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UGANDA

**THE HUMAN RIGHTS RECORD
1986-1989**



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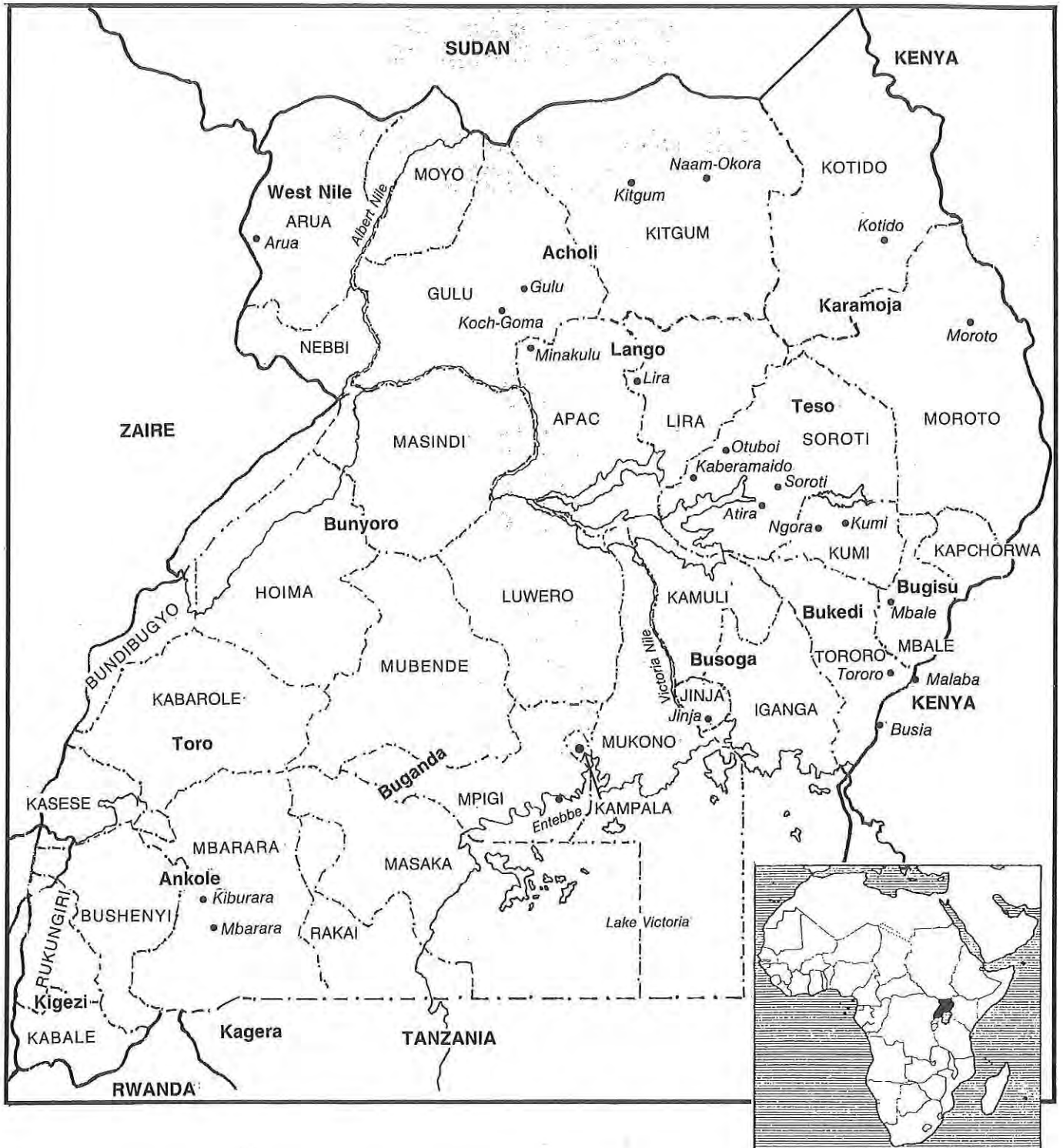
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G L O S S A R Y

The following are the acronyms and abbreviations most often used in the text:

- DP Democratic Party - formed the parliamentary opposition from 1980 to 1985 and is now a junior partner in government.
- FEDEMU Federal Democratic Movement of Uganda - guerrilla group opposed to President Obote's government. Formed part of the NRM government in 1986 but subsequently split, with part of FEDEMU resuming armed opposition.
- ICRC International Committee of the Red Cross
- ISO Internal Security Organization
- NASA National Security Agency (1980-85)
- NRA/M National Resistance Army/Movement
- NRC National Resistance Council - the interim legislature
- OAU Organization of African Unity
- RC Resistance Committee - locally-elected councils introduced in 1986
- UFM/A Uganda Freedom Movement/Army - guerrilla group opposed to President Obote's government. Formed part of the NRM government in 1986 but subsequently split, with part of the UFM resuming armed opposition.
- UNLA Uganda National Liberation Army - the national army from 1979 to 1986
- UNLF Uganda National Liberation Front - government coalition from 1979 to 1980.
- UPF/A Uganda People's Front/Army - armed opposition group operating mainly in Teso.
- UPC Uganda People's Congress - led by Milton Obote. Formed the government in 1962-71 and 1980-5.
- UPDM/A Uganda People's Democratic Movement/Army - armed opposition group operating mainly in Acholi. The bulk of the UPDA reached a peace agreement with the government in 1988. The remainder joined another rebel group, the Holy Spirit Movement.

1. INTRODUCTION

When the National Resistance Army (NRA), led by Yoweri Museveni, took control of Kampala on 26 January 1986, political commentators were quick to identify the ways in which this change of government marked a new era in Ugandan history. For the first time since independence the government would be dominated by members of the Bantu language groups of southern Uganda rather than the Nilotic north. For almost the first time in independent Africa an indigenous guerrilla movement had succeeded, without significant outside help, in overthrowing the existing government. But above all the change of government was seen as a chance for Uganda to break with a 20-year history of gross and horrific abuse of human rights.

Restoring respect for the human rights of Ugandan citizens formed a prominent part of the Ten-Point Program on which the National Resistance Movement (NRM) came to power. Ending the abuses of the Idi Amin and Milton Obote periods was widely seen, both within Uganda and abroad, as the principal aim of the NRA's struggle. And when it came to power the new government quickly moved to ratify international human rights treaties and introduce domestic safeguards against human rights violations, thus indicating that it was by these standards that it expected to be judged.

The change heralded by 26 January 1986 was indeed a dramatic one. The jails were opened and the arbitrary harassment, looting, killing and torture of the civilian population by the army ceased immediately in those parts of the country under NRA control. As the ousted Uganda National Liberation Army (UNLA) fled through northern Uganda, whence it drew much of its support, it gave the civilian population a brief taste of the brutality that it had inflicted on southern Uganda in the previous six years, thus ensuring that the NRA received a not unfriendly welcome as it moved into the UNLA's northern strongholds.

Milton Obote had been overthrown in July 1985 as a result of rivalry among senior UNLA commanders and had been replaced by Major General Tito Okello. Some 1,200 political detainees had been released by the Okello government and it had been hoped that this would mark an end to the gross abuses of the Obote period. However, the UNLA's detention, torture and killing of civilians continued unchecked, possibly even intensifying as it became clear that the government's days were numbered. So already there had been one false dawn and among the hundreds of thousands of Ugandan refugees in neighbouring countries the NRA takeover was viewed with understandable caution. But within months refugees began to return in significant numbers. By early 1989 only a handful of refugees out of more than 300,000 were still in Sudan and Zaire.

The NRM government has never described itself as anything other than an interim administration. In January 1986 it announced a four-year timetable for drawing up a new constitution and holding elections, yet three years later preparations for a planned Constituent Assembly did not appear to have advanced very far and, despite the formation of a Constitutional Commission in late 1988,

central questions, such as whether the political system was to be unitary or federal, single-party or multi-party, had not been resolved. However, at the outset the NRM government made an important innovation in local government structure: a system of Resistance Committees and Councils (RCs), elected initially at village level. Village RCs were intended to form the base of a pyramid of RCs rising through sub-county, county and district levels to the National Resistance Council (NRC), Uganda's interim legislature. In practice, however, the NRC membership has consisted of presidential nominees, although this body has been the forum for some lively debate on new legislation. RCs have been introduced locally throughout the country with varying degrees of success. In Gulu District, for example, RC members have been forthright in criticizing recent NRA abuses against the local population.

The government appointed by President Museveni includes members of all four political parties which contested the last general election in 1980, including the Democratic Party (DP) and Milton Obote's Uganda People's Congress (UPC), as well as members of other smaller groups which fought against the Obote government. But, although the government is broadly-based both politically and ethnically, the key positions are held by President Museveni's close advisers in the NRA/NRM. Political party activity - for example, in the form of public meetings or rallies - has been banned, although the parties themselves have in theory continued to function. Actually, many of Milton Obote's supporters fled the country after January 1986 - if they had not already done so when he was overthrown. In December 1987 one of the leading UPC officials at large in Uganda was arrested and some months later faced criminal charges for possession of allegedly seditious publications.

Inevitably, much of the comment on the NRM government's human rights record has been comparative. Many observers have correctly stressed the return of security to many parts of the country, the improved behaviour of the army, increased respect for the law - all by comparison with the bad years under Idi Amin and Milton Obote. Critics of the government have cited abuses by the NRA during its counter-insurgency operations in northern Uganda as evidence that the new government has a worse human rights record than Idi Amin's. To some extent this comparative approach is meaningless. A woman who survived unscathed under Idi Amin and Milton Obote, only for her husband and children to be killed by the NRA, would undoubtedly, and perhaps understandably conclude that the present government is the one with least respect for human rights. Human rights are not measured by body counts and the far higher death tolls under previous governments do not excuse the NRA's serious abuses. By its adherence to international treaties, such as the United Nations Convention against Torture and the Organization of African Unity's (OAU's) African Charter on Human and Peoples' Rights, the government has shown that it wishes to be judged by absolute standards. The purpose of this report is partly to try to gauge the government's respect for human rights in those terms.

However, it is impossible and unrealistic not to assess the Ugandan Government's human rights performance in terms of its inheritance, partly because the process of investigating and punishing past abuses is important for understanding and protecting human rights in future, partly because this legacy of destruction has placed formidable obstacles in the way of any government

committed to restoring the rule of law, but also because the NRA's attitude to human rights is bound to be inherited in part from previous Ugandan armies. As this report shows, the new government has in many ways achieved a significant improvement in respect for human rights. But the country has not been transformed overnight and another aim of this report is to document the countervailing influences at work, both in the government's attitude towards human rights and in the behaviour of the army and other state bodies towards prisoners and the civilian population.

2. COMING TO TERMS WITH THE PAST

2.1 A legacy of abuse

The country which is now Uganda was an artificial colonial creation. Even the name is a colonial coinage, derived from the name of the largest kingdom to fall under British colonial rule, Buganda. Included in the country which became a British protectorate in 1890 were peoples in the south from Bantu language groups, some of whom, like the Baganda and Banyankole¹, lived in centralized monarchical political systems. Other Bantu-speaking peoples, such as the Basoga in the east and the Bakiga in the southwest, had less centralized societies. In the north were peoples who spoke one of the Nilotic group of languages, such as Acholi and Langi, who were organized into chiefdoms, and the Karamojong and Itesot, pastoral peoples organized in clans. In the northwest were people speaking one of the Central Sudanic group of languages, including Lugbara, Kakwa and Madi.

British colonial rule in Uganda was not exceptionally repressive. Ugandans were spared the excesses of the Kenyan Emergency of the 1950s, although soldiers who were later to occupy senior posts in the Ugandan army, notably Idi Amin, played an active role in the colonial forces in Kenya. In 1962, shortly before Uganda's independence, Lieutenant Idi Amin of the King's African Rifles commanded a platoon which killed a number of Turkana prisoners in northwest Kenya. Sir Walter Coutts, the British Governor of Uganda, vetoed any criminal proceedings against him on the grounds that he was one of only two black officers in the Ugandan army and a prosecution would be politically undesirable just before independence.²

During the colonial period two sources of conflict emerged which were to become significant in Uganda's subsequent history. One was the growing ethnic rivalry, particularly between peoples of the Bantu and Nilotic language groups. The British tended to prefer southerners, particularly Baganda, to hold administrative and commercial posts, while northerners, especially Acholis, found advancement in the army. The other source of conflict was religious. Arab traders had brought Islam to the region in the nineteenth century. From the 1870s onwards there was keen rivalry between British Protestant and French Roman Catholic missionaries. After lengthy conflict the British deposed the Roman Catholic Kabaka, or king, of Buganda and replaced him with his infant son, who was brought up as a Protestant. The religious division was to become significant at independence in 1962 when the Protestant Milton Obote's UPC formed an alliance with the Kabaka's party to prevent the predominantly Roman Catholic DP from being elected. Kabaka Mutesa II became the first President of Uganda and Milton Obote its first Prime Minister.

In 1966 a major political crisis erupted which is generally considered the beginning of Uganda's decline into prolonged abuse of human rights. President Obote arrested five government ministers who had initiated a commission of inquiry into allegations that he and Colonel Amin, now army Chief of Staff, had stolen gold and ivory from a group of rebels fighting the government of the neighbouring Democratic Republic of the Congo (now Zaire). Two days later Milton Obote dismissed Mutesa II from the presidency and suspended the constitution. The crisis culminated in Idi Amin leading an army and air force attack on the Kabaka's palace, killing hundreds of Baganda. The Kabaka fled into exile in Britain, where he died three years later. In 1967 Milton Obote declared Uganda a one-party state under the UPC and abolished the traditional kingdoms, which had retained semi-autonomous status. Under the terms of a nationwide state of emergency, the security organization, the General Service Unit (GSU), detained many of the government's political opponents.

The repression of the late 1960s explains why Idi Amin was popular, especially in Buganda, when in 1971 he took advantage of Milton Obote's absence at a Commonwealth conference to seize power. He released many political detainees, lifted the state of emergency and returned the Kabaka's remains for burial in Uganda. But from the earliest days of the Amin government its alleged opponents were imprisoned or killed. In 1971 hundreds of Acholi and Langi soldiers were killed by Idi Amin's troops. One eye-witness described the killing of 37 army officers at Makindye military barracks in March 1971 thus:

"The prisoners started shouting and wailing and then the cell door was thrown open and we saw three or four soldiers move into it. They started shooting and when they stopped after a couple of minutes there was no sound except for the moans and screams of the wounded. Then they started dragging the bodies out and those who were still alive were killed with pangas [a long knife like a machete] or shot. They did not seem to be able to kill one officer whom we thought was a military chaplain. He kept groaning and they kept shooting and slashing him. The bodies were loaded into an armoured personnel carrier and as they drove away we could hear the man still shouting 'Hallelujah'.

"The next morning, that was Saturday the sixth of March, about six, every one of us was handed either scrubbing brushes or a pail for carrying water and were told to go inside the house where these people were killed. When we entered the house the place was full of worms and old blood. In fact I think the dried blood that was on the floor was almost a quarter of an inch thick, and the whole place was full of pieces of skull bones, teeth, brain tissue and many other pieces of flesh from human beings."³

Such killings set a pattern which was to continue for eight years. Constitutional guarantees were suspended and the army given extensive powers of arrest and summary justice. Security organizations such as the State Research Bureau and the Public Service Unit proliferated and became notorious for terror, torture and murder. In 1972, in a move designed to court popularity, Idi Amin

arbitrarily and often illegally expelled the Ugandan Asian community which controlled much of the country's business life.

There were many prominent victims of Amin's repression: Benedicto Kiwanuka, the Chief Justice who "disappeared" after being abducted from his chambers by security officials; Janani Luwum, the Anglican Archbishop who had criticized army behaviour and was brought before the President shortly before he died in a faked car accident; even Idi Amin's own wife Kay, whose dismembered body was found in the boot of a car after her husband had found out that she was having an affair with another man. But many tens or even hundreds of thousands of ordinary Ugandans died at the hands of Idi Amin's agents. The following account illustrates the human tragedy behind each death. A businessman imprisoned in Naguru prison thus described the killing of Christopher Lubega, himself a security official, in January 1976:

"The killers came at 8:15pm and told us to line up in fives. They called his name and told him he was going to see the President at the Nile Hotel at 8:30pm. They asked him to turn around and they handcuffed his hands behind his back. Then he was taken out of the cell and taken to the office. I was peeping through the door because my bed was near the door.

"They handcuffed his feet and put black plastic over his mouth. He could not move and they pushed him as he came out of the office. They kicked him and made him stand up. Then they took him near the guards' quarters and shot him. We heard two bullets. Because I was in charge they told me to choose two prisoners to go and smash his head. I normally chose the new arrivals because they were not known to me. So I chose two new arrivals. They went out and smashed Lubega's head. They were using a car axle: a slender part with a big head. They made us smash heads, I think, because they did not want the dead bodies to be identified later. The bodies were put in a Land-Rover and taken away."⁴

Eventually Idi Amin overreached himself. In 1978, in an attempt to distract attention from the terror and the collapsing, plundered economy he ordered the invasion and annexation of the Kagera salient on the west bank of Lake Victoria in neighbouring Tanzania. The Tanzanian Government, which had been outspoken in its criticism of Idi Amin's human rights record, launched a military attack on Idi Amin's army, first defeating Ugandan forces in Kagera and then marching on Kampala to install in government the Uganda National Liberation Front (UNLF) - a coalition of opposition groups. However, the fact that the new leaders had been installed from outside, combined with the havoc wrought by Idi Amin, meant that the country had nearly two years of short-lived unstable governments before Milton Obote's UPC returned to power in the December 1980 general election.

This election was widely considered fraudulent. Afterwards various opposition groups, notably the NRA of Yoweri Museveni, took to the bush to launch an armed struggle against the government. The DP, which was generally believed to have won most seats in the election, remained in Parliament as a

legal opposition party, although its supporters and even its members of parliament faced appalling abuses over the next five years. The electoral map of Uganda was now split almost exactly between north and south, and President Obote's government was dominated by Protestants.

The country's army from the overthrow of Amin until 1986 was the Uganda National Liberation Army (UNLA). This was ostensibly the military wing of the UNLF which had been installed in power by Tanzania in 1979. However, it rapidly became an ill-disciplined militia, and as the UNLF dissolved it increasingly owed allegiance only to the ruling UPC. A Commonwealth training team attempted to provide some disciplinary framework for the new army but eventually a number of the countries involved pulled out in despair at the UNLA's appalling human rights record. It was replaced by a solely British team, which continued to train UNLA officers until the end. The ranks of the UNLA were swollen by the urban unemployed; it was ill-clothed and ill-fed and paid irregularly. There was not even a central record of who was in the army. This combination of indiscipline and material shortage led to widespread theft and looting from the civilian population, and also to the frequent imprisoning of individuals for ransoms.

The Obote government and its apologists tended to attribute any human rights abuses to army indiscipline, but there is no doubt that the army was deliberately deployed in situations where it was sure to abuse civilians and that the government made no serious attempt to curb its abuses. In fact, some of the worst abuses were committed by the better disciplined elite units, such as the Special Brigade and the paramilitary police Special Force. Many arbitrary arrests of alleged opponents were made by the National Security Agency (NASA), which was directly answerable to the President's Office.

In 1979 and 1980 West Nile, Idi Amin's home area, had endured killings and destruction at the hands of the UNLA. This continued throughout the Obote period, although it generally attracted less international attention than UNLA killings in the south of the country. In 1983, according to United Nations figures, there were 260,000 refugees from West Nile in neighbouring Sudan and Zaire - but the true figure was probably much higher. One of the best documented incidents in West Nile occurred at Ombaci Roman Catholic mission, near Arua, in June 1981. Several thousand displaced people had already taken refuge at the mission when a group of anti-government guerrillas came there for medical treatment. Representatives of the International Committee of the Red Cross (ICRC) agreed to their request on humanitarian grounds. Shortly after the guerrillas left the mission a group of UNLA soldiers attacked it, killing 60 unarmed civilians (half of them children) in the compound, church and school. This massacre attracted widespread attention because of the presence at the mission of ICRC delegates. Reports reaching Amnesty International from West Nile during the next four years suggested that the incident had been by no means atypical.

However, it was the UNLA's mass killings in the so-called Luwero Triangle, northwest of Kampala, which attracted most international attention. The triangle was formed by the convergence of the roads going north from Kampala to Bombo and Hoima. The Luwero area was chosen by the opposition guerrillas as a

centre for operations against the government. Local people had resoundingly rejected Milton Obote's UPC in 1980 and there was undoubtedly considerable support for the guerrillas. The government's response was brutal, not discriminating between the guerrillas - who were elusive and not often captured - and civilians, who were arbitrarily detained, tortured, raped and killed. Just how many died in the Luwero Triangle is not known. The United States State Department estimated in 1984 that between 100,000 and 200,000 people had been killed. Certainly the population in that area declined dramatically under the Obote government - although this was partly the result of the UNLA's policy of forced removal of civilians population. On the rare occasions when it acknowledged that killings had occurred, the government implausibly blamed them on NRA guerrillas in captured army uniform. This was flatly contradicted by much eye-witness evidence. One of the best documented incidents took place at Namugongo, about 10 miles northeast of Kampala, in May 1984. Up to 100 unarmed civilians were killed, including the Reverend Godfrey Bazira, Principal of the Uganda Martyrs' Theological College, and Sheik Yusuf Mollo, Imam of the nearby Kito mosque. UNLA soldiers entered the theological college, apparently searching for guerrillas. Staff and students were interrogated, fired at and beaten. Four individuals, including the Vice-Principal and another priest, were arrested. The four were held in military custody in Kampala and tortured before being transferred to police custody and released uncharged next day. The Reverend Godfrey Bazira was shot in the leg, beaten and taken away. When his body was discovered later, one eye was found to have been gouged out and there were other marks of torture and gunshot wounds. Over the next two days many other people in Namugongo village and the surrounding area were beaten, tortured and killed by soldiers. Many women were raped. Anglican, Roman Catholic and Muslim religious places were desecrated and soldiers looted and destroyed property.

The government could try, however ineffectively, to blame UNLA killings on the NRA, but it was even more at a loss to explain what was going on within its own barracks. Thousands of people were unlawfully detained in barracks, either because they were supposedly political opponents or else in order to get a ransom from relatives. Torture was routine, both in the barracks and in many other informal detention places, including private houses and even the Nile Mansions luxury hotel in Kampala, which housed presidential and vice-presidential offices. Some of the luckier prisoners eventually joined the several hundred political detainees held under the Public Order and Security Act in Luzira Prison near the capital. Others were released on payment of a ransom, but many died in military custody as a result of torture or starvation.

The story of one woman interviewed by Amnesty International in 1985 is not typical as she survived torture so severe that it would have killed most people. She lived in the Luwero Triangle and was arrested by UNLA soldiers in July 1982. Her husband was taken away at the same time and she never saw him again. She was then taken to Makindye military barracks in Kampala:

"They tied my legs and hands and tied me onto a metal chair. Then they started asking me where the guerrillas were and which government I was supporting. They told me that we wanted to bring back the Kabaka and Lule as president. They accused me of being DP and

Catholic and Muganda and therefore very dangerous.

"After questioning me the soldiers came and tied an old tyre over my head, lit it and left me there. There were so many people there, men and women prisoners. The practice was that they started beating them and tied them up and then lit the tyre...

"The hot rubber droplets were made to fall on my head, my face, my right hand and on the right side of my chest. The hot rubber droplets fell and spread all over my upper body causing untold suffering to me. All along they were asking me to tell them where my sons were and insisting that my sons had joined the guerrillas in the bush and that I must know where they were operating from. I told them that my sons were not guerrillas and that I did not know whether they were engaged in guerrilla activities or not. Apart from my sons, the soldiers were asking me to tell them where Idi Amin's soldiers were operating from and who were the people supporting Yusufu Lule.

"The melting hot rubber burned the skin off my face, chest and arms and the pain is just indescribable. I spent the whole day from about 8.30am in this position and at about midnight I prayed to the Virgin Mary with my rosary around my chest."

She was helped to escape from the barracks and fled the country. She had extensive scarring and was grossly disfigured (see photograph no. 1). A medical examination made on Amnesty International's behalf by a surgeon and a forensic pathologist concluded that her injuries were consistent with her account of torture.⁵

By mid-1985 UNLA morale had been sapped by the lack of military success against the NRA. The Acholi-dominated officer corps was antagonized by President Obote's promotion of a relatively junior officer from his own Langi ethnic group to the position of Chief of Staff over the heads of several more senior Acholis. Increasingly, and somewhat belatedly, international concern was expressed about the extent of the human rights violations. President Obote became more and more isolated until, in July 1985, he was overthrown and replaced by a Military Council headed by Major-General Tito Okello. The new government released many political prisoners and gave ministerial posts to a number of opposition groups, notably the DP. However, the security situation in Kampala deteriorated, with rival armed bands controlling different parts of the city. In the Luwero Triangle army killings continued. Shortly after the NRA seized power Amnesty International delegates visiting the Luwero Triangle saw the still unburied corpses of prisoners said to have been executed by the UNLA during the final weeks of the Military Council's rule.

Meanwhile, the NRA was taking advantage of chaos in the UNLA to consolidate its control over the rural areas of southwest Uganda and to capture the military garrisons in the major towns to the west of Kampala. Negotiations between the government and the NRA opened in the Kenyan capital, Nairobi. In December 1985 the Nairobi Accords were signed, setting forth the terms for NRA participation in the government. In the event the NRA disregarded the agreement and proceeded

to seize control of Kampala - 15 years almost to the day after Idi Amin's coup.

2.2 Commission of Inquiry into Human Rights Violations

When Amnesty International delegates visited the Luwero Triangle for the first time in April 1986 they, like other visitors, saw the rows of skulls and other bones and human remains laid out at the roadside or stuck on sticks. Where once a traveller would have seen market wares, there were now only the grisly remains from the UNLA's massacres. Some observers have misinterpreted these displays as a "traditional" part of local culture. Yet in normal times the Baganda who live in the Luwero Triangle are no more inclined than anyone else to parade dismembered human remains. The Luwero skulls were a sign of the deep trauma that gripped the communities which had suffered at the hands of the UNLA. Such a public display of grief was one attempt to come to terms with the recent past.

Another such attempt was the government's announcement in May 1986 that it was setting up a Commission of Inquiry, chaired by a High Court judge, to investigate human rights violations from Uganda's independence in 1962 until the NRM came to power. The commission's terms of reference are deliberately broad but the focus is on arbitrary arrest and detention, and torture and killings by successive governments' security forces. Significantly, the legal notice establishing the commission required it "to inquire into... possible ways of preventing the recurrence" of such abuses. The commission's chairman, Justice Arthur Oder, has been at pains to stress this part of its task. He remarked to Amnesty International delegates in February 1988 that many people felt the commission was a good thing because it would identify those responsible for past offences, but he thought that its most important task was to make recommendations to the government. Not surprisingly, there has been some cynicism about the government's motives in setting up such a body, which could be seen as legitimizing its own seizure of power. Some commission members think more people would have been willing to testify had the commission also been investigating abuses committed under the present government. However, many other observers felt that there was significance in the mere fact that Ugandans themselves were investigating their past, which had been so extensively reported by outside organizations such as Amnesty International and the International Commission of Jurists.

The six commissioners - lawyers, academics and writers - began public hearings of evidence in Kampala in December 1986. A team of investigators and the commission's leading counsel, Edward Ssekandi, screened hundreds of potential witnesses in order to select those to be examined in public session. The aim was to choose cases which would illustrate various different types of human rights abuse, as well as to cover the whole period from 1962 to 1986. The emphasis was on investigating relatively few cases in depth, calling a variety of witnesses, rather than on hearing every potential witness in public. The public hearings were relaxed and fairly informal, conducted with compassion and even, unlikely though it may seem, with humour. The problem which rapidly emerged was that the proceedings were moving far too slowly for the commission

to have any realistic prospect of completing its work. No deadline had been set, yet if the commission's recommendations were to be taken into account clearly it would make sense for it to report before a new constitution had been drafted. In late 1987 the commission began to circulate questionnaires to be filled in by anyone with evidence of human rights abuse. These were intended to enable the investigating team to screen witnesses more quickly and to use the information obtained when drafting the final report.

Generally, the commission has not had to use its legal powers under the Commission of Inquiry Act in order to secure the cooperation of witnesses. In June 1988 President Museveni himself gave evidence in response to allegations that he had ordered the killing of Muslims in Bushenyi, western Uganda, in 1980 when he was Defence Minister. Paulo Muwanga, Vice-President under Milton Obote, who was heavily implicated in the human rights crimes of the Obote period, has been the only important individual to refuse to testify before the commission - ostensibly on grounds of ill-health. He criticized alleged bias on the commission's part, but later agreed to appear before it.

An early difficulty was the connection between the commission and the prosecution of alleged human rights violators. The popular view was that the commission would gather the evidence that the government needed to bring human rights violators to justice. The commissioners and the Attorney-General's office soon realized that such a procedure would deter many people from testifying and agreed that the police and public prosecutors should not have privileged access to evidence gathered by the commission, although the commission staff might send the public record of the hearings to them. It was decided that police investigations must be pursued independently of the commission's. This solution not only made things easier for the commission but also made it more likely that the state would manage to secure the conviction of human rights violators in court, after a proper police investigation.

But the major problem which has dogged the commission's work has been far more prosaic: lack of resources. Every enterprise in Uganda, with the partial exception of the military, is bedevilled by lack of transport, stationery, office equipment and all the other essentials of an efficient operation. Despite the government's stated enthusiasm for its work, the Commission of Inquiry has been no exception. At first, lack of transport and fuel meant that the hearings were confined to Kampala. It became increasingly clear that this was seriously hindering the investigation. By October 1987 a whole series of shortages brought the public hearings to a halt: most of the commission's five vehicles were not working, duplicating paper and stencils were running out and there was no recording equipment or generator for upcountry hearings. There was no shortage of staff and the commissioners might have split up in order to expedite their work, but the lack of resources made this pointless. It was only in February 1988, after an infusion of money from the Ford Foundation, that the public hearings resumed. The period between October 1987 and February 1988 had been usefully spent circulating questionnaires, but the commission's four months out of the public eye had led to loss of momentum and morale. In early 1989 its final report still seemed as far away as ever.

2.3 Trials of human rights violators

When the NRM came to power, with its stated commitment to the rule of law, there was widespread expectation that many human rights violators from the previous governments would be put on trial - an expectation that was heightened by the announcement of the Commission of Inquiry into Human Rights Violations. Certainly a number of officials of previous governments have been prosecuted and some convicted, but the courts have been far less occupied with this sort of case than might have been expected. The reasons are twofold. First, there were so many abuses by previous governments that, inevitably, security officials and members of the government at all levels were potentially implicated; but the NRM's stated political aim was to unite the country which, in practice, amounted to granting an undeclared amnesty for many human rights violators, ranging from ministers in the new government to ordinary soldiers. Secondly, such cases are far more difficult to pursue successfully than might appear at first sight. Soon after coming to power the government considered - and rejected - the idea of making retroactive changes in the law which would render senior members of the previous governments liable to prosecution in a "Nuremberg-type" trial. Such an approach was rejected as contrary to the principles of natural justice. Instead, prosecutions have proceeded case by case.

Not surprisingly, the state has had more success in convicting junior officials who actually inflicted torture and carried out extrajudicial executions than their superiors who are alleged to have ordered them. The charge of kidnapping with intent to murder (Section 235 of the Penal Code), which carries a possible death sentence, has been widely used in the cases of senior officials; although it has been criticized by some lawyers who fear its catch-all nature. This charge has been used in conjunction with Section 21 of the Penal Code, which makes "any person who procures another to do or omit to do any act" a principal offender liable to the same punishment "as if he had done the act or made the omission".

It was on this basis that Cris Rwakasiisi, President Obote's Minister of State responsible for security, was found guilty in June 1988 of kidnapping with intent to murder. The High Court in Mbarara found that in 1981 he had ordered the arrest and death of seven men in that town; they were taken to Kireka barracks, in Kampala, and killed there. The court also convicted Elias Wanyama, an official of the National Security Agency (NASA) said to have done the killing. From 1981 to 1985 Amnesty International inquired about some of those who had been killed, including George Kananura Rwabatooto, said by one witness to have been decapitated. Both Cris Rwakasiisi and Elias Wanyama were sentenced to death. Amnesty International appealed to President Museveni to commute their sentences, arguing that training security officials and thoroughly investigating reported abuses were more likely to prevent such crimes than were executions.

Another prosecution which did not succeed was that of former Vice-President Paulo Muwanga, a senior official in the governments of both President Obote and Major General Okello. In July 1988 the High Court in Kampala acquitted him of a charge of kidnaping with intent to murder - but he was immediately redetained to face another similar charge.

The government has not been very successful in securing the extradition of alleged human rights violators to face criminal charges. In October 1987 the Kenyan High Court overturned an earlier decision by the Nairobi Chief Magistrate to extradite a former Ugandan intelligence officer Peter Owilli to face a charge of kidnapping with intent to murder. In March 1987 a Dar es Salaam magistrates' court rejected an application for the extradition from Tanzania of Lieutenant-Colonel John Charles Ogole, formerly commander of the UNLA's Special Brigade in the Luwero Triangle, who faced a murder charge. In both cases the alleged criminals were senior officers in security force units known to have committed numerous human rights abuses under the Obote government, yet in each case the court decided that the Ugandan Government's motives in seeking extradition were political.

Occasionally, there appears to have been substance in the allegation that the government was using the prosecution of alleged human rights violators as a means of pursuing political conflicts. For example, in January 1987 Ben Latigo, former General Manager of Uganda Airlines and a UPC supporter, was charged with kidnapping with intent to murder, only for the charge to be quietly dropped a few weeks later - and he was allowed to leave the country. In February 1988 Ben Etonu, a former member of parliament and deputy minister, was charged in Mbale with kidnapping with intent to cause grievous harm. Doubt about the motivation behind this charge is prompted by the fact that for a year before he was finally charged he had been in unlawful military detention in appalling conditions at Kotido military centre. Prosecuting him for an alleged violation of human rights seems to have been an afterthought.

FOOTNOTES

1. Buganda refers to the geographical area, Baganda (singular Muganda) to the people, Luganda to the language and Kiganda to the culture and way of life. Similar prefixes apply to all Bantu groups.

2. Sir Walter Coutts quoted in David Martin, General Amin, London 1974, pp 18-19. However, Sir Walter states that he did favour disciplinary action against Idi Amin. This was blocked by the then Prime Minister, Milton Obote.

3. International Commission of Jurists, Uganda and Human Rights, Geneva 1977, pp 31-2.

4. Ibid, p 128.

5. Amnesty International, Uganda: Evidence of Torture (AFR 59/06/85), London 1985, pp 5-6, 19-21, reproduces her account and medical report in full.

3. SAFEGUARDS AGAINST ABUSE

3.1 Behaviour of the National Resistance Army

On even the shortest journey in Uganda the traveller encounters a roadblock, and a trip from one town to the next may mean going through dozens. Before January 1986 the procedure at a roadblock was well-established: at best travellers had to part with their money and valuables for the benefit of the underpaid soldiery. At worst they were detained, perhaps even tortured or killed. This was what Ugandans came to expect, and in Kampala at any rate the situation reached its nadir under the Okello government, when different armed groups controlled different sectors of the capital, blocking the roads and inflicting summary punishments on those who travelled between them.

Since the NRA came to power this has changed. There are still many roadblocks, but almost their entire purpose now is to check documents and search for arms. This does not apply everywhere and army behaviour has been noticeably different in the south of the country, where the NRA is firmly in control, and in the north, where it has faced a serious armed challenge. Nevertheless, the dramatic change in behaviour at roadblocks does symbolize other changes in the conduct of Uganda's national army.

In its five-year guerrilla war against the UNLA, the NRA depended on close relations with the peasantry in the parts of southern and western Uganda where it was operating and its main strength was drawn from these same peasants. The instances of NRA abuse against the local people were few. On the other hand, the Ugandan army under Idi Amin and Milton Obote's UNLA drew heavily on the urban unemployed, the bayaye, who had no roots in their area of operation. The UNLA in particular was underpaid, underfed and underclad. There was no central record of who was in the army, and military rank meant little more than a licence to loot. The contrast with the NRA when it first came to power was striking. However, the composition of the NRA itself changed over the years. After it seized power it had rapidly to integrate other fighting groups which lacked its strict discipline and military experience. This process was accelerated after conflict started in the north in August 1986. Furthermore, the NRA was now operating in unfamiliar territory. Many of the peasants in Acholi and Teso did not speak Swahili, the language of the NRA, nor did they know the various southern languages used by the soldiers among themselves. This, combined with resentment among the NRA because of the atrocities committed by the UNLA (regarded as an Acholi fighting force) in the Luwero Triangle, contributed to a decline in the standards of behaviour.

Since its days in the bush the NRA has been governed by two codes of conduct which impose strict penalties for abusing the civilian population. When the NRM came to power these codes became part of the law. The government has been keen to persuade civilians that today, unlike in the past, soldiers are subject to the law and liable to be brought swiftly to justice for any abuse of human rights. Action has often been taken against offenders, although (as documented in Section 4) soldiers have frequently escaped punishment.

Amnesty International has taken issue with the government over the widespread use of the death penalty as a disciplinary measure in the NRA. At least a dozen soldiers have been executed by firing-squad since the beginning of 1987. The Code of Conduct for the National Resistance Army prescribes a mandatory death sentence for murder, treason, rape and disobedience of a lawful order resulting in loss of life. Soldiers are tried by a unit disciplinary committee chaired by the unit's second-in-command. They have no right to legal representation and no right of appeal. All death sentences must be confirmed by the Chairman of the High Command, President Museveni. The NRA's Operational Code of Conduct defines a series of offences related to the army's operations in the field, including desertion, disobeying lawful orders, misuse of arms and failure to perform one's duties. All the offences listed in this code carry a maximum penalty of death. Defendants may be tried by a unit tribunal, a field court martial or a general court martial, all of which can impose death sentences. There is no automatic right to have a lawyer and no right of appeal. Death sentences passed by a unit tribunal or general court martial must be confirmed by the High Command. The Chairman of the High Command has the prerogative of mercy; the High Command advises him on how to exercise this.

Many of the executions of soldiers have been carried out in public, often soon after the offence was committed. For example, Private Richard Onen was publicly executed in Soroti on Christmas Day 1987 for a murder committed the previous day. The government's rationale is that speedy and public justice reassures the people that the army is under control. Amnesty International has argued that, on the contrary, speedy justice may in fact be no justice at all and that public executions may serve only to brutalize rather than to deter. The Ugandan Government evidently sees executions as a way to protect human rights rather than as a violation of such rights. Yet in practice the NRA's ability to respect human rights has depended on the extent to which its soldiers have been highly motivated and educated. The more it has come to resemble past Ugandan armies, the more its standards of behaviour have slipped.

Nevertheless, in the light of recent Ugandan history it remains remarkable how many NRA soldiers are brought before the civil courts on criminal charges. For the first time in nearly two decades there is a serious attempt to establish that the army is not above the law. An important example was the arrest in October 1988 of Lieutenant Mwanawomuntu Katsigazi and six other officials of the Internal Security Organization after the death of a prisoner in their custody (see Section 4.3 below).

Some observers have been disappointed that, three years after the NRM came to power, the army rather than the police is still central to the maintenance of law and order. The Museveni government inherited a police force which was already understaffed, badly trained and corrupt. Some voices in the new government argued for the police to be disbanded. Instead, the government appointed a new Inspector-General of Police, Luke Ofungi, who had twice resigned from the police in protest at human rights abuse under Idi Amin and Milton Obote. The new authorities then embarked on an exercise to screen all existing police officers in order to weed out those who were corrupt, below educational standard or had committed human rights abuses. They were left with just 3,000 out of an establishment of 22,000. This meant the system was clearly unworkable, so another 3,000 of the least egregious offenders were reinstated and a rapid program was launched to train new recruits. The aim was to raise the number of personnel to about 10,000, then to slow down recruitment so as to

allow the new officers to be absorbed and gain experience. This continuing shortfall in police officers has meant that the army is still involved in day-to-day policing, which in Kampala usually takes the form of joint police-army patrols. However, the army often does not trust the police to detain alleged serious offenders, still less those whose cases are political. Such prisoners are as likely to end up in a military barracks as in a police station and it is there that the danger of abuse arises. As indicated below, it is those rounded up by army patrols in Kampala who have often been the victims of torture or other ill-treatment.

Amnesty International is not concerned in principle whether or not the military are engaged in civil policing. What is important is that people have legal protection against arbitrary arrest, detention and ill-treatment. Under Ugandan law the army has no special powers of arrest - that is, a soldier simply has the same power as any other citizen to arrest someone for a crime committed in his or her presence¹ - although proposed legislation under discussion would give them the same powers as police officers in conflict-affected areas. Nor are military barracks lawful places of detention for civilian prisoners. The 1987 Security Organizations Act, which set up civil and military intelligence bodies, explicitly withheld from them the powers of arrest and detention - in sharp contrast to the practice under previous governments. The problem is that when in practice the military continue to arrest and detain suspects then the usual legal guarantees against arbitrary arrest and ill-treatment do not effectively apply. The only possible legal remedy in such circumstances is habeas corpus, although as shown below, this solution has not been consistently enforced. It is also an extremely inaccessible remedy for most suspects picked up by the NRA, who have neither the means nor the connections to file an application in the High Court.

The type of abuse that can occur is well illustrated by the case of Charles Kagenda-Atwooki, Professor of Geography at Makerere University and Publicity Secretary for Milton Obote's party, the UPC. The UPC is a legal political party, some of whose members are in the government. Professor Kagenda-Atwooki was arrested on 10 December 1987 by officers of the police Special Branch shortly after he had given an interview to the British Broadcasting Corporation in which he criticized aspects of the NRA's human rights record. Despite being arrested by the police, he was promptly handed over to military intelligence officials - who had come with the police to arrest him. This neatly sidestepped the provisions of the Security Organizations Act. He was held incommunicado for some weeks at military intelligence headquarters in Basiima House and at Mbuya barracks (both in Kampala), where he is believed to have been ill-treated. Finally, in March 1988, just after his lawyer had filed a habeas corpus application, he was brought to court and charged with engaging in an act of terrorism (for which the court may not grant bail) and unlawfully possessing seditious publications. The more serious terrorism charge was later dropped, and in September 1988 he was granted bail. However, the court required him to present his passport - which had been confiscated by military intelligence - as surety and he remained in custody for some weeks before he was finally released. The tardiness of the authorities in preferring charges and the calculated flouting of the government's own law regulating powers of arrest strongly suggest that the real reason for his arrest was a critical interview he had given to a foreign radio station and that the other allegations had been an afterthought.

3.2 Rule of law

When the new government came to power it declared itself committed to restoring the rule of law in Uganda. One important aspect of this has been to try to bring the army under the authority of the law - something which has been only partially successful. Another aspect has been to restore respect for the judicial process and to bring cases to court rather than to resolve disputes extrajudicially. Here too the verdict on three years of the NRM government must be a mixed one.

The government inherited a legal and judicial system which had hardly changed since colonial times. The judiciary, which had been severely persecuted under Idi Amin, had retained a surprising degree of independence under Milton Obote, although this may have been because so few politically sensitive cases ever came to court. However, President Obote's Chief Justice, George Masika, was a political appointee who scarcely bothered to hide his partiality. In 1984 he wrote to the President recommending that all the leaders of the DP should be detained. After the fall of the Obote government he was replaced by a British expatriate, Peter Allen, who had been a judge on the Ugandan bench for many years. In mid-1986 the NRM government replaced him with Samuel Wambuzi, who had been Chief Justice in the late 1970s.

Usually, on the rare occasions when it had been able to do so, the High Court had acted as a bulwark against abuse under the Obote government. One judge told Amnesty International how he had hidden in his chambers prisoners whose release he had ordered, so as to prevent them being rearrested by the army. However, many in the NRA and the new government did not trust the courts, which they considered corrupt and too concerned with legal technicalities. This hostile view was sharpened by the fact that few ordinary Ugandans can afford legal representation. At the lower levels of the judicial system, NRA criticisms undoubtedly had some substance. Like many underpaid public servants in Uganda, magistrates were often corrupt. An early reform made by the new government was to give the locally-elected RCs some limited judicial powers; for example, in customary civil matters and minor criminal cases. Some RCs misunderstood the extent of their powers and went so far as to close local magistrates' courts. In Mbale and Mukono, they arrested the magistrates and briefly detained them for keeping the courts open.

In 1988 a tribunal chaired by Tanzanian Appeal Court judge Robert Kisanga (who is also a member of the African Commission on Human and Peoples' Rights) investigated a number of allegations against Justice Emmanuel Aldo Oteng, a High Court judge. The latter was accused on six counts, including improperly acquitting a man charged with kidnapping with intent to murder and conducting himself unethically when handling a bail application by Cris Rwakasiisi, the former Minister of State responsible for security who was later found guilty of kidnapping with intent to murder. Justice Oteng was also alleged to have wrongfully delayed hearings or judgments in some 40 cases. In December 1988 the tribunal reported to the President, recommending Justice Oteng's removal from the bench. Amnesty International was following the case to try to determine whether the charges against him in fact constituted an attempt to interfere with judicial independence.

The past three years have been notable for increased activity in the courts, particularly on political cases. In some ways this is a positive

development, insofar as it represents an attempt by the government to pursue its alleged violent opponents through the courts rather than by extrajudicial means. However, there have been cases in which criminal charges appear to have been used frivolously in order to keep critics behind bars for long periods.

In October 1986 a group of politicians and former members of minority anti-Obote guerilla groups were arrested and charged with treason, having been accused of plotting to overthrow the government. They included the Ministers of Energy, (Andrew Kayiira) and Commerce (Evaristo Nyanzi) as well as the editor of the DP's Citizen newspaper (Anthony Ssekweyama). In early 1987 Andrew Kayiira and a number of others were released when the charges against them were dropped; Andrew Kayiira was shot dead by armed men a few weeks later. Evaristo Nyanzi, Anthony Ssekweyama and five others were brought to trial in the High Court in August 1987. In March 1988 three of the defendants were found guilty and sentenced to death. The other four, including Evaristo Nyanzi and Anthony Ssekweyama, were acquitted and released, although one of them, Major Fred Mpiso, was promptly redetained and remained uncharged in Makindye military barracks in early 1989 - a disturbing echo of a practice which was regular during the Obote period. An Amnesty International observer attended part of the trial and concluded that the hearing was fair; however, the organization appealed to the government against the imposition of death sentences on the three found guilty.

In mid-1988 a number of other treason cases were pending, including one involving a group of people arrested in Tororo in January 1987 and another involving a different group arrested later that year after apparently calling for the restoration of the Kingdom of Buganda. In August 1986 a group of 25 people were arrested and charged with treason on the grounds that they had plotted to restore the Buganda monarchy. Many of them were old men and several fell ill in custody. Most of those charged appear gradually to have been released on bail and by mid-1988 it was unclear whether they would ever be brought to trial - raising serious doubts about whether the charges against them actually had much substance in the first place.

Sometimes minor charges have been replaced by more serious ones in order to prevent courts releasing defendants on bail. David Lwanga, Minister of the Environment, was among a group arrested in October 1986 and charged with treason. In February 1987 the charge against him was dropped, but he remained in custody to answer a charge of terrorism. He was accused of illegal possession of a gun but was charged under the Terrorism Act apparently because offenders against that law may not be bailed. Ironically, it was the Obote government which introduced the Terrorism Act in 1984; the opposition at that time was highly critical of the creation of the offence of terrorism and the denial of bail. In David Lwanga's case the charge was later reduced to the lesser one of unlawful possession of arms (for which bail is allowed). He was eventually acquitted.

Sam Engola was arrested in about August 1986 after armed rebel attacks in northern Uganda. He was known to be a supporter of former President Obote. He was later charged with a foreign exchange offence and refused bail by a magistrate. He appealed successfully to the High Court. Three days after his release on bail in November 1986 Sam Engola was rearrested and charged with treason - for which he could not be bailed. He was detained for some months until the treason charge was dropped and he was released. This meant that he was only ever briefly detained without charge, but there was never apparently any serious intention to bring him to trial.

Some members of the present government appear to be as hostile to the notion of bail as was the Obote government. As well as introducing the Terrorism Act, in 1985 the former government introduced an amendment to the Trial on Indictments Act which severely curtailed the chances of getting bail and effectively removed from the courts discretion over granting bail in serious political cases and gave it instead to the Director of Public Prosecutions. Many people, including members of the present government, have criticized this obvious interference with the independence of the judiciary. But in an address to the Law Society in February 1987 President Museveni made clear his opposition in principle to granting bail. The notion of bail is closely bound up with the presumption that an accused person is innocent until proved guilty. In his speech, President Museveni criticized the presumption of innocence:

"It guarantees freedom to a bigger percentage of criminals who are brought to trial. I think it should be changed so that an accused also has a duty to defend himself. He should not necessarily be required to prove his innocence beyond reasonable doubt but he should be required to defend himself. In a situation where the Government is committed to the Rule of Law the State has no interest in persecuting innocent individuals."

President Museveni argued that Uganda should break from the English legal and judicial system that it had inherited at independence. However, the presumption of innocence, far from being unique to the English system, is regarded internationally as a basic standard for fair trial. International human rights standards, including the OAU's African Charter on Human and Peoples' Rights ratified by the Ugandan Government, guarantee the principle. Contrary to President Museveni's assertion, government agencies the world over do arrest innocent people, whether maliciously or by mistake. It is up to the former to prove that they are legally entitled to restrict a citizen's liberty, not for the citizen to demonstrate that he or she should be entitled to exercise that basic right.

Where the government has signally failed to keep its promise to uphold the rule of law is over the detention of several thousand alleged political opponents arrested in the course of army operations against rebels in the north and east of the country (described in detail in section 4.4). Although the government has sweeping powers of detention under the Public Order and Security Act or can assume such powers by declaring a state of emergency, it has chosen instead to hold such prisoners arbitrarily outside the law.

In late 1988 the NRC passed an amendment to the Constitution which gave the President the power to declare any region of the country to be in a "state of insurgency". A further draft law extending the powers of magistrates' courts in areas of insurgency was due for debate by the NRC in early 1989. This Bill was presented as the government's attempt to resolve the problem of the many illegal detainees. However, the proposed solution - a system of summary courts with power to impose the death penalty - seems likely to make the situation far worse. The main features of the Bill are as follows:

- Magistrates' courts in affected areas will be empowered to try a wider range of offences, including some punishable by death.
- Magistrates' courts will have the power to try people for offences alleged

to have been committed outside their local jurisdiction.

- The President will be able to appoint anyone he chooses as a magistrate, irrespective of whether he or she is legally qualified.
- Capital offences will be heard by a magistrate sitting with two assessors, one an NRA soldier and the other an RC official.
- Bail will not be allowed.
- The rules of evidence may be suspended to allow hearsay and uncorroborated evidence to be admitted and to shift the burden of proof from the accuser to the accused.
- Soldiers will have the same powers of arrest and detention as police officers.

This new law would thus remove some of the basic guarantees of fair trial for alleged political offenders and those facing the death penalty. The President's power to appoint anyone as a magistrate could be used to impose military judges on the civilian population - thus reducing the independence of the judiciary. The suspension of the rules of evidence is also ominous: an accused person would have to prove his or her innocence when confronted with hearsay or uncorroborated testimony of prosecution witnesses.

The most important remedy for prisoners detained illegally is habeas corpus. The extent to which habeas corpus has been effective since January 1986 is a good indication both of this government's greater respect for the rule of law and of how far present practice still falls short.

Under the Obote government writs of habeas corpus granted by the courts were almost always ignored. Amnesty International knows of few instances during this period when military commanders obeyed court orders to produce a detainee. In other cases, prisoners in civil custody were produced and ordered to be released by the courts - only to be redetained as they left the High Court building. In contrast, Amnesty International has been able to document a number of cases in which NRA officers have complied with writs of habeas corpus - although there are many others where they have not.

One of the most shocking cases is that of Charles Ogwal-Engola, a 49-year-old Kampala trader. He is a relative of Sam Engola, whose case is described above. Charles Ogwal-Engola had stood surety when Sam Engola was released on bail in November 1986. On 1 December 1986, about a week after Sam Engola had been rearrested and charged with treason, Charles Ogwal-Engola was arrested at his home by NRA soldiers. He was taken to Summit View, a military barracks in Kampala, where he alleges that he was tortured. According to his account, which corresponds with reports from others held at Summit View at the same time, he was hoisted by a rope thrown over a roof beam and severely beaten. The soldiers squeezed his genitals with pliers, forcing him to sign a self-incriminating statement. However, he was not charged with an offence but moved to Lubiri military barracks and later to the military prison at Luzira, just outside the capital. Nine months later, in September 1987, he was transferred to Luzira Upper prison. During his imprisonment at least four writs of habeas corpus were granted by the courts and ignored by the soldiers responsible for his imprisonment before he was released uncharged in March 1988.

Charles Ogwal-Engola's case seems to have been an exceptionally bad one, but in 1986 and 1987 there emerged a clear pattern, whereby writs would be served on the Commissioner of Prisons, who would then advise that they should be served on the commander of the army, arguing that the NRA had ordered the imprisonment of those concerned. This would be done, but the army would also fail to produce the prisoner. The Attorney General would then be served with a copy of the writ and his representative would come to court saying that he did not know why the prisoner had not been released. The prisons service headquarters would confirm to the court that the person was detained without charge but would be unable to release the prisoner. Sometimes, in the end, the prisoner would be produced (on one occasion a judge even ordered the arrest of the commander of the army if the prisoner was not brought to court) but on other occasions, as with Charles Ogwal-Engola, it might take many months and several writs before the authority of the court prevailed.

In February 1988 Amnesty International asked the Minister of Justice, who is also the Attorney General, for his response to this unsatisfactory state of affairs. He described how he had recently set up an office in his ministry, headed by a Senior State Attorney, in order to minimize confrontation between the courts and the detaining authorities. When a habeas corpus application is filed, the Senior State Attorney is notified and contacts the detaining authority before the writ is issued. He advises the detaining authority to charge the prisoner and tells them if he believes the person is illegally detained. Some Kampala lawyers noted an improvement in the way habeas corpus rulings were implemented during 1988, though it was clear that the procedure was still far from being properly followed by the detaining authorities.

3.3. Inspector-General of Government

Soon after it had established the Commission of Inquiry into Human Rights Violations, the government set up a parallel but permanent institution to investigate alleged abuses that had taken place since January 1986. The Inspector-General of Government began work in 1986, although the National Resistance Council did not pass the statute establishing the office until mid-1987 and it did not receive the presidential assent until the following year. The Inspector-General is Augustine Ruzindana, an economist - which reflects the emphasis given to the office's other role of investigating corruption. This is the first permanent institution in Uganda's history set up to investigate human rights abuse by government.

The Inspector-General is appointed by and answerable to the President and no one else. This means that he has the authority to investigate any public servant up to and including a minister, though he would have to obtain the President's authorization to interview a member of the Cabinet. The functions of the Inspector-General of Government, as outlined in the statute establishing the office, are fourfold. First, he is to inquire into allegations of human rights violations, particularly arbitrary killing, arbitrary arrest and detention, denial of fair trial, torture and unlawful acquisition of or damage to property. Secondly, he is to investigate how far law enforcement agencies respect the rule of law. Thirdly, he is to detect and prevent corruption, and fourthly he is to investigate maladministration and abuse of office.

To do this the Inspector-General of Government has extensive powers, including the power to seize documents and subpoena witnesses (and order the arrest of witnesses who fail to comply) as well as the power to conduct a search. Failure to cooperate with the Inspector-General's investigations is punishable by up to three years' imprisonment or a fine. The only exceptions to these powers are cases in which the President certifies that investigations might prejudice national security or involve the disclosure of cabinet secrets. There are certain matters that may not be investigated: a court decision, or a matter which is sub judice, and any matter relating to the President's exercise of his prerogative of mercy. The Inspector-General can decide not to investigate a complaint if it appears frivolous or, more commonly, if it is already under investigation by an established body, such as a police or military disciplinary tribunal.

In practice, the Inspector-General's work has been hampered by the long delay in formally establishing his department by law, which has denied him a proper budget and the ability to recruit his full complement of some 80 or 90 staff. The Inspector-General appears to have been more effective in pursuing cases of corruption than in systematically investigating complaints of human rights abuse. When Amnesty International delegates met the Inspector-General in February 1988, for example, the department had not yet carried out a single investigation of an alleged extrajudicial execution by the NRA, even though Amnesty International, among others, had submitted details of a number of such cases.

Both Augustine Ruzindana and Justice Arthur Oder, the Chairman of the Commission of Inquiry into Human Rights Violations, have told Amnesty International that when that commission completes its work it should be succeeded by a new permanent commission, which would take on the human rights aspects of the Inspector-General's mandate. Such a body would inherit the existing commission's staff, along with the human rights investigators from the Inspector-General's office. A new commission could have greater formal independence from government than the Inspector-General, who is a presidential appointee. It is also to be hoped that a commission's terms of reference would not be circumscribed in any way by considerations of national security or government secrecy. These caveats in the Inspector-General of Government Act are open to abuse by a government which seeks to restrict genuine impartial inquiry into human rights matters.

It is also important that the long-term aim of setting up a permanent human rights commission does not detract from the current work of the Inspector-General of Government. The Oder Commission is unlikely to report in the near future, so the burden of investigating complaints still lies with the Inspector-General. There has been discussion about appointing a Deputy Inspector-General, who would be an army officer and therefore more easily able to investigate alleged NRA abuses. On the other hand, there is the danger that a serving soldier would not be independent enough to investigate complaints against his comrades. The office of Inspector-General of Government is potentially one of the most important safeguards against human rights abuse in Uganda and it is essential that it functions effectively.

FOOTNOTE

1. In 1971 a decree issued by President Amin gave soldiers and members of intelligence organizations powers of arrest

similar to those of the police. After the overthrow of the Amin government there was a degree of legal ambiguity on this issue until the Army Powers Act of 1984 definitively removed from the army any arbitrary powers of arrest and detention. In the meantime, however, there had been a series of cases in which it was satisfactorily established that the army did not retain sweeping powers to arrest and detain civilians. The judge in the case of Mathias Edward Kiyemba versus the Attorney General, HCCS 192/83, stated that except in a state of emergency or under martial law "no member of the army has any more legal powers over civilians than any other citizen has".

4. WAR IN THE NORTH

4.1 Political background

The NRM's greatest security problem has been armed opposition by a number of groups operating in the northern and eastern parts of the country and it is in the context of the army's counter-insurgency operations that the most serious violations of human rights have taken place.

When the NRA arrived in northern and eastern districts in the early months of 1986, it seems to have been welcomed by the local population, even though it was generally considered a southern-based army, whereas the fleeing UNLA drew much of its membership from the northern ethnic groups. The reason for this welcome appears to have been the contrast between the NRA and the ill-disciplined UNLA troops who had looted and killed as they retreated, even through their home areas. Other areas had more specific reasons for the welcome. Lango, the home area of former President Obote, had been subjected to six months of ethnic killings after the Military Council took power in July 1985. For whatever reason, the resistance offered by the retreating UNLA was much less than most observers had expected.

By August 1986, however, armed conflict had resumed in the north. A major reason for this was the behaviour of the NRA. By most accounts, the first units to arrive in the north behaved in accordance with the army's high reputation up to that time. However, later units posted in the Acholi region were composed of members of other anti-Obote guerrilla groups - the Uganda Freedom Army (UFA) and Federal Democratic Movement (FEDEMU) - who soon began committing abuses. There were other grievances too. In Teso, in the northeast, the government dissolved the local militias which had protected the pastoral Itesot people from cattle raiders from neighbouring Karamoja. The well-armed Karamojong took advantage of the general insecurity to step up their raids, until by early 1988 they were raiding right across northern Uganda as far as the banks of the Nile. It was widely alleged in Teso that the NRA, many of whose commanders come from the cattle-owning Banyankole people of western Uganda, was in league with the Karamojong. A senior army commander was transferred from Teso in late 1987 because he had been illegally removing cattle from the area.

In August 1986 armed rebels mounted a major attack on Gulu, the principal town in the Acholi region. The attack heralded several months of serious conflict in the region. In September 1986 former FEDEMU soldiers in the NRA were reportedly responsible for large-scale killings of unarmed civilians at Naam-Okora, in Kitgum District. Many ex-FEDEMU soldiers were detained and transferred to southern Uganda, some for "re-education" at Kiburara camp in Mbarara District. Their commanding officer, George Matovu, was himself tortured, by being tied "three piece" or kandooya style (see below). As a result his left arm was partially paralyzed and he was still in this condition when Amnesty International delegates saw him in Luzira Upper Prison in February 1988.

Part of the NRA strategy for dealing with the insurgency was to deny the rebels support from the civilian population by destroying crops and food stores. By the second half of 1988 severe malnutrition affected large areas of northern and eastern Uganda. In early 1987 the army forced the evacuation of a number of Roman Catholic missions in Acholi which had been the region's major source of medical services. Drugs and food were burned and water pumps broken as the hospitals were abandoned.

By late 1986 political differences among the rebel groups were becoming apparent. The Uganda People's Democratic Movement/Uganda People's Democratic Army (UPDM/UPDA) was mainly Acholi-based, involving former UNLA soldiers and led from Nairobi and London by former ministers in the Obote and Okello governments. However, the movement which gained increasing popular support was the Holy Spirit Mobile Force, a messianic religious movement led by a young woman known as Alice Lakwena. The Lakwena rebels were poorly armed and relied heavily on magic, believing that they would be immune to bullets if they smeared themselves with special preparations and that in their hands rocks would turn into hand grenades. As a consequence the Holy Spirit Mobile Force sustained very heavy casualties in a series of suicidal attacks on the NRA. However, they succeeded in advancing east and southwards through Uganda, until they were finally routed on the outskirts of Jinja in November 1987. Alice Lakwena fled to Kenya and her supporters were captured or dispersed. In early 1988 a number of revived Holy Spirit movements emerged in Acholi, notably one led by a young man called Joseph Kony, but none of them appeared to have the popular following that Alice Lakwena enjoyed. In April 1988 the government concluded a peace agreement with the bulk of the UPDA leadership within Uganda. However, the exiled leadership and some of the UPDA guerrillas rejected this agreement and many allied themselves with Joseph Kony's Holy Spirit movement.

In late October 1988 the NRA launched a major offensive against the rebels in Gulu District, in the course of which many thousands of people were forced to leave their villages and take refuge in camps within an eight kilometre radius of Gulu town. Some 30,000 people were reported to be newly displaced, making a total of at least 70,000 in the camps. Food was said to be in short supply and conditions in the camps were believed to be very poor. In the villages, the NRA again burned huts, granaries and crops in the course of searches for rebels or to prevent supplies falling into rebel hands. In several cases reported to Amnesty International, villagers were forced to stay in their huts while these were burned down. Similar reports appeared in the government-owned New Vision newspaper. Some of these cases are documented below.

In February 1987 an armed attack on Soroti signalled the beginning of rebel activity in Teso. By early 1989 the region was still widely affected by armed conflict and remained the government's major security problem. In early 1987, after the murder of Uganda Freedom Movement (UFM) leader Andrew Kayiira in Kampala, some UFM members announced that they were launching an armed struggle. However, apart from the assassination of a Libyan diplomat in January 1988, the Buganda area, whence the UFM draws most of its support, has been more or less unaffected by the fighting. The West Nile region, President Amin's home area, which suffered serious human rights violations under the Obote government, is the most significant area of northern Uganda to have remained generally peaceful.

Throughout the armed conflict Amnesty International has received reports of killings by various rebel groups. In one case, rebels shot dead a woman called Ariemo in October or November 1986. She ran a shop at St Mary's hospital in Lacor, near Gulu, and was apparently killed because she had served NRA soldiers there. The targets for rebel killings have generally been members of the RCs or others, such as police or prison officers, who are identified with the government. In the Busia area, near the frontier with Kenya in the east, there has been a series of more than 30 killings of RC officials by armed groups from across the border. In 1988 the new Holy Spirit movements carried out a number of indiscriminate killings in the course of attacks on villages and missions. On 23 February 1988 they attacked Koch-Goma, about 20 miles from Gulu, killing more than 40 civilians, most of whom were chopped to death with pangas. The victims included bedridden patients in the dispensary.

4.2 Extrajudicial executions

The behaviour of a number of NRA units deteriorated seriously after August 1986, leading to significant human rights abuse.

The first reports of extrajudicial executions by the NRA came immediately after the first attack on Gulu on 20 August 1986. After the fighting had subsided, five NRA soldiers were seen to question a market trader who was made to squat on the ground. They then shot him in the head. At about the same time a boy of about 15 called Charles Ojara came out of his house with his sister. They were met by a group of soldiers. The girl fled back into the house but Charles Ojara was shot in the chest and died. The Provincial Superior of the Verona Fathers, a Roman Catholic missionary order, witnessed both incidents and publicly raised them in Gulu with the army commander, Elly Tumwiine. The latter apologized for the NRA's behaviour, but apparently took no further action and such incidents were to become more common in the months that followed.

According to frequent reports from opposition sources the army deliberately killed non-combatant civilians and prisoners but details of the various incidents were often difficult to substantiate. Amnesty International periodically submitted reports of extrajudicial executions to the government for it to investigate and in July 1987 sent President Museveni an aide-mémoire which detailed six separate incidents involving the alleged extrajudicial execution by the NRA of some 64 people. Despite a government undertaking to investigate these cases and inform Amnesty International of its conclusions, no response to the aide-mémoire or the other cases submitted has ever been received.

Critics of the government have often cited President Museveni's threats to "annihilate" armed opposition as an indication that extrajudicial executions have been government policy. In fact, the policy of defeating the rebels militarily has been tempered by an amnesty for armed opponents (see below). It has often appeared that the reason for the remarkably heavy casualties sustained by the rebels was that they were unarmed and launched suicidal attacks on NRA positions, rather than that the army had a policy of killing all opponents. However, an incident on 13 August 1987, following a major battle in Soroti, suggested that this has not always been so. A credible eye-witness reported that soldiers walked around the battlefield shooting wounded rebels. The then

commander of the NRA's Eastern brigade, Matayo Kyaligonza, was said to have been present. The NRA seems generally to have taken very few prisoners - which conflicts with the government's claim that the several thousand held in political detention are "prisoners of war". One journalist who has reported on the war in the north cites three separate battles in 1987 in which 783 rebels were killed but only 14 taken prisoner - two of them primary school children.

The following are some of the alleged extrajudicial executions investigated by Amnesty International:

Soldiers are reported to have killed some 14 mourners at a funeral in Kalang village, Gulu District, on or about 14 November 1986. The victims are said to have been 10 women, three men and one child. The funeral was of Santo Opira, who is said to have been killed by NRA soldiers at Kweyo some four days earlier. It is reported that soldiers set a hut alight, burning alive one old woman called Akumu and shooting others as they tried to flee.

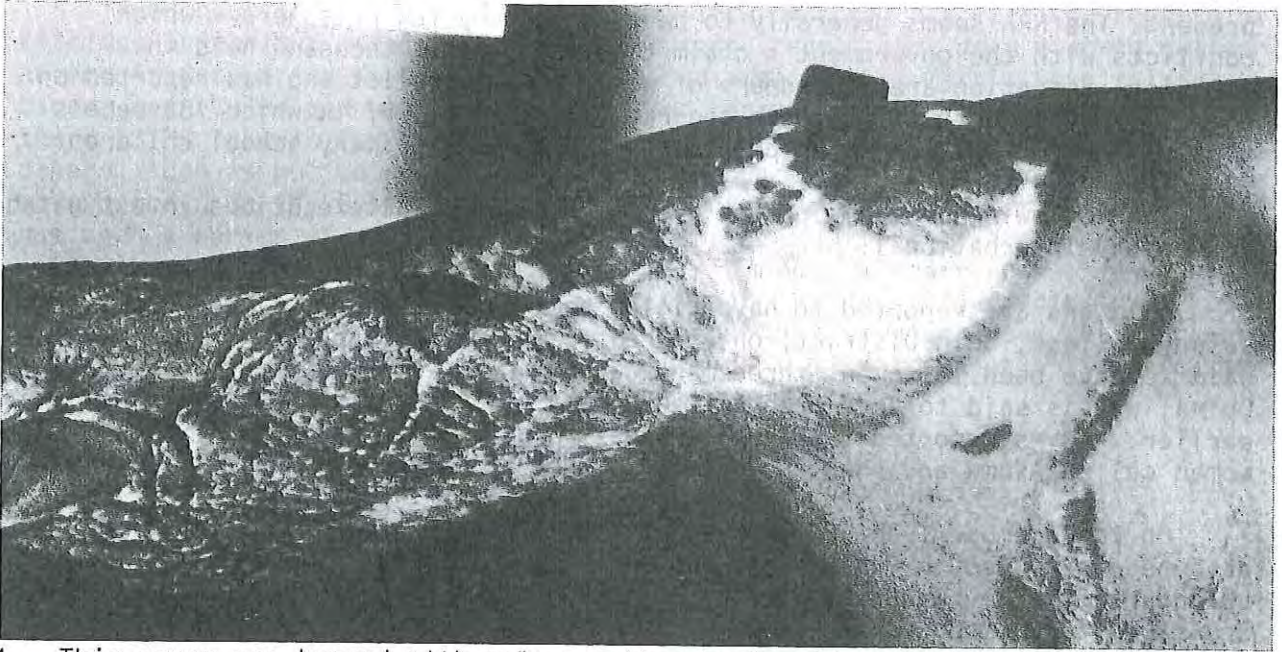
On 18 December 1986, 27 men who were prisoners of the NRA are reported to have been executed in Pagak, Gulu District, at the Lamogi sub-county headquarters. They were arrested at about 5.30am in the village of Pagoro-Pagak and taken to the sub-county headquarters with their female relatives. At some time between 8.30 am and 9.30 am they were apparently shot dead, their relatives being forced to watch the killing. The relatives were then told to walk home and only returned to recover the bodies that evening. The bodies of three men who did not have relatives present remained unburied for three days at the scene of the massacre. Among the dead were a village elder, Kaleto Omal, and his four sons, Komakech, Nelson Akulu, Okello and Okot.

On about 19 February 1987 NRA soldiers are reported to have arrested 19 people at Otuboi in Kaberamaido, Soroti District. They were taken to Serere and later to a swamp called Atira, some seven miles south of Soroti, where soldiers shot them on 26 or 27 February. Eighteen died but one survived and later escaped. The official explanation of the killings is apparently that they took place during an NRA attack on a rebel camp in the Atira swamp. Yet people who have visited the scene of the killing described seeing bodies lying in a circle where they had been shot, not in positions suggesting that they had died in battle. There was no sign of an armed encampment in the area.

On or about 20 March 1987 in Aleron village, Gulu District, soldiers searching for armed rebels arrested Xavier Moro Olwedo, a former Uganda Airlines official, at his home. They tied him kandooya-style (see below). Next morning they are said to have killed him by slitting his chest open and partially buried him in a shallow grave.

Walter Okidi was arrested by soldiers at his home in Koro village, just outside Gulu, on 20 May 1987, along with two other young men from the village. This was shortly after Uganda had changed its currency and the three men were accused of having supplied the new money to the rebels in the bush. They were beaten and put on the back of a lorry which set off fast towards Gulu. The three were thrown off the lorry. Walter Okidi broke his neck and died. At least one of the other two survived.

In August 1988 NRA soldiers are reported to have killed a group of civilians at Minakulu in Apac District, after guerrillas had attacked a local army detachment. Those killed were alleged to have collaborated with the



1. This woman was burned with molten rubber by President Obote's soldiers in 1982 (see pages 8-9)



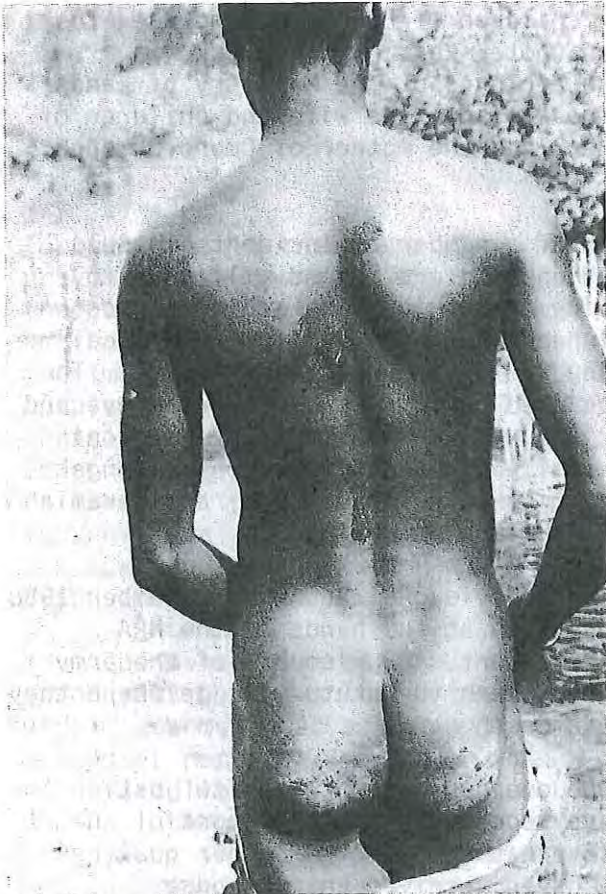
2. Archbishop Janani Luwum - murdered in custody in 1977 after criticizing the behaviour of Idi Amin's army (see page 6).



3. Human remains from army massacres in the Luwero Triangle



4. Amnesty International delegate visits a pit used as a mass grave in the Luwero Triangle



5. This young man was severely beaten by NRA soldiers in Karamoja in 1987. His left arm shows marks of kandooya (see page 32)



7. Joseph Luzze - detained incommunicado and without charge since October 1988 (see page 32)



6. This man from Soroti was beaten with iron rods by NRA soldiers in 1988 (see page 32)



8. Lance Seera Muwanga - human rights activist detained for a year for criticizing NRA (see page 44)

guerrillas. They included Edward Ogwal, an old man who had served in the British army in the Second World War; the wife and children of Bai Ocen, who used to work in the President's office under Milton Obote; Charles Oola Oyuku, a secondary school student; Dominic Ongom, an employee of the Ministry of Lands and Surveys in Entebbe, who was visiting the village; the wife and children of Fisher Obong, a local primary school teacher; and the mother of Omoro Okwanga, who was in her 60s.

Amnesty International received details of a number of incidents in Gulu district in October and November 1988 in which soldiers burned villagers to death in their own huts. The NRA had a policy of burning huts and granaries, ostensibly to stop them falling into rebel hands but also to force the local people to abandon their homes, thus reducing the rebels' popular support. The following were among those reported to have died in this way: Gabriel Oboya and members of his family in Gwendiya village; the wife and children of Kezeroni Acok in Koch-Goma village; members of the family of Gabriel Onem in Kal-Ongak village; Blasio Olanga and members of his family in Awach village; and Jeremiah Moro and members of his family from Lalogi division.

A report by the chairman of the Koch-Goma divisional RC on 29 December 1988 describes the deaths of 88 people in the division at the hands of the NRA between 7 and 25 December. According to this report, 45 prisoners of the army who had been kept in a cell at Koch-Goma were taken to Lukutu village where they were forced into a grass house and burned to death.

To Amnesty International's knowledge no one has been brought to justice for any of these killings. The authorities have received details of most of the incidents described, either from Amnesty International or from other quarters. Before December 1988 Amnesty International never received any response indicating that there has been any official investigation into the allegations. The Inspector-General of Government, who might have been expected to investigate these or similar cases, has not done so, citing his shortage of resources and the practical difficulties of investigating abuses alleged to have taken place in an area of conflict. Yet human rights violations are especially likely to take place in troubled areas. Investigation may often be difficult, but it is essential in order clearly to express official disapproval, to bring the culprits to justice and to help prevent further abuses. Although a number of NRA soldiers have been disciplined for harassment, robbery or murder of civilians, the authorities appear to have been much less ready to prosecute soldiers for abuses carried out in the course of military operations. In contrast to its fairly open approach in discussing the use of unlawful detention, the government has been reluctant to admit that its soldiers have carried out killings, other than as isolated acts of indiscipline. There were far fewer verifiable reports of extrajudicial executions by the NRA between about mid-1987 and late 1988, but the recurrence of army abuses such as burning villagers in their huts in late 1988 shows the great danger of the government's failure to take decisive action against those responsible for such crimes.

In December 1988 the NRA commander, Major-General Elly Tumwiine, responded to Amnesty International's reports that villagers had been burned to death in their homes by announcing the formation of an inquiry into the allegations. Amnesty International delegates in Uganda were later informed that this inquiry would involve both the military and representatives of the local population, such as the elders and RC members. The inquiry appeared to represent a response to local disquiet about army behaviour as well as unfavourable international

publicity. Amnesty International asked the government to inform it of the findings of the inquiry.

4.3 Torture

Torture and ill-treatment of prisoners had been systematic and widespread under previous governments. The elimination of torture was a publicly declared aim of the new government and an early move was Uganda's ratification of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which includes a mechanism for hearing individual complaints at the international level. Although the government has succeeded in greatly reducing the use of torture, there is still abundant evidence that the practice has not been eliminated. As with extrajudicial executions, the problem is greatest in those areas where there is armed conflict, although Amnesty International has also continued to document torture in Kampala, both in NRA barracks and in military intelligence and Internal Security Organization headquarters.

The best-known and most widely used method of torture under the NRM government has been "three-piece" tying, or kandooya. This involves tying the victim's arms together above the elbows, behind the back. It can be used as a method of restraint, but it is described as being extremely painful and so can be used deliberately to cause pain and coerce prisoners into making statements during interrogation. Sometimes prisoners tied kandooya-style are beaten at the same time; sometimes their legs are tied up behind their back as well and they are suspended (this is known as "suitcase" or "briefcase"). Unusually, the government has acknowledged the use of kandooya, which for a long time was authorized in the NRA as a method of restraint. The government apparently did not accept that it was used as a deliberate method of torture but was convinced, in early 1987, that it was a form of ill-treatment. An order banning kandooya was issued through the NRA chain of command and it is a measure of army discipline that this ban has been widely obeyed - although kandooya is undoubtedly still used, especially in the areas of armed conflict.

In many cases kandooya stops blood circulating to the lower part of the arm and damages the nerves, causing paralysis - sometimes indefinitely. On occasions gangrene has set in and the arm has had to be amputated. During a visit to Luzira Upper Prison in February 1988, Amnesty International delegates interviewed a man who claimed that he had been tied kandooya-style some 18 months previously. He was unable to pick up a pen with one hand. In April 1987 (after kandooya had been forbidden) two men were arrested by the NRA at Kisoro in western Uganda, apparently for car smuggling. They allege that they were tied kandooya-style with the inner tube of a bicycle tyre. They had been tied for about an hour and a half and complained that they could no longer use their arms. A medical examination of the two men a month later revealed scars on the upper arms above the elbow. Movement in the lower arm, hands and fingers was seriously impaired. The reaction to a pin prick was reduced in both hands in the case of one man and in one hand in the case of the other. The second man experienced increased pain from a pin prick in his left hand. In each case the doctor making the examination concluded that the victim had "sustained severe injuries to the major nerves (radial, ulnar and median) of both forearms and hands. At the present time, he is unable to use both forearms and hands. The

injuries are consistent with being tied 'kandooya'. It is too early to give the prognosis since it is only one month since he suffered the injuries."

Okello Fire, a laboratory technician at Gulu hospital, was arrested in his home village of Lukome on 21 November 1986, allegedly for possessing a gun and giving medical treatment to the rebels. He was tied kandooya-style and beaten, then taken to Gulu barracks, where the process was repeated. His arms became swollen and he could not use them for some time. After about eight weeks he was released, but his left arm is still bent at an angle of about 100 degrees and he cannot straighten it.

Juma Katongole died in Makindye military barracks, Kampala, in February or March 1987. He was apparently tied kandooya-style and left in a cell where he died from asphyxiation. However, he may also have been beaten, since other documented deaths from kandooya have occurred when the victim has been struck on the chest while tied, causing it to rupture.

Elsewhere in northern Uganda similar treatment has been reported. In Karamoja, where the army has been trying to curb cattle rustlers armed with automatic weapons, kandooya and beatings appear to have been widespread. One young man was arrested in Kotido District on 12 or 13 February 1987 on suspicion of having a gun. The soldiers whipped his buttocks with a stick and hit him repeatedly with a gun. He was tied kandooya-style, which made it hard for him to breathe. This, and the beatings, went on for about three days, until he was released. Photograph no. 5, taken about a fortnight after his release, shows the extent of his injuries.

There have also been reports of torture and ill-treatment in Teso. At Ngora in Kumi District, the NRA has commandeered Bishop Kitching College as a barracks, where it also holds prisoners. Prisoners are kept in a pit about 10 metres long and 1.5 metres deep that is too narrow to sit down in. It is roofed with wood, grass and leaves. Prisoners are reported to have been beaten with iron rods. Amnesty International received reports that a number of people died in custody at Bishop Kitching College in late January or early February 1988 as a result of being beaten there. They were Hannington Odeke, a carpenter; a teacher named Isenged; Julius Oluka and Mohammed Otim.

A 45-year-old man from Soroti District alleges that in February 1988 he was detained by the NRA and beaten with iron rods to force him to admit that he was a rebel. Photograph no.6 shows him after his release with a lump of flesh missing from his right shoulder.

However, not all reports of torture come from the conflict-affected regions. With the army still bearing a large responsibility for policing Kampala, there have been reports of people arrested there being tortured by soldiers. In September 1987 the daily newspaper New Vision reported that an intelligence officer at Lubiri barracks had tortured Rose Mukasa, the widow of a murdered NRA officer who was being detained (unlawfully) in connection with his death. The report alleged that the intelligence officer had beaten her with a stick as she was rolling on the floor. She was quoted as saying: "The stick got broken to pieces. He then started beating me with a wire cable. I started bleeding."

Hudson Peter Bua, a police constable, was arrested by soldiers at Kampala Central Police Station on 1 December 1986 and taken to the NRA camp at Summit

View on Kololo hill overlooking the city. He was tied kandooya-style and beaten, causing his left arm to become paralysed. On 16 December he was apparently transferred to Lubiri barracks where he was not further ill-treated but did not receive any medical treatment for his injuries. The High Court issued a writ of habeas corpus against the officer in charge of Lubiri barracks on 20 February 1987, but it was not until some weeks later that Hudson Peter Bua was produced in court and released.

Arrested at the same time as Hudson Peter Bua was Richard Opio, who worked for the Ministry of Health at Wandegaya, Kampala. Shortly after his arrest, friends told the soldiers who were holding him that Richard Opio suffered from haemophilia. He was taken to Summit View where he was severely beaten. He was later admitted to Mulago Hospital where he died on 2 January 1987, apparently as a result of injuries sustained during beating.

Summit View has been mentioned to Amnesty International by a number of people who claim to have been tortured there - presumably because it is used as a centre for NRA patrols policing the city. One man described being picked up late one evening in December 1987 by an NRA patrol in a police Land Rover. There were three other prisoners in the vehicle, all of whom had been arrested for different reasons. At Summit View all four prisoners were kicked in the ribs and beaten with sticks by soldiers singing military songs. Later a soldier tied a rope round the neck of one of the prisoners, partially lifting him up, while another soldier kicked him in the ribs. Later still two drunken soldiers came into the room where the four were held and beat them with the leg of a stool. Next morning Amnesty International's informant was released without charge.

In Kampala in March 1987 Amnesty International delegates interviewed a man who alleged that he had been arrested and tied kandooya-style at Lubiri barracks less than two weeks previously. Still visible on his upper arms above his elbows were severe abrasions which were apparently consistent with his account of having been tied tightly with a rope covered with salt. He also had cuts and bruises on his face and torso, which he said were caused by severe beating and he complained of persistent pain in his ribs and thighs. He said that he had been arrested as a result of a personal dispute with an NRA officer and had been imprisoned in the quarter guard at the Kabuya gate of Lubiri barracks, where he had been interrogated by a group of about 20 soldiers. In the course of this interrogation the soldiers alleged that he was a member of the rebel group known as Force Obote Back Again (FOBA). He claims that he was beaten with a stick and struck on the face with a pistol. His clothes were removed and his wrists tied together behind his back and his arms tied together above the elbows. Later his legs were also tied together below the knees. He was beaten on the chest. He was later moved into another room where he alleges that there were five prisoners who had been burned with molten plastic from a jerrycan. He was released later the same day, after a friend had found him and paid a ransom to the soldiers. The use of burning plastic or rubber to torture prisoners was widespread under the government of President Obote. Amnesty International's delegates found this man's description of his experience credible, although the organization has received no verifiable report of the use of molten plastic in torture by the NRA.

In 1988 there were a number of reports of torture of prisoners by the Internal Security Organization (ISO) or military intelligence. Despite the fact that the government and the NRC had specifically withheld powers of arrest and detention from the new security organizations, a number of prisoners were

held and interrogated in the ISO headquarters in the former OAU Bureau of Languages building in Kampala and in Basiima House, the military intelligence headquarters near Lubiri barracks.

In October 1988 New Vision reported the arrest of Lieutenant Katsigazi and five other ISO officials following the death in their custody of a prisoner called Kasirye. He was being questioned in connection with the death of Andrew Kayiira (see page 18). By January 1989 no charges appeared to have been brought against the ISO officials, although the Director General of Intelligence Services, Lieutenant Colonel Jim Muhwezi, was reported as criticizing them severely: "We want them to be tried in court and if found guilty they should be punished according to the law. This is the kind of thing we went to the bush to fight against. This action should be taken as a lesson by my members of staff and as an assurance to the population."

Amnesty International has received a number of other reports of torture by the ISO. In one case, a prisoner held in the same cell as Kasirye is said to have been tortured with electric shocks to his genitals and by stapling his testicles.

A number of prisoners are reported to have died as a result of torture by military intelligence officials at Basiima House. In March 1988 Joseph Lusigazi, who owned a motor vehicle, was reportedly arrested in Kampala and questioned about one of his employees. He was tied kandooya-style. At Basiima House he is said to have been killed by having a 15 centimetre nail driven into his head. The same month Isaac Segomba is said to have been arrested by the NRA while walking in the Kololo area of Kampala. He was taken to Lubiri barracks and then Basiima House. He is reported to have died after having a nail hammered into his penis and being stabbed with a knife in the stomach.

4.4 Detention without trial

In the course of the armed conflict in northern and eastern Uganda thousands of people have been held as prisoners of the NRA. Unlike previous governments, the present one readily acknowledges the detention of such people, although this has not stopped it from holding these prisoners outside the law, neither charging them with offences and bringing them to trial, nor detaining them under the country's administrative detention laws.

In February 1988 the government told Amnesty International that 4,183 prisoners arrested by the NRA were then held in the country's civil prisons. By January 1989 that figure had been reduced to 2,925. There is no record of the numbers held in military barracks but in January 1989 the ICRC announced that it had recently visited 350 detainees in three military barracks in Kampala.

When the insurgency began in the north and the NRA started to take prisoners, these were at first held in military barracks, where they faced the possibility of ill-treatment. But it soon became clear that the army did not have the resources to hold these prisoners so more and more political detainees were moved to the country's civil prisons, where they were held by order of the NRA. Their immediate care and supervision was the responsibility of the prisons service, but the external security of the prisons was under military control.

The nickname given to prisoners held in these circumstances was "lodgers". They are, in effect, kept in administrative detention, although this has no basis in law.

Most "lodgers" were held at Kirinya prison in Jinja and in the four prisons of the Luzira complex just outside Kampala: Upper Prison, Remand Prison, Murchison Bay and the Women's Prison. There were also "lodgers" in Mbale prison, in the east, and at Kotido and Moroto, in Karamoja. In October 1987, when the forces of Alice Lakwena were on the outskirts of Jinja, political detainees were evacuated from Kirinya prison and transferred to Luzira. In 1988 several hundred political prisoners were returned to Kirinya to ease overcrowding at Luzira.

Conditions in these prisons were very bad - especially at first. They were already overcrowded and lacking resources; the sudden influx of "lodgers" simply made acute an already chronic problem. Food was in short supply, as were drugs and often water. In 1987 particularly, there were many reports of deaths in detention because of malnutrition-related conditions or lack of medical supplies. John Oketta, a former UNLA soldier in his late 20s, was arrested in August or September 1986 after the beginning of the insurgency in the north. He had been an accountant in the Ministry of Defence and had surrendered to the NRA in January 1986. He was retrained and reintegrated into the NRA but later discharged on grounds of ill-health. After his arrest he was detained at Luzira Upper Prison, where he slept on the floor without blankets. Food was poor and his relatives were not allowed to bring any in for him. His family became increasingly alarmed about his declining health. In June 1987 John Oketta was released without charge and died of pneumonia three weeks later.

In February 1987 near Koro village, Gulu District, the NRA arrested about 50 young men, including two brothers, Charles and Justino Kibwata, who were accused of being rebels. They were kept in Gulu barracks for a week and then transferred to Luzira, where Justino Kibwata died in June 1987. The cause of death is not known. Ugandan law requires that an inquest be held into any death in custody, but to Amnesty International's knowledge there has been no inquest in the cases of John Oketta, Justino Kibwata or any other death in custody reported to the organization - even those where the post mortem examination revealed a cause of death such as a sub-dural haemorrhage, which suggests that it may have been caused by deliberate ill-treatment.

Conditions in the prisons began to improve by late 1987, largely because the government was now giving the ICRC regular and unrestricted access to civil prisons. When Amnesty International delegates visited detainees held in the Luzira prison complex in February 1988, they noted that many of the basic facilities there, including water, blankets, soap and books, had been recently provided by the ICRC.

The pattern followed in Charles and Justino Kibwata's case is typical: prisoners are kept in military barracks for a few days after being arrested in politically disturbed areas. They are then moved to a civil prison. The early period of imprisonment in military barracks is when torture is most likely to take place. In late 1988 the government finally acceded to demands by the ICRC to visit military barracks where civilian prisoners are held. This could be an important safeguard against the torture and other ill-treatment of detainees.

As explained in Chapter 3, the Ugandan army has no legal power to arrest or

detain civilians, so the prisoners in its custody are held unlawfully. The government sometimes loosely describes the "lodgers" as "prisoners of war", although it acknowledges that they do not have that status under the Geneva Conventions.¹ Those responsible for the arrests have not met the requirements of the Public Order and Security Act or the Emergency Powers Act, both of which allow administrative detention in some circumstances but only on the basis of a sworn statement by a law enforcement officer. Nor, in most cases, has the government charged "lodgers" with any crimes. No proper record is kept of a person's arrest so often it is not even known who was responsible for taking him or her prisoner, let alone why he or she was arrested. A military screening committee was set up in 1987 to review the cases of "lodgers" and decide whether they could be released. Amnesty International does not know of anyone being released simply as a result of having his or her case reviewed by this committee. The government has screened larger numbers of "lodgers" for release by referring details of their cases to the local RCs in their home areas. This does not seem a satisfactory way of proceeding either, since it is obviously open to abuse and settling of old scores. Amnesty International has been told of cases in which the RCs have approved the release of prisoners only for it to be blocked by the District Administrator.

The government likes to refer to the "lodgers" as rebels captured "with guns in their hands". Amnesty International's impression is that this is seldom the case. More often the prisoners have been rounded up in the course of army operations on suspicion that they are rebels or rebel supporters. The government clearly has an obligation to investigate such cases fully, in order to decide whether prisoners should face criminal charges or be released and to ensure that they are not victims of arbitrary detention. Their lack of legal status makes their situation open to abuse. For example, it is difficult for them to legally enforce their right to be visited by relatives or lawyers. The remedy of habeas corpus, which should be available in such cases, has often proved ineffective.

The lack of a clear distinction between those arrested because of their involvement in armed opposition and those detained on account of their political beliefs or ethnic origin makes it particularly important that their cases should be rapidly heard before an independent court of law. In a number of cases it seems that detainees may in fact have been prisoners of conscience. Dr Okio Talamoi, medical superintendent of Abim hospital in Karamoja, was arrested at the hospital in May 1987 by NRA soldiers and held without charge for several weeks at Kotido military centre. He appears to have been arrested on suspicion of having provided medical treatment for a rebel leader called Ojuku. It is unclear whether Ojuku actually was treated at Abim hospital or whether Dr Talamoi was responsible for his treatment. According to some reports, Dr Talamoi was in Kampala when the treatment was said to have taken place - although, had he been approached by someone requiring urgent treatment, medical ethics would have obliged him to provide it. Dr Talamoi was eventually released without charge.

On occasions prominent local politicians have been arrested on suspicion that they are connected with the rebels. George Oguli, a former director of the East African Flying School aged about 60, was one of a number of prominent supporters of Milton Obote arrested in Soroti in February 1987. Others included Samson Oduc and Ben Etonu, a former deputy minister in the Obote government. According to official sources George Oguli was arrested after a rebel attack on Soroti in February 1987, but other sources maintain that he was arrested

beforehand on account of his political sympathies. He was apparently tortured after his arrest and held for months at Kotido in very poor conditions. He was released without charge in February 1988.

People crossing the Kenyan border have also been viewed with suspicion by the authorities because certain rebel groups are based in Kenya. Abby Gashodo Mujwi, a 48-year-old school teacher who lives and works in Kenya since he fled from the Amin government in the 1970s, was returning from a visit to his family in Tororo District when he was arrested at Malaba border post. That was in October 1987. In mid-1988 he was believed still to be held at Makindye military barracks in Kampala. He is thought to support the DP whose members in Uganda have suffered particularly from cross-border attacks by Kenya-based rebels.

Former soldiers have also been vulnerable to arrest, even those who have been retrained by the NRA. Tom Kiyengo, a former UNLA major aged 28, surrendered to the NRA in 1986 and received six months' retraining at Kiburara camp in Mbarara District before being admitted into the NRA. He was not assigned to a unit but lived in Kampala and had to report regularly to NRA headquarters. It seems that on the morning of 21 March 1988 he was taken from his home by NRA soldiers. For some months his whereabouts were unknown but in late 1988 he was reported to be detained incommunicado and without charge at Moroto barracks in Karamoja.

Joseph Luzze, a prominent Kampala businessman, was one of a number of people arrested in October 1988 for allegedly plotting to overthrow the government. Their arrest was announced publicly, yet by January 1989 Joseph Luzze was still detained incommunicado and had not been charged. He was initially taken to Basiima House and then to Katabi barracks. In January 1989 he was believed to be in Mbuya military hospital in Kampala. It was not known how he had been treated in custody nor whether he was going to face a criminal charge.

Usually, however, prisoners are rounded up in the course of army counter-insurgency operations. That is what happened to 15-year-old Kenneth Oloya and his brother Bosco Okura, aged 14, who were arrested in their home village of Oryana-Lanyi in Kitgum District in January 1987. They were not even interrogated until August 1987, when a military intelligence officer came to interview them at Kirinya Prison. This was apparently only because Amnesty International had made inquiries about their case. In February 1988 Kenneth Oloya and Bosco Okura were still in custody, by this time at Murchison Bay Prison, Luzira. Amnesty International later tried to find out whether they were among 94 children released from prison in April 1988.

The International Covenant on Civil and Political Rights, which the Ugandan Government has said it intends to ratify, places a particular obligation on detaining authorities to bring juvenile prisoners "as speedily as possible for adjudication". In Kenneth Oloya and Bosco Okura's case there does not seem to have been any effort to do this. On their visit to the Luzira prisons in February 1988, Amnesty International's delegates estimated that there were at least 200 children under 18 detained there as "lodgers". International human right standards stress the importance of juvenile prisoners being held apart from adults. Child prisoners in Upper Prison and Remand Prison had separate sleeping quarters but during the day, mixed freely with adults (including convicted criminals). At Murchison Bay, the smaller number of child prisoners were not segregated at all.

The plight of Uganda's child prisoners received less international attention than the NRA's child soldiers, many of whom were orphans from the Luwero Triangle who had joined the NRA and played an important part in the battles against the UNLA. It is this very involvement of children in fighting on both sides that has discouraged the authorities from promptly reviewing the cases of children in custody and making sure that their prison conditions meet international standards. The announcement in April 1988 that 94 children under 14 had been released was a welcome sign that the government might be finally taking its responsibilities for child prisoners seriously, though Amnesty International was concerned to discover that some children remained in custody in January 1989.

4.5 Amnesty

In the early months of the war in northern Uganda, the government in its public statements would not admit that anything short of an NRA military victory could resolve the situation. Yet in June 1987 the NRC passed an Act offering an amnesty to any rebels who surrendered, with their guns, provided that they had not committed genocide, murder, rape or kidnapping. Several thousand rebels and former soldiers took advantage of the amnesty, which was extended three times before finally expiring in April 1988. The Amnesty Act was followed by a series of presidential pardons for rebels who surrendered, which had a similar effect.

Rebels who gave themselves up under the amnesty were given a choice of being integrated into the NRA or returning to their villages. Those who chose the latter were given seeds and agricultural tools; the former were sent to "re-education" camps, notably Kiburara, in Mbarara District, and Nabisojjo, in Luwero District, to re-emerge, some months later, as NRA soldiers.

In February 1988 the government announced the release of 110 "lodgers" from Moroto, Mbale and Kotido. It was suggested that others would be released too, as the screening process finally seemed to be having some effect. In April 1988 the 94 children under 14 were released from Luzira. But in the weeks that followed, the dramatic ceasefire and peace accord between the UPDA and the government transformed the political situation in Acholi. This initiative also led to the opening of negotiations with the UPA rebels in Teso. A major factor prompting the UPDA to negotiate appears to have been hostility to the Holy Spirit movement, which had attacked the UPDA and stepped up its atrocities against the civilian population of Acholi.

An important immediate consequence of the agreement between the government and the UPDA was the release in mid-June 1988 of 1,671 "lodgers" from the Luzira prison complex. In October 1988 a further 950 were released from Luzira, along with several hundred former UNLA soldiers who had been undergoing retraining at Kiburara camp. However, the number remaining in detention had been increased by new arrests in 1988. The government's response, described in Section 3, has been to introduce new legislation allowing summary trials of suspected rebels. Unfortunately the authorities seem no nearer fulfilling their obligation to provide fair and prompt trials for all those imprisoned for political reasons.

FOOTNOTE

1. Common Article 3 of the Geneva Conventions of 12 August 1949, referring to non-international armed conflicts, states: "The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention", including those relating to prisoners of war. The Ugandan Government maintains that it is unable to secure such agreements with its opponents. Protocol II to the Geneva Conventions of 12 August 1949, which deals specifically with non-international armed conflicts, applies to conflicts between the armed forces of the state and "dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol."

Common Article 3 nevertheless requires that various minimum standards be applied in all conflicts, including a prohibition on murder, torture and humiliating and degrading treatment.

5. THE RIGHT TO CRITICIZE

5.1 Press freedom

The press in Uganda has flourished since the NRM government came to power, with the launching of a number of different newspapers expressing a variety of political and religious views. Under previous governments the activities of the press were severely circumscribed. Under the Amin government all critical publications were banned and journalists were detained, killed or forced to flee for their lives. In a celebrated case soon after President Amin took power in 1971, the army killed Nicholas Stroh, a US journalist working for the Washington Star newspaper, and Makerere University lecturer Robert Siedle. Their bodies were dismembered and burned. In 1973 Clement Kiggundu, editor of the Roman Catholic Luganda daily paper Munno, was found dead in his burned-out car. A pathologist's report established that he had been strangled and shot before the car was burned. In 1975 Elizofani Mawagi, a lawyer, was detained and killed for writing to the press asking that Ugandans be allowed to read foreign newspapers which were attacked by the President and banned in Uganda.

Under the Obote government some critical newspapers managed to survive the extensive harassment and imprisonment of their journalists. In early 1981 the government banned four newspapers, including the DP's English language paper, the Citizen. The Citizen's Luganda sister paper, Munnansi (which means "The Citizen"), continued to be published and the DP sidestepped the ban by launching an "English-language edition" of Munnansi. Throughout the Obote years Munnansi monitored and carefully documented the army's human rights abuses, which led to repeated arrests of its staff, in particular editor Anthony Ssekweyama. On a number of occasions he was charged with sedition but none of the cases ever came to court. The most notable was when Munnansi published a confidential letter from the Chief Justice to President Obote suggesting that leading DP members should be detained. When the Obote government was overthrown in July 1985 no fewer than four Munnansi staff were among the hundreds of political detainees released. Other journalists released at that time were James Namakajo, now president of the Uganda Journalists' Association, John Owino of the Uganda News Agency and Mike Buteera, the Voice of America radio network. Four other journalists, including the editors of the Star and the Pilot newspapers, had been released earlier that year after some months in detention.

Members of the present government have frequently proclaimed their commitment to press freedom and, indeed, Ugandan journalists now suffer much less official interference than before. But statements by government officials that everyone is free to criticize are usually hedged with qualifications. For example, at a reception in March 1988 to mark the second anniversary of New Vision, the First Deputy Prime Minister, Eriya Kategaya, guaranteed freedom of the press for as long as the NRM remained in power, but warned that this freedom did not amount to "absolute indiscipline". In a speech at the same reception, Information Minister Ali Kirunda-Kivejinja said that the government "and Ugandans as a whole are not happy about how some editors are misusing such freedom by trying to undermine efforts aimed at bringing peace to the whole

country".

Some official statements have been less ambiguous. President Yoweri Museveni told a February 1987 news conference: "I am putting journalists on notice that if they malign the good name of the NRA they will be locked up under the detention laws". In July 1988 the NRC passed an amendment to the Penal Code which would allow the authorities to prosecute anyone publishing information considered hostile to the armed forces. The Uganda Newspaper Editors' Guild criticized the proposed law, stating: "The section on publications is so vague that any detail of a military operation or matter could be interpreted as endangering the armed forces."

In April 1988 the then Minister of State for Internal Affairs, Kahinda Otafiire, singled out five newspapers which he said were "misleading the nation by writing lies" and threatened to "close up such irresponsible newspapers". In practice, the government has banned one paper since the NRM came to power and journalists have been charged under the criminal law rather than being detained under the extensive powers to imprison people without charge or trial which the government can exercise under the Public Order and Security Act. Nevertheless, a series of cases reveals the government's growing tendency to use imprisonment - or the threat of imprisonment - to silence press criticism.

Focus

Sully Ndiwalana Kiwanuka, editor of Focus, a Muslim-owned paper, was charged with sedition following an article in the issue of 4 March 1986 which reported that the NRA was finding its operation "rough going" against the ousted troops of former head of state General Tito Okello. After publishing the article, Focus claimed that security officials were "haunting" its office and "making it impossible for us to work". Sully Ndiwalana Kiwanuka was arrested on 14 March 1986, held for three days and charged with sedition. He was released on bail but has not been brought to trial. In March 1987, in response to an Amnesty International inquiry, the government said that it was unsure whether Sully Ndiwalana Kiwanuka still faced a sedition charge.

Weekend Digest

In June 1986 the government banned the Weekend Digest, claiming that it had "concrete evidence" that the paper was "one of the fronts through which enemies of the NRM are trying to destabilise the country". A government press release stated that it had been "reluctantly compelled" to ban the paper after a series of "concocted stories". The paper had just published a story which claimed that the DP was plotting with the governments of the Federal Republic of Germany and Italy to overthrow the NRM - an allegation which the government rejected. A few days later the co-editors of the Weekend Digest, Jesse Mashate and Wilson Wandera, appeared in court charged with publishing a false rumour. They were released on bail. The case has apparently not yet been heard by the courts.

Sunday Review

Francis Odida, editor of the Sunday Review, has been a repeated target of government criticism. He was charged on two counts of seditious publication and one of publishing false news because of articles published in November and December 1986. At the end of December 1987 he was again arrested and initially charged with sedition in respect of an article he had written and published in

October 1987. This was apparently one of a series of mock interviews with Alice Lakwena. Francis Odida himself is believed to be a supporter of the UPC. At a second court appearance in January 1988 an additional and alternative charge of treason was added. Treason, for which bail is not allowed under Ugandan law, is punishable by a mandatory death sentence. When they met the Minister of Justice and Attorney General, Joseph Mulenga, in February 1988, Amnesty International delegates expressed concern that Francis Odida appeared to have been charged with treason in order to prevent the courts releasing him on bail. They also questioned whether it was possible for someone to have committed treason under Ugandan law simply by publishing a newspaper article.¹ Francis Odida remained in custody at Luzira Upper Prison for more than seven months, until a court granted him bail on the exceptional grounds of ill-health. No date had been set for his trial.

Two other Sunday Review journalists, George Ongaya and Ben Kitara, were arrested on the same day as Francis Odida but do not appear to have been charged with an offence. They may still be in detention and Amnesty International is trying to find out where they are. Since the arrests of Francis Odida and his colleagues the Sunday Review has ceased publication.

The Telecast

Four employees of the Telecast, an independent daily, including editor Tony Owana and Wilson Wandera, formerly of the Weekend Digest, were arrested by the army and briefly held for questioning on 10 December 1987. The arrests were prompted by two stories in its 9 December issue. One claimed that 27 people undergoing training at the NRM's political school at Kyankwanzi had died of rabies. The other quoted a denial by a senior army officer, Commander David Tinyefuza, that he was building himself a house in a Kampala suburb. Commander Tinyefuza was concerned lest his denial had been quoted merely in order to air the allegations about him. He stated at the time that the editors would be charged with sedition for the rabies story and that he would sue for libel over the other story. The Telecast immediately published a front-page apology to the NRM for the rabies story but charges against the journalists are apparently still pending.

The Citizen

The Citizen is the weekly paper of the DP. In October 1986 the paper's editor-in-chief, Anthony Ssekweyama, was one of a number of prominent figures, including government ministers, who were arrested and charged with treason. accused of plotting to overthrow the government. The charges against him did not mention his activities as a newspaper editor. In March 1988 the High Court acquitted him and he was released from custody. The Citizen ceased publication for several months while he was in prison.

On 29 December 1987 John Kakooza, the paper's acting editor-in-chief in Anthony Ssekweyama's absence, was arrested by police on a charge of seditious publication. He was released on police bond.² The charge apparently concerned three separate items that had appeared in the Citizen: a news report which stated that opposition guerrillas controlled tracts of territory in the Teso region, a commentary on the political implications of the Alice Lakwena rebellion, and a line-drawing of President Museveni which was deemed by the authorities to be disrespectful.

On 7 April 1988 John Kakooza was again arrested on a sedition charge, this time for an article stating that the government was delaying the trial of the alleged murderers of Andrew Kayiira, a former member of the NRM government killed in March 1987 shortly after his release from prison where he had been held on treason charges. After six days John Kakooza was again released on police bond. Soon afterwards his deputy, Joseph Kiggundu, was also arrested and released on police bond in connection with the same article. Towards the end of 1988 John Kakooza was informed that no charges would be brought against him in connection with the article on the Andrew Kayiira murder, although it appeared that Joseph Kiggundu was still likely to face charges.

Some of the cases mentioned above seem to have arisen because journalists have written wildly inaccurate stories without making proper efforts to check their facts. The Uganda Journalists' Association, the press's professional body, has been riven with internal disputes and has only recently succeeded in putting forward a code of professional ethics. In other cases, however, a serious tendency is emerging for the law to be invoked in order to curb the press or to imprison those who have expressed opinions unacceptable to the authorities.

5.2 Use of the Public Order and Security Act

Detention without trial is allowed by law in Uganda under the Public Order and Security Act, 1967, which authorizes the President or any delegated minister (currently the Minister of Internal Affairs) to order the indefinite detention of anyone whose behaviour is deemed to be "prejudicial to the defence or security of Uganda". A detainee cannot challenge the grounds for detention in a court of law, although sometimes courts have declared such detentions unlawful if the formal procedures stipulated in the law have not been observed. Detainees must be served with written reasons for their imprisonment within 28 days but the only opportunity to question the grounds for detention is when the case comes before a specially appointed review tribunal - whose recommendations are anyway not binding on the detaining authority. The tribunal must hear the case within two months of detention and at six-monthly intervals thereafter.³ In practice, even this limited procedural safeguard has been ignored in recent years. The government may exercise similar powers if it declares a state of emergency; in the 1960s emergency regulations were frequently used to detain political opponents.

The Obote government of 1980-85 often invoked the Public Order and Security Act to detain political opponents. The various safeguards were generally ignored - the Minister of Internal Affairs was reliably reported to sign batches of blank detention orders, even though someone is meant to be detained only on the basis of sworn testimony from a law enforcement officer. In August 1985, after the government had been overthrown, some 1,200 prisoners were released from Luzira Upper Prison, most of them ostensibly detained under this law.

By contrast the Military Council and NRM governments have used the Public Order and Security Act sparingly. Probably the largest number of detainees at any one time under the present government was five, in early 1987, four of whom were officials of previous governments who also faced criminal charges in

connection with alleged human rights violations. This approach was designed to prevent the courts releasing them on bail.

However, the fifth detainee was Lance Seera Muwanga, secretary general of the non-governmental Uganda Human Rights Activists (UHRA), who was held without trial under the Public Order and Security Act from February 1987 until March 1988. The UHRA was set up in 1982 by Ugandan exiles in Sweden to monitor human rights violations by the Obote government. After that government fell in July 1985 the UHRA set up its headquarters in Kampala. It continued with its twofold work of human rights education - publishing international human rights instruments in local languages, producing educational plays and pamphlets - and monitoring abuses. Some of its documentation of human rights violations, particularly in the early days of the NRM government, was inaccurate, but it generally provided a unique and independent check on the performance of the security forces.

Lance Seera Muwanga's arrest was apparently the result of an interview he had given to the London-based magazine African Concord, in which he had criticized the NRA's record in the north and described human rights abuse under the Museveni government as "much worse than that which took place during Idi Amin's regime". On 28 February 1988 he was issued with a detention order signed by the President under the Public Order and Security Act and detained at Luzira Upper Prison. Most of the other formalities required under the Act were not observed: his detention was not published in the government Gazette until August 1987, nor was his case considered by the Review Tribunal. In fact, it emerged that the Review Tribunal did not exist. After a delay of some months a tribunal was appointed, chaired by Justice Kato of the High Court. However, with uncharacteristic deference to the letter of the law, the tribunal was said to be unable to sit until its composition had been published in the Gazette. The Gazette is published only irregularly and the tribunal had not heard Lance Seera Muwanga's case by the time he was released on humanitarian grounds in March 1988, 13 months after his arrest. He had been diagnosed as suffering from cancer of the lymph glands.

In October 1987 Justice Mpagi-Bahigeine rejected an application in the High Court for Lance Seera Muwanga's detention to be declared invalid. The latter's lawyers argued that his detention order was invalid on three grounds: he had not been served with written reasons for his detention within 28 days; his detention had not been gazetted within the specified 30-day period; and the Review Tribunal had not considered his case. The judge ruled that the first two considerations did not invalidate the detention order. On the third, she ruled that the court was unable to consider the substance of the allegations against Lance Seera Muwanga: "The Court's role is to interpret the law as it is, while that of the Tribunal is to review facts and make recommendations to the President."⁴ The problem was that the tribunal did not exist.

In discussion with Amnesty International delegates in March 1987, government officials accused Lance Seera Muwanga of dubious conduct as a UHRA official and questioned his political allegiance and the accuracy of the information published by the UHRA. However President Museveni made it clear that Lance Seera Muwanga was in detention because he had criticized the army - which was in line with the President's threat the previous month that journalists who "malign the good name of the NRA" would be detained. There was no suggestion that Lance Seera Muwanga had used or advocated violence to promote his opinions and Amnesty International concluded that he was a prisoner of

conscience.

In some respects this case is atypical, in that the government has not used the Public Order and Security Act extensively and has allowed considerable latitude for press criticism. However, taken alongside the cases of Francis Odida and the Citizen journalists, as well as the imprisonment of Charles Kagenda-Atwooki, the UPC publicity secretary, Lance Seera Muwanga's detention does reveal a disconcerting trend towards intolerance of critical comment, especially of the army, and illustrates the hazards faced by those who seek to monitor human rights abuses in Uganda.

FOOTNOTES

1. The Uganda Penal Code (Cap. 106) defines treason as follows in Section 25 (1):

"Any person who-

- (a) levies war against the Republic of Uganda;
- (b) unlawfully causes or attempts to cause the death of the President or, with intent to maim or disfigure or disable, unlawfully wounds or does any harm to the person of the President, or aims at the person of the President any gun, offensive weapon, pistol or any description of firearms, whether the same contains any explosive or destructive substance or not;
- (c) contrives any plot, act or matter and expresses or declares such plot, act or matter by any utterance or by any overt act in order, by force of arms, to overturn the Government as by law established;
- (d) aids or abets another person in the commission of the foregoing acts, or becomes an accessory before or after the fact to any of the foregoing acts, or conceals any of the foregoing acts,

commits an offence and shall suffer death."

The other two charges generally brought against journalists are sedition and publishing false news. Seditious intention is defined in Section 41 (1) of the Penal Code as an intention:

- "(a) to bring into hatred or contempt or to excite disaffection against the person of the President, the Government as by law established or the Constitution;
- (b) to excite any person to attempt to procure the alteration, otherwise than by lawful means, of any matter of State as by law established;
- (c) to bring into hatred or contempt or to excite disaffection against the administration of justice;
- (d) to raise discontent or disaffection among any body or group of persons;
- (e) to promote feelings of ill-will and hostility, religious animosity or communal ill-feeling among any body or group of persons;
- (h) ... to subvert or promote the subversion of the Government or the Administration of a District."

Section 42 (1) defines a seditious offender as:

"Any person who-

- (a) does or attempts to do or makes any preparation to

do, or conspires with any person to do, any act with a seditious intention;

(b) utters any words with a seditious intention;

(c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;

(d) imports any seditious publication, unless he has no reason to believe, the proof whereof shall lie on him, that it is seditious,

commits an offence, and shall be liable on first conviction to imprisonment for a term not exceeding five years or to a fine not exceeding ten thousand shillings, or to both such imprisonment and fine, and for a subsequent conviction to imprisonment for a term not exceeding seven years."

Section 50 defines the offence of publication of false news:

"(1) Any person who publishes any false statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace is guilty of a misdemeanour.

(2) It shall be a defence to a charge under subsection (1) if the accused proves that, prior to publication, he took such measures to verify the accuracy of such statement, rumour or report as to lead him reasonably to believe that it was true."

2. A person released on police bond will not have been formally charged and required to enter a plea. The conditions of the bond are likely to include regular reporting to the police, thus restricting the movements of the accused, and notifying the police of his or her whereabouts.

3. The President or delegated Minister may order a person's detention:

"where it is shown to the satisfaction of the President that...(he) has conducted, is conducting or is about to conduct himself so as to be dangerous to peace and good order in Uganda...or that he has acted, is acting or is about to act in a manner prejudicial to the defence or security of Uganda", and "that it is necessary to prevent such person from so conducting himself or so acting".

The act requires notification of each detention to be published in the official Uganda Gazette within 30 days. It also states that there shall be a tribunal to review detentions, consisting of a chairman appointed by the Chief Justice and no fewer than two or more than five other members appointed by the President. The findings of the tribunal are not binding on the government and are not published. Only the President or delegated minister may rescind a detention order or vary it; for example, by imposing lesser restrictions on movement or conduct.

The Uganda Constitution (1967) states in Chapter Three, entitled "Protection of fundamental rights and freedoms of the individual": "No person may be deprived of his personal liberty save as may be authorized by law...Any person who is arrested, detained or restricted, shall be informed as soon as practicable of the reasons for his arrest, detention or restriction".

In general, Ugandan law states that anyone arrested on reasonable suspicion of having committed an offence under the law "shall be brought before the court" and charged within 24 hours or otherwise released, unless held under special detention legislation (such as the Public Order and Security Act). Article 10(5) of Chapter Three of the Constitution states that in the cases of those held under such special detention legislation:

- (1) they must be given a written statement within 28 days specifying the grounds of detention, and an opportunity to make representations in writing to the President or Minister responsible;
- (2) their cases shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice...within two months of detention and thereafter at intervals not exceeding six months;
- (3) they must consult legal representatives of their choice who shall be permitted to make representations to the tribunal;
- (4) they may appear in person or through their legal representatives when the tribunal is hearing their case;
- (5) the tribunal may make recommendations on the necessity or expediency of the detention or conditions of detention.

4. Miscellaneous Cause No. 72 of 1987.

6. CONCLUSION

Any assessment of the NRM government's human rights performance is, perhaps inevitably, less favourable after three years in power than it was in the early months. However, it is not true to say, as have some critics and outside observers, that there has been a continuous slide back towards gross human rights abuse, that in some sense Uganda is fated to suffer at the hands of bad governments. During late 1986 and 1987 the human rights situation did indeed seriously deteriorate, as the army pursued a brutal and indiscriminate campaign against rebels and their alleged supporters in the north and east. But in late 1987 and throughout most of 1988 the worst abuses were moderated, whether because the government was sensitive to criticism or because repressive policies were proving ineffective is unclear. An amnesty was declared for rebels and many political detainees were released throughout 1988. However, it was not encouraging that from October 1988 the army launched a new offensive in the Gulu area which again involved serious abuses against civilians. In early 1989 there were still severe food shortages and malnutrition in the north and northeast, caused by destruction of foodstuffs and crops and displacement of people during the NRA campaign.

Ironically, although the Obote government paid lip-service to the rule of law, its army and intelligence services were totally lawless. The present government, on the other hand, tends to be highly critical of the legal system and the judiciary, yet the army is more subject to the law now than at any time in the last 20 years. This report has cited the case of seven intelligence officers arrested in October 1988 after the death of a prisoner in their custody. At about the same time the Minister of State for Internal Affairs, Major Kahinda Otafiire, was forced to resign from government after an incident in which he had brandished a pistol at a woman in a Kampala hotel "as a joke". Major Otafiire was an NRA veteran from its days in the bush, yet it was felt that he could not continue in office. This would not have happened under Obote or Amin, when a ministerial post was usually a licence to loot and kill.

Yet alleged political opponents from northern Uganda continue to be detained without charge, sometimes for months on end. Prisoners are sometimes tortured and killed, and such cases are less thoroughly investigated when they occur in the course of "operations" than when they are the result of rank indiscipline. Even in Kampala the intelligence agencies are becoming increasingly lawless in their arbitrary detention and torture of prisoners. The constitutional amendment which allows the President to declare a "state of insurgency" and the proposed suspension of fair trial guarantees in those areas affected reveal an ominous indifference to international human rights standards.

Amnesty International has repeatedly urged the government to ensure that improvements in respect for human rights should be consolidated by institutional reforms and safeguards: for example, a strict time limit on all forms of administrative detention; immediate right of access to prisoners; fair trials for all political prisoners and prisoners facing a possible death sentence, with a right of appeal; and adequate independent mechanisms to investigate complaints of abuse. The government has tended to dismiss Amnesty International's recommendations as unrealistic in Uganda's present circumstances and, with the partial exception of the investigatory machinery, they have not been

implemented. Yet the persistence of human rights violations shows that such protective mechanisms are essential.

In October 1988 the government introduced a law setting up a commission to receive proposals for a new constitution, thereby opening a period of public discussion on Uganda's future form of government. This is an important opportunity for guarantees of human rights to be incorporated into a constitution which should then be enforceable through the courts.

7. APPENDIX: AMNESTY INTERNATIONAL AND UGANDA

Amnesty International has worked on the human rights situation in Uganda since the 1960s, when numerous prisoners detained without charge by Milton Obote's government were adopted as prisoners of conscience. They included Paul Ssemogerere, now leader of the DP and Minister of Foreign Affairs, and Grace Ibingira, then a leading member of Milton Obote's own UPC who is now a member of the African Commission on Human and Peoples' Rights.

Throughout the Amin years from 1971 to 1979 Amnesty International monitored human rights abuses, although for the protection of those involved the organization did not adopt or publicize individual cases. In June 1978 Amnesty International published a report, Human Rights in Uganda, the aim of which was "not simply to deliver another condemnation of one man at the center of this terrible structure who has been instrumental in creating and perpetuating it: what Amnesty International considers more important is to describe the whole structure, which involves many other individuals and which penetrates all areas of Ugandan society from the severely diminished urban elite to the poorest rural peasant."

Amnesty International continued to monitor human rights developments in Uganda under the short-lived governments of 1979 and 1980. In January 1982 the organization sent a mission to Kampala to discuss with President Obote and his government its growing concerns over detention without trial, torture, "disappearances" and extrajudicial executions. Amnesty International adopted or investigated the cases of many political opponents imprisoned during this period and frequently issued urgent appeals in an attempt to protect those it feared were in danger of torture or "disappearance".

In June 1985 Amnesty International received considerable international publicity for its report Uganda: Evidence of Torture, which included the testimony and detailed medical examinations of 16 Ugandan torture victims. In response to this report President Obote invited Amnesty International to send a further mission to Uganda, but before this could take place the government was overthrown and replaced by Tito Okello's Military Council.

It was not until after the NRM took over in January 1986 that Amnesty International again visited Uganda - the first of five visits under the present government, the most recent in January 1989. Amnesty International delegates have gathered information about matters of concern in Uganda, visited prisoners and met government officials, while local groups of Amnesty International have taken action on behalf of prisoners of conscience and others detained without trial for political reasons. Amnesty International has submitted several memorandums to the government, detailing continuing human rights abuses and recommending human rights safeguards. Two of these documents were later published.

In September 1986 Amnesty International sent the government a memorandum recommending various safeguards that the government might introduce to protect its citizens against abuse:

- All those held in custody on political grounds or on suspicion of an

offence of a political nature should be charged with a recognizably criminal offence and brought promptly to trial or otherwise released.

- The government should ensure that no one is arrested and imprisoned outside the protection of the law, for example by the military, and held in irregular places of detention such as military barracks.
- All existing legislation and constitutional provisions permitting indefinite detention without trial should be repealed.
- All prisoners should be brought promptly before a judicial authority after arrest.
- No one should be held in secret detention. Relatives and lawyers should be promptly informed of the whereabouts of prisoners after arrest. A central registry should be established to receive information about the names and whereabouts of all persons detained without charge.
- Prisoners should have prompt and regular access to visits from relatives, lawyers and doctors.
- The remedy of habeas corpus must be available [and the detaining authority must respect the rulings of the courts].
- All places of imprisonment should be open to regular independent inspection.
- Evidence obtained through torture should never be invoked in legal proceedings.
- All acts of torture should be made punishable offences under the criminal law.
- It should be made clear during the training of all officials involved in the custody, interrogation or treatment of prisoners that torture is a criminal act.
- Existing Ugandan law should be amended to take account of the principle of proportionality in the use of force by law enforcement agencies [in other words that force may only be used where it is commensurate with the threat posed].
- An investigation should be conducted into any suspicious death, particularly those of a political nature.
- The government has the responsibility to initiate impartial inquiries into all complaints and allegations of human rights abuses [since then the government has introduced the post of Inspector General of Government].
- Those alleged to have committed or instigated acts of torture, extrajudicial execution or arbitrary and unlawful detention should be brought to justice.
- The death penalty should be abolished as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment

or punishment.

The Ugandan Government should ratify international human rights instruments, including the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [the government has since ratified the latter].

Information from Amnesty International

This report is part of Amnesty International's publications program. As part of its effort to mobilize world public opinion in defence of the victims of human rights violations, Amnesty International produces a monthly Newsletter, an annual report, and reports, briefings and other documents on countries in all quarters of the globe.

Amnesty International attaches great importance to impartial and accurate reporting of facts. Its activities depend on meticulous research into allegations of human rights violations. The International Secretariat in London (with a staff of over 200, comprising some 40 nationalities) has a Research Department which collects and analyses information from a wide variety of sources. These include hundreds of newspapers and journals, government bulletins, transcriptions of radio broadcasts, reports from lawyers and humanitarian organizations, as well as letters from prisoners and their families. Amnesty International also sends fact-finding missions for on-the-spot investigations and to observe trials, meet prisoners and interview government officials. Amnesty International takes full responsibility for its published reports and if proved wrong on any point is prepared to issue a correction.

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Amnesty International Newsletter

This monthly bulletin is a regular update on Amnesty International's work: reports of fact-finding missions, details of political prisoners, reliable reports of torture and executions. It is written — without political bias — for human rights activists throughout the world and is widely used by journalists, students, political leaders, doctors, lawyers and other professionals.



Amnesty International Report

This annual report is a country-by-country survey of Amnesty International's work to combat political imprisonment, torture and the death penalty throughout the world. In describing the organization's work, the report provides details of human rights abuses in over 120 countries. It is probably the most widely read — and most influential — of the many reports published by Amnesty International each year.

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UGANDA: THE HUMAN RIGHTS RECORD, 1986-1989

Increasing reports have emerged from Uganda of unlawful army killings of civilians and prisoners in the north — soldiers are said to have burned villagers alive in their huts. In recent months there appears also to have been an alarming use of torture by the army and intelligence organizations.

At least 3,000 alleged political opponents remain in detention without trial — most of them arrested during military operations against armed rebels in the north. The army has often disregarded *habeas corpus* rulings by the courts and continued to hold prisoners illegally.

Such abuses have led some to fear a resurgence of the human rights excesses of Uganda's recent past.

When the National Resistance Movement (NRM) took power in January 1986 it declared its commitment to restoring respect for human rights and the rule of law. Many observers saw this as Uganda's opportunity to end a history of gross human rights abuse stretching back to the 1960s.

The government has introduced important safeguards — notably a procedure for investigating complaints of abuse. And the army is more subject to the rule of law now than for many years.

Three years on, this Amnesty International report reviews the NRM government's human rights record. Incorporating the findings of five Amnesty International missions to Uganda since 1986, it describes the appalling legacy of the Amin and Obote years, documents recent human rights violations and assesses the effectiveness of government measures to prevent abuse.

