, Care, and management of people living with the AIDS Virus. This has helped a lot in the control of the spread of AIDS.

316. **SPORTS AND RECREATION:** Prisoners are not denied the right to play. Uganda Prisons Service supports both outdoor and indoor games. Male prisoners play Football and Volleyball. During their free time say on Sundays prisoners can play music and drama which is therapeutical. They entertain themselves.

317. **Training of Prisons Personnel:** in addition, there is a Prisons Policy Document (2000) which outlines the different policies which the prisons service is going to address, which includes coordination within the criminal justice system, segregation of prisoners, humane treatment, rehabilitation, implementation of non-custodial sanctions and having well trained staff in human rights. Currently, there is a team of 20 trainers in the department who are on a massive human rights training programme in the department. Officers in each station (prison) are also being given one week training in human rights and treatment of prisoners and detainees. Comprehensive training is incorporated into the training curriculum of the prison recruits so that they go out into the different prisons they are already aware of these human rights.

318. Two officers have been trained by the Uganda Human Rights Commission in the monitoring of Government compliance of International human Rights Instruments, and they have continued furnishing the Department with useful Prisons reports on Human Rights Issues and general welfare.

319. **The Prisons Bill:** Government has also drafted the Prisons Bill whose main objective is to streamline the administration objective is to streamline the administration and management of prisons and to give further effect to the Standard Minimum rules for the Treatment of Offenders.

320. **Workshops and Seminars:** The Uganda Human Rights Commission has organised training seminars to teach prison staff, police and the army on the protection of human rights and on the rights of detained persons.

Monitoring/supervision of Prisons

321. One of the functions of the UHRC imposed on it by the Constitution under article 51 is to visit jails, prisons, and places of detention or related facilities with a view to assessing and inspecting conditions of inmates and make recommendations to government.

322. Since it started operations in 1997, the Uganda Human Rights Commission has visited 41 prisons, while in 1999, the Commission visited 37 detention places. It should be noted that the Uganda Human Rights commission has the task of visiting over 1,350 detention places spread all over the country. However, by 1999, the Uganda human rights Commission had visited only 89 of these.

323. The main reasons for their failure to visit these detention centres was mainly financial difficulty and shortage of manpower.

324. The Commission has found out that the detention places that were visited before had shown improvement in the conditions of the institutions and the treatment of inmates.

325. The Prisons Act and the Rules made under it provide for visiting Justices to inspect Prisons to which they are appointed, at regular intervals. A visiting Justice may inspect all wards, cells and rooms to assess the living conditions and physical facilities of the prisons and prisoners. They are also supposed to hear complaints from Prisoners.

326. There are other bodies which have a supervisory role on prisons. These include the Red Cross Societies, Uganda Prisoners Aid Foundation and all human rights non-governmental Organisations.

327. In spite of these efforts, a lot still needs to be done to improve the general living conditions of both the staff and detainees in prisons, police cells and other detention institutions like remand homes.

ARTICLE 11: CIVIL SUITS

328. In Uganda, if a person fails to fulfil a contractual obligation, the aggrieved party may institute a civil suit. The Court, after the suit has been heard, shall pronounce judgement and on such judgement, a decree shall follow (section 25 of the Civil Procedure Act, Cap. 65).

329. Section 39 of the Civil Procedure Act provides that court may on application of a decree holder order the execution of a decree by attachment and sale of property or by arrest and detention in prison of the judgement debtor.

330. Section 41 of the same Act states that a judgement debtor may be arrested in execution of a decree and shall as soon as possible be brought before the court and the court may order for his or her detention in any prison of the district in which the court ordering the detention is situated.

331. The Government of Uganda acknowledges that the Civil Procedure Rules regarding imprisonment merely on the grounds of being in debt are not entirely in line with the ICCPR.

**Civil registry statistics showing the cases completed by the Hon. judges
and registrars for the year 2000 at Kampala**

| Case category | B/F from 2000 | Total Registration | Disposal | | Total Disposal | C/F to 2001 |
|----------------|------------------|-----------------------|----------|------------|-------------------|----------------|
| | | | Judges | Registrars | | |
| Civil Suits | 2 436 | 1 725 | 1 045 | 179 | 1 224 | 2 937 |
| Misc. Appl. | 993 | 1 901 | 1 146 | 23 | 1 169 | 1 725 |
| Civil Appeals | 308 | 97 | 89 | 1 | 90 | 315 |
| Company Causes | 19 | 26 | - | 19 | 19 | 26 |
| Bankruptcy | 13 | 14 | 12 | - | 12 | 15 |
| Divorce causes | 13 | 16 | 5 | - | 5 | 24 |
| Revision | 3 | 25 | 9 | - | 9 | 19 |
| Arbitration | 3 | 7 | - | 1 | 1 | 9 |

Source: Uganda Judiciary.

ARTICLE 12: FREEDOM OF MOVEMENT

Choosing and changing residence

332. The specific Constitutional provision on freedom of movement is Article 29(2), which guarantees every national the right to move freely throughout Uganda and to reside and settle in any part of Uganda, the right to enter, leave and return to Uganda and to a passport and other travel documents.

333. The right to freedom of movement under the Uganda Constitution is inextricably linked to the right and protection of personal liberty. Hence the permitted limitations to personal liberty contained under Article 23(1) a-h directly apply to freedom of movement and are of a general nature. Limitations will be enforced in the following circumstances:

(a) Where execution of a sentence or court order is sought in respect of the conviction of that person.

(b) Where execution of the order of a court is made secure the fulfilment of any obligation imposed on that person by law.

(c) For the purpose of bringing that person before a court or upon reasonable suspicion that the person has committed or is about to commit a criminal offence under the laws of Uganda.

(d) For the purpose of preventing the spread of a contagious disease.

(e) For the purpose of preventing the unlawful entry of the person while being conveyed through Uganda in the course of the extradition or removal of that person as a convicted prisoner from one country to another.

OR

(f) As may be authorized by law in any other circumstances similar to any of the cases specified in 1 and 5 above.

334. It is imperative to note that the right of Freedom of movement in Uganda is qualified by other laws deriving from the Constitution such as the Uganda National Citizenship and Immigration Control Act, 1999, the Passports Act, 1982, The Control of Aliens and Refugee Act 64; The immigration Act of 1969 and its subsequent amendments, and the Environment Statute 1996.

335. Other qualifications are contained in unpublished administrative regulations. The right to freedom of movement is sometimes imposed through judicial interpretation.

336. Since the Constitution acknowledges the right to movement and choice of residence in Uganda, there are no legislative restrictions in respect of movement from one district to another. In practice however, when changing residence either from one part of the country to another, or from one area to another, a person is required to introduce himself or her to the local authorities of that area of residence.

337. Restrictions to choice of residence do, however, exist under the National Environment Statute, to prevent people from residing in environmentally protected areas or any other areas gazetted in the national interest. Examples of these include protected areas like national parks, game reserves, wetlands, road reserves, security zones and the like.

338. While Article 12 of the ICCPR accords the Right to Freedom of movement and choice of Residence to every individual in the state including non-nationals, Article 29(2) of the Uganda Constitution in its wording seemingly restricts the right to only nationals.

339. The latter stipulates that every Ugandan shall have the right to move freely enter, leave, return and to return and to a travel document. The problem here is that policy implementers have tended to enforce the right to the exclusion of non-nationals an issue which the Government of Uganda is trying to rectify.

340. Due to the problems in wording judicial interpretation is that the Article should be read in consonance with Article 23(1) providing for the general right to personal liberty and with Article 45 providing for application of other human rights and freedoms not specifically mentioned.

341. The concept of freedom of movement has, without question, policy implications for Immigration Control. The Government of Uganda is assessing its immigration laws vis-à-vis Article 12 of ICCPR.

Temporary displacement

342. As a result of civil strife since 1988 in some parts of Northern and Western Uganda, and cattle rustling in the northwestern part of the country, there has emerged an IDP (Internally Displaced Persons) (The Committee is hereby referred to the Report under Article 10) phenomenon in which more than 600,000 people have been displaced from their homes. About 95% of the displaced people live in protected camps. The rest live with relatives or friends.

343. Protected camps are areas identified by the government for the temporary settlement of internally displaced persons (IDPs) for their protection from rebels. They are provided with security against rebel attacks. The government is aware that the prolonged residence in these areas causes restlessness and the people are often eager to leave these areas. Sometimes it is necessary to impose restrictions on these persons for their own personal safety.

Measures to address the IDP problem by the Government of Uganda

344. The Government has established the Ministry of Disaster preparedness under the office of the Prime Minister, to deal with the IDP phenomenon.

345. The Ministry has drawn a policy guideline on the treatment of IDPs. These guidelines are in conformity with the UN guidelines on this issue.

346. The Government has passed an Amnesty law and established an Amnesty Commission as a durable solution to the IDP problem. This Amnesty is intended to bring rebels out of their areas of habitual residence.

347. The Government has opened relations with the Government of Sudan, which was originally declared a hostile State and through consultations assisted through Regional Organisations like the OAU, agreed to cease supporting the rebels and re-establish Diplomatic Relations. This is intended to bring about the peaceful settlement of the conflict and thus a return of the IDPs to their places of residence.

348. The Government together with all parties to the conflict in the DRC, in a bid to resolve the conflict that brought displacement in Western Uganda, have continued to be part of the Lusaka Agreement, that is intended to bring about the peaceful resolution of conflict in the democratic Republic of Congo and also lead to the disarmament of all the armed groups in the DRC which include the rebels fighting the government of Uganda that are operating in the DRC. This, it is hoped, will lead to peace and security in western Uganda and to return of IDPs in that area to their places of habitual abode.

349. Regarding the cattle rustling in Karamoja, the Karimojong for whom cattle form part of their culture, have gone to the extent of stealing cattle from the neighbouring district and in the process have plundered and raped in the neighbouring districts, forcing the people to flee their places of habitual residence. The government is in the process of disarming Karimojong who have been using their guns to reinforce their cultural practice. The Government has also encouraged cross-border meetings between the authorities in Uganda and Kenya (among the Turkana) and the people in the neighbouring districts. The Uganda Human Rights Commission

has embarked on a sensitisation programme for the Karimojong while the Government has endeavoured to build dams so that the Karimojong do not go to neighbouring districts allegedly looking for water.

The right to leave the country and permitted restrictions

350. Section 40 of the Uganda Citizenship and Immigration Control Act reiterates the provisions of Article 29 (2) of the Constitution (1995) and guarantees the right of every Ugandan to a passport or other travel documents as may be necessary to leave or re-enter the country. The granting of a passport ensures that the national has the right to enter or leave the country at his own will.

351. The procedure for acquisition of travel documents is simplified and expeditious. Before one is issued with a passport, s/he must fill a passport application form which may be recommended by the area Local Councils, and is required to pay a nominal fee of Ug. Shs 50,000 (app US\$ 35). The Passport Control Officer, acting on behalf of the Immigration Control Board, issues the travel documents.

352. To ensure that all persons have easy access to a travel document, distribution centres have been established at the district level. Passport issuing centres have also been established in all Uganda's Missions abroad to facilitate the Ugandans in the Diaspora, previously unable to expeditiously process passports from within the country. This is a progressive move from the unjustifiably lengthy procedures required under the old passports regulations as embodied in regulations 5, 6, 12 and 13 of the Passports Regulations SI No. 14 of 1984.

353. Until the late 1980s, married women in Uganda were required to obtain their husbands' permission to travel abroad. In actual fact, women were endorsed on their husbands' documents except in exceptional circumstances. To date, and in light of affirmative action, women and children are entitled as of right to hold separate passports. Other restrictions removed are the requirements for a husband's consent in order for women to travel with their children abroad.

Withdrawal of passports

354. In conforming to the permitted restriction clauses under the Constitution, the Immigration Control Board may refuse to issue a passport or order the withdrawal or temporary seizure of a passport from any holder under the following circumstances:

(a) Where in its opinion, the issue of a passport to such person would be prejudicial to the public interest.

(b) Where a person is facing criminal proceedings and such proceedings are pending in any court of law.

(c) Where a person is a habitual criminal.

(d) Where the holder is lawfully charged with a felony.

(e) Where the holder is deported or repatriated to Uganda and the conditions or reasons for his or her deportation or repatriation are still standing.

355. The law requires, and the practice is, that any person affected by the decision of the board in the above respect has a right to be informed of the reasons for such decisions and may appeal to the Ministers of Internal Affairs or the High Court as the case may be. The right to access the courts of law is one of the fundamental transformations in policy.

356. On average, a total number of 12,000 applications for travel documents are received per year. Approximately 100 of these are turned down for several reasons, prominent of which, is falsifying of particulars. Statistics in the passport section indicate that an estimated 90 passports are issued every day, including renewals.

ARTICLE 13: RIGHTS OF ALIENS

357. Immigration legal provisions in respect of aliens are qualified by references to public order, morals, health or safe expulsion is within the discretion of the state; this discretion must however be exercised in good faith and not for an ulterior motive. The question of public order as a ground for expulsion must be measured against its human rights standards.

358. Permanent legal residents i.e. aliens on certificates of permanent residence are allowed to enter the country without arbitrary denial.

359. Under immigration legislation, this category of immigrants will only be allowed to enter the country upon satisfaction of the pre-requisite requirements which include possession of entry clearance in the form of visa, sufficient funds in the case of businessmen and medical invitations where medical attention is required.

360. The visa issuance process is quite simple thus visas may be obtained from abroad or upon arrival. In practice, an immigration officer may enforce his discretion to consider an alien or group of aliens inadmissible, which means that such person will not be allowed in the country and will not be afforded access to courts of law to challenge this denial.

Restrictions

361. The right to enter the country may be denied where it is established that the alien seeking entry constitutes the following category:

- Destitutes.
- Mentally disturbed persons.
- Where the alien refuses to submit to medical examination under S. 50 of the Act, which requires a medical Officer to examine a person suspected of having an infectious or contagious disease. This does not include testing for HIV.
- The alien is suffering from a contagious disease.
- A person against whom there is a deportation order from Uganda.
- Drug traffickers.

- Subjects of a country at war with Uganda.
- Children of prohibited immigrants and any other dependants in that respect.
- Persons convicted of any offences under the Act.

362. Upon admission, aliens are required to register with the special branch division of police after which they must proceed to the Uganda Immigration headquarters in Kampala to obtain relevant and necessary immigration facilities.

363. Under S.58 of the Act, every alien legally resident in Uganda shall at all times carry his/her entry permit, certificate of permanent residence or pass and on being so required by an immigration officer produce it for examination. A person failing to comply with the above, commits an offence and will upon conviction be liable to a fine or imprisonment of twelve months or both.

364. In practice, an administrative deportation may be applicable to such a person. Under the old immigration Act of 1969, the Minister of Internal Affairs, or immigration Control Board of officer acting on behalf of the board could in exercise of their discretion cancel an entry or residence permits and visitors passes at any time without assigning any reason and such decision was final and not subject to appeal in courts of law. In this respect the law reflects xenophobic orientations since it was enacted in the immediate aftermath on the country's independence from the white colonial masters. Both the old and new law provide for Administrative deportation order.

365. The right to appeal is however in practice often restricted by the parallel powers granted to the commissioner for Immigration under Section 64 D of the 1998 Immigration Act to organize departure of undesirable Immigrants. Quite often before an alien has adequately prepared him/herself for the court processes, he is served with a quit notice requiring him to immediately remove himself from the country within a period of 30 days.

366. In essence the time frames provided for court processes are limited and are to the disadvantage of the appellant. The law requires that a person facing deportation be kept in custody while waiting for departure.

367. In practice most aliens are advised to appeal whilst outside the country and face a possible administrative ban on attempts to enter the country upon successful challenge of deportation orders. This is because of the principal of inadmissibility practiced by the immigration department in exercise of discretion in admitting foreign nationals.

368. Procedures for appeal against rejected entry permits:

(a) Aggrieved persons are required to notify the commissioner for Immigration of the intention to appeal to the Minister.

(b) Applicant may within 30 days from date of notification appeal to the Minister against a decision of the Board.

(c) The Commissioner is required to summarize the antecedents of the application for onward transmission to the Minister.

(d) The Minister may confirm or reverse the decision of the board or order reconsideration of the matter by the Board.

(e) Appeals to High court challenging rejection of entry permits are not subject to court jurisdiction since presence in Uganda is considered a privilege not a right.

369. However, where new facts are presented in respect of a rejected application, the applicant may cause the Board to reconsider the application in the light of the new facts presented S. 55 (8).

370. Procedures for Appeal against deportation:

- (a) Grounds for deportation are contained under S. 55 of the 1998 Act.
 - (i) Upon receipt of a quit notice the applicant must notify the immigration department of intention to appeal.
 - (ii) Appellant must lodge appeal before the High Court within 15 days after the date of deportation notice.
 - (iii) The appellant may cause the High Court to order a stay of execution of deportation order within two days of lodging an appeal.

N.B: Persons expelled on the grounds of national security are not allowed to appeal.

371. Between 1995 and 2001, the country has expelled an estimated 300 illegal immigrants mainly on account of illegal presence or working without permits in Uganda and for drug trafficking. About thirty have been deported for engaging in subversive activities prejudicial to the security of the state. An approximate number of fifty immigrants per year are required to remove themselves from the country upon rejection of their entry permit applications and subsequent appeals.

Refugees

372. Conditions of entry and/or residence in the country governing refugees are contained in the Control of Aliens and Refugees Act Cap. 64.

373. Although Uganda hosts over 350,000 refugees and her refugee practices are considered commendable by the international community, Uganda's refugee legislation as contained on statute books remain poor and call for immediate review. Cap. 64 restricts the refugees' rights to freedom of movement in several aspects.

374. Under S. 6 of Cap. 64, refugees must obtain permits to remain in Uganda and an authorized officer may in his discretion and without signifying any reason refuse to issue such permit.

375. Refugee residences are restricted to gazetted settlements and camps and any refugee seeking to leave the settlement must obtain permission and a travel permit to that effect. Upon admission into the country, a refugee cannot leave Uganda without permission of the Principal Immigration Officer.

376. The two common methods in practice of restricting the freedom of movement of refugees which are often international in practice are the control of food rations and issue of identity cards.

377. For instance, the government does not allow refugees to receive assistance outside the designated zones. Restriction on movement are re-enforced by government's refusal to issue identity cards. Government grants temporary travel permits only if a refugee can establish that he/she has a specific reason to move outside the zone.

378. In this regard, refugees generally have no right to choice of residence and freedom of movement and the right to engage in employment. Uganda upholds the principle of non-refoulement, hence, there have been no registered cases of forcible expulsion of refugees; however the country also practices the principle of first country of asylum rule which restricts the choice of residence in Uganda of a refugee who might feel safe living within the country.

379. In practice refugees who are recommended by the UNHCR may be granted conventional travel documents to enable them travel abroad. Cap. 64 is currently under review and it is envisaged that the forthcoming refugee bill will consider and address these problems.

Internally displaced persons

380. There are no restrictions on the movement of internally displaced persons and the requirements for residence in a particular area are determined by the local councils or district committees.

381. Internally displaced persons save for those in the protected camps in the North of the country have the right to move freely and live in any place of their choice. Uganda does not have any comprehensive policy on handling the issue of internally displaced persons. This category of persons is normally at the mercy of host communities and relief agencies.

Freedom of movement for aliens

382. The right of aliens to enter, leave and reside in the country is guaranteed upon the satisfaction of certain legal requirements. Which include possession of entry clearance in the form of a visa, sufficient funds in the case of businessmen and medical invitations where medical attention is required. The visa issuance process is quite simple, hence visas may be obtained from Uganda's Missions abroad or upon arrival at the country's borders.

Restrictions on residence for aliens

383. There are no legal restrictions in the law specifically for aliens in Uganda. They are subject to the same restrictions as those that apply to nationals. However, in the event of deportation, the freedom to reside in Uganda may be curtailed.

384. Although Uganda hosts over 350 alien refugees and the international community considers her refugee policy commendable, the legislation is wanting in several aspects, especially with regard to freedom of movement. The Government is however, in the process of drafting a new refugee law which will bring the practice in conformity with legislation.

**ARTICLE 14: THE RIGHT TO A FAIR HEARING AND
EQUAL PROTECTION OF THE LAW**

385. Article 20 of the 1995 Constitution of the Republic of Uganda provides that “all persons are equal before the law in all spheres of political, economic, social and cultural life and shall enjoy equal protection of the law.”

386. Article 28(1) states that if any person is charged with a criminal offence, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time, by an independent and impartial court or tribunal established by law.

387. In order to ensure that the courts are impartial, their independence is guaranteed under Article 128(2) of the Constitution which provides that “*in the exercise of their judicial power, the courts shall be independent and not be subject to the control and direction of any other person or authority*”.

388. Article 128(2) states, “*no person or authority shall interfere with the courts or judicial officers in the exercise of their judicial functions.*”

389. The Constitution provides in article 28(3) (a) that every person who is charged with a criminal offence shall be presumed innocent until he is proven or has pleaded guilty. This is well documented in various cases where suspects are tried. The courts in Uganda strictly adhere to the presumption of innocence, hence the courts are willing to grant bail in most bailable offences.

390. Section 28(3) (b) of the Constitution, 1995, states that, “*Every person who is charged with a criminal offence shall be informed as soon as reasonably practicable in a language he understands and the nature of the offence charged.*” Article 28 (3) (c) of the Constitution provides that every person who is charged with a criminal offence shall be given adequate time and facilities for the preparation of his defence. In practice, the accused is given notice of trial, and if he wishes to engage a lawyer to defend him, he must inform the court accordingly.

391. Article 28(3) (e) provides that every person charged with an offence which carries a sentence of death or imprisonment for life is entitled to legal representation at the expense of the State.

392. Although the Constitution provides that the person shall be afforded a fair hearing within a reasonable time, there are cases where persons have been detained for long periods without trial and many times the trial may take a very long time.

393. The Uganda Human Rights Commission is trying to sensitise law enforcement agencies, notably the police, Army and Prisons to comply with the law in this regard.

394. Article 28(3) (g) of the Constitution states that every person charged with a criminal offence shall be afforded facilities to examine witnesses and to obtain attendance before court.

395. Under the same article, an accused person shall be afforded without payment by that person, the assistance of an interpreter if that person cannot understand the language used at the trial.

396. The Evidence Act of the republic of Uganda states, “*No Confession made by any person whilst he is in the custody of a police officer shall be proved against any such person unless it be made in the immediate presence of:*

- *a police officer of or above the rank of Assistant Inspector; or*
- *a magistrate”.*

397. The Evidence Act of the Republic of Uganda goes on to state that, “*a confession made by an accused person is irrelevant if the making of the confession appears to the court, having regard to the state of mind of the accused person and to all the circumstances, to have been caused by any violence, force, threat, inducement or promise calculated in the opinion of the court to cause an untrue confession to be made”.*

398. The Evidence Act, Cap 43 of the Republic of Uganda lays down the law in relation to confessions.

399. The Evidence (Statements of Police Officers) Rules (S. 1 43-1 of the Republic of Uganda covers all offences that pertain to interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction.

400. These rules are made under Section 24 of the Evidence Act of the republic of Uganda. They are intended to guide Police Officers were obtained fairly from a suspect.

401. Rule 9 requires that a police Officer charge a prisoner with an offence, or informs him or her of the nature of the charge brought against him or her or the matter, which the police is investigating. The prisoner will then be asked if s/he wishes to say anything about the matter.

402. Rule 4 provides that a caution must be administered by a Police Officer where s/he has decided to question or continues to question a person. A caution must always be administered whenever any statement is taken from any prisoner. The caution statement administered in Uganda is as follows:

“You need not say anything unless you wish but whatever you do say will be taken down in writing and may be given in evidence.”

403. According to Rule 9 of the Police Rules, before administering a caution to the prisoner, a police officer is required to charge him/her with the offence, or to inform him of the nature of the charge, which is likely to be brought against him, or the matter that the police Officer is investigating. The Police Officer should then ask him if he has anything to say about the matter.

404. Rule 6 states that whenever a Police Officer is recording a statement made by a prisoner, such prisoner must not be cross-examined.

405. Rule 11 states that when two or more prisoners are charged with the same offence and statements are taken separately from them, a police officer may read the statement of one prisoner to the other, but nothing should be done to invite a reply. If a prisoner desires to make a reply, a caution must be administered.

406. In the interrogation of prisoners, it is emphasised that care must be taken to ensure that no force or torture is used to extract information from prisoners or accused persons or suspects.

407. Section 28(9) of the Constitution provides that no person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall be tried again for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or to the acquittal. Sub clause (1) states that no person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

The workload/returns for the Supreme Court for the year 2000

| Nature of the case | Brought Forward | Registered | Completed | Pending hearing | Pending December 2000 |
|--------------------|-----------------|------------|-----------|-----------------|-----------------------|
| Civil Appeals | 9 | 9 | 10 | 7 | 8 |
| Civil Applications | 3 | 27 | 24 | 6 | 6 |
| Criminal Appeals | 33 | 55 | 45 | 43 | 43 |

Source: Judiciary Annual Report, 2000.

The workload returns for the Court of Appeal for the year 2000

| Nature of the case | Brought forward | Registered | Completed | Pending Hearing |
|--------------------------------|-----------------|------------|-----------|-----------------|
| Civil Appeals | 29 | 72 | 38 | 63 |
| Civil Applications | 26 | 103 | 78 | 51 |
| Constitution Petitions | 6 | 11 | 8 | 9 |
| Constitution Applications | Nil | 4 | 4 | Nil |
| Election Petition Appeals | 1 | Nil | 1 | Nil |
| Election Petition Applications | 1 | 1 | 2 | Nil |
| Criminal Appeals | 142 | 114 | 84 | 172 |
| Criminal Applications | 6 | 27 | 27 | 6 |

Source: Judiciary Annual Report, 2000.

408. Trials in Uganda are slow with 70% of Uganda's prison population staying there on remand. Legal representation for capital offences is a requirement of the law but this also contributes to delays because lawyers are unwilling to take State briefs because of low pay. Most people cannot afford a lawyer, thus affecting their ability to effectively defend themselves.

**The performance of the High Court Criminal Division at Kampala
for the year 2000**

| Nature of case(s) | Brought Forward | Registered | Completed | Pending December 2000 |
|-----------------------------|-----------------|------------|-----------|-----------------------|
| Criminal Revision | 10 | 7 | 6 | 11 |
| Criminal Appeals | 84 | 106 | 44 | 147 |
| Criminal Misc. Applications | 129 | 230 | 122 | 237 |
| Criminal Confirmation | 0 | 0 | 0 | 0 |
| Criminal Sessions | 91 | 578 | 202 | 468 |

Source: Judiciary Annual Report, 2000.

**Annual return of completed cases by hon. judges and registrars
for the year 2000 according to divisions at Kampala**

| Case category | Commercial Division | | Civil Division | | Family Division | | Total Disposal |
|--------------------|---------------------|------------|----------------|------------|-----------------|------------|----------------|
| | Judges | Registrars | Judges | Registrars | Judges | Registrars | |
| Civil Suits | 498 | 57 | 259 | 122 | 88 | - | 1224 |
| Misc. Applications | 559 | 1 | 452 | 22 | 135 | - | 1169 |
| Civil Appeals | 24 | - | 61 | 1 | 4 | - | 90 |
| Company Cases | 14 | - | 5 | - | - | - | 19 |
| Bankruptcy | 8 | - | - | - | - | - | 8 |
| Divorce Cases | - | - | - | - | 13 | - | 13 |
| Revision | - | - | 1 | - | 4 | - | 5 |
| Arbitration | - | - | 1 | - | - | - | 1 |

Source: Judiciary Annual Report, 2000.

Sector-wide approach (SWAP) in the Justice, Law and Order Sector

409. In the field of cooperation, the Judiciary together with other key players in the Law and Order Sector are trying to come together to identify the best way to marshal the scarce resources for better use for achieving their respective mission objectives. The common goal is speedy administration of justice. In the present era, resources are increasingly being given to Sectors other than scattered institutions. The key players in **SWAP** are:

- (a) The Judiciary
- (b) The Ministry of Justice and Constitutional Affairs
- (c) The Ministry of Internal Affairs
- (d) The Police Service
- (e) The Director of Public Prosecutions

- (f) The Judicial Service Commission
- (g) The Uganda Law Reform Commission

In this new approach, the players hope to utilise a common basket of resources in a synchronised manner. Some of the expected results of this partnership include:

- Ownership by instructions in the Sector of a sector-wide approach to reform and financing consolidated;
- Coordination, communication and cooperation between the institutions in the Sector improved;
- Policy-making and planning capacity within the Sector enhanced;
- Poverty focused criminal Justice Reform Programme developed and incorporated into Sector-wide Strategic Plan;
- Substantial efficiency savings in the Sector achieved, especially in relation to prison farms and Police vehicle fleet management;
- Agreed and affordable medium-term expenditure framework for activities in the Sector developed;
- Justice, Law and order Sector medium-term Strategic Plan drafted and finalised.

ARTICLE 15: THE PRINCIPLE OF NON-RETROACTIVE JURISDICTION AND DOUBLE JEOPARDY

410. The principle of non-retroactive jurisdiction is contained in Uganda's domestic legislation. Under Article 28 (7) of the Constitution "*No person shall be charged with or convicted of a criminal offence which is founded on an act or omission that did not at the time it took place constitute a criminal offence*". The constitution also in a related manner prohibits "double jeopardy", Article 28 (9) states that "*A person who shows that he or she has been tried by a competent court for criminal offence and convicted or acquitted of that offence, shall not again be tried for the offence or for any criminal offence of which he or she could have been convicted at the trial for that offence, except upon the order of superior court in the course of appeal or review proceedings relating to the conviction or acquittal*".

411. Furthermore, article 28(10) prohibits trying a person for a criminal offence in which he has previously been pardoned. It states "*No person shall be tried for a criminal offence if the person shows that he or she has been pardoned in respect of that offence*". There has not been a case since 1986 where the principle of non-retroactive jurisdiction has been violated. Even if it was, it would have been challenged under the law and under the independent judiciary in the country.

**ARTICLE 16: RECOGNITION EVERYWHERE AS A
PERSON BEFORE THE LAW**

The Committee is referred to Article 2 of the Convention and the report thereunder.

ARTICLE 17: THE RIGHT TO PERSONAL LIBERTY

412. Every individual in Uganda has a Constitutional protection as to personal liberty as enshrined in the Bill of Rights.

413. The Right to personal liberty as enshrined in article 23 (1) included the Right to privacy of person, home and other property.

414. Article 27 (1) of the Uganda Constitution provides that no person shall be subjected to unlawful search of the person, have or other property of that person or unlawful entry by others of the premises of that person and above all no person shall be subjected to interference with the privacy of that person's home, correspondence, conviction or other property.

415. Parliament may however make laws whose effect among others may include the infringement or limitation of the right to privacy. It must be appreciated that the powers interrupt with the right to privacy given to law enforcing agencies under any enactment are given exclusively for lawful purposes from which the public is entitled to benefit all these powers must be used reasonably.

416. In Uganda the right to privacy may be lawfully deviated from in the process of conducting searches. Under S. 28 of the Police Statute, a Police officer may for the purposes of an investigation search any place with or without search warrant provided an inventory is made. Searches may also be authorised by a magistrate under S ... of the Magistrate Courts Act.

417. Also under the prevention of corruption Act, the Director of Public prosecutions may without search warrant authorise the searching of premises or home of a person accused under the Act, if there is reasonable suspicion that there may be evidenced relating to an Act of corruption for which the person has been charged in courts of law.

418. The Immigration Act No. 19 of 1996 also authorizes an Immigration officer to conduct a search on if there is reasonable suspicion that the subject of the search may reveal an Immigration offence.

419. Hence any Legal enforcement of the right to privacy must strictly relate to the protection of rights and freedoms of other persons. In Uganda, there has been acknowledgement that the right to privacy may in some instance be infringed by government security agencies using legislation to peasant political appointments. This has been the main cause for rejection of the tension Bill which seeks to afford military authorities the access to enter upon search and arrest persons suspected of being terrorists.

420. During the reporting period, there have incidents of unlawful infringement of the right to privacy right especially by the chieftaincy of Military intelligence internal security organization and the army. There have also been incidents where security agencies have interfered with person's privacy including mail and telephone. These actions have however been furthered in the interest of the state.

421. Any person aggrieved by the infringement of right to privacy may seek redress from a complement court of law under article 50 of the constitution. Remedies under the constitution and other deeming laws may include compensation.

ARTICLE 18: FREEDOM OF CONSCIENCE, THOUGHT AND RELIGION

422. Article 29 of the Uganda Constitution guarantees the protection of the freedom of conscience, expression, movement, religion, assembly and association. Clause 1 (b) and (c) of the above article provides that any person shall have the right to freedom of thought, conscience and belief which shall include academic freedom in institutions of learning.

423. Every person shall also have the freedom to practice any religion and manifest such practice which shall include the right to belong to and participate in the practices of any religious body or organization in a manner consistent with the constitution.

424. While there has been no evidence of any impairment of the freedom of thought and conscience, there is a given fear and resulting public debate over the protection of the freedom of worship. As a secular state, Uganda has not adopted any state religion hence Ugandans have generally enforced the freedom to profess and belong to any religion of their choice. There has been religious tolerance in the country.

425. However, during 1999, a couple of negative developments leading to Human rights violations emerged under the guise of the freedom of religion and worship. Some of these violations led police to interfere in the activities of some religious sects.

426. A number of religious groupings whose activities and purposes are detrimental to the public interest have been banned.

427. These include the world message last warning church of self professed prophet Wilson Bushara. The Nabaasa Gwajwa cult in Sembabule and the restoration of ten commandments church under self styled Rev. Joseph Kibwetere.

428. Under the guise of religious worship, the said sects conducted several human rights violations which included mass murder, defilement, communal sex, child labour, servitude and extortion. Prophet Wilson Buhsara allegedly defiled a 16 year old girl, who was one of his followers and then allegedly married her and got her pregnant. He was also accused of regularly organising unlawful assemblies. He was taken to Luzira State prison on remand. However, in February, 2002, the Director of Public Prosecutions withdrew the charges of defilement against him stating to the High Court that the key witnesses in the case had left for Rwanda a year earlier and efforts by the State to trace them had proven futile. However, even though this case against him was dismissed, Prophet Bushara was taken back to Luzira State Prison because there was another case of conducting an unlawful assembly against him.

429. The Government is now keen on the activities of religious groupings. All religious organizations are now required to register as NGO's at the NGO secretariat manned by the Ministry of Internal Affairs in conjunction with security forces.

430. The forth coming NGO Bill seeks to step up surveillance and government supervision of NGO activities as means of preventing abuses associated with the freedom of worship in Uganda.

431. There have also been allegations of political persecution of some members of the Muslim faith. The Muslim Community in Uganda has in several forms expressed public out cry over the arrest and detention of their members. It must however be noted that arrests have been made generally and in respect of individuals who have associated themselves with terrorist and other activities detrimental to the security of the nation and not because of their religious beliefs.

ARTICLE 19: THE RIGHTS TO HOLD OPINIONS WITHOUT INTERFERENCE

432. Under Article 29 (1) of the Constitution, 1995, this right is absolute, and foreign journalists are given access to information. The Committee is also referred to the Committee to Article 5 (d) iii of Uganda's Report under the International Convention on the Elimination of All forms of Racial Discrimination.

433. The Constitution states under Article 29(1): *Every person shall have the right to*

(a) *Freedom of speech and expression, which shall include the freedom of press and the media;*

(b) *Freedom of speech and expression which shall include academic freedom of institutions of learning.*

434. Two of the major Newspapers, *The New Vision* and *The Monitor* carry columns and letters to the editor on issues of personal opinion. This is not interfered with by the state. There are several other newspapers released bi-weekly and bi-monthly in the country. Even though most of the time, a lot of information which appears in these papers may portray opposition sentiments, these papers are allowed to function without interference from the State.

435. State functions presided over by H.E. the President are as a matter of security, covered by the Presidential Press Unit, under the Office of the President and the films are distributed to the various media houses after the function. The other media houses are allowed to cover the same function unless the Presidential Protection Unit has security concerns about their equipment. Foreign Journalists are expected to get accreditation prior to State functions. Unless there is a security based reason why their machinery may not be allowed inside the ceremony, their press equipment is allowed in State functions.

436. The Press and Media law which took effect in 1995, requires journalists to be licensed and to meet certain standards which include holding a university degree. The law also gives the Government power to suspend newspapers and to deny access to state information. The Government, however, has not been seen to vigorously enforce this law as part of its tolerance policy.

437. In 1996 the Media Council was established to monitor and The Uganda Journalists Safety Committee to discipline Journalists.

438. In October 1997 Mr. Charles Onyango-Obbo Editor of the Monitor Newspaper and senior Reporter Andrew Mwenda of the Monitor Newspaper were arrested and charged with dissemination of false information based on a report that they published stating that Uganda had received gold in payment for assistance in overthrowing former Zairian leader Mobutu Sese Seko. In response to their appeal, a High Court judge reduced their bail from about US \$ 4000 (4million shillings) to US \$ 400. The trial went on for three years and in 2001, the two were acquitted by the High Court of any wrong-doing.

439. The Government grants a great degree of academic freedom. Uganda has two public and six private universities, with no government interference in teaching, research or publication. Both the students and the faculty have often sponsored issues ranging from political debates in open fora on the campuses. In December 1997, the Makerere University faculty of law sponsored an interdisciplinary Conference on human rights in the Great Lakes Region.

ARTICLE 20: PROPAGANDA FOR WAR

440. Uganda is also a party to other conventions that prohibits advocacy for violence and war propaganda against non-citizens. Under the international convention on the Elimination of all forms of Racial Discrimination (ICERD) of 1965 that was ratified by Uganda in 1980, advocacy for violence against foreigners is prohibited. Article 1 (1) of the CERD prohibits any advocacy of “national hatred”. Article 1(2) expands the prohibition to include the “advocacy of hatred of aliens and incitement to discrimination and violence against foreigners” or non-citizens.

441. Uganda has taken both legislative and administrative measures to ensure compliance with all these articles. In the past there was hate campaigns against some sections of the Ugandan Community. However since 1986 the government took a deliberate effort to control and eliminate this propaganda. This propaganda usually emerged when there were heated political campaigns, mostly during elections or when there was a political challenge to the authority.

442. The most applicable laws on violence and hatred campaigns are in the Penal code, the Anti-Sectarian Law and the Presidential Election Act 2000. The Presidential Election Act 2000 was assented to by the president on December 8th 2000 and came into force on 12th December 2000. Section 23 (5) of the Presidential elections 2000 states that “No candidate or agent of candidate or any other person shall, during the campaign period use electronic media to do any of the following acts against a candidate or agent of the candidate:

- Making statements which are known by the maker to be false or in respect of which he or she is reckless, whether they are true or allusions
- Making malicious statements
- Making statements containing sectarian words
- Making abusive, insulting or derogatory statements

- Making exaggerations or using caricatures of the candidate or his or her agent using words of ridicule
- Using divisive or mudslinging words against a candidate or his or her agent
- Juxtaposition of words or statements with any of the effects described in the following paragraphs
- Using songs, poems, and images with any of the effects described in the following paragraphs.

443. Subsection 6 of section 23 prohibits the proprietor or operator of an electronic media to use such facility or allow it to be used to do any of the acts prohibited in 23 (6). The law provides a punishment of a fine not exceeding 1.6 million or imprisonment not exceeding two years or both for people found guilty of violating this section.

444. Section 26 prohibits the use of any language which is defamatory, or which constitutes incitement to public disorder, hatred or violence. Violators of this section also are liable to punishment of payment of 1.6 million or maximum of two years or both.

445. Section 76 B (1) of the Penal Code Act states that any person who incites any person to do an Act of violence against any person by reason of his race, place of his origin, political opinion, colour, creed, sex or office, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding fourteen years.

446. There is also the Anti-Sectarian Law which seeks to curtail incitements and discriminations based on race, colour, tribe, ethnic group or any other category.

ARTICLE 21: THE RIGHT TO PEACEFUL ASSEMBLY

447. The right to peaceful assembly is provided for by the constitution of the Republic of Uganda 1995. Art. 29(d) States that every person shall have the right to freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition.

448. Article 38 (2) further provides that every Uganda has a right to participate in peaceful activities to influence the policies of government through civic organizations.

449. Sec. 33 of the Police Statute 1994 provides guidelines for police officers to regulate and direct peaceful assemblies and/or demonstrations on public roads, streets or in a place of public resort and the route by which and the times at which any procession may pass.

450. However, sec. 36(7) of the Police Statute provides that no restriction should be applied on assemblies held wholly inside a building or convened bonafide:-

- for religious observance
- by the Uganda Government of the administration of a district

- for witnessing sports or games
- primarily for social purposes.

451. Persons who lawfully assemble and/or demonstrate peacefully are not to be disrupted and/or dispersed unless they become violent. Article 29(d) of the constitution provides protection for people who assemble and/or demonstrate peacefully. However the police is to ensure that the assemblies and demonstrations are peaceful. For example, on 19th January 2001, a rally on anti-terrorism organised by the Uganda People's Congress (UPC) was prevented from taking place, while a consultative rally organised by the Conservative Party (CP) was allowed to take place the following week and given police protection. *There is no requirement to seek permission to hold a peaceful assembly, rather, the requirement is just to inform the Authorities.*

452. Before any person organizes a peaceful assembly and/or demonstration, he/she is required to inform the Inspector General of Police or his/her representative, of the place, number of persons, time and route of the assembly and/or demonstration. This is to allow the police to make necessary security arrangements to ensure peace and security of other persons and their properties.

453. In the event that the police, through its intelligence system envisages disturbances and disruption of public order and peace, they are authorised by law to prohibit the occurrence of the assembly by writing to the organisers. But if the police has no reason to stop the assembly, the organisers of such an assembly do not need any written communication from the police inform of permission. They just proceed with the assembly.

454. However, if the assembly is to be held in an area gazetted by the minister, as per sec. 36 of the Police Statute, the organisers of such an assembly are required to acquire a written permission from the minister before they hold an assembly of more than 25 people in such a gazetted area.

455. The restrictions placed on taking part in an unlawful assembly are:

(a) Sec. 37(5) of the Police Statute provides that any person who addresses an assembly a superior police officer has ordered it to disperse shall be liable, on conviction to a fine not exceeding Ug. Shs.1,000 or to imprisonment not exceeding 3 month or both such a fine and imprisonment.

(b) Sec. 38 of the Police Statute provides that any person who continues to take part in an unlawful assembly after it has been ordered to disperse, convenes an assembly in a gazetted place for which obtaining a permit is required, without obtaining such a permit, commits an offence and is liable on conviction to a fine not exceeding Ug.Shs.50,000/= or imprisonment for a period not exceeding 3 months or both.

(c) Sec. 62 of the Penal Code Act provides that any person who takes part in an unlawful assembly is guilty of a misdemeanour and is liable to imprisonment for one year.

456. In Uganda, people enjoy the right to peaceful assembly as provided for by the law. There are more assemblies enjoyed than those stopped or disrupted. The public officers especially police officers are often given instructions to guide the assemblies to remain peaceful. But where assemblies turn violent, police officers are instructed to make a proclamation loud enough for all to hear in a language they understand, to all the people assembled to disperse peacefully. If persons assembled continue with violence after the proclamation, the police is authorised by law to use force to disperse them. Police officers attitude towards peaceful assemblies has always been positive.

457. Article 29 (a) of the constitution of the Republic of Uganda 1995 guarantees freedom of expression which includes freedom of the press and other media. Article 29 in a whole protects civic rights of persons. The freedom to express one's opinion in the press and media includes such expression in different fora such as at a peaceful assembly (as provided by article 21 ICCPR). However, both these rights/freedoms are not absolute, as, according to Article 43 of the constitution of the Republic of Uganda, can be subjected to limitations in the protection of the rights of other persons and in public interest.

ARTICLE 22: FREEDOM OF ASSOCIATION

458. This right has been the most controversial in Uganda since the advent of the Movement system in spite of Constitutional provisions. In article 70 of the Constitution a Movement system is described as “ *broad based, inclusive and non-partisan and shall conform to the following principles:*

- (a) *participatory democracy;*
- (b) *democracy, accountability and transparency;*
- (c) *Accessibility, to all positions of leadership by all citizens;*
- (d) *individual merit as a basis for election to political office.*

459. All civil and political freedoms are guaranteed in the Constitution. The right to freedom of Association is specifically provided under article 29(e). It states that “*every person shall have the right to*

(a) *freedom of association which shall include the freedom to form and join associations or unions, including trade Unions and political and other civic organizations”. The Constitution also provides limitations to this enjoyment. Article 43 (1) provides the general limitation on fundamental and other human rights and freedoms. It states that “ “*In the enjoyment of rights and freedoms prescribed in this chapter, no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest**

- (b) *Public interest under this article shall not permit:*
 - (i) *Political Persecution;*
 - (ii) *Detention without trial;*

- (iii) *Any limitation of the enjoyment of the rights and freedoms prescribed by this chapter beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution”.*

460. There are three major areas where this right has been restricted namely:

- (a) Through restricting some of the Activities of Political parties under the movement system. This was legitimized legally by the law and politically by the referendum
- (b) Restricting the movement of one of the political opponent, Dr Kiiza Besigye
- (c) Introduction of the Suppression of Terrorism Bill. The Bill if passed into law, limits some of the fundamental freedoms.

461. Restrictions on political party activities are provided under article 73 and 269 of the Constitution. The majority of Ugandans had an input in the restrictions: The Constitutional Commission which was instituted in 1988 to solicit views from the public to make a new Constitutions after long periods of unconstitutional rules suggested these restrictions. It stated that: *“following the majority views we have recommended that the formation and operation of the Political Parties be regulated by law to ensure their full democratization and peaceful competence and their conformity to international objectives and principles as identified by the people”*. When the Constituent Assembly sat to debate and promulgates the Constitution, it looked for a compromise in a referendum to choose a political system.

462. The referendum was held in June 2000. It was held in accordance with article 69, 271(2) (4) and 273(3). Article 69 is about choosing political systems which will be *“through free and fair elections or referenda”*, article 271 (2) states that *“Two years before the expiry of the term of the first parliament elected under this constitution, any person shall be free to canvass for public support for a political system of his or her choice for purposes of a referendum”*.

463. Article 271(3) states that *“During the last month of the forth year of the term of the first parliament referred to... a referendum shall be held to determine the political system the people of Uganda wish to adopt”*. According to article 271(4) parliament is supposed to enact laws to give effect to the referendum. The Law is the Referendum Act, in place. The decision from this referendum was to determine whether or not Ugandans want to be governed under a movement or multi party system.

464. Whichever system is determined, it can still be through a referendum to change that system in accordance with articles 74(1) (a), (b) (c) and 74(2). It states: A referendum shall beheld for the purpose of changing the political system:

- (a) *if requested by a resolution supported by more than half of the members of parliament; or*
- (b) *if requested by a resolution supported by the majority of the total membership of each of at least one half of all district councils; or*

(c) *If requested through a petition to the electoral commission by at least one-tenth of the registered voters from each of at least two-thirds of the constituencies for which representatives should be directly elected under paragraph (a) of clause (1) of article 78 of this constitution.*

(2) *The political system may also be changed by the elected representatives of the people in parliament and district councils by resolution of parliament supported by not less than two-thirds of all members of parliament upon a petition to it supported by not less than two thirds majority of the total membership of each of at least half of the all district councils.*

465. There were indeed debates in the country on whether articles that restricted political party activities did not violate human rights. There were also arguments that the referendum was itself a violation of human rights because human rights are inborn and can not be voted on. The government argument which later carried the day was premised on democratic principles of involving the people in decision making.

466. The argument of the government was that a Constitution was formed out of intensive consultations and with involvement of the people of all walks of life in Uganda. The report of the Uganda Constitutional Commission which was made out of peoples memoranda and contributions that made the draft constitution out of peoples views, said summarised the rationale when it acknowledged that the issue of the political system was the most controversial. *“One position strongly believed in the movement political system as the best for Uganda because it succeeded to unite people of different parties and opinions to work peacefully for national development. A second position was that the movement system was undemocratic by nature since it infringed on people’s rights to organise and associate freely and that a system based on political parties should be re-established. The third position held the movement system as appropriate for an interim period in which people are expected to mature politically before return to fully-fledged party politics”,* the report said.

467. On controversial issues, the Commission further observed that *“Since the new Constitution (is) aimed at creating permanent peace and stability, we made sure that our recommendations on them would be based on principled compromise which seriously take into account the views of all orders. We wanted the recommendations to bring about genuine reconciliation of diverse views and positions already taken by different groups in the country and at the same time serve the best interest of a democratic society”.*

468. At the end of it all the Commission conceded that a *“consensus on the issue of political system could not be attained, but the majority views in the memoranda, educational reports and in our observations during the interaction with people were for the movement political system”.*

469. So for the Commission to reconcile the majority views and those of a substantial minority they recommended to have both the movement political system and the multiparty system within the Constitution, while at the same time *“providing safeguards for the operation of political parties in all aspects, with an exception of endorsing, sponsoring, offering a platform of campaigning for or against a candidate for any public election, during the period when the movement political system is in operation”.*

470. The Commission submitted:

“We have recommended that the new Constitution once promulgated should start with the movement political system for the first five years. We have also recommended in this report that if the issue of political system is not resolved by the Constituent Assembly, it should be referred to a national referendum immediately. We have recommended in addition a national referendum on the issue in the fifth year of the operation of the new Constitution to determine people’s preference. The issue of the political system would be decided upon, regularly through a referendum until such a time that Ugandans achieve a relative consensus on a permanent political system”.

471. The rationale for this process of the referendum was summarised by the Commission when it submitted that this process *“gives effect to people’s sovereignty to decide the political system most likely at any given time, to give expression to their aspirations... Democracy may therefore, be given a chance to grow at the direction of the people themselves”.*

472. Therefore, what is stated in Articles 69, 70, 71, 73, 74, 269 and 270 in the Constitution was neither a creation of the Constituent Assembly nor the President but by large majority of the people of Uganda through the Constitutional Commission, which had collected views from them and directly elected Constituent Assembly which was their mouthpiece. This is what any democratic process would entail. In fact if the Constitutional Commission had ignored compromise and gone by the overwhelming majority of Ugandans, there would be no referendum to talk about, as there would be no provision for parties in the Constitution.

473. It is important to note that in spite of these restrictions on general human rights and freedoms, there are areas where derogation is not acceptable under whatever circumstances. They are under article 44.

474. Article 44 of the Constitution of the Republic of Uganda (1995) states that: Notwithstanding anything in this Constitution, there shall not be derogation from the enjoyment of the following rights and freedoms:

- (a) freedom from torture, cruel, inhuman or degrading treatment or punishment;
- (b) freedom from slavery or servitude;
- (c) right to fair hearing;
- (d) right to an order of *habeas corpus*.

475. In general terms, a referendum as a concept, has more advantages than disadvantages. It can raise controversy in some areas but in most others it can resolve controversies. In the case of Uganda, the fact that its basic premise is that “people must decide” makes it not only democratic but also an instrument of human rights protection rather than violation. For example there can be a referendum for anybody to change the following fundamental democratic and human rights principles:

- (a) Under the Democratic Principles of the National Objectives and Directives of State Policy, it is declared that “ The State shall be based on democratic principles which empower and encourage the active participation of all citizens at all levels in their own governance” (II)
- (b) Article 1 (1) states that “All power belongs to the people who shall exercise their sovereignty in accordance with its Constitution”
- (c) Article 2 which specifies that -----all authority in the state emanates from the people of Uganda; and the people shall be governed through their will and consent”
- (d) Article 44 which is about the non derogable rights viz.: freedom from torture, cruel , inhuman and degrading treatment or punishment; freedom from slavery or servitude, the right to fair hearing and the right to be taken to court (habeas corpus)
- (e) Article 75 which forbids establishing a one party system
- (f) Article 79 which forbids any person or anybody other than the parliament from high-jacking the powers of parliament of making laws
- (g) Article 105 (I) that prohibits a person from extending his/her five term period of holding office as president of Uganda
- (h) Article 128 that reaffirms independence of the judiciary. And
- (i) Chapter sixteen (article 246) about having the institution of traditional or cultural leaders.

476. These are the other Constitutional provisions, apart from articles 69 and 74 about the forth coming referendum, where a referendum would be required to change the status quo. In all these cases the power of peoples representatives (Parliament) is not enough to amend the provisions. All the people have to decide and a decision is reached on a simple majority through a referendum.

477. There were several appeals challenging the movement system and the referendum but they did not succeed. The only appeal that succeeded by a case lodged by opposition members challenging the Referendum Act on the Ground that it was passed in parliament without a quorum. This appeal succeeded but the parliament, before the case was decided enacted another law that would still make the referendum legal even if the earlier law was successfully challenged. Indeed the earlier law was nullified by the Supreme Court but they were already another law. The nullification therefore had no effect.

478. It is important to add also that apart from prohibiting formation of political parties other political organizations, interest groups and pressure groups are formed without any restrictions. Even political parties are there but as pressure groups. They can open offices in the center, publish newspapers but they are not allowed to open branches in the rural; countries. Party members can stand for elections, and they have stood and won but they go in on “individual merit” not as party representative.

479. There are trade Unions in Uganda. However Human Rights Commission Reports have always been criticized for being ineffective. On the other had the Trade Unions themselves have argued that they are ineffective because of the existing bad laws. The Uganda Human Rights Commission in its 2000 annual Reports pointed out the labour laws that need to be repealed to give among other things Trade Unions effective power to deal with labour interests. It is noteworthy that the Parliament recently passed the Workers Compensation Act, 2000, which will help trade unions, follow up cases of compensation to workers who die during the course of their duties and had been largely unprotected under the previous law (Workman's Compensation Act, 1975).

480. Other than this the Constitution of Uganda allows peaceful demonstration and the right to strike. Uganda has however not been faced with any massive industrial action. The major sectors where strikes were common were Universities and Doctors. These however have also been weakened by the policy of liberalization where the personnel in these organization do more than one job; one in government and one in the private.

481. It should be noted that there is a National Human Rights Institution whose function, among others is "to monitor government's compliance with international treaty obligations". One method of monitoring is to ensure that the Uganda Human Rights Commission (UHRC) comments all Bill to parliament with a potential of carrying human rights implications on. The parliament also encourages public debate on some of the Bills. The most recent was the "Suppression of Terrorism Bill, 2001". The UHRC submitted its views and many more organizations and individuals appeared before the combined committees of parliament of legal and Parliamentary and Defence and Internal Affairs. It is hoped the views of all these people will be put in place to make a good and effective law against terrorism, which at the same time guarantees human rights of suspects.

482. During the presidential campaigns one of the Members of Parliament, Hon Ken Lukyamuzi was reported to have said that "*if anybody who is not a Ugandan dares and risks to go on polling day for voting, if you have a machete just hack him, the authority you will use to hack with your machete is imbedded in the constitution... so any body who violates our constitution, if you get a machete and hack him, you have not committed any crime. You are free and can not be arrested.*" (See New Vision, February 11th 2001). This message was continuously played on the radios and published in papers. For this statement Hon. Lukyamuzi is faced prosecution but he was later acquitted.

ARTICLE 23: THE FAMILY

483. In Uganda a family is understood to mean a man, his wife or wives and children. In Uganda monogamous and polygamous marriages are very common. However polyandry where a woman has many husbands is non-existent in the Ugandan society.

484. Article 31(1) of the Ugandan Constitution of the Republic of Uganda states that men and women of the age of 18 years and above have the right to marry and to found a family and are entitled to equal rights in marriage, during marriage and at its dissolution. This implies that marriages involving persons who have not yet attained the age of 18 years are not allowed by law.

485. Article 31 (3) states that marriage shall be entered into with the free consent of the man and woman intending to marry and article 31(4) states that it is the right and duty of parents to care for and bring up their children. Article 6 of the Children Statute also states that:

486. It shall be the duty of a parent who has custody of a child to maintain that child. Article 7(1) states that every parent shall have parental responsibility for his/her child. Under the Police Act, family protection unit has been created. The unit deals with issues of family protection. Under the Children Statute, Family and Children courts have been established in every district. The Probation and Welfare Department of Government, has the mandate to provide family-counselling services intended to protect the family unit and the children in it. NGOs and Churches provide similar services.

487. Although the law does not recognize cohabitation of partners, the family protection services are provided to all irrespective of the type of family.

488. The Ugandan Constitution article 33 says that women shall be accorded full and equal dignity of the person with men. Men and women are entitled to equal rights in marriage, during marriage and at the end of marriage. The spouses under the children statute have equal rights and duties over the children. It also provides that marriage should be entered into with the free consent of both the man and woman intending to marry. If a Ugandan man marries a woman of a different nationality, the woman is automatically Ugandan and vice versa.

Bride Price

489. Payment of Bride Price is recognised under the law of customary marriages (Registration Decree). This is a practice prevalent in most districts of Uganda involving payment in cash or property by the husband and his family to the bride's family. It is a symbolic friendship but in actual fact, it is a transfer of productive and reproductive services to the man's family.

Divorce

490. The following types of marriages are recognized under the laws of Uganda:

- Customary marriage
- Marriage under Islamic Law
- Marriage in a Christian church
- Marriage before a Chief Administrative Officer
- Marriage under the Hindu faith

491. Before a couple can acquire a divorce, they must have been married for at least three years. The person applying for divorce must show that he or she had not planned or arranged divorce, but that he or she has been forced to apply for divorce because of the difficult circumstances he or she has found himself/herself in. The person applying for divorce must have

reasons, which must correspond with the grounds for divorce laid down by the law. For divorce to take place, a petition must be made to court. The petition should contain the reason why the application is being made, the solution that the applicant is looking for, the number of children the couple has and the marriage certificate attached. On the day of hearing, the court will hear all the evidence available and then make a judgement either allowing or refusing divorce.

492. Chapter 215 of the Divorce act is the law regulating divorce. Grounds for seeking for divorce differ for men and women in Uganda. A man can successfully seek divorce based on only one ground; adultery on the part of his wife. A woman on the other hand can only obtain a divorce if she couples adultery with other grounds such as desertion for more than two years, cruelty and marriage to another woman, limited or lack of maintenance, bestiality and rape. All these grounds are difficult to verify. The Domestic Relations Bill is expected to change these grounds.

493. Customary marriages are terminated in accordance with the ethnic or tribal customs of the parties to the marriage, and under *Sharia* Law, which governs Islamic marriages for example, by the return of the bride price. Registration is important because at the time of registration, a record of the bride price and marriage gifts given by the man is kept. This can be useful at the time of divorce in case there is dispute about how much property is to be returned.

Custody

494. Under the Ugandan Children Statute section 87 provides that in separation, divorce and nullity cases, there shall be joint consultations between parents in bringing up the child where circumstances permit and wherever possible.

Visiting Rights

495. Section 5 of the Children Statute deals with parentage and custody of children. Each of the spouses has a right to apply for custody and court can grant custody on conditions that it may deem fit. In granting custody, the court gives primary consideration to the welfare of the child. Where the custody of a child has been granted to one parent, the other parent shall have reasonable access to the child. The court can also at any time revoke the grant of custody to the parent with the child on information that the parent with custody of the child is wilfully neglecting or mistreating the child. Custody shall then be given to the other parent.

496. Under the Ugandan law, all children whether born in or out of wedlock have equal rights. In all situations, the best interest of the child is of paramount consideration. The children Statute first schedule 4 (a) states that “*a child shall have the right to exercise, in addition to all the rights stated in this schedule and this statute all the rights set out in the U.N Convention on the rights of the child and the OAU Charter on the rights and welfare of the African child with appropriate modifications to suit the circumstances in Uganda that are not specifically mentioned in the Statute.*”

497. The following types of marriages are celebrated according to religious rites:

- (a) Marriage under Islamic Law
- (b) Marriage in a Christian church
- (c) Marriage under the Hindu faith

Marriage in a Christian church

498. The main features of a Christian marriage are:

- (a) They are strictly monogamous
- (b) The wedding should take place only in a licensed church. Not every church is allowed to conduct marriages. The person who conducts the marriage should be a recognized Pastor or Reverend of the church
- (c) For three consecutive Sundays before the wedding, the parties intending to get married must be announced in church, so that any person who knows any reason why the couple should not be wedded can notify the church;
- (d) The marriage must take place during the day between 8.00 am and 6.00 p.m. It must be a public ceremony and the doors of the church must be open. There must be at least two witnesses.
- (e) The couple will be given a marriage certificate, which must be signed by the couple, reverend who wedded them and the two witnesses.
- (f) The marriage can only be ended by death of one of the parties or by a decree of divorce pronounced by the Chief Magistrate's Court or the High Court.

Marriage under Islamic Law

499. According to the Quaran, the following requirements must be complied with under a Muslim marriage:

- (a) The man must pay Mahari or dowry to the woman he is intending to marry. He can either give her property or make a promise to her for example that he will take her to Mecca. Such a promise must not be against the Quran in any way
- (b) The man and woman must be at least 18 years of age. The Quaran is silent about age but Muslims are also expected to obey the Constitution, which sets the age of marriage at 18 years.
- (c) The wedding should take place either at a mosque or at the bride's home.

(d) The marriage should be registered at the mosque, but if the marriage did not take place at the mosque, it is the duty of the husband to make sure that it is registered with the Registrar of Marriages.

(e) A Muslim man can have more than one wife, but the Quaran says that he must love and treat them equally. The sharia law says a man can have to four wives so long as he can love and treat them equally.

Marriage under the Hindu faith

500. The Hindu marriages are conducted in accordance with the requirements of the Hindu religion. The marriage becomes complete as soon as the marriage rites as required by Hindu religion have been completed. The Hindu marriages are monogamous in nature.

501. Additional Protection for the family is through the establishment of family protection units within the police force. Financial support is given to the Police unit to be able to carry out activities, which promote the protection of families. The families themselves as institutions do not get any support from the state.

Restriction/Impediments

502. Marriage between close relatives is forbidden and contravenes the law.

ARTICLE 24: SPECIAL MEASURES OF PROTECTION OF CHILDREN

503. In 1990 the Uganda government appointed a Child Law Review Committee to review all laws affecting the welfare of the child. The recommendations of the committee resulted in the enactment of a new Children Statute 1996 which is in line with the Convention on the rights of the child and the OAU Charter on the rights and welfare of the African child.

504. The Ugandan Constitution article 34 spells out the rights of the Child and article 21 (2) says "*without prejudice to clause (1) of this article, a person shall not be discriminated against on the grounds of sex, race, colour, ethnic origin, tribe, birth, creed or religion or social or economic standing, political opinion or disability.*"

505. The Army is a member of the National Council for Children a body responsible for coordinating all programs intended to ensure child survival, development and protection of all children in the country. With the support of Save the Children Denmark the army has been sensitised on the Convention on the Rights of the Child and the Children Statute.

506. The Children Statute defines a child as a person below the age of 18 years. It follows therefore that the age of majority is 18 years. However the Constitution provides that for purpose of work children shall be persons under the age of 16 years. The constitution in a way allows children to work at the age of 16 years but bars children from working under certain conditions. In the same statute the age of criminal responsibility is 12 years after being raised from 7 years.

507. The Ugandan law treats all persons below the age of 18 as children and those persons who are 18 years and above as adults in all legal and civil matters.

508. The state has enacted a child friendly legislation the Children Statute, which is in line with the Convention on the Rights of the Child. The Statute places responsibility on secretaries for children affairs at all levels of political governance to be responsible for the welfare of children in their localities.

509. Under the children statute, abandoned children or children deprived of their family environment are expected to be placed in suitable alternative family care which is as near the natural family particularly fostering. Adoption is yet another alternative arrangement through which an abandoned child can get an alternative family environment. The family is considered the best place for a child's growth and development and therefore Children's homes can only be used as a last resort in childcare.

510. Article 18 of the Ugandan Constitution states that the state shall register every birth, marriage and death occurring in Uganda. Registration of birth is being done in all hospitals and health units. Where children are born at home, registration is being done at the Sub County, the smallest administrative unit. Generally the registration of newly born children and other forms of information gathering is being encouraged and strengthened through Management Information Systems programs.

ARTICLE 25: THE RIGHT TO TAKE PART IN THE CONDUCT OF PUBLIC AFFAIRS

511. Citizenship is essentially a legal status acquired by an individual within a state. The term is intended to identify and confer certain rights and duties to certain people and deny some the same rights. It is intended to discriminate, exclude but also exploit people. In the case of Uganda the Constitution of the Republic of Uganda (1995) and The Uganda Citizenship and Immigration Control Act, 1999 define who is a citizen and who is not. The law calls a non-citizen an "alien". Article 10 of the Constitution defines a citizen of Uganda as "*every person born in Uganda one of whose parents grand parents is or was a member of any of the indigenous communities residing within the borders of Uganda as at the first day of the February 1926 and are set out in the Third Schedule to this Constitution*". The Third Schedule lists 56 indigenous communities who speak to a great extent different language. The time period notwithstanding citizenship can be acquired by birth, registration and by naturalisation but it would not mean that in the face of the politicised citizenry or a dictatorial state a refugee /alien can become a refugee by merely acquiring a citizenship.

512. The defining variable of borders and time (the year 1926) is important because it is intended to make a distinction between citizenship and nationality. This is because people of the same nationality can be citizens of different countries. Apart from the fact that the boundaries of most African countries were arbitrary, they were not also demarcated once and for all. There were periodic shifting of boundaries as the colonialists saw fit. In the case of Uganda for example boundaries were first drawn in 1890 but in 1910 the Anglo-German-Belgium Convention took some parts of Rwanda to Uganda. The present Kigezi was transferred to Uganda.¹ Then in 1914 new adjustments were made in the Northern parts of Uganda by

transferring some parts of Sudan to Uganda and other parts from Uganda to Sudan. Similar adjustments were made on some parts of Uganda and transferred to DRC (then Belgium Congo) and vice versa. The final adjustments, which seem to be the starting point in defining who is and who is not a citizen of Uganda, seem to have been when parts of the East were transferred to Kenya.

513. Major concerns for citizenship began in 1960s. The 1962 Constitution covered it in Article 7 to 16. Under this law it was far easier for a British to acquire citizenship than a neighbour Rwandese or Congolese or Sudanese. Under article 7 (1) a person who was born in Uganda and who on 8th October 1962 was a citizen of United kingdom or its colonies or British protected person, became a citizen of Uganda on 9th October 1962 (independence day) provided one or both of the parents had been born in Uganda. The 1967 Constitution had the provisions of citizenship in Article 4 to 7 of the Constitution. In the 1995 Constitution Citizenship is covered under Chapter 3 from Article 9 to 19. Unlike the previous laws the present Constitution provides clear duties of a citizen.

514. The duties or obligations of a citizen under article 17 are not different from those of non-citizens in Uganda. They include:

- (a) to respect the national anthem, flag, coat of arms and currency
- (b) to respect the rights and freedoms of others;
- (c) to protect children and vulnerable persons against any form of abuse, harassment or ill- treatment;
- (d) to defend Uganda and render national service where necessary
- (e) to cooperate with lawful agencies in the maintenance of law and order;
- (f) to pay taxes
- (g) to register for electoral or other lawful purposes
- (h) to combat corruption and misuse or wastage of property; and
- (i) to create and protect a clean and healthy environment

515. The major problem is that in Uganda there have been refugees who came as far back as 1960s and have never been formally recognised as citizens. They are not allowed to vote yet they pay taxes. They could become citizens by naturalisation and registration but the conditions in Uganda since independence had never allowed this situation. The existing law on the Central of alien Refugee Act Cap 64 of 1960 was so hostile to refugees and Uganda has not enacted a new law. It is one of those laws where there is public debate in the country.

516. To be specific on Uganda the issue of refugees or non-citizens voting was the most concern to even the UNHCR. Almost everyday and in every daily newspaper paper prior to the Presidential Elections the a “Special announcement from the Office of the United Nations High Commissioner for Refugees in Uganda (UNHCR)” made several appeals to all refugees telling them not to vote. It was announced that:

UNHCR wishes to remind all refugees that you have duties as well as rights while you are residing in Uganda. Article 2 of the 1951 Convention and article III of the OAU convention clearly state that:

“Every refugee has duties to the country in which he finds himself which require in particular that you conform to its laws and regulations as well as measures taken for the maintenance of public order”

It may also be reminded to all refugees that under the Constitution of Uganda only Uganda nationals can participate in the electoral process. In accordance with the obligations specified by the above mentioned conventions UNHCR branch office in Uganda appeals to all 220,000 recognised refugees residing in the country to abstain from [participating in the upcoming local and national elections. UNHCR also appeals to all refugees to stay away from any political activity related to the electoral process”²

517. After seeing that the definition of a refugee is confined to the Sudanese, Rwandese, Burundians and Congolese who came in late 1950s and have never been officially approved as citizens irrespective of the years they have stayed in Uganda, the UNHCR announcement was the most unfortunate. Interestingly, it is the same UNHCR that had advised the Uganda government to review the citizenship law to enable the refugees who have been in Uganda for a long time to be granted citizenship. It was reported that:

“The UNHCR office in Kampala with other bodies interested in the refugee problem have advised government in recent years to review the law relating to citizenship. The main argument was that most of the refugees had lived in Uganda for a very long time and lost meaningful contact with their country of origin”.³ In the case of Rwandese in Uganda the UNHCR had even suggested among other things that Uganda “naturalise all refugees on application.....or ..provide for a “blanket” or “omnibus” naturalisation, through automatic grant of citizenship to all refugees as was done in Tanzania.”⁴ Besides this was not going to be the first time for such people to vote, then why was the UNHCR sensitive this time and which refugees was it talking about?

518. Furthermore the law provides for affirmative Action and women, persons with disability and youth have benefited in this. Women are represented in all political organs including parliament. There is a guaranteed 1/3 representation in parliament and others come directly representing constituencies. There are now 71 women in parliament out of 307 members of parliament. This has been 8% increment from the sixth Parliament. The movement system also has 47000 representatives of PWDs in all state structures including 5 in parliament. The Youth are also represented in parliament. Laws on elections allow facilitating PWDs to vote.

ARTICLE 26: THE RIGHT NOT TO BE DISCRIMINATED AGAINST

519. Uganda ratified the Convention on the Elimination of all Forms of Racial Discrimination (CERD) in 1983.

520. Article 21 of the 1995 Constitution of the republic of Uganda, provides: “*All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.*”

521. The Constitution further provides that “... *a person shall not be discriminated against on the grounds of sex, race, colour, ethnic origin, tribe, birth, creed or religion or social or economic standing, political opinion or disability.*” The exceptions permitted to the above provisions conform to those provided for in Article 1, paragraphs 2 to 4 of the Convention.

Political opinion

522. The government of Uganda operates under the “Movement Political System which, under Article 70 of the 1995 Constitution of the Republic of Uganda, is broad based, inclusive and non-partisan and ensures accessibility to all citizens without any form of discrimination.

523. The political Institutions of Uganda such as Parliament, the executive, the judiciary and Local Government are composed of people from all racial and ethnic backgrounds in Uganda. The Government continues to emphasise that its composition be broadly representative of the national character and social diversity of the country. The National Objectives of the 1995 Constitution of the Republic of Uganda reflects the spirit of equal opportunities for all races stating that “*All the people of Uganda shall have access to leadership positions at all levels ...*”

Gender, age or disability

524. Article 32(1) of the Constitution provides, inter alia that “*the State shall take affirmative action in favour of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom for the purpose of redressing imbalances which exist against them.*”

Sectarianism/Tribalism

525. Article 37 of the 1995 Constitution of Uganda preserves the right of a group of people or race to preserve and promote their cultural values. According to Article 37, “*Every person has a right, as applicable to belong to, enjoy, practice, progress, maintain and promote culture, institution, language, tradition, creed, or religion in community with others.*”

526. In 1998, the Uganda Parliament (National Resistance Committee) amended The Penal Code Act of Uganda to create the offence of sectarianism, pursuant to the general Recommendation 1 of 24 February 1972 and decision 3 (VII) adopted by the Committee on the Elimination of all forms of Racial Discrimination. This section imposes an imprisonment term of 5 years on “*Any person or group of persons who prints, publishes, utters or does any act which degrades, exposes to contempt, creates alienation, raises disaffection or promotes ill-feeling among or against any group or body of persons on account of tribe or ethnicity.*” This Penal legalisation serves to reinforce the prohibitive character of Article 21(2) of the

1995 Constitution which prohibits discrimination against any person “.. *on the grounds of sex, race, colour, ethnic origin, tribe, creed or religion or social or economic standing, public opinion or disability.*”

527. The practice of colour bar is a criminal offence under section 42A of the Uganda Penal Code Act. Under this Section of the Act, the Courts are empowered to punish the offence of sectarianism with a term of imprisonment not exceeding five years.

ARTICLE 27: THE RIGHTS OF ETHNIC AND RELIGIOUS MINORITIES

Religious freedom

528. Article 29(1) (c) of the Constitution of the Republic of Uganda gives everybody “*Freedom to practice any religion and manifest such practice which shall include the right to belong to and participate in the practices of any religious body or organization in a manner consistent with this Constitution.*”

529. The Religions recognized in Uganda include:

- (a) African Traditional Religion which constitute about 12% of the country’s population;
- (b) Christianity which constitutes 78% (Catholics 44.3%, Protestants 33.7%);
- (c) Islam comprising 8%
- (d) The Bahai comprise about 140,000 followers;
- (e) Hinduism with no indigenous Ugandan followers (Hindus in Uganda are peoples of Asian origin);
- (f) Hare Krishna comprises of about 40 Ugandans;
- (g) Jainists (who are closely related to Hinduism but with a much smaller number found in Uganda.)
- (h) Buddhism believers form a small number in Uganda.
- (i) Sikhism (which has no indigenous Ugandan followers but is mainly comprised of Sikhs in Uganda from Asia)

Source: Dr. Peter Waswa Mpagi, *Religious Discrimination in Uganda: Origin, manifestation*, The Uganda Human rights Commission Monthly Magazine (Your Rights), September, 2001

530. Over the past five years, a number of incidents demonstrated hostility against Muslims by residents of some localities. In February 1997, for example, a mob in Igayaza sub-county in Kibaale district destroyed a mosque belonging to the Tabliq Muslim Sect and an Islamic Primary School.

531. The Uganda Human Rights Commission submitted a statement in its 1998 Annual Report that even though the freedom of thought, conscience, belief and religion is enjoyed as seen from the level of religious tolerance in the country, in the course of 1998/99, there emerged some religious sects whose practices and beliefs were deemed detrimental to society.

532. Some of the practices reportedly carried out by these sects included defilement, forced marriages and extortion of property, including money from members of these sects. As a result of the outcry of neighbouring communities and some concerned persons, and the security threats posed by these sects, their members were dispersed and some of their leaders arrested.

533. On 17th March 2000, it was discovered that a religious sect in the south-western part of Uganda, The Restoration of The Ten Commandments Movement, had their church building been set on fire, with over 1000 of its members locked inside. The preliminary findings of the authorities indicated mass suicide, but later on, it was discovered that the Elders of the Sect perpetrated the incident.

534. It was reported that a large number of victims were women and over 80 of the bodies belonged to children, indicating that the children followed where their parents led. In this case, the freedom to practice religion was grossly abused. The incident was later known as the Kanungu Mass Murder.

535. Among the complaints filed by witnesses against the Restoration of The Ten Commandments Movement, was that the sect was running a boarding school on the premises, under very unhygienic conditions. No member was allowed to leave the compound, and the children in the camp were subjected to hard labour. Meals were restricted to one cup of maize porridge a day, both for children and for the adults.

536. Responding to earlier complaints made a few years previously, the Local Government authorities in the area had made an impromptu visit to the boarding school. They had discovered that the children found on the premises were weak and malnourished, an indicator that the school should immediately be shut down.

537. The Kanungu Mass murder is still under State investigation and warrants for the arrest of its perpetrators, who are still believed to be at large, have been issued.

538. Since this tragic occurrence, the Uganda Police Force and other Government authorities have stepped up surveillance on religious groups in order to ensure that innocent children do not suffer for their parent's beliefs, religious or otherwise.

539. To further protect children, Article 8 of the 1996 Children Statute of the Republic of Uganda states, "*It shall be unlawful to subject a child to social or customary practices that are harmful to the child's health.*"

540. Between the years 1997 and 2001, there were increasing press reports about children being victims of kidnap and human sacrifice. The country's state *Luganda* paper *Bukedde*, has often ran graphic pictures of children whose decapitated or mutilated bodies have been

discovered in abandoned areas like forests, suspected to have been used as part of ritual sacrifices. The increasing number of such cases has led to a police alert which has involved the search of various premises of local witch doctors who are rumoured to dabble in the practice of human sacrifice.

541. The phenomenon of killing people for ritual purposes was widely reported on by the press. In the course of 1998, 1999, the media reported a total of 31 cases involving ritual killings of children, indicating that the perpetrators of this crime, in most instances, targeted some of the most innocent and vulnerable members of the society. The Uganda Human Rights Commission in its Annual Report to Parliament tackled this issue in 1998.

Cultural practices

542. Article 37 of the Constitution (1995) preserves the right of a group of people or race to preserve and promote their cultural values. In addition, Article 246 (1) of the Constitution permits the institution of cultural leaders for the people who wish to have it. It states, "*Subject to the provisions of this Constitution, the institution of traditional leader or cultural leader may exist in any area of Uganda in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.*"

543. During the colonial era, under British administration, the power of kings and chiefs was reduced and system of indirect rule was introduced. Uganda was declared a Protectorate of Britain. In 1966, after Uganda had gained independence, Prime Minister Apollo Milton Obote overthrew the 1962 Independence Constitution, replaced it with another (1967) Constitution and took over the Presidency from Kabaka Edward Muteesa II, who was both King of Buganda and President of Uganda. Dr. Obote then declared a state of emergency arising from the clash with the Kabaka, and abolished all kingdoms in Uganda.

544. With the writing of the 1995 Constitution, it was decided that ethnic Kingdoms and chiefdoms could be re-established, the rightful leaders re-instated and their property restored to them. This is now found in Chapter 16 of the Constitution of the Republic of Uganda (1995). However among the provisions of these Articles it was decided that where the issue of the traditional leader could not be resolved, the onus would be upon the community concerned to use a method prescribed by Parliament to do so.

545. Among the changes made were that no person would be compelled to pay allegiance or contribute to the cost of maintaining a cultural or traditional leader and the Constitution expressly forbids any person, while remaining a traditional leader or cultural leader from joining or participating in partisan politics. Furthermore, a traditional leader is not allowed to exercise any administrative, legislative or executive powers of Government or local government.

546. In line with the Constitution of Uganda, the people of Buganda, Tooro, Bunyoro, Teso, Busoga and Padhola, among others, held ceremonies restoring their cultural and traditional leaders to their rightful positions.

547. The Medical, Cultural and Legal sectors of the State have addressed the issue of Female Genital Mutilation, which is still rampant in Uganda's Eastern District of Kapchorwa among the Sabinu people. However, as is always the case, tension arises when the law is seen to interfere with culture, seeing that the 1995 Constitution of the Republic of Uganda provides for both sectors. The Parliament of Uganda is still addressing the matter.

Notes

¹ See **The Report of the Uganda Constitutional Commission: Analysis and Recommendations**, December 1992, pp. 101-102.

² See in e.g. in **The New Vision** 8th February 2001.

³ See in **The Report of the Uganda Constitutional Commission: Analysis and Recommendations**, December 1992 p. 123.

⁴ Ibid p. 123.

APPENDICES FOR UGANDA'S INITIAL - 3RD PERIODIC REPORT ON ICCPR

1. AMNESTY ACT (2000)
2. BACKGROUND TO THE BUDGET 2000/2001
3. CIVIL PROCEDURE ACT (CAP 65)
4. CONSTITUTION OF THE REPUBLIC OF UGANDA
5. CRIMINAL PROCEDURE CODE, (1996)
6. EVIDENCE ACT, CAP 43
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8. JUDICATURE STATUTE (1996)
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10. NATIONAL POLICY GUIDELINE ON THE TREATMENT OF IDPS
11. NATIONAL WOMEN'S COUNCIL STATUTE (1993)
12. PASSPORTS REGULATIONS NO. 14 (1984)
13. POLICE OFFICERS RULES
14. POLICE STATUTE (1994)
15. POLICY GUIDELINE ON THE TREATMENT OF IDPS
16. PRISONS BILL (2001)
17. PRISONS POLICY DOCUMENTS
18. RATIFICATION OF TREATIES ACT, 5 (1998)
19. REGISTRATION DECREE
20. SUPPRESSION OF TERRORISM ACT (2001)
21. THE CHILDREN STATUTE (1996)
22. THE CIVIL PROCEDURE AND LIMITATION (MISCELLANEOUS) PROVISIONS ACT (1969)
23. THE COMMUNITY SERVICE ACT (1997)
24. THE CONTROL OF ALIEN REFUGEES ACT (1964)

25. THE DIVORCE ACT
26. THE DOMESTIC RELATIONS BILL (1994)
27. THE IMMIGRATION ACT (1969, 1998) AND SUBSEQUENT AMENDMENTS
28. THE MARRIAGE ACT
29. THE NATIONAL ENVIRONMENT STATUTE
30. THE PASSPORTS ACT (1982)
31. THE PENAL CODE (CAP 106)
32. THE PRESIDENTIAL ELECTION ACT (2000)
33. THE PREVENTION OF CORRUPTION ACT
34. THE PRISONS RULES
35. THE REFERENDUM ACT (2000)
36. THE UGANDA HUMAN RIGHTS COMMISSION ACT (1997)
37. THE UGANDA NATIONAL CITIZENSHIP AND IMMIGRATION CONTROL ACT (1999)
38. UGANDA HUMAN RIGHTS COMMISSION ANNUAL REPORT (1998)
39. UGANDA HUMAN RIGHTS COMMISSION ANNUAL REPORT (1999)
40. UGANDA HUMAN RIGHTS COMMISSION ANNUAL REPORT (2000-2001)
41. WORKERS COMPENSATION ACT, (2000)
