

State of Pain: Torture in Uganda

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Glossary of Acronyms

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| ACTV | Africa Centre for Treatment of Torture Victims |
| ADF | Allied Democratic Forces |
| CID | Criminal Investigation Division |
| CMI | Chieftaincy of Military Intelligence |
| DISO | District Internal Security Organization |
| DPP | Director of Public Prosecutions |
| DRC | Democratic Republic of the Congo |
| FHRI | Foundation for Human Rights Initiatives |
| HURIFO | Human Rights Focus, Gulu, Uganda |
| HUR�PEC | Human Rights and Peace Centre of Makerere University |
| ICCPR | International Covenant on Civil and Political Rights |
| IGG | Inspector-General of Government |
| ISO | Internal Security Organization |
| JATF | Joint Anti-Terrorism Task Force |
| KAP | Kalangala Action Plan |
| LC | Local Council |
| LDU | Local Defence Unit |
| LRA | Lord's Resistance Army |
| NGO | Non Governmental Organization |
| NRA | National Resistance Army, subsequently renamed the UPDF |
| NRM | National Resistance Movement (President Museveni's political organization) |
| PCDIA | Parliamentary Committee on Defense and Internal Affairs |
| PRA | People's Redemption Army |
| RDC | Resident District Commissioner |
| UHRC | Uganda Human Rights Commission |
| UNLA | Uganda National Liberation Army |
| UNRF II | Uganda National Rescue Front II |
| UPC | Union of Congolese Patriots (Union des patriots congolais) |
| UPDF | Uganda Peoples' Defence Forces |
| VCCU | Violent Crime Crack Unit |

Other terms:

Gazetted places of detention—those published in the official gazette as required by law

Habeas corpus—the “great writ” of English common law, Latin for “you have the body.” It is a writ (court order) which directs the law enforcement officials (prison administrators, police) who have custody of a prisoner to produce the prisoner in court and provide reasons for his detention. It was used historically to prevent the King from jailing enemies without cause.

Kandoya—Torture method: victim's hands and feet are tied together behind the back

"Liverpool"—Water torture method: victim is forced to lie face up, mouth open, while the spigot of water is turned on into his mouth

I. Summary

The use of torture as a tool of interrogation is foremost among an escalation in human rights violations by Ugandan security and military forces since 2001. In what most victims consider a state-sanctioned campaign of political suppression, official and *ad hoc* military, security and intelligence agencies of the Ugandan government have proliferated, practicing illegal and arbitrary detention and unlawful killing/extrajudicial executions, and using torture to force victims to confess to links to the government's past political opponents or current rebel groups. These abuses are not acknowledged by the Ugandan government that instead fosters an enabling climate in which such human rights abuses persist and increase while perpetrators of torture, rather than be held accountable, act with impunity.

Forms of torture in use in Uganda include *kandoya* (tying hands and feet behind the victim) and suspension from the ceiling of victims tied *kandoya*, "Liverpool" water torture (forcing the victim to lie face up, mouth open, under a flowing water spigot), severe and repeated beatings with metal or wooden poles, cables, hammers and sticks with nails protruding, pistol-whipping, electrocution, male and female genital and body mutilation, death threats (through showing fresh graves, corpses and snakes), strangulation, restraint, isolation, and verbal abuse and humiliation. Some of these practices have resulted in the death of detainees in custody. An informal survey at Kigo Prison near Kampala, where "political" cases are held, indicated in June 2003 that 90 percent of detainees/prisoners had been tortured during their prior detention by state military and security agencies.

Most victims of illegal detention and torture attribute their treatment to political suppression, reporting that security or military agents accused them of past or current political opposition, insurrection or support for rebel groups, treason or terrorism, or of knowing persons involved in such activities. Others report they were accused of having engaged in or witnessed criminal activity such as murder or robbery, while some link their abuse to personal disputes and vendettas by officials.

Under Ugandan criminal law, only the police are authorized to detain a suspect, who within forty-eight hours must be transferred to the jurisdiction of the criminal court to be charged, or released. The constitution requires military, security and intelligence agencies to promptly turn suspects over to police for detention. Since 2001, however, these agencies and new *ad hoc* security agencies created without legal status by the government – the Joint Anti-Terrorism Task Force (JATF), Operation Wembley and its successor Violent Crime Crack Unit (VCCU)—have defied laws regulating arrest and detention with no consequences. Even greater opportunity for abuse is afforded by constitutional provision for pre-trial 360-day detention without bail or probable cause

shown for persons suspected of treason and most forms of terrorism, which can include “opposing the state” or possessing a gun.

Ugandan security and military agencies routinely take suspects to unacknowledged and ungazetted (not published in the official gazette) places of detention including safe houses and army barracks. Although abolished by Parliament in 1995, safe houses re-emerged in Uganda during the 2001 election campaign, and now operate with no official condemnation or effort to close them down. The 2002 report of a Parliamentary committee investigation into safe houses has not been finalized nor made public by the government. Now an established feature of the Ugandan system of detention, safe houses provide security and military forces with opportunity for unseen torture and interrogation of suspects.

During incidents of incommunicado detention, interrogation and torture in safe houses, a common pattern of conduct by state and military agencies demonstrates an intention to commit unlawful acts and deliberate efforts to confer impunity on perpetrators. These acts include hiding the identity of detaining officers, who are often out of uniform, and of the detaining agencies; the absence of a search or arrest warrant; refusal to let the suspect contact family, lawyer, or anyone else; isolation of the suspect; hiding the identity and location of the detention place by blindfolding the suspect; statements by interrogators that there is no recourse, the suspect is powerless, they are all-powerful; and statements by interrogators that they have the ability to punish the suspect in the future, including prolonging detention.

These practices, coupled with torture, are designed to elicit confessions for use in military intelligence and sometimes for prosecution, and to discourage the suspect from persisting in the alleged activities. As they are hidden and illegal, such practices provide an environment in which other unlawful acts are carried out, such as robbery and theft of personal property, settling of personal scores, and sexual abuse and rape.

The most successful recourse available to suspects detained illegally or incommunicado is for relatives, friends or associates to retain an attorney to seek a writ of *habeas corpus* from the High Court. By directing the detaining agency to show cause why the suspect should not be released, such writs typically result in the filing of charges for treason or terrorism triggering a 360 day detention period and transfer of the suspect to prison, where torture is rare. A writ may end torture or prevent summary execution, but seldom results in release—and is accessible only to those with resources to pay an attorney.

Colonel Noble Mayombo, head of the Chieftancy of Military Intelligence, claims in a letter to Human Rights Watch of March 13, 2004, that before a suspect appears in court for any capital offence, including treason and terrorism, he must be examined by a medical doctor on a Police Medical Form (P.F. 24) to establish the existence (or

absence) of any torture marks on the suspect, and his mental condition. This form has apparently fallen into disuse and, contrary to claims, courts do not require its production. In the same letter, Colonel Mayombo denied allegations of torture made by various individuals (below), but did not once refer to the police medical examination.

Uganda's rising tide of human rights abuses—torture chief among them—is a reversal of “recorded improvements in the observance of human rights by the state in Uganda” from 1986 to 2000, according to a nongovernmental Ugandan human rights group. Since 2001, “many human rights violations in breach of the rights to life, liberty and security of person have been recorded.” The official Uganda Human Rights Commission (UHRC) documents that “torture is on the increase and, during the period under review [January 2001-September 2002], more cases than ever had been received.”

In summary, conditions facilitating torture, illegal arrest and detention and unlawful death by state and military forces in Uganda include:

1. A political climate of suspicion that political opponents are inevitably engaged in armed rebellion, the allegation most frequently used to justify illegal measures;
2. Erosion of the sole authority of the police to detain suspects;
3. Use of military intelligence officers in the Chieftancy of Military Intelligence (CMI), and use of intelligence officers in the Internal Security Organization (ISO) to detain and interrogate unarmed civilian suspects;
4. Creation of *ad hoc* and unauthorized detaining agencies, such as Operation Wembley and its successor, the Violent Crime Crack Unit (VCCU);
5. Adoption of the 2002 Anti-Terrorism Act, containing a broad definition of terrorism, referencing “opponents of the state,” permitting the government to declare an organization terrorist, conferring broad powers on the *ad hoc* Joint Anti-Terrorism Task Force (JATF), and reducing the rights of terrorist suspects;
6. Constitutional provision for detention without evidence of treason and terrorism suspects for up to 360 days;
7. Disregard by military, security and intelligence agencies for lawful detention and interrogation, including holding suspects for weeks or months longer than the legally permitted 48 hours without charge;
8. Lack of right to be represented by counsel from the time of detention;

9. Use of ungazetted and illegal places of detention, such as “safe houses” and army barracks;
10. Police fear of or reluctance to confront military, security and intelligence agencies detaining suspects contrary to law;
11. Lack of, or reluctance to use, judicial authority to confront the military, security and intelligence agencies’ illegal procedures and acts; and,
12. Impunity for illegal detention, torture, prolonged arbitrary detention and deaths in custody.

During two weeks in June 2003, and in September 2003, and during two weeks in April 2002, Human Rights Watch visited Uganda and interviewed former and current prisoners including those who suffered torture, their relatives, attorneys, care givers, and a wide range of people with first-hand information about torture and ill treatment, the criminal justice system, and human rights protection. The prisoners came from different parts of Uganda and were found in Kigo and Luzira Prisons near Kampala and Mobuku Prison in Kasese. Former prisoners were also interviewed in Kampala and Kasese. A total of twenty prisoners and former prisoners were interviewed at length, and many more were interviewed for less than an hour each. Human Rights Watch supplemented this material with data that is widely available in public sources, including reports written or provided by local and international rights groups, newspapers, politicians, trade unions, and pressure groups. This report does not purport to be a statistical study.

II. Recommendations

To the Government of Uganda:

- End impunity for human rights abuses by government security, police, armed forces, and other armed organizations, particularly violations of the right to life and fair trial; the right to be charged before a judge within forty-eight hours of arrest; the right to be detained solely in gazetted or legal places of detention; and freedom from torture and ill-treatment, arbitrary arrest, and prolonged arbitrary detention. All allegations of torture and mistreatment should be fully investigated, and the perpetrators brought to justice and, where there is evidence that a crime has been committed, tried in accordance with principles of international law.
- Make a Declaration under Article 22 of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), allowing the Committee against Torture to consider individual complaints; ratify the Optional Protocol to the CAT (allowing visits to Uganda by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture) and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.
- Conduct a medical examination of each detainee at the time he or she is detained and when the detainee is transferred to the jurisdiction of the court.
- Disband state security agencies that have not been created pursuant to an act of Parliament.
- Immediately release or charge with recognizable criminal offenses before a civilian court all those currently held without charge.
- Compensate victims of torture, ill-treatment and arbitrary detention adequately and speedily.
- Abolish the death penalty in all cases and commute the sentences of all persons held on death row to life imprisonment.
- Limit the use of confessions as a basis for pre-trial detention or conviction to confessions freely made in the presence of counsel and ratified within twenty-four hours before a judge and the defendant's counsel.

- Revise the constitutional provision that allows pre-trial detention of 360 days without bail in cases triable only by the High Court, such as terrorism and treason to ensure that the constitution permits bail unless the state presents to a judge prima facie evidence that the defendant is implicated in a recognizable crime.
- Facilitate bail applications for those in remand by providing simple forms and instructions, and other means.
- Ensure that legally-required autopsies are actually carried out for every person who dies while in custody of any agency of the state, and make autopsy reports publicly available.
- Undertake a prompt and comprehensive review of national legislation governing treason, terrorism, and other public order charges to ensure compliance with international human rights standards.
- Amend the National Resistance Army (NRA) statute to limit the jurisdiction of the court martial to active duty military personnel only (not retired, resigned, or otherwise severed from military employment) and to allow appeals from judgments of the court martial appeal court to the Supreme Court, where that right does not already exist.
- Remove the personal jurisdiction of the general court martial and Ministry of Defence over any civilian, including retired military personnel, even when the civilian is accused of acting or conspiring to act with active duty military personnel. In cases of military personnel limit the subject-matter jurisdiction of the general court martial to violations of the military code. Remove the jurisdiction of the general court martial and Ministry of Defence over the crimes of treason, terrorism, and related offenses, by whomever committed.
- Increase funding for the judicial system in order to enable at least one branch of the High Court to be created and function in each district of the country. Fund legal aid for defense by counsel of their choice of those charged with capital crimes in civil courts and courts martial.
- Publish or encourage the publication of the report of the Parliamentary Committee on Defence and Internal Affairs (PCDIA) investigation into safe houses, torture, and related abuses.

- Specifically give the UHRC and the PCDIA the authority and mandate to conduct investigations and visits to any place in Uganda, including military barracks, where there are allegations of detention of any person; assure that they have the power to conduct such investigations and visits without notice. The UHRC should remain an independent agency, not under the jurisdiction, control, or supervision of the Inspector-General of Government (IGG) or other arm of the executive, judicial, or legislative branches of government.

To the Judiciary:

- Use judicial powers to appoint a judicial agent to visit, without prior notice, prisons, police stations, military garrisons and barracks, and any other facility where persons are alleged to be held or treated in violation of their rights by state agents.
- Require that each prisoner brought for the first time to the jurisdiction of the court be accompanied by a doctor's report documenting his or her medical condition at the time of detention and again when the prisoner is first brought to court.
- Require that the state, in answering a writ of habeas corpus, bring the named detainee into the court in the presence of his legal representatives and family; if the detainee is not released, transfer him to prison and require prison authorities to immediately arrange for a medical examination, providing the court and his representative with an expedited detailed written report of the applicant's condition.

To the Ugandan Medical Profession and Its Relevant Associations:

- Investigate whether the conduct of physicians providing death certificates in cases of prisoners who died in the military hospital, and involved in the diagnosis and treatment of prisoners during their detention, conforms to ethical standards.

To Donor Countries:

- Closely monitor any military, police, security, and anti-terrorism assistance to the Ugandan government to ensure that human rights standards are strictly observed by the military, police, and security forces. Provide human rights training as an integral component of all capacity building and training projects involving the military, police, and security forces. Such training should include a strong

component designed to stop the use of torture and other cruel, inhuman, and degrading treatment as an interrogation technique or punishment.

- Human rights benchmarks should include improvements in relation to the issues discussed in this report:
 - A reduction in the numbers of persons who are held pending investigation for treason or terrorism, or misprision thereof (failing to inform officials of any person's intent to commit treason, or failing to endeavor to prevent treason);
 - A reduction in the time period anyone spends in custody prior to completion of the investigation prior to formal charges (now a maximum 360 days);
 - An increase in the rate of processing amnesty applications by the Director of Public Prosecutions (DPP) and continued timely processing so no prisoner has to wait longer than three weeks after applying for amnesty to be released; during the processing of the applications, those reasonably suspected of serious human rights violations should be excluded from amnesty.
 - A decrease in the numbers of persons awaiting trial in prison and of the time periods they spend in prison awaiting trial;
 - Appointment of special qualified staff in the office of the UHRC whose chief duty is to visit, without notice, places of detention specifically including army barracks and CMI locations; and
 - An increase in staff and in the rate at which complaints are processed and heard at the UHRC and its tribunal.
- Aid given should include assistance for the development of a pluralistic and independent civil society, a vibrant non governmental organization (NGO) community, human rights groups with a monitoring capacity, an independent and accountable press, an independent judiciary with the capacity to function effectively, and a robust and independent human rights commission.
- Sponsor and support the creation of a full-time international human rights monitoring field presence in northern and eastern Uganda and Kampala. The monitoring unit should investigate incidents of abuses and submit regular and public reports on the conflict in northern and eastern Uganda and human rights abuses throughout Uganda and anywhere the UPDF operates.

To the United Nations (U.N.) Commission on Human Rights and the African Commission on Human and Peoples' Rights:

- The Special Rapporteur of the U.N. Commission on Human Rights on the question of torture and the African Commission “focal point” on Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa should request permission to visit Uganda and prepare a report on torture and ill treatment for their mandating bodies, with recommendations to the government of Uganda.

III. Background

2001 Presidential Elections

The March 12, 2001 presidential elections in Uganda were conducted against a background of abuses of civilian opposition campaigners by government military and security organs.¹ The incumbent president Yoweri Museveni, who has been in power since 1986, won the election with 69.3 percent of the votes, according to the tally of the electoral commission on March 14, 2001. The runner-up, Dr. and Col. (Ret.) Kizza Besigye, received 27.8 percent of the votes.²

On coming to power in 1986, President Museveni introduced the “movement” system of government as an alternative to a multiparty system, to which he attributed the past violence and sectarianism of Uganda’s politics. Under the movement system, all candidates and citizens would belong to the system and candidates would run for elections based on their personal merit rather than party affiliation.

A pyramid of five levels of councils (LC-1 to LC-5), from the village to the national level, was designed to ensure grassroots participation at all levels of society, up to the position of resident district commissioner, which is appointed by the president. In practice, the “no-party” system has significantly curtailed civil and political rights of those who are in political opposition to Museveni’s government.³ The 1995 constitution currently in force allows political parties to exist in name, but outlaws or restricts all the activities normally associated with political parties.

After the 2001 election, Kizza Besigye, a medical doctor who started out with Museveni in the “bush” as an NRA member, was prevented from traveling to South Africa; on March 20, 2001, he was detained and questioned by the police Criminal Investigations Division (CID), allegedly in connection with the offense of treason. On June 30, he was detained by the police for hours at a roadblock on Masaka road, while traveling to Mbarara, until the local populace came to his rescue. In September 2001, he left the country and has not returned.

¹ See Human Rights Watch, “Uganda: Not A Level Playing Field—Government Violations in the Lead-Up To The Election,” February 1, 2001. The presidential election results were declared on March 14, 2001. Both Museveni and Besigye were running on the Movement platform; the four other candidates, none of whom received as much as 2 percent of the votes cast, advocated multipartyism.

² Reasons for Judgments of Justices of the Supreme Court, Republic of Uganda, Election Petition No. 1 for 2001 between Col. (Rtd) Dr. Besigye Kizza, petitioner, and Museveni Yoweri Kaguta/Electoral Commission, respondents (M/s Kampala Law Report: Kampala, 2001) (“Reasons for Judgments...”).

³ See Human Rights Watch, *Hostile to Democracy* (Human Rights Watch: New York, August 1999).

Before leaving the country, presidential candidate Kizza Besigye challenged the election results in the Supreme Court of Uganda on March 23, 2001. The Court ruled on his petition on April 21, 2001, and by a vote of three to two, it dismissed the petition and upheld the election results.⁴ However, two of the five justices concluded that there were such illegalities in the elections that the results should be thrown out. Even the three judges who voted that the illegalities did not affect the result of the election in a substantial manner agreed that there were illegalities and that “there was evidence that in a significant number of Polling Stations there was cheating” and that in some areas of the country, “the principle of free and fair election was compromised.”⁵

Rebel Groups in Uganda

The history of Uganda since independence has been littered with armed groups seeking to overthrow the government. Those now in power were themselves rebels who captured the government through armed struggle. Since it came to power in 1986, the current government has succeeded in militarily defeating armed challenges to its rule, except the seventeen-year war against the Lord’s Resistance Army in northern Uganda still continuing, now expanded to the east.

Ugandan authorities believe the following rebel groups still exist:

The *Lord’s Resistance Army* (LRA), which has been engaged in a long war in the Acholi north of Uganda (1986-present), carrying out a campaign of terror against civilians, including widespread abduction of children. It expanded its activities to eastern Uganda in 2003.

The *Allied Democratic Forces* (ADF) in the west, a diverse coalition of fighters formed in 1995, with bases also in Eastern Congo, which has carried out attacks and displaced people in several districts in the south-west of Uganda and is alleged by the government to be responsible for several bomb explosions in Kampala from 1997 to 1999.

The *National Democratic Alliance* (NDA), last heard from in 1995 but recently alleged to have renewed activities in 2002, based in the east of the country.

⁴ The Supreme Court of Uganda dismissed the electoral petition on April 21, 2001, by majority decision, and declared that the respondent Museveni Yoweri Kaguta had been validly elected president of the Republic of Uganda in the election held on March 12, 2001. Reasons for Judgment of Oder, JSC.

⁵ Reasons for Judgment of Odoki, CJ.

The *Uganda National Rescue Front* (UNRF) II in the northwest, operating out of Sudanese bases and partly formed by former fighters with former President Idi Amin's army. The UNRF signed a peace agreement with the government in December 2002.

The *West Nile Bank Front* (WNBK), headed by a former Idi Amin minister and based in the northwest since 1996.

The Kizza Besigye campaigners and a loose coalition of opposition parties and persons, who together took the name of Reform Agenda, have been targeted by the Ugandan government and accused of starting another rebel group, the *People's Redemption Army* (PRA). Among the leading figures alleged to be involved in forming the PRA is Col. Samson Mande, a former UPDF officer. It appears from questions posed to some of the detainees that the authorities believe that the government of Rwanda was implicated in organizing such a group. Among those arrested for alleged involvement in the PRA are several who were arrested in the Democratic Republic of Congo (DRC). No allegation of rebel activity by Besigye or Reform Agenda people has been proven in any court. Some individual statements, allegedly made under coercion or while the accused was in custody without an attorney, have been produced, mostly in the press, in support of such allegations.

Reform Agenda campaigners are not the only ones suspected of rebellion, however.

Treason and Terrorism Laws

Treason is defined in the Penal Code as levying war against Uganda, plotting to overthrow the government, and causing or attempting to cause the death of or injury to the president. It also includes attempting by force to change the government or intimidate the national assembly, or instigating any person to invade Uganda with an armed force. All these offences carry a mandatory death sentence. "Misprision of treason" is also an offense, and consists of failing to inform officials of any person's intent to commit treason, or failing to endeavor to prevent treason, and it carries a life sentence.⁶

A Suppression of Terrorism Bill was first introduced in Parliament in 2001, in the wake of the September 11, 2001, bombings in the United States (U.S.).⁷ The Ugandan government sought to justify the proposed legislation by reference to a wave of terrorism in the capital Kampala, from late 1997 to 1999, in which 160 people were

⁶ Penal Code of Uganda, sections 25, 27 (act of 1970).

⁷ Foundation for Human Rights Initiative (FHRI), "The Human Rights Report, 2001-2002" (Kampala: FHRI, April 2003), p. 30.

injured and more than fifty died. The ADF was believed to have carried out most of these bombings.

The final law, the Anti-Terrorism Act, was enacted in 2002. The Anti-Terrorism Act contains an overly broad definition of terrorism and generally refers to “opponents of the state,” thus making those in the media and public life who have divergent views suspect. The terrorism law contains rather sweeping provisions. For example, possession of unlicensed firearms is tantamount to terrorism. Once the prosecutor proves possession, the burden of proof of innocence shifts to the defendant.⁸ Clause 14 empowers ministers to declare an organization “terrorist,” without challenge in court.⁹

Charges of treason and terrorism can be brought both in the High Court and in a court martial. Magistrates’ courts, which are responsible for lesser offenses, do not have jurisdiction to try these cases. Nor do they have jurisdiction to receive a plea nor grant bail. However, civilians accused, even of death penalty offenses, are charged in the magistrates’ court and at that point the accused is transferred from the custody of the police (or other arresting agency) to prison. The accused may be held up to 360 days (from the time of arrest) before the case is sent to the High Court for trial; this is theoretically to give the prosecution time to investigate. At day 360, if there is no case against the accused, then he is supposed to be released. These time limits, however, are not always honored.

If there is a case against the accused, then the charges are presented to the High Court, the defendant enters a plea, and the case is set for trial by the High Court. There are no time limits, however, on the time the case may wait for trial.

Courts martial take jurisdiction of a case involving military or former military personnel, and of cases where civilians allegedly act together with military or former personnel.

Treason and terrorism are among fifteen crimes for which the death penalty can be handed down on conviction.¹⁰ The number of persons condemned to death rose from

⁸ Human Rights Watch interview with criminal defense attorney, Kampala, June 16, 2003.

⁹ The Uganda Human Rights Commission (UHRC) commented on the terrorism law in its draft stages, and succeeded in convincing parliament to change some of the wording, but not these provisions. UHRC, *Annual Report, January 2001-September 2002* (Kampala: UHRC, 2002), p. 52, table 3.1.

¹⁰ The death penalty is applicable as a punishment for fifteen separate offences (Penal Code Cap. 106), and a mandatory punishment for six offences (defilement, rape, aggravated robbery, aggravated kidnapping, murder, and treason). FHRI, “Human Rights Reporter,” p. 11. Uganda has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

nearly 300 at the end of 2001 to 354 in December 31, 2002, and to 399 by June 2003,¹¹ a jump of 33 percent in one and a half years. Executions are carried out by hanging. The execution of those condemned by court martial is by a firing squad at a military base. There can be no execution without a presidential signature on the death warrant. In each death penalty conviction, the president has the authority to grant mercy. A constitutionally-created committee advises the president on this issue.

Government statistics reveal that between 1986 and 2001 fifty-two executions were carried out. Five UPDF soldiers were executed for murder in two cases in 2002 and 2003.¹² Numerous condemned prisoners have lingered on death row for more than ten years, and many have died waiting, according to a Ugandan nongovernmental organization, the Foundation for Human Rights Initiative (FHRI).¹³ The principal impact of the death penalty in security-related cases is to elevate the case to the High Court for trial and to warrant protracted pre-accusation and pre-trial detention with little chance for bail. As indicated above, 399 people were awaiting execution in Luzira Prison as of June 2003.

Amnesty

In 2000, the Ugandan parliament passed an Amnesty Act “for Ugandans involved in acts of a war-like nature in various parts of the country.” The Act provided that: “An Amnesty is declared in respect of any Ugandan who has at any time since the 26th day of January, 1986 engaged in or is engaging in war or armed rebellion against the government of the Republic of Uganda by actual participation in combat; collaborating with the perpetrators of the war or armed rebellion; committing any other crime in the furtherance of the war or armed rebellion; or assisting or aiding the conduct or prosecution of the war or armed rebellion.”

¹¹ FHRI, “Human Rights Reporter,” p. 12. Luzira Prison is the only institution for housing those condemned to death, according to prison officials. At the time of the Human Rights Watch visit, it housed 772 convicted persons, 399 condemned persons, and 1,195 persons on remand. These numbers were as of June 9, 2003, as indicated on a blackboard in the prison administrator’s office at the time of Human Rights Watch’s visit.

¹² Although no known executions were done in 2001, two Uganda Peoples’ Defence Forces (UPDF) soldiers were executed on March 25, 2002, after a hasty eight-man field court martial for the murder on March 22, 2002, of Rev. Declan O’Toole (Irish) and his two Ugandan associates, Patrick Longoli and Fidele Longole. On March 5, 2003, almost one year later, three UPDF soldiers were found guilty of the murder of a Catholic priest and were executed by firing squad after a court martial found them guilty. UHRC, Press Statement, in *Annual Report*, appendix 6, pp. 126-27; FHRI, “Human Rights Reporter,” pp. 12-13. According to FHRI, a constitutional petition challenging the hastiness of the trial and the constitutionality of the death penalty was heard and dismissed. *Ibid.*

¹³ FHRI, “Human Rights Reporter,” p. 11, fn. 5.

The amnesty depends on individual application to the authorities for a “certificate of amnesty,” and a statement that the person concerned “renounces and abandons involvement in the war or armed rebellion.”¹⁴ If amnesty is granted, the person concerned should not be “prosecuted or subjected to any form of punishment for the participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion.” The grant of amnesty is in the power of the director of public prosecutions (DPP), rather than a judicial-type body. An Amnesty Commission has been created, chaired by a judge, but the commission has responsibility only for overseeing the demobilization and reintegration of those applying for amnesty, not for adjudicating applications.

A number of combatants from the various rebel groups have returned to Uganda under the provisions of this law. Amnesty petitions are also available in the civilian prisons and prisoners—including those charged with treason or terrorism—may fill them out and send them to the authorities without a lawyer.

Although this part of the process moves along quickly, it stalls when the petition reaches the DPP. The prisoners qualifying for amnesty usually experience an enormous delay between applying for amnesty and being released.¹⁵ Human Rights Watch interviewed several in civilian prisons who had applied more than one year earlier but were very discouraged that they had not received any feedback at all from the authorities.

A human rights group based in Kampala made a list of amnesty applications submitted by prisoners to the DPP and awaiting amnesty as of January 7, 2003.¹⁶ There were 141 individuals listed by name, date the amnesty petition was presented to the DPP (between the dates of May 21, 2001 through August 15, 2002), location of the individual, and current status. Of them, only thirteen of 141 applicants (9 percent) had been granted amnesty and released. In late 2002 and early 2003 the UHRC, the Amnesty Commission, and the DPP accompanied donor representatives from various embassies to carry out prison visits.¹⁷ Prisoners complained to them that many had been waiting in

¹⁴ Amnesty Act, 2000, Part II.

¹⁵ Human Rights Watch interviewed one man, a former 1999 ADF abductee turned ADF soldier until his capture by the UPDF. Then he helped the UPDF track down his former ADF comrades. Immediately after this UPDF operation, he was taken to Fort Portal, where he requested amnesty forms but he was told that the forms were out of stock. Instead, he was taken to court and then remanded to Katojo prison in September 2001, where he was seven months later when Human Rights Watch/FHRI interviewed him. Human Rights Watch interview, Katojo Prison, Uganda, April 2002.

¹⁶ “List of Prison Cases Submitted to DPP and their Status as of 7/01/2003,” Kampala, received June 12, 2003.

¹⁷ Human Rights Watch interview, Veronica Eragu Bichetero, Commissioner, Uganda Human Rights Commission, Kampala, June 13, 2003.

prison for one and a half years after signing a request for amnesty, and indeed many had even been committed to High Court for trial, despite signing the amnesty. As a result of this donor visit, the amnesty process was speeded up and many were released but as others submitted amnesty petitions the backlog continued to grow. The amnesty covers major atrocities as well as minor abuses. Human Rights Watch is opposed to amnesties for serious violations of human rights and humanitarian law.

Who Detains and Tortures: The Security Forces

Under the Ugandan constitution, anyone may arrest. The Uganda Police Force has, under the constitution and the 1964 Police Act, the usual powers of arrest; police officers are primarily responsible for arresting criminal suspects. However, arrests by non-police are limited. One of two narrow conditions must be met: a person in the view of a citizen commits an offense recognized as a violation of law, or is reasonably suspected of having committed a felony.¹⁸ If a citizen conducts a citizen's arrest, he must turn the suspect over to the police immediately.

Those agencies accused by witnesses and victims of illegal detention in violation of these rules include:

The Uganda Peoples' Defence Forces (UPDF): the Ugandan army, formerly known as the National Resistance Army (NRA), has no legal powers of detention, with exceptions for violations of the military code by its personnel.¹⁹ The Ugandan combatants it captures are considered criminals for the purposes of Ugandan law, and they are supposed to be transferred—quickly—to the jurisdiction and custody of the police.²⁰ The UHRC noted in February 2003 that the actions of soldiers who unlawfully detain any person in arrest

¹⁸ Peter Mukidi Walubiri, "A Human Rights Audit of Operation Wembley," August 31, 2002, p. 10. The report was presented to a conference entitled, "A Workshop on Human Rights Standards and Constitutional Rights of Suspects Apprehended Under Operation Wembley: A Legal Audit," organized by the Uganda Law Society in conjunction with the Konrad Adenauer Stiftung in Kampala.

¹⁹ Uganda Constitution, article 209:

The functions of the Uganda Peoples' Defence Forces are -

- (a) to preserve and defend the sovereignty and territorial integrity of Uganda;
- (b) to co-operate with the civilian authority in emergency situations and in cases of natural disasters;
- (c) to foster harmony and understanding between the Defence Forces and civilians; and
- (d) to engage in productive activities for the development of Uganda.

²⁰ It is unlikely that the UPDF will ever be granted the power of detention, for historical reasons: the regime of Idi Amin enacted legislation extending powers of arrest (and detention) of civilians to the armed forces and the military police. Justice Resources, "Beyond Workshops: Challenges and Strategies in Human Rights Interventions in Uganda," Kampala, May 2003, p. 7.

or confinement are “outright criminal.”²¹ In the same case, the UHRC also found that “torture as a method of extracting confessions from suspected criminals is a trend and not an isolated wrong in the UPDF 3rd Division.”²² Accounts of torture at the hands of UPDF soldiers and officers have been surfacing for some years and come from all over Uganda but are particularly numerous in areas where there is an on-going armed rebellion, as in northern Uganda.²³

The Chieftaincy of Military Intelligence (CMI), a military intelligence agency. CMI has no powers of detention. In most of the reports of torture at the hands of CMI received by Human Rights Watch, the torture was conducted in safe houses and offices of CMI, and at times in barracks. CMI personnel often are assigned to participate in ad hoc security agencies, such as the Joint Anti-Terrorist Task Force and Operation Wembley.

The Internal Security Organization (ISO) and its regional offices the District Internal Security Organizations (DISO) It is responsible for “internal” security and the External Security Organisation (ESO) is responsible for security abroad. ISO has no powers of detention.

The Joint Anti-Terrorist Task Force (JATF). The JATF is an ad hoc agency created after the enactment of the Anti-Terrorism Act in 2002. It consists of agents from CMI, police, and ISO. The JATF has no statutory authority to detain people in its own right; however police officers working within it have the same rights to detain as when they are assigned to other police duties.

The Kalangala Action Plan (KAP), an informal group created by the ruling party without legislative mandate, headed by the senior presidential advisor, Maj. Ronald Kokoza Mutale.²⁴ The KAP was allegedly created as part of Museveni’s election strategy, and during the 2001 campaign, members of the KAP committed arbitrary arrests, detained people without legal authority, and committed violent attacks, according to reports in both government and independent newspapers based in Kampala, and eyewitness

²¹ The Commission cited several provisions of the constitution and NRA Statute, noting that under section 45 of the NRA Statute a person under military law who “unlawfully detains any other person in arrest or confinement, or unnecessarily detains any other person without bringing him to trial, or fails to bring that other person’s case before the proper authority for investigation; commits an offence and shall on conviction be liable to imprisonment not exceeding 10 years.” Decision, *Stephen Gidudu, complainant, and Attorney General, respondent*, UHRC at Kampala, February 26, 2003.

²² Ibid.

²³ See Human Rights Watch, *Abducted and Abused: the Resurgence of War in Northern Uganda* (Human Rights Watch: New York, 2003).

²⁴ See Kalangala Action Plan, *ibid.*, pp. 6, 45, 49.

testimony to Human Rights Watch.²⁵ A similar organization operating in Gulu municipality is locally known as the *Labeca* (also spelled Labeja) *group*.²⁶

Operation Wembley, a specially constituted crime-fighting security structure, since replaced by the *Violent Crime Crack Unit* (see further below).

The proliferation of agencies which detain suspects in ungazetted locations without legal authorization makes it hard to locate a person who might have been arrested, and difficult to hold the government accountable. Although the regular police are accused of torture of ordinary criminal suspects, it is the army and these other security units, some of them created without statutory authority, that are primarily responsible for torture in political cases.

²⁵ David Kibirige, "Museveni 'Leader' of Kalangala Action Plan," *The Monitor* (Kampala), March 7, 2002; Ssemujju Ibrahim Nganda, "Mutale's Man Raid EU Offices," *The Monitor* (Kampala), December 19, 2002; Richard Mutumba, "State House Doesn't Fund Mutale's KAP," *New Vision* (Kampala), June 21, 2002; "Mutale's KAP is a Time Bomb," *The Monitor* (Kampala), June 20, 2002; Jacob L. Oulanyah, MP, Omoro County, Gulu, June 16, 2003. Although Kizza Besigye alleged, in his petition challenging the 2001 presidential election results, that the KAP had committed abuses during the elections, the evidence provided regarding KAP was much less detailed than the evidence provided on the role of the UPDF and other organizations. The Supreme Court did not make any finding against the KAP.

²⁶ Human Rights Watch, *Abducted and Abused*, pp. 6, 49-51.

IV. Cases of Torture and Arbitrary Detention

International law forbids the use of torture, or cruel, inhuman or degrading treatment or punishment.²⁷ According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:

“torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.²⁸

Uganda has ratified both the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). It has not, however, made a declaration under Article 22 of the CAT allowing the Committee Against Torture, the United Nations (U.N.) body which monitors compliance with the CAT, to consider complaints by individuals from Uganda. Nor has it ratified the new Optional Protocol to the CAT allowing visits to Uganda by the Committee against Torture’s Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²⁹ The Ugandan constitution also outlaws torture.³⁰

Despite these government commitments in international and national law, the Ugandan Human Rights Commission (UHRC), a government-created body,³¹ says, “torture is on the increase and, during the period under review [January 2001-September 2002], more

²⁷ International Covenant on Civil and Political Rights (ICCPR), Article 7. Uganda ratified the ICCPR in 1995.

²⁸ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Article 1. Uganda ratified the CAT in 1986.

²⁹ Uganda made a declaration in 2001 under article 21 of the CAT that it would allow the Committee against Torture to consider complaints made against it by another state party to the treaty, but this procedure is very rarely used and to our knowledge has not been invoked with regard to Uganda.

³⁰ Uganda Constitution, article 24: “No person shall be subjected to any form of torture, cruel, inhuman or degrading treatment or punishment.”

³¹ See below, and Human Rights Watch, *Protectors or Pretenders?: Government Human Rights Commissions in Africa* (Human Rights Watch: New York, January 2001), chapter on Uganda, at <http://www.hrw.org/reports/2001/africa/uganda/uganda.html>.

cases than ever had been received” by the Commission.³² According to the Foundation for Human Rights Initiative (FHRI), a Ugandan human rights group, “since 2001, many human rights violations in breach of the rights to life, liberty and security of person have been recorded.”³³ Human Rights Watch’s recent interviews with prisoners and others in Uganda confirm these conclusions.

The types of torture being now committed in Ugandan ungazetted illegal detention places (“safe houses”) include *kandoya* (tying hands and feet behind the victim); suspension from the ceiling while tied *kandoya*; water torture or “Liverpool” (forcing the victim to lie face up, mouth open, while the spigot is turned on into his mouth); severe beatings with hands, fists, pistols, metal rods, and wooden sticks with nails protruding; death threats, including putting the nozzle of a pistol into the victim’s mouth, showing him fresh graves, dead bodies, or snakes; putting the victim in the back of a vehicle where his captors sit or put their boots on him; abusive language and threats; and kicking with boots all parts of the body.

The torture includes the gang rape of females; and mutilating the male genitalia of suspects, through kicking, beating with sticks, puncturing with hypodermic needles, and tying the penis with wire or weights. The male genital torture cases that Human Rights Watch found are far from the only ones: the UHRC ordered the government to pay damages to a man who was tortured for ninety-three days and who “is not a man anymore.”³⁴ In many cases, victims are refused medical treatment. Some have died as a result of these and other acts.

Alleged Political Cases

The majority of cases of torture reported to Human Rights Watch concerned prisoners picked up for their actual or alleged political activities—though torture is also practiced against people suspected of ordinary crimes and in cases of personal vendetta (see below, under “Operation Wembley”). Many of the political cases concern supporters or alleged supporters of 2001 opposition presidential candidate Kizza Besigye, the coalition

³² UHRC, *Annual Report*, pp. xiii and 102-03. The UHRC said it received more complaints of torture from January 2001 to September 2002 than in previous years: 158 cases of torture in 1999, 97 cases in 2000, 152 in 2001. Adding the complaints received at the two or three regional offices, the torture cases in 2001 totaled 210 and in January to June 2002 totaled 91. UHRC, *Annual Report*, p.4.

³³ FHRI, “Human Rights Reporter,” p. 10. From 1986 to 2000, there were “recorded improvements in the observance of human rights by the state in Uganda.” The developments since 2001 represent a reversal of the positive trend.

³⁴ *Stephen Gidudu vs. Attorney General*, UHRC, Kampala, February 26, 2003. It is likely that the torturers intend to seriously damage the genitals, as they are located in a protected part of the body and would not be struck accidentally.

that supported him known after the election as Reform Agenda, or the alleged rebel group some of his supporters are supposed to have formed, the People's Redemption Army.

Other cases concern the rebel groups Allied Democratic Forces and the National Democratic Army, and their alleged followers. In several cases the individuals concerned were simply accused of treason or terrorism with no named allegiance to a particular rebel group. Many who end up bleeding in UPDF barracks and CMI offices are not combatants, but civilians. These may be persons suspected of providing money, information, goods, and/or services to the rebels, such as finding recruits. These people have been captured in their homes or fields in rural areas, often their workplaces, quite apart from any hostilities. In many cases, suspects believe they were detained only because they personally knew those alleged to be fomenting rebellion, whether from place of origin, school, living abroad, marriage, or other relationship.³⁵

Alleged Besigye Supporters/People's Redemption Army (PRA)

James³⁶

James was forcefully pulled from a bus by three uniformed men and four civilians, all armed, in October 2001. The men bundled him onto the floor of a double cabin pickup and stepped on him.

"I live under fear. I have nothing to do, only to bear this. I have nothing to hide," he said almost two years later, having lived through terrible torture, including "Liverpool," kandoya, strangulation, and severe beatings, requiring hospitalization. He was released without charges at the end of October 2001, although the army described him in comments to the press as a "terrorist." James had been a mobilizer for candidate Kizza Besigye in early 2001.³⁷ A few months later he worked in the political campaign of another reform candidate for local office. At his arrest in October 1, 2001, he was taken

³⁵ The interrogators accused one detainee of "talking to" Col. Samson Mande, Lt. Col. Anthony Kyakabare, and presidential candidate Col. (Ret.) Kizza Besigye, and of being involved with and financing the PRA. He had served in the Ugandan embassy with Mande many years earlier. Human Rights Watch interview, Luzira Prison, Uganda, June 19, 2003. It appears that his fellow detainee's acquaintance with Kizza Besigye, a high school classmate, was one factor that led authorities to suspect him of involvement in armed rebellion. His late wife was coincidentally a classmate of Kizza's wife. Human Rights Watch interview, Luzira Prison, Uganda, June 19, 2003.

³⁶ Not his real name.

³⁷ James, Human Rights Watch interview, Kampala, June 17, 2003. During that campaign, in January 2001, he was picked up with two colleagues, and they were taken to the barracks for two days and slapped around; their posters and pile of campaign t-shirts were burned. Unless otherwise stated, all other information comes from this interview.

to the Masaka UPDF barracks. He was interrogated about the whereabouts of another candidate whose election he had worked for, but mostly he was asked about Kizza Besigye: what was discussed with him, what plans did he have for activities after the elections, who helped Besigye leave the country, and so on.

Then a sergeant told the soldiers, "Take him to the theatre." He was placed on the floor, blindfolded, of what he imagined was the "theatre." They poured water over him and beat him with wire cables. They beat him all over his body, stepped on him with their boots, and hit him in the head with a board with nails on it; he has three scars on his head. They took off his blindfold, said, "Look here," and slapped red peppers on his eyes. He was in tears and briefly lost consciousness. They tied his hands and his legs behind him with a sisal rope, beat him more, and poured water on him. A sergeant and a major took James out behind the barracks and told him he should say his last words before he was killed, showing him graves planted with grass, and saying, "There are people down there, you will be one if you do not cooperate."

They told him that Kizza Besigye was a rebel and demanded that he give them details about this. He told them he had never heard anything about this but the soldiers were obviously dissatisfied with his answer. Although he could not walk because he had been beaten on the ankles and his hands and legs were still tied together with the rope, they pulled him by the rope into another room, where there was a TV and three soldiers. They put him on his stomach on the floor and stepped on his legs and hit him in the right buttocks with a hammer. He started to bleed and there was blood all over him. He could taste blood in his mouth as well.

His chief tormentor strangled him until James felt he would die; the torturer put his hands around his windpipe and strangled him from behind while James was still on his stomach. They finally untied him and moved him to another room, remarking that since he had not cooperated they would let him "face the consequences."

James wanted to run away but could not. He had cuts on his right knee, and a large bruise. His right thigh and his lower left leg were cut and later required stitches. He was taken to a uniport ³⁸ where three other men, also badly beaten, were kept. He was ordered to touch two wires and he felt a great shock. He "felt that I was not on earth," and cried. After five minutes they asked if he had anything to tell them.

³⁸ A uniport is an aluminum shelter used by construction companies on a temporary basis, poorly ventilated. The UPDF and security agencies now use uniports as detention facilities.

Later he was put in a fortified room with a vent above the door, at the entrance to the barracks; he thought it was the quarter guard room.³⁹ They pushed him inside and left him without food or water—but first they poured six basins of water over him as he lay on the ground. They untied his hands. His eyes pained him and he washed his eyes and tried to wash the blood off his face and body. He had no cover to sleep under and no clean water. He drank water that was left on the floor to survive.

Several days later he was called to an office and given a paper to write out his statement. He protested that he did not know anything. After he spent two and a half weeks in the Masaka barracks, his mother went there to look for him, and was turned away by the soldiers. The next day she returned, with two women, insisting on seeing him, and the soldiers cocked their guns at the women to make them go away.

His captors took him in a special hire car to the Kampala headquarters of CMI where he met a captain, who was shocked at the prisoner's appearance. "I was rotting so the captain sent me to Mbuyo military hospital," he said.

He was first put in a hospital room with lice; he had to lie on the cement floor where he slept for two days on a torn rubber poncho. He heard a doctor tell someone to take him back to the barracks, as they had many casualties coming in. He was moved to a cell at the hospital gate instead, and kept in handcuffs on a small bed. He stayed there for ten or twelve days, with food at lunch, and water. He could not tell from inside the room whether it was day or night.

He was released without charges later that month, but the army told him that he would be rearrested if he told anyone that he was tortured. They also told him not to move from his house. He was put under surveillance and when he left his house, he was tailed.

He was afraid to go to the hospital for treatment; he went to a doctor and has medical statements and affidavits about his condition. He thought of suing, but has not. He has no faith in the system. Although he is a young man, he still cannot lift anything and has trouble bending over, writing, and when he stands up there is a pain in his chest.

Adele and Ezekiel

Husband and wife, Adele and Ezekiel, were detained for about two weeks in May 2002 at a police station while CMI removed them daily for interrogation. The men who arrested and questioned the couple accused them of transporting rebels. The arresting

³⁹ The quarter guard is a military term. It is a small guard posted in front of each battalion in camp, or a guard or detachment entrusted with the guard of a post.

agents were from a local defence unit (LDU), a locally-recruited government force, and they knew Adele by name as a Kizza Besigye campaign manager in 2001. These LDU agents beat up Ezekiel and Adele.⁴⁰

The following day, CMI agents in plainclothes came to remove them, although due to police protests they were kept in police custody.⁴¹ After two weeks at several different police stations, from which they were taken daily to CMI for interrogation, they were released on police bail. The two understood that they were charged with being “a security threat.” They went home and sought proper medical treatment. They were ordered to report periodically to the Mbarara police post, which they did although they lived several hours from Mbarara.

In early June they were again arrested, separately, on one of their visits to the police post. Adele was picked up by four CMI men in civilian clothes who drove her to Kampala, blindfolding her. They took her to a “safe house” (a residence) and kept her in the corridor where she slept. This was a large detention location: the next day at 3 pm they brought in plates of food, opening and closing doors in the corridor. She counted forty-six plates. That evening they locked her in the toilet. After two nights there, she was transferred to a room with two other women. They could only talk to each other in whispers because they feared the guards. They did not receive food daily and only received a small amount of water for washing.

After three days her interrogation began: “Why did you campaign for Kizza Besigye? We will beat you seriously. If you do not want to be tortured you should agree, and we will

⁴⁰ Adele and Ezekiel, Human Rights Watch interview, Kampala, June 18, 2003. These are not their real names.

⁴¹ The police recorded in their log that the two were removed by CMI from the first police station. They insisted that the couple should have a police escort to the next stop, and they prevailed and set off with DISO agents working with CMI. On the way, these DISO agents, in plainclothes, wanted to take Adele and Ezekiel to the barracks but the police refused, made noise, and people gathered around, so the DISO agents relented and the suspects were taken to another police station. At the second police station, CMI told the police, “These are ours, keep them for us,” and went away for three days. The police asked the couple what had happened; they told their story. The police took them to the hospital where they were treated and returned to the station. CMI then picked them up and took them to Mbarara.

When they arrived at the DISO office in Mbarara, they were stopped by their relatives who were searching for the pair. The relatives made a lot of noise, a crowd gathered, and they insisted that the two should not be taken to the barracks from the DISO offices. CMI gave the appearance of compromising: it left the two at the police in Mbarara for two weeks, but they arrived daily to pick up the couple from the police station and take them to CMI offices for interrogation.

At the police station in Mbarara, the police kept asking CMI, “What charges do you have against them, so we can prepare the court case?” The police kept arguing that they could not keep them in the police station for such a long time without charges. The police from this second station seemed to be too afraid of the military to take Adele, who complained of pain from being beaten at the time of arrest, to the hospital. They instead brought a police doctor to the police station to look at her.

present you on TV.” On one occasion they offered her four million Ug. Sh. (U.S. \$ 2,013) to go on TV and denounce Kizza Besigye as a rebel. They wanted to know the location to which Kizza Besigye and Col. Samson Mande and others were asking her to bring weapons. She denied everything.

They moved her to a room alone and after that she spent her time, aside from interrogation, in isolation. Sometimes they handcuffed her hands in front and she spent all night like that. They would at times remove her clothes and leave her naked for a week, then bring her clothes to her. She was locked up nightly and raped on six different nights by a different soldier each night. They beat her and used needles to pierce her breasts. They also tied her across the chest with a chain under her arms and attached it to her hands, which they tied behind her. For two weeks, they would come, untie the chain, then put it back the next day, telling her all the time, “You must talk.”

Adele was told one night that, if she did not agree to their demands (to be presented on TV, accept their accusations), they would show her the “dead bodies.” The guards took her to a place in the same safe house, where they showed her bodies lined up on the floor, covered with sheets. They pulled one of the sheets off a body (revealing the head and upper torso) briefly, to show her. She caught a glimpse of a dead woman with straight hair, clothed. They threatened that she could end up like that if she did not cooperate. Adele started crying.

A week later, the guards ordered her and several other prisoners to lift what appeared to be the same bodies up and put them in a truck. The bodies emitted a big stench. The prisoners loaded thirteen bodies into the truck. They also frightened her by taking her to a balcony or veranda in the back of the safe house, on the ground floor, and showing her snakes on the ground, covered by a net. She saw about ten puff adder snakes. They beat her for about twenty minutes while they threatened to throw her in with the snakes.

She was sick and weak; at one point she lost consciousness, then she felt people at the safe house lift her up and put her in a vehicle, blindfolded. The driver took her, and her husband (who was released the same day), to Mbarara police station. The Mbarara police let them out on bond again.

She was in the safe house almost two months. On release, in August 2002, she was examined by a private doctor. Her medical statements indicate she told the doctor she had been raped by soldiers and kicked with boots in the abdomen, and he confirmed a very tender lower abdomen. She was admitted to the clinic two days later and hospitalized for ten days for a gynecological procedure. She also had to have a blood transfusion and constant drips. Her feet were swollen.

Adele's husband, *Ezekiel* was picked up separately in June 2002 by DISO. Four unknown men later took him, alone, from a safe house in Kampala to a forest not far away; they were in plainclothes although one wore an army jacket. They removed his blindfold and showed him freshly covered graves. It was at night, and they were in thick bush; he did not see any houses and they were quite alone.

They forced him to lie down in a shallow grave. They said that unless he cooperated and went on TV, "this would be yours." They wanted him (as a former campaigner for Kizza Besigye) to go on TV and say that Kizza Besigye and others asked him to recruit people for the rebels they were was organizing. They beat him to make him talk and shot in the air and on the ground near him. One man hit him in the mouth with the butt of a gun. He lost six teeth.

They said, "Let's kill him in a different place." They blindfolded him again and drove to a safe house where they dumped him in a room, bleeding from the teeth and beatings. There they kept taking the blindfold off and on as they continued to question him.⁴²

After almost two months of torture and mistreatment he was released in August, with his wife Adele (above). After release he sought medical care. The doctor's statement was that he was beaten by soldiers, lost six teeth, and felt a lot of pain.⁴³

Charles Ekemu

Charles Ekemu unsuccessfully ran against a Movement candidate for parliament (MP) and then unsuccessfully ran as a Reform Agenda member for mayor of Soroti, eastern Uganda, in 2001. He was detained at his home in Soroti in early January, 2003, by plainclothes men, who took him to a vacant house in Soroti, blindfolded him, and tied his hands. Others were detained in Soroti on the same day by the same group.

A few hours later the captors drove him to Kampala and took him to a building where he was told to climb the stairs. He sat alone for three days blindfolded and hands tied, and was warned not to move or he would fall into a pit. He scarcely dared to sleep.

After he wrote a statement denying the accusations of being a rebel they rejected the document, saying, "You must cooperate and fill in the pages or the boys will be rough. We can keep you for one month, one week, or years. Even Museveni cannot do anything, we are the power here." Under coercion, he wrote what they wanted.

⁴² Adele and Ezekiel, Human Rights Watch interview, June 18, 2003.

⁴³ The couple has receipts from their treatment and laboratory tests.

Members of Parliament from the Teso area (eastern Uganda), his family, and others made a fuss about the arrests and incommunicado detentions—they could not locate Ekemu and the others detained in Soroti on the same day anywhere. Eight days after his arrest, he and others were taken to the police CID headquarters, where they found nine MPs waiting for them in the office of the Minister of State Security. The minister asked the prisoners, in the presence of the MPs, if they had been tortured. Outside, there was a large crowd including some of their relatives.⁴⁴

He was charged on January 17, 2003, with treason for allegedly plotting between 2001 and January 2003 to overthrow the government and of establishing the PRA, with others.⁴⁵ He is now out on bail and the charges against him are still pending.

Lawyer Mugisha Kafureeka

Lawyer Mugisha Kafureeka, a PhD candidate, was detained as he was leaving Makerere University on April 19, 2002, where he was a lecturer in an evening class. He was taken by the police, accompanied by fifteen other vehicles full of CMI and ISO agents and members of the police CID, to his residence, which was searched without a warrant and without his permission. They proceeded to the home of relatives and detained his young cousins found there.

Although officially held at the central police station in Kampala, he was taken out on a daily basis to the headquarters of CMI to be questioned all day about his alleged activities with the Reform Agenda and with rebels believed to be associated with them. He denied everything. On the second day of his interrogation he was whipped with a long cable (rubber outside, wire inside), which the CMI officials said was “imported from South Africa for torture.”⁴⁶ They ordered him to tell the truth, not satisfied with his denials of “rebel” involvement. They hit him on the buttocks and he bled, then hit him on the bottoms of his feet, and kicked him in the back with their boots. They said, “We have all power over you.” They said they could not write the “rubbish” he was telling them. He was returned to the police nightly. He was similarly beaten the following days.

⁴⁴ Human Rights Watch interview, Charles Ekemu, Kigo Prison, Uganda, June 17, 2003.

⁴⁵ The original charge was filed on January 16, 2003, without reference to him. He was included in the amended charge, dated January 20, 2003, suggesting that this was a convenient allegation to which his name could be attached. The government claims that he was in charge of PRA recruitment for the Teso region. Letter, Colonel Noble Mayombo, Chieftancy of Military Intelligence (CMI), to Jemera Rone, Human Rights Watch, March 13, 2004.

⁴⁶ FHRI also noted that many Operation Wembley detainees had been beaten with such batons. FHRI, “Human Rights Reporter,” p. 52.

After four days in detention his family took legal action and his friends alerted the press. He was then taken to CID to make a statement to the police, where he again denied everything. On the seventh day of captivity, he was taken to the Magistrates' Court and charged with treason and misprision of treason (failing to inform officials of anyone's intent to commit treason, or failing to try to prevent treason). From there he was taken to Kigo Prison. CMI officials had told him, "We have the capacity to keep you in prison for a minimum of one year, your life will never be the same, the state cannot take chances." Every two weeks he was brought back to the Magistrates' Court, where the prosecutor said, each time, "the investigation is still continuing," and the magistrate granted the request for another two-week postponement.

He was kept in Kigo Prison for a year on this basis. On the day he was released on bail in May 2003, he was rearrested outside the court building by CMI for further questioning, then released a few days later after being kept in a garage (with several other beaten prisoners) at JATF. They were released together—after an admonishment by the head of JAFT and after CMI warned him not to try to take revenge.⁴⁷

The government denies that he was tortured and maintains that he was a "recruiting coordinator for PRA."⁴⁸

Although this man took his examination and was awarded his PhD, and was not convicted of anything, he found that a number of potential employers were too fearful to hire him in any position.

Dan Mugarura

On January 8, 2003, at 3 a.m. Dan Mugarura's house was surrounded by thirty armed men in civilian clothes in five cars. The men ransacked the house, refusing to identify themselves; they had no search warrant. They arrested him.

"Who are you?" he asked. "You know," was the answer.⁴⁹ He was blindfolded, and put in leg irons and handcuffs. In a car two of them sat on him for two hours and he fainted. He awoke in an unknown hospital room.

⁴⁷ Human Rights Watch interview, anonymous researcher, Kampala, June 2003.

⁴⁸ Letter, Colonel Mayombo to Rone, March 13, 2004. The government denies that Kafureeka was rearrested upon his release. It recites what it says are testimonies provided against him. Ibid. Human Rights Watch is not in a position to evaluate the summaries of testimonies. Regardless of the allegations, torture is never permissible.

⁴⁹ The same group had broken into his house exactly one year before, according to Mugarura. At first it seemed like they were thieves; they cut the fence, broke the glasss, and burgled the house, carrying away everything down to the tea and slippers. They hacked him with a panga across his head and left him for dead. They beat

He was transferred to another location, where his interrogation began. “Why are you here?”⁵⁰ they taunted. They asked extensively about Col. Samson Mande, who had been assigned to the diplomatic mission in Tanzania with Mugarura more than a decade before.

Mugarura was made to sleep in handcuffs.⁵¹ In another room they showed him a cage with metal bars. In it were three big snakes about eighteen inches long with yellow and black spots, and they threatened him with the snakes. Later they told him they would take him back to the room with the snakes if he did not write what they wanted. He complied.⁵²

When his lawyer brought a habeas corpus, he was taken to the Magistrates’ Court on January 21, 2003, charged with treason and misprision of treason, and remanded to Luzira Prison.⁵³ Much later, in late 2003, he was released on bail for medical reasons.

Patrick Mamenero

Patrick Mamenero Owomugisha, age twenty-five, recently married, was arrested on July 20, 2002 from his home in Kabale near the Rwanda border, with his father, Mzee Denis Mamenero. Patrick died a few days later in CMI custody; he was healthy at the time of arrest.⁵⁴ According to the death certificate, Patrick died in custody of injuries (a “subdural haematoma”) inflicted by a blunt instrument—three days after his arrest. At the time of his death, he was allegedly en route to the military hospital.⁵⁵ The certificate

his wife and six children, the maid, and the chamberboy. At the time he had just retired from the army as an officer. Human Rights Watch interview, Dan Mugarura, Luzira Prison, Uganda, June 19, 2003. The Ugandan government maintains that the team that arrested Mugarura identified themselves to him. Letter, Colonel Mayombo to Rone, March 13, 2004.

⁵⁰ They kicked him and left him with no food or water; that night he was shifted to another wet room, which had no bedding or mattress. During the night he was pinched and bitten. In the morning he saw red ants. They undressed him fully and tied him up again, and asked him, “Now tell us why you are here?” Human Rights Watch interview, Dan Mugarura, June 19, 2003.

⁵¹ Ibid.

⁵² The Ugandan government denies that any torture occurred and it denies using snakes to frighten Mugarura, as snakes do not exist in its facilities. Letter, Colonel Mayombo to Rone, March 13, 2004. It invites Mugarura to escort HRW to the facility where the torture took place. However, Mugarura says he did not know where he was held as his interrogators blindfolded him and took other precautions to keep this information from him.

⁵³ Human Rights Watch interview, Dan Mugarura, June 19, 2003.

⁵⁴ Another case of death in custody is that of John Birungi, who was arrested on February 15, 2003, from Kisugu Makindye, on robbery charges. He “developed a high blood pressure attack” and was transported to the hospital, where he died on arrival. Memo, from Col. Elly Kayanja, Deputy Director General ISO/OWECO, to family members of late Birungi John, February 18, 2003. The Ugandan government denies he was killed in custody. Letter, Colonel Mayombo to Rone, March 13, 2004.

⁵⁵ Human Rights Watch interview, Kampala, June 18, 2003.

of death was signed July 24, 2002, by Dr. H Wabinga of Mulago Hospital, by the CMI's admission.

The CMI admits that the victim Patrick Mamenero was hit by a CMI soldier on guard duty on July 22, 2002, but maintains that at the time Mamenero was trying to escape. After Mamenero died of his injuries, the soldier, Cpl Obiga Mudasiru, was arrested and charged with murder on October 22, 2002, in the UPDF court martial, charge sheet reported to be DCM/GHQS/024/02. This defendant, however, is reportedly "very ill and was granted bail on medical grounds on advice to the Court of Dr Ochen of Mbuya Military Hospital."⁵⁶ He is out on bail.⁵⁷

CMI paid the Mamenero family about one million Uganda shillings (U.S. \$ 503) as "condolences."⁵⁸ According to FHRI, Col. Noble Mayombo, head of CMI, faxed a statement that was read at the burial, carried there by Kabale Resident District Commissioner (RDC) James Mwesigye.⁵⁹ The statement claimed that enemies of the government entered the CMI offices and killed Mamenero. "This, it should be noted, is a tightly guarded facility accessed only by authorised personnel," FHRI added.⁶⁰ Human Rights Watch finds the CMI explanation completely incredible.

The CMI later explained in a letter to Human Rights Watch that by "enemies of the government" it meant, in the context, "those who behaved contrary to the rule of law."⁶¹

The CMI interrogators questioned Patrick's father about a relative on his mother's side, Col. Samson Mande, a former UPDF officer alleged by Ugandan authorities to be involved in forming the PRA.⁶² Although the father had not seen Mande for more than a decade, the interrogators did not believe him. The father's interrogation continued later, and was joined by a top official of CMI.

⁵⁶ Letter, Colonel Mayombo to Rone, March 13, 2004.

⁵⁷ Email, Colonel Mayombo to Rone, March 15, 2004.

⁵⁸ Human Rights Watch interview, Kampala, June 18, 2003.

⁵⁹ The Resident District Commissioner is the highest-ranking district official. Uganda is divided into districts rather than states or provinces. The RDC is appointed by the president. Uganda Constitution, article 203.

⁶⁰ FHRI, "Human Rights Reporter," p. 19. FHRI reported that CMI had drafted a statement concerning the whereabouts of Col. Mande for Patrick to sign, and he refused. *Ibid.*, p. 18.

⁶¹ Letter, Colonel Mayombo to Rone, March 13, 2004.

⁶² See FHRI, "Human Rights Reporter," p. 19.

The family buried Patrick while his father was still in detention (he was in jail for about ten months, before being released on bail in May 2003). The family asked CMI for permission for Patrick's father to attend the funeral, but it was refused.⁶³

Alleged Allied Democratic Forces (ADF) followers

Rasheed Kawawa

Rasheed (or Rashid) Kawawa, a twenty-four-year-old student from western Uganda studying in Kampala, was arrested on July 14, 2001. He was tortured using plastic canes about one and a half meters long. They tied him up kandoya style for four days without being untied, and suspended him in the air for one whole night, tied up kandoya style. He was tortured for three months and then he admitted what they wanted him to say.⁶⁴

He was brought to the Magistrates' Court on Buganda Road on October 3, 2001, and charged with treason and misprision, including belonging to the ADF rebel group. Later the authorities added murder and terrorism to the charges. He signed no additional statements, however.⁶⁵

The Ugandan government denies allegations of torture. It has informed us that he was charged with terrorism and murder in October 2003 and remanded to Kigo Prison. He applied for amnesty and was released in January 2004.⁶⁶

Congolese Prisoner Isaac Kambesa

Isaac Kambesa, age thirty-five, was a familiar, indeed a notorious figure in Kigo Prison when Human Rights Watch visited in June 2003. Born in the Beni district of what was

⁶³ Human Rights Watch interview, Kampala, June 18, 2003. The Ugandan government maintains that there was "overwhelming intelligence information of their treasonous activities," and that "they were actively involved in transporting recruits of the rebel People Redemption Army (PRA) based in a neighboring country"—Kabale is near the Rwandan border—and "linking them to LRA terrorists in Northern Uganda." Letter, Colonel Mayombo to Rone, March 13, 2004.

⁶⁴ The Ugandan government says that the charges against him are serious: "He was arrested on 14 July 01, in Kampala for ADF urban terrorism activities, to wit, bomb making of Improvised Explosive Devices (IEDs). He was arrested with 26 (twenty six) others after detonating 11 (eleven) explosive devices in Kampala and Jinja, between 28 Jan 2001 and 6 July 2001." Letter, Colonel Mayombo to Rone, March 13, 2004. They give his alias as "Brian Mugumbe."

The government offered HRW the opportunity to see a videotape of his interrogation. Human Rights Watch is not in a position, even with a videotape, to assess the guilt or innocence of the accused. Regardless of any guilt, however, he remains protected by the presumption of innocence and the right to be free of torture.

⁶⁵ Rasheed Kawawa, Human Rights Watch interview, Luzira Prison, Uganda, July 19, 2003.

⁶⁶ Letter, Colonel Mayombo to Rone, March 13, 2004.

then Zaire (now Democratic Republic of Congo) on the border of the Ugandan district of Kasese, he lived there with his two wives and nine children until he was summoned to the border on August 27, 1999 by Ugandan officials who wanted to question him “on the Uganda side.”⁶⁷ He went with them and was then detained.

Thus began a four-year journey into safe houses, court, and prison, in bureaucratic limbo in Uganda. The “Ugandan side” of the border turned out to be Kampala, several hours and hundreds of kilometers away. Eight UPDF soldiers drove him there the day of his detention. He was kept in CMI offices on Kitanti Road for a week, where he was badly beaten. He was then transferred to Mbuya barracks for one week, where he was kicked and otherwise abused, then to CMI for more questioning and then to the central police station for one and a half months. He was accused of links with the ADF.

On October 27, 1999, he was taken to the Magistrates’ Court on Buganda Road and charged with treason, then sent to Kigo Prison. He was committed to the High Court (formally charged) ten months later, with seventeen Ugandan co-defendants. In 2000, the Amnesty Act was passed for those accused of treason. He and his seventeen co-defendants requested amnesty. The others were released. He was not.

The Amnesty Act, it happened, was for Ugandan citizens and did not apply to him as a citizen of DRC—despite the fact that he was accused of treason against Uganda without being a Ugandan citizen. Since the time he was formally charged, on August 24, 2000, he was not brought before any court. He complained to the International Committee of the Red Cross (ICRC) after another year in prison. He complained to the UHRC officials who visited the prison, as well as to NGOs that passed through on visits, and donors (some represented by members of the diplomatic corps) as well. He complained to other prisoners.

Prisoners and former prisoners frequently referred to him as an example of how anyone can be locked up and kept there for long periods of time, at the complete whim of officials.

Human Rights Watch brought up his case in June 2003 with the DPP who said that he was aware of it also, and that the man was to be released shortly.⁶⁸ In March 2004, however, the Ugandan government was able to recite many claims against him: that he was a purchasing and recruiting officer for the ADF, that he had caused the death of

⁶⁷ Human Rights Watch interview, Isaac Kambesa, Kigo Prison, Uganda, June 17, 2003.

⁶⁸ DPP, Kampala, June 19, 2003.

several persons in his village by claiming that they were collaborating with the UPDF in Congo, and so forth.⁶⁹

Human Rights Watch learned in September 2003 that Isaac Kambesa had finally been released (charges against him were dropped). He returned to Congo, after four years behind bars in Uganda.

But that is not the end of this unhappy story. Human Rights Watch was informed that, after Kambesa reached home, he found his family life had been shattered. He was regarded with suspicion by the whole community: he had disappeared four years before and reappeared without notice; saying he had been in Uganda. The eastern DRC area in the meantime was caught up in the rapidly shifting and very damaging Rwanda/Uganda/DRC war. At his return, there were many rumors that the UPDF was about to re-invade his area of Beni, which reportedly housed training camps for local militia, *Interahamwe* (the Rwandan militia responsible for much of the Rwandan genocide in 1994), and former army from Rwanda. The UPDF had a strong military intelligence presence inside the Beni area and therefore Congolese suspected that he was part of a UPDF advance force, coming from Uganda to recapture this part of DRC. He did not feel safe, and if the UPDF were to invade, he would feel less safe, so he fled his home.⁷⁰

Martin

Martin, a special police constable attached to the army in Kasese, on the border with DRC, was in the officer's mess on March 17, 2001, when he and the other seven men there learned of an attack on the town. He and a few others, outnumbered and surprised, tried to fight off the attackers, probably the ADF. Nevertheless, he was arrested in late March on order of the DISO and accused of having supplied weapons to the attackers.

He was taken to the UPDF barracks in Kasese (37th brigade), together with others who had also been on duty that night. Two days after his arrest, he was beaten until he was almost unconscious on the order of a UPDF captain. He was hospitalized under guard, discharged, and taken back into military custody. He was again beaten severely, threatened with a pistol in his mouth, and asked to confess that he had a meeting with local officials planning the Kasese attack. He had to be hospitalized again because of the beating, but his captors came to the hospital and threatened that he would suffer more if he did not cooperate.

⁶⁹ Letter, Colonel Mayombo to Rone, March 13, 2004.

⁷⁰ Email, anonymous researcher to Rone.

CMI agents arrived to investigate while he was still in the hospital, several weeks later. He continued to deny any role in the attack—although his captors warned him not to. That night, at 11 pm, soldiers removed him from the hospital against the advice of the staff. The soldiers removed the drip from his arm and took him to Mbarara, arriving at 3 a.m. He was hospitalized again the following day in Mbarara. A concerned UPDF officer friend intervened, he was taken back to Kasese, turned over to the police, and the following day was charged with treason, then held in civilian prisons in the Kasese area. A year later, in April 2002, the prosecutor dropped all charges against him, and he was released.⁷¹

Mary

Similar treatment was meted out starting in March, 2001, to a woman, Mary, after the same attack on Kasese, which the government blamed variously on Besigye supporters or on the ADF. She had been a campaign manager for Besigye in her subcounty. Her captors, UPDF soldiers, accused her of being an ADF commander leading the attack on Kasese. They took her to Mulongwe army barracks where she, too, was tortured.

Mary, a business woman age thirty-seven and mother of four, was hit repeatedly on her feet and body with the wooden and the metal parts of hoes, and kicked in the face. The soldiers dug a hole in the ground and poured water in it. They made her stay in the hole for several days; she was only allowed out briefly. She was taken to Mobuku Prison near Kasese from late March to early April, when she was charged with treason before a magistrate. She remained in Mobuku Prison for a few months, was transferred to another prison in Fort Portal, but continued to feel sick from the torture; her eyes sometimes bled. She was hospitalized in Fort Portal.

Mary was released and the charges against her were dropped after she had been held slightly more than 360 days in detention.⁷²

Hassan

Mary was more fortunate than Hassan, age thirty-three, who was detained by a soldier of the 17th Battalion of the UPDF in Kasese in December 1999. Accused of supplying medicine to the ADF, a charge he continued to deny, he was beaten for four hours and the soldiers fired bullets above his head. The next day he was tied by his legs to a tree for two days. Then the major general ordered the soldiers to dig a hole for his prison cell. He was kept in the hole for a year. He was transferred to the 307th Brigade, where he

⁷¹ Human Rights Watch/FHRI interview, Kasese, April 2002. Martin is not his real name.

⁷² Human Rights Watch/FHRI interview, Mary, Kasese, April 2002. Mary is not her real name.

was placed in an underground jail for three months. A friend, an officer in the UPDF, intervened and he was released on January 12, 2001, with no charges against him.⁷³

Alleged National Democratic Alliance (NDA) followers

Dr. Steven Wilson Mukama

Dr. Steven Wilson Mukama, age fifty-two, is a pharmacist by profession. He was arrested at his residence near Kampala on September 2, 2002, after midnight. He was charged in a court martial with terrorism on September 16, after severe torture in which his genitals were crushed. He was charged in a civilian court in February 2003 of plotting to overthrow the government and of forming a rebel group called the National Democratic Alliance (NDA)⁷⁴ between May and December 2002, although he was locked up four of these eight months—September through December 2002.⁷⁵ The government has since accused the NDA of several separate attacks.⁷⁶ The NDA was originally identified with a leader who has been in exile for several years.

Armed men forced the door of his home open on September 2, searched the house and took away some property, but could not produce an arrest or search warrant. They drove Mukama, blindfolded, to several places. In the morning he was taken to what he understood later was CMI headquarters, then transferred to Operation Wembley headquarters.

The Ugandan government says that the house was searched in the presence of Mukama's wife and five children, and that his wife and one son gave damaging information about Mukama at the time.⁷⁷

⁷³ Human Rights Watch/FHRI interview, Hassan, Kasese, April 2002. Hassan is not his real name.

⁷⁴ According to many, the National Democratic Alliance (NDA) has been defunct since 1995. Its leader is in exile in Europe. The Ugandan government says that the NDA was active in 2001-02 attacks on police posts in Kiwawu, Kiwoko, and Semuto. It believes they were launched from the home of Dr. Mukama. It claims that Dr. Mukama was head of the political wing of the NDA at that time. Letter, Colonel Mayombo to Rone, March 13, 2004. Whatever the allegations, they do not justify torture.

⁷⁵ He was not listed in the original charge filed in the Magistrates' Court on Buganda Road, Kampala, February 3, 2003, but was listed in the amended charge of February 25, 2003.

⁷⁶ In addition to the attacks on police posts above, the government also accuses the NDA of the murder of south-western Regional Police Commander Erisa Karakire, and burning a minibus in Kasangati, according to Col. Kayanja. (The death of Cmdr. Eria Karakire, according to many, however, occurred in 1995.) R. Mutumba, G. Kamali, and F. Kiwanuka, "CMI Denies Execution of Suspects," *New Vision*, Kampala, October 3, 2003.

⁷⁷ Letter, Colonel Mayombo to Rone, March 13, 2004.

This was Mukama's first arrest. However, during the 2001 presidential campaign in which he had been active on behalf of Kizza Besigye, UPDF soldiers in civilian clothes harassed him and warned of the consequences he would face after the elections because of his support for Colonel Besigye.

When he was transferred back to CMI headquarters, he was tortured and "beaten terribly," he said. His elbows were tightly tied behind him and after the beating he was left on the floor until morning. In the morning, eight men in plainclothes with boots began to kick him all over his body while he was on the ground, kicking him many times in the scrotum, crushing his left testicle. He was left for another six hours and, when he began to revive, was pistol-whipped on the right side of his head. On September 3 he was transferred to the army barracks at Mbuya and locked in cells with soldiers. He stayed there two weeks without interrogation or beating and without any medical treatment (except from other inmates).⁷⁸

On September 15 he was taken to a police station and signed a statement under duress, fearing more torture. He was charged in a court martial the following day, despite the fact that he was a civilian.⁷⁹ He finally received medical treatment when he was transferred to a civilian prison.⁸⁰ The government denies that any torture occurred.⁸¹

The pain in his head persists, and he has severe headaches. He hopes to be released on medical grounds, but lacks the funds. His permanent disability is well known to other prisoners, who refer to it as an outstanding example of brutal treatment.

Ibrahim Bullu Lubega

Ibrahim Bullu Lubega (or Ibrahim Lubega alias Bull, according to the Ugandan government) was repeatedly detained by security agent Charles (not his real name) over a period of nine years.⁸² The last detention, in Operation Wembley in August 2002,

⁷⁸ Human Rights Watch interview, Dr. Steven Wilson Mukama, Kigo Prison, Uganda, June 17, 2003.

⁷⁹ The charge of terrorism was made against him, four other men, and one woman, in the general court martial on September 16, 2002. They were charged with three counts: terrorism; possession of a firearm; and possession of "Government Stores to wit one plain green military cap and a pair of a Captains pips the property of" the UPDF, in violation of the Anti-Terrorism Act, the Firearms Act of 1970, and the Penal Code Act, respectively. No rebel group was mentioned.

⁸⁰ His case was transferred to a civilian court after a politician intervened, and he was transferred on September 18 to Kigo Prison.

⁸¹ Letter, Colonel Mayombo to Rone, March 13, 2004.

⁸² He and Charles were both lovers of the same woman in 1994, and Charles repeatedly detained him between 1994 and 2002. He spent most of that time in prison but he was never convicted of anything. According to him, his romantic rival caused him to be detained in the quarter guard room of the headquarters of the First Division of the UPDF in Lubiri without charges (1994-February 1996) and again to await trial (mostly in Luzira Prison)

resulted in “Liverpool” torture, beatings and stabbings. Terrorism charges were dismissed in the court martial and he was sent to a civilian prison and charged with treason in February 2003. He remains in jail.

In June 2002, Charles went to his house to detain Lubega, not for the first time, but did not find him. Instead he quarreled with Lubega’s twenty-one-year-old brother and shot him dead. When Lubega returned home on August 24, 2002, he was arrested and he and his wife were taken to Mbarara barracks, then to a police post. His wife was released shortly thereafter. Charles and the other captors confiscated all the property in Lubega’s home, including furniture and the suspect’s clothing, that of his wife, and of his two boys. What clothing and household items they did not want, they ruined by pouring water over it.⁸³

The government claims that Lubega was denied as he was attempting with others to rob a home at Kaberebere, Mbarara, killing a local defence unit member in the process. It suspects him of being a “habitual robber” and later joining the NDA rebels.⁸⁴

He was taken to Operation Wembley headquarters at Clement Hills Road in Kampala and beaten when he complained about the taking of his property. They beat him repeatedly with batons and used a bayonet to stab him and to puncture his leg. He still has scars on his wrist, right thighs, and legs. They poured water, lots of water, into his open mouth.

They did not ask him to sign or make a statement. He was kept at Clement Hills for fourteen days then was sent to Mbuya barracks for another two weeks. He was charged in September in a court martial with terrorism and belonging to a rebel group. The military judge, a lieutenant general, dismissed the case against him for lack of evidence and said that the case should be transferred to civil court, if they had any case.

from October 22, 1996-July 1999, when robbery charges against him were dismissed. Before he could enjoy his freedom, he was rearrested outside the court, in front of his mother and wife He was kept incommunicado in Mbuya barracks for eight months, charged with terrorism (December 1999), committed to the High Court eleven months later (November 2000), and sent to Luzira Prison again but released on March 27, 2002, when the prosecution failed to appear; he had an attorney at that time. Lubega Ibrahim Bullu, Human Rights Watch interview, Luzira Prison, Uganda, July 19, 2003. The government denies knowledge of any love triangle.

⁸³ The Ugandan government denies that anything was taken from his home in Kabowa, Kampala, and alleges that “his family had already relocated to a single room in Mbarara town in Western Uganda.” Letter, Colonel Mayombo to Rone, March 13, 2004.

⁸⁴ Ibid.

Lubega was transferred to Kigo Prison and on February 13, 2003, was charged with treason in the Magistrates' Court and sent to Luzira Prison again. "Operation Wembley has the power to do anything," he said.⁸⁵

George Kasozi

George Kasozi, age seventy, once a local chief in the Kabaka government (the historically important traditional rulers of the Buganda region), was not active in politics until the 2001 presidential campaign started. He trusted Museveni's representations about freedom and democracy, he said, so he concluded it would be safe to work for the opposition presidential candidate, Kizza Besigye. He thought that they could win and change the government without armed conflict.⁸⁶

He was arrested on September 16, 2002, by four men in a double cabin truck who stopped him at gunpoint and used his shirt to blindfold him and cover his head. They put a rope around his neck, searched his body, and took the Ug. Sh. 300,000 (U.S. \$ 151) he carried. When he was blindfolded he became frightened and lost consciousness due to high blood pressure. He was taken to the hospital "near the Ugandan Museum in Kampala" for one week, until he regained consciousness.⁸⁷ The government, which denies that he was beaten, states that he had high blood pressure and was treated at Kitante Medical Center.⁸⁸

He then was sent to a safe house in an unfamiliar location; he was held there for about five months. For the first two months, he was confined to a room by himself. After that, another man whom he did not know was brought in to share that room for three months. The prisoners were blindfolded whenever they went out of the room, for instance, to go to the toilet.

The ministers of the Kabaka government had come out openly in support of Kizza Besigye for president. As a local chief in the Kabaka government, he knew these ministers; he was interrogated about them and their political activities. He was also interrogated about Besigye and his alleged association with rebel groups.

Kasozi was beaten and tortured by severe blows on his head and body by blunt instruments, kicking, and pouring water over him, but in December 2002 that torture

⁸⁵ Human Rights Watch interview, Ibrahim Bullu Lubega, Luzira Prison, Uganda, July 19, 2003.

⁸⁶ Human Rights Watch interview, George Kasozi, Kigo Prison, June 17, 2003.

⁸⁷ Ibid.

⁸⁸ Letter, Colonel Mayombo to Rone, March 13, 2004.

increased. The torture then included tying his arms tightly behind him and making him lie on the floor and pouring jerrycans of water over him. He would be left in that position in the puddle of water for one or two days. He was hit and pierced in the right buttock with a six-inch nail on a board.⁸⁹ Months later, he still could not hear properly because he had received so many slaps on his head with a board.⁹⁰

After making a statement at CID headquarters and being charged with treason in the Magistrates' Court on Buganda Road in Kampala, he was taken to Kigo Prison on February 15, 2003.⁹¹

He has no money for a lawyer and is responsible for the support of many children, including the orphans of his late brother.⁹² The government reports that he was granted bail.⁹³

Lt. Bukenya Gonzaga and Others

On or about September 1, 2003, four of fourteen men who had been arrested by the authorities in Kampala and elsewhere in August 2003 were removed from JATF detention facilities (an unacknowledged or ungazetted safe house) by a CMI officer and his subordinates. The four men were allegedly executed at a place in Katikamu subcounty, Luwero district. The names of three of those believed killed are Ismael Muviru, Mutwabil Walakira, and Capt. Sewamuwa Daudi; the name of the fourth man allegedly executed is unknown.

Human Rights Watch requested the Ugandan government to conduct a full, independent judicial enquiry into the fourteen cases named, and make the results of this investigation public.⁹⁴ It has not done so. Apparently, on receipt of this letter faxed from Human Rights Watch to the State House in Kampala on October 2, 2003, the Ugandan

⁸⁹ Human Rights Watch interview, George Kasozi, Kigo Prison, June 17, 2003.

⁹⁰ Ibid.

⁹¹ Ibid. The charge sheet accuses him and others of establishing a rebel army called National Democratic Alliance, which directly attacked Kiwawu, Semuto, and Kiwoko Police Posts and a public transport at Wakyato along Ngoma Luwero Road in the Buganda region. Amended Charge, Uganda Police, February 25, 2003 (amending charge of February 3, 2003). Among other things, the charge alleges that Kasozi and others contrived a plot and established a rebel army between May and December, 2002. Kasozi was detained and kept in a safe house from mid-September 2002 to February 2003, however, raising the question of how he could have conspired or taken any overt steps in those two and a half months after his detention.

⁹² Human Rights Watch interview, George Kasozi, June 17, 2003.

⁹³ Letter, Colonel Mayombo to Rone, March 13, 2004.

⁹⁴ Letter, Human Rights Watch to President Museveni, October 2, 2003. Human Rights Watch released the letter and an accompanying press release October 3, 2003.

authorities arranged for charges to be brought the next day against most of the men named in the letter. Seven of the fourteen mentioned in the HRW letter were charged with terrorism in a court martial the following afternoon—though all but one were civilians.⁹⁵ The authorities denied that anyone had been executed, and asked Human Rights Watch to produce the bodies.⁹⁶

Those not charged in the general court martial were Musafiri Macheke, Sirje Loutwama, Muzeeyi Muwanga, and the four allegedly summarily executed, Mutwabil Walakira, Capt. Sewamuwa Daudi, and Ismael Muviru, and one unidentified man.

In a letter of March 13, 2004, the Ugandan government stated that Musafiri Macheke was a Kenyan arrested with Bukenya and was freed after it had been established that he was a money changer at the Uganda-Kenya border. If this is accurate, then there are six men remaining unaccounted for.

The Ugandan government states “it is doubtful that the six above ever existed at all.” It also claimed that “security agencies never carried out operations in the said places during the times in question.”⁹⁷

The VCCU and ISO admitted that they arrested some of the people named by Human Rights Watch. They told the press that they had arrested various suspects in the two weeks before the letter.⁹⁸ The chief of ISO, Col. Elly Kayanja, alleged that the suspects belonged to Maj. Herbert Itongwa’s National Democratic Alliance (NDA).

Col. Noble Mayombo said that CMI had not picked up a single person in the three months prior to October 3, 2003. He also said that the JATF only acted on the basis of information that CMI received.⁹⁹ Charges of terrorism are pending against the remaining detainees and all remain in custody in Kigo Prison, with the exception of one former UPDF member, Lt. Bukenya Gonzaga, who is detained in Makindye barracks.

⁹⁵ Herbert Ssempogo and Irene Nabusoba, “Nine Charged with Terrorism,” *New Vision*, Kampala, October 3, 2003. The names of those charged—also listed in the Human Rights Watch letter—were given as Lt. Bukenya Gonzaga, Shawal Katumwa Waisswa, Armstrong Okumu Mulondo, Sam Namuteete (alias Simon Katimbo), Ismail Senfuka (alias Medi Kasujja), David Nserere Salongo Muwanga, and Fred Mubiru (seven). Two men, Iddi Shaban Makoye and James Kabaya Salongo Gunju, were charged in the same court martial but their names did not appear in the Human Rights Watch letter.

⁹⁶ R. Mutumba, G. Kamali, and F. Kiwanuka, “CMI Denies Execution of Suspects,” *New Vision*, Kampala, October 3, 2003.

⁹⁷ Letter, Colonel Mayombo to Rone, March 13, 2004.

⁹⁸ “CMI Denies Execution of Suspects.”

⁹⁹ *Ibid.*

According to those close to the suspects, at least two were residents of Kenya at the time of the acts alleged, seeking refuge in that country. Lt. Bukenya Gonzaga, according to relatives, fled to Kenya in 1999 and did not return to Uganda. If this is accurate, then the allegations that he participated in an attack inside Uganda in 2002 are not accurate. In addition he completed the first steps for recognition of his refugee status by the Ugandan government and the U.N. High Commissioner for Refugees.

Lt. Bukenya Gonzaga's relatives believe that he was kidnapped from Kenya and forcibly returned to Uganda. This is not permitted under refugee law. Pursuant to that law, he has a right to a hearing to determine his refugee status prior to deportation back to his country of origin. He had no hearing.¹⁰⁰ Kenyan authorities do not have the right to return him to Uganda without such a hearing, even if he is wanted in Uganda in connection with a crime. Of course Ugandan authorities do not have the right to kidnap or detain anyone inside Kenya, much less remove a person from Kenya to Uganda against his will.

The Ugandan government claims that Lt. Bukenya Gonzaga was detained inside Uganda. It alleges that he jumped bail while awaiting trial for NDA activities, and fled to Kenya, where he and another defendant in the October 2003 case, Medi Kasujja, reorganized the NDA. It states that Lt. Bukenya Gonzaga had returned to Uganda in order to engage in NDA rebel activities when he was detained in August 2003 at the Tripoli Hotel in the border town of Busia, Uganda.¹⁰¹

Alleged Lord's Resistance Army (LRA) followers

The Gulu Prisoners

Some twenty-two remand prisoners—detained in September 2002 and accused of treason, murder, and collaborating with the LRA—were being held in Gulu Prison in northern Uganda. In a commando raid on the prison, members of the UPDF Fourth Division forcibly removed these prisoners from Gulu Prison on October 16, and took them to the Fourth Division headquarters barracks in Gulu—despite the protests of the prison wardens. The UPDF maintains it removed them from the prison in order to protect them from a threatened rescue attempt by the LRA.

In the process, the UPDF shot one prisoner, Peter Oloya, dead at point-blank range, without warning. Although the Ugandan government denies that he was shot

¹⁰⁰ Human Rights Watch correspondence by email with refugee authorities of UNHCR, Kenya, and Uganda, October/November 2003.

¹⁰¹ Letter, Colonel Mayombo to Rone, March 13, 2004.

deliberately, the High Court (below) ordered the UPDF to pay damages to Oloya's family for the prisoner's loss of life. ¹⁰²

The prisoners alleged they were tortured in the Gulu Fourth Division army barracks detention center, where they were placed in the quarter guard. They allege they were subjected to ill treatment and torture there, held in this room for two weeks with no light and insufficient food, and the one female prisoner was gang-raped.¹⁰³

The Ugandan government says that the "twenty-two prisoners were housed in a large and well-ventilated room at the quarter-guard, which can hold up to 100 detainees. They were mixed with UPDF detainees and used the same facilities and ate the same meals with UPDF soldier detainees which were regular and adequate with in Uganda standards. There was no ill treatment as alleged" ¹⁰⁴ Nevertheless, the High Court (below) later awarded damages to these prisoners for government violation of the right to be free of torture, cruel, inhuman or degrading treatment or punishment.

After national and international attention was brought to the case, in November 2002 they were transferred to Kigo Prison, where they were visited by the Ugandan Human Rights Commission, the diplomatic corps resident in Kampala, and others. In September 2003, after one year of detention, those who signed an amnesty request were released, and those who did not request amnesty continued to be detained.

Among those who did not request amnesty were those who had won a case in civil court against the Ugandan government for damages. (below) After the deputy prosecutor said

¹⁰² Human Rights Watch, *Abducted and Abused*, pp. 42-43. The Ugandan government states that owing to inadequate manpower to defend the prison, the Fourth Division Commander Colonel Gutti and Overall Intelligence Coordinator Lt Colonel Otema consulted the Officer-in-Charge of Gulu Prison, Assistant Superintendent of Prison Masiga, and they all agreed to relocate the twenty-two alleged LRA prisoners to Gulu Barracks "as a temporary measure." Letter, Colonel Noble Mayombo, CMI, to Jemera Rone, Human Rights Watch, March 13, 2004.

During the transfer process, according to the Ugandan government, prisoner "Peter Oloya attempted to resist the transfer by running away and bumped into a sentry. In the ensuing scuffle, Peter Oloya was seriously wounded by a gun shot and died while being taken to hospital. He was not deliberately shot at as alleged." Despite the fact that the High Court ruled against the Ugandan government in early 2003 and ordered damages for the family of the dead prisoner, the government continued to insist, a year later, that Assistant Superintendent of Prison "Masiga witnessed all the above [Peter Oloya wounded in a scuffle, not deliberately shot] and deponed to those facts in a subsequent Court case." *Ibid.*

¹⁰³ *Ibid.* The Ugandan government denies the rape allegations, and says that "A Uniport was erected in the quarter guard compound to cater for her special status after a few days in the general prison. Although mixing her up with others was unfortunate, it could not be avoided immediately at the time of transfer" *Ibid.* The Ugandan Human Rights Commission found them credible. Human Rights Watch interview, Veronica Eragu Bichetero, June 13, 2003.

¹⁰⁴ Letter, Colonel Mayombo to Rone, March 13, 2004.

that there was not sufficient evidence to hold them on treason charges, the state attorney accepted their release.

The state attorney from Gulu was then detained for a week by UPDF Lt. Col. Charles Otema, who released him under pressure. Subsequently, Lt. Col. Otema told the relatives of three who did not sign the amnesty that they would stay in jail “as long as Museveni was in power” unless they signed the amnesty. The Ugandan government denies these events occurred. Three of this group, named Pido, Tony Kitala, and Alex Otim, then signed an amnesty request and were released.

Three others, two men and the woman relative of Joseph Kony who was gang-raped, did not request amnesty. They were transferred to Luzira Prison and they remain there, awaiting trial on charges of treason, as of the writing of this report.

There were several attempts to bring relief in this case through legal action. Two persons, one a member of parliament, sought an order from the High Court at Gulu for damages for loss of life and other harm sustained by the Gulu prisoners when they were removed from the prison to the barracks in October 2002. The court, in a twenty-two page ruling in February 2003, held that the soldiers of the UPDF Fourth Division in Gulu violated the right to life of the prisoner by killing him, and also violated the cultural right of his relatives to accord him a decent burial. It awarded compensation of 50 million Ug. Sh. (U.S. \$ 25,165) to the relatives of the deceased or to his legal representative. For violation of the right to freedom from torture, cruel, inhuman or degrading treatment or punishment, the court ordered 15 million Ugandan Shillings (U.S. \$ 7,550) damages for each of the surviving prisoners.¹⁰⁵

The High Court at Gulu ruled in a separate case on the habeas corpus petition of one Gulu Prisoner, ordering that he should be produced in court. A UPDF captain testified that the suspect was arrested with two grenades, without a license, in a joint army/police operation. The court ruled that his right to be charged within forty-eight hours of arrest had been violated¹⁰⁶ (see further below).

There are several additional cases for damages pending in Gulu High Court against persons in the UPDF who have reportedly abused the rights of civilians in and around Gulu in the Acholi area of northern Uganda where the LRA has been waging war since 1986. One involves two young women raped by two UPDF soldiers. After the rapes,

¹⁰⁵ Ruling, *Hon. Ronald Reagan Okumu and John Livingstone Okello Okello vs. Attorney General*, High Court at Gulu, February 14, 2003.

¹⁰⁶ Ruling, *In the matter of Application for the Writ of Habeas Corpus and Subjucendum by [applicant]*, High Court at Gulu, February 17, 2003.

both young women were diagnosed as positive for the HIV/AIDS virus. Another pending case is that of an older man, who was tortured with hot melted plastic dripped on his back. Five boys, allegedly tortured during three days in the main barracks in Gulu but not charged with any crime, have also sued for damages, as have two men detained for a week in November 2002 by the UPDF and held in various underground cells in various barracks. A student detained by the UPDF and threatened with torture and death, and forbidden to leave Gulu or attend any meetings, is also suing.¹⁰⁷ The Ugandan authorities put in an answer denying the charges in two cases, but are apparently not putting in an appearance in the other civil court cases, leaving the court to enter a default judgment against the government if the court rules in favor of the victims. ¹⁰⁸

Torture Leads to Castration

Derrick

Derrick was arrested while riding in public transport in May 2001, held in prolonged arbitrary detention by CMI until he was hospitalized for two weeks in July 2001, then released in August without any charges against him. He was castrated as a result of untreated injuries inflicted during torture.

The vehicle in which he was riding in Kampala was hijacked by five or six armed men in civilian clothes in May 2001 at about 6:30 pm. The hijackers drove it and the six passengers around for a few hours. Then they stopped, pulled two passengers from the vehicle, and shot them dead. They dragged their bodies to an open area nearby. ¹⁰⁹

The shooters asked Derrick if he knew the dead men. When he said no, they accused him of lying and started beating him. One of the shooters threatened him by putting the nozzle of his gun into Derrick's mouth.

They took him and the other passengers to the CMI headquarters, and were admitted when the guards to the headquarters recognized an officer in their car, and saluted him.¹¹⁰ Once inside the compound, the hijackers/CMI agents asked again if he knew the ones who were killed. They beat him with an electrical wire, and with the metal head of a hammer (on the left collarbone, which still hurts). They cut him with a knife, leaving a horizontal scar on his back four inches above the waist. Then they removed his

¹⁰⁷ Human Rights Watch, *Abducted and Abused*.

¹⁰⁸ Human Rights Watch interview, civil litigation advocate, Kampala, June 16, 2003.

¹⁰⁹ Human Rights Watch interview, Derrick, Kampala, June 18, 2003. Derrick is not his real name.

¹¹⁰ The hijackers were not in uniform, but they called each other by military ranks, such as sergeant and captain.

trousers and used hospital syringes with needles to prick his testicles, hard. With an electrical wire, they shocked and burned his right shoulder and back. He lost consciousness. They dragged him to the doorsteps of a building in the compound and left him underneath. He woke up the next morning and officers arriving for work saw him, started kicking him and asking who beat him up, then left him there. He stayed under the steps for two or three days, without anything to eat or drink but too weak to move. He attracted the attention of a passing soldier, showing him his injuries (swollen and bruised genitalia).

That evening he was carried to a sedan and put in the trunk. The car went to Mbuya barracks, where he was put in a long building divided with many doors, many rooms. He was kept in one room for three months but received no medical treatment.

He did not have any way to wash and several wounds were rotting, maggot-infested, and smelly. The prisoners in other rooms complained to a guard that someone was dead, they could tell by the smell. His door was opened and the other inmates discovered him and carried him to the corridor.¹¹¹

Derrick was taken to the military hospital and finally given medical attention, operated on, and discharged two weeks later, with a diagnosis of “strangulated hernia,” according to the medical certificate.¹¹²

He was taken back to the safe house at the barracks for some weeks, then CMI sent him to a police station for three days. The police did not seem to know what to do with him. When the police sent him to CID, that agency ordered him sent him back to the police station.

There in early October 2001 he was charged with “terrorism,” allowed to post bond for his release, and told to report back a month later. When he returned the CID agent informed him, “the government of Uganda likes you so much that it decided you should go free.” He was told to treat himself medically for one month and not to say anything. If he spent one month without talking, he would be totally released without charges.¹¹³

¹¹¹ Human Rights Watch interview, Derrick, June 18, 2003.

¹¹² *Ibid.*; Human Rights Watch saw a copy of a UPDF Medical Services patient discharge note reflecting that he was in the hospital for almost two weeks, with the diagnosis indicated.

¹¹³ *Ibid.*

After two days at home, he went to the UHRC to complain about his disability, and they referred him for medical treatment.¹¹⁴

The UHRC wrote to Col. Noble Mayombo, head of CMI, and his reply came in a letter one year later, in December 2002, stating that the man in question was detained in May 2001 for robbery, by the Joint Anti-Terrorism Task Force (not usually responsible for investigating ordinary crime). He denied the torture allegations.¹¹⁵ The UHRC was not moving quickly on the case, filed in October 2001, according to the victim's attorney, who asserted that CMI was "witch hunting our client" in the process of ostensibly proposing to settle the matter out of court.¹¹⁶

The victim is not working. He is in hiding.

Nicholas Luzinda

Nicholas (Ruzinda) Luzinda, a nursing assistant working in public health and the father of ten, was arrested on September 3, 2002, at work by men in plainclothes, with pistols. They searched and confiscated about 500,000 Ug. Sh. (U.S. \$ 251) worth of motorcycle spare parts entrusted to him by his employer and took him to UPDF headquarters at Mpigi, southwest of Kampala. Most of the time until he was charged with terrorism in September 15, 2002, he was in CMI safe houses, where he was beaten and threatened with death.

The Ugandan government denies any torture; it alleges that after an attack on the Kiwawu Police Post on Kampala-Mityana Highway nearby, Luzinda gave sanctuary to fleeing NDA rebels at his farm.¹¹⁷

From Mgipi he was transferred to Operation Wembley headquarters in Kampala where he was put in a cell that was only two feet high, so that he had to lie down; it was very tight as there were others inside the cell also.

The next day he and another man were called from the cell and threatened with death: "You are going to be hammered in a hole today. You better pray for yourself, your life is

¹¹⁴ Ibid. Human Rights Watch saw the report of a doctor who examined him four times in the two months after his release. The findings are consistent with his testimony.

¹¹⁵ Letter, Col. Noble Mayombo, UPDF, military intelligence and security, to Chairperson, UHRC, Kampala, December 26, 2002.

¹¹⁶ Letter, attorneys for complainant to Legal Officer, UHRC, Kampala, June 2002.

¹¹⁷ The government also alleges that arms were recovered from him after his arrest, and denies that any property was seized from him. Letter, Colonel Mayombo to Rone, March 13, 2004. Regardless of the accusations against him, torture is never justified.

coming to an end.” The two men were put in a vehicle, tied together, blindfolded, and taken to CMI headquarters, where he was put in a small room with blood on the floor, small bloody ropes, and a few plastic bags (which he believed were used for suffocation).

He was to be moved again on the same day. It was raining and the car slipped turning around inside the compound of CMI headquarters. His guards untied him so he could help push the car. He tried to run away, but they caught and beat him with imported canes (plastic whips from South Africa, they told him). He was severely beaten on the right buttocks, leaving a deep scar.

They took him to a safe house in the Kololo neighborhood of Kampala that same day,¹¹⁸ but he did not receive any medical treatment there. He was put inside a room where there were already six men, all unknown to him. He spent some two weeks there; on September 15 he was taken for the day to Makindye barracks, where a sergeant caught a glimpse of his wounds and expressed surprise.

He was taken to a military court on the following day, September 16, 2002, where he was charged with terrorism. After several months, on February 14, 2003, his case was sent to civilian court with new charges (treason) and new co-defendants. He was remanded to Kigo Prison, where he received medical care for the first time since his arrest; he did not receive any care, “not even a bath,” for the five months before that. He has filed a petition for amnesty.¹¹⁹

Nonpolitical Cases: “Operation Wembley”

“Operation Wembley” was a special security unit started in July 2002 as a government response to public outcry at the high crime rate in Kampala, which included a spate of killings in the business community. Some of the perpetrators of the crimes were believed to be disgruntled demobilized soldiers. Operation Wembley, according to the UHRC, was conducted by “unofficial security forces.”¹²⁰ They included CMI, ISO, “volunteers,” informers and UPDF soldiers. Although many of the cases of Operation Wembley torture reported to Human Rights Watch appeared to be an abusive response to ordinary crime, several of those detained by Operation Wembley were then charged with political offenses, including treason and terrorism.

¹¹⁸ This is a CMI location.

¹¹⁹ Human Rights Watch interview, Nicholas Luzinda, Kigo Prison, June 17, 2003.

¹²⁰ Human Rights Watch interview, Veronica Eragu Bichetero, June 13, 2003.

Operation Wembley arrested 432 persons in approximately two months between June 25, 2002 and August 31, 2002,¹²¹ and detained them in unofficial places, often severely torturing them. Nine were reportedly died under torture during Operation Wembley, according to the UHRC.¹²² Others estimate that the total killed by the authorities was much higher. One researcher talked to Kigo Prison inmates and compiled a list of eighty-one men and two women who were removed from Operation Wembley detention and were believed to have been killed. The list was drawn from eyewitnesses to their removal from detention. Many others were never heard from again, i.e., “disappeared.” Not all the persons believed to have been executed were known by name to the eyewitnesses.¹²³

A 2002 report by criminal defense attorney Peter Mukidi Walubiri, entitled “A Human Rights Audit of Operation Wembley,” outlined the abusive practices of Operation Wembley, which were considerable. They included a “shoot to kill” policy, arrests by ISO officers, operatives and volunteers, none of whom had legal authority to arrest unless exceptional circumstances were present; detention in unauthorized places; detention for more than a month without being charged in court, in violation of the forty-eight hour rule; denial of access to next of kin, lawyer, or medical doctor; denial of bail; denial of right to habeas corpus; torture; and trial of civilians by court martial. Operation Wembley was called off by the government and so reported in the press on August 23, 2002; arrests by ISO officers, operatives and volunteers, none of whom had legal authority to arrest unless two narrow conditions were met; detention in unauthorized places; detention for more than a month without being charged in court, in violation of the forty-eight hour rule; denial of access to next of kin, lawyer, or medical doctor; denial of bail; denial of right to habeas corpus; torture; and trial of civilians by court martial.¹²⁴

Responding to such criticism, the Ugandan government decided that courts martial would try the detained, although many detainees were civilians.¹²⁵ According to ministry

¹²¹ UHRC, *Annual Report*, p.65-67.

¹²² *Ibid.*

¹²³ Email, anonymous researcher to Rone, October 31, 2003.

¹²⁴ Peter Mukidi Walubiri, “A Human Rights Audit of Operation Wembley,” August 31, 2002, p. 9. The author notes that President Museveni decreed that the General Court Martial try all the Operation Wembley suspects, and then appointed the head of the GMC himself, instead of allowing the army high command to appoint the court martial as set forth in law. He appointed Lt. Gen Elly Tumwine. *Ibid.*, p. 15; see UHRC, *Annual Report*, p. 68.

¹²⁵ The rate of conviction in civilian courts was reportedly only 6 percent of common criminal cases. UHRC, *Annual Report*, pp. 68-69. The UHRC blamed the low rate of conviction on the fact that the arresting agents (ISO or CMI or others who were not police) were not trained to gather and connect consistent evidence to prosecute the suspects, so the court was obliged to release them. *Ibid.*, p. 68.

of defense and private attorneys, a 1989 law permitted civilians found in association with the military in the commission of crimes to be tried in courts martial. These trials have dragged on, with few, if any, convictions. In the meanwhile, those charged stay in detention.

The government also created a Violent Crime Crack Unit (VCCU) to take over from Operation Wembley. Where Operation Wembley was staffed by CMI, police, ISO, and others, VCCU is staffed only by the police, according to official statements. Those who were responsible for Operation Wembley, and those who participated in it, however, have not been held accountable for their abuses.

Christopher Egesa Ochieng

Christopher Egesa Ochieng, age thirty-two, was the sole support of his wife, son, mother, and his six brothers. He was arrested near Jinja on July 17, 2002, by two soldiers in uniform in July 2002 when returning from the burial of a man who reportedly died in prison. The soldiers took him to a safe house in Kampala that he believes was on Clement Hill Road—the then headquarters of Operation Wembley—where he was tortured with many beatings, wires on his genitals, and water torture for two months. The torturers wanted him to say that he had seen people who were committing robberies.

He knew his torturers only as “Operation Wembley.” They sometimes wore UPDF uniforms, sometimes not. Torture started with pouring a bucket of water over him, after which he was made to lie down, face up. They poured water all over him.¹²⁶ They covered his head with a black plastic bag and jumped so hard on his stomach that he lost his breath; it took what seemed to be thirty minutes to start breathing relatively normally again. When he revived somewhat, they stood him up, kicked him, tied him up, and put him inside a vehicle, where his shirt was tied over his head again. Then they took him to another safe house where they spent the rest of the night hitting him in the head with a rod similar to those used as window guards.

On the second night—all the torture occurred at night—three men, his interrogators, brought a cable wire and took him into a bathroom, where they stood him in the sink for bathing, and put a wire around his penis. They tightened the wire and he fainted.

¹²⁶ Human Rights Watch interview, Christopher Egesa Ochieng, Kigo Prison, June 17, 2003. This torture was also noted (among Operation Wembley victims) by FHRI. FHRI, “Human Rights Reporter,” p. 52.

They beat his mouth and nose and he bled. They tied him by both hands to one side of the window and hit him with the cable wire and wooden rods.¹²⁷

During other nights, he was hit with ropes on his legs, his penis was tied again with the cable, and a piece of plywood with three nails protruding was “hammered” into his chest. They took him to Makindye UPDF barracks in Kampala after some two months of this torture. The government denies all allegations of torture.¹²⁸

He did not receive any medical treatment except for penicillin and aspirin and was not seen by any medical worker while in Operation Wembley. He still had scars on his back at the time of his interview, almost a year later. He was warned that they might kill him if he talked about the way he had been treated.¹²⁹ Reportedly his penis is permanently deformed.¹³⁰

He finally signed what they wanted, was taken to court on September 17, 2002, and was charged with aggravated robbery and terrorism. He had nine codefendants (two of them soldiers) whom he did not know. As he was charged with a capital crime in a court martial (terrorism), a UPDF defense attorney was appointed for him.¹³¹ As of the time of the interview, the accused was still in prison.

Joseph Kizza Kibaate

Joseph Kizza Kibaate was arrested in Masindi in January 23, 2003, by four men (of whom only two were in uniform) who worked for Operation Wembley. After four days in Masindi police station he was moved to Kampala where, in a safe house in Clement Hills (the Operation Wembley headquarters), the captors questioned him about who committed a murder in 1997 (for which he had been arrested). They also wanted to know how he got out of jail in 1998; he was released after investigation.

Apparently a secretary to one of the top officers in Operation Wembley was a relative of the 1997 murder victim. The secretary participated in Kibaate’s beatings and torture, caning him very hard, saying that he had killed her relative. She gave an order to take him to “Liverpool,” which, it turned out, was behind the safe house, within the fence. It was a water tap. He was taken there and told to lie on his back under the tap and open

¹²⁷ The use of the cable wire for beating was referred to as “maksado.”

¹²⁸ Letter, Colonel Mayombo to Rone, March 13, 2004.

¹²⁹ Human Rights Watch interview, Christopher Egesa Ochieng, June 17, 2003.

¹³⁰ Email, anonymous researcher to Rone, November 2003.

¹³¹ Human Rights Watch interview, Christopher Egesa Ochieng, June 17, 2003.

his mouth. They turned on the tap and let the water pour into his mouth, beating him at the same time and asking things he could not answer. He vomited water when they beat him on the stomach with sticks. They then beat him for four days, until “they had nowhere to beat me.” He was urinating blood and his ears were leaking water. His hearing is still impaired.

A lawyer brought a habeas corpus on April 23, 2003, and he was released on a 500,000 Ug. Sh. (U.S. \$ 251) bond.¹³² “This regime is using unprofessional people in sensitive jobs,” was his understated comment. The government denies the allegations of torture and states out that his case—in which he is accused of involvement in two murders—is still under investigation although he is out on bond.¹³³

Ibrahim Lwere

Ibrahim Lwere, age forty-nine, was elected to local positions in the outskirts of Kampala starting in 1988. In 2001, he was elected an LC-3, a middle-ranking position he still holds. In 1996 and 2001 he campaigned in support of opposition candidates for president.

“Let me show you what is going on in Africa,” Ibrahim Lwere said to Human Rights Watch, taking off his shirt to show scars all over his back that took four months to heal, and his left wrist, which he said was cut with a saw by his torturers. This torture took place in Operation Wembley headquarters for two days in early August 2002. He had no medical treatment and had to sleep on cement floors, both there and during months in custody in Makindye barracks, Kampala, following his torture. Charges of treason were dropped and he was released with a warning in October 2003.¹³⁴

His problems arose years before from land disputes in his village in which another resident, believed to be a security officer, has been a protagonist. This man, Simon (not his real name) was attached to Operation Wembley. He also used letterhead from the president’s office.¹³⁵ Simon engaged in bringing different criminal charges against his

¹³² Human Rights Watch interview , Joseph Kizza Kibaate, Kampala, Uganda, June 18, 2003.

¹³³ Letter, Colonel Mayombo to Rone, March 13, 2004.

¹³⁴ The Ugandan government denies any torture but does not dispute that the charges against him were dropped. It says that he was arrested on July 5, 2002 by a police and ISO team during operations to crack down on armed robbery which had become rampant in Kampala. He was detained at a house in Nalukolongo suburb occupied by the aunt of one Matovu, who allegedly led the police to the home. The Ugandan government alleges that a sub-machine gun the group was planning to use in robberies was recovered from the house, where it had been hidden. Letter, Colonel Mayombo to Rone, March 13, 2004. Whatever the alleged crime, torture is not justified in any circumstance.

¹³⁵ Human Rights Watch saw a xeroxed copy of a letter handwritten on letterhead from “The Republic of Uganda, Office of the President, Parliament Buildings, ... Kampala.” It was dated August 6, 2001, addressed to

neighbors; Ibrahim Lwere and other community leaders warned Simon not to use the police to arrest, beat, or torture his opponents in land disputes any more. Nonetheless, litigation, forging of land titles, illegal closings of roads, unlawful arrests and detention, property destruction, criminal charges, and other activities ensued.¹³⁶

Local leaders, including Ibrahim, went to the headquarters of the Inspector General of Police to complain about Simon in February 2002.¹³⁷ A warning from this official to a regional official in March 2002 cautioning about Simon did not produce any results.

On August 5, 2002, Simon arrested Ibrahim at his home in the evening, blindfolding him, putting him in a vehicle, and taking him to Operation Wembley on Clement Hill, where Ibrahim was tortured: beaten on his buttocks with a stick which had a nail in it, beaten on his back with a blunt instrument, wrists tied tightly with rope, and other forms of brutality. He was beaten hard for two days.¹³⁸

After Ibrahim was arrested, Simon proceeded to arrest his neighbor, Ronald Kizza, with whom he was also engaged in the land dispute. Simon took Ronald Kizza away and brought him back during the night to the village. People heard shots and when they saw Ronald's body, they suspected Simon but the police did not arrest anyone.¹³⁹

Meanwhile, Ibrahim was put in the safe house in the same room as eleven others. They were also tortured, beaten, and bleeding.¹⁴⁰ On August 9, 2002, all were handcuffed, blindfolded, and taken to Makindye barracks, where they stayed until October 16, 2002. They were told, "Give me the guns," but denied weapons possession and all other

the chairman of the Nazareth Zone, Kyanja (part of the area in dispute) and signed by the person in question (Simon).

¹³⁶ Human Rights Watch interview, Ibrahim Lwere, Kampala, June 18, 2003. Human Rights Watch has seen copies of many letters addressed to various authorities in 2001-2003 complaining of a list of illegal activities by Simon and asking the authorities for redress. The latest seen was dated in June 2003. It was a letter from Ibrahim Lwere, Councillor, Kyanja Parish, Nakawa Division, to the Chairman, Defence and Internal Affairs, Parliamentary Committee, Parliament of Uganda, May 12, 2003.

¹³⁷ Letter, signed by nine citizens of Kyanja, Nazaeth zone, Nakawa division, to Inspector General of Police, Police Headquarters, Kampala, February 28, 2002, re: Giving Misleading Information to Police in a Standing Land Wrangle: "Simon".

¹³⁸ A medical examination of the victim later, of which Human Rights Watch saw a copy, corroborated his allegations of torture.

¹³⁹ The police investigated the killing; the victim, Ronald Kizza, reportedly was shot with three or four magazines of bullets, his face was obliterated, and all his pelvic bones broken. The police did not identify the killer and brought no charges. The letter to the Parliamentary committee alleges that the killing was reported in the newspapers as the killing of an escapee (allegedly Ronald Kizza) from a group of persons who were alleged to have murdered a prominent businessman. The news report was four days after the killing.

¹⁴⁰ Human Rights Watch interview, Ibrahim Lwere, June 18, 2003.

allegations. At Makindye they had no toilets, no blankets, no visitors, no communications, and were overcrowded.

On October 16, 2002, Ibrahim was taken for a court martial inside Makindye barracks, and charged with desertion from the army in 1987 and treason. He replied that he was in the NRA as a volunteer (1985-87) and decided to leave when it was reorganized because he did not intend to be a professional military man.¹⁴¹ The lawyer advised him to admit the desertion, so he did. The charge of treason was withdrawn and the court punished him with a warning, nothing more.¹⁴² Simon remains in the victim's town, in the security forces.¹⁴³

On May 20, 2003, Ibrahim went to the UHRC to complain about this miscarriage of justice and presented a complaint in writing to the Parliamentary Committee for Defense and Internal Affairs. At the time of writing this report, there has been no response.

The Ugandan government says that it had no knowledge of the land dispute and that it was not a reason for the arrest. It also reports that it subsequently dropped charges of terrorism "due to insufficient investigative capacity of the police to satisfy the ingredients of the offence with the time required."¹⁴⁴

Ugandans detained in Ituri, DRC

Due to the involvement of the UPDF in the armed conflict in eastern Democratic Republic of Congo (1998-2003), on Uganda's western border, ¹⁴⁵ Congolese have

¹⁴¹ He was a volunteer soldier in 1975-77 for Idi Amin. He left soldiering to become a farmer and rancher near Kampala. He joined the National Resistance Army (NRA) in 1985 until 1987 when he asked for and received permission to go back home, where he took up farming and ranching again.

¹⁴² The Ugandan government states that "the information that Lwere had deserted the army in 1987 caused charges to be amended to include that offence, but [he] was given a light sentence as the army policy on persons who deserted before the reduction-in-force exercise of 1992/1995 was to treat them lightly." Letter, Colonel Mayombo to Rone, March 13, 2004.

¹⁴³ Human Rights Watch interview, Ibrahim Lwere, June 18, 2003.

¹⁴⁴ Letter, Colonel Mayombo to Rone, March 13, 2004.

¹⁴⁵ The second Congo war began in 1998 and pitted the DRC government, supported by Angola, Zimbabwe, and Namibia, against several rebel movements in DRC backed by Uganda, Rwanda, and Burundi. In 1999 the major parties signed the Lusaka Peace Accords and U.N. monitors were deployed. The accords were not respected and the DRC was in effect divided among four regimes, each of which depended on foreign troops to survive. Agreements were reached between two of three major rebel movements and the DRC government in April 2002. Later that year DRC reached bilateral accords with Rwanda (July) and Uganda (September), paving the way for withdrawal of their troops. Uganda briefly increased the number of its troops in Ituri in early 2003 but started final withdrawal in May 2003 on account of international pressure. See Human Rights Watch, *Ituri: "Covered in Blood," Ethnically Targeted Violence In Northeastern DR Congo* (Human Rights Watch: New York, July 2003), p. 5.

appeared in Ugandan detention as mentioned in the case of Isaac Kambesa above. Ugandans captured in DRC allegedly involved in armed opposition to the UPDF have been transferred to Ugandan soil as well. There is no way to know how many are held in Uganda in connection with activities in DRC. They are held by the military unless and until it chooses to turn them over to the courts for trial.

Twenty-two Ugandan citizens (including two medical doctors) were detained on March 8, 2003 in Ituri, DRC. They were alleged to be supporters of Kizza Besigye's supposed rebel group, the PRA.¹⁴⁶

The circumstances of their capture are murky, but there is no dispute that they were Ugandans captured inside DRC who ended up in UPDF custody inside Uganda.¹⁴⁷ The Ugandan government says that they were captured by the Lendu militia which handed them over to the UPDF inside Uganda, at Arua near the DRC border.¹⁴⁸ The twenty-two Ugandans were not the only Ugandans captured that day who ended up in the hands of the UPDF. There were in addition six Ugandan civilians including an attorney. All twenty-eight of the Ugandans were removed from DRC to Uganda.

Later the Ugandan government claimed that the Ugandans had been captured on March 8, 2003, and subjected by their captors, the Lendu militia, to "harsh conditions, bullet wounds, beatings and lack of food etc." They needed "urgent medical treatment" and this condition justified the Ugandan government's failure to bring them to court before April 16.¹⁴⁹

Their bad condition did not stop the UPDF from parading the twenty-two captives before the press in Arua, Uganda, on March 20, however. The UPDF disclosed their names and claimed that they were members of the Ugandan rebel group PRA.¹⁵⁰

¹⁴⁶ Felix Osike, "PRA rebels speak out," *New Vision*, Kampala, March 26, 2003; Felix Osike, "Two Ugandan Doctors Captured in Ituri," *New Vision* (Kampala), Arua, Uganda, March 20, 2003. The Ugandan government now says that twenty-five Ugandan supporters of the PRA were detained in Ituri by the Lendu militia on March 8, 2003. It claims that they were trained, armed, and coordinated to attack Uganda by a country close to Col. Besigye, presumably Rwanda. Letter, Colonel Mayombo to Rone, March 13, 2004.

¹⁴⁷ Human Rights Watch, *Ituri: "Covered in Blood,"* pp. 6-8, discussing Uganda's role in the Ituri area. Uganda provided assistance to many of the Hema and Lendu ethnic-based militias in Ituri. Of the ten armed political groups operating in Ituri, since 1998 most have at one time or another been armed, trained, or politically supported by the Ugandan authorities, and Uganda has played a major role in at least five of these groups. *Ibid.*

¹⁴⁸ Letter, Colonel Mayombo to Rone, March 13, 2004.

¹⁴⁹ *Ibid.*

¹⁵⁰ See Felix Osike, "Two Ugandan Doctors Captured in Ituri," *New Vision* (Kampala), Arua, Uganda, March 20, 2003.

On April 11, 2003, the families of those twenty-two whose names had been disclosed in the press sought an order of habeas corpus from the High Court, which ordered the UPDF to produce the twenty-two in the High Court on April 17.

This habeas corpus petition did its work. On April 16, 2003, the day before they were to be produced in High Court, twenty-five of the twenty-eight (twenty-two captured plus the six others¹⁵¹) were charged with treason in a court martial. The allegation was that on March 8, 2003 they plotted and assembled at Aboro Hills, Ituri, DRC, to overthrow the Ugandan government by force of arms, and on March 10 in the same place levied war against the Republic of Uganda (“to wit took up arms to fight” the Ugandan government and were “captured in a gun battle”).¹⁵² Three of the original twenty-two were not charged with a crime nor produced in the High Court. They had decided to cooperate with the prosecution.

In the High Court on April 17, the date on which the habeas corpus was due, the attorney for the UPDF produced the day-old charge sheet to account for the nineteen, and reported that the three not charged were not in detention, and had been “freed.” The families of the accused then sought other relief and compensation. They calculated that before the men were charged, they were in illegal custody for twenty-two days (March 20-April 16).

The army refused the families, doctors, and attorneys access to the twenty-five defendants in Makindye barracks on two occasions, using as an excuse the second time that a letter from CMI director Col. Noble Mayombo was required for anyone to visit prisoners in Makindye. After more protests, Col. Mayombo notified the attorneys that the general court martial would issue an order for remand of the accused civilians to civil prison when it reconvened on May 6, 2003. The request for a letter of permission to visit them in Makindye barracks detention was not granted.¹⁵³

According to the government, the civilians in the group were awarded damages by the court for their wrongful and long confinement in UPDF custody—or “by the army court,” as the CMI stated.¹⁵⁴ The criminal charges are pending.

¹⁵¹ The existence and whereabouts of the six who surrendered were not known when the writ of habeas corpus was sought.

¹⁵² General Court Martial, UPDF, Charge, Uganda vs. Kasadi Bwamnbale Ezekiel et al, April 16, 2003.

¹⁵³ Letter, Col. Noble Mayombo, CMI, to attorneys for the defendants, Kampala, April 30, 2003.

¹⁵⁴ Letter, Colonel Mayombo to Rone, March 13, 2004.

V. The Conditions for Torture: Safe Houses and Arbitrary Detention

Unacknowledged And Unauthorized Places Of Detention: Safe Houses

Weakened protections and guarantees facilitate the commission of torture. These unacknowledged places of detention are not visited by outsiders nor by government officials charged with inspecting conditions inside detention cells. The government is provided “deniability” by holding the detainees in secret, and this creates a feeling of impunity among security and intelligence officers.

The 1995 Ugandan constitution explicitly outlaws the holding of detainees in unacknowledged or “ungazetted” places of detention, that is, those not published in the official gazette.¹⁵⁵ Police stations are gazetted facilities. UPDF barracks and CMI offices are not gazetted facilities. The other “safe houses” where the non-police agencies hold, interrogate, and torture suspects are not gazetted and are illegal also.

Before 1995, safe houses had been commonly used for detention; some were then closed, but they are now being used again. The UHRC dates the reemergence of safe houses to 1998, during the 1997-99 wave of terrorist bomb attacks in Kampala believed by the security forces to be associated with the western-based rebel group ADF.¹⁵⁶

The constitutional provision requiring gazetting of all places of detention is now not enforced at all. Suspects are routinely taken to ungazetted places of detention, many of them in the capital, Kampala, for prolonged periods, without any official condemnation or effort to close them down. The two most commonly-cited safe houses are the headquarters of the Chieftaincy of Military Intelligence (CMI) on Kitante Road in Kampala, and a house on Clement Hill Road in Kampala, formerly used as the headquarters for Operation Wembley.¹⁵⁷ Rooms, cells, and offices in military barracks are also frequently used as safe houses as well.

At both the Central Police Station (CPS) and Kiira Road police station in Kampala, the UHRC found, the CMI military personnel guarded “its” cells and did not allow relatives

¹⁵⁵ Ugandan Constitution, article 23 (2) provides: “A person arrested, restricted or detained shall be kept in a place authorised by law.” The minister of internal affairs must publish in the Ugandan gazette the location of detention places.

¹⁵⁶ UHRC, *Annual Report*, p. 51.

¹⁵⁷ FHRI, “Human Rights Reporter,” p. 16.

to visit the suspects—nor even the UHRC representatives, whose constitutional mandate it is to visit and inspect police stations and posts.¹⁵⁸

In 2003, safe houses continued to be a permanent feature of the Ugandan system of detention and provided ample opportunity for torture and interrogation of suspects against whom detaining authorities did not have, or did not care to find, sufficient information to bring formal accusations or indictments.

No Reasonable or Probable Cause

According to the Ugandan constitution, the detaining authorities are required to show reasonable or probable cause for continuing to hold a defendant past the forty-eight hour period. In February 2003, the UHRC reiterated the standard for reasonable and probable cause for detention as set forth in Ugandan law. “Reasonable” and “probable cause” are defined as:

An honest belief in the guilt of the accused based upon full conviction founded upon reasonable grounds for the existence of a state of circumstances which assuming them to be true would reasonably lead any ordinary prudent and cautious man placed in the position of the accuser to the conclusion that the person charged was probably guilty of the crime implied.¹⁵⁹

In the case it was examining, the Commission found that a suspect had been detained in a UPDF barracks—an ungazetted place—and beaten for ninety-three days. As a result, he was left impotent.

Neither the UPDF nor the prosecutor showed reasonable or probable cause for the detention, which would have been required at the forty-eight hour stage if that provision in the constitution were honored. Instead, they hid this long period of detention. When the case finally came before a court, the prosecution learned that the guilty party was someone else. The Commission concluded that there was no honest belief in the guilt of the complainant, as he was never taken to court and the arrest was based on “mere guesswork,” and not upon any reasonable or probable cause that he had committed a crime.¹⁶⁰

¹⁵⁸ UHRC, *Annual Report*, p. 74.

¹⁵⁹ *Steven Semugoma v. Magidu Mafuge & 5 Others* [1994] II KALR 108, cited in *Stephen Gidudu vs. Attorney General*, UHRC, February 26, 2003.

¹⁶⁰ *Ibid.*

The lack of reasonable or probable cause to prolong the investigation or detention may be one reason why the rules against ungazetted detention places and holding persons longer than forty-eight hours are broken so frequently. That is particularly the case when intelligence agencies or military hold a suspect; they are not interrogating him with an eye to preparing a judicial case against him.

Many times the police receive a suspect from the UPDF, ISO, CMI, or others, without anything but a confession, and sometimes without even that. Yet the military and security officers expect the police and prosecutor to see to it that the suspects remain in jail, according to what the police have told Human Rights Watch.

In a case that appears somewhat typical, the UPDF and DISO were involved in the arrest and detention of a man from Gulu held from October 2002 until February 2003, when the court required the man be produced pursuant to habeas corpus. While in court, the UPDF asked the police, in the presence of witnesses, to “find a charge against him.”¹⁶¹

Even in treason or terrorism cases, the suspect is charged in a magistrates’ court (though the trial will eventually be heard in the High Court). Although these offenses bear the death penalty, the charges are stated with few or no details—presumably because the authorities do not have any details or indeed any facts available to be more specific about what the accused did that violated the law. In many cases, according to the testimonies of many victims, the authorities have a coerced confession.

Charges brought in a court martial have been even less detailed. For instance, the General Court Martial charges in the case of Dr. Steven Wilson Mukama described above contain a “Count I”, which states, after listing the names of the accused, that they “and others still at large at various places in Uganda did commit acts of Terrorism.” There was no place or date indicated, nor name of any rebel group. Count II is a description of the gun which this group of six men are alleged to possess, “without a valid firearms licence.” Count III, the last count in the charge, is that these accused “and others still at large were found in unlawful possession of Government Stores to wit one plain green military cap and a pair of Captain’s pips the property of Uganda Peoples Defence Forces.”¹⁶²

Based on these three allegations—one lacking in all detail, another seemingly unsubstantial (especially in a country where many wear cast-off military clothes), and a

¹⁶¹ Human Rights Watch interview, civil litigation advocate, Kampala, June 16, 2003

¹⁶² *Uganda vs. Mukama Wilson Stephen, et al.*, General Court Martial, Case No. UPDF/GCM/017/2002, September 16, 2002.

third stating that all six were in possession of a gun—a group of defendants has been kept in prison for more than a year.

Forty-Eight Hour Law for Charging Detainees Routinely Broken

Under Article 23 of the Ugandan constitution, a suspect may be detained for only forty-eight hours without charges, that is, without presentation of the accused to a judicial authority with charges that he violated the law.¹⁶³

According to the testimonies HRW and local human rights groups among others have gathered, in Uganda, severe torture tends to be applied soon after arrest in order to compel the suspect to provide information. It may be renewed later as well. But the danger of torture and ill treatment is particularly high—in all countries where torture is practiced—during the initial period. If the detaining authorities are required to charge the suspect within the first forty-eight hours, in front of a civilian court—and actually comply with that requirement—the likelihood that he will be tortured immediately after arrest decreases. Forty-eight hours is not sufficient for him to lose the marks of torture. A court observing such marks may well discard the suspect’s testimony or impose sanctions on the detaining power, and his relatives may well raise the alarm.

Yet this rule is “generally disregarded or dispensed with,” according to FHRI, a Ugandan human rights group.¹⁶⁴ “Illegal detentions continue to be the biggest challenge: detained persons stay in police cells beyond the 48 hours” mandated in the constitution, according to the UHRC—and referring only to police detention.¹⁶⁵ The UPDF and particularly its intelligence arm, the Chieftaincy of Military Intelligence, have held “rebel” combatants and other suspects in barracks or CMI locations for months at a time.

In his ruling on the case of the Gulu Prisoners (see above), the High Court judge, citing Article 23(4)(b) of the constitution regarding the forty-eight hour rule, said, “There is no other short cut to this Article. Whatever crime a person is suspected to have committed, the Constitution makes it imperative for him or her to be taken to Court not later than forty-eight hours. Any time beyond that becomes unlawful arrest or detention.”¹⁶⁶

FHRI regularly visits police stations. It has found that some suspects are detained in a separate wing of police stations and are referred to as “terrorists.” They are under the

¹⁶³ Ugandan Constitution, article 23 (4).

¹⁶⁴ FHRI, “Human Rights Reporter,” p. 48.

¹⁶⁵ UHRC, *Annual Report*, p. 18.

¹⁶⁶ Ruling, *In the matter of Application for the Writ of Habeas Corpus and Subjucendum by [applicant]*, High Court at Gulu, February 17, 2003.

jurisdiction of the JATF, not the police. These terrorism suspects are admittedly detained longer than forty-eight hours, purportedly because of the “nature” of terrorism. Some have been released and re-detained.¹⁶⁷ The police told FHRI, “We have no files on them, we only keep them here. Whenever CMI wants their suspects, they come and pick them. Sometimes they release some of them.”¹⁶⁸

Bail and Habeas Corpus Inaccessible: Shortage of Defense Lawyers

In Uganda, in capital cases only the High Court may grant a petition for bail. There are a limited number and locations of the High Courts in Uganda.¹⁶⁹ Bail in non-capital cases is at the discretion of the court and in some events may be granted after only 120 days in remand, considerably less time than the 360 days that must lapse before bail may be granted in capital cases. (see below)¹⁷⁰

The most successful recourse available for suspects detained incommunicado in politically motivated cases is for their relatives, friends, or associates to retain an attorney to seek a writ of habeas corpus from the High Court, the only court authorized to issue such a writ.¹⁷¹ That writ directs the agency believed to be holding the suspect to show cause why he should not be released.

As illustrated in the cases discussed above, even the application for the writ of habeas corpus may spark the agency into action. If it wants to retain the suspect in custody, it promptly brings charges—treason or terrorism—against him and he is sent to Kigo or Luzira Prison, where to the best of HRW’s knowledge there is no torture. The writ can be successful in stopping torture, and may prevent a summary execution, but it is not as helpful in producing the release of the suspect, as the authorities almost always charge

¹⁶⁷ Human Rights Watch interview, Livingston Sewanyana, FHRI, Kampala, June 12, 2003.

¹⁶⁸ FHRI interview with officer in charge at Central Police Station, Kampala, April 2002, cited in FHRI, “Human Rights Reporter,” p. 48.

¹⁶⁹ UHRC, *Annual Report*, p. 49: The High Court conducts sessions by riding circuit, that is, by judges physically moving from one courthouse to another. High court circuits will be created at Masaka, Mbarara, Fort Portal, Gulu, Mbale, Jinja, and Nakawa. Plans are underway to extend them to Kabale, Masindi, Soroti, and Arua. *Ibid.*

¹⁷⁰ Uganda Constitution, article 23: (6) Where a person is arrested in respect of a criminal offence . . .

(b) in the case of an offence which is triable by the High Court as well as by a subordinate court, the person shall be released on bail on such conditions as the court considers reasonable, if that person has been remanded in custody in respect of the offence before trial for one hundred and twenty days;

(c) in the case of an offence triable only by the High Court, the person shall be released on bail on such conditions as the court considers reasonable, if the person has been remanded in custody for three hundred and sixty days before the case is committed to the High Court.

¹⁷¹ *Habeas corpus* is Latin for “you have the body.” The writ dates back hundreds of years in English common law. Traditionally anyone may seek a writ, but in practice this job has devolved to lawyers.

the suspect instead of producing him in court in response to the habeas corpus, or releasing him.¹⁷²

But both bail and habeas corpus applications may depend on the accused having a lawyer to represent him or her. And although the accused has a right to counsel at the time of detention,¹⁷³ most detainees are poor and do not have an attorney.

The right to state-funded counsel arises only in a capital case, and even in such cases, the accused does not have a state-provided attorney until the time of trial, after the prosecution has had a year (360 days) and more to prepare the case.¹⁷⁴ Some criminal defense attorneys back away from political cases, on account of indirect threats from people “close to” the ruling party. In addition, many persons—attorneys and others—commented at the time of Human Rights Watch’s September 2003 visit to Kampala that their telephone and email use was being monitored by security, citing recent statements by President Museveni.¹⁷⁵

Those who do not have sufficient funds to hire an attorney to speak for them at the time of their detention are likely to spend much longer in custody and are at greater risk of torture.

Lack of Access to Medical Treatment

The Uganda Constitution requires that a detainee shall be allowed reasonable access to his personal doctor and to medical treatment, including private medical treatment.¹⁷⁶ Nevertheless, torture victims frequently report that they received no medical treatment

¹⁷² Human Rights Watch interview, Joseph T., Kampala, June 12, 2003. Joseph is not his real name. Human Rights Watch has received reports, however, that at least three prisoners held in Kigo Prison were removed for further interrogation in CMI or JATF although the prisoners were told that they were being picked up to be taken to court. Email, anonymous researcher to Rone.

¹⁷³ Uganda Constitution, article 28 (3):

Every person who is charged with a criminal offence shall . . .

(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

¹⁷⁴ If the defendant is to be charged in a court martial, he must have an attorney present, so an attorney is appointed by the ministry of defense from among designated ministry of defense attorneys immediately before the charges are presented.

¹⁷⁵ See Badru D. Mulumba, “So, did Museveni listen in to Ogwal’s heart-to-heart?” *The Monitor*, Kampala, October 1-6, 2003.

¹⁷⁶ Uganda Constitution, article 23 (5), (6).

while in the hands of their interrogators—even when such illegal detention lasted months. Many reported that the first medical attention they received was in prison, or upon release. In some cases, it seems that the authorities belatedly realize the damage they or their colleagues have done with torture and/or medical neglect, and even seem to let the victim go out of pity. They nevertheless attempt to cover up their liability by releasing him with warnings to keep quiet.

Part of the necessary cover up is a medical statement that is incomplete or inaccurate. In one case of torture, a military doctor provided the diagnosis of hernia that required surgery.¹⁷⁷ But according to the victim, and a doctor who later examined him, he did not suffer from a hernia but from CMI interrogators who stabbed his testicles with needles. He did not receive medical care and the wound “became rotten,” in his words.¹⁷⁸ The African Center for Treatment of Torture Victims (ACTV) is active in treatment of torture victims, and the UHRC refers cases to it.

The ACTV was founded by a medical doctor who was himself tortured in 1981 under the second government of Milton Obote. The ACTV has treated victims of LRA torture as well as victims of government abuse. While the center was able to provide physical therapists, psychologists, and others to treat the torture victims for six years, funding ran out and this center, the only place in Uganda where such treatment was available, ceased providing such care.¹⁷⁹

Right of Access to Family Members Denied

It is during the first days of detention that torture is most likely to occur, and when access to family and others is most crucial to curb torture, as they would be in a position to receive the suspect’s complaints and serve as witnesses of his physical condition. Without outside contact, a detainee is also far more vulnerable to physical and psychological pressure to confess to crimes he or she may not have committed.

The Ugandan constitution provides the detainee the right to have his family members advised of the detention “as soon as practicable” and the family member has a right to “reasonable access” to the detainee.¹⁸⁰

¹⁷⁷ Human Rights Watch saw a certification from UPDF medical services for the victim, age twenty-six, whose testicles were removed because of a “hernia.”

¹⁷⁸ In this case, the victim risked retraumatization when the UHRC sent him back to CMI, his torturers, for a medical checkup. Instead, he went into hiding. Human Rights Watch interview, doctor, Kampala, June 16, 2003.

¹⁷⁹ Human Rights Watch interview, Dr. Fred Nsamba, ACTV, Kampala, Uganda, June 16, 2003.

¹⁸⁰ Uganda Constitution, article 23 (5) (a), (b).

Use of Confession Evidence

In the criminal justice system, evidence collected by the police is admissible in court against the accused, if it meets various criteria. The police are the legally designated government agency for this purpose. Most of the evidence gathered by the UPDF, CMI, ISO, and other services is derived from confessions which are not admissible in evidence if they are not taken by the police pursuant to the evidentiary requirements—one of which is that the person giving the statement has not been coerced but speaks freely.

From the testimonies gathered, it appears that coerced confessions are used as the basis for detention, and that safeguards against this abuse are ineffective. The use of these confessions to secure prolonged detention encourages the interrogators to use torture in order to extract confessions, rather than locate and rely on other evidence.

VI. Compounding the Abuse: Prolonged Detention, Courts Martial

360-day Detention Before Setting a Date for Trial

The Ugandan Constitution, article 28 provides: “(1) In the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law.”¹⁸¹

However, aspects of the current system in handling capital cases in particular mean that this right is often violated. There are three tiers or stages the defendant must pass through before trial. There is the initial forty-eight hour period before being charged—as described above, commonly violated. After the initial charges are made, in capital cases, the prosecution can relax. The Ugandan constitution provides that suspects charged with a capital offense—which includes treason and terrorism—may be held in pre-trial detention for up to 360 days.¹⁸² At the 360th day, the case is set for trial, at which time evidence must be available to warrant holding the defendant further, and when the defendant enters his plea. If by the end of 360 days there is not sufficient evidence to warrant a trial, then the defendant must be freed.

This lengthy period of 360 days allows for and encourages police and prosecutorial inefficiency in the gathering of evidence.¹⁸³ Certainly the police are not under any time pressure to collect evidence while it is still fresh. Although the prosecutor is required to appear at the magistrates’ court every two weeks or so with the prisoner, the prosecutor routinely says, “Investigation still pending,” or “the investigation is still continuing, we

¹⁸¹ International Covenant on Civil and Political Rights, article 9 (3) provides:

anyone detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial.

See also ICCPR, article 10, General Comment 21 (3):

Thus, not only may persons deprived of their liberty not be subjected to treatment that is contrary to article 7, including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. Persons deprived of their liberty enjoy all the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment.

¹⁸² Uganda Constitution, article 23 (6) (c): “in the case of an offence triable only by the High Court the person shall be released on bail on such conditions as the Court considers reasonable, if the person has been remanded in custody for three hundred and sixty days before the case is committed to the High Court.”

¹⁸³ Human Rights Watch interview, law professor, Kampala, June 12, 2003.

need a further remand.” The court routinely grants another adjournment and remands the prisoner to prison.

Prolonged Detention Awaiting Trial: As Years Go By...

Even if the evidence is sufficient for trial, the defendant must wait again. The wait for trial may be the longest period of all, and there is no time limit set by legislation on this stage, regardless of whether or not the defendant has been able to post bail.

The indefiniteness of the time the defendant must wait for trial, usually in jail because of unavailability of bail, can be converted to pressure on the defendant to abandon his right to fair trial and to sign a request for amnesty, thereby admitting guilt.

Thus there are few cases of treason or terrorism that actually are tried. The charges are used instead to justify prolonged arbitrary detention, sometimes for years.

Civilians Tried in Courts Martial

According to the government of Uganda, a law of 1989 permitted civilians found in association with the military in the commission of crimes could be tried in courts martial.¹⁸⁴ The court martial has wide jurisdiction, not only over retired military officers but also over civilians believed to be acting together with any active duty or retired soldier or officer. Thus, in the Bukonya case in October 2003 (above), nine persons were charged with terrorism before a court martial, although only one was military, and he was retired.¹⁸⁵

Trying civilians in a court martial (a military tribunal) is an abuse of the civilian defendant's rights to a fair trial. Courts martial abridge many constitutional and international rights of military personnel, and this is usually justified on the basis of greater need for discipline in the armed forces. To impose these limitations on the rights of civilians and ex-military personnel, however, is not reasonably related to this justification. Those who leave the military after serving a term are civilians for other purposes; they are not required to reside in barracks, wear uniforms, and so forth. Mere membership in the army in youth should not be the basis for life-long subjection to jurisdiction of the military justice system.

In a significant departure from the fair trial rules in civilian courts, the judges in a court martial are military officers who are not required to, and do not have, any legal training.

¹⁸⁴ Human Rights Watch interview, telephone, court martial attorney, October 8, 2003.

¹⁸⁵ *Ibid.*

They are advised by a qualified lawyer, called a judge advocate, who is not a member of the court martial and does not have a vote on the proceedings.¹⁸⁶

Courts martial rarely grant bail, which is a serious limitation for civilians who constitutionally enjoy the right to more freedom of movement than do military personnel. However, in one aspect that is marginally better than in the civilian courts, the defendants in courts martial have the right to an attorney when they are charged with a death penalty offense, rather than only at trial, and the ministry of defense will appoint a lawyer if they do not have one.¹⁸⁷ However, these lawyers lack independence. The right to retain private counsel is at the discretion of the court martial, usually granted.

The rules of evidence are flexible in the court martial and much lies in the discretion of the judges, who are not lawyers. Therefore confessions obtained through alleged torture may be more easily admitted in the court martial trial.

¹⁸⁶ *Ibid.*, and Human Rights Watch interview, criminal defense attorney, Kampala, September 24, 2003.

¹⁸⁷ Human Rights Watch interview, telephone, court martial attorney, October 8, 2003.

VII. The State Response

The mechanisms for holding government agents accountable are usually not effective in Uganda—and the government seemingly has no desire to make them so, despite a constitutional provision for government agents' accountability.¹⁸⁸ Nevertheless, parliament, the Ugandan Human Rights Commission, and the courts, among other institutions, do provide possibilities for putting pressure on the executive authorities to halt abuses. Even the ordinary police can in some cases—such as that of Adele, above—be helpful in reducing abuses by other security agents, though—as in Adele's case—they are often ultimately powerless in the face of the UPDF, CMI or other military or security agencies.

A human rights NGO, FHRI, put together a dossier of torture cases and sent it to the Minister of Internal Affairs for his action (as well as to the UHRC). The then minister, Eriya Kategaya, said that he would instruct that the possible perpetrators be investigated. The FHRI, however, did not receive feedback on this list. The cabinet member to whom they submitted the list was dropped from the cabinet in a March-April 2003 shuffle.¹⁸⁹ The government denies all allegations of torture.

Parliament

Responding to public concern at the sorts of abuses described in this report, the Parliamentary Committee on Defence and Internal Affairs (PCDIA) formed in 2002 an ad hoc select committee to undertake a study of torture, safe houses, and other places of ungazetted detention. Among other things, its members visited prisons and interviewed many torture survivors. Prisoners and others presented lists, names, and testimonies to the committee. The parliamentarians did not attempt to visit CMI or any military barracks, however.¹⁹⁰

A frequently-mentioned safe house or illegal place of detention the sub-committee did visit was the one located on Clement Hill Road in Kampala, the Operation Wembley

¹⁸⁸ Ugandan Constitution, article 26.

¹⁸⁹ Human Rights Watch interview, Livingston Sewanyana, Kampala, June 12, 2003.

¹⁹⁰ Draft, report of Sub-Committee of the Parliamentary Committee on Defence and Internal Affairs (PCDIA), undated. The sub-committee comprised a chairperson and four members, one of whom had the title of captain; under the Ugandan Constitution, seats in Parliament are set aside or reserved for military personnel so it seems that the sub-committee included military personnel who were members of parliament. The sub-committee concluded that there was no torture in the facilities that it visited: JATT headquarters; the former Operation Wembley headquarters on Clement Hill Road; Najankumbi I House, a training facility for ISO which was relocated in December 2002 to Heritage Park; Heritage Park, a new not-yet-operational training facility for ISO; and ISO headquarters (the only surprise visit). The sub-committee noted that the former dungeon at ISO headquarters had been turned into an armory and document storage area. Draft report, undated.

headquarters.¹⁹¹ The parliamentary sub-committee visited that location after December 2002, according to its draft report, part of which Human Rights Watch saw. It was not a surprise visit. It found that the former Operation Wembley headquarters was no longer a headquarters. It observed two cells where prisoners were held, and one prisoner waiting in reception. It concluded that there was no torture going on (at the time of the visit).¹⁹²

The draft report of the PCDIA has not been finalized and it has not been made public, nor has the matter has not been debated or considered further by Parliament. According to one parliamentarian, the draft report has been shelved three times. The Movement system has a majority in Parliament: of 305 parliamentarians, there are only eighty in active opposition.

Although the report is not final nor public, Colonel Noble Mayombo of CMI referred to it in his reply to a letter from Human Rights Watch, indicating that the Parliamentarians (or some of them) reached conclusions on the credibility of some of the victims mentioned in HRW's letter.¹⁹³

Uganda Human Rights Commission

The Uganda Human Rights Commission (UHRC) was established under articles 51 to 59 of the 1995 constitution. The UHRC is entrusted with a wide variety of important functions, including the ability to initiate investigations of human rights violations; to have access to and monitor detention conditions; to conduct educational and other activities to promote human rights awareness; and to monitor and make recommendations for government compliance with its international obligations. The UHRC is empowered to subpoena any witness or document, order the release of any detained person, and recommend payment or compensation, or any other legal remedy after it finds the existence of a human rights abuse. However, the commission cannot investigate any matters pending before a court of law, matters relating to Uganda's dealings with other countries or international organizations, or matters relating to the prerogative of mercy. The powers, functions, and structure of the UHRC are

¹⁹¹ Human Rights Watch interview, office near Clement Hill Road, Kampala, June 16, 2003. Some working nearby reported many comings and going by cars without license plates, usually a sign of security officials.

¹⁹² Draft report of Sub-Committee of the PCDIA.

¹⁹³ For instance, in response to the allegations by Dan Mugarura of use of snakes to terrify prisoners, the Ugandan government stated, "These allegations were dismissed as wild and unsubstantiated by the Uganda Parliamentary committee investigating into allegations of torture. The Committee visited the alleged "safe houses" and the Speaker of Parliament can avail the report they made thereafter." Letter, Colonel Mayombo to Rone, March 13, 2004. This remains to be further investigated by HRW.

implemented in greater detail by the Uganda Human Rights Commission Act passed by parliament in 1997.¹⁹⁴

The UHRC has investigated torture cases and, pursuant to its procedures, held hearings by the UHRC tribunal.¹⁹⁵ The Commission is a standing body whose powers, set forth in the constitution, include the powers of a court.¹⁹⁶ The agency of government found guilty of the torture or other illegal conduct by the Commission may appeal the decision to the High Court. In some cases the Commission has awarded damages for torture. Many such cases are pending before it. In one case, it awarded 59 million Ugandan shillings as damages to a torture victim.¹⁹⁷

Some 70 percent of the complaints disposed of by the Commission from January 2001 to September 2002 involved torture (eleven of eighteen complaints).¹⁹⁸ The UHRC could not easily investigate all torture cases, however. Although the UHRC has a constitutional mandate to visit and inspect all places of detention, it has not been able to gain access to UPDF facilities without notice, nor to CMI under any conditions. The UPDF has required the Commission to notify army authorities about any impending inspections, a condition that is “flawed in many respects.”¹⁹⁹

The UPDF has used notice to hide its crimes from outsiders. For instance, in Kasese, the UPDF ordered a civilian prisoner, who was held in a hole in the ground twenty-one hours of the day, to don a UPDF uniform and stay out of the hole during the day of a prison visit by an international agency.²⁰⁰ The Ministry of Defense has never agreed to any other mechanism for visits.²⁰¹

The disadvantage of the UHRC as a venue for recourse in case of torture is that their awards are not as generous as a victim might receive by retaining an attorney to take the case to the High Court. Nevertheless, the Director of Public Prosecution (DPP) wanted

¹⁹⁴ See Human Rights Watch, *Protectors or Pretenders*, chapter on Uganda.

¹⁹⁵ Human Rights Watch interview, Veronica Eragu Bichetero, June 13, 2003.

¹⁹⁶ Uganda Constitution, article 53 (1). The court powers include the issuance of summons and the power to compel testimony, on pain of contempt of court.

¹⁹⁷ *Stephen Gidudu vs. Attorney General*, UHRC at Kampala, February 26, 2003.

¹⁹⁸ UHRC, *Annual Report*, p. 102.

¹⁹⁹ *Ibid.*, p. 38. In 1998 the UHRC was part of a delegation that entered one UPDF facility after giving notice. *Ibid.*

²⁰⁰ Human Rights Watch/FHRI interview, Hassan, Kasese, April 2002 (above).

²⁰¹ UHRC, *Annual Report*, p. 38.

to meet with representatives of the UHRC to discuss the Commission's "excessive awards," according to one commissioner.²⁰²

The UHRC theoretically may process cases faster than the High Court, but that does not mean that the process is speedy. One complainant said, "The commission takes too long. It is better to force the government to hand over the accused to an international court of law."²⁰³ The rules of the Commission were changed to improve service; the Tribunal now consists of one commissioner, as opposed to three. This eases scheduling quite a bit. Only a commissioner may sit on the Tribunal, although there are some 110 employees of the UHRC.²⁰⁴

Civil Suits for Damages for Torture

In at least one recent High Court case (Gulu), damages have been awarded to torture victims that may have a deterrent effect. More such judgments in private suits will probably be required, however, to bring sufficient monetary and public pressure to force the authorities to act decisively to end torture.

Civil litigation for damages for torture have sought remedies available in other cases of injuries. Where the person has been detained illegally, damages are sought for that rights violation as well. The most detailed analysis to date of the amounts awards and the circumstances under which they were awarded is in the decision by the Gulu High Court in February 2003 (see above).²⁰⁵

²⁰² Human Rights Watch interview, Veronica Eragu Bichetero, Kampala, June 13, 2003.

²⁰³ Human Rights Watch interview, Ibrahim Lwere, June 18, 2003.

²⁰⁴ Human Rights Watch interview, Veronic Eragu Bichetero, June 13, 2003.

²⁰⁵ Ruling, *Hon. Ronald Reagan Okumu and John Livingstone Okello Okello vs. Attorney General*, High Court at Gulu, February 14, 2003.

Appendix A: Letter from Colonel Noble Mayombo, CMI, to Human Rights Watch, received March 13, 2004

Jemera Rone
Uganda/Sudan Researcher
Human Rights Watch
1630 Connecticut Avenue NW
Washington DC 20009
202-612-4328

Thank you for honouring your promise to include me, and the Government of Uganda, on those with a right to be heard, before publishing your next report on Uganda.

I have no doubt in my mind that his method of work will advance the cause of protection and preservation of human rights in Uganda.

PREAMBLE:

1. Uganda 1962 Independence Constitution was abrogated in 1966 opening a sad chapter in our history where many sections of the political elite believe that **power can only be accessed through the barrel of the gun.**
2. Uganda borders with Rwanda to the south, where, many perpetrators of the 1994 genocide are still at large, DRC to the west which is a failed state with the size of western Europe, and Sudan to the north being the largest country in Africa still dominated by an Islamic fundamentalist group and a war which has been raging on its border with Uganda for almost 40 yrs.
3. The Government of Uganda has confronted, defeated and integrated over 15 armed groups since 1986 including UPDA, HOLY SPIRIT, UPA, UNRF I AND II, WNBF, FDA, UFM, ADF, FOBA, UCDA, NDA, NOM, NALU etc.

LRA in northern Uganda, ADF and PRA in Eastern DRC are still active and coordinated. Some elements formerly in the groups above are unemployed and regularly contacted by political groups for recruitment to support their "cause."
4. The LRA which abducts children and arms them has displaced over 1.5 Million people and continues to cause mayhem, like the recent Barlonyo massacre on behalf of Sudan. All attempts to talk peace with its terrorists leaders have not borne fruits.

5. Uganda is managing a post-Congo conflict which had attracted 6 other national armies from August 98 to June 2003. The DDRRR which was an important element of the Lusaka Cease fire Agreement of 1999 was never implemented by the International Community . Armed groups still operate in the DRC.
6. Uganda has gone through an 8 year Constitution making process with a very wide consultative mechanism leading to a Constitution that among other things;
 - a. Makes the army subordinate to civilian authority and control.
 - b. Decentralises power from the centre to the districts.
 - c. Entrenches a strict legal and administrative regime for the preservation and protection of fundamental rights and freedoms.
 - d. Establishes among others a broad based political system to encompass the diverse cultural, historical, political and economical interests of all.
 - e. Establishes a broad system of political representation to include special interest group of women, people with disability, youth, workers and the army.
 - f. Establishes an independent Judiciary which regularly exercises its powers including issuing writs of habeas corpus to grant freedom to suspects not presented to court in time.
 - g. Establishes a permanent human rights commission with powers of a high court.
7. To support this young democratic order, Government started a universal primary education programme 7 years ago which is fundamentally changing the spectrum in the peoples' knowledge of their rights and freedoms.
8. Uganda Government was among the first in Africa to enact a law establishing and regulating the functions of Intelligence services and in particular the respect of fundamental rights and freedoms of the people.
9. A very free media which is supporting the democratisation programme and human rights.
10. However obstacles include a small, poorly facilitated and motivated police force of approximately 16,000 compared to a population of over 24 million. It needs support from other security organs to do its work at least in the short run, till it is able to handle it alone.

11. A negative culture among sections of the political elite going for elections only to win.

They use religion, ethnic divisions and are ready to be used by extra-Ugandan interests to access power.

Even when they go to court to contest the results of the elections, they do not respect the verdict of the courts and resort to violence including coordinating with terrorist groups like the PRA, LRA, and ADF. When this does not bring immediate results they adopt disinformation campaign taking advantage of the weaknesses of our economies (most of which are donor supported) to malign the government with unsubstantiated allegations.

12. As an advocate of the High Court majoring in human rights, in addition to my military intelligence duties, I am of the considered view that to get a comprehensive and unbiased picture of the human rights situation in Uganda, you may consider;
- a. Establishing a minimum presence in Uganda or if this is not possible,
 - b. A working relationship with independent and impartial groups.
 - c. Regular visits to the affected areas to assess for yourselves the workings of the Government especially in the area of accountability and good governance.

Looking forward to a closer and constructive relationship with you

I remain

Yours truly

NOBLE MAYOMBO (MP)
Col
CHIEF MILITARY INTELLIGENCE & SECURITY.