



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

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES  
PARTIES UNDER ARTICLE 19 OF THE CONVENTION**

**Initial reports of States parties due in 1988**

**Addendum**

**UGANDA\***

[19 May 2004]

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\* The information submitted by Uganda in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in HRI/CORE/1/Add.69.

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**List of acronyms**

ACTV	African Center For Tortured Victims
AVSI	Voluntary Association for International Service
CAO	Chief Administrative Officer
CID	Criminal Investigation Department
CMI	Chieftaincy of Military Intelligence
CPC	Criminal Procedure Code Act
DPP	Directorate of Public Prosecution
DSO	District Security Officer
ESO	External Security Organisation
FHRI	Foundation For Human Rights Initiative
FIDA	Federación Internacional de Abogadabos
GUSCO	Gulu Support the Children Organisation
HURINET	Human Rights Network, Uganda
HURIEC	Human Rights and Peace Center
IGG	Inspector General of Government
ISO	Internal Security Organisation
LC	Local Council
LCV	District Council
NGOs	Non-governmental organizations
NLTPS	National Long Term Perspective Studies
NRA	National Resistance Army
NRM	National Resistance Movement
NUDIPU	National Union of Disabled Persons in Uganda
OAU	Organization of African Unity
RDC	Resident District Commissioner
RSA	Resident State Attorney
UHRC	Uganda Human Rights Commission
UNAFRI	United Nations African Institute for the Prevention of Crime and Treatment of Offenders
UNLF	Uganda National Liberation Front
UPDF	Uganda People's Defence Force
URA	Uganda Revenue Authority
URCS	Uganda Red Cross Society

## I. COUNTRY PROFILE

### A. Physical features

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

### B. Demographic indicators

6. In 2003, Uganda's population was estimated at 24,748,977, an estimate based on a growth rate of 3.4 per cent per annum.

#### Table

**Projected demographic indicators for Uganda, 2003**

Female	12 624 216
Male	12 124 761
Rural population	21 720 166
Urban population	3 028 811
Female life expectancy	46 years
Male life expectancy	43 years
Annual population growth rate (1991-2002)	3.4 per cent
Crude birth rate	47.3 per cent
Crude mortality rate	17 per cent
Literacy rate (females)	10 years and above - 63 per cent
Literacy rate (males)	10 years and above - 77 per cent
GDP per capita (2002)	398 372 shillings
GDP growth rate	5.3 per cent
Government revenue (approved budget 2002/03)	1 432.6 billion shillings

*Source:* Uganda Bureau of Statistics.

## **Uganda's indigenous communities**

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

### **C. The economy**

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

9. Since 1997, there has been an annual growth rate of 5.5 per cent, a rise in educational enrolment from 60 per cent to 80 per cent, a decrease in infant mortality from 122 per 1,000. Government revenue collection has improved with the URA collecting 522.23 billion shillings in taxes in 1994/95, up from 135.95 billion in 1990/91.

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

11. The Government recently concluded a multidimensional and multidisciplinary participatory approach called NLTPS Uganda Vision: 2025 Project. This exercise has formulated a goal for long-term sustainable development for the country.

### **D. General political structure**

12. Pre-colonial Uganda was characterized by administration in centralized and decentralized societies. The south, central and western parts had a system of government modelled on a monarchical structure, notably kingdoms. The eastern and northern parts had chiefdoms and principalities. In almost all societies, administration was hereditary.

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

14. In 1962, Uganda gained its independence with its first political system being a multiparty system adopted in the 1962 Independence Constitution, later replaced by the 1967 Constitution under President Apollo Milton Obote, who was overthrown by the late General Idi Amin.

15. There was no existence of political parties during General Amin's regime. The UNLF overthrew him in 1979. The UNLF created an "umbrella" political system, which disintegrated after the 1980 general elections and which saw Dr. Obote, reinstated as President of the Republic of Uganda.

16. Dr. Obote lost the presidential seat again in a coup in June 1985 led by Gen. Tito Okello Lutwa, who took over the Government. Six months later, in January 1986, the NRA, led by Yoweri Kaguta Museveni, overthrew the Lutwa Government. Yoweri Museveni is currently the President of the Republic of Uganda.

17. In 1994 elections were held for the Constituency Assembly. In 1995 a new constitution was promulgated replacing the 1967 Constitution. This constitution created the movement system of governance and provided for any other system to be adopted.

18. In 1996 and 2001 presidential and parliamentary elections were held. Mr. Museveni won the presidential elections. The parliamentary ones were held on the basis of individual merit. In 2000 a national referendum adopted the movement system of governance.

#### **E. Legal framework for protection against torture**

19. The Constitution provides for separation of powers between the executive, the judiciary and the legislature.

20. The Constitution is the supreme law. Other laws applicable include acts of parliament, case law, principles of common law, customary law and doctrines of equity.

21. The court system in Uganda is composed of courts of judicature, magistrate courts and the LC courts. The courts of judicature include the Supreme Court, court of appeal, constitutional court and the high court. The magistrate courts include magistrate courts grade I and grade II. The LC courts are not part of the judiciary. Their jurisdiction is only limited to the villages and the judges are elected from the residents of the villages. Other courts include the industrial court, the land tribunal and the military court martial.

#### **F. Institutional framework for protection against torture**

22. The Constitution mandates the UHRC to, among other things, protect people against torture and inhuman or degrading treatment or punishment. This is a mandate previously handled by IGG from 1987 to 1995. However, under article 24 of the Constitution all law enforcement institutions, through their administrative mechanisms, are prohibited from engaging in torture and inhuman or degrading treatment or punishment.

#### **G. The role of civil society**

23. Since 1998 the Government has created an enabling environment for the civil society organizations to participate in the promotion and protection of human rights.

24. In 1987 the Government enacted the NGOs Statute to facilitate registration of NGOs. As a result of that policy framework many international and national NGOs have registered in Uganda. Among others those specifically engaged in protection against torture include HURINET, FHRI, ACTV, HURIPEC, Inter-Aid, NUDIPU, Save the Children, URCS, FIDA, AVSI, GUSCO and several others.

## II. IMPLEMENTATION OF SPECIFIC ARTICLES OF THE CONVENTION

### Article 1

25. Uganda acceded to the Convention against Torture in 1987. However there is no explicit definition of torture in the Ugandan national law. The lack of definition makes it difficult to prosecute torture as a specific crime.

26. The Bill of Rights in the 1962 and 1967 Constitutions of Uganda prohibited torture and inhuman or degrading treatment or punishment. Articles 12 and 21 of the Constitutions state in almost identical terms that no person should be subjected to torture, cruel, inhuman or degrading punishments or other similar treatment, except for the infliction of any punishment against any person that was lawful in Uganda immediately prior to 9 October 1962. As worded, the articles appear to permit only the infliction of pain or suffering from or incidental to punishments that were lawful prior to independence.

27. Article 2 (2) of the 1995 Constitution provides that “If any other law or any custom is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail, and that other law or custom shall, to the extent of the inconsistency, be void.”

28. Article 45 of the 1995 Constitution provides that “the rights, duties, declarations and guarantees relating to the fundamental and other human rights specifically mentioned in chapter four shall not be regarded as excluding others not specifically mentioned”.

29. Furthermore, Uganda ratified the Four Geneva Conventions of 1949 and their Additional Protocols of 1977 in 1991. All the Geneva Conventions call for the principle of humanity to be safeguarded. As such, they prohibit murder, torture, corporal punishment, mutilation, outrages upon personal dignity, taking of hostages, collective punishment, executions without regular trials and all cruel, inhuman and degrading treatment or punishment.

### Article 2

30. The laws applicable in Uganda include statutory law, case law, common law and doctrines of equity. Statutory law takes precedence over all other laws in Uganda. Customary law always applies unless it is inconsistent with the 1995 Constitution.

#### Legislative measures

31. The 1995 Constitution under articles 24 and 44 respectively prohibit and make torture non-derogable.

32. The Anti-Terrorism Act 2002, section 21 (e), provides that “Any authorized officer who ... engages in torture, inhuman and degrading treatment, illegal detention or intentionally causes harm or loss to property, commits an offence and is liable, on conviction, to imprisonment not exceeding five years or a fine not exceeding two hundred and fifty currency points, or both.”

33. Apart from the laws under the 1995 Constitution, such as articles 24 and 45, the Penal Code Act (CAP 120) provides for the offences of assault, causing bodily harm, grievous harm and wounding which carry heavy penalties:

(a) Section 219 covers grievous bodily harm. It provides that “any person who unlawfully does grievous harm to another commits a felony and is liable to imprisonment for seven years”;

(b) Section 222 covers wounding and similar acts. It provides that “any person who ... unlawfully wounds another or unlawfully, and with intent to injure or annoy any person causes any poison or another noxious thing to be administered to or taken by any person, commits a misdemeanour and is liable to imprisonment for three years”;

(c) Section 223 covers failure to provide necessaries. It provides that “any person who, being charged with the duty of providing for another with the necessaries of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be endangered, or his or her health is or is likely to be permanently injured, commits a misdemeanour and is liable to imprisonment for three years”;

(d) Section 235 covers common assault. It provides that “any person who assaults another commits a misdemeanour and if the assault is not committed in circumstances for which a greater punishment is provided in this code, is liable to imprisonment for one year”;

(e) Section 236 provides that “any person who commits an assault occasioning actual bodily harm commits a misdemeanour and is liable to imprisonment for five years”.

34. The Police Act (CAP 303), section 44, and the Police Code of Conduct both prohibit torturing of suspects. The Schedule to the Police Act, codes 2, 12 and 14, give a list of relevant guidelines.

35. The UPDF Act (CAP 307) legislates against torture within the military:

(a) Section 26 provides that “a person subject to military law who unlawfully strikes, draws, lifts up a weapon against or in any way ill treats any person in the army who by reason of rank or appointment is subordinate to him commits an offence and is liable on conviction to imprisonment for a term not exceeding five years”;

(b) Section 27 (2) covers scandalous conduct by officers, etc. It provides that “a person in the army who behaves in a cruel, disgraceful, indecent or unnatural manner commits an offence and is liable on conviction to imprisonment for a term not exceeding seven years”;

(c) In Schedule 14, code of conduct for the army, provides that “a member of the army shall not abuse, insult, shout at, beat or in any way annoy any member of the public” (sect. 2 (a)); section 46 of the Act and Schedule 14 prohibit torture of civilians by the army.

### **Administrative measures**

36. The police standing orders prohibit torture and administrative circulars against torture are regularly issued. Through administrative instructions, No. 8 of 1990, for instance, the



Commissioner for Prisons informed all prison officers about the State obligation under the Convention, warning them against use of force in their line of duty. In 1992, circular No. 6 was released as a reminder of the earlier communication No. 8 against torture. Administrative instructions No. 7/1995, No. 1/1996 and No. 5/1998 specifically address the issue of torturing prisoners.

### **Judicial measures**

37. Courts of judicature, which include the Supreme Court, court of appeal, constitutional court and the high court, can hear all cases on torture.

38. Apart from courts of law, the Constitution mandates UHRC to investigate and handle cases of torture while sitting as a tribunal. Its judgements and awards have the same value as those given by the high court.

### **Cases and circumstances under which the above measures were found effective**

39. In the central government prisons, administrative instruction No. 8 was found effective when chief warder No. 453 Obura Giant was found guilty of assaulting a prisoner and injuring him. He was dismissed with disgrace and without any benefits. Similarly, an officer-in-charge of a penal institution was found guilty of ordering his junior officers to beat a prisoner who got a fracture in the process. The officer-in-charge lost his promotion and he is currently paying a sum of 12 million shillings to the prisoner as compensation.

40. Criminal appeal No. 16 1999 (Supreme Court) *Kyamanywa v. Uganda*. In this case the Court ruled that corporal punishment, by its very definition, which is inflicting pain by beating parts of the body, falls squarely within the category prohibited by article 24 of the Uganda Constitution. It is by its nature a cruel, inhuman and degrading punishment, which amounts to torture.

41. The right not to be tortured is non-derogable under article 44 of the 1995 Constitution, which provides that “Notwithstanding anything in this Constitution, there shall be no derogation from the enjoyment of the following rights and freedoms: (a) freedom from torture, cruel, inhuman or degrading treatment or punishment.”

42. Article 46 of the 1995 Constitution deals with the effect of laws enacted for a state of emergency. Clause (1) provides that “an Act of Parliament shall not be taken to contravene the rights and freedoms guaranteed in this chapter, if that Act authorizes the taking of measures that are reasonably justifiable for dealing with a state of emergency”.

43. Restricted or detained persons under the law made for the purpose of a state of emergency are catered for under article 47 of the 1995 Constitution, which provides that a person restricted or detained “shall within 24 hours after the commencement of the restriction or detention, be furnished with a statement in writing, specifying the grounds upon which he or she is restricted or detained; the spouse or next-of-kin or other person named by the person restricted or detained shall be informed of the restriction or detention and allowed access to the person within 72 hours after the commencement of the restriction or detention”.

44. The Police Act (CAP 303) provides for the establishment of administrative mechanisms for regulating the disciplinary and other day-to-day functioning of the police.

45. Article 52 (1) (b) of the 1995 Constitution gives the UHRC the right to visit jails, prisons and places of detention or related facilities with a view to assessing and inspecting the conditions of the inmates, and to make recommendations. In the performance of its duties, the Commission is independent and cannot be subject to the direction or control of any person in authority.

46. Among the cases cited in its 1998 Annual Report to Parliament, the UHRC handled that of George Kauta against Ishaka Magameso, a prison officer. The alleged violation was torture. George Kauta, then 14 years old, had been arrested and remanded in Bugungu Young Persons' Prison, on a charge of defilement. While he was in prison, he was constantly beaten, including on one occasion when he was given 21 strokes of the cane, which was referred to as "food for fools". Prison officials, including the officer-in-charge, Ishaka Magameso, administered these beatings. Kauta became mentally disturbed and delirious. The matter eventually reached the Commission and the prison officials admitted torturing Kauta. They were ordered to pay 10 million shillings as compensation for the torture meted out to Kauta.

47. Torture of prisoners has decreased in central government prisons owing to the positive response by the Commissioner of Prisons and his officials to complaints of torture drawn to him by the Uganda Human Rights Commission. As a result, the question of torture has become a very sensitive issue in most central government prisons.

48. The level of torture in local administration has remained alarming. Cases cited by the Uganda Human Rights Commission in its 1999 Annual Report include one from Nyenga Local Administration Prison (Mukono): on 8 December 1999, a Commission team visited this prison where prisoners complained of torture by warders and ward leader during work in the *shambas*. They reported beatings, insults and humiliation during work and that those who were considered not to have worked hard were isolated and confined in rooms at a time when the rest of the prisoners were left free within the prison compound.

49. At Kagadi Local Administration Prison (Kibaale) on 28 September 1998, a team of Commission officials found a number of prisoners with wounds. The prisoners told the officials that the wounds were a result of wire-beatings by warders. In Mpigi Local Administration Prison (Mpigi), on 9 September 1998, the Commission visited and was told by inmates that one Bukenya, a *katikiro* (ward leader), was very notorious for torturing new prisoners on the orders of the prison warders. The Commission was also informed that *afande* Barbara, a warden, had severely beaten Nabukera Rose, a prisoner. Prisoner Katumba Daniel of the same prison was reported to have been so severely beaten by a warder that he defecated in his shorts.

50. The Commission reported all the alleged cases of torture in local administration prisons to the chief administrative officers or chairpersons for Local Council Five of each of the respective districts.

51. The financial constraints coupled with the lack of a central authority for local administration prisons made it difficult for the Commission to monitor any action taken on each case. Nevertheless, the cases were documented and reported to Parliament.

52. In its 1997 Annual Report, the Commission had recommended to Parliament that the central Government and the local administration prisons should be merged into one service. This went as far as the Minister of Local Government officially handing over local administration prisons to the Minister of Internal Affairs for merging with those of the central Government. However, implementation was not possible because there were no funds allocated. Although the idea of merging the two categories of prisons is not lost, the process towards its realization has not materialized; hence the local administration prisons have remained largely unsupervised as before.

### Article 3

53. Laws on extradition in Uganda are covered under the Extradition Act (CAP 117):

(a) Section 2, subsection (1), of the Extradition Act provides that “where an arrangement has been made with any country with respect to the surrender to that country of any fugitive or criminal, the minister may, by statutory case of that country subject to such conditions, [make] exceptions and qualifications as may be specified in the order, and this part shall apply accordingly”;

(b) Subsection (2) provides that “an order made under the preceding subsection shall recite or embody the terms of the arrangement and shall not remain in force for any longer period than the arrangement”;

(c) Subsection (3) provides that “every order made under this section shall be laid before the National Assembly (Parliament)”.

54. The challenge faced by the Government of Uganda at the moment is to put in place legal instruments that prohibit its relevant authorities from repatriation, extradition or expulsion of individuals who are in danger of being subjected to torture.

55. According to the Extradition Act, section 3, the following provisions shall be observed with respect to the surrender of fugitive criminals:

(a) A fugitive criminal shall not be surrendered if the offence in respect of which his or her surrender is demanded is one of a political character or if it appears to a court or the Minister that the requisition for his or her surrender has in fact been made with a view to trying and punishing him or her for an offence of a political character;

(b) A fugitive criminal shall not be surrendered to any country unless provision is made by the law of that country, or by arrangement, that the fugitive criminal shall not, unless he or she has been restored or had an opportunity to return to Uganda, be detained or tried in that country for an offence prior to his or her surrender other than the crime for which the extradition is requested;

(c) Section 10 (2) of the Extradition Act provides that “The magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime”;

(d) Section 11 (1) provides that “In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of the criminal is duly authenticated, and such evidence is produced as subject to the provisions of this Act, would according to the law of Uganda justify the committal for the trial of the prisoner if the crime of which he or she is accused was committed in Uganda, the magistrate shall commit him or her to prison”;

(e) Section 11 (6) provides that “Where the magistrate is not satisfied with the evidence mentioned in subsection (1) or subsection (2) of this section, he or she shall order the prisoner to be discharged”;

(f) Section 23 provides that “The Minister shall not transmit a requisition under section 22 and a warrant shall not be endorsed under this part of this Act for the apprehension of any person if the offence is one of a political character or it appears to the Minister or a court that the requisition has in fact been made with the view to try or punish him for an offence of a political character.”

56. The Extradition Act does not cover the aspect of torture and only covers cases of a political nature. The existing law on refugees is the Control of Aliens and Refugee Act and it permits arbitrary expulsions. However, it is generally agreed that the provisions in the Act are archaic and outdated and the policy of the Directorate of Refugees in Uganda is to use the 1951 Convention relating to the Status of Refugees and the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa of the Organization of African Unity rather than this Act. There is a bill to repeal this law.

57. It is a main concern to the authorities of the Government of Uganda that there is no all-encompassing law to make torture a subject of extradition, deportation or return.

58. Over the past decade, it has been realized by all African States that there is a need to have efficient treaties and legislation on extradition and mutual assistance. The African countries realized that there was an expanding criminality, especially transnational criminality, which continued to threaten stability, security, peace and the development of societies.

59. In 1996, the United Nations Crime Prevention and Criminal Justice Division initiated the implementation of a project on extradition and mutual legal assistance in the African States. The project was implemented with technical cooperation and funding from the Departments of Justice and State of the United States of America.

60. UNAFRI is an organization based in Uganda. It is the African component of a network of United Nations-affiliated regional institutes for the prevention of crime and criminal justice. According to a survey by UNAFRI on extradition and mutual legal assistance in criminal matters, it was revealed that existing mechanisms, practices and legislation are inadequate and poorly developed. There is a dearth of bilateral extradition and the mutual legal assistance arrangements. However these are outdated and need to be replaced by modern arrangements.

61. In January 2000, the Government of Uganda decided to sponsor two draft conventions on extradition and mutual legal assistance prepared initially by UNAFRI. African delegates meeting in Cairo in November 1999 approved the draft. Fourteen countries, five African and

international experts, OAU legal counsels and a representative of the United Nations Centre for International Crime Prevention attended. The contents of the draft convention on extradition covered comprehensive substantive provisions in the areas of principles of extradition, grounds for refusal of extradition, contents of requests for extradition and consideration of requests for extradition. The contents of the Convention on Mutual Assistance covers, inter alia, the scope of application, types of assistance, central authorities, contents of requests, execution of requests, refusal to offer assistance, return of completed requests and securing requested evidence.

#### **Article 4**

62. There is no law defining what torture or cruel, inhuman and degrading treatment or punishment is. The 1995 Constitution provides in article 24 that “no person shall be subjected to any form of torture, cruel, inhuman or degrading treatment or punishment”. Other offences that fall under acts of torture, inhuman and degrading treatment in the Schedule to the Extradition Act, section 28, include criminal homicide and similar offences, injury to persons not amounting to homicide, abduction, rape and similar offences.

63. The Penal Code (CAP 120), section 235, provides that “any person who unlawfully assaults another commits a misdemeanour, and, if the assault is not committed in circumstances for which a greater punishment is provided in this code, is liable to imprisonment for one year”. Section 236 provides that “any person who commits an assault occasioning bodily harm is guilty of a misdemeanour and is liable to imprisonment for five years”. It provides for the offences of assault, causing grievous harm and wounding, which carry heavy penalties. These, however, are not substitutes for torture.

#### **Article 5**

64. The Penal Code Act provides for jurisdiction over offences related to torture:

(a) Section 4 (1) provides that “the jurisdiction of the courts of Uganda shall for the purposes of this code extend to every place within Uganda”;

(b) Section 5 provides that “when an act which, if wholly done within the jurisdiction of the court, would be an offence against this Code is done partly within and partly beyond the jurisdiction, every person who within the jurisdiction does or makes any part of such act may be tried and punished under this code in the same manner as if the act had been done wholly within the jurisdiction”.

65. Other cases included in the Schedule to the Extradition Act (CAP 117), regarded as extraditable offences under the laws of Uganda, include piracy by law of nations, sinking or destroying a vessel at sea or an aircraft in the air, or attempting or conspiring to do so, assault on board a ship on the high seas or an aircraft in the air with intent to destroy life or to do serious bodily harm, revolt, conspiracy to revolt, by two or more persons, on board a ship on the high seas or an aircraft in the air against authority of the master, or captain of the aircraft.

66. Subsection (2) of section 4 of the Penal Code Act provides that “notwithstanding the provisions of subsection (1) of this section, the Courts of Uganda shall have jurisdiction to try offences created under (specified) sections of this Code committed outside Uganda by a

Ugandan citizen or a person ordinarily resident in Uganda”. The specified offences include treason offences against the State; acts intended to alarm, annoy or ridicule the President, concealment of treason; terrorism and promoting war on chiefs. Subsection (3) provides that “for the avoidance of doubt the offences referred to in subsection (2) of this section committed outside Uganda by a Ugandan citizen or a person ordinarily resident in Uganda shall be dealt with as if they had been committed in Uganda”.

### **Article 6**

67. The Extradition Act (CAP 117) in section 9 provides that,

“the warrant for the apprehension of a fugitive criminal, whether accused or convicted of a crime, who is in or suspected of being in Uganda may be issued by a magistrate:

“(a) On the receipt of the order from the Minister and on such evidence as would in his or her opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in Uganda; or

“(b) On such information or complaint and such evidence or after such proceedings as would, in the opinion of the magistrate issuing the warrant, justify the issue of a warrant if the crime had been committed or the criminal convicted in the district or area in which he or she exercises his or her jurisdiction.”

Furthermore, section 28 (1) of the Act provides that “for the purposes of this Act, ‘extradition crime’ means a crime which, if committed within the jurisdiction of Uganda, would be an indictable offence described in the Schedule to this Act”.

68. The Extradition Act under section 9, subsection (3), provides that “a fugitive criminal when apprehended on a warrant under this section shall be brought before a magistrate within the next twenty-four hours”. Section 10, subsection (1) of the same Act provides that “when a fugitive criminal is brought before a magistrate the magistrate shall hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as he or she has in the exercise of criminal jurisdiction”. Subsection (2) of the same section provides that “the magistrate shall receive the evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime”.

69. As regards proofs of warrants, depositions or statements, section 25 (1) of the Extradition Act provides,

“warrants and depositions or statements on oath or affirmations and copies of them and certificates of or judicial documents stating the fact of a conviction shall be deemed duly authenticated for the purposes of this Act, if authenticated, in a manner provided for the time being by law or:

If the warrant purports to be signed by a judge, magistrate or officer of the country where it was issued;

If the depositions or statements or affirmations or the copies they purport to be certified under the hand of a judge, magistrate or officer of the country where they were taken to be the original depositions or statement or to be true copies of them as the case may require; and

If in every case the warrants, depositions, statements, affirmations, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by being sealed with the official seal of the Minister of Justice or some other Minister of State.”

70. Subsection (2) states: “All courts and magistrates shall take judicial notice of the official seal referred to in the preceding subsection (1) and shall admit any such document so authenticated to be received in evidence without further proof.”

71. Section 27 (1) of the Extradition Act provides that “the Minister may by order require a magistrate to take evidence for the purpose of any criminal matter pending in any court or tribunal in any other country”. Subsection (2) of section 27 provides that “A magistrate upon receipt of an order made under subsection (1), shall take down in writing the evidence of every witness appearing before him or her for the purpose and shall certify at the foot of the deposition so taken that the evidence was taken before him or her, and shall transmit it to the Minister.” Furthermore, subsection (3) of the same section provides that “the evidence may be taken in the presence or absence of the person charged, if any, and the fact of the presence or absence shall be stated in the deposition”. Subsection (4) further provides that “Any person may, after payment or tender to him or her of a reasonable sum for his or her costs and expenses in this behalf, be compelled for the purposes of this section to attend and give evidence and answer questions and produce documents in like manner and subject to like conditions as he or she may in the case of a trial for an offence.”

72. Section 22 of the Extradition Act covers the procedure of extradition and provides that “A requisition for the endorsement of a warrant under this Part of this Act, shall be made in the first instance by a diplomatic representative, consular officer or other appropriate authority of the country concerned to the Minister who may transmit it to the Magistrate to proceed in accordance with this part of the Act.”

73. Uganda does not have resource capital to investigate cases within the time prescribed.

### **Article 7**

74. Section 11 (1) of the Extradition Act provides that “In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of the criminal is duly authenticated, and such evidence is produced as subject to this Act, would according to the law of Uganda justify the committal for trial of the prisoner if the crime of which he or she is accused was committed in Uganda, the magistrate shall commit him or her to prison.” Subsection 2 of the same Act provides that “in the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as, subject to this Act, would according to the law of Uganda prove that the prisoner was convicted of such crime, the magistrate shall commit him or her to prison”. Subsection 4 further provides that “when the fugitive criminal is committed to prison to await his or her surrender; the committing magistrate,

if of the opinion that it will be dangerous to the life or prejudicial to the health of the prisoner to remove him or her to prison, may order him or her to be held in custody at the place in which he or she for the time being is or any other place named in the order to which the magistrate thinks he or she can be moved without danger to his or her life or prejudice to his or her health”.

75. Section 10 (1) of the Extradition Act provides that “When a fugitive criminal is brought before a magistrate, the magistrate shall hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as he or she has in the exercise of criminal jurisdiction.” Subsection (2) of the same Act provides that “the magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime”.

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

77. Furthermore, section 11 (6) of the 2000 Extradition Acts provides that “Where the magistrate is not satisfied with the evidence mentioned in subsection (1) or (2), he or she shall order the prisoner to be discharged.”

#### **Article 8**

78. The extraditable offences included in the Extradition Act under the Schedule include:

- (a) Criminal homicide and similar offences, for example murder and attempt and conspiracy to murder and manslaughter;
- (b) Injury to persons not amounting to homicide for example, wounding or inflicting grievous bodily harm, assault causing actual bodily harm and assault;
- (c) Abduction, rape and similar offences for example rape, defilement, unlawful carnal knowledge, indecent assault, abortion and offences relating to abortion as well as child stealing.

79. Section 5 of the Penal Code Act provides that, “when an act if wholly done within the jurisdiction of the court would be an offence against this code is done partly within and partly beyond the jurisdiction does or makes any part of such act may be tried and punished under this code in the same manner as if the act had been done wholly within the jurisdiction”.

#### **Article 9**

80. Section 16 of the Extradition Act provides that “This part of this Act shall apply to any country in respect of which the Minister, having regard to reciprocal provisions under the law of that country, by statutory instrument so orders and subject to such conditions, exceptions and qualifications as may be specified in the order.”

81. Part II of the Extradition Act covers the reciprocal backing of warrants.



82. Section 17 (1) of the Extradition Act provides that “Where in a country to which this part of the Act applies a warrant has been issued for the apprehension of a person accused of an offence punishable by law in that country, and he or she is or is suspected of being in or on the way to Uganda, a Magistrate, if satisfied that the warrant was issued by a person having lawful authority to issue it, may, subject to the provisions of sections 22 and 23 of this Act, endorse the warrant in accordance with subsection 4 of this section.” Subsection 2 provides that “A warrant endorsed under subsection (1) shall be sufficient authority to apprehend, within the jurisdiction of the endorsing Magistrate, the person named in the warrant and bring him or her before the endorsing magistrate or some other magistrate.” Subsection (3) provides that “this part of the act shall apply whatever the date of the warrant and whether the offence is alleged to have been committed before or after the commencement of this Act or the application of this part of the Act to that country”. Subsection 4 further provides that “An endorsement of a warrant shall be signed by the magistrate and shall authorize all or any of the persons named in the endorsement and of the persons to whom the warrant was originally directed and every police officer to execute the warrant by apprehending the person named in it and bringing him or her before that magistrate or any other magistrate.”

### **Article 10**

83. In Uganda, education and information regarding the prohibition against torture are included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons involved in the custody, interrogation or treatment of any other individual subjected to any form of arrest, detention or imprisonment.

84. Article 52 (1) of the 1995 Constitution lists the functions of the UHRC among which include the mandate “... (c) to establish a continuing programme of research, education and information to enhance respect of human rights; ... (f) to educate and encourage the public to defend this Constitution at all times against all forms of abuse and violation; (g) to formulate, implement and oversee programmes intended to inculcate in the citizens of Uganda awareness of their civic responsibilities and an appreciation of their rights and obligations as free people; (h) to monitor Government’s compliance with international treaty and convention obligations on human rights”.

85. The police and prisons have a human rights curriculum as well as human rights training manual, which have been used since 2000 and which address issues like torture. The police have worked hand in hand with UHRC and ACTV, a local NGO, in carrying out training programmes for the police in the area of human rights, torture included.

86. Apart from sensitizing their own officers, the police, through its community policing programmes, sensitizes members of the public on the prohibition against torture and enlightens them about their rights against being tortured.

87. The Police Inspectorate Department regularly checks on compliance with the standards of observance of the rules against torture. The police have also opened up to all government agencies and NGOs that wish to check its detention facilities and identify possible acts of torture for prompt interventions. Police detention centres are accessible by the public and all the stakeholders for inspection on matters of human rights.

88. Government has also facilitated the training of trainers in the area of human rights at Makerere University and the prisons.

89. The Ministry of Gender, Labour and Social Development is in the process of mainstreaming human rights, including the prohibition of torture.

90. UHRC, in conjunction with the UPDF Human Rights Desk, has carried out a number of sensitization seminars on promotion and observance of human rights in UPDF units countrywide. Among the topics that have been most pronounced is the Convention against Torture. This has brought awareness in the army on the Convention. The training is restricted to members of the regular forces. There are not enough trained medical workers, social workers and other public officers who have had the relevant educational training. Government needs to address this concern.

91. In accordance with this article, UHRC has also over the years undertaken various activities in compliance with its mandate and obligation to provide civic education to the population. In the course of 1998, 21 seminars were held in the districts of Apac, Kotido, Moroto, Kapchorwa, Busia, Kamuli, Nakasongola, Kibaale, Masindi, Mubende, Sembabule, Masaka, Kisoro, Nyungamo, Kabale, Luwero, Bugiri, Pallisa, Kumi and Mbale. This was a marked increase from 1997 during which only four seminars were held in the districts of Iganga, Soroti, Mbarara and Rakai.

92. The total number of participants who attended the seminars was 1,661. They included LCV chairmen, CAOs, RDCs and heads of department in government ministries and councillors. Others included DSOs and members of civil society, including youth and women, NGOs and opinion leaders.

93. In 1998, UHRC organized one seminar/workshop each for UPDF and the Intelligence Organs (ISO, ESO and CMI). Seventy-one participants, including the chiefs, directors, division commanding officers, brigade commanding officers and other officers from UPDF departments and units from around the country attended the workshop for UPDF, which was held at the Bombo General Headquarters. During the seminar, the following topics were addressed: people's expectations of the army; the role of the army in human rights violations since independence; the military and human rights: an assessment from within UPDF; the Uganda Human Rights Commission and the army: cooperation and challenges.

94. Eighty-eight participants attended the second workshop from the three main intelligence organs. The topics discussed included the Commission's experience in dealing with intelligence organs in the protection of the State and human rights, human rights standards and the work of security organs. In addition, the workshop made an assessment of the role of the intelligence organs in human rights violations; this included self-critique by the intelligence organs.

95. Police interrogations are regulated mainly by the Police Act and the Evidence (Statements to Police Officers) Rules, 1961, section 1.43-1. These rules are similar to what are called "Judges Rules" in England.

96. The police in Uganda are given various powers and duties under the Police Act (CAP 303). Section 27 (3) of the Act lays down specific duties in respect of detection and investigation of crime.

97. Furthermore, UHRC, together with the police, have designed a human rights component for the Police Training Manual that ensures that the police officers understand the human rights values and improve their image among civil society. In addition, UHRC together with UPDF and prisons are designing a human rights training manual.

### **Article 11**

98. Article 23 (2) of the 1995 Constitution provides that “A person arrested, restricted or detained shall be kept in a place authorized by law.”

99. Rule 2 of the Police Officers’ Rules provide that “A prisoner means any person under arrest or in lawful custody.”

100. Part III of the Prisons Act (CAP 304) provides for the powers, duties and privileges of prison officers.

101. Section 6 of the Act provides that “Every prison officer shall exercise such powers and perform such duties as are by law conferred or imposed on prison officers of his or her class and shall obey all lawful direction in respect of the execution of his or her office which he or she may from time to time receive from his or her senior officers.”

102. Section 11 regulates the use of force, weapons and firearms by prison officers:

(a) Subsection (1) provides that “A prison officer may use any such force against a prisoner as is reasonably necessary in order to make him obey lawful orders he or she refuses to obey or in order to maintain discipline in a prison”;

(b) Subsection (2) provides that “A prison officer may use weapons against a prisoner escaping or attempting to escape; except that: resort shall not be had to the use of any weapon unless the prison officer has reasonable ground to believe that he or she cannot otherwise prevent the escape; and a firearm shall not be used against a prison officer unless the prison officer has first given a warning to the prisoner that he or she is about to fire upon him or her and the warning goes unheeded”;

(c) Subsection (3) provides that “A prison officer may use weapons against any prisoner: engaged in any combined breaking out or in any attempt to force or break open the outside door or gate or enclosure of the wall of the prison, and may continue to use the weapons so long as combined breaking out is actually being prosecuted; using violence [against] any prison officer or other [person] if the prison officer has reasonable ground to believe that the prison officer or other person is in danger of life and limb, or other grievous harm is likely to be caused to him or her; or engaged with others in riotous or threatening behaviour and refuses to desist when called upon”;

(d) Subsection (5) provides that “the use of any weapon under this section shall, as far as possible, be to disable not to kill”.

103. Section 59 of Prison Act provides that “The officer-in-charge shall cause to be entered in a register to be open to the inspection of visiting justices a record of all punishments imposed upon prisoners showing in respect of each prisoner punished, his or her name, the nature of his or her offence and the extent of his or her punishment.”

104. Section 60 further provides that “Any punishment lawfully imposed on the prisoner under this Act or any rules made under this Act may be carried into effect notwithstanding that the carrying into effect of the punishment may necessitate the detention of the prisoner beyond the date at which he or she would otherwise be entitled to be discharged from prison; except that the period of detention shall not exceed forty-eight hours, the period to be calculated from the last hour of the day upon which the prisoner would otherwise be entitled to be discharged.”

105. Article 23 (4) of the 1995 Constitution provides that “A person arrested or detained ... (b) Upon reasonable suspicion of his having committed or being about to commit a criminal offence under the laws of Uganda, shall, if not earlier released, be brought to court as soon as possible but in any case not later than forty-eight hours from the time of his or her arrest.”

106. Furthermore, article 23 (6) further states that “Where a person is arrested in respect of a criminal offence: the person is entitled to apply to the Court to be released on bail and the Court may grant that person bail on such conditions as the court considers reasonable; in the case of an offence 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 the person has been remanded in custody in respect of that offence before the trial for one hundred and twenty days; 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.”

107. The Evidence Act (CAP 6) and the Evidence (Statements to Police Officers) Rules (sect. 1 43-1) provides guidelines on interrogation, instruction methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction. These rules are made under section 24 of the Evidence Act. They are intended to guide police officers in their interrogation of persons whether in custody or otherwise. In particular, they are aimed at ensuring that confessions recorded by police officers are obtained fairly from a suspect.

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

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

109. Rule 6 provides that whenever a police officer is recording a statement made by a prisoner such prisoner must not be cross-examined.

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

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

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

### **Article 12**

113. Section 4 (1) of the Penal Code provides that “the jurisdiction of the courts of Uganda for the purposes of this Code extends to every place within Uganda”.

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

115. Article 28 (1) of the 1995 Constitution provides that “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.”

116. Article 28 (3) (a) provides that “every person who is charged with a criminal offence shall be presumed innocent until proved guilty or until that person has pleaded guilty”.

117. In Uganda, the main responsibility to investigate crime lies with the Uganda Police Force, especially through its CID. In addition, there are various law enforcement agencies charged with the duty to investigate crime. Among these agencies are: the local administration forces, local military intelligence, the chiefs, law enforcement officers in various departments like Customs, Immigration and Urban Authorities.

118. In the Republic of Uganda, criminal procedure rules govern the conduct of criminal proceedings and the Criminal Procedure Code Act (CAP 116) lays down the guidelines that should be followed by police officers in the investigation of criminal cases.

119. The investigation process is set off when a complaint or report of the alleged crime is made to the police. The report may be made either by word of mouth or by letter. It can be made either by the complainant or the victim, or by a relative or by another person totally unconnected with the offence. This report is known as “First Information” and it is normally recorded on Police Form 86.

120. The crime report is then passed on to the Criminal Investigation Department (CID) officer-in-charge (O/C) of a particular police station who will then decide whether or not a case file should be opened and on what charge it should be opened. The decision taken is then passed

on to senior members of his staff who are detailed to investigate the report or complaint. Such officer will normally work hand in hand with other investigating officers in the discharge of his duties. The officer-in-charge of the case may reallocate the investigation of the case to one of his other investigating officers, depending on the gravity of the offence.

121. In the actual conducting of the investigation, the investigating officer first proceeds to the scene of the crime to gather evidence. On arrival at the scene, the officer may:

Remove the body or take the victim to hospital;

Search the scene and collect exhibits;

Arrest the suspect and search his home;

Record the statements of witnesses;

Draw a rough sketch plan of the scene.

122. Once the police officer returns to the police station the investigating officer submits the case papers to the O/C CID, together with the report either in the diary or in a statement. The O/C CID decides whether the suspect is then formally charged and cautioned and the suspect may make a statement if he so wishes. A charge sheet is then prepared and the accused is taken to court for a plea or, in indictable offences, to have the charge read to him or her.

123. If the accused pleads not guilty and investigations are complete, a hearing date is fixed and witnesses are summoned to attend court at that time. The accused may either be remanded or released on bail. If the accused pleads guilty and he is convicted, investigations end here and the case is completed and the file is put away. If the accused pleads not guilty and investigations are not complete, the accused may be remanded in custody or on bail pending the completion of inquiries. A date for mention is normally fixed at 14 days' interval when the accused's remand or bail may be extended. The police are usually required to inform the court of the position of investigations in addition to their having to apply for adjournment proceedings.

124. The prosecutor then returns the police file to the investigating officer with a minute in the diary section. The investigating officer continues to carry out the investigations with a view to finalizing them as soon as possible. The recording of necessary statements from material witnesses is done in order to close up any gaps that remain in the chain of evidence.

125. When the investigating officer is satisfied that the necessary and possible inquiries have been carried out, he submits the case papers to O/C CID in that area or police station stating his opinion on the evidence assembled or recommending that the papers should be submitted to the DPP or the RSA for perusal and directions. After the perusing of the case papers, the O/C CID decides on the final charge and subsequent prosecution.

126. Where a case requires the attention of DPP because of its gravity or complexity, a forwarding letter, usually on Police Form 16 (a), is drafted and attached to the file. Such a letter normally contains the brief facts of the case, any lacuna in the evidence and the nature of advice requested.

127. After s/he has perused the file, the DPP or RSA may direct the police to carry out further inquiries on specified matters. After those investigations are completed, the police file may be resubmitted to the DPP or RSA and the file may be perused again. A decision will then be made on the charge and evidence. This usually marks the end of the investigation in the particular case and prosecution or preliminary proceedings follow.

128. The Uganda Human Rights Commission also conducts investigations as is authorized under article 52 (1) (a), which provides “the commission shall have the following functions which include (a) to investigate, at its own initiative or on a complaint made by any person or group of persons against the violation of any human right”.

129. Article 53 (1) of the 1995 Constitution provides “In the performance of its functions, the Commission shall have the powers of a court: to issue summons or other orders requiring the attention of any person before the commission and the production of any document or record relevant to any investigation; to question any person in respect of any subject matter under investigation before the Commission; to require any person to disclose the information within his or her knowledge relevant to any investigation by the Commission.”

130. In the course of its investigations, the Commission endeavours to physically contact and interview complainants, respondents and witnesses. The use of letters is mainly limited to putting allegations to respondents.

131. Where a respondent shows a willingness to settle with the complainant, the Commission arranges for a discussion between the parties to resolve the problem. In complaints where the respondent disputes the allegations, the Commission assigns an investigations officer to the complaint to establish the facts. In the event that the facts do not disclose a violation, the complainant is informed of the reasons why and appropriate advice is given. Where investigations reveal a violation, but the respondent remains adamant, arrangements are then held for a formal hearing by the tribunal, which is composed of three commissioners who will then write a formal ruling.

### **Article 13**

132. The 1995 Constitution provides in article 21 that “All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.” Furthermore, article 24 provides that “No person shall be subjected to any form of torture, cruel, inhuman and degrading treatment or punishment.” Article 50 (2) provides for the right to complain. It states “any person or organization may bring an action against the violation of another person’s and group’s human rights”. Article 50 (4) provides that “Parliament shall make laws for the enforcement of the rights and freedoms under this chapter.”

133. Section 70 of the Police Act further provides for the right to complain by any member of the public against any police officer.

#### **Article 14**

134. Article 50 (1) of the Constitution provides that “Any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened is entitled to apply to a competent court for redress which may include compensation.” In a case where an individual or particular individuals are not satisfied with the treatment they have received in a court of law, courts and tribunals like the Uganda Human Rights Commission are available in order for one to lodge a complaint.

135. Article 53 (1) of the Constitution gives the Uganda Human Rights Commission the powers of a court. Article 53 (2) provides that the Commission “may, if satisfied that there has been an infringement of a human right or freedom, order the release of the detained person; payment of compensation; or any other legal remedy or redress”. Article 53 (3) provides that “A person or authority dissatisfied with an order made by the Commission under clause (2) of this article has a right to appeal to the High Court.”

136. The victim can also sue the culprit for damages and compensation under the civil procedure rules.

137. Under the Law Reform Miscellaneous Provisions Act (CAP 79), dependants of the deceased can sue for damages and compensation as a result of an act of torture committed.

138. The State is also legally responsible for the acts of its agents and compensation money comes from the government consolidated funds.

#### **Article 15**

139. Section 24 of the Evidence Act provides that “A confession made by an accused person is irrelevant if the making of the confession appears in the court having regard to the state of mind of the accused person and to all circumstances, to have been caused by any violence, force, threat, inducement or promise has, calculated in the opinion of the court to cause an untrue confession to be made.” It further provides that no confession made by any person whilst he is in the custody of a police officer shall be proved unless it is made in the immediate presence of a police officer of or above the rank of assistant inspector or magistrate.

140. The same Act further provides that a confession made by an accused person is irrelevant if the making of the confession appears to the court to have been caused by violence, force, threat inducement or promise calculated to cause an untrue confession to be made.

141. The rationale of the above law is to ensure that the police record statements from persons in custody in a manner that renders them voluntary.

142. Rule 1 of the Police Officer’s Rules gives a police officer power, in the course of investigations, to question any person, whether suspected or not, from whom he thinks may obtain useful information. Rule 4 states that if a police officer has decided to charge a person with an offence, he must administer a caution before questioning or continuing to question him. Rule 5 states that a caution must always be administered whenever any statement is taken from any prisoner. Subsection 1 of rule 5 goes on to state “A prisoner means any person under arrest or in lawful custody.”



143. According to section 28 of the Evidence Act of the Republic of Uganda, “Admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions hereinafter contained.”

144. Section 113 of the Evidence Act states “When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe one thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.”

### **Article 16**

145. Article 24 of the Constitution prohibits acts of cruelty and inhuman or degrading punishment. It provides that “no person shall be subjected to any form of torture, cruel, inhuman or degrading treatment or punishments”.

146. The acts of cruelty or inhuman degrading treatment do not have a clear definition. However, they are dealt with as offences under the Penal Code, Anti-Terrorism Act 141 of 2002 and others referred to in the response to article 2. The Penal Code Act provides other offences of assault, causing harm, grievous harm and wounding, which carry heavy penalties.

147. Law enforcement agencies use the following legal provisions to address offences committed under article 16:

Murder (death penalty);

Attempt and conspiracy to murder (maximum penalty, 14 years);

Manslaughter (maximum penalty, life imprisonment);

Assault occasioning actual bodily harm (5 years);

Common assault (1 year, unless a greater punishment is provided in the Penal Code).

Other offences include abduction (15 years), rape and similar offences like defilement (liable to death by hanging), indecent assault, killing an unborn child (section 212 of the Penal Code and offences relating thereto) and child stealing (15 years).

148. For the relevant sections on the above refer to responses under article 2.

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