

LSH  
Heard at: Field House

LM (Acholi – LRA – internal  
relocation) Uganda CG [2004]  
UKIAT 00107

On 28 April 2004

## **IMMIGRATION APPEAL TRIBUNAL**

Date Determination notified:

17 May 2004

**Before:**

**Mr G Warr (Vice President)**  
**Mr A Jordan (Vice President)**  
**Mr A Smith**

**Between**

**APPELLANT**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**RESPONDENT**

**Representation:**

For the appellant: Miss L Maroof, of Counsel, instructed by  
Sills & Betteridge, Solicitors  
For the respondent: Mr J McGirr, Home Office Presenting Officer

### **DETERMINATION AND REASONS**

1. The appellant, a citizen of Uganda, appeals the determination of an Adjudicator (Mr M C Field) who dismissed her appeal against a decision of the Secretary of State to refuse her application for asylum.
2. The appellant is of the Acholi tribe. The appeal was listed before two Vice Presidents in order that guidance might be given on the question if appropriate of the availability of the internal relocation option for displaced Acholi. There was an extensive

background bundle helpfully prepared by those instructing Counsel. The representatives had apparently been made aware that this was a proposed country guidance case. Counsel apologised for the fact that the bundle had been sent late. While no expert evidence on the objective situation had been lodged she was ready to deal with the case on the material which had been made available before the Adjudicator and which was before the Tribunal. Mr McGirr relied on the October 2003 Uganda Country Information report.

3. The material in the appellant's bundle relating to the objective situation is as follows:
  1. A Human Rights Watch Report entitled "Abducted and Abused": renewed conflict in Northern Uganda dated July 2003.
  2. A report by the Church Mission Society (Northern Uganda Subsite) entitled "A People living in Fear".
  3. A further report by the Church Mission Society entitled "Child Soldiers".
  4. A Reuters' report dated 25 August 2003 entitled "Uganda's Lords Resistance Army tightens grip on North".
  5. A Human Rights Watch Report dated 29 July 1998 entitled "Northern Uganda and Sudan's support for the Lords Resistance Army".
  6. An Amnesty International News Released entitled "Amnesty International calls for release of school girls abducted by the Ugandan armed opposition Lords Resistance Army" dated 29 October 1998.
  7. A report by Africa Online dated 29 September 2002 entitled "Arua-Bound bus burnt, 48 missing".
  8. An ABC News online report about rebels killing 18 villagers in Northern Uganda entitled 31 October 2003.
  9. A further ABC News Report concerning Ugandan rebels killing 60 according to church officials. The report is dated 9 November 2003.
  10. An IRIN news report on the crisis in Northern Uganda compiled in 2003.
4. The appellant's evidence was that she was abducted from her school by the Lord's Resistance Army on 9 October 1998. She

remained in LRA custody until January 1999. She was beaten, raped and treated as a sex slave. She escaped to Gulu. She then returned to her father's village. She left the village for the refugee camp known as Pabbo. In 2001 the police asked who had escaped from the rebels. The appellant admitted that she had and she was taken to Kampala for questioning. She was detained for 3 months. After 3 months she was released on condition that she reported to a police station in Gulu once a month. After the appellant's release she did return to the camp and reported every month at the police station for several months.

5. She joined an association known as the Northern Uganda Youth Association to fight Torture and Child Abuse (NUYATCA). She also taught English part-time. The appellant was returning to the camp from her part-time job on 6 June 2003 when it was attacked. She was able to go back to her employers' house which was also in Gulu. Because her employer and the appellant were concerned that the rebels might attack the whole village she and her employer left and fled into the bush. The appellant's brother was among the rebels and he had in fact killed the appellant's mother. The appellant was told he had also sworn to kill her.
6. The appellant separated from her employer and made her way to the refugee camp in Bweyele. On her way she met her uncle who was a policeman. He told her (see paragraph 14 of the appellant's statement) that as the appellant had not reported during the past few months the police had prepared a letter to arrest her. The letter was dated 26 May 2003. The Uncle made arrangements for the appellant to leave the country. Meanwhile the appellant remained in hiding at his house. On 7 June 2003 the appellant left Bweyele and travelled by truck. She boarded an aircraft on 18 June 2003. She arrived in the United Kingdom the following day and applied for asylum. The decision under appeal was taken on 6 August 2003.
7. The Secretary of State considered the appellant's account to be implausible and rejected it for reasons set out in the letter refusing the application. The Secretary of State was not, regrettably, represented at the hearing before the Adjudicator.
8. At the hearing the appellant confirmed and adopted the contents of her interview record and statement with two amendments to the interview record.
9. There was before the Adjudicator a report by Dr Lesley Lord detailing areas of scarring on the appellant.

10. Having reviewed the evidence and having correctly addressed himself on the burden and standard of proof and other relevant legal issues, the Adjudicator concluded his determination as follows:

#### "Credibility"

9. I do not find the latter part of the appellant's account on which she based her fear of the authorities to be credible. The cumulative effect of inconsistencies, implausible claims and unreliable documents completely undermined her claim to fear the police and the authorities. As for her claim to have been abducted, ill-treated and abused by the LRA my initial reservations have been allayed by the medical report and the consistency of her account with the objective evidence.

#### Medical Report

10. Dr Lesley Lord detailed 13 areas of scarring of which she found 11 to be "consistent with" the history give by the appellant and the remaining 2 could have been caused in the way described by the appellant. Whilst "consistent with" is low on the scale of causation I find that the number and variety of trauma is such that the cumulative effect is compelling. I find it likely that the appellant was ill-treated and abused and in the way she claimed. Dr Lord gave no unequivocal diagnosis of PTSD but noted symptoms (flashbacks and lack of concentration) associated with PTSD. I noted that the appellant told Dr Lord that she was a Muslim (inconsistent with her answer in the screening interview 1.12): and that after her escape in January 1999 and 2 night in the displaced persons where she stayed until June 2003. This was inconsistent with the appellant's previous account and omitted any mention of arrest and detention by the police.

#### Objective Evidence

11. The section on the 'Latest LRA attacks' in the CIPU Assessment ends in March 2003 (6.137/8). I note the July 2003 Human Rights Watch report which refers to attacks by the LRA in May 2003 among others. I also note news reports of LRA attacks in September, October and November 2003. In the latter report it was alleged that more than 60 people were killed in villages and schools in Lira district. I have no reason to doubt the substance of these reports even if the figures for fatalities are not accurate.

12. The inconsistencies in the appellant's accounts include:
- (i) on her own original account she did not meet up with her uncle until 6 June 2003 as prior to that she had not been sure where he was staying. She did not meet him by prior arrangement but he just happened to have a copy of the warrant for her arrest (issued in Kampala a couple of hundred kilometres away) and to have raised money by the sale of cattle and land in order to pay an agent to take her out of the country.
  - (ii) she gave no credible reason for ceasing to report to the policy monthly in Gulu when she remained in the same refugee camp.
  - (iii) she maintained that the LRA attacked Pabbo camp in June 2003 whereas the objective evidence indicates that the attack was in June 2002 (see CIPU 6.124).
  - (iv) her failure to have mentioned detention for 3 or 4 months by the police to Dr Lord is consistent with that claim having been invented.
  - (v) the appellant claimed that she joined NUYATCA in 2002; her answer was recorded in interview as "2001"; whereas the date of issue of her membership card was 24 May 1999, see annex A1.
  - (vi) the passport (B1) with the appellant's correct details of date and place of birth and profession was issued on 27.11.2002, over 6 months before the events which she claimed caused her to run away to her uncle; and the visa (B2) was issued more than 2 weeks before the claimed attack on the camp where she was staying.
  - (vii) the letter from the International Summer School (B3) is dated 1/4/03, more than 2 months before the appellant claimed to have thought of leaving Uganda.
  - (viii) the purported warrant of arrest is of doubtful provenance, no credible reason having been given why the appellant's uncle should have been provided with it. The document has not been authenticated and is in a form which can be easily concocted. I find it to be an unreliable document of no evidential value.

- (ix) I do not accept that it is credible that the police would have waited until May 2003 to obtain a warrant for the appellant's arrest for treason. On the appellant's own account there were no grounds on which to accuse her of treason.
13. Having observed the appellant give evidence I am not persuaded that her concentration is defective to any significant degree. I do not accept that the scale of inconsistencies displayed in her different accounts were likely to have been attributable to lack of concentration. Whilst it may be that a number of the above criticisms might not on their own give rise to an adverse credibility finding, the cumulative effect, in my view, is fatal to the appellant's credibility in respect of her claimed fear of the authorities.

#### Internal Relocation

14. The objective evidence shows that the situation is still very dangerous in the appellant's home area both for innocent civilians and members of the government and the security forces. It is clear that the authorities are making a serious effort to provide protection for civilians but its adequacy is thrown into doubt by the frequency of successful rebel attacks (CIPU 6.61). I find it likely that the authorities are not able to provide adequate protection for civilians such as the appellant. However, the objective evidence indicates that members of the Acholi such as the appellant are free to live anywhere in Uganda including Kampala where there is adequate protection. The only real objection to relocation by the appellant was her claimed fear that she was wanted by the authorities. In the light of my finding that such fear, if it exists, is baseless, I find that it would not be unduly harsh for the appellant to relocate to Kampala or some other area away from the north."
11. In the grounds of appeal it was submitted that the Adjudicator had failed to give proper reasons for dismissing part of the appellant's account. The Adjudicator had failed to take into account that the appellant's uncle was a police officer. With regard to paragraph 12(ii) the appellant had explained in oral evidence why she had ceased to report. Concerning the passport and the letter from the International Summer School (paragraph 12 vi) and (vii) the Adjudicator had failed to take into account that the documents had been supplied by an agent. Besides referring to take matters into account, the Adjudicator had noted irrelevant considerations – the failure to

include her account of detention by the police in the account given to the doctor, for example. Such discrepancies as there were in the appellant's account were peripheral. The objective material had not been properly taken into consideration.

12. Counsel submitted that the omission from the medical report of the history at the police station was not as significant as it might have been had the omission been in a statement. The appellant would not have the opportunity to comment on what was in a medical report. The discrepancies regarding the date of joining NUYATCA were irrelevant. Proper reasons should have been given for rejecting the arrest warrant. The Adjudicator had not considered that the appellant's uncle was a police officer and would have access to the warrant. Counsel relied on the grounds of appeal. She submitted that the appellant would be suspected of treason. Her brother was a member of the Lord's Resistance Army. The police knew she had spent time with the rebels. She had been released conditionally.
13. Reference was made to the Human Rights Watch report. The Gulu branch of the Legal Aid Project had received complaints that Ugandan government authorities, mostly the UPDF had arbitrarily detained people on treason charges. The population of Northern Uganda was in a precarious situation. They were restricted to camps where they were vulnerable to LRA attacks and famine or they risked arrest for alleged rebel collaboration for trying to return to their homes and fields to plant or harvest food crops. The Adjudicator's finding that the appellant had not been charged was flawed in the light of the objective material. The soldiers arrested arbitrarily.
14. Counsel accepted there was scant information about Acholi in Kampala. There was no mention of Acholi relocating to Kampala. There was no evidence of any facilities for them there. The government had a policy of displacement. The main problem facing the displaced people in the camps was from the LRA.
15. Counsel submitted it would be unduly harsh for the appellant to relocate as a young woman from the Acholi tribe. She had been kept as a prisoner and sex slave. The doctor had diagnosed post traumatic stress disorder. Her family had been killed. She had someone to assist her in the shape of her uncle but he did not leave in Kampala. She would have nowhere to live. Although the country information report referred to the Acholi living in Kampala there was no reference to displaced Acholi living there. The country information report also referred to distinct tensions between ethnic groups. There was no evidence of support or assistance with re-integration.

16. Mr McGirr submitted there had been an attempt to resurrect the evidential value of the warrant. It was apparent that the alleged warrant had been prepared by a Magistrate although it had been suggested in the witness statement that the police had prepared the letter. There was no stamp on the arrest warrant which casts doubt on its authenticity. The majority of the grounds of appeal were just expressions of disagreement with the Adjudicator's conclusions. The Adjudicator had not relied on irrelevant considerations. He was entitled to consider the history set out in the medical report. The appellant had had the opportunity to correct the account prior to the Adjudicator hearing and had indeed at the hearing made certain amendments but had not referred to the history and the medical report.
17. The objective material, particularly the Human Rights Watch report, dealt with the situation in the North. It was to be noted that the arrest warrant had been issued in Kampala. Reference was made to the Home Office Country Information report. There was no evidence to suggest that internal relocation was not possible. Kampala was outside the influence of the Lord's Resistance Army. The Acholi on the evidence enjoyed a normal way of life in Kampala. Kampala was a multi-ethnic city and there was no evidence of discrimination or ill-treatment or of denial of medical and other services. The tensions between ethnic groups did not manifest themselves in civil disturbances. The appellant could accordingly live safely in Kampala and there was the possibility of some support provided by the appellant's uncle. The medical evidence did not disclose any particular mental condition requiring treatment. There was a passing reference to post traumatic stress disorder but not a diagnosis of such a disorder. There was nothing unusual in the appellant's appeal. Internal relocation would not be unduly harsh. It was speculative to suggest that she would be returned to a camp. The camps were mostly in the north. It was not a likely prospect that she would be returned there.
18. Counsel submitted that even if the arrest warrant were false, that did not mean that the appellant's account should be dismissed. Many suspects were detained without trial.
19. The fact that the CIPU report referred to distinct tensions between ethnic groups could not be swept aside. What was unusual about the appellant was the fact that her brother was a member of the Lord's Resistance Army and the police were aware of that. It was not submitted that it would be certain that the appellant would be forced to return to a camp but there was such a policy and there was no other system of support. The appellant would suffer a breach of her Article 3 rights in the camp.



20. At the conclusion of the submissions we reserved our determination. The evidence from the country information reports concerning ethnic groups in general and the Acholi people in particular is as follows:

### **Ethnic Groups**

- 6.65 The constitution prohibits discrimination based on factors of ethnicity; however, the government did not enforce the law effectively in matters of locally or culturally accepted discrimination against certain ethnic groups. Race was not a factor in national politics. The continued instability in the north led to violations of the rights of some Acholi, an ethnic group, which comprises a significant part of the population. Most violations of Acholi rights resulted from LRA actions.
- 6.66 There are over 20 ethnic groups of which Baganda, Banyankole and Basoga are the largest. Approximately 99% of the population is of African origin, and 1% European or Asian.
- 6.67 There is a major ethnic division between Bantu groups who live mainly in the south, and Nilotic groups who live mainly in the north. The main Bantu groups which make up about two thirds of the population are the Ganda, (Baganda, the largest tribe with 16% of the population), Soga (8%), Nyoro, Nkole (Banyankole 8%), Toro, Chiga (Kiga), Gisu, Gwere and Nyole (Banyuri). The West Nile tribes have only 6% of the population and are divided into the Lugbara, Alur and Madi tribes plus the smaller Kakwa. This smaller ethnic group ruled the country from 1971 – 1979.
- 6.68 There are distinct tensions between ethnic groups in Uganda, particularly between the north and the south, and this is one element used to explain the relative wealth and development in the south as opposed to the poverty and lack of resources in the northern districts. Membership of a marginalised Ugandan ethnic group does not automatically imply exclusion or discrimination.
- 6.69 The principle Nilotic groups are the Acholi, Langi, Karamojong, Teso, Madi and Kakwa. In the early years of independence there was an important community of about 70,000 Asian of Indian and Pakistani origin and about 10,000 Europeans. However, since the expulsion of “non citizens” (as they were described by the Amin Government) in 1972, both these groups have fallen to negligible sizes. The most widely spoken indigenous

language is Luganda (the language of Baganda) although English and Swahili are widely used as common languages.

## **Acholi**

- 6.70 The Acholi account for around 4.6% of Uganda's population. They live primarily in the districts of Gulu and Kitgum, in northern Uganda where communications are poor and villages isolated.
- 6.71 Civil strife in the north led to the violation of the rights of members of the Acholi tribe, who primarily resided in the northern districts of Gulu and Kitgum. Both government forces and the LRA terrorists, who themselves largely were Acholi, committed abuses. LRA fighters in particular were implicated in the killing and kidnapping of Acholi tribe members. The Government has responded by setting up "protected villages" which are guarded by UPDF forces. Whilst there have been reports of criticism of the UPDF for the sometimes heavy handed way in which they operate in protecting the population, there is little evidence to dispute that the "protected village" tactic has resulted in fewer attacks and abductions of civilians. However, they do generate problems of their own, such as preventing farmers from tending their land or planting crops.
- 6.72 There is no credible evidence to suggest that the Government persecutes the Acholi people or that UPDF personnel routinely target Acholi people as being rebels or rebel sympathisers. There are Acholi living in Kampala, a multi-ethnic city, and in all areas of Uganda. All citizens, including Acholi, are free to reside anywhere they wish and there is no formal obligation to register with the local authorities. All citizens, including Acholi, are entitled to vote. There are a number of Acholi MPs, some of whom are outspoken critics of the Government, such as Norbert Mao (MP for Gulu Municipality) and Ronald Reagan Okumu (sic) (MP for Aswa District).
- 6.73 There is no evidence to suggest that the Acholi are systematically denied access to education or medical services although attacks by the LRA on schools and hospitals, for example can interrupt the delivery of such services. Nor is there evidence to suggest that the Acholi are singled out for questioning about terrorism. In Acholiland it is obvious that investigations into acts of terrorism by the security forces will naturally involve interviewing Acholi, but it should be noted that the Acholi are predominantly the victims of LRA terrorism.

- 6.74 A full examination of the conflict in northern Uganda and the position of the Acholi is contained in "The Bending of the Spears", which is attached as source. The continued instability in the north led to violations of the rights of some Acholi. Most violations of Acholi rights resulted from LRA actions.
21. Counsel referred to distinct tensions between ethnic groups in Uganda but it is of course right to read the last sentence at paragraph 6.68 – membership of a marginalised Ugandan ethnic group does not automatically apply exclusion or discrimination.
  22. Counsel accepted there was scant evidence about treatment of the Acholi people outside the northern areas. Those instructing Counsel have been diligent in forwarding evidence and have supplied detailed material concerning what can only be described as an unsatisfactory situation for those in refugee camps in the north of Uganda. The IRIN report (compiled by a UN Humanitarian Information Unit) refers to the fact that about 80% of the entire Acholi population are internally displaced, living in camps with no food and poor sanitation. According to recent estimates over 800,000 people have been forced from their homes. It is reported that while the UPDF have attempted to protect the camps by stationing small detachments in the vicinity "they have found protecting such a massive displaced population spread over such a large area to be extremely difficult". There are difficulties with distributing aid, etc.
  23. We do not see evidence, however, of forced repatriation of Acholi from Kampala to the camps. The evidence in the country information report is if anything the reverse of this – it is stated that all citizens including the Acholi are free to reside anywhere they wish.
  24. We do not accept that simply as an Acholi the appellant would be targeted by the government in Kampala or that the LRA would be able to get their hands on the appellant, as it were, there.
  25. Counsel submits that the appellant is in a different position. In the grounds of appeal issue was taken with the Adjudicator's findings. It is clear that the Adjudicator looked at the material before him as a whole and he makes the point that not each observation he had of the evidence would have given rise to an adverse credibility finding taken by itself. He had considered the cumulative effect of the various points relied on – see the conclusion of paragraph 13 of the determination.

26. We do not accept that the Adjudicator overlooked the obvious point that the appellant's uncle was a policeman. The Adjudicator clearly had that well in mind – he refers to the uncle being a policeman in paragraph 3 of the determination.
27. The Adjudicator was in our view entitled to rely on the omissions and history given to the doctor. The appellant had had ample opportunity to comment on the matter prior to the hearing. She had made comments on the evidence as indicated in paragraph 7 of the determination and had expressed no reservations about the history given to the doctor. We do not accept that the Adjudicator took into account irrelevant considerations or based his determination unfairly on peripheral issues. We do not accept that he took points which were unfair, against the weight of the evidence, or not properly open to him to rely upon. We have looked at the purported warrant of arrest ourselves and have to say we agree entirely with the Adjudicator's observations upon it.
28. We do not disagree with the way in which the Adjudicator considered the position for the appellant on return. He was entitled to find the situation, while dangerous in the appellant's home area, did not render it unduly harsh for the appellant to relocate to other areas of Uganda including Kampala. He was entitled to find there was adequate protection there. He noted and was entitled to note that her only claimed fear of residing in Kampala was that she was wanted by the authorities. The Adjudicator properly concluded that any such fear was baseless.
29. Accordingly, we affirm the adjudicator's determination. On the material before us we find, for the reasons given above, it is not in general unduly harsh for Acholi to relocate, for example to Kampala. It is of course always necessary to consider the facts of each particular case to ascertain whether the individual would face risks or whether, for that individual, the internal flight option would not be viable.

G Warr  
Vice President  
6 May 2004