

**BRIDGING GAPS FOR  
EFFECTIVE IMPLEMENTATION  
OF ANTI - TORTURE LAWS IN UGANDA**



# Policy Brief

2025



UGANDA LAW SOCIETY

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## KEY RECOMMENDATIONS

### ▶ **Strengthening Legal Frameworks**

The government should strengthen legal frameworks through ratifying the Optional Protocol to the Convention Against Torture (OPCAT) which calls for the establishment of a National Preventive Mechanism (NPM) undertaking regular visits to detention centers.

### ▶ **Passing of Pending Legislation that can enhance Torture Prevention**

There has been a delay by Parliament in passing some pertinent legislations that would be vital in the promotion of the right to freedom from torture and cruel, inhuman or degrading treatment such as; the Legal Aid Bill, the Witness Protection Bill and the Human Rights Defenders Bill.

### ▶ **Enhancing Accountability Mechanisms**

We call for the establishment of NPM and specialized units within Police dedicated solely to handling investigations of human rights violations.

### ▶ **Public Awareness Campaigns**

Government should prioritize citizen awareness campaigns. This can also be achieved through collaborations with CSOs such as LAP-ULS for outreach programs that provide training on human rights awareness.

### ▶ **Rehabilitation services**

The Ministry of Health should enact or develop a policy on rehabilitation for victims and survivors of torture.

### ▶ **Establish Individual Accountability for Compensation**

Individual perpetrators should be held accountable. Where a public officer is found culpable, the compensation awarded to the victim should be recovered directly from the responsible individual rather than being borne by the state.

### ▶ **Training Law Enforcement Agencies**

Government should provide comprehensive training on human rights standards and non-coercive interrogation techniques for police officers and military personnel.

### ▶ **Financial and Human Resource Reform**

The JLOS should advocate for increased budget allocations to implementing agencies responsible for monitoring, investigating, and prosecuting torture cases.

## LIST OF ABBREVIATIONS

ACTV	The African Centre for Treatment and Rehabilitation of Torture Victims
CAT	Committee Against Torture
CDO	Community Development Officer
CIDT	Cruel, Inhuman or Degrading Treatment or Punishment
CSOs	Civil Society Organisations
GBV	Gender Based Violence
DPP	Director of Public Prosecution
ICCPR	International Covenant on Civil and Political Rights
LAP-ULS	Legal Aid Project of the Uganda Law Society
NGOs	Non-Government Organizations
NPM	National Preventive Mechanisms
MGLSD	Ministry of Gender, Labour and Social Development
ODPP	Office of the Director of Public Prosecutions
OPCAT	Optional Protocol to the Convention Against Torture
PPTA	The Prevention and Prohibition of Torture Act Cap.130
UHRC	Uganda Human Rights Commission
UN	United Nations
ULS	Uganda Law Society
UNCAT	UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
UPDF	Uganda People's Defense Force

## EXECUTIVE SUMMARY

Torture dehumanizes both the victim and the perpetrator, eroding the very foundation of our shared humanity. It cripples society and breaks the social fabric of a home." These words capture the essence of Uganda's ongoing journey in combating torture and upholding human rights. While the enactment of the Prevention and Prohibition of Torture Act (PPTA) in 2012 was a historic milestone signaling Uganda's commitment to eradicating torture, significant gaps persist in its operationalization. The law's potential to protect victims and hold perpetrators accountable has been undermined by systemic challenges. This policy brief seeks to explore these challenges and propose actionable solutions to bridge the gaps for effective implementation and accountability.

Uganda's journey in the fight against torture has been marked by progress and setbacks. Despite commendable legislative efforts, key barriers remain. Limited public awareness of the PPTA prevents citizens from understanding their rights and seeking justice. Law enforcement and judicial officers often lack the specialized training needed to identify, document, and prosecute torture cases effectively. Resource constraints further hamper the functionality of institutions tasked with enforcing the law, while weak coordination among agencies undermines the holistic response required to address torture comprehensively. Additionally, ineffective mechanisms for monitoring, reporting, and redress leave victims without adequate remedies, perpetuating a culture of impunity and eroding public trust in the justice system.

To address these issues, Uganda must adopt a comprehensive and collaborative approach. Enhancing capacity building for law enforcement, judicial officers, and health professionals is critical to improving the identification and prosecution of torture cases. Public awareness campaigns are essential to empower citizens with knowledge about their rights under the PPTA and encourage reporting of violations. Strengthening institutional collaboration among government agencies, the judiciary, and civil society will enable better monitoring, reporting, and responses to torture incidents. Adequate financial and technical resources must also be allocated to ensure that anti-torture initiatives are operationally effective. Finally, robust accountability mechanisms are needed to guarantee compliance with the PPTA and ensure that perpetrators are held to account.

Operationalizing anti-torture laws in Uganda is more than a legal obligation; it is a moral imperative. The nation must build on its legislative achievements to ensure its anti-torture framework translates into meaningful protection for all citizens. Addressing the systemic challenges can enable Uganda to fulfill its commitment to avert torture and to generally promote and protect human rights and uphold the dignity of every individual.

## ACKNOWLEDGMENT

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## 1.0 ABOUT LEGAL AID PROJECT OF UGANDA LAW SOCIETY

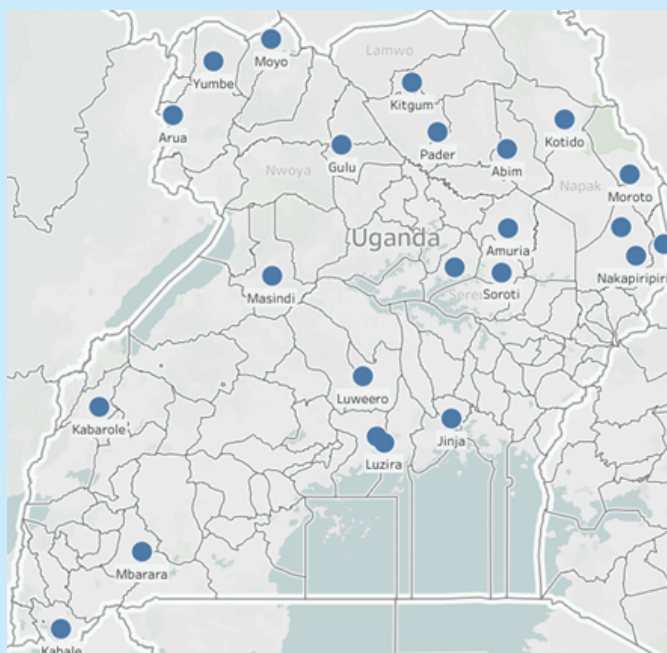
The Legal Aid Project of Uganda Law Society is a non-governmental organization established by the Uganda Law Society in 1992 under the Trustee Incorporation Act Cap 271 and Non-Government Organization Act Cap 109. The Project aspires to see a Ugandan society where all human rights are respected, promoted and defended to ensure that access to justice for all is a reality irrespective of gender, age, ethnicity, religion or social-economic status.

The Legal Aid Project of the Uganda Law Society (LAP-ULS) implements its activities under the ULS Strategic Objective 3 and 4 of the ULS 2023-2027 Strategic Plan: To enhance the promotion of the rule of law, good governance and the respect for human rights as well as, to increase access to justice for the indigent, marginalized and vulnerable persons in Uganda.

The LAP-ULS has over the years positioned itself as the leading provider of comprehensive legal aid services in the country with 19 legal aid clinics located in Kampala, Luzira, Jinja, Luwero, Masindi, Kabale, Kabarole, Mbarara, Gulu, Kitgum, Arua, Moyo, Soroti, Kotido, Moroto, Nakapiripirit, Nabilatuk, Kaabong, Moroto, Nabilatuk and Amudat.

Vulnerable, Marginalized and Indigent persons are assisted through court representation, alternative dispute resolution (ADR), legal advice, counselling and referral services. LAP-ULS also conducts human rights awareness campaigns through community sensitizations, Prison and Police outreaches and radio talk shows countrywide.

**Map of Uganda showing the area of coverage for the LAP-ULS**



## 2.0 INTRODUCTION

Torture is defined as under Article 1 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining information or a confession, punishing him for an act committed or is suspected of having committed, or intimidating or coercing him. " Torture remains a significant human rights issue in Uganda, with numerous reports highlighting its prevalence and the severe consequences faced by victims. The 27th Annual Report of the Uganda Human Rights Commission indicates that torture remains a significant human rights violation in Uganda. The report states that torture accounted for 90 complaints (31%) of total cases registered by the Commission in 2021, with security agencies being the primary perpetrators. In a joint press statement commemorating the International Day in Support of Torture Survivors on June 26, 2023, the UHRC reported that in 2022, there were 267 complaints of torture, out of the total 691 human rights violations registered that year. The following year, the alleged violation of freedom from torture ranked highest among the complaints registered with 127 (31%) complaints .

According to the Police Annual Report of 2023, child-related torture is also still prevalent with 1,073 cases reported in 2021, 1240 cases reported in 2022 and 866 cases reported in 2023 .

Several media reports both national and international have revealed harrowing accounts of victims who have died or sustained severely injuries due to torture. This was prevalent during the enforcement of the COVID-19 regulations where

Media reports have also revealed harrowing accounts of victims who have died or been severely injured due to torture, particularly during the enforcement of COVID-19 regulations, where security forces were reported to have used excessive force against citizens. Reports indicate that activists and opposition figures are disproportionately targeted, with incidents of enforced disappearances and unlawful detentions being alarmingly common.

A report conducted by Human Rights Watch documents enforced disappearances and torture by the Internal Security Organization (ISO) and other security agencies. Since 2018, many government critics and opposition supporters have been unlawfully detained in unauthorized places, often referred to as "safe houses." These locations have been linked to severe mistreatment, including beatings and sexual violence. The report indicates that during the lead-up to the v 2021 elections, security forces engaged in widespread arbitrary arrests and torture, with many victims still unaccounted for.

<sup>1</sup>UN Convention Against Torture. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

<sup>2</sup>Uganda Human Rights Commission Joint Press Statement on the Commemoration of the International Day in support of Torture Survivors June 2023. Available at: <https://uhrc.ug/joint-press-statement-on-the-commemoration-of-the-international-day-in-support-of-torture-survivors-26th-june-2023/>

## 3.0 LEGAL FRAMEWORK

The legal framework addressing torture in Uganda has evolved significantly since the adoption of the 1995 Constitution, which marked a critical turning point in the country's approach to human rights. Before this constitution, there were no specific laws prohibiting torture, allowing for widespread abuses without accountability.

### 3.1 Historical Context

Prior to the enactment of the 1995 Constitution, Uganda's legal framework lacked explicit provisions prohibiting torture. Earlier constitutions, such as the 1967 Constitution, recognized certain fundamental rights but did not specifically address torture or cruel treatment. This gap allowed state agents to act with impunity, leading to widespread human rights violations, particularly under the regimes of Milton Obote and Idi Amin. The adoption of the 1995 Constitution marked a pivotal shift by enshrining the right to freedom from torture as a non-derogable right under Article 24, laying the groundwork for subsequent anti-torture legislation. This constitutional safeguard was a deliberate response to past abuses, aimed at strengthening human rights protections and ensuring accountability in Uganda.

### 3.2 Constitutional Framework

The 1995 Constitution of Uganda is a pivotal legal document that explicitly recognizes the right to freedom from torture as a non-derogable right under Article 24. This article states, "No person shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment." By enshrining this right in the Constitution, Uganda committed itself to uphold fundamental human rights and acknowledge the inherent dignity of every individual. This recognition is particularly significant given Uganda's historical context, which includes periods marked by severe human rights abuses, especially during the regimes of Idi Amin and Milton Obote, where torture was rampant and often state-sanctioned.

The non-derogability of this right is further reinforced by Article 44(a) of the Constitution, which establishes that there shall be no derogation from the enjoyment of the right to freedom from torture. This provision ensures that even in times of national emergency or crisis, the prohibition against torture remains absolute. Such a stance reflects a robust

<sup>3</sup>Uganda Human Rights Commission Report 25th Annual Report on the State of Human Rights and Freedoms in Uganda 2023. Available at: [https://uhrc.org/download/uhrc-26th-annual-report-2023/?wpd\\_dl=2286&refresh=678019eb26f1e1736448491](https://uhrc.org/download/uhrc-26th-annual-report-2023/?wpd_dl=2286&refresh=678019eb26f1e1736448491)

<sup>4</sup>Uganda Police Force Annual Crime Report of 2023. Available at: <https://upf.go.ug/wp-content/uploads/2024/09/Official-Annual-Crime-Report-2023-web.pdf>

<sup>5</sup>Human Rights Watch: "Uganda: Hundreds 'Disappeared,' Tortured": <https://www.hrw.org/news/2022/03/22/uganda-hundreds-disappeared-tortured>

<sup>6</sup>Human Rights Watch report <https://www.hrw.org/report/2022/03/22/i-only-need-justice/unlawful-detention-and-abuse-unauthorized-places-detention>

commitment to human rights standards and underscores the importance of protecting individuals from state abuses under any circumstances.

The constitutional prohibition against torture has also laid the groundwork for subsequent legislative measures aimed at preventing and addressing such acts in Uganda. Moreover, Uganda's judiciary has played a critical role in interpreting and enforcing Article 24. In various cases, such as the Attorney General vs. Susan Kigula, the Supreme Court has referenced Article 24 when considering issues related to human rights violations, including the death penalty. The Court emphasized that any form of torture or cruel treatment is absolutely prohibited, reinforcing the significance of Article 24 in safeguarding individual rights against state abuses. Lower courts have similarly invoked this article to adjudicate cases involving allegations of torture, reflecting an increased judicial awareness and sensitivity to human rights issues.

### 3.3. Ratification of International Treaties

Uganda ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on June 26, 1987. This ratification signifies Uganda's commitment to preventing acts of torture and ensuring that victims have access to justice, aligning its national laws with international human rights standards. The ratification process began with Uganda signing the convention on November 3, 1986, shortly after the country's return to a more democratic governance structure following years of political turmoil. This was followed by the domestication of the UNACT and the passing of the Prevention and Prohibition of Torture Act in 2012.

However, it is important to note that Uganda has not ratified the Optional Protocol to the Convention against Torture (OPCAT). Ratifying OPCAT would require Uganda to establish a National Preventive Mechanism (NPM), which is essential for monitoring places of detention and ensuring that individuals deprived of their liberty are protected from torture and ill-treatment. The absence of this ratification limits Uganda's ability to implement comprehensive measures for the prevention of torture, as it currently lacks a systematic framework for regular monitoring of detention facilities.

For reference, Uganda's ratification status can be confirmed through the UN Treaty Body Database, which provides detailed information on the country's commitments to various international treaties, including the CAT and its Optional Protocol. The database confirms that Uganda signed the CAT on November 3, 1986, and ratified it on June 26, 1987, while noting the lack of ratification for OPCAT.

<sup>7</sup>1967 Constitution of the Republic of Uganda. Available at: <https://www.worldstatesmen.org/Uganda-Const-1967.pdf>

<sup>8</sup>Rosemary Karoro, "The Regional and National Framework for the Prevention of Torture, Cruel Inhuman, Degrading Treatment or Punishment in Uganda" Available at: [https://chapterfouruganda.org/sites/default/files/downloads/Torture-Paper-Uganda\\_0.pdf](https://chapterfouruganda.org/sites/default/files/downloads/Torture-Paper-Uganda_0.pdf)

## 4.0. LEGISLATIVE DEVELOPMENTS

The legislative framework addressing torture in Uganda has developed significantly, particularly through the enactment of specific laws aimed at preventing torture and ensuring accountability. Below are the key legislative developments related to torture, along with relevant institutions and their functions;

### 4.1 Prevention and Prohibition of Torture Act Cap 130

Uganda enacted the Prevention and Prohibition of Torture Act (PPTA) Cap 130 in 2012, which serves as a critical legal instrument in the fight against torture and ill-treatment. As stated in the preamble, this Act gives effect to the obligations of Uganda as a State Party to the United Nation's Convention against Torture and Other Cruel, Inhuman or Degrading Treatment following its ratification on 26th June 1987.

The PPTA operationalizes the constitutional provisions (Article 24 and Article 44(a)) by providing a comprehensive definition of torture, establishing penalties for perpetrators, and outlining mechanisms for victims to seek justice. Specifically, it defines torture under Section 2 as any act that intentionally inflicts severe pain or suffering—whether physical or mental—by or at the instigation of a public official or any person acting in an official or private capacity.

Section 3(1) of the Act reiterates Article 44(c) by stating that there shall be no derogation from the enjoyment of the right to freedom from torture. The Act further provides that the following shall not be a defence to a charge of torture—

- (a) a state of war or a threat of war;
- (b) internal political instability;
- (c) public emergency; or
- (d) an order from a superior officer or a public authority.

On criminalization, the Act prescribes severe penalties, including imprisonment for up to 15 years for standard cases and life imprisonment for aggravated circumstances. The key provisions include:

<sup>9</sup>UN Convention Against Torture and Other Inhuman, or Cruel Degrading Punishment. Available at: <https://legal.un.org/avl/ha/catcidtp/catcidtp.html#:~:text=The%20Convention%20against%20Torture%20and,been%20ratified%20by%2020%20States>.

<sup>10</sup>Optional Protocol to the Convention against Torture. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-against-torture-and-other-cruel>

<sup>11</sup>National Preventive Mechanisms by Subcommittee on Prevention of Torture. Available at: <https://www.ohchr.org/en/treaty-bodies/spt/national-preventive-mechanisms>

<sup>12</sup>UN Treaty Body Database. [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Home.aspx](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Home.aspx)

<sup>13</sup>ibid

- **Definition of Torture:** The Act provides a comprehensive definition that includes both physical and psychological harm inflicted intentionally.
- **Penalties:** It establishes severe penalties for perpetrators, including life imprisonment for cases involving serious bodily harm.
- **Forms of Torture:** The act provides for 3 forms of torture; physical, psychological and pharmacological torture.
- **Victim Rights:** The Act guarantees victims the right to seek compensation, rehabilitation and restitution from the state.
- **Inadmissibility of Evidence:** Evidence obtained through torture is inadmissible in court, ensuring that victims are not further victimized through the judicial process. It also provides for stay of proceedings and a trial within a trial where a torture allegation is raised.
- **Reporting Mechanisms:** The Act encourages reporting of torture incidents, outlining procedures for victims and witnesses to file complaints.

## **4.2. Prevention and Prohibition of Torture Regulations of 2017**

The Regulations were enacted in 2017 to guide the implementation of the Act. Furthermore, these Regulations are a simplified version of the Istanbul Protocol Guidelines 2002 which are recognised by the UN as a manual on effective investigation and documentation of torture by all professionals including lawyers and health professionals. These regulations provide detailed procedures for reporting incidents of torture, ensuring that victims can lodge complaints effectively. They also outline the rights of victims and witnesses, emphasizing the need for prompt investigations into allegations of torture. This regulatory framework is essential for creating a safer environment for individuals who come forward to report abuses. These regulations complement the Torture Act by providing detailed procedures for:

**Investigation:** Guidelines for law enforcement on how to investigate allegations of torture effectively.

**Documentation:** Establishing protocols for documenting incidents, which is critical for accountability and prosecution.

**Support for Victims:** Outlining how to assist victims during the reporting and investigation processes.

**Anonymous reporting:** Makes it a crime to disclose an anonymous reporter who intends to keep his identity anonymous.

**Electronic reporting:** Makes provision for electronic reporting by SMS, Email making it

reporting easy lifting geographical constraints and transport issues for the indigent persons.

## 5.0 Analysis of the Prevention and Prohibition of Torture Act Cap 130 and the Prevention and Prohibition of Torture Regulations (2017)

### Rehabilitation

Section 6(c) of the PPTA provides that the Court may, in addition to any other penalty under this Act, order for reparations which may include rehabilitation including; medical and psychological care; or legal and psycho-social services to the victim in case of trauma.

Despite the provision of the law, the state has not established any rehabilitation programs for torture victims, and there is no funding for non-state services to provide support . Therefore there is a gap in implementation of the law, there is an urgent need for clear rehabilitation programs so that torture victims can find medical, psychological and psycho-social support.

### Documentation of torture cases

Regulation 4 of the PPTA Regulations places a duty on the Police, the Commission or any relevant institution or body to commence an investigation where there is reasonable grounds to suspect that an offence has been committed under the Act. Regulation 8 (4) further provides for investigation procedure where the Police, Commission or any relevant institution can conduct investigations and make a detailed investigation report as provided for in Form 4 of the Regulations.

The Police however does not adopt and code the Forms under the PPTA Regulations on the investigation and documentation of torture which results into compromised prosecution due to insufficient evidence on torture files. Since the enactment of the PPTA Regulations 2017, the Uganda Police Force Annual Crime Reports indicate that there are no torture cases registered among adults . This mainly because Police often uses Police Form 3 in torture cases for medical examination instead of using the Form 4 of the Regulations to the PPTA which documents torture .

<sup>14</sup>ACTV Policy Brief on Torture and Violence in Relation to Elections in Uganda. Available at: <https://actvuganda.org/download/policy-brief/Policy-Brief-on-Torture.pdf>

## Definition of ‘Other Cruel, Inhuman and Degrading Treatment or Punishment

The PPTA criminalizes cruel, inhuman or degrading treatment or punishment under Section 7. Though the Act clearly defines torture, ‘other cruel, inhuman or degrading treatment or punishment’ is not defined. This leaves it to the discretion of the court or other body considering the matter to determine what amounts to torture or ill treatment having regard to the definition of torture and the circumstances of the case.

The Act also provides that a conviction from a crime of cruel, inhuman or degrading treatment may be a competent verdict where the prosecution is not able to prove all the elements of torture exist. The question would be then to know how to distinguish torture and cruel, inhuman or degrading treatment or punishment .

### 6.0 Other Existing Laws

#### ► Penal Code Act Cap 128

The Penal Code Act serves as a foundational legal document that criminalizes various forms of violence and abuse, which can include acts of torture. The Penal Code Act provides for the offences of assault, causing bodily harm, grievous harm and wounding which carry heavy penalties:

Section 219 provides for grievous bodily harm stating that any person who unlawfully does grievous harm to another commits a felony and is liable to imprisonment for seven years.

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

Section 223 covers failure to provide necessaries. It provides that any person who, being charged with the duty of providing for another with the necessaries of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be endangered,

<sup>15</sup>Uganda Police Annual Crime Report 2023. Available at <https://upf.go.ug/wp-content/uploads/2024/09/Official-Annual-Crime-Report-2023-web.pdf>

<sup>16</sup>ACTV Policy Brief on Torture and Violence in Relation to Elections in Uganda. Available at: <https://actvuganda.org/download/policy-brief/Policy-Brief-on-Torture.pdf>

<sup>17</sup>Uganda Human Rights Commission, ‘Interpretative Guide to the Prevention and Prohibition of Torture Act, 2012’ p.24

or his or her health is or is likely to be permanently injured, commits a misdemeanour and is liable to imprisonment for three years.

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

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

### ► **Police Act Cap 324**

The Police Act regulates police conduct and establishes accountability mechanisms within law enforcement agencies.

Section 25(4) of the Act provides for investigation of torture by a police officer. It provides that where a complaint of torture of a suspect in custody is made to a magistrate, the magistrate shall order an investigation into the allegation; and if the allegation is proved to be true, the magistrate shall order for the examination and treatment of the person affected at the expense of the State, and any person responsible for the torture shall be charged.

Section 44 provides for the establishment of the Police Disciplinary Code of Conduct which is the basis for disciplinary control of all police officers and other persons employed in the force. Part 12 of the Schedule to the Police Act provides that a police officer commits an offence against discipline if he or she is guilty of discreditable conduct, that is to say, if he or she acts in a disorderly manner or any manner prejudicial to discipline or likely to bring discredit on the reputation of the force or to cause any injury to the public service in any way.

The Act further provides for disciplinary measures including dismissal under Section 47, police disciplinary courts under Section 49 and subordinate police courts under section 53 which are specifically constituted whenever a disciplinary offence is committed.

### ► **Uganda People's Defence Forces (UPDF) Cap 330**

The UPDF Act prohibits torture within the military.

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

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

The Act provides for an Army Code of Conduct which is stipulated under Section 14 and the Schedule to the Act prohibiting torture against civilians. Part 2(a) of the Schedule provides that a member of the army shall not abuse, insult, shout at, beat or in any way annoy any member of the public.

### ► **Human Rights (Enforcement) Act Cap 12**

The Human Rights Enforcement Act was enacted to give effect to Article 50(4) of the Constitution by providing for the procedure of enforcing human rights under Chapter Four of the Constitution.

Section 3(1) enables a victim of a human rights violation provided for under the 1995 Constitution to apply for redress to a competent court. This provision further enables class action and public interest litigation.

Section 4(1)(a) of the Act gives jurisdiction to the High Court to hear matters of violation of the right to freedom from torture. It provides that the High Court hear and determine any application relating to the enforcement or violation of non derogable rights and freedoms guaranteed in article 44 of the Constitution. Freedom from torture is one of the non-derogable rights under Article 44 of the Constitution.

This legislation enhances access to justice for victims by providing a framework for legal redress.

### ► **Uganda Human Rights Commission Act**

The Uganda Human Rights Commission (UHRC) Act establishes the UHRC, which is tasked with investigating human rights violations, including allegations of torture. The UHRC plays a crucial role in monitoring state compliance with human rights standards and providing support to victims.

## 7.0 Role of the Uganda Human Rights Commission (UHRC)

The UHRC is a critical institution in Uganda's human rights landscape, established under Article 51 of the Constitution. Its functions as stipulated under Article 52 include:

- a) to investigate, at its own initiative or on a complaint made by any person or group of persons against the violation of any human right;
- (b) to visit jails, prisons, and places of detention or related facilities with a view to assessing and inspecting conditions of the inmates and make recommendations;
- (c) to establish a continuing programme of research, education and information to enhance respect of human rights;
- (d) to recommend to Parliament effective measures to promote human rights, including provision of compensation to victims of violations of human rights or their families;
- (e) to create and sustain within society the awareness of the provisions of this Constitution as the fundamental law of the people of Uganda.

### Powers of the UHRC

Article 53 of the Constitution provides for the powers of UHRC providing that in performance of its functions, the Commission shall have powers of a court, which include:

- (a) to issue summons or other orders requiring the attendance of any person before the commission and the production of any document or record relevant to any investigation by the commission;
- (b) to question any person in respect of any subject matter under investigation before the commission;
- (c) to require any person to disclose any information within his or her knowledge relevant to any investigation by the commission; and
- (d) to commit persons for contempt of its orders.

### Access to Justice for Victims

Victims of torture in Uganda can seek justice through various mechanisms:

Complaints Mechanisms: Victims can file complaints with the UHRC or directly with police authorities regarding acts of torture.

Civil Suits: Individuals may pursue civil litigation against police officers or state agents involved in acts of torture, seeking compensation from the state in accordance with the Human Rights Enforcement Act.

Criminal Prosecution: The Director of Public Prosecutions (DPP) can prosecute cases under the Prevention and Prohibition of Torture Act.

## 8.0 CASE LAW ON TORTURE

### CRIMINAL CASES

Section 4 of the PPTA criminalizes and provides penalties for the offence of torture stating that a person who performs any act of torture as defined in section 3 commits an offence and is liable on conviction to imprisonment for fifteen years or to a fine of three hundred and sixty currency points or both.

Section 5 provides for aggravated torture wherefore the offender is liable, on conviction to life imprisonment.

Reports show that private individuals have increasingly been reported as perpetrators of torture, particularly through various forms of domestic violence and family disputes.

However, victims—who are predominantly women and children—often do not report these acts of torture. Cultural norms and beliefs, fear of social stigma, and other societal pressures compel them to endure the abuse in silence, perpetuating a vicious cycle of suffering. Generally, there are few successful criminal prosecutions of perpetrators of torture.

Below are some of the recent criminal cases on torture:

#### **Kawunde & 2 Others v Uganda (Criminal Appeal No. 468 of 2020)**

The Appellants were indicted and convicted of the offence of Abduction with intent to murder on count one contrary to sections 243 (1) (a) & (b) of the Penal Code Act; Aggravated Torture contrary to sections 2(1) (b) & 5(h) (k) of the Prevention and Prohibition of Torture Act 2012 and an alternative count of cruel and inhuman or degrading treatment or punishment contrary to section 7(3) of the Prevention and Prohibition of Torture Act 2012. The victim, Wasswa Emmanuel aged 15 years was living with his paternal grandmother at Baale village, Masuliita sub-county in Wakiso district. On the 13th February 2019, it was alleged that the victim stole a mobile smart phone from their neighbour. The neighbor reported the incident to the victim's grandmother. In response to the report of theft, the victim's Uncle Kawunde Geoffrey (1st Appellant) tortured the victim by tying

him up with ropes onto a big tree and beat him up brutally thereby causing him a lot of severe pain and suffering until he became unconscious.

It was alleged that the following day, the 1st appellant together with the victim's other uncles namely Kinalwa Joel (2nd Appellant), Kiwanuka Sameo (3rd Appellant) abducted the victim and caused his disappearance.

*Judgment of Court: The 1st Appellant was convicted on his own plea of guilty and was sentenced to 17 years for the offence of Abduction and 6 years for the offence of Aggravated Torture. The 2nd and 3rd appellants were acquitted as the prosecution failed to place the appellants at the scene of crime and prove their participation in committing the offences.*

### ► **Uganda v Nansamba Robinah (Criminal Session case No. 0152 of 2015)**

The accused in this case is indicted with one count of Murder contrary to s. 188 and 189 of the Penal Code Act. It was alleged that the deceased had stolen money from the accused and went to visit a friend. The deceased and his friend were arrested by the deceased's uncle and tied their hands behind their backs with ropes on suspicion that the deceased had stolen money from the accused. He led the two boys to the home of the accused from where he subjected them to corporal punishment where he used a total of three sticks in administering the corporal punishment on them and sent them home. Along the way, the deceased collapsed with his hands still tied to the back.

The manner in which the murder was alleged to have been committed necessarily placed the accused in this case of the offence of torture.

The trial Judge had this to say:

“In my view, on the facts of this case, the offence of Torture is contained entirely in the second element of the offence of murder which required proof that the death of the accused was caused by an unlawful act. Therefore, the indictment for an offence under sections 188 and 189 of The Penal Code Act gave the accused notice of all the circumstances constituting the offence under section 4 (1) of The Prevention And Prohibition of Torture Act, 2012 for which she can be convicted... The offence is constituted by the following elements;

<sup>18</sup>ACTV Research Report: A Study on the Barriers to the Effective Implementation of the Prevention and Prohibition of Torture Act, 2012 Cap 130

Severe physical or mental pain or suffering was inflicted upon the victim.

Such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions. It was inflicted intentionally.

It was inflicted for such purposes as: obtaining information or a confession, punishment, intimidation or coercion.

It is the accused who inflicted the suffering”

*Judgment of the Court: Hon. Justice Stephen Mubiru found that the accused not only gave substantial assistance to her brother during the commission of the offence but also shared the intent. It was held that the prosecution had proved all the essential ingredients of the offence of Torture contrary to section 4 (1) of the Prevention and Prohibition of Torture Act, 2012 beyond reasonable doubt and he found the accused guilty and convicted her. On sentencing, the court held that the convict had been in custody for 3 years and 7 months and he sentenced her to “time served” and released her.*

## 9.0 CIVIL CASES

Civil suits are often invoked by victims seeking for compensation for the harm suffered. Such claims are grounded on Article 50 of the Constitution, Section 6(b) of the PPTA which gives court powers to order for reparation including compensation for any economically assessable damage resulting from torture.

Below are some of the recent decisions in civil suits:

### ► **Musa Nsereko v. Attorney General and 15 others (Misc. Cause no. 386 of 2020)**

The application was brought before the High Court under Article 20(1)&(2), 23,(1),(2),(3)&(4), 24, 28(1), 43(1) & (2), 44(a) and 50 of the Constitution of the Republic of Uganda 1995, Section 3, 4 and 11(b) of the Human Rights (Enforcement), Act & Section 6 of the Prevention and Prohibition of Torture Act.

The applicant alleged to have suffered torture, brutality and violence by the combined forces of the Internal Security Organisation (ISO) and other militia amounting to a violation of his constitutional rights and freedom from torture, cruel, inhuman and degrading treatment under Article 24 and 44 of the Constitution of Uganda.

Details of Torture: On 27th May 2018, the applicant was arrested from Kyengera at around 9pm by armed plain clothed security operatives who rushed and detained him at ISO Safe house base 2 and later base 1 at Kyengera Wakiso District from where he was joined with other inmates and taken to island of Lwamayuba Kalangala District for undisclosed offence detained for 17 months without any charge preferred.

He was detained at ISO safe houses base 1 and 2 at Kyengera and Lwamayuba Island the applicant was tortured in the following ways;

- i. Making him sleep in dirty water flooded room while on handcuffs and leg cuffs during day and night.
- ii. Beating him every morning, during the day and at night leading to breaking of his left hand and joints for which he spent 10 months at Kyengera safe house.
- iii. Blindfolding him throughout the day while at safe house at Kyengera Wakiso district.
- iv. Making him sleep on grass while on hand chain buffered.

The 1st Respondent argued that if the mentioned safe houses existed, they were not used as detention centres or used for purposes of torturing occupants, and if the applicant was indeed arrested, detained and tortured, it was not at the hands of ISO operatives.

*Judgment of the Court: The matter was adjudicated by Justice Musa Ssekaana who stated that; "Freedom from torture is one of the most universally recognized human rights. Torture is considered so barbaric and incompatible with civilized society that it cannot be tolerated. Torturers are seen as the 'enemy of mankind'. Torture is considered one of the most serious crimes against humanity because of its profound violation of the moral and physical integrity of the individual."*

*He found that the applicant had substantiated his claims of torture, cruel and inhuman and degrading treatment while he was detained at Kyengera and Lwamayuba Island.*

*On the claim for compensation, the learned Justice relied on Section 10 of the Human Rights (Enforcement) Act which provides for the personal liability of a public officer who individually or in association with others violates human rights or freedoms.*

*The applicant was awarded UGX 100,000,000 as compensation for violation of his constitutional rights to torture and cruel and inhuman and degrading treatment, UGX 60,000,000/= for the illegal detention of 17 months, UGX 15,000,000/= as punitive and exemplary damages, all against the individual security operatives; 2nd to 15th Respondents.*

## ▶ **Robert Asiimwe & Kalemba Stevens v Attorney General, DPP & URA (Misc. Application no. 7 & 8 of 2022)**

The applicants filed two motions against the respondents under Article 50(1) of the Constitution of the Republic of Uganda and Section 11 of The Human Rights (Enforcement) Act.

The applicants were employed by Uganda Revenue Authority (URA) as customs officer and driver respectively. They were accused of stealing USD 410,000 and were charged with abuse of office under the Anti-Corruption Act, theft and Conspiracy to commit a felony under the Penal Code Act.

Details of torture: The 1st applicant claimed that after his arrest on 3rd March 2021, a UPDF Colonel asked him to confess to the theft of money or be tortured by the Joint Anti-Terrorism Taskforce. He was later taken to CMI headquarters in Mbuya where he was beaten, boxed, kicked using metals and wires, kicked in the ribs with combat boots, burnt with hot metals under his feet, his hands and arms were chained behind his back, he was dragged on the floor while pulling the ropes tied on his neck and arms, hitting his toes, ankles and elbows and suspending him in air while tying his neck, legs and arms. The torture was executed by 10 well-muscled men using weapons such as guns, sticks, batons, metal bars, pliers, chains, ropes and electric wires. After two days he was again slapped, boxed and had a gun inserted in his mouth and told he would be shot if at the count of ten, he did not confess to stealing the money.

The 2nd applicant was also approached by an army officer who asked him about the money to which the applicant denied knowledge of. The officer punched him in the right eye and kicked him in the ribs at gun-point. He was then taken to CMI offices in Mbuya and taken to a room where he was undressed and severely beaten using the electric cables, hang on hand cuffs up the ring as his legs were tied down and suspended in one position for a whole day as he was being beaten. The alleged torture was to make him confess to the crime.

*Ruling of the Court: Justice Lawrence Gidudu ruled in favour of the applicants holding that: "The applicant's non-derogable Rights protected by Article 24 and guaranteed by Article 44(a) of the Constitution of the Republic of Uganda were threatened, infringed upon and violated. The injuries sustained are gruesome to say the list and confirms that there was torture... they were mercilessly battered in the hands of the military that should have had no role in purporting to investigate a criminal case of Abuse of office and theft."*

For compensation, the Honorable Justice noted that for cases brought under 5.9(3) of the Human Rights (Enforcement) Act, reliefs such as compensation can be granted to the victim for a human rights violation. He therefore awarded the 1st applicant UGX 200 million in general damages and 50 million in punitive damages. The 2nd applicant was awarded 100 million in general damages and 50 million in punitive million.

### ► **Hon. Zaake Francis v Attorney General & 7 others** **(Misc. Cause no. 85 of 2020)**

The applicant brought the application under Article 50 of the 1995 Constitution of Uganda, Sections 3 and 4 of the Human Rights (Enforcement) Act. The application was against the Attorney General, Regional Police Commander, District Police Commander, Commandant Special Investigations Unit, Head of CMI, among others.

Details of torture: The Applicant, Member of Parliament representing Mityana Municipality in Mityana District was arrested on 19th April 2020 for distributing food to the people without following the Ministry of Health Covid-19 Standard Operating Procedures. He was detained at Mityana Police Station and thereafter transferred to the Police Special Investigation Directorate (SID) at Kireka. During his arrest, he claimed to have been beaten, kicked, his eyes sprayed with pepper, detained in ungazetted facilities and insulted for belonging to his tribe and political party. The applicant suffered injuries all over his body and he was admitted at Lubaga hospital as soon as he was released.

*Ruling of Court: Though the court did not find any specific evidence pointing to the 3rd to 8th respondents being personally liable for inflicting the torture, the court found that the applicant suffered violation of his right to freedom from torture and degrading cruel treatment. The applicant was awarded UGX 75 million in compensation for the violation of his rights and freedoms*

## RECOMMENDATIONS

To effectively combat torture in Uganda and enhance accountability mechanisms, the ULS Legal Aid Project makes the following recommendations:

### ► **Strengthening Legal Frameworks**

The government should ratify the Optional Protocol to the Convention Against Torture (OPCAT) as a means of promoting prevention of torture. The OPCAT calls for the mandatory establishment of a National Preventive Mechanism with a system of undertaking regular visits by independent international and national bodies to detention centers. Under article 4, these visits shall be undertaken with a view of strengthening the protection of detained persons against torture and other cruel, inhuman or degrading treatment or punishment.

The OPCAT establishes a Subcommittees on Prevention whose functions among others is to visit detention centers and with this, they shall advise and assist National Preventive Mechanisms in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment . Under Article 11, the Subcommittee shall also make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.

This frequent monitoring of places of detention would tighten the levels of torture prevention and accountability. Currently, only the Uganda Human Rights Commission has unlimited access and can anytime visit places of detention and other institutions have to first seek permission to have that access. The ratification of OPCAT would open access to other institutions thus ensuring high levels of accountability and torture prevention.

### ► **Passing of Pending Legislation that can enhance Torture Prevention**

There has been a delay by Parliament in passing some pertinent legislations that would be vital in the promotion of the right to freedom from torture and cruel, inhuman treatment. These pending bills include;

<sup>19</sup>Article 11 Optional Protocol to the Convention Against Torture

### (i) The National Legal Aid Bill 2022

The Legal Aid Bill seeks to institutionalize and expand access to legal aid services for vulnerable and marginalized individuals. The law will promote access to justice as victims of torture, who are often among the most vulnerable groups, will have access to free legal representation to pursue accountability and reparations. The bill will also empower legal aid service providers to raise awareness about the right to freedom from torture, empowering communities to demand respect for their rights.

### (ii) The Witness Protection Bill 2015

The Witness Protection Bill will establish a framework for the protection of witnesses who provide critical evidence in criminal proceedings, including cases of torture. Torture survivors and witnesses often fear reprisals from perpetrators. This bill will ensure their safety, encouraging them to testify against torturers. This will protect those who report torture from suffering harm, intimidation, or threats.

### (iii) The Human Rights Defenders Bill 2020

This bill seeks to recognize and protect the work of human rights defenders (HRDs) who advocate for justice, accountability, and the promotion of human rights. HRDs who document and expose cases of torture often face threats and harassment. By protecting HRDs, the bill will ensure continued advocacy for investigations and prosecutions of torture cases. This bill will also safeguard their work and lives, ensuring they can operate without fear.

We therefore call upon Parliament to fast track the passing of the Bills mentioned above as they are pertinent in the prevention of torture.

## ► **Enhancing Documentation and Investigation of Torture Cases**

The Istanbul Protocol is a manual on the effective investigation into and documentation of torture and other cruel, inhuman or degrading treatment or punishment . The Protocol provides principles of effective investigation and documentation of torture including medico-legal documentation which covers narrative history of the alleged torture, examination and documentation showing location of injuries, for the purpose of corroboration. The Prevention and Prohibition of Torture Regulations, 2017 provides for the procedures and forms of documenting and investigating torture. However, as stated earlier, the Uganda Police Force Annual Crime Reports indicate only child torture. This mainly because Police often uses Police Form 3 instead of the Form 4 of the Regulations

to the Prevention and Prohibition of Torture 2017 which documents torture.

The Uganda Police Force should adopt, code and streamline the 2017 PPTA Regulations and the Forms thereunder to help in effectively investigating, documenting, and prosecuting of torture cases.

The government especially the Judicial Training Institute as well as the Ministry of Justice and Constitutional Affairs should train judicial officers, law enforcement officers (Police Officers and Prison Officers), prosecutors, medical practitioners on the use of the PPTA Regulations and forms. All relevant institution should adopt and streamline the Regulations in the documentation and investigation of torture cases.

### ► Public Awareness Campaigns

ACTV released a research report wherein field research was carried out to, among others, assess the knowledge on the existence of the PPTA and other laws. The report shows that majority cited the 1995 Constitution of Uganda at 30.1%, only 10.1% knew about the PPTA at only 10.1% and others (26.3%) completely had no knowledge of existing laws .

The report also shows there is limited information on the reporting mechanisms provided for in case of torture. Most of the complaints are always sent to the Uganda Human Rights Commission with few incidents reported straight to the police or other relevant institutions .

This clearly indicates that there is limited public knowledge on laws and reporting mechanisms. The public needs to be educated and sensitized to know where they can seek redress in instances where they have faced torture.

We call upon government to prioritize citizen awareness campaigns so that no one is left behind and the freedom from torture can be progressively achieved. The government can also collaborate with the LAP-ULS and other Civil Society Organizations for outreach programs that provide training on human rights awareness, legal recourse, and available psychosocial services for victims.

<sup>20</sup>Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Available at: [https://www.ohchr.org/sites/default/files/documents/publications/2022-06-29/Istanbul-Protocol\\_Rev2\\_EN.pdf](https://www.ohchr.org/sites/default/files/documents/publications/2022-06-29/Istanbul-Protocol_Rev2_EN.pdf)

<sup>21</sup>ACTV Research Report: A Study on the Barriers to the Effective Implementation of the Prevention and Prohibition of Torture Act, 2012 Cap 130

## ► Rehabilitation Services

General Comment no.4 of the African Charter on Human and People's Rights focuses the Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Partnership of Treatment (Article 5).

Paragraph 10 of the General Comment states that:

“Reparation includes restitution, compensation, rehabilitation, satisfaction - including the right to the truth, and guarantees of non- repetition. The overarching goal of these forms of reparation is to provide healing for victims of torture and other ill-treatment. Healing entails making whole that which has been broken and wounded. It seeks to restore the dignity, humanity and trust violated by torture and other ill-treatment. It recognises and facilitates the journey of coming to terms with the torture and other ill-treatment and dealing with the consequences of trauma and other injuries. It has physical, psychological, social, cultural and spiritual dimensions and helps break the cycle of violence at individual, family, collective, institutional and societal levels”

We therefore call upon the Ministry of Health should enact develop and adopt a policy on rehabilitation for victims and survivors of torture. Rehabilitation will support psychological wellness, healing and restoration of dignity and humanity as clearly stated in the General Comment. It will also improve documentation and tracking of statistics for torture victims who have been able to access rehabilitation. This should be done alongside community awareness programs on issues of mental health.

## ► Establishing a Compensation Fund

We urge the Ministry of Justice and Constitutional Affairs to allocate financial resources to a compensation fund for torture victims or survivors annually to enable timely receipt of compensation awards.

This should involve coordination between relevant government agencies and stakeholders to expedite the compensation process. The compensation can be decentralized and various institutions like the UHRC be enabled to cater for their clients.

## ► Training Law Enforcement Agencies

Government should provide comprehensive training on human rights standards and non-coercive interrogation techniques for police officers and military personnel. The said training should emphasize accountability and respect for human dignity in law enforcement practices. The training programs should include modules on the legal consequences of torture, fostering a culture of accountability within law enforcement agencies.

<sup>22</sup>ibid

## ► Financial and Human Resource Reform

The JLOS should advocate for increased budget allocations to implementing agencies responsible for monitoring, investigating, and prosecuting torture cases. This should include funding for staffing, training programs, modern equipment, facilities and operational expenses.

## Conclusion

Torture remains one of the most pressing human rights issues in Uganda, despite a seemingly strong legal framework designed to combat it. The persistence of this violation underscores inadequacies in enforcement and a broader culture of impunity within security forces. By implementing comprehensive reforms and fostering greater accountability through these recommendations, Uganda can address this critical issue effectively.

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