



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture Seventy-fifth session

Summary record of the 1954th meeting

Held at the Palais Wilson, Geneva, on Thursday, 10 November 2022, at 3 p.m.

Chair: Mr. Heller

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Second periodic report of Uganda (continued) (CAT/C/UGA/2; CAT/C/UGA/Q/2)

1. *At the invitation of the Chair, the delegation of Uganda joined the meeting.*
2. **Mr. Kiwanuka** (Uganda), replying to questions posed during the first half of the dialogue (CAT/C/SR.1951), said that respect for international law and human rights instruments was enshrined in article 287 of the Constitution. The courts had invoked international treaties in their decisions in a number of landmark cases, such as *Attorney General v. Susan Kigula and 417 Others*, by which the Supreme Court had held that provisions of the laws of Uganda which prescribed a mandatory death sentence were inconsistent with the Constitution, and *Uganda v. Thomas Kwoyelo*, concerning the applicability of the Geneva Conventions of 1949.
3. His Government continued to give consideration to ratifying a number of human rights treaties, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Uganda already had sufficient oversight institutions in place, however, such as the Uganda Human Rights Commission and the parliamentary standing committee on human rights, which acted as national preventive mechanisms and were backed by a strong legal and policy framework that included the Prevention and Prohibition of Torture Act of 2012.
4. Pursuant to the jurisprudence established in *Attorney General v. Susan Kigula and 417 Others*, judges had discretion when it came to imposing the death penalty for capital offences and, if a death sentence was not carried out within three years, it was commuted to a term of life imprisonment. In the exceptional cases in which the death penalty was still imposed, the sentence was rigorously reviewed by the Supreme Court. If upheld, the President, acting on the advice of the Advisory Committee on the Prerogative of Mercy, could grant a pardon or commute the sentence. In its implementation of the decision in the Kigula case, the Government had released three prisoners who had been sentenced to death prior to 1989. Moreover, any death sentences confirmed by the Supreme Court prior to 2006 but not yet carried out had been commuted to life imprisonment. In 2009, the courts had resented those prisoners who were on death row, thereby reducing the number of inmates from 505 in 2011 to 120 in 2022.
5. With reference to paragraph 58 of his country's second periodic report (CAT/C/UGA/2), he wished to emphasize that government officials could be held personally liable for defying a writ of habeas corpus. Almost 100 habeas corpus applications had been submitted between 2020 and 2022; all the individuals concerned, barring one whose whereabouts remained unknown, had been presented in court.
6. His Government disavowed the alleged use of "ungazetted", or unauthorized, places of detention or safe houses. At the behest of the parliamentary committee on human rights, the Uganda Human Rights Commission had conducted an investigation and established that no such places existed. All detainees could be accounted for in authorized places of detention. It was deplorable that persons in conflict with the law continued to allege political persecution in an effort to evade justice.
7. No one was held in pretrial detention without a commitment warrant. Measures had been taken to expedite such cases, including through the recruitment of additional judicial officers and the enactment of a law to strengthen the independence and effective administration of the judiciary. Six new high court circuits had been opened, and there were plans to establish additional high courts and appeal courts across the country.
8. It was true that, during the coronavirus disease (COVID-19) pandemic, an increase in the number of cases of sexual and gender-based violence, including against children, had been reported. To combat the problem, issues of sexual and gender-based violence had been incorporated into the police training curriculum, dedicated departments had been established by the Uganda Police Force and the Office of the Director of Public Prosecutions, relevant training had been provided by the Office to prosecutors and investigators, and a prosecutors'

handbook had been developed. Measures had also been taken to address the root causes of sexual and gender-based violence, including through initiatives aimed at improving women's financial status, building their skills and facilitating their access to credit so that they could set up their own businesses. For example, beneficiaries of a women's entrepreneurship programme had included women at heightened risk of sexual and gender-based violence, such as single mothers, women with disabilities, women heads of household and women belonging to ethnic minorities. In cases in which women victims of violence were accused of committing crimes against their abusers, aggravating and mitigating factors were taken into account by the judge. Nevertheless, the Ugandan Government wished to make it clear that mistreatment was never a justification for such crimes.

9. On the issue of counter-terrorism, although the country continued to grapple with terrorist threats, the Government was cognizant of the need to safeguard human rights. While Uganda was an enclave of peace, terrorism was a highly sophisticated, indiscriminate and transnational crime. However, it was not true to say that terrorism had been used to justify human rights abuses.

10. Uganda was currently hosting more than 1.5 million refugees, who were accorded full rights and protections in accordance with the country's international obligations. Government policy was aimed at empowering refugees by granting them a range of socioeconomic rights and fostering their self-reliance. Uganda had become one of the first countries to align its refugee response with its national development plan, in keeping with the principle of leaving no one behind. All refugee settlements were provided with police, health, psychosocial, legal and other services designed to ensure the refugees' safety.

11. The Uganda People's Defence Forces operation to disarm civilian warriors in Karamoja was being conducted in compliance with all relevant laws and rules of engagement. Respect for human rights and fundamental freedoms was a primary consideration. Some reports of high-handedness on the part of officers and other personnel had nevertheless been received and duly investigated. In those cases, the culprits had been court-martialled and punished, some with terms of imprisonment. Other remedial measures had included enhancing education on human rights and on the Prevention and Prohibition of Torture Act, strengthening oversight mechanisms and providing compensation to victims.

12. Known for their reputation for respecting human rights and delivering on their mandates, the Uganda People's Defence Forces and the Uganda Police Force had continued to actively participate in peace initiatives in the region and beyond, including under the auspices of the Intergovernmental Authority on Development, the East African Community and the United Nations. All peacekeeping officers received human rights training.

13. During the COVID-19 pandemic, the Government had implemented a number of measures, such as the closure of public spaces, the introduction of online learning mechanisms and the distribution of aid to vulnerable persons, to curb the spread of the virus and prioritize the right to life. The security forces had played an important role in ensuring compliance with mandatory quarantines and health guidelines. Allegations of human rights violations committed by security personnel had been duly investigated and the perpetrators arrested and charged.

14. The general elections of 2021 had coincided with the pandemic. As a result, the Electoral Commission had opted for a hybrid election, with campaigning being conducted mainly via electronic means. The security forces had enforced the health guidelines while also upholding the right to vote and facilitating political participation. The Government regretted the incidents of November 2020, which had led to the loss of life, and was committed to ensuring that the events were investigated and the perpetrators held to account. It should be noted, however, that those events had not been peaceful demonstrations but instead violent, premeditated, organized riots that had been incited by certain political leaders in defiance of COVID-19 measures.

15. Clearing the case backlog was vital in order to ensure that people had access to justice. In the 2021/22 financial year, 205,967 cases had been disposed of out of a total caseload of 373,974 cases, which was an improvement over the previous year. At the close of the 2021/22 financial year, the case backlog stood at 50,592 cases (or 30.11 per cent) against 168,700 pending cases. The High Court had the largest backlog, at 31,657 cases. The Legal Aid Clinic

had enhanced alternative dispute resolution procedures in 14 courts in order to fast-track cases, dispense justice in an affordable and timely manner and actively involve parties to disputes in their settlement. During the reporting period, 557 new cases had been registered for mediation during the reporting period; 165 of them had been successfully mediated, while 247 were pending completion and 117 had failed and been referred back to the courts. The enactment of the Judiciary Act of 2020 was expected to enhance the efficiency of the system and thereby reduce the number of pretrial detainees. The advent of virtual hearings had also facilitated the disposal of cases, eliminating the need to transport prisoners to and from the courts.

16. Uganda had 265 prison facilities with a population of 71,098 prisoners. Compliance with national, regional and international human rights standards was monitored by the Uganda Human Rights Commission, which had conducted 611 inspections in 2021, and by the parliamentary standing committee on human rights. An independent oversight mechanism known as Visiting Justices assessed prison living and working conditions in 73 districts, and human rights committees had been established in all prisons to improve staff and prisoners' awareness of their rights, hold prison management and inmates' leadership to account for their actions and advocate for prisoners' rights and freedoms. A total of 1,533 prisoners had been registered under the Prison Decongestion Programme, and 1,052 had subsequently been released from prison either because they had been acquitted or because their cases had been dismissed or they had been given non-custodial sentences of various kinds. The Uganda Prisons Service was one of the best on the continent, and many neighbouring countries were benchmarking its policies. Those achievements had been made in spite of the limited availability of resources.

17. Work was proceeding on the implementation of a strategy for ensuring that all prison buildings were accessible for persons with disabilities, and all new prisons had ramps and toilet aids. Health services were available throughout the country to all prisoners, regardless of their legal situation, and health-care coverage in prisons had increased; village health teams had been set up in 98 per cent of all prisons, while the other 2 per cent had access to nearby health centres. Children staying in prison with their mothers were provided with milk, clothing and food supplements, and some facilities had day-care centres. Nearly two-thirds of the prison population had access to safe and clean water, and measures were in place to guarantee access to drinking water for all prisoners.

18. The Uganda Prisons Service provided courses at the primary, secondary and tertiary levels of education, as well as functional adult literacy programmes, in order to contribute to prisoners' rehabilitation, reformation and reintegration into society. With a view to preventing recidivism, post-release visits were conducted to make sure that former prisoners were coping with life outside prison.

19. Legal aid in various forms, such as representation, legal advice, counselling, coaching for self-representation, the preparation of legal documents and assistance with the use of alternative dispute resolution mechanisms had been provided to 3,140 persons by students of the Law Development Centre, while another 5,124 persons had been provided with services at six different legal aid clinics. Additionally, 217 children in conflict with the law in nine districts had been provided with legal and counselling services, and the cases of 716 child offenders had been successfully diverted from the justice system, while diversion procedures were pending in another 386 such cases. Court-annexed mediation mechanisms in 14 different courts had handled a total of 1,356 cases.

20. The draft national action plan on human rights, which was aimed at promoting a culture of human rights in Uganda, provided a planning and coordination framework for the integration of the recommendations of the third universal periodic review, among others. The National Action Plan on Business and Human Rights had been approved.

21. The assertion made in the report of the African Centre for Treatment and Rehabilitation of Torture Victims that no action had been taken regarding six cases of torture which it had referred to the Office of the Director of Public Prosecutions was false and misleading. In reality, the records showed that hearings were still being held in one of those cases; one had been closed owing to a lack of evidence; a charge of murder had been preferred in another case; two cases had been forwarded for further police investigation; and no

complaint regarding the remaining case to which the report had referred, that of *Uganda vs. Mugondi William*, had ever been filed with the Office of the Director of Public Prosecutions. That Office had provided the African Centre for Treatment and Rehabilitation of Torture Victims with a status report to that effect in January 2020, but that status report had not been reflected in the report of the African Centre.

22. In 2021/22, the Office of the Director of Public Prosecutions had received 564 new cases involving torture allegations and had secured convictions in 508 cases; thus, the claim that it was unwilling or unable to prosecute and investigate cases was completely untrue. Moreover, it was unfair to claim that the Office of the Director of Public Prosecutions did not have sufficient capacity, as it handled a wide range of criminal matters, not just torture cases.

23. In 2021, the Government had awarded 554,904,434 Uganda shillings in compensation to victims of human rights violations under compensation orders issued by the Uganda Human Rights Commission and courts of law.

24. The delegation of the State party had taken note that, at its first meeting with the delegation of Uganda, the Committee had relied heavily on the reports of two civil society organizations which contained unsubstantiated statistics and assertions. The State party found it difficult to understand why its delegation had been required to respond to reports containing claims that had not been verified and were not even evidence-based. His Government did not condone any form of torture and was committed to raising awareness among the population and investigating all allegations of torture.

25. **Mr. Tuzmukhamedov** (Country Rapporteur) said that, although the second report was quite comprehensive, some issues from the previous session had been left unattended. He wondered whether the State party intended to proceed with the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and whether it intended to withdraw the declarations and reservations it had made upon its ratification of the Convention relating to the Status of Refugees.

26. The State party had not discussed its reluctance to allow persons under its jurisdiction to file individual communications under universal treaties or under the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.

27. While the statistics on convictions for torture were impressive, it would be useful to be able to relate the corresponding fines imposed under the Prevention and Prohibition of Torture Act to the salaries of a district police superintendent in Uganda or a chief warden of a regional prison, for example.

28. He wished to know whether Islamic law remained applicable anywhere in the country and to learn more about the interaction between the traditional and ordinary justice systems. It would also be helpful to learn about any action taken by the Office of the Director of Public Prosecutions and the Inspector General of Police pursuant to the direct instruction to them issued in the ruling in *Behangana and Another v. the Attorney General*. Concerning the death penalty, it would be useful to learn more about the range of different laws that provided for capital punishment and whether anyone had been kept on death row beyond the three-year period fixed in the judgment in the Susan Kigula case.

29. He would appreciate further information on whether the Uganda Police Force and the Uganda Peoples' Defence Forces trained together, which could be problematic if it led to the militarization of a force meant to protect civilians, and on whether any civilians were tried before military courts. Information on the specific content of the pre-deployment training provided to peacekeepers would be appreciated. He would welcome a more detailed explanation of the Visiting Justices mechanism to which the delegation had referred and would specifically like to know who those judges were and how they were appointed. Lastly, as the report of the parliamentary standing committee on human rights stated on pages 10, 31 and 33 that the committee had been unable to verify allegations of the use of ungazetted places of detention because its members had been denied access to the locations that they wished to visit, he would like to invite the delegation to comment on the existence of unauthorized places of detention known as "safe houses".

30. **Mr. Rouwane** (Country Rapporteur), recalling that all components of the United Nations human rights system relied on information from a range of sources, including non-governmental organizations, said that he would appreciate fuller replies to the questions on the use of Form 4 to document cases of torture, the training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) provided to various health and law enforcement professionals, plans to expand the ban on the corporal punishment of children to include all settings and the measures taken to provide rehabilitation services to torture victims. He would also appreciate information on the relationship between international instruments and the State party's national laws, the National Transitional Justice Policy, the prevalence of mob justice, the status of the National Legal Aid Policy and Bill, and the steps being taken to recruit additional attorneys.

The meeting was suspended at 4.20 p.m. and resumed at 4.40 p.m.

31. **Mr. Kiwanuka** (Uganda) said that, while the Government had not decided against ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, certain internal processes had to be completed beforehand. With respect to international mechanisms for the review of individual communications, the Government was of the view that there were sufficient domestic remedies through which victims could obtain redress; therefore, it might be more helpful for treaty bodies to guide States parties in improving their own mechanisms, which were more accessible to the general population than international mechanisms would be. The average salaries of a district police chief and deputy district police chief were approximately 6 million and 3.8 million Uganda shillings, respectively, so the fines that law enforcement personnel faced for committing torture were substantially higher than their salaries; the fines were so much higher than salary levels precisely in order to ensure that those fines would act as a strong deterrent. Principles of traditional justice and Islamic law were applied in some areas, such as the banking system, for example, while care was taken to ensure that the principles to be applied were not repugnant or inconsistent with the country's existing laws.

32. There were 28 offences under the Penal Code, the Anti-Terrorism Act and the Uganda Peoples' Defence Forces Act that could attract the death penalty but, in accordance with the court decisions discussed earlier, that penalty was not mandatory. Pursuant to the Susan Kigula case and the ensuing legal reforms, death sentences were automatically commuted to life imprisonment if they had not been enforced within three years.

33. The Uganda Peoples' Defence Forces and the Uganda Police Force had their own separate training regimens but did collaborate and work together in certain circumstances, such as when attending pre-deployment training for peacekeeping missions. Civilians were still tried in military courts in the case of a limited number of offences, with one example being the offence of illegal possession of firearms. The Uganda Peoples' Defence Forces had a large legal department. Each of its brigades had a legal officer, and one or two legal officers accompanied every peacekeeping contingent on deployment.

34. The Visiting Justices mechanism was staffed by independent officials appointed under the Prisons Act to perform regular inspections. They were not attached to any government institution. With regard to the earlier question regarding the refusal to allow members of the parliamentary committee to inspect certain buildings that had been alleged to be serving as safe houses, it should be noted that, as a result of that committee's report, the Uganda Human Rights Commission had carried out its own inspections.

35. Form 4 was a new tool used to assist in the collection of evidence in cases where its use was deemed to be the most appropriate means of enabling the police to determine what offences might have been committed and to proceed with their investigation accordingly. The emphasis was on form over substance and on ensuring that the correct charges were brought against offenders. He would like to see statistics showing how often Form 4 was used in cases of alleged torture as a basis for assessing the effect of a failure to use Form 4 when it was called for. That information could then be fed back into the training being provided to police officers on the use of that tool.

36. The Uganda Human Rights Commission was training medical officers and police officers on the Istanbul Protocol, and the country's investigative methods were improving,

as illustrated by the recent establishment of its own DNA laboratories. Uganda had a rehabilitation programme for torture victims, who received treatment in government facilities.

37. Corporal punishment was outlawed at all levels. A new law prohibiting the corporal punishment of children was therefore not necessary, as children in Uganda were fully protected by the Children's Act. The new Human Trafficking Act contained provisions dealing specifically with child sacrifice, and perpetrators found guilty of such offences were severely punished.

38. International law and treaties did not take precedence over his country's Constitution and legislative framework. There could be no contradiction between the national laws of Uganda and treaties ratified by it, however, because, once ratified, a treaty became part of the body of law in his country. The challenge lay in the area of persuasive authority, where courts might refer to legal principles and international treaties that had not been ratified by his Government.

39. Uganda was making progress in the area of transitional justice, and some cases entailing elements of transitional justice had gone through the courts but had made use of plea-bargaining and traditional justice mechanisms. Proper, adequate consultations were called for with regard to the National Transitional Justice Policy because, in a society that was changing but remained extremely diverse, the norms that applied in one area did not necessarily apply in another. However, when a new law was enacted, it needed to be applied equally everywhere.

40. Mob justice was a real problem that needed to be addressed by educating the population about how the judicial system operated. In the past, suspects had been dealt with by traditional justice systems rather than by the courts. One of the challenges was that, when a person was arrested and then granted bail, the community tended to think that the person had been acquitted. It was a high-priority issue, but patience was necessary.

41. The legal aid bill was the subject of discussions currently taking place in the Committee on Legal and Parliamentary Affairs.

42. The issue of the recruitment of State attorneys for all districts came down to resources and priorities. The decision had been made to first bolster the judiciary, but the recruitment of State attorneys was now being addressed.

43. **Mr. Tuzmukhamedov** said that he would like to know whether, given how much time had passed since Uganda had acceded to the Convention relating to the Status of Refugees in 1976, circumstances currently allowed for the withdrawal of the reservations it had made at that time.

44. **Mr. Kiwanuka** (Uganda) said that he was not familiar with his country's reservations with respect to refugees, but he would obtain that information. He wished to thank the Committee for their comments. The Government would remain committed to protecting human rights and would be happy to receive guidance to help it make further improvements.

The meeting rose at 5.25 p.m.